

**In:** KSC-BC-2018-01  
Specialist Prosecutor *v.* Isni Kilaj

**Before:** Single Judge Panel  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Duty Counsel for Isni Kilaj

**Date:** 8 December 2023

**Language:** English

**Classification:** Public

---

**Kilaj Request for Reclassification of Search and Seizure Decision**

---

**Specialist Prosecutor's Office**  
Kimberly P. West

**Duty Counsel for Isni Kilaj**  
Iain Edwards

## I. INTRODUCTION

1. The Defence for Mr Isni Kilaj (“Defence”, “Suspect”) hereby requests reclassification of the Single Judge’s *Decision Authorising Search and Seizure and Special Investigative Measures* of 20 October 2023 (“Search and Seizure Decision” or “Decision”)<sup>1</sup> pursuant to Rule 82(5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chamber (“Rules”). It is submitted that the basis for the strictly confidential and *ex parte* classification of the Decision no longer exists.

## II. PROCEDURAL BACKGROUND

2. On 16 October 2023, the Specialist Prosecutor’s Office (“SPO”) filed a request for orders from the Single Judge authorising the search of the residence(s), vehicle(s) and/or person of Mr Kilaj, and seizure of evidence suspected of being related to crimes falling within the jurisdiction of the KSC (“SPO Request”).<sup>2</sup>
3. The Single Judge issued the Decision on 20 October 2023. On 2 November 2023, in execution of the Decision, Mr Kilaj’s home was searched and he was arrested. The same day, the SPO notified the Single Judge of the arrest,<sup>3</sup> and on 3 November 2023, the Single Judge ordered that Mr Kilaj be transferred to the KSC’s detention facilities in The Hague.<sup>4</sup>

---

<sup>1</sup> Decision Authorising Search and Seizure and Special Investigative Measures, KSC-BC-2018-01/F00484, 20 October 2023, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential.

<sup>2</sup> Prosecution Request for Orders, KSC-BC-2018-01/F00481, 16 October 2023. A confidential redacted version of the request was filed on 16 October 2023.

<sup>3</sup> Urgent Rule 52(1) Notification of Arrest of Isni Kilaj, KSC-BC-2018-01/F00489, 2 November 2023.

<sup>4</sup> Corrected Version of Decision on Transfer Order Pursuant to Arrest by the Specialist Prosecutor, KSC-BC-2018-01/F00491/COR, 3 November 2023, confidential, with Annex 1, confidential. A public redacted version of the main filing was issued on 5 November 2023.

4. On 3 November 2023, the SPO submitted a request for Mr Kilaj's continued detention ("SPO Request").<sup>5</sup> The following day, Mr Kilaj had his First Appearance Hearing, during which the SPO and the Defence made submissions on the SPO Request. Later on 4 November 2023, the Defence filed its Response to the SPO Request, applying for Mr Kilaj's immediate release ("Defence Response").<sup>6</sup> On 5 November, the SPO filed a Reply to the Defence Response.<sup>7</sup>
  
5. On 6 November 2023, the Single Judge rendered his Decision on Continued Detention;<sup>8</sup> the Reasons followed on 9 November 2023.<sup>9</sup> At footnote 2 of the Reasons, the Single Judge stated, "While the order annexed to the Search and Seizure Decision is known to Mr Kilaj, the decision is not, but will be made available to him in due course."

### III. SUBMISSIONS

6. It is submitted that the basis for the strictly confidential and *ex parte* classification of the Decision no longer exists. The Decision has been executed, Mr Kilaj has been arrested and is in detention. The need for secrecy has disappeared. The arguably more sensitive Prosecution Request for Orders has now been disclosed to the Defence in a confidential redacted version.

---

<sup>5</sup> Prosecution Request for Continued Detention of Isni Kilaj, KSC-BC-2018-01/F00496, 3 November 2023, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*. A public redacted version of the request was filed on 7 November 2023.

<sup>6</sup> Corrected Version of Kilaj Defence Response to "Confidential Redacted Version of 'Prosecution Request for Continued Detention of Isni KILAJ'", KSC-BC-2018-01/F00497/COR, 4 November 2023, confidential ("Defence Detention Response"). A public redacted version was filed on 8 November 2023.

<sup>7</sup> Prosecution Reply to F00497, KSC-BC-2018-01/F00498, 5 November 2023, confidential ("SPO Reply"). A public redacted version was filed on 7 November 2023.

<sup>8</sup> Decision on Continued Detention, KSC-BC-2018-01/F00499, 6 November 2023.

<sup>9</sup> Reasons for Continued Detention, KSC-BC-2018-01/F00503, 9 November 2023, confidential, ("Reasons"). A public redacted version was filed on 13 November 2023.

Moreover, the SPO has helpfully indicated that “while [it] cannot agree to reclassification of the entire filing, we could not oppose a version of [Decision F00484] being made available with limited redactions.”<sup>10</sup> The condition provided for by Rule 82(5) has been met.

#### IV. CONCLUSION

7. For the foregoing reasons, the Defence respectfully requests the reclassification of the Search and Seizure Decision, with what limited redactions, if any, the Single Judge considers absolutely necessary.

**Word count: 688**



**Iain Edwards**

**Duty Counsel for Isni Kilaj**

Friday, 8 December 2023

The Hague, Netherlands

---

<sup>10</sup> Email from SPO to Duty Counsel, 1 December 2023, 10:05.