



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

noted

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

Date: 3 October 2025

Language: English

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Fifth Decision on Review of Detention of Isni Kilaj

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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, Isni Kilaj ("Mr Kilaj" or "Accused") was arrested in Kosovo,² pursuant to a decision and arrest warrant issued *proprio motu* by the Pre-Trial Judge,³ and further to the confirmation of an indictment against him, Hashim Thaçi ("Mr Thaçi"), Fadil Fazliu, Bashkim Smakaj, and Hajredin Kuçi ("Confirmation Decision").⁴

2. On 9 December 2024, at the initial appearance of Mr Kilaj, the Pre-Trial Judge ordered his continued detention,⁵ which was later upheld by the Court of Appeals Panel.⁶

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

² KSC-BC-2023-12, F00043, Registrar, [Notification of Arrest of Isni Kilaj 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, strictly confidential and *ex parte*; 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](#). The Confirmation Decision was later amended, but the amendments did not concern Mr Kilaj, see 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, 9 December 2024 ("Decision on Detention"), public, pp. 85-125, particularly p. 120, line 20 to p. 124, line 23.

⁶ KSC-BC-2023-12, IA001/F00005, Court of Appeals Panel, [Decision on Isni Kilaj's Appeal Against Decision on Continued Detention](#) ("First Kilaj Detention Appeal Decision"), 28 January 2025, public.

3. On 7 February 2025,⁷ 7 April 2025,⁸ 5 June 2025 (“Third Review Decision”),⁹ and 5 August 2025 (“Fourth Review Decision”),¹⁰ the Pre-Trial Judge ordered Mr Kilaj’s continued detention. On 1 September 2025, the Court of Appeals Panel upheld the Third Review Decision.¹¹

4. On 8 September 2025, the Specialist Prosecutor’s Office (“SPO”) filed submissions on the periodic review of Mr Kilaj’s detention (“SPO Submissions”).¹²

5. On 15 September 2025, the Defence for Mr Kilaj (“Kilaj Defence”) responded to the SPO Submissions (“Kilaj Response”).¹³

II. SUBMISSIONS

6. The SPO contends that the Pre-trial Judge should order Mr Kilaj’s continued detention, since the Pre-Trial Judge’s findings in the Fourth Review Decision remain undisturbed, and no consequential changes or meaningful developments to the contrary have arisen to undermine such findings.¹⁴

7. In particular, the SPO avers that: (i) Mr Kilaj’s continued detention remains necessary since all three risks under Article 41(6)(b) of the Law remain clear and present at this time, particularly considering the persistent climate of intimidation

⁷ KSC-BC-2023-12, F00162, Pre-Trial Judge, [Decision on Review of Detention of Isni Kilaj](#) (“First Review Decision”), 7 February 2025, public.

⁸ KSC-BC-2023-12, F00248, Pre-Trial Judge, [Second Decision on Review of Detention of Isni Kilaj](#) (“Second Review Decision”), 7 April 2025, public.

⁹ KSC-BC-2023-12, F00324, Pre-Trial Judge, [Third Decision on Review of Detention of Isni Kilaj](#), 5 June 2025, public.

¹⁰ KSC-BC-2023-12, F00403, Pre-Trial Judge, [Fourth Decision on Review of Detention of Isni Kilaj](#), 5 August 2025, public.

¹¹ KSC-BC-2023-12, IA004/F00005, Court of Appeals Panel, [Decision on Isni Kilaj’s Appeal Against Third Decision on Review of Detention](#) (“Second Kilaj Detention Appeal Decision”), 1 September 2025, public.

¹² KSC-BC-2023-12, F00440, Specialist Prosecutor, *Prosecution Submissions on Review of Detention of Isni Kilaj*, 8 September 2025, confidential; a public redacted version was filed on 11 September 2025, F00440/RED.

¹³ KSC-BC-2023-12, F00451, Kilaj Defence, *Kilaj Response to “Prosecution Submissions on Review of Detention of Isni Kilaj” (F00440)*, 15 September 2025, confidential.

