

**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

**Filing Participant:** Specialist Counsel for Hashim Thaçi

**Date:** 4 December 2020

**Language:** English

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**Public Redacted Version of  
Application for Interim Release on behalf of Mr Hashim Thaçi**

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## I. INTRODUCTION

1. Pursuant to Rule 57(2) of the Rules of Procedure and Evidence (“RPE”),<sup>1</sup> and following a critical review of the recently disclosed, redacted material advanced by the Specialist Prosecutor’s Office (“SPO”) in support of his arrest and detention,<sup>2</sup> Mr Hashim Thaçi hereby applies for release pending trial on such terms as the Pre-Trial Judge (“PTJ”) considers appropriate.
2. The issue to be addressed is whether the criteria in Article 41(6)(b) of the Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“KSC Law”) are satisfied such that continued detention is necessary. The defence for Mr Thaçi (“the defence”) submits that they are not.
3. Mr Thaçi’s conditional release is merited on a proper application of the Article 41(6)(b) test and by virtue of his conduct over the past 22 years, his significant efforts in establishing the Kosovo Specialist Chambers (“KSC”), his cooperation with the SPO<sup>3</sup> and his consistent compliance with the Specialist Chambers, as manifested most recently by his resignation of the office of President of Kosovo and his voluntary surrender to the KSC.
4. In contrast, and for the reasons more fully set out below, the *ex parte* arguments advanced by the SPO seeking his arrest and detention do not satisfy the requirements of Article 41(6)(b) of the Law and the continued detention of Mr Thaçi is not justified. These present submissions constitute the first opportunity for the defence to address - *audi alteram partem*- the SPO’s arguments in its

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<sup>1</sup> Rules of Procedure and Evidence before the Kosovo Specialist Chambers (adopted on 17 March 2017, revised on 29 May 2017, amended on 29 and 30 April 2020).

<sup>2</sup> Disclosure package 7, 20 November 2020.

<sup>3</sup> On 16 December 2019, 13-14 January 2020, and 13 -16 July 2020.

application and the many misleading and factual errors they contain and which doubtless led the Pre-Trial Judge to accede to the SPO request.

5. Given the importance of this application, touching the very liberty of Mr Thaçi, the defence submits that, in addition to written submissions, an oral hearing is warranted. Such a hearing would permit all parties to address any outstanding issues, and, thus, assist the PTJ to determine this application for interim release.
6. The present submissions are filed as confidential because they refer to confidential filings and evidence; a public redacted version will be filed shortly.

## II. BACKGROUND

7. On 26 October 2020, the PTJ confirmed the Indictment against Mr Thaçi,<sup>4</sup> issued an arrest warrant<sup>5</sup> and ordered Mr Thaçi's transfer to the KSC's detention facilities in The Hague.<sup>6</sup>
8. On 5 November 2020, Mr Thaçi resigned from the position of President of the Republic of Kosovo,<sup>7</sup> and voluntarily surrendered to KSC officials in Kosovo and was thereafter transferred to the KSC's detention facilities in The Hague.<sup>8</sup>

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<sup>4</sup> KSC-BC-2020-06/F00045/A03, Further redacted Indictment, 4 November 2020.

<sup>5</sup> KSC-BC-2020-06/F00027/A01/RED, Public Redacted Version of Arrest Warrant for Hashim Thaçi, 26 October 2020.

<sup>6</sup> KSC-BC-2020-06/F00027/A02, Order for Transfer to the Detention Facilities of the Specialist Chambers, 26 October 2020.

<sup>7</sup> Mr Thaçi's press conference of 5 November 2020, <https://www.facebook.com/HashimThaciOfficial/videos/829148217898318/>; see also France 24, *Kosovo president resigns to face war crimes court*, 5 November 2020, <https://www.france24.com/en/live-news/20201105-kosovo-president-resigns-to-face-war-crimes-court>; Euronews, *Kosovo's president Hashim Thaçi steps down to face war crimes charges*, 5 November 2020, <https://www.euronews.com/2020/11/05/kosovo-s-president-hashim-thaci-steps-down-to-face-war-crimes-charges>.

<sup>8</sup> E.g., 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.

9. On 9 November 2020, at the initial appearance, Mr Thaçi pleaded not guilty to all charges. The defence advised that it was Mr Thaçi's intention to apply for interim release upon full disclosure of the matters relied upon in the application for an arrest warrant.<sup>9</sup>
10. At the 18 November 2020 status conference, the defence reiterated Mr Thaçi's intention to apply for interim release<sup>10</sup> following receipt of the material submitted to justify his arrest, together with any further matters that the SPO intend to present in support of his continued detention.<sup>11</sup> The PTJ invited the defence to file a formal application.<sup>12</sup>

### III. APPLICABLE LAW

11. Rule 57(2) of the RPE provides that:

"After the assignment of a Pre-Trial Judge pursuant to Article 33(1)(a) of the Law and until a judgment is final, the Panel seized with a case shall review a decision on detention on remand upon the expiry of two (2) months from the last ruling on detention, in accordance with Article 41(6), (10), (11) and (12) of the Law or at any time upon request by the Accused or the Specialist Prosecutor, or proprio motu, where a change in circumstances since the last review has occurred."

12. Article 41 of the KSC Law establishes a clear presumption in favour of an accused being at liberty. This is in contrast to the practice at the ICTY, and the IRMCT<sup>13</sup> and distinguishable to the practice at the ICC which employs a different

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<sup>9</sup> KSC-BC-2020-06, Transcript, 9 November 2020.

<sup>10</sup> KSC-BC-2020-06, Draft Transcript, 18 November 2020, p. 157 & seq. Also KSC-BC-2020-06/F00085, Defence for Hashim Thaçi's Submissions for first Status Conference, 17 November 2020, para. 23.

<sup>11</sup> KSC-BC-2020-06/F00005/RED, Public Redacted Version of 'Request for arrest warrants and related orders', filing KSC-BC-2020-06/F00005 dated 28 May 2020 ("Arrest Warrant Request").

<sup>12</sup> KSC-BC-2020-06, Draft Transcript, 18 November 2020, p. 159, l. 9-23, p. 161, l. 11-22.

