

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 Counsel

Date: 13 July 2022

Language: English

Classification: Public

**Public Redacted Version of Defense Request for
Admission of Documents used in
Cross-Examination in Rebuttal 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 Decision,¹ and Rules 127, 132, 133 138(1) and 139 of the Rules,² the Defense Counsel of the accused hereby requests the admission into evidence of the items listed in Annex 1 to this request ('Documents'), which were used by the Defense during the Cross-Examination in Rebuttal of the [REDACTED].

2. The Documents are relevant, authentic, have probative value, and their admission would cause no undue prejudice to the Accused.³

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

Parts of prior statements of [REDACTED]

4. The defense requests that some evidence used in the Cross-Examination in Rebuttal of [REDACTED] be admitted in evidence. They are listed in the Annex 1.

5. The parts of the prior statements and transcripts that were used [REDACTED]. The portions used by the defense during Cross-Examination in Rebuttal are tendered into evidence. In some cases, slightly larger portions than those strictly used are tendered into evidence in order to give a fair context to the questions and answers posed.

Proceedings [REDACTED]

6. After the defense case had been closed,[REDACTED]. This was done on 1 June 2022.

7. The defense wishes to request to admit the evidence [REDACTED], as detailed in Annex 1. The request is done so before the end of this month.

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 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

8. The defense requests this material, as in its earlier request⁴ it understood that it had to react on the issues of the IMMO reports and [REDACTED], that were heard both in May and had to provide documents that were [REDACTED].
9. The defense did not present any other material in its earlier request as the defense had no specific witness or evidence to call. And therefore, the defense only reacted on the topics of the IMMO reports and the issues concerning the documentary material of the witnesses that were heard in May [REDACTED].
10. The defense believes that the material that it requests in the current request is not lengthy, and has been in the case file already. The defense believes it serves the interest of justice if these items are admitted.
11. The defense stresses that admission of this evidence shall in no manner change any of the time limits set forth in the decision of June 20, 2022⁵.

III. RELIEF REQUESTED

12. For the foregoing reasons, the Defence requests admission of the documents used during the testimony of the SPO witness called in rebuttal, as listed in confidential Annex 1 to this request

Word count: 644



Julius von Bóné
Defence Counsel

Wednesday, 13 of July 2022
Done at The Hague, the Netherlands

⁴ KSC-BC-2020-05/F00434/ Defence Request to present evidence in rejoinder and related matters, following the order of the Panel as prescribed in filing F00430 with confidential Annex 1

⁵ KSC-BC-2020-05/F00439/ Decision on the closing of the evidentiary proceedings and related matters