



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-06

**The Specialist 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

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Decision on Periodic Review of Detention of Hashim Thaçi

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TRIAL PANEL II of the Kosovo Specialist Chambers (“Panel”), 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 renders this decision.

I. PROCEDURAL BACKGROUND

1. The procedural background concerning the periodic review of the detention of Hashim Thaçi (“Mr Thaçi”) has been set out extensively in previous decisions. Relevant events since the last periodic review (“Twentieth Detention Decision”)¹ include the following.
2. On 15 April 2025, the SPO filed a notice announcing the closing of its case.²
3. On 20 May 2025, the Specialist Prosecutor’s Office (“SPO”) filed its submissions on the review of Mr Thaçi’s detention (“SPO Submissions”).³
4. The Defence for Mr Thaçi filed a response to the SPO Submissions (“Response”).⁴
5. The SPO did not file a reply.

II. SUBMISSIONS

6. The SPO submits that Mr Thaçi’s detention continues to be justified.⁵ According to the SPO, since the last decision on the review of Mr Thaçi’s

¹ F03106, Panel, *Decision on Periodic Review of Detention of Hashim Thaçi*, 11 April 2025.

² F03121, Specialist Prosecutor, *Prosecution Notice Pursuant to Rule 129*, 15 April 2025.

³ F03184, Specialist Prosecutor, *Prosecution Submission Pertaining to Periodic Detention Review of Hashim Thaçi*, 20 May 2025.

⁴ F03220, Specialist Counsel, *Thaçi Defence Response to Prosecution Submission Pertaining to Periodic Detention Review of Hashim Thaçi*, 20 May 2025.

⁵ SPO Submissions, paras 1, 8-31.

detention, there has been no material change in circumstances that warrants a different conclusion.⁶ The SPO submits that the end of the presentation of the SPO's case and the disclosure of additional, sensitive information relating to witnesses and participating victims increase the risks of flight, obstruction and the commission of further crimes.⁷ The SPO avers that no conditions short of detention in the Specialist Chambers' ("SC") detention facilities ("SC Detention Facilities") would be sufficient to minimise the risks enumerated under Article 41, and that detention remains proportional.⁸

7. The Thaçi Defence responds that the closing of the SPO case's does not represent a key change of circumstances which increases the Article 41(6) risks.⁹ The Defence submits that Mr Thaçi is not a flight risk, as confirmed by the Panel in its recent decisions on detention, and does not present a risk of obstructing the proceedings, especially as the conclusion of the SPO's case against the Accused should diminish the risk of witness interference.¹⁰

III. APPLICABLE LAW

8. The law applicable to deciding the present matter is set out primarily in Article 41 and Rules 56 and 57, and has been laid out extensively in earlier decisions.¹¹ The Panel will apply these standards to the present decision.

⁶ SPO Submissions, paras 1, 8.

⁷ SPO submissions, para. 8.

⁸ SPO Submissions, paras 1, 28-30.

⁹ Response, paras 12, 14, 16, 18.

¹⁰ Response, paras 9-21.

¹¹ See e.g. F00994, Pre-Trial Judge, *Decision on Periodic Review of Detention of Hashim Thaçi*, 29 September 2022, confidential, paras 18-21. A public redacted version was issued on 6 October 2022, F00994/RED.

IV. DISCUSSION

9. The purpose of reviewing detention every two months pursuant to Article 41(10) is for the Panel to determine whether the reasons for detention on remand still exist.¹² A change in circumstances, while not determinative, shall be taken into consideration if raised before the relevant panel or *proprio motu*.¹³

10. In light of the current stage of proceedings, namely the period following the close of the SPO's case, the Panel will proceed to review the factors under Article 41(6) to satisfy itself that the circumstances underpinning Mr Thaçi's detention continue to exist, justifying the continued detention of Mr Thaçi.

