



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA 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:** 23 July 2021

**Language:** English

**Classification:** Public

---

**Public Redacted Version of Decision on Review of Detention of Hashim Thaçi**

---

**Specialist Prosecutor**

Jack Smith

**Counsel for Hashim Thaçi**

Gregory Kehoe

**Counsel for Victims**

Simon Laws

**Counsel for Kadri Veseli**

Ben Emmerson

**Counsel for Rexhep Selimi**

David Young

**Counsel for Jakup Krasniqi**

Venkateswari Alagendra

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 41(6), (10) and (12) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 5 November 2020, further to the confirmation of an indictment ("Confirmation Decision"),<sup>2</sup> Hashim Thaçi ("Mr Thaçi") was arrested pursuant to a decision and an arrest warrant issued by the Pre-Trial Judge.<sup>3</sup>

2. On 22 January 2021, the Pre-Trial Judge rejected Mr Thaçi's application for interim release ("First Detention Decision").<sup>4</sup>

3. On 24 February 2021, further to a joint request by the Accused in the present case, who also waived the right to have their detention reviewed before the expiry of the two-month time limit set out in Article 41(10) of the Law and Rule 57(2) of the Rules, the Pre-Trial Judge varied the time limit for Mr Thaçi to make submissions on his continued detention until ten days after notification of the decision of the Panel of the Court of Appeals on his appeal against the First Detention Decision.<sup>5</sup>

---

<sup>1</sup> KSC-BC-2020-06, F00001, President, *Decision Assigning a Pre-Trial Judge*, 23 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; F00045/A03, Specialist Prosecutor, *Further Redacted Indictment*, 4 November 2020, public.

<sup>3</sup> KSC-BC-2020-06, F00051, Registrar, *Notification of Arrest of Hashim Thaçi Pursuant to Rule 55(4)*, 5 November 2020, public; F00027/RED, Pre-Trial Judge, *Public Redacted Version of Decision on Request for Arrest Warrants and Transfer Orders*, 26 October 2020, public; F00027/A01/RED, Pre-Trial Judge, *Public Redacted Version of Arrest Warrant for Hashim Thaçi*, 26 October 2020, public.

<sup>4</sup> KSC-BC-2020-06, F00177, Pre-Trial Judge, *Decision on Hashim Thaçi's Application for Interim Release*, 22 January 2021, confidential. A public redacted version was filed on the same day, F00177/RED.

<sup>5</sup> KSC-BC-2020-06, F00206, Pre-Trial Judge, *Decision on Joint Defence Request for Extension of Time Limit*, 24 February 2021, public, paras 3, 5-6.

4. On 30 April 2021, the Court of Appeals Panel denied Mr Thaçi's appeal against the First Detention Decision ("Court of Appeals Decision").<sup>6</sup>
5. On 12 May 2021, further to a request by Mr Thaçi, who further waived the right to have his detention reviewed before the expiry of the two-month time limit, the Pre-Trial Judge further varied the time limit for Mr Thaçi to make submissions on his continued detention until 31 May 2021.<sup>7</sup>
6. On 28 May 2021, pursuant to an additional request by Mr Thaçi, who waived the right to have his detention reviewed before the expiry of the two-month time limit, the Pre-Trial Judge further varied the time limit for Mr Thaçi to make submissions on his continued detention until 30 June 2021.<sup>8</sup>
7. On 30 June 2021, Mr Thaçi filed submissions on his continued detention ("Request").<sup>9</sup> The Specialist Prosecutor's Office ("SPO") responded on 12 July 2021 ("Response").<sup>10</sup> Mr Thaçi replied on 19 July 2021 ("Reply").<sup>11</sup>

---

<sup>6</sup> KSC-BC-2020-06, IA004/F00005, Court of Appeals Panel, *Decision on Hashim Thaçi's Appeal Against Decision on Interim Release*, 30 April 2021, confidential. A public redacted version was filed on the same day, IA004/F00005/RED.

<sup>7</sup> KSC-BC-2020-06, F00292, Pre-Trial Judge, *Decision on Thaçi Request for Extension of Time Limit*, 12 May 2021, public.

<sup>8</sup> KSC-BC-2020-06, F00327, *Decision on Thaçi Additional Request for Extension of Time Limit*, 28 May 2021, public.

<sup>9</sup> KSC-BC-2020-06, F00377, Defence for Mr Thaçi, *Thaçi Defence Submissions on Detention Review*, 30 June 2021, confidential, with Annexes A-B, confidential. A public redacted version was filed on 21 July 2021, F00377/RED.

<sup>10</sup> KSC-BC-2020-06, F00394, Specialist Prosecutor, *Prosecution Response to Thaçi Defence Submissions on Detention Review*, 12 July 2021, confidential. A public redacted version was filed on the same day, F00394/RED.

<sup>11</sup> KSC-BC-2020-06, F00404, Defence for Mr Thaçi, *Thaçi Defence Reply to Prosecution Response to Thaçi Defence Submissions on Detention Review*, 19 July 2021, confidential. A public redacted version was filed on 21 July 2021, F00404/RED.

## II. SUBMISSIONS

8. Mr Thaçi submits that his detention is no longer justified due to significant changes in circumstances, which plead in favour of his interim release.<sup>12</sup> In this respect, Mr Thaçi requests the Pre-Trial Judge to order his release into [REDACTED], which have given their consent to his interim release into their respective territories, subject to the conditions considered appropriate.<sup>13</sup>

9. The SPO responds that the continued detention of Mr Thaçi remains necessary as there has been no relevant change in circumstances detracting from the established reasons for the detention and that the risks under Article 41(6)(b) of the Law have rather increased since the First Detention Decision.<sup>14</sup>

10. In his reply, Mr Thaçi rebuts the SPO allegations, challenging their accuracy.<sup>15</sup>

## III. APPLICABLE LAW

11. Article 41(6) of the Law provides that the Specialist Chambers (“SC”) shall only order the detention of a person when there is a grounded suspicion that the person has committed a crime within the jurisdiction of the SC, and there are articulable grounds to believe that the person: (i) is a flight risk; (ii) will destroy, hide, change or forge evidence of a crime, or specific circumstances indicate that the person will obstruct the progress of criminal proceedings; or (iii) will repeat the criminal offence, complete an attempted crime, or commit a crime which he or she has threatened to commit.

