



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

**In:** KSC-BC-2020-06  
**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:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor's Office

**Date:** 20 May 2025

**Language:** English

**Classification:** Public

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**Public redacted version of 'Prosecution request to modify detention conditions  
with confidential Annex 1'**

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## I. INTRODUCTION

1. Pursuant to Articles 21 and 41 of the Law<sup>1</sup> and Rules 23(7) and 56(6) of the Rules,<sup>2</sup> the Specialist Prosecutor's Office ('SPO') requests the imposition of certain restrictions on Hashim THAÇI's non-privileged visits at the Kosovo Specialist Chambers' ('KSC') Detention Centre. The requested restrictions are limited in scope and necessary to safeguard against any further attempts by THAÇI to obstruct KSC proceedings.

2. Specifically, the SPO requests that the individuals identified in Annex 1 ('Visitors of Concern') be prohibited from visiting THAÇI at the KSC Detention Centre for the remainder of these and the *Thaçi et al.* (KSC-BC-2023-12, 'Case 12') proceedings.<sup>3</sup> As detailed below, each Visitor of Concern participated in one or more of the non-privileged Detention Centre visits during which THAÇI and his visitors engaged in obstructive conduct, as charged in Case 12 and as acknowledged in this case.

3. In addition, the SPO requests that any discussions related to this case and Case 12 during non-privileged visits be prohibited.

4. The requested measures are not punitive. Rather, they place limited, reasonable restrictions on THAÇI's privilege to receive visitors during his continued detention, which is not a fundamental right, and which THAÇI brazenly and repeatedly abused during non-privileged visits.

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> See Annex 1.

## II. SUBMISSIONS

4. It is established that THAÇI does not have an absolute right to custodial visits, particularly with respect to visitors who are not close relatives.<sup>4</sup> As held by this Panel, limiting THAÇI's contacts with the outside world is compatible with Article 8 of the European Convention on Human Rights ('ECHR') provided the measures: (i) are in accordance with the law; (ii) pursue one of the legitimate aims listed in Article 8(2) of the ECHR; and (iii) are necessary and proportionate under the circumstances.<sup>5</sup> Each requirement is met here.

5. First, the legal basis for the requested measures is provided in Rules 56(6) and 116(4)(d), as well as in the internal regulations of the Registry.<sup>6</sup> The Panel is responsible for the conditions and nature of THAÇI's detention in this case and is thus empowered to set any necessary conditions for 'the purposes of protecting witnesses or victims, confidential information or the integrity of the proceedings, including on

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<sup>4</sup> Further Decision on the Prosecution's Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi, KSC-BC-2020-06/F01977, 1 December 2023 ('Decision on Detention Conditions'), para.45.

<sup>5</sup> Decision on Detention Conditions, KSC-BC-2020-06/F01977, paras 45-46. *See also Specialist Prosecutor v. Mustafa*, Public redacted version of Decision on Specialist Prosecutor's request for segregation and other measures, KSC-BC-2020-05/F00162/RED, 2 August 2021 ('Mustafa Segregation Decision'), para.32 (where, based on *the risk* of interference with the integrity of proceedings, Trial Panel I ordered the accused segregated and limited his contacts with the outside world). Trial Panel I also found and reiterated that restrictive measures including, the segregation of the Accused in detention – a more severe restriction than currently being sought by the SPO – may be necessary to minimise the risk of divulging confidential information in relation to witnesses and guarantee the integrity of the proceedings (*See Mustafa Segregation Decision*, KSC-BC-2020-05/F00162/RED, para.24; *Specialist Prosecutor v. Mustafa*, Public redacted version of Decision on the review of the segregation regime and other measures imposed on Salih Mustafa, KSC-BC-2020-05/F00262/RED, 19 November 2021, para.15; *Specialist Prosecutor v. Mustafa*, Public redacted version of Second decision on the review of the segregation regime and other measures imposed on Salih Mustafa, KSC-BC-2020-05/F00323/RED, 18 February 2022, para.22.).

<sup>6</sup> Decision on Detention Conditions, KSC-BC-2020-06/F01977, paras 47-48; Registry Practice Direction on Detainees: Visits and Communications, KSC-BD-09-Rev1, 23 September 2020, Articles 6-7, 12-13, 15, 17, 19; Registry Practice Direction on Detainees: Counsel Visits and Communications, KSC-BD-10-Rev1, 23 September 2020, Articles 14-18.

the imposition of necessary and proportionate restrictions on the communications of a detained person',<sup>7</sup> which can include segregation of the Accused.<sup>8</sup>

6. Second, the requested measures are necessary to prevent further criminal acts of obstruction by THAÇI, which corresponds to one of the legitimate aims listed under Article 8(2) of the ECHR.

