



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: 7 July 2021
Language: English
Classification: Confidential and *ex parte*

URGENT

Prosecution response to urgent VESELI request for custodial visit

Specialist Prosecutor

Jack Smith

Counsel for Kadri Veseli

Ben Emmerson

1. The Specialist Prosecutor's Office ('SPO') hereby responds to the Urgent Request.¹ Subject to the conditions outlined below, the SPO does not oppose a strictly supervised, and fully custodial, visit of limit duration to facilitate Mr VESELI's attendance at an appropriate memorial event for his father.

2. 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 has recently affirmed that the risks presented by Mr VESELI ('Accused') are such as can only be effectively managed through the fully controlled environment that detention can provide, including in particular the communication monitoring framework at the Specialist Chambers ('KSC').² Any modification of that framework, however temporary and exceptional, presents a heightened risk.

3. Nonetheless, in the particular circumstances, and to the extent logistically feasible, the SPO would not oppose a fully custodial escorted visit under the following strict conditions:³

- a. the Accused remain in the custody of the 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 location of any memorial with pre-identified immediate family;
- d. the Accused be escorted at all times;
- e. the Accused not be permitted to be alone with any person at any time, and must remain within both sight and earshot of the escorting officers;
- f. the Accused not be permitted to meet with or otherwise have contact with any person other than pre-identified immediate family members (and only while accompanied by the escorting officer(s));

¹ URGENT Request for a Custodial Visit on Compassionate Grounds, KSC-BC-2020-06/F00383 ('Urgent Request').

² KSC-BC-2020-06/F00380, paras 47-51. *See also* KSC-BC-2020-06/F00178, para.59.

³ The SPO is confident that the Registry will ensure that these conditions are implemented in a manner respectful of the circumstances.

- 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; and
- 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.⁴

4. 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. This Urgent Request is understood to encompass the entirety of Mr VESELI's request in relation to the current circumstances.

5. As such, there should be no more than one transfer in connection with these circumstances. The SPO submits that one of the following authorisations would be appropriate in the circumstances, either (i) a transfer to facilitate attendance during, but for no longer than, the three-day mourning period (to the extent that this is logistically feasible), or (ii) a transfer to see immediate family and attend a specified, one-day memorial event (such as the 40th day - or similar earlier - commemoration). In either scenario, the SPO considers that a period of less than seven days is appropriate.

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

Word count: 608

⁴ 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.



Jack Smith
Specialist Prosecutor

Wednesday, 7 July 2021
At The Hague, the Netherlands.