



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-06

**The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi,
and Jakup Krasniqi**

Before: Pre-Trial Judge

Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 13 May 2022

Language: English

Classification: Public

**Public Redacted Version of Decision on Periodic Review of Detention of Rexhep
Selimi**

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THE PRE-TRIAL JUDGE,¹ pursuant to Article 41(6), (10) and (12) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 56(2) and 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 5 November 2020, further to the confirmation of an indictment ("Confirmation Decision"),² Rexhep Selimi ("Mr Selimi" or "Accused") was arrested pursuant to a decision and an arrest warrant issued by the Pre-Trial Judge.³

2. On 22 January 2021, the Pre-Trial Judge rejected Mr Selimi's application for interim release ("First Detention Decision").⁴

¹ KSC-BC-2020-06, F00001, President, *Decision Assigning a Pre-Trial Judge*, 23 April 2020, public.

² KSC-BC-2020-06, 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*. A confidential redacted version was filed on 19 November 2020, F00026/CONF/RED. A public redacted version was filed on 30 November 2020, F00026/RED. The Specialist Prosecutor 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, public; 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. A confirmed amended indictment was filed on 29 April 2022 ("Confirmed Indictment"), strictly confidential and *ex parte* (F00789/A01), with confidential redacted (F00789/A02) and public redacted (F00789/A05) versions.

³ KSC-BC-2020-06, F00027/RED, Pre-Trial Judge, *Public Redacted Version of Decision on Request for Arrest Warrants and Transfer Orders*, 26 October 2020, public; F00027/A05/RED, *Public Redacted Version of Arrest Warrant for Rexhep Selimi*, 26 October 2020, public; F00049, Registrar, *Notification of Arrest of Rexhep Selimi Pursuant to Rule 55(4)*, 5 November 2020, public.

⁴ KSC-BC-2020-06, F00179, Pre-Trial Judge, *Decision on Rexhep Selimi's Application for Interim Release*, 22 January 2021, confidential. A public redacted version was issued on 26 January 2021, F00179/RED.

3. On 30 April 2021, the Court of Appeals denied Mr Selimi's appeal against the First Detention Decision ("First Court of Appeals Decision").⁵
4. On 25 June 2021, the Pre-Trial Judge ordered Mr Selimi's continued detention ("Second Detention Decision").⁶
5. On 1 October 2021, the Court of Appeals issued its decision on Mr Selimi's appeal against the Second Detention Decision ("Second Court of Appeals Decision"),⁷ in which it, *inter alia*, remanded the Second Detention Decision to the Pre-Trial Judge for further consideration in order to assess whether the Kosovo Police can effectively enforce the conditions proposed by the Accused or any further condition identified by the Pre-Trial Judge as necessary to mitigate the identified risks.⁸
6. On 13 October 2021, the Pre-Trial Judge ordered the Registrar to provide information on the detention regime applicable to Mr Selimi at the Detention Facilities of the Specialist Chambers ("Registrar Order").⁹ On 20 October 2021, the Registrar provided the information requested pursuant to the Registrar Order.¹⁰
7. On 26 October 2021, the Kosovo Police, further to an order by the Pre-Trial Judge,¹¹ provided information regarding: (i) the authority and capability of the Kosovo Police to restrict the movements of individuals subject to conditional

⁵ KSC-BC-2020-06, IA003/F00005, Court of Appeals, *Decision on Rexhep Selimi's Appeal Against Decision on Interim Release*, 30 April 2021, confidential. A public redacted version was issued on the same day, IA003/F00005/RED.

⁶ KSC-BC-2020-06, F00372, Pre-Trial Judge, *Decision on Review of Detention of Rexhep Selimi*, 25 June 2021, confidential. A public redacted version was issued on 30 June 2021, F00372/RED.

⁷ KSC-BC-2020-06, IA007/F00005, Court of Appeals, *Decision on Rexhep Selimi's Appeal Against Decision on Review of Detention*, 1 October 2021, confidential. A public redacted version was issued on the same day, IA007/F00005/RED.

⁸ Second Court of Appeals Decision, paras 56-58.

⁹ KSC-BC-2020-06, F00522, Pre-Trial Judge, *Order to the Registrar to Provide Information on the Detention Regime*, 13 October 2021, confidential, para. 7.

¹⁰ KSC-BC-2020-06, F00536, Registrar, *Registry Submissions Pursuant to the Order to Provide Information on the Detention Regime (F00522)*, 20 October 2021, confidential. A public redacted version was issued on 29 November 2021, F00536/RED.

¹¹ KSC-BC-2020-06, F00513, Pre-Trial Judge, *Order to the Kosovo Police to Provide Information ("Kosovo Police Order")*, 8 October 2021, public, with one Annex, confidential.

release, monitor and restrict such individuals' communications, administer house arrest, and the enforceability of conditions attaching to interim release; and (ii) previous instances of enforcing conditions attaching to the interim release or detention of persons accused of severe crimes.¹²

8. On 26 November 2021, the Pre-Trial Judge issued a decision whereby he confirmed the Second Detention Decision and ordered Mr Selimi's continued detention ("Third Detention Decision").¹³

9. On 9 December 2021, the Defence for Mr Selimi ("Defence") appealed against the Third Detention Decision.¹⁴

10. On 15 December 2021, further to a request by, *inter alios*, Mr Selimi, who also waived the right to have his detention reviewed before the expiry of the two-month time limit set out in Article 41(10) of the Law and Rule 57(2) of the Rules, the Pre-Trial Judge varied the time limit for Mr Selimi to make submissions on his continued detention until ten days after notification of the decision of the Panel of the Court of Appeals on his appeal against the Third Detention Decision.¹⁵

11. On 25 March 2022, the Court of Appeals upheld the Third Detention Decision ("Third Court of Appeals Decision").¹⁶

12. On 7 April 2022, the Defence filed submissions on detention review, requesting the Pre-Trial Judge to grant Mr Selimi interim release subject to

¹² KSC-BC-2020-06, F00548, Kosovo General Police Directorate, *Answer to the Request Number KSC-BC-2020-06, Dated 13 October 2021, 26 October 2021*, confidential. The translation into English of said submission was issued on 3 November 2021, F00548/eng.

