



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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Fifth 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 Kosovo,² pursuant to a decision and an arrest warrant issued by the Pre-Trial Judge,³ and 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.⁵

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, 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 Fazliu, 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 ("Initial Appearance Transcript"), 8 December 2024, public, p. 65, line 24 to p. 69, line 18; see, in particular, p. 68, lines 8-9 ("Decision on Detention").

3. On 7 February 2025,⁶ 7 April 2025,⁷ 5 June 2025,⁸ and 5 August 2025 (“Fourth Review Decision”),⁹ the Pre-Trial Judge ordered Mr Fazliu’s continued detention.

4. On 29 August 2025, the Defence for Mr Fazliu (“Fazliu Defence”) filed submissions on the review of his detention (“Fazliu Defence Submissions”).¹⁰

5. On 10 September 2025, the Specialist Prosecutor’s Office (“SPO”) filed a response (“SPO Response”).¹¹

6. On 15 September 2025, the Fazliu Defence filed a reply (“Fazliu Reply”).¹²

II. SUBMISSIONS

A. FAZLIU DEFENCE SUBMISSIONS

7. The Fazliu Defence requests the conditional release of Mr Fazliu until the delivery of trial judgment or at least until the commencement of trial,¹³ arguing that there are no articulable grounds to believe that Mr Fazliu may flee, obstruct the progress of proceedings before the Specialist Chambers (“SC”), or commit further offences. Alternatively, according to the Fazliu Defence, any risks that the Pre-Trial Judge may deem to exist may be sufficiently mitigated by the conditions proposed

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

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

⁸ KSC-BC-2023-12, F00327, Pre-Trial Judge, [Third Decision on Review of Detention of Fadil Fazliu](#) (“Third Review Decision”), 5 June 2025, public.

⁹ KSC-BC-2023-12, F00404, Pre-Trial Judge, [Fourth Decision on Review of Detention of Fadil Fazliu](#), 5 August 2025, public.

¹⁰ KSC-BC-2023-12, F00428, Fazliu Defence, *Fazliu Defence Submissions on the Fifth Detention Review*, 29 August 2025, confidential, with Annexes 1-3, confidential. A public redacted version of the main filing was filed on 4 September 2025, F00428/RED.

¹¹ KSC-BC-2023-12, F00447, Specialist Prosecutor, *Prosecution Response to “Fazliu Defence Submissions on the Fifth Detention Review”*, 10 September 2025, confidential. A public redacted version was filed on 15 September 2025, F00447/RED.

¹² KSC-BC-2023-12, F00452, Fazliu Defence, *Fazliu Defence Reply to the SPO Response to F00428*, 15 September 2025, confidential.

¹³ Fazliu Defence Submissions, para. 39(3).

by the Fazliu Defence, together with any additional reasonable conditions that the Pre-Trial Judge may impose.¹⁴

8. The Fazliu Defence submits that, for the purposes of detention review, it does not dispute the existence of a grounded suspicion within the meaning of Article 39(2) of the Law.¹⁵

9. Regarding the risk of flight, the Fazliu Defence submits that the weight the Pre-Trial Judge gave to the various factors underpinning this risk does not accurately reflect the circumstances of Mr Fazliu.¹⁶ Specifically, according to the Fazliu Defence: (i) Mr Fazliu does not have a “long-standing political career”, but rather his involvement in political life has been limited to that of a regular member of the Democratic Party of Kosovo and he is only known publicly by way of association with his late brothers;¹⁷ (ii) Mr Fazliu’s ties with the former commanders of the Kosovo Liberation Army (“KLA”) is confined to this context and he would not leverage the memory of his late brothers to secure resources and support for the purpose of fleeing;¹⁸ and (iii) Mr Fazliu is a law-abiding citizen and has no history of demonstrating “blatant disregard for laws and rules of the SC” apart from the present contested charges.¹⁹ In addition, the Fazliu Defence avers that it is unable to contest or contextualise the information provided by the SPO, which underpinned the original decision of the Pre-Trial Judge, as it has no access to the said annex or the identified evidence.²⁰ Lastly, the Fazliu Defence asserts that Mr Fazliu

¹⁴ Fazliu Defence Submissions, paras 1, 9-35, 38, and Annexes 1-3 attached thereto.

