

In: KSC-BC-2020-06
Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: Trial Panel II
Judge Charles L. Smith III, Presiding
Judge Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr. Fidelma Donlon

Filing Participant: Defence Counsel for Jakup Krasniqi

Date: 04 May 2026

Language: English

Classification: Public

**Public Redacted Version of 'Krasniqi Defence Response to
'Prosecution Submission Pertaining to Periodic Detention Review of Jakup
Krasniqi (F03724)' '**

Specialist Prosecutor's Office

Kimberly P. West

Counsel for Victims

Simon Laws KC

Counsel for Hashim Thaçi

Luka Mišetić

Counsel for Kadri Veseli

Rodney Dixon KC

Counsel for Rexhep Selimi

Geoffrey Roberts

Counsel for Jakup Krasniqi

Venkateswari Alagenda

I. INTRODUCTION

1. The Defence for Jakup Krasniqi (“Defence”) hereby responds to the Specialist Prosecutor’s (“Prosecution”) submissions supporting Jakup Krasniqi’s ongoing detention.¹ The Defence submits that, at this advanced stage of the proceedings, Mr. Krasniqi’s continued detention can no longer be justified. The evidentiary phase has been formally closed, closing submissions have been completed, and the case only now awaits judgement. This procedural position fundamentally alters the legal and factual basis for making any assessment under Article 41(6)(b) of the Law² and Rule 56(2)³.

2. Despite that decisive change in circumstances, the Prosecution continues to rely on the same arguments it has advanced repeatedly for over five years. In particular, it again invokes a Facebook post from April 2020 and general references to alleged support networks.⁴ These identical submissions have now been presented in substance on more than twenty occasions, without any new factual development or intervening conduct attributable to Mr. Krasniqi.

3. Such reliance on stale and repeatedly unsubstantiated material cannot meet the Prosecution’s burden at this stage of proceedings. Detention review is inherently dynamic and forward looking. It requires an assessment of present, concrete and individualised risk, not the mechanical repetition of historical allegations that have never materialised into any form of obstruction or misconduct over more than five years of proceedings.

¹ F03724, Specialist Prosecutor, *Prosecution Submission pertaining to periodic detention review of Jakup Krasniqi* (“Prosecution Submission”), 23 April 2026, public.

² Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”).

³ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”).

⁴ See Prosecution Submission, paras 12 and 15.

4. This submission is filed confidentially pursuant to Rule 82(3) because it refers to a filing that has been currently classified as confidential.

II. PROCEDURAL HISTORY

5. The procedural background concerning the periodic review of the detention of Jakup Krasniqi has been set out extensively in previous decisions concerning the same issue.⁵

6. On 3 April 2023, the trial commenced.⁶ On 15 April 2025, the Prosecution closed its case.⁷

7. On 15 September 2025, the Defence case commenced.⁸ On 2 December 2025, the Defence closed its case.⁹

8. On 19 December 2025, the Panel closed the evidentiary proceedings.¹⁰

9. The closing arguments commenced on 9 February 2026 and concluded on 18 February 2026.

⁵ F03698, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi* ("March Decision"), 16 March 2026, confidential, para. 1.

⁶ Transcript (Opening Statements), 3 April 2023.

⁷ F03121, Specialist Prosecutor, *Prosecution notice pursuant to Rule 129*, 15 April 2025, public.

⁸ Transcript of Hearing, 15 September 2025, pp.26475-26478.

⁹ F03609, Thaçi Defence, *Thaçi Defence Notice pursuant to Rule 131*, 2 December 2025, public; F03611, Krasniqi Defence, *Krasniqi Defence Notice of the Closure of Its Case Pursuant to Rule 131*, 2 December 2025, public.

¹⁰ F03639, Trial Panel II, *Notice Regarding the Close of Evidentiary Proceedings*, 18 December 2025, public.

10. On 23 April 2026, the Prosecution filed its submission pertaining to Mr. Krasniqi's periodic detention review, in which it requests the Panel to maintain his detention.¹¹

III. SUBMISSIONS

A. The SPO's Recycled Arguments Cannot Justify Continued Detention

11. The Prosecution has failed to identify any new case-specific facts capable of demonstrating that Mr. Krasniqi currently poses a risk under Article 41(6)(b) of the Law. Instead, it relies on arguments that are now over five years old, and which have been consistently invoked and remained consistently unsubstantiated, throughout the entirety of these proceedings.¹² Without any information and evidence specified in detail and by reference,¹³ the articulable grounds justifying continued detention cannot be established as required by Article 41(6)(b) of the Law.

