



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

**In:** KSC-BC-2020-05/R001  
  
**The Specialist Prosecutor v. Salih Mustafa**

**Before:** Single Judge Panel  
  
Judge Gilbert Bitti

**Registrar:** Fidelma Donlon

**Date:** 16 December 2024

**Language:** English

**Classification:** Public

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**Public Redacted Version of Decision on Salih Mustafa's Refusal to Comply with his Obligations Pursuant to the Reparation Order and on the Registrar's Request for Orders to [REDACTED] for the Purpose of the Indigence Assessment**

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**To be notified to**

**Registry**  
Fidelma Donlon

**Victims' Counsel**  
Anni Pues

**Counsel for Salih Mustafa**  
Julius von Bóné

**THE SINGLE JUDGE**<sup>1</sup> hereby renders this decision on Salih Mustafa's Refusal to Comply with his Obligations Pursuant to the Reparation Order and on the Registrar's Request for Orders to [REDACTED] for the Purpose of the Indigence Assessment.

## I. PROCEDURAL BACKGROUND

1. On 6 April 2023, Trial Panel I (Panel) issued a reparation order against Salih Mustafa (Reparation Order).<sup>2</sup> The Panel issued a Decision ordering the production of records and documents for the purposes of the enforcement of the Reparation Order and three orders addressed to different entities (Production Orders), in annexes to the Reparation Order. The Panel also ordered the Registrar to report on the execution of the Production Orders to the judicial authority to be assigned with the monitoring and overseeing of the implementation and execution of the Reparation Order. The Reparation Order was not appealed either by Counsel for Salih Mustafa (Defence and Mr Mustafa, respectively) or by Victims' Counsel.

2. On 14 December 2023, a Panel of the Court of Appeals confirmed all convictions which form the basis of the Reparation Order.<sup>3</sup>

3. On 17 January 2024, the President of the Specialist Chambers (SC) assigned Judge Gilbert Bitti as Single Judge to oversee the implementation of the Reparation Order.<sup>4</sup>

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<sup>1</sup> KSC-BC-2020-05/R001, F00002, President of the Specialist Chambers, [Decision Assigning a Single Judge](#), 17 January 2024, public.

<sup>2</sup> KSC-BC-2020-05, F00517, Trial Panel I, *Reparation Order against Salih Mustafa*, 6 April 2023, confidential, paras 250-252, 283, with Annexes 1-4, strictly confidential and *ex parte*. A corrected public redacted version of the Reparation Order was issued on 14 April 2023, [F00517/RED/COR](#).

<sup>3</sup> KSC-CA-2023-02, F00038/RED, Court of Appeals Panel, [Public Redacted Version of Appeal Judgment](#), 14 December 2023, public, para. 481.

<sup>4</sup> See footnote 1 above.

4. On 24 January 2024, the Registrar presented submissions on the implementation of the Reparation Order (Registrar's Submissions).<sup>5</sup>
5. 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 the issue of Mr Mustafa's indigence assessment.<sup>6</sup>
6. 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 Initial Request).<sup>7</sup>
7. On 18 September 2024, the Single Judge issued a decision on the Registrar's Initial Request (Decision on the Registrar's Initial Request).<sup>8</sup>
8. On 10 October 2024, the Registrar requested that the Single Judge issue orders for obtaining additional information and documentation from [REDACTED], required for Mr Mustafa's indigence assessment (Registrar's Request).<sup>9</sup>

## II. APPLICABLE LAW

9. The Single Judge notes Articles 44(6) and 53(1)(g) and (l) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law), and Rules 9(5)(a), 49(1),

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<sup>5</sup> KSC-BC-2020-05/R001, F00006, Registrar, *Registrar's Submissions on the Implementation of the Reparation Order*, 24 January 2024, strictly confidential and *ex parte*. A confidential redacted version was filed on 19 February 2024, F00006/CONF/RED.

<sup>6</sup> KSC-BC-2020-05/R001, F00012, Single Judge, *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*.

<sup>7</sup> KSC-BC-2020-05/R001, F00014, Registrar, *Registrar's Request for Order to Mr Mustafa to Cooperate for the Purposes of the Indigence Assessment*, 10 May 2024, confidential and *ex parte*, with two confidential and *ex parte* Annexes.

