



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

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

Before: Single Trial Judge
Judge Christopher Gosnell

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

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Prosecution further submissions on review of detention of Fadil Fazliu

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I. INTRODUCTION

1. Pursuant to the Single Trial Judge ('STJ')'s Decision F00571¹ and Decision F00598,² and with reference to Fazliu Notification³ and the Appeal Decision,⁴ the Specialist Prosecutor's Office ('SPO') files its supplemental submissions on review of the detention of Fadil FAZLIU.

II. SUBMISSIONS

2. As recently submitted,⁵ the consistent and sound conclusions of the Pre-Trial Judge in her prior decisions⁶ remain undisturbed and FAZLIU's continued detention remains necessary and proportionate.⁷ Indeed, the reasonableness of FAZLIU's detention was very recently affirmed by the STJ – *on 3 December 2025* – in Decision F00598.⁸ All three risks articulated in Article 41(6)(b) of the Law remain clear and present at this time vis-à-vis FAZLIU and his detention remains proportional.

¹ Decision on Fazliu Defence Request for an Extension of Time for Submissions on Review of Detention, KSC-BC-2023-12/F00571, 24 November 2025 ('Decision F00571'), para.19(b).

² Sixth Decision on Review of Detention of Fadil Fazliu, KSC-BC-2023-12/F00598, 3 December 2025 ('Decision F00598'), para.41(b).

³ Fazliu Notification of Withdrawal of Waiver, KSC-BC-2032-12/F00593, 2 December 2025 ('Fazliu Notification').

⁴ Decision on Fadil Fazliu's Appeal Against Fifth Decision on Review of Detention, KSC-BC-2023-12/IA008/F00006, 5 December 2025 ('Appeal Decision').

⁵ See Prosecution submissions on review of detention of Fadil Fazliu, KSC-BC-2023-12/F00555, 18 November 2025 ('SPO F00555').

⁶ See: Transcript (Initial Appearance), 8 December 2024, pp. 65-69; Decision on Review of Detention of Fadil Fazliu, KSC-BC-2023-12/F00163, 7 February 2025; Public Redacted Version of Second Decision on Review of Detention of Fadil Fazliu, KSC-BC-2023-12/F00251/RED, 7 April 2025; Third Decision on Review of Detention of Fadil Fazliu, KSC-BC-2023-12/F00327, 5 June 2025; Fourth Decision on Review of Detention of Fadil Fazliu, KSC-BC-2023-12/F00404, 5 August 2025; Fifth Decision on Review of Detention of Fadil Fazliu, KSC-BC-2023-12/F00479, 3 October 2025 ('Decision F00479').

⁷ These repeated and reasoned findings include: (i) a grounded suspicion that FAZLIU committed crimes within the jurisdiction of the Kosovo Specialist Chambers ('KSC'); (ii) the existence of a risk of flight; (iii) articulable grounds to believe that FAZLIU will obstruct the progress of KSC proceedings, and will commit further offences; (iv) that no release conditions can mitigate the Article 41(6)(b) of the Law [Law no.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law')] risks; and (v) that FAZLIU's continued detention is proportional.

⁸ See Decision F00598, KSC-BC-2023-12/F00598.

3. Contrary to the submission in the Fazliu Notification,⁹ Decision F00598 explicitly found that no reasonable conditions of release can satisfactorily mitigate the inherent Article 41(6)(b) risks presented by FAZLIU.¹⁰ Further, the Appeal Decision – of 5 December 2025 – found no error in the Pre-Trial Judge’s comparable, prior, determination in Decision F00479.¹¹

4. In the Fazliu Notification, FAZLIU recycles arguments that have already been dispensed with by way of prior rulings¹² and fails to engage with the relevant standard, that ‘[t]he proportionality of pre-trial detention shall not be assessed against its expected length but against the risks under Article 41(6)(b) of the Law together with other factors [...]’.¹³ Further, and with the commencement of trial now set for 24 February 2026,¹⁴ the continued expeditious progress of these proceedings militates in favour of FAZLIU’s continued detention.¹⁵

5. Ultimately, in the totality of the circumstances, FAZLIU’s detention remains proportional as appropriately determined in Decision F00598. Further, and as almost no time has passed since the issuance of Decision F00598 and the Appeal Decision, there can be no meaningful change in their well-reasoned conclusions.¹⁶

⁹ See Fazliu Notification, KSC-BC-2032-12/F00593, para.10.

¹⁰ See Decision F00598, KSC-BC-2023-12/F00598, para.30. (‘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, including with his son.’).

¹¹ See Appeal Decision, KSC-BC-2023-12/IA008/F00006, paras 50-51; Decision F00479, KSC-BC-2023-12/F00479, para.47.

¹² See Fazliu Notification, KSC-BC-2032-12/F00593, para.7.

¹³ *Specialist Prosecutor v. Hashim Thaçi et al.*, Public Redacted Version of Decision on Hashim Thaçi’s Appeal Against Decision on Review of Detention, KSC-BC-202-06/IA017/F00011/RED, 5 April 2022, para.67.

¹⁴ Order Scheduling Commencement of Trial, KSC-BC-2023-12/F00602, 4 December 2025, para.30(a).

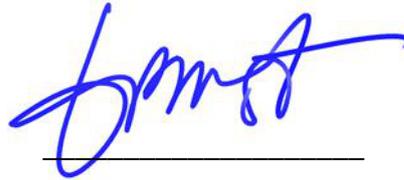
¹⁵ See Decision F00479, KSC-BC-2023-12/F00479, para.49.

¹⁶ While it is acknowledged that the STJ regarded the reasonableness of FAZLIU’s detention to be a question that is ‘now finely balanced’, the mere passage of two (2) calendar days since the issuance of Decision F00598 does not warrant a changed outcome (see Decision F00598, KSC-BC-2023-12/F00598, para.38).

III. RELIEF REQUESTED

6. For the foregoing reasons – and as more fully outlined in SPO F00555, Decision F00598, and the Appeal Decision – the STJ should deny the relief sought in the Fazliu Notification and order FAZLIU’s continued detention.

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Friday, 5 December 2025

At The Hague, the Netherlands