



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

File numbers: SA-04-HJ, SA-06-HJ, SA-07-HJ, SA-08-HJ

Before: Higher Judge for Staff Appeals
Judge Charles L. Smith III

Date: 28 August 2019

Language: English

Classification: Public

**Consolidated Decision Pursuant to
Rule 29(3) of the Staff Appeals Procedure**

THE HIGHER JUDGE FOR STAFF APPEALS of the Specialist Chambers, being assigned by the President of the Specialist Chambers to serve as the Higher Judge for Staff Appeals in Files Nos SA-04-HJ, SA-06-HJ, SA-07-HJ, SA-08-HJ,¹ acting pursuant to Staff Rule 84(h) of the Staff Rules of the Specialist Chambers and Specialist Prosecutor's Office² and Rule 29(3) of the Rules of Procedure for Staff Appeals ("Staff Appeals Procedure"),³ issues the present consolidated decision.

1. On 5 August 2019, the Higher Judge for Staff Appeals, the undersigned Judge Charles L. Smith III, acting pursuant to Rule 22(4) of the Staff Appeals Procedure, issued four separate decisions in respect of four "second appeals"⁴ ("Final Decisions").⁵ The Final Decisions disposed of second appeals filed against four first-instance decisions rendered on 5 July 2019 by the Judge for Staff Appeals, Judge Thomas Laker ("First-instance Decisions").⁶ For a comprehensive procedural history of the respective proceedings, reference is made to the procedural background sections contained in the Final Decisions and First-instance Decisions, which are hereby incorporated in the present decision.

2. Through the present decision, the Higher Judge for Staff Appeals determines two distinct matters under Rule 29(3) of the Staff Appeals Procedure. The first matter concerns the release of public redacted versions of the Final Decisions. The second matter relates to requests that the Final Decisions as well as the First-instance

¹ SA-04-HJ/F002; SA-06-HJ/F002; SA-07-HJ/F002; SA-08-HJ/F002.

² KSC-RI-01-v.1.1.1, 7 February 2018.

³ KSC-RI-02-v1.0, 11 September 2017.

⁴ Under Chapter 3 of the Staff Appeals Procedure, "second appeals" are appeals lodged against decisions rendered by the Judge for Staff Appeals in accordance with Chapter 2 of the Staff Appeals Procedure.

⁵ SA-04-HJ/F003; SA-06-HJ/F006; SA-07-HJ/F003; SA-08-HJ/F003.

⁶ SA-04-J/F014; SA-06-J/F011; SA-07-J/F012; SA-08-J/F011. Public redacted versions of the First-instance Decisions were issued on 8 July 2019.

Decisions be made available to the public. The Higher Judge for Staff Appeals shall address these two questions in turn.

3. In his Final Decisions, the Higher Judge for Staff Appeals considered it necessary that, pursuant to Rule 29(3) of the Staff Appeals Procedure, public redacted versions of the Final Decisions be made available to the staff of the Specialist Chambers and the Specialist Prosecutor's Office and, to that end, instructed the appellants and the Registrar to submit redaction proposals, if any, no later than 19 August 2019.⁷ In compliance with the imposed time limit, the appellants requested, through substantially identical submissions, that "for the purpose of protection of identity and privacy", their "name[s] and title[s] be redacted from the public version of the" Final Decisions.⁸ The Registrar, while not requesting any redaction, did not oppose the appellants' requests, to the extent that they related to the redaction of the appellants' "name[s] and identifying information".⁹

4. Having considered the appellants' and the Registrar's submissions, and in particular, that there is no objection against the appellants' requests for privacy and that their scope is not unreasonable in the present circumstances, the Higher Judge for Staff Appeals decides that the public versions of his Final Decisions shall be redacted so as to withhold information regarding the appellants' names and titles, whenever present. Pursuant to Article 4.6 of the Administrative Directive titled "Filings under the Rules of Procedure for Staff Appeals",¹⁰ the Court Management Unit will publish

⁷ SA-04-HJ/F003, para. 33 and Disposition, c); SA-06-HJ/F006, para. 33 and Disposition, c); SA-07-HJ/F003, para. 33 and Disposition, c); SA-08-HJ/F003, para. 33 and Disposition, c).