<sup>13</sup> IRMCT Rules of Procedure and Evidence - Rule 68 Provisional Release. The burden falls upon the accused to demonstrate, on the balance of the probabilities, that, if released, he or she will appear for trial and will not interfere with any victim, witness, or other person. See *Prosecutor v Turinabo et al*, No. MICT-18-116-PT, Decision on Jean de dieu Nadgijimana's Motion for Provisional Release (29 March 2019); *Prosecutor v Turinabo et al*, No. MICT-18-116-PT, Decision on Maximilien Turinabo's Motion for Provisional Release (29 March 2019).

test focussing on “necessity” for detention, rather than an assessment of risk. While ICC Chambers emphasized the “*established principle of international human rights law that the detention of a suspect prior to conviction is exceptional in nature and must be strictly limited to what is necessary*”,<sup>14</sup> Article 41 is stronger than the Rome Statute in its presumption of release. At the KSC, arrest and detention are justified only when the following criteria, set out in Article 41(6) of the KSC Law, are satisfied (emphasis added):

“6. The Specialist Chambers or the Specialist Prosecutor shall only order the arrest and detention of a person when:

- a. there is a grounded suspicion that he or she has committed a crime within the jurisdiction of the Specialist Chambers; and
- b. there are articulable grounds to believe that;
  - i. there is a risk of flight;
  - ii. he or she will destroy, hide, change or forge evidence of a crime or specific circumstances indicate that he or she will obstruct the progress of the criminal proceedings by influencing witnesses, victims or accomplices; or
  - iii. the seriousness of the crime, or the manner or circumstances in which it was committed and his or her personal characteristics, past conduct, the environment and conditions in which he or she lives or other personal circumstances indicate a risk that he or she will repeat the criminal offence, complete an attempted crime or commit a crime which he or she has threatened to commit.”

13. Notably, Article 41(6)(b)(ii) and (iii) of the KSC Law both employ the word ‘will’ rather than ‘may’, whereas the Arrest Warrant employed the word ‘may’ which constitutes a lower and insufficient standard.<sup>15</sup> ‘Will’ includes ‘may’ but not *vice versa*.

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<sup>14</sup> *Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, ICC-02/05-01/20-169, Second Order on Disclosure and Related Matters, 2 October 2020, para. 10; also *Prosecutor v. Bemba et al.*, ICC-01/05-01/08-321, Decision on Application for Interim Release, 16 December 2008, para. 31: “the fundamental principle that deprivation of liberty should be an exception and not a rule”.

<sup>15</sup> KSC-BC-2020-06/F00027/A01/RED, Public Redacted Version of Arrest Warrant for Hashim Thaçi, para. 6; Necessity of the Arrest.

14. Rule 95(2)(d) of the RPE permits the PTJ, after an indictment has been confirmed and after the initial appearance of the accused, to “hold any hearing necessary to ensure fair and expeditious proceedings”.

#### IV. SUBMISSIONS

(a) The Article 41(6)(b) criteria are not met

15. Contrary to the SPO’s submissions, a fair and reasonable analysis of the arguments and underlying material submitted in support of the Arrest Warrant Request demonstrates that the Article 41(6) criteria are not met.

16. Before considering these criteria, the following general criticisms of the SPO’s submissions require to be made.

17. *First*, the SPO’s submissions rely primarily on generalised, unsubstantiated assertions which fail to link Mr Thaçi to any wrongdoing. In the main body of its submissions, the SPO refers repeatedly to ‘Suspects’ no less than 43 times, making general allegations rather than addressing Mr Thaçi’s own acts and conduct.<sup>16</sup>

18. The submissions are marked by sweeping statements such as “[t]he Suspects wield enormous influence over former KLA members and Kosovo in general” and can “mobilise additional support bases”, including the KLA WVA.<sup>17</sup> However, on closer scrutiny such statements dissolve into generalised hyperbole. Specifically, no evidence is provided to support Mr Thaçi’s alleged responsibility for improper

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<sup>16</sup> See, e.g., Arrest Warrant Request, paras. 4 (“The Suspects wield...”), 6 (“...the Suspects have actively facilitated and encouraged. The Suspects themselves have a long record...”), 8 (“Moreover, certain of the Suspects...”).

<sup>17</sup> Arrest Warrant Request, para. 4.

manipulation of government or for the alleged actions of the KLA/WVA.<sup>18</sup> Without more, this is plainly insufficient.

19. Compounding the problem are paragraphs 18 to 26 advanced by the SPO as “*illustrative of a broader disturbing trend*” concerning witness interference and intimidation.<sup>19</sup> Most of the examples go back ten to eighteen years. None are contemporary. None, even on the SPO’s own narrative, involve Mr Thaçi. There is no material (including that in Annex 2, at pages 10 to 27) to show he had anything to do with witness interference. Instead, we are left with unfounded allegations, referenced by statements made by third parties, that lack relevance and provide no basis to assert witness intimidation in respect of Mr Thaçi.

20. While the defence acknowledges that “*the known problem of witness intimidation in criminal cases involving former KLA members in Kosovo*” is a factor that may be taken into account when considering interim release, it must “*not [be] the sole consideration.*”<sup>20</sup> However, given the extensive reliance placed on this general background throughout the Arrest Warrant Request,<sup>21</sup> it has become the sole consideration, particularly given the flaws in the SPO’s other submissions (see further below). It cannot be that, because of a general concern as to witness interference in Kosovo cases, all and any accused must be denied release. An objective assessment is required in each individual case. The presumption of interim release and the Article 41(6)(b)(ii) standard to be applied - ‘will’ - sets a high bar.

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<sup>18</sup> Arrest Warrant Request, paras. 5-6.

<sup>19</sup> Arrest Warrant Request, para. 18.

<sup>20</sup> Arrest Warrant Request, footnote 102. *See also*, the practice at the MICT where, despite the onus being on the accused, concerns about interference with witnesses are not sufficient by themselves to refuse provisional release given the presumption of innocence (*Prosecutor v Turinabo et al*, No. MICT-18-116-AR68.1, Decision on Prosecution Appeal Against Decision Granting Marie Rose Fatuma Provisional Release... (6 June 2019) at para. 10).

<sup>21</sup> *See, e.g.*, Arrest Warrant Request, paras. 35-36.

21. *Second*, the Arrest Warrant Request fails to address how and to what extent the concerns about witness interference are minimized by the fact that these proceedings are being held in The Hague. One reason for the KSC's relocation to a third country, and for offering a comprehensive witness protection program, was to protect witnesses from the interference or intimidation that has allegedly impeded the proper administration of justice in Kosovo in the past.<sup>22</sup> Nor does it address the massive redaction process sought by the SPO in respect of so many of its witnesses. These are all factors to take into account when seeking to balance the right of an accused to retain his liberty pending trial – bearing in mind the presumption of innocence – against the objective likelihood of future interference by that accused. Nor should sight be lost of the deterrent effect of the known, probable consequences to an accused were he to engage in such interference.