¹⁵ Fazliu Defence Submissions, para. 8.

¹⁶ Fazliu Defence Submissions, paras 9-10.

¹⁷ Fazliu Defence Submissions, paras 11-14.

¹⁸ Fazliu Defence Submissions, paras 14-15.

¹⁹ Fazliu Defence Submissions, paras 19-20.

²⁰ Fazliu Defence Submissions, para. 10, footnote 11, referring to [Decision on Arrest](#), para. 83, footnote 116, citing KSC-BC-2012, F00023/SCONF/RED, Specialist Prosecutor, *Confidential Redacted version “Prosecution Submissions Pursuant to F00022”*, confidential, 27 November 2024, para. 7 (referencing Annex 2 to F00023 and items SITF00172947-00172951; SPOE00360305-00360342; SPOE00360396-00360399; SPOE00360381-00360395; SPOE00360381-SPOE00360395-ET).

intends to face charges in the court of law rather than abscond, and it is in this context that his awareness of the gravity of the charges, the potential sentence, and the “meagre and tenuous” evidence against Mr Fazliu should be understood.²¹

10. Regarding the risks of obstruction and committing further, the Fazliu Defence submits that Mr Fazliu: (i) does not have the connections or influence to generate loyalty or facilitate obstruction;²² (ii) lacks the means to obstruct;²³ and (iii) is strongly disincentivized from being involved in any conduct that could be construed as obstruction, having spent nine months in detention.²⁴ The Fazliu Defence further submits that Mr Fazliu’s alleged “persistence and proneness” to obstruct the SC proceedings is unsupported by specific evidence and appears to be inferred from general circumstances.²⁵ Lastly, the Fazliu Defence points out that: (i) the evidence against Mr Fazliu is exclusively documentary in nature; (ii) the outstanding investigative steps do not concern witnesses either; and (iii) the integrity of the evidence is beyond Mr Fazliu’s reach because the source material is in possession of the SPO.²⁶

11. Lastly, the Fazliu Defence contends that the conditions and undertakings proposed by Mr Fazliu and his son would mitigate, if not diminish, any risks that the Pre-Trial Judge may deem to exist.²⁷ The Fazliu Defence maintains in particular that a substantial financial security of €40,000 is offered by a family member, who is also willing to pledge his home as a collateral, and both are to be forfeited in case of breach of the release conditions.²⁸ According to the Fazliu Defence, this creates a powerful incentive for Mr Fazliu to comply with any conditions imposed by the

²¹ Fazliu Defence Submissions, para. 21.

²² Fazliu Defence Submissions, paras 23, 35.

²³ Fazliu Defence Submissions, paras 29, 35.

²⁴ Fazliu Defence Submissions, paras 30, 35.

²⁵ Fazliu Defence Submissions, paras 32-33, 35.

²⁶ Fazliu Defence Submissions, paras 34, 35.

²⁷ Fazliu Defence Submissions, paras 16-17, 25-28, 35.

²⁸ Fazliu Defence Submissions, paras 18, 27.

