



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:** 14 December 2020

**Language:** English

**Classification:** **Public**

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**Decision Setting the Date for the Initial Appearance and Related Matters**

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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 Articles 20 and 39(4) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 8(3)(a), 87(6), 92(1) and 96 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 25 September 2020, Hysni Gucati ("Mr Gucati") and Nasim Haradinaj ("Mr Haradinaj") were arrested pursuant to warrants issued by the Single Judge, on grounded suspicion of being criminally responsible for offences under Articles 387, 388 and 392 of the 2019 Kosovo Criminal Code, Law No. 06/L-074 ("KCC"), by virtue of Article 15(2) of the Law.<sup>2</sup>
2. On 30 October 2020, the Specialist Prosecutor submitted for confirmation a strictly confidential and *ex parte* indictment ("Indictment") against Mr Gucati and Mr Haradinaj, together with evidentiary material supporting the facts underpinning the charges and a detailed outline demonstrating the relevance of each item of evidentiary material to each allegation.<sup>3</sup>
3. On 11 December 2020, the Pre-Trial Judge confirmed in part the Indictment and ordered the Specialist Prosecutor's Office ("SPO") to submit a revised indictment, as confirmed ("Confirmed Indictment").<sup>4</sup>

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<sup>1</sup> KSC-BC-2020-07, F00061, President, *Decision Assigning a Pre-Trial Judge*, 29 October 2020, public.

<sup>2</sup> KSC-BC-2020-07, F00012/A01/RED, Single Judge, *Public Redacted Version of Arrest Warrant for Hysni Gucati*, 24 September 2020, public; 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, F00015, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 25 September 2020, public; F00016, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 25 September 2020, public.

<sup>3</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 and 2, strictly confidential and *ex parte*.

<sup>4</sup> KSC-BC-2020-07, F00074, Pre-Trial Judge, *Decision on the Confirmation of the Indictment* ("Confirmation Decision"), 11 December 2020, strictly confidential and *ex parte*.

4. On 14 December 2020, the SPO submitted the Confirmed Indictment,<sup>5</sup> with redactions as authorised by the Pre-Trial Judge.<sup>6</sup> The Confirmed Indictment charges Mr Gucati and Mr Haradinaj (collectively, the “Accused”) with offences under Articles 387, 388, 392 and 401 of the KCC, by virtue of Article 15(2) of the Law.<sup>7</sup>

## II. APPLICABLE LAW

5. Pursuant to Article 39(4) of the Law, a person against whom an indictment has been confirmed shall be immediately informed of the charges against him or her.

6. Pursuant to Rules 87(6) and 92(1) of the Rules, the accused shall be brought before the Pre-Trial Judge without undue delay for his or her initial appearance.

7. Pursuant to Articles 21(2) and 39(6) of the Law, hearings, including the hearing on the initial appearance of the accused, shall be public, unless the Pre-Trial Judge decides otherwise in accordance with the Rules.

8. Pursuant to Rule 96(1) of the Rules the Pre-Trial Judge shall convene a status conference as soon as possible after the initial appearance of the accused in order to: (i) organise exchanges between the Parties so as to ensure expeditious preparation for trial; (ii) take steps to ensure that all necessary preparations are being conducted by the Parties in a timely and diligent fashion; and (iii) review the status of the case and allow the Parties the opportunity to raise issues in relation thereto.

9. Pursuant to Rule 96(2) of the Rules, a status conference may be conducted: (i) in the presence of the accused, with his or her Counsel participating via video-conference;

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<sup>5</sup> KSC-BC-2020-07, F00075, Specialist Prosecutor, *Submission of Confirmed Indictment*, 14 December 2020, public, with Annex 1 (“Confirmed Indictment”), strictly confidential, and Annex 2, (“Public Redacted Confirmed Indictment”), public.

<sup>6</sup> Confirmation Decision, para. 155(c).

<sup>7</sup> Public Redacted Confirmed Indictment, para. 48.

- (ii) in the presence of Counsel, with the accused participating via video-conference; or
- (iii) in the absence of the accused, with Counsel present or participating via video-conference.

### III. DISCUSSION

#### A. INITIAL APPEARANCE

10. Considering that the Accused are currently in detention and with a view to ensuring that their rights under the Law are respected, the Pre-Trial Judge finds it appropriate to schedule respective hearings on their initial appearance as soon as practicable, taking into account the availability of Defence Counsel and the constraints of COVID-19.

11. Furthermore, noting that the publicity of hearings may extend beyond the courtroom, the Pre-Trial Judge authorises the taking of photographs at the start of each hearing on the initial appearance, as the case may be.

#### B. WORKING LANGUAGES

12. The Pre-Trial Judge finds that, unless there are compelling reasons to depart from the earlier ruling, the working language in these proceedings shall remain English.<sup>8</sup>

13. The Pre-Trial Judge recalls that the determination of the working language of proceedings leaves unaffected the language and/or translation of evidence and other necessary documentation for the benefit of the Accused.<sup>9</sup>

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<sup>8</sup> KSC-BC-2020-07, F00060, Single Judge, *Decision on Working Language*, 29 October 2020, public.

<sup>9</sup> Articles 21(4)(a) and 39(5) of the Law; Rules 86(8), 87(1), 92(2)(b) and 102(1) of the Rules.

## C. DATE OF STATUS CONFERENCE

14. The Pre-Trial Judge invites the Parties to make submissions at the respective initial appearances indicating their availability for a status conference on 7 January 2021. The Defence is also invited to indicate in their submissions whether Counsel and/or the Accused intend to participate in the status conference in person or via video-conference as prescribed by Rule 96(2) of the Rules.

## IV. DISPOSITION

15. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a) **DECIDES** to convene the hearing on the initial appearance of Mr Haradinaj on **Tuesday, 15 December 2020, at 15:00 hours;**
- b) **DECIDES** to convene the hearing on the initial appearance of Mr Gucati on **Friday, 18 December 2020, at 11:00 hours;**
- c) **AUTHORISES** the Registrar to organise, at the start of each hearing on the initial appearance, the taking of photographs for one minute and a half, as the case may be; and
- d) **INVITES** the Parties to provide, at the respective initial appearances, their oral submissions as indicated in paragraph 14 above, regarding their availability for a status conference on Thursday, 7 January 2021.



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

Dated this Monday, 14 December 2020  
At The Hague, the Netherlands.