⁸ SA-04-HJ/F004, para. 2; SA-06-HJ/F007, para. 2; SA-07-HJ/F004, para. 2; SA-08-HJ/F005, para. 2. The Higher Judge for Staff Appeals considers that an appellant's most recent filing (SA-08-HJ/F005) superseded the appellant's previous filing on the same matter (SA-08-HJ/F004). The reference to other "details" to be redacted in addition to name and title, contained in the appellant's previous filing (SA-08-HJ/F004, para. 2), is accordingly disregarded.

⁹ SA-04-HJ/F005, paras 3-4; SA-06-HJ/F008, paras 3-4; SA-07-HJ/F005, paras 3-4; SA-08-HJ/F006, paras 3-4.

¹⁰ KSC-AD-33-v1.0, 20 December 2018.

the public redacted versions of the Final Decisions in “the intranet of the Specialist Chambers and the Specialist Prosecutor’s Office”.

5. The Higher Judge for Staff Appeals is also seized of requests that his Final Decisions¹¹ as well as Judge Laker’s First-instance Decisions¹² be made available to the public pursuant to Rule 29(3) of the Staff Appeals Procedure. The requests all argue that dissemination to the public of the said staff appeals decisions is appropriate as such decisions concern “a matter of substantial current public importance and interest”, namely “the impact on [the United Kingdom’s (“UK”)] staff arising from the possible exit of the UK from the [European Union]”.¹³ The requests are also grounded in the principles of legality, accessibility, transparency and equality of arms, which are called into play invoking the case law of the European Court of Human Rights and of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, as well as the Constitution of the Republic of Kosovo.¹⁴

6. The Higher Judge for Staff Appeals, considering the reasons advanced in the requests for dissemination and that there has been no opposition from the Registrar, decides to accede to such requests in their entirety.

7. The present decision is open to the public.

¹¹ SA-04-HJ/F004, paras 3-5; SA-06-HJ/F007, paras 3-5; SA-07-HJ/F004, paras 3-5; SA-08-HJ/F005, paras 3-4.

¹² SA-04-J/F015, paras 1, 3-4; SA-06-HJ/F004, paras 1, 3-4; SA-07-J/F013, paras 1, 3; SA-08-HJ/F005, para. 5. Requests have been reiterated in SA-04-HJ/F004, para. 5; SA-06-HJ/F007, para. 5; SA-07-HJ/F004, para. 5. In relation to the Higher Judge for Staff Appeals’ *seisine* of requests that the First-instance Decisions be made available to the public, see SA-04-HJ/F002, para. 10 and Disposition, para. 2; SA-06-HJ/F002, Disposition (see also, in relation to File No. SA-06-HJ, SA-06-HJ/F003, para. 10 and Disposition, para. 2); SA-07-HJ/F002, para. 10 and Disposition, para. 2; SA-08-HJ/F002, Disposition.

¹³ SA-04-HJ/F004, para. 3; SA-06-HJ/F007, para. 3; SA-07-HJ/F004, para. 3; SA-08-HJ/F005, para. 3.

¹⁴ SA-04-HJ/F004, paras 3-4; SA-06-HJ/F007, paras 3-4; SA-07-HJ/F004, paras 3-4; SA-08-HJ/F005, paras 3-4. See also SA-04-J/F015, paras 3-4; SA-06-HJ/F004, paras 3-4; SA-07-J/F013, para. 3.

FOR THESE REASONS, THE HIGHER JUDGE FOR STAFF APPEALS HEREBY

1. **ISSUES**, pursuant to Rule 29(3) of the Staff Appeals Procedure, public versions of his Final Decisions, in which the names and titles of the appellants, whenever present, shall be redacted; and
2. **GRANTS** the requests that his Final Decisions and the First-instance Decisions be made available to members of the public pursuant to Rule 29(3) of the Staff Appeals Procedure.



**Judge Charles L. Smith III,
Higher Judge for Staff Appeals**

Dated this Wednesday, 28 August 2019
At The Hague, The Netherlands