12. Article 41(10) of the Law provides that, until a judgment is final or until release, upon the expiry of two (2) months from the last ruling on detention on remand, the Pre-Trial Judge or Panel seized with the case shall examine whether

---

<sup>12</sup> Request, paras 2-3.

<sup>13</sup> Request, para. 2.

<sup>14</sup> Response, para. 1.

<sup>15</sup> Reply, paras 1-20.

reasons for detention on remand still exist and render a ruling by which detention on remand is extended or terminated. This also follows from Rule 57(2) of the Rules.

13. Article 41(12) of the Law provides that, in addition to detention on remand, the following measures may be ordered to ensure the presence of the accused, to prevent reoffending or ensure successful conduct of criminal proceedings: summons, arrest, bail, house detention, promise not to leave residence, prohibition on approaching specific places or persons, attendance at police station or other venue, and diversion.

14. Pursuant to Rule 56(2) of the Rules, the Panel shall ensure that a person is not detained for an unreasonable period prior to the opening of the case and, in case of an undue delay caused by the Specialist Prosecutor, the Panel, having heard the Parties, may release the person under conditions as deemed appropriate.

#### IV. DISCUSSION

##### A. APPLICABLE STANDARD

15. The Defence submits that the Pre-Trial Judge is required to carry out a review of the necessity of detention every two months, independently from any “change in circumstances”, as the latter requirement only applies to any additional detention review requested by an Accused, the SPO or initiated *proprio motu*.<sup>16</sup>

16. The SPO responds that a review of the necessity of the detention inevitably requires the Pre-Trial Judge to assess what has changed since the previous ruling on detention.<sup>17</sup> It further argues that the Pre-Trial Judge is not required to make findings on factors already decided in the initial ruling on detention.<sup>18</sup>

---

<sup>16</sup> Request, para. 7.

<sup>17</sup> Response, para. 3.

<sup>18</sup> Response, para. 3.

17. The Pre-Trial Judge recalls that he has an obligation, under Article 41(10) of the Law, to examine whether the reasons for detention on remand still exist, including the grounds set out in Article 41(6) of the Law, namely whether (i) there is a grounded suspicion that the person has committed the crime(s), and (ii) there are articulable grounds to believe that any of the risks set out in Article 41(6)(b) of the Law has been fulfilled.<sup>19</sup> The Pre-Trial Judge 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 Pre-Trial Judge is satisfied that, at the time of the review decision, grounds for continued detention still exist.<sup>20</sup> The SPO bears the burden of establishing that the detention of the Accused is necessary.<sup>21</sup>

#### B. GROUNDED SUSPICION

18. As regards the threshold for continued detention, Article 41(6)(a) of the Law requires at the outset a grounded suspicion that the detained person has committed a crime within the jurisdiction of the SC. This is a *conditio sine qua non* for the validity of the detained person's continued detention.<sup>22</sup>

19. Neither Mr Thaçi nor the SPO make submissions as to the existence of a grounded suspicion under Article 41(6)(a) of the Law.

20. The Pre-Trial Judge recalls that, in the Confirmation Decision, it was determined that, pursuant to Article 39(2) of the Law, there is a well-grounded suspicion that Mr Thaçi is criminally liable for a number of crimes against

---

<sup>19</sup> See for example, KSC-BC-2020-07, F00143, Pre-Trial Judge, *Decision on Review of Detention of Hysni Gucati*, 24 February 2021, public, para. 17.

<sup>20</sup> KSC-BC-2020-07, IA002/F00005, Court of Appeals Panel, *Decision on Nasim Haradinaj's Appeal Against Decision Reviewing Detention*, 9 February 2021, para. 55.

<sup>21</sup> First Detention Decision, para. 19, with further references; similarly, ECtHR, *Merabishvili v. Georgia* [GC], no. 72508/13, [Judgment](#) ("*Merabishvili v. Georgia* [GC]"), 28 November 2017, para. 234.

<sup>22</sup> [Merabishvili v. Georgia](#) [GC], para. 222, with further references.

humanity and war crimes under Articles 13, 14(1)(c) and 16(1)(a) of the Law.<sup>23</sup> These findings were made on the basis of a standard exceeding the grounded suspicion threshold required for the purposes of Article 41(6)(a) of the Law.<sup>24</sup> There have been no developments in the case negating these findings.

21. The Pre-Trial Judge, accordingly, finds that there continues to be a grounded suspicion that Mr Thaçi has committed crimes within the subject-matter jurisdiction of the SC for the purposes of Article 41(6)(a) and (10) of the Law.

### C. NECESSITY OF DETENTION

22. Once the threshold in Article 41(6)(a) of the Law is met, the grounds that would justify the deprivation of a person's liberty must be articulable in the sense that they must be specified in detail.<sup>25</sup> The Pre-Trial Judge further recalls that, on the basis of the available evidence, the specific articulable grounds must support the "belief"<sup>26</sup> that any of the risks under the three limbs of Article 41(6)(b) of the Law exists, denoting an acceptance of the possibility, not the inevitability, of a future occurrence.<sup>27</sup> In other words, the standard to be applied is less than certainty, but more than a mere possibility of a risk materialising.<sup>28</sup>

23. Lastly, when deciding on whether a person should be released or detained, the Pre-Trial Judge must consider alternative measures to prevent the risks in Article 41(6)(b) of the Law.<sup>29</sup>

---

<sup>23</sup> Confirmation Decision, para. 521(a).

<sup>24</sup> See for example KSC-BC-2020-04, F00007/RED, Pre-Trial Judge, *Public Redacted Version of the Decision on the Confirmation of the Indictment Against Pjetër Shala*, 12 June 2020, public, para. 35.

<sup>25</sup> First Detention Decision, para. 20; Court of Appeals Decision, paras 23-24.

<sup>26</sup> See *chapeau* of Article 41(6)(b) of the Law.

<sup>27</sup> First Detention Decision, para. 20, with further references; see also KSC-BC-2020-05, F00127, Trial Panel I, *Fourth Decision on Review of Detention*, 25 May 2021, public, para. 17, with further references.

<sup>28</sup> Court of Appeals Decision, para. 22.

