



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

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

**Before:** Presiding Judge of a Panel of the Court of Appeals Chamber  
Judge Michèle Picard

**Registrar:** Fidelma Donlon

**Date:** 22 June 2022

**Original language:** English

**Classification:** Public

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**Order Scheduling a Pre-Appeal Conference and on Related Matters**

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**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)<sup>1</sup> 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.

1. On 25 and 26 September 2020, Mr Hysni Gucati (“Gucati”) and Mr Nasim Haradinaj (“Haradinaj”) (collectively, the “Accused” or the “Defence”) were arrested and transferred to the Specialist Chambers’ Detention Facilities.<sup>2</sup>

2. On 18 May 2022, the Trial Panel delivered its judgment (“Trial Judgment”), finding each of the Accused guilty on five counts of the Indictment and not guilty on one count, and sentenced each of them to a single sentence of four and a half years of imprisonment, with credit for the time served, and to a fine of 100 Euros, to be paid by 18 July 2022.<sup>3</sup>

3. On 25 May 2022, at Haradinaj’s request for clarification, the Appeals Panel ordered any notices of appeal against the Trial Judgment to be filed within the time limit prescribed by Rule 176(2) of the Rules, namely by 17 June 2022.<sup>4</sup>

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<sup>1</sup> F00011, Decision Assigning a Court of Appeals Panel, 21 June 2022.

<sup>2</sup> KSC-BC-2020-07, F00015, Notification of Arrest Pursuant to Rule 55(4), 25 September 2020 (strictly confidential and *ex parte*, reclassified to public on 15 October 2020); KSC-BC-2020-07, F00016, Notification of Arrest Pursuant to Rule 55(4), 25 September 2020 (strictly confidential and *ex parte*, reclassified to public on 15 October 2020); KSC-BC-2020-07, F00018, Notification of the Reception of Hysni Gucati in the Detention Facilities of the Specialist Chambers, 25 September 2020 (strictly confidential and *ex parte*, reclassified to public on 15 October 2020); KSC-BC-2020-07, F00020, Notification of the Reception of Nasim Haradinaj in the Detention Facilities of the Specialist Chambers, 26 September 2020 (strictly confidential and *ex parte*, reclassified to public on 15 October 2020).

<sup>3</sup> KSC-BC-2020-07, F00611/RED, Public Redacted Version of the Trial Judgment, 18 May 2022 (confidential version filed on 18 May 2022), paras 1012-1017. See also KSC-BC-2020-07, F00596, Scheduling Order for Pronouncement of the Trial Judgment, 4 May 2022, para. 6.

<sup>4</sup> F00001, Haradinaj Request for Clarification on Appeal Timescale, 21 May 2022; F00005, Decision on Haradinaj’s Request for Clarification on Appeal Timescale, 25 May 2022, para. 6.

4. On 17 June 2022, the Accused filed notices of appeal against the Trial Judgment.<sup>5</sup> The same day, the Specialist Prosecutor's Office ("SPO") informed the Panel that it does not intend to seek an appeal of the Trial Judgment. The SPO further requested that the detention of the Accused be maintained by the Court of Appeals Panel ("Prosecution Notification and Request to Maintain Detention").<sup>6</sup>

5. Rule 178 of the Rules provides that:

Within twenty-one (21) days of a notice of appeal, and when deemed necessary thereafter, the Presiding Judge, or the Judge Rapporteur, if designated, shall convene a conference to allow any person in custody pending appeal the opportunity to raise issues in relation thereto, including the person's mental and physical condition.

6. Accordingly, the Presiding Judge hereby schedules a Pre-Appeal Conference to be held on **Tuesday, 5 July 2022 at 14:00**.

7. During the hearing, the Presiding Judge will invite submissions from the Parties and/or the Registry, as the case may be, on:

- (i) The Accused's detention pending appeal, including their mental and physical condition, in accordance with Rule 178 of the Rules;
- (ii) The progress made on the translation of the Trial Judgment into Albanian, and its expected finalisation; and
- (iii) Any other issue that the Presiding Judge may wish to raise.

8. Having reference to Article 46(8) of the Law according to which unless the Trial or Court of Appeals Panel orders otherwise, a convicted person shall remain in custody pending an appeal, the Presiding Judge invites the Defence to file their

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<sup>5</sup> F00009, Gucati Notice of Appeal, re Trial Judgment KSC-BC-2020-07/F00611, 17 June 2022 (distributed on 20 June 2022, confidential and public redacted version filed the same day); F00008, Haradinaj Defence Notice of Appeal of Trial Judgement, 17 June 2022.

<sup>6</sup> F00010, Prosecution notification and request to maintain detention, 17 June 2022 (distributed on 20 June 2022), paras 2-4.

respective response, if any, within ten days of the distribution of the Prosecution Notification and Request to Maintain Detention and the SPO to file its reply, if any, within five days of the responses.<sup>7</sup>

9. The Panel furthermore instructs the Parties to notify the Panel and the other Parties via email, by **Monday, 27 June 2022 at 16:00**, of any other issues that they would like to raise during the Pre-Appeal Conference.

10. In accordance with Rules 96(2) and 173(3) of the Rules, the Panel instructs the Defence to indicate via email to the Court Management Unit, by **Monday, 27 June 2022 at 16:00**, whether the Accused wish to participate in the Pre-Appeal Conference, and/or whether the Accused and/or Counsel wish to appear via video-conference. If the Accused do not wish to participate in the Pre-Appeal Conference, the Defence should submit the pertinent waivers, in the same manner and by the same date and time.

11. For these reasons, the Presiding Judge of the Court of Appeals Panel:

**SCHEDULES** a Pre-Appeal Conference for **Tuesday, 5 July 2022 at 14:00**;

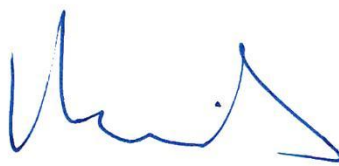
**INSTRUCTS** the Defence to file their respective response, if any, within ten days of the distribution of the Prosecution Notification and Request to Maintain Detention and the SPO to file its reply, if any, within five days of the responses;

**INSTRUCTS** the Defence to indicate, by **Monday, 27 June 2022 at 16:00**, and in the manner set out above at paragraph 10, whether the Accused wish to participate in the Pre-Appeal Conference and, if necessary, submit the pertinent waivers; and

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<sup>7</sup> Rule 76 of the Rules.

**INSTRUCTS** the Parties to notify the Panel and the other Parties via email, by **Monday, 27 June 2022 at 16:00**, of any other issues that they would like to raise during the Pre-Appeal Conference.



**Judge Michèle Picard,  
Presiding Judge**

Dated this Wednesday, 22 June 2022

At The Hague, the Netherlands