



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2018-01
Before: **Single Judge**
Judge Nicolas Guillou
Registrar: Dr Fidelma Donlon
Filed by: Registrar
Date: 3 November 2023
Language: English
Classification: **Public**

**Public Redacted Version of "Report on the Transfer of Isni Kilaj to the Detention
Facilities, with strictly confidential and *ex parte* Annexes 1-2" (F00495)**

with confidential redacted Annexes 1 – 2

Specialist Prosecutor

Kimberly P. West

Duty Counsel

Iain Edwards

I. INTRODUCTION

1. Pursuant to the Decision on Transfer,¹ the Registrar hereby reports to the Single Judge on the transfer of Mr Isni Kilaj ('Mr Kilaj') to the Detention Facilities of the Specialist Chambers ('Detention Facilities' and 'KSC') in The Hague, the Netherlands ('Host State').

II. PROCEDURAL HISTORY

2. On 2 November 2023, the Specialist Prosecutor's Office ('SPO') notified the President, the Single Judge and the Registrar of the arrest of Mr Kilaj on 2 November 2023, [REDACTED].²

3. Following the SPO's Request for a Transfer Order,³ the Single Judge issued a Decision ordering the transfer of Mr Kilaj to the KSC Detention Facilities, and scheduling the first appearance of Mr Kilaj before the Single Judge on 4 November at 10:00.⁴ The Single Judge further directed the Registrar, upon Mr Kilaj's arrival at the Detention Facilities, or in any case before his first appearance, to submit a report to the Single Judge on Mr Kilaj's transfer to the Detention Facilities, including any relevant details and information provided by the SPO.⁵

4. On 3 November 2023, the SPO reported to the Single Judge on the arrest of Mr Kilaj.⁶

¹ KSC-BC-2018-01, F00491/COR, Corrected Version of Decision on Transfer Order Pursuant to Arrest by the Specialist Prosecutor, 3 November 2023, confidential ('Decision on Transfer'), para. 20.

² [REDACTED].

³ F00490, Urgent Request for Transfer Order, 2 November 2023, confidential (*see also* F490/RED, 3 November 2023).

⁴ Decision on Transfer, paras 21, 23(f).

⁵ *Id.*, paras. 20, 23(e).

⁶ F00492, Prosecution Report on Arrest of Isni Kilaj, 3 November 2023, confidential, with confidential Annex 1 and strictly confidential and *ex parte* Annex 2 ('Arrest Report').

5. The same day, the Registrar notified the Single Judge of Mr Kilaj's reception in the Detention Facilities,⁷ and of the assignment of Duty Counsel to Mr Kilaj.⁸

III. REPORT ON TRANSFER

6. As directed by the Single Judge, the Registrar hereby submits a report on the transfer of Mr Kilaj to the KSC Detention Facilities, including any relevant details and information provided by the SPO.

7. Prior to the Transfer Order⁹ being executed, at 11:13 on 3 November 2023, the SPO delivered a letter (in English and Albanian) from the Head of the Defence Office to Mr Kilaj's [REDACTED]. The letter provided information on Mr Kilaj's impending transfer, as well as information on his right to counsel and information on contacting Mr Kilaj in the Detention Facilities.¹⁰

8. At 12:30, [REDACTED].¹¹

9. As reported by the SPO, Mr Kilaj remained in the custody of the SPO [REDACTED].¹²

10. The transfer of Mr Kilaj from SPO into the custody of the KSC was executed by the Registry's mission security coordinator ('MSC') and the Registry's escort team, accompanied by an interpreter, at [REDACTED].¹³ At 12:40, the MSC signed for the transfer of custody of Mr Kilaj from the SPO to the KSC after confirming Mr Kilaj's identity.¹⁴ The MSC also signed for the transfer of Mr Kilaj's personal property.¹⁵ The

⁷ F00493, Notification of Reception of Isni Kilaj in the Detention Facilities of the Specialist Chambers, 3 November 2023, strictly confidential, with one strictly confidential annex.

⁸ F00494, Notification of Assignment of Duty Counsel to Isni Kilaj, 3 November 2023, strictly confidential, with one confidential Annex.

⁹ F00491/A01, Order for Transfer to Detention Facilities of the Specialist Chambers, 3 November 2023, confidential ('Transfer Order').

¹⁰ Annex 2, Transfer Report (Letter "To Whom It May Concern" from the Head of the Defence Office, KSC/REG/DEF/253).

¹¹ [REDACTED]; *see also* Annex 2, Transfer Report [REDACTED].

¹² Arrest Report, para. 6.

¹³ Annex 2, Transfer Report (Transfer of Custody). [REDACTED].

¹⁴ Annex 2, Transfer Report (Transfer of Custody).

¹⁵ *Ibid.*

MSC explained the transfer process to Mr Kilaj and informed him that he would be transported by aircraft to the Detention Facilities in The Hague, the Netherlands.

11. At 12:50, the MSC served Mr Kilaj with a certified copy of the Transfer Order (in English). Mr Kilaj signed to acknowledge service of the Transfer Order.¹⁶

12. An interpreter was available throughout the transfer and service process, and Mr Kilaj was offered interpretation assistance, which he declined at that time and instead conversed in English. Nevertheless, the MSC showed Mr Kilaj an Albanian translation of the Transfer Order on the MSC's telephone so that he could read it, if needed, under the MSC's supervision.¹⁷ Due to urgency, it was not possible to arrange for a certified copy of the translation of the Transfer Order, in Albanian, to be served during transfer.

