



**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:** 12 February 2025

**Language:** English

**Classification:** Public

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**Public Redacted Version of Decision Approving the Termination of  
Representation by Counsel for Hashim Thaçi**

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**Specialist Prosecutor**

Kimberly P. West

**Registrar**

Fidelma Donlon

**Specialist Counsel for Hashim Thaçi**

Nina Tavakoli

Sophie Menegon

**Duty Counsel for Bashkim Smakaj**

Bas Martens

**Specialist Counsel for Isni Kilaj**

Iain Edwards

Joe Holmes

**Duty Counsel for Fadil Fazliu**

Michiel Pestman

**Specialist Counsel for Hajredin Kuçi**

Alexander Admiraal

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Articles 21(4)(e) and (5)(a), and 39(1) and (13) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”), Rule 25 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”) and Sections 16(1) and (2)(b) of the Directive on Counsel,<sup>2</sup> hereby renders this decision.

## I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 6 and 13 December 2024, the Registrar notified the Pre-Trial Judge of the appointment of Nina Tavakoli (“Ms Tavakoli”) as Specialist Counsel for Hashim Thaçi (“Mr Thaçi”)<sup>3</sup> and the approval of Sophie Menegon (“Ms Menegon”) as Co-Counsel.<sup>4</sup>

2. On 6 February 2025, the Registrar notified the Pre-Trial Judge that, on 5 February 2025, Ms Tavakoli requested the Registrar’s approval to terminate her representation of Mr Thaçi in the present case (“Case 12”), pursuant to Section 16(2)(b) of the Directive on Counsel.<sup>5</sup> Ms Tavakoli asserts that there is good cause to terminate her representation as: (i) [REDACTED]; (ii) her continued representation of Mr Thaçi in Case 12 is impinging on her ability to properly and diligently represent him in the case of *The Specialist Prosecutor v. Thaçi et al.* (KSC-BC-2020-06) (“Case 06”), which was a pre-existing professional obligation of hers, as she does not have sufficient time to represent him in both cases; (iii) the

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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-BD-04-Rev2, Registry Practice Direction, Directive on Counsel, 22 February 2024.

<sup>3</sup> KSC-BC-2023-12, F00060, Registrar, *Notification of Appointment of Counsel to Hashim Thaçi*, 6 December 2024, public, with Annex 1, confidential.

<sup>4</sup> KSC-BC-2023-12, F00081, Registrar, *Notification of Conditional Approval of Co-Counsel for Hashim Thaçi*, 13 December 2024, public, with Annex 1, confidential.

<sup>5</sup> KSC-BC-2023-12, F000161/COR, Registrar, *Corrected Version of Registrar’s Notification of Letter from Counsel for Mr Hashim Thaçi Seeking Early Termination of Appointment* (“Notification”), 6 February 2025, public, para. 1, with Annexes 1-2, confidential and *ex parte*.

proceedings in Case 12 are at a relatively early stage; and (iv) Mr Thaçi would continue to be represented in Case 12 by his current Co-Counsel, Ms Menegon.<sup>6</sup>

3. On 10 February 2025, the Registrar transmitted a signed appointment form and power of attorney received from Mr Thaçi, requesting that Ms Menegon be appointed as Specialist Counsel, replacing Ms Tavakoli.<sup>7</sup> Accordingly, the Registrar seeks, pursuant to Section 16(1) of the Directive on Counsel, the Pre-Trial Judge's approval for the early termination of Ms Tavakoli's representation of Mr Thaçi.<sup>8</sup>

## II. APPLICABLE LAW

4. Pursuant to Article 21(4)(e) of the Law, an accused has the right to defend him/herself through Specialist Counsel of his or her own choosing. Pursuant to Article 21(5)(a) of the Law, an accused must be represented by Specialist Counsel throughout the time he or she is in detention.

5. Pursuant to Article 39(1) and (13) of the Law, the Pre-Trial Judge may issue any orders or decisions as may be necessary for the preparation of a fair and expeditious trial.