¹⁴ SPO Submissions, paras 2-4, 7, 9.

in Kosovo;¹⁵ and (ii) no potential conditions of release can appropriately mitigate such risks, which can only be effectively managed in the Detention Facilities of the Specialist Chambers (“SC”).¹⁶

8. The SPO further submits that Mr Kilaj’s continued detention remains proportionate, since: (i) Mr Kilaj is charged with two counts of offences under Article 15(2) of the Law and faces, if convicted, a potentially lengthy sentence; (ii) he continues to gain increased insight into the evidence against him, through the ongoing disclosure process; and (iii) proceedings continue to move forward expeditiously.¹⁷ The SPO has further identified the following benchmarks as indicators of the expeditious progress of proceedings, since the Fourth Review Decision: (i) the forthcoming filings of the Pre-Trial Brief, witness and exhibits list on 19 September 2025 and any Defence Pre-Trial Briefs on 20 October 2025, which will be followed by a swift transfer of the case to a Trial Panel; (ii) the ongoing progress of investigative steps; (iii) the filing of the SPO’s fourth notice pursuant to Rule 102(3) of the Rules on 18 August 2025, and disclosure of requested material to the Defence teams of all Accused; (iv) the fact that the certified appeals arising from preliminary motions have now been briefed and are pending decision by the Court of Appeals Panel; and (v) the continued provision to the Accused of search results from seized phones .¹⁸

9. In response, the Kilaj Defence submits that, contrary to the SPO Submissions: (i) Mr Kilaj’s continued detention is no longer reasonable or proportionate within the meaning of Rule 56(2) of the Rules, as there has been a material change of

¹⁵ SPO Submissions, para. 5.

¹⁶ SPO Submissions, para. 5.

¹⁷ SPO Submissions, para. 6.

¹⁸ SPO Submissions, para. 6.

circumstances since the last review of detention;¹⁹ and, as such, (ii) Mr Kilaj should be afforded the benefit of conditional release.²⁰

10. In particular, the Kilaj Defence avers that the total time Mr Kilaj has spent in pre-trial detention (*i.e.* 16 ½ months), plus the time spent on provisional release in Kosovo (*i.e.* nearly seven (7) months), likely exceeds any eventual sentence.²¹ In support, the Kilaj Defence avers that, in case of conviction, both the period of pre-trial detention and at least some of the time in provisional release will be deducted from any sentence of imprisonment.²² The Kilaj Defence also argues that, considering that Mr Kilaj will be entitled to request commutation of sentence after serving two-thirds thereof, pursuant to Rule 196(2) of the Rules, the 16 ½ months spent in pre-trial detention represent two-thirds of a sentence of 24 ¾ months' imprisonment (which exceeds the six (6)-month maximum sentence foreseen for the offence of contempt of court as charged in the indictment).²³ Moreover, according to the Kilaj Defence, even if Mr Kilaj is convicted of the more serious offence of attempted obstruction of official persons as charged in the indictment, it is likely that any sentence will be at the lower end of the range of one (1) to five (5) years' imprisonment.²⁴ The Kilaj Defence clarifies that, when determining such range and without engaging in debate about the strengths and weaknesses of the SPO's case, the Pre-Trial Judge must take into account the highly material and undisputable fact that Mr Kilaj did not (attempt to) communicate with any person to interfere with their cooperation with the SPO following his single meeting with Mr Thaçi on 6 October 2023.²⁵ According to the Kilaj Defence, despite

¹⁹ Kilaj Response, paras 2, 9-10.

²⁰ Kilaj Response, paras 11, 13-14.

²¹ Kilaj Response, paras 2, 4, 9.

²² Kilaj Response, para. 4.

²³ Kilaj Response, para. 5. See KSC-BC-2023-12, F00264/A02, Specialist Prosecutor, [Public Redacted Amended Confirmed Indictment](#) ("Amended Confirmed Indictment"), 16 April 2025, public.

²⁴ Kilaj Response, para. 6.