A. ARTICLE 41 CRITERIA

1. Grounded Suspicion

11. Regarding the threshold for continued detention, Article 41(6)(a) requires a grounded suspicion that the detained person has committed a crime within the jurisdiction of the SC. This is a condition *sine qua non* for the validity of the detained person's continued detention.¹⁴

12. The SPO submits that there remains a grounded suspicion that Mr Thaçi has committed a crime within the jurisdiction of the SC.¹⁵

13. The Panel notes that the Pre-Trial Judge determined that, pursuant to Article 39(2), there was a well-grounded suspicion that Mr Thaçi is criminally liable for a number of crimes against humanity (persecution, imprisonment, other

¹² IA022/F00005, Court of Appeals Panel, *Decision on Hashim Thaçi's Appeal Against Decision on Periodic Review of Detention*, 22 August 2022, confidential, para. 37. A public redacted version was issued on the same date, IA022/F00005/RED.

¹³ IA010/F00008, Court of Appeals Panel, *Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention*, 27 October 2021, confidential, para. 19. A public redacted version was issued on the same date, IA010/F00008/RED.

¹⁴ See ECtHR, *Merabishvili v. Georgia* [GC], no. 72508/13, [Judgment](#), 28 November 2017, para. 222.

¹⁵ SPO Submissions, para. 9.

inhumane acts, torture, murder and enforced disappearance) and war crimes (arbitrary detention, cruel treatment, torture and murder) under Articles 13, 14(1)(c) and 16(1)(a).¹⁶ Moreover, the Pre-Trial Judge also found that a well-grounded suspicion was established with regard to new charges brought by the SPO against Mr Thaçi.¹⁷ These findings were made on the basis of a standard exceeding the grounded suspicion threshold required for the purposes of Article 41(6)(a).¹⁸

14. Absent any new material circumstances affecting the above findings, the Panel finds that there continues to be a grounded suspicion that Mr Thaçi has committed crimes within the subject-matter jurisdiction of the SC for the purposes of Article 41(6)(a) and (10).

¹⁶ F00026, Pre-Trial Judge, *Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi*, 26 October 2020, strictly confidential and *ex parte*, para. 521(a). A confidential redacted version was filed on 19 November 2020, F00026/CONF/RED. A public redacted version was filed on 30 November 2020, F00026/RED. A confidential further lesser redacted version was filed on 5 June 2025, F00026/CONF/RED3. The Specialist Prosecutor submitted the confirmed indictment in F00034, Specialist Prosecutor, *Submission of Confirmed Indictment and Related Requests*, 30 October 2020, confidential, with Annex 1, strictly confidential and *ex parte*, and Annexes 2-3, confidential; F00045/A03, Specialist Prosecutor, *Further Redacted Indictment*, 4 November 2020; F00134, Specialist Prosecutor, *Lesser Redacted Version of Redacted Indictment*, KSC-BC-2020-06/F00045/A02, 4 November 2020, 11 December 2020, confidential. A further corrected confirmed indictment was submitted on 3 September 2021, strictly confidential and *ex parte* (F00455/A01), with confidential redacted (F00455/CONF/RED/A01) and public redacted (F00455/RED/A01) versions. On 17 January 2022, the Specialist Prosecutor submitted a confidential, corrected, and lesser redacted version of the confirmed Indictment, F00647/A01.

¹⁷ F00777, Pre-Trial Judge, *Decision on the Confirmation of Amendments to the Indictment*, 22 April 2022, confidential, para. 183. A public redacted version (F00777/RED) was filed on 6 May 2022. The requested amendments are detailed at para. 11. A confirmed amended indictment was then filed by the SPO on 29 April 2022 ("Confirmed Indictment"), strictly confidential and *ex parte* (F00789/A01), with confidential redacted (F00789/A02) and public redacted (F00789/A05) versions. A further confidential amended Confirmed Indictment was filed on 30 September 2022, (F00999/A01) and public redacted version (F00999/A03). A public lesser redacted version of the Confirmed Indictment was filed on 15 February 2023 (F01296/A03) and on 27 February 2023 (F01323/A01).

¹⁸ See e.g. IA008/F00004, Court of Appeals Panel, *Decision on Kadri Veseli's Appeal Against Decision on Review of Detention*, 1 October 2021, confidential, para. 21. A public redacted version was issued on the same date, IA008/F00004/RED.

