



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:** 7 April 2025

**Language:** English

**Classification:** Public

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**Second Decision on Review of Detention of Hashim Thaçi**

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**Specialist Prosecutor**  
Kimberly P. West

**Specialist Counsel for Hashim Thaçi**  
Sophie Menegon  
Luka Mišetić

**Specialist Counsel for Bashkim Smakaj**  
Jonathan Elystan Rees  
Huw Bowden

**Specialist Counsel for Isni Kilaj**  
Iain Edwards  
Joe Holmes

**Specialist Counsel for Fadil Fazliu**  
David Young

**Specialist Counsel for Hajredin Kuçi**  
Alexander Admiraal

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 41(6), (10) and (12) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 56(2) and 57(2) 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" or "Accused"), already detained at the Detention Facilities of the Specialist Chambers ("SC") in the context of the proceedings of *The Specialist Prosecutor v. Hashim Thaçi, et al.* ("Case 06"), was served with an arrest warrant, issued by the Pre-Trial Judge in the present proceedings,<sup>2</sup> *proprio motu* and further to the confirmation of an indictment against him, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuçi ("Confirmation Decision").<sup>3</sup>
2. On 8 December 2024, at the initial appearance of Mr Thaçi, the Pre-Trial Judge ordered his continued detention ("Decision on Detention").<sup>4</sup>
3. On 7 February 2025, the Pre-Trial Judge ordered Mr Thaçi's continued detention ("First Review Decision").<sup>5</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, F00037, Pre-Trial Judge, *Decision on Request for Arrest Warrants and Related Matters*, 29 November 2024, confidential, with Annexes 1-8, strictly confidential and *ex parte*; see Annex 4, containing the arrest warrant against Mr Thaçi. A public redacted version of the main filing was issued on 19 December 2024, [F00037/RED](#).

<sup>3</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](#).

<sup>4</sup> KSC-BC-2023-12, Transcript of Hearing, *Initial Appearance of Hashim Thaçi* ("Initial Appearance Transcript"), 8 December 2024, public, p. 18, lines 10-20.

<sup>5</sup> KSC-BC-2023-12, F00165, Pre-Trial Judge, [Decision on Review of Detention of Hashim Thaçi](#), 7 February 2025, public.

4. On 12 and 19 March 2025, the Pre-Trial Judge authorized Mr Thaçi's conditional release based on compelling humanitarian grounds, within the meaning of Rule 56(3) of the Rules.<sup>6</sup>

5. On 14 March 2025, the Specialist Prosecutor's Office ("SPO") made submissions on the periodic review of Mr Thaçi's detention ("SPO Submissions").<sup>7</sup>

6. On 21 March 2025, the Defence for Mr Thaçi ("Thaçi Defence") responded to the SPO Submissions.<sup>8</sup>

## II. SUBMISSIONS

7. The SPO requests the Pre-Trial Judge to order Mr Thaçi's continued detention, which remains necessary and proportionate.<sup>9</sup> In particular, the SPO submits that: (i) there continues to be a grounded suspicion that Mr Thaçi committed multiple crimes within the jurisdiction of the SC;<sup>10</sup> (ii) the Article 41(6)(b) risks continue to be present and have increased with the recent disclosure of incriminating evidence;<sup>11</sup> and (iii) the risks identified in the First Review Decision can only be effectively managed in the SC Detention Centre.<sup>12</sup> In this regard, the SPO adds that Mr Thaçi has apparently participated in another detainee's video-call, which underscores a concrete risk that he may use communication with other detainees' visitors to

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<sup>6</sup> KSC-BC-2023-12, F00213, Pre-Trial Judge, *Decision on Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 12 March 2025, confidential and *ex parte*; KSC-BC-2023-12, F00230, Pre-Trial Judge, *Decision on Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 19 March 2025, confidential and *ex parte*; F00230/COR, Pre-Trial Judge, *Corrected Version of Decision on Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 19 March 2025, confidential and *ex parte*, paras 22, 24-34.

<sup>7</sup> KSC-BC-2023-12, F00219, Specialist Prosecutor, *Prosecution Submissions on Review of Detention of Hashim Thaçi*, 14 March 2025, public, with Annex 1, public.

<sup>8</sup> KSC-BC-2023-12, F00237, Thaçi Defence, *Thaçi Defence Response to Prosecution Submissions on Review of Detention of Hashim Thaçi* ("Defence Response"), 21 March 2025, public.

<sup>9</sup> SPO Submissions, paras 1, 8.

<sup>10</sup> SPO Submissions, paras 1, 3.

<sup>11</sup> SPO Submissions, paras 1, 4.

