



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: **KSC-BC-2018-01**

Before: **Single Judge Panel**
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 24 September 2020

Language: English

Classification: **Public**

**Public Redacted Version of
Order for Transfer to Detention Facilities of the Specialist Chambers**

Specialist Prosecutor

Jack Smith

To be served on

Mr Hysni Gucati

I, JUDGE NICOLAS GUILLOU, Single Judge of the Kosovo Specialist Chambers assigned by the President of the Specialist Chambers pursuant to Article 33(2) of Law No. 05/L-53 on Specialist Chambers and Specialist Prosecutor's Office (the "Law");

BEING SEISED of the strictly confidential and *ex parte* request of the Specialist Prosecutor's Office ("SPO") for arrest warrants and related orders, dated 22 September 2020;

HAVING FOUND that there is grounded suspicion that Hysni Gucati, the head of the Kosovo Liberation Army War Veterans Association ("Mr Gucati") is criminally responsible for the offences of intimidation during criminal proceedings, retaliation and violating secrecy of proceedings, punishable under Articles 387, 388 and 392 of the 2019 Criminal Code of Kosovo, No. 06/L-074, by virtue of Article 15(2) of the Law;

HAVING FOUND that there are articulable grounds to believe that Mr Gucati's arrest is necessary;

HAVING ISSUED an arrest warrant against Mr Gucati, born on 30 March 1967 in Morinë, Skënderaj/Srbica, Kosovo, currently a Kosovan national, Personal Number [REDACTED], with last known residence in [REDACTED], Kosovo;

NOTING the decision of the President of the Specialist Chambers to relocate the present proceedings to The Netherlands ("Host State");

PURSUANT TO Articles 3(8)(a), 39(3), 41(5) and (7), 53 and 55 of the Law, Rules 50, 55(4) and (6) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers;

ORDER the Registrar to transmit the present transfer order to Kosovo, any relevant (transiting) Third State, as the case may be, and the Host State;

ORDER the Registrar to make the necessary arrangements for the prompt transfer of Mr Gucati to the detention facilities of the Specialist Chambers in the Host State, in coordination with the SPO and the competent authorities of Kosovo, any relevant (transiting) Third State, as the case may be, and the Host State;

ORDER the Registrar when transmitting the present transfer order to seek assistance for, in particular: (i) the safe and unobstructed passage of Mr Gucati and accompanying officers as well as any and all possessions of the aforementioned persons through border control and other checkpoints; (ii) accepting travel and identification documents issued by the Host State or the Specialist Chambers; and (iii) ensuring safety and security of any aircraft and/or other means of transportation utilized for any such transfer and facilitating the unobstructed passage through national border controls of its crew, if required;

AUTHORISE the Registrar to direct the competent Kosovo authorities to provide any relevant details or information regarding the transfer of Mr Gucati to the Registrar, recalling that, given the primacy of the Specialist Chambers over all other courts in Kosovo, the Kosovo authorities shall comply with the present order, in accordance with Article 53(2) and (3) of the Law, thus effectuating Mr Gucati's transfer; and recalling that, should any entity, official of the Kosovo Government or any other person in Kosovo obstruct the execution of the present order or violate any of its conditions, this may constitute an offence pursuant to Article 15(2) of the Law;

AUTHORISE the Registrar to request the competent authorities of any relevant (transiting) Third State, as the case may be, to provide their assistance for effectuating the transfer of Mr Gucati, in accordance with Article 55 of the Law. In this regard, should any technical or logistical difficulties or impediments arise in the execution of this order, the competent state authorities are invited to raise such issues with the representatives of the SPO and/or the Registry, as the case may be;

ORDER the Registrar to take all necessary measures to ensure operational security and the security and safety of Mr Gucati and any accompanying court officers and

other staff during transfer until arrival at the place of detention in the Host State, including issuing the necessary requests to the Host State and (transiting) Third States;

DECIDE that the present order, currently classified strictly confidential *ex parte*, may be communicated, or its existence be revealed, to any competent authority of Kosovo, a (transiting) Third State, as the case may be, and the Host State, as necessary for the execution of the transfer order;

ORDER the SPO to transmit to the Registrar all available information that may be of assistance in the execution of the transfer order as well as any information of relevance to assessing any risks to victims and witnesses associated with the arrest and transfer of the suspect; and

RECALL that pursuant to Articles 53(2) and 54 of the Law, the Specialist Chambers have primacy over all other courts in Kosovo, and the present order has the same force and effect as an order issued by any other Kosovo court or judge.



Judge Nicolas Guillou
Single Judge

Dated this Thursday, 24 September 2020
At The Hague, the Netherlands.