



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2023-12
The Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuçi

Before: Pre-Trial Judge
Judge Marjorie Masselot

Registrar: Fidelma Donlon

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Third Decision on Review of Detention of Fadil Fazliu

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THE PRE-TRIAL JUDGE,¹ pursuant to Article 41(6), (10) and (12) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 56(2) and 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby issues the following decision.

I. PROCEDURAL BACKGROUND

1. On 5 December 2024, Fadil Fazliu ("Mr Fazliu" or "Accused") was arrested in Kosovo² pursuant to a decision and an arrest warrant issued by the Pre-Trial Judge,³ further to the confirmation of an indictment against him, Hashim Thaçi ("Mr Thaçi"), Bashkim Smakaj, Isni Kilaj, and Hajredin Kuçi ("Confirmation Decision").⁴
2. On 8 December 2024, at the initial appearance of Mr Fazliu, the Pre-Trial Judge ordered his continued detention ("Decision on Detention").⁵
3. On 7 February 2025⁶ and 7 April 2025,⁷ the Pre-Trial Judge ordered Mr Fazliu's continued detention ("First Review Decision" and "Second Review Decision", respectively).

¹ KSC-BC-2023-12, F00015, President, [Decision Assigning a Pre-Trial Judge](#), 6 June 2024, public.

² KSC-BC-2023-12, F00045, Registrar, [Notification of Arrest of Fadil Fazliu Pursuant to Rule 55\(4\)](#), 5 December 2024, public.

³ KSC-BC-2023-12, F00037, Pre-Trial Judge, *Decision on Request for Arrest Warrants and Related Matters* ("Decision on Arrest"), 29 November 2024, confidential, with Annexes 1-8, confidential. A public redacted version of the main filing was issued on 19 December 2024, [F00037/RED](#).

⁴ KSC-BC-2023-12, F00036, Pre-Trial Judge, *Decision on the Confirmation of the Indictment*, 29 November 2024, confidential. A public redacted version was issued on 12 February 2025, [F00036/RED](#). See also KSC-BC-2023-12, F00260, Pre-Trial Judge, *Decision Amending the "Decision on the Confirmation of the Indictment" and Setting a Date for the Submission of Preliminary Motions*, 14 April 2025, public.

⁵ KSC-BC-2023-12, Transcript of Hearing ("Initial Appearance Transcript"), 8 December 2024, public, p. 65, line 24 to p. 69, line 18; see, in particular, p. 68, lines 8-9.

⁶ KSC-BC-2023-12, F00163, Pre-Trial Judge, [Decision on Review of Detention of Fadil Fazliu](#), 7 February 2025, public.

⁷ KSC-BC-2023-12, F00251, Pre-Trial Judge, [Second Decision on Review of Detention of Fadil Fazliu](#), 7 April 2025, confidential. A public redacted version was issued on the same day, [F00251/RED](#).

4. On 4 May 2025, the Defence for Mr Fazliu (“Fazliu Defence”) made submissions on the periodic review of Mr Fazliu’s detention (“Defence Submissions”).⁸

5. On 14 May 2025, the Specialist Prosecutor’s Office (“SPO”) filed a response (“SPO Response”).⁹ The Fazliu Defence did not reply.

II. SUBMISSIONS

A. FAZLIU DEFENCE SUBMISSIONS

6. The Fazliu Defence argues that the conclusion of the evidentiary phase of the case of *The Specialist Prosecutor v. Thaçi et al.* (KSC-BC-2020-06) (“Case 06”) amounts to a significant change in circumstances which compels Mr Fazliu’s immediate conditional release.¹⁰ Consequently, according to the Fazliu Defence, Mr Fazliu’s continued detention is no longer necessary, justified or proportionate.¹¹

7. Regarding the risk of flight, the Fazliu Defence contends that the SPO’s theory that Mr Fazliu poses a flight risk is speculative and unsupported by evidence.¹² The Fazliu Defence further contends that any risk of flight has been significantly undermined by the argued removal of the risk of obstruction.¹³

8. Regarding the risk of obstructing the progress of SC proceedings, the Fazliu Defence submits that such risks are no longer existent as the SPO has completed the presentation of evidence in Case 06, hence there are no longer

⁸ KSC-BC-2023-12, F00278, Fazliu Defence, *Fazliu Defence Submissions on the Third Review of Detention*, 4 May 2025, confidential. A public redacted version was filed on 8 May 2025, F00278/RED.

⁹ KSC-BC-2023-12, F00303, Specialist Prosecutor, *Prosecution Response to Public Redacted Version of Fazliu Defence Submissions on the Third Review of Detention*, 14 May 2025, public.

