



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

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

Before: Single Trial Judge
Judge Christopher Gosnell

Registrar: Fidelma Donlon

Date: 3 December 2025

Language: English

Classification: Public

Sixth Decision on Review of Detention of Hashim Thaçi

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THE SINGLE TRIAL JUDGE, pursuant to Article 41(6) and (10) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rules 9(5)(a) and (6), 56(2) and 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers,¹ hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 5 December 2024, Hashim Thaçi ("Mr Thaçi" or "Accused"), already detained at the Detention Facilities of the Specialist Chambers ("SC") in the context of the proceedings in case of *The Specialist Prosecutor v. Hashim Thaçi et al.* ("Case 06"), was served with an arrest warrant, issued by the Pre-Trial Judge in the present proceedings ("Case 12"),² on the basis of the confirmation of the indictment in this case against him and four other Accused.³ On 8 December 2024, Mr Thaçi made his initial appearance, at which time his continued detention was ordered.⁴ He remains in custody to this day, following five bi-monthly reviews of detention as required by Article 41(10).⁵

¹ All future references to "Article" and "Rule" shall be understood, unless otherwise indicated, as referring to the Law and Rules, respectively.

² KSC-BC-2023-12, F00037, Pre-Trial Judge, *Decision on Request for Arrest Warrants and Related Matters* ("Decision on Arrest"), 29 November 2024, confidential, with Annexes 1-8, strictly confidential and *ex parte*; see Annex 4, containing the arrest warrant against Mr Thaçi. A public redacted version of the main filing was issued on 19 December 2024, [F00037/RED](#).

³ KSC-BC-2023-12, F00036, Pre-Trial Judge, *Decision on the Confirmation of the Indictment* ("Confirmation Decision"), 29 November 2024, confidential. A public redacted version was issued on 12 February 2025, [F00036/RED](#). On 14 April 2025, following a decision of the Court of Appeals Panel, the Pre-Trial Judge 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 the offence of obstructing official persons, under Counts 1, 2 and 3 of the indictment as confirmed on 5 December 2024 (see F00260, Pre-Trial Judge, [Decision Amending the "Decision on the Confirmation of the Indictment" and Setting a Date for the Submission of Preliminary Motions](#), 14 April 2025, public). On 16 April 2025, the Specialist Prosecutor's Office filed the amended confirmed indictment (see F00264/A02, Specialist Prosecutor, [Public Redacted Amended Confirmed Indictment](#) ("Amended Confirmed Indictment"), 16 April 2025, public).

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

⁵ KSC-BC-2023-12, F00165, Pre-Trial Judge, [Decision on Review of Detention of Hashim Thaçi](#) ("First Review Decision"), 7 February 2025, public; F00250, Pre-Trial Judge, [Second Decision on Review of Detention of Hashim Thaçi](#) ("Second Review Decision"), 7 April 2025, public; F00325, Pre-Trial Judge,

2. On 12 November 2025, the Pre-Trial Judge transmitted the complete case file to the Single Trial Judge.⁶
3. On 18 November 2025, the Specialist Prosecutor's Office ("SPO") made submissions on the periodic review of Mr Thaçi's detention.⁷
4. On 26 November 2025, the Defence for Mr Thaçi ("Thaçi Defence") responded.⁸

II. SUBMISSIONS

5. The SPO requests Mr Thaçi's continued detention on the basis that no new factors or information have arisen that would undermine the findings of the Pre-Trial Judge in the Fifth Review Decision.⁹ More specifically, the SPO submits that Mr Thaçi's continued detention remains necessary since all three risks under Article 41(6)(b) remain present at this time.¹⁰ Further, according to the SPO, no potential conditions of release can appropriately mitigate those risks, which can be effectively managed only at the SC Detention Facilities.¹¹ Lastly, the SPO argues that Mr Thaçi's continued detention remains proportionate, on the basis of the limited further passage of time and in light of the potentially lengthy sentence he faces, as well as the progress of the present proceedings.¹²

[*Third Decision on Review of Detention of Hashim Thaçi*](#) ("Third Review Decision"), 5 June 2025, public; F00405, Pre-Trial Judge, [*Fourth Decision on Review of Detention of Hashim Thaçi*](#) ("Fourth Review Decision"), 5 August 2025, public; F00476, Pre-Trial Judge, [*Fifth Decision on Review of Detention of Hashim Thaçi*](#) ("Fifth Review Decision"), 3 October 2025, public.

