KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

File number: **KSC-BC-2020-06/PL002**

Before: **A Panel of the Supreme Court Chamber**

Judge Ekaterina Trendafilova, Presiding
Judge Christine van den Wyngaert
Judge Daniel Fransen

Registrar: Fidelma Donlon

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Decision on Mr Veseli's Request for Protection of Legality

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THE PANEL OF THE SUPREME COURT CHAMBER of the Kosovo Specialist Chambers ("Supreme Court Panel" or "Panel") noting Articles 29(1), (4) and 162(2) of the Constitution,[1] Articles 41(6), (10), 48(6), (7) and (8) of the Law on Specialist Chambers and Specialist Prosecutor's Office[2] ("Law") and Rules 193 and 194 of the Rules of Procedure and Evidence ("Rules")[3] is seised of the "Veseli Defence Request for Protection of Legality Against Decision on Appeal with Annex I" ("Request").[4]

I. PROCEDURAL BACKGROUND

1. On 5 November 2020, Mr Veseli was arrested and transferred to the Detention Facilities of the Specialist Chambers ("Detention Facilities") pursuant to an arrest warrant issued by the Pre-Trial Judge,[5] further to the confirmation of an indictment against him and three co-accused.[6] Mr Veseli has remained in detention since his initial arrest, except for three brief periods of temporary release on compassionate grounds.[7]

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[1] Constitution of Kosovo (with amendments I-XXIV), 5 August 2015.
[2] Law on the Specialist Chambers and Specialist Prosecutor's Office, No. 05/L-053, 3 August 2015.
[3] Rules of Procedure and Evidence before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, (adopted on 17 March 2017, revised on 29 May 2017, amended on 29 and 30 April 2020).
[4] F00001, Veseli Defence Request for Protection of Legality Against Decision on Appeal with Annex I, 12 November 2025 (confidential).
[5] KSC-BC-2020-06/F00050, Notification of Arrest of Kadri Veseli Pursuant to Rule 55(4), 5 November 2020 (strictly confidential and *ex parte*, reclassified as public on 20 November 2020); KSC-BC-2020-06/F00027/RED, Public Redacted Version of Decision on Request for Arrest Warrants and Transfer Orders, 26 November 2020 (strictly confidential and *ex parte* version filed on 26 October 2020, reclassified as confidential on 25 November 2020); KSC-BC-2020-06/F00027/A03/RED, Public Redacted Version of Arrest Warrant for Kadri Veseli, 5 November 2020 (strictly confidential and *ex parte* version filed on 26 October 2020).
[6] KSC-BC-2020-06/F00026/RED, Public Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi, 30 November 2020 (strictly confidential and ex parte version filed on 26 October 2020, confidential redacted version filed on 19 November 2020, confidential lesser redacted version filed on 21 September 2023, confidential further lesser redacted version filed on 5 June 2025). The operative indictment was filed on 30 September 2022, see KSC-BC-2020-06/F00999/A03, Public Redacted Version of Amended Indictment, 30 September 2022. A public lesser redacted version was filed on 27 February 2023, see KSC-BC-2020-06/F01323/A01, Public Lesser Redacted Version of Amended Indictment, 27 February 2023.
[7] KSC-BC-2020-06/F00271, Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds, 30 April 2021 (confidential and ex parte). A public redacted version was issued on 11 May 2021, F00271RED. Modified by KSC-BC-2020-06/F00276, Decision on Veseli Defence

2. The trial proceedings against Mr Veseli and three co-accused were opened on 3 April 2023[8] and Mr Veseli's detention was reviewed on a regular basis in accordance with Article 41(10) of the Law.

3. On 27 March 2025, the last Prosecution witness who was scheduled to testify against Mr Veseli completed their evidence, and on 15 April 2025 the Prosecution officially closed its case.[9]

4. On 3 April 2025, the Veseli Defence filed a request for provisional release.[10]

5. On 13 May 2025, the Trial Panel denied his request for provisional release[11] and reaffirmed that Mr Veseli's detention continued to be necessary under Article 41(6)(b) of the Law ("Provisional Release Decision").[12] It recalled that although he does not pose a flight risk, Mr Veseli posed a risk of obstructing the current proceedings by committing further offences.[13] In particular, the Trial Panel upheld its previous assessment of factors supporting the risk of obstruction and concluded that; (i) Mr Veseli had the ability to give instructions to an individual interacting with the Specialist Chambers, and his direct intervention in a matter involving the Specialist Chambers; (ii) Mr Veseli's role in Kosovo continued to allow him access to information or elicit the support of others; (iii) Mr Veseli was the head of the Kosovo Intelligence

Request for Modification of Decision KSC-BC-2020-06/F00271, 4 May 2021 (confidential and ex parte). A public redacted version was issued on 11 May 2021, F00276RED. KSC-BC-2020-06/F00386, Second Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds, 8 July 2021 (confidential and ex parte). A public redacted version was issued on 16 July 2021, F00386RED. KSC-BC2020-06/F00640, Third Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds, 8 January 2022 (confidential and ex parte). A public redacted version was issued on 17 January 2022, F00640RED.

[8] KSC-BC-2020-06, Opening Statements, Transcript, 3 April 2023.

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

[10] KSC-BC-2020-06/F03076, Veseli Defence Request for Provisional Release with Confidential Annex A, 3 April 2025 (confidential). A public redacted version was issued on 23 April 2025, F03076RED.

[11] KSC-BC-2020-06/F03177, Decision on Veseli Defence Request for Provisional Release ("Provisional Release Decision"), 13 May 2025 (confidential). A corrected version was issued on 11 June 2025, F03177COR.

[12] Provisional Release Decision, para. 36.

[13] Provisional Release Decision, para. 19.