22. *Third*, the SPO repeatedly misrepresents the underlying evidence on which it relies. There are repeated and worrying examples. For instance, at paragraph 7 of the Arrest Warrant Request, the SPO quotes Mr Thaçi as saying “*that it is for the Kosovo government to decide the ‘mandate, operation and geographic location’ of the KSC and SPO*” but deliberately omits the significant part which reads “[a]s a result, it remains a matter for the domestic government to decide, ***in full consultation and coordination with its international partners***, the mandate, operation and geographic location of its institution” (emphasis added). Again, quoting selectively, at paragraph 10 of the Arrest Warrant Request, the SPO reports one supporter stating that [REDACTED], while omitting [REDACTED]. These are not accidental omissions. The SPO's submissions, relied upon in granting the Arrest Warrant, need to be approached with caution. The defence is concerned that the Panel has

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<sup>22</sup> “New war crimes tribunal poses dilemma for Kosovo,” article published by the Balkan Investigative Reporting Network on 9 April 2014, available at <https://balkaninsight.com/2014/04/09/new-war-crimes-tribunal-poses-dilemma-for-kosovo/>.



been presented with similar misleading, prejudicial information over several months in several fillings, not just that requesting arrest.<sup>23</sup>

23. *Fourth*, much of the material that the SPO refers to is not unlawful and falls well within the constraints of free speech and merely underscores the fact that the KSC is a contentious issue and one that is bound to attract debate. Such references have no place in a request for arrest. There is a profound difference between on the one hand legitimately questioning the need for the KSC, or its jurisdiction (even assuming such was established), and on the other hand seeking to undermine its operation by illegitimate conduct. The SPO blurs this distinction in order to mask its inability to provide evidence of the latter.

24. Why, for example is President Thaçi's letter to the US Secretary of State exhibited as part of the Arrest Warrant Request<sup>24</sup> when it contains no more than legitimate concerns as to the direction the KSC was taking? The letter falls within his constitutional duties as President to express concerns on behalf of the State. But his support for the KSC is clear. Referring to *'the Suspects'*, the SPO asserts that *"they have publicly attacked the KSC's mandate, including accusing it of being discriminatory"*. The references relating specifically to Mr Thaçi, rather than the generalised *'they'* or *'suspects'*, show nothing improper.<sup>25</sup> The reference in footnote 16 of the Arrest Warrant Request is in fact a reference to the Marty

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<sup>23</sup> See for example; F00022-Conf-Red, Confidential & Public redacted version of 'Prosecution submissions pursuant to Order KSC-BC2020-06-F00020', filing KSC-BC-2020-06-F00022 dated 19 October 2020 paragraph 13; where it is stated "This support network has resulted in persons perceived as being against the KLA and/or Hashim THAÇI being subjected to severe backlash, including threats to their lives and security" with reference to "As an example, the [REDACTED] drew attention to the case of [REDACTED]. [REDACTED] has been receiving death threats [REDACTED] in relation to his alleged criticism of Hashim THAÇI. See [REDACTED].

In fact, none of the threats received – [REDACTED] – had anything to do with Mr Thaçi [REDACTED].

<sup>24</sup> Arrest Warrant Request, Annex 2, I, B.

<sup>25</sup> Arrest Warrant Request, para. 7 (footnotes omitted).

Report<sup>26</sup> being *“full of lies and smears against the KLA”*, which given that Report’s reference to organ theft is fair comment. Footnote 17 of the Arrest Warrant Request does not demonstrate discrimination – Mr Thaçi merely states that, *“I think that the Special Court will not be able to do what it proclaims - to strengthen the sense of justice for the victims of war”*. He also states, but this section is not quoted, that *“[v]iolence has no place in Kosovo. Moreover, violence in institutions and from institutional representatives - is shameful and cannot be justified with anything.”* None of these lawful comments provides any basis for criticism, let alone a basis for arrest.

25. *Fifth*, in the Arrest Warrant Request, the SPO omits any mention of Mr Thaçi’s invaluable contribution to the establishment of the KSC and the SPO and for ensuring the cooperation of the Kosovo authorities with SITF’s criminal investigation, which was recently publicly acknowledged by SITF’s Lead Prosecutor, Mr. Williamson. Mr. Williamson underlined that, *“without a doubt for the Government of Kosovo this was not a simple thing to do; we should praise former Prime Minister Thaçi; he knew that he was mentioned in the [Marty Report] and was likely a suspect in the investigation.”*<sup>27</sup>

26. More significantly is the SPO’s misrepresentation that Mr Thaçi has *“attempted to generate support for the abolition of the KSC”*.<sup>28</sup> In fact, what the source material reveals is a commitment to the democratic process and the rule of law. Mr Thaçi is reported as stating that he would sign a decision to abolish the KSC if

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<sup>26</sup> Report Doc. 12462 of the Parliamentary Assembly of the Council of Europe, dated 7 January 2011, page 1, available at <http://semanticpace.net/tools/pdf.aspx?doc=aHR0cDovL2Fzc2VtYmx5LmNvZS5pbmQvbncveG1sL1hSZWYvWDJILURXLWV4dHIuYXNwP2ZpbGVpZD0xMjYwOCZsYW5nPUVO&xsl=aHR0cDovL2Fzc2VtYmx5LmNvZS5pbmQvbncveG1sL3hzbC1mby9QZGYvWFJlZi1XRRC1BVC1YTUwyUERGLnhzbA==&xsltparams=ZmlsZWlkPTEyNjA4>.

<sup>27</sup> Interview of Clint Williamson, former Lead Prosecutor of SITF, Ora News, 14 November 2020, minutes 01:40 – 02:45 of the video, available at <https://www.youtube.com/watch?v=hCQQA1ioj0I>.

