



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

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

Before: Single Trial Judge
Judge Christopher Gosnell

Registrar: Fidelma Donlon

Date: 3 December 2025

Language: English

Classification: Public

Sixth Decision on Review of Detention of Bashkim Smakaj

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

I. PROCEDURAL BACKGROUND

1. On 5 December 2024, Bashkim Smakaj ("Mr Smakaj") was detained in Kosovo pursuant to an arrest warrant issued by the Specialist Chambers ("SC") on the basis of an indictment confirmed against him and four others in the present case on 29 November 2024.²

2. On 8 December 2024, Mr Smakaj made his initial appearance, at which time his continued detention was ordered.³ He remains in custody to this day, following five bi-monthly reviews of his detention as required by Article 41(10).⁴

3. On 12 November 2025, the case file was transmitted to the Single Trial Judge.⁵

¹ All references to "Article" and "Rule" shall be understood, unless otherwise indicated, as referring to the Law and Rules, respectively.

² KSC-BC-2023-12, F00042, Registrar, *Notification of Arrest of Bashkim Smakaj Pursuant to Rule 55(4)*, 5 December 2024, public; 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](#); F00036, Pre-Trial Judge, *Decision on the Confirmation of the Indictment* ("Confirmation Decision"), 29 November 2024, confidential; a public redacted version was issued on 12 February 2025, [F00036/RED](#).

³ KSC-BC-2023-12, Transcript of Hearing, *Initial Appearance of Bashkim Smakaj*, 8 December 2024, public, p. 40, line 23, to p. 43, line 25.

⁴ KSC-BC-2023-12, F00164, Pre-Trial Judge, [Decision on Review of Detention of Bashkim Smakaj](#) ("First Review Decision"), 7 February 2025, public; F00249, Pre-Trial Judge, [Second Decision on Review of Detention of Bashkim Smakaj](#) ("Second Review Decision"), 7 April 2025, public; F00326, Pre-Trial Judge, [Third Decision on Review of Detention of Bashkim Smakaj](#) ("Third Review Decision"), 5 June 2025, public; F00406, Pre-Trial Judge, [Fourth Decision on Review of Detention of Bashkim Smakaj](#) ("Fourth Review Decision"), 5 August 2025, public; F00477, Pre-Trial Judge, [Fifth Decision on Review of Detention of Bashkim Smakaj](#) ("Fifth Review Decision"), 3 October 2025, public.

⁵ KSC-BC-2023-12, F00544, Pre-Trial Judge, [Decision Transmitting the Case File to Single Trial Judge](#), 12 November 2025, public.

4. On 18 November 2025, the Specialist Prosecutor's Office ("SPO") made submissions in respect of the sixth periodic review of Mr Smakaj's detention.⁶
5. The Defence for Mr Smakaj ("Smakaj Defence") did not respond.
6. On 1 December 2025, the Smakaj Defence seized the Single Trial Judge with a request for the review of detention, pursuant to Rule 57(2).⁷

II. SUBMISSIONS

7. The SPO requests Mr Smakaj's continued detention on the basis that there have been "no consequential changes or meaningful developments which undercut" the Fifth Review Decision.⁸ The SPO maintains that each of the Article 41(6)(b) risks remain,⁹ and cannot be "appropriately mitigate[d]" by any potential conditions of release.¹⁰ Further, the SPO argues that the "limited passage of time" since the last review does not undermine the proportionality of Mr Smakaj's detention, in light of the potentially lengthy sentence he faces and the progress of the case towards trial.¹¹

III. APPLICABLE LAW

8. The standards applicable to the continued detention of a person by the SC are set out in Article 41(6) and (10) and Rules 56-57. These provisions have been extensively interpreted in the SC's jurisprudence, in particular as they are required to be applied and interpreted in conformity with the Constitution of Kosovo and the (European) Convention for the Protection of Human Rights and Fundamental

⁶ KSC-BC-2023-12, F00553, Specialist Prosecutor, *Prosecution Submissions on Review of Detention of Bashkim Smakaj* ("SPO Submissions"), 18 November 2025, public.

⁷ KSC-BC-2023-12, F00589, Smakaj Defence, *Smakaj Submissions on Review of Detention of Bashkim Smakaj* ("Smakaj Defence Submissions"), 1 December 2025, confidential.

⁸ SPO Submissions, paras 2-4, 10-11.

⁹ SPO Submissions, paras 4-7.

¹⁰ SPO Submissions, para. 8.

