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## Former Kosovo President Hashim Thaci and 3 Co-Defendants Held on Trial for War Crimes

3 April 2023, the trial of former Kosovo President Hashim Thaci and three co-defendants – Kadri Veseli, Rexhep Selimi and Jakup Krasniqi, began at the Kosovo Specialist Chambers in the Hague, Netherlands. All four are being charged with war crimes against humanity and war crimes that happened during and just after the armed conflict against Serbian forces between March 1998–September 1999.

During the war, Thaci served as commander-in-chief of the ethnic Albanian rebel Kosovo Liberation Army (KLA) along former KLA heads – Veseli, Selimi, and Krasniqi, all of whom later obtained prominent positions in the government. From 2016 to 2020, Thaci served as president until he was indicted. In the case of Veseli, he was the parliamentary speaker and leader of the Kosovo Democratic Party, while Krasniqi was the chairman of the national council of the Social Democratic Initiative, NISMA party, and Selimi was the head of the Vetevendosje party's parliamentary group of MPs.

### Background

The independence movement in Kosovo grew following former Serbian president Slobodan Milosevic's decision in 1989 to strip, what had formerly been a province of Serbia, its self-governing status. Serbia's mistreatment of the ethnic Albanian population in Kosovo led to the formation of the rebel group KLA that was established in the early 1990s. Between 1998–1999, KLA fought for independence from Slobodan Milosevic's Serbian forces that escalated into a full-fledged war. The war was finally brought to an end in 1999 following a 78-day NATO air campaign against Serbia that eventually prompted its forces to leave the province. An estimated 10,000 people were killed during the war, of which 500 civilians were killed from NATO bombings.

Once the war ended, the UN and the EU led efforts to prosecute crimes committed during the Kosovo War by first establishing the International Criminal Tribunal for former Yugoslavia (ICTY), a UN-funded and sourced ad hoc international criminal tribunal, and two consequent mixed judicial mechanisms that combined Kosovar resources with those provided by the UN Mission in Kosovo (UNMIK) and later the EU Rule of Law Mission in Kosovo

(EULEX).<sup>1</sup> However, each of these courts failed to investigate war crimes committed by former KLA members between 1998–1999 due to obstruction of justice, such as witness-tampering, political interference from the Kosovo Government, threats made to prosecutors and judges, and lack of assistance from Kosovans who perceived the courts as illegitimate.

Later, in 2008, Kosovo proclaimed unilateral independence from Serbia. However, Serbia, along with several other countries, including Russia and China, refused to accept and recognize Kosovo's independence.

In 2015, the EU and other Western leaders placed mounting pressure on the Assembly of Kosovo to amend the Kosovo Constitution and create the Kosovo Specialist Chambers (KSC) and its prosecutorial unit, the Specialist Prosecutor's Office. This move came after a 2010 Council of Europe report emerged, linking Thaci to organized crime during and after the war. To overcome the former obstacles and shortcomings that the ICTY faced, KSC was established to achieve justice for the KLA's unpunished crimes, to strengthen the rule of law and to promote reconciliation within Kosovo. However, this so-called "Special Court" has remained highly unpopular in the eyes of Kosovans, as it is perceived of as unfairly targeting Kosovo Albanian freedom fighters instead of Serbian perpetrators of the war crimes committed in 1998–1999, most of which were committed by Serbian forces against Albanians and yet there have been almost no substantive trials against them to date.

### War Crimes Tribunal Begins

After being indicted, Thaci along with the other three co-defendants were transferred to the Hague in November 2020, where they have been held in pre-trial detention. All four defendants have been charged with 10 counts: persecution, imprisonment, illegal or arbitrary arrest and detention, other inhumane acts, cruel treatment, torture, murder, and enforced disappearance of persons, all of which they pleaded not guilty of. The indictment alleges that the defendants committed crimes both in Kosovo and northern Albania against anyone who was perceived of as an opponent including those suspected of collaborating with Serbian forces, as well as officials, state institu-

<sup>1</sup> For detailed information about the establishment of the International Criminal Tribunal for Yugoslavia read [History | International Criminal Tribunal for the former Yugoslavia \(icty.org\)](#)

tions, and those that did not support KLA including the Democratic League of Kosovo, Serbs, Roman, and other ethnicities.

Just prior the announced start of the war crimes tribunal against Thaci and the other three co-defendants, Albanians from the diaspora organized a protest outside the Kosovo Specialist Chambers in support of the defendants as the trial started. This was followed by another protest attended by thousands of ethnic Albanians in Kosovo's capital Pristina on Sunday.

The trial began with opening statements from the prosecutors, who informed the court that the four defendants were responsible for the murders of 102 people and the forced disappearance of 20 others. The allegations have been denied by all four defendants who maintain they are not guilty. In the case of Thaci, he has pleaded not guilty to all 10 accounts brought against him. Apart from the prosecution, the victims' council have come forth claiming that Kosovo has maintained a climate of witness intimidation, whereby victims, who have collaborated with the court, are considered "traitors" by a large segment of society.

