



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** **KSC-BC-2020-07**  
**The Prosecutor v. Hysni Gucati and Nasim Haradinaj**

**Before:** **Pre-Trial Judge**  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Date:** 9 December 2020

**Language:** English

**Classification:** **Public**

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**Order for Submissions on the Review of Detention**

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**Specialist Prosecutor**  
Jack Smith

**Counsel for Hysni Gucati**  
Jonathan Elystan Rees  
Huw Bowden

**Counsel for Nasim Haradinaj**  
Bastiaan Martens

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 41(10) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

## I. PROCEDURAL BACKGROUND

1. On 24 September 2020, the Single Judge issued, upon request,<sup>2</sup> arrest warrants against Hysni Gucati ("Mr Gucati") and Nasim Haradinaj ("Mr Haradinaj") (collectively, "Suspects"), as well as orders for their transfer to the Specialist Chambers' detention facilities in The Hague, the Netherlands ("SC Detention Facilities").<sup>3</sup>

2. On 25 September 2020, the Suspects were arrested in Kosovo.<sup>4</sup> Mr Gucati and Mr Haradinaj were transferred to the SC Detention Facilities on 25 and 26 September 2020, respectively.<sup>5</sup>

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<sup>1</sup> KSC-BC-2020-07, F00061, President, *Decision Assigning a Pre-Trial Judge*, 29 October 2020, public. Prior to this decision, the President had assigned the same Judge as Single Judge; see KSC-BC-2020-07, F00003, President, *Decision Assigning a Single Judge Pursuant to Article 33(2) of the Law*, 29 May 2018, public.

<sup>2</sup> 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*. A public redacted version and a confidential redacted version of this request were filed on 1 October 2020.

<sup>3</sup> KSC-BC-2020-07, F00012/A01/RED, Single Judge, *Public Redacted Version of Arrest Warrant for Hysni Gucati*, 24 September 2020, public; KSC-BC-2020-07, F00012/A03/COR/RED, Single Judge, *Public Redacted Version of the Corrected Version of Arrest Warrant for Nasim Haradinaj*, 24 September 2020, public; 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; KSC-BC-2020-07, F00012/A04/RED, Single Judge, *Public Redacted Version of Order for Transfer to Detention Facilities of the Specialist Chambers*, 24 September 2020, public.

<sup>4</sup> KSC-BC-2020-07, F00015, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 25 September 2020, public; KSC-BC-2020-07, F00016, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 25 September 2020, public.

<sup>5</sup> KSC-BC-2020-07, F00018, Registrar, *Notification of the Reception of Hysni Gucati in the Detention Facilities of the Specialist Chambers*, 25 September 2020, public, with Annex 1, confidential; KSC-BC-2020-07, F00020, Registrar, *Notification of the Reception of Nasim Haradinaj in the Detention Facilities of the Specialist Chambers*, 26 September 2020, public, with Annex 1, confidential.

3. On 27 October 2020, the Single Judge issued the “Decision on Request for Immediate Release of Nasim Haradinaj” and the “Decision on Application for Bail” (collectively referred to as “Detention Review Decisions”), dismissing Defence challenges to the Suspects’ continued detention.<sup>6</sup>
4. On 30 October 2020, the Specialist Prosecutor’s Office (“SPO”) filed a strictly confidential and *ex parte* indictment against the Suspects (“Indictment”), seeking its confirmation by the Pre-Trial Judge.<sup>7</sup>
5. On 3 December 2020, the Pre-Trial Judge issued a decision setting a target date for a decision pursuant to Article 39(2) of the Law.<sup>8</sup>
6. On 9 December 2020, the Court of Appeals Panel rendered a decision denying, *inter alia*, Mr Gucati’s appeal of the Single Judge’s “Decision on Application for Bail” issued on 27 October 2020.<sup>9</sup>

## II. APPLICABLE LAW

7. Pursuant to Article 41(10) of the Law, until a judgment is final or until release, upon the expiry of two months from the last ruling on detention, the Pre-Trial Judge seized with the case shall examine whether reasons for detention still exist and render a ruling by which detention is extended or terminated.
8. Pursuant to Rule 57(2) of the Rules, after the assignment of a Pre-Trial Judge and until a judgment is final, the Panel seized with a case shall review a decision on detention upon the expiry of two months from the last ruling on detention, in

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<sup>6</sup> KSC-BC-2020-07, F00058, Single Judge, *Decision on Request for Immediate Release of Nasim Haradinaj*, 27 October 2020, public, para. 33; F00059, Single Judge, *Decision on Application for Bail*, 27 October 2020, public, para. 25.

<sup>7</sup> KSC-BC-2020-07, F00063, Specialist Prosecutor, *Submission of Indictment for Confirmation and Related Requests*, 30 October 2020, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*.

<sup>8</sup> KSC-BC-2020-07, F00072, Pre-Trial Judge, *Decision on Proceedings Concerning the Review of Detention and Setting a Target Date for a Decision Pursuant to Article 39(2)*, 3 December 2020, confidential.

<sup>9</sup> KSC-BC-2020-07/IA001, F00005, Court of Appeals Panel, *Decision on Hysni Gucati’s Appeal on Matters Related to the Arrest and Detention*, 9 December 2020, public, para. 78.

accordance with Article 41(6), (10), (11) and (12) of the Law or at any time upon request by the Accused or the Specialist Prosecutor, or *proprio motu*, where a change in circumstances since the last review has occurred.

### III. DISCUSSION

9. The Pre-Trial Judge notes that Mr Gucati and Mr Haradinaj have been in detention since their arrest on 25 and 26 September 2020, respectively, and their detention was last reviewed on 27 October 2020. In this case and in accordance with Article 41(10) of the Law and Rule 57(2) of the Rules, the next review of their detention must occur two months from the last ruling on detention, namely the Detention Review Decisions, and consequently by 27 December 2020.

10. Prior to rendering decisions reviewing the detention of Mr Gucati and Mr Haradinaj, the Pre-Trial Judge shall consider submissions from the Parties on these matters.

### IV. DISPOSITION

11. For the above-mentioned reasons, the Pre-Trial Judge hereby requests the Parties to file written submissions, by **Friday, 18 December 2020**, on whether reasons for the continued detention of Mr Gucati and Mr Haradinaj still exist or whether their detention should be terminated.



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**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Wednesday, 9 December 2020  
At The Hague, the Netherlands.