



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: 18 November 2022

Language: English

Classification: Public

**Public Redacted Version of
Decision on Periodic Review of Detention of Jakup Krasniqi**

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

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, strictly confidential and *ex parte* (F00789/A01), with confidential redacted (F00789/A02) and public redacted (F00789/A05) versions. On 30 September 2022, the SPO submitted a confirmed further amended indictment ("Confirmed Indictment"), strictly confidential and *ex parte* (F00999/A01), with confidential redacted (F00999/A02) and public redacted (F00999/A03) versions, as ordered by the Pre-Trial Judge (F00895, Pre-Trial Judge, *Decision on Motion Alleging Defects in the Form of the Amended Indictment*, 22 July 2022, public, para. 49(e); F00993, Pre-Trial Judge, *Decision on the Prosecution Request to Amend the Indictment*, 29 September 2022, confidential, para. 24(b); a public redacted version was filed on the same day, F00993/RED).

³ KSC-BC-2020-06, F00027/RED, Pre-Trial Judge, *Public Redacted Version of the Decision on Request for Arrest Warrants and Transfer Orders*, 26 October 2020, public; F00027/A07/COR/RED, *Public Redacted Version of Corrected Version of Arrest Warrant for Jakup Krasniqi*, 26 October 2020, public; F00044, Registrar, *Notification of Arrest of Jakup Krasniqi Pursuant to Rule 55(4)*, 4 November 2020, public.

2. On 22 January 2021, the Pre-Trial Judge rejected Mr Krasniqi's application for interim release ("First Detention Decision").⁴
3. On 30 April 2021, the Court of Appeals upheld the First Detention Decision ("First Court of Appeals Decision").⁵
4. On 25 June 2021, the Pre-Trial Judge ordered Mr Krasniqi's continued detention ("Second Detention Decision").⁶
5. On 1 October 2021, the Court of Appeals issued the decision on Mr Krasniqi'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 Krasniqi 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

⁴ KSC-BC-2020-06, F00180, Pre-Trial Judge, *Decision on Jakup Krasniqi's Application for Interim Release*, 22 January 2021, confidential. A public redacted version was issued on 26 January 2021, F00180/RED.

⁵ KSC-BC-2020-06, IA002/F00005, Court of Appeals, *Decision on Jakup Krasniqi's Appeal Against Decision on Interim Release*, 30 April 2021, confidential. A public redacted version was issued on the same day, IA002/F00005/RED.

⁶ KSC-BC-2020-06, F00371, Pre-Trial Judge, *Decision on Review of Detention of Jakup Krasniqi*, 25 June 2021, confidential. A public redacted version was issued on 30 June 2021, F00371/RED.

⁷ KSC-BC-2020-06, IA006/F00005, Court of Appeals, *Decision on Jakup Krasniqi's Appeal Against Decision on Review of Detention*, 1 October 2021, confidential. A public redacted version was issued on the same day, IA006/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 filed on 29 November 2021, F00536/RED.

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 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 ("KP Submissions").¹²

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

9. On 25 March 2022, the Court of Appeals upheld the Third Detention Decision ("Third Court of Appeals Decision").¹⁴

10. On 13 May 2022, the Pre-Trial Judge ordered Mr Krasniqi's continued detention ("Fourth Detention Decision").¹⁵

11. On 25 May 2022, the Defence appealed the Fourth Detention Decision.¹⁶

12. On 21 June 2022, further to a request by, *inter alios*, Mr Krasniqi, who also waived the right to have his detention reviewed before the expiry of the two-

¹¹ KSC-BC-2020-06, F00513, Pre-Trial Judge, *Order to the Kosovo Police to Provide Information*, 8 October 2021, public, with Annex 1, confidential.

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, F00582, Pre-Trial Judge, *Decision on Remanded Detention Review Decision and Periodic Review of Detention of Jakup Krasniqi*, 26 November 2021, confidential. A public redacted version was issued on 8 December 2021, F00582/RED.

¹⁴ 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*, 25 March 2022, confidential. A public redacted version was issued on the same day, IA016/F00005/RED.

¹⁵ KSC-BC-2020-06, F00801, Pre-Trial Judge, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 13 May 2022, confidential and *ex parte*. A confidential redacted version was issued on the same day, F00801/CONF/RED. A public redacted version was issued on 24 May 2022, F00801/RED.

