



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 Eighth Monthly Registry Report on Segregation of the Accused', filing F00389 dated 19 April 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 Eighth Monthly Registry Report on segregation of the Accused ('Eighth Report').⁵

2. The SPO does not oppose changes to the segregation regime that may be necessary on medical grounds, and defers to the Trial Panel and the Registry for the appropriate measures in light of the specific circumstances of the case.

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 14 April 2022 at 17:58.

⁵ Eighth Monthly Registry Report on Segregation of the Accused, with two confidential and *ex parte* Annexes, KSC-BC-2020-05/F00384, Confidential, 13 April 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. [REDACTED].¹⁰

6. [REDACTED]. However, the SPO agrees that steps should be taken that are necessary to address relevant medical matters, and therefore does not oppose any necessary changes to the segregation regime based on medical grounds.

7. The SPO defers to the Trial Panel and the Registry for the appropriate measures to be taken in light of the specific circumstances of the case.

Word count: 444



Alex Whiting

Acting Specialist Prosecutor

Tuesday, 31 January 2023

At The Hague, the Netherlands.

¹⁰ Eight Report, KSC-BC-2020-05/F00384, paras 22-23 [REDACTED].