<sup>12</sup> SPO Submissions, paras 1, 5-6.

indirectly establish contact with witnesses or disseminate confidential information.<sup>13</sup>

8. Additionally, the SPO avers that Mr Thaçi's continued detention is proportional as: (i) Mr Thaçi is charged with eleven (11) counts of Article 15(2) offences and, if convicted, faces a potentially lengthy sentence; and (ii) the proceedings continue to move forward expeditiously with the SPO's disclosure of Rule 102(1)(b) and 102(3) material.<sup>14</sup>

9. The Thaçi Defence requests the Pre-Trial Judge to find that Mr Thaçi's continued detention is not justified at this time based on the risk of flight, pursuant to Article 41(6)(b)(i) of the Law.<sup>15</sup> In this regard, the Thaçi Defence submits that: (i) the specificity of Case 12 does not justify a different finding than the one adopted in Case 06, where Trial Panel II found that Mr Thaçi did not present a risk of flight;<sup>16</sup> (ii) Mr Thaçi's recent behaviour while temporarily released on compassionate grounds demonstrates that Mr Thaçi has no intention to escape;<sup>17</sup> (iii) the gravity of the offences in the present proceedings or the potential sentence do not constitute an incentive for Mr Thaçi to flee;<sup>18</sup> and (iv) the Article 41(6)(b) risks have not increased since the First Review Decision, as Mr Thaçi was already aware of the content of a significant amount of the evidence disclosed by the SPO from disclosures in Case 06, and the charges and potential sentence remain the same.<sup>19</sup>

### III. APPLICABLE LAW

10. Pursuant to Article 41(6) of the Law, the SC shall only order the arrest and detention of a person when (a) there is a grounded suspicion that he or she has

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<sup>13</sup> SPO Submissions, para. 5.

<sup>14</sup> SPO Submissions, para. 7.

<sup>15</sup> Defence Response, paras 1, 15.

<sup>16</sup> Defence Response, para. 7.

<sup>17</sup> Defence Response, paras 10, 13.

<sup>18</sup> Defence Response, para. 11.

<sup>19</sup> Defence Response, para. 12.

committed a crime within the jurisdiction of the SC; and (b) there are articulable grounds to believe that the person: (i) is at risk of flight; (ii) will destroy, hide, change or forge evidence of a crime, or will obstruct the progress of the criminal proceedings by influencing witnesses, victims or accomplices; or (iii) will repeat the criminal offence, complete an attempted crime, or commit a crime that the person has threatened to commit.

11. Pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, until a judgment is final or until release, upon expiry of two (2) months from the last ruling on detention on remand, the Panel seized with the case shall examine whether reasons for detention on remand still exist, and render a ruling by which detention on remand is extended or terminated.

12. Pursuant to Article 41(12) of the Law, in addition to detention on remand, the following measures may be ordered by the SC to ensure the presence of the accused, including by video-conference, to prevent reoffending or to ensure successful conduct of criminal proceedings: summons, arrest, bail, house detention, promise not to leave residence, prohibition on approaching specific places or persons, attendance at police station or other venue, and diversion.

13. Pursuant to Rule 56(2) of the Rules, the Pre-Trial Judge shall ensure that a person is not detained for an unreasonable period prior to the opening of the case, and, in case of an undue delay caused by the Specialist Prosecutor, the Panel, having heard the Parties, may release the person under conditions as deemed appropriate.

#### IV. DISCUSSION

##### A. APPLICABLE STANDARD

14. The Pre-Trial Judge recalls that she has an obligation, under Article 41(10) of the Law, to examine every two (2) months whether the reasons for detention on

remand continue to exist,<sup>20</sup> including the grounds set out in Article 41(6) of the Law, namely whether: (i) there is a grounded suspicion that the person has committed the crime(s) under Article 41(6)(a) of the Law; and (ii) there are articulable grounds to believe that any of the risks set out in Article 41(6)(b) of the Law are present.<sup>21</sup> The duty to determine whether the circumstances underpinning detention still exist imposes on the Pre-Trial Judge the task to assess, *proprio motu*, whether she is still satisfied that, at the time of the review and under the specific circumstances of the case when the review takes place, the detention of the person remains warranted.<sup>22</sup> This two (2)-month automatic review is not strictly limited to whether or not a change of circumstances occurred, but such a change can be determinative and shall be taken into consideration if raised by a Party or *proprio motu*.<sup>23</sup> Furthermore, the Pre-Trial Judge may refer to findings in previous decisions if she is satisfied that the evidence or information underpinning those decisions still supports the findings made at the time of the review.<sup>24</sup> The Pre-Trial Judge is neither required to make findings on the factors already decided upon in the initial ruling on detention, nor

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<sup>20</sup> See [First Review Decision](#), para. 12; KSC-BC-2020-07, IA002/F00005, Court of Appeals Panel, [Decision on Nasim Haradinaj's Appeal Against Decision Reviewing Detention](#) ("First Haradinaj Detention Appeal Decision"), 9 February 2021, public, para. 55; KSC-BC-2020-06, IA006/F00005/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Jakup Krasniqi's Appeal Against Decision on Review of Detention](#) ("Second Krasniqi Detention Appeal Decision"), 1 October 2021, public, para. 15; KSC-BC-2020-04, F00224/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Review of Detention of Pjetër Shala](#) ("Sixth Shala Detention Decision"), 22 June 2022, public, para. 19.

