



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**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:** 18 December 2020

**Language:** English

**Classification:** **Public**

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**Decision on Defence Requests to Vary Time Limits**

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**Specialist Prosecutor**  
Jack Smith

**Counsel for Hashim Thaçi**  
David Hooper

**Counsel for Kadri Veseli**  
Ben Emmerson

**Counsel for Rexhep Selimi**  
David Young

**Counsel for Jakup Krasniqi**  
Venkateswari Alagenda

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 41(10) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9(7), 57(2) and 97(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 9, 10 and 11 November 2020, further to the confirmation of an indictment<sup>2</sup> against Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi ("Mr Thaçi", "Mr Veseli", "Mr Selimi", and "Mr Krasniqi", respectively, and collectively referred to as the "Accused"), the initial appearances of Mr Thaçi, Mr Veseli, Mr Selimi, and Mr Krasniqi were held.<sup>3</sup>

2. On 4 December 2020, the Defence for Mr Thaçi filed a request for interim release including a request for an oral hearing on this matter ("Mr Thaçi Release Request").<sup>4</sup>

3. On 7 December 2020, the Defence for Mr Krasniqi and the Defence for Mr Selimi filed respective requests for interim release, including requests for oral hearings on this matter ("Mr Krasniqi Release Request" and "Mr Selimi Release Request").<sup>5</sup>

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<sup>1</sup> KSC-BC-2020-06, F00001, President, *Decision Assigning a Pre-Trial Judge*, 21 April 2020, public.

<sup>2</sup> KSC-BC-2020-06, F00026/RED, Pre-Trial Judge, Public Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi, 26 October 2020, public. *See also* KSC-BC-2020-06, F00045/A03, Specialist Prosecutor, *Further Redacted Indictment*, 4 November 2020, public.

<sup>3</sup> KSC-BC-2020-06, Transcript of Hearing (Mr Krasniqi), 9 November 2020, public; Transcript of Hearing (Mr Thaçi), 9 November 2020, public; Transcript of Hearing (Mr Veseli), 10 November 2020, public; Transcript of Hearing (Mr Selimi), 11 November 2020, public.

<sup>4</sup> KSC-BC-2020-06, F00120/RED, Defence for Mr Thaçi, *Application for Interim Release on Behalf of Mr Hashim Thaçi*, 4 December 2020, public

<sup>5</sup> KSC-BC-2020-06, F00122, Defence for Mr Krasniqi, *Application for Interim Release*, 7 December 2020, confidential, with Annexes 1-2, confidential, and Annex 3, public; F00124/RED, Defence for Mr Selimi, *Defence Application for Interim Release*, 7 December 2020, public, with Annexes 1-3, public.

4. On 14 December 2020, the Defence of the Accused filed a joint request for variation of the time limit for submission of preliminary motions under Rule 97(1) of the Rules.<sup>6</sup>

5. On 10 December 2020, the Pre-Trial Judge *inter alia* deferred determinations on requests for protective measures for certain SPO witnesses, ordered the SPO to make further submissions thereon by 15 January 2021, to which the Defence may respond within 10 days, and varied the 30-day deadline under Rule 102(1)(a) of the Rules for disclosure of any material related to these witnesses (“First Decision on Protective Measures”).<sup>7</sup>

6. On 16 December 2020, the SPO responded in writing to the Mr Thaçi Release Request.<sup>8</sup>

7. Also on 16 December 2020, the Pre-Trial Judge *inter alia*: (i) rejected Defence requests to hold oral hearings on the Accused’s continued detention or release; (ii) requested the SPO to respond to the request for interim release filed by the Defence for Mr Veseli by 4 January 2021, and the latter to file its reply by 11 January 2021; and (iii) granted a joint Defence request to vary the time limit for filing preliminary motions, requesting that any such motions be filed by 10 February 2021.<sup>9</sup>

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<sup>6</sup> KSC-BC-2020-06, F00137, Defence for Mr Thaçi, Mr Veseli, Mr Selimi, and Mr Krasniqi, *Joint Defence Request for Variation of the Time Limit for Preliminary Motions Submissions*, 14 December 2020, public.

