



SPECIALIST PROSECUTOR'S OFFICE  
ZYRA E PROKURORIT TË SPECIALIZUAR  
SPECIJALIZOVANO TUŽILAŠTVO

**In:** KSC-BC-2020-06  
**Before:** Pre-Trial Judge  
Judge Nicolas Guillou  
  
**Registrar:** Dr Fidelma Donlon  
**Filing Participant:** Specialist Prosecutor  
**Date:** 29 November 2021  
**Language:** English  
**Classification:** Public

---

**Public redacted version of**

**Prosecution response to Kosovo Police submissions on detention  
with public Annex 1**

---

**Specialist Prosecutor's Office**

Jack Smith

**Counsel for Victims**

Simon Laws

**Counsel for Hashim Thaçi**

Gregory Kehoe

**Counsel for Kadri Veseli**

Ben Emmerson

**Counsel for Rexhep Selimi**

David Young

**Counsel for Jakup Krasniqi**

Venkateswari Alagendra

## I. INTRODUCTION

1. The Kosovo Police's ('KP') submissions on conditional release<sup>1</sup> in response to the KP Submissions Order<sup>2</sup> do nothing to change the previous findings that conditional release is not effectively enforceable given the risks posed by Veseli, Selimi, and Krasniqi (collectively, 'Accused').<sup>3</sup>

2. The well-established climate of interference with the judicial process in Kosovo, comprehensively documented previously,<sup>4</sup> is not a historical relic. Allegations recently surfaced that the Kosovo Intelligence Agency had two agents pose as witnesses to give fabricated testimony linking former president Hashim Thaçi's political opponents to terrorist organisations.<sup>5</sup> The conduct of the leaders of the KLA War Veterans association, including statements by Faton Klinaku this summer<sup>6</sup> and the crimes alleged to have been committed in *Gucati and Haradinaj*, also clearly demonstrates that this climate persists. Witnesses do not need to be physically harmed to be intimidated; even the prospect of releasing the Accused in Kosovo creates fear and uncertainty amongst witnesses in this case.

---

<sup>1</sup> Answer to the Request number KSC-BC-2020-06, dated 13 October 2021, KSC-BC-2020-06/F00548/eng, 27 October 2021, Confidential (translation notified 3 November 2021) ('KP Response'). This filing is submitted pursuant to KSC-BC-2020-06/F00514, para.6. Noting that the Veseli Defence incorporated the KP Response into its submissions on the current review of Veseli's detention (Veseli Defence Reply to Prosecution Consolidated Response to October 2021 Defence Submissions on Detention Review, KSC-BC-2020-06/F00556, 1 November 2021, Confidential (with two annexes) ('Veseli Reply')), this filing also addresses the Veseli Reply to the extent it concerns the KP Response.

<sup>2</sup> Confidential Annex to Order to the Kosovo Police to Provide Information, KSC-BC-2020-06/F00513/A01, 8 October 2021, Confidential ('KP Submissions Order').

<sup>3</sup> Public Redacted Version of Decision on Review of Detention of Kadri Veseli, KSC-BC-2020-06/F00380/RED, 2 July 2021, paras 43-51; Public Redacted Version of Decision on Review of Detention of Rexhep Selimi, KSC-BC-2020-06/F00372/RED, 25 June 2021 (redacted version notified 30 June 2021), paras 55-63; Public Redacted Version of Decision on Review of Detention of Jakup Krasniqi, KSC-BC-2020-06/F00371/RED, 25 June 2021 (redacted version notified 30 June 2021), paras 46-53.

<sup>4</sup> Third Confidential Redacted Version of 'Request for arrest warrants and related orders', filing KSC-BC-2020-06/F00005 dated 28 May 2020, KSC-BC-2020-06/F00005/CONF/RED3, 17 June 2021 ('Arrest Warrant Application'), paras 10-26.