¹³ KSC-BC-2020-06, F00580, Pre-Trial Judge, *Decision on Remanded Detention Review and Periodic Review of Detention of Rexhep Selimi*, 26 November 2021, confidential. A public redacted version was issued on 8 December 2021, F00580/RED.

¹⁴ KSC-BC-2020-06, IA015/F00001, Defence for Mr Selimi, *Selimi Defence Appeal against 'Decision on Remanded Detention Review Decision and Periodic Review of Detention of Rexhep Selimi'*, 9 December 2021, confidential, with Annexes 1-2, confidential. A public redacted version was issued on 6 April 2022, IA015/F00001/RED.

¹⁵ KSC-BC-2020-06, Transcript of Hearing, 15 December 2021, public, p. 763, line 6 to p. 764, line 4.

¹⁶ KSC-BC-2020-06, IA015/F00005, Court of Appeals, *Decision on Rexhep Selimi's Appeal against Decision on Remanded Detention Review and Periodic Review of Detention*, 25 March 2022, confidential. A public redacted version was issued on the same day, IA015/F00005/RED.

conditions (“Request”).¹⁷ On 19 April 2022, the SPO responded to the Request (“Response”).¹⁸ On 25 April 2022, the Defence replied to the Response (“Reply”).¹⁹

II. SUBMISSIONS

13. The Defence request the Pre-Trial Judge to grant Mr Selimi interim release subject to a set of conditions which had not previously been explicitly proposed by the Defence before the Pre-Trial Judge nor substantively ruled upon by the Court of Appeals (“Additional Conditions”) or any other conditions deemed necessary and appropriate to effectively mitigate the Article 41(6)(b) risks.²⁰ If necessary, the Defence requests the Pre-Trial Judge to order the presence of relevant individuals, including the General Director of the Kosovo Police, a representative of the European Union Rule of Law Mission in Kosovo (“EULEX”), and the Chief Detention Officer of the SC Detention Facilities, to be questioned by the Pre-Trial Judge and the Parties.²¹

14. The SPO responds that the Request should be rejected.²² It maintains that the continued detention of Mr Selimi remains necessary as there has been no relevant change in circumstances detracting from the established reasons and that the Court of Appeals has rather confirmed that the proposed conditions do not mitigate the identified risks.²³

15. The Defence replies rebutting the SPO’s contentions that the Additional Conditions fall within prior findings by the Pre-Trial Judge and do not sufficiently

¹⁷ KSC-BC-2020-06, F00763, Defence for Mr Selimi, *Selimi Defence Submissions on Review of Detention*, 7 April 2022, confidential.

¹⁸ KSC-BC-2020-06, F00771, Specialist Prosecutor, *Prosecution Response to Selimi Defence Submissions on Review of Detention*, 19 April 2022, confidential.

¹⁹ KSC-BC-2020-06, F00780, Defence for Mr Selimi, *Selimi Reply to SPO Response to Defence Submissions on Review of Detention*, 25 April 2022, confidential.

²⁰ Request, paras 2, 29(i).

²¹ Request, paras 28, 29(ii).

²² Response, para. 32.

²³ Response, para. 1.

mitigate the identified risks.²⁴ The Defence further reiterates its request to the Pre-Trial Judge to order the immediate release of Mr Selimi.²⁵

III. APPLICABLE LAW

16. Article 41(6) of the Law provides that the Specialist Chambers (“SC”) shall only order the detention of a person when there is a grounded suspicion that the person has committed a crime within the jurisdiction of the SC, and there are articulable grounds to believe that the person: (i) is a flight risk; (ii) will destroy, hide, change or forge evidence of a crime, or specific circumstances indicate that the person will obstruct the progress of criminal proceedings; or (iii) will repeat the criminal offence, complete an attempted crime, or commit a crime which he or she has threatened to commit.

17. Article 41(10) of the Law and Rule 57(2) of the Rules provide that, until a judgment is final or until release, upon the expiry of two (2) months from the last ruling on detention on remand, the Pre-Trial Judge or Panel seized with the case shall examine whether reasons for detention on remand still exist and render a ruling by which detention on remand is extended or terminated.

18. Article 41(12) of the Law provides that, in addition to detention on remand, the following measures may be ordered to ensure the presence of the accused, to prevent reoffending or ensure successful conduct of criminal proceedings: summons, arrest, bail, house detention, promise not to leave residence, prohibition on approaching specific places or persons, attendance at police station or other venue, and diversion.

19. Pursuant to Rule 56(2) of the Rules, the Panel shall ensure that a person is not detained for an unreasonable period prior to the opening of the case and, in case

²⁴ Reply, paras 3-17.

²⁵ Reply, para. 18.

of an undue delay caused by the Specialist Prosecutor, the Panel, having heard the Parties, may release the person under conditions as deemed appropriate.

IV. DISCUSSION

A. APPLICABLE STANDARD

20. In examining whether the reasons for detention on remand still exist, pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, the Pre-Trial Judge adopts the standard established in previous decisions.²⁶

B. GROUNDED SUSPICION

21. As regards the threshold for continued detention, Article 41(6)(a) of the Law requires at the outset a grounded suspicion that the detained person has committed a crime within the jurisdiction of the SC. This is a *conditio sine qua non* for the validity of the detained person's continued detention.²⁷

22. The Defence has not made submissions regarding this criterion in the Request. In the Response, the SPO avers that the Pre-Trial Judge's finding that there continues to be a grounded suspicion that Mr Selimi has committed crimes within the subject-matter jurisdiction of the SC continues to stand, absent any change in circumstances.²⁸

23. The Pre-Trial Judge recalls that, in the Confirmation Decision, it was determined that, pursuant to Article 39(2) of the Law, there is a well-grounded suspicion that Mr Selimi is criminally liable for a number of crimes against humanity (persecution, imprisonment, other inhumane acts, torture, murder and

²⁶ See, among many others, Third Detention Decision, para. 20, with further references.

²⁷ ECtHR, *Merabishvili v. Georgia* [GC], no. 72508/13, [Judgment](#), 28 November 2017, para. 222, with further references.