Service at a time it's members were involved in witness interference; and (iv) the advancement of the trial proceedings provided an opportunity for Mr Veseli to gain insight into the evidence underpinning the serious charges against him.[14] The Trial Panel also found that, there was a real risk of: (i) attempts to retaliate against witnesses; (b) attempts to incentivize witnesses to recant; and (c) attempts to interfere with witnesses in parallel proceedings.[15]

6. On 23 May 2025, Mr Veseli appealed the Trial Panel's Decision denying his request for provisional release.[16]

7. On 16 July 2025, Mr Veseli announced that he would not call a Defence case in the proceedings against him.[17]

8. On 13 August 2025, the Appeals Panel issued the "Decision on Kadri Veseli's Appeal Against Decision on Request for Provisional Release" ("Impugned Decision"), wherein it rejected the Defence's appeal and stated that it "found no error in the Trial Panel's assessment of the risks under Article 41(6)(b) of the Law," and subsequently upheld the Trial Panel's findings.[18]

9. On 12 November 2025, the Veseli Defence filed the Request against the Impugned Decision.

10. On 14 November 2025 the President assigned a Supreme Court Panel.[19]

11. On 18 November 2025, the Trial Panel filed its latest decision on the periodic

[14] Provisional Release Decision, para. 30.
[15] Provisional Release Decision, para 30-32.
[16] KSC-BC-2020-06/IA034/F00001, Veseli Defence Appeal Against Decision on Veseli Defence Request for Provisional Release (F03177), With Confidential Annex 1, 23 May 2025 (confidential). A public redacted version was issued on 25 August 2025, IA034-F00001RED.
[17] KSC-BC-2020-06/F03338, Veseli Defence's Notice of Intent Not to Present a Defence Case, 16 July 2025.
[18] KSC-BC-2020-06/IA034/F00005, Decision on Kadri Veseli's Appeal Against Decision on Request for Provisional Release, 13 August 2025, para. 112.
[19] F00002, Decision Assigning a Supreme Court Panel, 14 November 2025 (confidential).

review of Mr Veseli's detention, reaffirming the necessity of his continued detention.[20]

12. On 24 November 2025, the Specialist Prosecutor's Office ("SPO") filed its response ("Response").[21]

13. On 1 December 2025, Mr Veseli replied to the SPO's Response ("Reply").[22]

14. On 2 December 2025 his Co-Accused announced the closure of their defence cases[23] and on 19 December 2025 the Trial Panel announced the evidentiary proceedings closed.[24]

II. ADMISSIBILITY

15. The Panel notes that the Impugned Decision is final and that Mr Veseli filed the Request within the three-month time limit prescribed in Article 48(6) of the Law, following the issuance of the decision. The Request is accordingly admissible in this respect, and the Panel will therefore proceed with the assessment of each therein.

16. Should a ground not comply with any of the admissibility criteria of the standard of review as established by the Panel above, the Panel shall dismiss the ground without addressing its merits.

III. STANDARD OF REVIEW

17. The Panel recalls that protection of legality cannot be characterized as a third instance appeal, as set forth in Article 47 of the Law, nor does it raise matters under

[20] KSC-BC-2020-06/F03588, Decision on Periodic Review of Detention of Kadri Veseli, 18 November 2025.
[21] F00003, Prosecution Response to 'Veseli Defence Request for Protection of Legality Against Decision on Appeal (KSC-BC-2020-06/PL002/F00001)', 24 November 2025.
[22] F00004, Veseli Defence Reply to Prosecution Response to Veseli Defence Request for Protection of Legality Against Decision on Appeal, 1 December 2025.
[23] See KSC-BC-2020-06/F03609, Thaçi Defence Notice Pursuant to Rule 131, 2 December 2025; KSC-BC-2020-06/F03611, Krasniqi Defence Notice of the Closure of Its Case Pursuant to Rule 131, 2 December 2025.
[24] KSC-BC-2020-06/F03639, Notice Regarding the Close of Evidentiary Proceedings, 19 December 2025.

Article 48(1) to (5) of the Law. It is an extraordinary legal remedy provided for in Article 48(6) and (7) of the Law and Rules 193 and 194 of the Rules. It is not meant to create another general avenue of appeal.[25] Rather, and similar to the Kosovo Criminal Procedure Code,[26] protection of legality is limited to the specific instances defined in the Law and the Rules. As the Kosovo Supreme Court stated:

> [t]he request for protection of legality, as one of the extraordinary legal remedies, is the exceptional legal remedy aiming to correct possibly wrong application of the material and procedural law. Strict requirements of the admissibility are designed to ensure that this legal remedy would not be used as a general third instance against all decisions in the criminal proceedings.[27]

18. Strict admissibility requirements accordingly apply to the grounds underlying a request for protection of legality.

19. In the assessment of each ground, the Panel shall determine whether a violation of the criminal law contained within the Law or a substantial violation of the procedures set out in the Law and in the Rules has been identified.

20. Arguments that reasonably could have been advanced before the first and second instance panels, cannot be raised *de novo* before the Supreme Court Panel.[28]

21. Furthermore, grounds underlying a request for protection of legality alleging erroneous or incomplete determinations of the facts are beyond the competence of this

[25] KSC-SC-2024-02/F00018, Decision on Salih Mustafa's Request for Protection of Legality, 29 July 2024 ("Mustafa Decision"), para. 11; KSC-SC-2023-01/F00021, Decision on Requests for Protection of Legality, 18 September 2023 ("Gucati and Haradinaj Decision"), para. 9; KSC-BC-2020-06/PL001/F00008, Decision on Kadri Veseli's Request for Protection of Legality, 15 August 2022 ("Veseli Decision"), para. 21.
[26] See Article 432 of the Kosovo Criminal Procedure Code No. 08/L-032, Official Gazette No. 24, 17 August 2022.
[27] Kosovo, Supreme Court, S.S., Pml.Kzz 42/2017, Judgment, 10 May 2017, para. 23.
[28] Mustafa Decision, para. 14; Gucati and Haradinaj Decision, para. 10.

Panel and are thus inadmissible.[29]

22. Mere disagreement with the factual assessment of the first and second instance courts or verbatim repetitions of submissions of the previous appeal without engaging substantively with the impugned decision or final judgment identifying the specific alleged error or violation are equally insufficient to meet the admissibility threshold for such grounds.[30]

23. With respect to violations pursuant to Article 48(7) of the Law invoking protection of legality proceedings, the Supreme Court Chamber recalls that it has previously set forth the standard of review applicable to requests for protection of legality based on *substantial violations of the procedures* regarding final judgments.[31] The Panel recalls the high threshold established by Article 48(7)(b) of the Law in relation to substantial procedural violations.[32] More specifically, the Panel ruled that "substantial violation" of the procedures occurs when it "materially affects the judicial finding".[33] An alleged substantial violation of the procedures set out in the Law and the Rules should be assessed on a *case-by-case* basis in view of the circumstances underlying each particular request.[34]

24. The Supreme Court Panel further recalls that it may find a substantial violation of the procedures if the Court of Appeals Panel, for example: (i) omitted to apply a provision of the Law or the Rules; (ii) incorrectly applied the Law and/or the Rules; or (iii) violated the rights of the Defence in a manner which has influenced the rendering