²⁵ Kilaj Response, paras 7-8.

the previous rejection of these arguments by the Pre-Trial Judge, two (2) further months have passed since the Fourth Review Decision, and every additional month makes continued pre-trial detention increasingly disproportionate.²⁶

11. Lastly, the Kilaj Defence submits that: (i) any risks found to exist can be managed with the imposition of the strict conditions on Mr Kilaj's release, by which he is able and willing to abide;²⁷ and (ii) the proposed security of €40,000 demonstrates that he does not have an intention to flee, engage in obstruction, or commit (further) offences.²⁸ The Kilaj Defence adds that, as Mr Kilaj longs to be reunited with his family, it is not reasonable to conclude that he will take any risks that may jeopardise that reunion, such as fleeing the jurisdiction, interfering with the administration of justice, or committing (further) offences.²⁹

III. APPLICABLE LAW

12. 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 which he or she has threatened to commit.

13. 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 Pre-Trial Judge or Panel seized with the case shall

²⁶ Kilaj Response, paras 2, 4, 9.

²⁷ Kilaj Response, para. 13.

²⁸ Kilaj Response, para. 13.

²⁹ Kilaj Response, paras 11-12.

examine whether reasons for detention on remand still exist, and render a ruling by which detention on remand is extended or terminated.

14. 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 accused, including by video-conference, 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. 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.

15. 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

16. 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.

³⁰ See [Second Review Decision](#), paras 14-15 (general requirements), 16 (grounded suspicion), 21-24 (necessity of detention), 35 (conditional release), 40 (proportionality), and references cited therein; [First Review Decision](#), paras 11-12 (general requirements), 13 (grounded suspicion), 16-19 (necessity of detention), 31 (conditional release), 37 (proportionality), and references cited therein.

B. GROUNDED SUSPICION

17. 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 Kilaj 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 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.

18. 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 Kilaj 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

19. As regards the risk of flight under Article 41(6)(b)(i) of the Law, the Pre-Trial Judge finds that all considerations set out in the Fourth Review Decision are still relevant, namely that: (i) Mr Kilaj has an incentive to abscond in light of: (a) the

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

³² See [Confirmation Decision](#), para. 43; [Decision on Arrest](#), para. 43. See similarly, KSC-BC-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, [Fourth Review Decision](#), paras 18-19; [Third Review Decision](#), paras 22-23; [Second Review Decision](#), paras 17, 20; [First Review Decision](#), paras 14-15; Decision on Detention, p. 123, lines 14-18.

gravity of the offences with which he is charged; (b) his knowledge of the evidence presented by the SPO in support; and (c) the prospect of a potentially significant sentence in the event of conviction; (ii) he has the means to flee and opportunity to evade justice; and (iii) he may have the ability to mobilise support for the purpose of fleeing, in light his national profile in Kosovo.³⁴ The Pre-Trial Judge is also attentive to the fact that Mr Kilaj continues to gain increased insight into the evidence underpinning the charges through the ongoing disclosure process.³⁵

20. As regards Mr Kilaj's *proposed* payment of a security of €40,000,³⁶ the Pre-Trial Judge notes that the Kilaj Defence fails to explain how such a proposition mitigates or eliminates the risk of flight and, therefore, she will not consider it.³⁷ With respect to the Kilaj Defence's argument that the Accused would not jeopardise any eventual reunion with his family by fleeing the jurisdiction,³⁸ the Pre-Trial Judge finds that such argument is speculative and, in any event, incapable of eliminating his incentive to abscond as described in the paragraph above. Indeed, having weighed all of the above considerations as a whole, the Pre-Trial Judge remains of the view that the factors favourable to Mr Kilaj, including the fact that he has settled family life and community ties in Kosovo,³⁹ insufficiently mitigate the risk of flight.⁴⁰

³⁴ See [Fourth Review Decision](#), para. 20; [Third Review Decision](#), paras 25-26; [Second Review Decision](#), para. 25; [First Review Decision](#), para. 20; [Decision on Arrest](#), paras 56-57. The Pre-Trial Judge notes that Mr Kilaj continues to propose a bail in the amount of €40,000 (*see supra* para. 11), without any information allowing to assess his financial situation (*see infra* footnote 52).