<sup>21</sup> See [First Review Decision](#), para. 12; [Sixth Shala Detention Decision](#), para. 19; [First Haradinaj Detention Appeal Decision](#), para. 55. See also KSC-BC-2020-04, F00075/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Review of Detention of Pjetër Shala](#) ("Second Shala Detention Decision"), 10 September 2021, public, para. 19; KSC-BC-2020-07, F00143, Pre-Trial Judge, [Decision on Review of Detention of Hysni Gucati](#), 24 February 2021, public, para. 17.

<sup>22</sup> See [First Review Decision](#), para. 12; [Second Krasniqi Detention Appeal Decision](#), para. 15; [Sixth Shala Detention Decision](#), para. 19.

<sup>23</sup> See [First Review Decision](#), para. 12; [Second Krasniqi Detention Appeal Decision](#), para. 16; [Sixth Shala Detention Decision](#), para. 19.

<sup>24</sup> [First Review Decision](#), para. 12; KSC-BC-2020-04, IA003/F00005/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Pjetër Shala's Appeal Against Decision on Review of Detention](#) ("Second Shala Detention Appeal Decision"), 11 February 2022, public, para. 18. See also [Sixth Shala Detention Decision](#), para. 19.

to entertain submissions that merely repeat arguments that have already been addressed in earlier decisions.<sup>25</sup>

15. The Pre-Trial Judge likewise underscores that any analysis of Mr Thaçi's detention must duly consider his presumption of innocence.<sup>26</sup> This means, as a consequence, that pre-trial detention cannot be taken lightly and that the SPO bears the burden of establishing that Mr Thaçi's detention is necessary.<sup>27</sup> This also means that the SPO must provide specific arguments and concrete evidence to establish that continued detention is necessary at the time of the review.<sup>28</sup>

#### B. GROUNDED SUSPICION

16. As regards the threshold for continued detention, Article 41(6)(a) of the Law requires a grounded suspicion<sup>29</sup> that the detained person has committed a crime

<sup>25</sup> [First Review Decision](#), para. 12; [First Haradinaj Detention Appeal Decision](#), para. 55; [Second Krasniqi Detention Appeal Decision](#), para. 17; [Second Shala Detention Appeal Decision](#), para. 18; [Sixth Shala Detention Decision](#), para. 19.

<sup>26</sup> See [First Review Decision](#), para. 13; KSC-BC-2020-06, F00177/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Hashim Thaçi's Application for Interim Release](#) ("First Thaçi Detention Decision"), 22 January 2021, para. 18; KSC-CC-PR-2017-01, F00004, Specialist Chamber of the Constitutional Court, [Judgment on the Referral of the Rules of Procedure and Evidence Adopted by Plenary on 17 March 2017 to the Specialist Chamber of the Constitutional Court Pursuant to Article 19\(5\) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office](#) ("SCCC 26 April 2017 Judgment"), 26 April 2017, public, para. 113. Similarly, ECtHR, [McKay v. the United Kingdom](#), no. 543/03, Judgment, 3 October 2006, para. 43.

<sup>27</sup> See [First Review Decision](#), para. 13; KSC-BC-2020-04, F00045/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Pjetër Shala's Request for Provisional Release](#) ("First Shala Detention Decision"), 23 June 2021, public, para. 13; [First Thaçi Detention Decision](#), para. 19, with further references. See also ECtHR, [Merabishvili v. Georgia](#), no. 72508/13, Judgment ("Merabishvili v. Georgia"), 28 November 2017, para. 234.

<sup>28</sup> [First Review Decision](#), para. 13; [Sixth Shala Detention Decision](#), para. 19.

<sup>29</sup> See Article 19(1)(1.9) of the 2022 Kosovo Criminal Procedure Code, Code No. 08/L-032 ("KCPC"). See similarly, Article 5(1)(c) of the (European) Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the European Court of Human Rights in, *inter alia*, ECtHR, [Fox, Campbell and Hartley v. United Kingdom](#), nos 12244/86; 12245/86; 12383/86, Judgment, 30 August 1990, para. 32; [Erdagöz v. Turkey](#), no. 21890/93, Judgment, 22 October 1997, para. 51; [Ilgar Mammadov v. Azerbaijan](#), no. 15172/13, Judgment, 22 May 2014, para. 88; [Selahattin Demirtaş \(No. 2\) v. Turkey](#), no. 14305/17, Judgment, 22 December 2020, para. 314.



within the SC's jurisdiction. This is a condition *sine qua non* for the validity of the detained person's continued detention.<sup>30</sup>

17. The Pre-Trial Judge recalls that, in the Confirmation Decision, it was determined that, pursuant to Article 39(2) of the Law, there is a well-grounded suspicion that Mr Thaçi is criminally responsible for offences within the jurisdiction of the SC, namely violating the secrecy of proceedings, contempt of court and obstructing official persons in performing official duties within the meaning of Articles 392, 393, and 401 of the 2019 Kosovo Criminal Code, Code No. 06/L-074, in violation of Article 15(2) of the Law.<sup>31</sup> These findings were made on the basis of a standard exceeding the grounded suspicion threshold required for the purposes of Article 41(6)(a) of the Law.<sup>32</sup> The Pre-Trial Judge notes that there have been no developments in the case negating these findings.

