



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: **KSC-BC-2020-06**

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

Before: **Trial Panel II**

Judge Charles L. Smith III
Judge Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 17 February 2023

Language: English

Classification: **Public**

Decision on Periodic Review of Detention of Kadri Veseli

Acting Specialist Prosecutor
Alex Whiting

Counsel for Victims
Simon Laws

Counsel for Hashim Thaçi
Gregory Kehoe

Counsel for Kadri Veseli
Ben Emmerson

Counsel for Rexhep Selimi
David Young

Counsel for Jakup Krasniqi
Venkateswari Alagenda

TRIAL PANEL II (“Panel”), 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. The procedural background concerning the periodic review of the detention of Kadri Veseli (“Mr Veseli” or “Accused”) has been set out extensively in previous decisions concerning the same. Relevant events since the seventh review of Mr Veseli’s detention on 19 December 2022 (“Seventh Detention Decision”) include the below.¹

2. On 18 January 2023, the Panel confirmed that the start date of trial is 1 March 2023.²

3. On 30 January 2023, the Specialist Prosecutor’s Office (“SPO”) filed its submissions on the eighth review of Mr Veseli’s detention (“SPO Submissions”).³

4. On 3 February 2023, the Defence for Mr Veseli (“Veseli Defence”) informed the Panel that it would not be responding to the SPO Submissions, without accepting any of the submissions contained therein.⁴

¹ KSC-BC-2020-06, F01171, Trial Panel I, *Decision on Periodic Review of Detention of Kadri Veseli*, 19 December 2022.

² KSC-BC-2020-06, Transcript of Hearing (Trial Preparation Conference), 18 January 2023, p. 1904, lines 1-3.

³ KSC-BC-2020-06, F01234, Specialist Prosecutor, *Prosecution Submission Pertaining to Periodic Detention Review of Kadri Veseli*, 30 January 2023, confidential. The filing was reclassified as public on 2 February 2023.

⁴ KSC-BC-2020-06/CRSPD170, Email from Veseli Defence dated 3 February 2023, at 10:53.

5. On 15 February 2023, the Panel granted an unopposed Defence request for a postponement of commencement of trial and ordered that the trial in this case shall start on 3 April 2023.⁵

II. SUBMISSIONS

6. The SPO submits that Mr Veseli should remain detained. According to the SPO, since the last detention decision on 19 December 2022, there have been no developments that diminish the factors supporting the need and reasonableness of detention. The SPO submits that the setting of a trial date and other developments in the case augment the necessity of detention.⁶

7. The Veseli Defence chose not to respond.⁷

III. APPLICABLE LAW

8. The law applicable to deciding the present matter is set out in Article 41 and Rules 56 and 57 and has been laid out extensively in earlier decisions. The Panel will apply these standards to the present decision.⁸

IV. DISCUSSION

9. The purpose of the bi-monthly review of detention pursuant to Article 41(10) is to determine whether the reasons for detention on remand still exist.⁹ A change

⁵ Transcript (Draft) (Specialist Prosecutor's Preparation Conference), 15 February 2023, p. 2038 (oral order 1).

⁶ SPO Submission, paras 1,5, 30.

⁷ Transcript (Draft) (Specialist Prosecutor's Preparation Conference), 15 February 2023, p. 1933.

⁸ See, among many others, KSC-BC-2020-06, F00576, Pre-Trial Judge, *Decision on Remanded Detention Review Decision and Periodic Review of Detention of Kadri Veseli*, 23 November 2021, confidential, para. 41, with further references. A public redacted version was issued on 8 December 2021, F00576/RED.

⁹ KSC-BC-2020-06, IA022/F00005, Court of Appeals, *Decision on Hashim Thaçi's Appeal Against Decision on Periodic Review of Detention ("Fourth Appeal Decision on Detention")*, 22 August 2022, confidential, para. 37. A public redacted version was issued on the same date, IA022/F00005/RED.

in circumstances, while not determinative, shall be taken into consideration if raised before the relevant panel or *proprio motu*.¹⁰

10. The Panel's assessment is limited to a review of the factors previously considered pursuant to Article 41(6) of the Law, and a determination of whether these circumstances continue to exist in the absence of any intervening developments.

