



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: 12 March 2025

Language: English

Classification: Public

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

Specialist Prosecutor

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TRIAL PANEL II (“Panel”), pursuant to Articles 21(3), 41 and 53 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 56(3) and (5) 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, after hearing submissions from the Parties and the Registry,² the Panel rejected a request for the temporary release of Mr Thaçi on compassionate grounds (“Decision on Third Request for Temporary Release”).³

3. On 19 February 2025, after hearing submissions from the Parties and the Registry,⁴ the Panel rejected a further request for the temporary release of

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); 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* (a public redacted version was filed on 21 February 2025, F02927/RED); 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* (a public redacted version was filed on 21 February 2025, F02941/RED); F02940, Specialist Prosecutor, *Prosecution Response to Fourth Urgent Thaçi Release Request*, 18 February 2025; F02943, Registrar, *Registrar’s Submissions on Urgent Thaçi Defence Fourth Request for Temporary Release on Compassionate Grounds*, 18 February 2025, confidential and *ex parte* (a public redacted version was filed on 25 February 2025, F02943/RED).

Mr Thaçi on compassionate grounds (“Decision on the Fourth Request for Temporary Release”).⁵

4. On 10 March 2025, the Defence for Mr Thaçi (“Thaçi Defence”) filed a further urgent request for the temporary release of Mr Thaçi on compassionate grounds (“Request”).⁶

5. On 10 March 2025, following an order for an expedited 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, Haxhi Thaçi, in the presence of his mother, Hyra Thaçi, and his wife, [REDACTED], at the [REDACTED] (“Hospital”).⁹ The Thaçi Defence submits that Mr Haxhi Thaçi’s [REDACTED] since the Decision on the Fourth 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

⁵ F02947, Panel, *Decision on Thaçi Defence Fourth Urgent Request for Temporary Release on Compassionate Grounds*, 19 February 2025, confidential and *ex parte* (a public redacted version was issued on 3 March 2025, F02947/RED).

⁶ F02996, Specialist Counsel, *Further Supplement to Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 10 March 2025, confidential and *ex parte*, with one Annex, confidential and *ex parte*.

⁷ CRSPD757, *Email from Trial Panel II to the SPO, the Registrar and the Thaçi Defence Expediting Briefing Schedule for F02996*, 11 March 2025, confidential.

⁸ F02999, Registrar, *Registrar’s Submissions on Fifth Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 11 March 2025, confidential and *ex parte*; F03000, Specialist Prosecutor, *Prosecution Response to Thaçi’s Renewed Release Request*, 11 March 2025, confidential and *ex parte*.

⁹ Request, paras 4, 12.

¹⁰ Request, paras 4-10; Annex to the Request.

7. The SPO responds that each of the significant and elevated risks posed by Mr Thaçi outlined previously apply.¹¹ 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.¹² Additionally, the SPO argues that Mr Thaçi: (i) should not give or receive any item; (ii) should *only* see his father and mother; and (iii) should not have private conversations outside the sight and hearing of a Registry staff member with appropriate linguistic skills.¹³

8. The Registrar notes that Mr Haxhi Thaçi is currently hospitalised.¹⁴ The Registrar also notes her previous submissions that there are other available means for Mr Thaçi to remain in close contact with his parents and other immediate family members.¹⁵

9. The Registrar further outlines the security, feasibility and operational requirements necessary to comply with the Request.¹⁶ Based upon her assessment, the Registrar submits that, should custodial release be granted, it is necessary: (i) to limit Mr Thaçi's visit to one day;¹⁷ (ii) to limit the custodial visit to a single time-limited visit to the Hospital to meet with Mr Thaçi's father, mother, and wife;¹⁸ (iii) that the location of the visit in the Hospital is vacated by all non-authorized persons, with [REDACTED];¹⁹ and (iv) that a condition of secrecy be maintained.²⁰

¹¹ SPO Response, para. 1 *referring to* Prosecution Response to Third Urgent Thaçi Release Request, paras 3-6.

¹² 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).

¹³ SPO Response, para. 2.

