



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: Single Trial Judge
Judge Christopher Gosnell

Registrar: Fidelma Donlon

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Sixth Decision on Review of Detention of Fadil Fazliu

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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 ("Law") and Rules 56(2) and 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"),¹ hereby issues the following decision.

I. PROCEDURAL BACKGROUND

1. On 5 December 2024, Fadil Fazliu ("Mr Fazliu") 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 on 29 November 2024.²
2. On 8 December 2024, Mr Fazliu 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 3 October 2025, the Pre-Trial Judge issued the Fifth Review Decision, in which she set a deadline of 18 November 2025 for the Specialist Prosecutor's

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

² KSC-BC-2023-12, F00045, Registrar, [Notification of Arrest of Fadil Fazliu 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 Hearing of Fadil Fazliu](#), 8 December 2024, public, p. 65, line 24 to p. 69, line 18; *see, in particular*, p. 68, lines 8-9.

⁴ KSC-BC-2023-12, F00163, Pre-Trial Judge, [Decision on Review of Detention of Fadil Fazliu](#) ("First Review Decision"), 7 February 2025, public; 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](#); KSC-BC-2023-12, F00327, Pre-Trial Judge, [Third Decision on Review of Detention of Fadil Fazliu](#) ("Third Review Decision"), 5 June 2025, public; KSC-BC-2023-12, F00404, Pre-Trial Judge, [Fourth Decision on Review of Detention of Fadil Fazliu](#) ("Fourth Review Decision"), 5 August 2025, public; KSC-BC-2023-12, F00479, Pre-Trial Judge, [Fifth Decision on Review of Detention of Fadil Fazliu](#), 3 October 2025, public ("Fifth Review Decision").

Office (“SPO”) submissions in respect of the next bi-monthly review of detention, and 25 November 2025 for any response by Mr Fazliu.⁵

4. On 15 October 2025, the Fazliu Defence appealed against the Fifth Review Decision.⁶

5. On 12 November 2025, the case file was transmitted to the Single Trial Judge.⁷

6. On 18 November 2025, the SPO made submissions in respect of the sixth periodic review of Mr Fazliu’s detention.⁸

7. On 21 November 2025, the Fazliu Defence requested an extension of time limit to respond to the SPO Submissions until five days after the Court of Appeals Panel’s decision on the *Fazliu Appeal*.⁹ The Fazliu Defence did not otherwise respond to the SPO Submissions.

8. On 24 November 2025, the Single Trial Judge granted the *Fazliu Request for Time Limit Extension* and ordered that Mr Fazliu submit a formal waiver of the bi-monthly detention review by 28 November 2025,¹⁰ which he did.¹¹

⁵ Fifth Review Decision, para. 53(c).

⁶ KSC-BC-2023-12, IA008-F00001, Fazliu Defence, *Fazliu Appeal Against the Fifth Detention Review Decision (“Fazliu Appeal”)*, 15 October 2025, confidential, with Annex 1, confidential.

⁷ KSC-BC-2023-12, F00544, Pre-Trial Judge, *Decision Transmitting the Case File to Single Trial Judge*, 12 November 2025, public.

⁸ KSC-BC-2023-12, F00555, Specialist Prosecutor, *Prosecution Submissions on Review of Detention of Fadil Fazliu (“SPO Submissions”)*, 18 November 2025, public.

⁹ KSC-BC-2023-12, F00562, Fazliu Defence, *Fazliu Request for Extension of Time Limit to Respond to Prosecution Submissions on the Sixth Detention Review (“Fazliu Request for Time Limit Extension”)*, 21 November 2025, public.

¹⁰ KSC-BC-2023-12, F00571, Single Trial Judge, *Decision on Fazliu Defence Request for an Extension of Time for Submissions on Review of Detention*, public.

¹¹ KSC-BC-2023-12, F00584, Fazliu Defence, *Fazliu Transmission of Waiver*, 28 November 2025, public, with Annex 1, confidential.

