



SPECIALIST PROSECUTOR'S OFFICE  
ZYRA E PROKURORIT TË SPECIALIZUAR  
SPECIJALIZOVANO TUŽILAŠTVO

**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  
Judge Christoph Barthe  
Judge Guénaél Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor's Office

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**Prosecution submission pertaining to periodic detention review of Kadri Veseli**

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## I. INTRODUCTION

1. Pursuant to Article 41 of the Law<sup>1</sup> and Rule 57 of the Rules,<sup>2</sup> the Specialist Prosecutor's Office ('SPO') makes the following submissions in support of the need for the continued detention of the Accused Kadri Veseli ('Veseli'). The Pre-Trial Judge, the Court of Appeals, and this Panel have repeatedly held that Veseli's detention is justified on multiple bases, that no conditions short of detention in the Kosovo Specialist Chambers' ('KSC') detention facilities would be sufficient to mitigate the risks, and that the detention period—taking all relevant circumstances into account—is reasonable. Since the most recent determination of this Panel on 14 October 2024,<sup>3</sup> there has been no change in circumstances that merits deviating from that determination. To the contrary, the continued progression of trial and related developments further buttress the necessity and reasonableness of detention.

## II. PROCEDURAL HISTORY

2. The relevant procedural history regarding Veseli's detention is referenced in the Panel's most recent detention decision as having been set out extensively in previous decisions.<sup>4</sup>

3. On 3 April 2023, the trial commenced.<sup>5</sup>

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<sup>1</sup> Law no.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). Unless otherwise indicated, all references to 'Article(s)' are to the Law.

<sup>2</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

<sup>3</sup> Decision on Periodic Review of Detention of Kadri Veseli, KSC-BC-2020-06/F02643, 14 October 2024 ('Eighteenth Detention Decision').

<sup>4</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, paras 1-4.

<sup>5</sup> Transcript (Opening Statements), 3 April 2023.

4. On 21 November 2024, testimony of the one-hundred-and-fifth (105<sup>th</sup>) witness concluded.

### III. SUBMISSIONS

5. The relevant applicable law is set out in Article 41, and Rules 56 and 57, and has been laid out extensively in earlier decisions.<sup>6</sup>

6. Since the most recent detention decision, there have been no developments that diminish the factors supporting the need and reasonableness of detention. Indeed, the continued progression of trial through the testimony of the one-hundred-and-fifth (105<sup>th</sup>) witness and other developments in the case decisively confirm the necessity of detention.

#### A. GROUNDED SUSPICION

7. Article 41(6)(a) requires a grounded suspicion that the detained person has committed a crime within the jurisdiction of the KSC.<sup>7</sup> There remains a grounded suspicion that Veseli has done so.<sup>8</sup> The Confirmation Decision determined that there is a suspicion that Veseli is liable for crimes against humanity and war crimes as identified in Articles 13, 14, and 16,<sup>9</sup> to a standard that exceeds the ‘grounded suspicion’ required for detention.<sup>10</sup> The Pre-Trial Judge later also confirmed amendments to the Indictment that added further, similar charges against Veseli.<sup>11</sup> Nothing has occurred since the confirmation decisions that would detract from this determination. Indeed, it has been

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<sup>6</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.6.

<sup>7</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.9.

<sup>8</sup> See Article 41(6)(a); Eighteenth Detention Decision, KSC-BC-2020-06/F02643, paras 11-12.

<sup>9</sup> Public Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi, KSC-BC-2020-06/F00026/RED, 26 October 2020, para.521(a).

<sup>10</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.11.

<sup>11</sup> Public Redacted Version of Decision on the Confirmation of Amendments to the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi, KSC-BC-2020-06/F00777/RED, 22 April 2022, para.185; see also Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.11.

repeatedly confirmed that there remains a well-grounded suspicion that Veseli has committed crimes within the KSC's jurisdiction.<sup>12</sup>

#### B. DETENTION IS JUSTIFIED UNDER ALL ARTICLE 41(6)(B) FACTORS

8. The Court of Appeals has been clear that, once a grounded suspicion under Article 41(6)(a) is identified, an articulable basis of a single ground under Article 41(6)(b) is sufficient to support detention.<sup>13</sup> The three grounds under Article 41(6)(b) justifying detention are: (i) risk of flight; (ii) potential obstruction; and (iii) risk of additional crimes.<sup>14</sup> The applicable standard is articulable grounds that support a 'belief' that there is a risk of one of the Article 41(6)(b) grounds occurring.<sup>15</sup> The 'belief' test denotes 'an acceptance of the possibility, not the inevitability, of a future occurrence'.<sup>16</sup> In other words, the standard to be applied is less than certainty, but more than a mere possibility of a risk materialising.<sup>17</sup> The Panel has noted that 'articulable' in this context means specified in detail by reference to the relevant information or evidence.<sup>18</sup> In considering whether an accused should be detained or released, the relevant panel must consider

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<sup>12</sup> See, e.g., Eighteenth Detention Decision, KSC-BC-2020-06/F02643, paras 11-12.