¹⁶ KSC-BC-2020-06, IA020/F00001, Specialist Counsel, *Krasniqi Defence Appeal Against Decision on Periodic Review of Detention of Jakup Krasniqi*, 25 May 2022, confidential, with Annex 1, public. A public redacted version was filed on 9 August 2022, IA020/F00001/RED.

month time limit set out in Article 41(10) of the Law and Rule 57(2) of the Rules,¹⁷ the Pre-Trial Judge varied the time limits for submissions on the review of Mr Krasniqi's detention.¹⁸

13. On 2 August 2022, the Court of Appeals upheld the Fourth Detention Decision ("Fourth Court of Appeals Decision").¹⁹

14. On 19 September 2022, the Pre-Trial Judge ordered Mr Krasniqi's continued detention ("Fifth Detention Decision").²⁰

15. On 24 October 2022, the Specialist Prosecutor's Office ("SPO") filed its submissions on the review of Mr Krasniqi's detention ("SPO Submissions").²¹ On 31 October 2022, the Defence responded ("Defence Response").²²

II. SUBMISSIONS

16. The SPO submits that, absent any change in circumstances since the Fourth Court of Appeals Decision, upholding the Fourth Detention Decision, the requirements under Article 41(6) of the Law remain satisfied.²³ In particular, the SPO submits that: (i) the Pre-Trial Judge's finding of a continued grounded suspicion that Mr Krasniqi has committed crimes within the SC's subject-matter

¹⁷ KSC-BC-2020-06, F00833, Specialist Counsel, *Krasniqi Defence Request for Extension of Time for Submissions on Fourth Detention Review*, 9 June 2022, public, para. 4, with Annex 1, confidential.

¹⁸ KSC-BC-2020-06, F00851, Pre-Trial Judge, *Decision on Defence Requests for Extension of Time for Submissions on Fourth Review of Detention*, 21 June 2022, public, para. 10.

¹⁹ KSC-BC-2020-06, IA020/F00005, Court of Appeals, *Decision on Jakup Krasniqi's Appeal Against Decision on Periodic Review of Detention*, 2 August 2022, confidential. A public redacted version was issued on the same day, IA020/F00005/RED.

²⁰ KSC-BC-2020-06, F00978, Pre-Trial Judge, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 19 September 2022, confidential. A public redacted version was issued on 23 September 2022, F00978/RED.

²¹ KSC-BC-2020-06, F01053, Specialist Prosecutor, *Prosecution Submissions on Detention Review of Mr Krasniqi*, 24 October 2022, confidential. A public redacted version was filed on 27 October 2022, F01053/RED.

²² KSC-BC-2020-06, F01074, Specialist Counsel, *Krasniqi Defence Response to Prosecution Submissions on Detention Review of Mr Krasniqi (F01053)*, 31 October 2022, public.

²³ SPO Submissions, paras 1-2, 5-6, 8.

jurisdiction continues to stand;²⁴ (ii) the risks previously identified, namely of flight, obstruction to progress of proceedings of the Specialist Chambers (“SC”), and/or committing further crimes similar to those charged, continue to exist;²⁵ (iii) no alternative measures to detention exist that would sufficiently mitigate these risks;²⁶ and (iv) the continued detention of Mr Krasniqi remains proportionate.²⁷

17. The Defence requests that Mr Krasniqi be released subject to such conditions as the Pre-Trial Judge may deem appropriate.²⁸ The Defence argues, in particular, that the SPO misinterprets the standard for the risk assessment pursuant to Article 41(6)(b) of the Law,²⁹ and that there is no evidence of any attempt by (or on behalf of) Mr Krasniqi to interfere with witnesses or otherwise obstruct the SC proceedings.³⁰ Moreover, it avers that detention is no longer proportionate in light of its length hitherto.³¹

III. APPLICABLE LAW

18. Pursuant to Article 41(6) of the Law, the 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.

²⁴ SPO Submissions, para. 6 (*referring to* Fifth Detention Decision, para. 24).

²⁵ SPO Submissions, paras 1, 7-9.

²⁶ SPO Submissions, paras 1-2, 10-11.

²⁷ SPO Submissions, paras 2, 12-13.

²⁸ Defence Response, para. 14.

²⁹ Defence Response, paras 2, 9.

³⁰ Defence Response, paras 2, 10.

³¹ Defence Response, paras 2, 11, 13-14.

19. Pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, 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.

20. Pursuant to Article 41(12) of the Law, 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.

21. 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 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

22. 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.³²

B. GROUNDED SUSPICION

23. 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

³² See, among many others, Third Detention Decision, para. 28, with further references.

crime within the SC's jurisdiction. This is a *conditio sine qua non* for the validity of the detained person's continued detention.³³

24. According to the SPO, the Pre-Trial Judge's finding of a continued grounded suspicion that Mr Krasniqi has committed crimes within the SC's subject-matter jurisdiction, continues to stand absent any change in circumstances.³⁴ The Defence has not made submissions regarding this criterion in the Defence Response.

25. 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 Krasniqi is criminally liable for a number of crimes against humanity (persecution, imprisonment, other inhumane acts, torture, murder and 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.³⁵ 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 Krasniqi with the requested amendments to the indictment.³⁶ 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.³⁷

26. Accordingly, and absent any change in circumstances in this regard since the Confirmation Decision and the confirmation of the amendments to the

³³ ECtHR, *Merabishvili v. Georgia* [GC], no. 72508/13, [Judgment](#), 28 November 2017, para. 222, with further references.

³⁴ SPO Submissions, para. 6 (*referring to* Fifth Detention Decision, para. 24).

³⁵ Confirmation Decision, para. 521(a)(i)-(ii).

³⁶ Fourth Detention Decision, para. 38; Fifth Detention Decision, para. 24; 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.