<sup>28</sup> Arrest Warrant Request, para. 7.

parliament made such a decision. Rather than the selective quotation, the material on which the SPO relies bears repeating in full: *“The initiative of some 50 deputies of the Assembly of the Republic of Kosovo should be understood as an alternative and not as a challenge to justice -- not as ignorance or [an attempt to] escape from justice,”* said Thaçi.”<sup>29</sup> In effect, Mr Thaçi’s position was that if he did not sign such a law, if passed, he would *“violate the constitution.”* Given his resignation there is no longer a possible conflict between personal interest and the interest of the State. Regardless, opposition to a court – even open and public opposition<sup>30</sup> – cannot serve to disqualify an accused from provisional release, nor is it evidence of grounds to believe that the Article 41(6)(b) criteria have been met.

27. It should be recognized that Mr. Thaçi’s efforts and contributions to the establishment of the KSC and the SPO were detrimental to his political career and, contrary to the SPO’s submissions, alienated his political base including, but not limited to, the associations of KLA veterans and other categories whose roots had been in the KLA.

28. In spite of the political and social pressure to which he was subjected, Mr. Thaçi personally advocated for and defended the initiative for the establishment of the KSC and SPO in the Assembly of Kosovo. His position has been diametrically opposed to those groups with whom the SPO seeks to associate him. By way of example, in the session of the Assembly of Kosovo, held on 26 June 2015, *i.e.*, one day after the street protests of the KLA Associations against the establishment of the KSC and SPO, and referred to by the SPO, Mr. Thaçi stated that the establishment of the KSC and the SPO as *“independent international institution[s]”*

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<sup>29</sup> See RFE/RL, Interview with Hashim THAÇI, 27 December 2017, at <https://www.rferl.org/a/kosovo-Thaçilegislation-abolishing-war-crimes-court/28943894.html>, at Arrest Warrant Request, footnote 19.

<sup>30</sup> The opposition to the ICC by the United States of America, including the imposition of sanctions, is a case on point.

was necessary in order to clean (purify) KLA's liberation war and to show to the world that *"we have nothing to hide."*<sup>31</sup>

29. While the opposition rhetoric and the street protests of the KLA Associations prevented the adoption of Article 162 of the Constitution in the session of the Assembly of Kosovo of 26 June 2015, Mr. Thaçi and the Government of Kosovo reintroduced the same motion on 3 August 2015, when it was ultimately adopted.<sup>32</sup> Mr. Thaçi and the Government of Kosovo also faced criticism for bypassing the rules of procedure of the Assembly of Kosovo by reintroducing a motion to amend the Constitution that failed to pass in the session of the Assembly of Kosovo held on 26 June 2015.<sup>33</sup> Notwithstanding this criticism, Mr. Thaçi sought and succeeded in convincing the qualified majority of the members of the Assembly of Kosovo, including the qualified majority of the members of the Assembly of Kosovo representing non-majority communities, to adopt Article 162 of the Constitution by which the KSC and SPO were ultimately established.<sup>34</sup> On the same day, thanks to the efforts of Mr. Thaçi and the Government of Kosovo, the Assembly of Kosovo also adopted – *inter alia* – the KSC Law.<sup>35</sup>

30. The SPO submissions repeatedly fail to reflect the reality of political dynamics in Kosovo. In addition to ignoring Mr Thaçi's support for the KSC, the SPO takes the Gashi incident as an example that *"reflects a climate of impunity and intimidation*

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<sup>31</sup> Transcript of the session of the Assembly of Kosovo, 26 June 2015, pages 17, 18, available at [trans s 2015 06 26 10 6021 al.pdf \(kuvendikosoves.org\)](#). During this session, Mr. Thaçi's support for the establishment of the KSC and SPO was characterized as *"servility towards the international community,"* by the head of the then opposition, Albin Kurti, the leader of the Vetëvendosje Movement (page 76).

<sup>32</sup> Transcript of the session of the Assembly of Kosovo, 3 August 2015, available at [trans s 2015 08 03 10 6094 al.pdf \(kuvendikosoves.org\)](#).

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

*which the Suspects have actively facilitated and encouraged.*"<sup>36</sup> The supporting material makes no mention of Mr Thaçi. In fact, Gashi's statements provoked the radical elements within the Vetëvendosje party which compelled the head of that party to fire Gashi, his adviser. It should be noted that party had taken a strong stance against the KSC, and for that matter EULEX and UNMIK,<sup>37</sup> in marked contrast to that of Mr Thaci. In no way can this incident be characterized as an attempt by Mr Thaçi to intimidate or act with impunity towards the KSC. Rather, it demonstrates the nature of the opposition within Kosovo to his support for the KSC.

31. Mr Thaçi's support for the KSC was in part driven by his determination to have the Martyr Report's infamous allegations of organ theft disproven. Indeed, these allegations no longer form any part of the charges in this case despite being a principle incentive for the establishment of the KSC.

32. Finally, in considering the SPO's submissions regarding Mr Thaçi's statements on the KSC, two general points must be borne in mind. Firstly, it was only through Mr Thaçi's efforts and political will that the KSC was established and, secondly, the ability to challenge the jurisdiction and direction of the KSC is to be tolerated and is enshrined in the KSC's own legal texts.<sup>38</sup> These points, and their significance, are ignored by the SPO.

33. Turning to the criteria that must be satisfied for arrest or continued detention;

**(i) Article 41(6)(b)(i): Mr Thaçi is no flight risk**

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<sup>36</sup> Arrest Warrant Request, paras 5 -6.

<sup>37</sup> *Supra* fn. 31.

<sup>38</sup> *See, e.g.*, RPE, Rule 97(1)(a).

34. In plain contradiction to the SPO's submissions,<sup>39</sup> Mr Thaçi is no flight risk and will attend his trial with or without the imposition of such conditions as the PTJ considers appropriate.<sup>40</sup> This submission is not based solely on Mr Thaçi's sincere, stated intent, his settled domestic life<sup>41</sup> and connection with his own country, but is also reflected in his past actions, including his role in establishing the KSC, subsequent cooperation with the SPO<sup>42</sup> and steadfast compliance and submission to the Court. He is a well-known, international figure, unlikely to become a fugitive from justice.

35. Mr Thaçi's cooperation was demonstrated by his voluntary attendance at his first and second interviews, in December 2019 and January 2020 respectively, which he attended without the benefit of counsel, stating his willingness to answer questions as an ordinary citizen rather than as the President. Mr Thaçi's cooperation continued even after the SPO's public announcement in June 2020 that it had asked the PTJ to issue an indictment against him and he voluntarily attended a third interview with members of the SPO on 13-16 July 2020 in The Hague.