¹⁴ Registrar Submissions, para. 11.

¹⁵ Registrar Submissions, para. 11.

¹⁶ Registrar Submissions, paras 12-17.

¹⁷ Registrar Submissions, paras 15, 19.

¹⁸ Registrar Submissions, paras 20.

¹⁹ Registrar Submissions, para. 21.

²⁰ Registrar Submissions, paras 15, 21, 29-30.

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. 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.

11. Pursuant to Article 53(1) of the Law, all entities and persons in Kosovo shall co-operate with the SC and shall comply without undue delay with any request for assistance or an order or decision issued by the SC.

IV. DISCUSSION

A. TEMPORARY RELEASE ON COMPELLING HUMANITARIAN GROUNDS

12. The Panel notes that there is no unconditional right to temporary release on compelling humanitarian grounds.²¹ 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.²² What these factors are, as well as the weight 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

²¹ 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.

²² 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.

consideration.²³ Visiting a close relative in critical condition has been accepted, under certain conditions, as a compelling humanitarian ground warranting temporary release.²⁴

13. 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.²⁵ Mr Thaçi is also charged with four counts of war crimes of murder, torture, cruel treatment, and illegal or arbitrary arrest and detention.²⁶ His continued detention has been found to be necessary.²⁷

14. That being said, the Panel notes that the SPO does not oppose a strictly supervised, fully custodial visit of one day and that both the SPO and the Registry set out a number of logistical measures and security conditions that they say would make such a visit feasible.²⁸

15. The Panel recalls that in the Decision on the Fourth Request for Temporary Release the Panel found, that, at that time, “the medical condition of Mr Haxhi

²³ 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.

²⁴ 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.

²⁵ F01323/A01, Specialist Prosecutor, *Annex 1 to Prosecution Further Submissions Pursuant to Decision F01229 (“Indictment”)*, 27 February 2023, para. 177.

²⁶ Indictment, para. 177.

²⁷ F02926, Panel, *Decision on Periodic Review of Detention of Hashim Thaçi (“Detention Decision”)*, 13 February 2025, paras 36, 38(a).

²⁸ SPO Response; Registrar Submissions.

Thaçi does not amount to compelling humanitarian grounds,”²⁹ but invited “the Thaçi Defence to notify the Panel, without delay, of any information suggesting that the requisite threshold for temporary release has been met.”³⁰

16. The Panel notes that that Mr Thaçi’s father is presently hospitalised at the “[REDACTED]” of the Hospital and two days ago “[REDACTED]”.³¹ The Panel also notes the detailed information provided in respect to his current medical condition and [REDACTED]. In particular, the Panel notes that [REDACTED] stated on [REDACTED] March 2025 that Mr Haxhi Thaci's [REDACTED] is “[REDACTED]” and “[REDACTED]”.³² Accordingly, the Panel considers that the current medical condition of Mr Haxhi Thaçi, combined with his advanced age and the possibility that his medical condition may deteriorate, constitute compelling considerations within the meaning of Rule 56(3). The Panel has also accounted for the stage of the proceedings and other considerations pertaining to the effective protection of witnesses.

17. For these reasons, the Panel finds that, on balance and in the present circumstances, the medical condition of Mr Haxhi Thaçi constitutes compelling humanitarian grounds justifying Mr Thaçi’s temporary release for a custodial visit.

B. CONDITIONS OF CUSTODIAL VISIT

18. The Panel will now turn to the conditions to be imposed on Mr Thaçi’s custodial visit.

19. The Panel recalls its previous findings that: (i) a risk continues to exist that Mr Thaçi may obstruct the progress of proceedings and/or commit further

²⁹ Decision on the Fourth Request for Temporary Release, para. 16.

³⁰ Decision on the Fourth Request for Temporary Release, para. 17.

³¹ Annex to the Request.