9. On 2 December 2025, the Fazliu Defence submitted that Mr Fazliu intended to withdraw his waiver and made substantive submissions on Mr Fazliu's continued detention.¹²

II. SUBMISSIONS

A. SPO SUBMISSIONS

10. The SPO requests the continued detention of Mr Fazliu,¹³ on the ground that no new factors or information have arisen that undermine the Pre-Trial Judge's previous findings in respect of the existence of the Article 41(6)(b) risk factors, that they cannot be appropriately mitigated by any conditions of release, and that the continued detention of Mr Fazliu remains both necessary and proportionate.¹⁴ Further, the SPO argues that "the limited passage of time" since the last review does not undermine the proportionality of Mr Fazliu's detention, in light of the potentially lengthy sentence he faces and the progress of the case towards trial.¹⁵

B. DEFENCE RESPONSE

11. The Defence did not make any substantive submissions by the applicable deadline for the bi-monthly detention review. Instead, it sought an extension of time to do so after a decision had been issued on Mr Fazliu's pending appeal of the Fifth Review Decision.¹⁶

12. In the Fazliu Notification of 2 December 2025, the Fazliu Defence requested the Single Trial Judge to consider, notwithstanding the non-compliance with the briefing schedule set out in the Fifth Review Decision, the substantive

¹² KSC-BC-2023-12, F00593, Fazliu Defence, *Fazliu Notification of Withdrawal of Waiver* ("Fazliu Notification"), 2 December 2025, public, paras 1 and 11(a).

¹³ SPO Submissions, paras 3, 10-11.

¹⁴ SPO Submissions, paras 3-4.

¹⁵ SPO Submissions, para. 9.

¹⁶ *Fazliu* Request for Time Limit Extension, para. 10.

arguments presented in the Notification within the framework of the sixth detention review or, in the alternative, consider those arguments within the framework of a new request to review detention on remand pursuant to Rule 57(2).¹⁷

III. APPLICABLE LAW

13. 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 Freedoms.¹⁸ The Single Trial Judge will apply the same standards to the present decision.

14. The Single Trial Judge notes that each bi-monthly review of detention is a *de novo* assessment.¹⁹ 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

¹⁷ *Fazliu* Notification, para. 3.

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

¹⁹ KSC-BC-2020-06, F03484, 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.

competent panels is satisfied that that, at the time of the review decision, grounds for continued detention still exist.²⁰

15. 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*”.²¹ 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” that “grounds for continued detention still exist” including, but without being limited to, consideration of any changes of circumstances that may have arisen since the last detention review.

IV. DISCUSSION

A. PRELIMINARY MATTER

16. The Single Trial Judge doubts that Mr Fazliu’s waiver of the bi-monthly detention review has been validly revoked. This revocation has not been received in writing in the same form as the waiver itself, and the Fazliu Notification refers to an “intention” to revoke the waiver, which implies that the revocation had not yet been signed as of the date of that submission.²² The

²⁰ 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.”).

²¹ 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.

²² Fazliu Notification, para. 1.

Single Trial Judge nevertheless considers, in light of the fundamental importance of the review of detention, that he should proceed to the sixth bi-monthly review of detention.

17. The Single Trial Judge does not, however, find it appropriate to exercise his discretion under Rule 9(5)(b) to consider substantive filed one day before the decision on the sixth detention review has to be rendered.²³ The matters are complex, fact-specific and may require intervening requests for further supporting information to be properly assessed by the Single Trial Judge. They cannot be adequately evaluated in one day. The Single Trial Judge makes this finding without prejudice to the alternative relief sought by the Fazliu Defence under Rule 57(2), which the Single Trial Judge understands to be “a request by the Accused [...] where a change in circumstances since the last review has occurred” – that is, independent of, and sooner than, the next prescribed bi-monthly detention review.²⁴ The Single Trial Judge will set the calendar for submissions on the matter in the disposition section of this decision.

B. GROUNDED SUSPICION

18. 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,²⁵ and in the absence of any submissions to the contrary by the Fazliu Defence or other intervening information or developments, the requirement of a “grounded suspicion” is satisfied.