³⁷ *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.

indictment,³⁸ 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

27. 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.³⁹ The Pre-Trial Judge further recalls that, on the basis of the available evidence, the specific articulable grounds must support the "belief"⁴⁰ that any of the risks under the three limbs of Article 41(6)(b) of the Law exists, denoting an acceptance of the possibility, not the inevitability, of a future occurrence.⁴¹ In other words, the standard to be applied is less than certainty, but more than a mere possibility of a risk materialising.⁴² Lastly, when deciding on whether a person should be released or detained, the Pre-Trial Judge must consider alternative measures to prevent the risks in Article 41(6)(b) of the Law.⁴³

³⁸ See fn. 36 above.

³⁹ 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. 18.

⁴⁰ See *chapeau* of Article 41(6)(b) of the Law.

⁴¹ First Detention Decision, para. 18; see also KSC-BC-2020-05, F00127, Trial Panel I, *Fourth Decision on Review of Detention*, 25 May 2021, public, para. 17, with further references.

⁴² First Court of Appeals Decision, para. 26.

⁴³ 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] ("*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*.

1. Risk of Flight

28. According to the SPO, absent any change in circumstances since the Fifth Detention Decision, Mr Krasniqi continues to pose a risk of flight, as he still has an incentive and the means to evade the proceedings.⁴⁴

29. The Defence replies, in particular, that: (i) the passage of almost two years since Mr Krasniqi's arrest is itself a change in circumstances which should be considered in the present detention review;⁴⁵ and (ii) Mr Krasniqi's good conduct and the absence of any real risk shown by the SPO over the last two years constitute sufficient proof that there is no basis for Mr Krasniqi's continued detention.⁴⁶

30. Having examined, as they currently stand, the factors and circumstances regarding a risk of flight invoked in the decisions reviewing Mr Krasniqi's detention, the Pre-Trial Judge remains satisfied that they continue to exist. More specifically, the Pre-Trial Judge considers that Mr Krasniqi: (i) has been made aware of the charges against him and the possibility of a serious sentence in the event of a conviction;⁴⁷ and (ii) even though Mr Krasniqi is now retired and no longer holds public positions,⁴⁸ he continues to play a significant role in Kosovo on the basis of the previous positions he occupied.⁴⁹ With respect to the latter, the Pre-Trial Judge recalls the Court of Appeals findings that the Pre-Trial Judge did not err in finding that Mr Krasniqi continues to enjoy an influential position in Kosovo due to his former functions.⁵⁰ Hence, the Pre-Trial Judge still considers

⁴⁴ SPO Submissions, para. 8 (*referring to* Fifth Detention Decision, paras 29-30).

⁴⁵ Defence Response, para. 11 (*referring to* ECtHR, *Neumeister v. Austria*, no. 1936/63, [Judgment](#) ("*Neumeister v. Austria*"), 27 June 1968, p. 35, para. 10.

⁴⁶ Defence Response, para. 12.

⁴⁷ First Detention Decision, para. 29; Second Detention Decision, para. 29; Third Detention Decision, para. 37; Fourth Detention Decision, para. 42; Fifth Detention Decision, para. 29.

⁴⁸ *See also* First Detention Decision, para. 36.

⁴⁹ Second Detention Decision, para. 36; Third Detention Decision, para. 37; Fourth Detention Decision, para. 42; Fifth Detention Decision, para. 29.

⁵⁰ First Court of Appeals Decision, para. 52; Second Court of Appeals Decision, para. 27.

that, despite two years having passed since Mr Krasniqi's arrest,⁵¹ there is the incentive and means to evade proceedings. In particular, the influence Mr Krasniqi 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.⁵² Thus, and contrary to the Defence's submissions,⁵³ the Pre-Trial Judge's findings in this regard are neither based solely on the severity of the crimes charged, nor on generalisations.

31. In light of the above, and notwithstanding the counter-balancing factors identified in the First Detention Decision,⁵⁴ the Pre-Trial Judge finds that a moderate risk of flight in relation to Mr Krasniqi continues to exist.

2. Risk of Obstructing the Progress of SC Proceedings

32. According to the SPO, a risk of obstruction remains, considering that Mr Krasniqi maintains his position of influence, and considering, *inter alia*: (i) prior statements made by him; (ii) an already established [REDACTED]; and (iii) his increasing insight into evidence underpinning the charges against him.⁵⁵ The SPO further submits that these factors must be considered in the persisting climate of witness intimidation and interference in criminal proceedings involving KLA members.⁵⁶

33. The Defence argues that there continues to be no convincing evidence of any attempt by, or on behalf of, Mr Krasniqi to interfere with witnesses or to otherwise

⁵¹ With respect to the case law of the European Court of Human Rights (ECtHR) cited by the Defence in this regard (*see* fn. 45 above), the Pre-Trial Judge considers that, according to the ECtHR, the time spent in detention thus far is only one of many factors to be taken into account (*see* ECtHR, *Neumeister v. Austria*, p. 35, para. 10).

⁵² Fourth Detention Decision, para. 42; Fifth Detention Decision, para. 29.

