



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-06
**The Specialist 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: Dr Fidelma Donlon

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**Public Redacted Version of “Registrar’s Submissions on Thaçi Defence Request
for Temporary Release on Compassionate Grounds”,
filing F01551 dated 24 May 2023**

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I. INTRODUCTION

1. Pursuant to Rule 23(2) of the Rules,¹ the Registrar hereby provides submissions on Mr Hashim Thaçi's urgent request for temporary release on compassionate grounds ('Request').²

II. APPLICABLE LAW

A. Detention Function

2. Pursuant to Article 3(5) of the Law,³ the Registry of the Specialist Chambers administers all necessary and auxiliary functions, including detention facilities.

3. Pursuant to Article 34(12) of the Law, the Registrar is responsible for managing and administering the detention function and facilities of the Specialist Chambers in line with international standards and the Law, and the Specialist Chambers' "correction/detention officers shall have the authority and responsibility to exercise powers given to Kosovo Correction Officers under Kosovo law", in accordance with the modalities established by the Law.

4. Pursuant to Article 41(7) and (8) of the Law, persons subject to a detention order of the Specialist Chambers may be detained in facilities overseen by the Specialist Chambers and managed by the Registry, which shall meet relevant international standards.

5. Pursuant to Rule 56(1) of the Rules, in exceptional circumstances, a person may be held in facilities outside of the Host State or Kosovo pending transfer. The detained person shall at all times remain under the authority of the Specialist Chambers.

¹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

² KSC-BC-2020-06, F01547, URGENT Thaçi Defence Request for Temporary Release on Compassionate Grounds, 23 May 2023, confidential and *ex parte*, with confidential and *ex parte* Annexes 1-2

³ Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

B. Temporary Release

6. Pursuant to Rule 56(3) of the Rules, “[u]pon request by a detained person or *proprio motu*, the Panel may order the temporary release of a detained person, where compelling humanitarian grounds justify such release”.

7. Pursuant to Rule 56(5) of the Rules, the Panel may impose such conditions upon the release as deemed appropriate to ensure the presence of the detained person.

III. SUBMISSIONS

A. Request

8. On 23 May 2023, Mr Thaçi submitted a Request for temporary release on compassionate grounds “for a period of four (4) days in order to allow him to visit his mother who is suffering from a critical medical condition, and provide comfort to his father and other close family members.”⁴

9. Mr Thaçi states that his mother, Mrs [REDACTED] Thaçi, was hospitalised [REDACTED].⁵ Mr Thaçi further states that following his mother’s release [REDACTED].⁶

10. In the Request, the Defence also notes that they have no objection to the imposition of conditions similar to those imposed in previous decisions concerning custodial visits to Kosovo.⁷

B. Feasibility and Operational Requirements

11. The considerable resources needed to stand up and deploy a transfer team and rapidly arrange for air transport are, in the opinion of the Registrar, only justifiable in urgent, compelling, and exceptional circumstances.

12. [REDACTED]. [REDACTED].

⁴ Request, paras 1, 15.

⁵ Request, para. 6.

⁶ Request, para. 6.

⁷ Request, para. 13.

13. Should the Panel consider that the present circumstances justify the temporary transfer of Mr Thaçi for a custodial visit to Kosovo, this can be organised securely and swiftly, subject to certain operational and mission security requirements, as set forth below.

i. Mission Security Requirements, Location, and Duration

14. [REDACTED], the Registrar notes the most recent Decision of the Panel on the Periodic Review of Detention of Mr Thaçi.⁸ In this Decision, the Panel stated that “Mr Thaçi has: (i) [REDACTED]; (ii) attempted to undermine the [Specialist Chambers] and offered benefits to persons summoned by the SPO; (iii) a position of influence in Kosovo which could allow him to elicit the support of sympathisers; and (iv) given the commencement of trial, increased knowledge of the evidence underpinning the serious charges against him.”⁹

15. The Panel, noting the commencement of trial proceedings, stated that the disclosure of details of witnesses to the Thaçi Defence will lead to these details becoming known to, *inter alia*, Mr Thaçi. It went on to state that, 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.”¹⁰ The Panel also referred to the continued existence in Kosovo of a “persistent climate of intimidation of witnesses and interference with criminal proceedings against former KLA members”.¹¹

16. At this time, it is noted that any temporary transfer of Mr Thaçi to Kosovo poses unique security and logistical challenges. [REDACTED]. [REDACTED].¹²

⁸ F01459, Decision on Periodic Review of Detention of Hashim Thaçi, 17 April 2023, confidential (‘Eighth Detention Decision’).

⁹ Eighth Detention Decision, para. 19.

¹⁰ Eighth Detention Decision, para. 20.

¹¹ Eighth Detention Decision, para. 21.

¹² [REDACTED].

17. The proposed visit will have a high probability of being public knowledge [REDACTED]. [REDACTED]. The likelihood of [REDACTED] also presents considerable security challenges, particularly in light of Mr Thaçi's unique profile.