SC.²⁹ The Fazliu Defence further submits that Fahri Fazliu (“Mr F. Fazliu”), *inter alia*, gave assurances in writing that he will not support or shield Mr Fazliu in any breach of release conditions and will encourage him to attend court.³⁰

B. SPO RESPONSE

12. The SPO responds that Mr Fazliu repeats prior submissions and expresses mere disagreement with the Pre-Trial Judge’s prior findings.³¹ According to the SPO, no new factors or meaningful developments have arisen which would undermine the findings of the Pre-Trial Judge in the Fourth Review Decision.³² The SPO thus contends that the request for conditional release should be denied and the Pre-Trial Judge should order the continued detention of Mr Fazliu.³³

13. More specifically, the SPO argues that Mr Fazliu’s continued detention remains necessary, as all three risks under Article 41(6)(b) of the Law remain.³⁴ Regarding the risk of flight, the SPO avers that Mr Fazliu attempts to minimise his stature in Kosovo, within the KLA, and with his Co-Accused.³⁵ Concerning the Fazliu Defence’s claim that the evidence against Mr Fazliu is tenuous and meagre, the SPO contends that: (i) the alleged quality and strength of its evidence – which is progressive due to the ongoing disclosure – is not relevant to the issue of continued detention.³⁶

14. Regarding the risk of obstructing the progress of SC proceedings, the SPO avers that the Fazliu Defence largely fails to confront the factors examined by the Pre-Trial Judge in the Fourth Review Decision, while repeating that he has no connections or influence and seeking to rely on conditions that have already been

²⁹ Fazliu Defence Submissions, para. 18.

³⁰ Fazliu Defence Submissions, para. 26.

³¹ SPO Response, paras 1, 5, 6-18.

³² SPO Response, para. 4.

³³ SPO Response, paras 4, 20.

³⁴ SPO Response, paras 1, 4.

³⁵ SPO Response, para. 7.

³⁶ SPO Response, para. 9.

found inadequate.³⁷ In response to the Fazliu Defence's argument that Mr Fazliu's knowledge of Mr Thaçi's obstructive intention is not *per se* "demonstrated" but rather inferred, the SPO argues that the Fazliu Defence: (i) ignores available evidence on record; and (ii) does not address Mr Fazliu's increased awareness of incriminating evidence against him, instead merely arguing that it cannot assail its integrity.³⁸

15. Regarding conditional release, the SPO submits that no potential conditions – including those newly proposed by the Fazliu Defence – can appropriately mitigate the risks under Article 41(6)(b) of the Law.³⁹ The SPO argues that in their essence, the conditions proposed by the Fazliu Defence are not materially different from measures previously considered and rejected.⁴⁰ In addition, the SPO avers that, despite the undertakings annexed to the Fazliu Defence Submissions, the consideration that Mr Fazliu would still have the motive, ability and opportunity to approach witnesses through his son remains relevant. Accordingly, the SPO reiterates that the risks can only be effectively managed in the SC Detention Facilities.⁴¹

16. Regarding proportionality, the SPO submits that the time which has elapsed since the Fourth Review Decision does not render the detention of Mr Fazliu disproportionate.⁴² In addition, the SPO highlights that: (i) Mr Fazliu is charged with two counts of offences pursuant to Article 15(2) of the Law and faces a potentially lengthy sentence, if convicted; and (ii) that the proceedings continue to

³⁷ SPO Response, para. 10.

³⁸ SPO Response, para. 11.

³⁹ SPO Response, para. 15.

⁴⁰ SPO Response, para. 15.

⁴¹ SPO Response, para. 16.

⁴² SPO Response, para. 17.

advance expeditiously, as demonstrated by a number of procedural developments in the case.⁴³

C. FAZLIU REPLY

17. In reply, the Fazliu Defence submits that it does not disagree with the elements the Pre-Trial Judge identified as relevant but seeks to point the Pre-Trial Judge to additional information that would facilitate a better-informed assessment of the factors she considered.⁴⁴ The Fazliu Defence contends, for instance, that the newly presented information related to the proposed security is central to assess whether said security can serve as deterrent to the risk of flight.⁴⁵ The Fazliu Defence reasserts Mr Fazliu's "negligible" actual influence as far as the risks under Article 41(6)(b) of the Law are concerned.⁴⁶

18. Regarding proportionality, the Fazliu Defence asserts that factors such as the expeditious progress of proceedings and proximity of transmission of the case to a Trial Panel are not *per se* relevant: while undue delay would militate in favour of release, the absence of delay simply provides no additional grounds for release.⁴⁷ Lastly, with regard to the SPO's evidence, the Fazliu Defence asserts that its comment pertained not to the strength but to the volume of the evidence against Mr Fazliu and was made with a view to explain why Mr Fazliu would rather submit to justice than flee the proceedings.⁴⁸

III. APPLICABLE LAW

19. 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

⁴³ SPO Response, para. 17.

