



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: **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: 5 November 2021

Language: English

Classification: **Public**

Agenda for the 8 November 2021 Hearing

Specialist Prosecutor

Jack Smith

Counsel for Hysni Gucati

Jonathan Elystan Rees

Huw Bowden

Eleanor Stephenson

Counsel for Nasim Haradinaj

Toby Cadman

Carl Buckley

Jonathan Peter Worboys

TRIAL PANEL II ("Panel"), pursuant to Articles 40(2) and 40(4) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 116(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 5 November 2021, the Panel heard the testimony of the last witness of the Specialist Prosecutor's Office ("SPO"), W04876. At the end of the hearing, the SPO indicated that it would request certification for leave to appeal, pursuant to Rule 77 of the Rules, in relation to the Panel's 3 November 2021 decision on Rule 102(3) matters ("Rule 102(3) Decision"),¹ further indicating that it was seeking suspensive effect of the appeal ("Certification Request").²

2. During the hearing, following enquiry by the Panel, the Defence indicated that they respectively intend to file a motion to dismiss charges pursuant to Rule 130 of the Rules. The Defence further indicated that, if the Panel found that there was a case to answer, they intend to call a case.³

3. At the invitation of the Panel, the Defence indicated that the Accused wished to make unsworn statements at the next hearing on 8 November 2021.⁴

¹ Provisional Transcript, 5 November 2011, p. 1692-1963.

² Provisional Transcript, 5 November 2011, p. 1963.

³ Provisional Transcript, 5 November 2011, pp 1916, 1918.

⁴ Provisional Transcript, 5 November 2011, pp 1920, 1970.

II. DISPOSITION

4. In light of the foregoing, and in order to facilitate the fair and expeditious conduct of the trial proceedings, the Panel sets the following agenda for the hearing of the 8 November 2021:

- a. Hear oral submissions from the Defence in response to the Certification Request, and any oral submissions in reply from the SPO. Fifteen (15) minutes will be given for each Defence team for that purpose and fifteen (15) minutes for any reply by the SPO;
- b. Hear any proposed estimates, that the Defence is willing to share at this time, as to when the Defence would be in a position to file their respective motions to dismiss any or all charges pursuant to Rule 130 of the Rules;
- c. In the event that the Panel would find that there was a case to answer pursuant to Rule 130 of the Rules, hear any proposed estimates, that the Defence is willing to share at this time, as to when:
 - i. the Defence would be in a position to file their lists of witnesses and proposed exhibits pursuant to Rule 119(2) of the Rules; and
 - ii. the Defence Preparation Conference should be held;
- d. Hear submissions from the Defence, as appropriate, as to whether any material changes are expected to the proposed witness lists and whether the Defence still intend to call the Accused as witnesses;
- e. Hear the unsworn statements of the Accused for a maximum of fifteen (15) minutes each; and
- f. Any other matter raised by the Parties and any other intervening issues that the Panel may wish to address.

5. As regards paragraph 4(e), the Panel invites the Defence to share speaking notes, if available, with the Language Services Unit so that an accurate record of the statements can be ensured.

A handwritten signature in black ink, reading "Charles L. Smith III". The signature is written in a cursive style with a horizontal line underneath it.

Judge Charles L. Smith, III
Presiding Judge

Dated this Friday, 5 November 2021
At The Hague, the Netherlands