



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** KSC-BC-2023-12

**The Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj, Isni  
Kilaj, Fadil Fazliu and Hajredin Kuçi**

**Before:** Pre-Trial Judge

Judge Marjorie Masselot

**Registrar:** Fidelma Donlon

**Date:** 19 February 2025

**Language:** English

**Classification:** Public

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**Public Redacted Version of Corrected Version of  
Decision on Second Urgent Thaçi Defence Request for Temporary Release on  
Compassionate Grounds**

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**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Rule 56(3) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby issues the following decision.

## I. PROCEDURAL BACKGROUND

1. On 5 December 2024, Hashim Thaçi (“Mr Thaçi”) was served with an arrest warrant, issued by the Pre-Trial Judge further to the confirmation of an indictment against him.<sup>2</sup>
2. On 8 December 2024, Mr Thaçi appeared before the Pre-Trial Judge and his (continued) detention was found to be necessary.<sup>3</sup>
3. On 31 January 2025, the Pre-Trial Judge denied a request by the Defence for Mr Thaçi (“Thaçi Defence”) for his temporary release on compassionate grounds (“First Request for Release”), having found after balancing all relevant factors that, in the circumstances at hand, the Thaçi Defence had not demonstrated that compelling humanitarian grounds existed that would justify the requested release (“First Decision on Release”).<sup>4</sup>

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<sup>1</sup> KSC-BC-2023-12, F00015, President, *Decision Assigning a Pre-Trial Judge*, 6 June 2024, public.

<sup>2</sup> KSC-BC-2023-12, F00036, Pre-Trial Judge, *Decision on the Confirmation of the Indictment*, 29 November 2024, confidential. A public redacted version was issued on 12 February 2025, [F00036/RED](#); F00037, Pre-Trial Judge, *Decision on Request for Arrest Warrants and Related Matters* (“Decision on Arrest Warrants”), 29 November 2024, confidential, with Annexes 1-8, strictly confidential and *ex parte*; see Annex 4. A public redacted version was issued on 19 December 2024, [F00037/RED](#); F00048, Registrar, *Notification of Service of Arrest Warrant on Hashim Thaçi Pursuant to Rule 55(4)*, 5 December 2024, public.

<sup>3</sup> KSC-BC-2023-12, Transcript of Hearing, 8 December 2024, public, p. 18, line 10 to p. 19, line 15; [Decision on Arrest Warrants](#), paras 43, 45-55; F00165, Pre-Trial Judge, [Decision on Review of Detention of Hashim Thaçi](#), 7 February 2025, public.

<sup>4</sup> KSC-BC-2023-12, F00150, Pre-Trial Judge, *Decision on the Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 31 January 2025, confidential and *ex parte*. A public redacted version was issued on 12 February 2025, [F00150/RED](#).

4. On 14 February 2025, the Thaçi Defence filed a second urgent request for the temporary release of Mr Thaçi on compassionate grounds (“Second Request for Release”).<sup>5</sup>

5. On 17 February 2025, pursuant to the Pre-Trial Judge’s order,<sup>6</sup> the Thaçi Defence submitted additional medical documentation in support of the Second Request for Release.<sup>7</sup>

6. On 18 February 2025, following the Pre-Trial Judge’s order, the SPO responded to, and the Registrar filed her submissions on, the Second Request for Release.<sup>8</sup> The Thaçi Defence did not reply.

## II. SUBMISSIONS

### A. THAÇI DEFENCE REQUEST

7. The Thaçi Defence requests the immediate temporary custodial release of Mr Thaçi to Kosovo, for a period of one (1) day, to allow him to visit his father, whose health condition has further deteriorated since the First Decision on Release.<sup>9</sup> According to the Thaçi Defence, Mr Thaçi’s father – who is [REDACTED] – was hospitalised for [REDACTED], from [REDACTED] February 2025.<sup>10</sup> While his father has now been discharged, he was admitted to the hospital [REDACTED] and

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<sup>5</sup> KSC-BC-2023-12, F00177, Thaçi Defence, *Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 14 February 2025, confidential and *ex parte*, with Annexes 1-2, confidential and *ex parte*.