<sup>5</sup> Annex 1.12: <https://paparaci.live/2021/10/22/skandal-agjente-te-aki-se-deshmitare-te-rrejshe-permenden-thaci-veseli-kurti-e-konjufca/>.

<sup>6</sup> See Public Redacted Version of Prosecution response to Thaçi Defence Submissions on Detention Review, KSC-BC-2020-06/F00394/RED, 12 July 2021, para.7 (and citations therein).

3. Kadri Veseli is the former chair of the Kosovo Assembly and was the previous head of the KLA intelligence services and the Kosovo Intelligence Service ('SHIK'). He was one of the highest-ranking intelligence officials in Kosovo, and part of the functions of his intelligence services during the charged timeframe included identification and investigation of perceived opponents.<sup>7</sup> Rexhep Selimi is the former Minister of Public Order, meaning he was once in charge of a precursor to the KP with direct authority over those purporting to exercise police functions, many of whom subsequently transitioned to the KP. Jakup Krasniqi is the former Acting President of Kosovo and Deputy General Commander of the KLA. When asked by the Pre-Trial Judge whether the KP ever enforced conditions of interim release for persons in (previously) high-ranking positions accused of international crimes, they could not give a single example.<sup>8</sup> The Defence likewise remain unable to cite to an example of someone comparable to the Accused who had conditional release in Kosovo without incident.<sup>9</sup>

4. The conditions proposed are not sufficient and, even if they were, the KP cannot effectively enforce them. For the reasons previously advanced by the Specialist Prosecutor's Office ('SPO'),<sup>10</sup> the continued detention of Kadri Veseli, Rexhep Selimi and Jakup Krasniqi (collectively, 'Accused') remains necessary.<sup>11</sup>

---

<sup>7</sup> Public Redacted Version of 'Prosecution response to Application for Interim Release on behalf of Mr Kadri Veseli', KSC-BC-2020-06/F00161, 4 January 2021 (redacted version notified 15 January 2021), para.35 (and further citations therein).

<sup>8</sup> KP Response, KSC-BC-2020-06/F00548/eng, p.23.

<sup>9</sup> See Prosecution response to Krasniqi Defence Submissions on Detention Review, KSC-BC-2020-06/F00345, 10 June 2021, paras 16-18.

<sup>10</sup> Public redacted version of Prosecution consolidated response to October 2021 Defence Submissions on Detention Review, KSC-BC-2020-06/F00540/RED, 22 October 2021 (redacted version notified 2 November 2021) ('SPO Response').

<sup>11</sup> *Contra, inter alia*, Veseli Reply, KSC-BC-2020-06/F00556.

## II. SUBMISSIONS

5. According to information reportedly in [REDACTED].<sup>12</sup> Media also report the influence of former SHIK members over the KP.<sup>13</sup>

6. [REDACTED]. [REDACTED],<sup>14</sup> [REDACTED].<sup>15</sup> [REDACTED].<sup>16</sup> [REDACTED],<sup>17</sup> [REDACTED].



Photo of Abelard Tahiri, Rashit Qalaj, Shpend Maxhuni, Hashim Thaçi, and Bedri Hamza.<sup>18</sup>

---

<sup>12</sup> [REDACTED].

<sup>13</sup> Annex 1.2: <https://insajderi.com/hulumtime/djelmoshat-e-elmi-reqices-qe-kontrollojne-policine-e-kosoves/>; Annex 1.3: <https://telegrafi.com/molliqaj-konteston-drejtorin-e-ri-te-policise-rashit-qalaj-njeri-i-shik-ut/>; Annex 1.4: <https://zeri.info/aktuale/71760/shkreta-policia-dirigjohet-nga-shik-u/>; Annex 1.5: <https://insajderi.org/ekskluzive-degradohet-edhe-koloneli-i-policise-se-kosoves-kadri-arifi/>.

<sup>14</sup> [REDACTED].

<sup>15</sup> [REDACTED].

<sup>16</sup> [REDACTED].

