



In: **KSC-BC-2020-06**

**The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi,
and Jakup Krasniqi**

Before: **Pre-Trial Judge**

Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 6 November 2020

Language: English

Classification: **Public**

Decision Setting the Date for the Initial Appearance and Related Matters

Specialist Prosecutor
Jack Smith

Counsel for Hashim Thaçi
David Hooper

THE PRE-TRIAL JUDGE,¹ pursuant to Articles 20 and 39(4) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 8(3)(a), 87(6), 92(1) and 96 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 24 April 2020, the Specialist Prosecutor's Office ("SPO") submitted for confirmation a strictly confidential and *ex parte* indictment together with evidentiary material in support of the factual allegations and a detailed outline linking each item of evidentiary material to each allegation.²

2. On 24 July 2020, the SPO submitted, upon order,³ a revised indictment for confirmation ("Revised Indictment").⁴

3. On 26 October 2020, the Pre-Trial Judge confirmed the Revised Indictment ("Confirmation Decision"),⁵ issued a warrant of arrest for Hashim Thaçi ("Mr Thaçi" or "Accused")⁶ and ordered his transfer to the detention facilities of the Specialist Chambers ("SC").⁷

¹ KSC-BC-2020-06, F00001, President, *Decision Assigning a Pre-Trial Judge*, 23 April 2020, public.

² KSC-BC-2020-06, F00002, Specialist Prosecutor, *Submission of Indictment for Confirmation*, 24 April 2020, strictly confidential and *ex parte*, with Annexes 1-3, strictly confidential and *ex parte*.

³ KSC-BC-2020-06, F00010, Pre-Trial Judge, *Order to the Specialist Prosecutor Pursuant to Rule 86(4) of the Rules*, 2 July 2020, strictly confidential and *ex parte*.

⁴ KSC-BC-2020-06, F00011, Specialist Prosecutor, *Submission of Revised Indictment for Confirmation*, 24 July 2020, strictly confidential and *ex parte*, with Annex 1, strictly confidential and *ex parte*.

⁵ KSC-BC-2020-06, F00026, Pre-Trial Judge, *Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi* ("Confirmation Decision"), 26 October 2020, strictly confidential and *ex parte*.

⁶ KSC-BC-2020-06, F00027/A01, Pre-Trial Judge, *Arrest Warrant for Hashim Thaçi*, 26 October 2020, strictly confidential and *ex parte*.

⁷ KSC-BC-2020-06, F00027/A02, Pre-Trial Judge, *Order for Transfer to the Detention Facilities of the Specialist Chambers*, 26 October 2020, strictly confidential and *ex parte*.

4. On 30 October 2020, the Specialist Prosecutor submitted the Confirmed Indictment,⁸ with redactions as authorised by the Pre-Trial Judge.⁹
5. On 5 November 2020, Mr Thaçi was arrested¹⁰ and transferred to the detention facilities of the SC in The Hague, the Netherlands.¹¹
6. On 5 November 2020, the Registrar appointed Mr David Hooper as Counsel for Mr Thaçi.¹²

II. APPLICABLE LAW

A. INITIAL APPEARANCE

7. Pursuant to Article 39(4) of the Law, a person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the SC, be taken into custody, immediately informed of the charges against him or her and transferred to the SC.
8. Pursuant to Rules 87(6) and 92(1) of the Rules, the Accused shall be brought before the Pre-Trial Judge without undue delay for his or her initial appearance.
9. Pursuant to Articles 21(2) and 39(6) of the Law, hearings, including the hearing on the initial appearance of the Accused, shall be public, unless the Pre-Trial Judge decides otherwise in accordance with the Rules.

⁸ KSC-BC-2020-06, F00034/A03, Specialist Prosecutor, *Annex 3 to Submission of Confirmed Indictment and Related Requests*, 30 October 2020, strictly confidential and *ex parte*. A further corrected confirmed indictment, correcting certain clerical errors, was submitted on 4 November 2020, F00045/A01, strictly confidential and *ex parte*.

⁹ Confirmation Decision, para. 521(c) and (d).

¹⁰ KSC-BC-2020-06, F00051, Registrar, *Notification of Arrest of Hashim Thaçi Pursuant to Rule 55(4)*, 5 November 2020, strictly confidential and *ex parte*.

¹¹ KSC-BC-2020-06, F00053, Registrar, *Notification of Reception of Hashim Thaçi in the Detention Facilities of the Specialist Chambers and Appointment of Counsel ("Notification of Transfer")*, 5 November 2020, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*.

