



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA 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: 18 July 2025

Language: English

Classification: Public

Public Redacted Version of Corrected Version of Decision on Specialist Prosecutor's Request for Modification of Hashim Thaçi's detention conditions

Specialist Prosecutor
Kimberly P. West

Specialist Counsel for Hashim Thaçi
Sophie Menegon
Luka Mišetić

Registrar
Fidelma Donlon

Specialist Counsel for Bashkim Smakaj
Jonathan 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,¹ pursuant to Articles 3(2), 23(1) and 39(13) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 56(6), 80(1) and 95(2)(g) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby issues the following decision.

I. PROCEDURAL BACKGROUND

1. On 20 May 2025, the Specialist Prosecutor's Office ("SPO") submitted a request to impose restrictions on Hashim Thaçi's ("Mr Thaçi" or "Accused") non-privileged visits during his detention at the Detention Facilities of the Specialist Chambers ("SC"), namely, to prohibit: (i) a number of individuals ("Visitors of Concern") from visiting him; and (ii) any discussions related to this case ("Case 12") and the case of *The Specialist Prosecutor v. Hashim Thaçi et al.* ("Case 06" or "*Thaçi et al.* proceedings") ("SPO Request").²

2. On 30 May 2025, the Defence for Mr Thaçi ("Thaçi Defence") filed a response to the SPO Request ("Defence Response").³

3. On 10 June 2025, the SPO filed its reply ("SPO Reply").⁴

4. On 16 June 2025, following an order by the Pre-Trial Judge,⁵ the Thaçi Defence filed information concerning one of the Visitors of Concern ("Defence Further Submissions").⁶

¹ KSC-BC-2023-12, F00015, President, [Decision Assigning a Pre-Trial Judge](#), 6 June 2024, public.

² KSC-BC-2023-12, F00308, Specialist Prosecutor, *Prosecution Request to Modify Detention Conditions*, 20 May 2025, confidential, with Annex 1, confidential.

³ KSC-BC-2023-12, F00320, Thaçi Defence, *Thaçi Defence Response to Prosecution Request to Modify Detention Conditions (F00308)*, 30 May 2025, confidential.

⁴ KSC-BC-2023-12, F00331, Specialist Prosecutor, *Prosecution Reply to Response to Request to Modify detention conditions*, 10 June 2025, confidential.

⁵ KSC-BC-2023-12, F00338, Pre-Trial Judge, *Order for Submissions by the Thaçi Defence in Relation to F00320*, 13 June 2025, confidential.

⁶ KSC-BC-2023-12, F00339, Thaçi Defence, *Thaçi Defence Submissions pursuant to Order F00338*, confidential, with Annex 1, confidential and *ex parte*.

II. SUBMISSIONS

A. SPO REQUEST

5. The SPO requests that fourteen individuals be prohibited from visiting Mr Thaçi given that, during previous non-privileged visits at the SC Detention Facilities, Mr Thaçi and his visitors repeatedly spoke in whispers/lowered voices while Mr Thaçi provided instructions to be conveyed to SPO witnesses and/or revealed confidential witness information to said visitors.⁷ In support of the requested restrictions, the SPO argues that: (i) Mr Thaçi does not have an absolute right to custodial visits, particularly with respect to visitors who are not close relatives; (ii) pursuant to Rule 56(6) of the Rules, the Pre-Trial Judge can impose necessary and proportionate restrictions on the communications of a detained person for the purpose of protecting witnesses or victims, confidential information or the integrity of proceedings; and, in the case at hand, (iii) the restrictions are necessary and proportionate to the legitimate aim of preventing further criminal acts of obstruction by Mr Thaçi.⁸

6. The SPO contends that the Visitors of Concern, including three of Mr Thaçi's brothers, can be denied the ability to visit the SC Detention Facilities for legitimate reasons.⁹ According to the SPO, even if the Three Brothers were prohibited from visiting Mr Thaçi at the SC Detention Facilities, the latter would still be allowed to receive the visit of numerous family members – including two other brothers.¹⁰

7. Furthermore, the SPO submits that: (i) the risk of Mr Thaçi's interference has only increased with the disclosure of incriminating evidence in Case 12; and specifically, that (ii) the risk of Mr Thaçi's *continued* attempts to interfere with

⁷ SPO Request, para. 10.

⁸ SPO Request, paras 4-6, 12-13, 16.

⁹ SPO Reply, para. 9.

¹⁰ SPO Reply, para. 9.

witnesses and witness testimony in Case 06 is heightened as the prosecution case recently closed and witnesses – including those Mr Thaçi has already targeted – may face pressure to recant or alter their inculpatory testimony before a final judgment is reached.¹¹ The SPO points out that similar restrictions were imposed on Mr Kuçi.¹²

8. For the same reasons, the SPO also requests that Mr Thaçi be prohibited from discussions related to this case and Case 06 during non-privileged visits.¹³

B. DEFENCE RESPONSE

9. The Thaçi Defence responds that the SPO fails to provide any new information or circumstances to justify an amendment of the detention regime in place, as ordered by Trial Panel II in its decision on conditions of detention (“Case 06 Decision”), which was issued prior to the confirmation of charges against Mr Thaçi in Case 12 and is still in force.¹⁴ The Thaçi Defence also contends that, in the absence of new facts, the SPO Request amounts to an impermissible attempt to relitigate matters that are *res judicata* between parties.¹⁵

10. The Thaçi Defence further argues that the requested restrictions are unnecessary, disproportionate, and infringe on Mr Thaçi’s fundamental rights to private and family life, as protected under Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“ECHR”).¹⁶ The Thaçi Defence maintains that: (i) the restrictions imposed by Trial Panel II are sufficient

¹¹ SPO Request, para. 7.