⁵³ Defence Response, para. 12.

⁵⁴ First Detention Decision, para. 30.

⁵⁵ SPO Submissions, para. 8 (*referring to* Fifth Detention Decision, paras 33-37).

⁵⁶ SPO Submissions, para. 8.

obstruct SC proceedings.⁵⁷ Moreover, the Defence avers that the passage of two years of detention on remand diminishes any risk of interference with witnesses or of other obstruction of SC proceedings.⁵⁸

34. The Pre-Trial Judge recalls his previous findings that there is a risk of Mr Krasniqi obstructing SC proceedings based on, *inter alia*, his position of influence, his public statements criticising the SC, the content of a 24 April 2020 Facebook post targeting “collaborators” and [REDACTED].⁵⁹

35. Furthermore, as a former political leader and former KLA deputy commander, Mr Krasniqi still holds a position of influence in Kosovo,⁶⁰ which, [REDACTED], allows for the reasonable conclusion that it is possible⁶¹ for Mr Krasniqi to [REDACTED].⁶²

36. The Pre-Trial Judge maintains his view that there is a persisting climate of intimidation of witnesses and interference with criminal proceedings against former KLA members in Kosovo, which, even though not determinative in and of itself, provides the context against which Mr Krasniqi’s [REDACTED] and his position of influence must be considered.⁶³ In this regard, the Pre-Trial Judge recalls that in relation to the assessment of previously proposed conditions of interim release, the Court of Appeals confirmed that the persisting climate of

⁵⁷ Defence Response, paras 2, 10 (*referring to* First Court of Appeals Decision, para. 25).

⁵⁸ Defence Response, para. 13 (*referring to* ECtHR, *Clooth v. Belgium*, no. 12718/87, [Judgment](#) [*“Clooth v. Belgium”*], 12 December 1991, paras 43, 45-46).

⁵⁹ First Detention Decision, paras 36, 39; Second Detention Decision, paras 35, 37; Third Detention Decision, paras 42-43. *See also* Fourth Detention Decision, para. 48; Fifth Detention Decision, para. 33; Second Court of Appeals Decision, para. 30.

⁶⁰ First Court of Appeals Decision, para. 52; Second Detention Decision, para. 36; Second Court of Appeals Decision, para. 27; Third Detention Decision, para. 44; Fourth Detention Decision, para. 49; Fifth Detention Decision, para. 34.

⁶¹ The Pre-Trial Judge recalls that the standard to be applied is less than certainty, but more than a mere possibility of a risk materialising, *see* para. 27 above, *referring to* First Court of Appeals Decision, para. 26.

⁶² Second Detention Decision, para. 38; Fourth Detention Decision, para. 49; Fifth Detention Decision, para. 34.

⁶³ First Detention Decision, para. 38; Second Detention Decision, para. 38; Third Detention Decision, para. 45; Fourth Detention Decision, para. 50; Fifth Detention Decision, para. 35.

witness intimidation and interference in Kosovo are relevant “contextual considerations”.⁶⁴ As regards the Defence’s argument that there is no evidence of any attempt of interference or obstruction by, or on behalf of, Mr Krasniqi,⁶⁵ the Pre-Trial Judge still considers that whether the Accused has not been previously accused of involvement in witness interference does not alleviate the risk of obstruction.⁶⁶ 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.⁶⁷

37. Furthermore, the Pre-Trial Judge remains persuaded that protective measures in place are not entirely sufficient to mitigate the risk of obstruction, considering that, notwithstanding the adoption of numerous decisions on protective measures, [REDACTED] and, irrespective of these measures, [REDACTED].⁶⁸ Moreover, as previously established,⁶⁹ in view of the fact that Mr Krasniqi is [REDACTED] and continues to play a significant role in Kosovo, his increased insight into the evidence underpinning the serious charges against him – in particular following the filing of the SPO’s pre-trial brief and witness list after the Third Detention Decision⁷⁰ – increased the risk of obstruction. Lastly, the Pre-Trial Judge recalls

⁶⁴ See 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, para. 43. A public redacted version was filed on the same day, IA015/F00005/RED.

⁶⁵ Defence Response, paras 2, 10.

⁶⁶ Third Court of Appeals Decision, footnote 73; Fourth Detention Decision, para. 50; Fifth Detention Decision, para. 35.

⁶⁷ Fourth Detention Decision, para. 50; Fifth Detention Decision, para. 35; KSC-BC-2020-06, IA003/F00005, Court of Appeals, *Decision on Rexhep Selimi’s Appeal Against Decision on Interim Release*, 30 April 2021, confidential, para. 59. A public redacted version was filed on the same day, IA003/F00005/RED.

⁶⁸ Second Detention Decision, para. 39; Second Court of Appeals Decision, paras 34-35; Third Detention Decision, para. 46; Fourth Detention Decision, para. 51; Fifth Detention Decision, para. 36.

⁶⁹ Fourth Detention Decision, para. 51; Fifth Detention Decision, para. 36.