³² Annex to the Request.

offences;³³ (ii) imposing conditions in relation to Mr Thaçi's release would insufficiently mitigate these risks;³⁴ and (iii) modified conditions of detention were necessary as it appeared that Mr Thaçi provided non-privileged visitors with information elicited during the testimony of protected witnesses.³⁵ In addition, the Panel notes that Mr Thaçi has been charged – in addition to the charges in these proceedings – with criminal offences against the 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.³⁶

20. Therefore, in light of the security risks and logistics involved, the Panel considers that conditions falling short of those provided below would not sufficiently address the risks associated with temporary release of Mr Thaçi.

21. The custodial visit shall last one day only, departing and returning on **Thursday, 13 March 2025**. The custodial visit shall be carried out under the following conditions:

- a) Mr Thaçi's visit shall at all times be under the condition of secrecy until Mr Thaçi's return from Kosovo. Mr Thaçi, his family members, associates and Counsel shall refrain from informing any third party of the visit prior to and during the entirety of his stay in Kosovo. They shall make no press contacts or public statements in respect of this matter;
- b) The Registry is only to provide this decision to the SPO, Mr Thaçi, and Mr Thaçi's Lead Counsel, and Co-Counsel. Lead Counsel, or Co-Counsel,

³³ Detention Decision, paras 18-28.

³⁴ Detention Decision, paras 31-33.

³⁵ F01977, Panel, *Further Decision on the Prosecution's Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi*, 1 December 2023, paras 38-39, 41, 51-53, 55-60, 62-64, 66-72, 74-78, 84(c).

³⁶ 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.

shall not disclose to any third party (including other members of their team) the existence of the present decision and/or the temporary release of Mr Thaçi until his return. Lead Counsel shall ensure that other Counsel and members of his team do not, directly or indirectly, comment publicly on this matter and do not share information pertaining to this matter with the media;

- c) Should Mr Thaçi's presence on the territory of Kosovo become known, the Registrar is authorised to make any statement she deems necessary in that regard or take any action she deems necessary for reasons of security, including terminating the custodial visit;
- d) Mr Thaçi's movements in Kosovo shall be limited to travel to and from the airport and to and from the Hospital. Travel is authorised to and from a secure transfer facility should Mr Thaçi be required to be placed in a secure transfer facility for any reason while in Kosovo;
- e) During Mr Thaçi's visit at the location in the Hospital, only his father, his mother, his wife, escort personnel, and [REDACTED] shall be authorised to be present. The location of the visit in the Hospital shall be vacated by all non-authorised person;
- f) Should Mr Thaçi's father be discharged from the Hospital prior to, or during, the temporary release, the chief custody officer is authorised to take any decision regarding relocating the Accused's custodial visit with his father, taking into account the security situation and operational constraints of the mission;
- g) The Thaçi Defence is ordered to submit to the Detention Management Unit, for prior approval, copies of the photographic identity documents of all family members authorised to be at the location of the visit at the

Hospital or otherwise participate in the custodial visit and the exact location of the room in the Hospital;

- h) All family members authorised to be at the location of the custodial visit at the Hospital need to present photographic identification to the chief custody officer upon arrival at the relevant location of the custodial visit in the Hospital.
- i) During his temporary release, Mr Thaçi is not permitted to communicate with any person other than his mother, his father, his wife, his Lead Counsel and Co-Counsel, and escorting officers. During the release, Mr Thaçi is not permitted to communicate with anyone outside the sight and hearing of an escorting officer with appropriate linguistic skills;
- j) Mr Thaçi shall not have access to communication devices or any other means of communication, including pen and paper, other than as facilitated by the SC;
- k) Mr Thaçi is not permitted to pass or receive items to or from any person without prior inspection and approval of the escorting officer(s);
- l) Mr Thaçi shall not have any contact whatsoever or in any way interfere with any victim or potential witness or otherwise interfere in any way with the proceedings or the administration of justice;
- m) Mr Thaçi shall not seek direct access to documents nor destroy evidence;
- n) Mr Thaçi shall not discuss his case with anyone, including the media, other than with his Counsel;
- o) Mr Thaçi shall comply strictly with any further order of the Panel varying the terms or terminating his custodial visit; and

- p) Any breach of the conditions provided herein by Mr Thaçi, his Counsel or his family shall result in the immediate termination of the temporary release.