7. Indeed, in again deciding that THAÇI's continued detention is necessary in this case – on 11 April 2025, by way of its twentieth periodic review – the Panel made findings demonstrating precisely why these additional restrictions are necessary.<sup>9</sup> This includes reiterating previous determinations that 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.'<sup>10</sup> Furthermore, this Panel recalled that it appears that THAÇI 'provided unprivileged visitors with information elicited during the testimony of protected witnesses', while the record suggests that he passed instructions to an unprivileged visitor as to the 'form and content' of upcoming testimony, findings which are 'further supported by the fact that charges have now been confirmed against Mr Thaçi in Case 12.'<sup>11</sup>

8. Critically, THAÇI's incentive to interfere with witnesses or obstruct the progress of proceedings exists in *both* this case and Case 12. First, the risk of THAÇI's *continued* attempts to interfere with witnesses and witness testimony in this case is heightened as the prosecution case recently closed and witnesses – including those THAÇI has already targeted – face pressure to recant or alter their inculpatory

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<sup>7</sup> Rule 56(6). See also Decision on Detention Conditions, KSC-BC-2020-06/F01977, para.25.

<sup>8</sup> See for example Mustafa Segregation Decision, KSC-BC-2020-05/F00162/RED, para.15.

<sup>9</sup> Decision on Periodic Review of Detention of Hashim Thaçi, KSC-BC-2020-06/F03106, 11 April 2025 ('April 2025 Decision').

<sup>10</sup> April 2025 Decision, KSC-BC-2020-06/F03106, para.17.

<sup>11</sup> April 2025 Decision, KSC-BC-2020-06/F03106, para.19.

testimony before a final judgment is reached.<sup>12</sup> Simultaneously, and as a result of the ongoing disclosure in Case 12, the Pre-Trial Judge has stated that THAÇI now has a 'further incentive to interfere with witnesses or obstruct the progress of the present proceedings.'<sup>13</sup>

9. This Panel has already recognised this reality,<sup>14</sup> which the confirmed charges in Case 12 lay bare.<sup>15</sup> Further, the history of international tribunals provides notable illustrations of accused, convicted persons and others attempting to interfere with witnesses' prior testimony, both pre- and post-judgement. The motive is clear: to undermine the evidence presented, either reducing the chances of a guilty verdict or undermining earlier findings of culpability. For example, at the Special Court for Sierra Leone ('SCSL'), five witnesses were subject to unlawful interference from a purported representative of the defence team, *after* the parties closed their cases and *prior* to delivery of a trial judgment, to induce them to recant their testimony against Charles Taylor.<sup>16</sup> Similarly, and over a sustained period between 2015-2018 following a final appeal judgment against Mr Augustin Ngirabatware, the accused and a group of his associates engaged in an organised scheme intended to manipulate and

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<sup>12</sup> See for example Decision on Veseli Defence Request for Provisional Release, KSC-BC-2020-06/F03177, 13 May 2025, Confidential, paras 32-34; Corrected Version of Consolidated Decision on Krasniqi Defence Request for Provisional Release and on Periodic Review of Detention of Jakup Krasniqi, KSC-BC-2020-06/F03176/COR, 13 May 2025, Confidential, paras 41-42; Consolidated Decision on Selimi Defence Request for Provisional Release and on Periodic Review of Detention of Rexhep Selimi, KSC-BC-2020-06/F03175, 13 May 2025, Confidential, paras 36-38.

<sup>13</sup> *Specialist Prosecutor v. Thaçi et al.*, Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00165, 7 February 2025, para.30.

<sup>14</sup> See for example Decision on Specialist Prosecutor's Request Concerning Post-Testimony Witness Contact, KSC-BC-2020-06/F01960, 27 November 2023, paras 20, 25; Decision on Veseli Defence Request for Provisional Release, KSC-BC-2020-06/F03177, 13 May 2025, Confidential, paras 32-34; Corrected Version of Consolidated Decision on Krasniqi Defence Request for Provisional Release and on Periodic Review of Detention of Jakup Krasniqi, KSC-BC-2020-06/F03176/COR, 13 May 2025, Confidential, paras 41-42; Consolidated Decision on Selimi Defence Request for Provisional Release and on Periodic Review of Detention of Rexhep Selimi, KSC-BC-2020-06/F03175, 13 May 2025, Confidential, paras 36-38. See also *Specialist Prosecutor v. Shala*, Public redacted version of Decision on Seventeenth Review of Detention of Pjetër Shala, KSC-BC-2020-04/F00838, 17 May 2024, paras 24-25.

