



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2018-01

Before: Single Judge Panel
Judge Marjorie Masselot

Registrar: Fidelma Donlon

Date: 27 January 2025

Language: English

Classification: Public

Order for Transfer of Documents

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THE SINGLE JUDGE,¹ pursuant to Article 33(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, hereby issues the following order.

I. PROCEDURAL BACKGROUND

1. Between 15 December 2023 and 12 November 2024, the Specialist Prosecutor's Office ("SPO") submitted for confirmation, before the Pre-Trial Judge in Case KSC-BC-2023-12 ("Case 12"),² indictments against Hashim Thaçi, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuçi (collectively, "Suspects" or "Accused").³

2. On 20 November 2024, the Single Judge ordered the SPO to make submissions on the transfer of documents from the KSC-BC-2018-01 file ("Investigation file") to the Case 12 file, with a view to making accessible to the (then) Suspects relevant filings and decisions in the Investigation file, should the charges against them be confirmed.⁴

3. On 27 November 2024, the SPO filed its submissions, identifying several hundred filings for transfer ("SPO Submissions").⁵

4. On 29 November 2024, the Pre-Trial Judge confirmed, in part, the charges against all five Suspects.⁶ On 5 December 2024, the (now) Accused were arrested

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-2023-12, F00015, President, [Decision Assigning a Pre-Trial Judge](#), 6 June 2024, public.

³ KSC-BC-2023-12, F00059, Pre-Trial Judge, [Decision Setting the Date for Initial Appearances and Related Matters](#) ("Decision on Initial Appearances"), 6 December 2024, public, para. 1.

⁴ KSC-BC-2018-01, F00793, Single Judge, *Order for Submissions on the Transfer of Documents*, 20 November 2024, strictly confidential and *ex parte*.

⁵ KSC-BC-2018-01, F00799, Specialist Prosecutor, *Prosecution Submissions Pursuant to Order F00793*, 27 November 2024, strictly confidential and *ex parte*, with Annex 1, strictly confidential and *ex parte*.

⁶ [Decision on Initial Appearances](#), para. 2.

or served with a summons to appear⁷ and, on 8 and 9 December 2024, they appeared before the Pre-Trial Judge.⁸

II. DISCUSSION

5. Following the confirmation of the charges against the Accused and their arrest/summons, the Single Judge finds it necessary to make accessible to them any filings and decisions issued in the Investigation file which concern them and are relevant to Case 12.

A. TRANSFER FILINGS INTO SUB-FOLDER

6. The Single Judge has taken note of the list of filings provided by the SPO and orders the Registry to: (i) open a sub-folder within the Case 12 file, assigning the secondary abbreviation “INV”,⁹ which shall be an integral part of the Case 12 file (“Case 12 INV sub-folder”); and (ii) as soon as practicable, copy and cross-file the following documents (including any annexes, translations and redacted and/or corrected versions) in the Case 12 INV sub-folder as follows:

- (i) the “Order for Submissions on the Transfer of Documents” (F00793, 20 November 2024), the SPO Submissions (F00799, 27 November 2024) and the present order shall be copied and cross-filed first, in this sequence;

⁷ KSC-BC-2023-12, F00042, Registrar, *Notification of Arrest of Bashkim Smakaj Pursuant to Rule 55(4)*, 5 December 2024, public; F00043, Registrar, *Notification of Arrest of Isni Kilaj Pursuant to Rule 55(4)*, 5 December 2024, public; F00045, Registrar, *Notification of Arrest of Fadil Fazliu Pursuant to Rule 55(4)*, 5 December 2024, public; F00046, Registrar, *Notification of Service of Summons to Appear on Hajredin Kuçi*, 5 December 2024, public; F00048, Registrar, *Notification of Service of Arrest Warrant on Hashim Thaçi Pursuant to Rule 55(4)*, 5 December 2024, public.

⁸ [Decision on Initial Appearances](#), para. 22; KSC-BC-2023-12, F00063, Pre-Trial Judge, [Decision Rescheduling Initial Appearance of Isni Kilaj](#), 7 December 2024, public.

⁹ KSC-BD-15, Registrar, [Registry Practice Direction on Files and Filings before the Kosovo Specialist Chambers](#), 17 May 2019, public, Article 21(3).

(ii) followed directly by all filings listed in Annex 1 to the SPO Submissions (F00799/A01, 27 November 2024), with the following modifications:

(a) filings F00463, F00485, F00505, F00508, F00511, F00512, F00522, F00528, F00546, F00558, F00562, F00564, F00567, F00572, F00580, F00583, F00587, F00590, F00591, F00594, F00605, F00618, F00622, F00624, F00625, F00626, F00631, F00634, F00688, F00715, RAC002/F00003, RAC002/F00004, RAC002/F00005 and RAC002/F00006 shall be excluded and shall not be cross-filed, as they do not concern any Accused person in Case 12;

(b) filings F00615, F00630, F00687 and F00698 shall also be excluded and not cross-filed, as they concern requests for the substitution or recusal of the (then) Single Judge and, as such, they do not concern Case 12;

(c) filing F00671 shall also be excluded and not cross-filed, as it concerns the reclassification of filing F00669, which is not listed in Annex 1 to the SPO Submissions; and

(b) filings F00644, F00779 and F00782 shall be added and cross-filed, as they concern the Accused persons in Case 12.

