

In: KSC-BC-2020-06
The Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: **Trial Panel II**
Judge Charles L. Smith, III, Presiding
Judge Christoph Barthe
Judge Guénaël Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hashim Thaçi

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Public Redacted Version of Thaçi Defence Response to ‘Prosecution submission pertaining to periodic detention review of Hashim Thaçi’ (F03705)

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I. INTRODUCTION

1. The Defence for Mr Hashim Thaçi (“Defence”) files these submissions in response to novel arguments introduced in the latest SPO Submissions,¹ and in response to recent developments, which the Defence addresses below.

II. PROCEDURAL HISTORY

2. On 5 November 2020, following the confirmation of an indictment² and issuance of an arrest warrant,³ Mr Thaçi resigned from his position as President of the Republic of Kosovo, voluntarily surrendered to KSC officials and was transferred to the KSC’s detention facility in The Hague.⁴

3. Since surrendering to the custody of the KSC, Mr Thaçi has been detained for nearly five and a half years. In this time, 25 detention decisions have been issued concerning Mr Thaçi. On each occasion, the relevant Panel has ordered Mr Thaçi’s continued detention.⁵

4. On 18 December 2025, the Trial Panel closed the evidentiary proceedings.⁶

¹ KSC-BC-2020-06/F03705, *Prosecution submission pertaining to periodic detention review of Hashim Thaçi*, 19 March 2026, public (“SPO Submissions”).

² KSC-BC-2020-06/F00026/CONF/RED, Pre-Trial Judge, *Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi*, 26 October 2020, Confidential.

³ KSC-BC-2020-06/F00027/A01/RED, Pre-Trial Judge, *Public Redacted Version of Arrest Warrant for Hashim Thaçi*, 26 October 2020.

⁴ KSC-BC-2020-06/F00051, Registrar, *Notification of Arrest of Hashim Thaçi Pursuant to Rule 55(4)*, 5 November 2020, public; KSC-BC-2020-06/F00065/Red, *Report on the Arrest and Transfer of Hashim Thaçi to the Detention Facilities*, 8 November 2020, paras. 3-7.

⁵ As noted by the Trial Panel in their most recent decision on detention, the procedural history has been set out extensively in previous decisions: *see*, KSC-BC-2020-06/F03672, *Decision on Periodic Review of Detention of Hashim Thaçi*, 10 February 2026, public (“F03672”), para. 1.

⁶ KSC-BC-2020-06/F03639, Trial Panel II, *Notice Regarding the Close of Evidentiary Proceedings*, 18 December 2025, public.

5. Having heard the Parties' closing statements and responses between 9-18 February 2026, the Panel declared the case closed on 18 February 2026.⁷

6. On 19 March 2026, the SPO filed its submissions for the twenty-sixth review of detention, seeking the continued detention of Mr Thaçi.⁸

III. APPLICABLE LAW

7. Article 41(6) of the KSC Law⁹ provides that the KSC shall only order the detention of a person when there is a grounded suspicion that the person has committed a crime within the jurisdiction of the KSC, and there are articulable grounds to believe that the person: (i) is a flight risk; (ii) will destroy, hide, change or forge evidence of a crime, or specific circumstances indicate that the person will obstruct the progress of criminal proceedings; or (iii) will repeat the criminal offence, complete an attempted crime, or commit a crime which he or she has threatened to commit.

8. Article 41(10) of the KSC Law and Rule 57(2) of the Rules¹⁰ provide that, until a judgement is final or until release, upon the expiry of two (2) months from the last ruling on detention on remand, the Panel seized with the case shall examine whether reasons for detention on remand still exist and render a ruling by which detention on remand is extended or terminated.

9. Rule 159 provides that "[t]he Trial Judgment shall be pronounced within ninety (90) days of the closing of the case pursuant to Rule 136 and it may include a decision

⁷ KSC-BC-2020-06, Transcript of 18 February 2026, p. 29238.

⁸ SPO Submissions.

⁹ Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("KSC Law").

¹⁰ KSC-BD-03/Rev3/2020, Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, 2 June 2020 ("Rules").

pursuant to Article 22(7) of the Law. Where the circumstances of the case require additional time, it shall not exceed sixty (60) days, except where a further extension is absolutely necessary. [...] In case of an acquittal, the Judgment may be pronounced orally followed by written reasons as soon as possible.”

IV. SUBMISSIONS

A. RISK OF FLIGHT (ARTICLE 41(6)(B)(I))

10. Mr Thaçi is not a flight risk. He has never been assessed by either the Pre-Trial Judge, or the Trial Panel, as being a flight risk. This conclusion accords with a consistent and now-lengthy pattern of his cooperation with these proceedings, starting with his most significant act of cooperation on 5 November 2020, namely his resignation as President of Kosovo and voluntary surrender to the Court. As the Trial Panel has been able to witness, Mr Thaçi has continued to appear and engage with the trial process throughout the trial over the past three years, in a manner which is incompatible with a desire to abscond from justice and spend his life on the run.

