

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 January 2021
Language: English
Classification: Confidential

Thaçi Defence Application for an Extension of the Word Limit

Specialist Prosecutor

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Venkateswari Alagenda

I. INTRODUCTION

1. Pursuant to Article 36(1) of the Practice Direction,¹ the defence for Mr Hashim Thaçi (“the defence”) requests an extension of the word limit in order to authorise the filing of a reply of 6000 words to the ‘Prosecution response to Application for Interim Release on behalf of Mr Hashim Thaçi’ (“Prosecution response”).² The defence submits that the exceptional circumstances justifying such an extension are constituted by the importance of the subject matter of the reply, namely the liberty of the accused, the novelty of the prosecution allegations against Mr Thaçi and the volume of the material annexed to the Prosecution response, which requires to be addressed therein.

2. The present application is filed as confidential because it refers to confidential filings. The defence has no objection to its reclassification as public.

II. BACKGROUND

3. On 28 May 2020, the SPO filed a Request for arrest warrants and related orders.³

4. On 26 October 2020, the PTJ confirmed the Indictment against Mr Thaçi,⁴ issued an arrest warrant⁵ and ordered Mr Thaçi’s transfer to the KSC’s detention facilities in The Hague.⁶

¹ Registry Practice Direction, Files and Filings before the Kosovo Specialist Chambers, KSC-BD-15, 17 May 2019 (“Practice Direction”).

² KSC-BC-2020-06/F00149.

³ KSC-BC-2020-06/F00005/RED.

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

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

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

5. On 5 November 2020, Mr Thaçi resigned from the position of President of the Republic of Kosovo,⁷ and voluntarily surrendered to KSC officials in Kosovo and was thereafter transferred to the KSC's detention facilities in The Hague.⁸

6. 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.⁹

7. At the 18 November 2020 status conference, the defence reiterated Mr Thaçi's intention to apply for interim release¹⁰ 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.¹¹ The PTJ invited the defence to file a formal application.¹²

8. On 20 November 2020, the defence was disclosed the prosecution material¹³ in support of its Request for arrest warrants of 28 May 2020.

⁷ 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>.

⁸ 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 KSC-BC-2020-06, Transcript, 9 November 2020.

¹⁰ 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.

¹¹ 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").

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

¹³ Disclosure package 7, 20 November 2020.

9. On 4 December 2020, the defence filed an Application for Interim Release on behalf of Mr Hashim Thaçi.¹⁴

10. On 16 December 2020, the SPO submitted its response to this application.¹⁵ On the same day, the PTJ rejected the defence's request for an oral hearing on the continued detention or release of the Accused.¹⁶

11. On 18 December 2020, pursuant to its Decision on Defence Requests to Vary Time Limits,¹⁷ the PTJ authorised the defence to submit a reply until the 7th of January 2021.

III. SUBMISSIONS

12. Pursuant to Article 41 of the Practice Direction, any reply shall not exceed 2,000 words.

13. Pursuant to Article 36 of the Practice Direction, participants to proceedings may seek, sufficiently in advance, an extension of the word limit upon showing that good cause exists constituting exceptional circumstances.¹⁸

14. The defence stresses that the Prosecution response raises at least seven novel allegations against Mr Thaçi in an effort to support their request for his continued detention.¹⁹ Despite the defence's repeated requests for the Prosecution to disclose any

¹⁴ KSC-BC-2020-06/F00120.

¹⁵ KSC-BC-2020-06/F00149, Prosecution response to Application for Interim Release on behalf of Mr Hashim Thaçi.

¹⁶ KSC-BC-2020-06/F00150, Decision on the Conduct of Detention Review and Varying the Deadline for Preliminary Motions.

¹⁷ KSC-BC-2020-06/F00155.

¹⁸ KSC-BC-2020-06/F00119, Decision on Thaçi Defence Request for Extension of the Word Limit, 4 December 2020, para. 3.

¹⁹ 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.

further matters it sought to rely upon in manner that would permit the defence to address them in its application, the SPO submitted the further allegations in its response. The SPO has annexed to its response 200 pages of material that must be addressed by the defence.

15. In these circumstances, and given the issue at stake, the defence needs to present a properly reasoned reply that addresses the new issues, both legally and factually, and cannot in fairness do that within the confines of a two thousand word limit. The defence submits that good cause exists, constituting exceptional circumstances, to justify an increase of the word limit, especially since, as noted by the PTJ in his earlier Decision, it relates to the first application for interim release submitted by Mr Thaçi.²⁰ Given the extent and range of the new issues, and the material to which the Defence must respond, the defence requests an extension of 4000 words, being 6000 in all.

IV. CONCLUSION

16. For the forgoing reasons, the defence requests the Pre-Trial Judge to:

AUTHORISE the above requested extension of the word limit in respect of the reply to be filed by the defence.

[Word count: 1084]

²⁰ KSC-BC-2020-06/F00119, Decision on Thaçi Defence Request for Extension of the Word Limit, 4 December 2020, para. 6.

Respectfully submitted,

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

David Hooper

Specialist Counsel for Hashim Thaçi

4 January 2021

At London, United Kingdom