



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

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Public Redacted Version of “Ninth Monthly Registry Report on Segregation of the Accused”, filing F00409, dated 13 May 2022

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I. INTRODUCTION

1. Pursuant to Trial Panel I's decision on the Specialist Prosecutor's request for segregation and other measures ('Segregation Decision'),¹ and the Second and Third Decisions on Review of the Segregation Regime,² 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.³ The conditions set out in the Segregation Decision were further clarified and amended through the Panel's decisions on 1 and 10 September 2021,⁴ 19 November 2021,⁵ and 18 February 2022.⁶

2. On 25 April 2022, the Panel decided to discontinue Mr Mustafa's segregation with immediate effect, subject to the necessary logistical and organisational arrangements to be made by the Registrar, and that the other restrictions to the Accused's communications outside of the Specialist Chambers ('SC') Detention Facilities shall remain unchanged and therefore subject to the same conditions and

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 F00323, Second Decision on the Review of the Segregation Regime and Other Measures Imposed on Salih Mustafa, 18 February 2022, confidential ('Second Decision on Review of the Segregation Regime'), para. 24(c); F00394, Confidential Redacted Version of Third Decision on the Review of the Segregation Regime Imposed on Salih Mustafa, 25 April 2022, confidential ('Third Decision on Review of the Segregation Regime'), para 23.

³ F00164, Registry Report on Implementation of the Segregation Decision (F00162), 19 August 2021, confidential.

⁴ F00176, Decision on the 'Registry Report and Submissions Regarding Segregation Decision (F00162)', 1 September 2021, confidential; 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').

⁵ 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').

⁶ Second Decision on the Review of the Segregation Regime, para. 23.

reporting period by the Registrar, as set out in the Segregation Decision and any subsequent amendments thereto.⁷

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.⁸

4. The Second Decision on Review of the Segregation Regime ordered the Registrar to submit, by Friday, 13 May 2022, at 16:00 hours, or at any time earlier if deemed necessary, the consolidated report in accordance with paragraph 43(d) of the Segregation Decision for the period starting on 18 April 2022.⁹

5. The Registrar has filed regular reports with the Panel on the Segregation of the Accused, as well as supplemental filings as necessary.¹⁰

6. The Registrar now presents the ninth report on: the implementation of the segregation regime and its discontinuation (A), telephone calls (B), and visits (C) of

⁷ Third Decision on Review of the Segregation Regime, para. 23.

⁸ Segregation Decision, paras 30, 41, 43(d).

⁹ Second Decision on Review of the Segregation Regime, para 24(c).

¹⁰ F00210, First Monthly Registry Report on Segregation of the Accused, 20 September 2021, confidential, with one confidential and *ex parte* Annex; F00240, Second Monthly Registry Report on Segregation of the Accused, 20 October 2021, confidential, with one confidential and *ex parte* Annex; F00254, Third Monthly Registry Report on Segregation of the Accused, 16 November 2021, confidential, with one confidential and *ex parte* Annex; F00284, Fourth Monthly Registry Report on Segregation of the Accused, 17 December 2021, confidential, with one confidential and *ex parte* Annex; F00293, Fifth Monthly Registry Report on Segregation of the Accused, 20 January 2022, confidential, with one confidential and *ex parte* Annex; F00293, Fifth Monthly Registry Report on Segregation of the Accused, 20 January 2022, confidential, with one confidential and *ex parte* Annex; F00322, Sixth Monthly Registry Report on Segregation of the Accused, 18 February 2022, confidential, with two confidential and *ex parte* Annexes; F00351, Seventh Monthly Registry Report on Segregation of the Accused, 18 March 2022, confidential, with two confidential and *ex parte* Annexes; F00384, Eighth Monthly Registry Report on Segregation of the Accused, 13 April 2022, confidential, with two confidential and *ex parte* Annexes; *see also, e.g.*, F00367, Submissions of the Registry Pursuant to the Oral Order Regarding the Segregation of the Accused, 28 March 2022, confidential.

the Accused, as well as the impact of such measures on him (D) since the eighth segregation report was submitted on 13 April 2022 ('reporting period').

A. SEGREGATION REGIME

7. Mr Mustafa was segregated in [REDACTED] the Detention Facilities from 19 August 2021 to 25 April 2022, during which time he had no contact with any other Detainees in the Detention Facilities. During this reporting period, Mr Mustafa was segregated from 14 April to 25 April. No breach of the segregation regime has been reported or noticed.

