

**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 Guénaél Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Counsel for Nasim Haradinaj

**Date:** 29 November 2021

**Language:** English

**Classification:** Public

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**Haradinaj Defence Application for an Extension of Time for Rule 119 Notice**

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## I. INTRODUCTION

1. In its Scheduling Order of 9 November 2021, the Trial Panel ordered the Defence to submit any Rule 119(2) filing by 29 November 2021, if the Panel has issued a decision under Rule 130 of the Rules finding that there is a case to answer.<sup>1</sup>
2. On 17 November 2021, the Defence filed its Rule 130 Motion to dismiss all six charges against Mr. Haradinaj.<sup>2</sup>
3. On 26 November 2021, the Trial Panel issued its Decision (“Impugned Decision”) on the Rule 130 Motions, denying the dismissal of all six charges on the Indictment.<sup>3</sup> In a separate filing, the Defence will seek leave to appeal the Impugned Decision (“Application for Leave to Appeal”) and for suspensive effect to be ordered on certification.
4. The Defence hereby request an extension of time to file any Rule 119 Notice until the day after the Trial Panel renders its decision on certification.

## II. LAW

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<sup>1</sup> KSC-BC-2020-07/F00428, Scheduling Order for Work Plan and Time Limits for the Next Steps in the Proceedings, 9 November 2021, Public, at paras. 13, 14, 17(a).

<sup>2</sup> KSC-BC-2020-07/F00440, Defence Motion under Rule 130 ‘Dismissal of Charges’, 17 November 2021.

<sup>3</sup> KSC-BC-2020-07/F00450, Decision on the Defence Motions to Dismiss Charges, 26 November 2021, Public.

5. Rule 9(5)(a) of the Rules of Procedure and Evidence provides:

*“The Panel may, proprio motu or upon showing of good cause:*

- (a) extend or reduce any time limit prescribed by the Rules or set by the Panel; or*  
*(b) recognise as valid any act carried out after the expiration of the time limit.”*

6. Rule 171 of the Rules provides:

*“Subject to Rule 58(4), interlocutory appeals shall not have suspensive effect unless otherwise ordered in the certification decision or by the Court of Appeals Panel, upon request filed prior to or with the appeal. <sup>2</sup>Suspensive effect shall only be granted as an exceptional measure where the Appellant demonstrates that the implementation of the decision under appeal could potentially defeat the purpose of the appeal or would lead to consequences which may be irreversible.”*

### III. SUBMISSIONS

7. Based on Rules 9(5) and 171 and the reasons set out in the Application for Leave to Appeal Application at paragraphs 5-7, 17-22, 25-26, 28-30 and 31-36, the Defence submits that an order of extension of time to file any Rule 119(2) Notice should be granted until after the Trial Panel has rendered its decision on the Application for Leave to Appeal the Impugned Decision (and the request therein for suspensive effect).

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