⁶ KSC-BC-2023-12, F00544, Pre-Trial Judge, [*Decision Transmitting the Case File to Single Trial Judge*](#), 12 November 2025, public.

⁷ KSC-BC-2023-12, F00552, Specialist Prosecutor, *Prosecution Submissions on Review of Detention of Hashim Thaçi* ("SPO Submissions"), 18 November 2025, public.

⁸ KSC-BC-2023-12, F00575, Thaçi Defence, *Thaçi Defence Response to Prosecution Submissions on Review of Detention* ("Response" or "Defence Response"), 26 November 2025, confidential and *ex parte*. A confidential redacted and a public redacted version were filed on the same date, F00575/CONF/RED and F00575/RED.

⁹ SPO Submissions, paras 3-4, 7, 9.

¹⁰ SPO Submissions, para. 4.

¹¹ SPO Submissions, para. 5.

¹² SPO Submissions, para. 9.

6. The Thaçi Defence argues that Mr Thaçi does not represent a flight risk¹³ and that the imminent closure of the evidentiary phase in Case 06, as well as the transfer of this case to the trial stage, together with the nature of the SPO's evidence, justifies a new assessment of the alleged risks of obstruction and of commission of crimes under Article 41(6)(b)(ii) and (iii), respectively.¹⁴

III. APPLICABLE LAW

7. The standards applicable to the continued detention of a person by the SC are set out in Article 41(6) and (10) and Rules 56-57. These provisions have been extensively interpreted in the SC's jurisprudence, in particular as they are required to be applied and interpreted in conformity with the Constitution of Kosovo and the (European) Convention for the Protection of Human Rights and Fundamental Freedoms.¹⁵ The Single Trial Judge will apply these same standards to the present decision.

8. The Single Trial Judge notes that each bi-monthly review of detention is a *de novo* assessment.¹⁶ According to the Court of Appeals Panel:

[...] The competent panel is not required to make findings on the factors already decided upon in the initial ruling on detention but must examine these reasons or circumstances and determine whether they still exist. What is crucial is that the competent

¹³ Defence Response, para. 9 *et seq.*

¹⁴ Defence Response, para. 22 *et seq.*

¹⁵ See, for example, [Fifth Review Decision](#), paras 9-12; [Second Review Decision](#), paras 14-15 (general requirements), 16 (grounded suspicion), 19-22 (necessity of detention), 36 (conditional release), 40 (proportionality), and references cited therein; [First Review Decision](#), paras 12-13 (general requirements), paras 14 (grounded suspicion), 17-20 (necessity of detention), 37 (conditional release), 41 (proportionality).

¹⁶ KSC-BC-2020-06, IA006-F00005/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Jakup Krasniqi's Appeal Against Decision on Review of Detention](#), 1 October 2021, public, paras 14-17; F03484, Trial Panel II, [Decision on Periodic Review of Detention of Jakup Krasniqi](#), 18 September 2025, public, para. 49 ("the Panel observes that detention is governed by strict conditions set out in Article 41 and the Panel assesses the Parties' submissions *de novo* as part of the bi-monthly detention review pursuant to Article 41(10)"); see also F00177/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Hashim Thaçi's Application for Interim Release](#), 22 January 2021, public, para. 26.

panel is satisfied that that, at the time of the review decision, grounds for continued detention still exist.¹⁷

Furthermore, “although the automatic review [...] is not strictly limited to whether or not a change of circumstances occurred in the case, such a change can nonetheless be determinative and shall be taken into consideration if raised before the Panel or *proprio motu*.”¹⁸ The Single Trial Judge understands that although he is not “required” to revisit findings made in previous detention reviews, he is nevertheless under an obligation to ensure that he is “satisfied” that “grounds for continued detention still exist” including, but without being limited to, considering any change of circumstances that may have arisen since the last detention review.

