



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:** **Trial Panel II**  
Judge Charles L. Smith, III, Presiding Judge  
Judge Christoph Barthe  
Judge Guénaél Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Fidelma Donlon

**Date:** 13 October 2021

**Language:** English

**Classification:** Public

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**Order Varying the Time Limit to Respond to F00358**

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**Specialist Prosecutor**

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**TRIAL PANEL II** (“Panel”), pursuant to Article 40(2) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 9(5)(a) and 76 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this order.

## I. PROCEDURAL BACKGROUND

1. On 17 and 18 September 2021, the Defence of Hysni Gucati (“Gucati Defence”) and the Defence of Nasim Haradinaj (“Haradinaj Defence”) filed motions challenging the admissibility of declarations by Specialist Prosecutor witnesses W04841 and W04842 (collectively, the “Motions”).<sup>1</sup>
2. On 24 September 2021, the Specialist Prosecutor Office (“SPO”) responded to the Motions.<sup>2</sup>
3. On 27 September 2021, the Panel issued an order dismissing the Motions (“Order”).<sup>3</sup>
4. On 29 September 2021, both the Gucati Defence and the Haradinaj Defence filed requests for reconsideration of the Order (“Requests”).<sup>4</sup>
5. On 7 October 2021, the Panel denied the Requests (“Impugned Decision”).<sup>5</sup>
6. On 12 October 2021, the Haradinaj Defence filed an application requesting certification to appeal the Impugned Decision (“Application”).<sup>6</sup>

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<sup>1</sup> F00317, Gucati Defence, *Motion to Challenge the Admissibility of Evidence Pursuant to Rule 138(1)*, 17 September 2021, confidential. See also F00317/RED, public. F00318, Haradinaj Defence, *Rule 117(2) Application to Have the Evidence of SPO Witnesses Ruled Inadmissible*, 18 September 2021, confidential.

<sup>2</sup> F00322, Specialist Prosecutor, *Prosecution Consolidated Response to Defence Admissibility Challenges*, 24 September 2021, confidential.

<sup>3</sup> F00328, Panel, *Order on Rule 117 Defence Motions*, 27 September 2021.

<sup>4</sup> F00335, Gucati Defence, *Request for Reconsideration of Decision F00328*, 29 September 2021; F00338, Haradinaj Defence, *Application for Reconsideration of Decision F00328 on Rule 117 Defence Motions*, 29 September 2021.

<sup>5</sup> F00353, Panel, *Decision on the Defence Requests for Reconsideration of Decision F00328*, 7 October 2021.

<sup>6</sup> F00358, Haradinaj Defence, *Application for Certification for Granting Leave to Appeal Decision F00328*, 12 October 2021.

## II. SUBMISSIONS

7. In the Application, the Haradinaj Defence seeks: (i) leave to appeal the Impugned Decision; and (ii) a suspensive order pursuant to Rule 171 of the Rules.<sup>7</sup>

## III. APPLICABLE LAW

8. Pursuant to Rule 76 of the Rules, any response to a motion shall be filed within ten (10) days of the motion and any reply shall be filed within five (5) days of the response.

9. Pursuant to Rule 9(5)(a) of the Rules, the Panel may *proprio motu* reduce any time limit prescribed by the Rules.

## IV. DISCUSSION

10. In accordance with Rule 76 of the Rules, any response to the Application is due by 23 October 2021. Considering that 18 October 2021 is the date when the testimony of W04841 is scheduled to start, the Panel finds it necessary to shorten the time for any response to 14 October 2021, in order to enable the Panel to render an informed decision prior to the commencement of W04841's testimony. For the same reason, the Panel will not entertain any replies.


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<sup>7</sup> Application, paras 51, 56.

**V. DISPOSITION**

11. In light of the foregoing, the Panel:

- a. **ORDERS** the Gucati Defence and the SPO to respond to the Application, if they so wish, by 14 October 2021, 16:00 hours; and
- b. **INFORMS** the Parties that no reply to the responses, if any, will be entertained.



**Judge Charles L. Smith, III**  
**Presiding Judge**

Dated this Wednesday, 13 October 2021

At The Hague, the Netherlands