



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 Guénaël Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filed by:** 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 F01752, dated  
31 August 2023**

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**Specialist Prosecutor’s Office**  
Ward Ferdinandusse

**Counsel for Hashim Thaçi**  
Gregory Kehoe

**Counsel for Kadri Veseli**  
Ben Emmerson

**Counsel for Victims**  
Simon Laws

**Counsel for Rexhep Selimi**  
Geoffrey Roberts

**Counsel for Jakup Krasniqi**  
Venkateswari Alagendra

## I. INTRODUCTION

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

## II. APPLICABLE LAW

### A. Detention Function

2. Pursuant to Article 3(5) of the Law,<sup>3</sup> 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.

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

<sup>2</sup> KSC-BC-2020-06, F01749, URGENT Thaçi Defence Second Request for Temporary Release on Compassionate Grounds, 30 August 2023, confidential and *ex parte*, with confidential and *ex parte* Annex 1.

<sup>3</sup> 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. Mr Thaçi’s Request

8. On 30 August 2023, Mr Thaçi submitted a Request for temporary release on compassionate grounds for a period of three days in order to allow him to visit his father at a hospital who is in critical medical condition,<sup>4</sup> and to visit his mother at her house whose health condition has not improved.<sup>5</sup>

9. Mr Thaçi states that his father, Mr [REDACTED] Thaçi, was hospitalised on [REDACTED] August 2023 at the [REDACTED] Hospital in Prishtinë, and was “assessed [REDACTED]”.<sup>6</sup> Mr Thaçi worries that his father’s health may deteriorate, without warning, and that he may not recover.<sup>7</sup>

10. As for the visit with his mother, Mrs [REDACTED] Thaçi, Mr Thaçi submits his mother [REDACTED].<sup>8</sup> Given [REDACTED] Mrs Thaçi’s health status, [REDACTED].<sup>9</sup> As such, Mr Thaçi requests a short visit at his mother’s house in the presence of his wife, son and sisters<sup>10</sup> “to comfort his mother and close relatives at a time when his father’s medical situation is so grave”.<sup>11</sup>

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<sup>4</sup> Request, para. 12.

<sup>5</sup> Request, para. 17.

<sup>6</sup> Request, para. 12.

<sup>7</sup> Request, para. 13.

<sup>8</sup> KSC-BC-2020-06, F01750, URGENT Thaçi Defence Supplementary Submissions in Support of Second Request for Temporary Release on Compassionate Grounds, 30 August 2023, confidential and *ex parte*, with confidential and *ex parte* Annex 1, para. 1.

<sup>9</sup> Id.

<sup>10</sup> Mr Thaçi’s wife is [REDACTED], his son is [REDACTED], and his sisters are [REDACTED].

<sup>11</sup> Request, para. 17.

11. In the Request, the Defence notes they have no objection to the imposition of conditions similar to those imposed during Mr Thaçi's previous temporary visit to his mother, with two exceptions.<sup>12</sup>

12. First, that Mr Thaçi be permitted to have contact with his father and (pre-identified) immediate family members during the visit either at the hospital or [REDACTED].<sup>13</sup> Second, that the visit last for three days, including travel, which "allows for the possibility of multiple visits between Mr Thaçi and his father, who is critically ill and unable to accommodate long visits or conversation".<sup>14</sup>

13. The Defence proposes the visit be conducted on or after 31 August 2023, to minimise disruption to the court schedule.<sup>15</sup> Mr Dastid Pallaska, Co-Counsel for Mr Thaçi, will be the contact point for the Registry on behalf of the Defence.<sup>16</sup>

#### B. Prosecution response

14. The Prosecution does not oppose the Request as long as it is "strictly supervised, fully custodial, [with a] return visit of one day (meaning traveling to and from Kosovo on the same day)".<sup>17</sup> Given the stage of the proceedings and the risk of interference, the Prosecution opposes a multi-day visit.<sup>18</sup> Finally, the Prosecution does not oppose a fully custodial, one-day visit that is under "strict conditions consistent with those imposed for Mr Thaçi's prior custodial visit".<sup>19</sup>

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<sup>12</sup> Request, para. 14.

<sup>13</sup> Request, para. 14.

<sup>14</sup> Request, para. 16.

<sup>15</sup> Request, para. 18.

<sup>16</sup> Request, para. 18.

<sup>17</sup> KSC-BC-2020-06, F01751, Prosecution response to urgent Thaçi Defence second request for temporary release ('Prosecution Response'), 30 August 2023, confidential and *ex parte*.