²³ [Fifth Review Decision](#), para. 53(b)-(c).

²⁴ Rule 57(2).

²⁵ [Confirmation Decision](#), paras 42-43, 211, 260, 287-288, 299, 313(b).

C. NECESSITY OF DETENTION

1. Risk of Flight

19. 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”.²⁶

20. 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 Fazliu is a flight risk under Article 41(6)(i).

2. Risk of Obstructing the Progress of SC Proceedings

21. The SPO submits that the following factors indicate a risk that Mr Fazliu may obstruct the progress of SC proceedings if provisionally released: (i) the nature of the confirmed charges against him; (ii) his knowledge of Mr Thaçi’s obstructive intention and his own intention to pursue them; (iii) his persistence and proneness to obstruct SC proceedings by pursuing the interests of senior leadership of the Kosovo Liberation Army (“KLA”); (iv) his ability to gain consent from people loyal to him, including his son, for obstruction purposes; and (v) his increased awareness of the incriminating evidence against him.²⁷ The SPO affirms that the risk of obstruction continues independent of the current stage of proceedings in the case *The Specialist Prosecutor v. Hashim Thaçi et al.* (“Case 06”). Additionally, the SPO contends that the persistent climate of intimidation of witnesses and victims in Kosovo continues to be a relevant contextual factor that must be considered, especially in light of criminal proceedings instituted against former members of the KLA.²⁸

²⁶ See, for example, KSC-BC-2023-12, IA001-F00005, [Decision on Isni Kilaj’s Appeal Against Decision on Continued Detention](#), 28 January 2025, public, para. 17.

²⁷ SPO Submissions, para. 6.

²⁸ SPO Submissions, para. 6.

22. The Single Trial Judge is satisfied that a “real” risk²⁹ remains that Mr Fazliu 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 Fazliu in this case, which involve allegations of unlawfully influencing witnesses;³⁰ (ii) the allegation that such efforts were undertaken in coordination with his son;³¹ and (iii) Mr Fazliu’s increased awareness of the incriminating evidence against him, as a result of the ongoing disclosure,³² which may create some, albeit limited, additional opportunity or incentive to interfere with witnesses.³³ The second consideration is particularly salient considering that Mr Fazliu’s son presumably remains at liberty in Kosovo, having not been charged in the present case, and would presumably have close contact with him during any period of provisional release. These concerns are amplified in the context of a pervasive climate of fear and intimidation in Kosovo against witnesses and potential witnesses of the SC.³⁴

23. 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 subject to influence by Mr Fazliu or anyone likely to act on his behalf. The Single Trial Judge notes, in particular, that the SPO seeks to rely in this case almost exclusively on documentary evidence, with which

²⁹ 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.

³⁰ See [Fifth Review Decision](#), para. 34; [Fourth Review Decision](#), para. 16; [Third Review Decision](#), para. 27; [Second Review Decision](#), para. 38; [First Review Decision](#), para. 24; [Decision on Arrest](#), para. 86, with further explanations.

³¹ [Confirmation Decision](#), paras 126-127; [Fifth Review Decision](#), para. 37.

³² The Single Trial Judge notes that, since the Fifth Review Decision, the SPO has made additional disclosures pursuant to Rule 102(1)(b). See Disclosure Packages Nos 77, 80 and 83.

³³ [Fifth Review Decision](#), para. 34; [Fourth Review Decision](#), para. 16; [Third Review Decision](#), para. 28; [Second Review Decision](#), para. 39; [First Review Decision](#), para. 25; [Decision on Arrest](#), para. 86.

³⁴ [Fifth Review Decision](#), para. 38; [Fourth Review Decision](#), para. 17; [Third Review Decision](#), para. 30; [Second Review Decision](#), para. 40; [First Review Decision](#), para. 26; [Decision on Arrest](#), para. 88, with references cited therein.

