



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: **Single Trial Judge**
Judge Christopher Gosnell

Registrar: Fidelma Donlon

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**Public Redacted Version of
Second Decision on Review of Hashim Thaçi's Detention Conditions**

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THE SINGLE TRIAL JUDGE, pursuant to Articles 3(2) and 23(1) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rules 56(6), 80(1) and 116(4)(d) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers,¹ hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 18 July 2025, the Pre-Trial Judge granted, in part, a request by the Specialist Prosecutor's Office ("SPO") to restrict non-privileged visits to Hashim Thaçi ("Mr Thaçi") at the Specialist Chambers' ("SC") Detention Facilities by the following eleven individuals ("Restricted Visitors"): Artan Behrami ("Mr Behrami"), Blerim Shala ("Mr Shala"), Ismail Sylja ("Mr Sylja"), Vllaznim Kryeziu ("Mr Kryeziu"), [REDACTED] ("[REDACTED]"), [REDACTED] ("[REDACTED]"), Milaim Ahmetaj ("Mr Ahmetaj"), Milaim Cakiqi ("Mr Cakiqi"), Avni Kastrati ("Mr Kastrati"), [REDACTED] ("[REDACTED]") and [REDACTED] ("[REDACTED]").²

2. On 16 October 2025, the Pre-Trial Judge confirmed the continued necessity and proportionality of the restrictions on Mr Thaçi's detention conditions as set out in Decision F00382 (together "Case 12 Restrictions").³

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, F00382/COR, Pre-Trial Judge, *Corrected Version of Decision on Specialist Prosecutor's Request for Modification of Hashim Thaçi's Detention Conditions* ("Decision F00382"), 18 July 2025, confidential, paras 42, 49(a). A public redacted version was issued on 18 August 2025, F00382/COR/RED.

³ KSC-BC-2023-12, F00504, Pre-Trial Judge, *Decision on Hashim Thaçi's Detention Conditions* ("Decision F00504"), 16 October 2025, confidential and *ex parte*. A confidential redacted version was issued on the same day, F00504/CONF/RED. A public redacted version was issued on 7 November 2025, F00504/RED.

3. On 24 November 2025, the Registrar submitted her second report pursuant to Decision F00382.⁴
4. On 1 December 2025, the SPO filed its submissions requesting that the above restrictions be maintained for a further period of three months.⁵
5. On 8 December 2025, the Thaçi Defence responded to the SPO Submissions.⁶

II. SUBMISSIONS

A. SECOND REGISTRY REPORT

6. The Registrar reports that throughout the period 24 September 2025 – 24 November 2025: (i) no Restricted Visitor has had an in-person visit with Mr Thaçi at the SC Detention Facilities; and (ii) [REDACTED] has not had a non-privileged visit with Mr Thaçi in the presence of third parties.⁷

B. SPO SUBMISSIONS

7. The SPO contends that the circumstances underpinning Decisions F00382 and F00504 continue to prevail at this time and that the restrictions imposed by the Pre-Trial Judge on Mr Thaçi's detention conditions must be maintained.⁸ According to the SPO, "an accused's conditions of detention may be modified, including the imposition of necessary and proportionate restrictions on his communications, for

⁴ KSC-BC-2023-12, F00564, Registrar, *Second Report of the Registrar Pursuant to Decision F00382* ("Second Registry Report"), 24 November 2025, confidential and *ex parte*.

⁵ KSC-BC-2023-12, F00588, Specialist Prosecutor, *Prosecution Submissions Pursuant to Decision F00504* ("SPO Submissions"), 1 December 2025, public.

⁶ KSC-BC-2023-12, F00608, Thaçi Defence, *Thaçi Defence Response to "Prosecution Submissions on Detention Restrictions (F00588)"* ("Defence Response"), 8 December 2025, confidential and *ex parte*. A public redacted version was filed the same day, F00608/RED.

⁷ Second Registry Report, para. 7.

