



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 Third 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 ("Prosecution") prohibiting visits to Hashim Thaçi ("Mr Thaçi") at the Specialist Chambers' ("SC") Detention Facilities by the following eleven individuals: Artan Behrami ("Mr Behrami"), Blerim Shala ("Mr Shala"), Ismail Syla ("Mr Syla"), 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. These restrictions were extended by the Pre-Trial Judge on 16 October 2025,³ and by the Single Trial Judge in respect of all but one of the foregoing individuals, [REDACTED], on 16 January 2026 ("Prohibited Visitors").⁴

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 F382"), 18 July 2025, confidential (public redacted version issued on 18 August 2025, [F00382/COR/RED](#)), paras 42, 49(a). As a consultant for one of the Defence teams in the case of *The Specialist Prosecutor v. Hashim Thaçi et al. case* ("Case 6"), [REDACTED] was only prohibited from having non-privileged visits with Mr Thaçi in the presence of third parties, while still permitted to participate in privileged visits (see [Decision F00382](#), para. 37).

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* (public redacted version issued on 7 November 2025, [F00504/RED](#)).

⁴ KSC-BC-2023-12, F00675, Single Trial Judge, *Second Decision on Review of Hashim Thaçi's Detention Conditions* ("Second Review Decision"), 16 January 2026, confidential and *ex parte* (public redacted version issued on 16 March 2026, [F00675/RED](#)), para. 29.

3. On 5 August 2026, the Single Trial Judge closed the evidentiary proceedings and ordered the Registrar, the Prosecution and the Defence for Mr Thaçi (“Defence”), if the latter so wished, to file submissions on the review of Mr Thaçi’s detention conditions.⁵ Each Party did so on 18 August 2026,⁶ 26 August 2026,⁷ and 2 September 2026, respectively.⁸

4. On 14 September 2026, the case was closed upon the completion of closing statements.⁹

5. Restrictions have also been imposed on Mr Thaçi’s communications by Trial Panel II in the context of Case 6 on the basis of the same allegations as in the present case (“Case 12”).¹⁰ Rather than prohibiting visits by specific individuals, Trial Panel II has instead imposed a regime of active monitoring on all non-privileged visits to Mr Thaçi.¹¹

II. SUBMISSIONS

A. FOURTH REGISTRY REPORT

6. The Registrar reports that in the period since her last report: (i) no Prohibited Visitor has had an in-person visit with Mr Thaçi at the SC Detention Facilities; (ii) [REDACTED] has not had a non-privileged visit with Mr Thaçi in the presence

⁵ KSC-BC-2023-12/F00975, Single Trial Judge, [Order Closing Evidentiary Proceedings](#), 5 August 2026, public, para. 10(a) and (f).

⁶ KSC-BC-2023-12, F00983, Registrar, *Fourth Report of the Registrar Pursuant to Decisions F00382 and F00975* (“Fourth Registry Report”), 18 August 2026, confidential and *ex parte* (public redacted version filed on 24 August 2026, F00983/RED).

⁷ KSC-BC-2023-12, F00992, Specialist Prosecutor, *Prosecution Submissions Pursuant to Order F00975 and Related Request* (“Prosecution Submissions”), 26 August 2026, public.

⁸ KSC-BC-2023-12, F00994, Thaçi Defence, *Thaçi Defence Response to ‘Prosecution Submissions Pursuant to Order F00975 and Related Request’ (F00992)* (“Defence Response”), 2 September 2026, public.

⁹ T. 1389:2-3.

¹⁰ 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](#) (“Case 6 Restrictions Decision”), 1 December 2023, public, paras 37, 39, 41.

¹¹ [Case 6 Restrictions Decision](#), para. 57.

of third parties; and (iii) [REDACTED] has visited Mr Thaçi [REDACTED] times since the Single Trial Judge removed him from the list of Prohibited Visitors.¹²

B. PROSECUTION SUBMISSIONS

7. The Prosecution argues that “any near-term reduction to the existing restrictions is wholly unjustifiable” in light of the evidence cited in its recently-filed final trial brief which “only strengthen[s] the conclusion” that the Prohibited Visitors “actively engaged in discussions in which THAÇI revealed confidential information and issued obstructive instructions”.¹³ The Prosecution cites previous concerns that even active monitoring may be circumvented, and refers to its previous submissions concerning “‘accused, convicted persons, and others attempting to interfere with witnesses’ prior testimony, *both pre- and post-judgement,*’ with the goal of undermining evidence presented to reduce the chances of a guilty verdict or earlier findings of culpability.”¹⁴

8. Additionally, the Prosecution asserts that “publicly available information in Case 6” indicates that “THAÇI is engaged in a repeated pattern of non-compliance with DC rules and regulations.”¹⁵ It argues that the Registrar’s reporting obligations be “supplemented so that it also includes the information required in Case 6 (only as to THAÇI) by way of Decision F01977.”¹⁶ This is said to be necessary for the Single Trial Judge to “gain a full understanding of THAÇI’s ongoing disregard for DC rules and regulations.”¹⁷

¹² Fourth Registry Report, paras 5-6.

