



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2023-12
Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj,
Isni Kilaj, Fadil Fazliu, and Hajredin Kuçi

Before: Pre-Trial Judge
Judge Marjorie Masselot

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

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Prosecution submissions on review of detention of Hashim Thaçi

Specialist Prosecutor's Office

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I. INTRODUCTION

1. Pursuant to Decision F00250,¹ the Specialist Prosecutor's Office ('SPO') files its submissions on the next review of THAÇI's detention.
2. The Pre-Trial Judge has consistently found: (i) a grounded suspicion that THAÇI committed crimes within the jurisdiction of the Kosovo Specialist Chambers ('KSC');² (ii) the existence of a risk of flight;³ (iii) articulable grounds to believe that THAÇI will obstruct the progress of KSC proceedings,⁴ and will commit further offences;⁵ (iv) that no release conditions can mitigate the Article 41(6)(b) of the Law⁶ risks;⁷ and (v) that THAÇI's continued detention is proportional.⁸
3. No contrary information or developments have since intervened, such that these findings remain undisturbed and THAÇI's continued detention remains necessary and proportionate.

¹ Second Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00250, 7 April 2025 ('Decision F00250'), para.45(c).

² Decision F00250, KSC-BC-2023-12/F00250, paras 16-18. *See also* Public Redacted Version of Decision on the Confirmation of the Indictment, KSC-BC-2023-12/F00036/RED, 29 November 2024, paras 210, 228, 235, 249-250, 313(a); Public Redacted Version of Decision on Request for Arrest Warrants and Related Matters, KSC-BC-2023-12/F00037/RED, 29 November 2024, ('Decision on Arrest and Transfer'), para.43; Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00165, 7 February 2025 ('Decision F00165'), paras 14-16.

³ Decision F00250, KSC-BC-2023-12/F00250, paras 23-27, 35. *See also* Decision on Arrest and Transfer, KSC-BC-2023-12/F00037/RED, paras 49, 55; Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 21-28, 36.

⁴ Decision F00250, KSC-BC-2023-12/F00250, paras 28-32, 35. *See also* Decision on Arrest and Transfer, KSC-BC-2023-12/F00037/RED, para.50; Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision; Decision F00165, KSC-BC-2023-12/F00165, paras 29-32, 36.

⁵ Decision F00250, KSC-BC-2023-12/F00250, paras 33-34, 35. *See also* Decision on Arrest and Transfer, KSC-BC-2023-12/F00037/RED, para 53-54; Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 33-36.

⁶ Law no.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). Unless otherwise indicated, all references to 'Article(s)' are to the Law.

⁷ Decision F00250, KSC-BC-2023-12/F00250, paras 36-39. *See also* Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 37-40.

⁸ Decision F00250, KSC-BC-2023-12/F00250, paras 40-44. *See also* Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 41-44.

II. SUBMISSIONS

4. Following the sustained findings recalled above, there have been no material changes capable of disturbing Decision F00250. Accordingly, and as a review of detention under Rule 57(2) of the Rules⁹ concerns what has changed, if anything, since the prior ruling on detention,¹⁰ the continued detention of THAÇI remains necessary and proportionate. Importantly, the Pre-Trial Judge is not required to make findings on the factors already decided upon in an earlier ruling.¹¹

5. Although just one would suffice,¹² all three Article 41(6)(b) risks continue to be clear and present, and no condition of release sufficiently mitigates them. Indeed, the risks enumerated in Decision F00250 and earlier decisions – that is, THAÇI’s ability to flee, otherwise thwart the KSC proceedings, and/or commit further crimes – can only be effectively managed in the KSC Detention Centre, whether considered individually or collectively. Assurances that THAÇI may give are insufficient to guarantee compliance with any conditions or overcome the concrete risks of release. The Pre-Trial Judge’s most recent determination, that the risks under Articles 41(6)(b) cannot be adequately mitigated by any conditions,¹³ is affirmed by the prevailing circumstances. Further, when the Article 41(6)(b) conditions are met and no lesser measures than detention are available, the person shall continue to be detained.¹⁴

6. THAÇI is charged with 11 counts of Article 15(2) offences and, if convicted, faces a potentially lengthy sentence. Moreover, as noted by the Pre-Trial Judge in Decision

⁹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 (‘Rules’). All references to ‘Rule’ or ‘Rules’ herein refer to the Rules, unless otherwise specified.

¹⁰ *Specialist Prosecutor v. Gucati and Haradinaj*, Decision on Nasim Haradinaj’s Appeal Against Decision Reviewing Detention, KSC-BC-2020-07/IA002/F00005, 9 February 2021 (‘*Haradinaj Appeal*’), para.55.

¹¹ *Haradinaj Appeal*, KSC-BC-2020-07/IA002/F00005, para.55.

¹² See for example Decision on Isni Kilaj’s Appeal Against Decision on Continued Detention, KSC-BC-2023-12/IA001/F00005, 28 January 2025, para.17 (‘[i]f one of those conditions is fulfilled, the other conditions do not have to be addresses in order for detention to be maintained’).

¹³ Decision F00250, KSC-BC-2023-12/F00250, paras 36-39.

¹⁴ *Specialist Prosecutor v. Gucati and Haradinaj*, Decision on Hysni Gucati’s Appeal on Matters Related to Arrest and Detention, KSC-BC-2020-07/IA001/F00005, 9 December 2020, para.51.

F00250, the proceedings in this case continue to move forward expeditiously.¹⁵ Indeed, and since Decision F00250: (i) the SPO filed its second Rule 102(3) Notice, and has continued to disclose material; (ii) remaining investigative steps are progressing efficiently; and (iii) preliminary motions have been filed by Specialist Counsel. Finally, and by way of the ongoing disclosure process, THAÇI continues to gain increased insight into the evidence against him.¹⁶

7. Against this backdrop, THAÇI's continued detention remains reasonable and proportionate.

III. RELIEF REQUESTED

8. For the foregoing reasons, the Pre-Trial Judge should order THAÇI's continued detention.

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At The Hague, the Netherlands

¹⁵ Decision F00250, KSC-BC-2023-12/F00250, para.42.

¹⁶ See Decision F00250, KSC-BC-2023-12/F00250, paras 23, 29.