



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

**In:** KSC-BC-2020-06  
**Before:** Pre-Trial Judge  
Judge Nicolas Guillou  
  
**Registrar:** Dr Fidelma Donlon  
**Filing Participant:** Specialist Prosecutor  
**Date:** 29 April 2021  
**Language:** English  
**Classification:** Confidential and *ex parte*

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**Prosecution response to urgent VESELI release request**

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**Specialist Prosecutor's Office**

Jack Smith

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## I. INTRODUCTION

1. The Specialist Prosecutor's Office ('SPO') hereby responds to the Urgent Release Request.<sup>1</sup> To the extent the request seeks the temporary release of Mr VESELI ('Accused') for a period of 7 days on largely unspecified conditions, the SPO opposes the request. However, in the specific circumstances, subject to logistical feasibility, and as detailed below, the SPO does not oppose a fully escorted visit under strict conditions.

## II. SUBMISSIONS

2. Rule 56(3) is a 'temporary release of a detained person, where compelling humanitarian grounds justify such release'. However, it should be granted only in exceptional circumstances, and even family tragedies are not sufficient, in and of themselves, to justify such release.<sup>2</sup>

3. Humanitarian release must be weighed against factors including the gravity of the offenses of which the Accused is charged and the risks previously identified by the Pre-Trial Judge. In this instance, the Pre-Trial Judge considered that none of the previously proposed conditions, nor any additional limitations that could be imposed by him, could restrict the Accused's ability to communicate, through any non-public means, with his community or support network.<sup>3</sup> The Pre-Trial Judge found the risks to be such that they can only be effectively managed through the fully controlled environment that detention alone can provide.<sup>4</sup> As the SPO has previously outlined, no entity in Kosovo has the means to adequately monitor someone of the Accused's stature and resources while released from custody.<sup>5</sup>

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<sup>1</sup> URGENT Veseli Defence Request for Temporary Release on Compassionate Grounds, KSC-BC-2020-06/F00265 ('Urgent Release Request').

<sup>2</sup> See ICC, *Prosecutor v. Al Hassan*, Public redacted version of 'Decision on the urgent Defence request for a custodial visit on compassionate grounds', ICC-01/12-01/18-1227-Red, 23 December 2020 (redacted version notified 18 January 2020), paras 8, 14 (in the circumstances of the case, death of an accused's young daughter was found insufficient to justify even temporary release).

<sup>3</sup> KSC-BC-2020-06/F00178, para.59.

<sup>4</sup> KSC-BC-2020-06/F00178, para.59.

<sup>5</sup> KSC-BC-2020-06/F00161/RED, paras 44-46, citing KSC-BC-2020-06/F00149/RED, paras 45-47.

4. In this context, the SPO submits that release would not be appropriate. Nonetheless, in the particular circumstances as represented by the Defence, and to the extent logistically feasible, the SPO would not oppose an escorted visit under the following strict conditions:<sup>6</sup>

- a. the Accused remain in the custody of the Specialist Chambers ('KSC') at all times;
- b. the Accused be detained in Kosovo in detention facilities of the KSC;
- c. the Accused be securely transported, in custody, to and from the hospital for one visit to his father;
- d. the Accused be escorted at all times;
- e. the Accused not be permitted to be alone with any person except his father, and even then must remain at all times within sight of the escorting officer(s);
- f. the Accused not be permitted to meet with or otherwise have contact with any person other than identified immediate family members (and only while accompanied by the escorting officer(s));
- g. the Accused not have access to communication devices, pen and paper or any other means of communication of any kind other than as facilitated by the KSC;
- h. the Accused not be permitted to pass or receive items to or from any person;
- i. the Accused (his Counsel and/or other relatives or associates) make no public statement and undertake to maintain secrecy with respect to his presence in Kosovo to the maximum extent possible;<sup>7</sup> and

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<sup>6</sup> The SPO is confident that the Registry will ensure that these conditions are implemented in a manner respectful of the circumstances.

<sup>7</sup> In the event that the Accused's presence in Kosovo should become known, the SPO requests that the SPO, Registrar and/or EULEX, as appropriate, should to the extent necessitated in the circumstances, be authorized to provide any public clarification or statement which may be needed, including for the purposes of maintaining operational security.

- j. the Accused not be permitted to leave the detention facility (even under escort) other than for a single escorted visit to the hospital, and transport to and from Kosovo.

5. Finally, the SPO emphasises that due to the risks previously outlined by the Pre-Trial Judge, as well as the operational and security risks in a transfer of custody of this nature, such facilitation should be exceptional. While medical prognoses are inherently uncertain, the duration of the visit and of the transfer of location of custody to Kosovo should be strictly time limited. The SPO submits that a four-day transfer, including travel, and encompassing a single hospital visit, would be appropriate in the circumstances.

### III. SUBMISSIONS

6. This filing is submitted as confidential *ex parte* in accordance with Rule 82(4).

**Word count: 751**



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**Jack Smith**  
**Specialist Prosecutor**

Thursday, 29 April 2021  
At The Hague, the Netherlands.