



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-06

**The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi,
and Jakup Krasniqi**

Before: Trial Panel II

Judge Charles L. Smith, III, Presiding Judge

Judge Christoph Barthe

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 19 February 2025

Language: English

Classification: Public

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

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TRIAL PANEL II (“Panel”), pursuant to Articles 21(3), and 41 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 56(3) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. Hashim Thaçi (“Mr Thaçi”) has been in detention since his surrender into the custody of the Specialist Chambers (“SC”) on 5 November 2020.¹
2. On 31 January 2025, upon a request by the Defence for Mr Thaçi (“Thaçi Defence”),² the Panel rejected a request for the temporary release of Mr Thaçi on compassionate grounds (“Decision on Thaçi Defence’s Third Request for Temporary Release”).³
3. On 14 February 2025, the Thaçi Defence filed a further urgent request for the temporary release of Mr Thaçi on compassionate grounds (“Request”).⁴

¹ F00065, Registrar, *Report on the Arrest and Transfer of Hashim Thaçi to the Detention Facilities*, 9 November 2020, confidential and *ex parte*, para. 7, with one Annex, strictly confidential and *ex parte* (a public redacted version was filed on 18 November 2020, F00065/RED).

² F02870, Specialist Counsel, *Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 28 January 2025, confidential and *ex parte*, with one Annex, confidential and *ex parte* (a public redacted version was filed on 5 February 2025, F02870/RED); *See also* F02878, Specialist Prosecutor, *Prosecution Response to Third Urgent Thaçi Release Request* (“Prosecution Response to Third Urgent Thaçi Release Request”), 30 January 2025, confidential and *ex parte* (public redacted version was filed on 7 February 2025, F02878/RED); F02879, Registrar, *Registrar’s Submissions on Urgent Thaçi Defence Third Request for Temporary Release on Compassionate Grounds*, 30 January 2025, confidential and *ex parte* (a public redacted version was filed on 7 February 2025, F02879/RED).

³ F02887, Panel, *Decision on Thaçi Defence Third Urgent Request for Temporary Release on Compassionate Grounds*, 31 January 2025, confidential and *ex parte* (a public redacted version was issued on 11 February 2025, F02887/RED).

⁴ F02927, Specialist Counsel, *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*.

4. On 18 February 2025, following an order from the Panel,⁵ the Thaçi Defence filed a supplement to the Request (“Supplement”).⁶

5. On 18 February 2025, following an order for an expediated briefing schedule,⁷ the Specialist Prosecutor’s Office (“SPO”) responded to, and the Registrar made submissions on, the Request (“SPO Response” and “Registrar Submissions”, respectively).⁸

II. SUBMISSIONS

6. The Thaçi Defence requests that the Panel order the temporary custodial release of Mr Thaçi for one day to allow him to visit his father, Mr Haxhi Thaçi, in [REDACTED], in the presence of his mother, Mrs Hyra Thaçi, his father’s carer, [REDACTED], and his wife, [REDACTED] without any other visitors.⁹ The Thaçi Defence submits that Mr Thaçi’s [REDACTED] since the Decision on Thaçi Defence’s Third Request for Temporary Release and, therefore, his health condition constitutes urgent, compelling and exceptional circumstances justifying Mr Thaçi’s temporary release on humanitarian grounds.¹⁰

7. The Thaçi Defence adds that any perceived risk is mitigated as: (i) Mr Thaçi is not a flight risk;¹¹ (ii) Mr Thaçi was provisionally released, on two prior occasions,

⁵ CRSPD740, *Email from Trial Panel II to Thaçi Defence to Supplement F02927*, 17 February 2025, confidential.

⁶ F02941, Specialist Counsel, *Supplement to Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 18 February 2025, confidential and *ex parte*, with one Annex, confidential and *ex parte*.

⁷ CRSPD739, *Email from Trial Panel II to the Thaçi Defence, the SPO and Registry Expediating the Briefing Schedule for F02927*, 17 February 2025, confidential.