12. The repeated reliance on the same 2020 Facebook post is particularly telling.¹⁴ This material is temporally remote and cannot, in itself, establish any present risk. Crucially, over more than five years of detention and trial proceedings since that post was made, no instance of interference, obstruction, or misconduct has been alleged or established against Mr. Krasniqi. The Prosecution's implicit prediction that such a statement would translate into obstructive conduct has therefore been conclusively disproven by the subsequent course of events. In these circumstances, a single

¹¹ Prosecution Submission.

¹² *See also*, Prosecution Submission at para. 12, where the Prosecution contrary to the March Decision (*see paras 19-21*), maintains that the same grounds which have been previously rejected by the Panel elevate Mr. Krasniqi's risk of flight.

¹³ *See* March Decision, para. 16, referring to Article 19.1.31 of the Kosovo Criminal Procedure Code 2022, Law No. 08/L-032, which defines "articulable" as: "the party offering the information or evidence must specify in detail the information or evidence being relied upon".

¹⁴ Prosecution Submission, para. 15.

statement made years prior, unaccompanied by any subsequent conduct, cannot constitute a concrete and current indicator of risk under Article 41(6)(b).

13. The Defence further emphasises that Mr. Krasniqi's conduct throughout more than five and a half years of detention and trial proceedings provides the most reliable indicator of any future risk. It has been exemplary. During this entire period, no instance of interference, obstruction, or misconduct has been alleged or established against him. He has fully complied with all procedural requirements and has participated in the proceedings without incident. In these circumstances, the Prosecution's reliance on speculative future risks is untenable. Mr. Krasniqi's demonstrated record of compliance **decisively undermines any assertion that he presently poses a real and concrete risk** under Article 41(6)(b).

14. Further, the suggestion that the Accused's knowledge of the case against him creates a heightened risk is fundamentally misconceived. The very purpose of disclosure and trial proceedings is to ensure that an accused is fully informed of the evidence relied upon by the prosecution and to enable him to properly exercise his fair trial rights. Every accused person in every criminal trial necessarily acquires detailed knowledge of the case through that process. That is neither exceptional nor improper. Indeed, to deny the accused such knowledge would itself constitute a serious violation of fair trial rights. Absent concrete evidence, the SPO cannot transform this ordinary consequence of due process to justify continued detention. If mere familiarity with the evidence or witnesses were sufficient to establish risk, interim release would effectively not be available in every criminal trial.

15. The Panel should not continue to rely on speculative and predictive assertions that have been repeated for years yet have never materialised. Preventive detention must remain exceptional, necessary, and grounded in demonstrable facts, not

conjecture. To maintain detention on that basis would transform the preventive detention into a *de facto* punitive measure imposed on the basis of speculation rather than proven necessity, contrary to the fundamental principles governing deprivation of liberty and the presumption of innocence.¹⁵

16. The Defence further emphasises that the assessment under Article 41(6)(b) must be strictly individualised. It is not sufficient for the Prosecution to rely on general assertions concerning alleged support networks, the broader political environment, or the status of the Accused. Rather, it must demonstrate, through concrete and case-specific facts, that *this Accused*, Mr. Krasniqi, currently poses a real and identifiable risk. The Prosecution has failed to do so. Its submissions are not linked to any specific conduct attributable to Mr. Krasniqi but instead rely on broad and undifferentiated assertions. In the absence of such individualised evidence, the continued deprivation of liberty cannot be justified under Article 41(6)(b).

17. The Defence further emphasises that the assessment under Article 41(6)(b) must not be based on group-based or status-based assumptions but must be grounded in individualised evidence relating specifically to Mr. Krasniqi. In a multi-accused case, it is insufficient to rely on general references to alleged networks, the broader political environment, or the prominence of the Accused. Such factors, even if accepted, do not establish that *this Accused* poses a real and identifiable risk. The Prosecution must demonstrate risk through specific conduct attributable to Mr. Krasniqi himself, which it has failed to do.