36. For reasons that are not addressed here,<sup>43</sup> if Mr. Thaçi's intention had indeed been to utilize the legal and constitutional benefits and privileges of the Office of the President of Kosovo, then he would have been able to present formidable

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<sup>39</sup> Arrest Warrant Request, paras. 31-33.

<sup>40</sup> Article 41(12), KSC Law.

<sup>41</sup> Mr Thaci is married, one son. His wife works as a Professor and Vice-Dean at the University of Mitrovica, his son is in full time education at UBT College in Pristina studying economics. A settled address at St. Stefan Nemanja, 10500, Qagllavica, Gracanica.

<sup>42</sup> On 16 December 2019, 13-14 January 2020, and 13 to 16 July 2020.

<sup>43</sup> The issue was raised by the PTJ with the SPO in its Order to the Specialist Prosecutor for Further Submissions, KSC-BC-2020-06/F00020, para 10(a) (*"The legal basis pursuant to which the Specialist Chambers may issue and enforce an arrest warrant against the incumbent President of Kosovo"*) and responded to by the SPO (KSC-BC-2020-06). The issue is now moot given the resignation of Mr Thaçi.

legal and constitutional challenges to such arrest and detention while in office.<sup>44</sup> Instead, on 5 November 2020 he announced his resignation of the office of President of the Republic of Kosovo prior to surrendering himself to officers of the KSC.

37. Indeed, Mr Thaçi made his cooperation clear to the SPO during his interviews on 16 December 2019 and 13 January 2020. In the December 2019 interview he stated, *“my responsibility has always been the cooperation with the Specialist Chambers... I’m here to answer your questions. And at the same time, this is showing respect to the institution, because I do respect the institution... I want to believe that this Court will serve the truth based on facts without prejudgement, prejudice, and would perhaps help in reconciling people in Kosovo, but also in the region.”*<sup>45</sup> Similarly at the January 2020 interview – *“I trust this institution. My aim for the credibility of the institution to be maintained and not be harmed.”*<sup>46</sup> Even after the existence of an indictment was made public in June 2020,<sup>47</sup> Mr Thaçi was consistent in demonstrating his respect for the court: *“If the accusation is confirmed, I will immediately resign as your President and face the accusations. Kosovo is a new country,*

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<sup>44</sup> In this respect, it should be noted that in its Judgment KO. No. 98/11 – while addressing the question if the President *“shall be immune from prosecution, civil lawsuit, dismissal and arrest or detention for actions or decisions taken outside the scope of responsibilities of the President [...] of Kosovo”* –, the Kosovo Constitutional Court noted that *“Constitution requires the President to be available at all times to perform these functions”* and, therefore, *“the President cannot be hindered in the exercise of these functions by arrest and detention”*: Judgment KO No. 98/11 of the Constitutional Court, dated 20 September 2011, paragraphs 125 – 128, available at [https://gjk-ks.org/wp-content/uploads/vendimet/KO98-11\\_ANG\\_AKTGJYKIM.pdf](https://gjk-ks.org/wp-content/uploads/vendimet/KO98-11_ANG_AKTGJYKIM.pdf). Furthermore, even if Mr. Thaçi would have been arrested involuntarily, he would have been able to formally retain his position as President of Kosovo for a period of up to six (6) months, in accordance with Article 90 of the Constitution. Needless to say, Mr. Thaçi did the opposite.

<sup>45</sup> Interview of 16 December 2020, pp. 17, 24.

<sup>46</sup> Interview of 13 January 2020, p. 9.

<sup>47</sup> KSC-BC-2020-06/F00009, Decision on Specialist Prosecutor's Urgent Request, 23 June 2020, having granted the SPO request to publicly disclose the following information from the Indictment: the identities of Hashim THAÇI and Kadri VESELI as charged suspects; and the number of counts, legal characterisation and nature of the alleged crimes, approximate number of known victims, and their affiliation or ethnicity. See, *inter alia*, Guardian, *Kosovo president Hashim Thaçi indicted on war crimes charges*, 24 June 2020, <https://www.theguardian.com/world/2020/jun/24/kosovo-president-hashim-thaci-indicted-on-war-crimes-charges>.

*but its leaders must act as real statesmen*".<sup>48</sup> So far as the defence is aware, none of these indicators of future cooperation were made known to the PTJ, even when the SPO were asked by the PTJ why an arrest warrant rather than a summons was necessary.<sup>49</sup>

38. On 5 November 2020, contrary to every indication made to the PTJ by the SPO, Mr Thaçi resigned his office as President and surrendered to officers of the court. Contrary to the SPO's assertions [that the "*The Suspects are themselves capable of provoking public disorder if they see it in their interest*"],<sup>50</sup> at a press conference that day Mr Thaçi said, "*I will cooperate closely with justice and from this moment I am at the disposal of the justice organs. By believing in justice, I believe in truth, in reconciliation and in the future. I plead to you to show maturity, peace and unity. We are a democratic state and a society where there is rule of law and justice. And we must preserve our faith in dialogue and in peace.*"<sup>51</sup> He then surrendered to the KSC.

39. Such cooperation is both unique - no other Head of State has so conducted himself - and highly persuasive of future compliance.<sup>52</sup> It clearly addresses the PTJ's concerns - concerns doubtless the product of the SPO's exaggerated submissions - that knowledge of a confirmed indictment might cause Mr Thaçi to flee. In fact, arrangements had already been put in place for the attendance of Mr Thaçi and counsel in the event a witness summons had been issued. This

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<sup>48</sup> Mr Thaçi's press conference of 26 June 2020, <https://president-ksgov.net/en/news/the-presidents-address-to-the-citizens-of-the-republic-of-kosovo>; see also Guardian, *Kosovo president Hashim Thaçi vows to resign if war crimes trial goes ahead*, 1 July 2020, <https://www.theguardian.com/world/2020/jul/01/kosovo-president-hashim-thaci-vows-to-resign-if-war-crimes-trial-goes-ahead>.

<sup>49</sup> *Supra* fn. 43.

<sup>50</sup> Arrest Warrant Request, para. 36.

<sup>51</sup> *Supra* fn. 7.