²⁸ Response, para. 4.

enforced disappearance) and war crimes (arbitrary detention, cruel treatment, torture and murder) under Articles 13, 14(1)(c) and 16(1)(a) of the Law.²⁹ Moreover, the Pre-Trial Judge recalls that a well-grounded suspicion has also been established with regard to the new charges brought by the SPO against Mr Selimi with the requested amendments to the indictment.³⁰ These findings were made on the basis of a standard exceeding the grounded suspicion threshold required for the purposes of Article 41(6)(a) of the Law.³¹

24. Accordingly, the Pre-Trial Judge finds that the requirement set forth in Article 41(6)(a) and (10) of the Law continues to be met.

C. NECESSITY OF DETENTION

25. Once the threshold in Article 41(6)(a) of the Law is met, the grounds that would justify the deprivation of a person's liberty must be articulable in the sense that they must be specified in detail.³² The Pre-Trial Judge further recalls that, on the basis of the available evidence, the specific articulable grounds must support the "belief"³³ that any of the risks under the three limbs of Article 41(6)(b) of the Law exist, denoting an acceptance of the possibility, not the inevitability, of a future occurrence.³⁴ In other words, the standard to be applied is less than certainty, but more than a mere possibility of a risk materialising.³⁵ Lastly, when deciding on whether a person should be released or detained, the Pre-Trial Judge

²⁹ Confirmation Decision, para. 521(a)(i)-(ii).

³⁰ KSC-BC-2020-06, 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) and a public redacted version (F00777/RED) were filed, respectively, on 22 April 2022 and 6 May 2022. The requested amendments are detailed at para. 11.

³¹ See for example, KSC-BC-2020-04, F00007/RED, Pre-Trial Judge, *Public Redacted Version of the Decision on the Confirmation of the Indictment Against Pjetër Shala*, 12 June 2020, public, para. 35.

³² KSC-BC-2020-06, IA001/F00005, Court of Appeals, *Decision on Kadri Veseli's Appeal Against Decision on Interim Release*, 30 April 2021, public, paras 18-19; First Detention Decision, para. 19.

³³ See *chapeau* of Article 41(6)(b) of the Law.

³⁴ First Detention Decision, para. 19, with further references.

³⁵ First Court of Appeals Decision, para. 40; Second Court of Appeals Decision, para. 19.

must consider alternative measures to prevent the risks in Article 41(6)(b) of the Law.³⁶

1. Risk of Flight

26. The Defence does not provide any specific submissions regarding the risk of flight. The SPO, for its part, argues that a risk of flight remains as: (i) Mr Selimi has a continued influence in Kosovo; (ii) he is in a position to obtain funds and means to travel; and (iii) the ever-growing account of the evidence disclosed to Mr Selimi, as well as the possibility of a serious sentence in the event of a conviction, may provide him the necessary incentive to evade SC proceedings.³⁷

27. Having examined the factors and circumstances invoked in the decisions reviewing Mr Selimi's detention, the Pre-Trial Judge remains satisfied that they continue to exist. More specifically, The Pre-Trial Judge considers that Mr Selimi: (i) has been made aware of the charges against him and the possibility of a serious sentence in the event of a conviction;³⁸ and (ii) continues to play a significant role in Kosovo on the basis of the previous positions he occupied.³⁹ Hence, there is the incentive and means to evade proceedings. In particular, the influence he continues to derive from these roles may assist him in evading SC proceedings by, for instance, securing access to relevant information, and obtaining funds and means to travel.

³⁶ 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*, 26 April 2017, public, para. 114. See also ECtHR, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, [Judgment](#), 5 July 2016, para. 87 *in fine*; *Idalov v. Russia* [GC], no. 5826/03, [Judgment](#), 22 May 2012, para. 140 *in fine*.

³⁷ Response, para. 7.

³⁸ First Detention Decision, para. 31; Second Detention Decision, para. 25; Third Detention Decision, para. 28.

³⁹ First Detention Decision, para. 31; First Court of Appeals Decision, paras 62-63; Second Detention Decision, para. 25; Third Detention Decision, para. 28.

28. On this basis, and notwithstanding the counter-balancing factors identified in the First Detention Decision,⁴⁰ the Pre-Trial Judge finds that a moderate risk of flight in relation to Mr Selimi continues to exist.

2. Risk of Obstructing the Progress of SC Proceedings

29. The Defence does not provide any specific submissions regarding the risk of obstruction. The SPO submits that a risk of obstruction remains seeing as: (i) Mr Selimi has the [REDACTED]; (ii) he continues to have a position of influence in Kosovo; and (iii) he has increased insight into the incriminatory evidence following the last detention review, as well as access to the identities of witnesses with in-court protective measures.⁴¹ The SPO submits that these element shall be placed in a context of a persistent climate of intimidation of witnesses and interference with criminal proceedings against former Kosovo Liberation Army (“KLA”) members, which was recently confirmed by a witness in another case before the SC.⁴² Lastly, the SPO avers that, absent any change in circumstances, the finding that Mr Selimi will obstruct the progress of the SC proceedings, if released, stands.⁴³

30. The Pre-Trial Judge recalls that [REDACTED],⁴⁴ and the fact that [REDACTED].⁴⁵ In this connection, the Pre-Trial Judge found that Mr Selimi has

⁴⁰ First Detention Decision, para. 32.

⁴¹ Response, paras 8-9.

⁴² Response, paras 10-11.

⁴³ Response, para. 12.

⁴⁴ Second Detention Decision, para. 33; Third Detention Decision, para. 32.

⁴⁵ Second Detention Decision, para. 37; Second Court of Appeals Decision, para. 37; Third Detention Decision, para. 32.

[REDACTED],⁴⁶ [REDACTED].⁴⁷ [REDACTED].⁴⁸ [REDACTED].⁴⁹ In this regard, the Pre-Trial Judge still considers that, [REDACTED].⁵⁰

31. Furthermore, as a former high-ranking KLA member and political figure, having held the position of Minister of Internal Affairs and having been elected to the Kosovo Assembly,⁵¹ Mr Selimi still holds a position of influence in Kosovo.⁵² Considering that, in the past, Mr Selimi has demonstrated [REDACTED], this factor, combined with his position of influence, allows for the reasonable conclusion that it is possible⁵³ for Mr Selimi to [REDACTED].⁵⁴

32. The Pre-Trial Judge also recalls that there is a persisting climate of intimidation of witnesses and interference with criminal proceedings against former KLA members.⁵⁵ Even though this factor is, in and of itself, not determinative in relation to the risk of obstructing the progress of the proceedings, it provides the context against which Mr Selimi's [REDACTED] and his position of influence must be considered.⁵⁶ In this regard, the Pre-Trial Judge further considers that whether the Accused has not been previously accused of

⁴⁶ Second Detention Decision, paras 34-36; Third Detention Decision, para. 32.

