



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

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

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

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor

Date: 31 January 2023

Language: English

Classification: Public

Public Redacted Version of 'Prosecution submissions on the Seventh Monthly Registry Report on Segregation of the Accused', filing F00354 dated 21 March 2022

Specialist Prosecutor's Office

Alex Whiting

Counsel for the Accused

Julius von Bóné

Victims' Counsel

Anni Pues

A. INTRODUCTION

1. Pursuant to Articles 21 and 41 of the Law,¹ Rules 23(7) and 56(6) of the Rules,² Rule 43(3)(c) of the Rules of Detention,³ and in compliance with the request of the Trial Panel ('Panel'),⁴ the Specialist Prosecutor's Office ('SPO') hereby files its submissions on the Seventh Monthly Registry Report on segregation of the Accused ('Seventh Report').⁵
2. The Accused's continued segregation remains lawful and necessary and there are no apparent reasons to terminate it.

B. SUBMISSIONS

3. On 18 February 2022, the Panel issued its Second decision on the review of the segregation regime and other measures imposed on Salih MUSTAFA,⁶ whereby it decided to extend the Accused's segregation within existing parameters.⁷
4. As previously submitted by the SPO⁸ and found by the Panel, the continued segregation is warranted for the purpose of protecting victims and witnesses and/or their family members, in view of possible unlawful disclosure by the Accused of the identities of the SPO protected witnesses.⁹ Since the Second Segregation Decision no

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). Unless otherwise indicated, all references to 'Article(s)' are to the Law.

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). Unless otherwise indicated, all references to 'Rule(s)' are to the Rules.

³ KSC-BD-08/Rev1, 23 September 2020 ('Detention Rules').

⁴ The request of the Panel was transmitted to the SPO by e-mail sent by the Head of Court Management Unit on 18 March 2022 at 19:58.

⁵ Seventh Monthly Registry Report on Segregation of the Accused with two confidential and *ex parte* Annexes, KSC-BC-2020-05/F00351, Confidential, 18 March 2022.

⁶ Second Decision on the review of the segregation regime and other measures imposed on Salih MUSTAFA, KSC-BC-2020-05/F00323, Confidential, 18 February 2022 ('Second Segregation Decision').

⁷ Decision on the Review of the segregation regime and other measures imposed on Salih MUSTAFA, KSC-BC-2020-05, F00262, Confidential, 19 November 2021, paras 19-21.

⁸ Prosecution submissions for the review of segregation and related measures, KSC-BC-2020-05, F00313, Confidential, 7 February 2022, paras 4-6.

⁹ Second Segregation Decision, paras 17-22.

circumstances known to the SPO have intervened capable of changing this assessment.

5. The SPO has taken note of the Seventh Report, according to which special attention continues to be paid to ensuring the Accused's meaningful human contact within the detention facility,¹⁰ and telephone calls¹¹ and video visits by the family¹² are regularly made.

6. Commenting on the impact of segregation on the Accused, the Seventh Report does not indicate that segregation has become harmful to the physical or mental health of the Accused.¹³ [REDACTED].¹⁴ [REDACTED].

7. For these reasons, and without prejudice to any steps that need to be taken to address all relevant medical matters, the segregation regime should be continued. The SPO remains available to provide further views expeditiously, should any additional information be provided.

8. Finally, and pursuant to the Panel's in-court request,¹⁵ if the measure of segregation was to be discontinued, the SPO would request for more time in order to consult with the Registry on this matter. This would allow the SPO to better understand what measures are available and feasible in order to mitigate the risk of divulgence of confidential information. [REDACTED].

Word count: 556



Alex Whiting

Acting Specialist Prosecutor

¹⁰ Seventh Report, paras 8-14.

¹¹ Seventh Report, paras 15-16.

¹² Seventh Report, paras 17-20.

¹³ Seventh Report, para.22.

¹⁴ Seventh Report, para.22.

¹⁵ KSC-BC-2020-05, Transcript of 21 March 2022, morning session, Confidential.

Tuesday, 31 January 2023

At The Hague, the Netherlands.