18. Therefore, in the absence of any contrary intervening information or developments, the Pre-Trial Judge finds that there continues to exist a grounded suspicion that Mr Thaçi has committed offences within the jurisdiction of the SC for the purposes of Article 41(6)(a) of the Law.<sup>33</sup>

#### C. NECESSITY OF DETENTION

19. Once the threshold in Article 41(6)(a) of the Law is met, the grounds that would justify the deprivation of a person's liberty must be *articulable* in the sense that they must be specified in detail.<sup>34</sup> In this regard, Article 41(6)(b) of the Law

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<sup>30</sup> [First Review Decision](#), para. 14; [First Shala Detention Decision](#), para. 14. See also ECtHR, *Merabishvili v. Georgia*, para. 222.

<sup>31</sup> [Confirmation Decision](#), para. 313(a); [First Review Decision](#), para. 15.

<sup>32</sup> See also [First Review Decision](#), para. 15; [Decision on Arrest](#), para. 43; [Confirmation Decision](#), paras 42-43. See similarly, [Second Shala Detention Decision](#), para. 22; [Sixth Shala Detention Decision](#), para. 24.

<sup>33</sup> See similarly, [First Review Decision](#), para. 16; Decision on Detention in Initial Appearance Transcript, p. 15, lines 1-7.

<sup>34</sup> See Article 19(1.31) of the KCPC, which defines "articulable" as: "the party offering the information or evidence must specify in detail the information or evidence being relied upon". See also, for example, [First Review Decision](#), para. 17; [First Shala Detention Decision](#), para. 16; KSC-BC-2020-06,



echoes the principle that the continued detention of a person can only be justified if there are specific indications of a genuine requirement of public interest, which outweigh the person's right to liberty.<sup>35</sup> Therefore, the Panel must rely on case-specific reasoning and concrete grounds in deciding to continue detention.<sup>36</sup>

20. The Pre-Trial Judge further recalls that, on the basis of the available evidence, the specific articulable grounds must support the "belief"<sup>37</sup> that any of the risks specified under the three limbs of Article 41(6)(b) of the Law exist, denoting an acceptance of the possibility, not the inevitability, of a future occurrence.<sup>38</sup> In other words, the standard to be applied is less than certainty, but more than a mere possibility of a risk materialising.<sup>39</sup> The Pre-Trial Judge further observes that these grounds are in the alternative, and that the existence of one ground suffices to determine the necessity of detention.<sup>40</sup>

21. As regards the nature of the assessment under Article 41(6)(b) of the Law, the Pre-Trial Judge recalls that, while the evaluation involves an element of discretion,<sup>41</sup> it must be based on the facts of the case and must be undertaken on an individual

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IA001/F00005, Court of Appeals Panel, [Decision on Kadri Veseli's Appeal Against Decision on Interim Release](#) ("First Veseli Detention Appeal Decision"), 30 April 2021, public, paras 15, 18.

<sup>35</sup> [First Review Decision](#), para. 17; [SCCC 26 April 2017 Judgment](#), para. 113.

<sup>36</sup> [First Review Decision](#), para. 17; [SCCC 26 April 2017 Judgment](#), para. 115; [First Shala Detention Decision](#), para. 16; KSC-BC-2020-06, IA004/F00005/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Interim Release](#) ("First Thaçi Detention Appeal Decision"), 30 April 2021, public, para. 22. See also ECtHR, [Khudoyorov v. Russia](#), no. 6847/02, Judgment ("Khudoyorov v. Russia"), 8 November 2005, para. 173.

<sup>37</sup> See chapeau of Article 41(6)(b) of the Law; see also [First Review Decision](#), para. 18.

<sup>38</sup> [First Review Decision](#), para. 18. See similarly, [First Shala Detention Decision](#), para. 16; [Second Shala Detention Decision](#), para. 24; [Sixth Shala Detention Decision](#), para. 26; [First Thaçi Detention Decision](#), para. 20, with further references.

<sup>39</sup> [First Review Decision](#), para. 18. See similarly, [First Veseli Detention Appeal Decision](#), para. 17; [First Shala Detention Decision](#), para. 16.

<sup>40</sup> [First Review Decision](#), para. 18. See similarly, [First Shala Detention Decision](#), para. 20; [First Thaçi Detention Decision](#), para. 25; KSC-BC-2023-12, IA001/F00005, Court of Appeals Panel, [Decision on Isni Kilaj's Appeal Against Decision on Continued Detention](#) ("Kilaj Detention Appeal Decision"), 28 January 2025, public, para. 17.