<sup>8</sup> KSC-BC-2020-05/R001, F00018, Single Judge, *Decision on the Registrar's Request for Order to Mr Mustafa to Cooperate*, 18 September 2024, confidential and *ex parte*.

<sup>9</sup> KSC-BC-2020-05/R001, F00020, Registrar, *Registrar's Request for Orders to [REDACTED] for the Purpose of the Indigence Assessment*, 10 October 2024, confidential and *ex parte*, with Annex 1, confidential and *ex parte*.

198, 200, and 202 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (Rules).

### III. DISCUSSION

#### A. MR MUSTAFA'S REFUSAL TO FILL OUT THE DECLARATION OF MEANS FORM

10. The Single Judge recalls that in the Decision on the Registrar's Initial Request, he ordered Mr Mustafa to fill out the Declaration of Means Form without delay, and at the latest by Monday, 7 October 2024.<sup>10</sup> Mr Mustafa did not do so, in violation of the judicial order issued against him.<sup>11</sup> The Single Judge notes that this was the second opportunity that Mr Mustafa had to cooperate in relation to the enforcement of the Reparation Order issued against him and that he once more failed to do so.<sup>12</sup>

11. Furthermore, in the Decision on Payment of Reparations, the Single Judge ordered the Registrar to inform Mr Mustafa of the modalities for making voluntary payments to meet his obligations towards victims pursuant to the Reparation Order.<sup>13</sup> The Registrar informed the Single Judge that while Mr Mustafa was informed of the modalities, he never responded as to whether he intended to make such voluntary payment.<sup>14</sup>

12. In light of the above, the Single Judge finds that Mr Mustafa has consistently refused to take any action for the benefit of the victims in compliance with his obligations pursuant to the Reparation Order and, in particular, has refused to provide

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<sup>10</sup> Decision on the Registrar's Initial Request, paras 8 and 13(a).

<sup>11</sup> See KSC-BC-2020-05/R001/F00022, Registrar, *Registrar's Submission in relation to F00018*, 13 December 2024, confidential.

<sup>12</sup> See Registrar's Initial Request, paras 10-12.

<sup>13</sup> Decision on Payment of Reparations, para. 31.

<sup>14</sup> KSC-BC-2020-05/R001/F00016, Registrar, *Registrar's Report on Execution of the Decision and Orders related to Reparations (F00012)*, 29 May 2024, confidential and *ex parte*, with Annexes 1-4, strictly confidential and *ex parte*, Annexes 5 and 7, confidential and *ex parte*, and Annex 6, confidential, paras 19-21.

any assistance in locating his assets for the purposes of the enforcement of the Reparation Order.

B. PROVISION OF RECORDS FOR THE PURPOSE OF CONDUCTING AN INDEPENDENT INDIGENCE ASSESSMENT

**1. Submissions**

13. The Registrar reports that an independent indigence assessment for Mr Mustafa has been initiated, in accordance with the terms of the Decision on the Registrar's Request.<sup>15</sup> In the interests of efficiency, the Registrar requests that the Single Judge issue a number of orders addressed to [REDACTED], in order to facilitate the expeditious conduct of the indigence assessment.<sup>16</sup>

14. In particular, the Registrar requests the Single Judge to order: (i) [REDACTED] and [REDACTED] to provide information on [REDACTED], as specified in Annex 1 to the Registrar's Request; (ii) [REDACTED] and [REDACTED], as specified in Annex 1 to the Registrar's Request; and (iii) [REDACTED], as specified in Annex 1 to the Registrar's Request.<sup>17</sup>

**2. Determination**

15. The Single Judge recalls that, in accordance with Article 53 of the Law and Rules 200 and 202 of the Rules, all entities and persons in Kosovo shall cooperate without undue delay with any request for assistance or any order or decision issued by the SC. These may include, *inter alia*, an order for the provision of (official) records and documents, or an order of freezing of proceeds, as expressly stipulated by Article 53(1)(g) and (l) of the Law. Lastly, pursuant to Rule 202(1) of the Rules, the

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<sup>15</sup> Registrar's Request, para. 16; *see also* Decision on the Registrar's Initial Request, para. 10.

<sup>16</sup> Registrar's Request, paras 16-18.

<sup>17</sup> Registrar's Request, para. 17.

Single Judge may make an order *proprio motu* to any authority of Kosovo in relation to any form of assistance provided for in Article 53(1) of the Law.