⁷⁰ KSC-BC-2020-06, F00631, Specialist Prosecutor, *Submission of Pre-Trial Brief with Witness and Exhibit Lists*, 17 December 2021, confidential, with Annexes 1-3, strictly confidential and *ex parte*. A public redacted version with confidential redacted Annexes 1-3 was filed on 21 December 2021, F00631/RED.

that Mr Krasniqi has been or will soon be provided with further details as to the case against him, in particular following the filing of a lesser redacted version of the witness list,⁷¹ the witness list including the mode of questioning and presentation times,⁷² the amended witness and exhibit lists,⁷³ and the provisional list of the first 40 witnesses the SPO intends to call at trial, which is due on 18 November 2022.⁷⁴

38. Lastly, with respect to the Defence's argument regarding the length of detention on remand and the cited case law of the European Court of Human Rights (ECtHR) in this regard,⁷⁵ the Pre-Trial Judge considers that the cited ECtHR case concerned proceedings in which the accused actively impeded the investigations, which was the basis for keeping him in detention.⁷⁶ Thus, with the passage of time and the completion of important investigative measures, the basis for keeping the accused in detention eroded.⁷⁷ The Pre-Trial Judge is of the view that the cited ECtHR case is therefore not comparable to the present case, in particular because: (i) as set out in paragraphs 34-37 above, the finding that a risk of obstruction exists in the present case is not solely based on the needs of the investigations;⁷⁸ and (ii) the needs of the investigation are, in the present case, not invoked in a "general and abstract fashion".⁷⁹

A corrigendum with two strictly confidential and *ex parte* Annexes and one confidential Annex was submitted on 24 February 2022, F00709.

⁷¹ KSC-BC-2020-06, F00885, Specialist Prosecutor, *Prosecution Submission of Corrected and Lesser Redacted Witness List*, 18 July 2022, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential. *See also* Fifth Detention Decision, para. 36.

⁷² KSC-BC-2020-06, F00948, Specialist Prosecutor, *Prosecution Submission of Revised Witness List ("Revised Witness List")*, 2 September 2022, public, with Annex 1, strictly confidential and *ex parte*, and Annexes 2-3, confidential. *See also* Fifth Detention Decision, para. 36.

⁷³ KSC-BC-2020-06, F01078, Specialist Prosecutor, *Prosecution Submission of Amended Witness and Exhibit Lists*, 2 November 2022, confidential, with Annexes 1 and 3, strictly confidential and *ex parte*, and Annexes 2 and 4, confidential.

⁷⁴ KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public, p. 1584, lines 9-12.

⁷⁵ Defence Response, para. 13 (*referring to* ECtHR, *Clooth v. Belgium*, paras 43, 45-46).

⁷⁶ ECtHR, *Clooth v. Belgium*, paras 12-13, 43.

⁷⁷ ECtHR, *Clooth v. Belgium*, paras 41-46.

⁷⁸ *See on this*, ECtHR, *Clooth v. Belgium*, in particular para. 43.

⁷⁹ *See on this*, ECtHR, *Clooth v. Belgium*, in particular para. 44.

39. In light of the above, the Pre-Trial Judge finds that the risk that Mr Krasniqi will obstruct SC proceedings continues to exist.

3. Risk of Committing Further Crimes

40. For the same reasons as set out in relation to the risk of obstructing proceedings, the SPO avers that the risk of Mr Krasniqi committing further crimes continues to exist.⁸⁰

41. The Defence has not made submissions on this point in the Defence Response.

42. 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.⁸¹ It is further recalled that it suffices that Mr Krasniqi 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.⁸²

43. Turning to the facts under consideration, the Pre-Trial Judge recalls his previous findings that, besides the climate of witness intimidation, Mr Krasniqi: (i) has [REDACTED];⁸³ (ii) has a position of influence in Kosovo which could allow him to [REDACTED];⁸⁴ and (iii) has (or will soon have) an increased account of the SPO's case against him, in particular following the filing of a lesser redacted version of the witness list, the witness list including the mode of questioning and presentation times, the amended witness and exhibit lists, and the provisional list

⁸⁰ SPO Submissions, para. 8 (*referring to* Fifth Detention Decision, paras 38-43).

⁸¹ First Detention Decision, para. 42; Second Detention Decision, para. 42; Third Detention Decision, para. 50; Fourth Detention Decision, para. 54; Fifth Detention Decision, para. 40.

⁸² First Detention Decision, para. 42; Second Detention Decision, para. 42; Third Detention Decision, para. 50; Fourth Detention Decision, para. 54; Fifth Detention Decision, para. 40.

⁸³ Fourth Detention Decision, para. 55; Fifth Detention Decision, para. 41.

⁸⁴ Fourth Detention Decision, para. 55; Fifth Detention Decision, para. 41.

of the first 40 witnesses the SPO intends to call at trial, which is due on 18 November 2022.⁸⁵

44. On this basis, and having examined the circumstances as they currently stand, the Pre-Trial Judge considers that there continues to be a risk that Mr Krasniqi 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.

