



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-05

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 12 June 2020

Language: English

Classification: Public

**Public Redacted Version of
Order for Transfer to Detention Facilities of the Specialist Chambers**

Specialist Prosecutor

Jack Smith

To be served on

Mr Salih Mustafa

I, **JUDGE NICOLAS GUILLOU**, Pre-Trial Judge of the Kosovo Specialist Chambers, assigned by the President of the Specialist Chambers pursuant to Article 33(1)(a) of Law No. 05/L-53 on Specialist Chambers and Specialist Prosecutor's Office ("Law");

BEING SEISED of the strictly confidential and *ex parte* "Submission of Indictment for confirmation and related requests," dated 14 February 2020, "Submission of revised Indictment for confirmation and related requests," dated 18 March 2020, and "Submission of further revised Indictment for confirmation", dated 20 March 2020 of the Special Prosecutor's Office ("SPO");

HAVING CONFIRMED, in the "Decision on the Confirmation of the Indictment Against Salih Mustafa", dated 12 June 2020, the Further Revised Indictment ("Confirmed Indictment") and having found therein that there is a well-grounded suspicion that Mr Salih Mustafa ("Mr Mustafa") committed or participated in the commission of crimes within the jurisdiction of the Specialist Chambers, namely, the war crimes of arbitrary detention, cruel treatment, torture and murder in violation of Article 14(1)(c) of the Law;

HAVING FOUND that there are articulable grounds to believe that Mr Mustafa's arrest is necessary;

HAVING ISSUED an arrest warrant against Mr Mustafa, also known as "Cali" or "Commander "Cali", born on 1 January 1972 in Prishtinë/Priština, Kosovo, currently a Kosovan national, personal identification number: [REDACTED], last known residence [REDACTED], Prishtinë/Priština, Kosovo;

NOTING the "Decision Invoking a Change of Venue to the Host State" dated 10 June 2020 in which the President of the Specialist Chambers relocated the present proceedings to The Netherlands ("Host State");

PURSUANT TO Articles 3(8)(a) and (d), 39(3), 41(5) and (7), 53 and 55 of the Law, Rules 50, 55(4) and (6) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”);

ORDER the Registrar to transmit the present transfer order to Kosovo or any Third State, and the Host State;

ORDER the Registrar of the Specialist Chambers to make the necessary arrangements for the prompt transfer of Mr Mustafa to the detention facilities of the Specialist Chambers in the Host State, in coordination with the SPO and the competent authorities of Kosovo or any relevant Third State, and the Host State;

ORDER the Registrar when transmitting the present transfer order to seek the assistance for, in particular: (i) the safe and unobstructed passage of Mr Mustafa and accompanying officers as well as any and all possessions of the aforementioned persons through border control and other checkpoints; (ii) accepting travel and identification documents issued by the Host State or the Specialist Chambers; and (iii) ensuring safety and security of any aircraft and/or other means of transportation utilized for any such transfer and facilitating the unobstructed passage through national border controls of its crew, if required:

- a. in relation to Kosovo: directing it to provide any relevant details or information regarding the transfer of Mr Mustafa to the Registrar, and recalling that, given the primacy of the Specialist Chambers over all other courts in Kosovo, the Kosovo authorities shall comply with the present order, in accordance with Article 53(2) and (3) of the Law, thus effectuating Mr Mustafa’s transfer; and recalling that, should any entity, official of the Kosovo Government or any other person in Kosovo obstruct the execution of the present order or violate any of its conditions, this may constitute an offence pursuant to Article 15(2) of the Law;

b. in relation to Third States: requesting that they provide their assistance for effectuating the transfer of Mr Mustafa, in accordance with Article 55 of the Law, and promptly notify the Registrar of the date, time, location, and any other relevant details regarding Mr Mustafa's arrest and transfer to the Specialist Chambers, in accordance with Article 55 of the Law. In this regard, should any technical or logistical difficulties or impediments arise in the execution of these orders, the competent state authorities are invited to raise such issues with the representatives of the SPO and/or the Registry, as the case may be;

ORDER the Registrar to take all necessary measures to ensure operational security and the security and safety of Mr Mustafa and any accompanying court officers and other staff during transfer until arrival at the place of detention in the Host State, including issuing the necessary requests to the Host State and any (transiting) Third States;

DECIDE that the present order, currently classified strictly confidential *ex parte*, may be communicated, or its existence be revealed, to any competent authority of Kosovo, a Third State, and the Host State, as necessary for the execution of the transfer order; and

ORDER the SPO to transmit to the Registrar all information available to him that may be of assistance in the execution of the transfer order as well as any information of relevance to assessing any risks to victims and witnesses associated with the arrest and transfer of the suspect.



Judge Nicolas Guillou

Pre-Trial Judge

Dated this Friday, 12 June 2020

At The Hague, the Netherlands.