⁴⁴ Fazliu Reply, paras 3, 5-6.

⁴⁵ Fazliu Reply, paras 7-8.

⁴⁶ Fazliu Reply, para. 10.

⁴⁷ Fazliu Reply, para. 13.

⁴⁸ Fazliu Reply, para. 16.

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.

20. 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.

21. 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-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.

22. 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

23. The standard governing the review of detention on remand has been laid out extensively in earlier decisions and is hereby incorporated by reference.⁴⁹ The Pre-Trial Judge will apply this standard to the present decision.

B. GROUNDED SUSPICION

24. 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.⁵⁰ 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.⁵¹ The Pre-Trial Judge observes that there have been no developments in the case negating these findings.

25. Therefore, in the absence of any contrary intervening information or developments, the Pre-Trial Judge finds that there continues to exist a grounded

⁴⁹ 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.

⁵⁰ [Confirmation Decision](#), para. 313(b).

⁵¹ [Fourth Review Decision](#), para. 12; [Third Review Decision](#), para. 20; [Second Review Decision](#), para. 27; [First Review Decision](#), para. 13; [Decision on Arrest](#), para. 43; [Confirmation Decision](#), paras 42-43. 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.

suspicion that Mr Fazliu has committed offences within the jurisdiction of the SC, as set forth under Article 41(6)(a) of the Law.⁵²

C. NECESSITY OF DETENTION

1. Risk of Flight

26. As regards the risk of flight under Article 41(6)(b)(i) of the Law, the Pre-Trial Judge first recalls all the considerations set out in the Fourth Review Decision, 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 Mr Fazliu has the opportunity to flee, by travelling freely to jurisdictions beyond the reach of the SC; (iv) the fact that he also has the means to evade justice, given his long-standing political career in Kosovo and close ties with former KLA commanders, including KLA veterans with rooted political influence – among them Mr Thaçi – from whom he may seek and secure resources and support for the purpose of fleeing; 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.⁵³

27. The Pre-Trial Judge notes that the Fazliu Defence takes issue with the weight given to the various factors underpinning this risk and affirms that it does not accurately reflect the circumstances of Mr Fazliu.⁵⁴

⁵² See similarly, [Fourth Review Decision](#), para. 13; [Third Review Decision](#), para. 21; [Second Review Decision](#), para. 28; [First Review Decision](#), para. 14; Decision on Detention in the Initial Appearance Transcript, p. 67, lines 8-10.

⁵³ See [Fourth Review Decision](#), para. 14; [Third Review Decision](#), para. 22; [Second Review Decision](#), para. 33; [First Review Decision](#), para. 21; [Decision on Arrest](#), para. 81. 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 Packages Nos 59, 61, 64, 68, 70, 71, 74 and 76.

⁵⁴ See *supra* paras 9, 17.

