



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

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

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

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor

Date: 31 January 2023

Language: English

Classification: Public

Public Redacted Version of 'Second Prosecution submission concerning list of contacts of the Accused', filing F00171 dated 27 August 2021

Specialist Prosecutor's Office

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I. INTRODUCTION

1. On 20 August 2021, pursuant to the Decision,¹ the Specialist Prosecutor's Office ('SPO') responded to the Defence Notice² whereby it expressed no objection to the Accused having contact with his spouse and children, within the parameters and conditions specified in the Decision.³

2. Pursuant to paragraphs 34 and 37 of the Decision, the SPO hereby objects to the Accused having contacts with [REDACTED].⁴ There exists a serious risk that [REDACTED] will engage in obstructive behaviour, or will cause others to do so, if he communicates with the Accused. For reasons set forth below, this risk cannot be mitigated by the active monitoring measures put in place by the Decision.

II. SUBMISSIONS

3. [REDACTED] maintains regular and frequent contacts with [REDACTED].⁵ [REDACTED].⁶ Allowing contacts between the Accused and [REDACTED] could thus lead to the revelation of further such information to these persons who could, in turn, frustrate the case including via unlawful means.

4. [REDACTED].⁷ [REDACTED].⁸ [REDACTED].

¹ Decision on Specialist Prosecutor's request for segregation and other measures, KSC-BC-2020-05/F00162, 2 August 2021, Confidential and *Ex Parte* ('Decision').

² Defence Notice pursuant to the Order of Trial Panel I of 2 August 2021, KSC-BC-2020-05/F00165, 19 August 2021, Confidential (notified 20 August 2021) ('Defence Notice').

³ Prosecution submission concerning list of contacts of the Accused, KSC-BC-2020-05/F00168, 20 August 2021, Confidential.

⁴ See Annex 1 to the Defence Notice, KSC-BC-2020-05/F00165/A01 (listing [REDACTED], in addition to the Accused's wife and children).

⁵ [REDACTED].

⁶ For details, see Annex 2 to Prosecution Submissions pursuant to KSC-BC-2020-05-F00123, KSC-BC-2020-05/F00130/A02, Strictly Confidential and *Ex Parte*, paras 15-19 .

⁷ [REDACTED].

⁸ [REDACTED].

5. When [REDACTED], [REDACTED].⁹ [REDACTED],¹⁰ [REDACTED].¹¹ [REDACTED].¹² [REDACTED].¹³

6. [REDACTED].¹⁴ [REDACTED],¹⁵ [REDACTED]¹⁶ and [REDACTED]¹⁷ [REDACTED]. [REDACTED].

7. [REDACTED].¹⁸ [REDACTED].¹⁹ [REDACTED].²⁰

8. In view of the foregoing, there is a risk of unlawful disclosure of information even if active monitoring of contacts between the Accused and [REDACTED] is carefully carried out. Given that they [REDACTED], are both familiar with the case against the Accused, and the Accused has experience working in the field of intelligence, there exists a serious risk that the Accused and [REDACTED] could find ways to exchange sensitive information, for instance by using coded language or non-verbal signs (even if expressly prohibited by the Decision) or by referring to their prior conversations, the meaning of which is known only to them. The list of witnesses provided to the Detention and Management Unit by the SPO can only partially, and not sufficiently, mitigate the aforementioned risk.²¹

III. CONCLUSION

9. For these reasons, the SPO objects to the Accused having contacts with [REDACTED].

⁹ [REDACTED].

¹⁰ [REDACTED].

¹¹ [REDACTED].

¹² [REDACTED].

¹³ [REDACTED].

¹⁴ [REDACTED].

¹⁵ [REDACTED].

¹⁶ [REDACTED].

¹⁷ [REDACTED].

¹⁸ [REDACTED].

¹⁹ [REDACTED].

²⁰ [REDACTED].

²¹ Pursuant to the Decision, on 20 August 2021, at 16:48 the SPO submitted such list to the Chief Detention Officer.

Word count: 453



Alex Whiting

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Tuesday, 31 January 2023

At The Hague, the Netherlands.