¹¹ SPO Submissions, para. 9, with further references.

Freedoms.¹² The Single Trial Judge will apply these same standards to the present decision.

9. The Single Trial Judge notes that each bi-monthly review of detention is a *de novo* assessment.¹³ According to the Court of Appeals Panel:

[...] The competent panel is not required to make findings on the factors already decided upon in the initial ruling on detention but must examine these reasons or circumstances and determine whether they still exist. What is crucial is that the competent panel is satisfied that that, at the time of the review decision, grounds for continued detention still exist.¹⁴

Furthermore, “although the automatic review [...] is not strictly limited to whether or not a change of circumstances occurred in the case, such a change can nonetheless be determinative and shall be taken into consideration if raised before the Panel or *proprio motu*”.¹⁵ The Single Trial Judge understands that although he is not “required” to revisit findings made in previous detention reviews, he is nevertheless under an obligation to ensure that he is “satisfied”

¹² See, for example, [Fifth Review Decision](#), paras 10-13; [Second Review Decision](#), paras 20-21 (general requirements), 22 (grounded suspicion), 26-29 (necessity of detention), 40 (conditional release) and 43 (proportionality), with references cited therein; and [First Review Decision](#), paras 18-19 (general requirements), 20 (grounded suspicion), 24- 27 (necessity of detention), 41 (conditional release) and 46 (proportionality), with references cited therein.

¹³ KSC-BC-2020-06, F003484, Trial Panel II, [Decision on Periodic Review of Detention of Jakup Krasniqi](#), 18 September 2025, public, para. 49 (“the Panel observes that detention is governed by strict conditions set out in Article 41 and the Panel assesses the Parties’ submissions *de novo* as part of the bi-monthly detention review pursuant to Article 41(10)”); see also F00177/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Hashim Thaçi’s Application for Interim Release](#), 22 January 2021, public, para. 26.

¹⁴ KSC-BC-2020-07, IA002-F00005, Court of Appeals Panel, [Decision on Nasim Haradinaj’s Appeal Against Decision Reviewing Detention](#), 9 February 2021, public, para. 55; see also KSC-BC-2020-06, IA006-F00005, Court of Appeals, [Public Redacted Version of Decision on Jakup Krasniqi’s Appeal Against Decision on Review of Detention](#), 1 October 2021, confidential, para. 15 (“The Panel considers that a further explanation of how the above findings must be interpreted is warranted. In that regard, the Panel underlines that the duty to determine whether the circumstances underpinning detention “still exist” is not a light one. It imposes on the competent panel the task to, *proprio motu*, assess whether, it is still satisfied that, at the time of the review and under the specific circumstances of the case when the review takes place, the detention of the Accused remains warranted.”).

¹⁵ 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. 31.

that “grounds for continued detention still exist” including, but without being limited to, considering any changes of circumstances that may have arisen since the last detention review.

IV. DISCUSSION

A. PRELIMINARY MATTER

10. The Smakaj Defence did not respond to the SPO submissions within the framework of the bi-monthly detention review.¹⁶ Accordingly, for the purposes of the present decision, the Single Trial Judge has considered only the SPO Submissions made in the context of the bi-monthly detention review. The Smakaj Defence Submissions, filed on 1 December 2025, will be fully considered, along with any response by the SPO, in the context of the separate detention review that has now been initiated by Mr Smakaj, and for which a briefing calendar has already been established by the Single Trial Judge.¹⁷ This calendar is also reflected in the disposition section below.

B. GROUNDED SUSPICION

11. A precondition of detention under Article 41(6)(a) of the Law is that there is a “grounded suspicion that [the detainee] has committed a crime within the jurisdiction of the Specialist Chambers”. This is a lower threshold than is required for confirmation of charges under Article 39(2). On the basis of the findings in the Confirmation Decision,¹⁸ and in the absence of any submissions to the contrary by the Smakaj Defence or other intervening information or developments, the requirement of a “grounded suspicion” is satisfied.

¹⁶ See *supra* para. 5.

¹⁷ See KSC-BC-2023-12, CRSPD 172, Single Trial Judge, F00589 - Order pursuant to Rule 9(5)(a) of the Rules, dated 1 December 2025 and notified on 3 December 2025, confidential.

¹⁸ [Confirmation Decision](#), paras 42-43, 211, 260, 287-288, 299, 313(c).

