



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2018-01
Before: Single Judge Panel
Judge Marjorie Masselot
Registrar: Dr Fidelma Donlon
Date: 18 September 2024
Language: English
Classification: Public

**Public Redacted Version of Decision on Application for Temporary Variation
of Conditions for Release**

Specialist Prosecutor

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THE SINGLE JUDGE,¹ pursuant to Articles 33(2) and 41(6) and (12) of the Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law"), and Rule 56(2) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 2 November 2023, Isni Kilaj ("Mr Kilaj") was arrested pursuant to an order by the Specialist Prosecutor's Office ("SPO").²
2. On 3 November 2023, Mr Kilaj was transferred to the Specialist Chambers ("SC") Detention Facilities in The Hague, the Netherlands,³ pursuant to an order for transfer issued by the Single Judge,⁴ as requested by the SPO.⁵
3. On 6 November 2023, pursuant to a request by the SPO,⁶ the Single Judge

¹ KSC-BC-2018-01, F00697, President, *Decision Assigning a Single Judge*, 6 June 2024, public. A corrected version was issued on 12 July 2024, F00697/COR.

² KSC-BC-2018-01, F00489, Specialist Prosecutor, *Urgent Rule 52(1) Notification of Arrest of Isni Kilaj*, 2 November 2023, public; F00492/A01, Specialist Prosecutor, *Annex 1 to Prosecution Report on Arrest of Isni Kilaj*, 3 November 2023, confidential. A public redacted version was filed on 8 November 2023, F00492/RED/A01/RED.

³ KSC-BC-2018-01, F00493, Registrar, *Notification of Reception of Isni Kilaj in the Detention Facilities of the Specialist Chambers*, 3 November 2023, strictly confidential, with Annex 1, strictly confidential; F00495, Registrar, *Report on the Transfer of Isni Kilaj to the Detention Facilities*, 3 November 2023, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*. A public redacted version of the main filing and confidential redacted versions of Annexes 1-2 thereof were filed on 8 November 2023, F00495/RED, F00495/RED/A01/CONF/RED and F00495/RED/A02/CONF/RED, respectively.

⁴ KSC-BC-2018-01, F00491, Single Judge, *Decision on Transfer Order Pursuant to Arrest by the Specialist Prosecutor*, 3 November 2023, confidential, with Annex 1, confidential. A corrected version of the main filing was issued on the same day, F00491/COR, and a public redacted version of the main filing was issued on 5 November 2023, F00491/COR/RED.

⁵ KSC-BC-2018-01, F00490, Specialist Prosecutor, *Urgent Request for Transfer Order*, 2 November 2023, confidential. A public redacted version was filed on 3 November 2023, F00490/RED.

⁶ KSC-BC-2018-01, F00496, Specialist Prosecutor, *Prosecution Request for Continued Detention of Isni Kilaj*, 3 November 2023, confidential, with Annexes 1-2, strictly confidential and *ex parte*. Confidential redacted versions of the main filing and annexes were filed on the same day, F00496/CONF/RED, F00496/CONF/RED/A01, F00496/CONF/RED/A02, respectively. A public redacted version of the main filing was filed on 8 November 2023, F00496/RED2.

ordered Mr Kilaj's continued detention,⁷ with the reasons thereto being issued on 9 November 2023.⁸

4. On 15 December 2023, the SPO submitted an indictment against Mr Kilaj for confirmation before the Pre-Trial Judge.⁹

5. On 5 January 2024 and on 5 March 2024, the Single Judge ordered Mr Kilaj's continued detention.¹⁰

6. On 11 March 2024, pursuant to Rule 86(4) of the Rules, the SPO submitted a revised indictment against Mr Kilaj for confirmation before the Pre-Trial Judge.¹¹

7. On 19 April 2024, the SPO filed a notification informing the Single Judge and the Defence for Mr Kilaj ("Defence") of its intent to file an amended indictment, in light of recently discovered additional evidence.¹²

8. On 2 May 2024, the SPO filed a supplemental notice, informing the Single Judge and the Defence that, in light of its intent to submit an amended indictment by or before 15 July 2024, it had requested the suspension of the consideration of the revised indictment.¹³

9. On 3 May 2024, the Single Judge ordered Mr Kilaj's release in Kosovo, subject to strict conditions, including the payment of a financial security in the amount of

⁷ KSC-BC-2018-01, F00499, Single Judge, *Decision on Continued Detention*, 6 November 2023, public.