A. ARTICLE 41 CRITERIA

i. Grounded Suspicion

11. As regards the threshold for continued detention, Article 41(6)(a) requires at the outset a grounded suspicion that the detained person has committed a crime within the jurisdiction of the Specialist Chambers ("SC"). This is a condition *sine qua non* for the validity of the detained person's continued detention.¹¹

12. The SPO submits that the Article 41(6)(a) criterion remain met. In its view, there has been no development capable of changing the Pre-Trial Judge's previous finding of a grounded suspicion that Mr Veseli is criminally liable for crimes contained in the amended indictment, as confirmed by the Pre-Trial Judge.¹²

13. The Panel notes that, pursuant to Article 39(2), the Pre-Trial Judge determined that there was a well-grounded suspicion that Mr Veseli 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,

¹⁰ KSC-BC-2020-06, IA010/F00008, Court of Appeals, *Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention* ("Second Appeal Decision on Detention"), 27 October 2021, confidential, para. 19. A public redacted version was issued on the same date, IA010/F00008/RED.

¹¹ *Similarly*, ECtHR, *Merabishvili v. Georgia* [GC], no. 72508/13, [Judgment](#), 28 November 2017, para. 222.

¹² SPO Submissions, para. 6.

14(1)(c) and 16(1)(a).¹³ Moreover, the Pre-Trial Judge found that a well-grounded suspicion has also been established with regard to the new charges brought by the SPO against Mr Veseli with the requested amendments to the indictment.¹⁴ The Panel further recalls that these findings were made on the basis of a standard exceeding the grounded suspicion threshold required for the purposes of Article 41(6)(a).¹⁵

14. Absent any new material circumstances affecting the above findings, the Panel finds that there continues to be a grounded suspicion that Mr Veseli has committed crimes within the subject-matter jurisdiction of the SC for the purposes of Article 41(6)(a) and (10).

ii. Necessity of Detention

15. With respect to the grounds for continued detention, Article 41(6)(b) sets out three alternative bases (risks) on which detention may be found to be necessary:

¹³ 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*, para. 521(a)(i)-(ii). 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 Specialist Prosecutor 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. A further confidential amended Confirmed Indictment was filed on 30 September 2022, (F00999/A01) and public redacted version (F00999/A03). KSC-BC-2020-06, IA008/F00004, Court of Appeals, *Decision on Kadri Veseli’s Appeal Against Decision on Review of Detention* (“Second Court of Appeals Decision”), 1 October 2021, confidential, para. 24. A public redacted version was filed on the same day, IA008/F00004/RED.

¹⁴ 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. A confidential lesser redacted version was filed on 16 May 2022 (F00777/CONF/RED2). The requested amendments are detailed at para. 11.

¹⁵ Second Court of Appeals Decision, para. 21.

(i) risk of flight; (ii) risk of obstruction of the proceedings; or (iii) risk of the further commission of crimes.¹⁶ Detention shall be maintained if there are articulable grounds to believe that one or more of these risks will materialize.¹⁷ The Panel notes that “articulable” in this context means specified in detail by reference to the relevant information or evidence.¹⁸ In determining whether any of the grounds under Article 41(6)(b) allowing for a person’s detention exist, the standard to be applied is less than certainty, but more than a mere possibility of a risk materialising.¹⁹

(a) Risk of Flight

16. The SPO recalls that the Panel in its last decision determined that Mr Veseli’s continued detention may not be justified at that time, on the ground of the risk of flight.²⁰ However, the SPO asserts that Mr Veseli’s increased knowledge of the case and evidence, along with the potential of a long sentence, take on increased significance in the context of setting the trial commencement date, further accelerating the disclosure of increasingly sensitive information. Regarding the sentence, the SPO argues that the recent conviction of the accused in the *Mustafa* case 26 years’ imprisonment for crimes also charged in this case increase, in the eyes of the Accused, the possibility of a lengthier sentence for himself.²¹

¹⁶ Cf. ECtHR, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, [Judgment](#), 5 July 2016 (“*Buzadji v. the Republic of Moldova* [GC]”), para. 88; ECtHR, *Zohlandt v. the Netherlands*, no. 69491/16, 9 February 2021, [Judgment](#), para. 50; ECtHR, *Grubnyk v. Ukraine*, no. 58444/15, 17 September 2020, [Judgment](#), para. 115; ECtHR, *Korban v. Ukraine*, no. 26744/16, 4 July 2019, [Judgment](#), para. 155.