<sup>52</sup> Cooperation with the prosecution, while not required, may show a general attitude of cooperation with the Tribunal relevant to the issue of whether an accused will appear for trial (*see Prosecutor v Cermak & Markac*, No. IT-03-73-AR65.1, Decision on Interlocutory Appeal Against Trial Chamber's Decision Denying Provisional Release (2 December 2004) at para. 237).



establishes beyond any doubt that Mr. Thaçi did not use his political influence to evade justice and/or impede his arrest and detention. Mr. Thaçi gave up his public office to deal with the charges in the Indictment as a private individual. Therefore, the suggestion that Mr. Thaçi's arrest and detention is warranted due to his political influence and his ability to utilize the benefits and privileges of his past political/institutional positions is unsupported by the facts.

40. The SPO's invocation of the seriousness of the charges "*which can entail a sentence of life-long imprisonment*" as giving rise to a "*strong incentive to avoid being tried*",<sup>53</sup> is misplaced. It would permit the SPO to justify detention by charging serious crimes irrespective of its ability to ultimately prove their commission. The expectation of a lengthy sentence cannot be held against an accused *in abstracto*, given that all accused before the KSC, if convicted, are likely to face lengthy sentences.<sup>54</sup> Nor can the gravity of the offences, by itself, justify long periods of detention or remand.<sup>55</sup>

41. In sum, the SPO's submissions that Mr Thaçi is a flight risk due to his "*means, motive, and opportunity to evade justice*" are belied by his conduct and repeated cooperation and should, therefore, be dismissed. The observation by the PTJ of an increased risk of flight once the existence of the confirmed indictment was conveyed to Mr Thaçi,<sup>56</sup> must be seen in light of the fact that he had notice of confirmation and of the arrest warrant a full day before his voluntary surrender.

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<sup>53</sup> Arrest Warrant Request, para. 31.

<sup>54</sup> See, *Prosecutor v Haradinaj*, IT-04-84-PT, Decision on Ramush Haradinaj's Motion for Provisional Release, 6 June 2005, para. 24

<sup>55</sup> *Prosecutor v Lazarević*, IT-03-70-PT, Decision on Defence Request for Provisional Release, 14 April 2005, at page 4; *Prosecutor v. Simatović*, IT-03-69-AR65.2, Decision on Prosecution's Appeal Against Decision on Provisional Release, 3 December 2004, para. 15. The severity of the potential sentence, though important, is not an independent ground, and cannot itself justify the refusal of bail: *Letellier v. France*, 14 E.H.R.R. 83, para. 43. See also *W. v. Switzerland*, 17 E.H.R.R. 60, para. 33; and *Mansur v. Turkey*, 20 E.H.R.R. 535, para. 55.

<sup>56</sup> KSC-BC-2020-06/F00027, Decision on Request for Arrest Warrants and Transfer Orders, para. 28

There was no flight and no obstruction. The reality is that at no time has Mr Thaçi sought to flee or to evade justice and can be released pending trial, subject to such conditions as the PTJ considers necessary and appropriate.

*(ii) Article 41(6)(b)(ii): No articulable grounds to believe that Mr Thaçi will obstruct proceedings*

42. What is striking about the SPO's submissions at paragraphs 34 to 38 of the Arrest Warrant Request, dealing with the second limb of Article 41(6)(b), is the inadequacy of the submissions and material submitted 'in support'. To a very large extent, the submissions are again based on generalisations<sup>57</sup> focused on Mr Thaçi's purported authority and influence in Kosovo, all of which are addressed above.

43. Accordingly, the defence will respond, to the extent possible, to those specific allegations raised against Mr Thaçi in paragraphs 1 to 17 of the Arrest Warrant Request.

44. However, the defence notes at the outset the extensive redactions in the Arrest Warrant Request, particularly in paragraphs 12 and 13. The defence requests the PTJ to order the provision of a less redacted version sufficient for the defence to respond effectively to the allegations made in those paragraphs.

45. In so far as the SPO does attempt to particularise its submissions by cross-referencing to its general arguments made at the outset of the Arrest Warrant

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<sup>57</sup> The SPO refers to "[t]he risk of the Suspects mobilising their supporters..." and "[t]he Suspects are themselves capable of provoking public disorder if they see it in their interest" (Arrest Warrant Request, paras. 35, 36).

Request,<sup>58</sup> these general matters do not provide a compelling basis for depriving Mr Thaçi of his liberty pending trial. In making its submissions, the defence notes the findings of the PTJ, based upon consideration of the SPO's submissions alone, that Mr Thaçi has allegedly "*undertaken efforts to interfere with SPO investigative activities through witness interference*"<sup>59</sup> and was "*allegedly involved in government pay-outs to potential SPO witnesses.*"<sup>60</sup>

### 1) Allegations concerning the role of Driton Lajçi

46. As to paragraphs 10 and 11,<sup>61</sup> there is no evidence that Driton Lajçi was appointed as Head of the 'Division'<sup>62</sup> by, or at the behest of, Mr Thaçi, who was neither consulted nor informed prior to the appointment. The appointment of Mr Lajçi was a public decision, justified on rational and legitimate grounds by [REDACTED].<sup>63</sup> The same is equally true of the alleged payment to [REDACTED]<sup>64</sup> - Mr Thaçi had no involvement in the payment which was a decision taken independently in cabinet. The SPO is aware of this alternative narrative but makes no reference to it.

47. In relation to the finding<sup>65</sup> that Mr Thaçi allegedly [REDACTED],<sup>66</sup> a careful and closer examination of the underlying evidential position is instructive. At its height, [REDACTED].

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<sup>58</sup> See Arrest Warrant Request, fns. 103-107, referring to paras. 6-9, 10-17, 18-26.

<sup>59</sup> KSC-BC-2020-06/F00027, Decision on Request for Arrest Warrants and Transfer Orders, para. 29; the Arrest Warrant Request, paras 8, 10 – 17.

<sup>60</sup> KSC-BC-2020-06/F00027, Decision on Request for Arrest Warrants and Transfer Orders, para. 29; Request, para. 10.

<sup>61</sup> Arrest Warrant Request, paras. 10 - 13

<sup>62</sup> Division for Coordinating the Process of Legal Protection and Financial Support for Potential Accused Persons in Trials before the Specialist Chambers ('Division') within the Ministry of Justice.

<sup>63</sup> [REDACTED].

<sup>64</sup> Arrest Warrant Request, para. 11.

<sup>65</sup> KSC-BC-2020-06/F00027, Decision on Request for Arrest Warrants and Transfer Orders, para. 29.