¹⁰ Defence Submissions, paras 2, 11, 19 and 28.

¹¹ Defence Submissions, paras 2, 11, 28.

¹² Defence Submissions, paras 16 and 18.

¹³ Defence Submissions, paras 2, 11, 18; *see also* paras 19-22.

any witnesses to be influenced, no ongoing trial process that Mr Fazliu could obstruct, and no pending evidence he could interfere with.¹⁴ With regard to the present case, the Fazliu Defence submits that no new allegations have been raised concerning interference in the current proceedings.¹⁵

9. Regarding the risk of committing further crimes, the Fazliu Defence avers that assertions as to the existence of said risk are entirely speculative and theoretical.¹⁶ The Fazliu Defence adds that any such risk has also been significantly undermined by the argued removal of the risk of obstruction.¹⁷

10. Regarding the proportionality of Mr Fazliu's continued detention, the Fazliu Defence submits that Mr Fazliu has been detained for five (5) months on charges carrying a maximum sentence of five (5) years and six (6) months and the principle of proportionality under Rule 56(2) of the Rules and case law before the European Court of Human Rights require that pre-trial detention must not become of form of punishment.¹⁸

11. For these reasons, the Fazliu Defence requests Mr Fazliu's immediate conditional release in Kosovo and proposes the conditions previously put forward, including bail of at least €50,000, frequent reporting to the police, surrender of his passport and further travel restrictions.¹⁹ In the alternative, the Fazliu Defence requests that Mr Fazliu be held under house arrest in Kosovo, under strict monitoring conditions.²⁰

¹⁴ Defence Submissions, paras 19-21.

¹⁵ Defence Submissions, para. 22.

¹⁶ Defence Submissions, paras 23-24.

¹⁷ Defence Submissions, para. 24.

¹⁸ Defence Submissions, para. 27.

¹⁹ Defence Submissions, paras 25-26, 28(a); *see* KSC-BC-2023-12, F00245, Fazliu Defence, *Fazliu Defence Submissions on Detention Review*, 2 April 2025, confidential, para. 20, with Annex 1, confidential and *ex parte*. A public redacted version was filed on 4 April 2025, [F00245/RED](#) ("Defence Submissions on Second Review of Detention").

²⁰ Defence Submissions, para. 28(b).

B. SPO RESPONSE

12. In response, the SPO submits that Mr Fazliu's continued detention remains necessary and proportionate,²¹ and that there has been no contrary intervening information or meaningful development since the Second Review Decision impacting the Pre-Trial Judge's previous findings.²² To the contrary, the SPO avers that the risks under Article 41(6)(b) of the Law remain clear and present with the advancement of the pre-trial stage of the proceedings, which continue to move forward expeditiously.²³ In particular, the SPO submits that, since the Second Review Decision: (i) the SPO has filed its second notice pursuant to Rule 102(3) of the Rules, and has continued to disclose material; (ii) remaining investigative steps are progressing efficiently; and (iii) preliminary motions have been filed by Specialist Counsel.²⁴ The SPO adds that Mr Fazliu continues to gain increased insight into the evidence against him through the ongoing disclosure process.²⁵

13. As regards the risks of obstructing the progress of SC proceedings or committing further offences, the SPO disagrees with the Fazliu Defence's proposition that the close of the SPO's case in Case 06 amounts to a material change in circumstances which neutralises said risks. The SPO submits that such argument ignores a multitude of factors, assessed by the Pre-Trial Judge, including that: (i) the Case 06 proceedings remain ongoing until a closing under Rule 136 of the Rules; and (ii) the risk of obstruction is assessed not only in relation to Case 06 but also in relation to the present case.²⁶ The SPO further adds that there are many examples in international criminal law of accused,

²¹ SPO Response, paras 1, 3, 6, 8.

²² SPO Response, paras 3-4.

²³ SPO Response, paras 3, 7.

²⁴ SPO Response, para. 7.

²⁵ SPO Response, para. 7.

²⁶ SPO Response, para. 4.

convicted persons, and third parties attempting to undermine the judicial process, even after the closure of the prosecution phase of evidence.²⁷

14. Lastly, the SPO submits that: (i) no conditions of release, including the ones proposed by the Fazliu Defence, are able to sufficiently mitigate the aforementioned existing risks;²⁸ and (ii) given the stage of the proceedings, which continue to move forward expeditiously, Mr Fazliu's detention remains proportionate.²⁹

III. APPLICABLE LAW

15. Pursuant to Article 41(6) of the Law, the SC shall only order the arrest and detention of a person when (a) there is a grounded suspicion that he or she has committed a crime within the jurisdiction of the SC, and (b) there are articulable grounds to believe that the person: (i) is a risk of flight; (ii) will destroy, hide, change or forge evidence of a crime, or will obstruct the progress of the criminal proceedings by influencing witnesses, victims or accomplices; or (iii) will repeat the criminal offence, complete an attempted crime, or commit a crime that the person has threatened to commit.

16. Pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, until a judgment is final or until release, upon expiry of two (2) months from the last ruling on detention on remand, the Panel seized with the case shall examine whether reasons for detention on remand still exist, and render a ruling by which detention on remand is extended or terminated.

17. Pursuant to Article 41(12) of the Law, in addition to detention on remand, the following measures may be ordered by the SC to ensure the presence of the

²⁷ SPO Response, para. 4.

²⁸ SPO Submissions, para. 6.

²⁹ SPO Submissions, paras 7-8.

accused, including by video-teleconference, to prevent reoffending or to ensure successful conduct of criminal proceedings: summons, arrest, bail, house detention, promise not to leave residence, prohibition on approaching specific places or persons, attendance at police station or other venue, and diversion.

18. Pursuant to Rule 56(2) of the Rules, the Pre-Trial Judge shall ensure that a person is not detained for an unreasonable period prior to the opening of the case, and, in case of an undue delay caused by the Specialist Prosecutor, the Panel, having heard the Parties, may release the person under conditions as deemed appropriate.

IV. DISCUSSION

A. APPLICABLE STANDARD

19. The standard governing the review of detention on remand has been laid out extensively in earlier decisions and is hereby incorporated by reference.³⁰ The Pre-Trial Judge will apply this standard to the present decision.

B. GROUNDED SUSPICION

20. The Pre-Trial Judge recalls that, in the Confirmation Decision, it was determined that, pursuant to Article 39(2) of the Law, there is a well-grounded suspicion that Mr Fazliu is criminally responsible for offences within the jurisdiction of the SC, namely attempting to obstruct official persons in performing official duties and contempt of court within the meaning of Articles 401(2) and (5), and 393 of the 2019 Kosovo Criminal Code, Code No. 06/L-074, respectively, in violation of Article 15(2) of the Law.³¹ These

³⁰ See [Second Review Decision](#), paras 24-25 (general requirements), 26 (grounded suspicion), 29-32 (necessity), 47 (conditional release) and 53 (proportionality), and references cited therein; [First Review Decision](#), paras 10-11 (general requirements), 12-14 (grounded suspicion), 15-18 (necessity of detention), 32 (conditional release), and 37 (proportionality), and references cited therein.

³¹ [Confirmation Decision](#), para. 313(b).

findings were made on the basis of a standard exceeding the grounded suspicion threshold required for the purposes of Article 41(6)(a) of the Law.³² The Pre-Trial Judge notes that there have been no developments in the case negating these findings.

21. Therefore, in the absence of any contrary intervening information or developments, the Pre-Trial Judge finds that there continues to exist a grounded suspicion that Mr Fazliu has committed offences within the jurisdiction of the SC, as set forth under Article 41(6)(a) of the Law.³³

C. NECESSITY OF DETENTION

1. Risk of Flight

22. As regards the risk of flight under Article 41(6)(b)(i) of the Law, the Pre-Trial Judge first finds that all considerations set out in the Second Review Decision are still relevant, namely: (i) Mr Fazliu's awareness of the gravity of the offences he is charged with, together with the potential sentence that these offences could attract, if convicted; (ii) his demonstrated blatant disregard for the laws and the rules of the SC; (iii) the fact that he has the opportunity to flee, by travelling freely to jurisdictions beyond the reach of the SC; (iv) that he also has the means to evade justice, given his long-standing political career in Kosovo and close ties with former Kosovo Liberation Army ("KLA") commanders, including KLA veterans with rooted political influence – among

³² [Second Review Decision](#), para 13; [First Review Decision](#), para. 13; [Decision on Arrest](#), para. 43; [Confirmation Decision](#), paras 42-43. *See similarly*, KSC-2020-04, F00075/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Review of Detention of Pjetër Shala](#), 10 September 2021, public, para. 22; F00224/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Review of Detention of Pjetër Shala](#), 22 June 2022, public, para. 24.