8. During his segregation, Mr Mustafa 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.

9. Special attention also continued to be paid to ensuring that Mr Mustafa had an opportunity for meaningful human contact for more than two hours per day through a combination of different avenues and activities.¹² [REDACTED]. [REDACTED].

10. During his segregation, Mr Mustafa was visited daily by the Chief Detention Officer or a Detention Officer acting on his behalf, and he was also visited by the Medical Officer, as described in paragraphs 24-25 of the Registry Submissions.¹³

11. On 25 April 2022, with the discontinuation of segregation, Mr Mustafa was moved back [REDACTED] with all other Detainees in the SC Detention Facilities. He is now offered the full range of activities and/or programs enjoyed by all Detainees. Following the discontinuation of segregation, the Medical Service has also continued to observe Mr Mustafa.¹⁴

¹¹ F00146, Registry Submissions Pursuant to Trial Panel I's Order (F00136), 1 July 2021, confidential ('Registry Submissions'); *see also* Segregation Decision, para. 28.

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

¹³ Segregation Decision, para. 28.

¹⁴ [REDACTED].

12. Given the discontinuation of segregation, no further reports will be made on this issue, unless directed by the Panel.

B. TELEPHONE CALLS

13. As ordered by the Panel, the other restrictions on Mr Mustafa's telephone calls remain unchanged.¹⁵

14. Mr Mustafa is permitted one 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.¹⁶ Mr Mustafa is also permitted two additional telephone calls per week with authorised family members, of 15 minutes each, on weekdays and during working hours only.¹⁷ These restrictions are not applicable to privileged calls with Defence Counsel and his team or certain categories of special visitors.¹⁸

15. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].¹⁹

16. [REDACTED]. [REDACTED]. [REDACTED].²⁰

17. [REDACTED].

18. [REDACTED]. [REDACTED].

19. [REDACTED], Mr Mustafa had [REDACTED] telephone calls [REDACTED] during the reporting period, which were actively monitored [REDACTED].²¹ No unauthorised disclosures were identified during the calls.

¹⁵ Third Decision on Review of the Segregation Regime, para 23.

¹⁶ Segregation Decision, para. 37; Decision on Request for Termination of Segregation, para. 23.

¹⁷ Decision on Review of the Segregation Regime, para. 20.

¹⁸ Segregation Decision, para. 33.

¹⁹ [REDACTED].

²⁰ [REDACTED].

²¹ [REDACTED].

C. VISITS

20. As ordered by the Panel, the other restrictions on Mr Mustafa's visits remain unchanged.²²

21. Mr Mustafa is permitted a maximum of 10 visits per month, whether in-person or via video or a combination thereof, under active monitoring and with the recording of all visits.²³ In addition to those 10 visits, Mr Mustafa is permitted two additional video visits per month.²⁴ During hearing days, visits are authorised until 20:00.²⁵

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

23. Mr Mustafa also had [REDACTED].²⁶

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

25. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].²⁷

26. [REDACTED], the Registry requests the authorization of the Panel to deviate from the restrictions regime ordered by the Panel in order to permit [REDACTED] extra video visits in the calendar month of May, [REDACTED].

27. [REDACTED] going forward, the Registry also requests authorization of the Panel [REDACTED].

D. IMPACT ON THE ACCUSED

28. [REDACTED].

29. [REDACTED].

²² Third Decision on Review of the Segregation Regime, para 23.

²³ Segregation Decision, paras 34-35.

²⁴ Decision on Review of the Segregation Regime, para. 20.

²⁵ Decision on Request for Termination of Segregation, para. 23.

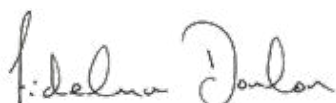
²⁶ [REDACTED]. [REDACTED]

²⁷ [REDACTED]. [REDACTED].

IV. CLASSIFICATION

30. This filing is submitted as confidential pursuant to Rule 82(4) of the Rules.²⁸ The Annex is filed as confidential and *ex parte* as it contains [REDACTED].

Word count: 1532



Dr Fidelma Donlon
Registrar

Tuesday, 31 January 2023
At The Hague, the Netherlands

²⁸ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3, 2 June 2020 ('Rules').