<sup>41</sup> [First Review Decision](#), para. 19. See also, [Kilaj Detention Appeal Decision](#), para. 16; [First Thaçi Detention Decision](#), para. 21, with further references.

basis in light of the personal circumstances of the detained person.<sup>42</sup> When assessing the relevant factors, the Pre-Trial Judge may not conduct a piecemeal assessment, but must weigh all relevant factors taken together.<sup>43</sup>

22. Lastly, in relation to the grounds set forth in Article 41(6)(b)(ii)-(iii) of the Law, the Pre-Trial Judge emphasises that the risks may materialise as a result of the detained person's acts or omissions, but they do not require physical execution on his or her part.<sup>44</sup>

### 1. Risk of Flight

23. As regards the risk of flight under Article 41(6)(b)(i) of the Law, the Pre-Trial Judge finds that the considerations set out in the First Review Decision are still relevant, namely: (i) the gravity of the offences with which Mr Thaçi is charged in the present proceedings and the potential sentence in the event of conviction;<sup>45</sup> (ii) Mr Thaçi's *mala fide* intentions towards the laws and rules of the SC;<sup>46</sup> and (iii) his means and opportunity to flee, despite his ongoing detention in the Case 06 proceedings.<sup>47</sup> In addition, the Pre-Trial Judge attaches weight to the fact that Mr Thaçi continues to gain increased insight into the evidence underpinning the charges against him through the ongoing disclosure process.<sup>48</sup>

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<sup>42</sup> [First Review Decision](#), para. 19. See also [First Shala Detention Decision](#), para. 17; [First Thaçi Detention Decision](#), para. 21, with further references. See similarly, ECtHR, [Aleksanyan v. Russia](#), no. 46468/06, Judgment, 22 December 2008, para. 179.

<sup>43</sup> [First Review Decision](#), para. 19. See also [First Shala Detention Decision](#), para. 17; [First Thaçi Detention Decision](#), para. 21, with further references.

<sup>44</sup> [First Review Decision](#), para. 20. See also [First Shala Detention Decision](#), para. 19; [First Thaçi Detention Decision](#), para. 24.

<sup>45</sup> [First Review Decision](#), paras 22-23. See also Decision on Detention in Initial Appearance Transcript, p. 15, lines 1-8; [Decision on Arrest](#), paras 46-48.

<sup>46</sup> [First Review Decision](#), paras 22, 24. See also [Decision on Arrest](#), para. 46.

<sup>47</sup> [First Review Decision](#), paras 22, 25. See also Decision on Detention in Initial Appearance Transcript, p. 18, lines 16-24; [Decision on Arrest](#), paras 47-48.

<sup>48</sup> The Pre-Trial Judge notes that, since the First Review Decision, the SPO has made four (4) additional disclosures pursuant to Rule 102(1)(b) of the Rules. See Disclosure Package Nos 11, 17, 19, 21.

24. The Pre-Trial Judge has taken note of the Thaçi Defence argument that Mr Thaçi's recent behaviour, while temporarily released under escort, in March 2025, demonstrates that he is not a flight risk and does not have such *mala fide* intentions.<sup>49</sup> However, the Pre-Trial Judge stresses that complying with the conditions imposed by her should be the norm. Said conditions were found to be necessary by the Pre-Trial Judge precisely in order to address the risks associated with the temporary release of Mr Thaçi and were specifically tailored to mitigate such risks, taking into account the Registrar's security and feasibility assessment.<sup>50</sup> If anything, Mr Thaçi's compliance highlights the effectiveness of the conditions. Thus, the Thaçi Defence argument is without merit.

25. The Pre-Trial Judge is also not persuaded by the Thaçi Defence's argument that the risk of flight does not increase with the ongoing disclosure of incriminating evidence.<sup>51</sup> The Pre-Trial Judge considers that the disclosure of such material – even if already known to Mr Thaçi – as evidence in the present case, that the SPO intends to present at trial, increases Mr Thaçi's incentive to flee.

26. Lastly, the Pre-Trial Judge notes that the Thaçi Defence repeats certain arguments that have already been addressed in earlier decisions, namely that Trial Panel II has made different findings in Case 06, and will not entertain them further.<sup>52</sup>

27. Therefore, in light of the above, and in the absence of any contrary intervening information, the Pre-Trial Judge concludes that the risk of flight in relation to Mr Thaçi continues to exist.

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<sup>49</sup> Defence Response, paras 10, 13.

<sup>50</sup> KSC-BC-2023-12, F00213, Pre-Trial Judge, *Decision on Third Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 12 March 2025, confidential and *ex parte*, paras 20, 22-28; F00230/COR, Pre-Trial Judge, *Corrected Version of Decision on Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds*, 19 March 2025, confidential and *ex parte*, paras 22, 24-34; KSC-BC-2023-12, F00235, Pre-Trial Judge, *Decision on Urgent Thaçi Defence Request to Amend Decision F00230*, 21 March 2025, confidential and *ex parte*, para. 8.

<sup>51</sup> Defence Response, para. 12.

<sup>52</sup> Defence Response, paras 7, 11-12. *See* First Review Decision, para. 21.