45. Accordingly, the Pre-Trial Judge concludes that the risk remains that Mr Krasniqi will commit further crimes.

4. Other Defence Challenges

46. As regards the Defence's claims that "the mechanical reiteration of the same, limited evidence every two months for two years by the SPO, does not provide a compelling justification for extending Mr Krasniqi's detention beyond the current period",⁸⁶ the Pre-Trial Judge recalls the Court of Appeals findings according to which: (i) the Pre-Trial Judge is not required to make findings on the factors already decided upon in the initial ruling on detention; and (ii) what is crucial is that the Pre-Trial Judge is satisfied that, at the time of the review decision, grounds for continued detention still exist.⁸⁷ With respect to the findings in the preceding paragraphs, and as stated therein, the Pre-Trial Judge emphasises that the above-made conclusions on the risks have been drawn based on an examination of the factors and circumstances as they currently stand.

⁸⁵ See para. 37 and fns 71-74 above. See also Fifth Detention Decision, para. 41.

⁸⁶ Defence Response, paras 10, 14.

⁸⁷ See, in particular, KSC-BC-2020-07, IA002-F00005, Court of Appeals, *Decision on Nasim Haradinaj's Appeal Against Decision Reviewing Detention*, 9 February 2021, public, para. 55; Second Court of Appeals Decision, paras 14-17.

5. Conclusion

47. The Pre-Trial Judge concludes that there remains a moderate risk that Mr Krasniqi will flee, and that there remains a risk that Mr Krasniqi will obstruct the progress of proceedings, or commit further offences 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. The Pre-Trial Judge will assess below whether these risks can be adequately addressed by any conditions for his release.

D. CONDITIONAL RELEASE

48. The SPO submits that all reasonable, realistic alternatives to detention in the SC Detention Facilities have already been duly considered and rightfully rejected. According to the SPO, no alternative measures would sufficiently mitigate all the risks under Article 41(6)(b) of the Law, posed by the Accused.⁸⁸

49. The Defence does not propose specific alternatives or conditions in the Defence Response.

50. As found in previous detention decisions, the Pre-Trial Judge considers that the risk of flight can be sufficiently mitigated on the basis that Mr Krasniqi has committed himself to return to the SC whenever summonsed, not to change his place of residence and report regularly to the relevant authorities.⁸⁹ This conclusion is underscored by the guarantees provided by the Kosovo Police that they are authorised and capable of ensuring that an individual subject to conditional release reports to the Kosovo Police, surrenders documents allowing

⁸⁸ SPO Submissions, paras 10-11 (*referring to* Third Court of Appeals Decision, paras 33, 42; Fourth Detention Decision, para. 70; Fourth Court of Appeals Decision, paras 29-35, 39; Fifth Detention Decision, paras 50-53).

⁸⁹ First Detention Decision, para. 48; Second Detention Decision, para. 49; Third Detention Decision, para. 67; Fourth Detention Decision, para. 65; Fifth Detention Decision, para. 49.

him to travel, and returns to the SC whenever ordered to do so by the Pre-Trial Judge for the purposes of the proceedings in relation to him.⁹⁰

51. Turning to the risks of obstructing the progress of SC proceedings and committing further crimes, the Pre-Trial Judge recalls, at the outset: (i) his previous finding that neither the previously proposed conditions nor any additional measures ordered *proprio motu* could sufficiently mitigate the existing risks;⁹¹ and (ii) that this finding was recently upheld by the Court of Appeals.⁹²

52. With regard to potential additional measures, the Pre-Trial Judge further recalls that: (i) 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; and (ii) he is not required to raise all possible conditions *proprio motu*, if these were neither widely used in the context of interim release nor raised by the Parties.⁹³ In the absence of any intervening developments regarding this matter, the Pre-Trial Judge still 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.⁹⁴

53. 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.⁹⁵

⁹⁰ Third Detention Decision, para. 67; Fourth Detention Decision, para. 65; Fifth Detention Decision, para. 49; KP Submissions, pp. 2-4, 6.

⁹¹ Fourth Detention Decision, paras 66-71; Fifth Detention Decision, paras 50-53.

⁹² Fourth Court of Appeals Decision, para. 39.

⁹³ Third Court of Appeals Decision, para. 42; Fourth Detention Decision, para. 70; Fourth Court of Appeals Decision, para. 37; Fifth Detention Decision, para. 51.

⁹⁴ See also Third Court of Appeals Decision, para. 42; Fourth Detention Decision, para. 70; Fourth Court of Appeals Decision, para. 39; Fifth Detention Decision, para. 51.

⁹⁵ Third Detention Decision, para. 77; Fourth Detention Decision, para. 71; Fifth Detention Decision, para. 52.

Moreover, they offer a controlled environment where a potential breach of confidentiality could be more easily identified and/or prevented.⁹⁶ Recalling that it is within the Pre-Trial Judge's discretion to compare the conditions (previously) proposed by the Defence, or any other possible conditions, with the conditions in the SC Detention Facilities,⁹⁷ the Pre-Trial Judge remains persuaded that it is only through the communication monitoring framework applicable at the SC Detention Facilities that Mr Krasniqi's communications can be restricted in a manner to sufficiently mitigate the aforementioned risks.

