



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

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: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor

Date: 7 March 2022

Language: English

Classification: Public

Prosecution Request for Disclosure of Additional Sentencing Evidence

Specialist Prosecutor's Office

Jack Smith

Counsel for Mr Gucati

Jonathan Elystan Rees

Counsel for Mr Haradinaj

Toby Cadman

1. In accordance with the Closing Evidence Order,¹ the Gucati Defence filed its final brief indicating what additional evidence it would consider in sentencing.² The Haradinaj Defence did not address sentencing matters in its final brief,³ making it unclear what further evidence it may seek to present, if any.
2. None of the evidence foreshadowed by the Gucati Defence has been disclosed. Nor is there any indication – noting the general rule at the KSC that the judgment and sentence be pronounced simultaneously⁴ - why this evidence could not have been previously tendered during the Defence evidence presentation.
3. The SPO should have notice of any additional evidence proposed for sentencing in order to set out its full position in closing statements. Further, the Defence should not be permitted to force the Trial Panel into a bifurcated procedure by delaying disclosure of any evidence it wishes to submit for sentencing. Finally, given the nature of this case, the notice provided to the Accused, the resources available to the Defence teams, and the limited scope of any evidence that could be offered at sentencing at this stage, there is no reason why the Defence should not be able to submit their proposed evidence by this Friday, 11 March 2022.
4. The SPO therefore requests the Trial Panel to order the Gucati Defence and Haradinaj Defence to disclose any further evidence they seek to be considered for sentencing by 16:00 on Friday, 11 March 2022.

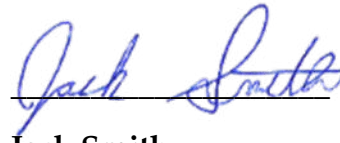
¹ Decision on the Closing of the Evidentiary Proceedings and on Submissions Pursuant to Rules 134(b), (d) and 159(6) of the Rules, KSC-BC-2020-07/F00553, 3 February 2022 ('Closing Evidence Order').

² Final Trial Brief on behalf of Hysni Gucati, KSC-BC-2020-07/F00567, 3 March 2022, Confidential, paras 170-71.

³ Final Trial Brief on Behalf of Nasim Haradinaj, KSC-BC-2020-07/F00566, 3 March 2022.

⁴ Rule 159(6) of the of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020.

Word count: 317



Jack Smith

Specialist Prosecutor

Monday, 7 March 2022

At The Hague, the Netherlands