



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: Trial Panel II

Judge Charles L. Smith III, Presiding Judge

Judge Christoph Barthe

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 17 February 2023

Language: English

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

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TRIAL PANEL II of the Kosovo Specialist Chambers (“Panel”), pursuant to Article 41(2), (6), (10), and (12) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 56(2) and 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. The procedural background concerning the periodic review of the detention of Hashim Thaçi (“Mr Thaçi”) has been set out extensively in previous decisions. Relevant events since the sixth decision on Mr Thaçi’s detention of 19 December 2022¹ include the following.
2. On 18 January 2023, the Panel confirmed that the anticipated start date of trial is 1 March 2023.²
3. On 30 January 2023, the Specialist Prosecutor’s Office (“SPO”) filed its submissions on the review of Mr Thaçi’s detention (“SPO Submissions”).³
4. On 6 February 2023, the Defence for Mr Thaçi (“Thaçi Defence”) filed its response (“Thaçi Response”).⁴
5. On 15 February 2023, the Panel moved the starting date of the trial to 3 April 2023, pursuant to an unopposed Defence request.⁵

¹ F01170, Trial Panel, *Decision on Periodic Review of Detention of Hashim Thaçi* (“Sixth Decision on Detention”) 19 December 2022, confidential. A public redacted version was filed on the same date, F01170/RED.

² Transcript (Trial Preparation Conference), 18 January 2023, p. 1904.

³ F01235, Specialist Prosecutor, *Prosecution Submission Pertaining to Periodic Detention Review of Hashim Thaçi*, 30 January 2023, confidential. A public redacted version was filed on 2 February 2023 (F01235/RED)

⁴ F01259, Specialist Counsel, *Thaçi Defense Response to ‘Prosecution Submission Pertaining to Periodic Detention Review of Hashim Thaçi,’* 6 February 2023, confidential.

⁵ Transcript (Draft) (Specialist Prosecutor’s Preparation Conference), 15 February 2023, p. 2038 (oral order 1).

II. SUBMISSIONS

6. The SPO submits that the Pre-Trial Judge and a Court of Appeals panel have each determined on multiple occasions that Mr Thaçi's detention is justified.⁶ According to the SPO, since the last decision on review of Mr Thaçi's detention, there has been no change in circumstances that would warrant a different conclusion.⁷ The SPO notes that due to recent disclosures precipitated by the approaching trial date, Mr Thaçi is now privy to additional sensitive witness information – enhancing the need for current protections to remain in place.⁸

7. The Thaçi Defence responds that the SPO's position is without merit because the SPO is not able to identify a specific concrete example of Mr Thaçi utilizing sensitive witness information to intimidate or harass a witness.⁹

8. The Thaçi Defence further asserts that the formerly proposed conditions of house arrest sufficiently mitigate the risk of Mr Thaçi obstructing proceedings or committing further crimes related to the present matter.¹⁰

III. APPLICABLE LAW

9. The law applicable to deciding the present matter is set out in Article 41 and Rules 56 and 57, and has been laid out extensively in earlier decisions.¹¹ The Panel will apply these standards to the present decision.

⁶ SPO Submissions, para. 1.

⁷ SPO Submissions, para. 1.

⁸ SPO Submissions, para. 1.

⁹ Thaçi Response, para. 3.

¹⁰ Thaçi Response, paras 4-5.

¹¹ See, e.g., F00994, Pre-Trial Judge, *Decision on Periodic Review of Detention of Hashim Thaçi* ("Fifth Decision on Detention"), 29 September 2022, confidential, paras 18-21. A public redacted version was issued on 6 October 2022, F00994/RED.

IV. DISCUSSION

10. The purpose of the bi-monthly review of detention pursuant to Article 41(10) is for the Panel to determine whether the reasons for detention on remand still exist.¹² A change in circumstances, while not determinative, shall be taken into consideration if raised before the relevant panel or *proprio motu*.¹³ In the present review, the SPO asserts that no relevant change in circumstances has occurred.¹⁴ Nevertheless, the Panel will proceed to review the factors under Article 41(6) to satisfy itself that the circumstances underpinning Mr Thaçi's detention continue to exist

A. ARTICLE 41 CRITERIA

i. Grounded Suspicion

11. Regarding the threshold for continued detention, Article 41(6)(a) requires a grounded suspicion that the detained person has committed a crime within the jurisdiction of the SC. This is a condition *sine qua non* for the validity of the detained person's continued detention.¹⁵