28. At the outset, the Pre-Trial Judge underlines that, when conducting a review of detention, she may refer to findings in prior decisions if she is satisfied that the evidence or information underpinning those decisions still supports the findings made at the time of the review.⁵⁵

29. Turning to the specific arguments advanced by the Fazliu Defence, the Pre-Trial Judge finds first that, insofar as the Fazliu Defence calls for a different weight to be given to the factors such as Mr Fazliu's political career or ties with KLA members, including with Mr Thaçi, the information provided by the Fazliu Defence does not undermine the information underpinning the Pre-Trial Judge's previous findings on his political career and his ties.⁵⁶ What is more, the Pre-Trial Judge considers that her findings on other factors, such as Mr Fazliu's opportunity to abscond by fleeing outside of Kosovo, his ability to reach out to associates to secure resources and support for the purpose of fleeing, as well as his increased awareness of the evidentiary record against him, remain undisturbed at this stage. This remains the case despite Mr Fazliu's attempt to undermine the finding that he demonstrated blatant disregard for the laws and the rules of the SC,⁵⁷ and his undertaking to relinquish an additional identification document.⁵⁸

30. Second, the Pre-Trial Judge recalls that – as acknowledged by the Fazliu Defence itself – the alleged quality and strength of the SPO's evidence in this case

⁵⁵ See similarly KSC-BC-2020-04, IA003/F00005/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Pjetër Shala's Appeal Against Decision on Review of Detention](#), 11 February 2022, public, para. 18, and references cited therein.

⁵⁶ See Decision on Detention in the Initial Appearance Transcript, p. 67, lines 15-25; [Decision on Arrest](#), para. 83. In this regard, the Pre-Trial Judge notes that, contrary to the Fazliu Defence's submissions, the underlying material referenced in para. 83 of the [Decision on Arrest](#) is available to the Fazliu Defence, see KSC-BC-2023-12, F00069/A01, Specialist Prosecutor, *Confidential Redacted Version of "Annex 2 to Prosecution Submissions Pursuant to F00022"*, 9 December 2024, confidential.

⁵⁷ See [Fourth Review Decision](#), para. 14; [Third Review Decision](#), para. 22; [Second Review Decision](#), para. 33; [First Review Decision](#), para. 19; [Decision on Arrest](#), para. 81.

⁵⁸ See Decision on Detention in the Initial Appearance Transcript, p. 67, lines 17-21; [Decision on Arrest](#), para. 82.

are matters to be determined at trial.⁵⁹ For the purposes of the review of detention, what matters is that Mr Fazliu continues to gain sufficient insight into the case against him through ongoing disclosure – a consideration directly relevant to the assessment of his incentive to flee.

31. Third, regarding the Fazliu Defence submissions that Mr Fazliu would rather face charges in court than flee as well as the assertion that Mr Fazliu would never leverage his bothers' legacy to abscond, the Pre-Trial Judge considers that findings on the risk of flight are based on an assessment whether the Accused has incentives to flee and practical means to do so. Declarations of intent or reputational claims on the part of the Accused cannot displace the objective assessment of the existence of such risk.

32. In light of the above, the Pre-Trial Judge finds that all the considerations set out in the Fourth Review Decision continue to apply and remains convinced that the factors favourable to Mr Fazliu do not sufficiently mitigate the risk of flight.

33. Accordingly, the Pre-Trial Judge concludes that, to date, the risk of flight in relation to Mr Fazliu continues to exist.

2. Risk of Obstructing the Progress of SC Proceedings

34. 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 Fourth 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;⁶⁰ (ii) Mr Fazliu's demonstrated knowledge of Mr Thaçi's obstructive intentions, and his own

⁵⁹ See Defence Submissions, para. 33; see also 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, para. 52.

⁶⁰ See [Fourth Review Decision](#), para. 16; [Third Review Decision](#), para. 27; [Second Review Decision](#), para. 38; [First Review Decision](#), para. 24.