<sup>7</sup> KSC-BC-2020-06, F00133/COR/CONF/RED, *Confidential Redacted Version of Corrected Version of First Decision on Specialist Prosecutor’s Request for Protective Measures*, 10 December 2020, confidential, paras 28, 48, 74, 109, 132(c), (f), (j), (n)-(o) (the decision was notified to the Defence on 14 December 2020). The limited disclosure of the information set forth in this paragraph stems from the confidential First Decision on Protective Measures and does not otherwise affect the classification of said decision.

<sup>8</sup> KSC-BC-2020-06, F00149, Specialist Prosecutor, *Prosecution response to Application for Interim Release on behalf of Mr Hashim Thaçi*, 16 December 2020, confidential, with Annex 1, public, and Annex 2, confidential.

<sup>9</sup> KSC-BC-2020-06, F00150, Pre-Trial Judge, *Decision on the Conduct of Detention Review and Varying the Deadline for Preliminary Motions*, 16 December 2020, public, para. 30(a), (c)-(d), (f).

8. On 17 December 2020, the Defence for Mr Veseli filed a request for interim release, including a request for an oral hearing on this matter.<sup>10</sup> That same day, the SPO responded in writing to the Mr Krasniqi Release Request and the Mr Selimi Release Request.<sup>11</sup>

9. Also on 17 December 2020, the second status conference took place, during which the Defence for Mr Thaçi, Mr Selimi and Mr Krasniqi made requests concerning the time limits for filing preliminary motions and the replies concerning their respective requests for provisional release.<sup>12</sup>

## II. APPLICABLE LAW

10. Pursuant to Article 41(10) of the Law, until a judgment is final or until release, upon the expiry of two months from the last ruling on detention, the Pre-Trial Judge seized with the case shall examine whether reasons for detention still exist and render a ruling by which detention is extended or terminated.

11. Pursuant to Rule 57(2) of the Rules, after the assignment of a Pre-Trial Judge and until a judgment is final, the Panel seized with a case shall review a decision on detention upon the expiry of two 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.

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<sup>10</sup> KSC-BC-2020-06, F00151, Defence for Mr Veseli, *Application for Interim Release of Kadri Veseli*, 17 December 2020, confidential, with Annexes 1-7, confidential.

<sup>11</sup> KSC-BC-2020-06, F00153, Specialist Prosecutor, *Prosecution Response to Application for Interim Release on behalf of Mr Jakup Krasniqi*, 17 December 2020, confidential, with Annex 1, confidential; F00154, Specialist Prosecutor, *Prosecution response to Application for Interim Release on behalf of Mr Rexhep Selimi*, 17 December 2020, confidential, with Annex 1, confidential.

<sup>12</sup> KSC-BC-2020-06, Draft Transcript of Hearing, 17 December 2020 (“Draft Transcript of 17 December 2020”), public, p. 221, line 2 to p. 227, line 14.

12. Pursuant to Rule 97(2) of the Rules, the Accused may lodge preliminary motions in writing within thirty days from the disclosure of all material and statements referred to in Rule 102(1)(a) of the Rules.

13. Pursuant to Rule 76 of the Rules, unless otherwise provided in the Rules, any response to a motion shall be filed within 10 days of the motion and any reply to a response shall be filed within five days of the response. Moreover, the Panel shall only consider a reply or parts thereof addressing new issues arising from the response.

14. Pursuant to Rule 9(5) of the Rules, the Pre-Trial Judge may, *proprio motu* or upon a showing of good cause, extend or reduce any time limit prescribed by the Rules or set by the Pre-Trial Judge.

### III. SUBMISSIONS

15. The Defence for Mr Thaçi seeks a finding that Rule 97(2) of the Rules should be interpreted to give a time limit for filing preliminary motions of 30 days from the disclosure of the material on which a decision has been deferred by the Pre-Trial Judge in the First Protective Measures Decision, namely 30 days from 15 January 2021.<sup>13</sup>

16. The Defence for Mr Thaçi also requests a variation of the time limit for filing a reply in relation to its interim release motion to 7 January 2020, given: (i) the quantity of SPO submissions and supporting material filed in response, including new matters requiring investigation; (ii) the Pre-Trial Judge's decision not to hold an oral hearing on interim release, and its wish to instead raise in the reply additional matters in support of its arguments for interim release; (iii) the volume of concurrent Defence work and the effects of the COVID-19 pandemic thereon; and (iv) the time limit of 11 January 2021 for the analogous reply from the Defence for Mr Veseli.<sup>14</sup> The Defence

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<sup>13</sup> Draft Transcript of 17 December 2020, p. 221, line 2 to p. 222, line 13.