³³ *See similarly*, [Second Review Decision](#), para. 28; [First Review Decision](#), para. 14; Decision on Detention in the Initial Appearance Transcript, p. 67, lines 8-10.

them Mr Thaçi – from whom he may seek and secure resources and support for the purpose of fleeing;³⁴ and (v) the fact that, since his arrest, Mr Fazliu is aware of the indictment-supporting evidence against him, and is being progressively informed through disclosure of the full evidentiary record of his alleged criminal conduct.³⁵ The Pre-Trial Judge remains also attentive to the fact that Mr Fazliu continues to gain increased insight into the evidence underpinning the charges against him, through the ongoing disclosure process.³⁶

23. Second, with regard to the Fazliu Defence's submissions on the health of Mr Fazliu or on the seriousness of the charges against him,³⁷ the Pre-Trial Judge finds that said submissions were previously addressed³⁸ and the Fazliu Defence fails to articulate what, if anything, has changed since the last detention review in this regard. Thus, the Pre-Trial Judge will not consider them anew.

24. Third, the Pre-Trial Judge finds that the Fazliu Defence fails to articulate how the closure of the presentation of evidence by the SPO in the Case 06 impacts on the assessment of the risk of flight with regard to Mr Fazliu in the present proceedings.³⁹ Taking into account all considerations laid out in

³⁴ In relation to his financial means to flee, the Pre-Trial Judge notes the ability of Mr Fazliu to mobilise an important amount of money for the purposes of bail: while Mr Fazliu initially proposed an amount of €2,550, which was said to represent three times his monthly salary at the time (*see* Initial Appearance Transcript, p. 60, lines 6-7), he now proposes a surety in the amount of "at least €50,000" (*see* Defence Submissions, para. 25).

³⁵ *See* [Second Review Decision](#), para. 33; [First Review Decision](#), para. 21; [Decision on Arrest](#), para. 81.

³⁶ The Pre-Trial Judge notes that, since the Second Review Decision, the SPO has made additional disclosures pursuant to Rule 102(1)(b) of the Rules. *See* Disclosure Package Nos 24, 27-28, 30, 34, 37-38 and 43.

³⁷ Defence Submissions, paras 16-17; *see similarly*, [Defence Submissions on Second Review of Detention](#), paras 6-10; Initial Appearance Transcript, p. 58, lines 3-6.

³⁸ *See* [Second Review Decision](#), paras 33-36; [First Review Decision](#), para. 22.

³⁹ *See infra* para. 29. The Pre-Trial Judge recalls that incentives to flee can even increase over the course of a trial as the accused hears first-hand the evidence against him; *See* ICTY, *Prosecutor v. Milutinović et al.*, IT-05-87-AR65.2, Appeals Chamber, [Decision on Interlocutory Appeal of Denial of Provisional Release During Winter Recess](#), 14 December 2006, para. 15.

paragraph 22 above, the Pre-Trial Judge finds that Mr Fazliu's incentive and ability to flee in the context of the present case have not diminished.

25. Lastly, with regard to the Fazliu Defence's submissions on Mr Fazliu's family and community ties in Kosovo, the Pre-Trial Judge recalls that these considerations, while in principle favourable to Mr Fazliu, insufficiently mitigate the risk that he will flee, particularly in light of the potential role of his son in the charges alleged against Mr Fazliu in the present case.⁴⁰

26. Therefore, having weighed all of the above considerations as a whole, the Pre-Trial Judge concludes that the risk of flight in relation to Mr Fazliu continues to exist.

2. Risk of Obstructing the Progress of SC Proceedings

27. As regards the risk of obstruction of proceedings under Article 41(6)(b)(ii) of the Law, the Pre-Trial Judge finds that all considerations set out in the Second Review Decision all continue to apply, namely (and taken together): (i) the nature of the charges confirmed against Mr Fazliu, who was part of a group, led by Mr Thaçi, aiming at unlawfully influencing witnesses;⁴¹ (ii) Mr Fazliu's demonstrated knowledge of Mr Thaçi's obstructive intentions, and his own intention to pursue them; (iii) his persistence and proneness to obstruct the SC proceedings by furthering the senior KLA leadership's interests and orders; (iv) his ability to gain consent from people loyal to him, including his son, for the purpose of obstructing SC proceedings; and (v) his increased awareness of the incriminating evidence against him.⁴²

⁴⁰ See [Second Review Decision](#), para. 34; [First Review Decision](#), para. 22.

⁴¹ See [Second Review Decision](#), para. 38; [First Review Decision](#), para. 24. See similarly, [Kilaj Detention Appeal Decision](#), para. 43.

⁴² See [Second Review Decision](#), para. 38; [First Review Decision](#), paras 24-25.

