

In: KSC-CA-2022-01

The Prosecutor v. Hysni Gucati and Nasim Haradinaj

Before: The Court of Appeals Panel

Presiding Judge Michèle Picard

Judge Kai Ambos

Judge Nina Jørgensen

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Nasim Haradinaj

Date: 27 June 2022

Language: English

Classification: Public

**Haradinaj Defence Notification of Agenda Items ahead of
the Pre-Appeal Conference of 5 July 2022**

Specialist Prosecutor

Jack Smith

Counsel for Nasim Haradinaj

Toby Cadman

Carl Buckley

Almudena Bernabeu

Counsel for Hysni Gucati

Jonathan Elystan Rees QC

Huw Bowden

I. INTRODUCTION

1. The Haradinaj Defence hereby submits a notification of the issues it intends to raise during the Pre-Appeal Conference of 5 July 2022, pursuant to the order of the Presiding Judge of a Panel of the Court of Appeals Chamber of 22 June 2022.¹

I. PROCEDURAL BACKGROUND

2. On 18 May 2022, the Trial Panel delivered its judgment,² Mr. Haradinaj being convicted of 5 Counts on the Indictment,³ and sentenced to a term of imprisonment of four and a half years custody (with credit for time served), and a fine of 100 Euros.
3. On 17 June 2022, the Haradinaj and the Gucati Defence both filed notices of appeal against the Trial Judgment.⁴
4. Further on 17 June 2022, the Specialist Prosecutor's Office ("SPO") informed the Panel that it does not intend to seek an appeal of the Trial Judgment.⁵ The SPO notification requested that the detention of Mr. Haradinaj is maintained by the Court of Appeals Panel.

¹ KSC-CA-2022-01/F00012, Order Scheduling a Pre-Appeal Conference and on Related Matters, 21 June 2022

² KSC-BC-2020-07, F00611/RED, Public Redated Version of the Trial Judgment, 18 May 2022.

³ KSC-BC-2020-07/ F00251/A02, Redacted Indictment, 5 July 2021.

⁴ KSC-CA-2022-F00008 – Haradinaj Defence Notice of Appeal of Trial Judgment and KSC-CA-2022/F0009, Gucati Notice of Appeal re Trial Judgment KSC-BC-2020-07/F00611

⁵ KSC-CA-2022-F00010 – Prosecution notification and request to maintain detention, 17 June 2022.

5. On 21 June 2022, an Appeals Panel was assigned to assess the challenge to the Trial Judgment.⁶
6. On 22 June 2022, the Presiding Judge of a Panel of the Court of Appeals Chamber ordered that a Pre-Appeal Conference be scheduled on Tuesday, 5 July 2022 at 14:00,⁷ ordering in addition that:
 - a. the Defence indicate to the Court Management Unit, via email, by 16:00 Monday 27 June, whether the Accused wish to participate in the Pre-Appeal Conference;
 - b. the Defence file their respective response, on the issue of Detention, within 10 days of the distribution of the Prosecution Notification and Request to Maintain Detention;
 - c. the Parties notify the Panel and other Parties, via email, by 16:00 Monday 27 June at 16:00, of any other issues that they would like to raise during the Pre-Appeal Conference.

⁶ KSC-CA-2022-01/F00011, Decision assigning a Court of Appeals Panel, 2 June 2022.

⁷ KSC-CA-2022-01/F00012, Order Scheduling a Pre-Appeal Conference and on Related Matters, 21 June 2022

III. SUBMISSIONS

7. The Haradinaj Defence, formalises its position in respect of the above directions:

a) Attendance

8. The Haradinaj Defence confirms that the Court Management Unit have already been notified that Mr. Haradinaj will be in attendance at the Pre-Appeal Conference.

b) Detention

9. The Defence for Mr. Haradinaj notes that the 'Prosecution notification and request to maintain detention' is dated 17 June 2022⁸ but was not distributed until 20 June 2022.

10. The Haradinaj Defence therefore considers the deadline for Defence submissions on this point to be 30 June 2022 pursuant to the 'Order Scheduling a Pre-Appeal Conference and on Related Matters'⁹ and will file separate submissions on this issue accordingly.

⁸ KSC-CA-2022-01/F00010

⁹ KSC-CA-2022-01/F00012 at footnote 6

c) Other issues

11. The Haradinaj Defence seeks to raise 2 further issues, one of which has been dealt with in written submissions and is therefore raised for the purposes of clarity.
12. Firstly, the Haradinaj Defence maintains that the word-count for the appeal brief of 12,000 words is inadequate in the instant case and has therefore submitted an application for an extension of the same. The Defence for Mr. Haradinaj is willing and able to make further oral submissions supplementing that written application should the Panel wish to hear the same.
13. Secondly, the Haradinaj Defence wishes to seek clarity on whether it the substantive appeal will be heard by way of oral and written submissions, or whether the Defence will only be allowed to submit written submissions. The Haradinaj Defence remains at the disposal of the Panel to make oral submissions on the matter if required.

III. CONCLUSION

14. The Haradinaj Defence does not seek to raise any further specific issues other than those cited above, however, it remains the right to respond to any issues raised by the other parties and to assist the Panel with any other matter arising in the course of the Pre-Appeal Conference.

Word Count: 614 words



Toby Cadman

Specialist Counsel



Carl Buckley

Specialist Co-Counsel

Almudena Bernabeu

Specialist Co-Counsel