⁸ SPO Submissions, para. 1.

the purpose of protecting witnesses or victims, confidential information or the integrity of the proceedings.”⁹

C. DEFENCE RESPONSE

8. The Thaçi Defence responds that the SPO “has failed to demonstrate” that the restrictions remain necessary or proportionate,¹⁰ particularly in light of: “(i) the imminent closure of the evidentiary phase in Case 06; (ii) the imminent start of the trial in Case 12 and the nature of the evidence tendered by the SPO in Case 12; (iii) the fact that no incidents of concern have been reported by the Registry during Mr Thaçi’s detention visits since December 2023 and since the Decision F00504.”¹¹

III. APPLICABLE LAW

9. Article 3(2) requires that the SC “shall adjudicate and function in accordance with the Constitution of the Republic of Kosovo”, of which Article 22 provides that the (European) Convention for the Protection of Human Rights and Fundamental Freedoms (“ECHR”) is “directly applicable in the Republic of Kosovo.”

10. Article 23(1) requires the Rules to “provide for the protection of victims and witnesses including their safety, physical and psychological well-being, dignity and privacy.” Rule 80(1) provides that a Panel “may [...] order appropriate measures for the protection, safety, physical and psychological well-being, dignity and privacy of witnesses, victims participating in the proceedings and others at risk on account of testimony given by witnesses, provided that the measures are consistent with the rights of the Accused.”

⁹ SPO Submissions, para. 3.

¹⁰ Defence Response, paras 1, 11, 15, 18.

¹¹ Defence Response, para. 5.

11. A person in detention of the SC shall, pursuant to Article 41(8), be held in facilities that “meet relevant international standards.”

12. Rule 56 provides that a “Panel may, upon request or *proprio motu*, rule on the conditions of detention and related matters for the purposes of protecting witnesses or victims, confidential information or the integrity of proceedings, including on the imposition of necessary and proportionate restrictions on the communications of a detained person.” Rule 116(4)(d) further authorises a Panel to issue “orders or decisions on any matter as necessary to ensure a fair and expeditious trial” including “conditions of detention and related matters.”

IV. DISCUSSION

13. The restrictions under review in the present decision concern a prohibition on non-privileged visits to Mr Thaçi by eleven individuals. The Pre-Trial Judge ordered¹² and maintained¹³ these restrictions on the basis that every one of the eleven individuals was at least present during non-privileged visits when Mr Thaçi engaged in the alleged conduct charged in this case, namely sharing confidential witness-identifying information and providing instructions as to what testimony should be given and how. One of these eleven individuals, [REDACTED], is not prohibited entirely from visiting Mr Thaçi, as he is still permitted to participate in privileged visits as a member of the Thaçi Defence.¹⁴ Four of the eleven – namely Mr Shala, Mr Behrami, Mr Sylva and Mr Kryeziu – are specifically alleged either in the indictment as confirmed, or in the Pre-Trial Judge’s decision confirming the indictment, to have received confidential information or even instructions from

¹² Decision F00382.

¹³ Decision F00504.

¹⁴ Decision F00382, para. 37.

Mr Thaçi during charged visits.¹⁵ Two of the eleven – [REDACTED] and [REDACTED] – were found by the Pre-Trial Judge to have allegedly talked to Mr Thaçi during non-privileged (and uncharged) visits “about the testimony of witnesses in Case 06, including of a protected witness who had not yet testified.”¹⁶ The remaining four individuals were at least present, or possibly received, confidential information and instructions from Mr Thaçi during non-charged visits relevant to SPO witnesses.¹⁷

14. These findings are unchallenged by Mr Thaçi in the context of the present review of conditions of detention. Instead, the Thaçi Defence argues that three factors have changed since the last review that make the restrictions no longer necessary and proportionate: (i) the closure of the hearing of evidence in Case 06, which substantially reduces the incentive to induce any witness to recant; (ii) the nature of the SPO case in Case 12, which is not plausibly subject to Mr Thaçi’s influence; and (iii) that Mr Thaçi has complied with all detention conditions since restrictions were first imposed in December 2023 in Case 06, and since the last review of the conditions of detention in the present case, which provides a further indication that the complete prohibition on visits by these individuals is not proportionate, particularly in light of the concurrent “Case 06 Conditions”, which require active monitoring of non-privileged visits.¹⁸ Furthermore, the Thaçi Defence argues that any potential risk of future release of confidential information or of

¹⁵ KSC-BC-2023-12, F00264/A02, Specialist Prosecutor, [Public Redacted Amended Confirmed Indictment, 16 April 2025](#), public, paras 16, 17, 21, 23 (“Indictment”). See Decision F00382, para. 25 (“The Pre-Trial Judge also recalls, 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”); see also F00036/RED, Pre-Trial Judge, [Public Redacted Version of Decision on the Confirmation of the Indictment](#) (“Confirmation Decision”), 12 February 2025, public, paras 217, 219.