⁸ KSC-BC-2018-01, F00503, Single Judge, *Reasons for Continued Detention* ("First Detention Decision"), 9 November 2023, confidential. A public redacted version was issued on 13 November 2023, F00503/RED.

⁹ KSC-BC-2018-01, F00549, Specialist Prosecutor, *Prosecution Response to Defence Request F00548*, 15 January 2024, public.

¹⁰ KSC-BC-2018-01, F00547, Single Judge, *Decision on Review of Detention of Isni Kilaj* ("Second Detention Decision"), 5 January 2024, confidential. A public redacted version was issued on 18 January 2024, F00547/RED; F00603, Single Judge, *Decision on Review of Detention of Isni Kilaj* ("Third Detention Decision"), 5 March 2024, confidential. A public redacted version was issued on 11 March 2024, F00603/RED.

¹¹ KSC-BC-2018-01, F00654, Specialist Prosecutor, *Prosecution Supplemental Notice* ("Supplemental SPO Notice"), 2 May 2024, confidential, para. 3.

¹² KSC-BC-2018-01, F00636, Specialist Prosecutor, *Prosecution Notice*, 19 April 2024, public.

¹³ Supplemental SPO Notice, paras 3-4.

EUR 30,000 to the Registrar, as a pre-condition for his release (“Bail” and “Decision on Release”).¹⁴

10. On 13 May 2024, the Court of Appeals Panel denied the SPO’s appeal against the Decision on Release.¹⁵

11. On 15 May 2024, following the payment of the Bail on 7 May 2024,¹⁶ Mr Kilaj was transferred to Kosovo, where he was released from the custody of the SC.¹⁷

12. [REDACTED].¹⁸

13. On 18 July 2024, the SPO provided notice to the Single Judge and the Defence that, on 28 June 2024, it filed an amended indictment against Mr Kilaj (“Submission of the Amended Indictment”).¹⁹

14. On 23 August 2024, the Defence filed a request for temporary variation of the conditions for the release of Mr Kilaj to permit him to travel to [REDACTED], in Albania (“Request”).²⁰

15. On 4 September 2024, the SPO filed its response, opposing the Request (“SPO Response”).²¹

¹⁴ KSC-BC-2018-01, F00658, Single Judge, *Decision on Review of Detention of Isni Kilaj*, 3 May 2024, confidential, paras 64-65, 70(a) and (c). A corrected version was issued on 15 May 2024, F00658/COR, and a public redacted version was issued on the same day, F00658/COR/RED.

¹⁵ KSC-BC-2018-01, IA007/F00007/RED, Court of Appeals Panel, *Public Redacted Version of Decision on the Specialist Prosecutor’s Office’s Appeal Against Decision on Isni Kilaj’s Review of Detention*, 13 May 2024, public.

¹⁶ KSC-BC-2018-01, F00661, Registrar, *Registry Notification of Payment of Financial Security*, 8 May 2024, confidential. A public redacted version was filed on 9 August 2024.

¹⁷ KSC-BC-2018-01, F00670, Registrar, *Notification of Isni Kilaj’s Transfer to Kosovo*, 15 May 2024, public.

¹⁸ KSC-BC-2018-01, F00716, Specialist Prosecutor, *Prosecution Notice*, 27 June 2024, confidential.

¹⁹ KSC-BC-2018-01, F00725, Specialist Prosecutor, *Prosecution Notice*, 18 July 2024, public.

²⁰ KSC-BC-2018-01, F00743, Defence for Isni Kilaj, *Kilaj Application for Temporary Variation of Conditions for Release*, 23 August 2024, confidential. A public redacted version was filed on 24 August 2024, F00743/RED.

²¹ KSC-BC-2018-01, F00753, Specialist Prosecutor, *Prosecution Response to Kilaj Application for Temporary Variation of Conditions for Release*, 4 September 2024, confidential. A public redacted version was filed on 9 September 2024, F00743/RED.

