

In: KSC-BC-2020-05
The Prosecutor v. Salih Mustafa

Before: **Trial Panel I**
Judge Mappie Veldt-Foglia, Presiding Judge
Judge Roland Dekkers
Judge Gilbert Bitti, Judge Rapporteur
Judge Vladimir Mikula, Reserve Judge

Registrar: Dr Fidelma Donlon

Filed by: Dr Anni Pues, Victims' Counsel

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**Victim's Counsel response to Request for Extension of Time Limit to Submit
Expert Report(s), dated 15 November 2021 (F00252)**

Specialist Prosecutor's Office

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Registry

Head of Victims' Participation Office

Counsel for the Accused

Julius von Bóné

Victims' Counsel

Anni Pues

I. INTRODUCTION

1. The Victims' Counsel hereby responds to the Request for Extension of Time Limit to Submit Expert Report(s) filed on 15 November 2021 by the Registrar ("Request").¹
2. On 3 September 2021, the Trial Panel I appointed three experts in the case and instructed them to file their report by Monday, 22 November 2021. It also instructed the Defence and Victims' Counsel to make submissions on the report, if they so wish, within two weeks of the notification of the report.²
3. In the Request, the Victim's Participation Office ("VPO") of the Registry requests that the time limit for the experts to submit their report(s) be extended to 17 December 2021.

II. SUBMISSIONS

4. Victims' Counsel does not oppose the Request *per se* and notes that the supporting information provided by the experts in the Request may warrant an extension of the time to file their report(s). However, it is submitted that an extension of almost four weeks, as requested, is likely to place Victims' Counsel in a disadvantageous position to prepare submissions in response to the report, if any, within the two weeks' time limit imposed by the Panel.
5. The topics that the Panel instructed the experts to address in the experts' report are complex and numerous³ and are of a paramount importance for the participating victims in these proceedings. The experts have been appointed to clarify for the Panel

¹ KSC-BC-2020-05/F00252/RED, Public Redacted Version of Request for Extension of Time Limit to Submit Expert Report(s), filing F00252, dated 15 November 2021, 17 November 2021.

² KSC-BC-2020-05/F00184/RED, Public redacted version of Third decision on the appointment of expert(s), 3 September 2021, para. 19.

³ KSC-BC-2020-05/F00184/RED, Public redacted version of Third decision on the appointment of expert(s), 3 September 2021, paras. 13-15.

“whether the national courts in Kosovo offer a realistic avenue for the victims of the alleged crimes charged in this case to claim reparations and, if reparations would be granted by those courts, to have such judgments enforced”⁴. This is an issue of the greatest significance for the participating victims, which will require Victims’ Counsel to analyse the experts’ report thoroughly and respond accordingly.

6. Should the report be filed and notified on Friday 17 December, the two-week time limit for Victim’s Counsel to make submissions on the report would run from 20 to 31 December, which is the period of winter recess which include two official holidays of the Court. These last two weeks of December, Victim’s Counsel submits, is not a favourable period to conduct research and seek the assistance of additional experts, if need be, due to the end of the year festivities taking place during that period.⁵

7. Therefore, extending the time limit to 17 December would place Victims’ Counsel in a disadvantageous position of having to prepare submissions on issues of paramount importance for the participating victims, while having limited means to conduct any additional research and seek the assistance of other expert(s), if necessary.

8. For this reason, Victims’ Counsel is of the view that, if the Request is granted, the two-week period for the Victims Counsel’s submission in response to the Experts’ report should start running from 7 January 2022.

9. Alternatively, she is of the view that the time limit to file the expert report(s) should be extended to 10 December only. In that case, at least one week before the start of winter recess may allow one week before the winter recess to meaningfully engage with the report. In this case, Victims’ Counsel would seek variation of the time

⁴ KSC-BC-2020-05/F00184, Third decision on the appointment of expert(s), 3 September 2021, para. 13.

⁵ See, similarly, STL, *In the case against Akhbar Beirut S.A.L. and Al Amin*, Case No. STL-14-06/PT/CJ, F0114, Decision on Urgent Request for Review of the Decision on the Amicus Curiae Prosecutor’s Application for Protective Measures of 20 March 2015, 4 November 2015, paras. 14, in which the Contempt Judge was persuaded by the Defence argument that the month of December was not a favourable month for conducting investigations, due to the festivities taking place throughout that month in Lebanon and elsewhere.

limit applicable to her until 14 January 2022. This would be more propitious for conducting additional research, if needed.

10. In any case, if Victims' Counsel is in a position to file submissions before the time limit imposed by the Panel, this will be done.

III. RELIEF REQUESTED

11. For these reasons, Victims' Counsel respectfully requests the Trial Panel to:

- If the Request is granted, vary the time limit for Victims' Counsel to file her submissions until 21 January 2022; or
- alternatively, reject, in part, the Request and instruct the experts to file their report(s) on 10 December 2021 at the latest and, in that case, vary Victims' Counsel time limit to file any submission by 14 January 2022.

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18 November 2021

At The Hague, the Netherlands