



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: 6 December 2021

Language: English

Classification: **Public**

**Order for Submissions on the Kosovo Police and Registry Reports
and on Detention Review**

Specialist Prosecutor

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TRIAL PANEL II ("Panel"), pursuant to Article 41(10) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 57(1), 116(1) and (4) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

I. PROCEDURAL BACKGROUND

1. On 22 October 2021, the Panel ordered the continued detention of Hysni Gucati and Nasim Haradinaj ("Accused"), noting that it would seek information from the Kosovo Police regarding the enforceability of conditional release in relation to both Accused and would review their detention again upon receipt of that information.¹
2. On the same day, the Panel ordered the Kosovo Police to provide information as to the enforceability of conditional release.² The Panel also ordered the Registrar to provide submissions on the detention regime at the detention facilities of the Specialist Chambers ("SC").³
3. On 25 November 2021, the Panel received the information requested from the Kosovo Police, in Albanian ("Kosovo Police Report").⁴
4. On 26 November 2021, the Panel received the submissions requested from the Registrar ("Registrar Report")⁵ (collectively "Reports").

¹ F00390, Panel, *Decision on Review of Detention of Hysni Gucati* ("Detention Review Decision for Mr Gucati"), 22 October 2021; F00391, Panel, *Decision on Review of Detention of Nasim Haradinaj* ("Detention Review Decision for Mr Haradinaj"), 22 October 2021.

² F00392, Panel, *Order to the Kosovo Police*, 22 October 2021; F00392/A01, Panel, *Annex to the Order to the Kosovo Police*, 22 October 2021, confidential.

³ F00393, Panel, *Order to the Registrar to Provide Information on the Detention Regime*, 22 October 2021.

⁴ F00449, *Përgjigje në kërkesë me numër KSC-BC-2020-07 të datës 22 tetor 2021*, 25 November 2021, confidential.

⁵ F00452, Registrar, *Registry Submissions Pursuant to the Trial Panel's Order to Provide Information on the Detention Regime (F00393)*, 26 November 2021, confidential.

5. On 2 December 2021, the Panel received the English translation of the Kosovo Police Report.⁶

II. APPLICABLE LAW

6. Pursuant to Article 41(10) of the Law and Rule 57(1) of the Rules, upon the expiry of two (2) months from its last ruling on detention on remand, the Panel shall examine whether reasons for such detention still exist and shall render a ruling by which such detention is extended or terminated.

7. Pursuant to Rule 116(1) and (4) of the Rules, the Panel shall, on an ongoing basis, take all measures and/or issue orders and decisions necessary to facilitate the fair and expeditious conduct of the trial proceedings, including on conditions of detention and related matters.

III. DISCUSSION

8. The Panel recalls its previous holding that it will assess the enforceability of conditional release upon receipt of the Reports.⁷

9. Prior to doing so and without prejudice to any determination to be made by the Panel on the Accused's detention, the Panel orders the Parties to submit observations, if they so wish, on the Reports.

10. Considering that the next decision on detention review is due, at the latest, by 22 December 2021, the Panel also orders the SPO to file, concurrently with the aforementioned observations, submissions on the necessity of continued detention, if sought by the Prosecution. In the same vein, the Panel orders the

⁶ F00449, Reply to Request Number KSC-BC-2020-07, Dated 22 October 2021, 25 November 2021, confidential.

⁷ Detention Review Decision for Mr Gucati, para. 33; Detention Review Decision for Mr Haradinaj, para. 35.

Defence to respond, concurrently with the aforementioned observations, to the SPO submissions on continued detention, if they so wish.

11. No replies shall be entertained.

IV. DISPOSITION

12. In light of the above, the Panel hereby:

- a. **ORDERS** the SPO to submit observations, if it so wishes, on the Reports and to file submissions on the necessity of continued detention by **10 December 2021, 16:00 hours**; and
- b. **ORDERS** the Defence to submit observations on the Reports and to respond to the SPO submissions on continued detention, if they so wish, by **16 December 2021**.



Judge Charles L. Smith, III

Presiding Judge

Dated this Monday, 6 December 2021

At The Hague, the Netherlands