¹⁷ KSC-BC-2020-06, IA004/F00005, Court of Appeals, *Decision on Hashim Thaçi’s Appeal Against Decision on Interim Release* (“*Thaçi Interim Release Appeal Decision*”), 30 April 2021, confidential, para. 19. A public redacted version was issued on the same date, IA004/F00005/RED.

¹⁸ Article 19.1.30 of the Kosovo Criminal Procedure Code 2012, Law No. 04/L-123 defines “articulable” as: “the party offering the information or evidence must specify in detail the information or evidence being relied upon”.

¹⁹ *Thaçi Interim Release Appeal Decision*, para. 17.

²⁰ SPO Submission, para. 9.

²¹ SPO Submission, paras 9-11.

17. The Panel has examined the arguments of the SPO, in light of the present stage of the proceedings, and reaffirms that it does not find any additional factor sufficiently persuasive to change its previous finding regarding the risk of flight.

18. As regards the SPO argument relating to the advancement of the proceedings, the Panel notes that the SPO's general argument that the risk of flight increases in the context of the confirmation and setting of the trial commencement date is unpersuasive. The Panel considers that the SPO has failed to establish its claim of a "sufficiently real possibility" that the Accused will abscond if released based on the stage of the proceedings.²²

19. With respect to the SPO's argument that the judgment in the *Mustafa* case would increase the possibility of a lengthier sentence for Mr Veseli, the Panel finds that this does not constitute evidence of a heightened flight risk. The risk of a long sentence is no greater today than it was earlier and the SPO's submissions on that point appear to give little consideration to the fact that Mr Veseli is still presumed to be innocent.

20. The Panel has examined the arguments of the SPO in light of the current stage of the proceedings, and while the risk of flight can never be completely ruled out, it reaffirms that it does not find any additional factor sufficiently compelling to persuade the Panel to change its previous finding regarding the risk of flight.

21. The Panel therefore finds that Mr Veseli's continued detention may not be justified at this time on the ground of the risk of flight pursuant to Article 41(6)(b)(i).

(b) Risk of Obstructing the Progress of SC Proceedings

22. The SPO submits that Mr Veseli continues to present a risk of obstructing proceedings.²³ The SPO argues that there has been no change regarding the

²² *Thaçi* Interim Release Appeal Decision, para. 24.

²³ SPO Submission, para. 12.

conclusions of the Panel rendered in the last decision, except to accelerate them through the setting of the trial date, and, thus, there remains a risk that Mr Veseli could interfere with proceedings. The SPO also avers that there continues to be a climate of witness intimidation and interference with criminal proceedings against Kosovo Liberation Army (“KLA”) members in Kosovo, in particular in respect of investigations/prosecutions of crimes attributed to ex-KLA members. Lastly, the SPO adds that the increasing risk of obstruction is heightened in view of the information that Mr Veseli has recently received concerning, *inter alia*, the first 40 witnesses and, as the start of trial approaches, protective measures in the form of delayed disclosure on the dwindling number of witnesses still subject to them will be lifted.²⁴

23. The Panel calls attention to the standard utilized in assessing the risks under article 41(6)(b), which does not require a “concrete example” of a situation in which Mr Veseli has personally intimidated or harassed a witness.

24. The Panel has already determined and maintains the view that: (i) Mr Veseli has the ability to give instructions to an individual interacting with the SC and, in doing so, he directly intervened in a matter involving the SC;²⁵ (ii) Mr Veseli continues to play a significant role in Kosovo on the basis of the previous positions he occupied,²⁶ which would continue to allow him to, for instance, access information or elicit the support of others;²⁷ (iii) while Mr Veseli was at the head

²⁴ SPO Submission, paras 12-19.

