

**In:** KSC-BC-2020-06  
**Specialist 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:** Defence Counsel for Jakup Krasniqi

**Date:** 4 July 2024

**Language:** English

**Classification:** Confidential

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**Confidential Redacted Version of “Krasniqi Defence Response  
to ‘Prosecution Submission Pertaining to Periodic Detention Review of  
Jakup Krasniqi (F02401)’”**

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## I. INTRODUCTION

1. The Defence for Jakup Krasniqi (“Krasniqi Defence”) hereby responds to the Specialist Prosecutor’s Office (“SPO”) submissions requesting Mr. Krasniqi’s continued detention,<sup>1</sup> pursuant to Article 41(10) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 57 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”).

2. The Krasniqi Defence requests the Trial Panel to allow Mr. Krasniqi to spend three weeks at his home address in Pristina during the Summer recess. Mr. Krasniqi has now been detained for 44 months. During that time, he has not been allowed to visit his home at all. His family life has suffered and is suffering. Mr. Krasniqi is 73 years old and, as set out below, [REDACTED]. The Prosecution case is currently scheduled to end in April 2025 – which means that Mr. Krasniqi will have spent 4 years and five months in detention by the close of the Prosecution case alone, to say nothing of the Defence cases, any evidence to be adduced on behalf of victims, or deliberation time. It would be proportionate, and consistent with Mr. Krasniqi’s right to family life, in the light of his advanced age, [REDACTED], the time that Mr. Krasniqi has already spent in detention and the time that he will have spent in detention until the trial judgment, to grant the requested short period of interim release over the recess period.

3. The Krasniqi Defence re-iterates that Mr. Krasniqi would abide by any condition set by the Trial Panel for his interim release.

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<sup>1</sup> KSC-BC-2020-06, F02401, Specialist Prosecutor, *Prosecution Submission Pertaining to Periodic Detention Review of Jakup Krasniqi* (“Prosecution Submission”), 24 June 2024, public.

4. This filing is submitted confidentially and *ex parte* because it refers to confidential information pertaining to the accused.

## II. SUBMISSIONS

### *i. Mr. Krasniqi Is Not a Flight Risk*

5. The Krasniqi Defence reiterates the Panel's repeated finding that Mr. Krasniqi does not present a flight risk.<sup>2</sup> As previously submitted, and contrary to the SPO's submission,<sup>3</sup> the progression of trial has not increased the alleged flight risk. Instead, as trial has progressed yet further witnesses have offered character references for Mr. Krasniqi, most recently W04474 who described the allegation against Mr. Krasniqi as "absurd",<sup>4</sup> and W02144, who confirmed that his notes of the conference aligned with the words of an LDK member which described Mr. Krasniqi as "always being a person with *high integrity*".<sup>5</sup> In these 44 months, Mr. Krasniqi has adhered to all protocols and exemplified nothing but good conduct.

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<sup>2</sup> KSC-BC-2020-06, F02313, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 15 May 2024, public, para. 16; F02183, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi* ("March 2024 Decision"), 15 March 2024, para. 18; F02059, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 15 January 2024, public, para. 17; F01926, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 15 November 2023, public, para. 17; F01795, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 15 September 2023, confidential, para. 13; F01679, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 17 July 2023, confidential, para. 18; F01530, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 17 May 2023, confidential, para. 15.

<sup>3</sup> Prosecution Submission, para. 9.

<sup>4</sup> KSC-BC-2020-06, Trial Hearing, 26 June 2024, confidential, T. 17247.

<sup>5</sup> KSC-BC-2020-06, Trial Hearing, 29 May 2024, confidential, T. 16303; 4D00063.

ii. *Possible Obstruction of Proceedings and Possible Commission of Further Crimes*

6. The Krasniqi Defence maintains that ongoing detention can only be justified by “specific indications” or “concrete facts”<sup>6</sup>, and that general submissions, including those about the alleged climate of intimidation, are not sufficient to show that there is more than a mere possibility that Mr. Krasniqi would obstruct the proceedings.<sup>7</sup> No evidence has been adduced to suggest that any of the witnesses who have testified or whose evidence has been admitted in writing were contacted and asked to recant by Mr. Krasniqi or anyone connected to him. The SPO has had months to secure the evidence of protected witnesses who have yet to testify under an extensive witness protection regime.

7. As previously argued, the grounds supporting the SPO’s request for Mr. Krasniqi’s detention have not changed since December 2020.<sup>8</sup> Three years and eight months have passed since the Pre-Trial Judge first relied on these same grounds to justify detention. During this time, there has been no indication that any of the alleged risks relied on by the SPO has materialised with regard to Mr. Krasniqi.

8. Similarly, the progressive disclosure of information as the trial progresses is insufficient to justify ongoing detention because there is currently no specific indication or concrete fact to suggest that Mr. Krasniqi is likely to use this information to obstruct the proceedings. For instance, Mr. Krasniqi has been aware of W04752’s evidence since at least 2020 and has never attempted to obstruct these proceedings.<sup>9</sup> Similarly, no increased risk arises from the progressive entry of evidence onto the

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<sup>6</sup> ECtHR, *Ilijkov v. Bulgaria*, no. 33977/96, *Judgment*, 26 July 2001, para. 84.

