



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

**In:** KSC-BC-2020-05

**The 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:** Fidelma Donlon

**Date:** 17 June 2021

**Language:** English

**Classification:** Public

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**Public redacted version of  
Order for submissions on the "Prosecution's request for segregation and other  
measures" (KSC-BC-2020-05/F00133)**

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**Specialist Prosecutor**

Jack Smith

**Counsel for the Accused**

Julius von Bóné

**Registrar**

Fidelma Donlon

**Victims' Counsel**

Anni Pues

**TRIAL PANEL I** (Panel) hereby renders this order for submissions by the Registry on the “Prosecution’s request for segregation and other measures” (KSC-BC-2020-05/F00133).

## I. PROCEDURAL BACKGROUND

1. On 11 June 2021, the Specialist Prosecutor’s Office (SPO) filed the “Prosecution’s request for segregation and other measures” (Request).<sup>1</sup>

## II. SUBMISSIONS

2. The SPO submits that, once Salih Mustafa (Accused) will receive the unredacted statements of the SPO witnesses, there is a concrete risk that he could reveal confidential information [REDACTED].<sup>2</sup> This, in turn, would create a risk to the safety of witnesses and would jeopardise the integrity of [REDACTED].<sup>3</sup>

3. Accordingly, the SPO requests the Panel to: (i) order the segregation of the Accused [REDACTED], starting the day prior to disclosure to the Accused of the identity of the first witness(es) in this case, and for as long as the risks identified in the Request persist; (ii) order the active monitoring of the Accused’s communications over the same period of time; (iii) invite the Registry to make submissions in accordance with paragraph 2 of the Request; (iv) order the adoption of any other measures which may be identified by the Registry as necessary to mitigate the risks identified in the

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<sup>1</sup> KSC-BC-2020-05, F00133, Specialist Prosecutor, *Prosecution’s request for segregation and other measures* (Request), 11 June 2021, confidential and *ex parte*. A confidential redacted version has been submitted on 14 June 2021, F00133/RED.

<sup>2</sup> Request, paras 6-7.

<sup>3</sup> Request, para. 6.

Request; and (v) issue an order to the Accused not to divulge any confidential information to persons outside of his defence team.<sup>4</sup>

### III. ANALYSIS

4. The Panel recalls that, pursuant to Article 34(1) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law), the Registry is the neutral organ of the SC, acting as service provider in relation to its administration and functioning. Pursuant to Article 34(12) of the Law, the Registrar is responsible for the management of the SC detention facilities and, accordingly, any variation that the Panel may order in relation to the Accused's conditions of detention, would necessarily be implemented by the Registry.

5. Therefore, without prejudice to any decision to be taken on the Request, the Panel considers it appropriate to order the Registrar to file, by Thursday, 1 July 2021, at 16:00 hours, submissions on the Request, in particular on: (i) the feasibility of the measures requested by the SPO; (ii) the resources and time needed to implement such measures, should they be ordered; (iii) any additional or alternative measures she considers available, subject to the Panel's decision, to address the risks identified by the SPO; and (iv) any other issues she considers appropriate to raise in relation to the Request.

### IV. DISPOSITION

6. For the above-mentioned reasons, the Panel hereby **ORDERS** the Registrar to file, by **Thursday, 1 July 2021, at 16:00 hours**, submissions as specified in paragraph 5 above.

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<sup>4</sup> Request, para. 18.



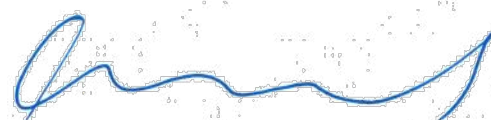
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**Judge Mappie Veldt-Foglia**  
**Presiding Judge**



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**Judge Gilbert Bitti**



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**Judge Roland Dekkers**

Dated this Thursday, 17 June 2021  
At The Hague, the Netherlands.