C. PRESENCE OF ARTICLE 41(6)(B) RISKS

1. Risk of Flight

12. As stated by the Court of Appeals Panel, “[t]he conditions set forth in Article 41(6)(b) of the Law are alternative to one another. If one of those conditions is fulfilled, the other conditions do not have to be addressed in order for detention to be maintained”.¹⁹

13. In light of the findings below in respect of Article 41(6)(b)(ii) and (iii), the Single Trial Judge does not consider it necessary, at this time, to make a finding as to whether Mr Smakaj is a flight risk under Article 41(6)(i).

2. Risk of Obstructing the Progress of SC Proceedings

14. The SPO submits that the following factors indicate a risk that Mr Smakaj may obstruct the progress of SC proceedings if provisionally released: (i) the nature of the confirmed charges, aimed at unlawfully influencing witnesses in the case of *The Specialist Prosecutor v. Hashim Thaçi et al.* (“Case 06”); (ii) his persistence in furthering obstruction efforts in SC proceedings, including by following orders from Hashim Thaçi; (iii) his (increased) awareness of the incriminating evidence against him, creating further incentive to interfere with witnesses.²⁰ The SPO further asserts that the established risk of obstruction continues independent of the current stage of proceedings in Case 06.²¹ Additionally, the SPO contends that: (i) the persistent climate of intimidation of witnesses and victims in Kosovo continues to be a relevant contextual factor that must be considered, especially in the context of criminal proceedings instituted against former members of the of the Kosovo Liberation Army; and

¹⁹ See, for example, KSC-BC-2023-12, IA001-F0005, [Decision on Isni Kilaj's Appeal Against Decision on Continued Detention](#), 28 January 2025, public, para. 17.

²⁰ SPO Submissions, para. 6.

²¹ SPO Submissions, para. 6.

(ii) the risk of Mr Smakaj exerting pressure on witnesses “remains particularly high”.²²

15. The Single Trial Judge is satisfied that a “real” risk²³ remains that Mr Smakaj may, if released, obstruct the progress of SC proceedings under Article 41(6)(b)(ii), on the basis of the following factors: (i) the nature of the charges against Mr Smakaj in this case, which involve allegations of unlawfully influencing witnesses;²⁴ (ii) including by coordinating with other persons to do so;²⁵ and (iii) Mr Smakaj’s increased awareness of the incriminating evidence against him, as a result of the ongoing disclosure,²⁶ which may create some additional incentive or opportunity to interfere with witnesses.²⁷ In respect of the second consideration, some of the persons alleged by the SPO to have assisted Mr Smakaj have not been charged in this case and presumably remain at liberty, which is a particularly salient consideration in light of the pervasive climate of fear and intimidation in Kosovo against witnesses and potential witnesses of the SC.²⁸

16. However, the risk of obstruction is reduced relative to previous detention reviews in light of: (i) the imminent closure of the evidentiary proceedings in Case 06; and (ii) the increased certainty that the SPO’s evidence in the present case will not rely on witnesses who could be influenced by Mr Smakaj or anyone likely

²² SPO Submissions, para. 6.

²³ See KSC-BC-2020-06, IA004-F00005, Court of Appeals Panel, [Public Redacted Version of Decision on Hashim Thaçi’s Appeal Against Decision on Interim Release](#), 30 April 2021, public, paras 24, 45.

²⁴ See [Fifth Review Decision](#), para. 20; [Fourth Review Decision](#), para. 31; [Third Review Decision](#), para. 27; [Second Review Decision](#), para. 33; [First Review Decision](#), para. 32; [Decision on Arrest](#), para. 74, with further explanations.

²⁵ [Fifth Review Decision](#), para. 20; [Fourth Review Decision](#), para. 31; [Third Review Decision](#), para. 27; [Second Review Decision](#), para. 33; [First Review Decision](#), para. 32; [Decision on Arrest](#), para. 74.

²⁶ The Single Trial Judge notes that, since the Fifth Review Decision, the SPO has made additional disclosures pursuant to Rule 102(1)(b) of the Rules. See Disclosure Packages Nos 77, 80 and 83.

²⁷ [Fifth Review Decision](#), para. 20; [Fourth Review Decision](#), para. 31; [Third Review Decision](#), para. 27; [Second Review Decision](#), para. 34; [First Review Decision](#), para. 33; [Decision on Arrest](#), para. 75.

