



**In:** KSC-BC-2020-05  
**Name:** The Specialist Prosecutor v. Salih Mustafa  
**Before:** Trial Panel I

Judge Mappie Veldt-Foglia, Presiding Judge  
Judge Roland Dekkers  
Judge Gilbert Bitti  
Judge Vladimir Mikula, Reserve Judge

**Registrar:** Dr Fidelma Donlon  
**Date:** 15 September 2022  
**Classification:** PUBLIC REDACTED

[IN COURT- REDACTION ORDER]

The **Trial Panel I** FINDS that the following blacked out text contains confidential information and **ORDERS** this information shall be removed/ edited from the **PUBLIC** broadcast/streaming, audio visual recording and transcripts in all three languages *Albanian/ English/ Serbian*. Hearing of 15 September 2022, Page 9 Line 8 (time code 09:48:58), Page 9 Line 9 (time code 09:49:19) to Page 9 Line 10 (time code 09:49:19), Page 9 Line 16 (time code 09:49:32) and Page 9 Line 20 (time code 09:49:48) to Page 9 Line 24 (time code 09:50:15).

9:7	transcript reads as follows. Question:	09:48:53
8	"Do you think that y [REDACTED] -- and	09:48:58
9	you told us that you were also part of a [REDACTED]	09:49:19
10	[REDACTED] may have	09:49:19
11	had anything to do with your arrest?"	09:49:19
12	And the answer is:	09:49:24
13	"I think I had some suspicion, and probably that is one of the	09:49:25
14	reasons why I was imprisoned."	09:49:29
15	And the question again is:	09:49:31
16	"Why would the [REDACTED] be a possible reason for	09:49:32
17	your arrest? If you could explain us and the Panel what led you to	09:49:36
18	believe that."	09:49:44
19	And the witness answered:	09:49:46
20	"Yes. The reason for that is that [REDACTED]	09:49:48
21	[REDACTED]	09:49:53
22	[REDACTED]	09:50:02
23	[REDACTED]	09:50:08
24	[REDACTED] So that was not one of the reasons that was told to me	09:50:15
25	while I was detained in Zllash, but this may as well be one of the	09:50:21
10:1	reasons why I was sent there."	09:50:25
2	The statement is on 13 October, page 1169 of the transcript.	09:50:29
3	During the conversation that W3594 had with the people in the	09:50:35
4	room, he did not specify any question that he was asked. Therefore,	09:50:43
5	based on the testimony of this witness, it cannot be established that	09:50:51

  
\_\_\_\_\_  
**Judge Mappie Veldt-Foglia**  
**Presiding Judge**

Registry implementation: Yes  No  Feed Terminated  Time From \_\_\_\_\_ to \_\_\_\_\_  
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22:5	when the victim was exhumed.	10:17:13
6	At the time when the victim was exhumed, [REDACTED]	10:17:17
7	[REDACTED]	10:17:21
8	The witness said, on page 1604 of the court session of	10:17:26
9	November 17th 2021:	10:17:34
10	[REDACTED]	10:17:36
11	[REDACTED]	10:17:52
12	[REDACTED]	10:17:57
13	The testimony of the witness confirms the fact that when the	10:17:57
14	victim was exhumed a hole was observed in his body, but none of the	10:18:00
15	persons present had the opportunity to determine the cause of the	10:18:05
16	creation of this hole as well as the fact that the post-mortem	10:18:08
17	examination was never done.	10:18:12
18	The witness on page 1619 in the court session of 17 November	10:18:14
19	2021 stated:	10:18:21
20	"You can see a hole, but no one has been able to say what it was	10:18:23
21	caused by. But the state of the body of the victim is what you can	10:18:27

  
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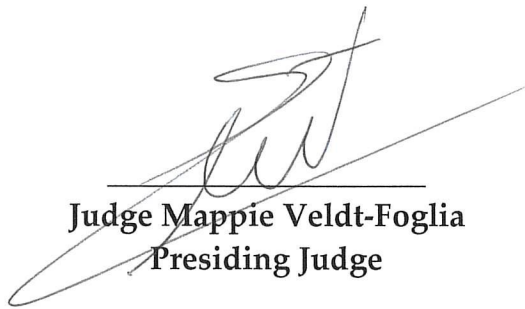
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[IN COURT- REDACTION ORDER]

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28:4	Three, then we have the witnesses.	10:30:07
5	"1679 was shown a picture of the oda," that is SPOE128388, "as	10:30:12
6	early as [REDACTED]."	10:30:20 ✓
7	The interview of 1671 is ERN 100807-TR-ET, Part 1, page 6, 7, 9,	10:30:26
8	and 10.	10:30:42
9	"He encircled at the time the two-storey house, the oda, on that	10:30:43
10	picture."	10:30:49
11	This is entirely documented in the Official Note of the SPO that	10:30:53
12	runs from ERN 100801 until 100806. No question was asked about	10:30:56
13	building 4A or building 5 or whether he was kept in any other	10:31:08