<sup>15</sup> See *Specialist Prosecutor v. Thaçi et al.*, Annex 2, Submission of Amended Confirmed Indictment, KSC-BC-2023-12/F00264/A02, 16 April 2025.

<sup>16</sup> SCSL, *Independent Counsel v. Eric Koi Senessie*, SCSL-2011-01-T, Judgment in Contempt Proceedings, 16 August 2012.

improperly influence five witnesses heard by the International Criminal Tribunal for Rwanda with the end goal of procuring recantations of their prior testimony.<sup>17</sup> Finally, Dritan Goxhaj's [REDACTED] including his encouragement to intimidate and retaliate against any who support the KSC and the SPO – is another relevant example of attempted interference with the administration of justice arising directly from individuals' status as a KSC witness.<sup>18</sup>

10. The requested restrictions are also consistent with the Pre-Trial Judge's finding in Case 12 that THAÇI's charged conduct is part of a broader pattern of efforts to interfere with the testimony of SPO witnesses in this case,<sup>19</sup> which extends beyond the five visits at centre of Case 12.<sup>20</sup> Specifically, during his non-privileged visits on 1 July 2023, 4 August 2023, 12 August 2023, 15 September 2023, 22 September 2023, and 1 October 2023 – which each included one or more Visitors of Concern – THAÇI and his visitors repeatedly spoke in whispers/lowered voices, and THAÇI provided instructions to be conveyed to SPO witnesses and/or revealed confidential witness information.<sup>21</sup>

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<sup>17</sup> International Residual Mechanism for Criminal Tribunals ('IRMCT'), *Prosecutor v. Nzabonimpa et al.*, MICT-18-116-T, Judgment, 25 June 2021. Similarly, in the SCSL case of *Bangura et al.*, two convicted persons and two of their associates engaged in an initiative to procure the recantation of witness testimony by way of a monetary bribe, with the aim of providing an avenue to seek review (See SCSL, *Independent Counsel v. Bangura et al.*, SCSL-2011-02-T, Judgment in Contempt Proceedings, 25 September 2012). In a recent IRMCT review proceeding, the Appeals Chamber found that financial transactions of Witness HH raised concerns as to the integrity of his purported recantation, such that Mr Ntakirutimana's original convictions were maintained (See IRMCT, *Prosecutor v. Gérard Ntakirutimana*, MICT-12-17-R, Review Judgment, 22 November 2024, paras 57, 62).

<sup>18</sup> [REDACTED]. See also [REDACTED]; Prosecution submission pertaining to periodic detention review of Hashim Thaçi, KSC-BC-2020-06/F01813, Confidential, para.12.

<sup>19</sup> *Specialist Prosecutor v. Thaçi et al.*, Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00165, 7 February 2025, para.29; *Specialist Prosecutor v. Thaçi et al.*, Second Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00250, 7 April 2025, para.28.

<sup>20</sup> The visits on 2 July, 3 September, 9 September, 6 October, and 7 October 2023. See *Specialist Prosecutor v. Thaçi et al.*, Annex 2, Submission of Amended Confirmed Indictment, KSC-BC-2023-12/F00264/A02, 16 April 2025.

<sup>21</sup> See for example 114024 010723-072909-103046-TR-AT Revised-ET, pp. 189-190, 196-205 (1 July 2023 visit during which THAÇI, *inter alia*, discussed, at minimum, the testimony of one SPO protected witness); 114548 040823-075244-121616-TR-AT Revised 1-ET, pp. 306-310, 315-320, 384-389, 394-95 (4 August 2023 visit during which THAÇI and visitors discussed witnesses' testimony, including confidential



11. The audio recordings of each of these non-privileged visits have been disclosed to the Accused in this case.<sup>22</sup> And, although certain measures have already been imposed to reduce the risk of such conduct,<sup>23</sup> the SPO understands from publicly available sources that several of the Visitors of Concern continue to visit THAÇI at the KSC Detention Centre. In an analogous situation in Case 12, which supports the requested measures, the Pre-Trial Judge ordered Hajredin KUÇI, another Accused in Case 12, to refrain from any contact with numerous Visitors of Concern including Messrs SHALA, BEHRAMI, and KRYEZIU.<sup>24</sup>