<sup>29</sup> As regards the obligation to consider "alternative measures", 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*

## 1. Risk of Flight

24. Mr Thaçi submits that recent political developments in Kosovo clearly demonstrate that he no longer enjoys the influence, popularity or support on which the Pre-Trial Judge relied upon in the First Detention Decision to find that he was a flight risk.<sup>30</sup> In particular, Mr Thaçi submits that, following his resignation as the country's President in November 2020, the following intervening events radically shifted the political landscape: (i) Mr Thaçi's political opponents gained 50.28% of the vote, and 58 parliamentary seats, in the February 2021 parliamentary elections;<sup>31</sup> (ii) conversely, Mr Thaçi's former political party (the Democratic Party of Kosovo - "PDK") only received 17% of the popular vote and 19 parliamentary seats, reducing itself to a party of marginal relevance;<sup>32</sup> and (iii) the new Government, led by a longstanding opponent of Mr Thaçi, proceeded to "purge" several officials who had been appointed by Mr Thaçi.<sup>33</sup> Mr Thaçi further avers that, against this backdrop, and in the absence of any contemporaneous evidence, it would be unreasonable to keep relying on his purported "influence and authority" over vast networks of supporters which would be ready to help him abscond, as this would mean ascribing undue weight to an outdated cult of personality.<sup>34</sup> Lastly, Mr Thaçi argues that to find that the ongoing piecemeal disclosure increases his incentive to flee would amount to an unlawful violation of his presumption of innocence.<sup>35</sup>

---

to Article 19(5) of the Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (26 April 2017 SCCC Judgment), 26 April 2017, public, para. 114. See also ECtHR, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, [Judgment](#), 5 July 2016, para. 87 *in fine*; ECtHR, *Idalov v. Russia* [GC], no. 5826/03, [Judgment](#), 22 May 2012, para. 140 *in fine*.

<sup>30</sup> Request, paras 17-21.

<sup>31</sup> Request, para. 18.

<sup>32</sup> Request, para. 18.

<sup>33</sup> Request, para. 20.

<sup>34</sup> Request, para. 21.

<sup>35</sup> Request, para. 28.



25. The SPO responds that the large amount of information disclosed to Mr Thaçi since the First Detention Decision increases the risk of flight, insofar as Mr Thaçi's account of the extent of the case against him has grown.<sup>36</sup> The SPO further refers to Mr Thaçi's position of influence and authority over former subordinates and supporters, and asserts that this potential network remains as active as ever.<sup>37</sup> In this regard, the SPO refers to the set-up of a Kosovo Liberation Army ("KLA") support campaign shortly after Mr Thaçi's arrest and some recent statements of the acting chairman of the KLA War Veterans Association ("KLA WVA").<sup>38</sup> Regarding Mr Thaçi's reliance on recent electoral results and political developments in Kosovo, the SPO responds that Mr Thaçi's position of influence transcends any recent political developments as it is primarily based on his past prominent positions. In the SPO's view, current political results do not affect the contacts and networks established while holding those positions.<sup>39</sup> Lastly, the SPO rebuts Mr Thaçi's allegations on the existence of a systematic and politically motivated "purge" of officials appointed by him, pointing out to a specific incident in which one of these officials was dismissed because of his attempt to break into the Presidential safe.<sup>40</sup>

26. Mr Thaçi replies that the SPO failed to explain why his purported supporters, despite being as active as ever, did not support PDK at recent parliamentary elections.<sup>41</sup> Mr Thaçi challenges the SPO's reliance on the KLA support campaign, arguing that this was a failure and was criticised as divisive even within the KLA WVA.<sup>42</sup> Mr Thaçi further argues that the SPO's allegations on the operativity of Mr Thaçi's purported support network are unsubstantiated and that the

---

<sup>36</sup> Response, para. 5.

<sup>37</sup> Response, para. 6.

<sup>38</sup> Response, paras 6-7.

<sup>39</sup> Response, para. 10.

<sup>40</sup> Response, para. 11.

<sup>41</sup> Reply, para. 4.

<sup>42</sup> Reply, para. 5.

statements of the acting chairman of the KLA WVA could not be relied on for prolonging his pre-trial detention.<sup>43</sup> With regard to the Presidential safe incident, Mr Thaçi submits that the SPO determined in the case at stake that no criminal wrongdoing had been committed, thus confirming the political nature of the dismissal and undermining the SPO's arguments on the existence of a purported vast network of supporters.<sup>44</sup> Lastly, Mr Thaçi reiterates that his presumption of innocence would be violated should the Pre-Trial Judge find that ongoing disclosure increases his risk of flight.<sup>45</sup>

27. The Pre-Trial Judge recalls at the outset that he previously found that there is a risk that Mr Thaçi will abscond based on his position of influence, which might lead his supporters/former subordinates to give him access to resources and/or help him abscond, and his ability to travel to several countries beyond the reach of the SC.<sup>46</sup>

28. With particular regard to Mr Thaçi's influence and authority, the Pre-Trial Judge found that they stemmed from the following past and recent influential positions: (i) founding member of the KLA, (ii) member of the KLA General Staff, (iii) KLA Commander-in-Chief, and more recently (iv) Prime Minister and (v) President of Kosovo.<sup>47</sup> This finding was upheld by the Court of Appeal, which dismissed as unpersuasive Mr Thaçi's allegation that, because he no longer held any official capacity, his influence was no longer relevant.<sup>48</sup>

29. Regarding the recent electoral and political developments in Kosovo, the Pre-Trial Judge notes, at the outset, that the PDK results at the recent parliamentary elections are not negligible, and do not reduce the party to a position of marginal

---

<sup>43</sup> Reply, para. 6.

<sup>44</sup> Reply, para. 7.

<sup>45</sup> Reply, paras 10-12.

<sup>46</sup> First Detention Decision, paras 31, 33.

<sup>47</sup> First Detention Decision, para. 31.

<sup>48</sup> Court of Appeals Decision, para. 50.

relevance, as suggested by Mr Thaçi.<sup>49</sup> The PDK earned 17% of the popular vote, making it the largest opposition party in the Assembly of the Republic of Kosovo. Such results indicate that, despite the resignation of Mr Thaçi as President of Kosovo, the PDK still enjoys electoral support.