16. Having carefully examined the Registrar's Request, the Single Judge finds that all information sought by the Registrar, as summarised in paragraph 14 above, is necessary to determine the status and scope of Mr Mustafa's assets for the purposes of implementing the Reparation Order. Furthermore, the Single Judge is satisfied that the present decision is consistent with the fundamental rights of Mr Mustafa provided for in Chapter II of the Kosovo Constitution. The Single Judge observes, in this respect, that the present decision only entails the provision of records, and the information obtained will not be used for any other purposes than the execution of the Reparation Order against Mr Mustafa.

17. With regard to the timeframe for the execution of the orders [REDACTED] (Orders) annexed to the present Decision, considering the limited scope of the requested information and the fact that for [REDACTED] and [REDACTED], this represents a mere update of previously requested information, the Single Judge considers that the respective [REDACTED] shall comply with the Orders within thirty (30) days from the date of service thereof.

18. The Single Judge recalls that he had previously ordered the Registry to submit a comprehensive indigence assessment report on Mr Mustafa by 20 December 2024.<sup>18</sup> In light of the timing of the present decision and the need for the relevant [REDACTED] to be accorded the necessary time to respond to the annexed Orders, the Single Judge considers it necessary to vary, *proprio motu*, the deadline for submission of the Registry's report, pursuant to Rule 9(5)(a) of the Rules. Accordingly, the Single Judge orders the Registry to submit a comprehensive indigence assessment report on Mr Mustafa by **Friday, 28 February 2025**.

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<sup>18</sup> Decision on the Registrar's Initial Request, para. 10.

#### C. EXECUTION AND SERVICE

19. Pursuant to Article 34(1) of the Law and Rule 49(1) of the Rules, the Registry is the “competent authority” to serve and execute the Orders.

#### D. DISCLOSURE OF THE ORDER AND REQUEST FOR COOPERATION

20. The Single Judge considers it appropriate to impose the following conditions in order to ensure the proper execution of the Orders while safeguarding the integrity of the judicial proceedings.

21. The Registry is authorised to disclose, as appropriate and necessary, the Orders for the purposes of their execution.

22. In the same vein, all [REDACTED] addressed in the Orders are authorised to disclose the contents of the respective orders only to the extent strictly necessary for their execution.

#### IV. DISPOSITION

23. For the above-mentioned reasons, the Single Judge hereby:

- a. **FINDS** that Mr Mustafa is in violation of a previous judicial order by virtue of refusing to fill out the Declaration of Means Form;
- b. **FINDS** that Mr Mustafa has consistently refused to take any action for the benefit of the victims in compliance with his obligations pursuant to the Reparation Order and, in particular, has refused to provide any assistance in locating his assets for the purposes of the enforcement of the Reparation Order;

- c. **ORDERS** [REDACTED] to provide to the Registrar, within thirty (30) days of the date of service of the annexed order, the records and documents as specified in the annexed order;
- d. **ORDERS** [REDACTED] to provide to the Registrar, within thirty (30) days of the date of service of the annexed order, the records and documents as specified in the annexed order;
- e. **ORDERS** [REDACTED] to provide to the Registrar, within thirty (30) days of the date of service of the annexed order, the records and documents as specified in the annexed order;
- f. **ORDERS** [REDACTED] to provide to the Registrar, within thirty (30) days of the date of service of the annexed order, the records and documents as specified in the annexed order;
- g. **ORDERS** [REDACTED] to provide to the Registrar, within thirty (30) days of the date of service of the annexed order, the records and documents as specified in the annexed order;
- h. **INSTRUCTS** the Registrar to serve the annexed Orders on the respective recipients and **AUTHORISES** the Registrar to disclose, as appropriate and necessary, these Orders for the purposes of their execution;
- i. **AUTHORISES** [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] to disclose the Orders only to the extent strictly necessary for the purposes of their execution; and
- j. **VARIES** the time limit for the Registrar to file a comprehensive report on Mr Mustafa's indigence to **Friday, 28 February 2025**.



A handwritten signature in black ink, appearing to read 'Bitti', with a large, stylized flourish extending to the left.

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**Judge Gilbert Bitti**  
**Single Judge**

Dated this Monday, 16 December 2024

At The Hague, the Netherlands.