



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: 5 July 2022

Original language: English

Classification: **Public**

**Decision on Gucati's Request for Variation of Word Limit to Re-File
Notice of Appeal**

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” 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 172 of the Rules of Procedure and Evidence (“Rules”), is seised of a request filed on 3 July 2022 by Hysni Gucati (“Gucati”).²

1. Gucati requests an extension of the word limit applicable to his notice of appeal against the Trial Judgment by 151 words in order to insert the content of Grounds 7, 23, 24 and 25 of Haradinaj’s Notice of Appeal and re-file it.³ Gucati filed his notice of appeal on 17 June 2022.⁴ In Ground 18 of his notice of appeal, Gucati “joins the grounds set out” in Haradinaj’s Notice of Appeal and “specifically” incorporates Grounds 7, 23, 24 and 25 thereof.⁵ On 1 July 2022, the Panel ordered, *inter alia*, that should Gucati wish to maintain the content of Ground 18, he should re-file his notice of appeal without incorporating in a blanket manner submissions made elsewhere, no later than seven days from the date of receipt of the Decision to Re-File Notices of Appeal.⁶

2. Gucati argues that the extension of the word limit sought is modest and has been calculated on the “bare minimum” number of additional words required to

¹ F00011, Decision Assigning a Court of Appeals Panel, 21 June 2022.

² F00022, Gucati Application for Extension of the Word Limit for the Re-Filed Notice of Appeal, 3 July 2022 (“Request”).

³ Request, para. 6. See F00611/RED, Public Redacted Version the Trial Judgment, 18 May 2022 (confidential version filed on 18 May 2022) (“Trial Judgment”); F00008, Haradinaj Defence Notice of Appeal of Trial Judgement, 17 June 2022 (distributed on 20 June 2022) (“Haradinaj’s Notice of Appeal”).

⁴ F00009/RED, Public Redacted Version of Gucati Notice of Appeal re Trial Judgment KSC-BC-2020-07/F00611 (“Judgment”) Pursuant to Art. 46(1)(a), (b) and (c) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 176(2) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), 17 June 2022 (distributed on 20 June 2022; confidential version filed on 17 June 2022) (“Gucati’s Notice of Appeal”).

⁵ Gucati’s Notice of Appeal, Ground 18.

⁶ F00021, Decision on Haradinaj’s Request for Variation of Word Limit to File Appeal Brief and SPO’s Request for Order to Re-File Haradinaj’s Notice of Appeal, 1 July 2022 (“Decision to Re-File Notices of Appeal”), paras 12, 14.

replace Ground 18 of his notice of appeal.⁷ According to him, without this extension he would not be able to comply with the Panel's direction to re-file his notice of appeal.⁸ He further submits that the SPO did not criticise his notice of appeal or Grounds 7, 23, 24 and 25 of Haradinaj's Notice of Appeal and that the word limit should not be used to prevent otherwise permissible and properly drafted grounds of appeal from being argued.⁹

3. The Panel notes that Article 47(2) of the Practice Direction on Files and Filings before the Kosovo Specialist Chambers ("Practice Direction")¹⁰ stipulates that a notice of appeal against a judgment rendered under Article 6(2) of the Law, as in the present case,¹¹ 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.

4. Regarding the timeliness of the Request, the Panel notes that the revised notices of appeal are expected to be filed by 12 July 2022¹² and that Gucati filed his Request within two days of the issuance of the Decision to Re-File Notices of Appeal. In these circumstances, the Panel considers the Request timely.

5. As to good cause, the Panel observes that the extension of the word limit requested by Gucati is modest. The Panel is also mindful of the length and complexity of the Trial Judgment when compared to judgments in other cases concerning offenses against the administration of justice.¹³ Nevertheless, the Panel has already authorised

⁷ Request, paras 10-11.

⁸ Request, para. 12.

⁹ Request, paras 8-9, 13.

¹⁰ KSC-BD-15, Registry Practice Direction, Files and Filings before the Kosovo Specialist Chambers, 17 May 2019.

¹¹ See Trial Judgment, paras 10, 65, 1012, 1015.

¹² See Decision to Re-File Notices of Appeal, para. 14. See also Rule 9(2) and (4) of the Rules.

¹³ See F00007, Decision on Haradinaj's Request for Variation of Word Limit to File Notice of Appeal, 15 June 2022 ("Decision on Variation of Word Limit for Notices of Appeal"), para. 6; Decision to Re-File Notices of Appeal, para. 5.

an 800-word extension of the word limit normally applicable to notices of appeal against trial judgments rendered under Article 6(2) of the Law.¹⁴ The Panel recalls in this regard the limited scope of notices of appeal and that the quality and effectiveness of appellate submissions do not depend on their length, but rather on their clarity and cogency.¹⁵ While the Panel underlines that the substance of the grounds of appeal must remain unmodified in the re-filed notice of appeal,¹⁶ the Panel is of the view that should he wish to maintain the content of Ground 18, Gucati may re-structure his notice of appeal or reformulate the wording of his grounds of appeal in order to raise his arguments in a more efficient manner.¹⁷

6. In light of the above, the Panel finds that Gucati's request for additional words to re-file his notice of appeal is neither warranted nor necessary in the present circumstances and, accordingly, denies his request.

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 re-filing the notices of appeal and given that no prejudice will be caused to the SPO, 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:

DENIES the Request.

¹⁴ Decision on Variation of Word Limit for Notices of Appeal, paras 6, 8.

¹⁵ Decision on Variation of Word Limit for Notices of Appeal, paras 4-5.

¹⁶ Decision to Re-File Notices of Appeal, para. 11.

¹⁷ For example, where certain issues appear to be connected, they could be consolidated in fewer paragraphs. See Decision to Re-File Notices of Appeal, para. 5, referring to ICC, *Prosecutor v. Ongwen*, ICC-02/04-01/15 A, Decision on Defence request for a page limit extension for its appeal brief and order setting time limit for responses to the Prosecutor request for extension of time to file her response to the appeal brief, 8 June 2021, para. 15.



**Judge Michèle Picard,
Presiding Judge**

Dated this Tuesday, 5 July 2022

At The Hague, the Netherlands