<sup>6</sup> KSC-BC-2023-12, CRSPD33, *Email from Pre-Trial Judge to the Parties and Registrar, via the Court Management Unit, re Order for Further Submissions and Shortening Time Limits*, 14 February 2025, at 17:55.

<sup>7</sup> KSC-BC-2023-12, F00181, Thaçi Defence, *Thaçi Defence Additional Submissions Related to F00177 (“Further Submissions”)*, 17 February 2025, confidential and *ex parte*, with Annex 1, confidential and *ex parte*.

<sup>8</sup> KSC-BC-2023-12, F00187, Specialist Prosecutor, *Prosecution Response to Second Urgent Thaçi Release Request (“SPO Response”)*, 18 February 2025, confidential and *ex parte*; F00188, Registrar, *Registrar’s Submissions on Urgent Thaçi Defence Fourth Request for Temporary Release on Compassionate Grounds (“Registrar Submissions”)*, 18 February 2025, confidential and *ex parte*.

<sup>9</sup> Second Request for Release, paras 4, 21-22, 32, 34; Further Submissions, paras 4, 6.

<sup>10</sup> Second Request for Release, paras 1-3, 21-22.

[REDACTED] was observed during his hospitalisation.<sup>11</sup> In particular, the Thaçi Defence submits that Mr Thaçi's father has suffered [REDACTED], which is [REDACTED] in light of his [REDACTED] age and [REDACTED].<sup>12</sup> Moreover, he has an overall [REDACTED] and his treating physician has assessed that [REDACTED].<sup>13</sup> Mr Thaçi is therefore concerned that his father's health may [REDACTED].<sup>14</sup>

8. The Thaçi Defence requests that said visit take place: (i) at [REDACTED]; and (ii) in the presence of [REDACTED].<sup>15</sup> The Thaçi Defence submits that, under the circumstances, it is essential for Mr Thaçi to comfort his [REDACTED] in person.<sup>16</sup>

9. The Thaçi Defence further submits that, while it disputes that Mr Thaçi presents a flight risk, any concern of the Pre-Trial Judge in that regard can be mitigated through the imposition of the same measures and conditions imposed on the two previous occasions when he was provisionally released on compassionate grounds, and the short duration of the requested release.<sup>17</sup> Moreover, the Thaçi Defence asserts that, considering Mr Thaçi's consent to and past compliance with said measures, the Pre-Trial Judge's finding that he presents a flight risk cannot outweigh the compelling and exceptional circumstances justifying his temporary release.<sup>18</sup>

## B. SPO RESPONSE

10. The SPO responds that, based on the information provided, Mr Thaçi's father is not currently hospitalised, but [REDACTED].<sup>19</sup> The SPO also submits that

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<sup>11</sup> Second Request for Release, paras 1, 21; Annex 1 to Second Request for Release, p. 2.

<sup>12</sup> Second Request for Release, paras 2, 21; Further Submissions, para. 4.

<sup>13</sup> Second Request for Release, paras 4, 21-22, 24.

<sup>14</sup> Second Request for Release, para. 23; Further Submissions, para. 4.

<sup>15</sup> Second Request for Release, paras 4, 21, 24, 31.

<sup>16</sup> Second Request for Release, para. 24.

<sup>17</sup> Second Request for Release, paras 25-26.

<sup>18</sup> Second Request for Release, paras 27-28.

<sup>19</sup> SPO Response, para. 1.

