



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

**In:** KSC-BC-2020-06

**The 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:** Fidelma Donlon

**Date:** 16 January 2026

**Language:** English

**Classification:** Public

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**Decision on Periodic Review of Detention of Jakup Krasniqi**

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**TRIAL PANEL II** (“Panel”), pursuant to Article 41(6), (10), and (12) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office, and Rules 56(2) and 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. The procedural background concerning the periodic review of the detention of Jakup Krasniqi (“Mr Krasniqi” or “Accused”) has been set out extensively in previous decisions concerning the same issue. Relevant events since the decision on periodic review of detention of Mr Krasniqi issued on 18 November 2025 (“Twenty-Third Detention Decision”) include those set out below.<sup>1</sup>
2. On 2 December 2025, the Defence for Hashim Thaçi and the Defence for Jakup Krasniqi (“Krasniqi Defence”) filed notices announcing the closing of their cases.<sup>2</sup>
3. On 18 December 2025, the Panel closed the evidentiary proceedings.<sup>3</sup> On 19 December 2025, the Specialist Prosecutor’s Office (“SPO”) filed its submissions on the continued detention of Mr Krasniqi (“SPO Submissions”).<sup>4</sup>
4. On 29 December 2025, the Supreme Court Panel issued a decision on the Krasniqi Defence request for protection of legality (“Protection of Legality Decision”).<sup>5</sup>

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<sup>1</sup> F03587, Panel, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 18 November 2025.

<sup>2</sup> F03609, Specialist Counsel, *Thaçi Defence Notice pursuant to Rule 131*, 2 December 2025; F03611, Specialist Counsel, *Krasniqi Defence Notice of the Closure of its Case pursuant to Rule 131*, 2 December 2025.

<sup>3</sup> F03639, Panel, *Notice Regarding the Close of Evidentiary Proceedings*, 18 December 2025.

<sup>4</sup> F03642, Specialist Prosecutor, *Prosecution Submission Pertaining to Periodic Detention Review of Jakup Krasniqi*, 19 December 2025.

<sup>5</sup> PL003/F00004, Supreme Court Panel, *Decision on Krasniqi Defence Request for Protection of Legality Against “Decision on Jakup Krasniqi’s Appeal Against Consolidated Decision on Request for Provisional Release and on Review of Detention (IA035/F00005)”*, 29 December 2025.

5. On 31 December 2025, the Krasniqi Defence responded to the SPO Submissions (“Response”).<sup>6</sup>

6. The SPO did not reply to the Response.

## II. SUBMISSIONS

7. The SPO requests the continuation of Mr Krasniqi’s detention.<sup>7</sup> The SPO argues that, since the Twenty-Third Detention Decision, there has been no change in circumstances that merits deviating from the previous determination of the Panel, and as such, Mr Krasniqi’s detention remains necessary and reasonable.<sup>8</sup> To the contrary, the SPO submits that the continued progression of the trial, and related developments, add to the necessity and reasonableness of Mr Krasniqi’s detention.<sup>9</sup>

8. The Krasniqi Defence requests Mr Krasniqi’s immediate release, subject to conditions as the Panel deems appropriate. It argues that since the evidentiary proceedings have been formally completed, the risks alleged by the SPO are no longer sufficient to establish that Mr Krasniqi’s detention is necessary.<sup>10</sup>

## III. APPLICABLE LAW

9. The law applicable to deciding the present matter is set out in Article 41(6), (10), and (12) and Rules 56 and 57 and has been laid out extensively in earlier decisions.<sup>11</sup> The Panel will apply these standards to the present decision.

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<sup>6</sup> F03650, Specialist Counsel, *Krasniqi Defence Response to ‘Prosecution Submission Pertaining to Periodic Detention Review of Jakup Krasniqi*, 31 December 2025.

<sup>7</sup> SPO Submissions, para. 1.

<sup>8</sup> SPO Submissions, paras 1, 10.

<sup>9</sup> SPO Submissions, para. 1.

<sup>10</sup> Response, paras 1, 21.

<sup>11</sup> See e.g. F01110, Pre-Trial Judge, *Decision on Periodic Review of Detention of Jakup Krasniqi* (“Sixth Detention Decision”), 18 November 2022, confidential, paras 18-21 (a public redacted version was issued on the same day, F01110/RED).