<sup>66</sup> Arrest Warrant Request, para. 12, Annex 1

48. The SPO “similarly”<sup>67</sup> mischaracterises its evidence in asserting that “Lajçi [REDACTED]. Put simply, there is no evidence that Mr Thaçi [REDACTED].

2) [REDACTED] “lawyer”- para. 14

49. In yet another misleading example of what its evidence purports to demonstrate, the SPO avers that Mr Thaçi sought to control or influence the legal representation of “other interviewees”.<sup>68</sup> In doing so, it is unfortunate that the SPO omitted the entire context of the hearsay evidence it seeks to rely upon.

50. [REDACTED].

51. There is no credible basis for suggesting that this represents an instance of Mr Thaçi seeking to avoid the involvement of [REDACTED] for “other interviewees”, and is consistent with Mr Thaçi quite reasonably not wanting representation by [REDACTED].

3) Bribe “on behalf of” – para. 15

52. The allegation of purported benefits being offered to an SPO interviewee “on behalf of” Mr Thaçi is tenuous in the extreme and derives from extensively redacted, anonymous hearsay to the effect that: “[REDACTED]” offered “[REDACTED]” unspecified benefits, for unspecified reasons, at an unspecified time and place, albeit purportedly “on behalf of the President”. Despite the extensive limitations of this evidence, and taking the SPO assertions at their highest, there is yet again no direct or substantial basis to suggest improper

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<sup>67</sup> Arrest Warrant Request, para. 12

<sup>68</sup> Arrest Warrant Request, para. 14, with reference to [REDACTED].

conduct by Mr Thaçi himself, or that Mr Thaçi directed any such improper contact. The most that can be suggested is that he asked an unnamed individual “*about his family situation*”.

53. The poverty of the SPO allegations of impropriety against Mr Thaçi is further exemplified by its speculation, based on the second-hand hearsay and supposition, concerning [REDACTED].<sup>69</sup> At its height, and even if true and accurate, the underlying evidence reveals only that Mr Thaçi wished to make contact with [REDACTED] through third parties. Yet, as [REDACTED] accepts, the alleged messengers, [REDACTED] nor did they pass any “*instruction*” [REDACTED].<sup>70</sup> This evidence, alone, cannot reasonably or sensibly be inferred to constitute improper interference with a witness in connection with the indicted allegations.

#### 4) Hiring JCE members Syleman Selimi & Rrustem Mustafa - para. 17

54. With respect to Mr Syleman Selimi’s appointment as a government adviser, the point is simple: it had nothing to do with Mr Thaçi. The SPO does not suggest otherwise. Mr Selimi was appointed by former Prime Minister, Ramush Haradinaj.<sup>71</sup> His appointment was made independently and without the knowledge of Mr Thaçi.

55. So far as Mr Mustafa is concerned, Mr Thaçi explained at length, during his SPO interview, various details regarding the appointment of Mr Mustafa<sup>72</sup> and where responsibility lay for the notification for his appointment. The alleged venality of this ‘corrupt’ appointment, as borne out by its cited supporting evidence, is said

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<sup>69</sup> Arrest Warrant Request, para. 16.

<sup>70</sup> [REDACTED].

<sup>71</sup> Arrest Warrant Request, fn. 56

<sup>72</sup> Interview of Hashim Thaçi, 16 July 2020, 076563-TR-ET Part 21, pp. 4 – 14.

to lie in the fact that the appointment remained “*unknown to the public*”, “*for the last four months*”.<sup>73</sup>

56. The allegation reveals a fundamental misunderstanding on the part of the media and unfortunately, one that was all too readily adopted by the SPO without further scrutiny. What the SPO fails to inform the PTJ is that, under Kosovan anti-corruption law,<sup>74</sup> Mr Mustafa was under a duty to inform the relevant agency of his appointment and related income within 30 days. This he did.<sup>75</sup> By contrast, the Anti-Corruption Agency makes its public notifications on specific dates within the calendar year and publication of the Mustafa appointment was in conformity with that practice<sup>76</sup>. There is no truth in it being an attempt to hide the appointment from public scrutiny. It suffices to note that the Anti-Corruption agency has not concluded that the appointment was in fact corrupt, or made for an improper or extraneous purpose.

***(iii) Article 41(6)(b)(iii): No risk of repeated criminality***

57. The SPO fails to satisfy the third limb of the Article 41(6)(b) test. The bare assertion that “[t]here is a significant risk that the suspects will again arrange for crimes of violence to be committed against those perceived to be against them”<sup>77</sup> is unsubstantiated and undermined by the fact that Mr Thaçi has not arranged for any crimes of violence to be committed in the past 22 years, let alone the crimes for which he has been indicted, namely war crimes and crimes against humanity.

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<sup>73</sup> Arrest Warrant Request, fn. 56; <https://balkaninsight.com/2019/06/06/kosovo-president-secretly-appoints-war-crimes-convict-as-adviser/>

<sup>74</sup> Available at <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2767>, article 7.

<sup>75</sup> See Mr Mustafa’ statement of assets for 2019, <https://akk-ks.org/assets/cms/uploads/files/Deklarimi%20i%20Pasurise/Deklarimet/declaration/2019/Presidencia%20e%20Republikes%20se%20Kosoves/Rrustem%20Mustafa.pdf>.

<sup>76</sup> [https://www.akk-ks.org/en/parandalimi\\_i\\_korrupsionit/163/mbikqyrja-e-pasurive/163](https://www.akk-ks.org/en/parandalimi_i_korrupsionit/163/mbikqyrja-e-pasurive/163)

<sup>77</sup> Arrest Warrant Request, para. 40.

58. Crucially, the SPO's submission also fails to engage with and properly address the strict wording of the relevant provision. As can be seen from a plain reading, Article 41(6)(b)(iii) refers in relevant part to the: "*risk that he or she will repeat the criminal offence, complete an attempted crime or commit a crime which he or she has threatened to commit.*"
59. Applying this to the present case, it is clear that, in respect of the first part of the test, the reference to repeating "*the criminal offence*" (emphasis added) is referable to the criminal offences set out in the indictment. Nowhere in the Arrest Warrant Request is any reference made to any evidence in support of the assertion that there is a risk that Mr Thaçi will perpetrate war crimes or crimes against humanity. Nor does the SPO provide any evidence that there is a risk that Mr Thaçi will complete any attempted crime. Finally, there is no evidence that Mr Thaçi will commit a crime he has threatened to commit. In these circumstances, the SPO's submissions must be rejected.
60. In having regard to the issue of interim release, the defence submits that the fact the alleged offences occurred over twenty years ago, coupled with the excessive delays in investigating the case and presenting the indictment, are factors that should be taken into account.
61. In making this request, the defence invites the PTJ to also consider the general background and history of Mr Thaçi, his good character, together with his behaviour over the past twenty years. In particular, the recognised steps that he has taken to bring his country to both peace and independence, his actions seeking peace and reconciliation with Serbia, despite great resistance within Kosovo due to the dreadful crimes committed by Serbia under Milošević, and the general respect that Mr Thaçi has earned amongst the international community,

including his nomination for the Nobel Peace Prize.<sup>78</sup> All of this renders Mr Thaçi someone whose word and undertakings can be given full weight.