<sup>17</sup> <https://kryeministri.rks-gov.net/en/the-prime-minister-of-the-republic-of-kosovo-mr-hashim-thaci-today-issued-the-decision-on-appointing-mr-shpend-maxhuni-as-the-general-director-of-kosovo-police/>.

<sup>18</sup> Annex 1.6: <https://kallxo.com/gjate/shkelqimi-dhe-renia-e-shpend-maxhunit/>.

7. Corruption within Kosovo's criminal justice system is widely recognised. The United Nations,<sup>19</sup> EULEX,<sup>20</sup> the European Commission,<sup>21</sup> and the Council of Europe<sup>22</sup> have all reported recent findings to this effect. In the words of the United States State Department in 2020: '[s]ecurity forces did not ensure compliance with court orders when local officials failed to carry them out. Although some police officers were arrested on corruption charges during the year, impunity remained a problem'.<sup>23</sup> Media and NGOs have reached similar conclusions.<sup>24</sup>

<sup>19</sup> United Nations Interim Administration Mission in Kosovo, 'Report of the Secretary-General', U.N.Doc. S/2020/964, 1 October 2020, accessed at [https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2020\\_964.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2020_964.pdf), para.30 ('[a]t the same time, local civil society organizations continued to report slow progress in addressing corruption and organized crime, expressing concern over the often-lenient sentences imposed').

<sup>20</sup> EULEX, 'EU Rule of Law Mission Justice Monitoring Report', October 2020, accessed at [https://www.eulex-kosovo.eu/eul/repository/docs/19102020\\_EU%20Rule%20of%20Law%20Mission%20Justice%20\\_EN.pdf](https://www.eulex-kosovo.eu/eul/repository/docs/19102020_EU%20Rule%20of%20Law%20Mission%20Justice%20_EN.pdf), p.21 ('[i]t was generally recognised that many suspects and defendants in corruption trials were considerably wealthy and influential, with powerful political connections or financial links, which could arguably lead to pressure or interference into these criminal proceedings').

<sup>21</sup> European Commission, Kosovo Report 2021, 19 October 2021, accessed at [https://ec.europa.eu/neighbourhood-enlargement/kosovo-report-2021\\_en](https://ec.europa.eu/neighbourhood-enlargement/kosovo-report-2021_en), pp.23, 25 ('[o]verall, corruption is widespread and remains an issue of serious concern. Despite efforts made, there is a need for strong and continual political will to effectively address systemic corruption risks, as well as a robust criminal justice response to high-level corruption. [...] The decision of the previous government in October 2020 to abolish the special Anti-Corruption Task Force within the Kosovo Police and also dismiss the Director of the police, raised serious concerns about Kosovo's commitment to the fight against corruption and organised crime').

<sup>22</sup> Council of Europe, 'Report to the United Nations Interim Administration Mission in Kosovo (UNMIK) on the visit to Kosovo\* carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)', 23 September 2021, accessed at <https://rm.coe.int/1680a3ea32>, p.30 ('[...] further action is required to tackle the phenomenon of corruption and to gain the trust of prisoners in the proper functioning and fairness of the prison system and, more generally, the criminal justice system. The Committee emphasises in this respect that the existence of a widespread belief among prisoners that anything can be bought inevitably undermines attempts to create order within a prison and to develop positive staff-prisoner relations. Moreover, corruption brings in its wake discrimination, violence, insecurity and, ultimately, a loss of respect for authority').

<sup>23</sup> U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, '2020 Country Reports on Human Rights Practices: Kosovo', 2020, accessed at <https://www.state.gov/wp-content/uploads/2021/03/KOSOVO-2020-HUMAN-RIGHTS-REPORT.pdf>, p.5.