IV. DISCUSSION

A. EXTENSION OF TIME REQUEST

9. As a preliminary matter, the Single Trial Judge notes that the Thaçi Defence, prior to the expiry of the deadline of filing its Response, requested an eight-hour extension of time, on the basis of competing deadlines and an increased pace in these and the Case 06 proceedings.¹⁹ The Thaçi Defence submitted that it had consulted with the SPO, which did not oppose the request.²⁰

¹⁷ KSC-BC-2020-07, IA002/F00005, Court of Appeals Panel, [Decision on Nasim Haradinaj's Appeal Against Decision Reviewing Detention](#), 9 February 2021, public, para. 55; see also KSC-BC-2020-06, IA006-F00005, Court of Appeals, [Public Redacted Version of Decision on Jakup Krasniqi's Appeal Against Decision on Review of Detention](#), 1 October 2021, confidential, para. 15 (“The Panel considers that a further explanation of how the above findings must be interpreted is warranted. In that regard, the Panel underlines that the duty to determine whether the circumstances underpinning detention “still exist” is not a light one. It imposes on the competent panel the task to, *proprio motu*, assess whether, it is still satisfied that, at the time of the review and under the specific circumstances of the case when the review takes place, the detention of the Accused remains warranted.”).

¹⁸ KSC-BC-2023-12, IA004-F00005, Court of Appeals Panel, [Decision on Isni Kilaj's Appeal Against Third Decision on Review of Detention](#) (“Second Kilaj Detention Appeal Decision”), 1 September 2025, public, para. 31.

¹⁹ KSC-BC-2023-12, CRSPD166, *Email from Single Trial Judge to Parties re Short extension*, 25 November 2025, confidential.

²⁰ Defence Response, para. 6.

10. The Single Trial Judge finds that the request for an extension of time was submitted sufficiently in advance, as required by Rule 76, and that it is supported by good cause, for the reasons advanced by the Thaçi Defence, including the absence of opposition by the SPO. Accordingly, the request for extension of time is granted pursuant to Rule 9(5)(a) and Rule 9(6).²¹

B. GROUNDED SUSPICION

11. A precondition of detention under Article 41(6)(a) is that there is a “grounded suspicion that [the detainee] has committed a crime within the jurisdiction of the Specialist Chambers”. This is a lower threshold than is required for the confirmation of charges in an indictment under Article 39(2). On the basis of the findings in the Confirmation Decision, and in the absence of any submissions to the contrary by the Thaçi Defence or other intervening information or developments, the requirement of a “grounded suspicion” is satisfied.²²

C. PRESENCE OF ARTICLE 41(6)(B) RISKS

1. Risk of Flight

12. The SPO submits that the factors indicating a risk that Mr Thaçi would flee if provisionally released are: (i) the gravity of the charged offences, and the potential sentence if convicted; (ii) his *mala fide* intentions towards the laws and rules of the SC; and (iii) his means and opportunity to flee.²³

²¹ The Defence Response was filed after the eight-hour extension of time requested on 25 November 2025, specifically at 9h26 on 26 November 2025. The Thaçi Defence is reminded to adhere to the applicable deadlines.

²² [Confirmation Decision](#), paras 42-43, 313(a). See also *supra* footnote 3. See also [Decision on Arrest](#), para. 43. See similarly, KSC-BC-2020-04, F00224/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Review of Detention of Pjetër Shala](#), 22 June 2022, public, para. 24; and F00075/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Review of Detention of Pjetër Shala](#), 10 September 2021, public, para. 22. See similarly [Fourth Review Decision](#), para. 16; [Third Review Decision](#), para. 18; [Second Review Decision](#), paras 17-18. See also [First Review Decision](#), para. 7; Decision on Detention, p. 15, lines 1-7.

²³ SPO Submissions, para. 5.

