

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

Before: **Single Trial Judge**
Judge Christopher Gosnell

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Fadil Fazliu

Date: 23 March 2026

Language: English

Classification: Public

**Fazliu Defence Rule 68(2) Request for Remote Attendance
with Confidential Annex 1**

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I. INTRODUCTION

1. The Defence for Mr. Fadil Fazliu ('Defence') hereby respectfully requests the Single Trial Judge ('STJ') to authorise Mr. Fazliu to attend the presentation of Defence evidence remotely via video-conference pursuant to Rule 68(2) of the Rules and the STJ's order.¹

II. PROCEDURAL HISTORY

2. On 28 December 2024, Mr. Fazliu made his initial appearance before the Specialist Chambers ('SC').²
3. On 22 December 2025, in his Decision on the Conduct of Proceedings, the STJ instructed that an accused at liberty must apply, if he so wishes, for authorisation to attend the hearing by video-conference no later than four weeks prior to the commencement of the evidence block.³
4. On 3 February 2026, the STJ ordered Mr. Fazliu's release and rejected the Defence's request for permission of remote attendance of the opening statements and the presentation of evidence by the Specialist Prosecutor's Office ('SPO').⁴
5. Pursuant to the STJ's order, Mr. Fazliu travelled from Kosovo to the Netherlands and arranged his accommodations, both at his own costs, to physically attend the hearings scheduled between 27 February and 6 March 2026.

¹ KSC-BC-2023-12, F00642, Decision on the Conduct of the Proceedings, 22 December 2025, public, para. 43.

² KSC-BC-2023-12, Transcript of hearing on 8 December 2024, pp. 45-69.

³ KSC-BC-2023-12, F00642, Decision on the Conduct of the Proceedings, 22 December 2025, public, para. 43.

⁴ KSC-BC-2023-12, F00720, Seventh Decision on Review of Detention of Fadil Fazliu, 3 February 2026, Confidential & *Ex Parte*, para. 66. Public redacted version filed as F00720/RED on 10 February 2026.

6. On 13 March 2026, the STJ set 7 April 2026, which is less than four weeks from the time of the decision, as the date for the beginning of the next evidentiary block.⁵

III. APPLICABLE LAW

7. Pursuant to Rule 68(1), an Accused has the right to be tried in his presence.
8. Pursuant to Rule 68(2), after an Accused attended the initial appearance hearing, he may attend subsequent proceedings via video-conference upon authorisation by the Panel, provided that Specialist Counsel attends the hearing in person.

IV. SUBMISSIONS

9. As a preliminary matter, the Defence recognises that the present request is not filed 'no less than four weeks' in advance as instructed by the STJ. However, given that the scheduling did not settle until 13 March 2026, it would not have been possible for the Defence to fully comply with the STJ's instructions time-wise. The present request is made with good faith at the earliest opportunity. The Defence therefore respectfully requests that the STJ exercise his discretion conferred upon him by Rule 116 and Rule 9(5), and recognise the present request as compliant with the Decision on the Conduct of Proceedings, and consider the following arguments.
10. *First*, Mr. Fazliu's physical presence is not necessary for his full participation in the trial. The upcoming proceedings pertain to the presentation of evidence by the Defence teams. Given the lack of overlaps of the case against him and that against Messrs. Kilaj, Smakaj, and Kuçi, Mr. Fazliu can be kept abreast of the trial through remote attendance and contacts with the Specialist Counsel. Insofar as the evidence

⁵ KSC-BC-2023-12, F00790, Scheduling Order, 13 March 2026, public, para. 17(g).

directly relevant to himself is concerned, the Specialist Counsel has acquired sufficient instructions to proceed; the open communications between them further make Mr. Fazliu's presence in The Hague unnecessary. Against this backdrop, Mr. Fazliu confirmed the waiver of his right to be physically present.⁶

11. *Second*, Mr. Fazliu's physical presence is unnecessarily burdensome for him. Mr. Fazliu is 65-year-old retiree with no active income other than his pension.⁷ The airfare, accommodation, and local transportation in the Netherlands are beyond his means. Having paid for his appearance during the opening statements and the SPO's case, Mr. Fazliu is simply unable to afford the costs again. Further, there is no direct flight between Kosovo and the Netherlands. International travels between the two countries are lengthy and expensive. The logistical complexity and physical strains are disproportionately significant to the purpose served by his physical presence.
12. *Third*, Mr. Fazliu's physical presence is unnecessarily burdensome for the SC. As transpired following the preparation and management of hearings between 27 February and 5 March 2026, accommodating the defendants' physical presence on the SC premises involves a considerable amount of work for the officers of the SC, spanning from coordination with the Host State for entrance into the Dutch territories to the oversight of the defendants' segregation from the rest of the court. For instance, given the STJ's order prohibiting contacts between Messrs. Fazliu, Kilaj, Smakaj, and Kuçi outside the premises of the SC,⁸ the Defence teams and the SC officers must coordinate to ensure the defendants travel on four different planes. By authorising Mr. Fazliu's remote attendance, the strains on the SC's resources can be

⁶ Annex 1.

⁷ For Mr. Fazliu's financial situation, see KSC-BC-2023-12, F00623/A01, Annex 1 to 'Fazliu Reply to SPO Submissions on Review of Detention', 15 December 2025, confidential.

⁸ KSC-BC-2023-12, Transcript of hearing on 3 March 2026, p. 599, ln. 9-p. 600, ln. 13 (oral Order lifting certain conditions of Messrs Kilaj, Smakaj, Fazliu and Kuçi provisional release), public.

avoided at least insofar as Mr. Fazliu is concerned.

13. *Lastly*, Mr. Fazliu enjoys the right to private and family life.⁹ After spending over a year in detention in The Hague, it is a particularly high priority for Mr. Fazliu to be with his wife, his children, and his grandchildren. Remote attendance via video-link is the most practical option to avoid undue interruption of his family life.

V. RELIEF SOUGHT

14. In light of the above, the Defence respectfully requests that the STJ authorises Mr. Fadil Fazliu's remote attendance of the proceedings scheduled to commence on 7 April 2026 via video-conference.

Word count: 964 words

Respectfully submitted,

A handwritten signature in black ink that reads "David A. Young". The signature is written in a cursive, flowing style.

David A. Young

Specialist Counsel for Fadil Fazliu

23 March 2026

The Hague, the Netherlands

⁹ See, e.g., European Convention of Human Rights, Article 8.