<sup>18</sup> Prosecution Response, para. 2.

<sup>19</sup> Prosecution Response, para. 3.

### C. Feasibility and Operational Requirements

15. [REDACTED], the Registrar notes her prior submissions in relation to Mr Thaçi's previous request for temporary release on compassionate grounds based on the critical condition of his mother,<sup>20</sup> and the decision of Trial Panel II on Mr Thaçi's previous request, imposing certain conditions.<sup>21</sup>
16. [REDACTED]. [REDACTED].
17. In addition, 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.
18. 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. Duration and Time to Organise Transfer

19. If the Panel grants Mr Thaçi's request, the Registrar considers on short notice 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.
20. The Security and Safety Unit ('SSU') of the Registry 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 the notice requirements to external partners, the Registry assesses that it is feasible for the **1-day** visit to take place [REDACTED], subject to

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<sup>20</sup> KSC-BC-2020-06, F01551, Registrar's Submissions on Thaçi Defence Request for Temporary Release on Compassionate Grounds, 24 May 2023, confidential and *ex parte*, paras 14-17.

<sup>21</sup> KSC-BC-2020-06, F01556/COR/RED, Public Redacted Corrected Version of Decision on Urgent Thaçi Request for Temporary Release on Compassionate Grounds, 25 May 2023, para. 24.

planning consultations with [REDACTED].<sup>22</sup> This 1-day visit would accommodate the necessary travel time, a custodial visit to the hospital where Mr Thaçi's father is receiving care, and a custodial visit to Mrs Thaçi's house, [REDACTED].

ii. Visit to the Hospital

22. The chief custody officer can arrange for Mr Thaçi to be securely transported to and from the hospital<sup>23</sup> in Pristina for an in-person custodial visit with his father, if ordered by the Panel. This is on the understanding that Mr Thaçi would be escorted by Specialist Chambers' security staff at all times and that the chief custody officer may take any decision regarding the custodial visit on the basis of operational and security concerns, including terminating the visit.

23. For operational and security reasons, Mr Thaçi should only be permitted to visit with his father and a maximum of two (2) immediate family members<sup>24</sup> at the hospital. [REDACTED].

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

iii. Visit to the Mother's Residence

25. The chief custody officer can arrange for Mr Thaçi to be securely transported from the hospital to his mother's residence<sup>25</sup> for an in-person custodial visit. Taking into account [REDACTED],<sup>26</sup> it is recommended that the visit take place with Mr Thaçi's mother and two immediate family members only.

26. Understanding that Mr Thaçi's mother [REDACTED]. If this is the case, the Defence is requested to provide [REDACTED].

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<sup>22</sup> Unforeseen circumstances may impact upon these timescales.

<sup>23</sup> The [REDACTED] Hospital's address is [REDACTED], Prishtinë, Kosovo.

<sup>24</sup> Trial Panel II has defined immediate family members as parents, spouse, children, siblings, and grandchildren.

<sup>25</sup> Mrs Thaçi's home address is [REDACTED].

<sup>26</sup> [REDACTED].

27. 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.

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

iv. Assistance of External Partners

29. In Kosovo, robust and overt security arrangements with [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.<sup>27</sup>

30. 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.

31. 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.

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

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<sup>27</sup> 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 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.

v. Other Considerations and Practical Matters

33. 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] and secure air transport on extremely short notice.

34. 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.

35. 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.

36. If a custodial visit is ordered by the Panel, the Registry requests that the Defence be ordered to submit copies of the identity documents of immediate family members<sup>28</sup> to the Detention Management Unit for prior approval. In addition, pre-approved immediate family members would also need to present photographic identification to the chief custody officer upon arrival at the hospital and at the mother's residence.

37. Finally, the Registrar requests authorisation to notify any authorities deemed necessary for the implementation of the Panel's order.

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<sup>28</sup> See paras 23 and 25 above.



IV. CLASSIFICATION

38. This submission is filed as confidential and *ex parte* for distribution to the Registrar, Specialist Prosecutor, and the Defence for Mr Taçi only, to protect the confidentiality of information related to the safe and secure transfer of Mr Taçi.

**Word count: 1996**

A handwritten signature in cursive script, reading "Fidelma Donlon", written over a horizontal line.

**Dr Fidelma Donlon**  
**Registrar**

Monday, 11 September 2023  
At The Hague, the Netherlands