12. The Panel notes that in the Confirmation Decision, the Pre-Trial Judge determined that, pursuant to Article 39(2), there was a well-grounded suspicion that Mr Thaçi is criminally liable for a number of crimes against humanity (persecution, imprisonment, other inhumane acts, torture, murder and enforced disappearance) and war crimes (arbitrary detention, cruel treatment, torture and murder) under Articles 13, 14(1)(c) and 16(1)(a).¹⁶ Moreover, the Pre-Trial Judge

¹² IA022/F00005, Court of Appeals, *Decision on Hashim Thaçi's Appeal Against Decision on Periodic Review of Detention* ("Fourth Appeal Decision on Detention"), 22 August 2022, confidential, para. 37. A public redacted version was issued on the same date, IA022/F00005/RED.

¹³ IA010/F00008, Court of Appeals, *Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention* ("Second Appeal Decision on Detention"), 27 October 2021, confidential, para. 19. A public redacted version was issued on the same date, IA010/F00008/RED.

¹⁴ SPO Submissions, para. 1.

¹⁵ See ECtHR, *Merabishvili v. Georgia* [GC], no. 72508/13, [Judgment](#), 28 November 2017, para. 222.

¹⁶ F00026, Pre-Trial Judge, *Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi*, 26 October 2020, strictly confidential and *ex parte*, para. 521(a).

also found that a well-grounded suspicion has been established with regard to new charges brought by the SPO against Mr Thaçi.¹⁷ These findings were made on the basis of a standard exceeding the grounded suspicion threshold required for the purposes of Article 41(6)(a).¹⁸

13. Absent any new material circumstances affecting the above findings, the Panel 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).

ii. Necessity of Detention

14. With respect to the grounds for continued detention, Article 41(6)(b) sets out three alternative bases (risks) on which detention may be found to be necessary: (i) risk of flight; (ii) risk of obstruction of the proceedings; or (iii) risk of the further commission of crimes.¹⁹ Detention shall be maintained if there are articulable

A confidential redacted version was filed on 19 November 2020, F00026/CONF/RED. A public redacted version was filed on 30 November 2020, F00026/RED; F00417, Pre-Trial Judge, *Decision on Review of Detention of Hashim Thaçi* ("Second Decision on Detention"), 23 July 2021, confidential, para. 20. A public redacted version was filed on the same date, F00417/RED; F00624, Pre-Trial Judge, *Decision on Review of Detention of Hashim Thaçi* ("Third Decision on Detention"), 14 December 2021, confidential, para. 30. A public redacted version was filed on 25 January 2022, F00624/RED; F00818, Pre-Trial Judge, *Decision on Periodic Review of Detention of Hashim Thaçi* ("Fourth Decision on Detention"), 26 May 2022, confidential, para. 31. A public redacted version was filed on 8 June 2022, F00818/RED; Sixth Decision on Detention, para. 22.

¹⁷ F00777, Pre-Trial Judge, *Decision on the Confirmation of Amendments to the Indictment*, 22 April 2022, strictly confidential and *ex parte*, para. 183. A confidential redacted version (F00777/CONF/RED), a public redacted version (F00777/RED) and a confidential lesser redacted version (F00777/CONF/RED2) were filed, respectively, on 22 April 2022, 6 May 2022 and 16 May 2022. The requested amendments are detailed at para. 11.

¹⁸ See for instance IA008/F00004, Court of Appeals Panel, *Decision on Kadri Veseli's Appeal Against Decision on Review of Detention*, 1 October 2021, confidential, para. 21. A public redacted version was issued on the same date, IA008/F00004/RED.