### *Proposed conditions of release & other matters*

62. Article 41(12) of the KSC Law provides a range of measures *'in addition to detention on remand'* to ensure the presence of an accused during proceedings, to prevent reoffending and/or to ensure the successful conduct of the present proceedings. Mr Thaçi undertakes to adhere to any such measures, either singularly or in combination, including being placed under house arrest,<sup>79</sup> surrender of international travel documents, and prohibition on approaching certain places or persons and attendance by VTC etc. In this respect the KSC has a proven, effective police authority in Kosovo.

63. While the defence submits that the measures set out in Article 41(12) are sufficient, should the Panel wish to impose even further measures or seek further undertakings, then Mr Thaçi is willing to comply. Such measures could include, for example, a prohibition on the use of media or political activity and even extend to a condition that Mr Thaçi reside outside Kosovo, again subject to such conditions as the PTJ deems appropriate. Should such a condition be imposed then the defence is confident that it will be able to provide both a third party State, not neighbouring Kosovo and satisfactory to the PTJ, together with the consent of that third party state to permit such residency and give effect to any instruction of the court.

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<sup>78</sup> Co-chairs of Albania and Serbia caucuses nominate EU, Serbia, and Kosovo leaders for Nobel Peace Prize, 27 December 2013, <https://engel.house.gov/archived-news/cochairs-of-albania-and-serbia-caucuses-nominate-eu-serbia-and-kosovo-leaders-for-nobel-peace-prize/>.

<sup>79</sup> E.g., at his home referred to in fn. 41.



64. A further relevant consideration in determining this application is the particular difficulty, both for those detained in The Hague, and for those required to take instructions and prepare the case, of the effect of COVID-19 and the restrictions imposed. Family and social visits are restricted, and video-link consultations are a third-rate alternative to face to face consultations. Because of the timing of the epidemic, the SPO did not labour under such difficulties in preparing its case. These are further factors which support the release of Mr Thaçi pending trial.

(b) Request for disclosure of all material on which the SPO intend to rely

65. The present submissions are based on the material disclosed as of 20 November 2020. The defence makes two disclosure requests.

66. *First*, the defence reiterates its request<sup>80</sup> for a less redacted version of the Arrest Warrant Request and any related material. The defence submits that, even on a cursory review of the Request, such a lesser redacted version can be provided given the nature of some of the redactions applied therein. For example, the present version has, on the face of it, redactions that appear arbitrary and without any proper basis, such as those in the following excerpt:

“2. Having regard to Articles [REDACTED] of the Law and Rules [REDACTED] of the Rules, the SPO requests the Pre-Trial Judge to: (a) issue arrest warrants against the Suspects and corresponding orders to transfer them to the KSC detention facility in the Host State (‘Detention Centre’);”

67. It is difficult to accept the SPO’s submission that redactions of the KSC Law or the RPE are justified “*to protect individual information or other confidential information*”.<sup>81</sup>

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<sup>80</sup> KSC-BC-2020-06, Transcript, 18 November 2020, p. 158.

<sup>81</sup> KSC-BC-2020-06, Transcript, 18 November 2020, p. 170, l. 3-8.

68. In addition, a reasonable balance requires to be struck between the protection of certain individuals and the fair trial rights of an accused. While the defence appreciates that in certain circumstances the SPO may believe that redactions are required at this stage in proceedings, the defence must still be provided with sufficient detail of the evidence it requires to meet for it to be able to respond fairly and effectively, in accordance with an accused's right to a fair trial and in line with the principles of equality of arms and open justice. This is particularly so when the matter at issue is the liberty of the accused. On this basis, a less redacted version of the Arrest Warrant Request and any related material should be provided to the defence as soon as possible.

69. *Second*, should the SPO seek to rely on additional material not yet disclosed to the defence to support its arguments, the defence requests that the PTJ order the SPO to provide such material in a timely manner.

(c) Request for an oral hearing

70. As submitted at both the initial appearance and subsequent status conference, the defence requests an oral hearing on this important matter in addition to written submissions.<sup>82</sup> An oral hearing will permit all parties to canvas any remaining outstanding issues, directly respond to questions from the PTJ, and will assist in the determination of this application in a fully informed manner. The defence submits that an oral hearing could, with shortened response times, take place on or about 18 December 2020, at which counsel and Mr Thaçi would attend in person. The defence submits that individual hearings should held for each

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<sup>82</sup> See, *inter alia*, KSC-BC-2020-06/F00085, Defence for Hashim Thaçi's Submissions for first Status Conference, 17 November 2020, paras 24-26; KSC-BC-2020-06, Draft Transcript, 18 November 2020, p. 159, l. 2-14.

accused. This will emphasise and demonstrate the individual, subjective nature of each application.

## V. CONCLUSION

71. For the forgoing reasons, the defence requests the PTJ to:

**ORDER** the SPO to disclose any outstanding material on which it intends to rely in support its arguments in favour of Mr Thaçi's continued detention in sufficient time for the defence to be able to respond in an informed manner;

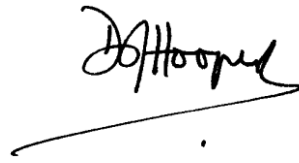
**ORDER** the SPO to provide a less redacted version of the Arrest Warrant Request;

**ORDER** that an oral hearing be held on this application for interim release in addition to written submissions; and

**GRANT** Mr Thaçi's request for interim release upon such conditions as the PTJ considers necessary and appropriate.

[Word count: 8064]

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D Hooper', with a long horizontal flourish extending to the left.

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**David Hooper**

**Specialist Counsel for Hashim Thaçi**

Wednesday 4<sup>th</sup> December 2020

London.