



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

Filed by: Dr Fidelma Donlon

Date: 31 January 2023

Language: English

Classification: Public

Public Redacted Version of "Sixth Monthly Registry Report on Segregation of the Accused", filing F00322, dated 18 February 2022

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I. INTRODUCTION

1. Pursuant to Trial Panel I's ('the Panel') decision on the Specialist Prosecutor's request for segregation and other measures ('Segregation Decision'),¹ the Registrar submits the following report on the enforcement of the segregation regime and the system of communications restrictions and their effects on the Accused.

II. PROCEDURAL HISTORY

1. On 19 August 2021, Mr Salih Mustafa ('Mr Mustafa') was segregated pursuant to the Segregation Decision.²

2. The conditions set out in the Segregation Decision were further clarified and amended through the Panel's decisions on 1 and 10 September 2021³ and 19 November 2021.⁴

III. SUBMISSIONS

3. In the Segregation Decision, the Registrar is ordered to submit a consolidated report every 30 days, as of 19 August 2021, or at any time earlier, if deemed necessary, on the enforcement of the segregation regime, restrictions on communications, and their eventual effects on the Accused, to the Panel, the Parties, and Victims' Counsel.⁵

¹ KSC-BC-2020-05, F00162, Decision on Specialist Prosecutor's Request for Segregation and Other Measures, 2 August 2021, confidential and *ex parte*. A confidential, redacted version was issued on 18 August 2021, F00162/CONF/RED, para. 43(d).

² F00164, Registry Report on Implementation of the Segregation Decision (F00162), 19 August 2021, confidential.

³ F00176, Decision on the 'Registry Report and Submissions Regarding Segregation Decision (F00162)', 1 September 2021, confidential ('Decision on Registry Report'); F00196, Decision on the Defence Request for Termination of Imposed Segregation and Modification of Other Measures on Salih Mustafa, 10 September 2021, confidential ('Decision on Request for Termination of Segregation').

⁴ F00262, Decision on the Review of the Segregation Regime and Other Measures Imposed on Salih Mustafa, 19 November 2021, confidential ('Decision on Review of the Segregation Regime').

⁵ Segregation Decision, paras 30, 41, 43(d).

4. The Registrar has reported to the Panel on the Segregation of the Accused on 20 September 2021,⁶ 20 October 2021,⁷ 16 November 2021,⁸ 17 December 2021,⁹ and 20 January 2022.¹⁰

5. The Registrar now presents the sixth report on: the implementation of the segregation regime (A), telephone calls (B), and visits (C) of the Accused, as well as the impact of such measures on him (D) since 17 December 2021 ('reporting period').

A. SEGREGATION REGIME

6. Mr Mustafa has been segregated in [REDACTED] the Detention Facilities since 19 August 2021, and he has had no contact with any other Detainees in the Detention Facilities. No breach of the segregation regime has been reported or noticed.

7. During his segregation, Mr Mustafa has had access to the facilities and services described in paragraphs 17-18 and 20-21 of the Registry Submissions,¹¹ including access to privileged in-person visits, video visits, and telephone calls with Counsel and members of Counsel's Team.

8. Special attention continues to be paid to ensuring that Mr Mustafa has an opportunity for meaningful human contact for more than two hours per day through a combination of different avenues and activities.¹²

⁶ F00210, First Monthly Registry Report on Segregation of the Accused, 20 September 2021, confidential, with one confidential and *ex parte* Annex.

⁷ F00240, Second Monthly Registry Report on Segregation of the Accused, 20 October 2021, confidential, with one confidential and *ex parte* Annex.

⁸ F00254, Third Monthly Registry Report on Segregation of the Accused, 16 November 2021, confidential, with one confidential and *ex parte* Annex; *see also* Oral Order, 11 November 2021, Transcript (Private Session), page 1502, lines 9-18, confidential.

⁹ F00284, Fourth Monthly Registry Report on Segregation of the Accused, 17 December 2021, confidential, with one confidential and *ex parte* Annex.