2. Necessity of Detention

15. With respect to the grounds for continued detention, Article 41(6)(b) sets out three alternative bases (risks) on which detention may be found to be necessary: (i) risk of flight; (ii) risk of obstruction of the proceedings; or (iii) risk of the further commission of crimes.¹⁹ Detention shall be maintained if there are articulable grounds to believe that one or more of these risks will materialise.²⁰ “Articulable” in this context means specified in detail by reference to the relevant information or evidence.²¹ In determining whether any of the grounds under Article 41(6)(b) allowing for a person’s detention exist, the standard to be applied is less than certainty, but more than a mere possibility of a risk materialising.²²

(a) Risk of Flight

16. The SPO asserts that Mr Thaçi continues to present a risk of flight as he is aware of the serious confirmed charges against him, and now, with the conclusion of the SPO’s case, has full knowledge of the evidence against him making the possible imposition of a lengthy sentence more concrete.²³ The SPO avers that Mr Thaçi also has now or will soon have further sensitive information relating to the witnesses and evidence that Victims’ Counsel proposes to call as part of his case.²⁴ In addition, the SPO submits that Mr Thaçi is now facing confirmed charges

¹⁹ See ECtHR, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, [Judgment](#) (“*Buzadji v. the Republic of Moldova* [GC]”), 5 July 2016, para. 88; ECtHR, *Zohlandt v. the Netherlands*, no. 69491/16, [Judgment](#), 9 February 2021, para. 50; ECtHR, *Grubnyk v. Ukraine*, no. 58444/15, [Judgment](#), 17 September 2020, para. 115; ECtHR, *Korban v. Ukraine*, no. 26744/16, [Judgment](#), 4 July 2019, para. 155.

²⁰ IA004/F00005, Court of Appeals Panel, *Decision on Hashim Thaçi’s Appeal Against Decision on Interim Release* (“First Appeal Decision on Detention”), 30 April 2021, confidential, para. 19. A public redacted version was issued on the same date, IA004/F00005/RED.

²¹ Article 19.1.31 of the Kosovo Criminal Procedure Code 2022, Law No. 08/L-032 defines “articulable” as: “the party offering the information or evidence must specify in detail the information or evidence being relied upon”.

²² First Appeal Decision on Detention, para. 22.

²³ SPO Submissions, para. 11.

²⁴ SPO Submissions, para. 11.

regarding his alleged attempts to obstruct proceedings and commit further crimes.²⁵ The SPO argues that these circumstances heighten Mr Thaçi's motivation to flee, creating a sufficiently real possibility that he will abscond.²⁶

17. The Defence responds that Mr Thaçi is not a flight risk as: (i) neither the Pre-Trial Judge nor the Panel assessed him as being a flight risk;²⁷ (ii) he has continued to cooperate, appear and engage with the trial process during the past two years in a manner which is incompatible with a desire to abscond from justice and spend his life on the run;²⁸ (iii) the Panel dismissed as unpersuasive the SPO's argument that the risk of flight increases with the progression of the trial, found that the SPO had failed to establish its claim of a "sufficient real possibility" that the Accused will abscond if released, and rejected the SPO's argument that the risk of flight is heightened by Mr Thaçi's awareness of charges of criminal offences against the administration of justice having been confirmed against him;²⁹ and (iv) the SPO's argument that there would be further sensitive information relating to the witnesses and evidence proposed by Victim's Counsel is not relevant to an assessment of the risk of flight.³⁰ The Defence contends that it cannot be reasonably argued that the "expeditious progression of trial" is enough to alter the conclusion that Mr Thaçi has never been a flight risk.³¹

18. The Panel notes that the SPO is making substantially the same arguments that were considered and rejected by the Panel in previous decisions,³² in relation to the following issues: (i) Mr Thaçi's awareness of the seriousness of the confirmed charges against him; (ii) the potential of a long sentence should he be convicted;

²⁵ SPO Submissions, para. 11.

²⁶ SPO Submissions, para. 11.

²⁷ Response, para. 9.

²⁸ Response, para. 9.

²⁹ Response, paras 10-11.

³⁰ Response, para. 12.

³¹ Response, para. 13.

³² Compare SPO Submissions, para. 11 with F03041, Specialist Prosecutor, *Prosecution Submission Pertaining to Periodic Detention Review of Hashim Thaçi*, 20 March 2025, para. 9.