13. The Thaçi Defence submits that: (i) the specificity of Case 12 does not justify a different finding than the one adopted in Case 06, where Trial Panel II found that Mr Thaçi does not present a risk of flight;²⁴ (ii) the Case 12 charges are less severe than the Case 06 charges, as highlighted by the President's decision to appoint a Single Trial Judge instead of a Trial Panel, and any risk of flight is therefore lower than in Case 06;²⁵ (iii) the SPO's reliance on Mr Thaçi's purported *mala fide* intentions towards the laws and rules of the SC, in light of the charges in Case 12, should be rejected in order that the presumption of innocence is preserved;²⁶ (iv) Mr Thaçi's behaviour while temporarily released on compassionate grounds demonstrates that Mr Thaçi has no intention to escape;²⁷ (v) Mr Thaçi's compliance with the detention restrictions imposed on him by Trial Panel II in Case 06 and the Pre-Trial Judge in the present case demonstrates Mr Thaçi's willingness to comply with the rules and security measures imposed on him to ensure his appearance in Court and that he has no intention to evade;²⁸ (vi) the gravity of the offences in the present proceedings or the potential sentence do not constitute an incentive for Mr Thaçi to flee;²⁹ and (vii) Mr Thaçi's increased insight into the evidence disclosed by the SPO does not create a flight risk as the charges and potential sentence remain the same.³⁰

14. As stated by the Court of Appeals Panel, "[t]he conditions set forth in Article 41(6)(b) of the Law are alternative to one another. If one of those conditions is fulfilled, the other conditions do not have to be addressed in order for detention to be maintained."³¹

²⁴ Defence Response, para. 7.

²⁵ Defence Response, para. 15.

²⁶ Defence Response, para. 17.

²⁷ Defence Response, paras 10, 13.

²⁸ Defence Response, para. 17.

²⁹ Defence Response, para. 11.

³⁰ Defence Response, para. 20.

³¹ See for example KSC-BC-2023-12, IA001-F0005, Court of Appeals Panel, [Decision on Isni Kilaj's Appeal Against Decision on Continued Detention](#), 28 January 2025, public, para. 17.

15. In light of the findings below in respect of the risks under Article 41(6)(b)(ii) and (iii), the Single Trial Judge does not consider it necessary, at this time, to make a finding under Article 41(6)(i) as to whether Mr Thaçi is a flight risk.

2. Risk of Obstructing the Progress of SC Proceedings

16. The SPO submits that the following factors indicate a risk that Mr Thaçi would obstruct the progress of the SC proceedings if provisionally released: (i) his coordination of three distinct groups, of which he was the leader, to interfere with the testimony of SPO witnesses in Case 06, including by revealing confidential witness information and seeking to instruct those witnesses' testimonies; (ii) his conduct is part of a broader pattern of interference efforts; (iii) his persistence in furthering obstruction efforts from within the Detention Facilities, including by leveraging his influence over loyal allies, particularly his co-Accused; (iv) previous findings that suggest he separately tried to interfere with and undermine the SC proceedings; and (v) his (increased) awareness of the charges and the evidence against him, which in turn increases his incentive to interfere with witnesses or obstruct these proceedings.³² Furthermore, according to the SPO, the established risk of obstruction continues independent of the advanced stage of the proceedings in Case 06.³³ Lastly, the SPO avers that the persistent climate of intimidation of witnesses and victims in Kosovo continues to be a relevant contextual factor, particularly since the risk of Mr Thaçi exerting pressure on witnesses remains high.³⁴

17. The Thaçi Defence submits that "the imminent closure of the evidentiary phase in Case 06, as well as the transfer of this case to the trial stage, and the nature of the SPO's evidence in it, justifies a new assessment of the alleged risks of obstruction and of commission of crimes under Article 41(6)(b)(ii) and (iii)."³⁵

³² SPO Submissions, para. 6.

³³ SPO Submissions, para. 6.

³⁴ SPO Submissions, para. 6.

³⁵ Defence Response, para. 22.

