



Case Information Sheet

Specialist Prosecutor v. Hysni Gucati & Nasim Haradinaj (Case No. KSC-BC-2020-07 & KSC-CA-2022-01 & KSC-SC-2023-01)

HYSNI GUCATI



Chairman of the Kosovo Liberation Army (KLA) War Veterans Association

NASIM HARADINAJ



Deputy Chairman of the Kosovo Liberation Army (KLA) War Veterans Association

Indictment	Initial indictment confirmed on 11 December 2020, made public on 14 December 2020. The corrected indictment filed on 5 July 2021 and the lesser redacted indictment was filed on 4 October 2021. Please find the latest indictment here .
Trial Judgment	Gucati: Found guilty of five out of the six accounts in the indictment – sentenced to 4,5 years imprisonment and a fine of 100 EUR Haradinaj: Found guilty of five out of the six accounts in the indictment – sentenced to 4,5 years imprisonment and a fine of 100 EUR
Appeal judgment	Gucati: Sentence reduced to 4 years and 3 months of imprisonment and a fine of 100 EUR Haradinaj: Sentence reduced to 4 years and 3 months of imprisonment and a fine of 100 EUR
Judges	Pre-Trial Judge: Nicolas Guillou Trial Panel II: Judges Charles Smith III (presiding), Christoph Barthe, Guénaél Mettraux and Fergal Gaynor (reserve judge) Court of Appeals Panel: Judges Michèle Picard (presiding), Kai Ambos and Nina Jørgensen Supreme Court Panel: Judges Ekaterina Trendafilova, Christine van den Wyngaert and Daniel Fransen
Arrest/Transfer/ Initial appearance	Gucati: arrested on 25 September 2020 in Prishtinë/Priština, Kosovo; transferred to The Hague on the same day; initial appearance on 18 December 2020: he pleaded not guilty to all counts. Haradinaj: arrested on 25 September 2020 in Prishtinë/Priština, Kosovo; transferred to The Hague on 26 September 2020; initial appearance on 18 December 2020: he chose to enter his plea within 30 days; further appearance on 8 January 2021: failed to enter a plea, the Pre-Trial Judge entered a plea of not guilty on his behalf.
Background information	The indictment states that between at least 7 and 25 September 2020, on the occasion of three press conferences and other broadcasted events, as well as through further dissemination, Gucati and Haradinaj revealed, without authorisation, information protected under the law of the Specialist Chambers, including the identifying details of certain (potential) witnesses. Gucati and Haradinaj also made disparaging accusations and remarks against (potential) witnesses and repeatedly expressed their intention to undermine the Specialist Chambers. According to the indictment, by these actions, Gucati and Haradinaj violated the secrecy of the proceedings, retaliated against and intimidated (potential) witnesses of the Specialist Prosecutor's Office and, as a consequence, obstructed its work and investigations.
Charges	Gucati and Haradinaj are charged on the basis of individual criminal responsibility (Article 16(3) of the Law) with: Criminal offences against the administration of justice and public administration (intimidation during criminal proceedings, retaliation and violating secrecy of proceedings pursuant to Article 15(2) of the Law and Articles 387, 388(1) and 392(1) to (3) of the Criminal Code of Kosovo, Law No. 06/L-074 (2019)); and Criminal offences against public order (obstructing official persons in performing official duties, pursuant to Article 15(2) of the Law and Article 401(1) to (3) and (5) of the Criminal Code of Kosovo, Law No. 06/L-074 (2019)
Status	End of Trial

PRETRIAL PROCEEDINGS

Following the issuance of warrants by the Single Judge, Gucati and Haradinaj were arrested in Prishtinë/Priština, Kosovo, on 25 September 2020 and transferred to the KSC Detention Unit on 25 and 26 September 2020, respectively.

Haradinaj's and Gucati's first appearances as suspects before the Single Judge, Nicolas Guillou, were held on 29 September 2020 and 1 October 2020, respectively.

On 11 December 2020, Pre-Trial Judge, Nicolas Guillou, confirmed the indictment against the two accused.

Gucati's and Haradinaj's initial appearances took place on 18 December 2020 before the Pre-Trial Judge, Nicolas Guillou. Gucati pleaded not guilty to all counts of the indictment whereas Haradinaj chose to enter his plea within 30 days. During the further appearance on 8 January 2021, Haradinaj failed to enter a plea. Accordingly, pursuant to Rule 92(2)(f) of the Rules, the Pre-Trial Judge entered a plea of not guilty on his behalf to all counts of the indictment.

On 27 August 2021, the Specialist Prosecutor's Office filed a public redacted version of its pre-trial brief. The Gucati Defence did the same on 2 September whereas the Haradinaj's Defence filed an "interim" pre-trial brief on 12 July 2021.

On 23 June 2021, the Court of Appeals Panel granted, in part, the appeals by Gucati and Haradinaj in relation to alleged defects in the form of the indictment and ordered that a corrected version of the indictment be filed by the SPO. The corrected indictment was filed on 5 July 2021.

On 16 July 2021, the Pre-Trial Judge transmitted the case file to Trial Panel II.

The trial preparation conference in this case was held on 1 and 2 September, followed by the SPO preparation conference on 8 September 2021.

TRIAL PROCEEDINGS

The trial commenced on 7 October 2021 with the opening statement of the Specialist Prosecutor. On 10 November 2021, the SPO closed its case.

