



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

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Classification: Public

**Decision on Fazliu Defence's Request for Interim Review of Detention on
Remand and Order for Further Submissions**

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THE SINGLE TRIAL JUDGE, pursuant to Article 41(2) 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 this decision.¹

I. PROCEDURAL HISTORY

1. On 21 November 2025, after the Specialist Prosecutor's Office ("SPO") had already filed its submissions on Fadil Fazliu ("Mr Fazliu")'s sixth bi-monthly detention review,² the Defence for Mr Fazliu ("Fazliu Defence") requested³ an extension of time to file its response until five days after the Court of Appeals Panel rendered its decision on his pending appeal⁴ of the fifth review of his detention⁵.

2. On 24 November 2025, the Single Trial Judge granted this request and ordered Mr Fazliu to submit a formal waiver of the bi-monthly detention review by 28 November 2025,⁶ which Mr Fazliu did.⁷

3. On 2 December 2025, one day before the decision on the sixth detention review was due in the absence of a waiver, the Fazliu Defence notified the Single Trial Judge of Mr Fazliu's intention to revoke his waiver. The Fazliu Defence also made substantive submissions on the merits of Mr Fazliu's continued detention, asking that they be considered in the context of the sixth detention review or, in the

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, F00555, Specialist Prosecutor, *Prosecution Submissions on Review of Detention of Fadil Fazliu*, 18 November 2025, public.

³ KSC-BC-2023-12, F00562, Fazliu Defence, *Fazliu Request for Extension of Time Limit to Respond to Prosecution Submissions on the Sixth Detention Review*, 21 November 2025, public.

⁴ KSC-BC-2023-12, IA008-F00001, Fazliu Defence, *Fazliu Appeal Against the Fifth Detention Review Decision*, 15 October 2025, confidential, with Annex 1, confidential.

⁵ KSC-BC-2023-12, F00479, Pre-Trial Judge, [Fifth Decision on Review of Detention of Fadil Fazliu](#), 3 October 2025, public.

⁶ KSC-BC-2023-12, F00571, Single Trial Judge, [Decision on Fazliu Defence Request for an Extension of Time for Submissions on Review of Detention](#), 24 November 2025, public.

⁷ KSC-BC-2023-12, F00584, Fazliu Defence, *Fazliu Transmission of Waiver*, 28 November 2025, public, with Annex 1, confidential.

alternative, that the Single Trial Judge “review[...] Mr. Fazliu’s detention on remand pursuant to Rule 57(2)”.⁸ No justification was presented for the late filing of the Fazliu Defence submissions on the sixth detention review which, as acknowledged by the Fazliu Defence, were due on 25 November 2025 in the absence of a waiver.⁹

4. On 3 December 2025, the Single Trial Judge rendered the decision on the sixth bi-monthly review of Mr Fazliu’s detention, declining to consider the submissions filed the day before, and ordering his continued detention.¹⁰ The Fazliu alternative request to “review[] Mr Fazliu’s detention on remand pursuant to Rule 57(2)” was understood, pursuant to the wording of that provision, as 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.”¹¹ A calendar was set for the hearing of this interim review requiring the SPO to respond to the substantive arguments in the *Fazliu* Notification by 11 December 2025, and requiring any reply by the Fazliu Defence to be filed by 18 December 2025.¹²

5. On 5 December 2025, the SPO responded to the *Fazliu* Notification.¹³

⁸ KSC-BC-2023-12, F00593, Fazliu Defence, *Fazliu Notification of Withdrawal of Waiver* (“Fazliu Notification”), 2 December 2025, public, paras 1, 3, and 11(a).

⁹ Fifth Decision on Review of Detention of Fadil Fazliu, para. 53(c); *Fazliu* Notification, para. 3 (“the Defence respectfully requests that the Single Trial Judge exercises his broad discretion under Article 40(2) of the *Law* and recognises the arguments below as valid notwithstanding the expiration of the time limit [for responding] on 25 November 2025. In the alternative, the Defence requests that the Single Trial Judge reviews Mr. Fazliu’s detention on remand pursuant to Rule 57(2) of the *Rules*.”)

¹⁰ KSC-BC-2023-12, F00598, Single Trial Judge, [Sixth Decision on Review of Detention of Fadil Fazliu](#) (“Sixth Review Decision”), 3 December 2025, public, paras 16-17, 41(a).