#### IV. DISCUSSION

10. The purpose of the bi-monthly review of detention pending trial pursuant to Article 41(10) is to determine whether reasons justifying detention still exist.<sup>12</sup> A change in circumstances, while not determinative, shall be taken into consideration if raised before the relevant panel or *proprio motu*.<sup>13</sup>

##### A. ARTICLE 41 CRITERIA

###### 1. Grounded Suspicion

11. Regarding the threshold for continued detention, Article 41(6)(a) requires a grounded suspicion that the detained person has committed a crime within the jurisdiction of the Specialist Chambers (“SC”). This is a condition *sine qua non* for the validity of the detained person’s continued detention.<sup>14</sup>

12. The SPO argues that, absent any change in circumstances since the decision confirming the indictment and the decision confirming amendments to the indictment, there remains a grounded suspicion that Mr Krasniqi has committed a crime within the SC’s jurisdiction.<sup>15</sup>

13. The Panel recalls that the Pre-Trial Judge determined that, pursuant to Article 39(2), there was a well-grounded suspicion that Mr Krasniqi is criminally liable for a number of crimes against humanity (persecution, imprisonment, other inhumane acts, torture, murder and enforced disappearance) and war crimes (arbitrary detention, cruel treatment, torture and murder) under

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<sup>12</sup> IA022/F00005, Court of Appeals Panel, *Decision on Hashim Thaçi’s Appeal Against Decision on Periodic Review of Detention*, 22 August 2022, confidential, para. 37 (a public redacted version was issued on the same day, IA022/F00005/RED).

<sup>13</sup> IA010/F00008, Court of Appeals Panel, *Decision on Hashim Thaçi’s Appeal Against Decision on Review of Detention*, 27 October 2021, confidential, para. 19 (a public redacted version was issued on the same day, IA010/F00008/RED).

<sup>14</sup> See ECtHR, *Merabishvili v. Georgia* [GC], no. 72508/13, [Judgment](#), 28 November 2017, para. 222.

<sup>15</sup> SPO Submissions, para. 11 (with further references).

Articles 13, 14(1)(c) and 16(1)(a).<sup>16</sup> Moreover, the Pre-Trial Judge found that a well-grounded suspicion has also been established with regard to new charges brought by the SPO against Mr Krasniqi.<sup>17</sup> These findings were made on the basis of a standard exceeding the grounded suspicion threshold required for the purposes of Article 41(6)(a).<sup>18</sup>

14. Absent any new material circumstances affecting the above findings, the Panel finds that there continues to be a grounded suspicion that Mr Krasniqi has committed crimes within the subject-matter jurisdiction of the SC for the purposes of Article 41(6)(a) and (10).

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<sup>16</sup> F00026, Pre-Trial Judge, *Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi*, 26 October 2020, strictly confidential and *ex parte*, para. 521(a)(i)-(ii). A confidential redacted version (F00026/CONF/RED), a public redacted version (F00026/RED), and a confidential lesser redacted version (F00026/CONF/RED2) were issued, respectively, on 19 November 2020, 30 November 2020, and 21 September 2023. The SPO submitted the confirmed indictment in F00034, Specialist Prosecutor, *Submission of Confirmed Indictment and Related Requests*, 30 October 2020, confidential, with Annex 1, strictly confidential and *ex parte*, and Annexes 2-3, confidential; F00045/A03, Specialist Prosecutor, *Further Redacted Indictment*, 4 November 2020; F00134, Specialist Prosecutor, *Lesser Redacted Version of Redacted Indictment*, KSC-BC-2020-06/F00045/A02, 4 November 2020, 11 December 2020, confidential. A further corrected confirmed indictment was submitted on 3 September 2021, strictly confidential and *ex parte* (F00455/A01), with confidential redacted (F00455/CONF/RED/A01) and public redacted (F00455/RED/A01) versions. On 17 January 2022, the SPO submitted a confidential, corrected, and lesser redacted version of the confirmed indictment, F00647/A01.

<sup>17</sup> F00777, Pre-Trial Judge, *Decision on the Confirmation of Amendments to the Indictment*, 22 April 2022, strictly confidential and *ex parte*, para. 183. A confidential redacted version (F00777/CONF/RED), a public redacted version (F00777/RED), a confidential lesser redacted version (F00777/CONF/RED2), and a confidential further lesser redacted version (F00777/CONF/RED3) were issued, respectively, on 22 April 2022, 6 May 2022, 16 May 2022, and 21 September 2023. The requested amendments are detailed at para. 11. A confirmed amended indictment was then filed by the SPO on 29 April 2022, strictly confidential and *ex parte* (F00789/A01), with confidential redacted (F00789/A02) and public redacted (F00789/A05) versions. On 30 September 2022, the SPO submitted a confirmed further amended indictment (“Confirmed Indictment”), confidential (F00999/A01), with a public redacted version (F00999/A03). A public lesser redacted version (F01296/A03) and a public further lesser redacted version (F01323/A01) were filed, respectively, on 15 February 2023 and 27 February 2023.

