

In: KSC-BC-2020-07

The Prosecutor v. Hysni Gucati and Nasim Haradinaj

Before: Single Judge

Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hysni Gucati

Date: 27th October 2020

Language: English

Classification: Public

To be submitted to: The President of the Specialist Chambers, Judge
Ekaterina Trendafilova re the issue of assignment of a
new Judge

Request for an Urgent Response from the Specialist Chambers:
relating to F00052 and F00054

Specialist Prosecutor

Jack Smith

Counsel for Hysni Gucati

Jonathan Elystan Rees QC

Counsel for Nasim Haradinaj

Bastiaan Martens

REQUEST FOR AN URGENT RESPONSE FROM THE SPECIALIST CHAMBERS
RELATING TO F00052 AND F00054

1. On 20th and 21st October 2020, the Applicant, Mr Gucati, filed urgent requests for an oral hearing¹ to determine his outstanding motions, including (i) his challenge to the lawfulness of his arrest, detention and transfer² and (ii) his application for bail³. No response has been received to date.
2. The Applicant respectfully requests an urgent response from the Specialist Chambers in relation thereto.
3. The Applicant's motions challenging the lawfulness of his arrest, detention and transfer and applying for bail were filed on 30th September 2020.
4. Article 41(2) of the Law⁴ requires that any challenge to the lawfulness of arrest and detention shall be decided "speedily" by the Specialist Chambers and yet the Applicant awaits a decision on his motions challenging the lawfulness of his arrest and detention, and applying for bail, almost four weeks after filing the same.

¹ "Request for an oral hearing" KSC-BC-2020-7/F00052; "Request for an oral hearing: Further Note Re Prosecution Response to Defence Request for an Oral Hearing" KSC-BC-2020-7/F00054

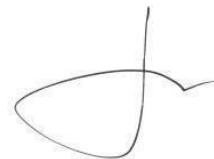
² "Challenge to the Lawfulness of the Arrest in accordance with Article 41(2): the Arrest Warrant was Issued without Lawful Authority" KSC-BC-2020-7/F00034

³ "Application for Bail" KSC-BC-2020-7/F00038

⁴ Law on Specialist Chambers and Specialist Prosecutor's Office Law No.05/L-053 ("Law")

5. Reflecting the fundamental importance of a speedy determination of challenges to the lawfulness of arrest and detention, with the liberty of the applicant at stake, the Law⁵ and Rules⁶ provide for an unqualified right of appeal to a Court of Appeals Panel, and for release⁷ and the payment of compensation⁸ where detention is/was unlawful.
6. Accordingly, the Applicant respectfully requests an urgent response from the Specialist Chambers to his previous requests for an oral hearing at first instance to be listed in the week commencing yesterday (26th October 2020), with a provisional hearing before a Court of Appeals Panel to be listed to follow, if required, during the period beginning the day after the first instance hearing and ending on 13th November 2020⁹.

Word count: 403 words



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27th October 2020

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⁵ Articles 41(10) and 45(2) of the Law

⁶ Rule 58(1) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers KSC-BD-03/Rev3/2020 ("Rules")

⁷ Article 41(2) of the Law

⁸ Rule 51(1) of the Rules

⁹ "Request for an oral hearing" KSC-BC-2020-7/F00052 at paragraph 8; "Request for an oral hearing: Further Note Re Prosecution Response to Defence Request for an Oral Hearing" KSC-BC-2020-7/F00054 at paragraph 8