[29] Rule 193(3) of the Rules. See also Mustafa Decision, para. 15; Gucati and Haradinaj Decision, para. 10; Veseli Decision, para. 25.
[30] Mustafa Decision, para. 16; Gucati and Haradinaj Decision, para. 10; Veseli Decision, para. 25.
[31] Mustafa Decision, para. 17; Gucati and Haradinaj Decision, para. 13.
[32] Mustafa Decision, para. 17; Gucati and Haradinaj Decision, para. 14; Veseli Decision, para. 23.
[33] Mustafa Decision, para. 17; Gucati and Haradinaj Decision, para. 14; Veseli Decision, para. 23.
[34] See also Kosovo Supreme Court, NV, Pml.Kzz 91/2015, Judgment, 14 May 2015, paras 4, 10-12; *AM*, Pml.Kzz 84/2015, Judgment, 12 May 2015, pp 3-4; *M.I.*, Pml.Kzz 26/2015, Judgment, 18 March 2015, pp 5-7.

of a lawful and fair decision.[35]

25. The Panel notes that a request for protection of legality could also be premised on Article 48(8) of the Law, which stipulates that an extraordinary legal remedy may also be filed on the basis of rights available under the Law, which are also protected under the European Convention on Human Rights ("ECHR"). The Panel considers that any alleged violation of the rights available under the Law, which are also protected under the ECHR, must meet the same standard of review as set out above.[36]

26. The Panel has further held that a party requesting protection of legality must clearly identify the alleged legal violation, substantiate it, and, in case of a procedural violation, demonstrate how it materially affected the impugned judgment.[37]

27. Lastly, the Panel recalls Rule 194(1) of the Rules, which stipulates that where the Supreme Court Panel grants a request for protection of legality, depending on the nature of the violation, it may either:

(a) modify the impugned decision or judgment;
(b) annul in whole or in part the impugned decision or judgment and return the case for a new decision or retrial to the competent Panel; or
(c) confine itself only to establishing the existence of a violation of law.

28. The Panel now turns to the grounds set forth in the Requests.

IV. PRELIMINARY REMARKS

29. The Panel notes that, subsequent to the Impugned Decision and in accordance with the statutory requirement of periodic review in accordance with Article 41(10) of the Law, the Trial Panel has issued a subsequent decision ordering the continuation of Mr Veseli's detention.[38]

[35] Mustafa Decision, para. 18; Gucati and Haradinaj Decision, para. 14; Veseli Decision, para. 24.
[36] See Mustafa Decision, para. 21; Gucati and Haradinaj Decision, para. 18; Veseli Decision, para. 33.
[37] Mustafa Decision, para. 22; Gucati and Haradinaj Decision, para. 19; Veseli Decision, para. 23.
[38] KSC-BC-2020-06/F03588, Decision on Periodic Review of Detention of Kadri Veseli, 18 November 2025.

30. The Panel recalls that the existence of a new detention decision does not render the present Request devoid of purpose, nor does it dispense the Panel from examining whether there has been any substantial violation of the procedures set out in the Law and the Rules with respect to the Impugned Decision.[39] The guarantees in Article 29(4) of the Constitution, and more specifically Article 5(4) of the ECHR, require that a person deprived of liberty must be able to obtain a judicial determination of the lawfulness of each detention decision affecting him or her.[40] The adoption of a subsequent detention decision cannot therefore affect the right to have that earlier decision reviewed.[41]

31. Moreover, the Panel recalls that its review in the context of the present request for protection of legality is confined to the circumstances at the time when the Impugned Decision was issued. The Panel therefore may only examine whether, on the basis of the information available at that time, the Impugned Decision complied with the Law and the Rules.

32. Lastly, the Court observes that, since the adoption of the Impugned Decision, the proceedings have made considerable progress. Such procedural developments may be relevant for the assessment of the necessity and proportionality of any continued detention and must be taken into account by the competent panels when ruling on subsequent detention reviews. However, such developments cannot affect the Panel's obligation to assess whether the Impugned Decision substantially violated the procedures set out in this Law and the Rules pursuant to Article 48(6) and (7) of the Law.

[39] *Cf.* ECtHR, *Peša v. Croatia*, no. 40523/08, 8 April 2010, paras 92, 126.
[40] See ECtHR, *Peša v. Croatia*, no. 40523/08, 8 April 2010, para. 126; ECtHR, *Saqawat v. Belgium*, no 54962/18, Judgment, 30 June 2020.
[41] *Cf.* ECtHR, *Oravec v. Croatia*, no. 51249/11, 11 October 2017, para. 74.

V. DISCUSSION

A. THE APPEALS PANEL ERRED IN LAW BY APPLYING THE WRONG TEST TO ASSESS THE EXISTENCE OF RISK OF OBSTRUCTION (GROUND 1)

1. Submissions

33. The Defence for Mr Veseli submits that the Appeals Panel applied the wrong test when evaluating if a risk of obstruction continued to exist.[42] According to the Defence, the correct standard requires "specific reasoning and concrete grounds" that supports a "sufficient real possibility" of risk that is "less than certainty, but more than a mere possibility."[43] This standard is reinforced by ICTY jurisprudence that requires a "substantiated indication," "concrete evidence," or "concrete danger" that the accused would actually engage in witness interference.[44]

34. Instead, the Defence submits that the Appeals Panel upheld reliance on the Detention Management Unit ("DMU") incident on the basis that Mr Veseli's "possible involvement" in an unauthorised disclosure showed his "possible willingness and ability" to obtain and disseminate confidential information.[45] The Defence argues that this is purely speculative and falls short of the required "concrete grounds" for a real possibility of obstruction.[46] The Defence further states that "any willingness and ability to obtain confidential information" is irrelevant, because access to confidential material is an essential component to a fair trial and includes the right to challenge the case against him.[47]

35. The SPO argues that Mr Veseli's submissions are confused and circular and

[42] Veseli Request, para. 28.
[43] Veseli Request, paras 29, 31; Impugned Decision, paras 17, 19, 31.
[44] Veseli Request, para. 29; ICTY, *Prosecutor v. Hadžihasanović et al*, IT-01-47-PT, Decision Granting Provisional Release to Enver Hadžihasanović, 19 December 2001, para. 11.
[45] Impugned Decision, para. 36: Veseli Request, para. 30.
[46] Veseli Request, paras 31-32.
[47] Veseli Request, para. 33.

allege no such legal error.[48] According to the SPO, Mr Veseli conflated the legal test between the Trial Panel and Appeals Panel.[49] The Appeals Panel correctly applied the standard under Article 41(6)(b)(ii) concerning whether Mr Veseli's apparent conduct presented a risk to the progress of the proceedings if he were to be released.[50] The SPO stresses that the Court of Appeals properly affirmed the Trial Panel's assessment that Mr Veseli's unauthorised disclosure supported a risk of obstruction and that he conflated the prospective legal standards with a retrospective factual assessment.[51] Therefore, the SPO argues that Ground 1 contradicts the Appeals Panel's reasoning and fails to identify any legal error and should be rejected.[52]