<sup>18</sup> See e.g. IA008/F00004, Court of Appeals Panel, *Decision on Kadri Veseli’s Appeal Against Decision on Review of Detention*, 1 October 2021, confidential, para. 21 (a public redacted version was issued on the same day, IA008/F00004/RED).

## 2. Necessity of Detention

15. With respect to the grounds for continued detention, Article 41(6)(b) sets out three alternative bases (risks) on which detention may be found to be necessary: (i) risk of flight; (ii) risk of obstruction of the proceedings; or (iii) risk of further commission of crimes.<sup>19</sup> Detention shall be maintained if there are articulable grounds to believe that one or more of these risks will materialise.<sup>20</sup> “Articulable” in this context means specified in detail by reference to the relevant information or evidence.<sup>21</sup> In determining whether any of the grounds provided in Article 41(6)(b) exist, the standard to be applied is less than certainty, but more than a mere possibility of a risk materialising.<sup>22</sup>

### a) Risk of Flight

16. The SPO submits that Mr Krasniqi is aware of the scope of the case, including the charges against him and the evidence presented in relation to these charges.<sup>23</sup> The SPO argues that this, in combination with the possible imposition of lengthy prison sentence becoming more concrete with the expeditious progression of trial and the conclusion of the evidentiary proceedings, together with Mr Krasniqi’s means to travel, leads to a sufficiently real possibility that a risk of flight exists with respect to Mr Krasniqi.<sup>24</sup>

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<sup>19</sup> Cf. ECtHR, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, [Judgment](#), 5 July 2016 (“*Buzadji v. the Republic of Moldova* [GC]”), para. 88; ECtHR, *Zohlandt v. the Netherlands*, no. 69491/16, [Judgment](#), 9 February 2021, para. 50; ECtHR, *Grubnyk v. Ukraine*, no. 58444/15, [Judgment](#), 17 September 2020, para. 115; ECtHR, *Korban v. Ukraine*, no. 26744/16, [Judgment](#), 4 July 2019, para. 155.

<sup>20</sup> IA004/F00005, Court of Appeals Panel, *Decision on Hashim Thaçi’s Appeal Against Decision on Interim Release* (“First Appeals Decision on Thaçi’s Detention”), 30 April 2021, confidential, para. 19 (a public redacted version was issued on the same day, IA004/F00005/RED).

<sup>21</sup> Article 19.1.31 of the Kosovo Criminal Procedure Code 2022, Law No. 08/L-032 defines “articulable” as: “the party offering the information or evidence must specify in detail the information or evidence being relied upon”.

<sup>22</sup> First Appeals Decision on Thaçi’s Detention, para. 22.

<sup>23</sup> SPO Submissions, para. 13.

<sup>24</sup> SPO Submissions, para. 13.

17. The Krasniqi Defence argues that the SPO advances arguments that are substantially identical to those previously considered and rejected by the Panel. It further asserts that in any event, the alleged flights risk can be affectively mitigated through the imposition of appropriate conditions on release rendering continued detention unnecessary and disproportionate.<sup>25</sup>

18. The Panel notes, as noted also by the Krasniqi Defence,<sup>26</sup> that the SPO is putting forward substantially the same arguments that the Panel has already considered and rejected in relation to this issue.<sup>27</sup> In this regard, the Panel recalls the finding of the Court of Appeals Panel that the Pre-Trial Judge should not be expected to entertain submissions that merely repeat arguments that have already been addressed in previous decisions.<sup>28</sup> The Panel considers that this principle applies equally to the current stage of the proceedings.

19. In respect of the SPO's argument that the conclusion of the evidentiary proceedings is among the factors elevating Mr Krasniqi's risk of flight, the Panel recalls its previous findings that the closing of the SPO's and Victims' Counsel's cases does not mean that the possible imposition of a sentence against Mr Krasniqi becomes more concrete, as several procedural steps remain and Mr Krasniqi continues to enjoy the presumption of innocence.<sup>29</sup> Similarly, the Panel considers that the conclusion of the evidentiary proceedings does not affect the Accused's

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<sup>25</sup> Response, para. 12.

<sup>26</sup> Response, para. 12.

<sup>27</sup> Twenty-Third Detention Decision, paras 13-14. *See also* F03005, Panel, *Decision on Periodic Review of Detention of Jakup Krasniqi* ("Twentieth Detention Decision"), 13 March 2025, para. 13.

