



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

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

**Before:** **Pre-Trial Judge**  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Date:** 25 September 2020

**Language:** English

**Classification:** **Public**

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**Decision Setting the Date for the Initial Appearance of Salih Mustafa**

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**Specialist Prosecutor**  
Jack Smith

**Duty Counsel for the Accused**  
Julius von Bóné

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 39(4) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 87(6) and 92(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 14 February 2020, the Specialist Prosecutor submitted for confirmation a strictly confidential and *ex parte* indictment together with evidentiary material supporting the facts underpinning the charges and a detailed outline demonstrating the relevance of each item of evidentiary material to each allegation.<sup>2</sup>
2. On 12 June 2020, the Pre-Trial Judge issued the "Decision on the Confirmation of the Indictment Against Salih Mustafa" ("Confirmation Decision"),<sup>3</sup> the "Arrest Warrant for Mr Salih Mustafa"<sup>4</sup> and the "Order for Transfer to Detention Facilities of the Specialist Chambers"<sup>5</sup>.
3. On 19 June 2020, the Specialist Prosecutor submitted the Confirmed Indictment,<sup>6</sup> with redactions as authorised by the Pre-Trial Judge.<sup>7</sup>
4. On 24 September 2020, Salih Mustafa ("Mr Mustafa" or "Accused") was arrested<sup>8</sup> and transferred to the detention facilities of the Specialist Chambers ("SC") in The Hague, the Netherlands.<sup>9</sup>

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<sup>1</sup> KSC-BC-2020-05, F00001, President, Decision Assigning a Pre-Trial Judge, 14 February 2020, public.

<sup>2</sup> KSC-BC-2020-05, F00002, Specialist Prosecutor, *Submission of Indictment for Confirmation and Related Requests*, 14 February 2020, strictly confidential and *ex parte*, with Annexes 1-3, strictly confidential and *ex parte*.

<sup>3</sup> KSC-BC-2020-05, F00008, Pre-Trial Judge, *Decision on the Confirmation of the Indictment Against Salih Mustafa* ("Confirmation Decision"), 12 June 2020, strictly confidential and *ex parte*.

<sup>4</sup> KSC-BC-2020-05, F00009/A01, Pre-Trial Judge, *Public Redacted Version of Arrest Warrant for Mr Salih Mustafa*, 12 June 2020, public.

<sup>5</sup> KSC-BC-2020-05, F00009/A02, Pre-Trial Judge, *Public redacted version of Order for Transfer to Detention Facilities of the Specialist Chambers*, 12 June 2020, public.

<sup>6</sup> KSC-BC-2020-05, F00011/A02, Specialist Prosecutor, *Annex 2 to Submission of Confirmed Indictment*, 19 June 2020, public.

<sup>7</sup> Confirmation Decision, para. 163(c).

5. On 24 September 2020, the Registrar assigned Julius von Bóné as Duty Counsel for Mr Mustafa, in accordance with Section 17(2) of the Directive on Counsel and Regulation 21 of the Legal Aid Regulations.<sup>10</sup>

## II. APPLICABLE LAW

6. Pursuant to Article 39(4) of the Law, a person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the SC, be taken into custody, immediately informed of the charges against him or her and transferred to the SC.

7. Pursuant to Rules 87(6) and 92(1) of the Rules, the Accused shall be brought before the Pre-Trial Judge without undue delay for his or her initial appearance.

8. Pursuant to Articles 21(2) and 39(6) of the Law, hearings, including the hearing on the initial appearance of the Accused, shall be public, unless the Pre-Trial Judge decides otherwise in accordance with the Rules.

## III. DISCUSSION

9. Considering that the arrest of Mr Mustafa and his transfer to the detention facilities of the SC took place on 24 September 2020, the Pre-Trial Judge finds it appropriate to schedule a hearing on the initial appearance of the Accused as soon as practicable, taking into account the constraints of COVID-19, with a view to ensuring that his rights under the Law are respected.

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<sup>8</sup> KSC-BC-2020-05, F00013, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 24 September 2020, strictly confidential and *ex parte*.

<sup>9</sup> KSC-BC-2020-05, F00014, Registrar, *Notification of Reception in the Detention Facilities of the Specialist Chambers*, 24 September 2020, strictly confidential and *ex parte*, with one annex, strictly confidential and *ex parte*, para. 2.

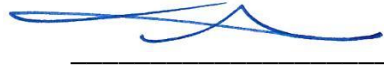
<sup>10</sup> KSC-BC-2020-05, F00014, Registrar, *Notification of Reception in the Detention Facilities of the Specialist Chambers*, 24 September 2020, strictly confidential and *ex parte*, para. 3.

10. Furthermore, noting that the publicity of hearings may extend beyond the courtroom, the Pre-Trial Judge authorises the taking of photographs at the start of the hearing on the initial appearance.

#### IV. DISPOSITION

11. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a) **DECIDES** to convene the hearing on the initial appearance of Mr Mustafa on **Monday, 28 September 2020, at 15:00 hours**; and
- b) **AUTHORISES** the Registrar to organise, at the start of the hearing on the initial appearance, the taking of photographs for one minute and a half.



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**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Friday, 25 September 2020  
At The Hague, the Netherlands.