



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** **KSC-CA-2022-01**

**Before:** **A Panel of the Court of Appeals Chamber**  
Judge Michèle Picard  
Judge Kai Ambos  
Judge Nina Jørgensen

**Registrar:** Fidelma Donlon

**Date:** 15 June 2022

**Original language:** English

**Classification:** **Public**

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**Decision on Haradinaj's Request for Variation of Word Limit to File Notice of Appeal**

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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” or “Panel” and “Specialist Chambers”, respectively),<sup>1</sup> acting pursuant to Article 33(1)(c) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 172 of the Rules of Procedure and Evidence (“Rules”), is seised of a request filed on 14 June 2022 by Nasim Haradinaj (“Haradinaj”).<sup>2</sup>

1. Haradinaj requests an extension of the word limit prescribed in Article 47 of the Practice Direction on Files and Filings before the Kosovo Specialist Chambers (“Practice Direction”)<sup>3</sup> for filing a notice of appeal against the Trial Judgment to 4,500 words.<sup>4</sup> Haradinaj argues that good cause exists considering the number of significant and complex legal issues arising from the 353-page long Trial Judgment and separate opinion.<sup>5</sup> According to him, such an extension is in the interests of justice and is made in advance of the applicable deadline and no prejudice would be caused to the other parties if the Panel ruled on the Request without receiving further submissions.<sup>6</sup>

2. The Panel notes that Article 47(2) of the Practice Direction stipulates that a notice of appeal against a judgment rendered under Article 6(2) of the Law, as in the present case,<sup>7</sup> shall not exceed 2,000 words. In addition, Article 36(1) of the Practice Direction states that participants to proceedings may seek, sufficiently in advance, an extension of the word limit upon showing that good cause exists constituting exceptional circumstances.

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<sup>1</sup> F00002, Decision Assigning a Court of Appeals Panel, 24 May 2022.

<sup>2</sup> F00006, Haradinaj Defence Application for an Extension of Word Limit for the Notice of Appeal of Trial Judgment, 14 June 2022 (“Request”). See F00611/RED, Public Redacted Version the Trial Judgment, 18 May 2022 (confidential version filed on 18 May 2022) (“Trial Judgment”).

<sup>3</sup> KSC-BD-15, Registry Practice Direction, Files and Filings before the Kosovo Specialist Chambers, 17 May 2019.

<sup>4</sup> Request, para. 2.

<sup>5</sup> Request, para. 3.

<sup>6</sup> Request, para. 4.

<sup>7</sup> See Trial Judgment, paras 10, 65, 1012, 1015.

3. Regarding the timeliness of the Request, the Panel notes that the deadline for filing the notices of appeal against the Trial Judgment is 17 June 2022, only three days after the filing of the Request. Further, the Parties received a certified copy of the Trial Judgment on 18 May 2022 and are aware of this deadline since, at least, 25 May 2022.<sup>8</sup> In these circumstances, the Panel considers the Request untimely.

4. As to good cause, the Panel recalls that the quality and effectiveness of appellate submissions do not depend on their length, but rather on their clarity and cogency and that, therefore, excessively lengthy appellate submissions do not necessarily serve the cause of an efficient administration of justice.<sup>9</sup> The Panel observes that the word limit requested by Haradinaj is more than two times the applicable word limit and corresponds to an extension by 1,500 words of the 3,000-word limit applicable to notices of appeal for core crimes cases.<sup>10</sup>

5. Pursuant to Article 47(1) of the Practice Direction, the substance of a notice of appeal shall contain only the grounds of appeal, clearly specifying in respect of each ground: (i) the alleged error on a question of law invalidating the judgment, the alleged error of fact which has occasioned a miscarriage of justice and/or the alleged error in sentencing; (ii) an identification of the challenged finding or ruling in the judgment or of any other ruling challenged; and (iii) the precise relief sought.<sup>11</sup> The scope of a notice of appeal is, therefore, limited to outlining the alleged errors and it does not need to detail the arguments that the parties intend to use in support of the grounds of appeal, as this will be done in the appeal briefs.<sup>12</sup> In fact, where notices of

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<sup>8</sup> F00005, Decision on Haradinaj's Request for Clarification on Appeal Timescale, 25 May 2022 ("Decision on Appeal Timescale"), paras 6, 8.