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.⁶¹

35. As held earlier,⁶² the Pre-Trial Judge finds that the Fazliu Defence Submissions on Mr Fazliu's political career or ties with KLA members, including with Mr Thaçi,⁶³ do not undermine her previous findings on Mr Fazliu's ability to gain support from people loyal to him. Likewise, the Fazliu Defence Submissions on Mr Fazliu's alleged lack of familiarity with persons of interest in proceedings before the SC does not support the assertion that Mr Fazliu lacks the means to obstruct.⁶⁴ Moreover, as concluded earlier,⁶⁵ declarations of intent on the part of the Accused⁶⁶ cannot displace the objective assessment of the existence of the risk of obstruction. As regards the Fazliu Defence's challenges to evidence,⁶⁷ the Pre-Trial Judge directs the Fazliu Defence to her previous findings which addressed Mr Fazliu's individual persistence and proneness to obstruct SC proceedings⁶⁸ and knowledge of Mr Thaçi's obstructive intention.⁶⁹

36. The Pre-Trial Judge also recalls that the risk of obstruction has not ceased to exist with the closing of the SPO's case in *The Specialist Prosecutor v. Hashim Thaçi et al.* ("Case 06"), as the proceedings remain ongoing, and: (i) a Trial Panel may, under

⁶¹ See [Fourth Review Decision](#), para. 16; [Third Review Decision](#), para. 27; [Second Review Decision](#), para. 38; [First Review Decision](#), paras 24-25.

⁶² See *supra* para. 29.

⁶³ Fazliu Defence Submissions, paras 23-24. See also Fazliu Defence Submissions, paras 11-15.

⁶⁴ Fazliu Defence Submissions, para. 29.

⁶⁵ See *supra* para. 31.

⁶⁶ See Fazliu Defence Submissions, paras 24-25, 28, 30.

⁶⁷ See Fazliu Defence Submissions, paras 32-33.

⁶⁸ See [Decision on Arrest](#), para. 86; First Detention Decision in the Initial Appearance Transcript, p. 68, lines 3-7.

⁶⁹ See [Decision on Arrest](#), para. 86.

exceptional circumstances, hear additional evidence even 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.⁷⁰ The Pre-Trial Judge further recalls that the risk of obstruction is assessed not only in relation to the proceedings in Case 06, but also in relation to the present case.⁷¹ In this respect, the Pre-Trial Judge notes that, since the Fourth Review Decision, the SPO has submitted its list of witnesses.⁷² Having reviewed the profile of the SPO witnesses contained therein, the Pre-Trial Judge is of the view that the risk of interference concerning said SPO witnesses is low. This does not, however, invalidate the Pre-Trial Judge's conclusion in the Fourth Review Decision that there continues to be a risk of obstruction, taking into account all the other factors relied upon.⁷³

37. The Pre-Trial Judge further 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.⁷⁴ As regards further coordination with F. Fazliu, the Pre-Trial Judge finds that the assurances by Mr F. Fazliu,⁷⁵ while extensive and including an undertaking that he will not

⁷⁰ [Fourth Review Decision](#), para. 16; [Third Review Decision](#), para. 29. 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.

⁷¹ [Fourth Review Decision](#), para. 19; [Third Review Decision](#), para. 22.

⁷² 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.

⁷³ [Fourth Review Decision](#), para. 18.

⁷⁴ See *supra* para. 26; [Third Review Decision](#), para. 28; [Second Review Decision](#), para. 39; [First Review Decision](#), para. 25, and references cited therein.

⁷⁵ See Annex 3 to Defence Submissions.

support or shield Mr Fazliu in any breach of the release conditions, are insufficient to overcome the likelihood of such risk.

38. 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.⁷⁶ In this context, the Pre-Trial Judge remains convinced that the risk of Mr Fazliu exerting pressure on witnesses remains particularly high,⁷⁷ notably in light of his ties, as referenced above.⁷⁸

39. Therefore, in light of the above, the Pre-Trial Judge concludes that, to date, the risk that Mr Fazliu will obstruct the progress of criminal proceedings continues to exist.