12. Finally, the requested measures are proportionate to the above aim. To be sure, the risk that THAÇI may convey illicit messages and instructions during non-privileged visits can never be eliminated entirely, even in the KSC Detention Centre.<sup>25</sup> This fact was demonstrated as recently as February 2025 when it was publicly reported that THAÇI apparently participated in another detainee's video-call,<sup>26</sup> an

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information and SPO witness proofing procedures, and THAÇI instructed visitors what one or more witnesses should say); 114642 120823-085000-111000-TR-AT Revised 1-ET, pp. 13-35 (12 August 2023 visit during which THAÇI provided instructions about how a witness should testify, including how to approach a witness, invoking the memory of the witnesses' deceased family member and modifications a witness should make to testimony); 115343 150923-075500-115854-TR-AT Revised 2-ET, pp. 150, 181-190, 204-206, 231-233 (15 September 2023 visit during which THAÇI explicitly told his visitors the full name of a protected witness who had testified, as well as the names of witnesses he deemed 'the main ones' who were yet to testify, and provided instructions about how a witness should testify, including modifications the witness should make to his statement during preparation); 115629 220923-121435-135935-TR-AT Revised-ET, pp. 6, 21-28, 36-40, 76-77, 95 (22 September 2023 visit during which THAÇI provided instructions about how a protected witness should testify, including modifications the witness should make to his statement during preparation and evidence the witness should give, and discussed other witnesses, including those that did not testify in public); 115859 011023-075517-115809-TR-AT-ET, pp. 8-13 (1 October 2023 visit during which THAÇI provided instructions on how witnesses should testify, minimising their evidence with regards to his culpability, as well as discussing the testimony of witnesses, whose testimony THAÇI acknowledged was not public).

<sup>22</sup> See Annex 1.

<sup>23</sup> Decision on Detention Conditions, KSC-BC-2020-06/F01977, para.51. See also *Specialist Prosecutor v. Thaçi et al.*, Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00165, 7 February 2025, para.39.

<sup>24</sup> See Public Redacted Version of Decision on Prosecution Request for Variation of Conditions on Hajredin Kuçi, KSC-BC-2023-12/F00094/RED, 19 December 2024, para.14.

<sup>25</sup> *Specialist Prosecutor v. Thaçi et al.*, Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00165, 7 February 2025, para.39.

<sup>26</sup> See *Specialist Prosecutor v. Thaçi et al.*, Prosecution submissions on review of detention of Hashim Thaçi with corrected version of public Annex 1, KSC-BC-2023-12/F00220, 14 March 2025, para.5.

action which runs contrary to the conditions already imposed on him.<sup>27</sup> However, permitting the Visitors of Concern – who each have either actively or passively participated in and/or acquiesced to THAÇI's obstructive acts<sup>28</sup> – to continue to visit THAÇI poses an entirely avoidable risk of further criminal acts assailing the integrity of KSC proceedings.

13. For the same reasons as above, it is also necessary to prohibit THAÇI from discussions related to this case and Case 12 during non-privileged visits. Indeed, prohibiting case-related discussions will both facilitate monitoring and enforcement of the Panel's rulings and help minimise the risk of confidential information being disclosed to unauthorised persons, whether deliberately or otherwise. This measure is therefore necessary for the effective minimisation of the already established, and manifested, risks and consequently the protection of witnesses and victims in this case and preservation of integrity of the proceedings.

14. The SPO notes that the same request is submitted before the Pre-Trial Judge in Case 12.

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<sup>27</sup> Decision on Detention Conditions, KSC-BC-2020-06/F01977, para.55.

<sup>28</sup> See Annex 1 to these submissions, as to the material which substantiates that the listed Visitors of Concern participated in and/or acquiesced to obstructive acts.




### III. CLASSIFICATION

15. This filing and Annex 1 are confidential pursuant to Rule 82(4) and because they contain sensitive and confidential information. To ensure the effectiveness of the requested relief and considering its sensitive nature and the Visitors of Concern, the SPO exceptionally does not intend to file a public redacted version of the request until after its resolution

### IV. CONCLUSION

16. For the foregoing reasons, the SPO requests the Panel to prohibit discussions related to this case and Case 12 during non-privileged visits as well as the Visitors of Concern from visiting THAÇI until the completion of these proceedings as these measures are necessary and proportionate to the legitimate aim of preventing any further attempts by THAÇI to obstruct ongoing KSC proceedings.

**Word count: 2,750**



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Tuesday, 20 May 2025

At The Hague, The Netherlands.