



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

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

Before: **Single Trial Judge**
Judge Christopher Gosnell

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

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Prosecution submissions on review of detention of Hashim Thaçi

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I. INTRODUCTION

1. Pursuant to Decision F00718¹ the Specialist Prosecutor's Office ('SPO') files its submissions on the eighth review of Hashim THAÇI's detention.
2. In previous detention decisions, consistent and reasoned findings were made as to: (i) a grounded suspicion that THAÇI committed crimes within the jurisdiction of the Kosovo Specialist Chambers ('KSC');² (ii) the existence of a risk of flight;³ (iii) articulable grounds to believe that THAÇI will obstruct the progress of KSC proceedings,⁴ and will commit further offences;⁵ (iv) that no release conditions can

¹ Seventh Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00718, 3 February 2026 ('Decision F00718'), para.32(c).

² See: Public Redacted Version of Decision on the Confirmation of the Indictment, KSC-BC-2023-12/F00036/RED, 12 February 2025 (original filed on 29 November 2024) ('Confirmation Decision'), paras 210, 228, 235, 249-250, 313(a); Public Redacted Version of Decision on Request for Arrest Warrants and Related Matters, KSC-BC-2023-12/F00037/RED, 19 December 2024 (original filed on 29 November 2024) ('Decision on Arrest and Transfer'), para.43; Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00165, 7 February 2025 ('Decision F00165'), paras 14-16; Second Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00250, 7 April 2025 ('Decision F00250'), paras 16-18; Third Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00325, 5 June 2025 ('Decision F00325'), paras 17-18; Fourth Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00405, 5 August 2025 ('Decision F00405'), paras 15-16; Fifth Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00476, 3 October 2025 ('Decision F00476'), paras 14-15; Sixth Decision on Review of Detention of Hashim Thaçi, KSC-BC-2023-12/F00597, 3 December 2025 ('Decision F00597'), para.11; Decision F00718, KSC-BC-2023-12/F00718, para. 9.

³ See: Decision on Arrest and Transfer, KSC-BC-2023-12/F00037/RED, paras 49, 55; Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 21-28, 36; Decision F00250, KSC-BC-2023-12/F00250, paras 23-27, 35; Decision F00325, KSC-BC-2023-12/F00325, paras 19-20, 27; Decision F00405, KSC-BC-2023-12/F00405, paras 15-16, 24; Decision F00476, KSC-BC-2023-12/F00476, paras 16-17, 24; Decision F00597, KSC-BC-2023-12/F00597, paras. 14-15. In Decision F00718, the Single Trial Judge ('STJ') found it unnecessary to make a finding as to THAÇI's risk of flight, because: (i) Article 41(6)(b) conditions are alternative to one another; and (ii) he separately determined that THAÇI presented a risk of obstruction and further criminality (see Decision F00718, KSC-BC-2023-12/F00718, paras 11-12).

⁴ See: Decision on Arrest and Transfer, KSC-BC-2023-12/F00037/RED, para.50; Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 29-32, 36; Decision F00250, KSC-BC-2023-12/F00250, paras 28-32, 35; Decision F00325, KSC-BC-2023-12/F00325, paras 21-24, 27; Decision F00405, KSC-BC-2023-12/F00405, paras 19-21, 24; Decision F00476, KSC-BC-2023-12/F00476, paras 18-21, 24; Decision F00597, KSC-BC-2023-12/F00597, paras 18-20, 24; Decision F00718, KSC-BC-2023-12/F00718, paras 15-16, 19.

⁵ See: Decision on Arrest and Transfer, KSC-BC-2023-12/F00037/RED, paras 53-54; Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 33-36; Decision F00250, KSC-BC-2023-12/F00250, paras 33-35; Decision F00325, KSC-BC-2023-12/F00325, paras

mitigate the Article 41(6)(b) of the Law⁶ risks;⁷ and (v) that THAÇI's continued detention is proportional.⁸

3. These detailed and sustained findings remain undisturbed. Accordingly, THAÇI's continued detention remains necessary and proportionate.

II. SUBMISSIONS

4. There is no meaningful change in circumstances which serve to undermine prior detention decisions pertaining to THAÇI. Indeed, Article 41(6)(b) risks remain clear and present at this time, necessitating his continued detention. Consequently, and as a review of detention under Rule 57(2) of the Rules⁹ considers what, *if anything*, has changed since the prior ruling,¹⁰ THAÇI's continued detention remains necessary and proportionate. The STJ need not make findings on factors already decided upon, but only needs to satisfy himself that any such factors still exist.¹¹

25-27; Decision F00405, KSC-BC-2023-12/F00405, paras 22-24; Decision F00476, KSC-BC-2023-12/F00476, paras 22-24; Decision F00597, KSC-BC-2023-12/F00597, paras 21-24; Decision F00718, KSC-BC-2023-12/F00718, paras 17-19.