⁸ F02940, Specialist Prosecutor, *Prosecution Response to Fourth Urgent Thaçi Release Request*, 18 February 2025, confidential and *ex parte*; F02943, Registrar, *Registrar’s Submissions on Urgent Thaçi Defence Fourth Request for Temporary Release on Compassionate Grounds*, 18 February 2025, confidential and *ex parte*.

⁹ Request, paras 4, 17, 20, 22-23, 25; Supplement, para. 7.

¹⁰ Request, paras 1-4, 17-20, Annexes 1-2 to the Request; Supplement, paras 3-5; Annex to the Supplement.

¹¹ Request, para. 21.

without any incident;¹² and (iii) while Mr Thaçi has been charged with criminal offences against the administration of justice and public administration and criminal offences against public order in KSC-BC-2023-12 (“Case 12”), he is presumed innocent and his parents and his wife have no connection to these allegations.¹³ Lastly, the Thaçi Defence notes that it has filed the Request before the Panel on the understanding that the same request will also need to be filed in front of the Pre-Trial Judge in Case 12.¹⁴

8. The SPO responds that, based on the information provided, Mr Haxhi Thaçi is not currently hospitalised, but is suffering from ongoing chronic health conditions, with a poor long-term prognosis, commensurate with his age and state of health.¹⁵ The SPO further contends that all risk factors before the Panel in the Decision on Thaçi Defence’s Third Request for Temporary Release continue to apply.¹⁶ The SPO asserts that, should the Panel be minded to grant the Request, any visit should be fully custodial, for one day only, and all conditions attaching to prior visits should apply.¹⁷ In particular, the SPO argues that Mr Thaçi: (i) should not give or receive any item; (ii) should *only* see his father and mother (and, if strictly necessary, one accompanying, pre-identified and approved carer); and (iii) should not have private conversations outside the sight and hearing of a Registry staff member with appropriate linguistic skills.¹⁸

9. The Registrar notes that Mr Haxhi Thaçi’s [REDACTED] and that he is not currently hospitalised.¹⁹ The Registrar outlines that there are alternative means

¹² Request, para. 21.

¹³ Request, para. 22.

¹⁴ Request, para. 5.

¹⁵ SPO Response, para. 1.

¹⁶ SPO Response para. 1 *referring to* Prosecution Response to Third Urgent Thaçi Release Request, paras 3-6.

¹⁷ SPO Response, para. 2 *referring to* F01757, Panel, *Decision on Urgent Thaçi Defence Second Request for Temporary Release on Compassionate Grounds*, 1 September 2023, confidential and *ex parte*, para. 26 (a public redacted version was issued on 21 September 2023, F01757/RED).

¹⁸ SPO Response, para. 2.

¹⁹ Registrar Submissions, para. 14.

available for Mr Thaçi to remain in close contact with his parents and other immediate family members, such as visits, telephone calls, and correspondence, noting that Mr Thaçi has already had [REDACTED], and has [REDACTED] for the month of February 2025.²⁰ The Registrar further outlines the security, feasibility and operational requirements necessary to comply with the Request.²¹ Based upon its assessment, the Registrar submits that, should custodial release be granted, it is necessary: (i) to limit Mr Thaçi's visit to one day;²² (ii) to limit the custodial visit to a single time-limited visit to the [REDACTED] to meet with his father, his mother, his wife, and his father's carer only;²³ and (iii) that a condition of secrecy be maintained.²⁴

III. APPLICABLE LAW

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

IV. DISCUSSION

11. The Panel notes that there is no unconditional right to temporary release on compelling humanitarian grounds.²⁵ A decision whether to release a person on such grounds is subject to the discretion of the Panel, and must account for all relevant circumstances and factors.²⁶ What these factors are, as well as the weight

²⁰ Registrar Submissions, paras 15-16, 18-19.

²¹ Registrar Submissions, paras 21-40.

²² Registrar Submissions, paras 27-28.

²³ Registrar Submissions, paras 29-30.

