



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

In: KSC-BC-2020-06
Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: Trial Panel II
Judge Charles L. Smith, III, Presiding Judge
Judge Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

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Prosecution submission pertaining to periodic detention review of Rexhep Selimi

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I. INTRODUCTION

1. Pursuant to Article 41 of the Law¹ and Rule 57 of the Rules,² the Specialist Prosecutor's Office ('SPO') makes the following submissions in support of the need for the continued detention of the Accused Rexhep Selimi ('Selimi'). The Pre-Trial Judge, the Court of Appeals, and this Panel have repeatedly held that Selimi's detention is justified on multiple bases, that no conditions short of detention in the Kosovo Specialist Chambers ('KSC') detention facilities would be sufficient to mitigate the risks, and that the detention period—taking all relevant circumstances into account—is reasonable. Since the most recent determination of this Panel on 18 November 2025,³ there has been no change in circumstances that merits deviating from that determination. Indeed, the continued progression of trial and related developments further buttress the necessity and reasonableness of detention.

II. PROCEDURAL HISTORY

2. As noted by the Panel, the relevant procedural history regarding Selimi's detention has been set out extensively in previous decisions.⁴

3. On 3 April 2023, the trial commenced.⁵

4. On 15 April 2025, the SPO filed its notice of the closing of its case pursuant to Rule 129.⁶

¹ Law no.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). Unless otherwise indicated, all references to 'Article(s)' are to the Law.

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

³ Decision on Periodic Review of Detention of Rexhep Selimi, KSC-BC-2020-06/F03590, 18 November 2025 ('Twenty-third Detention Decision').

⁴ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.1.

⁵ Transcript (Opening Statements), 3 April 2023.

⁶ Prosecution notice pursuant to Rule 129, KSC-BC-2020-06/F03121, 15 April 2025.

5. On 12 June 2025, the Defence filed a joint Defence motion pursuant to Rule 130.⁷ On 7 July 2025, the SPO filed its response.⁸ On 16 July 2025, the Trial Panel issued an oral decision dismissing the Defence's Rule 130 motion.⁹ Victims' Counsel's witnesses were heard on 16-17 July 2025.

6. On 15 September 2025, the Defence cases commenced.¹⁰

7. On 2 December 2025, the Defence cases closed.¹¹

8. On 19 December 2025, the Panel closed the evidentiary proceedings.¹²

III. SUBMISSIONS

9. The relevant applicable law is set out in Article 41, and Rules 56 and 57, and has been laid out extensively in earlier decisions.¹³

10. Since the most recent decision, there have been no developments that diminish the factors supporting the need for and reasonableness of detention.

A. GROUNDED SUSPICION

11. Article 41(6)(a) requires a grounded suspicion that the detained person has committed a crime within the jurisdiction of the KSC.¹⁴ There remains a grounded suspicion that Selimi has done so.¹⁵ The Confirmation Decision determined that there is

⁷ Joint Defence Motion Pursuant to Rule 130, KSC-BC-2020-06/F03256, 12 June 2025, Confidential.

⁸ Prosecution Response to Rule 130 Request, KSC-BC-2020-06/F03314, 7 July 2025, Confidential.

⁹ Transcript, 16 July 2025, pp.26190-26195.

¹⁰ Transcript, 15 September 2025, pp.26475-26478.

¹¹ Thaçi Defence Notice pursuant to Rule 131, KSC-BC-2020-06/F03609, 2 December 2025; Krasniqi Defence Notice of the Closure of Its Case Pursuant to Rule 131, KSC-BC-2020-06/F03611, 2 December 2025.

¹² Notice Regarding the Close of Evidentiary Proceedings, KSC-BC-2020-06/F03639, 18 December 2025.

¹³ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.12.

¹⁴ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.7.