<sup>9</sup> See KSC-BC-2020-06, IA009/F00009, Decision on Requests for Variation of Word Limits, 19 August 2021 ("Decision on Word Limits Variation"), para. 5 and jurisprudence cited therein.

<sup>10</sup> See Article 47(2) of the Practice Direction.

<sup>11</sup> While strictly speaking this provision applies to notices of appeal submitted pursuant to Rules 176 and 186(3) of the Rules, the Panel considers that it applies *mutatis mutandis* to notices of appeal in contempt cases as well.

<sup>12</sup> See ICTY, *In the Case Against Florence Hartmann*, IT-02-54-R77.5-A, Decision on Motions to Strike and Requests to Exceed Word Limit, 6 November 2009 ("*Hartmann Decision*"), para. 14; ICTY, *Prosecutor v. Mrkšić and Šljivančanin*, IT-95-13/1-A, Decision on the Prosecution's Motion to Order Veselin

appeal are long and complex it may become difficult for the Panel and the Parties to identify the grounds of appeal and separate them from what might be argumentation.<sup>13</sup> The purpose of filing notices of appeal is to focus the respondent party on the arguments that will be developed in the appeal brief<sup>14</sup> and, as such, the Panel considers that filing lengthy notices of appeal might actually defeat this purpose. Moreover, the Panel recalls that, pursuant to Rule 176(3) of the Rules, it may, if good cause is shown, authorise a variation of the grounds of appeal.<sup>15</sup>

6. In light of the above, the Panel finds that Haradinaj's request for 2,500 additional words is neither warranted nor necessary in the present circumstances. Nevertheless, the Panel is mindful of the length and complexity of the Trial Judgment when compared to judgments in other cases concerning offenses against the administration of justice.<sup>16</sup> As such, and despite the lack of timeliness, the Panel finds that an extension of 800 words is justified on an exceptional basis in the present circumstances, and hereby varies the word limit of Haradinaj's notice of appeal accordingly. The Panel further considers that it is in the interests of justice to grant comparable variations to the other Parties.

7. The Panel finally recalls that, pursuant to Article 36(2) of the Practice Direction, motions for the variation of word limits may be disposed of without giving the Parties the opportunity to be heard. In light of the upcoming deadline for filing notices of

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Šljivančanin to Seek Leave to File an Amended Notice of Appeal and to Strike New Grounds Contained in his Appeal Brief, 25 August 2008 ("*Mrkšić and Šljivančanin Decision*"), para. 8 and jurisprudence cited therein; ICC, *Prosecutor v. Gbagbo and Blé Goudé*, ICC-02/11-01/15-992-Red, Judgment on the appeal of Mr Laurent Gbagbo against the decision of Trial Chamber I of 10 March 2017 entitled "Decision on Mr Gbagbo's Detention", 19 July 2017, para. 19; ECCC, *Prosecutor v. Nuon and Khieu*, 002/19-09-2007/ECCC/SC, Decision on Defence Motion for Extension of Time and Page Limits on Notices of Appeal and Appeal Briefs, 29 August 2014, para. 8.

<sup>13</sup> See *Hartmann Decision*, para. 14.

<sup>14</sup> *Mrkšić and Šljivančanin Decision*, para. 8.

<sup>15</sup> See Decision on Appeal Timescale, para. 5.

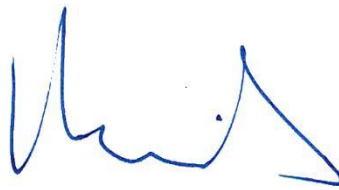
<sup>16</sup> See ICC, *Prosecutor v. Ongwen*, ICC-02/04-01/15-1825, Decision on 'Defence request for a page limit extension for its notice of appeal', 18 May 2021, para. 10. See also Decision on Word Limits Variation, para. 4.

appeal and given that no prejudice will be caused to the Parties, the Panel considers that it is in the interests of justice to dispose of the Request immediately.

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

**GRANTS** the Request in part; and

**AUTHORISES** an extension of 800 words for the notices of appeal to be filed no later than 17 June 2022.



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**Judge Michèle Picard,  
Presiding Judge**

Dated this Wednesday, 15 June 2022

At The Hague, the Netherlands