²⁴ Registrar Submissions, paras 24, 37.

²⁵ See ECtHR, *Lind v. Russia*, no. 25664/05, [Judgment](#) ("*Lind v. Russia*"), 6 December 2007, para. 94. See also KSC-BC-2020-07, F00604/RED, Trial Panel II, *Public Redacted Version of the Decision on Gucati Defence Request for Temporary Release on Compassionate Grounds* ("Gucati Decision"), 9 May 2022, para. 11.

²⁶ See Gucati Decision, para. 11. See also ICTY, *Prosecutor v. Popović et al.*, IT-05-88-AR65.4, IT-05-88-AR65.5 and IT-05-88-AR65.6, Appeals Chamber, [Decision on Consolidated Appeal Against Decision on Borovčanin's Motion for a Custodial Visit and Decisions on Gvero's and Miletić's Motions for Provisional Release During the Break in the Proceedings](#), 15 May 2008, para. 6.

to be accorded to them depends upon the particular circumstances of the case. Accordingly, 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, the possibility of escorted leave and other circumstances informing the alleged humanitarian grounds are among the factors that could be relevant for consideration.²⁷ Visiting a close relative in critical condition has been accepted, under certain conditions, as a compelling humanitarian ground warranting temporary release.²⁸

12. In making its assessment, the Panel considers that Mr Thaçi is charged with six counts of crimes against humanity involving allegations of murder, enforced disappearance of persons, persecution, imprisonment, torture, and other inhumane acts.²⁹ Mr Thaçi is also charged with four counts of war crimes of murder, torture, cruel treatment, and illegal or arbitrary arrest and detention.³⁰ His continued detention has been found to be necessary.³¹

²⁷ See Gucati Decision, para. 11. See also ECtHR, [Lind v. Russia](#), para. 95. See also F00640/RED, Pre-Trial Judge, *Public Redacted Version of Third Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds*, 8 January 2022, para. 20; 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*, 30 June 2022, para. 11; KSC-CA-2022-01/F00043/RED, Court of Appeals Panel, *Public Redacted Version of Decision on Gucati's Fourth Request for Temporary Release on Compassionate Grounds*, 22 September 2022, para. 16.

²⁸ Gucati Decision, para. 12; KSC-BC-2020-07, F00618/RED, Trial Panel II, *Public Redacted Version of Decision on Second Gucati Defence Request for Temporary Release on Compassionate Grounds*, 27 May 2022, para. 17. Similarly, ICTY, *Prosecutor v. Popović et al.*, IT-05-88-T, Trial Chamber, [Decision on Pandurević's Motion for Provisional Release](#), 21 July 2008, para. 22; *Prosecutor v. Strugar*, IT-01-42-A, Appeals Chamber, [Decision on the Renewed Defence Request Seeking Provisional Release on Compassionate Grounds](#), 15 April 2008, paras 10-11; *Prosecutor v. Sainović et al.*, IT-05-87-A, Appeals Chamber, [Public Redacted Version of the Decision on Sreten Lukić's Second Motion for Provisional Release on Compassionate Grounds](#), 14 July 2010, paras 11, 13.

²⁹ F01323/A01, Specialist Prosecutor, *Annex 1 to Prosecution Further Submissions Pursuant to Decision F01229 ("Indictment")*, 27 February 2023, para. 177.

³⁰ Indictment, para. 177.

³¹ F02926, Panel, *Decision on Periodic Review of Detention of Hashim Thaçi ("Detention Decision")*, 13 February 2025, paras 36, 38(a).