²⁵ First Detention Decision, para. 44; First Court of Appeals Decision, para. 38; Second Detention Decision, para. 35; Second Court of Appeals Decision, para. 34; Third Detention Decision, para. 52; Fourth Detention Decision, para. 32; Fifth Detention Decision, para. 24; Sixth Detention Decision para. 24 and Seventh Detention Decision para. 28.

²⁶ First Detention Decision paras 39 and 43; Second Detention Decision; 35; Third Detention Decision, para. 52; Fourth Detention Decision, para. 32; Fifth Detention Decision, para. 24; Sixth Detention Decision, para. 24 and Seventh Detention Decision para. 28.

²⁷ First Detention Decision, para. 43; First Court of Appeals Decision, para. 40; Second Detention Decision, para. 35; Second Court of Appeals Decision, para. 34; Third Detention Decision, para. 52; Fourth Detention Decision, para. 32; Fifth Detention Decision, para. 24; Sixth Detention Decision, para. 24 and Seventh Detention Decision para. 28.

of the Kosovo Intelligence Service (“SHIK”), members of SHIK were involved in witness interference;²⁸ (iv) the persisting climate of intimidation of witnesses and interference with criminal proceedings against former KLA members in Kosovo which protective measures alone cannot overcome;²⁹ and (v) the advancement of the trial proceedings through which Mr Veseli continues to gain insight into the evidence underpinning the serious charges against him.³⁰

25. As previously noted, in light of the near commencement of trial, the names and personal details of certain highly sensitive witnesses have been and will continue to be disclosed to the Veseli Defence, and will therefore become known to a broader range of persons, including the Accused. This, in turn, increases the risk that sensitive information pertaining to witnesses becoming known to members of the public before the witnesses in question give evidence. In this context, the release of an Accused with sensitive information in his possession would not be conducive to the effective protection of witnesses who are yet to testify.³¹

26. Additionally, the Panel makes the current findings against a background of information that a general climate of witness interference persists in Kosovo regarding this case and others before the SC. As held in the *Mustafa* Trial Judgment:

[T]here is a pervasive climate of fear and intimidation in Kosovo against witnesses or potential witnesses of the Specialist Chambers, their families and, more broadly, against those who provide evidence in investigations or prosecutions of crimes allegedly committed by former KLA members.

²⁸ First Detention Decision, para. 43; Third Detention Decision, para. 52; Third Court of Appeals Decision, paras 22-24; Fourth Detention Decision, para. 32; Fifth Detention Decision, para. 24; Sixth Detention Decision, para. 24 and Seventh Detention Decision para. 28.

²⁹ Sixth Detention Decision, para. 25, *referring to* KSC-BC-2020-07, F00611/RED, Trial Panel II, Public Redacted Version of the Trial Judgement, 18 May 2022, public, para. 577 and Seventh Detention Decision para. 28.

³⁰ First Detention Decision, para. 39; Second Detention Decision, para. 35; Third Detention Decision, para. 55; Fourth Detention Decision, para. 34; Fifth Detention Decision, para. 27; Sixth Detention Decision, para. 39 and Seventh Detention Decision para. 28.

³¹ Seventh Detention Decision, para. 29.

Witnesses are stigmatised as “traitors” or “collaborators”, are unable to speak freely about the events they underwent, are subjected to threats and intimidation and live in constant fear that something will happen to them or their family.³²

27. Likewise, the Court of Appeals Panel in the *Gucati and Haradinaj* case recently emphasized the importance of these circumstances, upholding the Trial Panel’s assessment that there was a serious threat against the “administration of justice, the integrity and security of proceedings and, crucially, the safety, well-being and freedom from fear of hundreds of persons who have come forward to fulfil their civic duty as witnesses.”³³

28. Accordingly, the Panel concludes that the risk that Mr Veseli will obstruct the progress of SC proceedings continues to exist.