36. Mr Veseli replies that although the Appeals Panel initially stated the correct legal test, it applied a materially lower standard by relying on a mere "possible willingness" to disclose information.[53] The Defence contends that this fell short of the required demonstration of "concrete grounds," amounting to a legal error.[54] The Defence further argues that the Prosecution's attempt to reinterpret the Panel's language cannot fix the deficiency in the decision itself, as it must be reasoned and supported by evidence.[55]

2. The Panel's assessment

37. The Panel notes that Mr Veseli does not point to a substantial violation of a specific procedure in the Law or the Rules.[56] The Panel recalls that, pursuant to Article 48(7)(b) of the Law, a party requesting protection of legality must identify a substantial violation of the procedures set out in this Law and the Rules.[57] Instead, Mr Veseli

[48] SPO Response, para. 7.
[49] SPO Response, para. 9.
[50] SPO Response, para. 8.
[51] SPO Response, paras 9-10.
[52] SPO Response, para. 12.
[53] Veseli Reply, para. 4.
[54] Veseli Reply, para. 5.
[55] Veseli Reply, para. 6.
[56] Veseli Request, paras 28-34.
[57] See Article 48(7)(b) of the Law; Veseli Decision, para. 33.

generally contends that the Appeals Panel "applied the wrong test when evaluating whether a risk of obstruction continued to exist" without any reference to a specific Article of the Law or Rule of the Rules.[58]

38. Nevertheless, the Panel notes that Mr Veseli generally states in conjunction with the contention that the wrong standard had been applied, that the evidence does not present "concrete grounds" capable of supporting a finding of a "sufficiently real possibility" that Mr Veseli would engage in obstructive behaviour as set out in Article 41(6)(b) of the Law. Even though absent the required specific reference to a breach of the Law or the Rules the admissibility standard is not satisfied, the Panel will exceptionally consider Ground 1, as the Panel understands from the submissions that Mr Veseli challenges the Appeals Panel's definition of the standard "articulable grounds to believe" in Article 41(6)(b) of the Law and that the definition applied substantially violated the specific procedure in Article 41(6)(b) of the Law.

39. Thus, the Panel will, exceptionally, consider the merits of Ground 1 in light of Article 41(6)(b) of the Law and the definition of "articulable grounds to believe".

40. At the outset the Panel recalls the provisions of Article 41(6) of the Law:

> The Specialist Chambers or the Specialist Prosecutor shall only order the arrest and detention of a person when:
>
> a. there is a grounded suspicion that he or she has committed a crime within the jurisdiction of the Specialist Chambers; and
>
> b. there are articulable grounds to believe that:
>
> i. there is a risk of flight;
>
> ii. he or she will destroy, hide, change or forge evidence of a crime or

[58] Veseli Request, para. 28.

specific circumstances indicate that he or she will obstruct the progress of the criminal proceedings by influencing witnesses, victims or accomplices; or

iii. the seriousness of the crime, or the manner or circumstances in which it was committed and his or her personal characteristics, past conduct, the environment and conditions in which he or she lives or other personal circumstances indicate a risk that he or she will repeat the criminal offence, complete an attempted crime or commit a crime which he or she has threatened to commit.

41. The Panel recalls the wording of Article 41(6)(b) of the Law and that, in addition to a grounded suspicion that the detained person has committed a crime within the jurisdiction of the Specialist Chambers, detention shall only be ordered if "there are articulable grounds to believe" that at least one of the enumerated grounds, the so called "detention grounds", in Article 41(6)(b)(i) to (iii) of the Law materialises.[59]

42. The Panel further notes that the Court of Appeal has, in a series of decisions, articulated the standard applicable under Article 41(6)(b) of the Law and has by now developed a body of jurisprudence, [60] to which the Panel will refer when considering Mr Veseli's Request.

43. The Panel observes that with respect to the definition of "articulable grounds to believe," the Appeals Panels followed the definition of the Kosovo Criminal

[59] *Cf.* also KSC-CC-PR-2017-01/F00004, Judgment on the Referral of the Rules of Procedure and Evidence to the Specialist Chambers of the Constitutional Court, 26 April 2017, para. 115

[60] Impugned Decision, paras 36, 41; See KSC-BC-2020-07/IA001/F00005, *Gucati* Appeal Decision on Matters Related to Arrest and Detention, para. 67. See also KSC-BC-2020-06/IA001/F00005, Decision on Kadri Veseli's Appeal Against Decision on Interim Release, 30 April 2021, para. 19 (recalling that Article 41(6)(b) of the Law does not require to be satisfied that the risks specified in subparagraphs (i) to (iii) "will in fact occur" in the event of provisional release being granted); KSC-BC-2020-06IA007/F00005/RED, Public Redacted Version of Decision on Rexhep Selimi's Appeal Against Decision on Review of Detention, 1 October 2021 (confidential version filed on 1 October 2021), para. 21 (emphasis in original); KSC-BC-2020-06/IA001/F00005, Decision on Kadri Veseli's Appeal Against Decision on Interim Release, 30 April 2021, para. 19.

Procedure Code ("KCPC") in Article 19(1.31) KCPC,[61] which has been defined as "when information or evidence must be articulable, the party offering the information or evidence must specify in detail the information or evidence being relied upon".[62]

44. The Panel notes that Article 19(1.31) KCPC defines "articulable" only in procedural terms, requiring that the party relying on information or evidence specify in detail the material being invoked. This definition establishes no more than the obligation to identify the underlying information or evidence. It does not address the substantive threshold for assessing the weight, reliability, or sufficiency of that material. The Panel therefore agrees with the Court of Appeal that the term "articulable" speaks to the specificity of the information or evidence required, not necessarily the degree of likelihood.[63]

45. A substantive standard for assessing the weight, reliability, or sufficiency of the evidence is nevertheless necessary and has indeed been clarified by the Court of Appeal through interpretation. The Court of Appeals held that the question with respect to the evidence on the detention grounds revolves around the "possibility, not the inevitability, of a future occurrence".[64] In subsequent decisions, the Court of Appeals has further clarified that the assessment of any detention ground under Article 41(6)(b) of the Law requires that the identified risk be supported by evidence demonstrating "less than certainty, but more than a mere possibility of a risk materialising."[65] This standard has been consistently affirmed as the measure of

[61] Provisional Release Decision, fn. 34.
[62] Article 19.1.31 of the Kosovo Criminal Procedure Code 2022, Law No. 08/L-032, Article 19.1.31; See also, KSC-BC-2020-06/IA001/F00005, Decision on Kadri Veseli's Appeal Against Decision on Interim Release, 30 April 2021, para. 18.
[63] KSC-BC-2020-06/IA001/F00005, Decision on Kadri Veseli's Appeal Against Decision on Interim Release, 30 April 2021, para. 18.
[64] Impugned Decision, para. 36; See KSC-BC-2020-07/IA001/F00005, Gucati Appeal Decision on Matters Related to Arrest and Detention, para. 67; See also KSC-BC-2020-06/IA001/F00005, Decision on Kadri Veseli's Appeal Against Decision on Interim Release, 30 April 2021, para. 19 (recalling that Article 41(6)(b) of the Law does not require to be satisfied that the risks specified in subparagraphs (i) to (iii) "will in fact occur" in the event of provisional release being granted).
[65] Impugned Decision, para. 31.