¹² SPO Request, para. 11 referring to KSC-BC-2023-12, F00094, Pre-Trial Judge, *Decision on Prosecution Request for Variation of Conditions on Hajredin Kuçi*, 19 December 2024, confidential, para. 14.

¹³ SPO Request, para. 13.

¹⁴ Defence Response, paras 2 (referring to KSC-BC-2020-06, F01977, Trial Panel II, [Further Decision on the Prosecution’s Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli and Rexhep Selimi](#) (“Case 06 Decision”), 1 December 2023, public), 16-22.

¹⁵ Defence Response, paras 2, 13-15.

¹⁶ Defence Response, paras 2, 23-37.

to mitigate any perceived risks of obstruction while respectful of Mr Thaçi's rights; and (ii) the SPO fails to show that a complete ban on in-person visits from the Visitors of Concern is warranted.¹⁷ The Thaçi Defence also submits that: (i) Mr Thaçi should not be prohibited from discussing what is in the public domain during non-privileged visits; and (ii) any prohibition on discussions related to Case 06 or Case 12, during non-privileged visits with members of Mr Thaçi's defence teams in said cases, would jeopardize his right to have adequate time and facilities for the preparation of his defence and to a fair trial, as guaranteed by Article 21(4) of the Law.¹⁸

11. The Thaçi Defence affirms that a general prohibition of in-person non-privileged visit for all the Visitors of Concern is unwarranted as: (i) only five of the Visitors of Concern visited Mr Thaçi after the Case 06 Decision;¹⁹ and (ii) only two of the Visitors of Concern are referred to in the indictment confirmed against Mr Thaçi ("Amended Confirmed Indictment").²⁰ The Thaçi Defence argues that the ban is particularly unjustified with regard to Mr Thaçi's brothers as they provide an invaluable moral support to Mr Thaçi and is contrary to the right of all individuals to maintain and fully enjoy their family relations.²¹

C. SPO REPLY

12. The SPO replies that, contrary to the Thaçi Defence's assertions, it has provided new information which includes: (i) additional obstructive conduct and intent identified in the visit recordings, since the request of the SPO of 17 November 2023 on the modification of detention conditions in Case 06;

¹⁷ Defence Response, paras 23-37. *See also* para. 8.

¹⁸ Defence Response, paras 2, 23, 38-39.

¹⁹ Defence Response, para. 17.

²⁰ Defence Response, para. 32 referring to KSC-BC-2023-12, F00264/A02, Specialist Prosecutor, [Public Redacted Amended Confirmed Indictment](#), 16 April 2025, public.

²¹ Defence Response, para. 34.

(ii) Mr Thaçi's apparent participation in another detainee's video-call which was publicly reported as recently as February 2025; (iii) the fact that ongoing disclosure of incriminating evidence increases the risk of further interference; and (iv) the fact that the closure of the prosecution phase of Case 06 brings a heightened risk of pressure upon witnesses to, for example, recant inculpatory testimony.²² Additionally, the SPO argues that the *res judicata* is not applicable as: (i) the Pre-Trial Judge is responsible for the conditions of detention in this case, which is distinct from Case 06, and, is, thus empowered to issue such orders on the conditions of detention; and (ii) the Case 06 Decision is subject to continued monitoring and potential change and, thus, there is no final determination which can impede the SPO from seeking further restrictions.²³

13. Finally, the SPO points out that Mr Thaçi and his Specialist Counsel can ensure that case-related visits with members of the defence team are privileged, alleviating thus any legitimate concern as to Mr Thaçi's right to have adequate time and facilities for the preparation of his defence.²⁴

III. APPLICABLE LAW

14. Pursuant to Article 3(2) of the Law, the SC shall adjudicate and function in accordance with the Constitution of the Republic of Kosovo ("Constitution"). Article 22 of the Constitution incorporates the ECHR and renders it applicable as a whole before the SC. Article 8 of the ECHR protects the right to respect for private and family life.

²² SPO Reply, paras 2-4.

²³ SPO Reply, paras 2, 5-7.

²⁴ SPO Reply, para. 10.

15. Pursuant to Article 23(1) of the Law and Rule 80(1) of the Rules, the Specialist Chambers shall provide for the protection of victims and witnesses, including their safety, physical and psychological well-being, dignity and privacy.

16. Pursuant to Article 39(11) and (13) and 95(2)(g) of the Rules, the Pre-Trial Judge shall ensure that proceedings are not unduly delayed and shall take all necessary measures for the expeditious preparation of the case for trial and to protect the Accused, witnesses and victims. This may include, pursuant to Rules 56(1) and (6) of the Rules, modifying the Accused's conditions of detention and related matters, and imposing necessary and proportionate restrictions on his communications, for the purpose of protecting witnesses or victims, confidential information or the integrity of the proceedings.