<sup>24</sup> 21 Media, Egzona Mehmeti, 27 police officers arrested this year, 65 others suspended, July 2021, accessed at <https://en.rtv21.tv/27-police-officers-arrested-this-year-and-65-others-suspended/> ('[f]or six months in Kosovo, 27 police officers were arrested, while 65 other employees were suspended. Ill-treatment in the exercise of official duty and abuse of official authority are the two most common

8. The KP's submissions on enforcement of release conditions for persons of the stature of the Accused are revealing. The KP deny any responsibility for the high-profile failures concerning Remzi Shala, Sami Lushtaku, and Sabit Geci, ignoring the point that these incidents show that high-level figures have the power to defeat conditions in Kosovo (regardless of the agency enforcing them). There are also previous instances of the KP directly interfering with the course of justice, such as when they temporarily blocked EULEX officers from arresting then Prizren KP police chief Nexhmi Krasniqi for alleged crimes at a detention site charged in this case.<sup>25</sup>

A. THE KP'S PROPOSED CONDITIONS REMAIN INSUFFICIENT

9. The risks that must be mitigated to justify conditional release are those of obstructing the proceedings and committing further offences.<sup>26</sup> These findings are grounded on a variety of individual and contextual factors whose reliance has been

---

offenses for which members of the Kosovo Police are being investigated'); Kosovar Centre for Security Studies, Plator Avdiu and Shpat Balaj, *State Of Play Of Integrity Policies In The Kosovo Police*, December 2020, accessed at [http://www.qkss.org/repository/docs/State\\_of\\_play\\_of\\_integrity\\_policies\\_in\\_the\\_Kosovo\\_Police\\_English\\_Version\\_13188.pdf](http://www.qkss.org/repository/docs/State_of_play_of_integrity_policies_in_the_Kosovo_Police_English_Version_13188.pdf), p.3 ('[i]n recent years, Kosovo's security sector integrity practices, in particular Kosovo Police ones, have run into severe challenges, which have been exacerbated by the current Covid-19 pandemic the country is dealing with. Numerous police officers are subjected to criminal investigations by relevant rule-of-law mechanisms (Police Inspectorate of Kosovo and State Prosecution) for alleged criminal offenses related to breaches of legal procedures governing their official duties. On the other hand, the Prime Minister's decision of October 2020 to discharge the former General Director of the Kosovo Police, has both directly and indirectly paved the way for political influence over the Kosovo Police by ruling parties. Furthermore, this may have a significant impact on discouraging structural reforms in the police, particularly in human resource management'); Pointpulse Network, *Assessment of Police Integrity in Kosovo*, 2015, accessed at [http://www.qkss.org/repository/docs/Assessment-of-Police-Integrity-in-Kosovo\\_779436.pdf](http://www.qkss.org/repository/docs/Assessment-of-Police-Integrity-in-Kosovo_779436.pdf), p.12 ('[i]t is worth mentioning that citizens of Kosovo believe that political influence on the KP is quite strong. According to an opinion poll conducted during [...] mid-2015 within the POINTPULSE project, 91 percent of the citizens are of the opinion that the police are politicized and under the political control of the Kosovo institutions'); Prison Insider, *Kosovo: "corruption cases have destroyed the prison system"*, 24 September 2019, accessed at <https://www.prison-insider.com/en/articles/kosovo-les-affaires-de-corruption-ont-mis-a-mal-le-systeme-penitentiaire> ('[h]opes for an improved prison system were undermined by corruption cases and ties between some prisoners and influential politicians').

<sup>25</sup> Balkan Insight, Petrit Çollaku, *EU Officers 'Blocked' by Kosovo Police During Arrest*, 16 March 2011, accessed at <https://balkaninsight.com/2011/03/16/eu-police-confronted-by-kosovo-police-over-arrest/>. Krasniqi was ultimately acquitted in the ensuing trial, which was tainted by witness interference. See Request, KSC-BC-2020-06/F00540, para.13(ii), *Contra Veseli Reply*, KSC-BC-2020-06/F00556, para.24.

