



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2023-12

Before: Pre-Trial Judge
Judge Marjorie Masselot

Registrar: Dr Fidelma Donlon

Filed by: Registrar

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Language: English

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

Classification: Public

**Further Public Redacted Version of “Corrected Version of Registrar’s
Submissions on Urgent Thaçi Defence Third Request for
Temporary Release on Compassionate Grounds”**

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I. INTRODUCTION

1. Pursuant to Rule 23(2) of the Rules,¹ the Registrar hereby provides submissions on Mr Hashim Thaçi's ('Mr Thaçi', 'the Accused' or 'the Defence') third urgent request for temporary release on compassionate grounds ('Request').²

II. APPLICABLE LAW

A. Detention Function

2. Pursuant to Article 3(5) of the Law,³ the Registry of the Specialist Chambers administers all necessary and auxiliary functions, including detention facilities.

3. Pursuant to Article 34(12) of the Law, the Registrar is responsible for managing and administering the detention function and facilities of the Specialist Chambers in line with international standards and the Law, and the Specialist Chambers' "correction/detention officers shall have the authority and responsibility to exercise powers given to Kosovo Correction Officers under Kosovo law", in accordance with the modalities established by the Law.

4. Pursuant to Article 41(7) and (8) of the Law, persons subject to a detention order of the Specialist Chambers may be detained in facilities overseen by the Specialist Chambers and managed by the Registry, which shall meet relevant international standards.

5. Pursuant to Rule 56(1) of the Rules, in exceptional circumstances, a person may be held in facilities outside of the Host State or Kosovo pending transfer. The detained person shall at all times remain under the authority of the Specialist Chambers.

¹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3, 2 June 2020, public ('Rules').

² KSC-BC-2023-12, F00140, Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds, with Confidential *Ex Parte* Annex 1, 28 January 2025, confidential and *ex parte* ('Request'). Mr Thaçi noted that he would also make the same request before the Trial Panel II in Case KSC-BC-2020-06. *See* Request, para. 4.

³ Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

B. Temporary Release

6. Pursuant to Rule 56(3) of the Rules, “[u]pon request by a detained person or *proprio motu*, the Panel may order the temporary release of a detained person, where compelling humanitarian grounds justify such release”.

7. Pursuant to Rule 56(5) of the Rules, the Panel may impose such conditions upon the release as deemed appropriate to ensure the presence of the detained person.

III. SUBMISSIONS

A. Mr Thaçi’s Request

8. On 28 January 2025, Mr Thaçi submitted his third Request for temporary release on compassionate grounds for a period of three days during the week of 3 February 2025, in order to allow him to visit his father [REDACTED] at [REDACTED],⁴ [REDACTED].⁵ [REDACTED].⁶ Although [REDACTED] has been discharged from the hospital, Mr Thaçi notes that his father’s medical report indicates that [REDACTED], and Mr Thaçi submits [REDACTED].⁷ Mr Thaçi requests that the visit take place in the presence of [REDACTED].⁸

9. Mr Thaçi submits that he has no objection to submitting to the same logistical measures and security conditions that were imposed on him when he was previously temporarily released pursuant to decisions issued by Trial Panel II,⁹ and states that [REDACTED].¹⁰

⁴ [REDACTED]. [REDACTED].

⁵ Request, paras 1-3, 19.

⁶ Request, para. 19.

⁷ Request, paras 19-21.

⁸ Request, para. 3, 16, 23.

⁹ KSC-BC-2020-06, F01757/RED, Public Redacted Version of Decision on Urgent Thaçi Defence Second Request for Temporary Release on Compassionate Grounds, 1 September 2023; KSC-BC-2020-06, F01556/COR/RED, Public Redacted Corrected Version of Decision on Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds, 21 June 2023.

¹⁰ Request, paras 24-26, 32.

B. Preliminary Remarks and Other Available Alternatives

10. As an initial matter, the Registrar notes that the [REDACTED].¹¹ Mr Thaçi's father is not currently hospitalised.¹²

11. Should it assist the Pre-Trial Judge in the assessment of Mr Thaçi's Request, the Registrar notes there are other available alternative means for Mr Thaçi to remain in close contact with [REDACTED].¹³

12. The Registrar recalls that all Detainees are provided with reasonable means of maintaining personal relationships with family members and other persons through visits, telephone calls, and correspondence.¹⁴ Detainees have up to ten (10) visiting days per month in total, which applies to both video visits and in-person visits, including any combination thereof.¹⁵

13. A special regime currently applies to Mr Thaçi's visits and communications pursuant to a decision of Trial Panel II,¹⁶ and Mr Thaçi's schedule for all visits and communications in February 2025 has already been pre-approved by the Registrar.

14. In terms of video visits, the Registrar notes that [REDACTED]. In addition, [REDACTED]. Although video visits are currently limited to one pre-approved visitor,¹⁷ the Registrar, exceptionally and taking note of the circumstances in this specific Request, suggests that for the month of February 2025, [REDACTED]. This would mean that Mr Thaçi could see [REDACTED] in a [REDACTED] video visit on

¹¹ See above F01757/RED, at fn. 9, paras 22-23. Cf. KSC-SC-2023-01, F00016/RED, Public Redacted Version of the Decision on Gucati's Sixth Request for a Custodial Visit on Compassionate Grounds, 6 July 2023, public ('Supreme Court Chamber Decision'), paras 21-25.