30. Furthermore, The Pre-Trial Judge considers that electoral results and political developments are dependent on various factors and do not necessarily reflect the support or long-term popularity of an accused. Insofar as the positions which secured Mr Thaçi's authority and influence clearly predate the recent February 2021 parliamentary elections, the Pre-Trial Judge holds that his previous findings that Mr Thaçi holds influence in Kosovo as a former political leader and former KLA commander are not affected by recent electoral and political developments. First, supporters of Mr Thaçi do not necessarily have to be PDK voters. Second, the fact that Mr Thaçi still enjoys a degree of influence and authority within Kosovan society, including former subordinates, is shown by the establishment of a support campaign shortly after Mr Thaçi's arrest, without this finding being affected by the eventual outcome of such campaign. And third, Mr Thaçi's influence and authority stems from his past positions as a former politician and high-ranking KLA member, rather than his involvement in the contemporaneous political landscape. In this regard, recent political appointments by the new Government are not relevant for assessing whether Mr Thaçi still enjoys broad support in Kosovo. Furthermore, the Pre-Trial Judge considers that these recent political developments do not prevent Mr Thaçi's ability, due to his past positions and ensuing influence, to call upon the support of former subordinates and persons affiliated with the KLA WVA, and/or persons sympathetic to the KLA, who may be willing to give him access to resources and/or help him abscond, securing access to relevant information, and obtaining funds and means to travel.

---

<sup>49</sup> Request, para. 18.

31. The Pre-Trial Judge lastly considers that, knowing the charges against him and the possibility of a serious sentence in the event of a conviction, and receiving evidence during the ongoing disclosure process, Mr Thaçi has gained increased insight into the evidence underpinning these charges. The Pre-Trial Judge considers that this finding does not impinge in any manner whatsoever on Mr Thaçi's right to be presumed innocent. The Pre-Trial Judge recalls that there is a well-grounded suspicion, on the basis of a preliminary evaluation of the evidence presented by the SPO and progressively disclosed to Mr Thaçi, that the latter bears individual criminal responsibility, pursuant to various forms of liability, for a number of crimes against humanity and war crimes.<sup>50</sup> This finding stands and is made without prejudice to the evidentiary discussion on Mr Thaçi's guilt or innocence.<sup>51</sup> Having previously found that Mr Thaçi's knowledge of the charges against him and the possibility of a serious sentence in the event of a conviction increases his risk of flight,<sup>52</sup> the Pre-Trial Judge adds that Mr Thaçi's greater insight into the evidence underpinning these very charges on the basis of the ongoing disclosure process does not negate that finding, but rather reinforces it.

32. Therefore, notwithstanding the counter-balancing factors identified in the First Detention Decision,<sup>53</sup> the Pre-Trial Judge finds that a risk of flight in relation to Mr Thaçi continues to exist.

---

<sup>50</sup> See para. 20 above.

<sup>51</sup> The Pre-Trial Judge recalls that any analysis of pre-trial detention is taken in the context of the detained person's presumption of innocence. See 26 April 2017 SCCC Judgment, para. 113; Court of Appeals Decision, para. 17, with further references; similarly, ECtHR, *McKay v. the United Kingdom* [GC], no. 543/03, [Judgment](#), 3 October 2006, para. 43.

<sup>52</sup> First Detention Decision, para. 31.

<sup>53</sup> First Detention Decision, para. 32.

## 2. Risk of Obstructing the Progress of SC Proceedings

33. Regarding the risk of obstruction, Mr Thaçi relies on the submissions made above with regard to the risk of flight and avers that recent electoral and political developments clearly indicate that he no longer enjoys any authority nor exerts any influence over purported networks of supporters which might assist him in obstructing SC proceedings.<sup>54</sup> Moreover, Mr Thaçi argues that the extent of protective measures granted in the present case,<sup>55</sup> while reducing the risk to participating witness, also substantially reduces Mr Thaçi's ability to obstruct proceedings by interfering with and intimidating witnesses.<sup>56</sup>

34. The SPO also reiterates its submissions made above with regard to the risk of flight against the background of the recent political developments. Moreover, the SPO argues that protective measures do not constitute changed circumstances as it was foreseeable already as of the First Detention Decision that they would be extensively adopted in this case. Lastly, the SPO asserts that protective measures clearly illustrate the seriousness of the risk of obstruction in the current case.<sup>57</sup>

35. Mr Thaçi replies that such an extensive regime of protective measures was not foreseeable, in particular due to the SPO piecemeal approach in filing its applications.<sup>58</sup> Mr Thaçi further reiterates that the extent of protective measures granted renders witness interference much less likely.<sup>59</sup>

36. The Pre-Trial Judge recalls, at the outset, that he previously found that there is a risk that Mr Thaçi will obstruct SC proceedings based on, among other things,

---

<sup>54</sup> Request, paras 17-21.

<sup>55</sup> Request, paras 23-24.

<sup>56</sup> Request, paras 25-26.

<sup>57</sup> Response, para. 9

<sup>58</sup> Reply, para. 8.

<sup>59</sup> Reply, para. 9.

Mr Thaçi's attempts to undermine the SC and Mr Thaci's offer of benefits to persons summonsed by the SPO.<sup>60</sup>

37. With regard to recent electoral and political developments, the Pre-Trial Judge recalls the finding made above according to which Mr Thaçi's influence and authority over former subordinates and persons affiliated with the KLA WVA, and/or persons sympathetic to the KLA are premised on his past positions. Therefore, this finding is not affected by recent electoral and political developments.<sup>61</sup> He further recalls the findings of the Court of Appeals, which were made in the context of the very risk of obstruction.<sup>62</sup>

38. The Pre-Trial Judge further recalls that it has been found that, among other things, Mr Thaçi has [REDACTED] and that this, among other factors, could contribute to a risk of obstruction.<sup>63</sup> Against this backdrop, the Pre-Trial Judge notes the extent of the protective measures granted so far<sup>64</sup> and [REDACTED].<sup>65</sup> The case record shows that the risk of intimidation or interference for witnesses and/or their family members is inherently high, and the Pre-Trial Judge is not convinced that the risk of obstruction can be effectively mitigated relying only on protective measures.