¹⁵ See Article 41(6)(a); Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.10.

a suspicion that Selimi is liable for crimes against humanity and war crimes as identified in Articles 13, 14, and 16,¹⁶ to a standard that exceeds the ‘grounded suspicion’ required for detention.¹⁷ The Pre-Trial Judge later also confirmed amendments to the Indictment that added further, similar charges against Selimi.¹⁸ Nothing has occurred since the confirmation decisions that would detract from this determination. Indeed, the Panel has repeatedly confirmed that there remains a well-grounded suspicion that Selimi has committed crimes within the KSC’s jurisdiction.¹⁹

B. DETENTION IS JUSTIFIED UNDER ALL ARTICLE 41(6)(B) FACTORS

12. The Court of Appeals has been clear that, once a grounded suspicion under Article 41(6)(a) is identified, an articulable basis of a single ground under Article 41(6)(b) is sufficient to support detention.²⁰ The three grounds under Article 41(6)(b) justifying detention are: (i) risk of flight; (ii) potential obstruction; and (iii) risk of additional crimes.²¹ The applicable standard is articulable grounds that support a ‘belief’ that there is a risk of one of the Article 41(6)(b) grounds occurring.²² The ‘belief’ test denotes ‘an acceptance of the possibility, not the inevitability, of a future occurrence’.²³ In other words, the standard to be applied is less than certainty, but more than a mere possibility

¹⁶ Public Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi, KSC-BC-2020-06/F00026/RED, 26 October 2020 (‘Confirmation Decision’), para.521(a).

¹⁷ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.9.

¹⁸ Public Redacted Version of Decision on the Confirmation of Amendments to the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi, KSC-BC-2020-06/F00777/RED, 22 April 2022, para.185; *see also* Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.18.

¹⁹ *See e.g.* Twenty-third Detention Decision, KSC-BC-2020-06/F03590, paras 18-19.

²⁰ *See Specialist Prosecutor v. Gucati and Haradinaj*, Consolidated Decision on Nasim Haradinaj’s Appeals Against Decisions on Review of Detention, KSC-BC-2020-07/IA007/F00004, 6 April 2022, para.49.

²¹ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.11.

²² Decision on Rexhep Selimi’s Appeal Against Decision on Interim Release, KSC-BC-2020-06/IA003/F00005, 30 April 2021 (‘First Appeals Decision’), paras 24-32.

²³ First Appeals Decision, KSC-BC-2020-06/IA003/F00005, para.25.

of a risk materialising.²⁴ The Panel has noted that ‘articulable’ in this context means specified in detail by reference to the relevant information or evidence.²⁵ In considering whether an accused should be detained or released, the relevant panel must consider whether measures other than detention would sufficiently reduce the risk of the Article 41(6)(b) factors occurring.²⁶

i. Risk of Flight (Article 41(6)(b)(i))

13. Selimi is aware of the serious confirmed charges against him, the possible lengthy prison sentence that may result therefrom, and now has full knowledge of the evidence in relation to those crimes. The possible imposition of such a sentence becomes more concrete with the expeditious progression of trial and the conclusion of the presentation of the evidentiary proceedings. Selimi is also aware of the evidence of conduct that has necessitated modification of his conditions of detention, which the Panel has acknowledged may undermine or undo its prior finding that he has cooperated with relevant authorities.²⁷ In addition, Selimi has the means and influence to abscond from the proceedings. All of the above must be taken into consideration in relation to prior findings concerning Selimi’s means to travel. Therefore, the combination of all of these factors elevates Selimi’s risk of flight to a sufficiently real possibility.

²⁴ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.18; First Appeals Decision, KSC-BC-2020-06/IA003/F00005, para.25; *Prosecutor v. Gucati and Haradinaj*, Public Redacted Version of Decision on Review of Detention of Nasim Haradinaj, KSC-BC-2020-07/F00507/RED, 21 December 2021 (‘Haradinaj Decision’), para.28.

²⁵ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.11 *citing* Article 19.1.31 of the Kosovo Criminal Procedure Code 2012, Law No. 08/L-032 defining ‘articulable’ as: ‘the party offering the information or evidence must specify in detail the information or evidence being relied upon’.

²⁶ 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 the Law no. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office, KSC-CC-PR-2017-1/F00004, 26 April 2017, para.14.