6. Pursuant to Section 16(1) of the Directive on Counsel, when considering the early termination of representation by Specialist Counsel of an accused, the Registrar shall have due regard to the importance of continuity of representation and shall obtain the approval of the Panel seized of the matter in which Counsel is acting.

7. Pursuant to Section 16(2)(b) of the Directive on Counsel, the Registrar shall terminate representation by Counsel in circumstances where, *inter alia*, Counsel or the accused request withdrawal showing good cause.

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<sup>6</sup> See Annex 1 to Notification.

<sup>7</sup> KSC-BC-2023-12, F000167, Registrar, *Registrar's Notification of Documents Further to Letter from Counsel for Mr Hashim Thaçi Seeking Early Termination of Appointment* ("Further Notification"), 10 February 2025, public, with Annex 1, confidential and *ex parte*.

<sup>8</sup> Further Notification, para. 2.

### III. DISCUSSION

8. In considering the early termination of Ms Tavakoli's representation of Mr Thaçi, the Pre-Trial Judge is mindful of Mr Thaçi's rights under Article 21(4)(e) and (5)(a) of the Law, as well as ensuring continuity in his representation.

9. As regards the showing of good cause, the Pre-Trial Judge pays heed to Ms Tavakoli's submissions that: (i) [REDACTED]; (ii) she cannot properly and diligently represent Mr Thaçi in both Case 06 and Case 12 due to time constraints; and (iii) her pre-existing obligation was to represent Mr Thaçi in Case 06.<sup>9</sup> On this basis, the Pre-Trial Judge is satisfied that good cause has been shown, within the meaning of Section 16(2)(b) of the Directive on Counsel, for the early termination of Ms Tavakoli's representation of Mr Thaçi.

10. As regards continuity of representation, the Pre-Trial Judge takes into account: (i) the early stage of the proceedings in Case 12; (ii) that Mr Thaçi is currently also represented by Ms Menegon, who has been acting as Co-Counsel since her appointment on 13 December 2024 and is fully familiar with the present proceedings; and (iii) Mr Thaçi's request to the Registrar to have Ms Menegon appointed as his replacement Specialist Counsel.<sup>10</sup> The Pre-Trial Judge also takes note of Ms Tavakoli's assurance that she will "strive to ensure that [her] withdrawal (should it be approved) does not prejudice Mr Thaçi during this transition and that his interests are protected".<sup>11</sup> On this basis, the Pre-Trial Judge is satisfied that continuity in the representation of Mr Thaçi is ensured.

11. In light of the above, the Pre-Trial Judge finds that the early termination of Ms Tavakoli's representation of Mr Thaçi comports with his rights and adequately ensures his continued representation. Accordingly, the Pre-Trial Judge approves

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<sup>9</sup> See *supra*, para. 2.

<sup>10</sup> See *supra* para. 3.

<sup>11</sup> Annex 1 to Notification. The Pre-Trial Judge notes that Ms Menegon has not objected to Mr Thaçi's request for her appointment.

the withdrawal of Ms Tavakoli as Specialist Counsel for Mr Thaçi, which shall become effective on the day new lead counsel is appointed by the Registrar to represent Mr Thaçi.

#### IV. DISPOSITION

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

- a. **APPROVES** the termination of Ms Tavakoli's representation of Mr Thaçi, which shall become effective on the day new lead counsel is appointed by the Registrar to represent Mr Thaçi;
- b. **DIRECTS** the Registrar to take all necessary steps to appoint new lead counsel for Mr Thaçi as soon as practicable; and
- c. **ORDERS** the Registrar to prepare, in consultation with Ms Tavakoli, a public redacted version of filing F000161/A01 (Annex 1 to the Notification), and to submit it by no later than **Friday, 14 February 2025**.

*[Signed]*

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

Dated this Wednesday, 12 February 2025

At The Hague, the Netherlands.