3. Risk of Committing Further Offences

40. 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.⁷⁹ In this regard, the Pre-Trial Judge notes that the relevant factors – to be considered collectively – are the same as those outlined in paragraphs 34-38 above concerning the risk of obstruction of proceedings. Upon a fresh examination of these factors, the Pre-Trial Judge remains persuaded that there still exists a risk that Mr Fazliu will repeat the offences he is

⁷⁶ See [Fourth Review Decision](#), para. 17; [Third Review Decision](#), para. 30; [Second Review Decision](#), para. 40; [First Review Decision](#), para. 26; [Decision on Arrest](#), para. 63, and references cited therein. See also [Second Kilaj Detention Appeal Decision](#), para. 83.

⁷⁷ See [Fourth Review Decision](#), para. 17; [Third Review Decision](#), para. 30; [Second Review Decision](#), para. 40, and references cited therein; [First Review Decision](#), para. 26.

⁷⁸ See *supra* para. 26.

⁷⁹ See [Fourth Review Decision](#), para. 19; [Third Review Decision](#), para. 32; [Second Review Decision](#), para. 43; [First Review Decision](#), para. 28.

alleged to have committed,⁸⁰ including in relation to witnesses who have provided or may provide evidence in the Case 06 trial and/or the present case.⁸¹

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

4. Conclusion

42. In view of the foregoing, the Pre-Trial Judge finds that, to date, 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

43. The Pre-Trial Judge recalls her previous finding that none of the conditions then proposed by the Fazliu Defence, nor any additional reasonable conditions imposed *proprio motu* by the Pre-Trial Judge⁸² could sufficiently mitigate the existing risks under Article 41(6)(b)(i)-(iii) of the Law.⁸³

⁸⁰ See [Fourth Review Decision](#), para. 19; [Third Review Decision](#), para. 32; [Second Review Decision](#), para. 43; [First Review Decision](#), para. 28; [Decision on Arrest](#), para. 90; Decision on Detention, p. 68, lines 3-7.

⁸¹ See *supra* para. 34.

⁸² See similarly 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.

⁸³ See [Fourth Review Decision](#), para. 22, 25; [Third Review Decision](#), paras 38, 40; [Second Review Decision](#), para. 52; [First Review Decision](#), para. 33; Decision on Detention in the Initial Appearance Transcript, p. 60, lines 5-19; p. 68, lines 21- 23.

44. Regarding the Fazliu Defence's argument that the newly proposed surety⁸⁴ and other proposed conditions⁸⁵ would act as a deterrent to any of the risks under Article 41(6) of the Law, the Pre-Trial Judge recalls that an assessment as to whether bail could serve as an effective deterrent would need to be based on documentation relating to the Accused's financial circumstances.⁸⁶ In the absence of such material, the Pre-Trial Judge finds that the additional information provided by the Fazliu Defence,⁸⁷ albeit more elaborate, is not capable of altering her assessment on the matter.

45. In light of the findings made above regarding the existence of all three risks and having duly considered the proposed new conditions and undertakings, the Pre-Trial Judge remains persuaded 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.⁸⁸ The Pre-Trial Judge is also particularly mindful that, despite any conditions including the new proposed ones, the Accused would have the ability, motive, and opportunity to approach witnesses through his son and other associates.⁸⁹

46. The Pre-Trial Judge further remains convinced that: (i) 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

⁸⁴ Defence Submissions, paras 18, 23-27.

⁸⁵ Defence Submissions, paras 16-17.

⁸⁶ KSC-BC-2023-12, F00403, Pre-Trial Judge, [Fourth Decision on Review of Detention of Isni Kilaj](#), 5 August 2025, public, paras 20, 30, footnotes 32, 45, regarding information that would enable the Pre-Trial Judge to assess an accused's (in this case, Isni Kilaj's) financial situation and, consequently, the appropriate amount of any bail.

⁸⁷ Defence Submissions, para. 18, and references cited therein; Annex 2 to Defence Submissions; Fazliu Reply, para. 7.

⁸⁸ See [Fourth Review Decision](#), para. 22; [Third Review Decision](#), para. 38; [Second Review Decision](#), para. 49; [First Review Decision](#), para. 34.