¹⁹ Cf. ECtHR, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, [Judgment](#), 5 July 2016, para. 88; ECtHR, *Zohlandt v. the Netherlands*, no. 69491/16, [Judgment](#), 9 February 2021, para. 50; ECtHR, *Grubnyk v. Ukraine*, no. 58444/15, [Judgment](#), 17 September 2020, para. 115; ECtHR, *Korban v. Ukraine*, no. 26744/16, [Judgment](#), 4 July 2019, para. 155.

grounds to believe that one or more of these risks will materialize.²⁰ “Articulable” in this context means specified in detail by reference to the relevant information or evidence.²¹ In determining whether any of the grounds under Article 41(6)(b) allowing for a person’s detention exist, the standard to be applied is less than certainty, but more than a mere possibility of a risk materialising.²²

a) Risk of Flight

15. The SPO and the Thaçi Defence recall that the Panel determined in its last decision that Mr Thaçi’s continued detention could not be exclusively based upon a risk of flight as a justification.²³ However, the SPO asserts that Mr Thaçi’s increased knowledge of the case and evidence, along with the potential of a long sentence, take on increased significance in the context of setting the trial commencement date, further accelerating the disclosure of increasingly sensitive information.²⁴ This sensitive information includes the unredacted indictment, and the identify of a number of witnesses, which was not in Mr. Thaçi’s possession at the time of the last detention review.²⁵

16. Regarding the recognition of a long potential sentence, the SPO argues that the recent sentence issued to the accused in the *Mustafa* case of 26 years’ imprisonment for crimes also charged in this case increases, in the eyes of the Accused, the possibility of a lengthier sentence for himself.²⁶

²⁰ IA004/F00005, Court of Appeals Panel, *Decision on Hashim Thaçi’s Appeal Against Decision on Interim Release* (“First Appeal Decision on Detention”), 30 April 2021, confidential, para. 19. A public redacted version was issued on the same date, IA004/F00005/RED.

²¹ Article 19.1.30 of the Kosovo Criminal Procedure Code 2012, Law No. 04/L-123 defines “articulable” as: “the party offering the information or evidence must specify in detail the information or evidence being relied upon”.

²² First Appeal Decision on Detention, para. 22.

²³ SPO Submissions, para. 9; Thaçi Response, para. 4.

²⁴ SPO Submissions, para. 10.

²⁵ See e.g. SPO Disclosures 656 through 660 of 30 January 2023.

²⁶ SPO Submission, para. 11 (*citing* KSC-BC-2020-05, F00494/RED, Trial Panel I, *Public redacted version of Trial Judgment* (“Mustafa Trial Judgment”), 19 January 2023, para. 831. A corrected version was filed on 24 January 2023, F00494/REDCOR).

17. The Panel finds that these are unproven assumptions. The risk of a long sentence is no greater today than it was earlier and the SPO's submissions on that point appear to give little consideration to the fact that Mr Thaçi is still presumed to be innocent.

18. Additionally, as already determined, Mr Thaçi has cooperated with relevant authorities associated with his detention and transfer.²⁷

19. The Panel has examined the arguments of the SPO in light of the current stage of the proceedings, and while the risk of flight can never be completely ruled out, it reaffirms that it does not find any additional factor sufficiently compelling to persuade the Panel to change its previous finding regarding the risk of flight.

20. The Panel therefore finds that Mr Thaçi's continued detention is not justified at this time based on the risk of flight pursuant to Article 41(6)(b)(i).

b) Risk of Obstructing the Progress of SC Proceedings

21. The SPO submits that Mr Thaçi continues to present a risk of obstructing proceedings.²⁸

22. The Thaçi Defence responds that the SPO's position is in error because the SPO cannot point to one "concrete example" of witness intimidation or harassment that can personally be attributed to Mr Thaçi.²⁹

23. The Panel recalls that the Pre-Trial Judge found that Mr Thaçi, *inter alia*, attempted to undermine the SC by offering benefits to persons summoned by the SPO and [REDACTED].³⁰

²⁷ Sixth Decision on Detention, para. 29.

²⁸ SPO Submission, para. 12.

²⁹ Thaçi Response, para. 3.

³⁰ First Decision on Detention, paras 38-42; First Appeal Decision on Detention, paras 45-77; Second Decision on Detention, paras 36-38; Second Appeal Decision on Detention, paras 34-36; Third Decision on Detention, paras 42-43; Fourth Decision on Detention, para. 45.

24. The Panel further calls attention to the standard utilized in assessing the risks under article 41(6)(b), as provided above, which does not require a “concrete example” of a situation in which Mr Thaçi has personally intimidated or harassed a witness.

25. As previously noted, in light of the near commencement of trial, the names and personal details of certain of the SPO’s highly sensitive witnesses have now been disclosed to the Thaçi Defence,³¹ and will therefore become known to a broader range of people, including to Mr Thaçi. This, in turn, increases the risk of sensitive information pertaining to witnesses becoming known to members of the public before the witnesses in question give evidence. In this context, the release of an accused with sensitive information in his possession would not be conducive to the effective protection of witnesses who have yet to testify.