³⁵ The Pre-Trial Judge notes that, since the Fourth Review Decision, the SPO has made additional disclosures pursuant to Rule 102(1)(b) of the Rules. *See* Disclosure Package Nos 59, 61, 64, 68, 70-71, 74 and 76.

³⁶ *See supra* para. 11.

³⁷ *See supra* footnote 34.

³⁸ *See supra* para. 11.

³⁹ *See* [Third Review Decision](#), para. 24, and references cited therein.

⁴⁰ [Fourth Review Decision](#), para. 21; [Third Review Decision](#), para. 27; [Second Review Decision](#), para. 26; [First Review Decision](#), para. 21; *Decision on Detention*, p. 122, line 18 to p. 123, line 2; [Decision on Arrest](#), para. 59. *See also* [First Kilaj Detention Appeal Decision](#), para. 35.

21. In light of the above, and in the absence of any contrary intervening information, the Pre-Trial Judge concludes that, to date, the risk of flight in relation to Mr Kilaj continues to exist.

2. Risk of Obstructing the Progress of SC Proceedings

22. As regards the risk of obstructing the progress of proceedings under Article 41(6)(b)(ii) of the Law, the Pre-Trial Judge finds that all considerations set out in the Fourth Review Decision continue to apply, namely: (i) Mr Kilaj's demonstrated willingness to violate court orders and to intervene in proceedings to which he is not a Party, by willingly misusing SC witness-related information in wanton disregard for SC confidentiality rules;⁴¹ (ii) his knowledge of the charges against him and awareness of the evidence in support, through the ongoing disclosure process;⁴² and (iii) his access to sensitive witness-related information, once served with the indictment.⁴³

23. As regards Mr Kilaj's *proposed* payment of a security of €40,000 and his purported lack of willingness to jeopardise any eventual reunion with his family by interfering with the administration of justice,⁴⁴ the Pre-Trial Judge considers that her findings with respect to the risk of flight, as described in paragraph 20 of this decision, remain valid, *mutatis mutandis*, for the risk of obstruction.

24. The Pre-Trial Judge also recalls that the risk of obstruction has not ceased to exist with the closure of the SPO's case-in-chief in the case of *The Specialist Prosecutor*

⁴¹ As held by the Court of Appeals Panel, the reference to Mr Kilaj's "demonstrated willingness" to obstruct SC proceedings must be understood in its context and does not amount to a finding in relation to the charges in the Amended Confirmed Indictment (see [Second Kilaj Detention Appeal Decision](#), paras 71-72). See *supra* paras 17-18.

⁴² See *supra* footnote 35.

⁴³ See [Fourth Review Decision](#), para. 23; [Third Review Decision](#), para. 30; [Second Review Decision](#), para. 28; [First Review Decision](#), para. 23; Decision on Detention, p. 123, lines 3-7; [Decision on Arrest](#), paras 61-62.

⁴⁴ See *supra* para. 11.

v. Hashim Thaçi et al. ("Thaçi et al. trial"), as proceedings remain ongoing.⁴⁵ The Pre-Trial Judge further recalls that: (i) a Trial Panel may, under exceptional circumstances, hear additional evidence after the closing of the case, under Rule 136 of the Rules; and (ii) witnesses who have already testified may be retaliated against or incentivised to recant.⁴⁶ With respect to the present case, the Pre-Trial Judge notes that, since the Fourth Review Decision, the SPO has submitted its list of witnesses.⁴⁷ Having reviewed the profile of the SPO witnesses, the Pre-Trial Judge is of the view that, while the risk of interference concerning said witnesses is low, this does not invalidate her conclusion in the Fourth Review Decision that there continues to be a risk of obstruction, considering all other factors relied upon.⁴⁸

25. Lastly, the Pre-Trial Judge underlines that she 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.⁴⁹ In this context, the Pre-Trial Judge considers that the risk of collusion for the purpose of obstructing the proceedings remains particularly high, especially in light of Mr Kilaj's national profile in Kosovo.⁵⁰

⁴⁵ See [Fourth Review Decision](#), para. 23; [Third Review Decision](#), para. 31.

