



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA 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 "Sixteenth Monthly Registry Report on the
Communications Regime for Mr Salih Mustafa", filing F00499,
dated 10 January 2023**

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I. INTRODUCTION

1. Pursuant to Trial Panel I's second decision on the review of the restrictions on Mr Salih Mustafa's contacts and communications,¹ and the Panel's decisions on segregation,² the Registrar submits the following final report on the system of communications restrictions and their effects on Mr Mustafa.

II. PROCEDURAL HISTORY

2. On 19 August 2021, 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

3. 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 Mr Mustafa's communications outside of the Specialist Chambers ('SC') Detention

¹ KSC-BC-2020-05, F00486, Second Decision on the Review of Salih Mustafa's Restrictions on Contacts and Communications, 20 October 2022, confidential ('Second Decision on Review of Restrictions'); *see also* F00455, Decision on the Review of Salih Mustafa's Restrictions on Contacts and Communications, 20 July 2022, confidential ('Decision on Review of Restrictions').

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

Facilities should remain unchanged and therefore subject to the same conditions and reporting period by the Registrar, as set out in the Segregation Decision and any subsequent amendments thereto.⁷

4. On 19 May 2022, at the Registrar's request,⁸ the Panel authorised [REDACTED] extra video visits for Mr Mustafa for the calendar month of May 2022, [REDACTED].⁹ The Panel further authorised the Registrar to proceed in the same manner [REDACTED] in the future.¹⁰

5. On 20 July and 20 October 2022, the Panel decided to extend the restrictions on Mr Mustafa's contacts and communications, subject to the same conditions set out in the Segregation Decision and any subsequent amendments thereto.¹¹

6. Further, at the Registry's request,¹² the Panel qualified a term set out in the Segregation Decision [REDACTED].¹³

7. With the Second Decision on Review of Restrictions, the Panel also ordered the Registry to submit the Fourteenth, Fifteenth, and Sixteenth reports on the communications regime for Mr Mustafa by 4 November 2022, 2 December 2022, and 10 January 2023 at 16.00 hours, respectively.¹⁴

8. On 16 December 2022, the Panel issued the trial judgment against Mr Mustafa, convicting him of war crimes and sentencing him to 26 years in prison.¹⁵ During the hearing on 16 December 2022, following the pronouncement of the judgment against Mr Mustafa in open court, the Panel issued an Oral Order lifting, *proprio motu*, the remaining restrictions on Mr Mustafa's contacts and communications, effective on 21

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

⁸ F00409, Ninth Monthly Registry Report on Segregation of the Accused, 13 May 2022, confidential, with one confidential and *ex parte* Annex ('Ninth Report'), paras 15-18.

⁹ Oral Order, 19 May 2022, confidential, p. 4403, line 16 to p. 4404, line 10.

¹⁰ *Ibid.*

¹¹ Decision on Review of Restrictions, para. 16; Second Decision on Review of Restrictions, para. 29.

¹² F00484, Thirteenth Monthly Registry Report on the Communications Regime for the Accused, 5 October 2022, confidential ('Thirteenth Report'), paras 15-16.

¹³ Second Decision on Review of Restrictions, para. 27.

¹⁴ *Ibid.*, para. 28.

¹⁵ F00494, Trial Panel I, Trial Judgment, 16 December 2022, confidential.

December 2022 at noon.¹⁶ A written decision directing the Registry to take all necessary steps to implement the Oral Order, together with reasons for lifting the restrictions, was issued on 20 December 2022.¹⁷

III. SUBMISSIONS

9. In the Segregation Decision, the Registrar was ordered to submit a consolidated report every 30 days, or at any time earlier if deemed necessary, on the enforcement of the segregation regime, restrictions on communications, and their eventual effects on Mr Mustafa, to the Panel, the Parties, and Victims' Counsel.¹⁸

10. The Registrar has filed regular reports with the Panel on the segregation of Mr Mustafa, as well as supplemental filings as necessary.¹⁹

11. Mr Mustafa's segregation was discontinued on 25 April 2022.²⁰

¹⁶ Trial Panel I, Transcript of Hearing, 16 December 2022, public ('Oral Order'), p. 4883, lines 14-19.

¹⁷ F00495, Decision on Lifting Salih Mustafa's Restrictions on Contacts and Communications with the Outside World, 20 December 2022, confidential, para. 17.