¹¹ Sixth Review Decision, para. 17.

¹² Sixth Review Decision, para. 41(b)-(c).

¹³ KSC-BC-2023-12, F00605, *Prosecution Further Submissions on Review of Detention of Fadil Fazliu* (“SPO Further Submissions”), 5 December 2025, public.

6. On 15 December 2025, the Fazliu Defence replied to the SPO Further Submissions.¹⁴

II. SUBMISSIONS

7. The Fazliu Defence argues in the *Fazliu* Notification that: (i) trial would not likely start before the beginning of March 2026 based on the submissions heard at the Trial Preparation Conference on 28 November 2025, which is substantially later than “had he been tried alone”;¹⁵ (ii) the evidentiary phase in *The Prosecutor v. Hashim Thaçi et al* (“Case 06”) is now concluded, reducing any risk of obstruction;¹⁶ and (iii) various other factors also presented in the context of the Fifth Detention Review reduce any Rule 41(6)(b) risks.¹⁷ The Defence also notes Mr Fazliu’s submission that he “has taken steps” to “contextualise the sufficiency of the proposed security” and that, in any event, “Mr. Fazliu’s total assets amount to only a fraction of the security proposed.”¹⁸

8. The SPO responds that the Fazliu Defence “recycles” previous arguments and that “as almost no time has passed since the [Sixth Detention Review] and the Appeal Decision [on the Fifth Detention Review], there can be no meaningful change in their well-reasoned conclusions.”¹⁹

9. The Fazliu Defence replies that “[c]ontrary to the SPO submissions, there has been a consequential and meaningful development since the Sixth Decision: the duration of Mr. Fazliu’s pre-trial detention has surpassed the minimum sentence carried by the two counts against Mr. Fazliu, namely one year’s

¹⁴ KSC-BC-2023-12, F00623, Fazliu Defence, *Fazliu Reply to SPO Submissions on Review of Detention* (“*Fazliu Reply*”), 15 December 2025, public, with Annex 1, confidential.

¹⁵ *Fazliu* Notification, para. 5.

¹⁶ *Fazliu* Notification, para. 6.

¹⁷ *Fazliu* Notification, para. 7.

¹⁸ *Fazliu* Notification, para. 9.

¹⁹ SPO Further Submissions, para. 5.

imprisonment and no custodial sentence at all.”²⁰ On this basis, the Fazliu Defence submits that the period of detention has now reached the point of being unreasonable and that “any extension – by two months or otherwise – of Mr. Fazliu’s pre-trial detention would be unreasonable and disproportionate.”²¹ Other arguments previously advanced are also repeated, including regarding an existing medical condition and the security offered on his behalf, which is now bolstered by further evidence concerning Mr Fazliu’s financial resources.²²

III. APPLICABLE LAW

10. Article 41(2) provides that any person deprived of his liberty by detention “shall be entitled [...] to challenge the lawfulness of his [...] arrest and the condition of detention, and to have such challenge decided speedily by the Specialist Chambers and his [...] release ordered if the detention is not lawful.”

11. Rule 56(2) requires the Single Trial Judge to “ensure that a person is not detained for an unreasonable period prior to the opening of the case”.

12. Rule 57(2), which concerns detention on remand after the confirmation of charges, requires a review of detention every two months “or at any time upon request by the Accused or Specialist Prosecutor, or *proprio motu*, where a change in circumstances since the last review has occurred.”

IV. DISCUSSION

13. This decision concerns a request by Mr Fazliu that his continued detention be reviewed between the bi-monthly reviews prescribed by Rule 57(2). Such an interim review may be requested by the Accused “at any time”. However, Rule 57(2) also

²⁰ *Fazliu Reply*, para. 8.

²¹ *Fazliu Reply*, para. 12.

²² *Fazliu Reply*, paras. 11, 14, Annex.

expressly requires that these reviews be justified by “a change of circumstances since the last review.” The Court of Appeals Panel has confirmed that such interim reviews are “more limited in scope than the assessment conducted for the purpose of the bi-monthly mandatory review of detention.”²³ Whereas the latter involves a *de novo* assessment as to whether the factors justifying detention “still exist”, the former requires a showing of “new relevant factors that would have arisen in the interval or a change in circumstances warranting reconsideration of the previous ruling on detention”.²⁴ The use of the word “reconsideration” by the Court of Appeals Panel implies that the standard for reconsidering decisions²⁵ applies to the interim review of detention.

