

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

Before: **Single Judge**
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Nasim Haradinaj

Date: 14 December 2020

Language: English

Classification: Confidential

**URGENT REQUEST TO POSTPONE THE INITIAL APPEARANCE TO
DECEMBER 18, 2020**

Specialist Prosecutor's Office

Jack Smith

Specialist Counsel for Hysni

Gucati

Jonathan Elystan Rees QC

Huw Bowden

Counsel for Nasim Haradinaj

Bas Martens

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1. On December 14th, at 11:50 o'clock the confirmed indictment (Rules 85 and further) was brought to the attention of the Defence.
2. The same afternoon, on December 14th, at 15:56 o'clock, the Defence of Mr. Nasim Haradinaj was informed that the initial appearance would take place the next day, Tuesday, December 15th, at 15 o'clock.
3. At the Initial Appearance the Pre-trial judge has to decide on the provisions and rights set in Article 39(5) of the Law and in Rule 92 (2).
4. The time for the Defence to prepare for the Initial Appearance is too short, considering:
 - only 23 hours are given to prepare for the hearing;
 - the confirmed indictment was published on December 14th midday and consists of a 16 page complex legal document;
 - Mr. Haradinaj is held in detention in the detention facilities of the KSC. The Defence managed to organize an emergency Zoom-meeting at 18 o'clock, but a translator was not available. Defence Counsel was therefore given no opportunity to discuss the Indictment with the client Mr. Haradinaj in preparation for the Initial Appearance. Mr. Haradinaj can therefore not make an assessment on his position at the Initial Appearance.
 - The availability for a hearing was prompted on December 4th. Counsel for Mr. Haradinaj replied immediately: *'In the week of 14-18 December, I am available on: Monday 14 | Tuesday 15 afternoon (after 13 o'clock) and Wednesday. Preferably in person, but via videolink if necessary.'* Thus it was known that Counsel is not available in

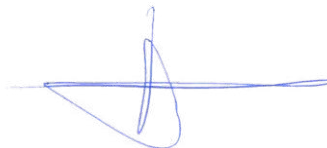
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the morning of December 15th (teaching from 10-12 o'clock), limiting the time for preparation of a hearing on Tuesday afternoon even further.

De facto, Defence Counsel has had no time to prepare for the hearing or consult with the client in any way appropriately.

5. Considering also, the Indictment was already filed by SPO on October 30, 2020 and has been under review with the Pre-Trial judge for a month and a half. The Defence had no influence on the time the Indictment was kept under review. In the same way, the Defence has to deal with the fact that the KSC closes for its end of year recess from December 18th, effectively leaving the Defence with only a couple of days to review and discuss the Indictment.
6. It is also known that the Initial Appearance of Mr. Gucati is scheduled on Friday 18 December 2020.
7. For the reasons above, Counsel of Mr. Nasim Haradinaj requests the Pre-Trial judge to postpone the Initial Appearance to Friday December 18, 2020.
8. Counsel of Mr. Haradinaj and Mr. Haradinaj wish to appear in person in the hearing at the Kosovo Specialist Chambers.

[Word count: 446]



Bas Martens

Specialist Counsel for Nasim Haradinaj

14 December 2020

At The Hague, the Netherlands