⁴⁷ Second Detention Decision, para. 37; Second Court of Appeals Decision, para. 37; Third Detention Decision, para. 32.

⁴⁸ Second Detention Decision, para. 37; Second Court of Appeals Decision, para. 37; Third Detention Decision, para. 32; Third Detention Decision, para. 32.

⁴⁹ Second Detention Decision, para. 39; Third Detention Decision, para. 32.

⁵⁰ Second Detention Decision, para. 39; Third Detention Decision, para. 32.

⁵¹ First Detention Decision, para. 31; First Court of Appeals Decision, paras 62-63; Second Detention Decision, para. 25; Third Detention Decision, para. 33.

⁵² First Court of Appeals Decision, paras 62-63; Second Detention Decision, para. 40; Second Court of Appeals Decision, para. 33; Third Detention Decision, para. 33.

⁵³ First Court of Appeals Decision, para. 40; Third Detention Decision, para. 33.

⁵⁴ Second Detention Decision, para. 40; Third Detention Decision, para. 33.

⁵⁵ First Detention Decision, para. 42; Second Detention Decision, para. 41; Third Detention Decision, para. 34.

⁵⁶ Third Detention Decision, para. 34. In relation to the assessment of previously proposed conditions of interim release, the Court of Appeals confirmed that the persisting climate of witness intimidation and interference in Kosovo are relevant "contextual considerations". Third Court of Appeals Decision, para. 43.

involvement in witness interference does not alleviate the identified risks.⁵⁷ In particular, the Pre-Trial Judge recalls that the risk of obstruction need not materialise in an Accused personally tampering with evidence or exerting influence or pressure on witnesses. It suffices that an Accused instigates others or contributes in any way to the materialisation of that risk.⁵⁸

33. Lastly, the Pre-Trial Judge considers that the advancement of the pre-trial proceedings following the Third Detention Decision – in particular, the filing of the SPO’s pre-trial brief and witness list,⁵⁹ as well as the disclosure of the identities of witnesses with in-court protective measures – increases the risk of obstruction considering that it will provide Mr Selimi with more details as to the case against him. On this basis, the Pre-Trial Judge further concludes that, in view of the fact that Mr Selimi has already demonstrated that he has [REDACTED] and continues to play a significant role in Kosovo, his increased insight into the evidence underpinning the serious charges against him following the Third Detention Decision increases the risk of obstruction.

34. Accordingly, the Pre-Trial Judge concludes that the risk that Mr Selimi will obstruct the progress of SC proceedings continues to exist.

⁵⁷ KSC-BC-2020-06, IA016/F00005, Court of Appeals, *Decision on Jakup Krasniqi’s Appeal against Decision on Remanded Detention Review and Periodic Review of Detention* (“Krasniqi’s Appeals Decision”), 25 March 2022, confidential, footnote 73. A public redacted version was issued on the same day, IA016/F00005/RED.

⁵⁸ First Detention Decision, para. 37; First Court of Appeals Decision, para. 59; Second Detention Decision, para. 41; Third Detention Decision, para. 34.

⁵⁹ KSC-BC-2020-06, F00631, Specialist Prosecutor, *Submission of Pre-Trial Brief with Witness and Exhibit Lists* (“Rule 95(4) Material”), 17 December 2021, confidential, with Annexes 1-3, strictly confidential and *ex parte*. A public redacted version with confidential redacted Annexes 1-3 was issued on 21 December 2021, F00631/RED. A corrigendum with two strictly confidential *and ex parte* Annexes and one confidential Annex was submitted on 24 February 2022, F00709.

3. Risk of Committing Further Crimes

35. The Defence does not provide any specific submissions regarding the risk of committing further crimes. According to the SPO, this risk must be considered in light of: (i) a well-established and ongoing climate of witness intimidation and interference; (ii) Mr Selimi's increased awareness of incriminatory evidence; (iii) the significant influential position the Accused still retains in Kosovo; and (iv) Mr Selimi's alleged participation in the commission of crimes, for which there has been a well-grounded suspicion established.⁶⁰

36. The Pre-Trial Judge recalls that, even though the existence of a risk of obstruction does not automatically translate into a risk of committing further crimes, the factors underpinning the former are of relevance to the assessment of the latter in the circumstances of the present case.⁶¹ It is further recalled that it suffices that an Accused instigates or assists others to commit such crimes, or contributes in any other way to their commission; he does not need to physically execute such acts.⁶²

37. Turning to the facts under consideration, the Pre-Trial Judge recalls that, besides the climate of witness intimidation and Mr Selimi's position of influence, there are specific and mutually corroborative indications that [REDACTED].⁶³ In addition, the Pre-Trial Judge notes that Mr Selimi has an increased account of the SPO's case against him in view of the advancement of the pre-trial proceedings since the Third Detention Decision, especially the submission of the SPO's pre-trial brief and the disclosure of the identities of witnesses with in-court protective measures.⁶⁴

⁶⁰ Response, para. 13.

⁶¹ First Detention Decision, para. 47; Second Detention Decision, para. 49; Third Detention Decision, para. 40.

⁶² First Detention Decision, para. 47; Second Detention Decision, para. 49; Third Detention Decision, para. 40.

⁶³ Second Detention Decision, para. 50; Third Detention Decision, para. 41.

⁶⁴ See para. 33 above.

38. Lastly, the Pre-Trial Judge recalls that the Confirmation Decision explicitly describes Mr Selimi's personal participation in the commission of crimes⁶⁵ and his use of others to commit crimes as a Joint Criminal Enterprise member,⁶⁶ which adds to the risk that he may commit further crimes.⁶⁷

39. On this basis, the Pre-Trial Judge considers that there continues to be a risk that Mr Selimi will, under any form of responsibility, commit crimes similar to the underlying acts charged against those perceived as being opposed to the KLA, including witnesses who have provided or could provide evidence in the case and/or are due to appear before the SC.