Specifically, the Thaçi Defence submits that, in Case 06, both the SPO and the Defence have now completed the presentation of their evidence and since no witnesses are expected to be recalled in Case 06, there is no risk of obstruction of the progress of proceedings in Case 06 and/or towards the Case 06 witnesses.³⁶ Furthermore, there is no reason for Mr Thaçi to incentivise any witnesses to recant at the final stage of Case 06 proceedings as this would have no evidentiary value.³⁷ Similarly, the Thaçi Defence submits that the risk of Mr Thaçi attempting to interfere with any SPO witnesses in Case 12 is “practically non-existent owing to the nature of the case and the evidence to be relied upon by the SPO.”³⁸ Lastly, the Thaçi Defence argues that in light of the current stage of the proceedings and the SPO’s intention “to rely far more on documentary evidence than on live evidence, and to tender most of its evidence in writing”, any possibility of obstructing the proceedings is limited.³⁹

18. The Single Trial Judge accepts that the risk of obstruction is reduced relative to previous detention reviews in light of: (i) the imminent closure of the evidentiary proceedings in Case 06; and (ii) the increased certainty that the SPO’s evidence in the present case will not rely on witnesses who could be subject to influence by Mr Thaçi or anyone likely to act on his behalf. The Single Trial Judge notes, in particular, that the SPO seeks to rely almost exclusively on documentary evidence which cannot plausibly be tampered or interfered with by Mr Thaçi at this stage. The witnesses who will appear for the SPO, given their circumstances, are not likely to be subject to any influence by Mr Thaçi or anyone who is likely to act on his behalf.⁴⁰ Furthermore, the investigative steps still being pursued by the SPO are beyond the potential influence of Mr Thaçi.

³⁶ Defence Response, para. 23.

³⁷ SPO Submissions, para. 23.

³⁸ Defence Response, para. 24.

³⁹ Defence Response, para. 26.

⁴⁰ See KSC-BC-2023-12, F00459/A03, Specialist Prosecutor, *Annex 3 to Prosecution Submission of Pre-Trial Brief, Witness and Exhibit Lists*, 19 September 2025, confidential. The list of witnesses was

19. Notwithstanding these developments, a “real” risk⁴¹ remains that Mr Thaçi may obstruct the progress of SC proceedings under Article 41(6)(b)(ii), if released, on the basis of the following factors: (i) the grounded suspicion of extensive efforts by Mr Thaçi to obstruct the Case 06 proceedings, which are the basis for the charges in the present case; (ii) the alleged leadership role of Mr Thaçi in those efforts; (iii) the allegation that these efforts included seeking the cooperation of, and giving instructions to, individuals who remain at liberty in Kosovo; and (iv) the ongoing potential that individuals who might be called as Defence witnesses in this case, whose identity is not yet known, could be subject to influence.⁴² The risk must also be viewed in the context of a pervasive climate of fear and intimidation in Kosovo against witnesses and potential witnesses of the SC.⁴³

20. On the basis of these factors, the Single Trial Judge considers that the requisite degree of risk under Article 41(6)(b)(ii) remains.

3. Risk of Committing Further Offences

21. As regards the risk of committing further offences under Article 41(6)(b)(iii), both Parties rely on their submissions on the risk of obstruction.⁴⁴

22. The Single Trial Judge recalls that, even though the existence of a risk of obstruction does not always automatically translate into a risk of committing further offences, it does so in the present case.⁴⁵ The reasons supporting the finding

resubmitted on 26 September 2025 under filing number F00467/A03, following the submission of a corrected version of the Pre-Trial Brief.

⁴¹ See KSC-BC-2020-06, IA004-F00005, Court of Appeals Panel, [Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Interim Release](#), 30 April 2021, public, paras 24, 45.

⁴² See for example, [Fifth Review Decision](#), para. 18, [Fourth Review Decision](#), para. 19; [Third Review Decision](#), paras 21-22; [Second Review Decision](#), para. 28; [First Review Decision](#), paras 29-30; Decision on Detention, p. 12, line 15; [Decision on Arrest](#), para. 50.

⁴³ [Fifth Review Decision](#), para. 20; [Fourth Review Decision](#), para. 20; [Third Review Decision](#), para. 23; [Second Review Decision](#), para. 30; [First Review Decision](#), para. 31; Decision on Detention, p. 18, lines 16-20; [Decision on Arrest](#), para. 51. See also Decision on Kilaj Appeal, para. 83.

⁴⁴ SPO Submissions, para. 7; Defence Response, para. 27.

