



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: **KSC-BC-2020-07**

Before: **Single Judge**
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 29 September 2020

Language: English

Classification: **Public**

Decision Setting the Date for the First Appearance of Hysni Gucati

Specialist Prosecutor
Jack Smith

Counsel for Hysni Gucati
Jonathan Elystan Rees

THE SINGLE JUDGE,¹ pursuant to Articles 39(6) and 41(5) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 55(6) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 22 September 2020, the Specialist Prosecutor's Office submitted a request for the issuance of an arrest warrant and corresponding transfer order against Hysni Gucati ("Mr Gucati").²
2. On 24 September 2020, the Single Judge issued the "Arrest Warrant for Hysni Gucati"³ and the "Order for Transfer to Detention Facilities of the Specialist Chambers".⁴
3. On 25 September 2020, Mr Gucati was arrested⁵ and transferred to the detention facilities of the Specialist Chambers in The Hague, the Netherlands.⁶

¹ KSC-BC-2020-07, F00003, President, *Decision Assigning a Single Judge Pursuant to Article 33(2) of the Law*, 29 May 2018, public.

² KSC-BC-2020-07, F00009, Specialist Prosecutor, *Urgent Request for Arrest Warrants and Related Orders*, 22 September 2020, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*.

³ KSC-BC-2020-07, F00012/A01/RED, Single Judge, *Public Redacted Version of Arrest Warrant for Hysni Gucati*, 24 September 2020, public.

⁴ KSC-BC-2020-07, F00012/A02/RED, Single Judge, *Public Redacted Version of Order for Transfer to Detention Facilities of the Specialist Chambers*, 24 September 2020, public.

⁵ KSC-BC-2020-07, F00015, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 25 September 2020, strictly confidential and *ex parte*.

⁶ KSC-BC-2020-07, F00018, Registrar, *Notification of the Reception of Hysni Gucati in the Detention Facilities of the Specialist Chambers*, 25 September 2020, strictly confidential and *ex parte*, with Annex 1, strictly confidential and *ex parte*.

4. On 28 September 2020, the Registrar appointed Jonathan Elystan Rees (“Mr Rees”) as Counsel for Mr Gucati in accordance with Sections 12 and 13 of the Directive on Counsel.⁷

5. On the same day, Mr Rees, Counsel for Mr Gucati, requested that the first appearance of Mr Gucati before the Single Judge take place on 1 October 2020 (“Request”).⁸

II. APPLICABLE LAW

6. Pursuant to Article 41(5) of the Law, a person deprived of liberty by or on behalf of the Specialist Chambers shall be transferred by way of travel specified in an order to the Specialist Chambers and brought before a Specialist Chambers Judge without delay.

7. Pursuant to Rule 55(6) of the Rules, any person arrested pursuant to an arrest warrant issued by the Specialist Chambers shall be brought without undue delay before a Panel, which shall satisfy itself that the person has been informed of the reasons for his or her arrest and of his or her rights under the Law and the Rules.

8. Pursuant to Article 39(6) of the Law, hearings, including the first appearance of a suspect, shall be public, unless the Specialist Chambers Judge decides otherwise in accordance with the Rules.

⁷ KSC-BC-2020-07, F00024, *Notification of the Appointment of Counsel*, 28 September 2020, public, with Annex 1, confidential.

⁸ KSC-BC-2020-07, F00025, *Request for Listing of the Appearance of the Applicant Before the Judge Pursuant to Article 41(5) of the Law on Specialist Chambers and Specialist Prosecutor’s Office*, 28 September 2020, confidential. A corrigendum was filed on 29 September 2020 with the signature of counsel as F00025/COR. For future purposes, counsel’s attention is drawn to Article 29(5)(c) and (d) of the Registry Practice Direction on Files and Filings before the Kosovo Specialist Chambers which requires that the date and place of the signature be reflected on the last page of the submission.

III. DISCUSSION

9. Considering that the arrest of Mr Gucati and his transfer to the detention facilities of the Specialist Chambers took place on 25 September 2020, the Single Judge finds it appropriate to schedule a hearing for Mr Gucati's first appearance before him as soon as practicable, taking into account the constraints of COVID-19, with a view to ensuring that Mr Gucati's rights under the Law and the Rules are respected. The Single Judge also notes the Request of Mr Rees, Counsel for Mr Gucati, that the first appearance take place on 1 October 2020 and the fact that the Request was made with Mr Gucati's approval.⁹

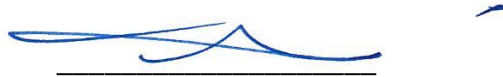
10. Furthermore, noting that the publicity of hearings may extend beyond the courtroom, the Single Judge authorises the taking of photographs at the start of the hearing.

IV. DISPOSITION

11. For the above-mentioned reasons, the Single Judge hereby:

- a) **DECIDES** to convene the hearing for the first appearance of Hysni Gucati before the Single Judge on **Thursday, 1 October 2020, at 15:00 hours**; and
- b) **AUTHORISES** the Registrar to organise at the start of the hearing the taking of photographs for one minute and a half.

⁹ Request, paras 1, 3.



Judge Nicolas Guillou

Single Judge

Dated this Tuesday, 29 September 2020

At The Hague, the Netherlands.