⁴⁶ See [Fourth Review Decision](#), para. 23; [Third Review Decision](#), para. 31. See [Second Kilaj Detention Appeal Decision](#), para. 74, and references cited therein. See also KSC-BC-2020-06, IA033/F00006, Court of Appeals Panel, [Decision on Rexhep Selimi's Appeal Against Consolidated Decision on Request for Provisional Release and on Review of Detention](#), 13 August 2025, public, para. 54; IA035/F00005/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Jakup Krasniqi's Appeal Against Consolidated Decision on Request for Provisional Release and on Review of Detention](#), 13 August 2025, public, para. 34.

⁴⁷ See KSC-BC-2023-12, F00459/A03, Specialist Prosecutor, *Annex 3 to Prosecution Submission of Pre-Trial Brief, Witness and Exhibit Lists*, 19 September 2025, confidential. The list of witnesses was resubmitted on 26 September 2025 under filing number F00467/A03, following the submission of a corrected version of the Pre-Trial Brief.

⁴⁸ See *supra* paras 22-23.

⁴⁹ [Fourth Review Decision](#), para. 25; [Third Review Decision](#), para. 32; [Second Review Decision](#), para. 30; [First Review Decision](#), para. 25; [Decision on Arrest](#), para. 63. See also [Second Kilaj Detention Appeal Decision](#), para. 83.

⁵⁰ [Fourth Review Decision](#), para. 25; [Third Review Decision](#), para. 32; [Second Review Decision](#), para. 29.

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

3. Risk of Committing Further Offences

27. 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. In this regard, the Pre-Trial Judge notes that the relevant factors – to be considered collectively – are the same as those outlined in paragraphs 22-25 above with respect to the risk of obstruction of proceedings. Upon a fresh examination of these factors, the Pre-Trial Judge remains persuaded that there is a risk that Mr Kilaj will repeat the offences he is alleged to have committed, including in relation to witnesses who have provided or may provide evidence in the *Thaçi et al.* trial and/or the present case.⁵¹

28. In light of the above, the Pre-Trial Judge concludes that, to date, the risk that Mr Kilaj will commit further offences continues to exist.

4. Conclusion

29. In view of the foregoing, the Pre-Trial Judge finds that, to date, there are still articulable grounds to believe that Mr Kilaj may flee, obstruct the progress of the SC proceedings, and commit further offences, therefore necessitating Mr Kilaj'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 Kilaj's release.

⁵¹ See similarly [Fourth Review Decision](#), para. 27; [Third Review Decision](#), para. 34; [Second Review Decision](#), para. 32; [First Review Decision](#), para. 27; Decision on Detention, p. 123, lines 3-7; [Decision on Arrest](#), para. 65.

D. CONDITIONAL RELEASE

30. The Pre-Trial Judge recalls her previous finding that, while mindful of Mr Kilaj's purported past compliance with the conditions imposed for his release, she remained persuaded that none of the conditions proposed by the Kilaj Defence, including bail in the amount of €40.000,⁵² frequent reporting to the Kosovo police, and restrictions on communications and movement, could sufficiently mitigate the existing risks.⁵³

31. In light of the findings made above regarding the existence of all three risks, the Pre-Trial Judge remains of the view that no conditions, whether previously proposed by the Kilaj Defence or imposed *proprio motu* by the Pre-Trial Judge,⁵⁴ could mitigate, at this stage, the existing risks, in particular that the Accused will obstruct the progress of SC proceedings or commit further offences.⁵⁵ Notably, the Pre-Trial Judge is of the view that such conditions: (i) do not address the possibility of Mr Kilaj employing communication devices belonging to other persons or requesting others to use their devices for these purposes; and (ii) cannot ensure the effective monitoring of Mr Kilaj's communications.⁵⁶

⁵² The Pre-Trial Judge notes that Mr Kilaj reiterates his proposal to pay a security in the amount of €40.000, without providing any information that would enable her to assess his financial situation and, consequently, the appropriate amount of any bail. See Kilaj Response, para. 13. See similarly [Fourth Review Decision](#), footnote 45; [Third Review Decision](#), footnote 61.