<sup>28</sup> KSC-BC-2020-04, IA003/F00005, Court of Appeals Panel, *Decision on Pjetër Shala's Appeal Against Decision on Review of Detention* ("Shala Appeal Decision"), 11 February 2022, para. 18, holding that a panel may refer to findings in prior decisions if it is satisfied that the evidence or information underpinning those decisions still supports the findings made at the time of the review.

<sup>29</sup> F03484, Panel, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 18 September 2025, para. 22; F03176, Panel, *Consolidated Decision on Krasniqi Defence Request for Provisional Release and on Periodic Review of Detention of Jakup Krasniqi* ("Twenty-First Detention Decision"), 13 May 2025, confidential, para. 28 (a corrected version was filed on 14 May 2025, F03176/COR; a further corrected version and a public redacted version of the further corrected version were filed on 11 June 2025, F03176/COR2 and F03176/COR2/RED, respectively).

enjoyment of the presumption of innocence, and, in itself, does not make the possible imposition of a sentence against Mr Krasniqi more concrete.

20. In light of the above, the Panel has not found any additional factor sufficiently compelling to affect the previous finding regarding the risk of flight.

21. The Panel therefore finds that, while the risk of flight can never be completely ruled out, Mr Krasniqi's continued detention may not be justified at this time on the ground of the risk of flight pursuant to Article 41(6)(b)(i).

b) Risk of Obstructing the Progress of SC Proceedings

22. With reference to previous findings by the Panel, the SPO submits that Mr Krasniqi continues to present a risk of obstructing the proceedings.<sup>30</sup> The SPO ascertain that 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.<sup>31</sup> To support this, the SPO refers to the Panel's previous finding, confirmed by the Court of Appeals Panel, that the risk of interference also includes: (i) any attempt to retaliate against witnesses who have testified in these proceedings; (ii) attempts to incentivise a witness to recant; and (iii) attempts to interfere with witnesses in parallel proceedings.<sup>32</sup>

23. Furthermore, the SPO avers that there continues to be a climate of witness intimidation and interference, referring to findings made in various SC cases,<sup>33</sup>

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<sup>30</sup> SPO Submissions, paras 14-17.

<sup>31</sup> SPO Submissions, para. 14.

<sup>32</sup> SPO Submissions, para. 14, referring to Twenty-Third Detention Decision, para. 19; IA035/F00005, Court of Appeals Panel, *Decision on Jakup Krasniqi's Appeal Against Consolidated Decision on Request for Provisional Release and on Review of Detention* ("Appeals Decision of Twenty-First Detention Decision"), 13 August 2025, confidential, para. 46, footnote 129 (a public redacted version was issued on 14 August 2025, IA035/F00005).

<sup>33</sup> SPO Submissions, para. 16, referring to KSC-BC-2020-05, F00494/RED3/COR, Trial Panel I, *Further Redacted Version of Corrected Version of Public Redacted Version of Trial Judgment*, 16 December 2022, para. 57; KSC-CA-2022-01, F00114, Court of Appeals Panel, *Appeal Judgment*, 2 February 2023, para. 438;

which, as held by the Court of Appeals Panel's, is a relevant contextual consideration.<sup>34</sup>

24. The Krasniqi Defence responds that the SPO Submissions are an almost verbatim repetition of its earlier submissions concerning Mr Krasniqi, and rely on material that, at this stage, is more than five years old.<sup>35</sup> The Krasniqi Defence asserts that the Facebook post authored by Mr Krasniqi in 2020 does not constitute sufficient evidence to suggest that Mr Krasniqi would obstruct the proceedings, and that any public statements of Mr Krasniqi represent an exercise of his right to freedom of expression.<sup>36</sup> The Krasniqi Defence argues that the closure of evidentiary proceedings is a material and decisive change of circumstances, and the SPO can now only rely on the alleged risk of retaliation or pressuring a witness to recant.<sup>37</sup> The Krasniqi Defence adds that the opportunity for any such risk to manifest is substantially lower than in respect of witnesses who have yet to testify.<sup>38</sup> Lastly, the Krasniqi Defence argues that the only alleged risk which remains is a speculative concern relating to potential retaliation, which is substantively distinct from obstruction, and therefore any alleged risk of retaliation is not capable of obstructing the remaining progress of these proceedings.<sup>39</sup>

25. The Panel calls attention to the standard utilised in assessing the risks under Article 41(6)(b), which does not require a "concrete example" of a situation in which Mr Krasniqi has personally intimidated or harassed a witness.<sup>40</sup> Therefore,

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KSC-BC-2020-07, F00611/RED, Trial Panel II, *Public Redacted Version of the Trial Judgment*, 18 May 2022, para. 579; KSC-BC-2020-04, F00847/RED, Trial Panel I, *Public Redacted Version of Trial Judgment and Sentence*, 16 July 2024, paras 96-97.