54. Accordingly, the Pre-Trial Judge finds that neither the conditions previously proposed by the Defence nor any other conditions imposed *proprio motu* could sufficiently mitigate the risk of Mr Krasniqi obstructing the progress of SC proceedings or committing further crimes.

E. PROPORTIONALITY OF DETENTION

55. The SPO argues that Mr Krasniqi's continued detention is reasonable in light of: (i) the progress of the case towards trial, in particular as key milestones in the pre-trial stage have either been met (such as the submission by the SPO of its pre-trial brief, an updated witness list, a supplement to the Rule 102(3) notice, and a supplement to the Rule 109(c) chart, as well as the completion by the SPO of the disclosure of items requested by the Defence from the original Rule 102(3) notice) or will be imminently met; (ii) the case's scope and complexity; (iii) the potential lengthy custodial sentence in case of conviction; and (iv) the risks posed by Mr Krasniqi.⁹⁸

⁹⁶ Third Court of Appeals Decision, para. 30; Fourth Detention Decision, para. 71; Fifth Detention Decision, para. 52.

⁹⁷ Third Court of Appeals Decision, para. 26; Fourth Detention Decision, para. 71; Fourth Court of Appeals Decision, para. 30; Fifth Detention Decision, para. 52.

⁹⁸ SPO Submissions, paras 12-13.

56. The Defence avers that detention is no longer proportionate, in particular in light of its length hitherto (nearly two years).⁹⁹

57. 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.¹⁰⁰ 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.¹⁰¹ The Pre-Trial Judge notes that the question of 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.¹⁰²

58. Mr Krasniqi was arrested on 4 November 2020 and, as a result, he has been detained for slightly more than two years 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 Krasniqi.

59. The Pre-Trial Judge recalls that: (i) Mr Krasniqi is charged with ten counts of serious international crimes, namely persecution on political and/or ethnic grounds, imprisonment/illegal or arbitrary arrest and detention, other inhumane acts, cruel treatment, torture, murder, and enforced disappearance of persons;¹⁰³

⁹⁹ Defence Response, paras 2 (with further references), 14.

¹⁰⁰ Fourth Detention Decision, para. 79; Fifth Detention Decision, para. 56; 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.

¹⁰¹ Fourth Detention Decision, para. 79; Fifth Detention Decision, para. 56. *Similarly*, First Court of Appeals Decision, para. 69.

¹⁰² Fourth Detention Decision, para. 79; Fifth Detention Decision, para. 56; ECtHR, [Buzadji v. the Republic of Moldova \[GC\]](#), para. 90.

¹⁰³ Confirmed Indictment, para. 177.

(ii) it is alleged that Mr Krasniqi played a significant role in these crimes;¹⁰⁴
 (iii) Mr Krasniqi could be sentenced to a lengthy sentence, if convicted;¹⁰⁵
 (iv) proceedings against Mr Krasniqi are complex;¹⁰⁶ 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.¹⁰⁷

60. Moreover, all required procedural steps relating to the pre-trial phase of the present case have been, are being or will soon be completed, and thus, the case will be transmitted for trial before the end of the year.¹⁰⁸ In particular, following the Fourth Detention Decision and the Fifth Detention Decision, respectively:
 (i) the SPO filed a revised list of witnesses, pursuant to Rule 95(4)(b) of the Rules, on 2 September 2022;¹⁰⁹ (ii) according to the SPO, clearance has been secured for the majority of Rule 107 material;¹¹⁰ (iii) the SPO supplemented its Rule 109(c) chart on 30 September 2022;¹¹¹ (iv) in relation to currently pending Defence requests for the disclosure of Rule 102(3) material, the SPO finalised its processing of these requests, requested protective measures or submitted materiality challenges, and disclosed all material not subject to protective measures requests

¹⁰⁴ Confirmed Indictment, paras 11, 32, 39-40, 44, 49, 53, 55-57, 176.

¹⁰⁵ Fourth Detention Decision, para. 81; Fifth Detention Decision, para. 58.

¹⁰⁶ Fourth Detention Decision, para. 81; Fifth Detention Decision, para. 58 (*referring to* Third Detention Decision, para. 95, *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] witnesses, *see* Annex 2 to Revised Witness List.

¹⁰⁷ *See* para. 54 above.

¹⁰⁸ In this regard, the Pre-Trial Judge recalls that, for the purposes of assessing the proportionality of Mr Krasniqi'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* Fourth Detention Decision, fn. 149; Fifth Detention Decision, fn. 107 (*referring to* Third Detention Decision, para. 97).

¹⁰⁹ *See* fn. 72 above.

¹¹⁰ KSC-BC-2020-06, F01071, Specialist Prosecutor, *Prosecution Submissions for Fifteenth Status Conference*, 31 October 2022, public, paras 2-3.

