

1 Saturday, 4 November 2023

2 [First Appearance]

3 [Open session]

4 [The suspect entered the courtroom]

5 --- Upon commencing at 10.00 a.m.

6 JUDGE GUILLOU: Good morning and welcome, everyone in and
7 outside of the courtroom.

8 Before we start, pursuant to my Decision on Transfer Order
9 Pursuant to Arrest by the Specialist Prosecutor, the Court
10 Photographer is permitted to take a few pictures for one and a half
11 minutes.

12 Madam Photographer, you can proceed.

13 Thank you, Madam Photographer.

14 Madam Court Officer, can you please call the case.

15 THE COURT OFFICER: Good morning, Your Honour. This is file
16 KSC-BC-2018-01. Thank you.

17 JUDGE GUILLOU: Thank you, Madam Court Officer.

18 Before asking those present in the courtroom to introduce
19 themselves, I would like to remind everyone of a few rules that must
20 be observed at all times in order to make courtroom proceedings
21 smooth.

22 Please make sure that you activate your microphone before
23 speaking and you switch it off as you finish. Talk slowly and
24 clearly as we have interpretation into Albanian and Serbian. Wait
25 five seconds before responding to me or a party or participant in

1 order to allow the interpreters to finish the interpretation.

2 What is said in this hearing is transcribed in realtime and will
3 be reflected in a transcript available to the parties and to the
4 public after this hearing.

5 I would also like to remind the parties that certain information
6 in this case is subject to protective measures and confidentiality
7 orders. Confidential information shall not be disclosed in open
8 session. If a party or participant must go into private session and
9 refer to any confidential information, please indicate the reasons.

10 Now, I kindly invite the parties and participants to introduce
11 themselves, starting with the Specialist Prosecutor's Office.

12 Mr. Prosecutor.

13 MR. HALLING: Good morning, Your Honour. Appearing this morning
14 for the SPO, Clare Lawson, Line Pedersen, and Matt Halling.

15 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

16 And I turn to the Defence. Counsel, please.

17 MR. EDWARDS: Good morning, Your Honour. Good morning,
18 colleagues in and around the court. My name is Iain Edwards. I'm
19 from the Bar of England and Wales representing Mr. Kilaj.

20 JUDGE GUILLOU: Thank you, Mr. Edwards.

21 Now I turn to the Registry, please.

22 MR. ROCHE: Good morning, Your Honour. My name is Ralph Roche,
23 appearing on behalf of the Registry. Thank you.

24 JUDGE GUILLOU: Thank you, Mr. Roche.

25 And for the record, I am Nicolas Guillou, Single Judge for this

1 case.

2 The suspect is appearing today for the first time before the
3 Specialist Chambers following his arrest and transfer.

4 I now wish to address to the suspect. Mr. Kilaj, can you please
5 rise.

6 Can you please tell us your full name?

7 THE SUSPECT: [Interpretation] My name is Isni Kilaj.

8 JUDGE GUILLOU: What is your date and place of birth?

9 THE SUSPECT: [Interpretation] I was born on 19 December 1963 in
10 Lubishte, Malisheve.

11 JUDGE GUILLOU: What is your citizenship?

12 THE SUSPECT: [Interpretation] Kosovan.

13 JUDGE GUILLOU: And, finally, what is your current profession?

14 THE SUSPECT: [Interpretation] I am an economist and I'm
15 unemployed.

16 JUDGE GUILLOU: Thank you. You may be seated, Mr. Kilaj.

17 Mr. Kilaj, before we proceed any further, I would like to make
18 sure that you can follow the proceeding in a language that you
19 understand and speak. Can you confirm that you understand and speak
20 Albanian?

21 THE SUSPECT: [Interpretation] Yes.

22 JUDGE GUILLOU: Thank you, Mr. Kilaj. By this, I am satisfied
23 that you can follow the proceedings in Albanian, a language that you
24 can understand and speak, in accordance with Article 41 of the Law.

