

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 Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hashim Thaçi

Date: 6 February 2023

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Public Redacted Version of 'Thaçi Defence Response to 'Prosecution Submission Pertaining to Periodic Detention Review of Hashim Thaçi' (F01235)'

Specialist Prosecutor's Office

Alex Whiting

Counsel for Victims

Simon Laws

Counsel for Hashim Thaçi

Gregory Kehoe

Counsel for Kadri Veseli

Ben Emmerson

Counsel for Rexhep Selimi

David Young

Counsel for Jakup Krasniqi

Venkateswari Alagendra

I. INTRODUCTION

1. The Defence for Mr Hashim Thaçi (“Defence”) hereby responds to the SPO’s submissions on detention review.¹

II. SUBMISSIONS

2. Mr Thaçi maintains the position adopted since his voluntary surrender to the KSC on 5 November 2020; the requirements of Article 41(6) of the KSC Law² have not been met, and his ongoing pre-trial detention is unwarranted.

3. The SPO Submissions largely repeat and rely on previous arguments, but submit that the setting of a trial date, and other developments showing steady progress will give Mr Thaçi further access to information regarding sensitive witnesses and the case against him, buttress the necessity and reasonableness of detention.³ These submissions cannot be reconciled with Mr Thaçi’s consistently stated desire to cooperate with these proceedings, and defend himself against the SPO allegations, and the overwhelmingly exculpatory nature of the SPO’s disclosure to date. Moreover, despite Mr Thaçi being in possession of sensitive witness information through voluminous SPO disclosure over the past weeks and months, the SPO does not point to one concrete example of witness intimidation or harassment that can be levelled against him.

4. Noting the position of this Trial Panel that Mr Thaçi is not a flight risk under

¹ KSC-BC-2020-06/F01235, Public Redacted Version of Prosecution Submission Pertaining to Periodic Detention Review of Hashim Thaçi, 30 January 2023, Confidential. A public redacted version was filed later: KSC-BC-2020-06/F01235/RED, Public Redacted Version of Prosecution Submission Pertaining to Periodic Detention Review of Hashim Thaçi, 2 February 2023 (“SPO Submissions”).

² Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“KSC Law”).

³ SPO Submissions, para. 1.

Article 41(6)(b)(i) of the Law,⁴ Mr Thaçi reiterates his ongoing willingness to submit to extremely restrictive conditions of house arrest. In proposing to essentially recreate the prison environment in his own home in order to [REDACTED], Mr Thaçi again proposes reasonable and realistic alternatives to incarceration in The Hague.⁵ These proposed conditions more than mitigate any risks of interference or the commission of international crimes. They should be meaningfully considered and accepted.

5. Beyond these submissions, the Defence repeats and relies on the submissions made in December 2022,⁶ and his previous requests for release.

[Word count: 415 words]

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'G. W. Kehoe', is written over a white rectangular redaction box.

Gregory W. Kehoe

Counsel for Hashim Thaçi

Monday, 6 February 2023

At Tampa, United States

⁴ KSC-BC-2020-06/F01170, Decision on Periodic Review of Detention of Hashim Thaçi, 19 December 2022, para. 29

⁵ See, e.g., KSC-BC-2020-06/F00769, Thaçi Defence Submissions on Third Detention Review, 19 April 2022, paras. 27-31; KSC-BC-2020-06/F00570, Thaçi Defence Submissions on Second Detention Review, 16 November 2021, paras. 25-38.

⁶ KSC-BC-2020-06/F01156, Thaçi Defence Response to Prosecution submissions on detention review of Hashim Thaçi, 14 December 2022.