IV. DISCUSSION

A. PRELIMINARY MATTERS

17. In relation to the Thaçi Defence's argument that the question of detention conditions is *res judicata* in light of the Case 06 Decision, the Pre-Trial Judge recalls that she has already highlighted several times, that Case 12 and Case 06 are entirely distinct and each respective panel conducts its proceedings and assessments independently of each other.²⁵ Mr Thaçi's conditions of detention are thus assessed in the context of the present proceedings and in light of the current charges,

²⁵ See, for example, KSC-BC-2023-12, F00165, Pre-Trial Judge, [Decision on Review of Detention of Hashim Thaçi](#), 7 February 2025, public, para. 21; F00173, Pre-Trial Judge, [Decision on Framework for the Handling of Confidential Information and Witness Contacts](#), 11 February 2025, public, para. 30 (a public redacted version was filed on 11 March 2025), F00173/RED; F00235, Pre-Trial Judge, *Decision on Urgent Thaçi Defence Request to amend Decision F00230*, 21 March 2025, confidential and *ex parte*, para. 13 ("Lastly, the Pre-Trial Judge reiterates that rulings or findings made by Trial Panel II in the context of Case 06 are not binding or determinative on the Pre-Trial Judge, who takes her decisions independently, informed by the specific circumstances of this present case"); a public redacted version was filed on 14 April 2025, F00235/RED.

independently from the detention regime imposed pursuant to the Case 06 Decision.²⁶ Accordingly, the present SPO Request constitutes a first request to restrict Mr Thaçi's conditions of detention in Case 12.²⁷

18. By the same token, the Pre-Trial Judge underlines that the conditions detention regime in place in Case 06, pursuant to decisions by Trial Panel II, does not fall within her competence and, thus, she is not in a position to assess compliance or infringement of the conditions imposed therein.²⁸

B. GENERAL PRINCIPLES AND APPROACH OF THE PRE-TRIAL JUDGE

19. The Pre-Trial Judge notes, at the outset, that measures of control of a detainee's contacts with the outside world are not, by themselves, incompatible with Article 8 of the ECHR.²⁹ The Pre-Trial Judge notes that pursuant to Article 8 of the ECHR, an interference with a detainee's right to private and family life, home and correspondence – which includes all forms of private communications –³⁰ may be justified if: (i) it is “in accordance with the law”, (ii) it pursues one or more

²⁶ The Pre-Trial Judge observes that the Thaçi Defence concedes that the issue raised by the SPO has been fully litigated as between the SPO and Mr Thaçi in *Case 06* [emphasis added] and that Mr Thaçi's is subject to certain restrictions imposed by Trial Panel II in the context of Case 06 proceedings (see Defence Response, para. 14).

²⁷ *Contra* Defence Response, para. 20.

²⁸ *Contra* Defence Response, paras 17, 19.

²⁹ ECtHR, *Khoroshenko v. Russia* [GC], no. 41418/04, [Judgment](#) (“*Khoroshenko v. Russia*”), 30 June 2015, para. 123; *Piechowicz v. Poland*, no. 20071/07, [Judgment](#) (“*Piechowicz v. Poland*”), 17 April 2012, para. 212; *Onoufriou v. Cyprus*, no. 24407/04, [Judgment](#) (“*Onoufriou v. Cyprus*”), 7 January 2010, para. 91. See similarly, KSC-BC-2020-05, F00162/RED, Trial Panel I, [Public redacted version of Decision on Specialist Prosecutor's request for segregation and other measures](#), 2 August 2021, public, para. 16; [Case 06 Decision](#), para. 45.

³⁰ ECtHR, *Dragojević v. Croatia*, no. 68955/11, *Judgment*, 15 January 2015, para. 78; *Niemitz v. Germany*, no. 13710/88, [Judgment](#), 16 December 1992, para. 32; *Malone v. the United Kingdom*, no. 8691/79, *Judgment*, 26 April 1985, para. 84; *Klass and Others v. Germany*, no. 5029/71, *Judgment*, 6 September 1978, para. 41.

legitimate aims listed in Article 8(2) of the ECHR,³¹ and (iii) is “necessary in a democratic society”.³²

20. The requirement that any restrictions be “in accordance with the law” means that the measures should have some basis in the applicable law, which should be accessible to the person concerned and foreseeable as to its effects.³³ As to the requirement of necessity, this implies that the interference corresponds to a pressing social need and, in particular, that it is proportionate to the legitimate aim(s) pursued.³⁴ Having said that, the Pre-Trial Judge stresses that, in a detention setting, it is an essential part of a detainee’s right to respect for family life that contact with close relatives be maintained.³⁵

21. With regard to the criteria established in Article 8 of the ECHR, the Pre-Trial Judge observes that Rules 56(6) and 95(2)(g) of the Rules, together with internal regulations of the Registry,³⁶ foresee the possibility to adopt restrictions with regard to the Accused’s contacts. The Pre-Trial Judge further notes that pursuant to Rule 56(6), without prejudice to Article 21(4)(c), it may, upon request or *proprio motu*, rule on conditions of detention and related matters for the purposes of protecting witnesses or victims, confidential information, or the integrity of the proceedings, including on the imposition of necessary and proportionate restrictions on the communications of a detained person.

³¹ National security, public safety, economic well-being, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others.

³² [Piechowicz v. Poland](#), para. 212; [Onoufriou v. Cyprus](#), para. 92.

³³ [Khoroshenko v. Russia](#), para. 110; [Onoufriou v. Cyprus](#), para. 93.