25 If at any moment in the course of the proceedings you are not

1 receiving interpretation, please draw my attention to it immediately.

2 Let me now move to the procedural history of the case.

3 On 2 November 2023, the Specialist Prosecutor's Office issued an
4 arrest order against Mr. Isni Kilaj, pursuant to Articles 35(2) and
5 41 of the Law.

6 On the same day, the Specialist Prosecutor notified the
7 President and the Registrar of the Specialist Chambers of the arrest
8 of Mr. Kilaj, pursuant to Rule 52(1) of the Rules of Procedure and
9 Evidence.

10 According to the arrest order, the Specialist Prosecutor found a
11 grounded suspicion that Mr. Kilaj is criminally responsible for the
12 following offences against the administration of justice: First,
13 obstructing official persons in performing official duties, pursuant
14 to Article 401 of the Kosovo Criminal Code; and, second, violating
15 secrecy of proceedings, pursuant to Article 392 of the Kosovo
16 Criminal Code.

17 The Specialist Chambers have jurisdiction to prosecute these
18 offences by virtue of Article 15(2) of the Law.

19 The suspect was arrested in Kosovo on 2 November 2023, at which
20 point he was served the arrest order and informed of his rights.

21 Following my order for transfer to detention facilities of the
22 Specialist Chambers, Mr. Kilaj was transferred to the detention
23 facilities in The Hague on 3 November 2023.

24 Now allow me to explain the specific purpose of the First
25 Appearance for the benefit of the suspect, those joining us in the

1 public gallery and online.

2 Today's hearing is not a trial. The suspect has not been
3 charged yet in the sense that no indictment has yet been submitted by
4 the Specialist Prosecutor. No evidence will be presented or debated
5 today, and the guilt or innocence of the suspect will not be
6 discussed or decided.

7 The purpose of the hearing today is regulated by Article 41 of
8 the Law and Rule 55 of the rules. According to these provisions, as
9 the Single Judge, I shall ascertain whether the suspect has been
10 informed of the reasons for his arrest, namely, the offences
11 allegedly committed and the reasons for keeping the suspect in
12 detention, and whether the suspect has been informed of his rights
13 under the Law and the rules, including his right to legal assistance.

14 I expect the parties to limit their submissions to these
15 matters, which I will address in turn. Should either party wish to
16 discuss any other matter not expressly foreseen in the context of
17 this First Appearance, you are invited to do so in writing by making
18 a filing before me.

19 First, may I ask you, Mr. Kilaj, to confirm that you have
20 received the arrest order dated 2 November 2023 in a language that
21 you understand and speak.

22 THE SUSPECT: [Interpretation] Yes.

23 JUDGE GUILLOU: Thank you, Mr. Kilaj.

24 I will now ask the SPO to indicate the reasons for Mr. Kilaj's
25 arrest as indicated in the arrest order.

1 Mr. Prosecutor, you have the floor.

2 MR. HALLING: Thank you, Your Honour.

3 During the judicially authorised search of Mr. Kilaj's residence
4 conducted on 2 November 2023, the SPO identified and recovered
5 confidential witness-related materials. It is apparent that these
6 materials relate directly to KSC proceedings and to confidential
7 information for which Mr. Kilaj has no legitimate purpose and no
8 authorisation to access.

9 His possession of such information is in violation of the
10 secrecy of proceedings and gives rise to, at least, a grounded
11 suspicion that such materials were intended or actually used for
12 purposes of interfering with the administration of justice and
13 obstructing proceedings.

14 The evidence shows that Mr. Kilaj is criminally responsible for
15 committing, either alone or in co-perpetration with others, offences
16 including obstructing official persons in performing official duties
17 within the meaning of Article 401 of the 2019 Kosovo Criminal Code
18 and violating the secrecy of proceedings under Article 392 of that
19 code read in conjunction with Articles 15(2) and 16(3) of the KSC
20 Law.