---

<sup>60</sup> First Detention Decision, paras 40-41; Court of Appeals Decision, paras 52-68.

<sup>61</sup> See para. 30 above.

<sup>62</sup> See para. 28 above; Court of Appeals Decision, para. 50.

<sup>63</sup> Court of Appeals Decision, para. 71.

<sup>64</sup> KSC-BC-2020-06, F00133/COR/CONF/RED, Pre-Trial Judge, *Confidential Redacted Version of Corrected Version of First Decision on Specialist Prosecutor's Request for Protective Measures*, 14 December 2020, confidential; F00190/CONF/RED, Pre-Trial Judge, *Confidential Redacted Version of Decision on Specialist Prosecutor's Second Request for Protective Measures and Renewed Request for Protective Measures and Procedural Matters*, 5 February 2021, confidential; F00211/CONF/RED, Pre-Trial Judge, *Confidential Redacted Version of Third Decision on Specialist Prosecutor's Request for Protective Measures*, 3 March 2021, confidential; F00239/CONF/RED, Pre-Trial Judge, *Confidential Redacted Version of Fourth Decision on Specialist Prosecutor's Request for Protective Measures*, 26 March 2021, confidential; F00338/CONF/RED, Pre-Trial Judge, *Confidential Redacted Version of Fifth Decision on Specialist Prosecutor's Request for Protective Measures*, 4 June 2021, confidential; F00373/CONF/RED, Pre-Trial Judge, *Confidential Redacted Version of Sixth Decision on Specialist Prosecutor's Request for Protective Measures*, 25 June 2021, confidential; F00407/CONF/RED, *Confidential Redacted Version of Seventh Decision on Specialist Prosecutor's Request for Protective Measures*, 21 July 2021, confidential.

<sup>65</sup> [REDACTED].

39. This must be considered together with the fact that, as set out above, Mr Thaçi has, at present, gained increased insight into the evidence underpinning the serious charges against him on the basis of the ongoing disclosure process, and that he continues to play a significant role in Kosovo on the basis of the previous positions he occupied.<sup>66</sup>

40. The Pre-Trial Judge further recalls that there is a persisting climate of intimidation of witnesses and interference with criminal proceedings against former KLA members,<sup>67</sup> as exemplified by the aforementioned statement of the acting chairman of the KLA War Veterans Association that he would publish more confidential SC documents if he would obtain them.<sup>68</sup> Even though this factor is, in and of itself, not determinative in relation to the risk of Mr Thaçi obstructing the progress of the proceedings, it provides the context against which the aforementioned findings, which pertain specifically to Mr Thaçi, must be considered. It is also relevant in light of the fact that, as a former high-ranking KLA member and political figure, Mr Thaçi holds a position of influence that allows him to elicit the support of sympathisers in this climate. In addition, it is recalled that the risk of obstruction need not materialise in an Accused personally tampering with evidence or exerting influence or pressure on witnesses. It suffices that an Accused instigates others or contributes in any way to the materialisation of that risk.<sup>69</sup>

41. Accordingly, the Pre-Trial Judge concludes that the risk that Mr Thaçi will obstruct the progress of SC proceedings continues to exist.

---

<sup>66</sup> See paras 30-31 above.

<sup>67</sup> First Detention Decision, para. 43.

<sup>68</sup> Response, para. 7.

<sup>69</sup> 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*, 30 April 2021, public, para. 59.

### 3. Risk of Committing Further Crimes

42. Neither Mr Thaçi nor the SPO make submissions regarding the risk of committing further crimes.

43. The Pre-Trial Judge recalls that, even though the existence of a risk of obstruction does not automatically translate into a risk of committing further crimes, the factors underpinning the former are of relevance to the assessment of the latter in the circumstances of the present case.<sup>70</sup> It is further recalled that it suffices that an Accused instigates or assists others to commit such crimes, or contributes in any other way to their commission.<sup>71</sup>

44. Turning to the facts under consideration, besides the prevalent climate of witness intimidation and Mr Thaçi's position of influence due to his past positions, the Pre-Trial Judge recalls that he previously found that the course of conduct aimed at undermining the SC and SPO and the attempts to interfere with the proceedings showed that there is a likelihood that Mr Thaçi will commit further crimes.<sup>72</sup> In addition, his account of the SPO's case against him has increased since the First Detention Decision in view of the ongoing disclosure of evidence underpinning the serious charges against him.<sup>73</sup>

45. On this basis, the Pre-Trial Judge considers that, taken all factors together, there is a risk that Mr Thaçi will, under any form of responsibility, commit crimes similar to the underlying acts charged against those perceived as being opposed to the KLA, including witnesses who have provided or could provide evidence in the case and/or are due to appear before the SC. Accordingly, the Pre-Trial Judge concludes that the risk that Mr Thaçi will commit further crimes continues to exist.

---

<sup>70</sup> First Detention Decision, para. 48.

<sup>71</sup> First Detention Decision, paras 24, 48.

<sup>72</sup> First Detention Decision, para. 48.

<sup>73</sup> See para. 31 above.



#### 4. Conclusion

46. The Pre-Trial Judge concludes that the risks that Mr Thaçi will abscond, obstruct the progress of SC proceedings, or commit further crimes against those perceived as being opposed to the KLA, including witnesses who have provided or could provide evidence in the case and/or are due to appear before the SC, continue to exist. The Pre-Trial Judge will assess below whether these risks can be adequately addressed by any conditions for his release.

#### C. CONDITIONAL RELEASE

47. Mr Thaçi submits that he obtained written guarantees from [REDACTED] for his interim release into their respective territories<sup>74</sup> and that these guarantees adequately mitigate the risk that he will abscond and obstruct SC proceedings<sup>75</sup> and eliminate any risk that he will commit further crimes.<sup>76</sup> In particular, Mr Thaçi refers to [REDACTED] guarantees to prevent him from undertaking any public or political activity, restricting and/or controlling and monitoring any contact and communications as well as physical movement.<sup>77</sup> Mr Thaçi further submits that his senior position shall not be used against him insofar as he is offering guarantees from Third States.<sup>78</sup> Relying on Rule 56(4) of the Rules, Mr Thaçi claims that, having Third States consented to his release into their respective territory, the Pre-Trial Judge shall hear the Third States to which he seeks to be released.<sup>79</sup> Lastly, Mr Thaçi reiterates his undertaking to comply with any other condition imposed by the Pre-Trial Judge.<sup>80</sup>

---

<sup>74</sup> Request, para. 35.

