



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

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

Before: **Trial Panel I**
Judge Mappie Veldt-Foglia, Presiding Judge
Judge Roland Dekkers
Judge Gilbert Bitti
Judge Vladimir Mikula, Reserve Judge

Registrar: Fidelma Donlon

Date: 15 December 2022

Language: English

Classification: **Public**

Order for submissions on the reclassification of filings and/or submission of public and/or confidential redacted versions of filings

To be notified to:

Acting Specialist Prosecutor
Alex Whiting

Counsel for the Accused
Julius von Bóné

Registry
Fidelma Donlon

Victims' Counsel
Anni Pues

TRIAL PANEL I (Panel) hereby renders this order for submissions on the reclassification of filings and/or submission of public and/or confidential redacted versions of filings.

I. PROCEDURAL BACKGROUND

1. On 15 September 2022, the Presiding Judge declared the case closed at the end of the hearing on closing statements.¹
2. On 6 December 2022, the Panel scheduled the pronouncement of the Trial Judgment for Friday, 16 December 2022.²

II. APPLICABLE LAW

3. The Panel notes Articles 21(2), 23(1), 40(2) and (4) and 43(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law) and Rules 80(1), 82(3), 84(1) and 159 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (Rules).

III. ANALYSIS

4. The Panel recalls that the Presiding Judge has declared the case closed on 15 September 2022 and that the Panel has scheduled the pronouncement of the Trial Judgment for 16 December 2022.
5. Considering the above, the Panel will exercise its duty under Rule 84(1) of the Rules to review the classification of certain filings in the case file, including its

¹ KSC-BC-2020-05, Transcript of Hearing, 15 September 2022, public, p. 4859, line 15.

² KSC-BC-2020-05, F00491, Trial Panel I, *Scheduling order for the pronouncement of the judgment*, 6 December 2022, public.

decisions, in order to adhere to the principle of publicity of proceedings, as enshrined under Articles 21(2) and 40(4) of the Law, which extends beyond hearings in the courtroom to also cover filings and any other submission in the case file.³

6. In doing so, the Panel will have regard to, on the one hand, the principle of publicity and, on the other hand, the duty of the Panel to provide for the protection of witnesses and victims, and confidential information, in accordance with Article 23(1) of the Law and Rule 80(1) of the Rules.

7. In particular, the Panel considers it appropriate to make the matters related to the variation of the Accused's conditions of detention public. It will, thus, reclassify as public or issue public redacted versions of its decisions on this subject matter, as the case may be, after having received submissions on the reclassification and/or public redacted versions of the relevant filings.

8. To assist the Panel in the performance of its duty under Rule 84(1) of the Rules, the **Specialist Prosecutor's Office (SPO)** is ordered to indicate whether the following filings can be reclassified as public:

- F00133, 14 June 2021, currently classified as confidential;
- F00168, 20 August 2021, currently classified as confidential;
- F00171, 30 August 2021, currently classified as confidential;
- F00180, 1 September 2021, currently classified as confidential;
- F00246, 8 November 2021, currently classified as confidential;
- F00313, 7 February 2022, currently classified as confidential;

³ See for instance KSC-BC-2020-04, F00277, Pre-Trial Judge, Order for Submissions on the Reclassification of Filings or Redacted Versions, 17 June 2021, public, para. 5.

- F00354, 21 March 2022, currently classified as confidential;
- F00358, 22 March 2022, currently classified as confidential and *ex parte*;
- F00366, 28 March 2022, currently classified as confidential;
- F00389, 19 April 2022, currently classified as confidential;
- F00446, 1 July 2022, currently classified as confidential;
- F00459/COR/A01, 22 July 2022, currently classified as confidential;
- F00485, 11 October 2022, currently classified as confidential; and
- F00487, 31 October 2022, currently classified as confidential.

9. The **Defence for Salih Mustafa (Defence)** is also ordered to indicate whether the following filings can be reclassified as public:

- F00165 (main filing only), 19 August 2021, currently classified as confidential;
- F00172, 27 August 2021, currently classified as confidential;
- F00186, 3 September 2021, currently classified as confidential;
- F00247, 9 November 2021, currently classified as confidential;
- F00320, 15 February 2022, currently classified as confidential;
- F00321, 15 February 2022, currently classified as confidential;
- F00353 (main filing only), 21 March 2022, currently classified as confidential and *ex parte*;
- F00390, 19 April 2022, currently classified as confidential;
- F00423, 26 May 2022, currently classified as confidential; and
- F00457/COR/A01, 21 July 2022, currently classified as confidential.

10. **Victims' Counsel** is further ordered to indicate whether the following filings can be reclassified as public and/or confidential, as the case may be:

- F00183/COR, 1 September 2021, currently classified as confidential;
- F00325, 21 February 2021, currently classified as confidential;
- F00334 (main filing only), 1 March 2022, currently classified as confidential;
- F00346, 18 March 2022, currently classified as strictly confidential;
- F00349 (main filing only), 18 March 2022, currently classified as confidential;
- F00391, 20 April 2022, currently classified as confidential;
- F00415, 24 May 2022, currently classified as confidential;
- F00440/A01, 23 June 2022, currently classified as confidential;
- F00444/COR, 30 June 2022, currently classified as confidential;
- F00456, 20 July 2022, currently classified as confidential; and
- F00475, 13 September 2022, currently classified as confidential.