²⁷ Decision on Periodic Review of Detention of Rexhep Selimi, KSC-BC-2020-06/F02060, 15 January 2024, para.13.

ii. *Risk of Obstruction of Proceedings (Article 41(6)(b)(ii))*

14. Selimi continues to present a risk of obstructing proceedings, consistent with this Panel's recent conclusions.²⁸ The conclusion of the evidentiary proceedings does not obviate this risk, as the Accused now have knowledge of the full scope of the case against them and witnesses remain at risk of obstruction even after their testimony.²⁹ As noted by the Panel, the risk of interference also includes: (a) any attempt to retaliate against witnesses who have testified in these proceedings; (b) attempts to incentivise a witness to recant; and (c) attempts to interfere with witnesses in parallel proceedings.³⁰ As recently confirmed by the Appeals Panel, these factors alone support the existence of a risk of obstruction.³¹

15. The Panel reiterated its previous determination that: (i) Selimi enjoys a position of influence, considering his past and recent positions, including as Minister of Internal

²⁸ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.21.

²⁹ In this regard, taking harmful action against a person 'with the intent to retaliate for providing truthful information relating to the commission or possible commission of any criminal offense to police, an authorized investigator, a prosecutor or a judge' is a punishable offence under Article 15(2) of the Law, as read with Article 388 of the 2019 Kosovo Criminal Code (renumbered from Article 396 of the 2012 Kosovo Criminal Code). For examples of such conduct from international courts, at the Special Court for Sierra Leone, five witnesses were subject to unlawful interference from a purported representative of the defence team, after the parties closed their cases and prior to delivery of a trial judgment, to induce them to recant their testimony against Charles Taylor. See SCSL, *Independent Counsel v. Eric Koi Senessie*, SCSL-2011-01-T, Judgment in Contempt Proceedings, 16 August 2012. Similarly, and over a sustained period between 2015-2018 following a final appeal judgment against Mr Augustin Ngirabatware, the accused and a group of his associates engaged in a highly organised scheme intended to manipulate and improperly influence five witnesses heard by the International Criminal Tribunal for Rwanda with the end goal of procuring recantations of their prior testimony. See IRMCT, *Prosecutor v. Nzabonimpa et al.*, MICT-18-116-T, Judgment, 25 June 2021. Similarly, in the SCSL case of Bangura et al., two convicted persons and two of their associates engaged in an initiative to procure the recantation of witness testimony by way of a monetary bribe, with the aim of providing an avenue to seek review. See SCSL, *Independent Counsel v. Bangura et al.*, SCSL-2011-02-T, Judgment in Contempt Proceedings, 25 September 2012. In a recent IRMCT review proceeding, the Appeals Chamber found that financial transactions of Witness HH raised concerns as to the integrity of his purported recantation, such that Mr Ntakirutimana's original convictions were maintained. See IRMCT, *Prosecutor v. Ntakirutimana*, MICT-12-17-R, Review Judgment, 22 November 2024, paras 57, 62.

³⁰ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.19.

³¹ Appeals Panel Decision, KSC-BC-2020-06/IA033/F00006, para.54, fn.140.

Affairs and having been elected to the Kosovo Assembly; (ii) there is a persisting climate of intimidation of witnesses and interference with criminal proceedings against former KLA members; and (iii) the proceedings continue to advance and Selimi continues to gain insight into the evidence underpinning the serious charges against him.³²

16. Additionally, the persistent climate of intimidation of witnesses and interference with criminal proceedings against former KLA members in Kosovo continues, which the Court of Appeals has agreed is a relevant 'contextual consideration'.³³ Similar findings were made in the *Mustafa* Trial Judgment³⁴ and the *Gucati and Haradinaj* Appeal Judgment.³⁵ The Trial Panel in *Gucati and Haradinaj* considered that 'witness protection has continued to be a live and critical issue in Kosovo',³⁶ and credited the testimony of defence expert Robert Reid, who remarked that, in over 20 years in the field, he had never seen witness intimidation on the level that exists in Kosovo.³⁷ This climate of witness intimidation continues to persist, as noted by the *Shala* Trial Panel,³⁸ including well after

³² Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.26. See also Appeals Panel Decision, KSC-BC-2020-06/IA033/F00006, para.18.