¹³ Prosecution Submissions, paras 9-10.

¹⁴ Prosecution Submissions, para. 9.

¹⁵ Prosecution Submissions, para. 12.

¹⁶ Prosecution Submissions, para. 12.

¹⁷ Prosecution Submissions, para. 12.

C. DEFENCE RESPONSE

9. The Defence argues that the imminent closure of the case pursuant to Rule 136 constitutes a change in circumstances warranting a modification of the restrictions imposed on Mr Thaçi's detention conditions,¹⁸ as it eliminates the possibility of Case 12 witnesses being influenced to recant or retaliated against.¹⁹ The Defence submits that the active monitoring regime imposed by Trial Panel II is sufficient to address any such risks in respect of Case 6 witnesses.²⁰

10. The Defence also argues that the Single Trial Judge does not have the authority to modify the Registrar's reporting obligations in relation to Case 6, which are to be reported exclusively to Trial Panel II. In any event, the purported breaches thereof by Mr Thaçi, as noted by Trial Panel II publicly, and to which he was never given the opportunity to respond, concern matters unrelated to the disclosure of confidential information and did not lead to a modification of his detention conditions.²¹

III. APPLICABLE LAW

11. The applicable law, as set out in the Second Review Decision,²² is applied here.

¹⁸ Defence Response, para. 6.

¹⁹ Defence Response, paras 7-8.

²⁰ Defence Response, para. 9.

²¹ Defence Response, paras 11-17.

²² [Second Review Decision](#), paras 9-12.

IV. DISCUSSION

12. As of the date of the Second Review Decision, the Case 12 Defence witnesses had not yet been identified, let alone heard. A risk²³ was recognised as arising, in these circumstances, from “(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.”²⁴

13. The first risk is significantly diminished, if not eliminated, since the Second Review Decision. All Case 12 witnesses have now been identified and heard. The progression of proceedings has eliminated any opportunity for testimonial instructions to be communicated to any Case 12 Defence witnesses. The Prosecution has not suggested otherwise.

14. The Second Review Decision also took into consideration the risk of possible retaliation against witnesses. This risk is assessed as very low in respect of any Case 12 witness.²⁵ As for retaliation against any Case 6 witness, Trial Panel II is in a better position than the Single Trial Judge to determine the necessary and proportionate restrictions in relation to Case 6 witnesses.²⁶ Trial Panel II, even while evidence was still being heard in Case 6, rejected the Prosecution’s request to categorically

²³ See KSC-BC-2020-06, F03708/RED, Trial Panel II, [Public Redacted Version of Decision on Selimi Defence Request for Rescission of Contact Restrictions](#) (“Decision F03708”), 17 April 2026, public (original version issued on 19 March 2026), para. 40 (referring, in evaluating what measures were necessary and proportionate, to the “concrete risk” that the accused might engage in “conduct that could interfere with the proceedings and/or present a risk to the safety and security of witnesses and/or victims at this stage of proceedings”).

²⁴ [Second Review Decision](#), para. 21.

²⁵ See KSC-BC-2023-12, F00838, Single Trial Judge, [Eighth Decision on Review of Detention of Hashim Thaçi](#), 2 April 2026, public, para. 13; F00718, Single Trial Judge, [Seventh Decision on Review of Detention of Hashim Thaçi](#), 3 February 2026, public, para. 14; F00597, Single Trial Judge, [Sixth Decision on Review of Detention of Hashim Thaçi](#), 3 December 2025, public, para. 18.