(c) Risk of Committing Further Crimes

29. The SPO recalls the Panel’s findings in the Seventh Detention Decision and submits that there continues to be a risk that Mr Veseli may commit further crimes. Further, the SPO submits that the risk of committing further crimes exists in light of the general climate of witness intimidation in regards to KLA crimes and the influence that Mr Veseli wields on it.³⁴

30. The Panel recalls its finding in the Seventh Detention Decision that the risk of Mr Veseli committing further crimes continues to exist. The Panel finds that the same factors that were taken into account in relation to the risk of obstruction are relevant to the analysis of the risk of Mr Veseli committing further crimes. In light

³² KSC-BC-2020-05, F00494/RED, Trial Panel I, *Public redacted version of Trial Judgment (“Mustafa Trial Judgment”)*, 19 January 2023, para. 57. A corrected version was filed on 24 January 2023, F00494/REDCOR).

³³ KSC-CA-2022-01, F00114, Court of Appeals Panel, *Appeal Judgment*, 2 February 2023, para. 438 (*quoting* KSC-BC-2020-07, Transcript, 18 May 2022, pp. 3858-3859).

³⁴ SPO Submission, paras 20-22.

of those, the Panel considers that no new circumstances have arisen since the last detention review that would justify a different finding in respect of this matter.³⁵

31. The Panel highlights the fact that the trial in this case will begin in approximately six weeks, that the identities of sensitive witnesses have been disclosed to the Veseli Defence, and that any risk of the further commission of crimes must be avoided.

32. The Panel considers that, taking all factors together, there continues to be a risk that Mr Veseli will commit further crimes as set out in Article 41(6)(b)(iii).

iii. Conclusion

33. The Panel concludes that at this time there continues to be insufficient information before it justifying a finding that Mr Veseli may abscond from justice. However, the Panel is satisfied, based on the relevant standard, that there is a risk that Mr Veseli will obstruct the progress of SC proceedings and that he will 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. The Panel will assess below whether these risks can be adequately addressed by any conditions for his release.

B. MEASURES ALTERNATIVE TO DETENTION

34. The SPO submits that nothing has occurred since the Seventh Detention Decision warranting a different assessment on conditions, either generally or for a discrete period of time. In its estimation, the setting of a trial date and attendant further disclosure make the underlying risks higher than ever.³⁶

³⁵ Seventh Detention Decision, para. 34.

³⁶ SPO Submission, para. 25.

35. When deciding on whether a person should be released or detained, the Panel must consider alternative measures to prevent the risks in Article 41(6)(b).³⁷ Article 41(12) sets out a number of options to be considered in order to ensure the accused's presence at trial, to prevent reoffending or to ensure successful conduct of proceedings. In this respect, the Panel recalls that detention should only be continued if there are no alternative, more lenient measures reasonably available that could sufficiently mitigate the risks set out in Article 41(6)(b).³⁸ The Panel must therefore consider all reasonable alternative measures that could be imposed and not only those raised by the Veseli Defence or the SPO.³⁹

36. Regarding the risk of obstructing the progress of SC proceedings and commission of further crimes, the Panel finds that none of the proposed conditions nor any additional measures foreseen in Article 41(12) ordered *proprio motu*, could sufficiently mitigate the existing risks.⁴⁰ Further, the Panel finds 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.⁴¹ Moreover, they offer a controlled environment

³⁷ 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 to the Specialist Chamber of the Constitutional Court Pursuant to Article 19(5) of Law no. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office*, 26 April 2017, public, para. 114. See also ECtHR, *Buzadji v. the Republic of Moldova* [GC], para. 87 *in fine*; ECtHR, *Idalov v. Russia* [GC], no. 5826/03, [Judgment](#), 22 May 2012 ("*Idalov v. Russia* [GC]"), para. 140 *in fine*.

³⁸ SCCC 26 April 2017 Judgment, para. 114; KSC-CC-PR-2020-09, F00006, Specialist Chamber of the Constitutional Court, *Judgment on the Referral of Amendments to the Rules of Procedure and Evidence Adopted by the Plenary on 29 and 30 April 2020* ("SCCC 22 May 2020 Judgment") 22 May 2020, para. 70. See also ECtHR, *Buzadji v. the Republic of Moldova* [GC], para. 87 *in fine*; ECtHR, *Idalov v. Russia* [GC], para. 140 *in fine*.