²⁸ [Fifth Review Decision](#), para. 22; [Fourth Review Decision](#), para. 32; [Third Review Decision](#), para. 30; [Second Review Decision](#), para. 35; [First Review Decision](#), para. 34; [Decision on Arrest](#), para. 76, with references cited therein.

to act on his behalf.²⁹ The Single Trial Judge notes, in particular, that the SPO seeks to rely in this case almost exclusively on documentary evidence which cannot plausibly be tampered or interfered with by Mr Smakaj.

17. Notwithstanding these recent developments that may be assessed as reducing the risk of potential obstruction of proceedings, the Single Trial Judge is satisfied that a real risk does remain that Mr Smakaj, if released, may obstruct the course of proceedings by seeking to influence potential Defence witnesses.

3. Risk of Committing Further Offences

18. As regards the risk of committing further offences under Article 41(6)(b)(iii) of the Law, the Single Trial Judge recalls that, even though the existence of a risk of obstruction does not always automatically translate into a risk of committing further offences, it does so in the present case.³⁰ The reasons supporting the finding that there is a real risk of obstruction of proceedings likewise support a finding of a real risk that alleged further offences may be committed for that purpose, including in relation to witnesses who may provide evidence in the present case.³¹

19. In light of the above, the Single Trial Judge is satisfied that there remains a real risk that Mr Smakaj may commit further offences if provisionally released.

4. Conclusion

20. In view of the foregoing, the Single Trial Judge is satisfied that there remains a real risk that Mr Smakaj may obstruct the progress of the SC proceedings and commit further offences under Article 41(6)(b)(ii) and (iii),

²⁹ 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.

³⁰ See [Decision on Arrest](#), para. 78.

³¹ See also [Fifth Review Decision](#), para. 24; [Fourth Review Decision](#), para. 34; [Third Review Decision](#), paras 28, 32, with references cited therein.

respectively. The Single Trial Judge will assess below whether these risks can be adequately mitigated by any conditions for Mr Smakaj's release.

D. POTENTIAL CONDITIONS OF RELEASE

21. An accused "can only be detained if lesser measures would be insufficient to mitigate the risks of flight, obstruction or the commission of further crimes".³² This standard reflects the presumption in favour of pre-trial release, which is itself a reflection of the bedrock principle of the presumption of innocence.³³

22. The Single Trial Judge is not persuaded that any reasonable conditions of release could satisfactorily mitigate, at this stage, the risk that Mr Smakaj may obstruct the progress of SC proceedings or commit further offences, if released.³⁴

In particular, the Single Trial Judge is of the view that any reasonable conditions to be imposed: (i) do not address the possibility of Mr Smakaj 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 Smakaj's communications.³⁵ The Single Trial Judge finds that, as

³² [Second Kilaj Detention Appeal Decision](#), para. 32. See KSC-CC-PR-2017-01, F00004, Specialist Chamber of the Constitutional Court, [Judgment on the Referral of the Rules of Procedure and Evidence Adopted by Plenary on 17 March 2017 to the Specialist Chamber of the Constitutional Court Pursuant to Article 19\(5\) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office](#), 26 April 2017, public, para. 114. See also ECtHR, [Buzadji v. the Republic of Moldova](#), no. 23755/07, Judgment, 5 July 2016, para. 87; [Idalov v. Russia](#), no. 5826/03, Judgment, 22 May 2012, para. 140.

³³ KSC-BC-2020-06, IA003-F00005/RED, Court of Appeals Panel, [Public Redacted Version of Decision on Rexhep Selimi's Appeal Against Decision on Interim Release](#) ("Selimi Appeal Decision"), 30 April 2021, public, paras 85-86, stating that "in the assessment of the Proposed Conditions, the [relevant Panel] is required, *proprio motu*, to inquire and evaluate all reasonable conditions that could be imposed on an accused and not just those raised by the Defence. The [Court of Appeals] Panel comes to this conclusion in light of the fundamental right of liberty at stake with regard to a suspect or an accused in pre-trial detention and the presumption of innocence governing this part of the proceedings".

³⁴ [Fifth Review Decision](#), paras 27-29; [Fourth Review Decision](#), paras 37-39; [Third Review Decision](#), paras 35-37; [Second Review Decision](#), paras 41-42; [First Review Decision](#), paras 43-45; see also 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](#) ("Thaçi 2022 Appeal Decision"), 5 April 2022, public, para. 51.