³⁴ [Khoroshenko v. Russia](#), para. 118; [Onoufriou v. Cyprus](#), para. 92; ECtHR, [Kučera v. Slovakia](#), no. 48666/99, [Judgment](#), 17 July 2007, para. 127.

³⁵ ECtHR, [Messina v. Italy](#) (No. 2), no. 25498/94, [Judgment](#), 28 September 2000, para. 61; [Onoufriou v. Cyprus](#), para. 91; [Horych v. Poland](#), no. 13621/08, [Judgment](#), 17 April 2012, para. 122; [Piechowicz v. Poland](#), para. 212.

³⁶ KSC-BD-09-Rev1, Registrar, [Registry Practice Direction on Detainees – Visits and Communications](#), 23 September 2020, public, Articles 6-7, 12-13, 15, 17, 19; KSC-BD-10-Rev1, Registrar, [Registry Practice Direction on Detainees – Counsel Visits and Communications](#), 23 September 2020, public, Articles 14-18.

22. The Pre-Trial Judge will assess the requested restrictions, against the principles set out above and the need to ensure the protection of victims and witnesses and the integrity of the proceedings. In carrying out this assessment, the Pre-Trial Judge will consider the regime of detention as a whole, the necessity of the requested restrictions, their proportionality, as well as the cumulative effects of the measures sought and any counterbalancing measures.

C. RESTRICTIONS ON NON-PRIVILEGED VISITS

23. At the outset, the Pre-Trial Judge notes that the list of Visitors of Concern is comprised of: (i) Artan Behrami ("Mr Behrami"), Blerim Shala ("Mr Shala"), Ismail Sylja ("Sylja"), Vllaznim Kryeziu ("Mr Kryeziu"), [REDACTED], and [REDACTED], who visited Mr Thaçi at the SC Detention Facilities between 1 July 2023 and 7 October 2023 and are mentioned in the decision on the confirmation of charges against Mr Thaçi ("Confirmation Decision") ("Named Individuals");³⁷ (ii) Milaim Ahmetaj, Milaim Cakiqi, Avni Kastrati ("Mr Kastrati"), and [REDACTED], who also visited Mr Thaçi at the SC Detention Facilities between 1 July 2023 and 1 October 2023, but are not mentioned in the Confirmation Decision ("Other Individuals"); (iii) [REDACTED]; and (iv) Mr Thaçi's brothers, namely, [REDACTED], [REDACTED], and [REDACTED] ("Three Brothers").

24. Turning to the facts of the present case, the Pre-Trial Judge recalls that Mr Thaçi is charged with individually and by common action in groups he belonged to, having led efforts to, and engaged in, a pattern of conduct to obstruct

³⁷ See KSC-BC-2023-12, F00036, Pre-Trial Judge, [*Decision on the Confirmation of the Indictment*](#), 29 November 2024, confidential, paras 143, 145, 149, 156, 184, 196, 203, 205, 218 and 270. A public redacted version was issued on 12 February 2025, F00036/RED. The Pre-Trial Judge also recalls that, on 14 April 2025, following a decision of the Court of Appeals Panel, she further confirmed vis-à-vis Mr Thaçi the mode of liability under Article 32(3) of the 2019 Kosovo Criminal Code, Law No. 06/L-074, with respect to obstructing official persons under Counts 1, 2 and 3 of the confirmed indictment of 2 December 2024 (KSC-BC-2023-12, F00260, Pre-Trial Judge, [*Decision Amending the "Decision on the Confirmation of the Indictment" and Setting a Date for the Submission of Preliminary Motions*](#), ("Decision on Amending the Confirmation Decision"), 14 April 2025, public).

official persons in performing official duties, specifically through non-privileged visits at the SC Detention Facilities, while he was detained in the context of the Case 06 proceedings.³⁸ Mr Thaçi is sought to have repeatedly and purposefully revealed, without authorization, protected information, encouraged multiple visitors to receive and memorise his precise instructions and to contact certain witnesses for the purpose of unlawfully influencing their testimony, during non-privileged visits at the SC Detention Facilities.³⁹ During said visits, Mr Thaçi spoke at times with a low voice and whispered, while discussing information related to his instructions and SPO (protected) witnesses, which the Pre-Trial Judge deemed consistent with deliberate and purposive efforts to render those portions of the conversation inaudible to non-participants.⁴⁰

1. Named Individuals/ Other Individuals

25. The Pre-Trial Judge recalls her findings that: (i) in the context of the 9 September 2023 and 6 October 2023 visits, Mr Thaçi formed a group comprising of at least him, Mr Smakaj, Mr Shala, Mr Behrami, and Mr Sylaj;⁴¹ and (ii) in the context of the 6 October 2023 visit, Mr Thaçi formed a group comprising of at least him, Isni Kilaj, and Mr Kryeziu.⁴² The Pre-Trial Judge also recalls that, as found in the Confirmation Decision, these individuals were each part of one of the groups which attempted to obstruct the work of the SPO/SC Officials.⁴³ Moreover, the Pre-Trial Judge recalls her findings that, during a visit on 4 August 2023, Messrs Thaçi, [REDACTED] and [REDACTED] talked about the testimony of witnesses in

³⁸ [Amended Confirmed Indictment](#), para. 23.

³⁹ [Decision on Amending the Confirmation Decision](#), para. 21 and references therein.