¹² Notification of Transfer, para. 6.

B. WORKING LANGUAGES

10. Pursuant to Article 20 of the Law, the official languages of the SC and SPO are Albanian, Serbian and English, and in any given proceedings, a Panel may decide the working languages for those proceedings, as appropriate and with full respect of the rights of the accused, as stipulated under Article 21 of the Law.

11. Pursuant to Rule 8(3)(a) of the Rules, subject to Article 20 of the Law, as early in the proceedings as possible, the Panel, after hearing the Parties and, where applicable, Victims' Counsel, shall decide which working language(s) shall be used in the proceedings.

C. STATUS CONFERENCES

12. Pursuant to Rule 96(1) of the Rules the Pre-Trial Judge shall convene a status conference as soon as possible after the initial appearance of the Accused in order to: (i) organise exchanges between the Parties and, where applicable, Victims' Counsel so as to ensure expeditious preparation for trial; (ii) take steps to ensure that all necessary preparations are being conducted by the Parties in a timely and diligent fashion; and (iii) review the status of the case and allow the Parties and, where applicable, Victims' Counsel the opportunity to raise issues in relation thereto.

13. Pursuant to Rule 96(2) of the Rules, a status conference may be conducted: (i) in the presence of the Accused, with his or her Counsel participating via video-conference; (ii) in the presence of Counsel, with the Accused participating via video-conference; or (iii) in the absence of the Accused, with Counsel present or participating via video-conference.

III. DISCUSSION

A. INITIAL APPEARANCE

14. Considering that the arrest of Mr Thaçi and his transfer to the detention facilities of the SC took place on 5 November 2020, the Pre-Trial Judge finds it appropriate to schedule a hearing on the initial appearance of the Accused as soon as practicable, taking into account the constraints of COVID-19 and with a view to ensuring that his rights under the Law are respected. In deciding the date of the initial appearance, the Pre-Trial Judge also considers Counsel for Mr Thaçi's request that it take place before Tuesday, 10 November 2020.¹³

15. Furthermore, noting that the publicity of hearings may extend beyond the courtroom, the Pre-Trial Judge authorises the taking of photographs at the start of the hearing on the initial appearance.

B. WORKING LANGUAGES

16. In light of the arrest and transfer of Mr Thaçi, and in conformity with the rights of the accused under Article 21 of the Law, it is necessary to determine the working language in the present proceedings in order to ensure their fair, efficient and expeditious conduct. Towards this end, the Pre-Trial Judge orders the Parties to provide their observations, orally, on the working language of proceedings at the initial appearance.

17. Pre-Trial Judge notes that, to date, the working language of the proceedings has been English, as all filings by the SPO and the Registrar, and all decisions and orders of the Pre-Trial Judge have been issued in English. Thus, after receiving the Parties' observations, the Pre-Trial Judge will determine whether there are compelling reasons to depart from the use of English as the working language.

¹³ KSC-BC-2020-06, F00056/A01, Registrar, *Annex 1 to Notification of Receipt of Request from Counsel for Hashim Thaçi*, 5 November 2020, confidential.

18. The Pre-Trial Judge emphasises that the determination of the working language of proceedings leaves unaffected the language and/or translation of evidence and other necessary documentation for the benefit of the Accused.¹⁴

C. DATE OF STATUS CONFERENCE

19. The Pre-Trial Judge invites the Parties to make submissions at the initial appearance indicating their availability for a status conference on or after 18 November 2020. The Defence is invited to indicate in its submission whether Counsel and/or Mr Thaçi intend to participate in the status conference in person or via video-conference as prescribed by Rule 96(2) of the Rules.

IV. DISPOSITION

20. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a) **DECIDES** to convene the hearing on the initial appearance of Mr Thaçi on **Monday, 9 November 2020, at 15:00 hours;**
- b) **AUTHORISES** the Registrar to organise, at the start of the hearing on the initial appearance, the taking of photographs for one minute and a half;
- c) **ORDERS** the Parties to provide, at the initial appearance, their oral submissions as to the working language to be adopted in the present proceedings; and
- d) **INVITES** the Parties to provide, at the initial appearance, their oral submissions as indicated in paragraph 19 above, regarding their availability for a status conference on or after Wednesday, 18 November 2020.

¹⁴ Articles 21(4)(a) and 39(5) of the Law; Rules 86(8), 87(1), 92(2)(b) and 102(1) of the Rules.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Friday, 6 November 2020
At The Hague, the Netherlands.