³³ Appeals Panel Decision, KSC-BC-2020-06/IA033/F00006, para.31; Decision of Kadri Veseli's Appeal Against Decision on Request for Provisional Release, KSC-BC-2020-06/IA034/F00005, 13 August 2025, para.44; Decision on Jakup Krasniqi's Appeal Against Decision on Request for Provisional Release and on Review of Detention, KSC-BC-2020-06/IA035/F00005, 13 August 2025, para.30; Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention, KSC-BC-2020-06/IA017/F00011/RED, 5 April 2022, paras 41-48; Public Redacted Version of Decision on Kadri Veseli's Appeal Against Decision on Remanded Detention Review and Periodic Review of Detention, KSC-BC-2020-06/IA014/F00008/RED, 31 March 2022, para.50; Public Redacted Version of Decision on Rexhep Selimi's Appeal Against Decision on Remanded Detention Review and Periodic Review of Detention, KSC-BC-2020-06/IA015/F00005/RED, 25 March 2022, para.43.

³⁴ *Specialist Prosecutor v. Mustafa*, Further Redacted Version of Corrected Version of Public Redacted Version of Trial Judgment, KSC-BC-2020-05/F00494/RED3/COR, 16 December 2022, para.57.

³⁵ *Specialist Prosecutor v. Guçati and Haradinaj*, Appeal Judgment, KSC-CA-2022-01/F00114, 2 February 2023, para.438 (quoting KSC-BC-2020-07, Transcript, 18 May 2022, pp.3858-3859).

³⁶ *Specialist Prosecutor v. Guçati and Haradinaj*, Public Redacted Version of the Trial Judgment, KSC-BC-2020-07/F00611/RED, 18 May 2022 ('Case 7 Judgment'), para.579.

³⁷ Case 7 Judgment, KSC-BC-2020-07/F00611/RED, para.577.

³⁸ See *Specialist Prosecutor v. Shala*, Public redacted version of Trial Judgment and Sentence, KSC-BC-2020-04/F00847/RED, 16 July 2024, paras 96-97.

testimony.³⁹ The inflammatory and personal nature of the attacks, and the comments they provoke, could endanger the privacy, well-being, and security of future and/or past witnesses.

17. The Panel has previously noted that the disclosure of highly sensitive information to the Selimi Defence necessarily results in it becoming known to a broader range of persons, including the Accused.⁴⁰ This continues to amplify the risk of sensitive information pertaining to witnesses becoming known to members of the public,⁴¹ which, in the context of the release of an Accused, would not be conducive to the effective protection of witnesses.⁴²

18. Indeed, this risk has already been realised, as this Panel has previously concluded that the standard conditions of detention were insufficient to mitigate the risk of Selimi and other Accused engaging in conduct that could interfere with the proceedings and/or present a risk to the safety and security of witnesses.⁴³ To address these risks, the Panel ordered significant modifications to detention conditions.⁴⁴ More specifically, the Panel recalled its finding that it appears that Selimi disclosed privileged information to unauthorised third parties, and that such conduct supports and reinforces the Panel's

³⁹ See e.g. Prosecution submission pertaining to periodic detention review of Kadri Veseli, KSC-BC-2020-06/F03415, 26 August 2025, fn.44.

⁴⁰ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.19.

⁴¹ See Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.19.

⁴² See Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.19.

⁴³ Further Decision on the Prosecution's Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi, KSC-BC-2020-06/F01977, 1 December 2023 ('Modification Decision'), para.41.

⁴⁴ See Modification Decision, KSC-BC-2020-06/F01977, paras 51-53, 55-60, 62-78, 84(b). See also certain limited adjustments in Decision Reviewing the Conditions of Detention Modified in F01977, KSC-BC-2020-06/F03308, 4 July 2025, paras 71-72, 91-92.

finding that Selimi's release constitutes a risk of obstruction with the progress of KSC proceedings.⁴⁵

19. All of the above demonstrates that the risk of obstruction is not only well-founded, but that Selimi presents an extraordinarily heightened risk of obstructing KSC proceedings to such an extent that even the standard communications restrictions and monitoring of the Detention Centre are insufficient to mitigate.

iii. Risk of Criminal Offences (Article 41(6)(b)(iii))

20. Selimi continues to present a risk of committing further crimes, consistent with this Panel's recent conclusions.⁴⁶

21. The Panel recalled its previous finding that the risk of Selimi committing further crimes continues to exist, opined that the same factors that were taken into account in relation to the risk of obstruction are relevant to the analysis of the risk of committing further crimes, and concluded that no new circumstances have arisen since the last detention review that would justify a different finding in respect of this matter.⁴⁷

22. Moreover, the crimes against humanity and war crimes that Selimi is charged with are extremely serious, they are alleged to have been committed in cooperation with others, and the Confirmation Decision describes Selimi's personal participation in the commission of crimes.