26. Additionally, the Panel makes the current findings against a background of information that a general climate of witness interference persists in Kosovo regarding this case and others before the SC. As held in the Mustafa Trial Judgment:

[T]here is a pervasive climate of fear and intimidation in Kosovo against witnesses or potential witnesses of the Specialist Chambers, their families and, more broadly, against those who provide evidence in investigations or prosecutions of crimes allegedly committed by former KLA members. Witnesses are stigmatised as “traitors” or “collaborators”, are unable to speak freely about the events they underwent, are subjected to threats and intimidation and live in constant fear that something will happen to them or their family.³²

27. Likewise, the Court of Appeals Panel in the *Gucati and Haradinaj* case recently emphasized the importance of these circumstances, upholding the Trial Panel’s assessment that there was a serious threat against the “administration of justice,

³¹ See e.g. SPO Disclosures 656 through 660 of 30 January 2023.

³² Mustafa Trial Judgment, para. 57.

the integrity and security of proceedings and, crucially, the safety, well-being and freedom from fear of hundreds of persons who have come forward to fulfil their civic duty as witnesses.”³³

28. Accordingly, the Panel concludes that the risk that Mr Thaçi will obstruct the progress of SC proceedings continues to exist.

c) Risk of Committing Further Crimes

29. The SPO submits that the factors assessed regarding the risk of obstructing proceedings under Article 41(6)(b)(ii) are also relevant when considering whether there is a risk of further crimes were Mr Thaçi to be released.³⁴

30. The SPO recalls the Panel’s earlier findings and submits that there continues to be a legitimate risk, based upon articulable grounds, that Mr Thaçi will commit additional crimes should he be released from detention.³⁵

31. The Thaçi Defence does not specifically engage in any form of rebuttal regarding this risk.³⁶

32. The Panel agrees with the SPO that the factors and circumstances considered in the context of assessing the possibility of Mr. Thaçi obstructing proceedings under Article 41(6)(b)(ii) are also relevant when considering whether there is a risk of Mr. Thaçi committing further crimes. Accordingly, the Panel incorporates its previous analysis provided above by reference.³⁷

33. Additionally, the Panel recalls that the Pre-Trial Judge previously found, based on four primary considerations, that the risk of Mr Thaçi committing further crimes continued to exist. Namely that Mr Thaçi has: (i) [REDACTED]; (ii) attempted to undermine the SC and offered benefits to persons summoned by

³³ KSC-CA-2022-01, F00114, Court of Appeals Panel, *Appeal Judgment*, 2 February 2023, para. 438 (quoting KSC-BC-2020-07, Transcript, 18 May 2022, pp. 3858-3859).

³⁴ SPO Submissions, para. 22.

³⁵ SPO Submissions, para. 21.

³⁶ Thaçi Response, para. 3.

³⁷ See paras 25-29, *supra*.

the SPO; (iii) a position of influence in Kosovo which could allow him to elicit the support of sympathisers; and (iv) an increased account of the SPO's case against him as a result of the submission of the SPO's Revised Witness List and the ongoing disclosure of materials.³⁸ This Panel previously determined that these considerations remain relevant and applicable.³⁹

34. The Panel highlights the fact that the trial in this case will begin in approximately six weeks, that the identities of sensitive witnesses have been disclosed to the Thaçi Defence, and that any risk of the further commission of crimes must be avoided.

35. The Panel considers that, taking all factors together, there continues to be a risk that Mr Thaçi will commit further crimes as set out in Article 41(6)(b)(iii).

iii. Conclusion

36. The Panel concludes that at this time there is insufficient information before it justifying a finding that Mr Thaçi may abscond from justice. However, the Panel is satisfied, based on the relevant standard, that there is a sufficient risk that Mr Thaçi will obstruct the progress of SC proceedings and/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. The Panel will assess below whether these risks can be adequately addressed by any conditions for his release.

³⁸ Fifth Decision on Detention, para. 39.

³⁹ Sixth Decision on Detention, para. 37.

