



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: 11 November 2022

Language: English

Classification: Public

**Decision on Thaçi Defence Request for an Extension of Time
for Submissions on Review of Detention**

Specialist Prosecutor
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Counsel for Hashim Thaçi
Gregory Kehoe

Counsel for Kadri Veseli
Ben Emmerson

Counsel for Rexhep Selimi
David Young

Counsel for Jakup Krasniqi
Venkateswari Alagenda

THE PRE-TRIAL JUDGE,¹ pursuant to Articles 39(1) and (13) and 41(10) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9(5)(a) and (6) and 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 29 September 2022, the Pre-Trial Judge issued his sixth decision on the periodic review of detention ("Sixth Detention Decision") of Hashim Thaçi ("Mr Thaçi"), ordering the continued detention of Mr Thaçi.² Therein, the Pre-Trial Judge, *inter alia*, ordered the Specialist Prosecutor's Office ("SPO"), in the event the Defence did not file any submissions, to file submissions on the next review of Mr Thaçi's detention by 4 November 2022, and for the Defence for Mr Thaçi (the "Thaçi Defence"), to file their response by 15 November 2022.³

2. On 4 November 2022, the SPO filed its submissions on the next review of Mr Thaçi's detention ("Detention Submissions").⁴

3. On the same day, 4 November 2022, the Pre-Trial Judge held a fifteenth status conference.⁵ In the course of this status conference, the Defence for Kadri Veseli (respectively "Mr Veseli", "Veseli Defence") raised a particular disclosure issue ("Issue").⁶ The Pre-Trial Judge authorised the filing of supplemental submissions in relation to the Issue.⁷

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

² KSC-BC-2020-06, F00994, Pre-Trial Judge, *Decision on Periodic Review of Detention of Hashim Thaçi* ("Sixth Detention Decision"), 29 September 2022, confidential, para. 58(a). A public redacted version was filed on 6 October 2022, F00994/RED.

³ Sixth Detention Decision, para. 58(b)-(c).

⁴ KSC-BC-2020-06, F01086, Specialist Prosecutor, *Prosecution Submissions on Detention Review of Hashim Thaçi*, 4 November 2022, public.

⁵ KSC-BC-2020-06, F01039, Pre-Trial Judge, *Order Setting the Date for a Fifteenth Status Conference and for Submissions*, 17 October 2022, public, para. 28(a); Transcript of Hearing, 4 November 2022, public.

⁶ KSC-BC-2020-06, Transcript of Hearing, 4 November 2022, confidential, pp. 1617-1618.

⁷ KSC-BC-2020-06, Transcript of Hearing, 4 November 2022, public, p. 1692, lines 5-11.

4. On 7 November 2022, the Veseli Defence requested that the next detention review of Mr Veseli be postponed until after the resolution of the Issue.⁸

5. On 9 November 2022, the Pre-Trial Judge, granting the Veseli Defence's request, postponed the next detention review of Mr Veseli and amended the briefing schedule accordingly.⁹

6. On the same day, 9 November 2022, the Thaçi Defence requested an extension of time for submissions on the next review of detention of Mr Thaçi ("Request").¹⁰

II. SUBMISSIONS

7. The Thaçi Defence submits that, in light of the Sixth Detention Decision, its response to the Detention Submissions would be due on 15 November 2022.¹¹ The Thaçi Defence requests a variation of the time limit such that a response to the Detention Submissions could be made after the resolution of the Issue and review of any consequent disclosure.¹²

8. The Thaçi Defence avers that good cause exists for the requested extension as, it argues, further submissions on whether reasons for continued detention still exist would benefit from being made after the resolution of the Issue.¹³ In this regard, the Thaçi Defence confirms that Mr Thaçi exceptionally waives his right to review of his detention during the period required for the relief sought in the Request.¹⁴

⁸ KSC-BC-2020-06, F01091, Specialist Counsel, *Veseli Defence Notice of Waiver of Detention Review*, 7 November 2022, public.

⁹ KSC-BC-2020-06, F01094, Pre-Trial Judge, *Decision Amending the Briefing Schedule for the Seventh Detention Review of Mr Veseli*, 9 November 2022, public, para. 13.

¹⁰ KSC-BC-2020-06, F01095, Specialist Counsel, *Thaçi Defence Request for an Extension of Time for Submissions on Review of Detention*, 9 November 2022, confidential.