²⁶ See, for example, [Decision F03708](#), paras 32, 34-37, 38, 44-45, 51, 55, 62-64; see also KSC-BC-2020-06, F03755/RED, Trial Panel II, [Public Redacted Version of Order to the Thaçi Defence Regarding Compliance with the Modified Detention Conditions](#), 1 July 2026, public, para. 13 (ordering a reminder for Mr Thaçi by his counsel of the applicable restrictions but not otherwise enhancing those restrictions despite a “repeated pattern of non-compliance” with certain conditions).

prohibit visits by certain persons.²⁷ Instead, it required active monitoring of all of Mr Thaçi's non-privileged visits at the SC Detention Facilities and limited the total number of non-privileged visits per month.²⁸ The Single Trial Judge has no basis to believe that these measures are inadequate in relation to Case 6 witnesses, even taking into consideration the possibility – as Trial Panel II did²⁹ – of active monitoring being circumvented. Accordingly, the Single Trial Judge does not consider that the potential of retaliation against Case 6 witnesses alone justifies the continuation of the restrictions.

15. The integrity of proceedings is a separate basis upon which restrictions may be necessary pursuant to Rule 56(6), however. The Single Trial Judge considers that visits by Mr Behrami, Mr Shala, Mr Syla and Mr Kryeziu to Mr Thaçi must continue to be prohibited. These individuals are alleged in the Indictment to have engaged in common action with Mr Thaçi which, because of the particularities of Article

²⁷ See [Case 6 Restrictions Decision](#), paras 10, 50-53; see also KSC-BC-2020-06, F03442, Trial Panel II, *Decision on Second Prosecution Request to Modify Detention Conditions*, 3 September 2025, confidential and *ex parte* (public redacted version issued on 10 October 2025, [F03442/RED](#)), paras 39-41 ("Lastly, the Panel emphasises that a substantial amount of time has elapsed between the relevant visits in the Detention Facilities and the Request. The Panel notes that, while not all of the visits in the Detention Facilities referenced in the Annex to the Request were brought to the Panel's attention at the time of the Decision Modifying the Detention Conditions, they all pre-date the Modified Detention Conditions. No incidents, beyond those set out above, have been reported to the Panel after the imposition of the Modified Detention Conditions. Further, the Registry did take measures in respect of those incidents that did occur. Having considered the factors outlined above, and without any further information from the SPO and/or the Registrar, the Panel does not consider that the SPO has shown that additional detention conditions, beyond the Modified Detention Conditions, are necessary in the present circumstances. In this respect, the Panel emphasises that the Registrar, in exercising her discretion, is already empowered to deny visits from any of the Visitors of Concern if there are credible indications that the individual concerned has engaged or could engage in conduct incompatible with the integrity of proceedings and/or the regulations of detention, and, indeed, has done so. In light of the above, and in the present circumstances, the Panel considers that it is not necessary, nor proportionate, to prohibit the Visitors of Concern from visiting Mr Thaçi in the Detention Facilities.")

²⁸ [Case 6 Restrictions Decision](#), paras 57-59.

²⁹ Trial Panel II took additional measures with a view to enhancing the effectiveness of such monitoring. See [Case 6 Restrictions Decision](#), para. 57 ("The Panel is cognisant of the fact that such monitoring requires additional time and resources from the Registry and the DMU. In order to ensure the effective monitoring of such visits, the Panel limits the number of authorised non-privileged in-person visits to five such visits per month, not including consular and private visits.")

401(2) of the 2019 Kosovo Criminal Code, Law No. 06/L-074, makes their role crucial to the charges.³⁰ The risk that these individuals could be subject to potential influence is, accordingly, uniquely and exceptionally high. Even the remote possibility of their testimony being heard in relation to this case, such as through review proceedings, makes the continued prohibition on their visits to Mr Thaçi necessary and proportionate to preserve the integrity of proceedings in Case 12. As previously found, prohibiting visits by four non-family members on this basis does not constitute an unnecessary or disproportionate interference with Mr Thaçi's right to respect for private or family life pursuant to Article 8 of the ECHR.³¹

16. For the reasons previously discussed, the prohibition on non-privileged visits to Mr Thaçi by the other Prohibited Visitors – [REDACTED], [REDACTED], Mr Ahmetaj, Mr Cakiqi, Mr Kastrati, and [REDACTED] – is no longer justified pursuant to Rule 56(6). However, the Single Trial Judge orders, concurrent with any such condition that may have been imposed by Trial Panel II, that any such visits be monitored actively, and that the Registrar report to him any instances of attempted communication of confidential information, instructions related to witnesses, or any other non-compliance with SC Detention Facilities rules and regulations that might occur during such visits. The active monitoring of visits of these individuals, on the same conditions as those imposed by Trial Panel II in Case 6,³² is necessary and proportionate given the past receipt of confidential information by these individuals from Mr Thaçi. The lifting of the prohibition on

³⁰ KSC-BC-2023-12, F00264/A02, Specialist Prosecutor, [Public Redacted Amended Confirmed Indictment](#), 16 April 2025, public, paras 16, 17, 21, 23. See F00036/RED, Pre-Trial Judge, [Public Redacted Version of Decision on the Confirmation of the Indictment](#) ("Confirmation Decision"), 12 February 2025, public, paras 145-172, 182-183, 186-187, 195, 210-211; see also [Decision F00382](#), para. 25 ("The Pre-Trial Judge also recalls that, 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.")

