

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

Before: Pre-Trial Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Nasim Haradinaj

Date: 6 January 2021

Language: English

Classification: Public

Notification of Non-Attendance of First Status Conference

Specialist Prosecutor

Jack Smith

Counsel for Nasim Haradinaj

Toby Cadman

Carl Buckley

Counsel for Hysni Gucati

Jonathan Elystan Rees QC

Huw Bowden

INTRODUCTION

1. By order dated 18 December 2020 (“Scheduling Order”), the Pre-Trial Judge set the date for a Plea Hearing and the First Status Conference and issued directions for submissions.¹
2. That Plea Hearing and First Status Conference is now listed for 8 January 2021 at 15:00 hrs CET.
3. On behalf of Mr. Haradinaj, an application was made, with one Confidential Annex, on 4 January 2021 for that hearing to be dealt with in the Defendant’s absence.
4. On 6 January 2021, the Pre-Trial Judge issued a Decision in which the Defendant was ordered to appear, in person or via video-conference, for the first part of the Hearing, for the purpose of entering a plea.²

BACKGROUND

5. On 14 December 2020, notice was given that the Pre-Trial Judge has now confirmed an indictment against Mr. Haradinaj.³
6. The indictment alleges six offences contrary to Article 15(2) and 16(3) of Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (‘Law’)

¹ ‘Order Setting the Date for a Status Conference and for Submissions’, KSC-BC-2020-07/F00089/A01

² ‘Decision on Defence Request to Hold Hearing in the Absence of the Accused’, KSC-BC-2020-07/F00097

³ “*Submission of Confirmed Indictment with strictly confidential Annexes 1 and 2*”, KSC-BC-2020-07/F00075 and KSC-BC-2020-07/F00075/A01

and Articles 401, 387, 388 and 392 of the Criminal Code of the Republic of Kosovo, Code No.06/L-074 (2019) ('KCC 2019').⁴

7. On 18 December 2020, Mr. Haradinaj appeared before the Chamber by way of 'initial appearance' and on that occasion declined to enter a plea.
8. By order dated 18 December 2020, the Pre-Trial Judge set the date for a Plea Hearing and the First Status Conference and issued directions for submissions.⁵

SUBMISSIONS

9. We confirm that Mr. Haradinaj has received appropriate advice from both Counsel and Co-Counsel, the issue having been discussed in conference with Mr. Haradinaj on 6 January 2021 following the Pre-Trial Judge's Decision of 6 January 2021.
10. In addition to those matters set out in the Application of 4 January 2021, which are maintained as far taking instructions on relevant issues for the Hearing are concerned, and having previously provided the written consent of Mr. Haradinaj to proceed in his absence, the position on non-attendance is maintained.

⁴ Note: Article 15 of the Law incorporates Chapters XXXII, XXXIII and XXXIV of the Kosovo Criminal Code 2012, Law No04/L-082.

⁵ 'Order Setting the Date for a Status Conference and for Submissions', KSC-BC-2020-07/F00089/A01

11. Matters have been put to Mr. Haradinaj, he has been fully advised as to his right to attend the hearing in person or via video-conference for the purpose of entering a plea.
12. Mr. Haradinaj will decline to attend the hearing, has instructed counsel to appear on his behalf and that a plea of not-guilty be entered to the charges in his absence.
13. As noted in the application of 4 January 2021, Counsel for Mr. Haradinaj will attend the hearing in person and an application is hereby made for Co-Counsel to appear remotely.
14. Word Count: 495 words



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