<sup>34</sup> SPO Submissions, para. 16.

<sup>35</sup> Response, para. 13.

<sup>36</sup> Response, para. 13.

<sup>37</sup> Response, para. 14.

<sup>38</sup> Response, para. 15.

<sup>39</sup> Response, para. 17.

<sup>40</sup> See F01212, Panel, *Decision on Periodic Review of Detention of Jakup Krasniqi* ("Seventh Detention Decision"), para. 23, referring to IA003/F00005, Court of Appeals Panel, *Decision on Rexhep Selimi's Appeal*

as previously stated, and contrary to the Krasniqi Defence's submissions,<sup>41</sup> the fact that the SPO has not produced any evidence which suggests that Mr Krasniqi in fact sought to interfere with any witness, does not mean that a risk under Article 41(6)(b) cannot exist.<sup>42</sup> Importantly, this does not contradict the Panel's previous finding that it is adjudicating this matter against a background of information that a general climate of witness interference persists in Kosovo regarding this case and others before the SC.<sup>43</sup>

26. In relation to the Krasniqi Defence's argument that SPO's submissions are an almost verbatim repetition of its earlier submissions relying on material, which is more than five years old,<sup>44</sup> the Panel notes that each time, it conducts a *de novo* assessment of the risks under Article 41(6)(b).<sup>45</sup> In this respect, the Panel recalls that the Court of Appeals Panel held that "nothing prevents a trial panel from relying on a factor that it previously relied upon, regardless of when the evidence underpinning this factor 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".<sup>46</sup>

27. The Panel has already determined and reiterates that there is a risk of Mr Krasniqi obstructing SC proceedings based on, *inter alia*: (i) his position of influence which, combined with the willingness and ability to obtain access to confidential information inaccessible to the public, which allows for the reasonable conclusion that it is possible for Mr Krasniqi to secure access to confidential information related to matters to which he is currently connected; (ii) his public statements criticising the SC; and (iii) the content of a 24 April 2020

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*Against Decision on Interim Release* ("First Appeals Decision on Selimi's Detention"), 30 April 2021, confidential, para. 59 (a public redacted version was issued on the same day, IA003/F00005/RED).

<sup>41</sup> Response, para. 17.

<sup>42</sup> Twenty-Third Detention Decision, para. 17. *See also* Twenty-First Detention Decision, para. 42.

<sup>43</sup> *See* Twenty-Third Detention Decision, para. 17. *See also* Twenty-First Detention Decision, para. 42.

<sup>44</sup> Response, para. 13.

<sup>45</sup> Twenty-First Detention Decision, para. 49.

<sup>46</sup> Appeals Decision of Twenty-First Detention Decision, para. 28.

Facebook post targeting “collaborators”.<sup>47</sup> Furthermore, the Court of Appeals has confirmed that: (i) there are indications that Mr Krasniqi is, at least, predisposed to witness intimidation, for reasons earlier stated;<sup>48</sup> and (ii) in assessing whether there is a risk that Mr Krasniqi will obstruct the proceedings, if released, it was not unreasonable to take into account, among other factors, Mr Krasniqi’s public statements criticising the SC or the Facebook post of 24 April 2020.<sup>49</sup> As previously noted, the names and personal details of certain highly sensitive witnesses have been disclosed to the Krasniqi Defence,<sup>50</sup> and have therefore become known to a broader range of people, including to Mr Krasniqi. The Panel maintains its view that this, in turn, increases the risk of sensitive information pertaining to witnesses becoming known to members of the public.<sup>51</sup> In this context, regardless of the current stage of this case, the release of an accused with sensitive information in his possession would not be conducive to the effective protection of witnesses.<sup>52</sup> In this respect, the Panel recalls its previous finding, confirmed by the Court of Appeals Panel,<sup>53</sup> that the risk of interference also includes: (i) any attempt to retaliate against witnesses who have testified in these proceedings; (ii) attempts to incentivise a witness to recant; and (iii) attempts to interfere with witnesses in parallel proceedings<sup>54</sup> On the last point, the Panel recalls that proceedings

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<sup>47</sup> See e.g. F00801, Pre-Trial Judge, *Decision on Periodic Review of Detention of Jakup Krasniqi* (“Fourth Detention Decision”), 13 May 2022, confidential and *ex parte*, para. 48 (a confidential redacted version, and a public redacted version were issued on 13 and 24 May 2022, F00801/CONF/RED and, F00801/RED, respectively). See also Twenty-Third Detention Decision, para. 18.