³⁵ [Fifth Review Decision](#), para. 28; [Fourth Review Decision](#), para. 38; [Third Review Decision](#), para. 36; [Second Review Decision](#), para. 41; [First Review Decision](#), para. 43.

consistently held in previous decisions, such measures are less effective than those in place at the SC Detention Facilities.³⁶

23. In light of the above, the Single Trial Judge is satisfied that the potential conditions for Mr Smakaj's release, including as previously proposed by the Smakaj Defence,³⁷ would not sufficiently mitigate the risks under Article 41(6)(b) of the Law.

E. PROPORTIONALITY OF DETENTION

24. Rule 56(2) requires "that a person is not detained for an unreasonable period prior to the opening of the case". This standard likewise applies after the opening of the case and throughout trial proceedings.³⁸ The SPO "carries the burden of establishing that detention is necessary and that its length remains reasonable",³⁹ and "any analysis of pre-trial detention must take the presumption of innocence as its starting point".⁴⁰ As the Court of Appeals Panel has remarked, "the longer a

³⁶ See similarly [Fifth Review Decision](#), para. 28 ("The Pre-Trial Judge further maintains 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 unmonitored visits and communications, minimising, as much as possible, the risks of obstruction and commission of further offences; 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"); [Fourth Review Decision](#), para. 38; [Third Review Decision](#), para. 36; [Second Review Decision](#), para. 41; [First Review Decision](#), para. 44, with references cited therein. See also 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](#) ("Thaçi 2021 Appeal Decision"), 27 October 2021, public, para. 68.

³⁷ KSC-BC-2023-12, F00281, Smakaj Defence, *Smakaj Submissions on Third Review of Detention*, 5 May 2025, confidential, paras 23, 26, with Annex 1, confidential; and F00117, Smakaj Defence, *Submission on Detention on Remand*, 15 January 2025, public, paras 25-27, with Annex 1, confidential and *ex parte*.

³⁸ See [Second Kilaj Detention Appeal Decision](#), para. 46 ("At the outset, the Appeals Panel recalls that a panel has a general obligation to ensure that the time spent in detention is reasonable, in accordance with Article 29(2) of the Constitution and Article 5(3) of the ECHR"); KSC-BC-2020-06, F03587, Trial Panel II, [Decision on Periodic Review of Detention of Jakup Krasniqi](#), 18 November 2025, public, paras 31-35 (applying Rule 56(2) and finding that continued detention remains "necessary and reasonable in the specific circumstances of this case"); F03539, Specialist Prosecutor, [Prosecution Submission Pertaining to Periodic Detention Review of Jakup Krasniqi](#), 27 October 2025, public, para. 26 (SPO arguing that detention of Krasniqi "remains proportional").

³⁹ See [Second Kilaj Detention Appeal Decision](#), para. 47.

⁴⁰ [Selimi Appeal Decision](#), para. 37.

person remains in pre-trial detention the higher the burden on the Specialist Chambers to justify continued detention”.⁴¹

25. The determination of the reasonableness of continued detention “must be assessed on the facts of each case and according to its special features”.⁴² In particular, previous jurisprudence establishes that reasonableness is to be assessed by weighing various considerations, including: the duration of detention at the time of review;⁴³ “the nature of the offence as well as the severity of the penalty”;⁴⁴ “the degree of risks that are described in Article 41(6)(b) of the Law”;⁴⁵ the speed with which proceedings are progressing towards trial (or a final judgment), and whether the length of proceedings is justified by its complexity;⁴⁶ and the frequent review of detention which, pursuant to the Rules, occurs every two months.⁴⁷

26. The SPO argues that the additional two months of Mr Smakaj’s detention since the last review does not change the balance of factors that substantiated the Pre-Trial Judge’s finding in the Fifth Review Decision that Mr Smakaj’s detention “remains proportionate”.⁴⁸ The SPO underscores that a “potentially lengthy sentence lies ahead” for Mr Smakaj based on the two counts with which he is charged. It also highlights “the continued expeditious progress of proceedings” as

⁴¹ See KSC-BC-2020-07, IA001-F00005, Court of Appeals Panel, [Decision on Hysni Gucati’s Appeal on Matters Related to Arrest and Detention](#) (“Gucati Appeal Decision”), 9 December 2020, public, para. 73.

⁴² See [Thaçi 2022 Appeal Decision](#), para. 65.

⁴³ See [Selimi Appeal Decision](#), paras 79-81.

⁴⁴ See [Gucati Appeal Decision](#), para. 72 (“The Court of Appeals Panel takes the present opportunity to stress that the nature of the offence as well as the severity of the penalty are important factors to consider when deciding whether detention is necessary in the circumstances of a specific case”).