<sup>13</sup> See *Prosecutor v. Gucati and Haradinaj*, Consolidated Decision on Nasim Haradinaj's Appeals Against Decisions on Review of Detention, KSC-BC-2020-07/IA007/F00004, 6 April 2022, para.49.

<sup>14</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.13.

<sup>15</sup> Decision on Kadri Veseli's Appeal Against Decision on Interim Release, KSC-BC-2020-06/IA001/F00005, 30 April 2021 ('First Appeals Decision'), para.19.

<sup>16</sup> First Appeals Decision, KSC-BC-2020-06/IA001/F00005, paras 13, 17-19.

<sup>17</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.13; First Appeals Decision, KSC-BC-2020-06/IA001/F00005, para.17; *Prosecutor v. Gucati and Haradinaj*, Public Redacted Version of Decision on Review of Detention of Nasim Haradinaj, KSC-BC-2020-07/F00507/RED, 21 December 2021 ('Haradinaj Decision'), para.28.

<sup>18</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.13 *citing* Article 19.1.31 of the Kosovo Criminal Procedure Code 2012, Law No. 08/L-032 defining 'articulable' as: 'the party offering the information or evidence must specify in detail the information or evidence being relied upon'.

whether measures other than detention would sufficiently reduce the risk of the Article 41(6)(b) factors occurring.<sup>19</sup>

*i. Risk of Flight (Article 41(6)(b)(i))*

9. Veseli is aware of the serious confirmed charges against him, the possible lengthy prison sentence that may result therefrom, and he is constantly gaining more knowledge about the evidence in relation to those crimes.<sup>20</sup> The possible imposition of such a sentence becomes more concrete with the expeditious progression of trial and the continuing efforts and progress being made by the SPO to streamline its case, and the admission of further evidence, testimony, and judicial notice of adjudicated facts.<sup>21</sup> In addition, Veseli is now aware of the powerful evidence of recent conduct that has necessitated modification of his conditions of detention. This may also undermine prior findings that Veseli cooperated with relevant authorities.<sup>22</sup> All of the above must be taken into consideration in relation to prior findings concerning Veseli's means to travel.<sup>23</sup> The combination of all of these factors elevates Veseli's risk of flight to a 'sufficiently real possibility'.<sup>24</sup>

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<sup>19</sup> Judgment on the Referral of the Rules of Procedure and Evidence Adopted by Plenary on 17 March 2017 to the Specialist Chamber of the Constitutional Court Pursuant to Article 19(5) of the Law no. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, KSC-CC-PR-2017-1/F00004, 26 April 2017, para.14.

<sup>20</sup> Decision on Periodic Review of Detention of Kadri Veseli, KSC-BC-2020-06/F01171, 19 December 2022, para.24.

<sup>21</sup> Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 17 May 2023, with Annex 1, confidential, and Annex 2, public; Decision on Second Prosecution Motion for Judicial Notice of Adjudicated Facts, 21 August 2024, with Annex 1, confidential, and Annex 2, public.

<sup>22</sup> See Decision on Periodic Review of Detention of Rexhep Selimi, KSC-BC-2020-06/F02060, 15 January 2024, para.13; Decision on Periodic Review of Detention of Kadri Veseli, KSC-BC-2020-06/F01171, 19 December 2022, para.24.

<sup>23</sup> See Decision on Periodic Review of Detention of Kadri Veseli, KSC-BC-2020-06/F00987, 26 September 2022, paras 21-22.

<sup>24</sup> See e.g. First Appeals Decision, KSC-BC-2020-06/IA001/F00005, para.19.

ii. *Risk of Obstruction of Proceedings (Article 41(6)(b)(ii))*

10. Veseli continues to present a risk of obstructing proceedings, consistent with this Panel's recent conclusions.<sup>25</sup>

11. The Panel reiterated its previous determination that: (i) Veseli has the ability to give instructions to an individual interacting with the KSC and, in doing so, he directly intervened in a matter involving the KSC; (ii) Veseli continues to play a significant role in Kosovo on the basis of the previous positions he occupied, which would continue to allow him to, for instance, access information or elicit the support of others; (iii) while Veseli was at the head of the Kosovo Intelligence Service ('SHIK'), members of SHIK were involved in witness interference; and (iv) the advancement of the trial proceedings provides an opportunity for Veseli to gain insight into the evidence underpinning the serious charges against him.<sup>26</sup>

12. Further, there is a persistent climate of intimidation of witnesses and interference with criminal proceedings against former KLA members in Kosovo, which the Court of Appeals has agreed is a relevant 'contextual consideration'.<sup>27</sup> Similar findings were made in the *Mustafa* Trial Judgment<sup>28</sup> and the *Gucati and Haradinaj* Appeal Judgment.<sup>29</sup> The Trial Panel in *Gucati and Haradinaj* considered that 'witness protection has continued to be a

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<sup>25</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.23.

