



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:** Fidelma Donlon

**Date:** 1 September 2021

**Language:** English

**Classification:** Public

---

**Public redacted version of  
Decision on the "Registry Report and Submissions Regarding Segregation  
Decision (F00162)"**

---

**To be notified to:**

**Specialist Prosecutor**

Jack Smith

**Counsel for the Accused**

Julius von Bóné

**Registry**

Fidelma Donlon

Chief detention officer

**Victims' Counsel**

Anni Pues

TRIAL PANEL I (Panel), hereby issues this Decision on the “Registry Report and Submissions Regarding Segregation Decision (F00162)”.

## I. PROCEDURAL BACKGROUND

1. On 2 August 2021, the Panel issued, upon request,<sup>1</sup> the “Decision on Specialist Prosecutor’s request for segregation and other measures” (Segregation Decision), in which it set out the principles governing segregation and other measures applicable to the detention of Salih Mustafa (Mr Mustafa).<sup>2</sup>
2. On 30 August 2021, the Registrar submitted the “Registry Report and Submissions Regarding Segregation Decision (F00162)” (Registry Submissions).<sup>3</sup>

## II. SUBMISSIONS

3. The Registrar submits that Mr Mustafa requested an in-person visit (as opposed to a video visit) by [REDACTED].<sup>4</sup> In light of the [REDACTED],<sup>5</sup> which guarantees unlimited access [REDACTED] to all detainees in the Specialist Chambers’ (SC) custody and to its Detention Facilities, the Registrar seeks the Panel’s guidance as to

---

<sup>1</sup> KSC-BC-2020-05, F00133, Specialist Prosecutor, *Prosecution’s request for segregation and other measures*, 11 June 2021, confidential and *ex parte*. A confidential redacted version was submitted on 14 June 2021, F00133/CONF/RED.

<sup>2</sup> KSC-BC-2020-05, F00162, Trial Panel I, *Decision on Specialist Prosecutor’s request for segregation and other measures*, 2 August 2021, confidential and *ex parte*. A confidential redacted version thereof was submitted on 18 August 2021, F00162/CONF/RED.

<sup>3</sup> KSC-BC-2020-05, F00174, Registrar, *Confidential Redacted Version of Registry Report and Submissions Regarding Segregation Decision (F00162)*, 31 August 2021, confidential and *ex parte*. A confidential redacted version was submitted on 31 August 2021, F00174/CONF/RED.

<sup>4</sup> Registry Submissions, paras 6-8.

<sup>5</sup> [REDACTED]

whether an in-person visit [REDACTED] and Mr Mustafa is compatible with the Segregation Decision.<sup>6</sup>

4. In addition, the Registrar submits that, due to an incorrect interpretation of the Segregation Decision, the [REDACTED] has been authorised to visit Mr Mustafa [REDACTED].<sup>7</sup> In this connection, the Registrar submits that the [REDACTED] has sought [REDACTED].<sup>8</sup> Accordingly, the Registrar seeks the Panel's guidance as to the grounds that may be communicated to [REDACTED].<sup>9</sup>

### III. APPLICABLE LAW

5. The Panel notes Articles 34(1), (12), and [REDACTED] of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law), Rules 56(6) and 116(4)(d) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (Rules) and the [REDACTED].

### IV. DISCUSSION

6. Regarding the [REDACTED] visits, the Panel recalls that [REDACTED] of the Law unequivocally provides that the SC Detention Facilities, and by implication the detainees in the SC's custody, shall [REDACTED]. In this respect, in the Segregation Decision the Panel stated that certain special visits, including with [REDACTED], shall remain unaffected.<sup>10</sup> Therefore, [REDACTED] visits, whether by video or in person, may continue as normal and shall be regulated by the specific terms of [REDACTED]. The Panel considers that it is the Registrar's responsibility, in the exercise of her

---

<sup>6</sup> Registry Submissions, para. 9.

<sup>7</sup> Registry Submissions, para. 10.

<sup>8</sup> Registry Submissions, para. 11.

<sup>9</sup> Registry Submissions, para. 11.

<sup>10</sup> Segregation Decision, paras 33, 35.

managerial functions of the SC Detention Facilities pursuant to Article 34(12) of the Law and Article 7(1) of [REDACTED], to liaise with [REDACTED] and organise such visits. No further guidance by the Panel is needed to this effect.

7. Regarding [REDACTED] visits, whether by video or in person, such visits fall outside the exceptions contemplated by paragraphs 33 and 35 of the Segregation Decision and are therefore suspended for the time being. The Panel notes, in particular, the fact that [REDACTED] has recently visited Mr Mustafa, and that Mr Mustafa benefits from legal representation by his Counsel. In light of the aforementioned, and considering the new request, [REDACTED], to organise [REDACTED], the Panel considers it appropriate to order the Registrar to inform [REDACTED], that:

- within the applicable legal framework of the SC, the Panel issued a decision, on 2 August 2021, whereby Mr Mustafa [REDACTED], and imposing certain restrictions to his contacts with the outside world, which include [REDACTED];
- as this information is not public at this time, the Panel reminds that any unauthorised divulgence of confidential information may constitute an offence under the 2019 Criminal Code of Kosovo (No. 06/L-074) by virtue of Article 15(2) of the Law.

## V. DISPOSITION

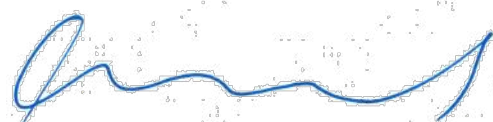
8. For these reasons, the Panel hereby **ORDERS** the Registrar to proceed in accordance with paragraphs 6-7 above.



**Judge Mappie Veldt-Foglia**  
**Presiding Judge**



**Judge Gilbert Bitti**



**Judge Roland Dekkers**

Dated this Wednesday, 1 September 2021  
At The Hague, the Netherlands.