³¹ [Second Review Decision](#), paras 15-18.

³² Although the term "active monitoring" is not defined by Trial Panel II, the Single Trial Judge considers that the term is relatively well-established and that no further elaboration is required. The Registrar may exercise her discretion in determining how it is to be applied in any specific circumstance. See [Case 6 Restrictions Decision](#), para. 57.

non-privileged visits by these individuals does not alter any limits on the total number of non-privileged visits to Mr Thaçi imposed by any other Panel, or which the Registrar is otherwise able to accommodate.³³ Furthermore, the lifting of this prohibition is without prejudice to the Registrar's discretion to deny visitation to certain individuals, including on the basis of past violations of SC Detention Facilities rules and regulations, or for any other authorised reason.³⁴

17. Visits by [REDACTED] shall also be actively monitored in accordance with this decision.

18. The Single Trial Judge does not consider that he has the authority to order, as requested by the Prosecution, that the Registrar report to him any non-compliance with detention conditions imposed in Case 6. Those conditions are separate and are reported to Trial Chamber II on an *ex parte* basis. However, the active monitoring regime now imposed in respect of [REDACTED], [REDACTED], Mr Ahmetaj, Mr Cakiqi, Mr Kastrati, [REDACTED] and [REDACTED] will henceforth entail a concurrent reporting obligation by the Registrar in relation to those detention conditions. Accordingly, any future reviews will be informed by this additional information. Further, the Prosecution is entitled to make an application, as the Defence has done in the past,³⁵ for the disclosure of the Registrar's reports in Case 6 to any Panel seized with Case 12.

³³ [Case 6 Restrictions Decision](#), para. 57.

³⁴ See, for example, [Case 6 Restrictions Decision](#), para. 52 ("The powers of the Registrar and the Chief Detention Officer to deny a visit are provided in Articles 7 and 12 of the Practice Direction on Visits and Communications. In addition, the Panel directs the Registrar to refuse in-person visits where, in the exercise of her discretion, she determines that there are credible indications that the individual concerned has engaged or could engage in conduct incompatible with the integrity of proceedings and/or the regulations of detention.")

³⁵ See KSC-BC-2020-06, RAC008-F00001/RED, Thaçi Defence, [Public Redacted Version of Urgent Joint Thaçi Defence Request Concerning Access in Case KSC-BC-2023-12 to Filings related to Mr Thaçi's Detention](#), 8 October 2025, public (original version filed on 29 September 2025).

V. FURTHER REVIEW OF THE CONDITIONS OF DETENTION

19. In accordance with the requirements of necessity and proportionality, which entail the periodic review of the conditions of detention, submissions are invited from the Registrar, the Prosecution and the Defence on 3 December 2026, 10 December 2026, and 17 December 2026, respectively. No replies will be entertained. This is without prejudice to the right of the Defence to request, if substantiated by new circumstances, a modification or the termination of the restrictions at any time.

VI. DISPOSITION

20. 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], [REDACTED], Mr Ahmetaj, Mr Cakiqi, Mr Kastrati and [REDACTED];
- b. **ORDERS** the continued prohibition of non-privileged visits to Mr Thaçi by Mr Behrami, Mr Shala, Mr Sylja and Mr Kryeziu;
- c. **ORDERS** the Registrar to implement the condition of detention set out in paragraphs 16 and 17, and to report to him any instances of attempted communication of confidential information, instructions related to witnesses, or any other non-compliance with SC Detention Facilities rules and regulations, that might occur during visits to Mr Thaçi by [REDACTED], [REDACTED], Mr Ahmetaj, Mr Cakiqi, Mr Kastrati, [REDACTED] and [REDACTED] by no later than **Thursday, 3 December 2026**;

- d. **INVITES** the Prosecution to make submissions regarding the continued need for the imposed restrictions, by no later than **Thursday, 10 December 2026**; and
- e. **INVITES** the Defence to file a response to the Prosecution's submissions, by no later than **Thursday, 17 December 2026**.



Judge Christopher Gosnell
Single Trial Judge

Dated this Monday, 21 September 2026

At The Hague, the Netherlands.