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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
Date:	30 September 2026
Language:	English
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Eleventh 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 56(2) and 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers,[1] hereby issues this decision.

I. PROCEDURAL BACKGROUND

1. On 14 September 2026, the Specialist Prosecutor's Office ("Prosecution") made submissions on Hashim Thaçi's periodic detention review.[2] The Defence for Hashim Thaçi ("Mr Thaçi" and "Defence") did not respond.

II. SUBMISSIONS

2. The SPO argues that Mr Thaçi presents a risk of flight in this case[3] and that he continues to present a high risk of obstructing KSC proceedings.[4] Detention remains proportionate and necessary, as there are no available conditions of release that can adequately mitigate the identified risks, and in light of the forthcoming issuance of a judgment in this case.[5]

III. APPLICABLE LAW

3. The standards applicable to the continued detention of a person by the Specialist Chambers ("SC") are set out in Article 41(6) and (10) and Rules 56 and 57. These provisions must be applied and interpreted in conformity with the

[1] All references to "Article" and "Rule" shall be understood, unless otherwise indicated, as referring to the Law and Rules.
[2] KSC-BC-2023-12, F001005, Specialist Prosecutor, *Prosecution Submissions on Review of Detention of Hashim Thaçi* ("Prosecution Submissions"), 14 September 2026, public.
[3] Prosecution Submissions, para. 5-8.
[4] Prosecution Submissions, paras 9-13.
[5] Prosecution Submissions, para. 16.

Constitution of Kosovo and the (European) Convention for the Protection of Human Rights and Fundamental Freedoms.[6]

4. Each bi-monthly review of detention is a *de novo* assessment.[7] 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 panel is satisfied that, at the time of the review decision, grounds for continued detention still exist.[8]

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[6] *See, for example,* KSC-BC-2023-12, F00973, Single Trial Judge, *Tenth Decision on Review of Detention of Hashim Thaçi* ("Tenth Review Decision"), 31 July 2026, public, para. 6; F00928, Single Trial Judge, *Ninth Decision on Review of Detention of Hashim Thaçi* ("Ninth Review Decision"), 2 June 2026, public, para. 5; F00838, Single Trial Judge, *Eighth Decision on Review of Detention of Hashim Thaçi* ("Eighth Review Decision"), 2 April 2026, public, para. 5; F00718, Single Trial Judge, *Seventh Decision on Review of Detention of Hashim Thaçi* ("Seventh Review Decision"), 3 February 2026, public, para. 7; F00597, Single Trial Judge, *Sixth Decision on Review of Detention of Hashim Thaçi* ("Sixth Review Decision"), 3 December 2025, public, para. 7; F00476, Pre-Trial Judge, *Fifth Decision on Review of Detention of Hashim Thaçi* ("Fifth Review Decision"), 3 October 2025, public, paras 9-12; F00250, Pre-Trial Judge, *Second Decision on Review of Detention of Hashim Thaçi* ("Second Review Decision"), 7 April 2025, public, paras 14-15 (general requirements), para. 16 (grounded suspicion), paras 19-22 (necessity of detention), para. 36 (conditional release), para. 40 (proportionality), and references cited therein; F00165, Pre-Trial Judge, *Decision on Review of Detention of Hashim Thaçi* ("First Review Decision"), 7 February 2025, public, paras 12-13 (general requirements), para. 14 (grounded suspicion), paras 17-20 (necessity of detention), para. 37 (conditional release), para. 41 (proportionality).

[7] 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* ("*Krasniqi* Appeal Decision"), 1 October 2021, public, paras 14-17; *see also* F03484, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi* ("*Krasniqi* Detention Decision"), 18 September 2025, public, para. 49 ("[T]he 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)"); F00177/RED, Pre-Trial Judge, *Public Redacted Version of Decision on Hashim Thaçi's Application for Interim Release* ("Case 6 *Thaçi* Interim Release Decision"), 26 January 2021, public, para. 26 (original version issued on 22 January 2021).

[8] 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* *Krasniqi* Appeal Decision, 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.")

5. 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*."[9] The Single Trial Judge understands that although he is not "required" to revisit findings made in previous detention reviews, he must be "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. IMPACT OF CONVICTION OF MR THAÇI IN CONCURRENT PROCEEDINGS

6. On 16 September 2026, Mr Thaçi was convicted by Trial Panel II in Case 6 and received a custodial sentence exceeding the time already served in detention.[10] His detention in that case is no longer "on remand" under Article 41(10). This change of status occurred two days after the Prosecution Submissions were filed. Accordingly, no submissions have been received concerning how this change of status should affect, if at all, the approach to the periodic reviews of detention in this case.

