

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

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

Registrar: Dr Fidelma Donlon

Filing Participant: Defence

Date: 8 April 2022

Language: English

Classification: Public with confidential annex

**Defence Request for Admission of Documents from the Direct-Examinations of
Defence Witnesses 200, 300, 400 and 500**

with Confidential Annex 1

Counsel for the Accused

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Specialist Prosecutor's Office

Jack Smith

Victims' Counsel

Anni Pues

I. INTRODUCTION

1. Pursuant to the Trial Panel's Decision on the Conduct of Proceedings,¹ and Rule 138(1) of the Rules,² and in compliance with the Panel's oral order of 28 March 2022,³ the Defence hereby requests the admission into evidence of the items listed in Annex 1 to this Request ('Documents'). The Documents include prior statements made by Defence Witnesses 200, 300 and 500 as well as material shown to Defence witnesses 200, 300, 400 and 500.

2. The Documents are relevant, authentic, have probative value, and their admission would cause no undue prejudice to the Accused.⁴

3. Pursuant to Rule 82(3), Annex 1 to this Request is filed as confidential in order to protect confidential information in this case.

II. SUBMISSIONS

a. Prior statements

4. The prior statements and transcripts that were used with the Defence Witnesses during direct-examination are tendered into evidence.⁵ In some cases,⁶ larger portions than those strictly used are tendered into evidence in order to give a fair context to the questions and answers, and in light of comments made by the

¹ Decision on the conduct of the proceedings, KSC-BC-2020-05/F00170, Public, 26 August 2021, ('Decision') paras 36-38.

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

³ KSC-BC-2020-05, Official Transcript, 28 March 2022, Public, pp.2803-2804.

⁴ See Rule 138. Unless challenged or *proprio motu* excluded, evidence submitted to the Panel shall be admitted if it is relevant, authentic, has probative value and its probative value is not outweighed by its prejudicial effect.

⁵ Annex 1, items 1-2, 8,10,12

⁶ See items 6.7.9.11, Annex 1.

witnesses. Other documents or photographs used with the Defence witnesses in direct-examination but already in evidence⁷ are not tendered again.

b. Documents and photographs

5. The miscellaneous documents and photographs⁸ used with the Defence witnesses during direct-examination are self-explanatory, and are tendered in their entirety, as they are limited in length and scope.

III. RELIEF REQUESTED

6. In the virtue of foregoing reasons, the Defence of Mr. Salih Mustafa requests admission of the documents used during the Direct-Examination of Defence Witnesses 200, 300, 400 and 500, as listed in confidential Annex 1 to this Request.

Word count: 484

Friday, 8 April 2022
At the Hague, the Netherlands



Julius von Bóné Defence Counsel

⁷ Items 1-3, Annex 1.

⁸ Items 6,13, Annex 1