B. MEASURES ALTERNATIVE TO DETENTION

37. When deciding whether a person should be released or detained, the Panel must consider alternative measures to prevent the risks in Article 41(6)(b).⁴⁰ Article 41(12) sets out a number of options to be considered in order to ensure the accused's presence at trial, to prevent reoffending or to ensure successful conduct of proceedings. In this respect, the Panel recalls that detention should only be continued if there are no alternative, more lenient measures reasonably available that could sufficiently mitigate the risks set out in Article 41(6)(b).⁴¹ The Panel must therefore consider all reasonable alternative measures that could be imposed and not only those raised by the Thaçi Defence or the SPO.⁴²

38. The SPO submits that no alternative measures sufficiently mitigate the Article 41(6)(b) risks posed by Mr Thaçi.⁴³ The SPO recalls that the Panel has previously considered and rightly rejected all reasonable, realistic alternatives to detention at the SC detention facilities.⁴⁴

39. The Thaçi Defence calls the Panel's attention to the previously proposed conditions, asserting that they are sufficient to mitigate the risks alluded to above.⁴⁵

⁴⁰ Regarding 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 to Article 19(5) of Law no. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office* ("SCCC 26 April 2017 Judgment"), 26 April 2017, para. 114. See also ECtHR, [Buzadji v. the Republic of Moldova](#), para. 87 *in fine*; ECtHR, [Idalov v. Russia \[GC\]](#), no. 5826/03, [Judgment](#), 22 May 2012, para. 140 *in fine*.

⁴¹ SCCC 26 April 2017 Judgment, para. 114; KSC-CC-PR-2020-09, F00006, Specialist Chamber of the Constitutional Court, *Judgment on the Referral of Amendments to the Rules of Procedure and Evidence Adopted by the Plenary on 29 and 30 April 2020* ("SCCC 22 May 2020 Judgment"), 22 May 2020, para. 70. See also ECtHR, [Idalov v. Russia \[GC\]](#), para. 140 *in fine*.

⁴² IA003/F00005, Court of Appeals Panel, *Public Redacted Version of Decision on Rexhep Selimi's Appeal Against Decision on Interim Release*, 30 April 2021, confidential, para. 86. A public redacted version was filed on 11 February 2022, IA003/F00005/RED; KSC-BC-2020-05, F00127, Trial Panel I, *Fourth Decision on Review of Detention*, 25 May 2021, para. 24.

⁴³ SPO Submissions, para. 23.

⁴⁴ SPO Submissions, para. 23, referring to Sixth Decision on Detention, para. 47.

⁴⁵ Thaçi Response, paras 4-5.

40. In light of Mr Thaçi's reliance on previously litigated measures, the Panel refers the Parties to its prior analysis and findings regarding those same measures.⁴⁶

41. Notably, a Court of Appeals panel has already affirmed the Pre-Trial Judge's assessment of similar conditions.⁴⁷

42. Turning to the risks of obstructing the progress of SC proceedings and committing further crimes, the Panel finds that none of the proposed conditions, nor any additional measures foreseen in Article 41(12), could sufficiently mitigate the existing risks.⁴⁸ Further, the Panel finds that the measures in place at the SC detention facilities, viewed as a whole, provide robust assurances against unmonitored visits and communications with family members and pre-approved visitors with a view to minimising the risks of obstruction and commission of further crimes.⁴⁹ Moreover, they offer a controlled environment where a potential breach of confidentiality could be more easily identified and/or prevented.⁵⁰

43. The Panel concludes that it is only through the communication monitoring framework applicable at the SC Detention Facilities that Mr Thaçi's communications can be restricted in a manner that would sufficiently mitigate the risks of obstruction and commission of further crimes.⁵¹

44. In light of the foregoing, the Panel finds that the risks of obstructing the proceedings and committing further offences can only be effectively managed at

⁴⁶ See Sixth Decision on Detention, paras 43-47.

⁴⁷ IA017/F00011, Court of Appeals Panel, *Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention* ("Third Appeal Decision on Detention"), 05 April 2022, confidential, paras 24-56. A public redacted version was issued on the same date, IA017/F00011/RED.

⁴⁸ See Sixth Decision on Detention, paras 43-47; See also Fourth Decision on Detention, paras 62-70; Second Decision on Detention, para. 55; Second Appeal Decision on Detention, para. 65; Third Appeal Decision on Detention, para. 91; Fourth Appeal Decision on Detention, paras 71, 73; Fourth Appeal Decision on Detention, paras 25-29, 38.