⁴⁰ See [Confirmation Decision](#), para. 184.

⁴¹ See [Confirmation Decision](#), paras 145-155, 182.

⁴² See [Confirmation Decision](#), paras 156-172, 182.

⁴³ See [Confirmation Decision](#), paras 183, 186-187, 195, 210-211.

Case 06, including of a witness who had not yet testified in Case 06 at the time.⁴⁴ In the view of the Pre-Trial Judge, the Named Individuals are aware of the allegations in the Amended Confirmed Indictment as they were part of the alleged visits to Mr Thaçi.⁴⁵

26. Similarly, as regards the Other Individuals, the Pre-Trial Judge notes that the transcripts of the audio-recordings of non-privileged visits, which took place on 1 July 2023,⁴⁶ 15⁴⁷ and 22⁴⁸ September 2023, and 1 October 2023,⁴⁹ show that Mr Thaçi repeatedly provided instructions to be conveyed to SPO witnesses and/or revealed

⁴⁴ See [Confirmation Decision](#), para. 143. See also *infra* footnote 49 (concerning a visit to Mr Thaçi at the SC Detention Facilities on 1 October 2023).

⁴⁵ See [Confirmation Decision](#), paras 144, 155, 182-183, 186, 187, 217, 219, 221-223, 227, 231, 240, 247, 268.

⁴⁶ The Pre-Trial Judge notes that during the 1 July 2023 visit, Mr Thaçi discussed the testimony of one SPO protected witness [REDACTED], in the presence of Mr Behrami, Mr Kastrati and [REDACTED] (see 114024 010723-072909- 103046-TR-AT Revised-ET, p. 189, line 22 to p.190, line 1). The Pre-Trial Judge observes that Mr Thaçi [REDACTED]. In this respect, the Pre-Trial Judge also observes that Mr Thaçi discussed the testimony of [REDACTED] with Mr Behrami and [REDACTED] during the 8 August 2023 visit (see 114601 080823-090525-TR-AT Revised-ET, p. 2, line 19 to p. 4, line 17), with Mr Fazliu during the 2 July 2023 visit (see 114037 020723-115000-140500-TR-AT-ET, p. 27, line 20 to p. 28, line 8), and with with Mr Kilaj during the 6 October 2023 visit (see 116083 061023-111500-135746-TR-AT Revised-ET, p. 106, lines 15-25). See also KSC-BC-2023-12, F00028/A02, Specialist Prosecutor, *Annex 2 to Submission of Further Amended Indictment for confirmation*, 12 November 2024, confidential, p. 32 and references therein.

⁴⁷ The Pre-Trial Judge observes that during the 15 September 2023 visit, Mr Thaçi appears to explicitly tell his visitors [Mialim Cakiqi, [REDACTED] and others] the full name of a SPO protected witness who had testified, as well as the names of witnesses he deemed “the main ones” who were yet to testify, and to provide instructions about how a witness should testify, including modifications the witness should make to his statement during preparation (see 115343 150923-075500-115854-TR-AT Revised 2-ET, p. 150, lines 12-17, p. 181, line 15 to p. 190, line 25, p. 204, line 2 to p. 206, line 24, p. 231, line 1 to p. 233, line 25).

⁴⁸ The Pre-Trial Judge observes that during the 22 September 2023 visit, Mr Thaçi appears to provide instructions to Milaim Ahmetaj on how a protected witness should testify, including modifications the witness should make to his statement during preparation and evidence the witness should give, and to discuss other witnesses, including those that did not testify in public (see 115629 220923-121435-135935-TR-AT Revised-ET, p. 6, lines 9-25, p. 21, line 4 to p.28, line 22, p. 36, line 1 to p. 40, line 24, p. 76, line 2 to p. 77, line 23, p. 95, lines 1-14).

⁴⁹ The Pre-Trial Judge notes that during the 1 October 2023 visit, Mr Thaçi appears to provide instructions to [REDACTED], [REDACTED], and [REDACTED] on how witnesses should testify, minimising their evidence with regards to his culpability, as well as to discuss the testimony of witnesses, whose testimony was not public (see 115859 011023-075517-115809-TR-AT-ET, p. 8, line 1 to p.13, line 23).

confidential information to his visitors. In this context, the Pre-Trial Judge pays heed to the fact that, while the facts underpinning the charges against Mr Thaçi in the Amended Confirmed Indictment relate to distinct incidents, the offences were allegedly committed within a broader context of correlated efforts which *go beyond* the non-privileged visits at the centre of Case 12, and were coordinated by Mr Thaçi, to, *inter alia*, unlawfully contact SPO (protected) witnesses in violation of court orders.⁵⁰

27. The Pre-Trial Judge finds that the above-mentioned alleged incidents offer, at minimum, credible indications that the Named Individuals and the Other Individuals: (i) participated in non-privileged visits at the SC Detention Facilities where Mr Thaçi engaged in the disclosure of confidential and/or protected information to third parties; and (ii) have engaged in, or could engage in, conduct incompatible with the integrity of proceedings and/or the regulations of detention.