23. This Panel's previous conclusion that the continuing disclosure of sensitive information presented an unacceptable risk for the commission of further crimes applies even more forcefully given the relevant findings regarding Selimi's revelation of

⁴⁵ See Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.21

⁴⁶ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.24.

⁴⁷ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.23.

confidential information to unauthorised third parties, the conclusion of the evidentiary proceedings, and the continued progression of the trial.

C. NO MODALITIES OF CONDITIONAL RELEASE ARE ABLE TO SUFFICIENTLY MITIGATE THE RISKS

24. The relevant risks can only be effectively managed at the KSC's detention facilities, as recently reaffirmed by this Panel.⁴⁸

25. Regarding the risks of obstructing the progress of KSC proceedings and committing further crimes, the Panel found that none of the formerly proposed conditions, nor any additional measures foreseen in Article 41(12) could sufficiently mitigate the existing risks.⁴⁹

26. Further, the Panel found that the measures in place at the KSC detention facilities, viewed as a whole, provide robust assurances against unmonitored visits and communications with family members and pre-approved visitors with a view to minimising the risks of obstruction and commission of further crimes.⁵⁰ Moreover, they offer a controlled environment where a potential breach of confidentiality could be more easily identified and/or prevented.⁵¹

27. The Panel has concluded that it is only through the communication monitoring framework applicable at the KSC detention facilities, including those measures recently ordered by the Panel, that Selimi's communications can be restricted in a manner that would sufficiently mitigate the risks of obstruction and commission of further crimes.⁵²

⁴⁸ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.28.

⁴⁹ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.28.

⁵⁰ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.28.

⁵¹ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.28.

⁵² Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.29.

28. Nothing has occurred since the previous determination warranting a different assessment on conditions, either generally or for a discrete period of time. Selimi's conduct represents such an extraordinarily heightened risk that even the standard communications restrictions and monitoring at the Detention Centre are insufficient to mitigate, having necessitated the imposition of an even more strict regime by this Panel.⁵³ Therefore, especially in conjunction with the continuation of trial, the underlying risks continue.

D. DETENTION REMAINS PROPORTIONAL

29. Detention remains proportional. At the last detention review, this Panel found that Selimi's detention for a further two months was necessary and reasonable in the specific circumstances of the case.⁵⁴

30. In that regard, the Panel recalled that the reasonableness of an accused's continued detention must be assessed on the facts of each case and according to its special features, which, in this case, include: (i) that Selimi is charged with ten counts of serious international crimes in which he is alleged to play a significant role; (ii) that, if convicted, Selimi could face a lengthy sentence; (iii) that the risks under Article 41(6)(b)(ii)-(iii) cannot be mitigated by any conditions; (iv) that the case against Selimi is complex; (v) the climate of witness intimidation; and (vi) that the trial is ongoing.⁵⁵

⁵³ Further Decision on the Prosecution's Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi, KSC-BC-2020-06/F01977, 1 December 2023; Decision Reviewing the Conditions of Detention Modified in F01977, KSC-BC-2020-06/F03388, 4 July 2025, Confidential.

⁵⁴ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.32.

⁵⁵ Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.31.

31. Here, taking these same, and additional, factors into consideration, Selimi's detention continues to be reasonable, especially in light of the continuing reasonable progression of proceedings.⁵⁶

IV. CONCLUSION

32. For the foregoing reasons, Selimi should remain detained.

Word count: 3,144



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Friday, 19 December 2025

At The Hague, the Netherlands.

⁵⁶ In this regard, *see* Twenty-third Detention Decision, KSC-BC-2020-06/F03590, para.40.