(iii) Mr Thaçi's full knowledge of the case and the evidence presented against him; and (iv) Mr Thaçi's awareness that charges of criminal offences against the administration of justice have been confirmed against him.³³ In this regard, the Panel recalls the finding of the Court of Appeals Panel that the Pre-Trial Judge should not be expected to entertain submissions that merely repeat arguments that have already been addressed in previous review decisions.³⁴ The Panel considers that this principle applies equally to the Panel and to the current stage of the proceedings.³⁵

19. Regarding the SPO's new argument that Mr Thaçi has now, or will soon have, further sensitive information relating to the witnesses and evidence that Victims' Counsel proposes to present, the Panel does not find this argument to be persuasive. The SPO has not demonstrated how Mr Thaçi's possession of sensitive information relating to the Victims' case would materially affect or increase the risk of flight. The Panel is of the view that this factor is more appropriately considered with regard to whether Mr Thaçi is likely to obstruct proceedings,³⁶ and will therefore be addressed below.

20. The Panel finds that, while the risk of flight can never be completely ruled out, the Panel considers that the SPO has failed to establish its claim of a "sufficiently real possibility" that the Accused will abscond if released based on the stage of the proceedings.³⁷ The Panel therefore finds that Mr Thaçi's continued detention is not justified at this time based on the risk of flight pursuant to

³³ See Twentieth Detention Decision, paras 14-16.

³⁴ See 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* ("Shala Appeal Decision"), 11 February 2022, para. 18.

³⁵ See also Shala Appeal Decision, para. 18, holding that a panel may refer to findings in prior decisions if it is satisfied that the evidence or information underpinning those decisions still supports the findings made at the time of the review.

³⁶ See KSC-BC-2020-05, F00355/RED, Trial Panel I, *Public Redacted Version of Ninth Decision on Review of Detention*, 21 March 2022, paras 16, 18-19.

³⁷ See First Appeal Decision on Detention, para. 24.

Article 41(6)(b)(i) and will therefore not address the Defence's further submissions regarding the risk of flight.

(b) Risk of Obstructing the Progress of SC Proceedings

21. With reference to this Panel's previous findings, the SPO submits that Mr Thaçi continues to present a risk of obstructing the proceedings.³⁸ The SPO argues that a general climate of witness interference persists in Kosovo regarding this case and others before the SC,³⁹ which, as held by the Court of Appeals, is a relevant contextual consideration.⁴⁰ Furthermore, the SPO contends that: (i) the conclusion of the SPO case does not obviate this risk, but increases it, as the Accused now have knowledge of the full scope of the case against them and witnesses remain at risk of obstruction even after their testimony; (ii) there are still witnesses to be heard during the Victims' Counsel's case, and possibly during a Defence case, for whom the risk of interference exists; (iii) the Panel has previously noted that disclosing highly sensitive information to the Thaçi Defence, including to the Accused, inevitably broadens its exposure, thereby increasing the risk of such information reaching the public and undermining effective witness protection in the event of the Accused's release.⁴¹ In this respect, the SPO asserts that this risk has realised, as Mr Thaçi has violated the Panel's order by, *inter alia*: (i) providing visitors with information elicited during the testimony of protected witnesses; and (ii) passing instructions intended for future SPO witnesses regarding the form and content of their upcoming testimony, resulting in the Panel modifying the conditions of detention and charges having been confirmed against

³⁸ SPO Submissions, paras 12, 17.

³⁹ SPO Submissions, para. 16.

⁴⁰ SPO Submissions, para. 16 referring to IA017/F00011, Court of Appeals Panel, *Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention* ("Third Appeal Decision on Detention"), 5 April 2022, confidential, paras 41-48. A public redacted version was issued on the same date, IA017/F00011/RED.

⁴¹ SPO Submissions, paras 13-14.