⁴⁵ [Fifth Review Decision](#), para. 22; [Fourth Review Decision](#), para. 22; [Third Review Decision](#), para. 25; [Second Review Decision](#), para. 33; [First Review Decision](#), para. 33; Decision on Detention, p. 15, lines 3-7; [Decision on Arrest](#), para. 53.

that there is a real risk of obstruction of proceedings likewise support a finding of a real risk that alleged further offences would be committed for that purpose, including in relation to witnesses who may provide evidence in the present case.⁴⁶

23. Therefore, in light of the above, the Single Trial Judge concludes that the requisite degree of risk that Mr Thaçi will commit further offences continues to exist.

4. Conclusion

24. The Single Trial Judge finds that there remains a real risk that Mr Thaçi may obstruct the progress of the SC proceedings, and commit further offences under Article 41(6)(b)(ii) and (iii) respectively. The Single Trial Judge will assess below whether these risks can be adequately mitigated by any conditions of release.

D. POTENTIAL CONDITIONS OF RELEASE

25. An accused “can only be detained if lesser measures would be insufficient to mitigate the risks of flight, obstruction or commission of further crimes.”⁴⁷ This standard reflects the presumption in favour of pre-trial release, which is itself a reflection of the bedrock principle of the presumption of innocence.⁴⁸

⁴⁶ See also [Fifth Review Decision](#), para. 22; [Fourth Review Decision](#), para. 22; [Third Review Decision](#), para. 25; [Second Review Decision](#), para. 33; [First Review Decision](#), para. 34; Decision on Detention, p. 18, lines 16-20; [Decision on Arrest](#), para. 54.

⁴⁷ [Second Kilaj Detention Appeal Decision](#), para. 32. 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](#), 26 April 2017, public, para. 114. See also ECtHR, [Buzadji v. the Republic of Moldova](#), no. 23755/07, Judgment, 5 July 2016, para. 87; [Idalov v. Russia](#), no. 5826/03, Judgment, 22 May 2012, para. 140.

⁴⁸ KSC-BC-2020-06, IA003-F00005/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Rexhep Selimi’s Appeal Against Decision on Interim Release](#) (“Selimi Appeal Decision”), 30 April 2021, public, paras 85-86 (“The Court of Appeals Panel notes the finding of the Constitutional Court that to fully comply with the constitutional standards, a panel must consider more lenient measures when deciding whether a person should be detained. The Panel interprets the Constitutional Court’s ruling as meaning that, in the assessment of the Proposed Conditions, the Pre-Trial Judge is required, *proprio motu*, to inquire and evaluate all reasonable conditions that could be imposed on an accused and not just those raised by the Defence. The Panel comes to this conclusion in light of the fundamental right of liberty at stake with regard to a suspect or an accused in pre-trial detention and the presumption of innocence governing this part of the proceedings”).

26. The Single Trial Judge is not persuaded that any reasonable conditions of release could satisfactorily diminish, at this stage, the risk that the Accused may obstruct the progress of SC proceedings or commit further offences.⁴⁹ Notably, the Single Trial Judge is of the view that any reasonable condition to be imposed: (i) does not address, for example, the possibility of Mr Thaçi using other persons, or employing communication devices belonging to other persons, or requesting other persons to use their devices for the purpose of unlawfully interfering with witnesses; and (ii) cannot ensure the effective monitoring of Mr Thaçi's communications.⁵⁰

27. By contrast, the measures in place at the SC Detention Facilities substantially reduce the possibility of witnesses being influenced by Mr Thaci, by indirect means.⁵¹

28. The Single Trial Judge concludes that no reasonable conditions of release could sufficiently reduce the risks of obstruction of proceedings or re-offending under Article 41(6)(b)(ii)-(iii).

E. PROPORTIONALITY OF DETENTION

29. Rule 56(2) requires "that a person is not detained for an unreasonable period prior to the opening of the case." This standard likewise applies after the opening of the case and throughout trial proceedings.⁵² The SPO "carries the burden of

⁴⁹ [Fifth Review Decision](#), para. 25; [Fourth Review Decision](#), para. 25; [Third Review Decision](#), para. 28; [Second Review Decision](#), para. 37; [First Review Decision](#), para. 38; see KSC-BC-2020-06, IA017/F00011/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention](#) ("Thaçi 2022 Appeal Decision"), 5 April 2022, public, para. 51.