## 2. Risk of Obstructing the Progress of SC Proceedings

28. As regards the risk of obstruction of proceedings under Article 41(6)(b)(ii) of the Law, the Pre-Trial Judge find that the considerations set out in the First Review Decision continue to apply, namely that: (i) Mr Thaçi coordinated with three distinct groups, of which he was the leader, to interfere with the testimony of SPO witnesses in the ongoing Case 06 trial, including by deliberately revealing and providing confidential information related to witnesses, and instructing others *to*, and *how to*, unlawfully influence the witnesses' testimonies; (ii) Mr Thaçi's actions and conduct are part of a broader pattern of efforts to interfere with the testimony of SPO witnesses in Case 06; (iii) Mr Thaçi's actions show persistence in furthering obstruction efforts in SC proceedings from within the SC Detention Facilities, including by leveraging his influence over former KLA affiliates loyal to him, and persons from his political circles, such as his co-Accused in the present proceedings; (iv) previous findings suggest that, in the past, Mr Thaçi attempted to undermine the SC, and, through his circles, offered benefits to persons who were summoned by the SPO to provide information to the SPO/SC; (v) Mr Thaçi is aware of the charges and evidence against him; and (vi) his increased awareness of the incriminating evidence against him provides him with an incentive to interfere with witnesses or obstruct the progress of the present proceedings.<sup>53</sup>

29. Further to the above, the Pre-Trial Judge finds that the ongoing disclosure process further elevates the risk of obstruction, as it provides Mr Thaçi with (i) additional insight into the incriminating evidence against him and (ii) access to sensitive witness-related information.<sup>54</sup>

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<sup>53</sup> [First Review Decision](#), paras 29-30; Decision on Detention in Initial Appearance Transcript, p. 12, line 15; [Decision on Arrest](#), para. 50.

<sup>54</sup> See *supra* para. 25; See also [Decision on Arrest](#), para. 50. See similarly, [Kilaj Detention Appeal Decision](#), para. 44.

30. The Pre-Trial Judge assesses the above factors bearing in mind the pervasive climate of fear and intimidation in Kosovo against witnesses and potential witnesses of the SC.<sup>55</sup>

31. Lastly, absent a finding by Trial Panel II that Mr Thaçi has violated the conditions of his detention in Case 06, the Pre-Trial Judge is not in a position to assess the impact of Mr Thaçi's apparent participation in another detainee's video-call<sup>56</sup> in relation to his risk of obstruction.

32. Therefore, in light of the above, and in the absence of any contrary intervening information, the Pre-Trial Judge concludes that there continues to exist a risk that Mr Thaçi will obstruct the progress of SC proceedings.

### **3. Risk of Committing Further Crimes**

33. As regards the risk of committing further offences under Article 41(6)(b)(iii) of the Law, the Pre-Trial Judge recalls that, even though the existence of a risk of obstruction does not automatically translate into a risk of committing further offences, the factors underpinning the former are of relevance to the assessment of the latter in the present circumstances.<sup>57</sup> In this regard, the Pre-Trial Judge notes that the relevant factors to be considered are the same as those outlined in paragraphs 28-29 above with respect to obstruction of proceedings. For these reasons, the Pre-Trial Judge finds that there exists a risk that Mr Thaçi will repeat the offences he is alleged to have committed.<sup>58</sup>

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<sup>55</sup> [First Review Decision](#), para. 31; Decision on Detention in Initial Appearance Transcript, p. 18, lines 16-20; [Decision on Arrest](#), para. 51.

<sup>56</sup> SPO Submissions, para. 5; Annex 1 to SPO Submissions.

<sup>57</sup> [First Review Decision](#), para. 33; Decision on Detention in Initial Appearance Transcript, p. 15, lines 3-7; [Decision on Arrest](#), para. 53.

<sup>58</sup> See also [First Review Decision](#), para. 34; Decision on Detention in Initial Appearance Transcript, p. 18, lines 16-20; [Decision on Arrest](#), para. 54.

34. Therefore, in light of the above, and in the absence of any contrary intervening information, the Pre-Trial Judge concludes that the risk that Mr Thaçi will commit further offences continues to exist.

#### 4. Conclusion

35. In view of the foregoing, the Pre-Trial Judge finds that there are articulable grounds to believe that Mr Thaçi may flee, obstruct the progress of the SC proceedings, and commit further offences, thus necessitating Mr Thaçi's continued detention, in accordance with Article 41(6)(b) of the Law. The Pre-Trial Judge will assess below whether these risks can be adequately mitigated by any conditions for Mr Thaçi's release.