7. The Single Trial Judge will proceed on the basis that the Case 6 conviction does not alter the need for periodic reviews of detention on remand in this case, and that the criteria for assessing continued detention pursuant to Article 41(6) are to be

[9] 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.
[10] KSC-BC-2020-06, Trial Panel II, *Summary of Trial Judgment*, 16 September 2026, public, pp. 32-34; T. 29281:1-29281:19.

assessed, in principle, only on the basis of factors arising from the present proceedings.[11]

B. GROUNDED SUSPICION

8. The Single Trial Judge considers that, based on the findings in the "Decision on the Confirmation of the Indictment",[12] for which a higher standard applies than "grounded suspicion", and in the absence of any other intervening information or developments, the requirement of a "grounded suspicion" under Article 41(6)(a) is satisfied.

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

1. Risk of Flight

9. The nature of the "risk" to be determined under Article 41(6)(b), including in respect of sub-section (i), has been explained as follows by the Court of Appeals Panel:

> [T]he question revolves around the possibility, not the inevitability, of a future occurrence [….] In so finding, the Panel acknowledged that a standard less than certainty was appropriate. That "certainty" cannot be required follows from the nature of the assessment under Article 41(6)(b) of the Law, namely that it entails a prediction about future conduct, and what lies in the future can never be predicted with certainty. This does not mean, however, that any possibility of a risk materialising is sufficient to justify detention […] detention cannot be justified by any kind of possibility of a future occurrence, even if negligible [….] The Panel therefore finds that the standard to

[11] *See* KSC-BC-2023-12, F00165, Pre-Trial Judge, *Decision on Review of Detention of Hashim Thaçi*, 7 February2025, public, para. 21 ("[…] the Pre-Trial Judge recalls, at the outset, the previous finding that her assessment of the risks under Article 41(6)(b) of the Law is independent from the assessment undertaken by the competent Panel in Case 06. This means that Mr Thaçi's flight risk (and other risks) are assessed in the specific circumstances of the present proceedings and in light of the charges brought in this case, not Case 06.")

[12] KSC-BC-2023-12, F00036, Pre-Trial Judge, *Decision on the Confirmation of the Indictment*, 29 November 2024, confidential, para. 313(a) (public redacted version issued on 12 February 2025, F00036/RED).

> be applied is, on the one hand, less than certainty, but, on the other, more than a mere possibility of a risk materialising.[13]

10. The Single Trial Judge found in the Tenth Detention Review that Mr Thaçi does not present a flight risk. The three factors identified in the Prosecution's current submissions were previously addressed in that Review, namely: (i) Mr Thaçi not having yet served a period of detention that constitutes a substantial fraction of the statutory maximum penalty he would face in this case;[14] (ii) the potential for Mr Thaçi to evade justice due to access to significant funds and ability to obtain support;[15] and (iii) the relevance of Mr Thaçi's asserted non-compliance with KSC orders and detention regulations to the assessment of the risk of flight.[16] These arguments, and the grounds on which they are based, are essentially unchanged since the last review of detention decision and are rejected on the same grounds.[17]

11. Mr Thaçi's conviction and sentence in Case 6 fall outside the scope of evaluation of detention on remand in this case.[18] On this basis, the Single Trial Judge does not consider that any circumstance has arisen since the Tenth Review Decision that alters the risk of flight as assessed in the Tenth Review Decision. The Single Trial Judge finds, accordingly, that Mr Thaçi is not a flight risk.

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[13] KSC-BC-2020-06, IA004-F00005/RED, Court of Appeals Panel, *Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Interim Release* ("Case 6 *Thaçi* Interim Release Appeal Decision"), 30 April 2021, public, paras 21-22.
[14] Prosecution Submissions, para. 6; Tenth Review Decision, para. 15.
[15] Prosecution Submissions, para. 7; Tenth Review Decision, paras 13 and 17.
[16] Prosecution Submissions, para. 8; Tenth Review Decision, para. 16.
[17] *See* KSC-BC-2020-06, F00004/RED, Court of Appeals Panel, *Public Redacted Version of Decision on Kadri Veseli's Appeal Against Decision on Review of Detention*, 1 October 2021 (confidential version filed on 1 October 2021) ("Veseli Second Appeal Decision"), para. 16 ("Additionally, the Panel finds that the Pre-Trial Judge should not be expected to entertain submissions that merely repeat arguments that have already been addressed in his previous decisions."); KSC-BC-2020-04, IA003/F00005/RED, Court of Appeals Panel, *Public Redacted Version of Decision on Pjetër Shala's Appeal Against Decision on Review of Detention*, 11 February 2022, para. 18.
[18] *See* footnote 11 above.

