



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-07
The Prosecutor v. Hysni Gucati and Nasim Haradinaj

Before: **Trial Panel II**
Judge Charles L. Smith, III, Presiding Judge
Judge Christoph Barthe
Judge Guénaël Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 16 November 2021

Language: English

Classification: Public

**Decision on Haradinaj Defence Application to Extend Word Limit
for Rule 130 Motion**

Specialist Prosecutor

Jack Smith
Valeria Bolici
Matthew Halling
James Pace

Counsel for Hysni Gucati

Jonathan Elystan Rees
Huw Bowden
Eleanor Stephenson

Counsel for Nasim Haradinaj

Toby Cadman
Carl Buckley
Jonathan Peter Worboys

TRIAL PANEL II (“Panel”), pursuant to Article 40(2) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 116 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 8 November 2021, the Defence for Nasim Haradinaj (“Haradinaj Defence”) and the Defence for Hysni Gucati (“Gucati Defence”) confirmed their intent to file a motion to dismiss charges pursuant to Rule 130 of the Rules (respectively “Haradinaj Motion” and “Gucati Motion”, collectively “Motions”).¹

2. On 9 November 2021, the Panel directed the Defence to file their Motions by 17 November 2021 and the Specialist Prosecutor’s Office (“SPO”) to respond to the Motions by 24 November 2021 (“SPO Consolidated Response”).²

3. On 15 November 2021, the Haradinaj Defence filed an application requesting to extend the 6,000 word-limit for the Haradinaj Motion to 9,000 words (“Application”).³

II. SUBMISSIONS

4. The Haradinaj Defence submits that the following factors favour granting the Application: (i) the amount of evidence the Panel needs to consider when assessing the Motion; (ii) the Motion will seek dismissal of all six counts of the Indictment; (iii) the timely Application does not prejudice the SPO; (iv) it is in the interests of

¹ Transcript, 8 November 2021, pp 2032, 2036.

² F00428, Panel, *Scheduling Order for Work Plan and Time Limits for the Next Steps in the Proceedings*, 9 November 2021, para. 16 (b) and (c).

³ F00434, Haradinaj Defence, *Defence Application to Extend Word Limit for Rule 130 Submission* (“Application”), 15 November 2021.

justice to enable the Defence to fully argue its Motion; and (v) the extension requested has been kept to a minimum.⁴

III. APPLICABLE LAW

5. Pursuant to Article 41 of the Registry Practice Direction – Files and Filings before the Kosovo Specialist Chambers (“Practice Direction”),⁵ any motion shall not exceed 6,000 words.

6. Pursuant to Article 36 of the Practice Direction, parties may, in exceptional circumstances and sufficiently in advance, seek authorisation from the Panel to exceed the prescribed word-limit and provide an explanation of the good cause necessitating the sought extension. Where no prejudice is caused to the opposing party, the Panel may dispose of motions for extension of word limits without giving the opposing party the opportunity to be heard.

IV. DISCUSSION

7. The Panel notes that the Haradinaj Defence intends, through the Haradinaj Motion, to challenge all six counts of the Indictment.⁶ The Panel considers that it is in the interests of justice to enable the Haradinaj Defence to fully and properly argue its challenges. In this regard, the Panel is satisfied that there is good cause in granting the 3,000-word extension sought for the Haradinaj Motion.

8. With the view to maintaining equality between the Parties, the Panel will also extend, *proprio motu*, the word-limit for the Gucati Motion and the SPO Consolidated Response to both Defence Motions.

⁴ Application, paras 4-5.

⁵ KSC-BD-15, Registry, *Registry Practice Direction – Files and Filings Before the Kosovo Specialist Chambers*, 17 May 2019.

⁶ Transcript, 8 November 2021, p. 2036.

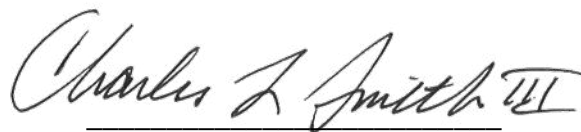
9. In light of the above, the Panel considers that the Application causes no prejudice to the SPO. The Panel therefore disposes of the Application without awaiting a response from the SPO in order to expedite proceedings.

10. That being said, the Panel takes this opportunity to direct the Parties to focus their respective submissions on matters of law and facts which must be decided upon by the Panel and to refrain from verbatim citations of relevant provisions and extensive rendition of applicable legal standards.

V. DISPOSITION

11. For these reasons, the Panel:

- (i) **GRANTS** the Application; and
- (ii) **EXTENDS** the word-limit for the:
 - a. Haradinaj Motion to 9,000 words;
 - b. Gucati Motion to 9,000 words;
 - c. SPO Consolidated Response to 9,000 words.



Judge Charles L. Smith, III
Presiding Judge

Dated this Tuesday, 16 November 2021

At The Hague, the Netherlands