



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

**In:** KSC-CA-2022-01  
**The Prosecutor v. Hysni Gucati and Nasim Haradinaj**

**Before:** **Court of Appeals Panel**  
Judge Michèle Picard  
Judge Kai Ambos  
Judge Nina Jørgensen

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor

**Date:** 25 May 2022

**Language:** English

**Classification:** Public

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**Prosecution response to 'Haradinaj Request for Clarification on Appeal  
Timescale'**

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**Specialist Prosecutor's Office**

Jack Smith

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Jonathan Elystan Rees

**Counsel for Mr Haradinaj**

Toby Cadman

## I. INTRODUCTION

1. Contrary to the Haradinaj Defence assertion in the Request,<sup>1</sup> the relevant time limit within which any notice to appeal the Trial Judgment<sup>2</sup> should be filed is clearly set out in the Rules.<sup>3</sup> Accordingly, no clarification from the Court of Appeals Panel ('Panel') is necessary.

2. To the extent that the Request amounts to a request for any extension of the applicable time limit, the Panel should reject it since the Haradinaj Defence fails to establish good cause. Delaying the appellate proceedings on the basis of the current unavailability of the Trial Judgment in Albanian would be unreasonable.

## II. BACKGROUND

3. On 18 May 2022, the Trial Panel issued the Trial Judgment.

4. On 23 May 2022, the Request was notified.

5. On 24 May 2022, the President assigned the Panel.<sup>4</sup>

## III. SUBMISSIONS

6. Contrary to the Haradinaj Defence assertion, the Rules are not silent in relation to when the thirty-day time limit for the filing of a notice of appeal from the Trial Judgment starts to run.<sup>5</sup> Rule 9(2) provides that '[t]ime limits run from the first working day after the notification of the relevant filing in the working language(s)

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<sup>1</sup> Haradinaj Request for Clarification on Appeal Timescale, KSC-CA-2022-01/F00001, 21 May 2022 (notified on 23 May 2022 at 14:39) ('Request'), para.3.3.

<sup>2</sup> Trial Judgment, KSC-BC-2020-07/F00611, 18 May 2022 ('Trial Judgment').

<sup>3</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

<sup>4</sup> Decision Assigning a Court of Appeals Panel, KSC-CA-2022-01/F00002, 24 May 2022.

<sup>5</sup> Request, para.3.3.

determined by the Panel.’ As noted by the Defence,<sup>6</sup> English is the working language determined by the Trial Panel. Accordingly, the thirty-day time limit started to run from 19 May 2022, the first working day after the notification of the Trial Judgment. There is no need for any clarification in relation to this issue.

7. To the extent that the Request amounts to a request for extension of the time limit, the Panel should reject it since the Haradinaj Defence fails to establish good cause as required by Rule 9(5). Since the time limits for the filing of appellate briefs are calculated from the date on which the notice of appeal is filed,<sup>7</sup> any delay at such an early stage will affect subsequent filings.

8. Counsel for Mr. Haradinaj can, and have been, working in English - the language in which the Trial Judgment is available. The assertion that the Haradinaj Defence is unable to take instruction from its client concerning the notice of appeal<sup>8</sup> is, at best, an overstatement. The Haradinaj Defence is often required to communicate with Mr. Haradinaj and, as such, must have access to an interpreter and/or other staff member/s able to communicate in both Albanian and English. As such, the Haradinaj Defence is able to discuss the content of the Trial Judgment as well as any possible grounds of appeal with Mr. Haradinaj.<sup>9</sup> Further, Mr. Haradinaj received Albanian interpretation of the summary of the Trial Judgment which was read out in court on 18 May 2022.

9. Crucially, the determination of potential grounds of appeal falls primarily within the purview of Defence Counsel.<sup>10</sup> Further, any prejudice caused by the time

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<sup>6</sup> Request, para.3.5.

<sup>7</sup> See Rule 179.

<sup>8</sup> Request, paras 3.2, 3.6.

<sup>9</sup> See ICTY, *Prosecutor v. Lukić and Lukić*, Decision on Milan Lukić’s Urgent Motion for Enlargement of Time to File Notice of Appeal, IT-98/32/I-A, 19 August 2009 (*‘Lukić Decision’*), para.10.

<sup>10</sup> See *Lukić Decision*, para.10; ICTR, *Prosecutor v. Renzaho*, Decision on Tharcisse Renzaho’s Motion for Extension of Time for the Filing of Notice of Appeal and Brief in Reply, ICTR-97-31-A, 22 September 2009 (*‘Renzaho Decision’*), para.5.

limit for filing of any notice of appeal running from the date of the Trial Judgment would not be irrevocable,<sup>11</sup> in particular since pursuant to Rule 176(3), the Panel may authorise a variation of the grounds of appeal upon a showing of good cause.<sup>12</sup>

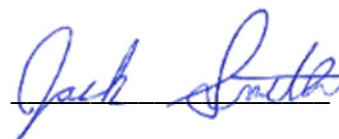
10. Requests for extensions of time limits for the filing of a notice of appeal based on the submission that a translation of the relevant judgement into the language of an accused is not yet available have been rejected by other panels.<sup>13</sup> The Panel should follow suit.

11. Finally, the Defence assertion that Mr. Haradinaj 'is entitled to *all* documents in a language which he understands'<sup>14</sup> ignores the Court's regulatory framework and is irrelevant to the specific issue at hand.

#### IV. RELIEF REQUESTED

12. For the foregoing reasons, the Panel need not provide any clarification as to the time limit for the filing of any notice to appeal the Trial Judgment and, to the extent that the Request seeks an extension of the time limit within which any notice of appeal is to be filed, such request should be rejected.

**Word count: 859**



**Jack Smith**

**Specialist Prosecutor**

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<sup>11</sup> *Contra* Request, para.3.9.

<sup>12</sup> See also *Lukić* Decision, para.10; ICTY, *Prosecutor v. Krajišnik*, Decision on "Urgent Motion for Extension of Time for Filing Notice of Appeal Pending Translation of the Judgment into the Language of the Convicted Person", IT-00-39-A, 1 February 2007 ('*Krajišnik* Decision'), p.4; *Renzaho* Decision, para.5.

<sup>13</sup> See *Lukić* Decision, para.10, fn.18; *Krajišnik* Decision, p.2.

<sup>14</sup> Request, para.3.4 (emphasis in original); See also Request, para.3.7.

Wednesday, 25 May 2022

At The Hague, the Netherlands