<sup>26</sup> Article 41(6)(b)(ii)-(iii).

upheld on appeal.<sup>27</sup> It completely mischaracterises these findings to identify the only remaining risk to be mitigated as that of the Accused passing on messages.<sup>28</sup>

10. On what is now their fourth attempt, the KP still cannot articulate sufficient conditions allowing for the release of the Accused. The Pre-Trial Judge's questions demanded specific responses, which simply were not provided in key respects. The end result is a submission which adds no meaningful assurances beyond the ones addressed by the SPO previously.<sup>29</sup>

11. *Surveillance*.<sup>30</sup> The KP promises a 24/7 monitoring regime throughout its submissions, vaguely asserting that the number of police officers involved will be determined depending on needs.<sup>31</sup> But, as before, the only specific arrangement proposed by the KP is a single assigned police officer at the door of the residence of the Accused.<sup>32</sup> This staffing is manifestly inadequate for house arrest of such influential persons in Kosovo. The hypothetical availability of extra officers to patrol outside the residence does nothing to change the reality that the activities inside the residence are not properly monitored.

12. CCTV monitoring is also proposed, but only two cameras are to be placed at the front door and outside the building 'if necessary'.<sup>33</sup> This qualifier on the second camera was not in the KP's previous submissions, meaning that the KP is actually promising less than it did previously in this regard.<sup>34</sup> No CCTV cameras are installed inside the residence. When coupled with the single officer at the entrance, the Accused

---

<sup>27</sup> It is clear from the record which risks apply to which individual accused, and it is not a misrepresentation to refer to risks applying to some accused and not others in a consolidated response. *Contra Veseli Reply*, KSC-BC-2020-06/F00556, paras 20-22, 32.

<sup>28</sup> *Contra Veseli Reply*, KSC-BC-2020-06/F00556, paras 2, 7.

<sup>29</sup> SPO Response, KSC-BC-2020-06/F00540/RED, paras 24-35.

<sup>30</sup> *See* SPO Response, KSC-BC-2020-06/F00540/RED, para.26.

<sup>31</sup> KP Response, KSC-BC-2020-06/F00548/eng, p.11.

<sup>32</sup> KP Response, KSC-BC-2020-06/F00548/eng, p.11.

<sup>33</sup> KP Response, KSC-BC-2020-06/F00548/eng, p.11.

<sup>34</sup> *Compare* KP Response, KSC-BC-2020-06/F00548/eng, p.11, with Annex 2 to Veseli Defence Submissions on Second Detention Review, KSC-BC-2020-06/F00518/A02, 11 October 2021, p.8.

is outside the sight and hearing of the KP far more than would be the case with officers at the KSC Detention Centre.

13. *Communications monitoring*.<sup>35</sup> The KP's specific submissions on monitoring communications are premised on activity at the entrance of the residence (surrendering communications devices, checking visitor names off a list, etc.).<sup>36</sup>

14. Monitoring activity inside the residence is not addressed with any comparable clarity. The KP at one point indicate that, with a court order, all communications inside the residence can be physically monitored or recorded.<sup>37</sup> This answer replicates the Pre-Trial Judge's question, but ignores the Pre-Trial Judge's further indication that *specific measures* were to be identified addressing both the legal authorisation and the KP's capabilities.<sup>38</sup> The fact that the KP highlighted a hand-held metal detector as the first part of its answer to a question primarily directed at measures to stop messages being orally transmitted and remembered<sup>39</sup> is emblematic of a lack of understanding of the problem to be solved.

15. The KP's submissions on the possibility of monitoring all visits remain wanting, considering that: (i) the KP repeats a standard 24/7 security surveillance regime involving an assigned officer and two CCTV cameras,<sup>40</sup> but mentions the possibility of further monitoring/recording all visits with no degree of specificity; (ii) it remains unclear whether this regime applies to both visitors and family members of the Accused, noting that contact restrictions for house arrest in Kosovo do not extend

---

<sup>35</sup> See SPO Response, KSC-BC-2020-06/F00540/RED, paras 27-28.

