



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

Registrar: Dr Fidelma Donlon

Date: 7 June 2021

Language: English

Classification: **Public**

Order on Submissions on the Next Review of Nasim Haradinaj's Detention

Specialist Prosecutor
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THE PRE-TRIAL JUDGE,¹ 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 issues this order.

I. PROCEDURAL BACKGROUND

1. On 23 April 2021, the Pre-Trial Judge ordered the continued detention of Nasim Haradinaj ("Mr Haradinaj"). The Pre-Trial Judge also ordered Mr Haradinaj to file submissions on the next review of detention by Tuesday, 1 June 2021 with the submissions by the Specialist Prosecutor's Office ("SPO") to follow thereafter.² However, no submissions have been filed by Mr Haradinaj to date.

II. APPLICABLE LAW AND DISCUSSION

2. The Pre-Trial Judge notes that, pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, the Pre-Trial Judge must examine whether the reasons for detention of Mr Haradinaj still exist upon the expiry of two (2) months from the aforementioned decision of 23 April 2021.

3. In this connection, the Pre-Trial Judge notes that the review of detention every two months under Article 41(10) of the Law is automatic.³ Further, the SPO bears the burden of showing that the detention of Mr Haradinaj is necessary.⁴ Furthermore, it is

¹ 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.

² KSC-BC-2020-07, F00189/RED, Pre-Trial Judge, *Public Redacted Version of the Decision on Review of Detention of Nasim Haradinaj*, 23 April 2021, public, para. 39.

³ KSC-CC-PR-2020-09, F00006, Specialist Chamber of the Constitutional Court, *Judgment on the Referral of Amendments to the Rules of Procedure and Evidence Adopted by the Plenary on 29 and 30 April 2020*, 22 May 2020, public, para. 68.

⁴ KSC-BC-2020-06, IA004, F00005/RED, Court of Appeals Panel, *Public Redacted Version of Decision on Hashim Thaçi's Appeal Against Decision on Interim Release*, 30 April 2021, public, para. 17; KSC-BC-2020-06, IA001, F00005, Court of Appeals Panel, *Decision on Kadri Veseli's Appeal Against Decision on Interim Release*, 30 April 2021, public, para. 14; KSC-BC-2020-06, IA003, F00005/RED, Court of Appeals Panel,

not incumbent upon Mr Haradinaj to demonstrate the existence of reasons warranting his release.⁵

4. In that light, the Pre-Trial Judge orders the SPO to file submissions on the next review of Mr Haradinaj's detention with the opportunity for Mr Haradinaj to file his submissions.

III. DISPOSITION

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

- a. **ORDERS** the SPO to file submissions on the next review of Mr Haradinaj's detention by **Friday, 11 June 2021**; and
- b. **ORDERS** Mr Haradinaj to file submissions on the next review of his detention, if he so wishes, by **Thursday, 17 June 2021**.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Monday, 7 June 2021
At The Hague, the Netherlands

Public Redacted Version of Decision on Rexhep Selimi's Appeal Against Decision on Interim Release, 30 April 2021, public, para. 37; KSC-BC-2020-06, IA002, F00005/RED, Court of Appeals Panel, Public Redacted Version of Decision on Jakup Krasniqi's Appeal Against Decision on Interim Release, 30 April 2021, public, para. 23. See also KSC-BC-2020-07, F00144, Pre-Trial Judge, Decision on Review of Detention of Nasim Haradinaj, 24 February 2021, public, para. 16.

⁵ See KSC-CC-PR-2017-01, F00004, Specialist Chamber of the Constitutional Court, *Judgment on the Referral of the Rules of Procedure and Evidence Adopted by Plenary on 17 March 2017 to the Specialist Chamber of the Constitutional Court Pursuant to Article 19(5) of Law no. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office*, 26 April 2017, public, para. 115.