<sup>7</sup> ECtHR, *Merabishvili v. Georgia*, no. 72508/13, *Judgment*, 28 November 2017, para. 222.

<sup>8</sup> KSC-BC-2020-06, F00153, Specialist Prosecutor, *Prosecution response to Application for Interim Release on behalf of Mr Jakup Krasniqi*, 17 December 2020, confidential, with Annex 1, confidential.

<sup>9</sup> W04752’s SPO Interview has been disclosed to the Krasniqi Defence in Disclosure Batch 9, on 12 December 2020.

record, since the evidence entering the record is mostly comprised of Rule 154 statements to which Mr. Krasniqi has had access for many months. He has never sought to obstruct or interfere with this evidence. Indeed, to date, the SPO has disclosed 1327 disclosure batches and Mr. Krasniqi has made no attempt to abuse this material to obstruct the proceedings in any way.

9. Further, the Trial Panel has ample powers to impose conditions which would remove or very significantly reduce any alleged risks.<sup>10</sup> For instance, the Trial Panel may prohibit the making of any public statements, limit Mr. Krasniqi's access to communication devices and internet, limit Mr. Krasniqi's visitors and monitor his communications. The imposition of a combination of measures over a relatively short period of interim release would reduce any alleged risks to an acceptable level. In the absence of any new grounds raised by the SPO, the Krasniqi Defence requests that the Trial Panel uses the powers and discretion available to it to impose conditions which would allow Mr. Krasniqi to spend part of the Summer recess with his family.

10. The issues in relation to the possible commission of further crimes substantially overlap with the allegation of the obstruction of proceedings. For the reasons set out above, the Krasniqi Defence respectfully submits that the SPO has not demonstrated that there is still more than a mere possibility that Mr. Krasniqi would commit further crimes.

*iii. Mr Krasniqi's [REDACTED] and Right to Family Life*

11. [REDACTED].<sup>11</sup>

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<sup>10</sup> Rule 56(5) of the Rules; *I.e.* KSC-BC-2018-01, F00658/COR, Single Judge Panel, *Public Redacted Version of Corrected Version of Decision on Review of Detention of Isni Kilaj*, 3 May 2024, public, para. 65.

<sup>11</sup> [REDACTED].

12. This constitutes a change in circumstances since the last detention review. [REDACTED]. [REDACTED].<sup>12</sup>

13. Moreover, the Krasniqi Defence understands that [REDACTED]. A short period of provisional release would allow Mr. Krasniqi [REDACTED].

14. The Krasniqi Defence maintains that Mr. Krasniqi, at 73 years and 6 months old, has [REDACTED]. Ongoing detention without prospect of interim release necessarily affects his mental state. Remaining in long-term detention has particular consequences for a man of his age [REDACTED]. If released for the requested three-week period, Mr. Krasniqi would be able to spend some days with his family, which will undoubtedly positively contribute to his well being and mental health.

15. Furthermore, being detained in a country far away from his family's residence for over three and a half years, has had a negative impact on his family life.<sup>13</sup> [REDACTED]. [REDACTED]. Due to his detention, Mr. Krasniqi was not able to attend [REDACTED]. As his confinement continues, Mr. Krasniqi will continue to miss key moments in the lives of his family. [REDACTED]. Each decision prolonging his detention, despite his right to presumption of innocence, deprives Mr. Krasniqi of key moments with his loved ones.

16. Lastly, provisional release would give Mr. Krasniqi the opportunity to prove to this Panel that he will abide by any condition that the Court deems appropriate. There is no evidence that Mr. Krasniqi has ever behaved inappropriately in the Detention Unit or the Courtroom. He has respected the Panel's Orders. In the circumstances,

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<sup>12</sup> *Ibid.*

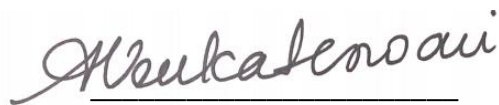
<sup>13</sup> Article 3(2) of the Law; Article 22 of the Constitution of the Republic of Kosovo; Article 8 of the European Convention on Human Rights ("ECHR"); Article 17 of the International Covenant on Civil and Political Rights ("ICCPR"); ECtHR, *Polyakova et al. v. Russia*, nos. 35090/09 and three others, *Judgment (Merits and Just Satisfaction)*, 3 July 2017, paras 116-118.

there is no basis to find that it is likely that Mr. Krasniqi would not comply with any conditions imposed by the Panel. Granting a period of interim release over the recess will afford Mr. Krasniqi a further chance to demonstrate his good behaviour; presuming that he would not comply with any conditions and hence denying Mr. Krasniqi the opportunity to comply with conditions is fundamentally unjust.

### III. CONCLUSION

17. As set out above, the Krasniqi Defence respectfully requests that Mr. Krasniqi be permitted to spend three weeks with his family over the Summer recess. Mr. Krasniqi is a 73-year old man [REDACTED] and who has already been detained for 44 months. Proportionality, and his right to respect for his private and family life, now require that he be allowed to spend three weeks with his family. The Krasniqi Defence recalls that extensive conditions have previously been proposed and re-iterates that Mr. Krasniqi will abide by any condition imposed on him by the Panel.

**[Word count: 1,921]**



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Thursday, 4 July 2024

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