



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

File number: KSC-CC-2023-22

Before: The President of the Specialist Chambers
Judge Ekaterina Trendafilova

Date: 22 November 2023

Language: English

Classification: Confidential

Decision to Assign Judges to a Constitutional Court Panel

Judges of the Constitutional Court Panel:

Judge Vidar Stensland

Judge Roumen Nenkov

Judge Romina Incutti

Specialist Prosecutor:

Kimberly P. West

Counsel for Nasim Haradinaj:

Toby Cadman

THE PRESIDENT of the Specialist Chambers (“President”), noting Article 33(3) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 3 and 4(2) of the Rules on the Assignment of Specialist Chambers Judges from the Roster of International Judges (“Rules on Assignment”), herewith assigns a Constitutional Court Panel to rule on the “Haradinaj Defence Referral to the Specialist Chamber of the Constitutional Court” (“Referral”).¹

I. PROCEDURAL BACKGROUND

1. On 18 May 2022, Trial Panel II (“Trial Panel”) issued the “Trial Judgment” in the case against Messrs Hysni Gucati and Nasim Haradinaj.² The Trial Panel found both accused guilty of obstructing official persons in performing official duties, intimidation during criminal proceedings and violating the secrecy of proceedings, and sentenced them to four and a half years of imprisonment, with credit for the time served, and a fine of 100 Euros each.³

2. On 2 February 2023, a Court of Appeals Panel issued the “Appeal Judgment” in the case against Messrs Gucati and Haradinaj.⁴ The Court of Appeals Panel affirmed the majority of Messrs Gucati’s and Haradinaj’s convictions and reversed their convictions for obstruction of official persons in performing official duties by participating in the common action of a group.⁵ In view of its finding, the Appeals Panel, by majority, reduced the sentences imposed by the Trial Panel of four and a half years to four years and three months of imprisonment, with credit for the time

¹ KSC-CC-2023-22/F00001, Haradinaj Defence Referral to the Specialist Chamber of the Constitutional Court, 21 November 2023 (confidential).

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

³ Trial Judgment, paras 1012-1017.

⁴ KSC-CA-2022-01, F00114, Appeal Judgment, 2 February 2023.

⁵ Appeal Judgment, para. 442.

served.⁶ The Appeals Panel affirmed Messrs Gucati's and Haradinaj's additional sentence to pay a fine of 100 Euros each.⁷

3. On 18 September 2023, a Supreme Court Panel issued the "Decision on Requests for Protection of Legality", wherein it rejected in its entirety Mr Haradinaj's request for protection of legality, finding that there had been no violation of the criminal law contained within the Law or a substantial violation of the procedures set out in the Law and in the Rules of Procedure and Evidence.⁸

4. On 21 November 2023, Mr Haradinaj filed the Referral.

II. ASSIGNMENT

5. Pursuant to Article 33(3) of the Law, upon a referral to the Specialist Chamber of the Constitutional Court ("SCCC"), the three Judges of the SCCC shall be assigned. Should one of these Judges not be available for assignment, the President shall assign the reserve constitutional judge.

6. The President notes that one of the three Judges of the SCCC is not available for assignment. Accordingly, the President shall assign the reserve constitutional Judge, in accordance with Article 33(3) of the Law and Rule 4(2) of the Rules on Assignment.

III. CLASSIFICATION

7. The Referral is classified as confidential and the present decision will therefore bear the same classification in accordance with Rule 82(4) of the Rules, until it is reclassified in due course consistent with Rule 3(4) of the Rules on Assignment.

⁶ Appeal Judgment, para. 442.

⁷ Appeal Judgment, para. 442.

⁸ KSC-SC-2023-01/F00021, Decision on Requests for Protection of Legality, 18 September 2023, para. 126.

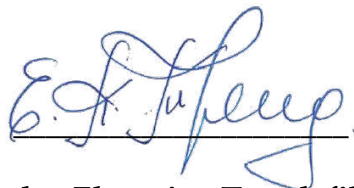
FOR THESE REASONS, THE PRESIDENT HEREBY ASSIGNS

Judge Vidar Stensland

Judge Roumen Nenkov

Judge Romina Incutti

to the Constitutional Court Panel to rule on the Referral.

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

Judge Ekaterina Trendafilova,

President of the Specialist Chambers

Dated this Wednesday, 22 November 2023
At The Hague, the Netherlands