Mr Thaçi in Case 12.⁴² According to the SPO, this demonstrates that: (i) the risk of obstruction is well-founded; (ii) that Mr Thaçi's conduct is detrimental to the safety, security and well-being of witnesses; and (iii) this conduct is directly prejudicial to the integrity of the proceedings.⁴³

22. The Defence responds that the SPO's new argument on the risk of obstruction is unpersuasive and should be dismissed, as this risk should diminish over time, and the SPO fails to explain why it would not diminish or how the Accused's full knowledge of the case would now increase that risk.⁴⁴ The Defence argues that the closing of the SPO's case represents a key change in circumstances significantly reducing the risk of witness interference.⁴⁵ The Defence further argues that the SPO's reliance on cases tried before other jurisdictions in relation to post-trial witness interference is unwarranted, improper and speculative, as the SPO has not presented any evidence supporting the conclusion that Mr Thaçi will attempt to interfere with any witness.⁴⁶ The Defence additionally contends that the SPO's argument regarding the risk of interference with witnesses for the Victims, and possibly the Defence, ignores the fact that only evidence by the SPO can support a conviction, and therefore the risk of obstruction with witnesses for the Victims is inherently lower.⁴⁷ The Defence further argues that there is no risk of interference with witnesses for the Victims as Victims' Counsel intends to call only two international expert witnesses, who are not vulnerable witnesses.⁴⁸ The Defence submits that similar considerations apply to any possible Defence

⁴² SPO Submissions, para. 15.

⁴³ SPO Submissions, para. 17.

⁴⁴ Response, paras 14-15 *referring to, inter alia*, KSC-BC-2020-07, IA007/F00004, Court of Appeals Panel, *Consolidated Decision on Nasim Haradinaj's Appeals Against Decisions on Review of Detention* ("Haradinaj Appeal Decision on Review of Detention"), 6 April 2022, para. 42.

⁴⁵ Response, para. 16.

⁴⁶ Response, para. 17.

⁴⁷ Response, para. 18.

⁴⁸ Response, para. 19.

witnesses.⁴⁹ The Defence accordingly invites the Panel to disregard any new arguments presented by the SPO.⁵⁰

23. As submitted by the SPO,⁵¹ the Panel has previously determined and reiterates that Mr Thaçi has: (i) the interest and ability to interfere with the proceedings; (ii) attempted to undermine the SC and offered benefits to persons summoned by the SPO; (iii) a position of influence in Kosovo which could allow him to elicit the support of sympathisers; and (iv) increased knowledge of the evidence underpinning the serious charges against him.⁵²

24. The Panel notes that, in relation to the question of whether the conclusion of the SPO's case increases or diminishes the risk of obstruction,⁵³ the Appeals Panel has held that the risk of obstruction, in the normal course of events, diminishes with the passing of time; however, that risk may not always reduce significantly, depending on the circumstances of the case.⁵⁴

25. The Panel recalls that the names and personal details of certain highly sensitive SPO witnesses have been disclosed to the Thaçi Defence,⁵⁵ and have therefore become known to a broader range of people, including to Mr Thaçi. This, in turn, increases the risk of sensitive information pertaining to witnesses becoming known to members of the public. This risk exists even after SPO witnesses have testified, since many of them have protective measures and their identities should not become known to the public at any time. The Panel also notes that Victims' Counsel has submitted a list of potential witnesses⁵⁶ and that he has

⁴⁹ Response, para. 20.

⁵⁰ Response, para. 21.

⁵¹ SPO Submissions, para. 12.

⁵² Twentieth Detention Decision, para. 17; *See e.g.* F00177, Pre-Trial Judge, *Decision on Hashim Thaçi's Application for Interim Release* ("Initial Decision on Interim Release"), 22 January 2021, paras 38, 41. A public redacted version was issued on 26 January 2021, F00177/RED.

⁵³ SPO Submissions, paras 13-14; Response, para. 13.

⁵⁴ Haradinaj Appeal Decision on Review of Detention, para. 42.

⁵⁵ *See* Twentieth Detention Decision, para. 18.