"necessity" for pre-trial detention in the jurisprudence of lower panels.[66] The Panel notes that the Court of Appeals has in addition required that the evidence supports a "sufficiently real possibility" that one or more risks exist at the time of the review.[67]

46. The Panel observes that the "more than a mere possibility" threshold therefore involves a substantive weighing of the articulated evidence to determine whether the risk is reasonable rather than hypothetical. Accordingly, the risks must be substantiated on the facts of the case; mere hypothetical or generic concerns are insufficient.[68]

47. The Panel notes that Mr Veseli does not disagree with the articulated standard of "less than certainty, but more than a mere possibility of a risk materialising".[69] He nevertheless argues that the findings of his "possible involvement" in unauthorised disclosure and his "possible willingness and ability" to obtain access to and disseminate information to an issue that he is connected to "clearly falls short of this standard", as it is a speculative and tenuous finding about something that Mr Veseli "might" be engaged with. Mr Veseli submits that this is closer to a "mere possibility" rather than a "specific reasoning and concrete grounds" standard.

48. Without going into the evidence with respect to this claim, the Panel disagrees with Mr Veseli. The Appeals Panel has found a "possible" involvement of unauthorised disclosure and a "possible" willingness to disseminate confidential information. It underpinned this finding with concrete evidence and reasoning. Contrary to a "mere possibility", which indeed connotes a speculative element, a

[66] Provisional Release Decision, para. 18; Impugned Decision, para. 36.
[67] Impugned Decision, para. 41; F00005, Decision on Kadri Veseli's Appeal Against Decision on Interim Release, 30 April 2021, para. 19.
[68] ECtHR, *Merabishvili v. Georgia*, no. 72508/13, Judgment, 28 November 2017, para. 222; ECtHR, *Letellier v. France*, no. 12369/86, Judgment, 26 June 1991, para. 51; ECtHR, *Khudoyorov v. Russia*, no. 6847/02, Judgment, 8 November 2005, para. 173.
[69] Veseli Request, para. 31.

"possibility" has an objective and reasonable potential to materialise.[70] The Panel further notes that a "possibility" also exceeds the threshold applied in other decisions of the Court of Appeal of a "sufficiently real possibility". The Panel therefore notes that the findings by the lower panels are far from imaginary, abstract or generalised findings without any evidentiary basis.

49. Further, the Panel considers that Mr Veseli misunderstands the nature and function of the reference to "specific reasoning and concrete grounds."[71] This requirement, which has been referred to by the Specialist Chamber of the Constitutional Court ("SCCC") and the ECtHR, and has not been referred to in the Impugned Decision as Mr Veseli asserts, comprises two distinct elements.[72]

50. The first limb ensures that arguments for and against release "must not be general and abstract," but must rely on identifiable and concrete grounds.[73] Indeed, the lower panels relied on identifiable and concrete grounds.[74]

51. The second limb relates to the "specific reasoning," which applies once the facts have been identified. A panel must therefore assess their reliability, credibility, and weight to determine whether the facts demonstrate more than a mere possibility of the risk materialising.[75] This aligns with the established standard by the Court of Appeal, which the Panel agrees with, that detention must be justified by "less than

[70] "Mere possibility" is used in its ordinary English sense. See *Oxford English Dictionary*: "mere", "having no greater extent, value or importance than is implied; barely", and "possibility", "a possible thing or circumstance; something that may exist or happen".
[71] Veseli Request, para. 29.
[72] KSC-CC-PR-2017-01/F00004, Judgment on the Referral of the Rules of Procedure and Evidence to the Specialist Chambers of the Constitutional, 26 April 2017, para. 115; ECtHR, *Khudoyorov v. Russia*, no. 6847/02, Judgment, 8 November 2005, para. 173.
[73] KSC-CC-PR-2017-01/F00004, Judgment on the Referral of the Rules of Procedure and Evidence to the Specialist Chambers of the Constitutional, 26 April 2017, para. 115; ECtHR, *Khudoyorov v. Russia*, no. 6847/02, Judgment, 8 November 2005, para. 173; ECtHR, *Smirnova v. Russia*, no. 46133/99 and 48183/99, Judgment, 24 July 2003, para. 63; ECtHR, *Clooth v. Belgium*, no. 225, Judgment, 12 December 1991, para. 44.
[74] Impugned Decision, paras 36-45; Provisional Release Decision, paras 30-34.
[75] KSC-CC-PR-2017-01/F00004, Judgment on the Referral of the Rules of Procedure and Evidence to the Specialist Chambers of the Constitutional, 26 April 2017, para. 115.

certainty, but more than a mere possibility."[76] This standard ensures both: (i) articulated and concrete grounds, and (ii) reasoned judicial evaluation sufficient to outweigh the presumption in favour of liberty.[77]

52. In light of the above, the Panel finds that the Appeals Panel applied the correct legal test and did not violate any procedural provision of the Law or the Rules. Its approach correctly reflects the statutory requirement in Article 41(6)(b) of the Law of "articulable grounds to believe" and the requirement of "specific reasoning and concrete grounds" provided by the SCCC, both of which demand precisely what the Appeals Panel conducted.