On 26 November 2021, the Panel denied the motions, filed by both Defence teams, to dismiss the charges against the accused pursuant to Rule 130 of the KSC Rules of Procedure and Evidence.

The Defence preparation conference was held on 2 December and the Gucati's Defence case commenced on 3 December 2021, followed by the Haradinaj's case on 15 December 2021. Both Defence teams closed their cases on 2 February 2022.

The evidentiary proceedings in this case were closed on 3 February 2022. The SPO and the Haradinaj Defence filed its final trial brief on 3 March 2022, followed by the Gucati Defence on 4 March 2022. On 16 March, the Panel reopened the proceedings for the sole purpose of admitting certain witness statements, filed by the Defence, related to sentencing.

The closing statements took place from 14 until 17 March 2022.

The trial judgment was pronounced on 18 May 2022. Both accused were found guilty of:

- Count 1, Obstructing Official Persons in Performing Official Duties by serious threat
- Count 2, Obstructing Official Persons in Performing Official Duties by participating in the common action of a group
- Count 3, Intimidation During Criminal Proceedings
- Count 5, Violating Secrecy of Proceedings through unauthorised revelation of secret information disclosed in official proceedings
- Count 6, Violating Secrecy of Proceedings through unauthorised revelation of the identities and personal data of protected witnesses

Both accused were acquitted of Count 4, Retaliation.

Hysni Gucati and Nasim Haradinaj are each sentenced to 4.5 years of imprisonment, with credit for the time served, and were ordered to pay a fine of 100 EUR by 18 July 2022.

Please find the full trial judgment [here](#).

Trial Statistics

	Number of trial days: 32		
Number of witnesses in court	SPO: 4	Gucati Defence: 6 Haradinaj Defence: 4	Trial Panel: 0
Number of exhibits	SPO: 169	Gucati Defence: 46 Haradinaj Defence: 20	Trial Panel: 2
Number of written witness testimonies	SPO: 0	Gucati Defence: 12 Haradinaj Defence: 6	Trial Panel: 0

Specialist Prosecutor's Office

Valeria Bolici, Matt Halling, James Pace

Defence Counsel

Gucati: Jonathan Elystan Rees (Counsel), Huw Bowden (Co-Counsel), Eleanor Stephenson (Co-Counsel)
Haradinaj: Toby Cadman (Counsel), Carl Buckley (Co-Counsel) and Almudena Bernabeu García (Co-Counsel)

COURT OF APPEALS PROCEEDINGS

Both Guçati and Haradinaj filed their notices of appeal, dated 17 June 2022. The SPO informed that it does not intend to appeal the trial judgment. The pre-appeal conference took place on 5 July 2022.

On 1 July, the Court of Appeals Panel, due to, inter alia, a non-compliance with the requirements of the relevant Practice Direction, struck in its entirety the Haradinaj's notice of appeal and ordered him to re-file it within one week from the date of receipt of the Panel's decision. As for Guçati's notice of appeal, the Panel struck only ground 18 and ordered him to re-file his notice of appeal within the same deadline, should he wish to maintain the content of that ground. The notices of appeal were re-filed on 10 July (Haradinaj) and 11 July 2022 (Guçati).

Hysni Guçati filed his appeal brief on 22 August 2022 whereas the latest corrected version of the Haradinaj's appeal brief was filed on 2 September 2022. The appeal hearing took place on 1 and 2 December 2022.

The appeal judgment was pronounced on 2 February 2023. The Appeals Panel affirmed Guçati's and Haradinaj's convictions for intimidation during criminal proceedings (count 3), violating the secrecy of proceedings through the unauthorised revelation of secret information disclosed in official proceedings (count 5), and violating the secrecy of proceedings through the unauthorised revelation of the identities and personal data of protected witnesses (count 6). The Appeals Panel further affirmed, Judge Ambos dissenting, the conviction for obstructing official persons in performing official duties by serious threat (count 1). The Appeals Panel reversed the Trial Panel's finding related to the obstructing official persons in performing official duties by participating in the common action of a group (count 2) and acquitted Guçati and Haradinaj on this count. In view of their findings, the Appeals Panel by majority reduced the sentences of four and a half years imposed by the Trial Panel to four years and three months of imprisonment, with credit for time served. The Appeals Panel affirmed the additional sentence to pay a fine of one hundred euros (100 EUR) each.

Please find the full judgment [here](#).

Specialist Prosecutor's Office

Matthew Halling, James Pace

Defence Counsel

Gucati: Jonathan Elystan Rees (Counsel), Huw Bowden (Co-Counsel) and Eleanor Stephenson (Co-Counsel)
Haradinaj: Toby Cadman (Counsel), Almudena Bernabeu García (Co-Counsel) and John Cubbon (Co-Counsel)

REQUESTS FOR PROTECTION OF LEGALITY BEFORE SUPREME COURT

On 2 and 3 May 2023, respectively, Haradinaj and Gucati filed their requests for protection of legality pursuant to Article 48(6) to (8) of the Law and Rule 193 of the Rules. Accordingly, the President assigned the Supreme Court panel, composed of Judges Ekaterina Trendafilova, Christine van den Wyngaert and Daniel Fransen to decide on the requests. On 9 May 2023, Haradinaj re-filed his request.

On 18 September 2023, the Supreme Court Panel rejected both requests for protection of legality.