21 Thank you.

22 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

23 Mr. Kilaj, I wish to remind you that it is not the time to
24 contest the reasons for your arrest yet but simply to acknowledge
25 that you have been informed and are aware of these reasons. You have

1 the opportunity to challenge the arrest in writing with the
2 assistance of your counsel.

3 Mr. Kilaj, can you please confirm that you've been informed of
4 the reasons for your arrest?

5 THE SUSPECT: [Interpretation] Yes.

6 JUDGE GUILLOU: Can you also confirm, in this context, that you
7 had the opportunity to notify or have notified to a family member or
8 another appropriate person about your arrest?

9 THE SUSPECT: [Interpretation] Yes.

10 JUDGE GUILLOU: Thank you, Mr. Kilaj.

11 Now, let me inform you of your rights before this Court.

12 The Law on the Specialist Chambers and the Rules of Procedure
13 and Evidence guarantee detained suspects a number of rights. I will
14 read out the most important ones.

15 First, you should be presumed innocent until proven guilty
16 beyond reasonable doubt.

17 You are entitled to a fair and public hearing subject to any
18 protective measures ordered for the protection of victims and
19 witnesses.

20 You are entitled to challenge the lawfulness of your arrest, to
21 request review of decision on your detention, and to appeal such
22 decision directly before the Court of Appeals.

23 You have the right not to be detained for an unreasonable period
24 prior to the opening of the case, and you have the right to be
25 released if the Specialist Prosecutor does not submit an indictment

1 against you at the latest within one year.

2 You are entitled to a trial within a reasonable time and to
3 release pending trial if the relevant circumstances are met.

4 You have the right to have counsel assigned to you, and without
5 payment by you, if you do not have sufficient means to pay for it.

6 You have the right to have adequate time and facilities for the
7 preparation of your defence and to communicate with the counsel of
8 your own choosing.

9 You have the right to have the free assistance of an interpreter
10 if you cannot speak the language used in the Court.

11 You have the right not to be compelled to testify against
12 yourself or to admit guilt.

13 You have the right to remain silent and no adverse inference
14 shall be drawn from your silence.

15 Mr. Kilaj, you have heard the most important rights that you
16 enjoy as a detained suspect in accordance with the applicable legal
17 framework of the Specialist Chambers.

18 Do you understand these rights, Mr. Kilaj?

19 THE SUSPECT: [Interpretation] Yes.

20 JUDGE GUILLOU: Thank you, Mr. Kilaj.

21 I wish to inform you that, according to Article 21(5) of the
22 Law, you may not represent yourself because you are currently in
23 detention. Representation by Specialist Counsel is therefore
24 mandatory.

25 It is my duty as Single Judge to ensure that your right to

1 counsel is respected. To this end, I have noted the Registrar's
2 3 November filing informing me of the assignment of Duty Counsel. I
3 also I understand from the Registrar's filing that pending the
4 appointment or assignment of counsel, you have been assigned
5 Mr. Iain Edwards as Duty Counsel in accordance with Section 17(2) of
6 the Directive on Counsel and Regulation 21 of the Legal Aid
7 Regulations.

8 Mr. Kilaj, can you confirm that Mr. Iain Edwards has been
9 assigned as Duty Counsel?

10 THE SUSPECT: [Interpretation] Yes.

11 JUDGE GUILLOU: Thank you, Mr. Kilaj.

12 It follows that the suspect is presently represented by
13 Duty Counsel.

14 I note that pursuant to Article 41(3) of the Law and Rule 52(2)
15 of the rules, I shall decide on the continued detention or release of
16 the person within 48 hours from the moment the detained person was
17 brought before me.

18 I note in this regard that the SPO submitted a request for the
19 continued detention of the suspect on 3 November 2023.

20 Mr. Prosecutor, can you present orally your written submission
21 on this point?

22 And before I give you the floor, I wish to remind the parties to
23 give prior notice should any submission require the disclosure of
24 confidential information so that we can move into private session if
25 required.