40. Accordingly, the Pre-Trial Judge concludes that the risk that Mr Selimi will commit further crimes continues to exist.

4. Conclusion

41. The Pre-Trial Judge concludes that the risks that Mr Selimi will abscond, obstruct the progress of SC proceedings, or commit further crimes against those perceived as being opposed to the KLA, including witnesses who have provided or could provide evidence in the case and/or are due to appear before the SC continue to exist. The Pre-Trial Judge will assess below whether these risks can be adequately addressed by any conditions for his release.

D. CONDITIONAL RELEASE

1. Submissions

42. The Defence submits that, in addition to the previously proposed conditions, the Pre-Trial Judge shall consider the following additional conditions:

⁶⁵ Confirmation Decision, para. 466.

⁶⁶ Confirmation Decision, paras 453-454, 465-467.

⁶⁷ Second Detention Decision, para. 52; Third Detention Decision, para. 43.

(i) designation of one room in the house of Mr Selimi where all non-family visits shall take place in the presence of the Kosovo Police officer guarding the residence; such room shall also be subject to video surveillance which will record or stream all non-family meetings for immediate review by the appointed guard as well as for transmission to the Registry; (ii) enhanced monitoring for family members of Mr Selimi, in addition [REDACTED]; (iii) a formal request to EULEX or UNMIK to designate specific police officers to guard the residence of Mr Selimi, or otherwise train and supervise the Kosovo Police in this regard (“First Additional Condition”, “Second Additional Condition” and “Third Additional Condition”, respectively, and collectively referred to as “Additional Conditions”).⁶⁸ The Defence submits that the Additional Conditions are reasonable, directly enforceable and would adequately mitigate the Article 41(6)(b) risks.⁶⁹

43. With particular regard to the First Additional Condition, the Defence submits that this measure would address the Pre-Trial Judge’s prior finding that messages, or other information, could be transmitted by Mr Selimi outside of the monitoring of the Kosovo Police.⁷⁰ The Defence proposes that meetings be monitored by the Kosovo Police member guarding the residence, who, as an Albanian speaker, would be able to quickly intervene if any suspect behaviour was detected.⁷¹ The Defence avers that such a measure could effectively replicate the meeting room facilities and regime in place at the SC Detention Facilities.⁷² Moreover, any meetings in the designated room would be subject to video recording via Zoom, which would allow the Registry to monitor the meetings either live or *ex post facto*, in the same vein as at the SC Detention Facilities.⁷³ The Defence argues that such measure would ensure [REDACTED] while at the same time ensuring the

⁶⁸ Request, para. 2 (*sic*).

⁶⁹ Request, para. 3.

⁷⁰ Request, para. 7.

⁷¹ Request, para. 7.

⁷² Request, para. 7.

⁷³ Request, para. 9.

possibility for the Registry to intervene if any coded or obscure language was to be used by Mr Selimi or a non-family member visitor.⁷⁴ While recognising the novelty of such a measure and the need for a certain amount of planning and coordination, the Defence argues that its implementation would be feasible and neither too complex nor costly.⁷⁵

44. With regard to the Second Additional Condition, the Defence submits that [REDACTED].⁷⁶ The Defence argues that, while it is true that Mr Selimi [REDACTED], this will not significantly increase the risk that he passes any coded, or illicit messages with the intention of obstructing proceedings or committing further crimes, seeing as the Pre-Trial Judge has not previously identified a specific and concrete risk in relation to Mr Selimi using his close family to transmit such messages.⁷⁷

45. With regard to the Third Additional Condition, the Defence submits that EULEX could be ordered to provide the necessary supervision, training or assistance to designated Kosovo Police Officers charged with supervising Mr Selimi's interim release, to allow them to effectively monitor visits by non-family members.⁷⁸ In this regard, the Defence avers that EULEX has the necessary knowledge [REDACTED] and authority to assist the Kosovo Police with the implementation of conditions of interim release, seeing as it is already involved in monitoring cases and trials in the Kosovo criminal justice system and in training with, *inter alia*, the Kosovo Police.⁷⁹ Lastly, the Defence submits that the Kosovo Police could undergo to the enhanced security screening provided to the SC

⁷⁴ Request, paras 10, 17.

⁷⁵ Request, paras 11-13.

⁷⁶ Request, paras 14-16.

⁷⁷ Request, paras 18-20.

⁷⁸ Request, paras 23-24.

⁷⁹ Request, para. 25.

Detention Officers or receive any necessary information or training to allow to properly monitor and supervise Mr Selimi's release.⁸⁰

46. The SPO responds that the Additional Conditions are eminently foreseeable extensions of those previously proposed and therefore the Pre-Trial Judge's previous finding that no conditions could sufficiently mitigate the identified risks still applies.⁸¹ In any case, the SPO argues that the level of complexity and resources required to implement them in the context of a house arrest exceeds what is reasonably required.⁸²

47. Insofar as the First Additional Condition is concerned, the SPO argues that it leaves the issue of close family members' interactions with Mr Selimi completely unmonitored.⁸³ Moreover, and insofar as the monitoring of communications is still to be performed by the Kosovo Police, the manner of monitoring conversations is not different from previously proposed conditions.⁸⁴ According to the SPO, the First Additional Condition is a superficial attempt to supersede the findings of the Court of Appeals regarding the insufficiency of the Kosovo Police's monitoring to mitigate the identified risks.⁸⁵ Lastly, the SPO submits that, although satisfactory, questions of practical implementation remains with regard to the video recording via Zoom of the meetings and the direct or *ex post facto* transmission to the Registry.⁸⁶

48. With regard to the Second Additional Condition, the SPO argues that the Defence once again fails to address the concerns in relation to the possibility of messages being passed orally between Mr Selimi and his close family members.⁸⁷

⁸⁰ Request, para. 26.

⁸¹ Response, para. 14.

⁸² Response, para. 15.

⁸³ Response, para. 16.

⁸⁴ Response, paras 17-19.

⁸⁵ Response, paras 20-21.

⁸⁶ Response, para. 22.

⁸⁷ Response, para. 23.