The four defendants defense lawyers are scheduled to give their opening statements 5 April 2023. Defense lawyers are expected to maintain that KLA was a loosely organized guerilla force, with no rigid or hierarchical military structure. This suggests that the defendants effectively had limited control over local fighters and cannot be held responsible for the crimes committed by others.

### Likely Verdict

Analysts following and tracking the progress of the trial suggest that it is highly likely that all four defendants will be acquitted, if not now, then in a later appeal. This is mainly due to the challenges the prosecution will find in linking the activities of the defendants with the alleged killings and tortures, as KLA is deemed to have been a loosely-organized guerrilla with no properly established chain of command.

### Jakov Milatovic wins Montenegro presidency

Last Sunday, Jakov Milatovic, a candidate from the European Now movement, defeated Milo Djukanovic, a candidate from the Democratic Socialist Party, in a landslide victory, ending his over three decade rule. During his victory speech, Milatovic reiterated that during his five year term in office, he would work towards leading Montenegro into the EU by dealing with vital areas such as the rule of law, economy, and European integration. Although Djukanovic is credited for leading the country to independence from Serbia in 2006 and joining NATO later in 2017, analysts suspect that voters became disillusioned with his

Democratic Party of Socialist that have been accused of allowing crime and corruption to overwhelm society.

Unlike Djukanovic, who has held various positions of power for the past three decades, 36 year old Milatovic, only entered the political scene in 2020 following his completion of education in Britain and the United States, whereby he became the Economy Minister. The outcome of this election has been regarded as "historic" and a "turning point" for Montenegro, not only by the newly elected president, but also by analysts who point out that the last major change occurred when Djukanovic, then prime minister, unseated a close ally of Sloban Milosevic for the presidency in 1997 that enabled Montenegro to steer the course towards eventual independence from Serbia in 2006.

Despite playing a mostly ceremonial role in Montenegro, where most of the political power resides with the prime minister, Milatovic's presidential victory will improve his party's chances of gaining dominance in the upcoming parliamentary snap elections held 11 June. Only after the parliamentary elections will it become more clear the likely direction Montenegro will steer towards – the EU or lean more towards Serbia and/or spark new divisions concerning the national identity of Montenegrins.

### Kosovo and Serbia Take Concrete Steps in the Dialogue Process

In Brussels, 4 April 2023, a meeting was held between EU envoy Miroslav Lajcak and Serbian and Kosovan negotiators – Petar Petkovic and Besnik Bislimi, respectively, to discuss the initial steps for establishing the Association of Serb-Majority Municipalities (ASM) in Kosovo at a "technical level". This meeting comes just two weeks after Serbian President Aleksandar Vucic and Kosovo Prime Minister Albin Kurti agreed in Ohrid, North Macedonia on an implementation plan for the EU-led dialogue process to break the impasse on their longstanding political dispute.

The establishment of the ASM represents one of the critical aspects of the EU-led deal reached between Vucic and Kurti. As discussed in last month's Monitor, the development of ASM has remained an obstacle in previous attempts to resume dialogue for the normalization of relations between Kosovo and Serbia, as the Serbian government maintains that Kosovo failed to fulfill its commitments made in the 2013 Brussels Agreement, while Kosovan representatives view ASM's acceptance as undermining efforts of creating a multi-national state by de facto establishing a bi-national state, replicating the situation in Bosnia and Herzegovina. Therefore, this meeting signified a serious step forward in drafting plans for the establishment of ASM. As previously established in the 2013 and 2015 Brussels Agreements, the establishment of ASM requires a

presentation of the draft statute that is to be prepared by a management team within the framework of a high-level dialogue. The management team is to be comprised of representatives from Kosovo's four northern Serb-majority municipalities and established after being endorsed by the Kosovo authorities. It was decided that the initial "consent" of the draft plan for the team that will manage the process of setting up the association, could be discussed between Vucic and Kurti at the next meeting. However, the exact date of the next meeting has yet to be confirmed.

### **Bosnian Serb Entity Seeks to Pass Controversial Draft Law on "Foreign Agents"**

Recently, a controversial draft law on "Foreign Agents" was approved by Republika Srpska's executive on 23 March 2023. If passed, which likely it will, nonprofit organizations funded from abroad and active in the Bosnian Serb entity will be required to register and report their work and finances to the Justice Ministry of Republika Srpska. Currently, the draft law has been passed on to the entity's parliament – the National Assembly to be debated.

Immediately after the approval of the draft law was announced, the EU and US harshly criticized it as "repressive and anti-democratic". Bosnian Serb leader Milorad Dodik, who is currently blacklisted by the US and Britain in multiple rounds of sanctions over alleged destabilization efforts and corruption, claims the draft law is based on the US Foreign Agents Registration Act (FARA), just as Russia previously had. However, as the US points out, there is "no equivalence" between FARA and Russia's foreign agents law, whereby the latter is used to silence any opposition and obstruct freedom of expression. As with the case of Russia, the law, if passed, will obstruct the rights and freedoms of NGOs registered in Republika Srpska, currently estimated at 7,500.