1 Mr. Prosecutor, you have the floor.

2 MR. HALLING: Thank you, Your Honour. And we understand that
3 that filing that Your Honour mentioned, which is filing F00496, has
4 been notified to Defence counsel as well.

5 I'm not going to repeat everything that is in the filing, but I
6 can supplement it with a little bit further information. In order to
7 do that, we would request to go into private session for about two
8 minutes, after which we could come out and I could summarise the
9 SPO's position.

10 JUDGE GUILLOU: Then we will move into private session. And I
11 invite the Prosecution to limit the private session as much as you
12 can, and everything that can be said in public session should be
13 public session. We should really use this time for what cannot be in
14 public session.

15 MR. HALLING: Understood.

16 JUDGE GUILLOU: Madam Court Officer, can we move into private
17 session, please.

18 [Private session]

19 [Private session text removed]

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21 [Open session]

22 THE COURT OFFICER: Your Honour, we are in public session.

23 JUDGE GUILLOU: Thank you, Madam Court Officer.

24 Mr. Prosecutor, you can proceed.

25 MR. HALLING: Thank you, Your Honour.

1 Mr. Kilaj's detention is necessary in accordance with Article
2 41(6) of the Law. All three risks under Article 41(6) apply in this
3 instance as further developed in our written filing.

4 Mr. Kilaj is a risk of flight. He's facing serious allegations
5 of criminal conduct with offences carrying sentences of up to five
6 years. He has clear incentives to flee the Court's jurisdiction,
7 including to third states where a request for extradition may not be
8 accepted.

9 The nature of the materials found also shows a risk that
10 Mr. Kilaj will both destroy, hide, change, or forge evidence of a
11 crime, or that he will obstruct the progress of the criminal
12 proceedings by influencing witnesses, victims, or accomplices.
13 Indeed, the materials found suggest that Mr. Kilaj is engaging in
14 this very kind of conduct.

15 And the scope of the seized materials suggests that this is a
16 pattern of obstructive behaviour, and there is likewise a risk that
17 he will repeat these criminal offences unless he is detained.

18 Finally, Your Honour, the cases of this Court unfold in a clear
19 pervasive climate of witness intimidation. That this climate exists
20 is illustrated by, amongst other things, the convictions in the
21 Gucati and Haradinaj case and the findings of Your Honour on this
22 point in detention decisions across every case which has gone to a
23 Trial Panel.

24 We can also direct the Court's attention to public SPO filing
25 KSC-BC-2020-06, F00005/RED in the Thaci *et al.* case for further

1 citations demonstrating this climate.

2 What the information in Mr. Kilaj's possession means must be
3 understood in this context. Possessing materials like these
4 demonstrates an inherent lack of respect for Court orders, and no
5 conditions can mitigate the risks identified.

6 For these reasons, and as further developed in our written
7 filing, Mr. Kilaj should remain detained. Thank you.

8 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

9 Now, I turn to the Defence. Counsel.

10 MR. EDWARDS: Thank you, Your Honour.

11 The Defence has had sight of the Prosecution's motion for
12 Mr. Kilaj to remain in detention. It was notified at about half past
13 11.00 yesterday.

14 I do propose to respond to it by the end of the day so that
15 Your Honour has the Defence's submissions before you in the course of
16 your determination of whether Mr. Kilaj continues to remain in
17 detention or is released. Your Honour has, I think, until Monday
18 morning to do so.

19 With your leave then, I would ask Your Honour to not issue a
20 decision until you receive the submissions. Those submissions will
21 be far more detailed than anything that I can say this morning in
22 court. But with your leave, there are one or two points that I think
23 are important for Your Honour and for the public to understand, so I
24 have a few submissions to make now, some of which will have to be
25 very shortly in private session.