53. Accordingly, the Panel dismisses Ground 1 on the merits.

B. THE APPEALS PANEL ERRED BY MISAPPLYING THE RELEVANT STANDARD TO THE CIRCUMSTANCES OF THE CASE (GROUND 2)

1. Submissions

54. The Defence argues that the Appeals Panel misapplied the correct standard to the particular circumstances of Mr Veseli's case, especially at this late stage of the proceedings. According to Mr Veseli, the Appeals Panel relied in its decision on *Gucati and Haradinaj* for the proposition that a risk of obstruction may persist late into trial,[78] but at the same time acknowledged that the risk of obstruction "will likely diminish over time."[79] The Defence further states that, in these circumstances, the Appeals Panel

[76] Provisional Release Decision, para. 18; See *similarly*, KSC-BC-2020-06/IA001/F00005, First Appeals Decision on Veseli Interim Release, para. 17; KSC-BC-2020-06/IA004/F00005, Decision on Hashim Thaçi's Appeal Against Decision on Interim Release, 30 April 2021 (confidential), para. 19. A public redacted version was issued on the same date, IA004/F00005/RED. KSC-BC-2020-06/IA003/F00005, Decision on Rexhep Selimi's Appeal Against Decision on Interim Release, 30 April 2021 (confidential), para. 40. A public redacted version was issued on the same day, IA003/F00005/RED.
[77] KSC-CC-PR-2017-01/F00004, Judgment on the Referral of the Rules of Procedure and Evidence to the Specialist Chambers of the Constitutional, 26 April 2017, para. 115.
[78] Veseli Request, para. 36; KSC-BC-2020-07/IA007&IA008/F00004, Consolidated Decision on Nasim Haradinaj's Appeals Against Decisions on Review of Detention, 6 April 2022, para 43.
[79] Veseli Request, para. 36; Impugned Decision, para. 35.

failed to identify concrete and case-specific factors showing why despite the general presumption of the risk diminishing over time, this risk was still present for Mr Veseli.[80]

55. Further, the Defence argues that the Appeals Panel's reliance on *Haradinaj* is misplaced, as none of the exceptional facts are comparable to the present case.[81] In *Haradinaj*, the continued risk was grounded in the accused having publicly disclosed and disseminating confidential material and having admitted to his wrongdoing.[82] By contrast, the Appeals Panel relied on the *Haradinaj* principle without identifying any comparable factual basis in Mr Veseli's case and further relied on other decisions, namely, *Bemba, Nzabonimpa,* and *Gbagbo*, that are either factually opposite or do not address a diminishing risk at all.[83] The Defence highlights that Mr Veseli has consistently expressed support for the Specialist Chambers and urged the public to respect its authority and not obstruct its work.[84] In these circumstances, the Defence submits that the Panel's reliance on these authorities constitutes a misapplication of the standard governing continued risk at this stage of the proceedings.

56. The SPO responds that Ground 2 is inadmissible because Mr Veseli misread paragraph 35 of the Impugned Decision and relies on new arguments that were not previously raised.[85] According to the SPO, Mr Veseli misunderstands the Appeals Panel's use of the *Haradinaj* jurisprudence, which was applied only for the general legal proposition that risk may persist despite the passage of time, and not to make individual comparisons.[86] The SPO argues that Mr Veseli's submissions misrepresent the analytical context of paragraph 35 and introduce *de novo* complaints that are not

[80] Veseli Request, para. 36.
[81] Veseli Request, paras 37-38.
[82] Veseli Request, para. 37; KSC-BC-2020-07/IA007&IA008/F00004, Consolidated Decision on Nasim Haradinaj's Appeals Against Decisions on Review of Detention, 6 April 2022, para 43.
[83] Veseli Request, paras 41-42.
[84] Veseli Request, para. 38.
[85] SPO Response, para. 13.
[86] SPO Response, para. 16.

supported by authority.[87] The SPO emphasises that the Appeals Panel properly upheld the Trial Panel's finding that risk continues even during mid-trial.

57. Mr Veseli replies that his position was rooted in established jurisprudence. As the risk of obstruction naturally diminishes over time, the Prosecution was required to identify something exceptional in the Accused's circumstances to show that the risk persisted.[88] The Defence contends that it merely explained this principle and did not advance any novel legal test.[89] It further states that the Prosecution ignores the basis on which these submissions were raised before the Supreme Court.[90] Finally, Mr Veseli argues that the factual circumstances relied upon by the Prosecution are not comparable to those in the cited case law, meaning that the precedent does not apply here.[91]

2. The Panel's assessment

58. The Panel notes that Mr Veseli does not point to a substantial violation of a specific procedure in the Law or the Rules.[92] As already underscored under Ground 1, a request for the protection of legality must allege a substantial violation of the procedures set out in Article 48(7)(b) of the Law.[93] Nevertheless, and given that the Defence specifically argues that the Appeals Panel failed to properly reassess the risks under Article 41(6)(b) of the Law and instead relied on previous findings without examining whether they remain sufficient at this stage of the proceedings,[94] the Panel recalls that an allegation of arbitrary reasoning in assessing the procedural safeguards under Article 41(6)(b) of the Law may amount to a substantive procedural violation.

[87] SPO Response, para. 16.
[88] Veseli Reply, para. 7.
[89] Veseli Reply, para. 7.
[90] Veseli Reply, para. 8.
[91] Veseli Reply, para. 9.
[92] Veseli Request, paras 28-34.
[93] See Article 48(7)(b) of the Law; KSC-BC-2020-06/PL001/F00008, Decision on Kadri Veseli Request for Protection of Legality, 15 August 2022, para. 33.
[94] Veseli Request, para. 40.

59. Therefore, and as the Panel understands from the submissions that Mr Veseli challenges the Appeals Panel's specific application of the standard "articulable grounds to believe" in Article 41(6)(b) of the Law, the Panel will exceptionally consider Ground 2.

60. The Panel recalls the finding of the SCCC that "[q]uasi-automatic prolongation of detention or a decision that is lacking in reasoning would fail to provide the required standard of protection."[95] In this respect, the ECtHR has further held that under Article 5(3) of the ECHR "it is incumbent on the authorities, rather than the detainee, to establish the persistence of reasons justifying continued pre-trial detention".[96] It held that risks must be concretely substantiated on the facts of the case; mere abstract or stereotyped concerns are insufficient.[97]

61. While the Panel acknowledges and agrees with the Appeals Panel that a specific ground, such as the risk of obstruction, may diminish with the passage of time,[98] this is not automatic and depends on the circumstances of the case.[99] Therefore, the Panel agrees with the Appeals Panel that in reviewing detention, "nothing prevents the Panel from relying on evidence that it previously relied upon, regardless of when that evidence was first presented, as long as it is persuaded that the evidence, at the time of the decision, remains sufficient to justify the finding in question."[100] It is not necessary, as Mr Veseli suggests, that something out of the ordinary is needed in