2. Risk of Obstructing the Progress of SC Proceedings

12. The Tenth Review Decision held that there was a real risk of obstructing the progress of SC proceedings by Mr Thaçi based on the following factors: (i) the grounded suspicion of Mr Thaçi's extensive efforts to obstruct Case 6 proceedings, which are the basis for the charges in the present 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 are at liberty in Kosovo; (iv) the fact that these efforts extended to highly sensitive protected witnesses; and (v) that there remains a risk, notwithstanding the imminent closure of evidence in the present case, of retaliation against or efforts to influence those highly sensitive witnesses.[19] Restrictions on Mr Thaçi's communications in detention have recently been maintained in respect of four individuals whose role is crucial to the charges against Mr Thaçi in this case.[20] The Single Trial Judge considers that these individuals are at risk of being influenced even at this stage of proceedings, and that there are no non-custodial measures that could adequately ensure otherwise. Accordingly, the Single Trial Judge finds that there remains, for the time being at least, a risk pursuant to Article 41(6)(b)(ii) that Mr Thaçi may, if released, obstruct the progress of SC proceedings.

13. No conditions of release can substantially mitigate this risk or substitute the restrictions to which Mr Thaçi's communications in detention are currently subject,[21] especially considering that they could arise even from an inadvertent or negligent disclosure of information from Mr Thaçi.

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[19] Tenth Review Decision, para. 20.
[20] Third Detention Conditions Review, para. 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. 401(2) of the 2019 Kosovo Criminal Code, Law No. 06/L-074, makes their role crucial to the charges. The risk that these individuals could be subject to potential influence is, accordingly, uniquely and exceptionally high.")
[21] *See* Third Detention Conditions Review, paras 16, 17 and 20.

3. Risk of Committing Further Offences

14. The Prosecution relies on its submissions on the risk of obstruction to substantiate its argument in relation to the risk of commission of further crimes pursuant to Article 41(6)(b)(iii).[22] The Single Trial Judge recalls that the reasons supporting the finding that there is a risk of obstruction of proceedings likewise support a finding of a risk that alleged further offences would be committed for that purpose.[23] Accordingly, the requisite degree of risk that Mr Thaçi may commit further offences under Article 41(6)(b)(iii) is satisfied.

4. Conclusion

15. The Single Trial Judge is satisfied of the existence of risks pursuant to Article 41(6)(b)(ii) and (iii) justifying Mr Thaçi's continued detention.

D. Potential Conditions of Release

16. An accused "can only be detained if lesser measures would *be insufficient to mitigate the risks* of flight, obstruction or commission of further crimes."[24] 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.[25]

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[22] Prosecution Submissions, para. 14.

[23] *See also* Tenth Review Decision, para. 31; Ninth Review Decision, para. 20; Eighth Review Decision, para. 18; Seventh Review Decision, para. 17; Sixth Review Decision, para. 22; Fifth Review Decision, para. 22; F00405, Pre-Trial Judge, *Fourth Decision on Review of Detention of Hashim Thaçi* ("Fourth Review Decision"), 5 August 2025, public, para. 22; F00325, Pre-Trial Judge, *Third Decision on Review of Detention of Hashim Thaçi* ("Third Review Decision"), 5 June 2025, public, para. 25; Second Review Decision, para. 33; First Review Decision, para. 34.

[24] 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.

[25] 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 ("[I]n the assessment of the Proposed Conditions, the [relevant Panel] is required, *proprio motu*, to inquire and evaluate all reasonable conditions that could be imposed on an accused

17. The Single Trial Judge is not persuaded that any feasible conditions of release presently available could satisfactorily mitigate the risk that Mr Thaçi may obstruct the progress of SC proceedings or commit further offences.[26] Notably, the Single Trial Judge is of the view that any conditions that could be imposed would not: (i) address the possibility of Mr Thaçi using other persons, or employing communication devices belonging to other persons; or (ii) ensure the effective monitoring of Mr Thaçi's communications.[27] By contrast, the measures in place at the SC Detention Facilities, including the further measures ordered in this case,[28] substantially reduce these risks.[29]

18. 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

19. 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

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and not just those raised by the Defence. The [Court of Appeals] 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] Tenth Review Decision para. 36; Ninth Review Decision, para. 25; Eighth Review Decision, para. 22; Seventh Review Decision, para. 21; Sixth Review Decision, para. 26; 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* ("Case 6 *Thaçi* 2022 Appeal Decision"), 5 April 2022, public, para. 51.