<sup>75</sup> Request, paras 36-38.

<sup>76</sup> Request, para. 35.

<sup>77</sup> Request, para. 37.

<sup>78</sup> Request, para. 36.

<sup>79</sup> Request, para. 33.

<sup>80</sup> Request, para. 39.

48. The SPO responds that there is nothing that either Kosovo or any other State could do to sufficiently mitigate Article 41(6)(b) risks.<sup>81</sup> In particular, the SPO avers that, even in a Third State, Mr Thaçi would continue to have unlimited access to his immediate family members and Third State's security forces, who could in turn convey messages and information to his support network, creating a dangerous opportunity for clandestine communications.<sup>82</sup> The SPO submits that Mr Thaçi's array of previous positions and resulting network shall be taken into account when assessing the mitigating potential of conditions,<sup>83</sup> and that his senior position shall be taken into consideration even if not released in his home state.<sup>84</sup> Regarding the release into a Third State, the SPO argues that Third States do not have the same cooperation obligations with the SC like Kosovo does.<sup>85</sup> It submits that, if satisfied that no conditions can mitigate the identified risks, the Pre-Trial Judge shall not seek further observations by, in this case, [REDACTED].<sup>86</sup> The SPO submits that, in any case, [REDACTED], [REDACTED], [REDACTED]. [REDACTED], [REDACTED], [REDACTED], [REDACTED].<sup>87</sup> [REDACTED], [REDACTED].<sup>88</sup> The SPO avers that, in any event, [REDACTED], [REDACTED], [REDACTED], [REDACTED].<sup>89</sup>

49. Mr Thaçi replies that the fact that Third States do not have the same cooperation obligations as Kosovo shall not be used against him to deny interim release, once these States guaranteed that they would cooperate with the SC. In this regard, Mr Thaçi points out that one of them is a [REDACTED] and that both are [REDACTED].<sup>90</sup> Mr Thaçi further reiterates that, pursuant to the Rules, the Pre-

---

<sup>81</sup> Response, paras 12-13, 27.

<sup>82</sup> Response, para. 13.

<sup>83</sup> Response, para. 14.

<sup>84</sup> Response, para. 26.

<sup>85</sup> Response, para. 15.

<sup>86</sup> Response, para. 16.

<sup>87</sup> Response, paras 17-23.

<sup>88</sup> Response, para. 24.

<sup>89</sup> Response, para. 25.

<sup>90</sup> Reply, paras 13-14.

Trial Judge shall hear the Third States into which he seeks to be released, and that provisional release could not therefore be denied on the basis of an alleged lack of thoroughness of these general and preliminary guarantees.<sup>91</sup> Mr Thaçi rejects the SPO's allegations on [REDACTED], [REDACTED], [REDACTED].<sup>92</sup> Mr Thaçi further proposes to [REDACTED], [REDACTED].<sup>93</sup> Lastly, Mr Thaçi submits that the SPO has not proved that [REDACTED]<sup>94</sup> and that the SPO's submissions on the impossibility of monitoring his communications are misleading.<sup>95</sup>

50. As regards the risk of flight, the Pre-Trial Judge considers that, as found in the First Detention Decision, this risk can be sufficiently mitigated on the basis of Mr Thaçi's commitment to remain in house arrest, especially in a Third State with a cooperation agreement with the SC, and to abide by the following conditions: (i) surrender of international travel documents; (ii) prohibition of approaching certain places or persons; (iii) attendance of proceedings by video-link; (iv) prohibition of the use of media or political activity.<sup>96</sup>

51. As regards the risk of obstructing the progress of SC proceedings or committing further crimes, the Pre-Trial Judge recalls his previous findings that it is only through the communication monitoring framework at the SC detention facilities that Mr Thaçi's communications can be effectively restricted and monitored, thereby mitigating the risks of him obstructing SC proceedings or engaging in or contributing to crimes.<sup>97</sup>

52. The Pre-Trial Judge notes that [REDACTED]: (i) [REDACTED]; (ii) [REDACTED], [REDACTED]; (iii) [REDACTED], [REDACTED];

---

<sup>91</sup> Reply, para. 15.

<sup>92</sup> Reply, para. 16.

<sup>93</sup> Reply, para. 17.

<sup>94</sup> Reply, para. 18.

<sup>95</sup> Reply, paras 19-20.

<sup>96</sup> First Detention Decision, paras 52, 56.

<sup>97</sup> First Detention Decision, para. 57.

(iv) [REDACTED]; (v) [REDACTED]; (vi) [REDACTED]; and (vii) [REDACTED].<sup>98</sup>  
[REDACTED], [REDACTED], [REDACTED].<sup>99</sup>

53. At the outset, the Pre-Trial Judge finds it necessary to clarify the scope of Rule 56(4) of the Rules, which has been invoked by Mr Thiçi to argue that the Pre-Trial Judge is required to seek the views of the Third States into which he wishes to be released.<sup>100</sup> The Pre-Trial Judge notes that a combined reading of Rule 56(4) of the Rules and Article 41(11) of the Law suggests otherwise. In particular, Article 41(11) of the Law provides that if released, any person detained in the SC detention facilities in the Host State, shall be transported to and released into, among others, another State that agrees to accept him. Rule 56(4) of the Rules, for its part, in further detailing the release into a Third State, provides that a detained person shall not be released in a Third State without the consent of that State and that a Panel shall hear the Third State to which the detained person seeks to be released. The combined reading of the two provisions, and in particular the reference of Article 41(11) of the Law to the wording “*if released*” suggests that a Panel shall seek the views of the Third State pursuant to Rule 56(4) of the Rules only when it intends to grant interim release or envisages the possibility thereof.<sup>101</sup> To affirm otherwise would mean to run counter to the principles of efficiency and judicial economy, in addition to imposing an excessive and unnecessary burden on a Panel, as the latter would be obliged to seek the views of possibly a number of Third States, even when it considers that continued detention appears necessary regardless of any conditions.<sup>102</sup> Therefore, the Pre-Trial Judge finds that Rule 56(4)

---

<sup>98</sup> Annex A to the Request.