⁶ Law no.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). All references to 'Article(s)' refer to articles of the Law, unless otherwise specified.

⁷ See: Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 37-40; Decision F00250, KSC-BC-2023-12/F00250, paras 36-39; Decision F00325, KSC-BC-2023-12/F00325, paras 28-30; Decision F00405, KSC-BC-2023-12/F00405, paras 25-27; Decision F00476, KSC-BC-2023-12/F00476, paras 25-27; Decision F00597, KSC-BC-2023-12/F00597, paras 25-28; Decision F00718, KSC-BC-2023-12/F00718, paras 20-23.

⁸ See: Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 41-44; Decision F00250, KSC-BC-2023-12/F00250, paras 40-44; Decision F00325, KSC-BC-2023-12/F00325, paras 31-35; Decision F00405, KSC-BC-2023-12/F00405, paras 28-32; Decision F00476, KSC-BC-2023-12/F00476, paras 28-32; Decision F00597, KSC-BC-2023-12/F00597, paras 29-39; Decision F00718, KSC-BC-2023-12/F00718, paras 24-31.

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

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

¹¹ See: Haradinaj Appeal, KSC-BC-2020-07/IA002/F00005, para.55; *Specialist Prosecutor v. Pjetër Shala*, Public Redacted Version of Decision on Pjetër Shala's Appeal Against Decision on Review of Detention, KSC-BC-2020-04, IA003/F00005/RED, 11 February 2022, para.16. See also Decision on Isni Kilaj's Appeal Against Third Decision on Review of Detention, KSC-BC-2023-12/IA004/F00005, 1 September 2025, paras 31-32.

5. Regarding Article 41(6)(b)(i), the entrenched factors establishing THAÇI's risk of flight are: (i) the gravity of the charged offences, and the potential sentence if convicted;¹² (ii) his *mala fide* intentions towards the laws and rules of the KSC; and (iii) his means and opportunity to flee.¹³

6. With respect to Article 41(6)(b)(ii), and notwithstanding any mitigating factors,¹⁴ a 'real risk' remains that THAÇI may, if released, obstruct KSC proceedings on the basis of: (i) the grounded suspicion of his extensive efforts to obstruct KSC-2020-06 ('Case 6'), the basis for the charges in this case; (ii) his alleged leadership role in such 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) as yet unknown Defence witnesses being subject to influence.¹⁵ This 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 KSC.¹⁶

7. Regarding Article 41(6)(b)(iii), it has been consistently found that the factors underpinning a risk of obstruction are relevant to the risk of committing further offences, and as such, the considerations enumerated in paragraph 6 above similarly establish THAÇI's likelihood of renewed offending.¹⁷ This risk is particularly acute

¹² Notably, THAÇI is far from having served a statutory minimum sentence for the crimes charged.

¹³ See: Decision on Arrest and Transfer, KSC-BC-2023-12/F00037/RED, paras 49, 55; Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 21-28, 36; Decision F00250, KSC-BC-2023-12/F00250, paras 23-27, 35; Decision F00325, KSC-BC-2023-12/F00325, paras 19-20, 27; Decision F00405, KSC-BC-2023-12/F00405, paras 15-16, 24; Decision F00476, KSC-BC-2023-12/F00476, paras 16-17, 24.

¹⁴ Decision F00718, KSC-BC-2023-12/F00718, para.14.

¹⁵ Decision F00718, KSC-BC-2023-12/F00718, para.15.

¹⁶ Decision F00718, KSC-BC-2023-12/F00718, para.15. See also Decision on Prosecution Motion for Judicial Notice of an Adjudicated Fact, KSC-BC-2023-12/F00706, 29 January 2026.

¹⁷ See: Decision F00165, KSC-BC-2023-12/F00165, paras 33-34; Decision F00250, KSC-BC-2023-12/F00250, para.33; Decision F00325, KSC-BC-2023-12/F00325, para.25; Decision F00405, KSC-BC-2023-12/F00405, para.22; Decision F00476, KSC-BC-2023-12/F00476, para.22; Decision F00597, KSC-BC-2023-12/F00597, paras 22-23; Decision F00718, KSC-BC-2023-12/F00718, paras 17-18.

with respect to 'Defence witnesses who may provide evidence in the present case',¹⁸ as alluded to above.

