



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

In: KSC-BC-2021-08
Before: President Ekaterina Trendafilova

Registrar: Dr Fidelma Donlon
Filing Participant: Acting Specialist Prosecutor
Date: 13 April 2023
Language: English
Classification: Public

Public Redacted Version of

'Urgent request for order of deferral'

with public Annex 1, KSC-BC-2021-08/F00001, dated [REDACTED] 2021

Specialist Prosecutor's Office

Alex Whiting

1. Pursuant to Articles 10, 35(2) and 54 of the Law,¹ and Rule 203 of the Rules,² the Specialist Prosecutor's Office ('SPO') hereby files this urgent request for an order of deferral in respect of proceedings under Case No. [REDACTED] against [REDACTED] before the [REDACTED] ('Proceedings'). As outlined below, the Proceedings fall within the jurisdiction of the Specialist Chambers ('KSC'), and deferral is appropriate in this instance. This filing is being submitted before the President for assignment of, and referral to, a Single Judge pursuant to Rule 203(1).
2. [REDACTED] is [REDACTED] a [REDACTED] witness in the case of the *Specialist Prosecutor* [REDACTED].³
3. [REDACTED] will testify that he was detained in [REDACTED] for more than a month in [REDACTED], in [REDACTED]. [REDACTED] will further testify that named JCE member [REDACTED] and other KLA soldiers tortured [REDACTED] and other detainees, including by beating them with batons, metal bars, and guns, and stabbing them with sharp objects. [REDACTED].
4. [REDACTED] will also testify about mistreatment by KLA soldiers at the [REDACTED], including identifying [REDACTED], and others as present. [REDACTED].
5. [REDACTED] has previously testified in [REDACTED] in relation to these events [REDACTED]. In the trial of [REDACTED] testified in court for [REDACTED]. [REDACTED] was also called to give evidence in the [REDACTED] trial of [REDACTED], although his testimony [REDACTED] was [REDACTED]. [REDACTED].
6. The Proceedings - which the SPO has only recently become aware of - arise out of [REDACTED]. In particular, [REDACTED] is charged with [REDACTED] in those

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). Unless otherwise indicated, all references to 'Article(s)' are to the Law.

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). Unless otherwise indicated, all references to 'Rule(s)' are to the Rules.

³ [REDACTED].

proceedings, pursuant to [REDACTED] of the Kosovo Criminal Code.⁴ [REDACTED].⁵

7. The KSC has primacy over all other courts in Kosovo within the scope of its jurisdiction.⁶ The KSC has jurisdiction over offences against the administration of justice, including the offence of providing a [REDACTED], where such offences relate to official proceedings of the KSC and SPO.⁷ [REDACTED]. As such, they relate to ongoing, official proceedings and fall within the jurisdiction of the KSC.

8. Moreover, deferral is appropriate in this instance. [REDACTED]. Assessment of [REDACTED] evidence on these exact factual matters will be central to [REDACTED]. It would be inappropriate and premature for [REDACTED] being actively considered before the KSC to be the subject of separate proceedings before a different court.

9. For the foregoing reasons, and in light of the imminent commencement of the Proceedings, the SPO respectfully requests that this matter be addressed as a matter of urgency and that:

- a. an order for deferral of the Proceedings, including transfer of any and all related files, be issued; and
- b. pending the Single Judge's determination of this matter, that an order for suspension be issued pursuant to Rule 203(3).

10. This filing is submitted as strictly confidential and *ex parte* in order to maintain existing protective measures, the integrity of proceedings [REDACTED], as well as the safety and security of [REDACTED].

Word count: 543

⁴ Annex 1 (Summons).

⁵ Annex 1 (Summons).

⁶ Articles 10 and 54 of the Law.

⁷ Articles 6(2) and 15(2) of the Law.



Alex Whiting

Acting Specialist Prosecutor

Thursday, 13 April 2023

At The Hague, the Netherlands.