The filings listed in Annex 1 to the SPO Submissions with the above modifications, as well as filings F00644, F00779 and F00782, shall be cross-filed in Case 12 in the consecutive order of their filing number in the Investigation file; and

(iii) filings F00797, F00798, F00800 to F00807, F00808, F00809, F00812 and F00813 shall follow thereafter, in this sequence.

7. The filings submitted to or rendered by the Single Judge during the investigation, which are to be copied into the Case 12 INV sub-folder on the basis of the present order (see paragraph 6), are hereunder referred to as “Copied Filings”.

B. CLASSIFICATION OF FILINGS IN SUB-FOLDER

8. The Copied Filings to be cross-filed in the Case 12 INV sub-folder shall carry-over the classification they have in the Investigation file, unless otherwise ordered. The Single Judge notes that the SPO has indicated in the SPO Submissions that it intends to review the filings to be cross-filed that are not yet available to the Accused in Case 12, with a view to making said filings accessible to them.¹⁰

C. ACCESS TO FILINGS IN SUB-FOLDER

9. As a general rule, the Copied Filings shall be made accessible to the participants in Case 12 to whom they are also accessible in the Investigation file.

10. If any of the Copied Filings (including those without an *ex parte* marking) are accessible in the Investigation file to the SPO and/or any of the Case 12 Accused, the Single Judge directs the Registry to register and mark said filings in the Case 12 INV sub-folder *ex parte vis-à-vis* the other participants in Case 12. In case of doubt, the Single Judge invites the Registry to consult the relevant Panel.

D. RECLASSIFICATION OR OTHER VERSIONS OF COPIED FILINGS

11. Mindful of the principle of publicity, the SPO, Registry and Defence Counsel (“filing entity”), as the case may be, are instructed to prepare, to the extent possible, (confidential or public) redacted versions of the Copied Filings, as soon as practicable and on a rolling basis, by no later than **Monday, 3 March 2025**.¹¹ Any forthcoming (confidential or public) redacted or corrected versions of the Copied

¹⁰ SPO Submissions, para. 3.

¹¹ See SPO Submissions, para. 3(i).

Filings shall be submitted by the filing entity in the Investigation file. In addition, the filing entity shall notify the Registry, at the time of filing, that the (confidential or public) redacted or corrected versions of said filings be cross-filed also in the Case 12 INV sub-folder. The Registry shall copy said (confidential or public) redacted or corrected versions into the INV sub-folder in Case 12.

12. Reclassification requests in relation to any of the Copied Filings shall be submitted in the Investigation file by the same deadline. The Single Judge will decide on the re-classification of the (original) filing in the Investigation file and will order the equivalent reclassification of the corresponding filing in the Case 12 INV sub-folder, so that both filings maintain the same classification in the two records.

13. Should the filing entity consider that any filing and/or annexe(s) concerning one or more of the Accused shall not be made available to the other Accused in Case 12, it should duly justify its position.

E. NEW FILINGS

14. Mindful of the ongoing nature of the investigation, the Single Judge instructs the SPO, the Registry and/or Defence Counsel to file any new filings as follows:

- (i) any new requests, reports or filings strictly related to the investigation of the charges in Case 12 and strictly involving the Accused shall be filed in the regular Case 12 file (and not in the Case 12 INV sub-folder);
and
- (ii) any new requests, reports or filings which involve, but are not limited to, the Accused and the charges in Case 12 shall be filed in the Investigation file. The Single Judge retains the power to instruct the Registry to copy and cross-file such new filings at a later stage in the regular Case 12 file or another record.

F. METADATA IN LEGAL WORKFLOW

15. In order to simplify the searchability of the Copied Filings in Legal Workflow, the Single Judge further directs the Registry to include in the metadata of each Copied Filing the filing number they have in the Investigation file. The exact implementation of said direction is left at the discretion of the Registry.

16. Following the completion of the copying and transfer, the Registry shall submit in the Case 12 INV sub-folder a correspondence table, listing the new document number of each Copied Filing and its corresponding document number in the Investigation file.

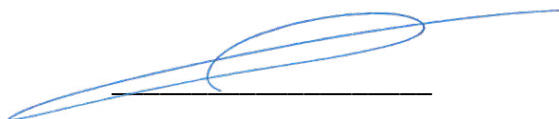
G. RECLASSIFICATION ORDER

17. Lastly, the Single Judge directs the Registry to reclassify the "Order for Submissions on the Transfer of Documents" (F00793) as public prior to its copying and cross-filing in the Case 12 INV sub-folder.

III. DISPOSITION

18. For the above reasons, the Single Judge hereby:

- a) **ORDERS** the Registry, the SPO and Defence Counsel, as the case may be, to comply with the Single Judge's directions set out above; and
- b) **ORDERS** the Registry to reclassify as public F00793 prior to its copying and cross-filing in the Case 12 INV sub-folder.



Judge Marjorie Masselot
Single Judge

Dated this Monday, 27 January 2025

At The Hague, the Netherlands.