⁵⁶ F03209, Victims' Counsel, *Victims' Counsel Submission of Witness and Exhibit Lists and Related Requests*, 28 May 2025, public, with Annexes 1-2, confidential.

been instructed to be ready to present his case as early as 16 July 2025.⁵⁷ Mr Thaçi has therefore been exposed to sensitive information regarding the names and personal details of witnesses and victims' statements or supplementary information on the harm that the many victims are alleged to have sustained.⁵⁸ Therefore, the Panel considers that the rationale it applied in relation to SPO witnesses applies equally to the witnesses to be called by Victims' Counsel. In addition, the risk of interference which detention seeks to prevent also includes, for instance: (i) any attempt to retaliate against witnesses who have testified in these proceedings; (ii) attempts to incentivize a witness to recant; and (iii) attempts to interfere with witnesses in parallel proceedings.⁵⁹ On that last point, the Panel notes that proceedings regarding allegations of interference in the present case are ongoing.⁶⁰

26. In connection with this, the Panel recalls its previous findings that it appears that Mr Thaçi provided non-privileged visitors with information elicited during the testimony of protected witnesses.⁶¹ Moreover, the record suggests that he passed on to an non-privileged visitor instructions pertaining to a future SPO witness regarding the form and content of that witness's upcoming testimony.⁶²

⁵⁷ F03232, Panel, *Revised Scheduling Order*, 5 June 2025, para. 7.

⁵⁸ F03206, Victims' Counsel, *Victims' Counsel's Request for Admission of Evidence Pursuant to Rule 153*, 28 May 2025, confidential, with Annex 1, confidential. A public redacted version was issued on the same day, F03206/RED. F03207, Victims' Counsel, *Victims' Counsel's Request for Admission of Documents Through the Bar Table*, 28 May 2025, confidential, with Annex 1, confidential. A public redacted version was issued on the same day, F03207/RED. F03209, Victims' Counsel, *Victims' Counsel's Submission of Witness and Exhibit Lists and Related Requests*, 28 May 2025. F03208, Victims' Counsel, *Victims' Counsel's Request for Admission of Supplementary Information on Harm*, 28 May 2025, confidential, with Annex 1, confidential. A public redacted version was issued on the same day, F03208/RED.

⁵⁹ F03176/COR2/RED, Panel, *Public Redacted Version of Further Corrected Version of Consolidated Decision on Krasniqi Defence Request for Provisional Release and on Periodic Review of Detention of Jakup Krasniqi*, 13 May 2025, para. 41.

⁶⁰ KSC-BC-2023-12, F00264/A02, Specialist Prosecutor, *Annex 2 to Submission of Amended Confirmed Indictment* ("Case 12 Indictment"), 16 April 2025.

⁶¹ See F01977, Panel, *Further Decision on Prosecution Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli and Rexhep Selimi* ("Decision on Detention Conditions"), 1 December 2023, para. 35; Twentieth Detention Decision, para. 19.

⁶² Decision on Detention Conditions, para. 38; Twentieth Detention Decision, para. 19.

These finding are further supported by the fact that charges have now been confirmed against Mr Thaçi in Case 12.⁶³ In this context, the Panel considers that the release of Mr Thaçi with sensitive information in his possession would not be conducive to the effective protection of witnesses. For the reasons stated above, the Panel therefore rejects the Defence's arguments.

27. Moreover, such a risk exists within a persistent climate of intimidation of witnesses and interference with criminal proceedings against former Kosovo Liberation Army ("KLA") members in Kosovo which protective measures alone cannot overcome.⁶⁴

28. Accordingly, the Panel concludes that the risk that Mr Thaçi will obstruct the progress of SC proceedings continues to exist.

(c) Risk of Committing Further Crimes

29. With reference to the Panel's previous findings in the Twentieth Detention Decision, the SPO submits that Mr Thaçi continues to present a risk of committing further crimes.⁶⁵ Additionally, the SPO asserts that those circumstances relevant to assessing the risk of obstructing the progress of SC proceedings,⁶⁶ are equally applicable in this context, and accordingly incorporates them.⁶⁷ The SPO submits that the fact that Mr Thaçi now has specific insight into the overall case, and the evidence against him, increases his risk that he may commit additional crimes, including against witnesses who have provided or could provide evidence in the case and/or appear before this Panel at future stages of the proceedings.⁶⁸

⁶³ Case 12 Indictment, paras 6-8, 45.

⁶⁴ Twentieth Detention Decision, para. 20. *See also* KSC-BC-2020-05, F00494/RED, Trial Panel, *Trial Judgment*, 19 January 2023, para. 57. A corrected version was filed on 8 June 2023, F00494/RED3/COR.

