



Reference: 2015-COS-0792

Mr. Saša Janković
The Protector of Citizens
Belgrade
Serbia

Pristina, 13 August 2015

Subject: Your letter dated 11 August 2015 (Ledger no. 30362)

Dear Mr. Janković,

Reference is made to your letter dated 11 August 2015 in which you expressed concerns about the decision of the Basic Court in Mitrovica regarding the extended detention of Mr. Oliver Ivanović.

Decisions can only be taken by independent judges, according to the applicable Criminal Procedure Code in Kosovo. Since Mr. Ivanović is duly represented by defence counsel during the trial, his right to defence is fully ensured. In the decision that your letter refers to, the presiding judge assessed that the defence counsel had not presented any reasons which would justify the termination of detention on remand and its replacement with a more lenient measure at this stage of the proceedings. Having evaluated all the relevant circumstances, including the arguments presented by the parties, the presiding judge found that the grounded suspicion that the defendant committed the criminal offences which he is charged with, as well as the conditions provided for by law concerning the risk of flight and the risk that witnesses might be approached, intimidated, and influenced by the defendant, are still satisfied.

Legal remedies remain available to Mr. Ivanović to challenge this decision, and his appeal is currently being reviewed by the appropriate instance (Court of Appeals).

A case concerning several war-crime allegations, suspected assassinations of victims, and incitement counts, and which has five defendants and relies on many witnesses – some of them under protective measures, some of them living abroad – is complex. But I can assure you that the judges are fully respecting the presumption in law and international human rights standards that a person who is detained in custody can expect his or her case to be dealt with promptly. They have taken necessary steps to ensure that there are no unnecessary delays in the trial, including ensuring that subsequent witnesses are ready to be called once the previous witness has completed the testimony. So far, 50 sessions have been held with 47 witnesses being heard.

We, too, are concerned by Mr. Ivanović's decision to start a hunger strike, especially in light of the fact that there are many witnesses remaining to testify in his trial. We share your concerns regarding his health if he continues the hunger strike. At the same time we have full trust in the relevant institutions to respect his rights.

Let me thank you again for your letter and for the dedication in your work.

Yours sincerely,

Gabriele Meucci
Head of Mission
EULEX Kosovo



Broj: 2015-COS-0792

G. Saša Janković
Zaštitnik građana
Beograd
Srbija

Priština, 13. avgust 2015. god.

Predmet: Vaše pismo od 11. avgusta 2015. godine (broj evidencije 30362)

Poštovani g. Jankoviću,

Pozivamo se na Vaše pismo od 11. avgusta 2015. god., u kojem ste izrazili Vašu zabrinutost u vezi sa odlukom Osnovnog suda u Mitrovici o produženju pritvora g. Oliveru Ivanoviću.

Odluke mogu da donose jedino nezavisne sudije, u skladu sa važećim Zakonikom o krivičnom postupku na Kosovu. Budući da tokom suđenja g. Ivanovića propisno zastupa branilac, njegovo pravo na odbranu je u potpunosti ostvareno. U odluci na koju se pozivate u vašem pismu, predsednik sudskog veća je ocenio da advokat odbrane nije predočio nikakve razloge kojim bi se opravdali ukidanje pritvora i zamena istog blažom merom u ovoj fazi postupka. Nakon što je ocenio sve relevantne okolnosti, uključujući i argumente koje su predstavile stranke, predsednik sudskog veća je utvrdio da i dalje postoji osnovana sumnja da je optuženi počinio krivična dela koja mu se stavljaju na teret i da su i dalje ispunjeni zakonom predviđeni uslovi, koji se odnose na opasnost od bekstva i opasnost da okrivljeni priđe svedocima, zastraši ih i na njih utiče.

Pravni lekovi za osporavanje ove odluke su i dalje na raspolaganju g. Ivanoviću, a njegovu žalbu trenutno razmatra odgovarajuća instanca (Apelacioni sud).

Predmet koji se odnosi na nekoliko optužbi za ratne zločine, sumnje o ubistvu žrtava, i optužbe za podsticanje, i koji se vodi protiv petoro optuženih i oslanja na brojne svedoke – od kojih su neki pod zaštitom, a neki žive u inostranstvu – veoma je složen. Međutim, ja Vas uveravam da sudije u potpunosti poštuju pretpostavku iz zakona i međunarodne standarde ljudskih prava, po kojima lice koje je pritvoreno može da očekuje da će njegov slučaj blagovremeno biti rešen. Oni su preduzeli neophodne mere kako bi obezbedili da nema nepotrebnih odlaganja u suđenju, uključujući i to da se obezbedi da čim svedok završi svoje svedočenje naredni svedoci budu spremni za poziv. Do sada je održano 50 seansi, na kojima je saslušano 47 svedoka.

I mi smo zabrinuti zbog odluke g. Ivanovića da započne štrajk glađu, naročito zbog činjenice da ima još mnogo svedoka koji tek treba da svedoče na njegovom suđenju. Delimo Vašu zabrinutost u pogledu njegovog zdravlja ukoliko nastavi sa štrajkom glađu. U isto vreme, imamo puno poverenje u relevantne institucije da će poštovati njegova prava.

Dozvolite mi da Vam se još jedanput zahvalim na Vašem pismu i Vašoj posvećenosti poslu.

S poštovanjem,

Gabriele Meucci
Šef misije
EULEX Kosovo

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