¹² Request, para. 19.

¹³ See Supreme Court Chamber Decision, para. 24.

¹⁴ Practice Direction on Visits and Communications, KSC-BD-09-Rev1, 23 September 2020 ('PD on Visits and Communications'), art. 4(1).

¹⁵ DMU Instruction on Visiting Procedures for Family Members and Other Personal Visitors, KSC-BD33, 23 September 2020, sect. 11.

¹⁶ KSC-BC-2020-06, F01977, Further Decision on the Prosecution's Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi, 1 December 2020, public ('F01977 Decision').

¹⁷ Per Trial Panel II's decision, Mr Thaci is permitted to meet with only one visitor at a time during video visits (excluding spouses/partners and children). See F01977 Decision, para. 55.

[REDACTED] separate occasions in the course of his upcoming visitation period [REDACTED], subject to the approval of Trial Panel II.

15. In addition, and due to the circumstances presented by Mr Thaçi in his Request, the Detention Management Unit can exceptionally facilitate two additional video visits, in total, with [REDACTED], if so requested, [REDACTED]. This would mean that Mr Thaçi would have a total of [REDACTED] video visits with [REDACTED] (or [REDACTED], if permitted by Trial Panel II) during his upcoming visitation period [REDACTED].

16. It is also noted that Mr Thaçi [REDACTED] throughout the month of February 2025.

17. It should also be noted that, in addition to the above, Mr Thaçi [REDACTED] throughout the month of February 2025.

18. Although the detention regulations do not provide for additional visiting days beyond the maximum of ten (10) days allotted to every Detainee, the Registrar is responsible for managing and administering the Detention Facilities and may issue instructions to the Chief Detention Officer should there be a need for the Chief Detention Officer to facilitate emergency video visit(s) due to the serious illness, serious injury, or death of a Close Relative.

C. Security, Feasibility and Operational Requirements

19. Notwithstanding the above, the Registrar provides the following submissions on the security, feasibility and operational requirements in relation to the Request.

20. In terms of the security situation, the Registrar notes her prior submissions in relation to Mr Thaçi's first and second requests for temporary release on compassionate grounds, and Trial Panel II's decisions thereon, imposing certain

conditions.¹⁸ The Registrar also notes the Pre-Trial Judge's findings with regard to the necessity of Mr Thaçi's continued detention.¹⁹

21. Noting that the proposed visit is to the [REDACTED], the proposed visit will have a high probability of being public knowledge [REDACTED]. [REDACTED]. The likelihood of [REDACTED], particularly in light of Mr Thaçi's unique profile and the [REDACTED].

22. Nevertheless, the Security and Safety Unit ('SSU') of the Registry, together with external partners, has assessed the impact of the above information on the Registrar's feasibility and security assessments. Based on the information available to the Registry at this time, it is assessed that [REDACTED], if the visit is of short duration and under conditions of secrecy. The Registrar further notes that this assessment is based on currently available information, but if the security picture changes, the Pre-Trial Judge will be immediately informed.

23. In terms of feasibility, the Registrar notes that the Specialist Chambers has a secure transfer facility [REDACTED]. [REDACTED].

24. In addition, the considerable resources needed to stand up and deploy a transfer team and rapidly arrange for air transport are, in the opinion of the Registrar, only justifiable in urgent, compelling, and exceptional circumstances.

25. Should the Pre-Trial Judge consider that the present circumstances justify Mr Thaçi's temporary transfer for a custodial visit to Kosovo, this can be organised securely and swiftly, subject to certain operational and mission security requirements, as set forth below.

¹⁸ See above F01757/RED, and F01556/COR/RED, at fn. 9. See also KSC-BC-2020-06, F01551/RED, Public Redacted Version of "Registrar's Submissions on Thaçi Defence Request for Temporary Release on Compassionate Grounds", 24 May 2023, paras 14-17; KSC-BC-2020-06, F01752/RED, Public Redacted Version of "Registrar's Submissions on Thaçi Defence Request for Temporary Release on Compassionate Grounds", 31 August 2023, para. 15. [REDACTED]. [REDACTED]. [REDACTED].

