



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

In: KSC-BC-2018-01
Before: Single Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon
Filing Participant: Specialist Prosecutor's Office
Date: 20 February 2024
Language: English
Classification: Confidential

Prosecution reply regarding request for retention of evidence (F00484)

Specialist Prosecutor's Office
Kimberly P. West

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1. The Specialist Prosecutor's Office ('SPO') hereby replies to Isni KILAJ's Filing F00579¹ regarding the SPO's request for the retention of certain seized evidence.² Specifically, the SPO seeks to clarify and correct the record regarding two points.
2. First, KILAJ's claim that the SPO's retention request was filed out of time is wrong. It is undisputed that the SPO executed the judicially-authorized search of KILAJ's residence on 2 November 2023. Per Rule 9(2),³ '[w]here the time limit for any act prescribed by the Rules or set by a Panel runs from the occurrence of an event, the time limit runs from the first working day after that event.' Rule 9(2) is unambiguous. The SPO's three-month retention request filing deadline as prescribed in the Decision⁴ ran from 3 November 2023, the next working day following the search execution. Three months from 3 November 2023 is 3 February 2024. The SPO filed its retention request on 2 February 2024. The SPO filing was within time under the Rules.⁵
3. Second, KILAJ's claim that the SPO 'has not acted with diligence or expeditiousness'⁶ is unfounded. The SPO expeditiously delivered to the external forensic institute all four seized items at issue. The SPO is currently awaiting the completion of the forensic extraction of each item, at which point the SPO will promptly review each item, assess its content for relevance, and return any non-relevant item(s) to KILAJ as required under Decision F00484 and the Rules. As counsel is no doubt aware, the forensic examination of digital items can take time and the need for this process to be conducted properly is good cause for the requested further retention of the four remaining items at issue. Further, KILAJ is suffering no prejudice as a result, and has not even claimed that any prejudice arises, noting that the

¹ Kilaj response to Prosecution request for retention of evidence, KSC-BC-2018-01/F00579, 15 February 2024, Confidential ('Filing F00579').

² Prosecution request for retention of evidence (F00484), KSC-BC-2018-01/F00566, 2 February 2024, Confidential.

³ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein are to the Rules.

⁴ Confidential Redacted Version of Decision Authorising Search and Seizure [REDACTED], KSC-BC-2018-01/F00484/CONF/RED, 20 October 2023, Strictly Confidential and *Ex Parte* ('Decision F00484').

⁵ Notably, pursuant to Rule 9(4), and given that 3 February 2024 was a Saturday, the actual deadline for the SPO's filing was Monday, 5 February 2024. In either case, the SPO's filing was timely.

⁶ Filing F00579, KSC-BC-2018-01/F00579, para.18.

examination of these remaining items has not delayed proceedings to date in any manner.

4. This filing is submitted as confidential given the status of the case.

Word count: 443



Kimberly P. West

Specialist Prosecutor

Tuesday, 20 February 2024

At The Hague, the Netherlands.