<sup>14</sup> Draft Transcript of 17 December 2020, p. 222, line 14 to p. 225, line 15, p. 229, lines 2-4.

for Mr Thaçi waive the timeline of having the Accused's detention reviewed within two months of the previous decision thereon.<sup>15</sup>

17. The Defence for Mr Selimi and Mr Krasniqi request a similar extension of the time limit to reply in relation to their respective interim release requests, including waivers of the two-monthly review timeline.<sup>16</sup>

18. The SPO opposes both the request concerning preliminary motions and those concerning interim release, arguing respectively that: (i) the material on which a ruling has been deferred would likely not impact preliminary motions, given the latter's subject matter; and (ii) the Defence should have briefed the Pre-Trial Judge fully in their interim release requests, in particular given the limited scope of replies.<sup>17</sup>

#### IV. DISCUSSION

19. The Pre-Trial Judge agrees with the SPO that, according to Rule 76 of the Rules, a reply must be confined to new issues arising from a response to a motion, and therefore cannot be used as an additional opportunity to merely elaborate on the arguments presented in the motion itself.

20. Nevertheless, the Pre-Trial Judge notes that, in the absence of the requested variation of time limits for the submission of replies on interim release, these time limits would elapse within the upcoming judicial recess. Mindful of the Defence for Mr Thaçi, Mr Selimi and Mr Krasniqi waiving the two-monthly detention review timeline in this instance, and their preference for additional time to file thorough replies on this issue, the Pre-Trial Judge therefore grants their requests to vary the time limits for their respective replies to Thursday, 7 January 2021.

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<sup>15</sup> Draft Transcript of 17 December 2020, p. 225, line 16 to p. 226, line 12.

<sup>16</sup> Draft Transcript of 17 December 2020, p. 226, line 17 to p. 227, line 14.

<sup>17</sup> Draft Transcript of 17 December 2020, p. 228, lines 7-23.

21. The Pre-Trial Judge turns next to the request by the Defence for Mr Thaçi for a ruling on the time limit for filing preliminary motions in this case, in light of the Pre-Trial Judge's deferral of certain SPO requests relevant to disclosure under Rule 102(1)(a) of the Rules. Although the Defence for Mr Thaçi stated that the deferred material would be disclosed to the Defence on 15 January 2021, the First Decision on Protective Measures designated that date as the time limit for the SPO to file further submissions in relation to the deferred matters, following which the Defence was invited to file any response within 10 days, consequently triggering other events, including the Pre-Trial Judge's ruling on these deferred matters and, as the case may be, further SPO disclosures in accordance with the Pre-Trial Judge's ruling. As a result, the potential variation of time may involve more than five days.<sup>18</sup>

22. At this moment, there is no additional material for the SPO to disclose to the Defence under Rule 102(1)(a). The need for such further disclosure may arise from the Pre-Trial Judge's upcoming decision on the matters deferred in the First Protective measures Decision. Given the timeline set out above, such a determination will be made in advance of the current deadline of 10 February 2021 for filing preliminary motions. Consequently, if the need for further Rule 102(1)(a) disclosure does arise from the upcoming decision, the time limit for filing preliminary motions can be adjusted accordingly at that time.

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<sup>18</sup> Draft Transcript of 17 December 2020, p. 222, lines 12-13.

V. DISPOSITION

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

- a. **GRANTS** the requests by the Defence for Mr Thaçi, Mr Selimi and Mr Krasniqi on the time limits for their respective replies regarding interim release, and **VARIES** the time limit therefor to **Thursday, 7 January 2021**.



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**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Friday, 18 December 2020  
At The Hague, the Netherlands.