¹⁶ Decision F00382, para. 25. See Confirmation Decision, para. 143.

¹⁷ Decision F00382, para. 26.

¹⁸ Defence Response, paras 7 and 9.

obstructing the progress of the SC proceedings “is almost non-existent while Mr Thaçi remains detained under the strict regime imposed by Trial Panel II.”¹⁹

15. The Single Trial Judge is not persuaded that the continued prohibition of non-privileged visits to Mr Thaçi by ten of the Restricted Visitors constitutes an unnecessary or disproportionate interference with Mr Thaçi’s right to respect for private or family life pursuant to Article 8 of the ECHR.

16. First, none of the restricted individuals are known to be family members of Mr Thaçi. The Pre-Trial Judge expressly exempted family members of Mr Thaçi from the prohibition on non-privileged visits.²⁰ No prohibition of visits by other friends was imposed, and the Thaçi Defence has offered no authority for the proposition that excluding an identified and relatively small number of friends amounts to an interference with the right to family life under Article 8 of the ECHR.

17. Second, even assuming that such an interference does arise based on a relationship of friendship, the restrictions are: (i) “in accordance with the law”;²¹ (ii) pursue one or more of the legitimate aims listed in Article 8(2) of the ECHR; and (iii) are necessary and proportionate under the circumstances.²²

18. The Restricted Visitors have been identified based on a judicial finding of well-grounded suspicion that they allegedly participated in, or were present during, misconduct that endangers substantial interests, including the safety and security of witnesses in a criminal proceeding. The potential for recurrence is self-evident.

¹⁹ Defence Response, para. 11.

²⁰ Decision F00382, paras 39-41.

²¹ See Decision F00382, para. 20; Rules 56(6) and 116(4)(d); KSC-BD-09-Rev1, Registrar, *Registry Practice Direction on Visits and Communications*, 23 September 2020, public, Arts 6-7, 12-13, 15, 17, 19; KSC-BD-10-Rev1, Registrar, *Practice Direction on Counsel Visits and Communications*, 23 September 2020, Arts 14-18.

²² Decision F00382, paras 19-20 and references cited therein; see also 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*, 1 December 2023, public, para. 45 and references cited therein.

Therefore, the Single Trial Judge is of the view that the imposed restrictions are necessary to pursue a legitimate aim.

19. The restrictions are also proportionate, especially given the degree of interference with the putative right. The restrictions are not permanent and are subject to periodic review. [REDACTED] is not entirely prohibited from visiting Mr Thaçi and other friends and acquaintances of Mr Thaçi are not prohibited from visitation.

20. Contrary to the Thaçi Defence's submissions, the circumstances have not significantly changed since the Pre-Trial Judge's finding on 16 October 2025 that the prohibition of visitation by the Restricted Visitors was necessary and proportionate. Although the opportunity for dissemination of confidential information is substantially reduced by the active monitoring regime of non-privileged visits ordered by Trial Chamber II in the context of Case 06, it cannot be described, as claimed by the Thaçi Defence, as "almost non-existent."²³ Even the active monitoring regime could be circumvented, especially by individuals for whom there is a well-grounded suspicion of dissemination of confidential information in the past. This was also the view of the Pre-Trial Judge who was aware of, and took into account in Decision F00504, the active monitoring regime in Case 06.²⁴

21. The advancement of Case 06 and the nature of the SPO's case in Case 12, as argued by the Thaçi Defence, are undoubtedly relevant considerations which have changed since Decision F00504. However, these circumstances do not preclude: (i) the possibility of as-yet unnamed potential Case 12 Defence witnesses being influenced; or (ii) retaliation for its own sake by someone acting on the basis of confidential information. Indeed, the Pre-Trial Judge relied not only on the potential for evidence to be influenced or changed, but also simply on the "risk of further

²³ Defence Response, para. 11.

²⁴ Decision F00504, paras 29-30, 35.

unlawful disclosure of confidential information related to witnesses”²⁵ and “the risk of sensitive information pertaining to witnesses becoming known to the public – a risk which exists even after testimony, since many of the witnesses have protective measures and their identities should not become known to the public at any time.”²⁶

22. The absence of actual or attempted violations of the Case 06 restrictions, as submitted by the Thaçi Defence,²⁷ is another relevant consideration, but is not sufficient, at this stage, to render the restrictions unnecessary or disproportionate. Indeed, Mr Thaçi’s compliance with the Case 06 restrictions,²⁸ which is to his credit, may also have been assisted by removing the possible opportunities for their violation through the Case 12 restrictions.