<sup>36</sup> See KP Response, KSC-BC-2020-06/F00548/eng, pp.8-13.

<sup>37</sup> KP Response, KSC-BC-2020-06/F00548/eng, pp.17-18.

<sup>38</sup> KP Submissions Order, KSC-BC-2020-06/F00513/A01, para.16 ('[i]n particular, which specific measures are the Kosovo Police authorised to put in place and capable of putting in place to physically monitor and record conversations between an individual subject to conditional release and pre-approved visitors?').

<sup>39</sup> KP Response, KSC-BC-2020-06/F00548/eng, p.17.

<sup>40</sup> Egs KP Response, KSC-BC-2020-06/F00548/eng, pp.5, 8-9, 11.

to those living with the Accused;<sup>41</sup> and (iii) the Veseli Defence asked the KP to give further details on its recording capabilities and the latter never did so.<sup>42</sup>

16. Moreover, particularly problematic is that the KP Response does not answer the Pre-Trial Judge's questions about the legal basis authorising such surveillance measures. The KP addresses the required legal basis only in meaningless generalities, referring to the need for a lawful order by a competent court. Nothing in the answers of the KP demonstrate that a complex house arrest of the type at issue could be ordered within Kosovo on a legal basis that satisfies the requirements of the ECtHR.<sup>43</sup> These requirements are important because it protects against these measures becoming arbitrary or coercive. Ruling on such measures without a clear legal basis risks infringing the human rights of other persons affected by those measures, and perhaps even of the released person themselves should they ultimately prefer a more favourable house arrest regime and seek to contest previously proposed measures.

17. The vagueness of the KP Response is in sharp contrast to the regulations of the Detention Centre, which set out clear requirements for physical monitoring and recording of visits.<sup>44</sup> The fact that neither Article 41(12) nor other Kosovo laws<sup>45</sup>

---

<sup>41</sup> Article 183(3) of the Kosovo Code of Criminal Procedure.

<sup>42</sup> SPO Response, KSC-BC-2020-06/F00540/RED, para.28.

<sup>43</sup> In this regard, *see* ECtHR [GC], *Buzadji v. Moldova*, 23755/07, 5 July 2016, paras 106-109 (the fact that a person himself agrees to, or even initiates, house arrest does not amount to a waiver of rights and does not affect the need for a sound legal basis for it); ECtHR, *Gorlov and Others v. Russia*, 27057/06 56443/09 25147/14, 2 July 2019, paras 85-100 (the ECHR requires a clear and detailed basis in national law in order to prevent arbitrary or unjustified deprivations of liberty). *See also* Constitution, Article 55; KSC-CC-PR-17-01/F00004, paras 61-75.

<sup>44</sup> Article 41(9); Articles 15 and 17 of the Registry Practice Direction on Detainees: Visits and Communications, KSC-BD-09/Rev1/2020, 23 September 2020. *Contra* Veseli Reply, KSC-BC-2020-06/F00556, paras 9-10, 14. The Veseli Defence also places great reliance on how the KP's promise to monitor devices throughout the duration of the temporary release is a safeguard not provided by the detention centre (Veseli Reply, KSC-BC-2020-06/F00556, para.11), but this promise is not even stated consistently across the KP Response. *Compare* KP Response, KSC-BC-2020-06/F00548/eng, p.18 *with* KP Response, KSC-BC-2020-06/F00548/eng, pp.12, 15.

<sup>45</sup> For the interception of communications, the SPO notes that the KP has failed to answer the Court's specific question about Law No. 05/L-030 on Interception of Electronic Communications. For surveillance measures to accompany house arrest, the SPO notes that Art. 183 (6) Kosovo Code of Criminal Procedure provides that the Kosovo police shall randomly verify the presence of the

expressly contemplate 24/7 exhaustive surveillance measures in the context of house arrest is not a deficiency in the law, but merely an expression of the fact that house arrest is a suitable alternative for detention only in cases where it can safely be executed without a need to fully control all communications of the defendant at all times. It underscores that house arrest can mitigate flight risks, but not serious risks to the life and safety of victims and witnesses.