13. The Panel is mindful of Mr Thaçi's father's advanced age and that [REDACTED].³² Nonetheless, the Panel is not convinced that the current medical condition of Mr Haxhi Thaçi constitutes compelling considerations within the meaning of Rule 56(3). Specifically, the Panel notes that, while Mr Thaçi's father was hospitalised again between [REDACTED] February 2025, and the Thaçi Defence contends that his [REDACTED],³³ he has since been discharged from the hospital.³⁴ It is the view of the Panel that, at the present time, there is no conclusive evidence before the Panel to establish that Mr Haxhi Thaçi is currently in a critical condition beyond health issues commensurate with his age and state of health.³⁵

14. The Panel also recalls that, considering the importance of contacts with close family members and Mr Haxhi Thaçi's medical circumstances, it ordered the Registry to facilitate additional video visits, which could be attended by both of Mr Thaçi's parents, for the month of February 2025.³⁶

15. Recalling that release on compelling humanitarian grounds has to be balanced with other relevant factors,³⁷ the Panel also takes into account: (i) the existence of a persistent climate of intimidation of witnesses and interference with criminal proceedings against former Kosovo Liberation Army members in Kosovo;³⁸ (ii) that the Panel modified Mr Thaçi's conditions of detention as it appeared that Mr Thaçi provided unprivileged visitors with information elicited during the testimony of protected witnesses;³⁹ and (iii) that Mr Thaçi has been charged – in addition to the charges in these proceedings – with criminal offences against the

³² Request, paras 1-3, 18, 20; Annexes 1-2 to the Request; Supplement, paras 3-5; Annex to the Supplement.

³³ Request, paras 1-4, 17-18, 20; Annexes 1-2; Supplement, paras 1, 3-4; Annex to the Supplement.

³⁴ Request, paras 2, 20; Annex 2 to the Request, p. 3; Supplement, para. 1; Annex to the Supplement, p. 12.

³⁵ See Annexes 1-2 to the Request; Annex to the Supplement, p. 3.

³⁶ Decision on Thaçi Defence's Third Request for Temporary Release, para. 15.

³⁷ See *supra*, para. 11.

³⁸ Detention Decision, para. 22.

³⁹ F01977, Panel, *Further Decision on Prosecution Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi*, 1 December 2023, paras 35, 38, 51-53, 55-60, 62-78, 84(c).

administration of justice and public administration and criminal offences against public order for allegedly having disclosed secret information disclosed to him in this trial and, together with others, coordinated to unlawfully influence the testimony of and/or contact SPO witnesses in this case.⁴⁰ The Panel has also accounted for the fact that trial proceedings are ongoing and witnesses are still to be called.

16. For these reasons, the Panel finds that, on balance and in the present circumstances, the medical condition of Mr Haxhi Thaçi does not amount to compelling humanitarian grounds justifying Mr Thaçi's temporary release for a custodial visit.

17. Lastly, considering, however, the frail and evolving state of Mr Haxhi Thaçi's health, the Panel invites the Thaçi Defence to notify the Panel, without delay, of any information suggesting that the requisite threshold for temporary release has been met.

V. CLASSIFICATION

The Panel notes that the Request, the Supplement, the SPO Response, and the Registrar Submissions are confidential and *ex parte*. The Panel further notes that the SPO does not object to the SPO Response being reclassified as public.⁴¹ The Panel therefore orders the Registry to reclassify the SPO Response as public, by no later than **Wednesday, 26 February 2025**. The Panel further orders the Thaçi Defence and the Registry to request reclassification or file public redacted versions of their respective filings by **Wednesday, 26 February 2025**.

⁴⁰ KSC-BC-2023-12/F00055/A01, Specialist Prosecutor, *Annex 1 to Submission of Public Redacted Version of Confirmed Indictment*, 2 December 2024, paras 6-8, 45.

⁴¹ SPO Response, para. 3.

VI. DISPOSITION

18. For the above-mentioned reasons, the Panel hereby:

- a) **REJECTS** the Request;
- b) **ORDERS** the Registry to reclassify the SPO Response as public, by no later than **Wednesday, 26 February 2025**; and
- c) **ORDERS** the Thaçi Defence and the Registry to request reclassification or file public redacted versions of the Request, the Supplement and the Registrar Submissions by **Wednesday, 26 February 2025**.



Judge Charles L. Smith, III
Presiding Judge

Dated this Wednesday, 19 February 2025

At The Hague, the Netherlands.