⁴⁹ See Sixth Decision on Detention, para. 46. See also Third Decision on Detention, para. 81; Fourth Decision on Detention, para. 72.

⁵⁰ Third Appeal Decision on Detention, para. 31.

⁵¹ Fifth Decision on Detention, para. 47. See Third Appeal Decision on Detention, para. 38.

the SC's detention facilities. In these circumstances, the Panel finds that Mr Thaçi's continued detention is necessary in order to avert the risks in Article 41(6)(b)(ii) and (iii).

C. REASONABLENESS OF DETENTION

45. The SPO submits that Mr Thaçi's detention remains proportional and reasonable, noting that significant and prompt steps continue to be taken.⁵² The Panel recalls that the reasonableness of an accused's continued detention must be assessed on the facts of each case and according to its special features.⁵³ The special features in this case include (i) Mr Thaçi's influence and authority; (ii) his knowledge of the charges and the evidence against him, and a possibly lengthy prison sentence; (iii) the risk that Mr Thaçi would obstruct SC proceedings; (iv) the risk of committing, instigating, or assisting further crimes; (v) the fact that restrictive measures on release are not sufficient to mitigate risks; (vi) the gravity and the complexity of the charges against Mr Thaçi; and (vii) the fact that progress continues to be made towards the start of trial, now set to begin in less than six weeks.⁵⁴

46. The SPO also submits that the disclosure of new witness information further substantiates the need for the Mr Thaçi's continued detention.⁵⁵

47. The Panel recalls the Court of Appeals Panel upholding the application of various factors in this context, including: (i) the risks identified under Article 41(6)(b); (ii) the finding that some risks could not be mitigated, and (iii) the potential penalty faced by the accused upon conviction based upon the gravity of

⁵² SPO Submission, paras 26-28.

⁵³ Third Appeal Decision on Detention, para. 65.

⁵⁴ SPO Submission, para. 28.

⁵⁵ SPO Submission, para. 27.

the charges.⁵⁶ In Mr Thaçi's case, the risks provided under 41(6)(b) continue to exist,⁵⁷ they cannot be sufficiently mitigated,⁵⁸ and the charges against him are grave,⁵⁹ with a potential sentence upon conviction of life in prison.⁶⁰ All of these factors weigh in favour of Mr Thaçi's continued detention. Further, the Panel recalls that the usage of these factors in determining the reasonableness of continued detention is consistent with the practice of human rights bodies and international criminal tribunals.⁶¹

48. Based upon the foregoing, the Panel finds that Mr Thaçi's detention for a further two months is necessary and reasonable pursuant to the specific circumstances of the case.

49. The Panel does note, however, that Mr Thaçi has already been in detention for a significant period of time, and the trial in this case is likely to be lengthy.

50. As the Panel previously indicated, this will require the Panel as well as all Parties to be particularly mindful of the need to ensure that the trial proceeds as expeditiously as possible. The Panel will continue to monitor at every stage in these proceedings whether continued detention is necessary and reasonable.

D. CLASSIFICATION

51. Noting that the SPO has filed a public redacted version of the SPO Submissions, the Panel orders the Thaçi Defence to submit a public redacted version of the Thaçi Response or request its reclassification by no later than Friday, 3 March 2023.

⁵⁶ IA001/F00005, Court of Appeals Panel, *Decision on Kadri Veseli's Appeal Against Decision on Interim Release* ("Veseli Detention Appeal Decision"), 30 April 2021, para. 57.

⁵⁷ See para. 38.

⁵⁸ See para. 46.

⁵⁹ See para. 14.

⁶⁰ Article 44(1) of the Law.

⁶¹ Veseli Detention Appeal Decision, para. 57.

VI. DISPOSITION

52. For the above-mentioned reasons, the Panel hereby:

- a) **ORDERS** Mr Taçi's continued detention; and
- b) **ORDERS** the SPO to file submissions on the next review of Mr Taçi's detention by no later than Monday, 27 March 2023, with the response and reply following the timeline set out in Rule 76; and
- c) **ORDERS** the Taçi Defence to submit a public redacted version of the Taçi Response or request its reclassification as public by no later than Friday, 3 March 2023.



Charles L. Smith, III
Presiding Judge

Dated this Friday, 17 February 2023
At The Hague, the Netherlands.