14. The Fazliu Defence argues that there has been a new development since the Sixth Detention Review: “[c]ontrary to the SPO Submissions, there has been a consequential and meaningful development since the Sixth Decision: the duration of Mr. Fazliu’s pre-trial detention has surpassed the minimum sentence carried by the two counts against Mr. Fazliu, namely one year’s imprisonment and no custodial sentence at all.”²⁶ Although the Single Trial Judge acknowledges that a period of detention surpassing the threshold of the statutory minimum sentence is significant, the concrete additional period of

²³ KSC-BC-2020-06, IA034/F00005, Court of Appeals Chamber, [Decision on Kadri Veseli’s Appeal Against Decision on Request for Provisional Release](#) (“Veseli Appeal Decision”), 13 August 2025, public, para. 17.

²⁴ Veseli Appeal Decision, para. 17. See KSC-CC-PR-2020-09, F00006, Constitutional Court Chamber, [Judgment on the Referral of Amendments to the Rules of Procedure and Evidence Adopted by the Plenary on 29 and 30 April 2020](#), 22 May 2020, public, para. 67 (“In that light, the new wording in paragraphs (1) and (2) of Rule 57 on ‘change in circumstances’ applies to review of detention in between the two-month intervals ‘upon request by the Suspect [or the Accused] or the Specialist Prosecutor, or *proprio motu*’. Such review ensures that new relevant factors that arise in the intervals between reviews of detention can be assessed, especially where they might affect the lawfulness of or the justification for the accused’s continued detention.”).

²⁵ KSC-BC-2020-07, F00546/COR, Trial Panel II, [Decision on Request for Certification or Reconsideration of F00541](#), 1 February 2022, public, para. 14 (“Reconsideration is an exceptional measure and should only be undertaken if a clear error of reasoning has been demonstrated or if necessary to avoid an injustice. New facts and arguments arising since the impugned decision was rendered may be relevant to this assessment.”).

²⁶ Fazliu Reply, para. 8.

detention since the Sixth Detention Review is relatively short – 17 days as of the date of this decision. Furthermore, this additional period of detention, including reaching the threshold of the statutory minimum sentence, was foreseeable as of the date that the Fazliu Defence was required to file its submissions on the Sixth Detention Review. Accordingly, and even assuming that the foreseeable passage of time could qualify as a “change in circumstances”, the Single Trial Judge does not consider that this circumstance warrants reconsideration of the Sixth Detention Review, or justifies Mr Fazliu’s immediate provisional release.

15. None of the other factors advanced by the Fazliu Defence qualify as a “change of circumstances” since the Sixth Review Decision. This includes: (i) the likely start date of trial (of which indications had already been provided by the Parties in advance of the deadline for the Fazliu Defence submissions on the Sixth Detention Review);²⁷ (ii) any potential delays in proceedings arising from the failure to sever Mr Thaçi from these proceedings (which were already well-known by the deadline for the Fazliu submissions on the Sixth Detention Review);²⁸ (iii) the completion of the presentation of evidence in Case 06 (which had already been indicated by the deadline for the Fazliu Defence submissions on the Sixth Detention Review);²⁹ (iv) Mr Fazliu’s medical condition (which has been raised by Mr Fazliu in previous detention review submissions);³⁰ (v) the offer of security (which was presented in previous detention review

²⁷ See KSC-BC-2023-12, F00559, Specialist Prosecutor, *Prosecution Submissions Pursuant to F00549*, 20 November 2025, confidential; a public redacted version was filed on 26 November 2025, F00559/RED; F00565, Smakaj Defence, *Smakaj Submissions for the Trial Preparation Conference*, 24 November 2025, confidential; F00567, Kuçi Defence, *Kuçi Defence Submissions for the Trial Preparation Conference*, 24 November 2025, confidential; F00568, Thaçi Defence, *Thaçi Defence Submissions for the Trial Preparation Conference*, 24 November 2025, confidential; F00569, Kilaj Defence, *Kilaj Submissions Ahead of Trial Preparation Conference*, 24 November 2025, public; F00570, Fazliu Defence, *Fazliu Trial Preparation Submissions*, 24 November 2025, public.