⁸⁹ See *supra* paras 34-38.

unmonitored visits and communications with family members and pre-approved visitors with a view to minimising, as much as possible, the risks of obstruction and commission of further offences;⁹⁰ and (ii) 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.⁹¹

47. In light of the above, the Pre-Trial Judge concludes that the conditions for Mr Fazliu's release previously proposed by the Fazliu 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

48. 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;⁹² 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.⁹³

49. 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

⁹⁰ [Fourth Review Decision](#), para. 24; [Third Review Decision](#), para. 39; [Second Review Decision](#), para. 50; [First Review Decision](#), para. 35.

⁹¹ [Fourth Review Decision](#), para. 24; [Third Review Decision](#), para. 39; [Second Review Decision](#), para. 50; [First Review Decision](#), para. 35.

⁹² See KSC-BC-2023-12, F00264/A02, Specialist Prosecutor, [Public Redacted Amended Confirmed Indictment](#), 16 April 2025, public, para. 47.

⁹³ See *supra* para. 47.

on 19 September 2025;⁹⁴ (ii) the SPO has made further disclosures pursuant to Rules 102(1)(b) and 103 of the Rules;⁹⁵ (iii) the SPO has filed its fourth notice pursuant to Rule 102(3) of the Rules⁹⁶ and disclosed a number of items, as requested by the Defence;⁹⁷ (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;⁹⁸ (v) remaining investigative steps are progressing steadily,⁹⁹ and further disclosure of material is anticipated following completion of these steps;¹⁰⁰ (vi) the Pre-Trial

⁹⁴ 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 of the SPO's pre-trial brief 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.

⁹⁵ See Disclosure Packages Nos 59, 60-61, 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).

⁹⁶ See KSC-BC-2023-12, F00417, Specialist Prosecutor, [*Prosecution's Fourth Rule 102\(3\) Notice*](#), 18 August 2025, public, with Annex 1, confidential.

⁹⁷ See Disclosure Packages Nos 58, 62-63, 65-66, 69, 75. See also SPO Progress Submissions, paras 17, 19.

⁹⁸ KSC-BC-2023-12, F00469, Specialist Prosecutor, *Notification of Agreed Facts*, 29 September 2025, public, with Annex 1, confidential.

⁹⁹ 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 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; F00472, Registrar, *Registrar's Third Monthly Report Pursuant to F00350*, 30 September 2025 (notified on 1 October 2025), confidential.

¹⁰⁰ 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.

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;¹⁰¹ 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.¹⁰² 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.

50. The Pre-Trial Judge has duly considered the additional time Mr Fazliu has spent in detention since the Third Review Decision, but finds that – when weighed against the remaining factors set out in paragraphs 48-49 above – his detention remains proportionate.

51. 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 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.

52. 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

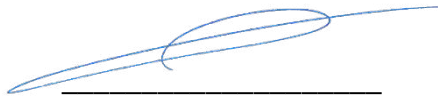
53. For the above-mentioned reasons, the Pre-Trial Judge hereby:

a. **ORDERS** Mr Fazliu's continued detention;

¹⁰¹ 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.

¹⁰² [Pre-Trial Calendar Decision](#), para. 23.

- b. **ORDERS** Mr Fazliu, if he so wishes, to file submissions on the next review of detention by **Tuesday, 11 November 2025, at 16h00** with the response and reply following the timeline set out in Rule 76 of the Rules;
- 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 **Tuesday, 18 November 2025, at 16h00**, and Mr Fazliu, if he so wishes, to file his response by **Tuesday, 25 November 2025, at 16h00**; and
- d. **ORDERS** the Fazliu Defence to file a public redacted version, or request the reclassification as public, of the Fazliu Reply (F00452), by **Friday, 10 October 2025**.



Judge Marjorie Masselot
Pre-Trial Judge

Dated this Friday, 3 October 2025

At The Hague, the Netherlands.