28. The Pre-Trial Judge remains attentive to the fact that Mr Fazliu continues to gain increased insight into the evidence underpinning the charges through the ongoing disclosure process.⁴³ Considering Mr Fazliu's past position within the KLA,⁴⁴ the Pre-Trial Judge remains persuaded that, as a result of the ongoing disclosure, he has further incentive to interfere with witnesses.⁴⁵ In this respect, the Pre-Trial Judge recalls that the risk of obstruction need not materialise in Mr Fazliu personally approaching Witness 1 and/or other witnesses, but may materialise, for instance, through further coordination with his son, and/or other associates from within his KLA network and/or political circles.⁴⁶

29. The Pre-Trial Judge is further not persuaded by the Fazliu Defence's argument that with the completion of the presentation of evidence by the SPO in Case 06, the risk of obstruction in the Case 06 proceedings is "wholly extinguished".⁴⁷ In this respect, the Pre-Trial Judge considers that the risk of obstruction does not cease to exist with the closing of the SPO's case in chief, as: (i) the proceedings in Case 06 remain ongoing and the Trial Panel may hear further evidence from the participating victims, defence witnesses and rebuttal witnesses, including by witnesses who may have already testified;⁴⁸ (ii) a Trial Panel may, under exceptional circumstances, hear additional evidence after the closing of the case under Rule 136 of the Rules;⁴⁹ (iii) the risk of obstruction is

⁴³ See *supra* para. 22 and references cited therein.

⁴⁴ See [Decision on Arrest](#), para. 83.

⁴⁵ See [Second Review Decision](#), para. 39; [First Review Decision](#), para. 25.

⁴⁶ See *supra* para. 22; [Second Review Decision](#), para. 46; [First Review Decision](#), para. 25 and references cited therein.

⁴⁷ See Defence Submissions, para. 19, referring to KSC-BC-2020-06, F03121, Specialist Prosecutor, [Prosecution Notice pursuant to Rule 129](#), 15 April 2025, public.

⁴⁸ See, similarly, KSC-BC-2020-04, F00663/RED, Trial Panel I, *Public Redacted Version of Decision on the Thirteenth Review of Detention of Pjetër Shala*, 20 September 2023, public, para. 18; KSC-BC-2020-05, F00355/RED, Trial Panel I, *Public Redacted Version of Ninth Decision on Review of Detention*, 21 March 2022, public, para. 19.

⁴⁹ [Second Review Decision](#), para. 41. See similarly the approach taken in, for example, KSC-BC-2020-04, F00838/RED, Trial Panel I, *Public Redacted Version of Decision on the Seventeenth Review of Detention of Pjetër Shala*, 17 May 2024, public, para. 24; F00812/RED, Trial Panel I, *Public Redacted Version of*

assessed not only in relation to the proceedings in Case 06, but also the present case, with respect to which (while noting that some evidence has been seized and is in the possession of the SPO) Mr Fazliu has sufficient knowledge of the identity of potential witnesses, as discussed in the Confirmation Decision;⁵⁰ and, importantly, (iv) the risk of interference is not limited to witnesses who are yet to testify but also concerns witnesses who have already testified and may be retaliated against or incentivised to recant, thereby threatening the integrity of the ongoing trial in Case 06 and future trial proceedings in the present case.

30. Lastly, the Pre-Trial Judge still assesses the above factors against the backdrop of the pervasive climate of fear and intimidation in Kosovo against witnesses and potential witnesses of the SC.⁵¹ In this context, the Pre-Trial Judge considers that the risk of Mr Fazliu exerting pressure on witnesses remains particularly high,⁵² notably in light of his ties, as referenced above.⁵³

31. Therefore, in light of the above, and in the absence of any contrary intervening information, the Pre-Trial Judge concludes that the risk that Mr Fazliu will obstruct the progress of criminal proceedings continues to exist.

3. Risk of Committing Further Offences

Decision on the Sixteenth Review of Detention of Pjetër Shala, 18 March 2024, public, para. 26; see also similarly, ICC, *The Prosecutor v. Bemba et al.*, ICC-01/05-01/13-612, Pre-Trial Chamber II, [Decision on the First Review of Jean-Jacques Mangenda Kabongo's Detention Pursuant to Article 60\(3\) of the Statute](#), 5 August 2014, public, paras 17-18; ICC-01/05-01/13-538, Pre-Trial Chamber II, [Decision on the First Review of Fidèle Babala Wandu's Detention Pursuant to Article 60\(3\) of the Statute](#), 4 July 2014, public, paras 12-13.

⁵⁰ The Pre-Trial Judge recalls that the assessment involves acceptance of the possibility, not the inevitability of a future occurrence. See [Second Review Decision](#), para. 30.