1 But it's right that, as Your Honour correctly said, there is no
2 indictment at this stage. There will be no arraignment today or in
3 30 days' time. There will be no arraignment at any point in the near
4 future, realistically speaking. We don't know when it's going to be.
5 It may be many, many months hence, and many months more before there
6 is a Confirmation Decision under Rule 86(5).

7 So meanwhile, what happens to Mr. Kilaj? If the Prosecution has
8 their way, he will have to wait for an indictment. He will have to
9 wait for a Confirmation Decision in custody far from his home, far
10 from his family. He will remain in this distressing, vulnerable
11 position, some 2.000 kilometres from home, from where he was wrenched
12 on 2 November.

13 He's going to have to wait for the Prosecution to complete their
14 investigations and then to draft an indictment and then to submit
15 that, and there is nothing that he can do to force the Prosecution to
16 expedite that process.

17 I can tell you if there were an indictment before Your Honour
18 today, Mr. Kilaj would gratefully be arraigned today. There would be
19 no question of him exercising his right to wait 30 days under
20 Rule 92(2)(c). He would tell you right here and right now that he is
21 not guilty of any allegations that the Prosecution might wish to
22 throw at him. That is how prepared he is to cooperate fully with
23 this Chamber, with the Prosecution.

24 I do want to highlight just how insubstantial the Prosecution's
25 allegations are, and I will attempt to make some points in public

1 about that, but out of an abundance of caution, and bearing in mind
2 the way in which my learned friend set out the SPO's case for
3 continued detention, I'd ask that we go into private session just for
4 one or two minutes.

5 JUDGE GUILLOU: Thank you, counsel.

6 Madam Court Officer, can we move to private session, please.

7 [Private session]

8 [Private session text removed]

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8 [Open session]

9 THE COURT OFFICER: Your Honour, we're in public session.

10 JUDGE GUILLOU: Thank you, Madam Court Officer.

11 Counsel.

12 MR. EDWARDS: Your Honour, to summarise, there is simply no
13 evidence that Mr. Kilaj is guilty of either of the offences with
14 which he is -- well, he hasn't been charged, that the Prosecution
15 allege he has committed. There are fundamental ingredients of both
16 of those alleged offences which are simply missing.

17 The allegations against him are wafer-thin, and they do not
18 stand up to the slightest scrutiny.

19 I've already alluded to Mr. Kilaj's willingness to cooperate,
20 that he will plead not guilty at the earliest opportunity, such is
21 his anxiety to demonstrate that he is innocent, that his name should
22 be cleared. And this position of cooperation is simply a
23 continuation of his cooperation with the Prosecution, this stance of
24 cooperation that he has demonstrated since the very beginning of his
25 dealings with the SPO.

1 Your Honour will note from the report on arrest - it's filing
2 492 of yesterday's date, and I can't imagine there can be anything
3 confidential or private about this - but no handcuffs or restraints
4 were used at any time during his dealings with the SPO.

5 Again, I can't imagine that there's anything confidential about
6 this, but Your Honour will note from paragraph 3 of the Prosecution's
7 request for continued detention that Mr. Kilaj participated in a
8 voluntary interview after his arrest on 2 November.

9 Well, two points. The first point is I suspect there must be
10 something wrong with the Prosecution's dates because it's difficult
11 to see, given the chronology, how he could have been interviewed on 2
12 November when he was only informed of his rights just after midnight
13 on 3 November, but be that as it may. Of course, it would fill any
14 lawyer with utter horror that a client would waive his right to
15 silence, waive his right to be assisted by a lawyer during interview
16 before seeing a shred of evidence, but that's what Mr. Kilaj did,
17 such is his willingness to cooperate. He agreed to be voluntarily
18 interviewed.

