



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-05/R001
The Specialist Prosecutor v. Salih Mustafa
Before: Judge Gilbert Bitti, Single Judge
Registrar: Dr Fidelma Donlon
Filing Participant: Registrar
Date: 10 October 2024
Language: English
Classification: Public

Public Redacted Version of

**“Registrar’s Request for Orders to [REDACTED] for the Purpose of the Indigence
Assessment, with one confidential and *ex parte* Annex” (F00020)**

Specialist Prosecutor’s Office

Kimberly P. West

Counsel for Salih Mustafa

Julius von Bóné

Victims’ Counsel

Anni Pues

I. INTRODUCTION

1. Pursuant to Articles 22(8), 34(1), 44(6), 53 and 55 of the Law,¹ and Rules 23(2), (8), 49(1), 200 and 202 of the Rules,² the Registrar requests the Single Judge to issue orders for obtaining additional information and documentation from [REDACTED], which are required for Mr Salih Mustafa's ('Mr Mustafa') indigence assessment.

II. PROCEDURAL HISTORY

2. On 6 April 2023, the Trial Panel issued a Reparation Order against Mr Mustafa ('Reparation Order').³

3. On 17 January 2024, the President of the Specialist Chambers assigned a Single Judge, to oversee the implementation by the Registrar of the Reparation Order.⁴

4. On 19 January 2024, Victims' Counsel, Ms Anni Pues, requested the Single Judge to set a time-limit of ten days for payment of the reparations.⁵

5. On 24 January 2024, the Registrar made submissions on the implementation of the Reparation Order ('Registrar's Submissions').⁶

6. On 25 March 2024, the Single Judge issued the Decision on Victims' Counsel's Request to Set a Date for the Payment of Reparations and other Matters ('Decision on Payment of Reparations'), *inter alia* addressing an Indigence Assessment.⁷

7. On 10 May 2024, the Registrar filed a request for an order to Mr Mustafa to cooperate for the purpose of the Indigence Assessment ('Registrar's Request').⁸

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020, public ('Rules').

³ KSC-BC-2020-05, F00517, Reparation Order against Salih Mustafa with 4 Annexes strictly confidential and *ex parte*, 6 April 2023, confidential (*see also* F00517/RED).

⁴ KSC-BC-2020-05/R001, Decision on Assigning a Single Judge, 17 January 2024, public.

⁵ KSC-BC-2020-05/R001, F00003, Request to set a date for payment of reparations, 19 January 2024, public.

⁶ KSC-BC-2020-05/R001, F00006, Registrar's Submissions on the Implementation of the Reparation Order, 24 January 2024, strictly confidential and *ex parte* (*see also* F00006/CONF/RED, 19 February 2024).

⁷ KSC-BC-2020-05/R001, F00012, Decision on Victims' Counsel's Request to Set a Date for the Payment of Reparations and other Matters, 25 March 2024, confidential and *ex parte*.

⁸ KSC-BC-2020-05/R001, F00014, Registrar's Request for Order to Mr Mustafa to Cooperate for the Purposes of the Indigence Assessment with two confidential and *ex parte* Annexes, 10 May 2024, confidential and *ex parte*.

8. On 18 September 2024, the Single Judge issued a Decision on the Registrar's Request ('Decision on Registrar's Request').⁹

I. SUBMISSIONS

A. DECISION ON PAYMENT OF REPARATIONS

9. In the Decision of Payment of Reparations, the Single Judge instructed the Registrar to conduct an indigence assessment of Mr Mustafa, taking the Legal Aid Regulations and their annexed Protocol on Indigence Assessment as a starting point.¹⁰

10. In particular, the Single Judge instructed the Registrar to: (i) ascertain whether Mr Mustafa [REDACTED]; (ii) [REDACTED]; and (iii) depending on Mr Mustafa's current and future available means, and taking into consideration his family's needs, assess whether those means would allow Mr Mustafa to pay the reparations ordered in full, within a reasonable time.¹¹

11. [REDACTED].¹²

B. DECISION ON THE REGISTRAR'S REQUEST

12. In the Decision on the Registrar's Request, the Single Judge ordered Mr Mustafa to fill out the Declaration of Means Form without delay, and at the latest by Monday, 7 October 2024.

13. The Single Judge also found that, while the Single Judge expects Mr Mustafa to fill out the Declaration of Means Form, the Registrar must independently gather relevant information and documentation for the purposes of undertaking Mr Mustafa's Indigence Assessment, [REDACTED].¹³

⁹ KSC-BC-2020-05/R001, F00018, Decision on the Registrar's Request for Order to Mr Mustafa to Cooperate, 18 September 2024, confidential and *ex parte*.

¹⁰ Decision on Payment of Reparations, para. 58; Registry Practice Direction, Legal Aid Regulations, KSC-BD-25-Rev1, 22 February 2024, public; Annex A to Legal Aid Regulations, Protocol on Indigence Assessment, KSC-BD-25-Rev1, 22 February 2024, public.

¹¹ Id.

¹² [REDACTED].

¹³ Decision on Registrar's Request, para. 9.

14. The Single Judge further indicated that, in conducting such an inquiry, the Registrar may request [REDACTED].¹⁴

C. REGISTRAR'S SUBMISSION

15. As an initial matter, it is noted that the Registrar has requested [REDACTED], as indicated in the Decision on Payment of Reparations. [REDACTED].

16. In addition, the Registrar has taken further steps to proceed with the independent inquiry into Mr Mustafa's assets by [REDACTED]. Following a preliminary assessment, [REDACTED] a list of questions, the answers to which are required to obtain further information on Mr Mustafa's assets and financial situation.

17. That being said, the Registrar is of the view that the most expeditious and efficient way to obtain the missing information and/or documentation is by way of judicial orders. Thus, the Registrar requests the Single Judge to order: (i) [REDACTED] and [REDACTED] to provide information on [REDACTED], as specified in Annex 1; (ii) [REDACTED] and [REDACTED] and to provide further information on [REDACTED] as specified in Annex 1; and (iii) [REDACTED] to provide further information on [REDACTED].

18. In order to ensure the effective execution of the requested orders, all concerned [REDACTED] should be ordered to: (i) treat the requested orders and related information as confidential, and only disclose their existence and contents to those entities and persons whose involvement is strictly necessary for their execution; and (ii) report to the Registrar within a time limit deemed appropriate by the Single Judge on measures taken pursuant to the requested orders and/or any difficulties encountered.

¹⁴ Id.

II. REQUESTED RELIEF

19. For the foregoing reasons, the Registrar requests the Single Judge to issue orders to [REDACTED], as indicated in paragraph 17 above and further specified in Annex 1.

III. CLASSIFICATION

20. Pursuant to Rule 82(4) of the Rules, this submission and its Annex are filed as confidential and *ex parte*.

Word count: 1165

A handwritten signature in dark ink, appearing to read 'Fidelma Donlon', is written over a horizontal line.

Dr Fidelma Donlon

Registrar

Thursday, 10 October 2024

At The Hague, the Netherlands.