<sup>48</sup> IA002/F00005, Court of Appeals Panel, *Decision on Jakup Krasniqi’s Appeal Against Decision on Interim Release* (“First Appeals Decision on Krasniqi’s Detention”), 30 April 2021, confidential, para. 62 (a public redacted version was issued on the same day, IA002/F00005/RED); IA006/F00005, Court of Appeals Panel, *Decision on Jakup Krasniqi’s Appeal Against Decision on Review of Detention* (“Second Appeals Decision on Krasniqi’s Detention”), 1 October 2021, confidential, para. 30 (a public redacted version was issued on the same day, IA006/F00005/RED).

<sup>49</sup> First Appeals Decision on Krasniqi’s Detention, para. 50; Appeals Decision of Twenty-First Detention Decision, para. 29; See also Protection of Legality Decision, paras 57-59.

<sup>50</sup> See Twenty-Third Detention Decision, para. 19.

<sup>51</sup> F02059, Panel, *Decision on Periodic Review of Detention of Jakup Krasniqi*, (“Thirteenth Detention Decision”), 15 January 2024, para. 25.

<sup>52</sup> See also Twenty-Third Detention Decision, para. 19

<sup>53</sup> Appeals Decision of Twenty-First Detention Decision, paras 31-34, 46, footnote 129.

<sup>54</sup> Twenty-Third Detention Decision, para. 19; Twenty-First Detention Decision, para. 41.

regarding allegations of interference in the present case are ongoing. The Panel notes the Krasniqi Defence's argument that the risk of recantation is now procedurally irrelevant,<sup>55</sup> that the only risk which remains is a "speculative" concern relating to potential retaliation,<sup>56</sup> and, in any event, any alleged risk of potential retaliation is substantively distinct from obstruction.<sup>57</sup> The Panel disagrees with these arguments and considers that, despite the closure of the evidentiary proceedings, there is still a risk of obstruction of the proceedings.

28. The Panel notes, as asserted by the Krasniqi Defence,<sup>58</sup> that the closure of evidentiary proceedings is a change of circumstances, which needs to be taken into account when assessing the risks under Article 41(6)(b).<sup>59</sup> In this respect, the Panel is of the view that, relative to the last detention review, the closure of the evidentiary proceedings reduces the risk of obstruction of Case 06 proceedings. Nonetheless, for the reasons specified above, the Panel is satisfied that a risk of obstruction of SC proceedings remains.

29. Accordingly, the Panel concludes that, taking all factors together, the risk that Mr Krasniqi will obstruct the progress of SC proceedings if released continues to exist.

#### c) Risk of Committing Further Crimes

30. With reference to the Panel's findings in the Twenty-Third Detention Decision, the SPO submits that Mr Krasniqi continues to present a risk of committing further crimes.<sup>60</sup> According to the SPO, the Panel's conclusion that the continuing disclosure of sensitive information presented an unacceptable risk of

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<sup>55</sup> Response, para. 14.

<sup>56</sup> Response, para. 17.

<sup>57</sup> Response, para. 17.

<sup>58</sup> Response, para. 14.

<sup>59</sup> Second Appeals Decision on Krasniqi's Detention, paras 14-17.

<sup>60</sup> SPO Submissions, paras 18-21.

the commission of further crimes applies even more forcefully given the conclusion of the evidentiary proceedings.<sup>61</sup> Furthermore, the SPO argues that the extremely serious nature of the charges against Mr Krasniqi needs to be taken into account.<sup>62</sup>

31. The Krasniqi Defence reiterates its reasoning for the lack of risk of obstructing the progress of the proceedings for the lack of a risk of committing further crimes.<sup>63</sup>

32. The Panel recalls its finding in the Twenty-Third Detention Decision that the risk of Mr Krasniqi committing further crimes continues to exist.<sup>64</sup> The Panel finds that the same considerations and factors that were taken into account in relation to the risk of obstruction are relevant to the analysis of the risk of Mr Krasniqi committing further crimes.<sup>65</sup> The Panel also refers to its finding in response to the Krasniqi Defence' arguments in relation to the lack of risk of obstructing the progress of the proceedings, which are equally applicable for the risk of committing further crimes.<sup>66</sup> In light of those, the Panel considers that no new circumstances have arisen since the last detention review that would justify a different finding in respect of this matter.

33. The Panel considers that, taking all factors together, there continues to be a risk that Mr Krasniqi will commit further crimes as set out in Article 41(6)(b)(iii).

### 3. Conclusion

34. The Panel concludes that, at this time, there continues to be insufficient information before it justifying a finding that Mr Krasniqi may abscond from justice. However, the Panel is satisfied, based on the relevant standard, that there

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<sup>61</sup> SPO Submissions, para. 21.