⁵³ See [Fourth Review Decision](#), paras 30-33; [Third Review Decision](#), paras 37-40; [Second Review Decision](#), paras 36-39; [First Review Decision](#), paras 32-36; Decision on Detention, p. 123, line 22 to p. 124, line 1.

⁵⁴ 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.

⁵⁵ In this regard, it is recalled that, while having found the continued existence of risks, the Single Judge granted Mr Kilaj conditional release on the sole basis that his continued detention had, under the circumstances at the time, become unreasonable within the meaning of Rule 56(2) of the Rules. See KSC-BC-2018-01, F00658/COR/RED, Single Judge, [Public Redacted Version of Corrected Version of Decision on Review of Detention of Isni Kilaj](#), 3 May 2024 (date of public redacted corrected version 15 May 2024), public, paras 51, 64.

⁵⁶ See similarly [Fourth Review Decision](#), para. 31; [Third Review Decision](#), para. 38; [Second Review Decision](#), para. 37; [First Review Decision](#), para. 33.

32. 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.⁵⁷ 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.⁵⁸

33. In light of the above, and contrary to the Kilaj Defence's submissions,⁵⁹ the Pre-Trial Judge concludes that the conditions for Mr Kilaj's release previously proposed by the Kilaj Defence, and/or any *additional* reasonable conditions imposed by the Pre-Trial Judge, remain insufficient to adequately mitigate the risks under Article 41(6)(b)(i)-(iii) of the Law.

E. PROPORTIONALITY OF DETENTION

34. The Pre-Trial Judge recalls that: (i) Mr Kilaj was detained from 2 November 2023 to 15 May 2024,⁶⁰ and again since his arrest on 5 December 2024;⁶¹ (ii) he is charged with one count of attempting to obstruct official persons in performing

⁵⁷ 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.

⁵⁸ See similarly [Fourth Review Decision](#), para. 32; [Third Review Decision](#), para. 39; [Second Review Decision](#), para. 38; [First Review Decision](#), para. 34. 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.

⁵⁹ See *supra* para. 11.

⁶⁰ KSC-BC-2023-12, INV/F00039, Specialist Prosecutor, [Urgent Rule 52\(1\) Notification of Arrest of Isni Kilaj](#), 2 November 2023, public; INV/F00129/COR, Single Judge, [Corrected Version of Decision on Review of Detention of Isni Kilaj](#), 3 May 2024 (corrected version issued on 15 May 2024), confidential and *ex parte*; a public redacted version was issued on the same day, [INV/F00129/COR/RED](#); INV/F00135, Registrar, [Notification of Isni Kilaj's Transfer to Kosovo](#), 15 May 2024, public.

⁶¹ See *supra* para. 1.

official duties and one count of contempt of court,⁶² which carry a possible sentence of up to five (5) years and six (6) months, respectively; 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.⁶³

35. The Pre-Trial Judge also takes into consideration that, since the Fourth Review Decision: (i) the SPO has filed its Pre-Trial Brief and lists of exhibits and witnesses on 19 September 2025;⁶⁴ (ii) the SPO has made further disclosures pursuant to Rules 102(1)(b)⁶⁵ and 103 of the Rules;⁶⁶ (iii) the SPO has filed its fourth notice pursuant to Rule 102(3) of the Rules⁶⁷ and disclosed a number of items, as requested by the Defence;⁶⁸ (iv) the SPO has provided the Pre-Trial Judge with the points of agreement on matters of fact, as envisaged by Rule 95(3) of the Rules;⁶⁹ (v) remaining investigative steps are progressing steadily,⁷⁰ and further disclosure of material is anticipated following completion

⁶² [Amended Confirmed Indictment](#), para. 48.

⁶³ See *supra* para. 33.

⁶⁴ See KSC-BC-2023-12, F00459, Specialist Prosecutor, *Prosecution Submission of Pre-Trial Brief, Witness and Exhibit Lists*, 19 September 2025, public, with Annexes 1-5, confidential; a corrected version was filed on 26 September 2025, see F00467, Specialist Prosecutor, *Prosecution Submission of Corrected Pre-Trial Brief*, 26 September 2025, public, with Annexes 1-5, confidential.

