



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 January 2022
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, fully custodial visit of limit duration to facilitate a mourning period following the death of Mr Veseli's mother.
2. Temporary release under Rule 56(3) and (5) of the Rules² must be weighed against factors including the gravity of the offences of which the Accused is charged and the risks previously identified by the Pre-Trial Judge.³ 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').⁴ 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 of no longer than three days under the following strict conditions:⁵
 - 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 escorted at all times;
 - d. 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;

¹ Urgent Third Veseli Defence Request for a Custodial Visit on Compassionate Grounds, KSC-BC-2020-06/F00636, 7 January 202[2], Confidential and *ex parte* (with two annexes) ('Urgent Request').

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

³ Public Redacted Version of Second Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds, KSC-BC-2020-06/F00386/RED, 8 July 2021 (redacted version notified 16 July 2021), paras 11-12.

⁴ Public Redacted Version of Decision on Remanded Detention Review Decision and Periodic Review of Detention of Kadri Veseli, KSC-BC-2020-06/F00576/RED, 23 November 2021 (public version notified 8 December 2021).

⁵ The SPO is confident that the Registry will ensure that these conditions are implemented in a manner respectful of the circumstances.

- e. 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));
- f. 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;
- g. the Accused not be permitted to pass or receive items to or from any person;
- h. 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;⁶ and
- i. the Accused abides by any other conditions from his previous temporary release which apply in the present circumstances.⁷

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

⁶ 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.

⁷ KSC-BC-2020-06/F00386/RED, paras 15, 22. *See also* Urgent Request, KSC-BC-2020-06/F00636, paras 2, 18.

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Jack Smith
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Friday, 7 January 2022
At The Hague, the Netherlands.