<sup>62</sup> SPO Submissions, para. 20.

<sup>63</sup> Response, para. 18.

<sup>64</sup> Twenty-Third Detention Decision, para. 35.

<sup>65</sup> 22-27. *See also* Twenty-Third Detention Decision, para. 34.

<sup>66</sup> *See above*, paras 21-27.

continues to be a risk that Mr Krasniqi will obstruct the progress of SC proceedings and a risk that he will commit further crimes against those perceived as being opposed to the Kosovo Liberation Army, including witnesses who provided evidence in the case and/or may be called in parallel proceedings.

35. The Panel will assess below whether these risks can be adequately addressed by any conditions for Mr Krasniqi's release.

#### B. MEASURES ALTERNATIVE TO DETENTION

36. The SPO submits, with reference to the Panel's previous findings, that: (i) the risks pursuant to Article 41(6)(b) can only be effectively managed at the SC detention facilities ("SC Detention Facilities"); (ii) nothing has occurred since the Twenty-Third Detention Decision warranting a different assessment on conditions, either generally or for a discrete period of time; and (iii) rather, the continuation of trial and attendant further disclosure make the underlying risks higher than ever.<sup>67</sup>

37. The Krasniqi Defence responds that Mr Krasniqi will abide by any conditions imposed by the Panel and is willing to offer undertakings, which would limit any risks to an acceptable level.<sup>68</sup>

38. When deciding on whether a person should be released or detained, the Panel must consider alternative measures to prevent the risks in Article 41(6)(b).<sup>69</sup> Article 41(12) sets out a number of options to be considered in order to ensure the

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<sup>67</sup> SPO Submissions, paras 22-26.

<sup>68</sup> Response, paras 1, 21.

<sup>69</sup> As regards the obligation to consider "alternative measures", see KSC-CC-PR-2017-01, F00004, Specialist Chamber of the Constitutional Court, *Judgment on the Referral of the Rules of Procedure and Evidence Adopted by Plenary on 17 March 2017 to the Specialist Chamber of the Constitutional Court Pursuant to Article 19(5) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office* ("SCCC 26 April 2017 Judgment"), 26 April 2017, para. 114. See also ECtHR, *Buzadji v. the Republic of Moldova* [GC], para. 87 *in fine*; ECtHR, *Idalov v. Russia* [GC], no. 5826/03, *Judgment*, 22 May 2012 ("*Idalov v. Russia* [GC]"), para. 140 *in fine*.

accused's presence at trial, to prevent reoffending or to ensure successful conduct of proceedings. In this respect, the Panel recalls that detention should only be continued if there are no alternative, more lenient measures reasonably available that could sufficiently mitigate the risks set out in Article 41(6)(b).<sup>70</sup> The Panel must therefore consider all reasonable alternative measures that could be imposed and not only those raised by the Krasniqi Defence or the SPO.<sup>71</sup>

39. Regarding the risk of obstructing the progress of SC proceedings and commission of further crimes, the Panel maintains its view that none of the previously proposed conditions, nor any additional measures foreseen in Article 41(12), ordered *proprio motu*, could at this stage in the proceedings sufficiently, and to a degree comparable to that of detention at the SC Detention Facilities, mitigate the existing risks with respect to Mr Krasniqi.<sup>72</sup> Furthermore, the Panel reiterates that the measures in place at the SC Detention Facilities, and the staff of the Registrar, viewed as a whole, provide robust assurances against the risks associated with 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.<sup>73</sup> Moreover, they offer a controlled environment where a potential breach of confidentiality could be more easily identified and/or prevented.<sup>74</sup>

40. The Panel further maintains its view that it is only through the communication monitoring framework applicable at the SC Detention Facilities

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<sup>70</sup> SCCC 26 April 2017 Judgment, para. 114; KSC-CC-PR-2020-09, F00006, Specialist Chamber of the Constitutional Court, *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, para. 70. See also ECtHR, *Idalov v. Russia [GC]*, para. 140 *in fine*.

<sup>71</sup> First Appeals Decision on Selimi's Detention, para. 86; KSC-BC-2020-05, F00127, Trial Panel I, *Fourth Decision on Review of Detention*, 25 May 2021, para. 24.

<sup>72</sup> Twenty-First Detention Decision, paras 56-64.

<sup>73</sup> Twenty-First Detention Decision, para. 61.

<sup>74</sup> Twenty-First Detention Decision, para. 61.

that Mr Krasniqi's communications can be restricted in a manner that would sufficiently mitigate the risks of obstruction and commission of further crimes.<sup>75</sup>

41. In light of the foregoing, the Panel finds that the risks of obstructing the proceedings and committing further offences can only be effectively managed at this stage of the proceedings if Mr Krasniqi remains at the SC Detention Facilities. In these circumstances, the Panel finds that there are no alternatives to Mr Krasniqi's continued detention capable of adequately averting the risks in Article 41(6)(b)(ii) and (iii).