³⁹ KSC-BC-2020-06, IA003/F00005/RED, Court of Appeals, *Public Redacted Version of Decision on Rexhep Selimi's Appeal Against Decision on Interim Release*, 30 April 2021, para. 86.

⁴⁰ See Third Detention Decision, para. 99; Fourth Detention Decision, para. 45; Fifth Detention Decision, para. 37; Sixth Detention Decision, para. 39 and Seventh Detention Decision, para. 41.

⁴¹ See Sixth Decision on Detention, para. 46. See also Third Decision on Detention, para. 81; Fourth Decision on Detention, para. 72.

where a potential breach of confidentiality could be more easily identified and/or prevented.⁴²

37. The Panel concludes that it is only through the communication monitoring framework applicable at the SC Detention Facilities that Mr Veseli's communications can be restricted in a manner that would sufficiently mitigate the risks of obstruction and commission of further crimes.⁴³

38. In light of the foregoing, the Panel finds that the risks of obstructing the proceedings and committing offences can only be effectively managed at the SC's detention facilities. In these circumstances, the Panel finds that Mr Veseli's continued detention is necessary in order to avert the risks in Article 41(6)(b)(ii) and (iii).

C. REASONABLENESS OF DETENTION

39. The SPO submits that Mr Veseli's detention remains proportional and reasonable, noting that significant and prompt steps continue to be taken.⁴⁴

40. The Panel recalls that reasonableness of an accused's continued detention must be assessed on the facts of each case and according to its special features.⁴⁵ In the Panel's estimation, the special features in this case include: (i) Mr Veseli is charged with ten counts of serious international crimes in which he is alleged to play a significant role;⁴⁶ (ii) if convicted, Mr Veseli could face a lengthy sentence;⁴⁷ (iii) the risks under Article 46(b)(ii) and (iii) cannot be mitigated by any proposed conditions and any/or all additional conditions;⁴⁸ (iv) the case against Mr Veseli is

⁴² Third Appeal Decision on Detention, para. 31.

⁴³ Sixth Detention Decision, para. 39 and Seventh Detention Decision, para. 41.

⁴⁴ SPO Submission, paras 26, 28.

⁴⁵ Seventh Detention Decision, para. 45.

⁴⁶ Sixth Detention Decision, para. 43 with further references and Seventh Detention Decision, para. 46.

⁴⁷ Sixth Detention Decision, para. 43 with further references and Seventh Detention Decision, para. 46.

⁴⁸ See para. 36 above.

complex;⁴⁹ and (v) the fact that progress continues to be made towards the start of trial, now set to begin in less than six weeks.

41. In light of the above developments, as well as the fact that there are continuing risks of obstructing the proceedings and of committing further crimes, neither of which can be sufficiently mitigated by the application of reasonable alternative measures, the Panel finds that Mr Veseli's detention for a further two months is necessary and reasonable in the specific circumstances of the case.

42. The Panel notes, however, that the Accused has already been in detention for a significant period of time, and the trial in this case is likely to be lengthy.

43. As the Panel previously indicated, this will require the Panel as well as all Parties to be particularly mindful of the need to ensure that the trial proceeds as expeditiously as possible. The Panel will continue to monitor at every stage in these proceedings whether continued detention is necessary and reasonable.

V. DISPOSITION

For the above-mentioned reasons, the Panel hereby:

- a) **ORDERS** Mr Veseli's continued detention and
- b) **ORDERS** the SPO to file submissions on the next review of Mr Veseli's detention by no later than Monday, 27 March 2023 with the response and

⁴⁹ Third Detention Decision, para. 107 with further references and Seventh Detention Decision, para. 46.

reply following the timeline set out in Rule 76.

A handwritten signature in black ink, reading "Charles L. Smith III". The signature is written in a cursive style with a distinct "III" at the end.

Judge Charles L. Smith, III
Presiding Judge

Dated this Friday, 17 February 2023

At The Hague, The Netherlands.