19 He's nearly 60 years old. His 60th birthday will be in
20 December. He's a family man, married to his wife for some 40 years.
21 A number of children. He has lived in Malisheve his entire life. He
22 has extraordinarily strong community ties, and he just represents no
23 risk of absconding whatsoever contrary to the SPO's submissions.
24 Nor, for reasons which I necessarily had to allude to in private
25 session, is there the slightest risk of his seeking to obstruct

1 proceedings or committing any criminal offences. He's of good
2 character. A 60-year-old man, has never been convicted of a criminal
3 offence. He has never been even arrested prior to 2 November.
4 Certainly never been detained. The last two nights are the first
5 time that he has ever been in detention.

6 So my submissions will be more fully set out in writing by the
7 end of the day for Your Honour to consider before arriving at your
8 decision on continued detention by Monday morning. But for now,
9 suffice it to say that he is an extremely good and safe candidate for
10 provisional release back to Kosovo. If released, he will, of course,
11 abide by any and all of the conditions that are provided for in
12 Article 41(12) that Your Honour might consider appropriate.

13 JUDGE GUILLOU: Thank you, counsel.

14 I turn to the SPO. Do you wish to respond? Mr. Prosecutor.

15 MR. HALLING: We do, Your Honour. If there is a written filing
16 that counsel has foreshadowed, he's permitted to make that, we would
17 also like an opportunity to reply to that. But the oral submissions
18 made now, we can reply to now.

19 Just a few points in response. What counsel was saying at the
20 beginning of his detention submissions were about waiting and when
21 will this indictment ever come. This is all speculative at this
22 time. It's a proportionality of detention argument which has not yet
23 come to pass. We are working as expeditiously as we can to analyse
24 these materials and get our indictment in order as soon as possible,
25 and counsel's current submissions are not grounded in the facts as to

1 how long he's been detained at this time.

2 As for the insubstantial nature of the allegations, we simply
3 disagree. This Court is dependent upon witnesses being able to come
4 here and tell their stories, and any offences against the
5 administration of justice are things that this Court and this
6 Prosecutor's Office takes extremely seriously at all times.

7 As for counsel's remarks in private session, we would like to
8 make one last point about that, but we would require to go into
9 private session to make it, Your Honour.

10 JUDGE GUILLOU: Madam Court Officer, can we move into private
11 session, please.

12 [Private session]

13 [Private session text removed]

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18 [Open session]

19 THE COURT OFFICER: Your Honour, we're in public session.

20 JUDGE GUILLOU: Thank you, Madam Court Officer.

21 Counsel, do you wish to reply to the Prosecutor's Office?

22 MR. EDWARDS: Very briefly, and it's just on the last point, and

23 I can --

24 JUDGE GUILLOU: Do we need to move to private session?

25 MR. EDWARDS: No, I think I can make the point in public. It's

1 a very simple point.

2 The Prosecution's submission seems to be that there can only
3 have been one source. That is not borne out by any evidence. That's
4 all I have to say, Your Honour.

5 JUDGE GUILLOU: Thank you, counsel.

6 I will rule on your submissions at the end of this hearing after
7 a short break.

8 Now, let me move to the working language of the proceedings. I
9 note that, pursuant to the Decision on Working Language issued on
10 5 December 2019, which is filing number F00078, the working language
11 for proceedings under the investigation file is English.

12 Could the parties, at this stage, indicate their preference on
13 the working language to be used in this new case according to Rule 8?

14 Starting with Mr. Prosecutor.

15 MR. HALLING: Thank you, Your Honour. We would prefer English
16 as well.

17 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

18 Counsel.

19 MR. EDWARDS: Your Honour, can I just turn my back for a moment
20 and consult with my client.

21 JUDGE GUILLOU: Absolutely. Take your time.

22 [Specialist Counsel and suspect confer]

23 MR. EDWARDS: Your Honour, mindful that I am merely Duty Counsel
24 and that at a later stage different counsel may take a different
25 view, but English for now, please, provided, of course, that

1 everything is translated into Albanian for the benefit of my client.

