



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

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

Before: Single Trial Judge
Judge Christopher Gosnell

Registrar: Fidelma Donlon

Date: 14 April 2026

Language: English

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Public Redacted Version of Decision on the Fazliu Defence Request for Variation of a Release Condition

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THE SINGLE TRIAL JUDGE, pursuant to Article 41(12) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rules 56(2), (5) and (6) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers,¹ hereby issues this decision.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 3 February 2026, the Single Trial Judge ordered the provisional release of Fadil Fazliu ("Mr Fazliu") in Kosovo, imposing the following condition in relation to contact with his son, Fahri Fazliu ("Contact Restriction"):

Mr Fazliu shall refrain from any contact, direct or indirect Fahri Fazliu, except [REDACTED]; any physical contacts or in-person communication between Mr Fazliu and Fahri Fazliu whatsoever are prohibited for the duration of trial proceedings.²

2. On 5 March 2026, the Single Trial Judge denied a first request by the Defence for Fadil Fazliu ("Fazliu Defence") to rescind the Contact Restriction, ruling that:

[T]he reasons set out in decision 720, paragraph 62, continue to apply for now, notwithstanding [REDACTED]. I note that there are reasons other than the potential for Mr. Fahri Fazliu being called as a witness that substantiated the condition imposed.

While the Court is concerned with the burden that this imposes on Mr. Fazliu's exercise of his rights to family life, I note that this burden is significantly mitigated by [REDACTED], and that this restriction is not expected to continue for a long period.

In that regard, this ruling is without prejudice to Mr. Fazliu bringing a further application as the case progresses to a point where the concerns set out in decision 720 are further reduced or eliminated.³

¹ All references to "Article" and "Rule" shall be understood, unless otherwise indicated, as referring to the Law and Rules, respectively.

² KSC-BC-2023-12, F00720, Single Trial Judge, *Seventh Decision on Review of Detention of Fadil Fazliu* ("Provisional Release Decision"), 3 February 2026, confidential & *ex parte*, para. 63(f); a public redacted version was filed on 10 February 2026, [F00720/RED](#).

³ KSC-BC-2023-12, Transcript of Hearing ("Oral Order"), 5 March 2026, p. 737, line 11 to p. 738, line 5 confidential.

3. On 30 March 2026, the Fazliu Defence submitted a second request to rescind or vary the Contact Restriction.⁴ The Fazliu Defence argues that “[a]fter 15 months, the court proceedings have progressed to a point where such restriction can no longer be justified and must be lifted.”⁵ The Defence notes, in particular, that [REDACTED], which was one of the possibilities upon which the Contact Restriction was previously justified.⁶ Furthermore, none of the five witnesses who have been listed by the Defence for Isni Kilaj (“Kilaj Defence”) and the Defence for Hashim Thaçi (“Thaci Defence”) are of any particular interest to Mr Fazliu nor subject to [REDACTED], and that their testimony has already been tendered in written form.⁷ Similarly, “all remaining evidentiary materials were documentary in nature and already filed” in the case record.⁸ Therefore, according to the Fazliu Defence, Mr Fazliu and Fahri Fazliu “would have neither the incentive nor the opportunity to obstruct the defence presentation of evidence.”⁹

4. In the alternative, the Fazliu Defence requests “the removal of at least the prohibition of physical contact” and to permit Mr Fazliu to meet with his son “at a designated location under passive monitoring on par with that imposed on their telecommunications.”¹⁰

5. On 7 April 2026, the SPO responded, objecting to the Request and arguing that the Contact Restriction should remain in place until “at least the close of evidence (pursuant to Rule 136).”¹¹ The SPO argues that the Request is premature, noting that “[t]here have been no meaningful changes which

⁴ KSC-BC-2023-12, F00829, Fazliu Defence, *Fazliu Defence Request for Variation of a Release Condition* (“Request”), 30 March 2026, confidential.

⁵ Request, para. 10.

⁶ Request, para. 11.

⁷ Request, para. 12.

⁸ Request, para. 12.

⁹ Request, para. 12.

¹⁰ Request, para. 13.

¹¹ KSC-BC-2023-12, F00845, Specialist Prosecutor, *Prosecution Response to “Fazliu Defence Request for Variation of a Release Condition”* (“Response”), 7 April 2026, confidential, paras 1 and 5.

undermine” the Contact Restriction set out in the Provisional Release Decision.¹² The SPO also submits that the fact that [REDACTED] does not negate the Single Trial Judge’s prior reasoning.¹³ In addition, the SPO argues that the Defence’s assertion that the Fazliu family has no connection to, or interest in, witnesses being called by the other Defence teams “carries little weight in a context where the allegations in this case pertain to them having provided unlawful assistance to an accused in a case to which they were not even a party.”¹⁴ According to the SPO, while witness and evidence lists have been filed, the briefing of evidentiary motions – including relating to the manner and mode of potential testimony – is ongoing, and therefore the claimed lack of incentive or opportunity to interfere is premature.¹⁵ The SPO also submits that “the anticipated brevity of the [Contact] Restriction was demonstrated by the expeditious conduct of this case, which militated in favour of maintaining the condition until the close of the hearing of all evidence.”¹⁶ In addition, Mr Fazliu would still be able to have physical contact with other family members who were not alleged co-perpetrators in this case.¹⁷

II. APPLICABLE LAW

6. Article 41(12) and Rule 56(2), (5) and (6) authorise the imposition and variation of conditions upon a person provisionally released pending the determination of charges against them.¹⁸

¹² Response, paras 1 and 4.

¹³ Response, para. 4.

¹⁴ Response, para. 4.

¹⁵ Response, para. 4.