28. While the Pre-Trial Judge notes that these incidents occurred in 2023, and that, in its Request, the SPO does not identify more recent relevant incidents,⁵¹ the Pre-Trial Judge recalls her recent findings that there continues to be a risk that Mr Thaçi may obstruct the progress of SC proceedings, and that his detention thus remains necessary, based on the following considerations:⁵² (i) 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; (ii) 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 Kosovo Liberation Army ("KLA") affiliates loyal to him, and persons from his political circles, including the co-Accused in the present proceedings; (iii) previous findings suggest that, in the

⁵⁰ See [Confirmation Decision](#), paras 199, 226, 262.

⁵¹ See Defence Response, paras 17, 19.

⁵² KSC-BC-2023-12, F00325, Pre-Trial Judge, *Decision on Review of Detention of Hashim Thaçi* ("[Third Review Decision](#)"), public, paras 21-22.

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 further interfere with witnesses and/or obstruct the progress of the present proceedings.⁵³ The Pre-Trial Judge also considered that the ongoing disclosure process further elevated the risk of obstruction, as it provides Mr Thaçi access to sensitive witness-related information.⁵⁴

29. The Pre-Trial Judge further recalls her findings that with the closure of the SPO's case in chief in Case 06, the risk of obstruction does not cease to exist as: (i) the proceedings in Case 06 remain ongoing and the Trial Panel may hear further evidence from the participating victims, defence witnesses and rebuttal witnesses, including by witnesses who may have already testified; and (ii) a Trial Panel may, under exceptional circumstances, hear additional evidence after the closing of the case under Rule 136 of the Rules. Moreover, the Pre-Trial Judge recalls that the risk of obstruction is assessed not only in relation to the proceedings in Case 06, but also to the present case. In this respect, the Pre-Trial Judge recalls that, while some evidence has been seized and is in the possession of the SPO, the Accused has sufficient knowledge of the identity of potential witnesses, as discussed in the Confirmation Decision. Most importantly, the Pre-Trial Judge recalls that the risk of interference is not limited to witnesses who are yet to testify, but also concerns witnesses who have already testified and may be retaliated against or incentivised to recant, thereby threatening the integrity of both the ongoing trial in Case 06 and future trial proceedings in the present case.⁵⁵

⁵³ [Third Review Decision](#), para. 21.

⁵⁴ [Third Review Decision](#), para. 21.

⁵⁵ [Third Review Decision](#), para. 22 and references therein.

30. Lastly, the Pre-Trial Judge assessed the above considerations and factors bearing in mind the pervasive climate of fear and intimidation in Kosovo against witnesses and potential witnesses of the SC and considered that the risk of Mr Thaçi exerting pressure on witnesses remains particularly high, especially in light of his ties with certain individuals, including his co-Accused.⁵⁶

31. Notwithstanding the above, the Pre-Trial Judge also notes the Thaçi Defence's submissions as regards the support to Mr Thaçi provided by his visitors, particularly [REDACTED].⁵⁷

32. Having considered all of the above circumstances and factors as a whole, the Pre-Trial Judge finds that the requested restrictions, namely to prohibit Mr Thaçi from receiving the visits of the Named Individuals and the Other Individuals are: (i) necessary in order to mitigate the risk of further unlawful disclosure of confidential information related to SPO (protected) witnesses; and (ii) proportionate as it is limited to individuals for whom there are, at minimum, credible indications of (a) participation in non-privileged visits at the SC Detention Facilities where Mr Thaçi revealed confidential information related to SPO (protected) witnesses to third parties and (b) involvement in, or potential for, conduct incompatible with the integrity of proceedings and/or the regulations of detention.⁵⁸ In the Pre-Trial Judge's view, these restrictions are further proportionate to the aim pursued, namely the protection of witnesses and the integrity of proceedings, in line with Article 8(2) of the ECHR and Rule 56(6) of the Rules, while also being compatible with the rights of Mr Thaçi.

⁵⁶ [Third Review Decision](#), para. 23 and references therein.

⁵⁷ Defence Response, para. 36.

⁵⁸ See for instance, [Confirmation Decision](#), paras 144, 155, 182-183, 186, 187, 217, 219, 221-223, 227, 231, 240, 247, 268; see 114548 040823-075244-121616-TR-AT Revised 1-ET, pp. 306-310, 315-320, 384-389, 394-95.

2. Case 06 Consultant

33. The-Pre-Trial Judge notes that [REDACTED] was appointed as a consultant on the Case 06 defence team pursuant to a confidential letter from the Registrar since [REDACTED] addressed to then-Specialist Counsel for Mr Thaçi.⁵⁹

34. The Pre-Trial Judge recalls that during the non-privileged visit of 1 July 2023 at the SC Detention Facilities, Mr Thaçi discussed, *inter alia*, the testimony of one protected SPO witness with Messrs [REDACTED], Behrami and Kastrati.⁶⁰ In the view of the Pre-Trial Judge, this provides credible indications that [REDACTED] (potentially) (i) participated in non-privileged visits at the SC Detention Facilities during which Mr Thaçi engaged in the disclosure of confidential and/or protected information to third parties; and (ii) has engaged in, or could engage in, conduct incompatible with the integrity of proceedings and/or the regulations of detention.

35. The Pre-Trial Judge further takes note of the Thaçi Defence's submissions that [REDACTED] as a consultant in the Case 06 defence team does not benefit from privileged communication alone within the meaning of Rule 111(1) of the Rules.⁶¹

36. Lastly, the Pre-Trial Judge is mindful of the right of Mr Thaçi to have adequate time and facilities for the preparation of his defence, as enshrined in Article 21(4)(c) of the Law.

