



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**File number:** KSC-SC-2023-01

**Before:** A Panel of the Supreme Court Chamber  
Judge Ekaterina Trendafilova, Presiding  
Judge Christine van den Wyngaert  
Judge Daniel Fransen

**Registrar:** Fidelma Donlon

**Date:** 8 May 2023

**Language:** English

**Classification:** Public

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**Decision on Prosecution Request to Order Refiling of  
Requests for Protection of Legality**

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**Acting Specialist Prosecutor:**  
Alex Whiting

**Counsel for Hysni Gucati:**  
Jonathan Elystan Rees

**Counsel for Nasim Haradinaj:**  
Toby Cadman

**THE PANEL OF THE SUPREME COURT CHAMBER** of the Kosovo Specialist Chambers (“Supreme Court Panel” or “Panel”), noting Articles 36(1) and 56(3) of the Registry Practice Direction on Files and Filings before the Kosovo Specialist Chambers (“Practice Direction”),<sup>1</sup> hereby renders this order on the “Prosecution request to order refiling of requests for protection of legality”(“Request”).<sup>2</sup>

## I. PROCEDURAL BACKGROUND

1. On 2 and 3 May 2023, Mr Nasim Haradinaj and Mr Hysni Gucati filed requests for protection of legality (“Haradinaj Request”, “Gucati Request or “Requests”).<sup>3</sup>

2. On 4 May 2023, a Supreme Court Panel was assigned to adjudicate the Requests,<sup>4</sup> and, on the same date, it issued the “Order on Time-Limits for Submissions”.<sup>5</sup>

3. On 5 May 2023, the Specialist Prosecutor’s Office (“SPO”) filed the Request, wherein it seeks that the Panel strike the Requests and order Mr Haradinaj and Mr Gucati to refile them in accordance with the Practice Direction.<sup>6</sup>

4. On 5 May 2023, Mr Gucati responded (“Gucati Response”) and Mr Haradinaj responded on 6 May 2023 (“Haradinaj Response”).<sup>7</sup>

## II. DISCUSSION

5. The SPO argues that the Requests exceed the word limit set out in the Practice

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<sup>1</sup> KSC-BD-15, Registry Practice Direction on Files and Filings before the Kosovo Specialist Chambers, 17 May 2019.

<sup>2</sup> F00005, Prosecution Request to Order Refiling of Requests for Protection of Legality, 5 May 2023.

<sup>3</sup> F00001, Haradinaj Defence Request for Protection of Legality, 2 May 2023, with Annex; F00002, Gucati Request for Protection of Legality pursuant to Article 48(6) to (8) of the Law and Rule 193 of the Rules, 3 May 2023 (confidential), with Annex. Mr Gucati filed a public redacted version on 4 May 2023. See F00002/RED.

<sup>4</sup> F00003, Decision Assigning a Supreme Court Panel, 4 May 2023.

<sup>5</sup> F00004, Order on Time-Limits for Submissions, 4 May 2023.

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

Direction,<sup>8</sup> and that Mr Haradinaj and Mr Gucati did not request an extension of the word limit before making their submissions.<sup>9</sup>

6. Mr Gucati responds that his request does comply with the prescribed word-limit, as set forth in Article 56 of the Practice Direction.<sup>10</sup> Mr Haradinaj, *inter alia*, acknowledges that his request exceeds the word-limit by 988 words and submits that this represents “a little more than 10% over the word limit”.<sup>11</sup> Mr Haradinaj contends that this was “an oversight” and that he “immediately brought [it] to the attention of the [Court Management Unit] in order for the Panel to be notified”.<sup>12</sup>

7. The Panel recalls Article 56(3) of the Practice Direction, according to which “[a] request for protection of legality filed pursuant to Rule 193 of the Rules [of Procedure and Evidence] and response thereto shall not exceed 9,000 words”.

8. The Panel notes that the Gucati Request certifies that it does not exceed 9,000 words.<sup>13</sup> Having verified the filing, the Panel is satisfied that it is in compliance with the Practice Direction. Accordingly, the Panel sees no merit in this part of the SPO’s Request.

9. The Panel observes, however, that Haradinaj’s Request as certified exceeds the word limit by 988 words.<sup>14</sup> Indeed, Mr Haradinaj acknowledges as much in his response.<sup>15</sup> The Panel also notes that Mr Haradinaj neither requested a variation of the word limit sufficiently in advance nor provided an explanation whether good cause

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<sup>7</sup> F00006, Gucati Response to Prosecution Request to Order Refiling of Request for Protection of Legality, 5 May 2023; F00007, Haradinaj Defence Response to SPO Request to Order Refiling of Requests for Protection of Legality (KSC-SC-2023-01/F00005), 6 May 2023.

<sup>8</sup> Request, paras 2-3.

<sup>9</sup> Request, para. 4.

<sup>10</sup> Gucati Response, para. 5.

<sup>11</sup> Haradinaj Response, paras 10-11.

<sup>12</sup> Haradinaj Response, paras 10-12.

<sup>13</sup> Gucati Request, p. 45. See also Gucati Response.

<sup>14</sup> Haradinaj Request, p. 43.

<sup>15</sup> Haradinaj Response, paras 10-11.

exists to exceed the word limit in accordance with Article 36(1) of the Practice Direction, including the Haradinaj Response. Accordingly, the Panel considers that Mr Haradinaj should refile his request for protection of legality and ensure that it is in compliance with Article 56(3) of the Practice Direction.

10. Finally, the Panel notes that other Panels of the Kosovo Specialist Chambers have on other occasions repeatedly reminded Mr Haradinaj about the obligation to comply with the Practice Direction.<sup>16</sup> This obligation exists notwithstanding his “oversight” in the present instance and his notification thereof to the Court Management Unit after he filed his request for protection of legality. The Panel therefore finds that any future filing that is not in compliance with the Practice Direction, and for which no prior authorization was requested by Mr Haradinaj, will not be considered by the Panel.

### III. DISPOSITION

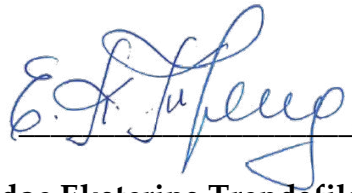
For the foregoing reasons, the Panel hereby:

**GRANTS** the SPO Request, in part; and

**ORDERS** Mr Haradinaj to refile his request for protection of legality to ensure its compliance with the 9000-word limit specified in Article 56(3) of the Practice Direction, by no later than Wednesday 10 May 2023.

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<sup>16</sup> See, e.g., KSC-BC-2020-07/F00272, Decision on the Application for Recusal or Disqualification, 6 August 2021, para. 5; KSC-BC-2020/07/IA004/F00007, Decision on the Defence Appeals Against Decision on Preliminary Motions, 23 June 2021, para. 17; KSC-AC-2022-01/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, para. 13; KSC-AC-2022-01/F00063, Decision on Defence Requests for Variation of Word Limit of Briefs in Reply, 12 October 2022, para. 9.

A handwritten signature in blue ink, appearing to read 'E. Trendafilova', written over a horizontal line.

**Judge Ekaterina Trendafilova,  
Presiding Judge**

Dated this Monday, 8 May 2023  
At The Hague,  
The Netherlands