²⁸ See KSC-BC-2023-12, F00354, Pre-Trial Judge, *Decision on Preliminary Motions for Adjournment and Severance of the Proceedings*, 30 June 2025, public, paras 61-70.

²⁹ Sixth Review Decision, para. 23.

³⁰ See KSC-BC-2023-12, F00245, Fazliu Defence, *Fazliu Defence Submissions on Detention Review*, 2 April 2025, confidential, with Annex 1, confidential and *ex parte*, para. 14.

submissions,³¹ albeit now bolstered by an indication of Mr Fazliu's financial situation);³² and (vi) any other factor put forward by the Fazliu Defence in its submissions.

V. CONSEQUENCES OF THIS INTERIM REVIEW FOR THE SCHEDULE OF THE NEXT BI-MONTHLY REVIEW

16. The regular schedule of Mr Fazliu's bi-monthly detention reviews should not be impacted by his request for an interim review. An accused person in detention, according to Rule 57(2), is entitled to a *de novo* review every two months. Accordingly, the seventh bi-monthly review of Mr Fazliu's detention will be decided on or before Tuesday, 3 February 2026, which will be preceded by submissions according to the briefing schedule set out in paragraph 19 below.

17. The Single Trial Judge encourages the Parties to ensure that their submissions on the seventh bi-monthly review are comprehensive and current. In particular, the Single Trial Judge invites the SPO to offer updated submissions on: (i) the impact on the risk of flight of the security proposed by Mr Fazliu, in particular relative to F00623/A01;³³ (ii) the relevance of Mr Fazliu having now served more than the statutory minimum sentence on the charges he faces; (iii) if Mr Fazliu were to be released, the conditions that can and should be imposed to mitigate any risks found under Article 41(6)(b); and (iv) any other factor enhancing or diminishing any of the three risk factors under Article 41(6)(b).

³¹ See KSC-BC-2023-12, F00245, Fazliu Defence, *Fazliu Defence Submissions on Detention Review*, 2 April 2025, confidential, with Annex 1, confidential and *ex parte*, para. 10; F00278, Fazliu Defence, *Fazliu Defence Submissions on the Third Review of Detention*, 4 May 2025, public, para. 25; a public redacted version was filed on 8 May 2025; F00428, Fazliu Defence, *Fazliu Defence Submissions on the Fifth Detention Review*, 29 August 2025, confidential, with Annex 1-3, confidential, para. 18; a public redacted version was filed on 4 September 2025.

³² *Fazliu Reply*, Annex 1.

³³ *Fazliu Reply*, Annex 1.

18. The Single Trial Judge invites the Fazliu Defence to provide: (i) updated information concerning Mr Fazliu's current medical condition, including (if available) as assessed and treated in the Specialist Chambers' Detention Centre;³⁴ and (ii) updated information about the security proposed in F00248/A02,³⁵ the relationship between that source and Mr Fazliu and any other details concerning the surety that would assist the Single Trial Judge in assessing the weight that should be accorded to it.

VI. DISPOSITION

19. For the above reasons, the Single Trial Judge hereby:

- a. **DENIES** the Fazliu Defence's request for interim review of Mr Fazliu's detention; and

³⁴ KSC-BC-2023-12, F00245/A01, Fazliu Defence, *Annex 1 to Fazliu Defence Submissions on Detention Review*, 2 April 2025, confidential and *ex parte*.

³⁵ KSC-BC-2023-12, F00428/A02, Fazliu Defence, *Annex 2 to Fazliu Defence Submissions on the Fifth Detention Review*, 29 August 2025, confidential.

- b. **INVITES** the Fazliu Defence to file submissions on the next review of detention no later than **Wednesday, 7 January 2026, at 16h00**; the SPO to file its submissions, response by no later than **Wednesday, 14 January 2026, at 16h00**; and the Fazliu Defence to file any reply by no later than **Friday, 16 January 2026, at 16h00**.



Judge Christopher Gosnell
Single Trial Judge

Dated this Friday, 19 December 2025

At The Hague, the Netherlands.