[95] KSC-CC-PR-2017-01/F00004, Judgment on the Referral of the Rules of Procedure and Evidence to the Specialist Chambers of the Constitutional Court, 26 April 2017, para. 115.
[96] ECtHR, *Merabishvili v. Georgia*, no. 72508/13, Judgment, 28 November 2017, para. 234.
[97] ECtHR, *Merabishvili v. Georgia*, no. 72508/13, Judgment, 28 November 2017, para. 222.
[98] KSC-BC-2020-06/IA007&IA008/F00004, Consolidated Decision on Nasim Haradinaj's Appeals Against Decisions on Review of Detention, para. 42; see also ECtHR, *Letellier v. France*, no. 12369/86, Judgment, 26 June 1991, para. 39; ECtHR, *W. v. Switzerland*, no. 14379/88, Judgment, 26 January 1993, para. 35; ECtHR, *Clooth v. Belgium*, no. 12718/87, Judgment, 12 December 1991, para. 43.
[99] KSC-BC-2020-06/IA007&IA008/F00004, Consolidated Decision on Nasim Haradinaj's Appeals Against Decisions on Review of Detention, para. 42.
[100] Impugned Decision, para. 34; see ICC, *Prosecutor v. Gbagbo*, ICC-02/11-01/11-278-Red, Judgment on the appeal of Mr Laurent Koudou Gbagbo against the decision of Pre-Trial Chamber I of 13 July 2012 entitled "Decision on the 'Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo'", 26 October 2012, para. 69.

order to demonstrate that the risk has not diminished.[101] What is necessary is that persistent reasons justify the continued detention.[102]

62. Moreover, in the Impugned Decision, the Appeals Panel reassessed the necessity of detention in light of the history of the case.[103] It considered the current stage of the proceedings, the sensitive nature of the evidence being presented, and the ongoing exposure of witnesses to interference.[104] The Appeals Panel thereby confirmed that these circumstances remained sufficient to justify detention at the time of the Trial Panel's decision.

63. The Panel recalls that the Appeals Panel referred to conduct previously relied upon as indicative of the existence of the risk of obstruction, including the alleged disclosure of confidential information.[105] In doing so, the Appeals Panel considered that this conduct illustrates Mr Veseli's "possible" willingness and ability to disseminate confidential information,[106] and noted that this had resulted in additional surveillance in the Detention Unit.[107] The Appeals Panel considered this relevant to the continued assessment of the risk of obstruction and recalled that the applicable standard concerned the possibility, rather than the inevitability of a future occurrence.[108]

64. In light of the foregoing, the Panel finds that the Appeals Panel did not misapply the relevant standard to the circumstances of the case pursuant to Article 41(6)(b) of the Law. There is nothing in the detention review which suggests that the

[101] Veseli Reply, para. 7.
[102] ECtHR, *Merabishvili v. Georgia*, no. 72508/13, Judgment, 28 November 2017, para. 234.
[103] Impugned Decision, para. 35.
[104] Impugned Decision, para. 32.
[105] Impugned Decision, para. 36.
[106] Impugned Decision, para. 36.
[107] Impugned Decision, para. 36.
[108] Impugned Decision, para. 36; See KSC-BC-2020-07/IA001/F00005, Gucati Appeal Decision on Matters Related to Arrest and Detention, para. 67; see also KSC-BC-2020-06/IA001/F00005, Decision on Kadri Veseli's Appeal Against Decision on Interim Release, 30 April 2021, para. 19, recalling that Article 41(6)(b) of the Law does not require to be satisfied that the risks specified in subparagraphs (i) to (iii) "will in fact occur" in the event of provisional release being granted.

process was undertaken in a quasi-automatic manner. It properly assessed the continued existence of the relevant risks at the time of review and provided sufficient reasons to justify the continued detention of Mr Veseli. Indeed, the Appeals Panel articulated substantial reasoning establishing that the risk of obstruction continues to exist in Mr Veseli's case. Its analysis was neither hypothetical nor generic but grounded in the specific circumstances before it.

65. Accordingly, the Panel dismisses Ground 2 on the merits.

C. THE APPEALS PANEL ERRED BY CLOSING ITS MIND TO CIRCUMSTANCES MILITATING IN FAVOUR OF THE ACCUSED (GROUND 3)

1. Submissions

66. Mr Veseli's Defence submits that the Appeals Panel closed its mind to concrete facts that favoured Mr Veseli and undermined any risk of obstruction, contrary to the individualised and holistic assessment required for detention.[109] The Impugned Decision itself states that detention turns on "question[s] of fact depending on the individual circumstances of the case."[110] The Defence argues that once a detainee invokes specific facts capable of casting doubt on the lawfulness of detention, a court cannot treat them as irrelevant or disregard them.[111] Mr Veseli furthermore asserts that not only did the Appeals Panel fail to identify reasons that justified the Trial Panel's findings of a continued risk in Ground 3, but also failed to consider facts that must count in his favour.[112]

67. The Defence further submits that the following key facts were ignored; (i) the extensive SPO covert monitoring in 2023 uncovered no evidence of obstruction by Mr Veseli; (ii) he has not been charged with any obstructive offence in Case 12; and (iii) since covert measures became known and his monitoring was tightened, no

[109] Veseli Request, para. 43.
[110] Veseli Request, para. 43; Impugned Decision, para. 41.
[111] Veseli Request, paras 43-44.
[112] Veseli Request, paras 45.

obstructive conduct has been identified.[113] The Defence also notes that in over four and a half years of detention, no new evidence has emerged of obstruction despite targeted investigation and close monitoring of almost all his communications.[114] Yet both the Trial Panel and the Appeals Panel relied on the same limited, longstanding factors while effectively discarding this absence of evidence as irrelevant.[115] The Defence argues that this violates Article 5(4) ECHR, Article 41(1) of the Law and the Specialist Chambers' own case law on reasoned, holistic review, amounting to a substantial procedural violation.[116]

68. The SPO responds by arguing that Ground 3 should be inadmissible because it is unfocused, rhetorical, and expresses disagreement with the Provisional Release Decision as a whole.[117] According to the SPO, Mr Veseli's argument that the Appeals Panel ignored favourable evidence, acted unfairly, or failed to identify new obstructive conduct, misstates the factual record and appropriate legal standards.[118] The SPO recognises that both the Trial Panel and Appeals Panel considered the relevant evidence and concluded that there were reasonable grounds to believe that Mr Veseli posed a risk due to his previous efforts regarding unauthorised disclosures.[119]

69. Mr Veseli replies that the SPO attempts to argue that the lower courts did consider evidence in favour of Mr Veseli are contrary to the Defence's submissions.[120] Mr Veseli's Defence contends that the lower courts allegedly ignored the evidence which shows that Mr Veseli was not involved in witness interference.[121] The Defence

[113] Veseli Request, para. 46.
[114] Veseli Request, paras 47, 49.
[115] Veseli Request, paras 47-50.
[116] Veseli Request, paras 43, 47.
[117] SPO Response, para. 19.
[118] SPO Response, para. 19.
[119] SPO Response, para. 20.
[120] Veseli Reply, para. 10.
[121] Veseli Reply, para. 10.

