



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-05/R
The Specialist Prosecutor v. Salih Mustafa

Before: **Single Judge**
Judge Gilbert Bitti

Registrar: Dr Fidelma Donlon

Filed by: Registrar

Date: 21 February 2024

Language: English

Classification: Public

**Notification of Appointment of Counsel to Salih Mustafa and Termination of
Services of Duty Counsel**

with two confidential Annexes

Specialist Prosecutor
Kimberly P. West

Counsel for Salih Mustafa
Julius von Bóné

Victims' Counsel
Anni Pues

1. Pursuant to Rule 26(1) of the Rules,¹ the Registrar hereby informs the Single Judge of the appointment of Mr Julius von Bóné ('Mr Von Bóné') as Counsel for Mr Salih Mustafa ('Mr Mustafa').
2. On 3 January 2024, the Registrar granted Mr Mustafa's request to have his Counsel, Mr Von Bóné, replaced and appointed Ms Venkateswari Alagendra ('Ms Alagendra'), who also acts as Counsel for an accused in case KSC-BC-2020-06, as his new Counsel of choice.²
3. On 15 January 2024, Mr Mustafa sought an extension of the time limit for requesting protection of legality in relation to the final judgment in his case.³
4. On 23 January 2024, the Specialist Prosecutor's Office ('SPO') challenged the appointment of Ms Alagendra as Counsel for Mr Mustafa before the Supreme Court Panel, asserting an irreconcilable conflict of interest.⁴
5. On 25 January 2024, the Supreme Court Panel declared that the Registrar's decision in relation to the appointment of Ms Alagendra had no legal effect, found that Ms Alagendra would have to notify the relevant Panel as set forth in Article 28(4)(b)(1) of the Code of Professional Conduct if she intends to represent Mr Mustafa, and ordered the Registrar to appoint Duty Counsel to represent Mr Mustafa until the appointment of Counsel has been resolved.⁵
6. On 26 January 2024, the Registrar appointed Mr Laurens van Puyenbroeck ('Mr Van Puyenbroeck') as Duty Counsel to Mr Mustafa.⁶

¹ Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020, public ('Rules'); *see also* Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015, Articles 21(4), 21(5), 34(7) and 41(4)(b).

² KSC-CA-2023-02, F00041, Notification of Approval of Counsel for Salih Mustafa with one confidential Annex, 11 January 2024, public.

³ KSC-SC-2024-02, F00001, Mustafa Urgent Motion for an Extension of Time to File a Request for Protection of Legality, 16 January 2024, public.

⁴ KSC-SC-2024-02, F00006, Prosecution Challenge to Appointment of Counsel, 23 January 2024, public.

⁵ KSC-SC-2024-02, F00008, Decision on Prosecution Motion Regarding Conflict of Interest of Defence Counsel, 25 January 2024, public.

⁶ KSC-SC-2024-02, F00010, Notification of Assignment of Duty Counsel to Salih Mustafa with one confidential Annex, 29 January 2024, public; KSC-CA-2023-01/R001, F00006, Notification of Assignment of Duty Counsel to Salih Mustafa with one confidential Annex, 29 January 2024, public.

7. On 26 January 2024, Ms Alagendra filed a request before Trial Panel II in case KSC-BC-2020-06 for a determination pursuant to Article 28(4)(b)(1) of the Code of Professional Conduct ('Request').⁷
8. On 8 February 2024, Trial Panel II issued its Decision on Ms Alagendra's Request.⁸
9. On 9 February 2024, Ms Alagendra inquired with the Registrar and the Defence Office about her appointment as Counsel to Mr Mustafa.⁹
10. On 16 February 2024, the Registrar issued a decision, denying the request to appoint Ms Alagendra as Counsel to Mr Mustafa, pursuant to Sections 12(5) and 13(3) of the Directive and Articles 28(3)(b) and 28(4)(b)(1) of the Code of Professional Conduct.¹⁰
11. On 19 February 2024, Mr Mustafa informed the Registry that he wished to be represented by Mr Von Bóné. He provided the signed Appointment Form and Power of Attorney.
12. Accordingly, on 20 February 2024, the Registrar: (i) terminated the appointment of Mr Van Puyenbroeck as Duty Counsel for Mr Mustafa; and (ii) appointed Mr Von Bóné, who is admitted to the List of Counsel pursuant to Sections 7(3) and 18(1) of the Directive on Counsel, as Counsel for Mr Mustafa in accordance with Sections 12 and 13 of the Directive on Counsel.¹¹

⁷ KSC-BC-2020-06, F02084, Defence Counsel Request for Determination Pursuant to Article 28(4)(b)(i) of the Code of Conduct with Confidential and *Ex Parte* Annexes 1-4, 26 January 2024, confidential ('Request').

⁸ KSC-BC-2020-06, F02112, Decision on Defence Counsel Request for Determination Pursuant to Article 28(4)(b)(i) of the Code of Professional Conduct for Counsel and Prosecutors (Conflict of Interest), 8 February 2024, public ('Decision').

⁹ Email from Ms Alagendra to the Immediate Office of the Registrar and Defence Office Coordination, Subject: Inquiry about Counsel Appointment to Salih Mustafa, 9 February 2024.

¹⁰ Decision of the Registrar, KSC/REG/IOR/6776, 16 February 2024, confidential.

¹¹ See Decision on Admission to the List of Specialist Counsel, KSC/REG/DEF/0100, 20 September 2018; Decision of the Registrar, KSC/REG/IOR/6792, 20 February 2024, confidential; Annex 1, Letter of Termination of Representation, KSC/REG/6794, 19 February 2024, confidential; Annex 2, Appointment Letter, KSC/REG/IOR/6793, 19 February 2024, confidential.

13. Pursuant to Rule 82(3) of the Rules, the Registrar submits that the Annexes to this filing are classified as confidential as they contain personal information concerning Duty Counsel and newly appointed Counsel.

Word count: 753

A handwritten signature in cursive script, reading "Fidelma Donlon", written in black ink on a white background.

Dr Fidelma Donlon

Registrar

Wednesday, 21 February 2023
At The Hague, the Netherlands