11. The Trial Panel has consistently held, and confirmed again in its most recent decision on detention, that “Mr Thaçi’s continued detention is not justified at this time based on the risk of flight.”¹¹ This conclusion correctly took into account Mr Thaçi’s ongoing presumption of innocence,¹² and his cooperation with the relevant authorities associated with his detention and transfer.¹³ These factors have not changed.

12. The SPO raises the same arguments that have been repeatedly rejected by the Trial Panel concerning knowledge of the evidence in relation to the alleged crimes, the possible imposition of a lengthy sentence, and Mr Thaçi’s awareness of charges

¹¹ F03672, para. 18.

¹² KSC-BC-2020-06/F01720, Trial Panel II, *Decision on Periodic Review of Detention of Hashim Thaçi*, 16 August 2023, public (“F01720”), para. 15.

¹³ F01720, para. 14.

relating to obstruction offences.¹⁴ No new circumstances have arisen since the Trial Panel last dismissed these arguments, which therefore warrant no further discussion.

B. RISK OF OBSTRUCTION OF PROCEEDINGS (ARTICLE 41(6)(B)(II))

13. Insofar as the SPO relies on [REDACTED] in support of its submissions on the risk of obstruction,¹⁵ the Defence's ability to respond to these submissions is limited [REDACTED].¹⁶

14. The Defence highlights with regard to any risk of interference with witnesses in parallel proceedings that, as also recognized by the SPO, the Trial Panel found that "at the present moment, the potential for interference is limited".¹⁷ It is worth recalling that, in reaching that conclusion, the Trial Panel considered that the SPO had recently closed its case, and the Single Trial Judge found that "none of the SPO's witnesses in Case 12, given their circumstances, are likely to be subject to the influence" of the accused in that case or their associates".¹⁸ Given the intention of the Single Judge in Case 12 to render a decision on any Rule 130 Motion by 27 March 2026 and that the hearing of all Defence witnesses is scheduled to end by 24 April 2026,¹⁹ any risk of interference related to Case 12 will continue to decrease in the coming weeks.²⁰

C. FURTHER SUBMISSIONS

¹⁴ KSC-BC-2020-06/F03106, Trial Panel II, *Decision on Periodic Review of Detention of Hashim Thaçi*, 11 April 2025, public, para. 14.

¹⁵ SPO Submissions, para. 16, footnote 42, referring to KSC-BC-2020-06/F03702/A01, *Annex 1 to Submission of Redacted Version of F03697-A01 and request for reclassification of F03697 and F03697-A02 with one strictly confidential Annex*, 17 March 2026, confidential.

¹⁶ KSC-BC-2020-06/F03702, Registrar, *Submission of Redacted Version of F03697/A01 and request for reclassification of F03697 and F03697/A02 with one strictly confidential Annex*, 17 March 2026, confidential.

¹⁷ SPO Submissions, para. 16, referring to KSC-BC-2020-06/F03700, Trial Panel II, *Decision on Periodic Review of Detention of Kadri Veseli*, 16 March 2026, confidential ("F03700"), para. 25.

¹⁸ F03700, para. 25

¹⁹ KSC-BC-2023-12/F00790, Single Judge, *Scheduling Order*, 13 March 2026, public.

²⁰ KSC-BC-2020-06/F03660, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 16 January 2026, public, para. 28

15. The Defence notes that the Trial Panel declared Case 06 closed on 18 February 2026. Based on the timeline envisaged by Rule 159, a judgment could be delivered within the next 60 days, and before the next review of Mr Thaçi's detention.

16. On that basis, the Defence submits already at this stage that, in the event that the Panel concludes that Mr Thaçi is to be acquitted of charges in Case 06, his release should be immediately ordered in these proceedings even if the written Judgement has not yet been completed. This procedure is expressly contemplated in Rule 159(3) of the Rules and should be implemented here in the event of an acquittal: *"In case of an acquittal, the Judgment may be pronounced orally followed by written reasons as soon as possible."* The same order should also be entered in the event that the Panel concludes that it will enter a conviction followed by the imposition of a sentence that is not higher than the time Mr Thaçi already spent in detention at the time of the delivery of such sentence. The imperative that questions of liberty be addressed seriously and expeditiously, and that the continued detention of an accused must at all times rest upon subsisting and independently justifiable grounds, is firmly embedded in the legal framework of the KSC²¹ and is reinforced by the requirements of Article 5 of the European Convention on Human Rights as well as relevant provisions in other human rights texts.