16. On 6 September 2024, the Defence replied to the SPO Response (“Defence Reply”).²²

II. SUBMISSIONS

A. REQUEST

17. The Defence requests a temporary variation of the conditions attached to the release of Mr Kilaj to allow him to travel to [REDACTED] in Albania with his wife for a short vacation of eight (8) days between, it proposes, [REDACTED] 2024.²³ Still, the Defence likewise concedes that, should the Single Judge not be in a position to rule on the Request before [REDACTED] 2024, and should the Request be met with a favourable ruling, even an in-principle decision, Mr Kilaj would make the reservation immediately and confirm the final dates with the Registry.²⁴ The Defence submits that, since his transfer to Kosovo, Mr Kilaj has fully complied with the conditions set out in the Decision on Release, and that, through his conduct, he has shown that he can be trusted not to abscond and to comply with the conditions designed to mitigate the risk of flight.²⁵ It adds that, following a period of immense stress engendered by his involvement in proceedings before the SC, [REDACTED].²⁶

18. Should the Request be granted, the Defence identifies the [REDACTED], Albania, as the address where Mr Kilaj would reside during the proposed travel.²⁷ Moreover, the Defence clarifies that it only seeks a temporary variation of the conditions designed to mitigate Mr Kilaj’s risk of flight only, and not those designed

²² KSC-BC-2018-01, F00756, Defence for Isni Kilaj, *Reply to Prosecution Response to Kilaj Application for Temporary Variation of Conditions for Release*, 23 August 2024, confidential.

²³ Request, para. 1.

²⁴ Request, para. 14.

²⁵ Request, paras 11-12, 17.

²⁶ Request, para. 13.

²⁷ Request, paras 14, 16.

to mitigate the risk of obstructing the proceedings or committing further offences.²⁸ Lastly, it provides assurances that Mr Kilaj has no intention of absconding, in particular considering that, should he breach any of the conditions for his release, he would have to forfeit the amount paid as Bail.²⁹

B. SPO RESPONSE

19. The SPO submits that (i) the Defence fails to show a change in circumstances justifying a variation of Mr Kilaj's release conditions, and (ii) the risks presented by Mr Kilaj's proposed travel to Albania cannot be sufficiently mitigated and would effectively nullify the conditions for his release set out in the Decision on Release.³⁰ It also indicates that, in the absence of explicit provisions in the SC legal framework regulating applications for variation of conditions of release, and pursuant to case-law emanating from the International Criminal Tribunal for the Former Yugoslavia ("ICTY"), such applications require the person concerned to establish humanitarian grounds or present new evidence to show that circumstances have changed.³¹

20. Specifically, the SPO contends that the alleged stress resulting from Mr Kilaj's involvement in the present proceedings is not a compelling humanitarian ground warranting variation of release conditions.³² The SPO likewise argues that Mr Kilaj's claim to have complied with the conditions for his release to date does not amount to a change in circumstances and that it, in and of itself, cannot justify a variation of those conditions of release that were imposed to ensure continued compliance and prevent flight.³³

²⁸ Request, para. 15.

²⁹ Request, paras 18-19.

³⁰ SPO Response, para. 1.

³¹ SPO Response, para. 3.

³² SPO Response, para. 4.

³³ SPO Response, para. 4.

21. According to the SPO, the factors that informed Mr Kilaj's release conditions not only remain unchanged, but, as regards the risk of flight, have also increased.³⁴ More specifically, the SPO avers that, following the Submission of the Amended Indictment, and since the SPO has recently gained access to [REDACTED], he has an increased incentive to evade prosecution.³⁵ It also argues that, in the absence of consent by Albania, a Third State with reference to the SC legal framework, the conditions for his release, designed to mitigate risk, could not be enforced.³⁶ In this regard, the SPO contends that [REDACTED].³⁷ The SPO also contends that the proposed return of Mr Kilaj's passport elevates the risk of flight given that, without monitoring, he could easily travel undetected outside Albania, including to a country that would make any potential extradition request even more difficult.³⁸

22. Lastly, the SPO claims that the risks of obstruction and commission of further offences are also exacerbated by Mr Kilaj's proposed unmonitored travel outside Kosovo, as any detection of or investigation into the commission of further offences, interference, or any other violations committed while in Albania would be rendered exceptionally difficult.³⁹ In this regard, the SPO further submits that suspending the monitoring provisions in place to mitigate these risks would create a significant gap in enforcement and undermine the purpose of the imposed conditions of release.⁴⁰

C. DEFENCE REPLY

23. The Defence replies that the SPO has misread the ICTY case-law it cited and argues that, in any event, the latter is not binding on the SC, and each case should

³⁴ SPO Response, paras 2, 8-12.