Mr Thaçi's requested release presents the same significant and elevated risks of obstruction and interference as those outlined in its response to the First Request for Release.<sup>20</sup> Nonetheless, should the Pre-Trial Judge be minded to grant the Second Request for Release, the SPO submits that any authorised visit should be fully custodial and limited to one (1) day only, and all conditions attaching to prior visits should apply.<sup>21</sup>

### C. REGISTRAR SUBMISSIONS

11. The Registrar highlights that: (i) [REDACTED];<sup>22</sup> (ii) Mr Thaçi's father is not currently hospitalised;<sup>23</sup> and (iii) there are other available alternative means for Mr Thaçi to remain in close contact with [REDACTED] at this time, including video visits and telephone calls.<sup>24</sup>

12. In terms of security, feasibility and operational requirements, the Registrar submits that: (i) the proposed visit will have a high probability of being public knowledge, [REDACTED]; (ii) [REDACTED], with the assistance of external partners, subject to certain operational and security requirements; (iii) the resources needed to organise the proposed visit are considerable and only justifiable in urgent, compelling and exceptional circumstances; and (iv) a visit of one (1) day is feasible and can be organised securely and swiftly, subject to certain operational and mission security requirements.<sup>25</sup>

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<sup>20</sup> SPO Response, para. 1, referring to KSC-BC-2023-12, F00146, Specialist Prosecutor, *Prosecution Response to Urgent Thaçi Release Request*, 30 January 2025, confidential and *ex parte*, paras 3-6; a public redacted version was filed on 7 February 2025, F00146/RED.

<sup>21</sup> SPO Response, para. 2, referring to KSC-BC-2020-06, F01757/RED, Trial Panel II, [Public Redacted Version of Decision on Urgent Thaçi Defence Second Request for Temporary Release on Compassionate Grounds](#), 1 September 2023, public, para. 26.

<sup>22</sup> Registrar Submissions, para. 13.

<sup>23</sup> Registrar Submissions, para. 13.

<sup>24</sup> Registrar Submissions, paras 14-15.

<sup>25</sup> Registrar Submissions, paras 20-38.

### III. APPLICABLE LAW

13. Pursuant to Rule 56(3) of the Rules, upon request by a detained person or *prioprio motu*, a Panel may order the temporary release of a detained person, where compelling humanitarian grounds justify such release.

### IV. DISCUSSION

14. The Pre-Trial Judge recalls that temporary release on compelling humanitarian grounds is exceptional.<sup>26</sup> Several factors may be relevant to this assessment, such as the stage of the proceedings, the nature of the criminal offence, the accused's character, the gravity of the relative's illness, the degree of kinship, and the possibility of escorted leave.<sup>27</sup> Visiting a close relative in critical condition has been accepted by this and other jurisdictions as a compelling humanitarian ground warranting temporary release under certain conditions.<sup>28</sup> A "critical condition" has been interpreted as an acute crisis or life threatening medical condition.<sup>29</sup>

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<sup>26</sup> [First Decision on Release](#), para. 13 and references cited therein.

<sup>27</sup> [First Decision on Release](#), para. 13; KSC-CA-2022-01, F00020/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Gucati's Third Request for Temporary Release on Compassionate Grounds](#) ("Decision on Gucati's Third Request for Temporary Release"), 30 June 2022 (date of public redacted version, 4 July 2022), public, para. 11; KSC-BC-2020-06, F01757/RED, Trial Panel II, [Public Redacted Version of Decision on Urgent Thaçi Defence Second Request for Temporary Release on Compassionate Grounds](#), 1 September 2023 (date of public redacted version, 21 September 2023), public, para. 18; KSC-BC-2020-06, F00271/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds](#), 30 April 2021 (date of public redacted version, 11 May 2021), public, para. 13.

<sup>28</sup> [First Decision on Release](#), para. 13; [Decision on Gucati's Third Request for Temporary Release](#), para. 13 and references therein.