¹⁶ Response, para. 5.

¹⁷ Response, para. 5.

¹⁸ See KSC-BC-2023-12, F00760/RED, Single Judge, [Public Redacted Version of Decision on Application for Temporary Variation of Conditions for Release](#), 18 September 2024, public, para. 28 (“the Law and the Rules, including Rule 56(2) of the Rules [...] empower a Panel to establish conditions deemed appropriate to mitigate the risks outlined in Article 41(6)(b) of the Law. By the same token, the Panel is vested with the discretionary power to vary said conditions.”)

III. DISCUSSION

7. The Single Trial Judge recalls that the justification for the Contact Restriction was the risk that “Mr Fazliu could easily, inadvertently or intentionally, influence his son who might, in turn contact other potential Defence witnesses.”¹⁹ This concern was substantiated by Fahri Fazliu’s status as an “uncharged alleged co-perpetrator”, who purportedly “acted on his father’s behalf to make improper contact with SC witnesses.”²⁰

8. Several procedural developments have now substantially reduced, if not eliminated, the possibility that Fahri Fazliu would attempt to influence any potential Defence witnesses in this case. First, the Fazliu Defence has notified its intention not to call a Defence case.²¹ Second, the Defence for Bashkim Smakaj (“Smakaj Defence”) and the Defence for Hajredin Kuçi (“Kuçi Defence”) have indicated that they will be calling no evidence,²² and the Kilaj Defence and Thaçi Defence have listed the evidence that they intend to present, including the written testimony of five witnesses.²³ The written testimony of four of those witnesses was subsequently admitted into evidence²⁴ and the [REDACTED].²⁵ Additional evidence tendered by the Thaçi Defence and the Kilaj Defence under

¹⁹ [Provisional Release Decision](#), para. 62.

²⁰ [Provisional Release Decision](#), para. 62.

²¹ KSC-BC-2023-12, F00823, Fazliu Defence, *Fazliu Defence Rule 119 Notice*, 27 March 2026, public.

²² KSC-BC-2023-12, F00828, Smakaj Defence, *Bashkim Smakaj Defence Notice Pursuant to Rule 119(1)*, 27 March 2026; F00830, Kuçi Defence, *Kuçi Defence Rule 119 Notice*, 30 March 2026, public.

²³ KSC-BC-2023-12, F00819, Kilaj Defence, *Kilaj Defence Notice Pursuant to Rule 119(1) and Submission of List of Witnesses and List of Exhibits Pursuant to Rule 119(2)*, 27 March 2026, public, with Annex 1, public, and Annex 2, confidential; F00827, Thaçi Defence, *Thaçi Defence Notice and Submissions of Witness and Exhibits Lists pursuant to Rule 119*, 27 March 2026, public, with Annexes 1-2, confidential.

²⁴ KSC-BC-2023-12, F00853, Single Trial Judge, *Decision on the Kilaj Defence Motion for Admission of Statements of Four Character Witnesses Pursuant to Rule 153*, 10 April 2026, public.

²⁵ KSC-BC-2023-12, F00822, Thaçi Defence, *Thaçi Defence Request for Admission of Evidence of Witness DHT-01 pursuant to Rule 153*, 27 March 2026, confidential, with Annex 1, confidential.

Rule 138 is, likewise, not likely to be subject to any further tampering or influence given its nature.²⁶ [REDACTED].

9. In these circumstances, the Single Trial Judge considers that the reasons underpinning the Contact Restriction no longer exist. The potential of any Defence evidence being influenced through improper coordination between Mr Fazliu and his son is *de minimis*. Furthermore, the possibility of any such improper influence on evidence that might be presented through re-opening or rebuttal is speculative and remote. In addition, and considering the [REDACTED], there is no articulable incentive for retaliation following the closure of the Defence case. Any residual risks as could potentially exist are, in these circumstances, now substantially outweighed by Mr Fazliu's right to family life.

10. Accordingly, the Single Judge rescinds the Contact Restriction set out in paragraph 63(f) of the Provisional Release Decision with immediate effect and [REDACTED]. Mr Fazliu shall permit [REDACTED]. All remaining conditions set out in the Provisional Release Decision, as amended in filing F00801,²⁷ remain in effect.

IV. DISPOSITION

11. For the above-mentioned reasons, the Single Trial Judge:

- a. **GRANTS** the Request;
- b. **RESCINDS** the Contact Restriction set out in paragraph 63(f) of the Provisional Release Decision;

²⁶ See KSC-BC-2023-12, F00837, Kilaj Defence, *Kilaj Defence Motion for the Admission of Non-Testimonial Evidence*, 2 April 2026, confidential; F00839, Thaçi Defence, *Thaçi Defence Request for Admission of Documents through the Bar Table*, 2 April 2026, confidential, with Annex 1, confidential; F00840, Thaçi Defence, *Thaçi Defence Motion pursuant to Rule 149 and Associated Requests*, 2 April 2026, confidential.

²⁷ KSC-BC-2023-12, F00801, Single Trial Judge, *Reasons for the Oral Order on Variation of Conditions of Provisional Release and Additional Variation in Respect of Participation in Proceedings by Video-Conference*, 19 March 2026, public.

- c. [REDACTED];
- d. **INSTRUCTS** the Fazliu Defence to file a public redacted version of the Request (filing F00829) by Friday, 17 April 2026;
- e. **AUTHORISES** Mr Fazliu and/or members of his designated Defence team to communicate the content of this decision to Fahri Fazliu; and
- f. [REDACTED].



Judge Christopher Gosnell
Single Trial Judge

Dated this Tuesday, 14 April 2026

At The Hague, the Netherlands.