³⁵ SPO Response, para. 8.

³⁶ SPO Response, paras 9-10.

³⁷ SPO Response, para. 11.

³⁸ SPO Response, para. 12.

³⁹ SPO Response, para. 14.

⁴⁰ SPO Response, para. 14.

be considered on its merits.⁴¹ It further clarifies that Mr Kilaj does not advance an argument that there has been a change of circumstance, but simply relies on the fact that he has strictly complied with the conditions of his release to demonstrate that he can be trusted with a variation of those conditions for a short period of time.⁴² The Defence also claims that the SPO's argument regarding the increased risk of flight is without merit, since Mr Kilaj was granted conditional release knowing that (i) the Submission of the Amended Indictment was forthcoming at that time, and (ii) the SPO assessed that electronic devices seized from Mr Kilaj contain relevant information for the SPO's investigations.⁴³

24. The Defence maintains that, since Mr Kilaj (i) is not subject to an increased incentive to flee; (ii) still faces no confirmed charges; (iii) continues to benefit from the presumption of innocence; and (iv) has a proven history of complying with the conditions of his release, the SPO's submissions that he would abscond are devoid of foundation and speculative at best.⁴⁴ Lastly, while it takes issue with regard to the SPO's submission that obtaining the consent of the Third State is designed to ensure that the latter upholds and enforces the conditions of release, and not simply that the State is aware of the released person's presence on the territory, the Defence avers that Mr Kilaj is taking steps to obtain Albania's consent for the purpose of his temporary release on its territory.⁴⁵

III. APPLICABLE LAW

25. Pursuant to Article 41(6) of the Law, the SC shall only order the arrest and detention of a person when (a) there is a grounded suspicion that he or she has committed a crime within the jurisdiction of the SC; and (b) there are articulable

⁴¹ Defence Reply, para 2-3.

⁴² Defence Reply, para. 4.

⁴³ Defence Reply, paras 6-7.

⁴⁴ Defence Reply, para. 8.

⁴⁵ Defence Reply, para. 9.

grounds to believe that the person: (i) is at risk of flight; (ii) will destroy, hide, change or forge evidence of a crime, or will obstruct the progress of the criminal proceedings by influencing witnesses, victims or accomplices; or (iii) will repeat the criminal offence, complete an attempted crime, or commit a crime that the person has threatened to commit.

26. Pursuant to Article 41(12) of the Law, in addition to detention on remand, the following measures may be ordered by the SC to ensure the presence of the accused, including by video-teleconference, to prevent reoffending or to ensure successful conduct of criminal proceedings: summons, arrest, bail, house detention, promise not to leave his or her place of residence, prohibition on approaching specific places or persons, attendance at police station or other venue, and diversion.

27. 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. In case of an undue delay caused by the SPO, the Panel, having heard the Parties, may release the person under conditions as deemed appropriate.

IV. DISCUSSION

28. As a preliminary matter, the Single Judge notes that the Law and the Rules, including Rule 56(2) of the Rules, pursuant to which Mr Kilaj's release was ordered, empower a Panel to establish conditions deemed appropriate to mitigate the risks outlined in Article 41(6)(b) of the Law. By the same token, the Panel is vested with the discretionary power to vary said conditions.⁴⁶

29. When exercising her discretionary power, the Single Judge shall assess each request for variation of conditions for release on its own merits. Such requests shall

⁴⁶ See, similarly, KSC-BC-2020-07, IA001/F00005, Court of Appeals Panel, *Decision on Hysni Gucati's Appeal on Matters Related to Arrest and Detention*, 9 December 2020, public, para. 51. See also ICTY, *Prosecutor v. Ramush Haradinaj et al.*, IT-04-84-PT, *Decision on Defence Motion on Behalf of Ramush Haradinaj to Request Re-Assessment of Conditions of Provisional Release Granted* 6 June 2005, 12 October 2005.

only be granted exceptionally, and provided that the requested variation *continues* to sufficiently address the risks outlined in Article 41(6)(b) of the Law.