#### D. CONDITIONAL RELEASE

36. The Pre-Trial Judge recalls that, when deciding on whether a person should be released or detained, she must consider all proposed and alternative measures to prevent the risks in Article 41(6)(b) of the Law.<sup>59</sup>

37. The Pre-Trial Judge remains of the view that no conditions could diminish, at this stage, the existing risks, in particular the risk that the Accused will obstruct the progress of SC proceedings or commit further offences.<sup>60</sup> Notably, the Pre-Trial Judge is of the view that any possible condition to be imposed: (i) does not address, for example, the possibility of Mr Thaçi using other persons, or employing communication devices belonging to other persons, or requesting other persons to use their devices for the purpose of unlawfully interfering with witnesses; and (ii) cannot ensure the effective monitoring of Mr Thaçi's communications. The Pre-Trial Judge is also particularly mindful that, despite any conditions (if released),

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<sup>59</sup> [First Decision on Review](#), para. 37; As regards the obligation to consider "alternative measures", see [SCCC 26 April 2017 Judgment](#), para. 114. See also ECtHR, [Buzadji v. the Republic of Moldova](#), no. 23755/07, Judgment ("Buzadji v. Moldova"), 5 July 2016, para. 87; [Idalov v. Russia](#), no. 5826/03, Judgment, 22 May 2012, para. 140.

<sup>60</sup> [First Review Decision](#), para. 38; See KSC-BC-2020-06, IA017/F00011/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention](#), 5 April 2022, public, para. 51.



the Accused would have the ability, motive and opportunity to persist in furthering the obstruction of SC proceedings.<sup>61</sup>

38. In the view of the Pre-Trial Judge, while the risk of illicit messages and instructions cannot be entirely eliminated, the measures in place at the SC Detention Facilities, viewed as a whole, provide robust assurances against unmonitored visits and communications with family members and pre-approved visitors with a view to minimising the risks of obstruction and commission of further crimes, as much as possible.<sup>62</sup> In this regard, the Pre-Trial Judge recalls that the Registrar and the Panel, who have unrestricted access to confidential information concerning witnesses and victims, may take action more promptly than other authorities acting under a distinct framework.<sup>63</sup>

39. Therefore, in light of the above, the Pre-Trial Judge concludes that any reasonable conditions that may be imposed by the Pre-Trial Judge remain insufficient to adequately mitigate the risks under Article 41(6)(b)(i)-(iii) of the Law.

#### E. PROPORTIONALITY OF DETENTION

40. At the outset, the Pre-Trial Judge recalls the importance of the proportionality principle in the determination of the reasonableness of pre-trial detention, as reflected in Rule 56(2) of the Rules.<sup>64</sup> The duration of time in detention pending trial is a factor that needs to be considered along with the degree of the risks that are described in Article 41(6)(b) of the Law, in order to determine whether, all factors being considered, the continued detention “stops being reasonable” and the

<sup>61</sup> [First Review Decision](#), para. 38.

<sup>62</sup> [First Review Decision](#), para. 39. Similarly, KSC-BC-2020-06, IA010/F00008/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Hashim Thaçi’s Appeal Against Decision on Review of Detention](#) (“Second Thaçi Detention Appeal Decision”), 27 October 2021, public, para. 68.

<sup>63</sup> [First Review Decision](#), para. 39. See similarly KSC-BC-2023-10, F00165, Pre-Trial Judge, [Public Redacted Version of Decision on Review of Detention of Haxhi Shala](#), 9 February 2024, public, para. 54.

<sup>64</sup> [First Review Decision](#), para. 41; KSC-BC-2020-07, IA001/F00005, Court of Appeals Panel, [Decision on Hysni Gucati’s Appeal on Matters Related to Arrest and Detention](#), 9 December 2020, public, paras 72-73; KSC-BC-2018-01, IA007/F00007, Court of Appeals Panel, [Decision on the Specialist Prosecutor’s Office’s Appeal Against Decision on Isni Kilaj’s Review of Detention](#), 13 May 2024, confidential, para. 18. A public redacted version was issued on 15 May 2024, [IA007/F00007/RED](#).



individual needs to be released.<sup>65</sup> However, the Pre-Trial Judge notes that the question whether a length of time spent in pre-trial detention is reasonable cannot be assessed in the abstract, and must be assessed based on the facts of each case and according to its specific features.<sup>66</sup> Furthermore, the Pre-Trial Judge recalls that such an assessment can only be based on the circumstances at the time of review, and not on what may or may not occur in the foreseeable future.<sup>67</sup>

41. The Pre-Trial Judge recalls that: (i) Mr Thaçi has been detained since 5 December 2024 in the context of these proceedings;<sup>68</sup> (ii) he is charged with three (3) counts of attempting to obstruct official persons in performing official duties, four (4) counts of violating the secrecy of proceedings and four (4) counts of contempt of court, which carry a possible sentence of up to five (5) years, three (3) years and six (6) months, respectively;<sup>69</sup> and (iii) the risks under Article 41(6)(b) of the Law (in particular, the risk of obstruction and commission of further offences) cannot be mitigated by any proposed or additional conditions for release.<sup>70</sup>

42. The Pre-Trial Judge also takes into consideration that, since the First Review Decision: (i) the SPO has (largely) completed the disclosure of evidence in its possession pursuant to Rule 102(1)(b) of the Rules<sup>71</sup> and made further disclosures

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<sup>65</sup> [First Review Decision](#), para. 41; [Second Thaçi Detention Appeal Decision](#), para. 49, with further references.