13. [REDACTED].¹⁸ Mr Kilaj was then moved to the aircraft.¹⁹

14. At 13:30, the airplane departed [REDACTED]. While in transit, Mr Kilaj was served refreshment.²⁰

15. At 15:13, the MSC confirmed to Mr Kilaj that a relative had been informed of his transfer²¹ and provided Mr Kilaj with a copy of the letter that had been delivered to his relative.²²

16. At 16:07, the airplane landed [REDACTED].

17. At 16:13, the MSC transferred Mr Kilaj into the custody of the Transport and Support Service of the Dutch Prison Administration ('DV&O').²³ The MSC handed over some of Mr Kilaj's belongings to the DV&O, including those that may be needed during transport, [REDACTED], while his remaining belongings were retained by the

¹⁶ Annex 1, Memorandum of Service (F00491/A01); Annex 2, Transfer Report (Transport Log).

¹⁷ Annex 2, Transfer Report (Transport Log).

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² See para. 7, above.

²³ Annex 2, Transfer Report (Transport Log).

MSC and delivered directly to the Detention Management Unit ('DMU') of the Registry.²⁴

18. At 16:47, DV&O transferred Mr Kilaj into the custody of the Deputy Chief Detention Officer, who received Mr Kilaj into the Detention Facilities.²⁵

19. The Deputy Chief Detention Officer promptly notified the Registrar, who immediately informed the Single Judge,²⁶ the President, and the Ombudsperson, as well as the Head of the Defence Office, in accordance with Detention Rule 10.²⁷ The Registrar also informed the International Committee of the Red Cross.²⁸

20. At 17:03, the Registrar informed the Embassy of the Republic of Kosovo in The Hague that Mr Kilaj had been transferred to the Detention Facilities in the Host State pursuant to an arrest order by the SPO and an order for transfer by the Single Judge of the KSC.²⁹

21. Upon arrival at the Detention Facilities, Mr Kilaj began the reception procedure in accordance with the Rules of Detention, and his personal property was recorded.

22. At 17:45, [REDACTED].³⁰

23. The Deputy Chief Detention Officer then conducted an arrival interview with Mr Kilaj, with the assistance of an interpreter. During the arrival interview, Mr Kilaj was provided with the information and documentation referenced in Detention Rule 12(3), as well as information on the consular representation available to him.

24. During the arrival interview, the Deputy Chief Detention Officer served a certified copy of the Transfer Order in Albanian on Mr Kilaj at 18:40.³¹ The Deputy

²⁴ Ibid.

²⁵ See F00493, fn. 7, above.

²⁶ Ibid.

²⁷ Rules of Detention, KSC-BD-08-Rev1, 23 September 2020 ('Rules of Detention' or 'Detention Rules').

²⁸ See Agreement between the Kosovo Specialist Chambers and the International Committee of the Red Cross on Visits to Persons Deprived of Liberty Pursuant to the Jurisdiction of the Kosovo Specialist Chambers, 28 January 2019, confidential, para. 12(2).

²⁹ Note Verbale, Ref. KSC/NV2023/0059, 3 November 2023.

³⁰ Annex 2, Transfer Report [REDACTED].

³¹ Annex 1, Memorandum of Service (F00491/A01/sqi).

Chief Detention Officer also confirmed that Mr Kilaj had in his possession a certified copy of the Transfer Order in English.

25. At 18:48, Mr Kilaj was given the opportunity to make a telephone call to a family member, [REDACTED].

26. At approximately 19:10, the Head of the Defence Office spoke with Mr Kilaj in person, with the assistance of an interpreter. The Head of the Defence Office provided Mr Kilaj with information and documentation concerning the availability of legal assistance pursuant to Detention Rule 12(2), including information on Duty Counsel that had been assigned to him pending the appointment or assignment of chosen Counsel. The Head of the Defence Office ensured that Mr Kilaj received all relevant documents concerning his right to counsel and legal aid.³² The Head of the Defence Office also confirmed that he would return next week to discuss with Mr Kilaj whether he had any questions concerning the information received.

27. [REDACTED].

28. Mr Kilaj was also given the opportunity to contact his consular official by telephone, [REDACTED]. Mr Kilaj was also informed that should he wish to have a consular visit, this will be arranged as soon as practicable after his initial court appearance.

IV. CLASSIFICATION

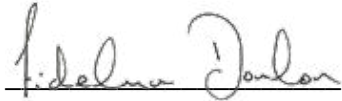
29. This report and its Annexes are submitted as strictly confidential and *ex parte* pursuant to Rule 82(4) of the Rules.³³ The Registrar has no objection to this report (core filing) being reclassified as confidential in order to make it available to Mr Kilaj's

³² See Annex 2, Transfer Report (Letter to Mr Isni Kilaj from the Head of the Defence Office, KSC/REG/DEF/254).

³³ Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

(Duty) Counsel, but requests the opportunity to review the Annexes for redactions before they are reclassified.

Word count: 1669

A handwritten signature in cursive script, reading "Fidelma Donlon", written over a horizontal line.

Dr Fidelma Donlon

Registrar

Friday, 3 November 2023

At The Hague, the Netherlands