30. Mindful that (i) the risk of flight is addressed sufficiently by the proposed conditions and (ii) no conditions could adequately address the risks of obstruction and the commission of further offences,⁴⁷ the Single Judge recalls that the following strict requirements, as conditions for Mr Kilaj's release, were ordered with a view towards minimising any such risks as much as possible, as set forth in paragraph 65 of the Decision on Release:

- a. Mr Kilaj shall not leave the territory of Kosovo unless permitted by a competent panel of the SC;
- b. Mr Kilaj shall surrender to the Registrar his passport and any other travel documents, including visas and any other identity documents that can be used to travel - this extends to any new passport or travel document that is issued by the Kosovo authorities, or any other authorities, after the rendering of this decision; if Mr Kilaj's presence is required at the seat of the SC, the Registry will provide him with his passport for that sole purpose; his passport shall be re-surrendered upon his return to Kosovo;
- c. Mr Kilaj shall provide an address in which he will reside for the duration of the judicial proceedings and shall request permission from the SC prior to any change of residence;
- d. Mr Kilaj shall provide a financial security to the Registrar in the form of a monetary transfer in the amount of EUR 30,000, to be paid in full within two (2) weeks from notification of this decision to a bank account designated by the Registrar, as a pre-condition for his release;
- e. Mr Kilaj shall refrain from any contact or communication, direct or indirect (through any other person), of any kind and through any means, with any (potential) witness or victim in the present case, or any other cases before the SC;
- f. Mr Kilaj shall refrain from making, directly or indirectly, any public statement to the media and/or on social media regarding the SC, the SPO and/or any SC proceedings, including any statements involving threats, force, or intimidation of witnesses and obstruction of criminal investigation;
- g. Mr Kilaj shall report on a weekly basis to the Kosovo Police, in accordance with the procedures designated by the Registrar;

⁴⁷ Decision on Release, paras 55-57.

- h. Mr Kilaj shall attend any hearing required by the SC; to this end, Mr Kilaj is ordered to inform the Registrar of the address where he will reside while present on the territory of the Host State for the purpose of attending court hearings; any failure to appear before the SC, as ordered, will lead to the forfeiture of the financial security and the immediate issuance of a warrant of arrest;
- i. Mr Kilaj shall respect the classification of the present decision and shall not release, disclose or otherwise discuss its contents, directly or indirectly, with any person, including his family, with the exception of his counsel until the present decision has been made public upon order of the Single Judge; and
- j. Mr Kilaj shall abide by any other decision or order of the SC.⁴⁸

31. The Single Judge observes that some of the conditions in place for Mr Kilaj's release, in particular those listed at paragraph 65(a)-(d) and (g) of the Decision on Release, have also been deemed by the Single Judge to sufficiently address the risk of absconding.⁴⁹ Thus, the strict requirements currently governing Mr Kilaj's release are intended, on the one hand, to address the risk of flight⁵⁰ and, on the other hand, to minimise, to the extent possible, the risks of obstruction and the commission of further offences.⁵¹

32. Turning to the Request, the Single Judge notes that the Defence seeks, more specifically, a variation of the conditions set out at paragraph 65(a)-(c) and (g) of the Decision on Release, which it maintains are designed to mitigate the risk of flight only.⁵² In particular, the Defence proposes that (i) Mr Kilaj be permitted to leave the territory of Kosovo to travel to and from [REDACTED] in Albania between [REDACTED] 2024 or on any other dates should the Single Judge not be in a position to rule on the Request before [REDACTED] 2024;⁵³ (ii) the Registrar returns Mr Kilaj's passport for the purpose of the travel; (iii) Mr Kilaj be allowed to change

⁴⁸ Decision on Release, para. 65 (footnotes omitted).

⁴⁹ First Detention Decision, para. 59; Second Detention Decision, para. 62; Third Detention Decision, para. 44; Decision on Release, para. 55.

⁵⁰ Decision on Release, paras 55, 65.

⁵¹ Decision on Release, paras 56-57, 65.

⁵² Request, para. 15.