37. Having considered all of the above circumstances and factors as a whole, the Pre-Trial Judge finds it necessary to prohibit [REDACTED] from having non-privileged visits with Mr Thaçi in the presence of third parties.⁶²

38. The Pre-Trial Judge finds this restriction: (i) necessary to mitigate the risk of (further) unlawful disclosure of confidential information related to (protected)

⁵⁹ Defence Further Submissions, para. 6.

⁶⁰ See *supra* footnote 46.

⁶¹ See Defence Further Submissions, para. 8.

⁶² This restriction does not affect Mr Thaçi's right to privileged visits with his defence teams.

witnesses; and (ii) proportionate to the aim pursued, namely the protection of witnesses and the integrity of proceedings, in line with Article 8(2) of the ECHR and Rule 56(6) of the Rules; (iii) while also compatible with the rights of Mr Thaçi.

3. Three Brothers

39. Similarly to the Named Individuals and Other Individuals, the Pre-Trial Judge notes that, during non-privileged visits at the SC Detention Facilities, on 12 August and 1 October 2023, Mr Thaçi and his Three Brothers, together with other individuals, discussed upcoming or past (protected) witnesses, as well as: (i) how one witness should testify; (ii) the private session testimony of a protected victim witness; and (iii) the anticipated witness order.⁶³ In the view of the Pre-Trial Judge, this provides credible indications that the Three Brothers: (i) participated in non-privileged visits at the SC Detention Facilities where Mr Thaçi engaged in the disclosure of confidential and/or protected information to third parties; and (ii) have engaged in, or could engage in conduct, incompatible with the integrity of proceedings and/or the regulations of detention.⁶⁴

40. While the Pre-Trial Judge considers that the above allegations, together with her more recent findings regarding the risk that Mr Thaçi may obstruct the progress of SC proceedings,⁶⁵ may justify the restrictions requested by the SPO, this must be

⁶³ For the visits on 15 September 2023 by [REDACTED] and 1 October 2023 by [REDACTED], *see supra* footnotes **Error! Bookmark not defined.**, 49. The Pre-Trial Judge further notes that during the 12 August 2023 visit, Mr Thaçi appears to provide instructions to [REDACTED] and [REDACTED] about how a witness should testify (*see* 114642 120823-085000-111000-TR-AT Revised 1-ET, pp. 13-35). The Pre-Trial Judge recalls that for these reasons, in the very specific context of the passing of their father, while she authorised the Three Brothers to have in-person visits with Mr Thaçi, when he was released on compassionate grounds, said visits were conducted within the sight and hearing of the chief custody officer and/or escorting officers, with the assistance of an interpreter (*see* KSC-BC-2023-12, F00230/COR, Pre-Trial Judge, *Corrected Version of Decision on Urgent Thaçi Defence Request for Temporary Release on Compassionate Grounds* ("Compassionate Release Decision"), 19 March 2025, confidential and *ex parte*, paras 27 and 29(h). A public redacted version was issued on 14 April 2025, [F00230/COR/RED](#)).

⁶⁴ *See supra* para. 32.

⁶⁵ *See supra* paras 28-30.

assessed in light of other competing considerations. In this regard, the Pre-Trial Judge recalls that, in a detention setting, it is an essential part of a detainee's right to respect for family life that contact with close relatives, which may also include siblings, be maintained.⁶⁶ While she notes the SPO's submissions that numerous family members, including two other brothers, who are not Visitors of Concern, would still be allowed to visit Mr Thaçi,⁶⁷ the Pre-Trial Judge is particularly attentive to the Thaçi Defence's submissions that the Three Brothers provide Mr Thaçi with invaluable moral support.⁶⁸ The Pre-Trial Judge is also mindful of the fact that Mr Thaçi's father passed away recently⁶⁹ and recognises that, under such circumstances, maintaining contact with family members, including with siblings to whom he is particularly close, is even more essential.

41. After (i) carefully considering the above factors and circumstances and the rights and interests involved, and (ii) mindful that Mr Thaçi's non-privileged visits in Case 06 are already subject to a monitoring system aimed at identifying and excluding individuals who could pose a threat to the integrity of the proceedings or engage in conduct incompatible with the regulations of the SC Detention Facilities,⁷⁰ the Pre-Trial Judge finds that, on balance, the restrictions requested by the SPO, are not proportionate with the rights of the Accused and accordingly are rejected.

4. Scope and Implementation of the Restrictions

⁶⁶ See *supra* para. 14. See ECtHR, *Moustaquim v. Belgium*, no. 12313/86, [Judgment](#), 19 February 1991, para. 36. The Pre-Trial Judge also notes that more recent jurisprudence of the ECtHR stated that family ties between adults and their siblings attract lesser protection under Article 8 of the ECHR unless there is evidence of further elements of dependency, involving more than the normal emotional ties (ECtHR, *Benhebba v. France*, no. 4694/03, *Judgment*, 6 July 2003, para. 36; *A.H. Khan v. the United Kingdom*, no. 6222/10, *Judgment*, 20 March 2011, para. 32).

⁶⁷ SPO Reply, para. 9.

⁶⁸ Defence Response, para. 34.

⁶⁹ See [Compassionate Release Decision](#), para. 23.

⁷⁰ [Case 06 Decision](#), para. 52.