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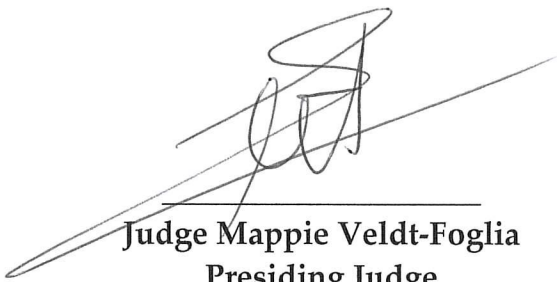
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28:21	5 or whether he was kept in any other building than the oda building.	10:31:55
22	He was also shown a photo of the Defence DSM00031. Again, the same	10:32:00
23	interview. In the same interview. And that is the interview	10:32:09
24	of 1679, that is ERN 100807-TR-ET, Part 1, page 16. A question was	10:32:28
25	asked regarding this photo. It is the photo of an older man standing	10:32:58
29:1	in front of the oda."	10:32:59
2	When shown this photo, he commented:	10:32:59
3	"This looks similar to the previous one. This is even more	10:32:59

  
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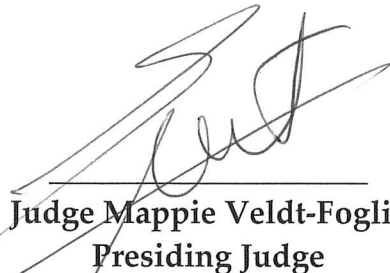
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29:13	building.	10:33:31
14	W3593, on [REDACTED], ERN 06015-TR-ET, Part 2 Revised, page 9,	10:33:32
15	the witness was asked about the photograph, that is ERN SITF00 ^ he	10:33:54
16	recognised his signature in that photo and was asked to point out,	10:34:00
17	with his finger, where the stable was. He answered:	10:34:03
18	"This is the stable, here. And above it stayed the army and the	10:34:06
19	ones that beat us up."	10:34:14
20	"Are you sure about that?"	10:34:16
21	"Yes, 100 per cent."	10:34:18
22	On [REDACTED] another photo was shown to him, ERN SPOE00128388. And	10:34:21
23	it is the one that is similar from the first photo. It just	10:34:29
24	minimised from both sides. The witness commented on the photo:	10:34:34
25	"We are talking about this door, here."	10:34:40
30:1	Question:	10:34:45
2	"So the door that you marked on the door on page 3; correct?"	10:34:45
3	"Yes, that is the one. This is where I stayed and this is where	10:34:50
4	I went out from. From this door."	10:34:55
5	On [REDACTED], the same witness, 3593 again. [REDACTED], ERN	10:34:59
6	100957-TR-ET, Part 1, another photo was shown to him. That photo is	10:35:09
7	ERN SPOE00128392. And it is the photo again of the oda:	10:35:16
8	"I was detained here in this house."	10:35:31
9	"Could you mark this with number 2?"	10:35:32
10	"I stayed there. I stayed there. I was detained for 18 days."	10:35:36

  
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31:3	Even though the SPO questioned the witness about it, still, on	10:36:48
4	██████████, it was as follows:	10:36:52
5	"From your statement, we know that you were initially detained	10:36:55
6	in one location and then detained in another location. Could you	10:36:58
7	tell us if you remember, of course, in which location you were	10:37:02
8	detained the first time, and then in which location you spent the	10:37:10
9	remainder of your time in Zllash?"	10:37:15
10	Answer:	10:37:19
11	"██████████"	10:37:22

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32:12	have encircled the place. Transcript 10 November, page 1471.	10:38:55
13	The witness was shown in his interview by the SPO at the time,	10:39:02
14	that is [REDACTED] SPOE82023-TR-ET, Part 2, page 29 and 30,	10:39:08
15	the entire photo album. The document bears number ERN SPOE00128386	10:39:19
16	until 128420.	10:39:30
17	At the time that he was he shown the album in this interview, he	10:39:33
18	indicated the photo 00128407. So that is, in fact, a different	10:39:38
19	photo --	10:39:46
20	PRESIDING JUDGE VELDT-FOGLIA: Defence counsel?	10:39:46
21	MR. VON BONE: Yes.	10:39:49
22	PRESIDING JUDGE VELDT-FOGLIA: Sorry to interrupt you, but you	10:39:49

  
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52:3	orders that were set by the Panel. The contact with his family has	11:49:36
4	been extremely difficult, but he patiently endured [REDACTED]	11:49:41
5	[REDACTED]	11:49:46
6	[REDACTED] However, he has never violated any order	11:49:51
7	that was set out.	11:49:56
8	Mr. Mustafa feels sorry for the victims, but he is not	11:49:58
9	responsible for their pain or suffering. Mr. Mustafa denies that he	11:50:02
10	has committed any of the charges, and that is his right as well. The	11:50:08
11	consequence of such a position naturally leads that he bears no	11:50:15
12	responsibility for whatever the victims have experienced.	11:50:21
13	To deny the position of an accused would equally deny him of a	11:50:26

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