



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

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

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

Registrar: Dr Fidelma Donlon

Date: 16 November 2020

Language: English

Classification: **Public**

Order for Submissions on the Review of Detention

Specialist Prosecutor
Jack Smith

Counsel for the Accused
Julius von Bóné

THE PRE-TRIAL JUDGE,¹ pursuant to Article 41(10) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

I. PROCEDURAL BACKGROUND

1. On 12 June 2020, the Pre-Trial Judge confirmed the indictment against Salih Mustafa ("Mr Mustafa"),² and issued a warrant for his arrest ("Arrest Warrant")³ together with an order for his transfer to the detention facilities of the Specialist Chambers.⁴

2. On 24 September 2020, Mr Mustafa was arrested and transferred to the detention facilities of the Specialist Chambers in The Hague, the Netherlands.⁵

II. APPLICABLE LAW

3. Pursuant to Article 41(10) of the Law, until a judgment is final or until release, upon the expiry of two months from the last ruling on detention, the Pre-Trial Judge seized with the case shall examine whether reasons for detention still exist and render a ruling by which detention is extended or terminated.

4. Pursuant to Rule 57(2) of the Rules, after the assignment of a Pre-Trial Judge and until a judgment is final, the Panel seized with a case shall review a decision on

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

² KSC-BC-2020-05, F00008, Pre-Trial Judge, *Public Redacted Version of the Decision on the Confirmation of the Indictment Against Salih Mustafa*, 5 October 2020, public.

³ KSC-BC-2020-05, F00009/A01/RED, Pre-Trial Judge, *Public Redacted Version of Arrest Warrant for Mr Salih Mustafa*, 12 June 2020, public.

⁴ 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.

⁵ KSC-BC-2020-05, F00013, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 24 September 2020, strictly confidential and *ex parte*; F00014, Registrar, *Notification of Reception in the Detention Facilities of the Specialist Chambers*, 24 September 2020, strictly confidential and *ex parte*, with Annex 1, strictly confidential and *ex parte*.

detention upon the expiry of two months from the last ruling on detention, in accordance with Article 41(6), (10), (11) and (12) of the Law or at any time upon request by the Accused or the Specialist Prosecutor, or *proprio motu*, where a change in circumstances since the last review has occurred.

III. DISCUSSION

5. The Pre-Trial Judge notes that Mr Mustafa has been in detention since his arrest on 24 September 2020 and that to date he has not challenged nor requested the review of his detention. In this case and in accordance with Article 41(10) of the Law and Rule 57(2) of the Rules, the first review of his detention must occur upon the expiry of two months since the enforcement of the last ruling on detention, namely the Arrest Warrant issued pursuant to Article 41(6) of the Law.

6. Prior to rendering *proprio motu* a decision on the review of Mr Mustafa's detention, the Pre-Trial Judge shall consider submissions from the Parties on this issue.

IV. DISPOSITION

7. For the above-mentioned reasons, the Pre-Trial Judge hereby requests the Parties to file written submissions, by **Friday, 12:00 noon, 20 November 2020**, on whether reasons for the continued detention of Mr Mustafa still exist or whether his detention should be terminated.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Monday, 16 November 2020
At The Hague, the Netherlands.