<sup>99</sup> Annex B to the Request.

<sup>100</sup> Request, para. 33; Reply, para. 15.

<sup>101</sup> Similarly, ICC, *Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”)*, ICC-02/05-01/20 OA2, Appeals Chamber, [Judgment on the Appeal of Mr Ali Muhammad Ali Abd-Al-Rahman against the decision of Pre-Trial Chamber II of 14 August 2020 entitled “Decision on the Defence Request for Interim Release”](#) (“Ali Kushayb Appeals Judgment on Interim Release”), 8 October 2020, para. 55. Despite the difference in wording between regulation 51 of the ICC Regulations of the Court and Rule 56(4) of the Rules, the Pre-Trial Judge considers that similar conclusions can be reached.

<sup>102</sup> Similarly, [Ali Kushayb Appeals Judgment on Interim Release](#), para. 57.

of the Rules cannot be interpreted as imposing on a Panel hearing an application for interim release or conducting a *proprio motu* review of detention, in the absence of any prospect for the application to succeed, a general obligation to seek observations from the State on the territory of which interim release is sought.<sup>103</sup> On the contrary, the Pre-Trial Judge considers that a Panel shall always seek additional information from a Third State if it is considering conditional interim release, the Third State has indicated its general willingness and ability to accept the release of a detained person into its territory and the Panel does not have sufficient information before it regarding the conditions of release.<sup>104</sup> Therefore, the Pre-Trial Judge finds that the lack of thoroughness of any preliminary guarantees cannot prevent a Panel, if convinced that interim release subject to conditions is possible, from requesting further information and clarifications from the Third State concerned.

54. The Pre-Trial Judge shall therefore assess whether conditions, be it the ones proposed by the Third States, or any other imposed *proprio motu*, mitigate or otherwise sufficiently address the risks posed by Mr Thaçi.

55. Against this backdrop, the Pre-Trial Judge considers that no additional conditions, including those proposed by [REDACTED] or any other conditions that might be implemented either in [REDACTED], could sufficiently address the risks posed by Mr Thaçi. In particular, the Pre-Trial Judge finds that even a complete restriction on Mr Thaçi's access to telecommunications and internet communications, in addition to the prohibition of contacting any third parties other than his immediate family and his defence team, would not prevent him from passing on instructions to other persons, for example his family members or

---

<sup>103</sup> Court of Appeals Decision, paras 84, 89.

<sup>104</sup> Similarly, ICC, *Prosecutor v. Jean-Pierre Bemba Gombo*, ICC-01/05-01/08-1937-Red2 (OA9), [Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 26 September 2011 entitled "Decision on the accused's application for provisional release in light of the Appeals Chamber's judgment of 19 August 2011"](#), 15 December 2011, para. 35.

any other third parties who would be necessarily in contact with him at his assigned residence, with a view to intimidating and/or interfering with witnesses. In this regard, the Pre-Trial Judge notes that such messages could be passed on in several other ways, for example by asking someone to convey a message orally or to use a device belonging to a third person. Conversely, at the SC detention facilities, arrangements can be put in place, upon judicial authorisation, to prevent such illicit communications. The Pre-Trial Judge finds that Mr Thaçi's influential position and his [REDACTED] are of particular relevance in this regard. It follows that Mr Thaçi's communications can only be restricted and monitored in a way to sufficiently mitigate the risks of him obstructing SC proceedings or committing further crimes through the communication monitoring framework at the SC detention facilities.

56. Accordingly, the Pre-Trial Judge finds that neither the Proposed Conditions nor any additional conditions would sufficiently mitigate the risks under Article 41(6)(b)(ii) and (iii) of the Law. For this reason, the Pre-Trial Judge is also not required to seek the views of [REDACTED] regarding Mr Thaçi's interim release into their respective territories.

#### D. PROPORTIONALITY OF DETENTION

57. Mr Thaçi submits that his release is merited pursuant to Rule 56(2) of the Rules, due to the unreasonably long period of his pre-trial detention, until the start of the trial.<sup>105</sup> Mr Thaçi avers that, in this regard, the SPO bears full responsibility for such unreasonable length, having repeatedly applied for extension of deadlines, therefore setting back the expected date for the commencement of the trial, which will most probably start in mid-2022.<sup>106</sup> Mr Thaçi further argues that the SPO's ongoing investigations, in addition to unlawfully impinging on his right

---

<sup>105</sup> Request, paras 8, 16.

<sup>106</sup> Request, paras 9-14.

to a fair trial, will lead to further delays.<sup>107</sup> Lastly, Mr Thaçi argues that current COVID-19-related restrictions in the detention facilities disproportionately interfere with his right to have adequate time and facilities for his defence.<sup>108</sup> In particular, the limited access by the Accused to his counsel (limitations in travel to and from the Netherlands, maximum two people at a time one of them having necessary to be an interpreter, legal visits taking place through plexiglas) severely hinder his and his defence team's capacity to adequately prepare for trial.<sup>109</sup>

58. The SPO responds that the Panel of the Court of Appeals determined that the Pre-Trial Judge was not required to estimate the probable length of detention in the First Detention Decision.<sup>110</sup> It adds that all deadlines in this case have been met or extended for good cause, and there is no indication that the SPO has been dilatory.<sup>111</sup> According to the SPO, Mr Thaçi has been detained for eight months on a vast array of war crimes and crimes against humanity committed over a near two-year period, and the scale of these charges affects all aspects of the trial process.<sup>112</sup> It is also of the view that Mr Thaçi's insistence that pre-trial proceedings are too long ignores his own responsibility.<sup>113</sup>

59. Mr Thaçi replies that whether extensions of time have been granted is irrelevant, once it is clear that, since his pre-trial detention will be prolonged by at least one year from original estimates, this has become unreasonable, for the purposes of Rule 56(2) of the Rules.<sup>114</sup> Mr Thaçi further refutes that he bears any responsibility in relation to the length of the pre-trial proceedings.<sup>115</sup>

---

<sup>107</sup> Request, para. 15.

<sup>108</sup> Request, para. 29.

<sup>109</sup> Request, para. 30.

<sup>110</sup> Response, para. 28.