⁴⁵ See KSC-BC-2023-12, INV-F00129/COR/RED, Single Judge, [Public Redacted Version of Corrected Version of Decision on Review of Detention of Isni Kilaj](#) (“Kilaj Release Decision”), 3 May 2024 (date of public redacted corrected version 15 May 2024), public, para. 60. See [Thaçi 2021 Appeal Decision](#), para. 49.

⁴⁶ See [Thaçi 2021 Appeal Decision](#), para. 52 (“the Pre-Trial Chamber correctly assessed the circumstances of the case as a whole, taking into consideration the factors listed above in paragraph 50 of this decision”); *Kilaj Release Decision*, para. 60 (“the investigative and procedural steps taken towards moving the case forward since the last review of detention”).

⁴⁷ [Selimi Appeal Decision](#), para. 81.

⁴⁸ SPO Submissions, para. 9.

reflected in various procedural, investigative and disclosure steps.⁴⁹ According to the SPO, the “numerous relevant factors result in a conclusion that Mr Smakaj’s detention remains necessary and proportionate”.⁵⁰

27. The Single Trial Judge recalls that Mr Smakaj has now been detained for almost a year⁵¹ and that 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 possible sentences of one to five years and a maximum of six months, respectively.⁵² The Single Trial Judge thus notes that this period of detention does not yet exceed the statutory minimum sentence for these charges.

28. The Single Trial Judge also takes into consideration that although, as discussed above,⁵³ certain factors have arisen that reduce the risks of obstruction and re-offending, these risks nevertheless remain and cannot be satisfactorily mitigated by any proposed conditions for release.⁵⁴

29. Finally, the Single Trial Judge notes that since the Fifth Review Decision, various procedural, investigative and disclosure steps have brought the case closer to the commencement of trial⁵⁵ – most importantly, the transfer of the case to the Single Trial Judge.⁵⁶

30. Despite the additional two months of detention since the Fifth Review Decision, and although the question is now finely balanced, the Single Trial

⁴⁹ SPO Submissions, para. 9

⁵⁰ SPO Submissions, para. 10.

⁵¹ See *supra* para. 1.

⁵² See KSC-BC-2023-12, F00264/A02, Specialist Prosecutor, [Public Redacted Amended Confirmed Indictment](#), 16 April 2025, public, para. 47.

⁵³ See *supra* paras 16-17 and 18-19.

⁵⁴ See *supra* paras 22-23.

⁵⁵ The Single Trial Judge takes into consideration, among others, that: (i) some of the Defence teams have filed their Pre-Trial Briefs; (ii) the Court of Appeals Panel has rendered decisions on the pending appeals relating to pre-trial motions; (iii) trial preparation conferences were held on 28 November 2025; (iv) the SPO continues to comply with its ongoing disclosure obligations; (v) remaining investigative steps are progressing steadily.

⁵⁶ See KSC-BC-2023-12, F00544, Pre-Trial Judge, [Decision Transmitting the Case File to Single Trial Judge](#), 12 November 2025, public, with Annex 1, confidential, and Annex 2, public.

Judge is not persuaded, given all the factors assessed above, that Mr Smakaj's detention has yet reached the point of being unreasonable.

31. Moreover, pursuant to Article 41(10) and Rule 57(2), Mr Smakaj's detention will be reviewed at the latest upon the expiry of two (2) months from this decision, if not earlier, based on the detention review that was initiated by Mr Smakaj on 1 December 2025.⁵⁷

32. In view of the foregoing, the Single Trial Judge finds that the time Mr Smakaj has spent in pre-trial detention, when weighed against the risks arising under Article 41(6)(b)(ii) and (iii), is not at this point unreasonable within the meaning of Rule 56(2) of the Rules.

⁵⁷ See *supra* paras 6 and 10.

V. DISPOSITION

33. For the above-mentioned reasons, the Single Trial Judge hereby:

- a) **ORDERS** Mr Smakaj's continued detention;
- b) **ORDERS** the SPO, if it so wishes, file a response to the Smakaj Defence Submissions (filing F00589),⁵⁸ by **Monday, 8 December 2025**; and
- c) **ORDERS** the Smakaj Defence, if it so wishes, to file a reply by **Wednesday, 10 December 2025**.



Judge Christopher Gosnell
Single Trial Judge

Dated this Wednesday, 3 December 2025

At The Hague, the Netherlands.

⁵⁸ See *supra* footnotes 7 and 17.