<sup>66</sup> ECtHR, [Buzadji v. Moldova](#), para. 90. In this context, whether a charged offence is alleged to have been committed as part of a group is a relevant circumstance in evaluating the reasonableness of continued detention. See, for example, ECtHR, [Bak v. Poland](#), no. 7870/04, 16 January 2007, paras 56, 62-63; [Tomecki v. Poland](#), no. 47944/06, Judgment, 20 May 2008, para. 33.

<sup>67</sup> [First Review Decision](#), para. 41; KSC-BC-2023-10, F00325, Pre-Trial Judge, [Third Decision on Review of Detention of Haxhi Shala](#), 5 June 2024, public, para. 47.

<sup>68</sup> See *supra* para. 1.

<sup>69</sup> See KSC-BC-2023-12, F00040, Specialist Prosecutor, *Submission of Confirmed Indictment*, 2 December 2024, strictly confidential, para. 46, with Annex 1, strictly confidential. Public redacted versions of the main filing and the annex were filed on 6 December 2024, [F00055](#) and [F00055/A01](#), respectively.

<sup>70</sup> See *supra* para. 40.

<sup>71</sup> See Disclosure Package Nos 11, 17, 19 and 21; SPO Response, para. 7. See also KSC-BC-2023-12, F00100, Pre-Trial Judge, [Framework Decision on Disclosure of Evidence and Related Matters](#), 20 December 2024, public, paras 45, 104(c), (e) (setting the deadline for the disclosure of such material to 17 March 2025); F00226, Specialist Prosecutor, *Prosecution Submissions Pursuant to F00100* ("SPO Update on Investigation"), 17 March 2025, confidential, para. 16 (seeking leave to disclose two (2) outstanding items under Rule 102(1)(b) of the Rules).

pursuant to Rule 103 of the Rules;<sup>72</sup> (ii) the Pre-Trial Judge has issued the “Decision on Framework for the Handling of Confidential Information and Witness Contacts”, adopting certain measures and prohibitions related to the handling of confidential information and contact with any witnesses or victims in the present case or any other cases;<sup>73</sup> (iii) the SPO has filed its first notice pursuant to Rule 102(3) of the Rules<sup>74</sup> and disclosed a number of items, as requested by the Defence;<sup>75</sup> (iv) remaining investigative steps are progressing steadily;<sup>76</sup> and (v) the Court of Appeals Panel has rendered its decision on the SPO’s appeal against the Confirmation Decision.<sup>77</sup> Thus, the proceedings continue to move forward expeditiously.

43. Moreover, pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, Mr Thaçi’s detention will be regularly reviewed upon the expiry of two (2) months from the last ruling on detention or at any time upon request, or *propriu motu*, where a change in circumstance since the last review has occurred.

44. In view of the foregoing, the Pre-Trial Judge finds that the time Mr Thaçi has spent in pre-trial detention is not unreasonable within the meaning of Rule 56(2) of the Rules.

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<sup>72</sup> See Disclosure Package Nos 10, 18 and 23.

<sup>73</sup> KSC-BC-2023-12, F00173, Pre-Trial Judge, *Decision on Framework for the Handling of Confidential Information and Witness Contacts*, 11 February 2025, confidential. A public redacted version was issued on 11 March 2025, [F00173/RED](#). See also F00207, *Decision on Thaçi Defence Request for Certification to Appeal the “Decision on Framework for the Handling of Confidential Information”*, 10 March 2025, public.

<sup>74</sup> See KSC-BC-2023-12, F00185, Specialist Prosecutor, *Prosecution Rule 102(3) Notice*, 17 February 2025, public, with Annex 1, confidential.

<sup>75</sup> See Disclosure Package Nos 13-16, 20, 22; SPO Response, para. 7.

<sup>76</sup> SPO Update on Investigation, paras 2-15.

<sup>77</sup> KSC-BC-2023-12, IA002/F00012, Court of Appeals Panel, *Decision on the Specialist Prosecutor’s Office’s Appeal Against the Decision on the Confirmation of the Indictment*, 3 April 2025, confidential. A public redacted version was filed the same day, [IA002/F00012/RED](#).

## V. DISPOSITION

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

- a. **ORDERS** Mr Thaçi's continued detention;
- b. **ORDERS** Mr Thaçi, if he so wishes, to file submissions on the next review of detention by **Monday, 5 May 2025**, with response and reply following the timeline set out in Rule 76 of the Rules; and
- c. **ORDERS** the SPO, should Mr Thaçi decide not to file any submissions by the aforementioned time limit, to file submissions on the next review of Mr Thaçi's detention by **Wednesday, 14 May 2025**, and Mr Thaçi, if he so wishes, to file his response by **Wednesday, 21 May 2025**.



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

Dated this Monday, 7 April 2025

At The Hague, the Netherlands.