<sup>26</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.19.

<sup>27</sup> Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention, KSC-BC-2020-06/IA017/F00011/RED, 5 April 2022, paras 41-48; Public Redacted Version of Decision on Kadri Veseli's Appeal Against Decision on Remanded Detention Review and Periodic Review of Detention, KSC-BC-2020-06/IA014/F00008/RED, 31 March 2022, para.50; Public Redacted Version of Decision on Rexhep Selimi's Appeal Against Decision on Remanded Detention Review and Periodic Review of Detention, KSC-BC-2020-06/IA015/F00005/RED, 25 March 2022, para.43.

<sup>28</sup> *Prosecutor v. Mustafa*, Further Redacted Version of Corrected Version of Public Redacted Version of Trial Judgment, KSC-BC-2020-05/F00494/RED3/COR, 16 December 2022, para.57.

<sup>29</sup> *Prosecutor v. Guçati and Haradinaj*, Appeal Judgment, KSC-CA-2022-01/F00114, 2 February 2023, para.438 (quoting KSC-BC-2020-07, Transcript, 18 May 2022, pp.3858-3859).

live and critical issue in Kosovo',<sup>30</sup> and credited the testimony of defence expert Robert Reid, who remarked that, in over 20 years in the field, he had never seen witness intimidation on the level that exists in Kosovo.<sup>31</sup> This climate of witness intimidation continues to persist, as noted by the *Shala* Trial Panel<sup>32</sup> and as seen in media reports following recent testimony in public session.<sup>33</sup>

13. Moreover, Veseli has received information concerning upcoming witnesses and the risk of obstruction increases as the remaining number of witnesses becomes increasingly focused.

14. In this regard, the Panel has previously noted that the disclosure of such highly sensitive information to the Veseli Defence necessarily results in it becoming known to a broader range of persons, including the Accused.<sup>34</sup> This continues to amplify the risk of sensitive information pertaining to witnesses becoming known to members of the public before the witnesses in question give evidence,<sup>35</sup> which, in the context of the release of an Accused, would not be conducive to the effective protection of witnesses who are yet to testify.<sup>36</sup>

15. Indeed, this risk has already been realized, as this Panel concluded that the standard conditions of detention were insufficient to mitigate the risk of Veseli and other Accused engaging in conduct that could interfere with the proceedings and/or present a risk to the

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<sup>30</sup> *Prosecutor v. Gucati and Haradinaj*, Public Redacted Version of the Trial Judgment, KSC-BC-2020-07/F00611/RED, 18 May 2022 ('Case 7 Judgment'), para.579.

<sup>31</sup> Case 7 Judgment, KSC-BC-2020-07/F00611/RED, para.577.

<sup>32</sup> See *Prosecutor v. Shala*, Summary of Trial Judgment, KSC-BC-2020-04, 16 July 2024, para.6.

<sup>33</sup> See Arberi, 'Denigrating graffiti for Fadil Geci are place in Pristina', 25 October 2024, accessed at [www.koha.net/arberi/grafite-denigruse-per-fadil-gecin-vendosen-ne-prishtine](http://www.koha.net/arberi/grafite-denigruse-per-fadil-gecin-vendosen-ne-prishtine).

<sup>34</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.20.

<sup>35</sup> See Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.20.

<sup>36</sup> See Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.20.

safety and security of witnesses.<sup>37</sup> To address these risks, the Panel ordered significant modifications to detention conditions.<sup>38</sup> More specifically, the Panel has noted that the records on which it based that decision further support the suggestion of a risk that Veseli could engage in the divulgence of confidential information to unprivileged third parties.<sup>39</sup>

16. All of the above demonstrates that the risk of obstruction is not only well-founded, but that Veseli presents an extraordinarily heightened risk of obstructing KSC proceedings to such an extent that even the standard communications restrictions and monitoring of the Detention Centre were insufficient to mitigate.