2 JUDGE GUILLOU: Duly noted. And I will take a decision in due
3 course on this matter.

4 I will now move to my next point, which concerns the opening of
5 a new case file. I intend to order the Registrar to open a new
6 Basic Court case file carrying the name The Prosecutor versus
7 Isni Kilaj. Likewise, I intend to order the Registrar to copy and
8 transfer a number of filings and decisions, as well as their
9 corresponding translations, from the investigation file into the new
10 case file.

11 These will concern filings and decisions that relates to
12 Mr. Kilaj and that may subsequently be material for the preparation
13 of his defence if an indictment is to be submitted by the SPO and if
14 this indictment is confirmed.

15 With a view to making an informed decision, I intend to order
16 the Specialist Prosecutor to make written submissions on this issue.

17 Mr. Prosecutor, do you wish to add anything on this issue before
18 I move to the next point? And I don't ask you to list the filings.
19 Just if you have any question before I issue an oral order at the end
20 of this Status Conference asking you for written submissions on this
21 matter.

22 MR. HALLING: Nothing at this time, Your Honour.

23 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

24 Does the Defence have any views on this question?

25 MR. EDWARDS: No, thank you.

1 JUDGE GUILLOU: Thank you, counsel.

2 At this point, I would invite the Specialist Prosecutor to give
3 any indication on the next procedural steps. In particular, whether
4 he intends to submit an indictment against Mr. Kilaj.

5 I'm aware that there might not be at this point a very exact
6 timeline, but I would like to remind the Specialist Prosecutor that
7 there is a suspect that has been arrested, and I expect judicial
8 proceedings to be fair and very expeditious, as usual.

9 Mr. Prosecutor.

10 MR. HALLING: Yes, Your Honour. We also intend to work very
11 expeditiously in order to ensure that our indictment is filed as soon
12 as we can.

13 As Your Honour can understand, steps needs to be taken to ensure
14 that this indictment is filed together with all necessary supporting
15 material, which only very recently came into our possession.

16 So just to go over some of the steps that we're going to need to
17 do in the coming weeks. We need to analyse all of the materials
18 obtained from the search of the residence, in particular the ones
19 that we have been discussing in private session. We need to collect
20 information from persons implicated by the seized material so as to
21 determine the full scope of the criminality issue. And we need to
22 analyse Mr. Kilaj's recent SPO suspect interview and any further
23 steps arising from it.

24 And in this regard, and in relation to the point previously on
25 the agenda, much of the information collected in this investigation

1 would need to be translated from Albanian into English both to
2 facilitate the SPO's analysis as well as the Court's consideration of
3 the eventual indictment.

4 So these are some of the issues that arise for us, but we're
5 working expeditiously through them, and we will get you an indictment
6 as soon as we can.

7 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

8 I turn to the Defence. Do you have any submissions on what the
9 Prosecutor just indicated?

10 MR. EDWARDS: Nothing other than to reiterate the point I made
11 earlier, Your Honour. This is an open-ended process that we are
12 right at the beginning of.

13 Apart from the matters that or the -- apart from the things that
14 were alluded to in private session that were seized from the accused
15 were other items that traditionally one would expect would need to be
16 interrogated. And with the best will in the world, it's just very
17 difficult to see how this is going to be done in the space of a few
18 weeks. We must be talking in terms of months, not weeks, and,
19 consequently, that makes it all the more prejudicial for Mr. Kilaj to
20 remain in detention whilst waiting for the Prosecution to get on and
21 do their job.

22 But specifically on this point, of course, I have no other
23 submissions to make.

24 JUDGE GUILLOU: Thank you, counsel.

25 Mr. Prosecutor, are you able to give further detail on the

1 timeline? I note that counsel for the Defence was wondering if it
2 was a question of weeks or a question of months. I actually have the
3 same question.

4 MR. HALLING: Yes, and the answer to that question does depend
5 on the analysis that we're going to do right now with the materials
6 we have. What we would propose is that Your Honour set a deadline
7 for us to give a notification with estimates as to the future
8 timeline, something like the week of November 20th. That would give
9 us enough time to analyse the material seized and to be able to give
10 a more definitive timeline in response to Your Honour's question.