⁶⁵ See Disclosure Packages Nos 59, 61, 64, 68, 70-71, 74, 76. See also KSC-BC-2023-12, F00420, Specialist Prosecutor, *Prosecution Submissions pursuant to Order F00395* ("SPO Progress Submissions"), 25 August 2025, confidential, paras 2, 3; a public redacted version was filed on 5 September 2025, F00420/RED. The Pre-Trial Judge also notes that there is a pending request for further disclosure pursuant to Rule 102(1)(b) of Rules (see F00458, Specialist Prosecutor, *Prosecution Request for Rule 102(1)(b) Disclosure*, 19 September 2025, confidential; F00462, Specialist Prosecutor, *Clarification to 'Prosecution Request for Rule 102(1)(b) Disclosure'*, F00458, 23 September 2025, confidential).

⁶⁶ See Disclosure Package No. 60.

⁶⁷ See KSC-BC-2023-12, F00417, Specialist Prosecutor, [Prosecution's Fourth Rule 102\(3\) Notice](#), 18 August 2025, public, with Annex 1, confidential.

⁶⁸ See Disclosure Packages Nos 58, 62-63, 65-66, 69, 75. See also SPO Progress Submissions, paras 17, 19.

⁶⁹ KSC-BC-2023-12, F00469, Specialist Prosecutor, *Notification of Agreed Facts*, 29 September 2025, public, with Annex 1, confidential.

⁷⁰ See KSC-BC-2023-12, F00407, Pre-Trial Judge, *Decision on SPO Request for an Order (F00361) and Further Modalities for Independent Counsel Review*, 5 August 2025, confidential; F00431, Pre-Trial Judge, *Decision on the Continuation of Stage 2 of the Mechanism to Review Preserved Material and Related*

of these steps;⁷¹ (vi) the Pre-Trial Judge has invited the Defence to submit their Pre-Trial Briefs and to notify the SPO of their intent to invoke any grounds excluding criminal responsibility by 20 October 2025;⁷² and (viii) the Pre-Trial Judge informed the Parties that she intends to transmit the case to a Trial Panel in the first half of November 2025, in the event the decisions of the Court of Appeals Panel on the pending appeals relating to pre-trial motions allow for such transfer.⁷³ Thus, in the view of the Pre-Trial Judge, the proceedings continue to move forward expeditiously, edging the case closer to its imminent transmission to a Trial Panel.

36. The Pre-Trial Judge also notes the Kilaj Defence's submissions that: (i) the time Mr Kilaj has spent in pre-trial detention, plus the time spent on provisional release in Kosovo, likely exceeds any eventual sentence of imprisonment; and (ii) when determining the sentencing range that Mr Kilaj is likely to get, if convicted, the Pre-Trial Judge must take into account that the SPO does not dispute that Mr Kilaj did not (attempt to) communicate with any person for the purpose of interference with proceedings, following his single meeting with Mr Thaçi on 6 October 2023.⁷⁴ In this

Matters, 29 August 2025, confidential, with Annex 1, confidential; F00432, Independent Counsel, *Independent Counsel Provision of Preliminary Results*, 1 September 2025, confidential, with Annex 1, confidential, and Annexes 2-5, strictly confidential and *ex parte*; F00433, Registry, *Registrar's Filing of 130 Responsive Files Resulting from Search Queries 2 and 3, Pursuant to Decision F00431, and Request for Extension of Time Limit for Production of Forensic Firm Report on Interpretation of Metadata*, 3 September 2025, confidential, with Annexes 1-2, confidential; F00434, Independent Counsel, *Independent Counsel Transmission of Redacted Responsive Files Pursuant to Decision F00431*, 5 September 2025, confidential, with Annexes 1-11, confidential; F00437, Pre-Trial Judge, *Decision on Prosecution Request for EFC Follow-up and Registry Information*, 8 September 2025, confidential; F00442, Pre-Trial Judge, *Decision on Request for Extension of Time for the Production of Forensic Firm Report on Interpretation of Metadata*, 9 September 2025, confidential; F00471, Registrar, *Submission of Forensic Firm Report Pursuant to Decision F00431*, 30 September 2025, confidential, with Annex 1, confidential; F00472, Registrar, *Registrar's Third Monthly Report Pursuant to F00350*, 30 September 2025, confidential.