⁵¹ See [Second Review Decision](#), para. 40; [First Review Decision](#), para. 26; [Decision on Arrest](#), para. 63.

⁵² See [Second Review Decision](#), para. 40 and references cited therein; [First Review Decision](#), para. 26.

⁵³ See *supra* para. 2222.

32. As regards the risk of committing further offences under Article 41(6)(b)(iii) of the Law, the Pre-Trial Judge recalls that, even though the existence of a risk of obstruction does not automatically translate into a risk of committing further offences, the factors underpinning the former are of relevance to the assessment of the latter in the present circumstances.⁵⁴ In this regard, the Pre-Trial Judge notes that the relevant factors to be considered all together are the same as those outlined in paragraphs 27-30 above with respect to the risk of obstruction of proceedings. For these reasons, the Pre-Trial Judge finds that there still exists a risk that Mr Fazliu will repeat the offences he is alleged to have committed,⁵⁵ including in relation to witnesses who have provided or may provide evidence in Case 06 and/or the present case.⁵⁶

33. Insofar as the Fazliu Defence suggests that the risk of committing further offences is “speculative” or “theoretical”,⁵⁷ the Pre-Trial Judge directs the Fazliu Defence to her previous findings which addressed, Mr Fazliu’s individual persistence and proneness to obstruct the SC proceedings, as well as his willingness to involve other persons, including his son, for the purpose of obstructing said proceedings.⁵⁸

34. Lastly, with regard to the Fazliu Defence’s arguments as to Mr Fazliu’s age and medical condition, as well as the fact that he has never been convicted of a criminal offence,⁵⁹ the Pre-Trial Judge finds that the Fazliu Defence reiterates arguments already addressed in the last review of detention⁶⁰ and will thus not consider them further.

⁵⁴ See [Second Review Decision](#), para. 43; [First Review Decision](#), para. 28.

⁵⁵ See [Second Review Decision](#), para. 43; [First Review Decision](#), para. 28; [Decision on Arrest](#), para. 90; Initial Appearance Transcript, p. 68, lines 3-7.

⁵⁶ See *supra* para. 29.

⁵⁷ Defence Submissions, paras 23-24.

⁵⁸ See [Second Review Decision](#), para. 44; [First Review Decision](#), para. 24.

⁵⁹ Defence Submissions, para. 23; see similarly, [Defence Submissions on Second Review of Detention](#), paras 1, 13-14.

⁶⁰ See [Second Review Decision](#), para. 44.

35. Therefore, in light of the above, and in the absence of any contrary intervening information, the Pre-Trial Judge concludes that the risk that Mr Fazliu will commit further crimes continues to exist.

4. Conclusion

36. In view of the foregoing, the Pre-Trial Judge finds that there are articulable grounds to believe that Mr Fazliu may flee, obstruct the progress of the SC proceedings, and commit further offences, thus necessitating Mr Fazliu's continued detention, in accordance with Article 41(6)(b) of the Law. The Pre-Trial Judge will assess below whether these risks can be adequately mitigated by any conditions for Mr Fazliu's release.

D. CONDITIONAL RELEASE

37. The Pre-Trial Judge recalls her previous finding that, while mindful of Mr Fazliu's willingness to provide bail and any other condition deemed appropriate, she remained persuaded that none of the conditions proposed by the Fazliu Defence could sufficiently mitigate the existing risks.⁶¹

38. In light of the findings made above regarding the existence of all three risks, and noting that the conditions proposed by the Fazliu Defence are identical to the ones put forward in the last review of detention,⁶² the Pre-Trial Judge remains of the view that, at this time, no conditions - whether proposed

⁶¹ See [Second Review Decision](#), para. 52; [First Review Decision](#), para. 33; First Detention Decision in the Initial Appearance Transcript, p. 60, lines 5-19; p. 68, lines 21- 23. The Pre-Trial Judge further notes that Mr Fazliu proposes a surety in the amount of at least €50,000, without providing any updated information that would enable her to assess his financial situation and, consequently, the appropriate amount of any bail, *see* Defence Submissions, para. 25).

