



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:** 18 March 2022

**Language:** English

**Classification:** Public

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**Public redacted version of  
Order for submissions on the addition of a person to  
the list of authorised contacts of Salih Mustafa**

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**To be notified to:**

**Specialist Prosecutor**

Jack Smith

**Counsel for the Accused**

Julius von Bóné

**Registrar**

Fidelma Donlon

**Victims' Counsel**

Anni Pues

**TRIAL PANEL I** (Panel) hereby renders this order for submissions on the addition of a person to the list of authorised contacts of Salih Mustafa (Mr Mustafa or Accused).

## I. PROCEDURAL BACKGROUND

1. On 2 August 2021, the Panel issued the “Decision on Specialist Prosecutor’s request for segregation and other measures” (“Segregation Decision”), in which the Panel ordered the segregation of the Accused, imposed restrictions on his contacts and set out the procedure governing contacts between him and the outside world.<sup>1</sup>

2. On 7 March 2022, the Specialist Prosecutor’s Office (SPO) filed the “Prosecution submission for the ninth review of detention”.<sup>2</sup>

3. On 10 March 2022, the Defence of Salih Mustafa (Defence) filed the “Defence submission for the review of detention of the Accused” (Defence Submissions) together with one confidential *ex parte* Annex, requesting the Panel, *inter alia*, to facilitate contact between Mr Mustafa and an immediate family member (Family Member).<sup>3</sup>

## II. APPLICABLE LAW

4. The Panel notes Articles 40(2) and (6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (Law) and Rules 56(6) and 116(4)(d)

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<sup>1</sup> KSC-BC-2020-05, F00162, Trial Panel I, *Decision on Specialist Prosecutor’s request for segregation and other measures*, 2 August 2021. A confidential redacted version was issued on 18 August 2021, F00162/CONF/RED.

<sup>2</sup> KSC-BC-2020-05, F00339, SPO, *Prosecution submissions for the ninth review of the detention*, 7 March 2022, confidential.

<sup>3</sup> KSC-BC-2020-05, F00342, Defence, *Defence submission for the review of the detention of the Accused*, 10 March 2022, public, with Annex 1, confidential and *ex parte*.

of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (Rules).

### III. ANALYSIS

5. The Panel notes that the Defence has raised a matter of concern in its Submissions, which pertains to the [REDACTED] of the Family Member.<sup>4</sup> In this respect, the Defence requests the Panel to authorise “some incidental contact between the Accused and this particular family member in order that [REDACTED] can be at least talked about in some incidental contact moments, to be determined by the Panel”.<sup>5</sup>

6. The Panel notes, however, that the Annex to the Defence Submissions, where the Defence mentions the identity of the Family Member, is classified as confidential *ex parte* and is therefore not available to the SPO, on account of the [REDACTED] contained therein.

7. With a view to assisting the Panel in its determination as to whether to authorise contacts between Mr Mustafa and the Family Member, the Panel considers it appropriate to apply the procedure originally set out in the Segregation Decision to authorise contacts between Mr Mustafa and close relatives, considering the restrictions in force with regard to his communications outside of the detention facilities of the Specialist Chambers.<sup>6</sup>

8. Therefore, by Monday, 21 March 2022, the Defence shall file in the record of the case (available to the SPO and the Registry only), the personal details of the Family Member he wishes to meet by video or in person and/or wishes to talk to

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<sup>4</sup> Defence Submissions, paras 24-30; Annex, pp. 2-4.

<sup>5</sup> Defence Submissions, paras 29, 32.

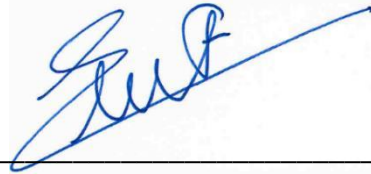
<sup>6</sup> KSC-BC-2020-05, F00162/CONF/RED, Trial Panel I, *Confidential redacted version of Decision on the Specialist Prosecutor’s request for segregation and other measures*, 2 August 2021, confidential, paras 34, 37.

by telephone, a copy of [REDACTED] identification document with photograph, the language that Mr Mustafa intends to use with [REDACTED] and the telephone number [REDACTED] will use. The SPO shall respond within one (1) week of notification of the above filing and raise any objections to any type of contact between the Family Member and Mr Mustafa, substantiating the risk of unlawful disclosure of information.

9. Lastly, in the event that [REDACTED] and [REDACTED], the Defence is instructed to make a request to that effect, accompanied by proof of [REDACTED]. Such a request shall be made available to the SPO and Victims' Counsel with a confidential and *ex parte* annex regarding [REDACTED], if necessary.


#### IV. DISPOSITION

10. For the above-mentioned reasons, the Panel hereby **ORDERS** the Defence to file the information requested in paragraph 8 of the present order by **Monday, 21 March 2022**.



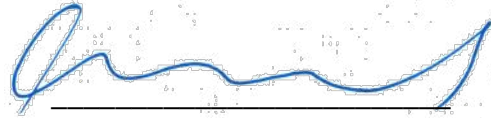
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**Judge Mappie Veldt-Foglia**  
**Presiding Judge**



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**Judge Gilbert Bitti**



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**Judge Roland Dekkers**

Dated this Friday, 18 March 2022

At The Hague, the Netherlands.