8. The presence of *only one risk factor is sufficient* to require continued detention,¹⁹ while all three remain clear and present as to THAÇI. Further, it remains the case that no potential condition(s) of release can appropriately mitigate the significant Article 41(6)(b) risks posed,²⁰ which include: (i) the possibility of 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) an inability to ensure the effective monitoring of THAÇI's communications.²¹

9. The articulable grounds to believe that THAÇI may flee, obstruct the progress of KSC proceedings, and commit further offences – as appropriately determined in earlier decisions – can only be effectively managed in the KSC Detention Centre ('DC').²² When these risks are established, and no lesser measures than detention are available, the accused shall continue to be detained.²³ The repeated findings as to the articulable risks attributable to THAÇI, pursuant to Article 41, have been made on the basis of numerous individualised and well-grounded factors,²⁴ reflecting an

¹⁸ See Decision F00718, KSC-BC-2023-12/F00718, para.17.

¹⁹ See for example Decision on Isni Kilaj's Appeal Against Decision on Continued Detention, KSC-BC-2023-12/IA001/F00005, 28 January 2025, para.17 ('[i]f one of those conditions is fulfilled, the other conditions do not have to be addressed in order for detention to be maintained').

²⁰ See: Decision F00165, KSC-BC-2023-12/F00165, para.38; Decision F00250, KSC-BC-2023-12/F00250, para.37; Decision F00325, KSC-BC-2023-12/F00325, para.28; Decision F00405, KSC-BC-2023-12/F00405, para.25; Decision F00476, KSC-BC-2023-12/F00476, paras 25-27; Decision F00597, KSC-BC-2023-12/F00597, paras 25-28, 35; Decision F00718, KSC-BC-2023-12/F00718, paras 20-23. See also Decision F00718, KSC-BC-2023-12/F00718, para.27 (stressing that the risks of obstruction and re-offending 'cannot be effectively mitigated by any proposed or additional conditions for release.')

²¹ Decision F00718, KSC-BC-2023-12/F00718, para.21.

²² See Decision F00718, KSC-BC-2023-12/F00718, paras 22-23.

²³ *Specialist Prosecutor v. Gucati and Haradinaj*, Decision on Hysni Gucati's Appeal on Matters Related to Arrest and Detention, KSC-BC-2020-07/IA001/F00005, 9 December 2020, para.51.

²⁴ See: Decision on Arrest and Transfer, KSC-BC-2023-12/F00037/RED, paras 49-55; Transcript (Initial Appearance), 8 December 2024, pp. 18-19; Decision F00165, KSC-BC-2023-12/F00165, paras 21-36; Decision F00250, KSC-BC-2023-12/F00250, paras 23-35; Decision F00325, KSC-BC-2023-12/F00325, paras 19-27; Decision F00405, KSC-BC-2023-12/F00405, paras 15-24; Decision F00476, KSC-BC-2023-12/F00476, paras 14-24; Decision F00597, KSC-BC-2023-12/F00597, paras 16-24; Decision F00718, KSC-BC-2023-12/F00718, paras 13-19.

appropriate holistic approach in the specific circumstances of this case. And, they all remain valid at this time. Indeed, the necessity of THAÇI's continued detention is inherently recognised by the fact that restrictions prohibiting certain persons from visiting him in the DC remain necessary and proportionate to mitigate the risk of further unlawful disclosure of confidential information.²⁵

10. Finally, the limited time since Decision F00718 was issued strengthens the conclusion that continued detention remains proportionate and reasonable. THAÇI faces a potentially lengthy sentence if convicted, and the swift progress of this case further militates in favour of his continued detention. The existing 'real risk' that THAÇI will, if released, use the opportunity to further target Case 6 witnesses and to pressure potential Defence witnesses and uncharged co-perpetrators in this case (*i.e.*, in an attempt to falsely exculpate himself and his Co-Accused), coupled with his demonstrated and blatant disregard for the rules of the KSC, renders his continued detention both necessary and proportionate at this time. Indeed, the overwhelming and compelling inculpatory evidence already admitted during the trial phase – including evidence reinforcing THAÇI's already-found leadership and organising role at the centre of the charged obstruction of Case 6,²⁶ the final judgment of which remains pending – further entrenches THAÇI's incentive to interfere with witnesses in Case 6 and this case.

11. Ultimately, the clear existence of Article 41(6)(b) risks vis-à-vis THAÇI, their associated gravity, and the inability to reasonably mitigate such risks outside of the DC, result in a conclusion that he must continue to be detained.

²⁵ Prosecution submissions on review of detention of Hashim Thaçi, KSC-BC-2023-12/F00682, 20 January 2026, para.9.

²⁶ Confirmation Decision, KSC-BC-2023-12/F00036/RED, paras 207-208.

III. RELIEF REQUESTED

12. For the foregoing reasons, the STJ should order THAÇI's continued detention.

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At The Hague, the Netherlands