states that this is arbitrary, irrational, and unfair.[122]

2. The Panel's Assessment

70. The Panel notes at the outset that Mr Veseli again does not point to a substantial violation of a specific procedure in the Laws or the Rules, except for generically referring to the right to liberty under Article 41(1) of the Law.[123] The Panel again recalls that, pursuant to Article 48(7)(b) of the Law, a party requesting protection of legality must identify a substantial violation of the procedures set out in this Law and the Rules.[124]

71. The Panel observes that Mr Veseli's submissions, concerning whether the evidence favouring release was sufficiently considered, are entirely factual in nature. For example, Mr Veseli argues that no evidence has been adduced. However, the Appeals Panel considered the following: (i) Mr Veseli's possible involvement in the unauthorised disclosure of evidence; (ii) his ability to obtain confidential information given his position in Kosovo, (iii) and his increased knowledge of confidential witness-related information.[125] Furthermore, his arguments amount to a disagreement with the Appeals Panel discretionary assessment of the facts which cannot be entertained within the procedure for the protection of legality. The Panel recalls that it will not consider arguments of a factual nature.[126]

72. Mr Veseli's Ground 3 is therefore summarily dismissed.

[122] Veseli Reply, para. 10.
[123] Veseli Request, paras 43-51.
[124] See Article 48(7)(b) of the Law; Veseli Decision, para. 33.
[125] Impugned Decision, paras 36, 43.
[126] See supra, para. 19.

D. THE APPEALS PANEL ERRED BY UPHOLDING THE FINDING IN RELATION TO THE RISK OF RECANTATION, RETALIATION, AND TO WITNESSES APPEARING IN CASE 12 IN THE ABSENCE OF ARTICULABLE GROUNDS (GROUND 4)

3. Submissions

73. The Defence submits that the Appeals Panel erred in law by upholding findings of risk relating to retaliation, incentivising recantation, and interference with Case 12 witnesses, because the Trial Panel provided no "specific reasoning and concrete grounds" to support any of them.[127] Mr Veseli argues that paragraph 32 of the Impugned Decision introduced these new categories of risk without citing evidence, offering explanation, or responding to submissions, thereby making them purely speculative.[128] The Defence stresses that the Appeals Panel acknowledged that the reasoning was "limited" and lacking detail, it nevertheless sustained the findings by referring back to an unrelated, abstract observation that obstruction may occur at any stage which cannot satisfy the required evidentiary threshold.[129] The Defence further notes that there is no basis to suggest a risk to Case 12 witnesses, as Mr Veseli is not a party to those proceedings, has not shown motive to interfere, and no evidence indicates he knows the identity or number of any such witnesses,[130] yet the Appeals Panel upheld an undifferentiated and unsupported risk to all categories of Case 12 witnesses.[131]

74. The SPO responds by arguing that Ground 4 is also inadmissible because Mr Veseli's submissions does not identify any legal error.[132] According to the SPO, the Appeals Panel correctly affirmed that the risk of obstruction reasonably extends beyond the closing of the Prosecution's case and includes post-testimony attempts at

[127] Veseli Request, para. 62.
[128] Veseli Request, para. 52.
[129] Veseli Request, para. 55; Impugned Decision, para. 48.
[130] Veseli Request, para. 60.
[131] Veseli Request, paras 61-62.
[132] SPO Response, para. 24.

recantation or retaliation.[133] The SPO argues that Mr Veseli ignores the decision of both the Trial and Appeals Panel who expressly reasoned that the risk is not limited to a single phase of proceedings and that the risk applies to both Case 6 and Case 12 because the latter arises from conduct aimed at defeating the former.[134]

75. Mr Veseli replies that the SPO misunderstands the consequences of continuing to detain someone without any evidence and that this is therefore unlawful.[135] Mr Veseli's Defence further submits that the SPOs claim of post-trial risks is unsupported, and the Panel's failure to provide a reasoned basis, was neither obvious nor substantiated.[136] The Defence further states that the requirement of providing a reasoned decision is fundamental.[137]

4. The Panel's Assessment

76. The Panel notes at the outset that Mr Veseli does not point to a substantial violation of a specific procedure in the Law or the Rules in his submissions.[138] Pursuant to Article 48(7)(b) of the Law a party requesting protection of legality must identify a substantial violation of the procedures set out in this Law and the Rules.[139] Rather, Mr Veseli speaks of an "error in law" by upholding the Trial Panel findings. This does not comply with the established standards for a protection of legality request.[140]

77. Further, the Panel observes that Mr Veseli's arguments in his Ground 4 relate to the Trial Panel's evidentiary findings, which were addressed by the Appeals Panel. For example, Mr Veseli argues that the findings were unfounded, overly broad, and speculative with respect to retaliation, recantation, and Case 12 interference.[141] In this

[133] SPO Response, para. 26.
[134] SPO Response, para. 28.
[135] Veseli Reply, para. 10.
[136] Veseli Reply, para. 11.
[137] Veseli Reply, para. 11.
[138] Veseli Request, paras 52-63.
[139] See Article 48(7)(b) of the Law; Veseli Decision, para. 33.
[140] See supra, para. 17.
[141] Veseli Request, para. 63.

regard, the Appeals Panel upheld the Trial Panel's reliance on the risks of retaliation against witnesses, recantation and Mr Veseli's interference in parallel proceedings, notwithstanding that it set aside other findings relating to interference, and concluded that these factors were sufficient to sustain the finding of a continued risk of obstruction.[142]

78. The Panel further recalls that it will not consider arguments of a factual nature.[143]

79. Mr Veseli's Ground 4 is therefore inadmissible and summarily dismissed.

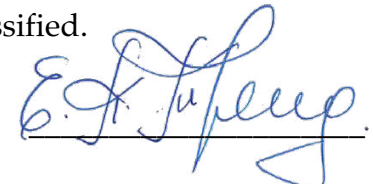
VI. DISPOSITION

80. For these reasons, the Supreme Court Panel hereby

DISMISSES the Request in its entirety;

ORDERS the Defence and the SPO to submit public redacted versions of the Request, Response and Reply or to indicate, through a filing, whether they can be reclassified as public, by 16 January 2026; and

INSTRUCTS the Registry to execute the reclassification as public of the Request, Response and Reply upon indication by the Defence and SPO, if any, that they can be reclassified.



Judge Ekaterina Trendafilova, Presiding

Dated this Friday, 19 December 2025
At The Hague, the Netherlands

[142] Impugned Decision, paras 47-49.
[143] See supra, para. 19.