



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: 28 September 2020

Language: English

Classification: **Public**

Order for Submissions on the Working Language of the Proceedings

Specialist Prosecutor
Jack Smith

Counsel for the Accused
Julius von Bóné

THE PRE-TRIAL JUDGE,¹ pursuant to Article 20 of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 8(3)(a) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

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.²
2. On 12 June 2020, the Pre-Trial Judge issued the "Decision on the Confirmation of the Indictment Against Salih Mustafa" ("Confirmation Decision"),³ the "Arrest Warrant for Mr Salih Mustafa"⁴ and the "Order for Transfer to Detention Facilities of the Specialist Chambers"⁵.
3. On 19 June 2020, the Specialist Prosecutor submitted the Confirmed Indictment.⁶
4. On 24 September 2020, Salih Mustafa ("Mr Mustafa" or "Accused") was arrested⁷ and transferred to the detention facilities of the Specialist Chambers ("SC") in The Hague, the Netherlands.⁸

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

² 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*.

³ 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*.

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

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

⁶ KSC-BC-2020-05, F00011/A02, Specialist Prosecutor, *Annex 2 to Submission of Confirmed Indictment*, 19 June 2020, public. A further redacted version of the Confirmed Indictment was filed on 28 September 2020 (KSC-BC-2020-05, F00019/A01, Specialist Prosecutor, *Annex 1 to Submission of further redacted version of Confirmed Indictment*, 28 September 2020, public).

5. On 28 September 2020, the Registrar conditionally assigned Julius von Bóné as Counsel for Mr Mustafa.⁹

II. APPLICABLE LAW

6. Pursuant to Article 20 of the Law, the official languages of the SC and Specialist Prosecutor's Office ("SPO") are Albanian, Serbian and English, and in any given proceedings, a Panel may decide the working languages for those proceedings, as appropriate and with full respect of the rights of the accused, as stipulated under Article 21 of the Law.

7. Pursuant to Rule 8(3)(a) of the Rules, subject to Article 20 of the Law, as early in the proceedings as possible, the Panel, after hearing the Parties and, where applicable, Victims' Counsel, shall decide which working language(s) shall be used in the proceedings.

III. DISCUSSION

8. In light of the arrest and transfer of Mr Mustafa, and in conformity with the rights of the accused under Article 21 of the Law, it is necessary to determine the working language in the present proceedings in order to ensure their fair, efficient and expeditious conduct.

9. The Pre-Trial Judge notes that the language of the proceedings to date has been English, as all filings by the SPO and all decisions and orders of the Pre-Trial Judge have been issued in English. Before determining whether there are compelling

⁷ KSC-BC-2020-05, F00013, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 24 September 2020, strictly confidential and *ex parte*.

⁸ 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.

⁹ KSC-BC-2020-05, F00020, Registrar, *Notification of the Conditional Assignment of Counsel*, 28 September 2020, public, with one annex, confidential.

reasons to depart from English as the working language of the present proceedings, it is necessary to receive observations from the parties.

10. In addition, the determination of the working language is necessary to provide, as early in the proceedings as possible, clarity to the parties and any participant, as the case may be, for the preparation and organisation of their submissions. Further, it will increase the foreseeability and planning capacity of language servicing sections within the Registry and the SPO.

11. The Pre-Trial Judge emphasises that the determination of the working language leaves unaffected the language and/or translation of evidence and other necessary documentation for the benefit of the Accused.¹⁰

IV. DISPOSITION

12. For the above-mentioned reasons, the Pre-Trial Judge hereby requests the parties to provide their submissions as to the working language to be adopted in the present proceedings by **Friday, 2 October 2020**.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Monday, 28 September 2020
At The Hague, the Netherlands.

¹⁰ Articles 21(4)(a) and 39(5) of the Law; Rules 86(8), 87(1), 92(2)(b) and 102(1) of the Rules.