¹¹ Request, para. 2.

¹² Request, paras 4-5, 8.

¹³ Request, para. 5.

¹⁴ Request, para. 7.

III. APPLICABLE LAW

9. Pursuant to Article 39(13) of the Law, the Pre-Trial Judge may, where necessary, at the request of a party, issue any other order as may be necessary for the preparation of a fair and expeditious trial.

10. Article 41(10) of the Law and Rule 57(2) of the Rules provide 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 reasons for detention on remand still exist and render a ruling by which detention on remand is extended or terminated.

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

12. Pursuant to Rule 9(6) of the Rules, where no prejudice is caused to the opposing Party, a motion for variation of time may be disposed of without giving the opposing Party the opportunity to be heard.

IV. DISCUSSION

13. The Pre-Trial Judge observes that, pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, Mr Thaçi's detention shall be reviewed every two months. Considering that the Sixth Detention Decision was issued on 29 September 2022, the next review of Mr Thaçi's detention should take place, at the latest, on 29 November 2022.

14. In light of: (i) the exchanges during the fifteenth status conference concerning the Issue;¹⁵ (ii) the briefing schedule for supplemental submissions in relation to the Issue;¹⁶ (iii) the content of the Request;¹⁷ and (iv) the indication that Mr Thaçi intends to waive his right to his detention review until resolution of the Issue,¹⁸ the Pre-Trial Judge finds good cause to vary the time limit for the Thaçi Defence to respond to the Detention Submissions.

15. Accordingly, the Pre-Trial Judge amends the briefing schedule initially set in the Sixth Detention Decision and orders the SPO, if it so wishes, to supplement its Detention Submissions as regards the resolution of the Issue, by Friday, 9 December 2022. Thereafter, the Pre-Trial Judge orders the Thaçi Defence, if it so wishes, to respond to the Detention Submissions, and potential supplement as regards the resolution of the Issue, by Wednesday, 14 December 2022. A decision on the review of Mr Thaçi's detention will be rendered thereafter, but no later than Monday, 19 December 2022.

16. In addition, the Pre-Trial Judge directs the Thaçi Defence to file, by Tuesday, 15 November 2022, a notification signed by Mr Thaçi indicating that he waives his right to have his detention reviewed before the two-month time limit set out in Article 41(10) of the Law and Rule 57(2) of the Rules, and until a decision on his detention review is rendered by Monday, 19 December 2022.

17. The Pre-Trial Judge considers that no prejudice is caused to the SPO by allowing submissions on the Issue in the context of the next detention review given that both Parties will be given adequate time to provide submissions on the matter. As a result, the Pre-Trial Judge is satisfied that the Request may be entertained without giving the SPO the opportunity to respond to the Request.

¹⁵ KSC-BC-2020-06, Transcript of Hearing, 4 November 2022, confidential, pp. 1591-1618.

¹⁶ KSC-BC-2020-06, Transcript of Hearing, 4 November 2022, public, p. 1692.

¹⁷ Request, paras 4-5, 7.

¹⁸ Request, para. 7.

V. CLASSIFICATION

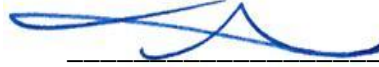
18. The Pre-Trial Judge orders the Defence to file a public redacted version of the Request (F01005) by no later than Friday, 18 November 2022.

VI. DISPOSITION

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

- (a) **GRANTS** the Request;
- (b) **POSTPONES** the next review of Mr Thaçi's detention until **Monday, 19 December 2022;**
- (c) **DIRECTS** the Thaçi Defence to provide Mr Thaçi's waiver, as indicated in paragraph 16, above, by **Tuesday, 15 November 2022;**
- (d) **VARIES** the briefing schedule set in the Sixth Detention Decision;
- (e) **ORDERS** the SPO, if it wishes to do so, to supplement its Detention Submissions, as set out in paragraph 15, above, by no later than **Friday, 9 December 2022;** and
- (f) **ORDERS** the Thaçi Defence, if it wishes to do so, to respond to the SPO's Submissions, and potential supplement, by no later than **Wednesday, 14 December 2022;** and

- (g) **DIRECTS** the Thaçi Defence to file a public redacted version of the Request by **Friday, 18 November 2022**.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Friday, 11 November 2022
At The Hague, the Netherlands.