18. To isolate one aspect of the KP proposal in particular, the KP's repeated reliance on [REDACTED]<sup>46</sup> lacks the detail necessary to assess its prospects of actually success. [REDACTED] is a highly complex effort, due to the availability of different [REDACTED].<sup>47</sup> Without details about what kind of [REDACTED] will be anticipated and countered, no conclusion can be drawn about the likelihood that communications will indeed be blocked. In general, it can be said that constant [REDACTED] requires substantial and significantly advanced resources and capacity, and even then is likely to yield uncertain outcomes and substantial side-effects extending well beyond the targeted house. These side-effects can go so far as to violate the privacy rights of family members or neighbouring residents under the ECHR.<sup>48</sup>

19. *Communications devices.*<sup>49</sup> The KP remain unable to identify a full range of devices capable of transmitting messages that they will stop from coming into the residence of the Accused.<sup>50</sup> Searches for 'communication devices or internet-enabled

---

defendant at the location of the house detention. Neither that law nor the answers of the KP indicate a sufficient legal basis for continuous surveillance of a house with guards and security cameras.

<sup>46</sup> KP Response, KSC-BC-2020-06/F00548/eng, pp.7, 10, 16.

<sup>47</sup> See generally [REDACTED].

<sup>48</sup> Article 105 of Law No. 04/L-109 on Electronic Communications provides that the Government or an institution authorised by it may, in accordance with the procedure established by laws and other legal acts, where necessary, restrict public use of electronic communications networks only in cases of force majeure, extreme situations or other extraordinary circumstances or for the purpose of preparing for universal mobilisation or national defense or ensuring national security and public order.

<sup>49</sup> See SPO Response, KSC-BC-2020-06/F00540/RED, para.29.

<sup>50</sup> Compare KP Response, KSC-BC-2020-06/F00548/eng, p.15; Veseli Reply, KSC-BC-2020-06/F00556, para.15 with Section 3(1)(P)-(Q) of the Detention Management Unit Instruction on Items and Substances Prohibited in the Detention Facilities, KSC-BD-31, 23 September 2020.

equipment, written messages or other documents'<sup>51</sup> do not squarely cover USBs and other devices, easily brought in and out of the residence, which can convey sensitive information.

20. *Officer training.*<sup>52</sup> The KP give no submission as to the training of the assigned officer at the residence, relying instead on generalisations about the KP's independence and professionalism.<sup>53</sup> It is not possible to share the identifying information of SPO witnesses with the KP because doing so would compromise protective measures previously ordered by the Pre-Trial Judge in this case.<sup>54</sup> Because of this, it is inevitable that the KSC itself will always have asymmetric knowledge about witnesses and possible coded reference to them vis-à-vis the KP.<sup>55</sup> Indeed, the KP Response does not at all address the Pre-Trial Judge's question regarding the use of coded or obscure language.

#### B. THE KP CANNOT EFFECTIVELY ENFORCE SUFFICIENT CONDITIONS

21. This is now the KP's fourth opportunity to sufficiently demonstrate that it is willing and able to enforce sufficient conditions of release. That the KP has still failed to do so is revealing, even after several progressively detailed inquiries from the Veseli Defence and now from the Pre-Trial Judge. These repeated failures to provide sufficient information are itself an indication of the KP's actual capacity to effectively enforce sufficient conditions.

22. The KP remain evasive on key points to this day, such as when it identifies that necessary human and technical resources are available in response to a clear question of *how many resources* could be devoted to enforcing the conditions of release.<sup>56</sup> The

---

<sup>51</sup> KP Response, KSC-BC-2020-06/F00548/eng, p.15.