<sup>111</sup> Response, para. 28.

<sup>112</sup> Response, para. 29.

<sup>113</sup> Response, paras 30.

<sup>114</sup> Reply, paras 1-2.

<sup>115</sup> Reply, para. 3.

60. The Pre-Trial Judge recalls, at the outset, the importance of the proportionality principle in the determination of the reasonableness of pre-trial detention.<sup>116</sup> The duration of time in detention pending trial is a factor that needs to be considered along with the degree of the risks that are described in Article 41(6)(b) of the Law, in order to determine whether, all factors being considered, the continued detention “stops being reasonable” and the individual needs to be released.<sup>117</sup> However, the Pre-Trial Judge notes that the question whether a period of time spent in pre-trial detention is reasonable cannot be assessed in the abstract. Whether it is reasonable for an accused to remain in detention must be assessed on the facts of each case and according to its specific features.<sup>118</sup>

61. In assessing the proportionality of Mr Thaçi’s detention so far, the Pre-Trial Judge pays particular attention to the following factors: (i) Mr Thaçi was arrested on 5 November 2020; (ii) he is charged with a number of counts of crimes against humanity and war crimes in relation to events encompassing multiple locations in Kosovo and Albania over an extended period of time; (iii) he could be sentenced to a lengthy sentence, including life-long imprisonment, if convicted; (iv) the risks under Article 41(6)(b)(ii) and (iii) of the Law cannot be mitigated by any conditions; (v) all required procedural steps relating to the pre-trial phase of the present case have been, are being or will be completed with a view to transmitting the case for trial at a point in the foreseeable future; (vi) the relevant time limits have been either met or extended for good cause - also at the request of Mr Thaçi on certain occasions - and any additional requests for extension of time will be evaluated against the applicable legal criteria; and (vii) Mr Thaçi and the SPO continue to differ as to the likely start date of the trial.

---

<sup>116</sup> KSC-BC-2020-07, IA001/F00005, Court of Appeals Panel, *Decision on Hysni Gucati’s Appeal on Matters Related to Arrest and Detention*, 9 December 2020, public, paras 72-73.

<sup>117</sup> *Similarly*, Court of Appeals Decision, para. 69.

<sup>118</sup> [Buzadji v. the Republic of Moldova \[GC\]](#), para. 90.



62. On this basis, the Pre-Trial Judge finds that the time Mr Thaçi has spent in pre-trial detention is not unreasonable within the meaning of Rule 56(2) of the Rules. He further finds that, at the present stage, any discussion as to the expected total length of Mr Thaçi's pre-trial detention remains premature and speculative. In this context, the Pre-Trial Judge recalls the additional guarantee provided for in the SC legal framework of the periodic review of the necessity of continued pre-trial detention every two months.<sup>119</sup>

63. Lastly, the Pre-Trial Judge notes Mr Thaçi's concerns about the limitations regarding access to counsel. While being mindful of the difficulties that Mr Thaçi might have encountered in establishing full contact with his defence team in the last months, the Pre-Trial Judge notes that such constraints shall be put in the context of the unprecedented global public health emergency. Against this background, the Pre-Trial Judge notes that, despite the restrictions in place, the Registry has proactively responded to the emergency, adapting its practices in order to safeguard the health of detainees and their right to have adequate facilities for the preparation of their defence.<sup>120</sup> In particular, the Pre-Trial Judge notes that: (i) the Registry launched a Secure Electronic Data Sharing System ("SEDS") for the electronic exchange of case-related materials, which provides counsel and detainees with additional means of exchanging defence materials through a bespoke file sharing location on the SC network; (ii) enhancements were also made to the acoustics in the legal consultation room in the detention facilities on 8 April 2021; and (iii) computer screens were placed in the legal consultation room in late May 2021 so that both counsel and detainees may look at documents simultaneously in real time.<sup>121</sup> The Pre-Trial Judge further notes that the Deputy

---

<sup>119</sup> Similarly, as to the importance of repeated review, see ECtHR, *Ereren v. Germany*, no. 67522/09, [Judgment](#), 6 November 2014, para. 64.

<sup>120</sup> KSC-BC-2020-06, F00353/RED, Registrar, *Public Redacted Version of "Update to Submission of the Registrar Pursuant to Rule 23(2) on COVID-19 Risk Mitigation Measures"* ("Registrar Covid-19 Update"), 16 June 2021, public; see in particular, para. 6 and fn. 12.

<sup>121</sup> Registrar Covid-19 Update, fn. 12.

Registrar has indicated that, due to the improvements in the COVID-19 situation, in-person visits with counsel can, since the month of July 2021, take place again in the same room (three privileged visitors) and printed documents can now be exchanged between detainees and counsel without having recourse to a Detention Officer.<sup>122</sup> Therefore, Mr Thaçi's right to communicate with his lawyer, as part of his right to have adequate time and facilities for the preparation of his defence, has not been restricted to such an extent that the very essence of the right was impaired and any supposed restriction on Mr Thaçi's right of access to his lawyer pursued the legitimate aim of the protection of his and others' health.<sup>123</sup>

---

<sup>122</sup> KSC-BC-2020-06, Transcript of Hearing, 21 July 2021, public, pp. 528-530.

<sup>123</sup> The European Court of Human Rights has stated that restrictions on access to a lawyer may be imposed if good cause exists; see, ECtHR, *Campbell and Fell v. the United Kingdom*, 7819/77 and 7878/77, [Judgment](#), 28 June 1984; para. 113; similarly, *Öcalan v. Turkey*, 46221/99, [Judgment](#), 12 March 2003, para.146. The finding was later upheld by the Grand Chamber in *Öcalan v. Turkey* [GC], 46221/99, [Judgment](#), 12 May 2005, para.133.

## DISPOSITION

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

- a) **ORDERS** Mr Thaçi's continued detention;
- b) **ORDERS** Mr Thaçi, if he wishes to do so, to file submissions on the next review of detention by no later than **Wednesday, 31 August 2021**, with responses and replies 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 no later than **Monday, 6 September 2021**, and Mr Thaçi, if he wishes to do so, to file his submissions by no later than **Thursday, 16 September 2021**.



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

Dated this Friday, 23 July 2021

At The Hague, The Netherlands.