

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

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

Registrar: Fidelma Donlon

Filing Participant: Defence

Date: 19 April 2022

Language: English

Classification: Public redacted

Further public redacted version of the Defence submission for the possibility to lift the segregation on [Redacted]

Specialist Prosecutor's Office

Mr. Jack Smith

Counsel for the Accused

Mr. Julius von Bóné

Victims' Counsel

Anni Pues

I. Procedural Background

1. Trial Panel I of the Specialist Chambers (SC) invited the Defence to submit any submissions it deems appropriate with a view of the Panel taking an informed decision whether the segregation of the accused should be lifted. [Redacted]

The defence submits to this end the following.

II. Submissions

2. The Accused, Mr. Salih Mustafa, has been segregated for 8 months precisely on this date. The defence submits that one need not be a [Redacted] to determine that such imposed segregation is harmful to one's [Redacted].

3. The defence submits that over the months it has become [Redacted] as a result of his segregation. As far as the defence is concerned, the segregation has caused him [Redacted].

4. The family members that came to visit him in the recent days have informed the defence [Redacted]². They requested the defence that he be checked in a hospital, in particular that his [Redacted] be checked. Their observations were that he looks pale and has no natural colour. Obviously, they noticed that he is [Redacted] even though he tries "to hold up" and "keep up appearance" in particular towards his children.

¹ KSBC 2020-05/ F00384/A02, para. 1

² The family visit took place on 14, 15 and 16 April 2022 under the regular surveillance

5. Meaningful contact in general as well as with his family members has become more difficult. It is very logic when someone needs to interact with family members under surveillance all the time. Such circumstances only incite agitation of the Accused. The threshold to have meaningful contact has become apparently more complicated for him. And as a result, also for his family members.

6. He lacks tasty food, and has no appetite, though he eats. He finds the food [Redacted].

7. His current situation made him loose faith in justice.

8. The defence can only submit that the segregation must be terminated.

9. The defence envisages that contact with [Redacted] will most probably not increase, improve or simply change his behaviour. He resents the idea to have interactions with entirely strangers to him. Most likely he will decline to make any commitment regarding interactions with possible [Redacted]. The defence submits that ordering him to do so will not really help.

10. He misses the contact with his fellow Kosovo detainees. He used to teach tennis to some of them, yet is now unable to share the views with people on current events in the world, or even the goals scored in a football match that he has watched on TV.

11. Considering the length of the segregation of the Accused and the lack of contact from any other fellow Kosovo detainee, and the continuation of these measures the defence is of the opinion that the segregation is too harsh for the Accused.

III. Conclusion

12. The defence submits that the Accused be checked in a hospital and in order to have him undergo a comprehensive medical check-up with specific emphasis to [Redacted]tests.

13. In the virtue of the foregoing details the defence submits to have the segregation of the Accused terminated.

Word count: 609



Julius von Bóné
Defence Counsel

19 April 2022

Done at The Hague, the Netherlands