⁶⁵ SPO Submissions, para. 18 *referring to* Twentieth Detention Decision, paras 23-25.

⁶⁶ *See supra*, para. 20.

⁶⁷ SPO Submissions, para. 19.

⁶⁸ SPO submissions, para. 22.

30. The Panel recalls its finding in the Twentieth Detention Decision that the risk of Mr Thaçi committing further crimes continues to exist.⁶⁹ The Panel finds that the same factors that were taken into account in relation to the risk of obstruction are relevant to the analysis of the risk of Mr Thaçi committing further crimes.⁷⁰ The Panel also notes that as discussed above,⁷¹ the closing of the SPO's case does not alter the Panel's conclusion.

31. The Panel highlights the fact that the trial in this case is ongoing, that the identities of sensitive witnesses have been disclosed to Mr Thaçi, and that any risk of the further commission of crimes must be avoided.

32. The Panel considers that, taking all factors together, there continues to be a risk that Mr Thaçi will commit further crimes as set out in Article 41(6)(b)(iii).

3. Conclusion

33. The Panel concludes that, at this time, there continues to be insufficient information before it justifying a finding that Mr Thaçi may abscond from justice if released. However, the Panel is satisfied, based on the relevant standard, that there is a sufficient risk that Mr Thaçi will obstruct the progress of SC proceedings and that he will commit further crimes against those perceived as being opposed to the KLA, including witnesses who have provided or could provide evidence in the case and/or are due to appear before the SC. The Panel will assess below whether these risks can be adequately addressed by any conditions for his release.

⁶⁹ Twentieth Detention Decision, para. 25.

⁷⁰ See *supra*, paras 20-26; Twentieth Detention Decision, para. 23.

⁷¹ See *supra*, paras 25-28.

B. MEASURES ALTERNATIVE TO DETENTION

34. Referencing this Panel's previous findings, the SPO submits that: (i) the relevant risks can only be effectively managed at the SC Detention Facilities;⁷² (ii) none of the formerly proposed conditions, nor any additional measures foreseen in Article 41(12), could sufficiently mitigate the existing risks;⁷³ (iii) it is only through the communication monitoring framework applicable at the SC Detention Facilities that Mr Thaçi's communications can be restricted in a manner that would sufficiently mitigate the risks of obstruction and commission of further crimes;⁷⁴ (iv) nothing has occurred since the Twentieth Detention Decision warranting a different assessment on conditions, either generally or for a discrete period of time;⁷⁵ and (v) Mr Thaçi's conduct now represents such an extraordinarily heightened risk that even the standard communications restrictions and monitoring of the SC Detention Facilities are insufficient.⁷⁶ The SPO contends that therefore, and in conjunction with the continuation of trial and ongoing disclosure, the underlying risks continue to exist.⁷⁷

35. When deciding whether a person should be released or detained, the Panel must consider alternative measures to prevent the risks provided in Article 41(6)(b).⁷⁸ Article 41(12) sets out a number of options to be considered in order to ensure the accused's presence at trial, to prevent reoffending and to ensure the successful conduct of proceedings. In this respect, the Panel recalls that

⁷² SPO Submissions, para. 23.

⁷³ SPO Submissions, para. 24.

⁷⁴ SPO Submissions, para. 26.

⁷⁵ SPO Submissions, para. 27.

⁷⁶ SPO Submissions, para. 27.

⁷⁷ SPO Submissions, para. 27.

⁷⁸ Regarding the obligation to consider "alternative measures", see 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, para. 114. See also ECtHR, *Buzadji v. the Republic of Moldova [GC]*, para. 87 *in fine*; ECtHR, *Idalov v. Russia [GC]*, no. 5826/03, *Judgment* ("*Idalov v. Russia [GC]*"), 22 May 2012, para. 140 *in fine*.

detention should only be continued if there are no alternative, more lenient measures reasonably available that could sufficiently mitigate the risks set out in Article 41(6)(b).⁷⁹ The Panel must therefore consider all reasonable alternative measures that could be imposed, not only those raised by the Parties.⁸⁰