⁷¹ See KSC-BC-2023-12, F00368, Pre-Trial Judge, *Decision on Prosecution Request for Access to Material and Related Matters*, 9 July 2025, confidential, paras 53, 57(i), with Annex 1, confidential.

⁷² KSC-BC-2023-12, F00453, Pre-Trial Judge, [Decision on the Remaining Calendar of the Pre-Trial Proceedings](#) ("Pre-Trial Calendar Decision"), 16 September 2025, public, paras 17-18.

⁷³ [Pre-Trial Calendar Decision](#), para. 23.

⁷⁴ See *supra* para. 10.

regard, the Pre-Trial Judge recalls that: (i) the determination of a sentence depends on multiple factors, to be considered and balanced on a case-by-case basis;⁷⁵ and (ii) an assessment of proportionality can only be based on the circumstances at the time of review, and not on what may or may not occur in the foreseeable future.⁷⁶ Accordingly, the Pre-Trial Judge will not engage in a determination of a plausible sentencing range for Mr Kilaj in her assessment of proportionality, and, in that respect, considers that the Kilaj Defence insists on arguments already dismissed as speculative in prior detention review decisions.⁷⁷

37. The Pre-Trial Judge further takes note of the Kilaj Defence's submissions that the Accused has spent an additional two (2) months in pre-trial detention since the Fourth Review Decision, and that every additional month makes it increasingly disproportionate.⁷⁸ Nevertheless, the Pre-Trial Judge has duly considered the additional time Mr Kilaj has spent in detention since the Fourth Review Decision, but finds that – when weighed against the remaining factors set out in paragraphs 34-36 above – his detention remains proportionate.

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

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

⁷⁵ See [Second Review Decision](#), para. 43; KSC-BC-2023-10, F00693/RED, Trial Panel I, [Public Redacted Version of Reasons for the Decision on the Plea Agreements](#), 27 February 2025, paras 69 *et seq.*

⁷⁶ See similarly [Fourth Review Decision](#), para. 36; [Third Review Decision](#), para. 43; [Second Review Decision](#), para. 43, and references cited therein.

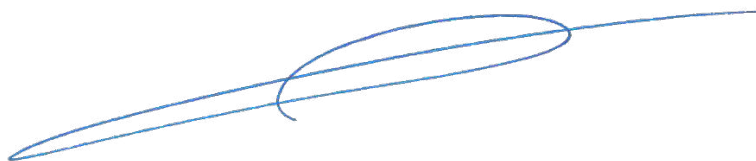
⁷⁷ See [Third Review Decision](#), para. 43; [Second Review Decision](#), para. 43.

⁷⁸ See *supra* para. 10.

V. DISPOSITION

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

- a. **ORDERS** Mr Kilaj's continued detention;
- b. **ORDERS** Mr Kilaj, if he so wishes, to file submissions on the next review of detention by **Tuesday, 11 November 2025, at 16h00**, with response and reply following the timeline set out in Rule 76 of the Rules;
- c. **ORDERS** the SPO, should Mr Kilaj decide not to file any submissions by the aforementioned time limit, to file submissions on the next review of Mr Kilaj's detention by **Tuesday, 18 November 2025, at 16h00**, and Mr Kilaj, if he so wishes, to file his response by **Tuesday, 25 November 2025, at 16h00**; and
- d. **INSTRUCTS** the Registrar to reclassify the SPO Submissions (F00440) and the Kilaj Response (F00451) as public, by **Wednesday, 8 October 2025**.



Judge Marjorie Masselot
Pre-Trial Judge

Dated this Friday, 3 October 2025
At The Hague, the Netherlands.