¹¹¹ KSC-BC-2020-06, F01000, Specialist Prosecutor, *Prosecution Submission of Supplemental Rule 109(c) Chart*, 30 September 2022, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential.

or materiality challenges on 30 September 2022 and 13 October 2022,¹¹² and supplemented its Rule 102(3) notice on 7 October 2022 (“Supplemental Rule 102(3) Notice”);¹¹³ (v) the Defence’s pre-trial briefs were filed on 21 and 22 October 2022;¹¹⁴ and (vi) the Defence’s notices of alibi or grounds for excluding responsibility were filed on 28 October 2022 by three Defence teams.¹¹⁵

61. In addition, the Pre-Trial Judge ordered: (i) the SPO to file a provisional list of the first 40 witnesses it intends to call at trial by 18 November 2022;¹¹⁶ (ii) the Defence to provide, by the same date, any objections regarding the admissibility of evidentiary material disclosed (to the extent possible);¹¹⁷ (iii) the Parties to file, by the same date, notices on points of agreement reached on issues of law and/or fact;¹¹⁸ (iv) the SPO to finalise, by the same date, its processing of requests related to Rule 102(3) material made by the Defence after 20 May 2022, by requesting protective measures, submitting materiality challenges, or disclosing all material not subject to protective measures requests of materiality challenges;¹¹⁹ (v) the SPO to review its Supplemental Rule 102(3) Notice for exculpatory material and to

¹¹² See KSC-BC-2020-06, F01005, Specialist Prosecutor, *Prosecution Notification of Compliance*, 3 October 2022, public; F01034, Specialist Prosecutor, *Prosecution Notification of Disclosure*, 13 October 2022, public.

¹¹³ KSC-BC-2020-06, F01021, Specialist Prosecutor, *Prosecution Supplemental Rule 102(3) Notice*, 7 October 2022, public, with Annex 1, confidential.

¹¹⁴ KSC-BC-2020-06, F01049, Specialist Counsel, *Selimi Defence Pre-Trial Brief*, 21 October 2022, confidential; F01050, Specialist Counsel, *Pre-Trial Brief of Mr Hashim Thaçi*, 21 October 2022, confidential; F01051, Specialist Counsel, *Pre-Trial Brief of Jakup Krasniqi*, 21 October 2022, confidential; F01052, Specialist Counsel, *Corrected Version of the Pre-Trial Brief on Behalf of Kadri Veseli*, 25 October 2022 (the original version was filed on 22 October 2022), confidential, with Annexes 1-5, confidential.

¹¹⁵ KSC-BC-2020-06, F01065, Specialist Counsel, *Thaçi Defence Notice of Alibi*, 28 October 2022, public; F01066, Specialist Counsel, *Veseli Defence Notice of Alibi*, 28 October 2022, public; F01067, Specialist Counsel, *Selimi Defence Notice of Alibi*, 28 October 2022, public. In its pre-trial brief, the Defence for Mr Krasniqi submits, with respect to one allegation in the Indictment, that the SPO’s failure to plead the date of this allegation with any precision has prevented the Defence for Mr Krasniqi from being able to present an alibi, see KSC-BC-2020-06, F01051, Specialist Counsel, *Pre-Trial Brief of Jakup Krasniqi*, 21 October 2022, confidential, para. 79.

¹¹⁶ KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public, p. 1584, lines 9-12.

¹¹⁷ KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public, p. 1583, line 21 to p. 1584, line 2.

¹¹⁸ KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public, p. 1583, lines 14-20.

¹¹⁹ KSC-BC-2020-06, Transcript of Hearing, 4 November 2022, public, p. 1690, lines 11-18 (first oral order).

disclose this material under Rule 103 of the Rules or request protective measures by 16 December 2022;¹²⁰ and (vi) the SPO to finalise its processing of requests related to material from the Supplemental Rule 102(3) Notice, by requesting protective measures, submitting materiality challenges, or disclosing all material not subject to protective measures requests or materiality challenges by 13 January 2023.¹²¹

62. Furthermore, pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, Mr Krasniqi's detention shall be reviewed every two months or as soon as a change in circumstances arises.

63. [REDACTED],¹²² [REDACTED],¹²³ [REDACTED].

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

¹²⁰ KSC-BC-2020-06, Transcript of Hearing, 4 November 2022, public, p. 1691, lines 2-7 (third oral order).

¹²¹ KSC-BC-2020-06, Transcript of Hearing, 4 November 2022, public, p. 1690, line 19 to p. 1691, line 1 (second oral order).

¹²² [REDACTED].

¹²³ [REDACTED].

V. DISPOSITION

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

- a) **ORDERS** Mr Krasniqi's continued detention;
- b) **ORDERS** Mr Krasniqi, if he so wishes, to file submissions on the next review of detention by no later than **Thursday, 22 December 2022**, with responses and replies following the timeline set out in Rule 76 of the Rules; and
- c) **ORDERS** the SPO, should Mr Krasniqi decide not to file any submissions by the aforementioned time limit, to file submissions on the next review of Mr Krasniqi's detention by no later than **Thursday, 29 December 2022**, and Mr Krasniqi, if he so wishes, to file his response by no later than **Monday, 9 January 2023**.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Friday, 18 November 2022

At The Hague, the Netherlands.