

In: KSC-BC-2023-12

Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj,
Isni Kilaj, Fadil Fazliu and Hajredin Kuçi

Before: Pre-Trial Judge
Judge Marjorie Masselot

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Isni Kilaj

Date: 5 August 2025

Language: English

Classification: Public

**Public redacted version of Kilaj request for reclassification of “Decision
Authorising Search and Seizure [REDACTED]” (INV-F00037)**

Specialist Prosecutor’s Office
Kimberly P. West

Specialist Counsel for Hashim Thaçi
Sophie Menegon
Luka Mišetić

Specialist Counsel for Bashkim Smakaj
Jonathan Elystan Rees KC
Huw Bowden

Specialist Counsel for Isni Kilaj
Iain Edwards
Joe Holmes

Specialist Counsel for Fadil Fazliu
David Young

Specialist Counsel for Hajredin Kuçi
Alexander Admiraal

I. INTRODUCTION

1. The Defence for Isni Kilaj (“Defence”) hereby requests that the Pre-Trial Judge reclassify the *Decision Authorising Search and Seizure [REDACTED]* of 20 October 2023 (“Search and Seizure Decision”).¹ It is submitted that there is no longer any justification for redactions in the confidential version available to the Defence, even if the need for limited redactions in the public version may subsist. Moreover, the Defence requires access to the unredacted version of the Search and Seizure Decision to enable it to prepare Mr Kilaj’s defence.

II. PROCEDURAL HISTORY

2. On 16 October 2023, the Specialist Prosecutor’s Office (“SPO”) filed a request for orders from the former Single Judge authorising the SPO to search the residence(s), vehicle(s), and/or person of Isni Kilaj and to seize any relevant evidence (“Request”).²

3. On 20 October 2023, the former Single Judge granted the Request in the Search and Seizure Decision.

4. On 9 November 2023, following submissions from the SPO and the Defence regarding Mr Kilaj’s detention, the former Single Judge filed his *Reasons for Continued Detention*.³

¹ Decision Authorising Search and Seizure [REDACTED], KSC-BC-2018-01/F00484, 20 October 2023, strictly confidential and *ex parte* (cross-filed as KSC-BC-2023-12/INV-F00037); initial confidential redacted version filed on 12 December 2023; lesser confidential redacted and public redacted versions filed on 22 August 2024

² Prosecution request for orders, KSC-BC-2018-01/F00481, 16 October 2023, strictly confidential and *ex parte* (cross-filed as KSC-BC-2023-12/INV-F00035); initial confidential redacted version filed on 23 November 2023; lesser redacted versions filed on 15 December 2023 and 20 February 2025; public redacted version filed on 1 July 2024

³ Reasons for Continued Detention, KSC-BC-2018-01/F00503, 9 November 2023, confidential (cross-filed as KSC-BC-2023-12/INV-F00053); public redacted version filed on 13 November 2023. [REDACTED]

5. On 8 December 2023, the Defence filed its first request for reclassification of the Search and Seizure Decision.⁴

6. As highlighted in footnote 1, above, confidential redacted and lesser confidential redacted versions of the Search and Seizure Decision were issued on 12 December 2023 and 22 August 2024 respectively.

III. APPLICABLE LAW

7. Pursuant to Article 21(2) of the Law,⁵ in the determination of the charges against him or her, the Accused shall be entitled to a fair and public hearing, subject to Article 23 and any other measures ordered by the Specialist Chambers for the protection of victims and witnesses.

8. Pursuant to Rule 82(5) of the Rules,⁶ where the basis for a filing's classification no longer exists, the Panel may reclassify it upon request by a participant.

9. Pursuant to Rule 84(1), the Panel shall review the classification of records of proceedings and evidence on an ongoing basis and, where applicable, order their reclassification.

IV. CLASSIFICATION

10. Pursuant to paragraph 15 of the Order Regarding (Re)classification of Filings,⁷ and Rules 82(3), these submissions are confidential because they refer to confidential information in earlier filings. A public redacted version is filed concurrently. However, depending on the outcome of this request, the Defence has no objection to it being reclassified as public.

⁴ Kilaj Request for Reclassification of Search and Seizure Decision, KSC-BC-2018-01/F00525, 8 December 2023, public (cross-filed as KSC-BC-2023-12/INV-F00061). [REDACTED]

⁵ Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law").

⁶ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, 2 June 2020 ("Rules").

⁷ Order Regarding (Re)classification of Filings, KSC-BC-2023-12/F00111, 14 January 2025.

V. SUBMISSIONS

11. The importance of the principle of the publicity of proceedings has been underscored many times in these and other proceedings before the Specialist Chambers.⁸

12. The Request was originally filed as confidential and *ex parte* in order to [REDACTED].⁹ The SPO also requested that decisions made by the (former) Single Judge on the Request should carry the same classification.¹⁰ Accordingly, only a heavily redacted version of the Search and Seizure Decision has been made available to the Defence. Over 21 months have passed since the Search and Seizure Decision. The search has been executed, relevant items have been seized, and Mr Kilaj has been arrested, indicted and arraigned. He remains in detention. The same is true for his co-Accused, save that Mr Kuçi has been provisionally released. The case is at the tail-end of the pre-trial stage and all Parties are actively preparing for trial. The Pre-Trial Judge has noted that “the SPO has largely completed its disclosure obligations under Rule 102(1)(b) of the Rules”.¹¹ The SPO’s Pre-Trial Brief is to be filed by 19 September 2025,¹² and any Defence Pre-Trial Briefs are to be filed, provisionally, by 20 October 2025.¹³ Moreover, the Defence has now received all, or at least a great deal, of the requests and decisions relating to [REDACTED] in Case 6. Consequently, it is submitted the necessity for the outstanding redactions in the Search and Seizure Decision no longer exists.

⁸ See eg. Decision on Request for Reclassification and Lifting of Redaction, KSC-BC-2023-12/INV-F00114, 17 April 2024, public, para. 14; Decision on Request for Reclassification and Related Matters, KSC-BC-2023-12/INV-F00151, public, 5 June 2024, para. 8

⁹ Request, para. 41

¹⁰ Request, para. 42

¹¹ Order Relating to the Calendar for the Remaining Pre-Trial Proceedings, KSC-BC-2023-12/F00395, 25 July 2025, public (“Order”), para. 7

¹² Order, para. 18(c)

¹³ Order, para. 18(d)

13. Additionally, access to the Search and Seizure Decision in its unredacted entirety is essential to the preparation of Mr Kilaj's defence. The Defence is exploring the possibility of challenging the legality of the search, of the seizure of certain items of Mr Kilaj's property, and [REDACTED]. It is therefore crucial for the Defence to fully understand the scope of the Search and Seizure Decision. Without access to the whole of the Search and Seizure Decision, which lies at the heart of the investigation into Mr Kilaj, the Defence is unable to prepare his defence case.

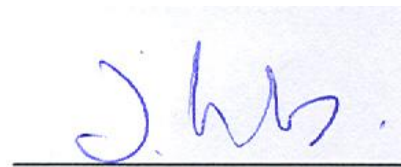
VI. CONCLUSION

14. For the foregoing reasons, the Defence respectfully requests the reclassification of the Search and Seizure Decision.



Iain Edwards

Counsel for Isni Kilaj



Joe Holmes

Co-Counsel for Isni Kilaj

5 August 2025

The Hague, the Netherlands

Word count: 1,030