36. Regarding the risks of obstructing the progress of SC proceedings and committing further crimes, the Panel finds that none of the formerly proposed conditions, nor any additional measures foreseen in Article 41(12), could sufficiently mitigate the existing risks.⁸¹ Furthermore, the Panel finds that 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.⁸² Moreover, they offer a controlled environment where a potential breach of confidentiality could be more easily identified and/or prevented.⁸³

37. The Panel further maintains that it is only through the communication monitoring framework provided at the SC Detention Facilities, including those further measures ordered by the Panel,⁸⁴ that Mr Thaçi's communications can be restricted in a manner that would sufficiently mitigate the risks of obstruction and commission of further crimes.⁸⁵

⁷⁹ SCCC 26 April 2017 Judgment, para. 114; KSC-CC-PR-2020-09, F00006, Specialist Chamber of the Constitutional Court, *Judgment on the Referral of Amendments to the Rules of Procedure and Evidence Adopted by the Plenary on 29 and 30 April 2020*, 22 May 2020, para. 70. See also ECtHR, *Idalov v. Russia* [GC], para. 140.

⁸⁰ IA003/F00005, Court of Appeals Panel, *Decision on Rexhep Selimi's Appeal Against Decision on Interim Release*, 30 April 2021, confidential, para. 86. A public redacted version was filed on the same day, IA003/F00005/RED; KSC-BC-2020-05, F00127, Trial Panel I, *Fourth Decision on Review of Detention*, 25 May 2021, para. 24.

⁸¹ Twentieth Detention Decision, para. 29.

⁸² Twentieth Detention Decision, para. 29.

⁸³ Twentieth Detention Decision, para. 29.

⁸⁴ Decision on Detention Conditions, para. 84(c).

⁸⁵ Twentieth Detention Decision, para. 30.

38. In light of the foregoing, the Panel finds that the risks of obstructing the proceedings and committing further offences can only be effectively managed at the SC Detention Facilities. In these circumstances, the Panel finds that Mr Thaçi's continued detention is necessary in order to avert the risks in Article 41(6)(b)(ii) and (iii).

C. REASONABLENESS OF DETENTION

39. With reference to the Panel's previous finding, the SPO submits that Mr Thaçi's detention remains proportional and reasonable, especially in light of the continuing reasonable progression of the proceedings.⁸⁶

40. The Panel recalls that the reasonableness of an accused's continued detention must be assessed on the facts of each case and according to its special features.⁸⁷ The special features in this case include: (i) Mr Thaçi's influence and authority; (ii) his knowledge of the charges and the evidence against him, and a possibly lengthy prison sentence; (iii) the risk that Mr Thaçi would obstruct SC proceedings; (iv) the risk of committing, instigating, or assisting further crimes; (v) the fact that restrictive measures on release are not sufficient to mitigate risks; (vi) the gravity and the complexity of the charges against Mr Thaçi; and (vii) the fact that the trial is underway, demonstrating a reasonable progression of proceedings.⁸⁸

41. In light of the circumstances discussed above, and the fact that risks of obstructing the proceedings and of committing further crimes continue to exist – neither of which can be sufficiently mitigated by the application of reasonable

⁸⁶ SPO Submissions, paras 28-30 *referring to* Twentieth Detention Decision, paras 34-35.

⁸⁷ Third Appeal Decision on Detention, para. 65.

⁸⁸ Twentieth Detention Decision, para. 33.

alternative measures – the Panel finds that Mr Thaçi’s detention for a further two months is necessary and reasonable under the specific circumstances of the case.

42. The Panel notes, however, that Mr Thaçi has already been in detention for a significant period of time, and the trial in this case is lengthy. As the Panel previously indicated, this will require the Panel as well as all Parties to be particularly mindful of the need to ensure that the trial proceeds as expeditiously as possible. The Panel will continue to monitor at every stage in these proceedings whether continued detention is necessary and reasonable.

V. DISPOSITION

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

- (a) **ORDERS** Mr Thaçi’s continued detention; and
- (b) **ORDERS** the SPO to file submissions on the next review of Mr Thaçi’s detention by no later than **Monday, 21 July 2025 at 16:00**, with the response and reply following the timeline set out in Rule 76.



Judge Charles L. Smith, III
Presiding Judge

Dated this Wednesday, 11 June 2025

At The Hague, the Netherlands.