⁶² See [Defence Submissions on Second Review of Detention](#), paras 20 and 23.

by the Fazliu Defence or imposed *proprio motu* by the Pre-Trial Judge⁶³ - could adequately mitigate the existing risks, in particular the risk that the Accused will obstruct the progress of SC proceedings or commit further offences. Notably, the Pre-Trial Judge considers that such conditions: (i) do not address the possibility of Mr Fazliu employing communication devices belonging to other persons or requesting others to use their devices for these purposes; and (ii) cannot ensure, for example, the effective monitoring of Mr Fazliu's communications.⁶⁴ The Pre-Trial Judge is also particularly mindful that, despite any conditions, the Accused would have the ability, motive, and opportunity to approach witnesses through his son.⁶⁵

39. In the view of the Pre-Trial Judge, while the risk of illicit messages and instructions cannot be entirely eliminated, the measures in place at the SC 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 minimising the risks of obstruction and commission of further offences, as much as possible.⁶⁶ In this regard, the Pre-Trial Judge recalls that the Registrar and the Panel, who have unrestricted access to confidential information concerning witnesses and victims, may take action more promptly than other authorities acting under a distinct framework.⁶⁷

40. Therefore, in light of the above, the Pre-Trial Judge concludes that the conditions for Mr Fazliu's release proposed by the Fazliu Defence and/or any *additional* reasonable conditions imposed by the Pre-Trial Judge, remain

⁶³ See KSC-BC-2020-06, IA017/F00011/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention](#), 5 April 2022, public, para. 51.

⁶⁴ See [Second Review Decision](#), para. 49; [First Review Decision](#), para. 34.

⁶⁵ See *supra* paras 27-28.

⁶⁶ [Second Review Decision](#), para. 50; [First Review Decision](#), para. 35. See similarly, KSC-BC-2020-06, IA010/F00008/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention](#), 27 October 2021, public, para. 68.

⁶⁷ See [Second Review Decision](#), para. 50; [First Review Decision](#), para. 35. See similarly, KSC-BC-2023-10, F00165, Pre-Trial Judge, [Public Redacted Version of Decision on Review of Detention of Haxhi Shala](#), 9 February 2024, public, para. 54.

insufficient to adequately mitigate the risks under Article 41(6)(b)(i)-(iii) of the Law.

E. PROPORTIONALITY OF DETENTION

41. The Pre-Trial Judge recalls that: (i) Mr Fazliu has been detained since his arrest on 5 December 2024; (ii) he is charged with one count of attempting to obstruct official persons in performing official duties and one count of contempt of court, which carry a possible sentence of up to five (5) years and six (6) months, respectively;⁶⁸ and (iii) the risks under Article 41(6)(b) of the Law (in particular, the risk of obstruction and commission of further offences) cannot be mitigated by any proposed or additional conditions for release.⁶⁹

42. The Pre-Trial Judge also takes into consideration that, since the Second Review Decision: (i) the SPO has (largely) completed the disclosure of evidence in its possession pursuant to Rule 102(1)(b) of the Rules⁷⁰ and made further disclosures pursuant to Rule 103 of the Rules;⁷¹ (ii) the SPO has filed its second notice pursuant to Rule 102(3) of the Rules⁷² and disclosed a number of items, as requested by the Defence;⁷³ (iii) remaining investigative steps are progressing

⁶⁸ See KSC-BC-2023-12, F00264, Specialist Prosecutor, [Submission of Amended Confirmed Indictment](#), 16 April 2025, public, with Annex 1, confidential, and Annex 2, public ("Amended Confirmed Indictment").

⁶⁹ See *supra* para. 40.

⁷⁰ See Disclosure Package Nos 24, 27-28, 30, 34, 37- 38 and 43. See also KSC-BC-2023-12, F00100, Pre-Trial Judge, [Framework Decision on Disclosure of Evidence and Related Matters](#), 20 December 2024, public, paras 45, 104(c), (e) (setting the deadline for the disclosure of such material to 17 March 2025); F00256, Pre-Trial Judge, *Decision Authorizing Additional Disclosure under Rule 102(1)(b) of the Rules*, 11 April 2025, public.

⁷¹ See Disclosure Package Nos 26, 29, 33, 41 and 45.

⁷² See KSC-BC-2023-12, F00265, Specialist Prosecutor, *Prosecution's Second Rule 102(3) Notice*, 17 April 2025, public, with Annex 1, confidential.

⁷³ See Disclosure Package Nos 25, 31-32, 35-36, 39, 40 and 44.

steadily;⁷⁴ (iv) the SPO has submitted the amended Indictment⁷⁵ following confirmation of the amended charges against Mr Thaçi;⁷⁶ and (v) the Defence teams have submitted preliminary motions.⁷⁷ Thus, the Pre-Trial Judge finds that the proceedings continue to move forward expeditiously, bringing the case one step closer to its transmission to the Trial Panel.

43. The Pre-Trial Judge has duly considered the additional time Mr Fazliu has spent in detention since the Second Review Decision,⁷⁸ but finds that – when weighed against the remaining factors set out in paragraphs 41 and 42 above – his detention remains proportionate.