The SPO further avers that the Defence's contention that the Pre-Trial Judge should have identified a specific and concrete risk in relation to Selimi using his family to transmit coded or illicit messages is erroneous, insofar as the applicable standard is less than certainty, but more than a mere possibility of a risk materialising.⁸⁸

49. With regard to the Third Additional Condition, the SPO argues that the measure disregards prior findings and considerations regarding EULEX's mandate.⁸⁹ In particular, the SPO avers that any training, although certainly beneficial for the Kosovo Police, would not address the major shortcoming identified by the Pre-Trial Judge and the Court of Appeals, namely [REDACTED].⁹⁰ Lastly, the SPO submits that EULEX's Operational Pillar maintains a limited residual capability as a second security responder and therefore could not provide the mandate or resources required for the proposed measure.⁹¹

50. The Defence replies that the Additional Conditions do not fall within prior findings by the Pre-Trial Judge seeing as they are separate and distinct from those already proposed.⁹² Accordingly, they must be assessed by the Pre-Trial Judge, individually and in conjunction with those others already raised.⁹³

51. Referring to the practice of international tribunals in allowing remote witness participation and attendance of accused and counsel, the Defence submits that there is no reason why use of video technology cannot be extended to monitoring conditions of interim release monitoring.⁹⁴ In this regard the Defence submits that the SPO does not substantiate the difficulties linked to the practical

⁸⁸ Response, para. 24.

⁸⁹ Response, para. 25.

⁹⁰ Response, para. 26.

⁹¹ Response, para. 27.

⁹² Reply, paras 3-4.

⁹³ Reply, para. 4.

⁹⁴ Reply, paras 11-12.

implementation of such a monitoring.⁹⁵ On the contrary, the Defence avers that the simultaneous remote supervision overcomes the concerns identified by the SPO by entrusting the Registry with the primary responsibility of monitoring communications between Mr Selimi and non-family members.⁹⁶

52. Lastly, the Defence argues that the possibility of unmonitored contacts with the close family members already exists at the Detention Facilities and the Pre-Trial Judge is therefore to decide whether [REDACTED] increases the risk that he will obstruct proceedings or commit further crimes.⁹⁷ Having regard to Mr Selimi's exemplary conduct over the eighteen months of his detention and the vital importance of his family, he would not risk his family being alleged to having assisted in obstructing proceedings or committing further crimes.⁹⁸

2. Discussion

53. As found in previous detention decisions, the Pre-Trial Judge considers that conditions can sufficiently mitigate the risk of flight in relation to Mr Selimi.⁹⁹ In this regard, the Pre-Trial Judge notes favourably that Mr Selimi has previously committed himself to remain at his home, surrender his passport and other travel documents, report regularly to the relevant authorities, return to the SC at a judicially determined date, and comply with any variation or termination of the interim release.¹⁰⁰

54. Turning to the risks of obstructing the progress of SC proceedings and committing further crimes, the Pre-Trial Judge will now assess whether the Additional

⁹⁵ Reply, para. 10.

⁹⁶ Reply, paras 6-7, 9.

⁹⁷ Reply, paras 13-14.

⁹⁸ Reply, paras 16-17.

⁹⁹ First Detention Decision, para. 54; Second Detention Decision, para. 58; Third Detention Decision, para. 57.

¹⁰⁰ First Detention Decision, para. 54; Second Detention Decision, para. 58; Third Detention Decision, para. 57.

Conditions sufficiently mitigate the identified risks. With regard to the First Additional Condition, the Pre-Trial Judge recalls that, [REDACTED].¹⁰¹ Insofar as the Defence proposes the designation of a specific room subject to video surveillance to conduct the non-family visits, the Pre-Trial Judge finds that such a measure would not sufficiently mitigate the identified risks. In particular, the Pre-Trial Judge recalls that the Kosovo Police, despite being fluent in Mr Selimi's native language and familiar with the general context in Kosovo, [REDACTED] and does not have the ability [REDACTED] in a manner that an official of the SC, such as the Chief Detention Officer, would have.¹⁰² [REDACTED]. With regard to the possibility of using video monitoring techniques and entrusting the Registry with the primary responsibility of monitoring communications between Mr Selimi and non-family members, the Pre-Trial Judge still considers that this would not sufficiently mitigate the identified risks. In fact, [REDACTED],¹⁰³ leaving ample opportunity for Mr Selimi's using his family to convey messages to the exterior,¹⁰⁴ and failing to address the risk that he will obstruct SC proceedings or commit further crimes.

55. Insofar as communications with close family members are concerned, the Pre-Trial Judge considers that enhanced monitoring [REDACTED] would likewise insufficiently mitigate the identified risks, seeing as it would still leave ample opportunity for messages being conveyed orally by Mr Selimi's family to third persons. In particular, Mr Selimi [REDACTED].¹⁰⁵ In this regard, the Pre-Trial Judge notes Mr Selimi's good behaviour during the months spent in pre-trial detention. However, the Pre-Trial Judge recalls that whether the Accused has not been previously accused of involvement in witness interference does not alleviate the risk of obstruction.¹⁰⁶ Moreover, Mr Selimi's behaviour shall be balanced

¹⁰¹ Third Detention Decision, para. 64.

¹⁰² Third Detention Decision, para. 66. *See also* Third Court of Appeals Decision, paras 40-41.

¹⁰³ Third Detention Decision, para. 60; Third Court of Appeals Decision, para. 35, footnote 81.

¹⁰⁴ Third Detention Decision, paras 60-64.

¹⁰⁵ Third Detention Decision, para. 65; Third Court of Appeals Decision, para. 38.

¹⁰⁶ *See* para. 32 above.

against the Pre-Trial Judge's finding that Mr Selimi has [REDACTED].¹⁰⁷ In this regard, the Pre-Trial Judge considers that, while it is possible for Mr Selimi to have unmonitored communications at the SC Detention Facilities, these are strictly limited considering that detainees are only allowed unmonitored "private visits" for certain close family members and within limited time periods, [REDACTED].¹⁰⁸ The Pre-Trial Judge also notes that the Court of Appeals, in a case concerning a co-accused, found that the Pre-Trial Judge's conclusion that the proposed conditions would allow for [REDACTED], and consequently [REDACTED] was a reasonable one.¹⁰⁹ In this regard, the [REDACTED] is not comparable to the limited, yet regular, visits Mr Selimi receives [REDACTED] at the SC Detention Facilities.¹¹⁰ The Pre-Trial Judge therefore finds that enhanced monitoring of [REDACTED] family members would not adequately mitigate the identified risks.

