



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**File number:** KSC-CC-2024-26

**Before:** The President of the Specialist Chambers  
Judge Ekaterina Trendafilova

**Date:** 23 September 2024

**Registrar:** Fidelma Donlon

**Language:** English

**Classification:** Public

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## Decision to Assign Judges to a Constitutional Court Panel

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**Judges of the Constitutional Court Panel:**

Judge Vidar Stensland

Judge Roumen Nenkov

Judge Romina Incutti

**Specialist Prosecutor's Office:**

Kimberly P. West

**Counsel for Victims:**

Anni Pues

**THE PRESIDENT** of the Specialist Chambers (“President”), noting Article 33(3) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 3 and 4(2) of the Rules on the Assignment of Specialist Chambers Judges from the Roster of International Judges (“Rules on Assignment”), herewith assigns a Constitutional Court Panel to rule on the “Joint request for extension of time” by Victims Counsel in the proceedings in the case of the Prosecutor against Mr Salih Mustafa and the Specialist Prosecutor’s Office (“Joint Request”).<sup>1</sup>

## I. PROCEDURAL BACKGROUND

1. On 16 December 2022, Trial Panel I rendered the “Trial Judgment”, wherein it, *inter alia*, convicted Mr Mustafa of the war crimes of arbitrary detention, torture and murder and acquitted him of the war crime of cruel treatment.<sup>2</sup> The Trial Panel sentenced Mr Mustafa to 26 years of imprisonment.<sup>3</sup>

2. On 14 December 2023, the Court of Appeals Panel issued the “Appeal Judgment” wherein it affirmed Mr Mustafa’s convictions for arbitrary detention, torture and murder as war crimes, but granted Mr Mustafa’s appeal, in part, in relation to his sentence.<sup>4</sup> To that end, the Court of Appeals Panel reduced Mr Mustafa’s sentence to 22 years of imprisonment, with credit for time served.<sup>5</sup>

3. On 14 March 2024, Mr Mustafa filed the “Defence Request for Protection of Legality with Confidential Annex 1 and 2 pursuant to Article 48(6) to (8) of the Law and Rule

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<sup>1</sup> F00001, Joint Request for Extension of Time, 20 September 2024.

<sup>2</sup> KSC-BC-2020-05/F00494, Trial Judgment, 16 December 2022 (confidential), para. 831. A corrected version was filed on 24 January 2023 and a public redacted version on 8 June 2023.

<sup>3</sup> Trial Judgment, para. 831.

<sup>4</sup> KSC-CA-2023-02/F00038, Appeal Judgment, 14 December 2023 (confidential), para. 484. A public redacted version of the Appeal Judgment was issued on the same day (KSC-CA-2023-02/F00038/RED).

<sup>5</sup> Appeal Judgment, para. 484.

193 of the Rules”.<sup>6</sup>

4. On 29 July 2024, the Supreme Court Panel issued the “Decision on Salih Mustafa’s Request for Protection of Legality”, wherein it, *inter alia*, “d) [a]nnul[ed] the Appeal Judgment only insofar as it relates to Mr Mustafa’s sentence [and] e) return[ed][it][...] for a new determination of [his] sentence pursuant to Rule 194(1)(b) of the Rules”.<sup>7</sup>

5. On 10 September 2024, the Court of Appeals Panel issued the “Decision on New Determination of Salih Mustafa’s Sentence”, reducing Mr Mustafa’s sentence to 15 years of imprisonment, with credit for time served.<sup>8</sup>

6. On 20 September 2024, Victims Counsel and the Specialist Prosecutor’s Office filed the Joint Request.

## II. ASSIGNMENT

7. Pursuant to Article 33(3) of the Law, upon a referral to the Specialist Chamber of the Constitutional Court (“SCCC”), the President shall assign the three Judges of the SCCC. Should one of these Judges not be available for assignment, the President shall assign the reserve constitutional Judge.

8. The President notes that one of the three Judges of the SCCC is not available for assignment. Accordingly, the President shall assign the reserve constitutional Judge, in accordance with Article 33(3) of the Law and Rules 3 and 4(2) of the Rules on Assignment.

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<sup>6</sup> KSC-SC-2024-02/F00011, Defence Request for Protection of Legality with Confidential Annex 1 and 2 pursuant to Article 48 (6) to (8) of the Law and Rule 193 of the Rules, 14 March 2024.

<sup>7</sup> KSC-SC-2024-02/F000018, Decision on Salih Mustafa’s Request for Protection of Legality, 29 July 2024, para. 112.

<sup>8</sup> KSC-CA-2023-02/F00045, Decision on New Determination of Salih Mustafa’s Sentence, 10 September 2024, para. 28.

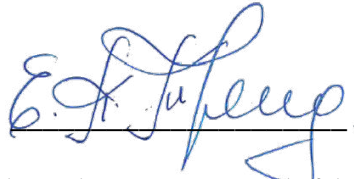
**FOR THESE REASONS, THE PRESIDENT HEREBY ASSIGNS**

**Judge Vidar Stensland**

**Judge Roumen Nenkov**

**Judge Romina Incutti**

to the Constitutional Court Panel to rule on the Joint Request and any related matter.



**Judge Ekaterina Trendafilova**

**President of the Specialist Chambers**

Dated this September, 23 September 2024  
At The Hague, the Netherlands