



File number: KSC-SC-2024-03

Before: The President of the Specialist Chambers
Judge Ekaterina Trendafilova

Date: 10 December 2024

Registrar: Fidelma Donlon

Language: English

Classification: Public

Decision Assigning a Supreme Court Panel

Judges of the Supreme Court Panel:

Judge Ekaterina Trendafilova
Judge Christine van den Wyngaert
Judge Daniel Fransen

Specialist Prosecutor's Office: Kimberly P. West

Counsel for Salih Mustafa: Julius van Bóné

Victims' Counsel:
Anni Pues

THE PRESIDENT of the Specialist Chambers (“President”), noting Articles 33(1)(d), 33(6) and 48(6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”), Rule 193 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers and Rules 3 and 4 of the Rules on Assignment of Specialist Chambers Judges from the Roster of International Judges (“Rules on Assignment”), herewith assigns a Supreme Court Panel to decide on the “Defence Request for Protection of Legality pursuant to Article 48 (6) to (8) of the Law and Rule 193 of the Rules with Public Annex 1” (“Request”).¹

I. PROCEDURAL BACKGROUND

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

2. On 14 December 2023, the Court of Appeals Panel issued the “Appeal Judgment” wherein it affirmed Mr Mustafa’s convictions, but granted Mr Mustafa’s appeal, in part, in relation to his sentence which it reduced to 22 years of imprisonment, with credit for time served.⁴

3. On 29 July 2024, the Supreme Court Panel issued the “Decision on Salih Mustafa’s Request for Protection of Legality”, wherein it, *inter alia*, annulled the Appeal Judgment insofar as it relates to Mr Mustafa’s sentence and returned it for a new

¹ F00001, Defence Request for Protection of Legality pursuant to Article 48 (6) to (8) of the Law and Rule 193 of the Rules with Public Annex 1, 9 December 2024.

² 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.

³ Trial Judgment, para. 831.

⁴ 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).

determination of his sentence pursuant to Rule 194(1)(b) of the Rules.⁵

4. 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 (“Decision on New Determination of Sentence”).⁶

5. On 27 September 2024, Mr Mustafa filed a referral before the Specialist Chamber of the Constitutional Court, contesting the decision of the Supreme Court Panel.⁷

6. On 9 December 2024, Mr Mustafa filed the Request in relation to the Decision on New Determination of Sentence.

II. ASSIGNMENT

7. Having considered Article 33(6) of the Law and the criteria set forth in Rule 4(2) of the Rules on Assignment, including relevant experience and expertise as well as availability at this time,

THE PRESIDENT HEREBY ASSIGNS

Judge Ekaterina Trendafilova, Presiding

Judge Christine van den Wyngaert

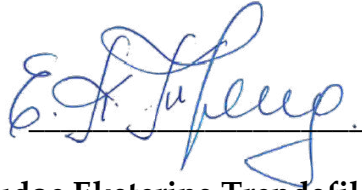
Judge Daniel Fransen

⁵ KSC-SC-2024-02/F000018, Decision on Salih Mustafa’s Request for Protection of Legality, 29 July 2024, para. 112.

⁶ KSC-CA-2023-02/F00045, Decision on New Determination of Salih Mustafa’s Sentence, 10 September 2024, para. 28.

⁷ KSC-CC-2024-27/F00001, The Specialist Prosecutor v. Salih Mustafa Referral to the Constitutional Court Panel concerning the violations of Mr. Salih Mustafa’s Fundamental Rights Guaranteed under Articles 22, 31 and 33 of the Constitution of the Republic of Kosovo and Articles 6 and 7 of the European Convention on Human Rights with Public Annexes 1 to 7, 27 September 2024.

to the Supreme Court Panel to decide on the Request and any related matter(s).

A handwritten signature in blue ink, appearing to read 'E. Trendafilova', written over a horizontal line.

Judge Ekaterina Trendafilova

President of the Specialist Chambers

Dated this Tuesday, 10 December 2024
At The Hague, the Netherlands