



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: **KSC-BC-2020-07**

Before: **A Panel of the Court of Appeals Chamber**
Judge Michèle Picard
Judge Emilio Gatti
Judge Nina Jørgensen

Registrar: Fidelma Donlon

Date: 9 December 2021

Original language: English

Classification: **Public**

**Order Varying Time Limits for Briefing of Appeal Against Decision on
Prosecution Requests in Relation to Proposed Defence Witnesses**

Specialist Prosecutor's Office:
Jack Smith

Counsel for Hysni Gucati:
Jonathan Elystan Rees

Counsel for Nasim Haradinaj:
Toby Cadman

THE PANEL OF THE COURT OF APPEALS CHAMBER of the Kosovo Specialist Chambers (“Court of Appeals Panel”, “Appeals Panel” or “Panel” and “Specialist Chambers”, respectively),¹ acting pursuant to Article 33(1)(c) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 169 of the Rules of Procedure and Evidence (“Rules”), hereby issues this Order.

I. BACKGROUND

1. On 3 December 2021, Trial Panel II (“Trial Panel”) issued the “Decision on Prosecution Requests in Relation to Proposed Defence Witnesses” (“Impugned Decision”), declining, *inter alia*, to hear the proposed evidence of Witnesses DW1250, DW1251 and DW1253 (collectively, “Witnesses”).² The Trial Panel also ordered: (i) Nasim Haradinaj (“Haradinaj” or “the Accused”) to indicate, by 6 December 2021, whether he intends to request leave to appeal the Trial Panel’s findings in relation to its decision not to hear the Witnesses’ proposed testimony and/or to submit further certification requests on other matters arising from the Impugned Decision; and (ii) the Specialist Prosecutor’s Office (“SPO”) to respond to any such request by 8 December 2021.³

2. On 6 December 2021, Haradinaj filed the “Defence Application for Leave to Appeal in respect of ‘Decision on Prosecution Requests in Relation to Proposed Defence Witnesses’”, wherein he confirmed that he requests leave to appeal the part of the Impugned Decision concerning the Witnesses’ testimony and that he does not seek leave to appeal any other issues arising out of the Impugned Decision.⁴ On 7

¹ F00001, Decision Assigning a Court of Appeals Panel, 9 December 2021.

² F00470, Decision on Prosecution Requests in Relation to Proposed Defence Witnesses, 3 December 2021 (“Impugned Decision”), paras 82, 111, 127(b), (e).

³ Impugned Decision, paras 120-123, 127(h)-(i).

⁴ F00474, Defence Application for Leave to Appeal in respect of ‘Decision on Prosecution Requests in Relation to Proposed Defence Witnesses’, 6 December 2021 (“Request”), paras 2, 4, 6-8.

December 2021, the SPO indicated that it did not oppose the Request.⁵ On 8 December 2021, the Trial Panel granted the Request.⁶

II. DISCUSSION

3. The Panel notes that, pursuant to Rule 9(2) of the Rules, time limits start from the first working day after the notification of the relevant filing. The Panel also notes that, pursuant to Rule 170(2) of the Rules, Haradinaj should normally file his appeal against the Impugned Decision by Monday, 20 December 2021, and any response should be filed within ten days of the appeal, and any reply within five days of the response. The Panel recalls, however, that pursuant to Rule 9(5)(a) of the Rules, a Panel may *proprio motu* or upon showing of good cause extend or reduce any time limit prescribed by the Rules.

4. The Panel notes that Haradinaj's defence case is expected to end on 17 January 2022.⁷ Considering the effect that the anticipated appeal may have on the presentation of the defence case, it is necessary for the efficient administration of the proceedings that the appeal be disposed of before that time. In light of this, and given the limited scope of the anticipated appeal and the fact that the parties were already aware that the Trial Panel "would be inclined to grant" the Request,⁸ the Appeals Panel considers it appropriate to reduce the time limits for the related briefing.

⁵ Draft Transcript, 7 December 2021, p. 2238.

⁶ F00484, Decision on Defence Request for Leave to Appeal F00470, 8 December 2021 ("Decision of 8 December 2021"), paras 17-21.

⁷ Draft Transcript, 8 December 2021, p. 2442.

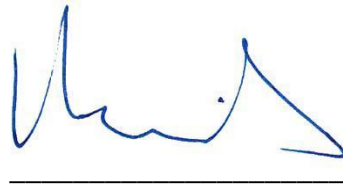
⁸ See Impugned Decision, para. 120. See also Decision of 8 December 2021, para. 16.

III. DISPOSITION

5. For these reasons, the Court of Appeals Panel:

VARIES, *proprio motu*, the time limits for the briefing of the anticipated appeal against the Impugned Decision; and

ORDERS Haradinaj to file his appeal against the Impugned Decision by Thursday, 16 December 2021, the SPO to file its response, if any, by Thursday, 23 December 2021, and Haradinaj to file a reply to the SPO's response, if any, by Wednesday, 29 December 2021.



**Judge Michèle Picard,
Presiding Judge**

Dated this Thursday, 9 December 2021

At The Hague, the Netherlands