22. The Panel considers that, given the urgent nature of the request and the present circumstances, the strict custodial conditions outlined above are necessary to outweigh any risks that Mr Thaçi may obstruct the progress of proceedings or commit further crimes.

23. The Panel is further satisfied that, under the present circumstances, **a period of one day**, including travel, enables adequate time for Mr Thaçi to visit his father in the Hospital, and is thus proportionate to the grounds for which the temporary release is sought.

24. Should there be a need to amend any of the above conditions, the Parties or Registry shall seize the Panel immediately.

C. EXECUTIONS OF CONDITIONS

25. In the implementation of the above conditions, the Panel authorises the Registry to make final operational and security arrangements with external partners and to notify any other authorities, including those in the Host State and Kosovo, as necessary for the implementation of this order.

26. The Panel recalls that all entities and persons in Kosovo shall cooperate fully with the SC and shall comply without undue delay with any decision issued by the SC or any request for assistance.

D. REPORTING OBLIGATIONS

27. Throughout the custodial visit, the Registry shall provide the Panel with regular updates via email or telephone calls. Such regular updates shall occur, at

the very least, upon: (i) the transfer of Mr Thaçi to Kosovo; (ii) completion of any custodial visit to the Hospital; (iii) any breaches of the aforementioned conditions by Mr Thaçi or others; (iv) any early termination of the visit and reasons therefor; and (v) Mr Thaçi's return to the detention unit of the SC in the Host State. The Registry shall file a report to the Panel on the implementation of this decision within 10 days of Mr Thaçi's return to the detention unit of the SC.

V. CLASSIFICATION

28. The Panel notes that the Request, 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.³⁷ The Panel therefore orders the Registry to reclassify the SPO Response as public one week after Mr Thaçi's return to the detention facilities at the SC. The Panel further orders the Thaçi Defence and the Registry to request reclassification or file public redacted versions of their respective filings by one week after Mr Thaçi's return to the detention facilities at the SC.

VI. DISPOSITION

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

- a) **GRANTS** the Request;
- b) **ORDERS** Mr Thaçi to comply with all conditions specified in paragraph 21 above;
- c) **ORDERS** Lead Counsel, and Co-Counsel, for the Thaçi Defence not to disclose to any third party (including other team members) the existence

³⁷ SPO Response, para. 3.

of the present decision and/or the temporary release of Mr Thaçi until Mr Thaçi has returned to The Hague;

- d) **ORDERS** Lead Counsel for the Thaçi Defence to ensure that other Counsel and members of his team do not, directly or indirectly, comment publicly on this matter and do not share information pertaining to this matter with the media until Mr Thaçi has returned to The Hague;
- e) **ORDERS** the Thaçi Defence to submit to the Detention Management Unit, for prior approval, copies of the identity documents of all persons authorised to be at the location of the visit at the Hospital or otherwise participate in the custodial visit and the exact location of the room in the Hospital;
- f) **INSTRUCTS** the Registry to implement Mr Thaçi's custodial visit under the conditions specified in paragraph 21 above;
- g) **INVITES** the Parties and/or the Registry to seize the Panel immediately should an amendment to the conditions in paragraph 21 be required;
- h) **AUTHORISES** the Registry to make arrangements with external partners for the implementation of this decision;
- i) **AUTHORISES** the Registry to notify any other authorities deemed necessary for the implementation of this decision;
- j) **REMINDS** authorities in Kosovo that they shall comply without undue delay with any decision issued by the KSC or any request for assistance;
- k) **ORDERS** the Registry to provide updates and file a report as indicated in paragraph 27 above;
- l) **ORDERS** the Registry to reclassify the SPO Response as public one week after Mr Thaçi's return to the detention facilities at the SC; and

- m) **ORDERS** the Thaçi Defence and the Registry to request reclassification or file public redacted versions of the Request and the Registrar Submissions one week after Mr Thaçi's return to the detention facilities at the SC.



Judge Charles L. Smith, III

Presiding Judge

Dated this Wednesday, 12 March 2025

At The Hague, the Netherlands.