¹⁸ Segregation Decision, paras 30, 41, 43(d).

¹⁹ 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; 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; F00409, Ninth Report, fn. 8, above; F00438, Tenth Monthly Registry Report on the Communications Regime for the Accused, 20 June 2022, confidential; F00461, Eleventh Monthly Registry Report on the Communications Regime for the Accused, 22 July 2022, confidential; F00467, Twelfth Monthly Registry Report on the Communications Regime for the Accused, 26 August 2022, confidential, with two confidential and *ex parte* Annexes; Thirteenth Report, fn. 12 above; F00488, Fourteenth Monthly Registry Report on the Communications Regime for the Accused, 4 November 2022, confidential, with two confidential and *ex parte* Annexes; F00490, Fifteenth Monthly Registry Report on the Communications Regime for the Accused, 2 December 2022, confidential ('Fifteenth Report').

²⁰ Ninth Report, para. 7.

12. As ordered by the Panel, the restrictions on his communications remained unchanged through 21 December 2022 at 11:59, with all restrictions in place lifted as of 12:00 on 21 December 2022.²¹

13. Accordingly, the Registrar now presents the sixteenth and final report on telephone calls (A), and visits (B) of Mr Mustafa, as well as the impact of such measures on him (C) since the Fifteenth Report was submitted on 2 December 2022 through 21 December 2022 at 11:59 ('reporting period').

A. TELEPHONE CALLS

14. As ordered by the Panel, the restrictions on Mr Mustafa's telephone calls remained unchanged in the reporting period and were lifted as of 12:00 on 21 December 2022.²²

15. During the reporting period, Mr Mustafa was permitted one phone call per day with authorised family members, under active monitoring, for a maximum duration of 30 minutes per call. Calls were 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.²³ Mr Mustafa was also permitted two additional telephone calls per week with authorised family members, of 15 minutes each, on weekdays and during working hours only.²⁴ These restrictions were not applicable to privileged calls with Defence Counsel and his team or certain categories of special visitors.²⁵

16. [REDACTED], Mr Mustafa had [REDACTED] telephone calls [REDACTED] during the reporting period, which were actively monitored.²⁶ No unauthorised disclosures were identified during the calls.

²¹ Third Decision on Review of the Segregation Regime, para. 23; Decision on Review of Restrictions, para. 16; Oral Order, p. 4883, lines 14-19.

²² Ibid.

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

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

²⁵ Segregation Decision, para. 33.

²⁶ Ibid.

B. VISITS

17. As ordered by the Panel, the restrictions on Mr Mustafa's visits remained unchanged during the reporting period and were lifted as of 12:00 on 21 December 2022.²⁷

18. During the reporting period, Mr Mustafa was 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.²⁸ In addition to those 10 visits, Mr Mustafa was permitted two additional video visits per month.²⁹ During hearing days, visits were authorised until 20:00.³⁰

19. [REDACTED], Mr Mustafa had [REDACTED] during the reporting period, [REDACTED].³¹

20. During the reporting period, Mr Mustafa also had [REDACTED], bringing the total number of visits during the reporting period to [REDACTED].

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

C. IMPACT ON MR MUSTAFA

22. [REDACTED].

23. [REDACTED].

24. In accordance with the Panel's decision, the Registry ensured that the Panel's Oral Order lifting all remaining restrictions on Mr Mustafa's contacts and communications with the outside world was fully implemented with effect on 21 December 2022 at noon.³²

²⁷ Third Decision on Review of the Segregation Regime, para 23; Decision on Review of Restrictions, para 16; Oral Order, p. 4883, lines 14-19.

²⁸ Segregation Decision, paras 34-35.

²⁹ Decision on Review of the Segregation Regime, para. 20.

³⁰ Decision on Request for Termination of Segregation, para. 23.

³¹ [REDACTED].

³² F00495, Decision on Lifting Salih Mustafa's Restrictions on Contacts and Communications with the Outside World, 20 December 2022, confidential, para. 17; *see also* Oral Order, p. 4883, lines 14-19.

IV. CLASSIFICATION

25. This filing is submitted as confidential pursuant to Rule 82(4) of the Rules.³³

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Dr Fidelma Donlon
Registrar

Tuesday, 31 January 2023
At The Hague, the Netherlands

³³ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3, 2 June 2020 ('Rules').