42. The Pre-Trial Judge emphasises that the restrictions adopted in the present decision are limited to Mr Thaçi's non-privileged visits at the SC Detention Facilities by: Artan Behrami, Blerim Shala, Ismail Sylja, Vllaznim Kryeziu, [REDACTED], [REDACTED], Milaim Ahmetaj, Milaim Cakiqi, Avni Kastrati, [REDACTED] and [REDACTED]. These restrictions shall have immediate effect upon notification of the present decision on Mr Thaçi. The Pre-Trial Judge further underlines that her decision has no effect on any other visits (including, non-privileged visits by other individuals or private visits) nor on the rights of representatives of the ICRC, the Ombudsperson, the Registrar, Specialist Chambers' Judges or any staff members acting on behalf these organisations and individuals.

43. Moreover, consistent with the requirements of necessity and proportionality, the restrictions hereby ordered should only be maintained for as long as they serve a legitimate aim and continue to be necessary and proportionate. In light of this, the Pre-Trial Judge will review *proprio motu* the necessity of these restrictions every three months. With a view to enable her next assessment, the Pre-Trial Judge orders the SPO to make submissions regarding the continued need for the restrictions imposed therein, by no later than 26 September 2025 and the Defence for Mr Thaçi may, if it so wishes, file a response to the SPO's submissions, by no later than 3 October 2025. No replies will be entertained. This is without prejudice to the right of the Defence for Mr Thaçi to request a modification, in whole or in part, or the termination of the restrictions at any time.

44. Furthermore, in order for the Pre-Trial Judge to be appraised of circumstances related to these matters, the Registrar shall submit a report to the Pre-Trial Judge every two months on the implementation of the restrictions.

D. RESTRICTIONS ON CONVERSATIONS RELATED TO CASES 06 AND 12

45. The SPO requests that Mr Thaçi be prohibited from discussions related to this case and Case 06 during any non-privileged visits.⁷¹

46. While such restrictions might further mitigate the risk that Mr Thaçi unlawfully discloses confidential material related to SPO (protected) witnesses, the Pre-Trial Judge recognises that discussion of the case with visitors is a natural and anticipated aspect of the Accused's time in detention.⁷² The Pre-Trial Judge further recalls that Mr Thaçi is already under an obligation not to disclose confidential and/or protected information related to his cases to third parties.⁷³ The Pre-Trial Judge further recalls 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, as much as possible.⁷⁴ The Pre-Trial Judge lastly recalls the restrictions adopted above, namely the prohibition of visits vis-à-vis the Named Individuals and the Other Individuals, as well as restrictions adopted vis-à-vis the Case 06 Consultant.⁷⁵ In her view, these restrictions provide adequate further strengthening of the measures already in place.

47. In light of the foregoing, the Pre-Trial Judge finds the requested restrictions on conversations about Mr Thaçi's cases, to the extent that it concerns publicly

⁷¹ SPO Request, para. 13.

⁷² See Defence Response, para. 39.

⁷³ KSC-BC-2023-12, F00173, Pre-Trial Judge, *Decision on Framework for the Handling of Confidential Information and Witness Contacts*, 11 February 2025, confidential, para. 40. A public redacted version was issued on 11 March 2025, F00173/RED. See also KSC-BC-2020-06, F00854, Pre-Trial Judge, *Decision on Framework for the Handling of Confidential Information during Investigations and Contact between a Party or Participant and Witnesses of the Opposing Party or of a Participant*, 24 June 2022, public, para. 212.

⁷⁴ See for instance Third Review Decision, para. 29.

⁷⁵ See *supra* paras 32-37.

available information, neither necessary or proportionate, and, accordingly, rejects them.

V. CLASSIFICATION

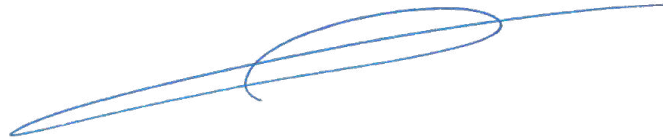
48. The Pre-Trial Judge notes that the SPO Request and the Defence Submissions were filed confidential. The Pre-Trial Judge therefore orders the SPO and the Thaçi Defence to submit public redacted versions of their respective filings or a request for their former filing to be reclassified as public by no later than **Friday, 25 July 2025**.

VI. DISPOSITION

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

- a. **GRANTS IN PART** the SPO Request to the extent specified at paragraph 42 of the present decision;
- b. **REJECTS IN PART** the SPO Request to the extent specified at paragraphs 41 and 47 of the present decision;
- c. **ORDERS** the Registrar to submit a Report as specified at paragraph 44 of the present decision;
- d. **ORDERS** the SPO to make submissions regarding the continued need for the restrictions imposed therein, by no later than **Monday, 26 September 2025**;
- e. **ORDERS** the Defence for Mr Thaçi, if it so wishes, to file a response to the SPO's submissions, by no later than **Monday, 3 October 2025**; and

- f. **ORDERS** the SPO and the Taçi Defence to submit public redacted versions of their respective filings or a request for their former filing to be reclassified as public by Friday, **25 July 2025**.



Judge Marjorie Masselot
Pre-Trial Judge

Dated this Friday, 18 July 2025
At The Hague, the Netherlands.

Explanatory Note:

The dates in paragraphs 43, 49(d) and (e) were corrected.