17. Relevant case law from other international tribunals offers helpful support. At the ICC, on 10 December 2018, the Trial Chamber in *Gbagbo and Blé Goudé* ordered the release of the accused even before the written judgment was finalised. The Trial Chamber scheduled a hearing on the continued detention of the accused while a decision on the Defence 'no case to answer' motion was still pending. The Chamber reasoned that it had "the statutory duty and responsibility to ensure that the duration

²¹ See KSC Law, Article 41; KSC RPE, Rules 48, 56, 57.

of the detention of an accused shall not be unreasonable".²² On 15 January 2019, the Trial Chamber rendered a decision in open court acquitting both accused and indicated that it would provide its "full and detailed reasoned decision as soon as possible",²³ and on the following day ordered that both persons be unconditionally released from detention.²⁴ In the judgment upholding this decision, the Appeals Chamber referred to relevant legislation and case law, including the *Aleksovski* case discussed below. The ICC Appeals Chamber furthermore cited to Rule 159(3) of the KSC Rules in justifying the need for immediate release.²⁵

18. The ICTY *Aleksovski* case is indeed instructive, particularly as to the urgency of addressing the matter of detention as soon as judicial deliberations have reached a conclusion. Aleksovski was held in detention from June 1996; his trial started in January 1998 and ended in March 1999. Once it became clear during the judges' deliberations that Aleksovski's detention was no longer justified, the Chamber organised his immediate release with urgency. During the hearing held on 7 May 1999 for the pronouncement of the judgment, the Chamber stressed the urgency of the matter in these terms:

"The conclusions which we have reached have seemed of such a nature that they justify amply the fact that the hearing be organised in the shortest of delays, without waiting for the final judgement to be put down in writing. This judgement will be made public as early as possible, but the urgency seems to be such that we have not waited for the return of the senior trial attorney of this trial [...]."²⁶

19. Having entered a finding of guilty and sentencing Aleksovski to two years and six months' imprisonment, a term shorter than the time already served by Aleksovski

²² ICC, *Prosecutor v. Gbagbo and Blé Goudé*, ICC-02/11-01/15-1229, Trial Chamber I, [Order convening a hearing on the continued detention of the accused](#), 10 December 2018, para. 9.

²³ ICC, *Prosecutor v. Gbagbo and Blé Goudé*, ICC-02/11-01/15-T-232-ENG ET, [Transcript of 15 January 2019](#), p. 3, line 18.

²⁴ ICC, *Prosecutor v. Gbagbo and Blé Goudé*, ICC-02/11-01/15-1400, Appeals Chamber, [Judgment in the appeal of the Prosecutor against Trial Chamber I's decision on the no case to answer motions](#), 31 March 2021, para. 25, citing to "Transcript of 16 January 2019, p. 6, lines 9-14".

²⁵ *Ibid.*, paras. 169-174.

²⁶ ICTY, *Prosecutor v. Aleksovski*, [Transcript for IT-95-14/1 dated 7 May 1999](#), pp. 4348-4349.

in detention, the Trial Chamber ordered Aleksovski's immediate release "notwithstanding any appeal".²⁷

20. The Defence acknowledge that the matter of Mr Thaçi's detention on the basis of Case 12 is to be resolved before the Single Judge in that case and intends to take all appropriate measures in that respect in due course in the event of an acquittal or order for release in Case 06. For this reason, and cognisant of Rule 161, the Defence stresses that the present submissions are limited to the Trial Panel's jurisdiction with regard to Mr Thaçi's detention on the basis of Case 06.

21. The *Bemba* case at the ICC is instructive in circumstances where two cases are pending against a single accused. Bemba was acquitted of his 'Main Case' charges on 8 June 2018, after 10 years of detention, and after his parallel conviction for offences against the administration of justice was upheld on 8 March 2018. In the acquittal judgment, the Appeals Chamber stated in no uncertain terms that there was "no reason to continue Mr Bemba's detention on the basis of the 'Main Case'" and that it would be for Trial Chamber VII, seized with jurisdiction over of the parallel case regarding offences against the administration of justice, to decide whether Mr Bemba's continued detention is warranted in relation to those offences.²⁸ A status conference was scheduled within hours to discuss the matter of Mr Bemba's continued detention, and was held shortly thereafter by Trial Chamber VII. On the same day, Trial Chamber VII ordered Mr Bemba's release.²⁹

²⁷ *Ibid.*, p. 4354.

²⁸ ICC, *Prosecutor v. Bemba*, ICC-01/05-01/08-3636, Appeals Chamber, [Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against Trial Chamber III's "Judgment pursuant to Article 74 of the Statute"](#), 8 June 2018, para. 200.

²⁹ ICC, *Prosecutor v. Bemba et al.*, ICC-01/05-01/13-2291, Trial Chamber VII, [Decision on Mr Bemba's Application for Release](#), 12 June 2018, p. 13.

22. As the Appeals Chamber did in the *Bemba* Main Case, in case of acquittal (or conviction followed by a sentence not higher than time already served), the Trial Panel should immediately enter a finding that there is no reason to continue Mr Thaçi's detention on the basis of Case 06.

23. As reflected by the consistent practice of international criminal tribunals, and particularly the examples cited above, questions of liberty must be addressed with no delay. The Defence respectfully submits that this Panel, seized of a case in which the accused has been in continuous detention for nearly five and a half years, should remain acutely attentive to its obligations under the Rules, and stand ready, at the moment that deliberations are concluded, to address the question of Mr Thaçi's liberty with the immediacy that both the KSC legal framework and the imperatives of fundamental justice require.

V. CLASSIFICATION

24. This submission is filed as confidential due to the reference to confidential filings. A public redacted version will be filed expeditiously.

[Word count: 2471 words]

Respectfully submitted,



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Wednesday, 1 April 2026

At New York, United States