¹⁰ F00293, Fifth Monthly Registry Report on Segregation of the Accused, 20 January 2022, confidential, with one confidential and *ex parte* Annex.

¹¹ F00146, Registry Submissions Pursuant to Trial Panel I's Order (F00136), 1 July 2021, confidential ('Registry Submissions'); *see also* Segregation Decision, para. 28. The recreational activities offered to Mr Mustafa include [REDACTED]. [REDACTED].

¹² Segregation Decision, para. 28; Decision on Request for Termination of Segregation, para. 21.

9. During the reporting period, Mr Mustafa has been visited daily by the Chief Detention Officer or a Detention Officer acting on his behalf, and he has also been visited by the Medical Officer, as described in paragraphs 24-25 of the Registry Submissions.¹³
10. In addition, during the reporting period, Detention Officers and other Detention Management Unit ('DMU') staff have proactively engaged with Mr Mustafa. [REDACTED].
11. DMU staff also made efforts to proactively engage additional person(s) in activities with the Accused.¹⁴ [REDACTED]. [REDACTED].
12. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].
13. [REDACTED]. [REDACTED].
14. The duration of the above interactions was influenced, *inter alia*, by the schedule of proceedings.

B. TELEPHONE CALLS

15. Based on the Segregation Decision, Mr Mustafa is permitted one (1) phone call per day with authorised family members, under active monitoring, for a maximum duration of 30 minutes per call. Calls are authorised from Monday to Friday during working hours, until 20:00 during hearing days, and between 10:00 and 17:00 on Saturdays and Sundays.¹⁵ Following the Decision on Review of the Segregation Regime, Mr Mustafa is permitted two (2) additional telephone calls per week with authorised family members, of 15 minutes each, on weekdays and during working hours only.¹⁶ These restrictions are not applicable to privileged calls with Defence Counsel and his team or certain categories of special visitors.¹⁷

¹³ Segregation Decision, para. 28; *see also* [REDACTED].

¹⁴ Decision on Review of the Segregation Regime, para. 21.

¹⁵ Segregation Decision, para. 37; Decision on Request for Termination of Segregation, para. 23.

¹⁶ Decision on Review of the Segregation Regime, para. 20.

¹⁷ Segregation Decision, para. 33.

16. [REDACTED], Mr Mustafa has had [REDACTED] telephone calls [REDACTED] during the reporting period, which were actively monitored in accordance with the Segregation Decision.¹⁸ No unauthorised disclosure was identified during the calls.

C. VISITS

17. Based on the Segregation Decision, Mr Mustafa is permitted a maximum of 10 visits per month, whether in-person or via video or a combination thereof, under active monitoring (in addition to the recording of all visits).¹⁹ During hearing days, visits are authorised until 20:00.²⁰ Following the Decision on Review of the Segregation Regime, Mr Mustafa is permitted two (2) additional video visits per month.²¹

18. [REDACTED], Mr Mustafa had [REDACTED] during the reporting period, [REDACTED].

19. During the reporting period, Mr Mustafa [REDACTED].

20. All visits were actively monitored and recorded. No unauthorised disclosures were identified during the visits.

D. IMPACT ON THE ACCUSED

21. [REDACTED]. [REDACTED].²²

22. [REDACTED]. [REDACTED].²³

¹⁸ Id., para. 37.

¹⁹ Id., paras 34-35.

²⁰ Decision on Request for Termination of Segregation, para. 23.

²¹ Decision on Review of the Segregation Regime, para. 20.

²² [REDACTED].

²³ [REDACTED]; *see also* [REDACTED].

IV. CLASSIFICATION

23. This filing is submitted as confidential pursuant to Rule 82(4) of the Rules.²⁴ The annexes are filed as confidential and *ex parte* as they contain [REDACTED].

Word count: 1121



Dr Fidelma Donlon
Registrar

Tuesday, 31 January 2023
At The Hague, the Netherlands

²⁴ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3, 2 June 2020 ('Rules').