



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:** 18 December 2020

**Language:** English

**Classification:** **Public**

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**Order for the Reclassification of F00062 and Extension of Time Limit for Response**

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**Specialist Prosecutor**  
Jack Smith

**Counsel for the Accused**  
Julius von Bóné

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 39(1) and (13) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9(5)(a) and 82(5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

## I. PROCEDURAL BACKGROUND

1. On 27 November 2020, the Pre-Trial Judge issued the Framework Decision on Victims' Applications ("Framework Decision") setting out the requirements of the application process.<sup>2</sup>

2. On 9 December 2020, the Victims' Participation Office ("VPO") submitted a confidential and *ex parte* report summarising annexed victims' applications and providing its assessment on admissibility and protective measures ("First VPO Report"), along with strictly confidential and *ex parte* annexes.<sup>3</sup>

## II. DISCUSSION

3. The Pre-Trial Judge recalls that, in the Framework Decision, the VPO was ordered to, *inter alia*, file, concurrently with the First VPO Report, a report to the Parties pursuant to Rule 113(2) of the Rules ("Report to the Parties") or to indicate whether the First VPO Report could be reclassified so that it would be shared with the Parties.<sup>4</sup> Furthermore, in the same decision, the Pre-Trial Judge ordered the Specialist Prosecutor and the Defence for Salih Mustafa to file submissions pursuant to Rule 113(3) of the Rules, if any, within ten (10) days of the notification

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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, F00055, Pre-Trial Judge, *Framework Decision on Victims' Applications* ("Framework Decision"), 27 November 2020, public.

<sup>3</sup> KSC-BC-2020-05, F00062, Victims' Participation Office, *First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings* ("First VPO Report"), 9 December 2020, confidential and *ex parte*, with Annexes 1-4, strictly confidential and *ex parte*.

<sup>4</sup> Framework Decision, para. 55(d).

of each Report to the Parties or, as the case may be, the reclassified version of each VPO report submitted to the Pre-Trial Judge.<sup>5</sup>

4. The Pre-Trial Judge takes notes of the VPO's submissions that (i) it does not object to the reclassification of the First VPO Report so that it be disclosed to the Parties, nor does it object to the same report's reclassification as public;<sup>6</sup> and (ii) in the event that the Pre-Trial Judge decided to reclassify the First VPO Report, the same filing could constitute the Report to the Parties.<sup>7</sup>

5. In light of the foregoing, the Pre-Trial Judge finds that the reclassification of the First VPO Report as public is appropriate and that it can constitute the Report to the Parties within the meaning of Rule 113(2) of the Rules.<sup>8</sup> Furthermore, given the date of this order and the upcoming judicial recess, the Pre-Trial Judge considers that an extension of the time limit for the Parties to make submissions, if any, in response to the First VPO Report and pursuant to Rule 113(3) of the Rules is warranted.

### III. DISPOSITION

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

- a. **ORDERS** the Registry to reclassify the confidential and *ex parte* First VPO Report, KSC-BC-2020-05/F00062, as **public**; and
- b. **ORDERS** the SPO and the Defence to file written submissions, if any, in response of the First VPO Report and pursuant to Rule 113(3) of the Rules by **Friday, 8 January 2021**.

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<sup>5</sup> Framework Decision, para. 55(g).

<sup>6</sup> First VPO Report, para. 6.

<sup>7</sup> First VPO Report, para. 6.

<sup>8</sup> Annexes KSC-BC-2020-05/F00062/A01-A04 shall retain their strictly confidential and *ex parte* classification.



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

Dated this Friday, 18 December 2020  
At The Hague, the Netherlands.