[27] Tenth Review Decision, para. 36; Ninth Review Decision, para. 25; Eighth Review Decision, para.22; Seventh Review Decision, para. 21; Sixth Review Decision, para. 26; 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.

[28] *See* Third Detention Conditions Review.

[29] Tenth Review Decision, para. 36; Ninth Review Decision, para. 25; Eighth Review Decision, para. 23; Seventh Review Decision, para. 22; Sixth Review Decision, para. 27 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* ("Case 6 *Thaçi* 2021 Appeal Decision"), 27 October 2021, public, para. 68.

of the case and throughout trial proceedings.[30] The Prosecution "carries the burden of establishing that detention is necessary and that its length remains reasonable,"[31] and "any analysis of pre-trial detention must take the presumption of innocence as its starting point."[32] 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."[33] Moreover, the analysis of whether the period of detention has become unreasonable applies regardless of whether any of the Article 41(6)(b) risk factors are found to exist.

20. Reasonableness is to be assessed by weighing various considerations including: the duration of detention at the time of review;[34] "the nature of the offence as well as the severity of the penalty";[35] "the degree of risks that are described in Article 41(6)(b) of the Law";[36] the speed with which proceedings are progressing towards trial (or a final judgment), and whether the length of proceedings is justified by its complexity;[37] and the frequent review of detention which, pursuant to the Rules, occurs every two months.[38] Ultimately, the

[30] *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, 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").
[31] *See* Second *Kilaj* Detention Appeal Decision, para. 47.
[32] *See* *Selimi* Appeal Decision, para. 37.
[33] *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.
[34] *See* *Selimi* Appeal Decision, paras 79-81.
[35] *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.").
[36] *See* KSC-BC-2023-12, INV-F00129/COR, Single Judge, *Corrected Version of Decision on Review of Detention of Isni Kilaj* ("First *Kilaj* Release Decision"), 3 May 2024, confidential, para. 60 (public redacted corrected version issued on 15 May 2024, INV-F00129/COR/RED). *See also* Case 6 *Thaçi* 2021 Appeal Decision, para. 49.
[37] *See* Case 6 *Thaçi* 2021 Appeal Decision, para. 52 ("[T]he 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"); First *Kilaj* Release Decision, para. 60 ("[T]he investigative and procedural steps taken towards moving the case forward since the last review of detention").
[38] *See* *Selimi* Appeal Decision, para. 81.

reasonableness of continued detention "must be assessed on the facts of each case and according to its special features."[39]

21. The Prosecution submits that Mr Thaçi's continued detention is both necessary and proportionate because the risks attributable to him pursuant to Article 41(6) cannot be reasonably mitigated outside of detention, and the case is progressing swiftly.[40]

22. The Single Trial Judge considers that there are no practicable measures that: (i) would ensure compliance with the contact restrictions currently imposed on Mr Thaçi; and (ii) could, accordingly, reduce or mitigate the Article 41(6)(b)(ii)-(iii) risks associated therewith. Further, the period of detention to date, while of increasing concern in that it already substantially exceeds the statutory minimum sentence in relation to the most serious offence charged, is not yet unreasonable in light of the Article 41(6)(b) risks that have been identified, the forthcoming rendering of a judgment in this case,[41] and the opportunity of further review upon the expiry of two months from the last ruling on detention or at any time upon request, or *proprio motu*, where a change in circumstances since the last review has occurred.

23. Accordingly, the Single Trial Judge finds that Mr Thaçi's detention continues to be necessary and proportionate at this time.

[39] *See* *Case 6 Thaçi* 2022 Appeal Decision, para. 65.
[40] Prosecution Submissions, para. 16.
[41] Rule 159; KSC-BC-2023-12, T.1389: 2-3.

V. DISPOSITION

24. 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 **Monday, 9 November 2026,** 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 **Monday, 16 November 2026**, and Mr Thaçi, if he so wishes, to file his response by **Monday, 23 November 2026.**



Judge Christopher Gosnell
Single Trial Judge

Dated this Wednesday, 30 September 2026

At The Hague, the Netherlands.