<sup>52</sup> SPO Response, KSC-BC-2020-06/F00540/RED, para.30.

<sup>53</sup> KP Response, KSC-BC-2020-06/F00548/eng, p.19.

<sup>54</sup> *Contra* KP Response, KSC-BC-2020-06/F00548/eng, p.8.

<sup>55</sup> *Contra* Veseli Reply, KSC-BC-2020-06/F00556, paras 8, 11, 16.

<sup>56</sup> KP Response, KSC-BC-2020-06/F00548/eng, p.19.

amount of resources required to effectively enforce a complex [REDACTED] - is vast. It is unclear whether the KP can devote three officers or 50 officers to this endeavour, and whether they can be deployed on a full-time basis for the foreseeable future. The absence of a detailed answer on the question of resources is indicative of the KP not being able to effectively deliver, especially for an extended period.

23. Prominent figures in the KP leadership have connections to the KLA. [REDACTED].<sup>57</sup> [REDACTED].<sup>58</sup> Other former KLA/PGoK members in the KP leadership include [REDACTED]. The objectivity of these men, and those subordinate to them, in enforcing conditional release for their former superiors in the KLA war cannot be assured.<sup>59</sup>

24. The allegiances within the KP to these Accused is pronounced and fundamentally compromises conditional release. [REDACTED]:

[...] [REDACTED]. [REDACTED] [REDACTED] [REDACTED].

[REDACTED]

[REDACTED]. [REDACTED] [REDACTED].

[REDACTED] [REDACTED]

[REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

25. The KSC/SPO's existence is predicated on the reality that high profile KLA accused like those charged in this case could not have a trial in Kosovo without justice being obstructed.<sup>60</sup> By virtue of their positions and responsibilities during and after

---

<sup>57</sup> [REDACTED].

<sup>58</sup> [REDACTED].

<sup>59</sup> See also paragraphs 5-8 above.

<sup>60</sup> See Council of Europe, Parliamentary Assembly, Committee on Legal Affairs and Human Rights, Report: Inhumane treatment of people and illicit trafficking in human organs in Kosovo, Doc.12462, 7 January 2011, para.10 ('[t]he Kosovo police still has to prove itself and to win the full confidence of its international partners, including its counterparts in the EULEX mission. We sensed lingering doubts among internationals as to whether or not all the leaders of the police force share the necessary political resolve to go after all forms of crime in the most robust fashion possible, especially where the police are called upon to combat organised crime, and/or crimes in which highly placed political figures are implicated, and notably in ensuring truly effective protection of witnesses, a very sensitive and vital

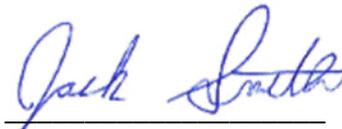
the war in Kosovo, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi remain enormously influential. Releasing the Accused to Kosovo is an existential threat to the fair and expeditious conduct of this case and this Court.

26. This is not the case to experiment with the KP's capabilities. There are no conditions which can mitigate the risks they posed if released, and the KP Response reinforces that conclusion.

### III. CONCLUSION AND RELIEF REQUESTED

27. The SPO requests findings that sufficient conditions have not been articulated and that the KP cannot effectively enforce sufficient conditions. Making both findings is important to ensure there is clarity as to what further information would be required to justify conditional release in this case. Findings on both points will also assist other cases at the KSC when confronted with similar issues. For the foregoing reasons, these findings should be made and the detention of Veseli, Selimi, and Krasniqi extended.<sup>61</sup>

**Word count: 3,965**



**Jack Smith**  
**Specialist Prosecutor**

Monday, 29 November 2021

At The Hague, the Netherlands.

---

tool in the prosecution of the most notorious and dangerous criminals'), *cited in* SPO Response, KSC-BC-2020-06/F00540/RED, para.34.

<sup>61</sup> The present submission is filed confidentially in accordance with Rule 82(4). A public redacted version will be filed.