



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

File number: KSC-CC-2023-22

Before: **The Specialist Chamber of the Constitutional Court**

Judge Vidar Stensland, Presiding

Judge Roumen Nenkov

Judge Romina Incutti

Registrar: Fidelma Donlon

Date: 27 November 2023

Language: English

File name: Referral by Nasim Haradinaj to the Constitutional Court Panel Concerning the Haradinaj Defence Referral to the Specialist Chamber of the Constitutional Court

Classification: Public

**Decision on the Working Language, Written Submissions
and Public Redacted Version of the Referral**

Applicant

Nasim Haradinaj

Registry

Fidelma Donlon

Specialist Prosecutor

Kimberly P. West

1. On 21 November 2023, Mr Nasim Haradinaj (“Applicant”) lodged with the Specialist Chamber of the Constitutional Court (“Chamber”) a referral (“Referral”)¹ under Articles 33(1) and (2) and 40 of the Constitution of the Republic of Kosovo (“Constitution”), Article 49(3) of the Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”), as well as Rules 4(c) and 20 of the Rules of Procedure for the Specialist Chamber of the Constitutional Court (“SCCC Rules”). The Applicant is represented by Mr Toby Cadman, Ms Almudena Bernabeu and Mr John Cubbon.

2. The Referral was filed confidentially.

3. On 22 November 2023, the President of the Specialist Chambers, pursuant to Article 33(3) of the Law, assigned the above Panel to rule on the Referral.²

4. Under Article 20 of the Law and Rule 5 of the SCCC Rules, the Panel shall decide the working languages for its proceedings. The Panel notes that the Applicant has made the Referral in English. Thus, the working language of the present proceedings shall be English, with official translation or interpretation provided by the Registry into the official languages of the Specialist Chambers, namely, Albanian, Serbian and English.

5. In relation to its examination of the Referral, the Chamber notes that, pursuant to Rule 15(2) of the SCCC Rules, the Panel may request additional information or submissions, as deemed necessary, in relation to the Referral. Pursuant to Rule 15(3), any responding submissions directed by the Panel shall be filed within the time limits set by the Panel. Also, under Article 35(2)(i) of the Law, where the referral concerns pursuance of an indictment filed by the SPO, the SPO has the authority to respond to the referral. In that light, the Chamber finds it appropriate to invite the SPO and the

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

² KSC-CC-2023-22, F00003, Decision to Assign Judges to a Constitutional Court Panel, confidential, 22 November 2023.

Applicant to file written submissions, should they wish to do so, in relation to the Referral within the specified time period as ordered below. After the SPO files its written submissions, the Applicant may file within the indicated time limit his written submissions in response to matters raised by the SPO. In this regard, the Chamber notes that it will disregard any new violations raised that are not connected with the violations specified in the Referral. The Chamber notes, that it may seek further submissions on specific questions, if necessary and following the receipt of all the written submissions.

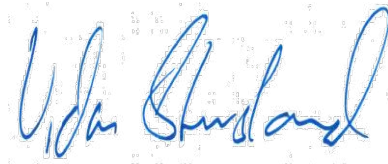
6. In accordance with Rule 11(4) of the SCCC Rules, Rules 82 to 84 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”) shall apply *mutatis mutandis* to the classification of the record of proceedings and evidence before the Chamber. In this regard, the Panel observes that, pursuant to Rule 82(5) of the Rules, where the basis for the classification no longer exists, whoever submitted the original filing shall apply to the Panel for reclassification. Having regard to the principle of publicity, and having carefully considered the need for redactions, the Panel finds that a public redacted version of the Referral, in particular, but not limited to specific names provided for in paragraphs 71, 77 and 78 being redacted should be filed.

FOR THESE REASONS,

The Constitutional Court Panel

1. *Decides* that the working language of the present proceedings shall be English, with official translation or interpretation provided by the Registry into the official languages of the Specialist Chambers, namely, Albanian, Serbian and English; and
2. *Invites* the SPO to file written submissions not exceeding 8000 words, should they wish to do so, in relation to the Referral, by 22 January 2024;

3. *Invites* the Applicant to file written submissions not exceeding 4000 words in response to the SPO, should he wish to do so, within 21 days from the filing of the written submissions from the SPO;
4. *Orders* the Applicant to file a public redacted version of the Referral within one week of this decision.



Judge Vidar Stensland
Presiding Judge

Done in English on Monday, 27 November 2023
At The Hague, the Netherlands