⁵³ Request, paras 14, 16.

his residence during the proposed travel at the address [REDACTED], Albania; and (iv) Mr Kilaj be permitted to report to the Kosovo Police by telephone while in Albania, and in person upon his return to Kosovo.⁵⁴

33. The Single Judge notes that, while acknowledging the existence of the risks outlined under Article 41(6)(b) of the Law, the Defence argues that, in view of his compliance to date with the conditions for his release, Mr Kilaj can be trusted with a variation of those conditions for a short period of time.⁵⁵ In this regard, the Single Judge observes that Mr Kilaj's compliance with the conditions for his release is not in dispute. Rather, the question before the Single Judge at this juncture is whether the variation of the conditions imposed in the Decision on Release, as proposed by the Defence, would *continue* to sufficiently address the existing risks in relation to Mr Kilaj. Accordingly, the Single Judge must assess the proposed variation of the conditions for the release of Mr Kilaj in light of not only the risk of absconding, as the Defence contends,⁵⁶ but also in connection to the risks of obstruction and the commission of further offences.

34. Regarding the risk of flight, the Single Judge recalls that the fact that Mr Kilaj would, in principle, have the means and opportunity to evade justice by travelling freely to jurisdictions beyond the reach of the SC, including but not limited to Albania, has been a consistent factor in the Single Judge's assessment of Mr Kilaj's existing risk of flight.⁵⁷ In this context, the Single Judge takes note of [REDACTED]. [REDACTED]. Moreover, the Single Judge considers that the Submission of the Amended Indictment renders even more concrete the likelihood that Mr Kilaj faces serious charges, thus heightening the risk of flight.⁵⁸

⁵⁴ Request, para. 16.

⁵⁵ Request, para. 12; Defence Reply, para. 4.

⁵⁶ Request, para. 15.

⁵⁷ First Detention Decision, para. 40; Second Detention Decision, para. 45; Third Detention Decision, para. 29; Decision on Release, para. 39.

⁵⁸ *See, similarly*, Decision on Release, para. 39.

35. The conditions proposed to be varied were intended, among others, to address concerns such as those outlined in the foregoing paragraph. Accordingly, the Single Judge finds that allowing Mr Kilaj to travel to Albania, even for a short period, and to have his passport returned for that purpose, would not *continue* to sufficiently address the risk of flight for Mr Kilaj. What is more, it would effectively remove the safeguards in place to mitigate this risk, rendering it unmanageable.

36. Regarding the risks of obstruction and the commission of further offences, the Single Judge finds that the proposed variation of the conditions would render any detection of or investigation into acts of interference or other violations while in Albania exceptionally difficult.⁵⁹ Therefore, the Single Judge is of the view that the proposed conditions for Mr Kilaj's release effectively remove the already limited safeguards in place to minimise these risks, rendering them entirely unmanageable.

37. Moreover, while the Single Judge acknowledges that the risk of forfeiting the amount paid as Bail might have an important disincentive effect on any potential non-compliance by Mr Kilaj with the conditions imposed on his release,⁶⁰ she also recalls that Bail alone was never considered sufficient to mitigate or minimise the Article 41(6) of the Law risks related to Mr Kilaj.⁶¹ Rather, it was only in conjunction with other conditions, such as those requested to be varied, that Bail was considered to contribute to mitigating or minimising the risks associated with the release of Mr Kilaj.⁶²

38. For the reasons outlined above, the Single Judge finds that the variation of the conditions imposed in the Decision on Release, as proposed by the Defence, would not *continue* to sufficiently address the existing Article 41(6)(b) of the Law risks vis-à-vis Mr Kilaj.

⁵⁹ SPO Response, para. 14.

⁶⁰ See Request, para. 19.

⁶¹ Second Decision on Detention, paras 62, 63; Third Decision on Detention, paras 44, 47.

⁶² Decision on Release, paras 55, 65.

39. Lastly in this regard, the Single Judge notes that the Request does not engage fundamental rights pertaining to Mr Kilaj under either the Constitution of Kosovo, the Law or the Rules that would otherwise outweigh the existing risks, and that the Defence has also not advanced any such countervailing arguments. Accordingly, the Single Judge rejects the Request.

V. CLASSIFICATION OF FILINGS

40. Lastly, having regard to the principle of publicity, the Single Judge instructs the Defence to submit a public redacted version of the Defence Reply or to request its reclassification as public by 25 September 2024.

VI. DISPOSITION

41. For the above-mentioned reasons, the Single Judge hereby:

- a. **REJECTS** the Request; and
- b. **ORDERS** the Defence to file a public redacted version of the Defence Reply by 25 September 2024, or to indicate that this filing may be reclassified as public.



Judge Marjorie Masselot
Single Judge

Dated this Wednesday, 18 September 2024

At The Hague, the Netherlands