⁵⁰ [Fifth Review Decision](#), para. 26; [Fourth Review Decision](#), para. 25; [Third Review Decision](#), para. 28; [Second Review Decision](#), para. 37; [First Review Decision](#), para. 38.

⁵¹ [Fifth Review Decision](#), para. 26; [Fourth Review Decision](#), para. 26; [Third Review Decision](#), para. 29; [Second Review Decision](#), para. 38; [First Review Decision](#), para. 39. Similarly, KSC-BC-2020-06, IA010-F00008/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention](#), 27 October 2021, public, para. 68.

⁵² See [Second Kilaj Detention Appeal Decision](#), para. 46 ("At the outset, the Appeals Panel recalls that a panel has a general obligation to ensure that the time spent in detention is reasonable, in accordance with Article 29(2) of the Constitution and Article 5(3) of the ECHR"); KSC-BC-2020-06,

establishing that detention is necessary and that its length remains reasonable,”⁵³ and “any analysis of pre-trial detention must take the presumption of innocence as its starting point.”⁵⁴ As the Court of Appeals Panel has remarked, “the longer a person remains in pre-trial detention the higher the burden on the Specialist Chambers to justify continued detention.”⁵⁵

30. The determination of the reasonableness of continued detention “must be assessed on the facts of each case and according to its special features.”⁵⁶ In particular, previous jurisprudence establishes that reasonableness is to be assessed by weighing various considerations, including: the duration of detention at the time of review;⁵⁷ “the nature of the offence as well as the severity of the penalty”;⁵⁸ “the degree of risks that are described in Article 41(6)(b) of the Law”;⁵⁹ the speed with which proceedings are progressing towards trial (or a final judgment), and whether

F03587, Trial Panel II, [Decision on Periodic Review of Detention of Jakup Krasniqi](#), 18 November 2025, public, paras. 31-35 (applying Rule 56(2) and finding that continued detention remains “necessary and reasonable in the specific circumstances of this case”); F03539, Specialist Prosecutor, *Prosecution Submission Pertaining to Periodic Detention Review of Jakup Krasniqi*, 27 October 2025, public, para. 26, para. 26 (SPO arguing that detention of Krasniqi “remains proportional”).

⁵³ See [Second Kilaj Detention Appeal Decision](#), para. 47.

⁵⁴ See [Selimi Appeal Decision](#), para. 37.

⁵⁵ See KSC-BC-2020-07, IA001-F00005, Court of Appeals Panel, [Decision on Hysni Gucati's Appeal on Matters Related to Arrest and Detention](#) (“Gucati Appeal Decision”), 9 December 2020, public, para. 73.

⁵⁶ See [Thaçi 2022 Appeal Decision](#), para. 65.

⁵⁷ See [Selimi Appeal Decision](#), paras 79-81.

⁵⁸ See [Gucati Appeal Decision](#), para. 72 (“The Court of Appeals Panel takes the present opportunity to stress that the nature of the offence as well as the severity of the penalty are important factors to consider when deciding whether detention is necessary in the circumstances of a specific case.”).

⁵⁹ See KSC-BC-2023-12, INV-F00129/COR/RED, Single Judge, *Public Redacted Version of Corrected Version of Decision on Review of Detention of Isni Kilaj* (“Kilaj Release Decision”), 3 May 2024 (date of public redacted corrected version 15 May 2024), public, para. 60. See KSC-BC-2020-06, IA010/F00008/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention](#) (“Thaçi 2021 Appeal Decision”), 27 October 2021, para. 49.

the length of proceedings is justified by its complexity;⁶⁰ and the frequent review of detention which, pursuant to the Rules, occurs every two months.⁶¹