### C. REASONABLENESS OF DETENTION

42. The SPO argues that, taking all factors into consideration, Mr Krasniqi's detention remains proportional.<sup>76</sup> To that end, the SPO refers to the Panel's previous findings that: (i) Mr Krasniqi is charged with ten counts of serious international crimes in which he is alleged to play a significant role; (ii) if convicted, he could face a lengthy sentence; (iii) the continuing risks under Article 41(6)(b)(ii)-(iii) cannot be sufficiently mitigated by the application of reasonable alternative measures; (iv) the case against Mr Krasniqi is complex; (v) a climate of witness intimidation exists as outlined above; and (vi) the trial is ongoing.<sup>77</sup>

43. The Krasniqi Defence responds that Mr Krasniqi's continued detention is no longer proportionate.<sup>78</sup> Specifically, the Krasniqi Defence argues that the determination of the reasonableness of the continued detention must be assessed by weighing various considerations.<sup>79</sup> In this respect, the Krasniqi Defence contends that, while the seriousness of the charges, and the potential sentence are

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<sup>75</sup> Twenty-First Detention Decision, para. 63.

<sup>76</sup> SPO Submissions, paras 27-29.

<sup>77</sup> SPO Submissions, para. 28.

<sup>78</sup> Response, para. 20.

<sup>79</sup> Response, para. 20.

relevant considerations, they cannot justify prolonged detention; nor can the complexity of the case or the fact that the trial is ongoing outweigh the substantial period that Mr Krasniqi has now spent in detention.<sup>80</sup>

44. The Panel is cognisant that the duration of time in detention is a factor that needs to be considered, along with the degree of the risks described in Article 41(6)(b), in order to determine whether, all factors being considered, the continued detention “stops being reasonable” and the individual needs to be released.<sup>81</sup> The Panel notes that, as discussed above, the close of the evidentiary proceedings is a factor that reduces the risk of obstruction and reoffending, but, nonetheless, consider that these risks remain significant and recalls and reiterates that: (i) Mr Krasniqi is charged with ten counts of serious international crimes in which he is alleged to play a significant role;<sup>82</sup> (ii) if convicted, Mr Krasniqi could face a lengthy sentence; (iii) the continuing risks under Article 41(6)(b)(ii) and (iii) cannot be sufficiently mitigated by the application of reasonable alternative measures;<sup>83</sup> (iv) the case against Mr Krasniqi is complex;<sup>84</sup> (v) the climate of witness intimidation outlined above; and (vi) the fact that the trial is ongoing.

45. In light of the above, the Panel finds that Mr Krasniqi’s detention for a further two months is necessary and reasonable in the specific circumstances of the case.

46. The Panel acknowledges that Mr Krasniqi has already been in detention for a significant period of time, and that the trial in this case is lengthy. As the Panel previously indicated,<sup>85</sup> this will require the Panel as well as all Parties to be

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<sup>80</sup> Response, para. 20.

<sup>81</sup> Seventh Detention Decision, para. 43, referring to First Appeals Decision on Krasniqi’s Detention, para. 69.

<sup>82</sup> Confirmed Indictment, paras 10-12, 32, 39-40, 44, 49, 53, 55-57, 176-177.

<sup>83</sup> See above, paras 39-41.

<sup>84</sup> See e.g. F00978, Pre-Trial Judge, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 19 September 2022, confidential, para. 58 (a public redacted version was issued on 23 September 2022, F00978/RED); Fourth Detention Decision, para. 81; Sixth Detention Decision, para. 59.

<sup>85</sup> See e.g. F02313, Panel, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 15 May 2024, para. 40; Twenty- Third Detention Decision, para. 36.

particularly mindful of the need to ensure that the trial proceeds as expeditiously as possible. The Panel will continue to monitor at every stage in these proceedings whether continued detention is necessary and reasonable.

V. DISPOSITION

47. For the above-mentioned reasons, the Panel hereby:

- a) **ORDERS** Mr Krasniqi's continued detention; and
- b) **ORDERS** the SPO to file submissions on the next review of Mr Krasniqi's detention by no later **Thursday, 19 February 2026 (at 16:00 hours)**, with subsequent written submissions following the timelines set out in Rule 76.



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**Judge Charles L. Smith, III**  
**Presiding Judge**

Dated this Friday, 16 January 2026  
At The Hague, the Netherlands.