Mr Fazliu cannot plausibly tamper or interfere. Moreover, the Single Trial Judge notes that the witnesses who will appear for the SPO, given their circumstances, are not likely to be subject to any influence by Mr Fazliu or anyone likely to act on his behalf.³⁵

24. Notwithstanding these recent developments that may be assessed as reducing the risk of potential obstruction of proceedings, and in the absence of any comprehensive and updated submissions from Mr Fazliu, the Single Trial Judge is satisfied that a real risk remains that Mr Fazliu may obstruct the course of proceedings by influencing potential Defence witnesses. For these reasons, the Single Trial Judge is satisfied that a real risk remains that Mr Smakaj may, if released, obstruct the progress of SC proceedings.

3. Risk of Committing Further Offences

25. 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.³⁶ The reasons supporting the finding that there is a real risk of obstruction of proceedings likewise supports a finding of a real risk that alleged further offence would be committed for that purpose, including in relation to witnesses who may provide evidence in the present case.³⁷

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

³⁵ 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.

³⁶ See [Decision on Arrest](#), para. 90.

³⁷ See also [Fifth Review Decision](#), para. 40; [Fourth Review Decision](#), para. 19; [Third Review Decision](#), paras 28, 32, with references cited therein.

4. Conclusion

27. In view of the foregoing, the Single Trial Judge is satisfied that there remains a real risk that Mr Fazliu may obstruct the progress of the SC proceedings and commit further offences under Article 41(6)(b)(ii) and (iii), respectively. The Single Trial Judge will assess below whether these risks can be adequately mitigated by any conditions for Mr Fazliu's release.

D. CONDITIONAL RELEASE

28. 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".³⁸ 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.³⁹

29. The SPO submits that no potential condition(s) of release could appropriately mitigate the abovementioned risks, which can only be effectively managed in the SC Detention Centre.⁴⁰

30. The Single Trial Judge is not persuaded that any reasonable conditions of release could satisfactorily mitigate, at this stage, the risk that the Accused will

³⁸ [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.

³⁹ 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".

⁴⁰ SPO Submissions, para. 8.

obstruct the progress of SC proceedings or commit further offences.⁴¹ In particular, the Single Trial Judge is of the view that any possible conditions to be imposed: (i) do not address the possibility of Mr Fazliu employing communication devices belonging to other persons or requesting others to use their devices for this purpose; and (ii) cannot ensure the effective monitoring of Mr Fazliu's communications,⁴² including with his son.⁴³ The Single Trial Judge finds that, as consistently held in previous decisions, such measures are less effective than those in place at the SC Detention Facilities.⁴⁴

31. In light of the above, the Single Trial Judge is satisfied that the potential conditions for Mr Fazliu's release would be insufficient to adequately mitigate the risks under Article 41(6)(b).

E. PROPORTIONALITY OF DETENTION

32. 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.⁴⁵ The SPO "carries the burden of

⁴¹ [Fifth Review Decision](#), paras 43-47; [Fourth Review Decision](#), paras 22-25; [Third Review Decision](#), paras 37-40; [Second Review Decision](#), paras 47-52; [First Review Decision](#), paras 32-36; *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.

⁴² [Fifth Review Decision](#), para. 45; [Fourth Review Decision](#), para. 23; [Third Review Decision](#), para. 38; [Second Review Decision](#), para. 49; [First Review Decision](#), para. 34.

⁴³ [Confirmation Decision](#), paras 126-127.

⁴⁴ *See similarly* [Fifth Review Decision](#), para. 46 ("The Pre-Trial Judge further remains convicted 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 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; 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. 24; [Third Review Decision](#), para. 39; [Second Review Decision](#), para. 50; [First Review Decision](#), para. 35, with references cited therein.

