



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: Dr Fidelma Donlon

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**Public Redacted Version of “Registry Submissions on the Feasibility of Measures Sought by the Defence Pursuant to Trial Panel I’s Order (F00173)”,
filing F00179, dated 1 September 2021**

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Registry

Chief Detention Officer

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I. INTRODUCTION

1. Pursuant to the Order¹ for submissions on the request by the Defence for termination of segregation and modification of other measures, the Registrar makes the following submissions to Trial Panel I ('the Panel') on the feasibility of the measures requested by the Defence.

II. PROCEDURAL HISTORY

1. On 2 August 2021, the Panel issued a decision ('Decision')² on the Specialist Prosecutor's request for segregation and other measures, ordering the Registrar to segregate Mr Salih Mustafa ('Mr Mustafa') and restrict his contacts with the outside world. Mr Mustafa has been segregated since 19 August 2021, in accordance with the Decision.

2. On 27 August 2021, the Defence submitted a request ('Request')³ for termination of segregation and modification of other measures in the Decision.

3. On 30 August 2021, the Panel requested submissions from the Registrar on the feasibility of the measures sought by the Defence in paragraphs 14-20, 24-26, and 28 of the Request by 1 September 2021.⁴

¹ KSC-BC-2020-05, F00136, Trial Panel I, Order for submissions by the Registrar on the "Defence request for termination of imposed segregation and modification of other measures on Salih Mustafa" and varying the time limits for responses and replies, 30 August 2021, confidential ('Order').

² F00162, Decision on Specialist Prosecutor's request for segregation and other measures, 2 August 2021, confidential and *ex parte* ('Decision'). A confidential, redacted version was submitted the same day, F00162/CONF/RED.

³ F00172, Defence request for termination of imposed segregation and modification of other measures on Salih Mustafa, 27 August 2021, confidential ('Request').

⁴ Order, paras 6, 7(b).

III. SUBMISSIONS

4. The Registrar, advised by the Chief Detention Officer, has conducted a thorough analysis of the feasibility of the measures requested by the Defence.

A. TELEPHONE CALLS

5. In accordance with the Decision, Mr Mustafa is currently permitted one (1) phone call per day (from Monday to Friday, during working hours), and for a maximum of 30 minutes per call.⁵ Likewise, active monitoring of Mr Mustafa's telephone calls has been implemented on all of Mr Mustafa's telephone calls (in addition to the passive monitoring normally in force), pursuant to the Decision.⁶

6. The Defence requests a modification of the Decision so that Mr Mustafa can have an unlimited number of telephone calls during the day.⁷ The Defence also requests that these telephone calls be permitted to take place during the weekends, as well as on weekdays.⁸

7. It would be feasible for the Detention Management Unit ('DMU') to sustain an increase in the duration and number of actively monitored telephone calls and to facilitate telephone calls on one weekend day.

8. Having carefully considered [REDACTED] and the specific Request submitted by the Defence,⁹ the Registry considers that it would be feasible for the DMU to implement active monitoring of either: [REDACTED].¹⁰ In addition, it would be feasible for the telephone calls to take place Monday through Saturday, during normal working hours, subject to the other conditions in the Decision.¹¹

⁵ Decision, para. 37.

⁶ Id., para. 37.

⁷ Request, paras 14-15, 19, 28.

⁸ Id., paras 16-17, 19, 28.

⁹ Request, paras 12-15 (requesting a modification to allow more contact throughout the day by permitting multiple telephone calls and stressing that each call does not need to take 30 minutes).

¹⁰ [REDACTED].

¹¹ Decision, para. 37.

B. VISITS

9. In accordance with the Decision, Mr Mustafa is currently permitted a maximum of 10 visits per month, whether in-person or via video or a combination thereof.¹²

There is no indication in the Decision that these visits be limited to weekdays. Active monitoring of Mr Mustafa's visits has been implemented (in addition to the recording of all visits), pursuant to the Decision.¹³

10. The Defence requests an increase in the number of visits to 20 visits per month instead of 10.¹⁴

11. Having consulted with DMU Management, [REDACTED], it would be feasible for the DMU to implement active monitoring of [REDACTED] visits per month (whether in-person or via video or a combination thereof), subject to the other conditions in the Decision.¹⁵

C. ACTIVITIES

12. Lastly, the Defence requests that "more sports or other activities [] be organized" for Mr Mustafa, with "more people involved", i.e., with more than one other person in addition to Mr Mustafa.¹⁶

13. In accordance with the Decision¹⁷ and the Rules of Detention¹⁸, special attention is being paid to ensuring that Mr Mustafa has an opportunity for meaningful human contact for more than two (2) hours per day through a combination of different avenues and activities.

¹² Id., para. 34.

¹³ Id., paras 34-35.

¹⁴ Request, paras 24-25, 28.

¹⁵ Decision, paras 34-25.

¹⁶ Request, para. 26.

¹⁷ Decision, para. 28.

¹⁸ Rules of Detention, KSC-BD-08-Rev1, 23 September 2020, public, Detention Rule 42(1).

14. The DMU is committed to seeking to identify creative ways of engaging additional person(s) in the activities currently offered to Mr Mustafa, as well as exploring additional avenues and services that may be offered.

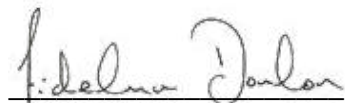
IV. CONCLUSION

15. In sum, it would be feasible for the DMU to implement certain modifications to the measures ordered by the Panel in its Decision, as detailed at paragraphs 8 and 11 above. The Registrar stands ready to provide any additional information or clarifications required by the Panel in relation to this submission and to the feasibility of the measures requested by the Defence.

V. CLASSIFICATION

16. This filing is submitted as confidential pursuant to Rule 82(4) of the Rules.¹⁹

Word count: 901



Dr Fidelma Donlon

Registrar

Tuesday, 31 January 2023

At The Hague, the Netherlands

¹⁹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3, 2 June 2020 ('Rules').