56. Lastly, with regard to the possibility of involving EULEX in the monitoring and implementation of conditions of interim release, the Pre-Trial Judge notes that, although certainly beneficial, the suggested involvement (pre-visit checks, contemporaneous supervision of visits, advanced training and random visits) would not address the risks, identified above, that [REDACTED].¹¹¹ Therefore, and even admitting the practical feasibility of such an involvement, the Pre-Trial Judge considers that such a measure would not sufficiently minimise the identified risks.

57. Accordingly, the Pre-Trial Judge does not find it necessary, as the Defence requests,¹¹² to order the presence of relevant individuals, such as the General Director of the Kosovo Police, a representative of EULEX, and the Chief Detention Officer of

¹⁰⁷ See para. 30 above.

¹⁰⁸ Third Detention Decision, para. 61; *see also* Registry Practice Direction on Detainees Visits and Communications, KSC-BD09/Rev1/2020, 23 September 2020, Article 24.

¹⁰⁹ Krasniqi's Appeals Decision, para. 28.

¹¹⁰ See Third Court of Appeals Decision, para. 37, footnote 90.

¹¹¹ See para. 55 above.

¹¹² Request, paras 28, 29(ii).

the SC Detention Facilities, to be questioned at an oral hearing, considering that the available information enables him to make an informed decision.¹¹³

58. With regard to potential additional measures, and recalling that the obligation for the Pre-Trial Judge to inquire and evaluate, *proprio motu*, all reasonable conditions and not just those raised by the Defence, is not limitless,¹¹⁴ the Pre-Trial Judge considers that, on the basis of the available information as to the capacity of the Kosovo Police to implement monitoring measures, no additional measures, which could be reasonably considered, could sufficiently mitigate the identified risks.¹¹⁵

59. The Pre-Trial Judge recalls that the measures in place at the SC Detention Facilities, viewed as a whole, provide robust assurances against 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.¹¹⁶ Moreover, they offer a controlled environment where a potential breach of confidentiality could be more easily identified and/or prevented.¹¹⁷ Recalling that it is within the Pre-Trial Judge's discretion to compare the conditions proposed by the Defence with the conditions in the SC Detention Facilities,¹¹⁸ the Pre-Trial Judge remains persuaded that it is only through the communication monitoring framework applicable at the SC Detention Facilities that Mr Selimi's communications can be restricted in a manner to sufficiently mitigate the aforementioned risks. Accordingly, the Pre-Trial Judge finds that the Additional Conditions and any other conditions imposed by the Pre-Trial Judge are insufficient to mitigate the risk of Mr Selimi obstructing the progress of SC proceedings or committing further crimes.

¹¹³ See Third Court of Appeals Decision, para. 49; See also KSC-BC-2020-06, IA017/F00011, Court of Appeals, *Decision on Hashim Thaçi's Appeal against Decision on Review of Detention*, 5 April 2022, confidential, para. 59. A public redacted version was issued on the same day, IA017/F00011/RED.

¹¹⁴ Third Court of Appeals Decision, para. 50.

¹¹⁵ Third Court of Appeals Decision, para. 50.

¹¹⁶ Third Detention Decision, para. 67.

¹¹⁷ Third Court of Appeals Decision, para. 42.

¹¹⁸ Third Court of Appeal Decision, para. 35.

E. PROPORTIONALITY OF DETENTION

60. The SPO submits that continued detention is reasonable and proportionate.¹¹⁹

It further argues that the Pre-Trial Judge always correctly assessed the actual length of time spent in pre-trial detention against the scope and complexity of the case, the continuing progress in pre-trial milestones, the lengthy custodial sentence, if convicted, and the inability of the proposed conditions to mitigate the identified risks rather than against general estimates by the parties.¹²⁰

61. At the outset, the Pre-Trial Judge recalls the importance of the proportionality principle in the determination of the reasonableness of pre-trial detention – as reflected in Rule 56(2) of the Rules.¹²¹ The duration of time in detention pending trial is a factor that needs to be considered along with the degree of the risks that are described in Article 41(6)(b) of the Law, in order to determine whether, all factors being considered, the continued detention “stops being reasonable” and the individual needs to be released.¹²² However, the question whether a period of time spent in pre-trial detention is reasonable cannot be assessed in the abstract. Whether it is reasonable for an accused to remain in detention must be assessed on the facts of each case and according to its specific features.¹²³

62. Mr Selimi was arrested on 5 November 2020 and, as a result, he has been detained for slightly more than eighteen months at the time of the present review of his detention. Accordingly, the Pre-Trial Judge will assess whether this period of time is reasonable in the specific circumstances relating to Mr Selimi.

63. The Pre-Trial Judge recalls that: (i) Mr Selimi is charged with ten counts of serious international crimes, namely persecution on political and/or ethnic

¹¹⁹ Response, para. 29.

¹²⁰ Response, para. 29.

¹²¹ KSC-BC-2020-07, IA001/F00005, Court of Appeals, *Decision on Hysni Gucati's Appeal on Matters Related to Arrest and Detention*, 9 December 2020, public, paras 72-73.

¹²² *Similarly*, First Court of Appeals Decision, para. 79.

¹²³ ECtHR, [Buzadji v. the Republic of Moldova \[GC\]](#), para. 90.

grounds, imprisonment/illegal or arbitrary arrest and detention, other inhumane acts, cruel treatment, torture, murder, and enforced disappearance of persons;¹²⁴ (ii) it is alleged that he played a significant role in these crimes;¹²⁵ (iii) he could be sentenced to a lengthy sentence, if convicted; (iv) proceedings against Mr Selimi are complex;¹²⁶ and (v) the risks under Article 41(6)(b)(ii) and (iii) of the Law cannot be mitigated by the proposed conditions and/or any additional conditions.¹²⁷

64. Moreover, all required procedural steps relating to the pre-trial phase of the present case have been, are being or will be completed with a view to transmitting the case for trial at a point in the foreseeable future¹²⁸ – in particular, following the Third Detention Decision: (i) the SPO's Pre-Trial Brief as well as the chart according to Rule 109(c) of the Rules have been filed;¹²⁹ (ii) the SPO completed its disclosure under Rule 102(1)(b) of the Rules;¹³⁰ (iii) further progress in the disclosure process pursuant to Rules 102(3) of the Rules has been made as several request for protective measures regarding Rule 102(3) material have been

¹²⁴ Confirmed Indictment, para. 179.