¹⁹ Initial Appearance (Open Session), 12 December 2024, Tr. p. 18; F00037, Decision on Request for Arrest Warrants and Related Matters, 29 November 2024, confidential, paras 43, 45-55.

i. Duration of Transfer

26. Noting the above security parameters and in view of the [REDACTED], the Registry [REDACTED].

27. If the Pre-Trial Judge grants Mr Thaçi's request, the Registrar considers that, on short notice, Mr Thaçi's temporary transfer to the Specialist Chambers' secure transfer facility in Kosovo **for a period of one (1) day** is feasible, subject to planning consultations with [REDACTED],²⁰ on the understanding that Mr Thaçi would remain in the custody of the Specialist Chambers and under escort at all times, and that the chief custody officer may take any decision necessary regarding the custodial visit on the basis of operational and security concerns, including terminating the visit. This one (1) day visit would accommodate travel time and a custodial visit to [REDACTED] to visit his father, under further conditions as elaborated below.

ii. Visit to the [REDACTED]

28. The Head of SSU assesses that, even though a temporary custodial visit of this nature to the [REDACTED] is [REDACTED], the Specialist Chambers can arrange for Mr Thaçi to be securely transported to and from [REDACTED] for an in-person custodial visit with his father, if so ordered by the Pre-Trial Judge. For operational and security reasons, the custodial visit should be limited to a single time-limited visit to the [REDACTED] to meet with his father, [REDACTED],²¹ due to security requirements and the need to ensure a safe and secure visit within the feasible timeframe.

29. This visit is feasible on the understanding that the [REDACTED] would be vacated by all non-authorised persons and that there is no public information or

²⁰ Unforeseen circumstances may impact upon these timescales.

²¹ Request, para. 18.

media coverage about the visit in advance.²² Should Mr Thaçi's [REDACTED] require professional medical care, then the medical personnel whose presence is necessary for this care may also be present at the [REDACTED]. If this is the case, the Defence is requested to provide personal details of the medical personnel to be present in advance.

30. The Registry also welcomes any other conditions deemed appropriate by the Pre-Trial Judge.

iii. Assistance of External Partners

31. In Kosovo, robust and overt security arrangements [REDACTED] would be required for any custodial visit ordered by the Pre-Trial Judge. The Registry would require [REDACTED], as well as [REDACTED] should Mr Thaçi be required to visit the secure transfer facility for any reason during the transfer.²³

32. Arranging security support from external partners requires advance notice, as well as advance notification to Host State authorities and advance preparation of any logistical requirements, including transport arrangements.

33. The Registrar requests, pursuant to Article 53 of the Law, that all entities and persons in Kosovo be ordered to comply without undue delay with any request for assistance that may be required.

34. Should the Pre-Trial Judge decide to approve this custodial visit, the Registrar will make final operational security planning arrangements with external partners.

²² In such event, the chief custody officer would need to be in a position to make any necessary operational changes to address the prevailing security conditions. *See below*, para. 37.

²³ Due to the 1-day anticipated timeframe, it is not expected that Mr Thaçi would be accommodated at the Specialist Chambers' secure transfer facility. Nevertheless, the transfer facility may be used in the event of delay or unforeseen circumstances. In such case, the transfer facility would be managed by Specialist Chambers' security staff at all times, led by the chief custody officer. Due to the limited duration of any possible stay there, the Registrar is satisfied that the secure transfer facility is in line with applicable international standards.

iv. Other Considerations and Practical Matters

35. In terms of other considerations and practical matters, as noted above, considerable financial and human resources are required to deploy a several-person transfer team and arrange for [REDACTED] and secure air transport on extremely short notice.

36. As with previous custodial visits, the secrecy of any custodial visit is paramount. Should the Pre-Trial Judge order the temporary transfer of Mr Thaçi for a custodial visit to Kosovo, the Registrar requests the Pre-Trial Judge to order conditions of secrecy regarding Mr Thaçi's presence on the territory of Kosovo. Specifically, the Registrar requests the Pre-Trial Judge to order the Defence, Mr Thaçi, and his family members and associates to refrain from making public statements and to maintain secrecy regarding his presence on the territory of Kosovo prior to and during the entirety of his stay in Kosovo, together with any other conditions deemed appropriate.

37. Should Mr Thaçi's presence on the territory of Kosovo become known, the Registrar requests that the Registry be authorised to make any necessary statement in this regard and to make any changes to the operation that are necessary based on the prevailing security conditions.

38. If a custodial visit is ordered by the Pre-Trial Judge, the Registry requests that the Defence be ordered to submit to the Detention Management Unit, for prior approval, copies of the identity documents of all persons authorised by the Pre-Trial Judge to be at the [REDACTED] or otherwise participate in the custodial visit.²⁴ In addition, pre-approved persons would also need to present photographic identification to the chief custody officer upon arrival at the [REDACTED].

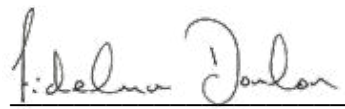
39. Finally, the Registrar requests authorisation to notify any authorities deemed necessary for the implementation of the Pre-Trial Judge's order.

²⁴ See above, paras 27-28.

IV. CLASSIFICATION

40. This submission is filed as confidential and *ex parte* for distribution to the Registrar, Specialist Prosecutor's Office, and the Defence for Mr Taçi only, to protect the confidentiality of information related to the safe and secure transfer of Mr Taçi and to [REDACTED] visits and communications in the Detention Facilities.

Word count: 2957

A handwritten signature in dark ink, appearing to read 'Fidelma Donlon', is written over a horizontal line.

Dr Fidelma Donlon
Registrar

Thursday, 30 January 2025
At The Hague, the Netherlands

Explanatory note: A typographical error in the footer has been corrected.