



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

File number: KSC-BC-2020-07/IA001

Before: The President of the Specialist Chambers
Judge Ekaterina Trendafilova

Registrar: Fidelma Donlon

Date: 4 November 2020

Language: English

Classification: Public

Decision Assigning a Court of Appeals Panel

Judges of the Court of Appeals Panel:

Judge Michèle Picard

Judge Emilio Gatti

Judge Kai Ambos

Specialist Prosecutor's Office:

Jack Smith

Counsel for Hysni Gucati:

Jonathan Elystan Rees

Counsel for Nasim Haradinaj:

Bastiaan Martens

THE PRESIDENT of the Specialist Chambers (“President”), acting pursuant to Articles 33(1)(c), 41(10) and 45(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”),¹ Rules 58, 169 and 170 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”) and Rules 3 and 4 of the Rules on Assignment of Specialist Chambers Judges from the Roster of International Judges (“Rules on Assignment”), herewith assigns a Court of Appeals Panel to decide on the interlocutory appeal by Mr Hysni Gucati against two decisions by the Single Judge related to his arrest and detention (“Appeal”).²

I. PROCEDURAL BACKGROUND

1. On 27 October 2020, the Single Judge issued two decisions.³ In the first decision, the Single Judge, *inter alia*, rejected Mr Gucati’s motion: (i) requesting the assignment of a new Judge to determine his challenges against his detention; (ii) requesting an order for the disclosure of all material and relevant evidence or facts in possession of the Specialist Prosecutor’s Office; and (iii) challenging the legality of his arrest warrant (“First Impugned Decision”).⁴ In the second decision, the Single Judge rejected Mr Gucati’s motion for release on bail (“Second Impugned Decision”).⁵

2. On 3 November 2020, Mr Gucati appealed: (i) the First Impugned Decision, insofar as it relates to the rejection of his challenges to the legality of the arrest warrant; and (ii) the Second Impugned Decision.⁶

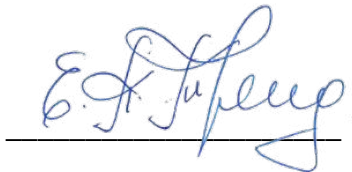
¹ The President recalls that according to Articles 33(1)(a), (c) and 45 of the Law, an assignment of a Court of Appeals Panel occurs once an interlocutory appeal has been filed by an accused in relation to a decision issued by a Pre-Trial Judge. In the present case, the interlocutory appeal has been submitted by Mr Gucati, who is currently a suspect. The President considers that since the interlocutory appeal concerns one of the core fundamental human rights, namely the right to liberty, such overriding value should prevail, and thus, Mr Gucati should not be prevented from being heard on appeal. *See Medvedyev and others v. France*, Judgment, 29 March 2010, para. 76 (“The Court reiterates that Article 5 of the Convention protects the right to liberty and security. This right is of the highest importance “in a democratic society” within the meaning of the Convention”); *Winterwerp v. the Netherlands*, Judgment,

II. ASSIGNMENT

3. Having considered the criteria set forth in Rule 4(2) of the Rules on Assignment, including relevant experience and expertise as well as availability at this time,

THE PRESIDENT HEREBY ASSIGNS:**Judge Michèle Picard****Judge Emilio Gatti****Judge Kai Ambos**

to the Court of Appeals Panel to decide on the Appeal.



**Judge Ekaterina Trendafilova,
President of the Specialist Chambers**

Dated this Wednesday, 4 November 2020
At The Hague,
The Netherlands

24 October 1979, para. 37, Series A no. 33. *De Wilde, Ooms and Versyp v. Belgium*, Judgment, 18 June 1971, para. 65, Series A no. 12. This principle has been reflected fully in the relevant Rules of Procedure and Evidence.

² IA001/F00001, Notice of Interlocutory Appeal on behalf of Hysni Gucati (“the Appellant”), 3 November 2020.

³ F00057, Decision on Defence Challenges, 27 October 2020; F00059, Application for Bail, 27 October 2020.

⁴ First Impugned Decision, para. 48.

⁵ Second Impugned Decision, para. 25.

⁶ See generally Appeal.