18. The Security and Safety Unit ('SSU') of the Registry, together with external partners, has assessed the impact of the above information on the Registrar's feasibility and security assessments. In terms of the location of the family address, the Registrar notes that Mr Thaçi has not provided the exact address of his mother's residence but has indicated that the residence is located in [REDACTED]. The Registry kindly requests that the exact location be provided.

19. Based on the information available to the Registry at this time, it is assessed that the risks can be appropriately mitigated by the transfer team, together with external partners, at this general visit location, if the visit is of **short duration** and under conditions of **secrecy**. The Registrar further notes that this assessment is based on currently available information, but if the security picture changes, the Panel will be immediately informed.

20. Furthermore, in terms of logistical matters, SSU is currently supporting ongoing trial proceedings, including multiple evidentiary hearings occurring in the course of the coming weeks. Therefore, the Registry only has the available resources to support a short custodial visit.

21. Considering available resources, transportation requirements, mission security requirements, and planning consultations with external partners, the Registry assesses that a temporary transfer of Mr Thaçi to Kosovo **for one (1) day**, [REDACTED], would be feasible, understanding that Mr Thaçi would remain in the custody of the Specialist Chambers at all times.

22. This 1-day custodial visit would accommodate the necessary travel time and a time-limited custodial visit to the mother's residence, [REDACTED]. Such a visit could feasibly take place approximately [REDACTED] working days following any order of the Panel granting such request. The exact date is subject to final planning

consultations [REDACTED] and confirmation of the exact address and the necessary travel arrangements. Unforeseen circumstances may also impact this timescale.¹³

ii. Visit at the Mother's Residence

23. As noted above, the chief custody officer can arrange for Mr Thaçi to be securely transported to and from his mother's residence for an in-person custodial visit. Taking into account the information in the preceding section, including [REDACTED]¹⁴ – as well as [REDACTED] – it is recommended that the visit take place with Mr Thaçi's **mother and father only**. Understanding that [REDACTED]. If this is the case, the Defence is requested to provide [REDACTED]. Should the Panel decide to allow the presence of others at the residence, they would also need to be identified in advance. Given the circumstances, the Registry would also require a contact point on the Defence team to coordinate any visit ordered by the Panel.

24. This visit is feasible on the understanding that the residence would be vacated by all non-authorized persons, that Mr Thaçi would at all times remain in the custody of the Specialist Chambers and under escort, and that the chief custody officer may take any decision necessary regarding the custodial visit on the basis of operational and security concerns, including terminating the visit.

25. The Registry also welcomes any other conditions deemed appropriate by the Panel.

iii. Assistance of External Partners

26. In Kosovo, robust and overt security arrangements [REDACTED] would be required for any custodial visit ordered by the Panel. The Registry would require [REDACTED], as well as [REDACTED] should Mr Thaçi be required to visit the secure transfer facility for any reason during the transfer.¹⁵

¹³ It should be noted that, at this time, [REDACTED].

¹⁴ See para. 16, above.

¹⁵ Due to the 1-day anticipated timeframe, it is not expected that Mr Thaçi would be accommodated at the Specialist Chambers' secure transfer facility. Nevertheless, the transfer facility may be used in the

27. As noted above, the logistics required for arranging security support from external partners can be arranged within approximately [REDACTED] days, allowing for notification to Host State authorities and any logistical requirements, including transport arrangements.

28. The Registrar requests, pursuant to Article 53 of the Law, that all entities and persons in Kosovo be ordered to comply without undue delay with any request for assistance that may be required.

29. Should the Panel decide to approve this custodial visit, the Registrar will make final operational security planning arrangements with external partners.

iv. Other Considerations and Practical Matters

30. In terms of other considerations and practical matters, as noted above, considerable financial and human resources are required to deploy a several-person transfer team and arrange for [REDACTED] secure air transport on extremely short notice.

31. In addition, the secrecy of any custodial visit is paramount. Should the Panel order the temporary transfer of Mr Thaçi for a custodial visit to Kosovo, the Registrar requests the Panel to order conditions of secrecy regarding Mr Thaçi's presence on the territory of Kosovo. Specifically, the Registrar requests the Panel to order the Defence, Mr Thaçi, and his family members and associates to refrain from making public statements and to maintain secrecy regarding his presence on the territory of Kosovo prior to and during the entirety of his stay in Kosovo, together with any other conditions deemed appropriate.

event of delay or unforeseen circumstances. In such case, the transfer facility would be managed by Specialist Chambers' security staff at all times, led by the chief custody officer. Due to the limited duration of any possible stay there, the Registrar is satisfied that the secure transfer facility is in line with applicable international standards.

32. Should Mr Thaçi's presence on the territory of Kosovo become known, the Registrar requests that the Registry be authorised to make any necessary statement in this regard.

33. The Registrar also requests authorisation to notify any authorities deemed necessary for the implementation of the Panel's order.

IV. CLASSIFICATION

34. This submission is filed as confidential and *ex parte* for distribution to the Registrar, Specialist Prosecutor, and the Defence for Mr Thaçi only, to protect the confidentiality of information related to any possible future custodial visit.

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Dr Fidelma Donlon
Registrar

Monday, 5 June 2023

At The Hague, the Netherlands