



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

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: Dr Fidelma Donlon

Date: 4 November 2020

Language: English

Classification: Public

Notification of the Conditional Assignment of Counsel to Hysni Gucati

with one confidential Annex

Specialist Prosecutor's Office

Jack Smith

Counsel for Hysni Gucati

Jonathan Elystan Rees

Duty Counsel for Nasim Haradinaj

Bastiaan Martens

1. Pursuant to Rules 26(1) of the Rules¹, the Registrar hereby informs the Single Judge of the conditional assignment of Mr Johnathan Elystan Rees as Counsel to Mr Hysni Gucati ('Mr Gucati').
2. Pursuant to Section 18(6) of the Directive on Counsel², the Registrar further informs the Single Judge of the withdrawal of Mr Valon Hasani as Co-Counsel and the approval of Mr Huw Bowden as Co-Counsel for Mr Gucati.

I. APPLICABLE LAW

3. Pursuant to Section 12(1)(a)-(b) of the Directive on Counsel, the Registrar shall *appoint* chosen Counsel to a suspect or Accused who has sufficient means to retain Counsel and shall *assign* Counsel to a suspect or Accused who fully or partially lacks the means to remunerate Counsel if proven to be fully or partially indigent in accordance with the Legal Aid Regulations ('LAR').³
4. Pending the assignment of Counsel, the Registrar may conditionally assign Counsel to a suspect or Accused in accordance with the LAR.⁴
5. Appointed or assigned Counsel may choose members of his or her team, including Co-Counsel, in accordance with Section 18 of the Directive on Counsel.

II. APPOINTMENT

6. On 28 September 2020, Mr Gucati requested the appointment of Mr Rees as Counsel and signed a Power of Attorney. The Registrar appointed Mr Rees as Counsel in accordance with Sections 12 and 13 of the Directive on Counsel.⁵

¹ Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, as amended on 29 and 30 April 2020 ('Rules'); *see also* Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015, arts 21(4), 21(5), 34(7) and 41(4)(b).

² Directive on Counsel, KSC-BD-04, 6 November 2017.

³ Legal Aid Regulations, KSC-BD-25, 3 September 2020.

⁴ *See* Directive on Counsel, sect. 14(3); Legal Aid Regulations, reg. 11(1).

⁵ *See* KSC-BC-2020-07/F00024, Notification of the Appointment of Counsel, 28 September 2020, public; *see also* Directive on Counsel, sect. 12, 13.

III. ASSIGNMENT

7. On 16 October 2020, Mr Gucati submitted to the Registrar, through the Head of the Defence Office, a Legal Aid Request Form and a corresponding request for the assignment of Mr Rees as Counsel.⁶

8. On 30 October 2020, pending the completion of an indigence assessment, the Registrar conditionally assigned Mr Rees as Counsel to Mr Gucati for the duration of the Pre-Indictment Stage of Proceedings.⁷

9. On 3 November 2020, Mr Rees accepted the provisional determination of the Legal Aid Fee.

10. Upon the conclusion of contract formalities, the Registrar shall award Mr Rees a contract in accordance with Regulation 11(3) of the LAR, which shall be retroactive from the date of Mr Gucati's submission of the Legal Aid Request Form.⁸

11. In accordance with Regulation 11 of the LAR, Mr Gucati is informed that he shall reimburse full or partial costs of legal representation if it is subsequently established that he is not indigent or only partially indigent, if he has failed to cooperate in the assessment of his indigence or partial indigence; or if he has provided false information or intentionally omitted relevant information for the purpose of the assessment of his indigence or partial indigence.

IV. CO-COUNSEL

12. On 28 September 2020, upon request of Counsel, the Registrar approved Mr Valon Hasani as Co-Counsel for Mr Gucati in accordance with Section 18 of the Directive on Counsel.⁹

13. On 17 October 2020, pursuant to Section 18(6) of the Directive on Counsel, Mr Rees informed the Defence Office that Mr Hasani intended to withdraw as Co-Counsel for Mr Gucati. Mr Rees further informed the Defence Office on 20 October 2020 that

⁶ See Annex 1.

⁷ See Annex 1.

⁸ See Annex 1.

⁹ See KSC-BC-2020-07/F00024, para. 8.

the termination of the contract with Mr Hasani as Co-Counsel would be accomplished without material adverse effect on the interests of Mr Gucati and the duration of the proceedings.

14. On 20 October 2020, Mr Rees further requested the Registrar to approve Mr Huw Bowden, who is presently a member of Counsel's Team, as Co-Counsel. Mr Bowden is admitted to the List of Specialist Counsel in accordance with Section 18(1) of the Directive on Counsel.¹⁰

15. On 30 October 2020, the Registrar informed Mr Rees of the approval of Mr Bowden as Co-Counsel for Mr Gucati and the approval of Mr Hasani's withdrawal as Co-Counsel.

V. CLASSIFICATION

16. This submission is filed as public, whereas Annex 1 is filed as confidential pursuant to Rule 82(1)(b) and (3) of the Rules, as it contains personal information about Mr Gucati, namely his passport number, as well as personal information about Counsel, namely Counsel's contact details and passport number.

Word count: 771



Dr Fidelma Donlon
Registrar

Monday, 2 November 2020
At The Hague, the Netherlands

¹⁰ Decision on Admission to the List of Specialist Counsel, KSC/REG/DEF/0074, 25 April 2019.