44. Moreover, pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, Mr Fazliu's detention will be regularly reviewed upon the expiry of

⁷⁴ See KSC-BC-2023-12, F00254, Pre-Trial Judge, *Decision on Prosecution Request for Production of Material*, 10 April 2025, confidential; F00266, Pre-Trial Judge, *Decision on Prosecution Request for Production and Related Request*, 22 April 2025, confidential, with Annex 1, strictly confidential and *ex parte*; F00284, Pre-Trial Judge, *Decision Appointing Independent Counsel*, 7 May 2025, confidential; F00291, Registrar, *Fifth Registry Submissions Related to the Execution of Request for Assistance F00039*, 8 May 2025, confidential; F00296, Registrar, *Sixth Registry Submissions Related to the Execution of Request for Assistance F00039*, confidential, with Annex 1, confidential; F00299, Registrar, *Notification of Assignment of Independent Counsel*, 13 May 2025, confidential, with Annex 1, confidential. F00304, Registrar, *Registry Notification of Start of Stage 1 Execution Pursuant to Order F00221*, 14 May 2025, confidential.

⁷⁵ See Amended Confirmed Indictment.

⁷⁶ See KSC-BC-2023-12, F00260, Pre-Trial Judge, [*Decision Amending the "Decision on the Confirmation of the Indictment" and Setting a Date for the Submission of Preliminary Motions*](#), 14 April 2025, public. See also KSC-BC-2023-12, IA002/F00012, Court of Appeals Panel, *Decision on the Specialist Prosecutor's Office's Appeal Against the Decision on the Confirmation of the Indictment*, 3 April 2025, confidential. A public redacted version was filed the same day, [IA002/F00012/RED](#).

⁷⁷ See KSC-BC-2023-12, F00285, Specialist Counsel for Hashim Thaçi ("Thaçi Defence"), *Thaçi Defence Preliminary Motion Requesting Severance of the Indictment and Adjournment of Proceedings Concerning Mr Thaçi*, 7 May 2025, public, with Annex 1, public; F00286, Specialist Counsel for Bashkim Smakaj, Mr Fazliu, Isni Kilaj and Hajredin Kuçi, *Joint Defence Preliminary Motion Pursuant to Rule 97 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers*, 7 May 2025, public; F00288, Thaçi Defence, *Thaçi Defence Motion on Defects in the Indictment*, 8 May 2025, public; F00289, Fazliu Defence, *Fazliu Defence Challenge to the Form of the Indictment*, 8 May 2025, public; F00290, Thaçi Defence, *Thaçi Defence Preliminary Motion on Jurisdiction*, confidential and *ex parte*, with Annex 1, confidential and *ex parte* (a public redacted version of the main filing and the Annex were filed on 12 May 2025, F00290/RED and F00290/A01/RED, respectively). See also KSC-BC-2023-12, F00306, Pre-Trial Judge, *Decision on "Prosecution Request for Extension of Time on Preliminary Motions Responses"*, 15 May 2025, public.

⁷⁸ See also *supra* para. 10.

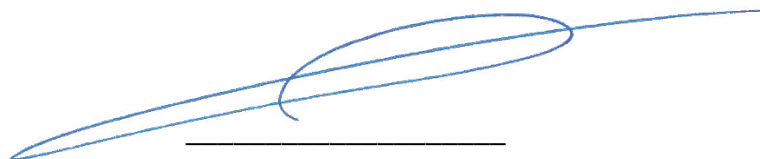
two (2) months from the last ruling on detention or at any time upon request, or *proprio motu*, where a change in circumstances since the last review has occurred.

45. In view of the foregoing, the Pre-Trial Judge finds that the time Mr Fazliu has spent in pre-trial detention is not unreasonable within the meaning of Rule 56(2) of the Rules.

V. DISPOSITION

46. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a) **ORDERS** Mr Fazliu's continued detention;
- b) **ORDERS** Mr Fazliu, if he so wishes, to file submissions on the next review of detention by **Friday, 27 June 2025** with the response and reply following the timeline set out in Rule 76 of the Rules; and
- c) **ORDERS** the SPO, should Mr Fazliu decide not to file any submissions by the aforementioned time limit, to file submissions on the next review of Mr Fazliu's detention by **Monday, 7 July 2025**, and Mr Fazliu, if he so wishes, to file his response by **Monday, 14 July 2025**.



Judge Marjorie Masselot
Pre-Trial Judge

Dated this Thursday, 5 June 2025

At The Hague, the Netherlands.