31. The SPO argues that the additional two months of Mr Thaçi's detention since the last review do not change the balance of factors that substantiated the Pre-Trial Judge's finding in the Fifth Review Decision that Mr Thaçi's detention "remains proportionate".⁶² The SPO underscores that a "potentially lengthy sentence lies ahead" for Mr Thaçi based on the eleven counts with which he is charged. It also highlights "the continued expeditious progress of proceedings" as reflected in various procedural, investigative and disclosure steps.⁶³ According to the SPO, Mr Thaçi's continued detention remains necessary and proportionate when considering the numerous relevant factors in their totality.⁶⁴

32. The Thaçi Defence makes no submissions with regard to proportionality.

33. The Single Trial Judge finds that, on the basis of the risks arising under Article 41(6)(b)(ii) and (iii), Mr Thaçi's continued detention continues to be reasonable.

34. In particular, the Single Trial Judge recalls that: (i) Mr Thaçi has been detained since 5 December 2024 in the context of these proceedings;⁶⁵ (ii) he is charged with having a leadership role in the commission of three counts of attempting to obstruct official persons in performing official duties, four counts of violating the secrecy of proceedings and four counts of contempt of court, which could result in a

⁶⁰ See [Thaçi 2021 Appeal Decision](#), para. 52 ("the Pre-Trial Chamber correctly assessed the circumstances of the case as a whole, taking into consideration the factors listed above in paragraph 50 of this decision"); [Kilaj Release Decision](#), para. 60 ("the investigative and procedural steps taken towards moving the case forward since the last review of detention.").

⁶¹ See [Selimi Appeal Decision](#), para. 81.

⁶² SPO Submissions, para. 9; [Fifth Review Decision](#), para. 30.

⁶³ SPO Submissions, para. 9.

⁶⁴ SPO Submissions, para. 10.

⁶⁵ See *supra* para. 1.

substantial sentence;⁶⁶ and (iii) the risks of obstruction and commission of further offences cannot be mitigated by any proposed or additional conditions for release.⁶⁷

35. The Single Trial Judge also takes into consideration that although, as discussed above, certain factors have arisen that reduce the risks of obstruction and re-offending, these risks nevertheless remain significant,⁶⁸ and cannot be sufficiently mitigated by any proposed or additional conditions of release.⁶⁹

36. Finally, the Single Trial Judge notes that since the Fifth Review Decision, various procedural, investigative and disclosure steps have brought the case closer to the commencement of trial.⁷⁰

37. The Single Trial Judge has duly considered the additional time Mr Thaçi has spent in detention since the Fifth Review Decision, but finds that – when weighed against the remaining factors set out in paragraphs 18-19 above – his detention remains proportionate.

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

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

⁶⁶ Amended Confirmed Indictment, para. 45.

⁶⁷ See *supra* para. 28.

⁶⁸ See *supra*, paras 18-19.

⁶⁹ See *supra*, para. 28.

⁷⁰ The Single Trial Judge takes note of: (i) the resolution of the appeals arising from preliminary motions by the Court of Appeals Panel; (ii) the transmission of the case to the Single Trial Judge; (iii) the holding of the Trial Preparation and SPO Conference on 28 November 2025; (iv) the steady progress of the SPO's remaining investigative steps; (v) the SPO's compliance with its ongoing disclosure obligations; (vi) the SPO's filing of its Pre-Trial Brief, list of exhibits and witnesses on 19 November 2025; and (vii) the filing of Pre-Trial Briefs by some of the Defence teams.

V. DISPOSITION

40. For the above-mentioned reasons, the Single Trial Judge hereby:

- a. **ORDERS** Mr Thaçi's continued detention;
- b. **ORDERS** Mr Thaçi, if he so wishes, to file submissions on the next review of detention by **Tuesday, 13 January 2026, at 16h00**, with response and reply following the timeline set out in Rule 76 of the Rules; and
- c. **ORDERS** the SPO, should Mr Thaçi decide not to file any submissions by the aforementioned time limit, to file submissions on the next review of Mr Thaçi's detention by **Tuesday, 20 January 2026, at 16h00**, and Mr Thaçi, if he so wishes, to file his response by **Tuesday, 27 January 2026, at 16h00**.



Judge Christopher Gosnell
Single Trial Judge

Dated this Wednesday, 3 December 2025

At The Hague, the Netherlands.