11 JUDGE GUILLOU: But you cannot be more precise about when you
12 would be able to file an indictment today?

13 MR. HALLING: A lot of it depends on the analysis of the
14 material that we've just received. It was just brought to our
15 office, some of it yesterday, and today is a Saturday, so it's
16 difficult for me to estimate given the amount that's currently
17 unknown.

18 What I can say is that by the week of November 20th, we'll have
19 enough of a handle on the collection to be able to give a better
20 estimate.

21 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

22 I would like to ask the parties whether they have any other
23 issues they wish to raise today before we break and I issue oral
24 orders.

25 Mr. Prosecutor.

1 MR. HALLING: Nothing further from the SPO.

2 JUDGE GUILLOU: Counsel?

3 MR. EDWARDS: Your Honour, just a matter of clarification,
4 really, for my own mind.

5 At page 22 of the LiveNote, lines 6 and 7, you indicated that
6 you would be making rulings on the submissions orally. That was the
7 impression that I got from what Your Honour said. Is Your Honour
8 saying that you will give an oral ruling on the question of detention
9 today based on my oral submissions rather than by Monday at the
10 latest after having received written submissions?

11 JUDGE GUILLOU: Before that, I need to rule on your submissions,
12 so that's what I intend to do. And depending on how I rule on your
13 submissions, I will rule or not rule on the other orally.

14 MR. EDWARDS: Yes, I see what Your Honour means. The point is
15 that my oral submissions were really just to highlight a number of
16 the points that I would prefer to make and elaborate on in writing as
17 the Prosecution had the opportunity to. Thank you.

18 JUDGE GUILLOU: Point taken, counsel.

19 Mr. Kilaj, before we break, I would like to ask you if you have
20 any matter you would like to raise in relation to your arrest, your
21 transfer, or your detention at this stage.

22 THE SUSPECT: [Interpretation] No.

23 JUDGE GUILLOU: Thank you, Mr. Kilaj.

24 We'll now break for approximately 20 minutes, approximately,
25 and we'll be back for the end of this hearing. The hearing is

1 adjourned for 20 minutes.

2 --- Recess taken at 10.53 a.m.

3 --- On resuming at 11.19 a.m.

4 JUDGE GUILLOU: I will issue my first oral order.

5 Having heard the parties, and noting that the SPO's request for
6 continued detention was submitted yesterday, 3 November, at around
7 10.00 p.m., I find it appropriate to grant the Defence request to
8 have the opportunity to make written submissions on said request
9 before making my ruling.

10 I hereby order the Defence for Mr. Kilaj to file its written
11 submissions by today, 4 November, at 8.00 p.m., and the SPO to reply
12 by tomorrow, 5 November, at 2.00 p.m.

13 I will issue my decision by 10.00 a.m., on Monday, 6 November.

14 Furthermore, I hereby order Mr. Kilaj to remain in detention
15 pending my decision.

16 This concludes my first oral order.

17 I will now issue my second oral order concerning the transfer of
18 filings to the upcoming new case file.

19 I order the Specialist Prosecutor to file written submissions
20 with a list of proposed filings related to the suspect, Mr. Kilaj, to
21 be copied and transferred from the investigation file into the new
22 case file by Tuesday, 7 November 2023 at the latest.

23 This concludes my second oral order.

24 I wish to inform the parties and the Registrar that I intend to
25 schedule a Status Conference in due course to assess any progress

1 made or challenges encountered as well as to address any issues
2 raised by the parties.

3 This concludes today's hearing. I thank the parties and
4 Registry for their attendance. I also wish, as usual, to thank the
5 interpreters, audio-visual technician, stenographer, and security
6 personnel for their assistance.

7 The hearing is adjourned.

8 --- Whereupon the First Appearance adjourned
9 at 11.21 a.m.

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