

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 Hysni Gucati

Date: 29 November 2021

Language: English

Classification: Public

Application for Extension of Time to file Rule 119 Notice

Specialist Prosecutor

Jack Smith

Valeria Bolici

Matthew Halling

James Pace

Counsel for Hysni Gucati

Jonathan Elystan Rees QC

Huw Bowden

Eleanor Stephenson

Counsel for Nasim Haradinaj

Toby Cadman

Carl Buckley

Jonathan Peter Worboys

I. INTRODUCTION

1. On 9 November 2021, the Trial Panel ordered the Defence to submit any filing pursuant to Rule 119(2) by 29 November 2021, in the event that the Panel has issued a decision under Rule 130 of the Rules finding that there is a case to answer¹.
2. On 17 November 2021, the Defence filed its Motion to Dismiss pursuant to Rule 130 (“Motion to Dismiss”)² in relation to all six counts faced by the Accused.
3. On Friday 26 November 2021, the Defence received notification of the Decision on the Defence Motions to Dismiss Charges (“the Impugned Decision”)³ denying the motion in relation to all six counts.
4. The Defence have simultaneously applied in a separate filing for leave to appeal the Impugned Decision and for suspensive effect to be ordered on certification⁴.
5. The Defence request herein an extension of time to file any notice under Rule 119 until the day after a decision on certification.

¹ KSC-BC-2020-07/F00428, “Scheduling Order for Work Plan and Time Limits for the Next Steps in the Proceedings”, Trial Panel II, 9 November 2021, Public at paragraphs 13, 14 and 17(a)

² KSC-BC-2020-07/F00439, “Motion to Dismiss pursuant to Rule 130”, Gucati, 17 November 2021, Confidential

³ KSC-BC-2020-07/F00450, “Decision on the Defence Motions to Dismiss Charges”, Trial Panel II, 26 November 2021, Public

⁴ KSC-BC-2020-07/unassigned, “Application for Leave to Appeal through Certification from Decision KSC-BC-2020-07/F00450 pursuant to Article 45(2) and Rule 77(1)”, Gucati, dated 29 November 2021, Public (“Application for Leave to Appeal”)

II. APPLICABLE LAW

6. Rule 9(5)(a) provides that the Panel may, upon showing of good cause, extend any time limit prescribed by the Rules or set by the Panel.
7. Whereas Rule 171 provides for the power to suspend the effect of an impugned decision pending appeal, a suspension under Rule 171 can only be ordered in the certification decision itself.

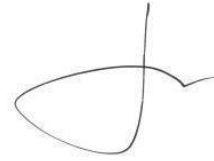
III. SUBMISSIONS

8. For the reasons set out in the Application for Leave to Appeal at paragraphs 10, 18–21 and 23-26, it is submitted that an extension of time to file any Rule 119(2) notice should be granted until after the determination of the Application for Leave to Appeal (and the request therein for suspensive effect).

IV. CLASSIFICATION

9. This filing is classified as public.

Word count: 376 words



JONATHAN ELYSTAN REES QC

Specialist Counsel for Mr Gucati

HUW BOWDEN

Specialist Co-Counsel for Mr Gucati

ELEANOR STEPHENSON

Specialist Co-Counsel for Mr Gucati

29 November 2021

Cardiff, UK

The Hague, Netherlands