11. The **SPO** and **Victims' Counsel** are ordered to indicate whether the following filing can be reclassified as public:

- F00148, 7 July 2021, currently classified as confidential.

12. Moreover, the **Registrar** is ordered to indicate whether the following filings can be reclassified as public and/or confidential, as the case may be:

- F00141, 29 June 2021, currently classified as strictly confidential and *ex parte*;
- F00146, 1 July 2021, currently classified as confidential;

- F00164, 19 August 2021, currently classified as confidential;
- F00174, 31 August 2021, currently classified as confidential;
- F00179, 1 September 2021, currently classified as confidential;
- F00210 (main filing only), 20 September 2021, currently classified as confidential;
- F00240 (main filing only), 20 October 2021, currently classified as confidential;
- F00254 (main filing only), 16 November 2021, currently classified as confidential;
- F00255, 16 November 2021, currently classified as confidential;
- F00269, 24 November 2021, currently classified as strictly confidential and *ex parte*;
- F00270, 25 November 2021, currently classified as strictly confidential and *ex parte*;
- F00273, 26 November 2021, currently classified as strictly confidential and *ex parte*;
- F00277, 1 December 2021, currently classified as strictly confidential and *ex parte*;
- F00284 (main filing only), 17 December 2021, currently classified as confidential;
- F00293 (main filing only), 20 January 2022, currently classified as confidential;
- F00322 (main filing only), 18 February 2022, currently classified as confidential;
- F00351 (main filing only), 18 March 2022, currently classified as confidential;
- F00367, 28 March 2022, currently classified as confidential;
- F00384 (main filing only), 13 April 2022, currently classified as confidential;

- F00409 (main filing only), 13 May 2022, currently classified as confidential;
- F00438, 20 June 2022, currently classified as confidential;
- F00461, 22 July 2022, currently classified as confidential;
- F00467 (mail filing only), 26 August 2022, currently classified as confidential;
- F00473 (main filing only), 12 September 2022, currently classified as confidential;
- F00484, 5 October 2022, currently classified as confidential;
- F00488 (main filing only), 4 November 2022, currently classified as confidential; and
- F00490, 2 December 2022, currently classified as confidential.

13. Should the SPO, the Defence, Victims' Counsel or the Registrar wish to retain the current classification of one or all the above-mentioned filings, it/she shall: (i) specify the reasons for maintaining the current classification, in accordance with Rule 82(3) of the Rules, and indicate whether and when such classification may be changed; and (ii) submit public and/or confidential redacted version(s) thereof, as the case may be.

14. Furthermore, the Panel finds it appropriate to order the **Registrar** to reclassify as public the following filings:

- F00300 (main filing only), 31 January 2022, currently classified as confidential;
- F00327, 24 February 2022, currently classified as strictly confidential and *ex parte*;
- F00328, 24 February 2022, currently classified as strictly confidential and *ex parte*; and

- F00331, 24 February 2022, currently classified as strictly confidential and *ex parte*.

IV. DISPOSITION

15. For the above-mentioned reasons, the Panel hereby:

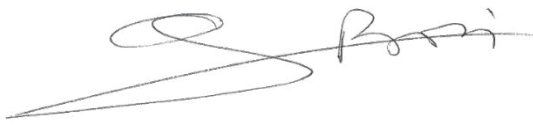
- a) **ORDERS** the SPO to indicate, **by 31 January 2023**, whether the filings, as listed in paragraphs 8 and 11 of the present order, can be reclassified as public or to submit its reasons for maintaining the classification thereof and to submit **by 31 January 2023**, public and/or confidential redacted version(s) thereof, as the case may be;
- b) **ORDERS** the Defence to indicate, **by 31 January 2023**, whether the filings, as listed in paragraphs 9 of the present order, can be reclassified as public or to submit its reasons for maintaining the classification thereof and submit, **by 31 January 2023**, public and/or confidential redacted version(s) thereof, as the case may be;
- c) **ORDERS** Victims' Counsel to indicate, **by 31 January 2023**, whether the filings, as listed in paragraphs 10 and 11 of the present order, can be reclassified as public or to submit her reasons for maintaining the classification thereof and submit, **by 31 January 2023**, public and/or confidential redacted version(s) thereof, as the case may be;
- d) **ORDERS** the Registrar to indicate, **by 31 January 2023**, whether the filings as listed in paragraph 12 of the present order, can be reclassified as public or to submit her reasons for maintaining the classification thereof and

submit, **by**, public and/or confidential redacted version(s) thereof, as the case may be; and

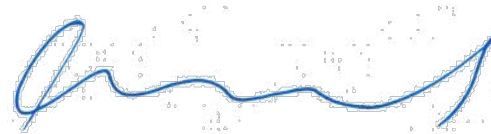
- e) **ORDERS** the Registrar to reclassify, **by 17 January 2023**, as public the filings listed in paragraph 14 of the present order.



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Thursday, 15 December 2022

At The Hague, the Netherlands.