¹⁵ See, European Convention on Human Rights, Articles 5 and 6(2); International Covenant on Civil and Political Rights, Articles 9(3) and 14(2); Article 21(3) of the Law.

B. The Closure of Proceedings Decisively Reduces Any Possible Risk

18. The closure of the evidentiary proceedings and completion of closing arguments constitute a material and decisive change in circumstances.¹⁶ The evidentiary record is now closed. There are no remaining witnesses to be heard, no evidence to be tested, and the parties have completed their final submissions. There are no remaining witnesses capable of being influenced, no pending evidence susceptible to interference and no investigative steps left that could be influenced or obstructed by Mr. Krasniqi.

19. In these circumstances, the very foundation of the Prosecution's obstruction arguments falls away. Any theoretical risk is now, at most, residual, abstract and capable of being fully mitigated through appropriate conditions. It cannot meet the threshold of a real and concrete risk required to justify continued detention under Article 41(6)(b).

20. Moreover, any hypothetical attempt at interference would be significantly more detectable and legally inconsequential at this stage. The Prosecution's failure to adjust its submissions to this new procedural reality underscores the absence of any genuine, current risk. Its arguments are outdated and disconnected from the present posture of the case.

21. The Defence notes the recent submission [REDACTED].¹⁷ Nothing in [REDACTED] submission identifies any conduct on the part of Mr. Krasniqi, his family or anyone connected with Mr. Krasniqi which has led to any increased risk of

¹⁶ F03660, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 16 January 2026, para. 28; KSC-BC-2023-12, F00599, Single Trial Judge, *Public Redacted Version of Sixth Decision on Review of Detention of Isni Kilaj*, 3 December 2025, para. 47, with reference to KSC-BC-2023-12, F00273RED, Panel of the Court of Appeals Chamber, *Public Redacted Version of Decision on the Specialist Prosecutor's Office's Appeal Against Decision on Isni Kilaj's Review of Detention*, 13 May 2024, public, para. 22

¹⁷ [REDACTED].

harm to victims or witnesses. There is no evidential basis to conclude that Mr. Krasniqi's conditional release would lead to any increased harm to victims or witnesses. He should not be denied release based on a general climate which he has not contributed to and over which he has no control.

C. Mr. Krasniqi's Continued Detention Is Disproportionate

22. Mr. Krasniqi has now been detained for over five and a half years.¹⁸

23. At this stage, the length of detention is no longer a neutral factor but one that weighs heavily – and decisively against its continuation. The Prosecution's inability to point to any concrete, present risk is fatal to its position under Rule 56(2). As time passes, the burden to justify detention becomes increasingly stringent. That burden cannot be discharged by recycling arguments that have remained unchanged since 2020.

24. Considering (i) the complete absence of any demonstrated interference over five years, (ii) the closure of the proceedings, and (iii) the availability of strict conditions capable of addressing any residual concerns¹⁹, continued detention is no longer reasonable or proportionate.

¹⁸ Mr. Krasniqi was brought to the KSC's detention on 4 November 2020.

¹⁹ F03086/A03, Krasniqi Defence, *Annex 3 to Krasniqi Defence Request for Provisional Release with Confidential and Ex Parte Annexes 1 and 2 and Confidential Annex 3*, 4 April 2025, confidential.

IV. CONCLUSION

25. The present review concerns a limited period pending judgement in a case where the evidentiary record is closed and no further procedural activity remains. The Prosecution has failed to demonstrate any current, concrete and unmanageable risk. Its reliance on stale, repeatedly invoked arguments cannot justify the continued deprivation of liberty. In these circumstances, and particularly given the prolonged duration of detention, the Defence respectfully submits that Mr. Krasniqi's continued detention is no longer lawful or proportionate, and that provisional release subject to strict conditions is warranted.

Word count: 2000



Venkateswari Alagendra

Monday, 04 May 2026

Kuala Lumpur, Malaysia.



Aidan Ellis

Monday, 04 May 2026

London, United Kingdom.



Shyamala Alagendra Khan

Monday, 04 May 2026

The Hague, the Netherlands.



Victor Băieșu

Monday, 04 May 2026

The Hague, the Netherlands.