⁴⁵ *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,

establishing that detention is necessary and that its length remains reasonable”,⁴⁶ and “any analysis of pre-trial detention must take the presumption of innocence as its starting point”.⁴⁷ As the Court of Appeals Panel has remarked, “the longer a person remains in pre-trial detention the higher the burden on the Specialist Chambers to justify continued detention”.⁴⁸

33. The determination of the reasonableness of continued detention “must be assessed on the facts of each case and according to its special features”.⁴⁹ 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;⁵⁰ “the nature of the offence as well as the severity of the penalty”;⁵¹ “the degree of risks that are described in Article 41(6)(b) of the Law”;⁵² the speed with which proceedings are progressing towards trial (or a final judgment), and whether

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”).

⁴⁶ See Second *Kilaj* Detention Appeal Decision, para. 47.

⁴⁷ [Selimi Appeal Decision](#), para. 37.

⁴⁸ 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.

⁴⁹ See [Thaçi 2022 Appeal Decision](#), para 65.

⁵⁰ [Selimi Appeal Decision](#), paras 79-81.

⁵¹ 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”).

⁵² 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 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. 49.

the length of proceedings is justified by its complexity,⁵³ and the frequent review of detention which, pursuant to the Rules, occurs every two months.⁵⁴

34. The SPO argues that the additional two months of Mr Fazliu'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 Fazliu's detention "remains necessary and proportionate".⁵⁵ The SPO underscores that a "potentially lengthy sentence lies ahead" for Mr Fazliu based on the two counts with which he is charged.⁵⁶ It also highlights "the continued expeditious progress of proceedings" as reflected in various procedural, investigative and disclosure steps.⁵⁷

35. The Single Trial Judge recalls that Mr Fazliu has now been detained for almost one year⁵⁸ 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 year to five years and a maximum of six months, respectively.⁵⁹ The Single Trial Judge thus notes that this period of detention on remand does not yet exceed the statutory minimum sentence for these charges.

36. The Single Trial Judge also takes into consideration that although, as discussed above,⁶⁰ certain factors have arisen that reduce the risks of obstruction and re-offending, these risks nevertheless remain significant, and cannot be substantially mitigated by any proposed or additional conditions of release.⁶¹

⁵³ 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").

⁵⁴ [Selimi Appeal Decision](#), para. 81.

⁵⁵ SPO Submissions, para. 10.

⁵⁶ SPO Submissions, para. 9.

⁵⁷ SPO Submissions, para. 9.

⁵⁸ See *supra* para. 1.

⁵⁹ See KSC-BC-2023-12, F00264/A02, Specialist Prosecutor, [Public Redacted Amended Confirmed Indictment](#), 16 April 2025, public, para. 49.

⁶⁰ See *supra* paras 23.

⁶¹ See *supra* paras 30-31.

37. 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 trial⁶² – most importantly, the transfer of the case to the Single Trial Judge.⁶³

38. Despite the additional two months of detention since the Fifth Review Decision, and although the question is now finely balanced, the Single Trial Judge is not persuaded, given all the factors assessed above, that Mr Fazliu's detention has yet reached the point of being unreasonable.

39. Moreover, pursuant to Article 41(10) and Rule 57(2), Mr Fazliu'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 Fazliu on 2 December 2025.⁶⁴

40. In view of the foregoing, the Single Trial Judge finds that the time Mr Fazliu 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).

V. DISPOSITION

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

- a. **ORDERS** Mr Fazliu's continued detention;
- b. **ORDERS** the SPO, if it so wishes, to respond to the *Fazliu* Notification to be filed by **Thursday, 11 December 2025, at 16h00**, and

⁶² This includes (i) the transfer of the case to the trial panel; (ii) the holding of the Trial Preparation Conference and the Specialist Prosecutor's Preparation Conference on 28 November 2025; and (iii) increased specificity as to the scope and nature of the Prosecution case-in-chief.

⁶³ 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.

⁶⁴ See *supra* para. 16 and *infra* para. 41(b)-(c).

c. **ORDERS** the Fazliu Defence, if it so wishes, to file any reply by **Thursday, 18 December 2025, at 16h00.**



Judge Christopher Gosnell
Single Trial Judge

Dated this Wednesday, 3 December 2025

At The Hague, the Netherlands.