*iii. Risk of Criminal Offences (Article 41(6)(b)(iii))*

17. Veseli continues to present a risk of committing further crimes, consistent with this Panel's recent conclusions.<sup>40</sup>

18. The Panel recalled its previous finding that the risk of Veseli committing further crimes continues to exist, opined that the same factors that were taken into account in relation to the risk of obstruction are relevant to the analysis of the risk of committing further crimes.<sup>41</sup>

19. Moreover, the crimes against humanity and war crimes that Veseli is charged with are extremely serious, they are alleged to have been committed in cooperation with

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<sup>37</sup> Further Decision on the Prosecution's Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi, KSC-BC-2020-06/F01977, 1 December 2023, Public ('Modification Decision'), para.41.

<sup>38</sup> See Modification Decision, KSC-BC-2020-06/F01977, paras 51-53, 55-60, 62-78, 84(b).

<sup>39</sup> See Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.22.

<sup>40</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.27.

<sup>41</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.25.



others, and the Confirmation Decision describes Veseli's personal participation in the commission of crimes.

20. The Panel highlighted the fact that the trial in this case has started, that the identities of sensitive witnesses have been disclosed to Veseli, and that any risk of the further commission of crimes must be avoided.<sup>42</sup>

21. This Panel's previous conclusion that the continuing disclosure of sensitive information presented an unacceptable risk for the commission of further crimes<sup>43</sup> applies even more forcefully given the recent relevant findings regarding Veseli's divulgence of confidential information and the continued progression of trial.

#### C. NO MODALITIES OF CONDITIONAL RELEASE ARE ABLE TO SUFFICIENTLY MITIGATE THE RISKS

22. The relevant risks can only be effectively managed at the KSC's detention facilities, as recently reaffirmed by this Panel.<sup>44</sup>

23. Regarding the risks of obstructing the progress of KSC proceedings and committing further crimes, the Panel found that none of the formerly proposed conditions, nor any additional measures foreseen in Article 41(12) could sufficiently mitigate the existing risks.<sup>45</sup>

24. Further, the Panel found that the measures in place at the KSC detention facilities, viewed as a whole, provide robust assurances against unmonitored visits and communications with family members and pre-approved visitors with a view to

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<sup>42</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.26.

<sup>43</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, paras 26-27.

<sup>44</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.33.

<sup>45</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.31.

minimising the risks of obstruction and commission of further crimes.<sup>46</sup> Moreover, they offer a controlled environment where a potential breach of confidentiality could be more easily identified and/or prevented.<sup>47</sup>

25. The Panel has concluded that it is only through the communication monitoring framework applicable at the KSC detention facilities that Veseli's communications can be restricted in a manner that would sufficiently mitigate the risks of obstruction and commission of further crimes.<sup>48</sup>

26. Nothing has occurred since the previous determination warranting a different assessment on conditions, either generally or for a discrete period of time. To the contrary, Veseli's conduct now represents such an extraordinarily heightened risk that even the standard communications restrictions and monitoring of the Detention Centre are insufficient to mitigate it, necessitating the imposition of an even more strict regime by this Panel. Therefore, especially in conjunction with the continuation of trial and attendant further disclosure, the underlying risks are higher than ever.

#### D. DETENTION REMAINS PROPORTIONAL

27. Detention remains proportional. At the last detention review, this Panel found that Veseli's detention for a further two months was necessary and reasonable in the specific circumstances of the case.<sup>49</sup>

28. In that regard, the Panel recalled that the reasonableness of an accused's continued detention must be assessed on the facts of each case and according to its special features, which, in this case, include: (i) Veseli is charged with ten counts of serious international

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<sup>46</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.31.

<sup>47</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.31.

<sup>48</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.32.

<sup>49</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.36.


crimes in which he is alleged to play a significant role; (ii) if convicted, Veseli could face a lengthy sentence; (iii) the risks under Article 46(b)(ii) and (iii) cannot be mitigated by any conditions; (iv) the case against Veseli is complex; and (v) the fact that the trial is underway, demonstrating reasonable progression of proceedings.<sup>50</sup>

29. Here, taking these same, and additional, factors into consideration, Veseli's detention continues to be reasonable, especially in light of the continuing reasonable progression of proceedings.<sup>51</sup>

#### IV. CONCLUSION

30. For the foregoing reasons, Veseli should remain detained.

**Word count: 2,663**



**Kimberly P. West**

**Specialist Prosecutor**

Friday, 22 November 2024

At The Hague, the Netherlands.

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<sup>50</sup> Eighteenth Detention Decision, KSC-BC-2020-06/F02643, para.35.

<sup>51</sup> In this regard, *see* Eighteenth Detention Decision, KSC-BC-2020-06/F02643, paras 35-36; Decision on Periodic Review of Detention of Jakup Krasniqi, KSC-BC-2020-06/F02445, 15 July 2024, para.48; Decision on Periodic Review of Detention of Rexhep Selimi, KSC-BC-2020-06/F02446, 15 July 2024, para.32.