¹²⁵ Confirmed Indictment, paras 8-9, 32, 39, 40, 44-47, 49, 52, 55-57, 178.

¹²⁶ Third Detention Decision, para. 82, citing ECtHR, *Shabani v. Switzerland*, *Shabani v. Switzerland*, no. 29044/06, [Judgment](#), 5 November 2009, paras 65, 69; ICTY, *Prosecutor v. Ademi*, IT-01-46-PT, [Order on Motion for Provisional Release](#), 20 February 2002, para. 26; ICTR, *Prosecutor v. Ndayambaje*, ICTR-98-42-T, [Decision on the Defence Motion for the Provisional Release of the Accused](#), 21 October 2002, para. 23; [Ngirumpatse Decision](#), para. 25. The Pre-Trial Judge also notes that the SPO intends to rely on [REDACTED], see Annex 2 to Rule 95(4) Material.

¹²⁷ See para. 59 above.

¹²⁸ In this regard the Pre-Trial Judge recalls that, for the purposes of assessing the proportionality of Mr Selimi's detention, the actual length of time spent in pre-trial detention must be assessed as opposed to any estimates by the SPO that proved to be inaccurate, see Third Detention Decision, para. 84.

¹²⁹ Rule 95(4) Material; KSC-BC-2020-06, F00663, Specialist Prosecutor, *Prosecution Submission of Rule 109(c) Chart*, 28 January 2022, public, with Annex 1, strictly confidential and *ex parte* and Annex 2, confidential redacted.

¹³⁰ KSC-BC-2020-06, F00670, Specialist Prosecutor, *Prosecution Notice of Rule 102(1)(b) Disclosure and Related Requests*, 31 January 2022, strictly confidential and *ex parte*, with Annexes 1-9, strictly confidential and *ex parte*. A confidential redacted version was issued on the same day, F00670/CONF/RED; see also Transcript of Hearing ("24 March 2022 Transcript"), 24 March 2022, public, p. 1067, line 24 to p. 1068, line 13.

adjudicated;¹³¹ (iv) the Pre-Trial Judge ordered the SPO to complete its review of the remaining material to be assigned for exculpatory review and disclose the material found to be exculpatory by 20 May 2022;¹³² (v) the Pre-Trial Judge has invited the parties to engage in *inter partes* discussions on ways to streamline the case before 13 May 2022 and ordered that proposals be filed by 20 May 2022;¹³³ and (vi) the Pre-Trial Judge invited the Defence to inform him whether its pre-trial brief, if any, could be filed by 16 September 2022, with a view to transmitting the case in the following weeks to the trial panel.¹³⁴ Furthermore, pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, Mr Selimi's detention shall be reviewed every two months or as soon as a change in circumstances arises.

65. On this basis, the Pre-Trial Judge concludes that, for the purposes of the periodic review of the detention of Mr Selimi pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, the time Mr Selimi has spent in pre-trial detention is not disproportionate.

¹³¹ KSC-BC-2020-06, F00651, Pre-Trial Judge, *Decision on the Specialist Prosecutor's Request for Protective Measures for Rule 102(3) Materials Requested by the Selimi Defence*, 21 January 2022, strictly confidential and *ex parte*. A confidential redacted version was issued on the same day, F00651/CONF/RED; F00660, Pre-Trial Judge, *Decision on the Specialist Prosecutor's Request for Protective Measures for Rule 102(3) Materials Requested by the Thaçi Defence and Deferred Item*, 28 January 2022, strictly confidential and *ex parte*. A confidential redacted version was issued on the same day, F00660/CONF/RED; F00746, Pre-Trial Judge, *Decision on the Specialist Prosecutor's Request for Protective Measures for Deferred Rule 102(3) Items from F00660 and Request Regarding Deferred Rule 107(2) Items from F00719*, 22 March 2022, confidential; F00756, Pre-Trial Judge, *Decision on the Specialist Prosecutor's Request for Protective Measures for Certain Rule 102(3) Information Requested by the Krasniqi Defence*, 29 March 2022, strictly confidential and *ex parte*. A confidential redacted version was issued on the same day, F00756/CONF/RED.

¹³² 24 March 2022 Transcript, p. 1161, line 24 to p. 1162, line 2.

¹³³ 24 March 2022 Transcript, p. 1161, lines 13-20.

¹³⁴ KSC-BC-2020-06, FXXX, Pre-Trial Judge, *Order Setting the Date for a Twelfth Status Conference and for Submissions*, 12 May 2022, public, para. 21(2)(g).

V. CLASSIFICATION

66. The Pre-Trial Judge notes that the SPO does not object to the reclassification of the Response as public.¹³⁵ However, the Pre-Trial Judge considers that the Response contains information that needs to be redacted from the public,¹³⁶ in accordance with previously applied redactions. Therefore, the Pre-Trial Judge orders the SPO to file a public redacted version of the Response.

67. The Pre-Trial Judge further orders the Defence to file public redacted versions of the Request and the Reply.

VI. DISPOSITION

68. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a) **ORDERS** Mr Selimi's continued detention;
- b) **ORDERS** Mr Selimi, if he wishes to do so, to file submissions on the next review of detention by no later than **Wednesday, 22 June 2022**, with responses and replies following the timeline set out in Rule 76 of the Rules;
- c) **ORDERS** the SPO, should Mr Selimi decide not to file any submissions by the aforementioned time limit, to file submissions on the next review of Mr Selimi's detention by no later than **Wednesday, 29 June 2022**, and Mr Selimi, if he wishes to do so, to file his submissions by no later than **Wednesday, 6 July 2022**; and

¹³⁵ Response, para. 31 (*sic*).

¹³⁶ See, for example, Response, paras 8, 13 (*in fine*), 17 (*in fine*).

- d) **ORDERS** the Defence and the SPO to submit public redacted versions of their respective submissions (the Request, Response, and Reply) by no later than **Thursday, 19 May 2022**.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Friday, 13 May 2022
At The Hague, the Netherlands.