23. As previously considered and decided by the Pre-Trial Judge, the successful imposition of the Case 12 restrictions (which are a result of implementation by the Registrar rather than compliance by Mr Thaçi) and a divergent remedy ordered by Trial Chamber II are not relevant to the maintenance of these conditions of detention. Each Panel must safeguard the witness protection concerns of their respective cases, which may require different conditions of detention.

24. The Thaçi Defence requests, as an alternative remedy, that the restriction on non-privileged visits be lifted in respect of [REDACTED].²⁹ In this regard, the Thaçi Defence submits that: (i) [REDACTED]’s moral support is especially important in light of Mr Thaçi’s isolation and the intense period of judicial activity in the coming period; (ii) before the issuance of Decision F00382, [REDACTED] regularly visited Mr Thaçi; and (iii) since the issuance in December 2023 of the decision on Mr Thaçi’s detention conditions in Case 06, no violations were reported during [REDACTED]’s

²⁵ Decision F00504, para. 30..

²⁶ Decision F00504, para. 34.

²⁷ Defence Response, para. 14.

²⁸ Defence Response, para. 15.

²⁹ Defence Response, paras 16-18, 20.

actively-monitored visits.³⁰ This, according to the Thaçi Defence, demonstrates that both Mr Thaçi and [REDACTED] abided by the detention conditions imposed on Mr Thaçi in Case 06 and that it is neither necessary nor proportionate to prohibit all in-person non-privileged visits between them.³¹

25. The Single Trial Judge accepts that [REDACTED] is in a unique position. Unlike the other restricted individuals, [REDACTED] has participated in actively-monitored visits with Mr Thaçi subsequent to the events that form the subject-matter of this case. Indeed, he participated in no less than seven such visits, without the Registrar having detected any attempt to communicate confidential information.³² Furthermore, the transcript of the non-privileged visit in which Mr Thaçi has been found to have allegedly revealed confidential information does not show any intention on [REDACTED]'s part to take any steps on the basis of the confidential information, nor any encouragement on his part that it should be revealed.³³ Based on this conjunction of circumstances, the Single Trial Judge is persuaded that the active monitoring regime adequately mitigates the risk of disclosure of confidential information.

26. Accordingly, the Single Trial Judge finds that the Case 12 restrictions remain necessary and proportionate – except in relation to [REDACTED] – in order to mitigate the risk of further unlawful disclosure of confidential information related to witnesses. In respect of [REDACTED], the less restrictive measure of actively monitored visitation is an adequate safeguard to secure the objective of protecting of confidential information.

³⁰ Defence Response, paras 16-18.

³¹ Defence Response, para. 18.

³² [REDACTED].

³³ See Decision F00382, footnote 49, with specific reference to ERN 115859 011023-075517-115809-TR-AT-ET, p. 8, line 1 to p. 13, line 23.

V. CONCLUSION

27. Considering all of the above factors taken as a whole, the Single Trial Judge remains satisfied that, with the exception of [REDACTED], the restrictions in place continue to be: (i) necessary to mitigate the risk of further unlawful disclosure of confidential information related to 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 being compatible with the rights of Mr Thaçi. Accordingly, the restrictions in place, except in respect of [REDACTED], shall be maintained.

VI. FURTHER REVIEW OF THE CONDITIONS OF DETENTION

28. The measures confirmed in the present decision will be maintained only for as long as they are necessary and proportionate. The Single Trial Judge will next review Mr Thaçi's detention conditions upon the close of the presentation of evidence in this case, or upon any interim request for review by the Thaçi Defence that is specifically substantiated by new circumstances. A briefing schedule for submissions by the Registrar and the Parties will be announced once there is a clearer indication of when the closure of evidentiary proceedings in this case will occur.

VII. DISPOSITION

29. For the above-mentioned reasons, the Single Trial Judge hereby:
- a. **LIFTS** with immediate effect the prohibition of non-privileged visits to Mr Thaçi by [REDACTED]; and
 - b. **ORDERS** the continued prohibition of non-privileged visits by the other Restricted Visitors to Mr Thaçi.



Judge Christopher Gosnell
Single Trial Judge

Dated this Friday, 16 January 2026
At The Hague, the Netherlands.