<sup>29</sup> See MICT, *Prosecutor v. Ratko Mladić*, MICT-13-56-A, Appeals Chamber, [Public Redacted Version of the "Decision on a Motion for Provisional Release on Humanitarian Grounds" filed on 12 April 2018](#), 8 June 2018, para. 11; *Prosecutor v. Zdravko Tolimir*, MICT-15-95-ES, Appeals Chamber, [Public Redacted Version of the "Decision on Motion for Provisional Release" filed on 28 January 2016](#), 23 February 2016, para. 11; ICTY, *Prosecutor v. Prlić et al.*, IT-04-74-A, Appeals Chamber, [Public Redacted Version of the "Decision on Valentin Ćorić's Motion Seeking Provisional Release" issued on 12 March 2015](#), 14 May 2015, para. 12.

15. The Pre-Trial Judge is mindful of the fact that Mr Thaçi's father is of an [REDACTED] age and that his [REDACTED].<sup>30</sup> The Pre-Trial Judge also takes into account that Mr Thaçi's father has been [REDACTED], as recently as [REDACTED] February to [REDACTED] February 2025.<sup>31</sup> In this regard, the Pre-Trial Judge notes that, [REDACTED].<sup>32</sup> Importantly, the Pre-Trial Judge also notes that: (i) he was discharged from the hospital [REDACTED], on [REDACTED] February 2025; and (ii) it is evident, in particular from the additional medical reports submitted by the Thaçi Defence dated [REDACTED] February 2025,<sup>33</sup> that while his [REDACTED], there is nothing to indicate that his medical condition is, at this time, an acute crisis or life-threatening.

16. The Pre-Trial Judge also takes into account: (i) the nature of the charges against Mr Thaçi in the present case, which involve Mr Thaçi's unlawful interference with witnesses through others;<sup>34</sup> (ii) the Registrar's submissions on the security and feasibility of the operation;<sup>35</sup> and (iii) the fact that there are alternative means available to Mr Thaçi to communicate with his father [REDACTED] from the Specialist Chambers Detention Facilities, including video visits.<sup>36</sup>

17. In light of the above, balancing all relevant factors, the Pre-Trial Judge finds that, in the present circumstances, Mr Thaçi has not demonstrated the existence of exceptional and compelling humanitarian grounds justifying his temporary release. Accordingly, the Pre-Trial Judge rejects the Second Request for Release. That said,

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<sup>30</sup> Second Request for Release, paras 21-22; Annex 2 to Second Request for Release, p. 3.

<sup>31</sup> Second Request for Release, para. 3-4; Annex 2 to Second Request for Release, p. 3.

<sup>32</sup> Annex 1 to Second Request for Release; Annex 2 to Second Request for Release, p. 3. See also [First Decision on Release](#), para. 14.

<sup>33</sup> See Annex 1 to Further Submissions, pp. 10-13.

<sup>34</sup> See KSC-BC-2023-12, F00040, Specialist Prosecutor, *Submission of Confirmed Indictment*, 2 December 2024, strictly confidential, with Annex 1, strictly confidential. A public redacted version was filed on 6 December 2024, [F00055/A01](#).

<sup>35</sup> Registrar Submissions, paras 20-39.

<sup>36</sup> Registrar Submissions, paras 14-15.

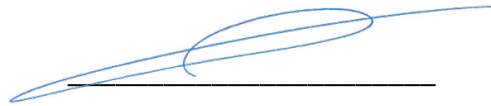


should his father's state of health [REDACTED], the Pre-Trial Judge invites Mr Thaçi to submit a new urgent request with supporting medical evidence.

## V. DISPOSITION

18. For the above reasons, the Pre-Trial Judge hereby:

- a. **REJECTS** the Second Request for Release; and
- b. **ORDERS** the Thaçi Defence and the Registrar to file public redacted versions of their respective submissions (F00177, F00181 and F00188), excluding any annexes, or request their reclassification as public, by no later than **Thursday, 20 February 2025**.



**Judge Marjorie Masselot**  
**Pre-Trial Judge**

Dated this Wednesday, 19 February 2025

At The Hague, the Netherlands.



## Explanatory Note

In footnote 3, “F00165, Pre-Trial Judge, *Decision on Review of Detention of Hashim Thaçi*, 7 February 2025, public” was referred to.