

In: KSC-CA-2022-01

The Prosecutor v. Hysni Gucati and Nasim Haradinaj

Before: A Panel of the Court of Appeals Chamber

Judge Michèle Picard

Judge Kai Ambos

Judge Nina Jørgensen

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Nasim Haradinaj

Date: 08 November 2022

Language: English

Classification: Confidential

Haradinaj Application to Join Gucati Filing KSC-CA-2022-01/F00087

Specialist Prosecutor

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I. INTRODUCTION

1. On 7 November 2022 the Defence for Hysni Gucati filed its submission ‘Application for an Extension of Time to File any Motion to Present Additional Evidence before the Court of Appeals Panel Pursuant to Rule 181’.¹
2. The Defence for Mr Nasim Haradinaj (“Haradinaj Defence”) joins and adopts that submission and reasserts the same.

II. SUBMISSIONS

3. Having regard to the fact that this submission is a ‘Joinder’ application, the Haradinaj Defence for Mr Haradinaj does not seek to rehearse that submission filed on behalf of the Appellant Gucati.
4. It does however fall to be repeated that the motivation for that submission and accordingly this application for joinder, is in part, the intransigence of the Specialist Prosecutor’s Office (“SPO”) in terms of its position regarding *inter partes* requests for assistance submitted by the respective legal teams for the Appellant,² and in part, on the basis that applications made to the Appeals Panel in respect of witness contact details remain outstanding.³

¹ KSC-CA-2022-01/F00087

² *Ibid* at paragraphs 9-12

³ *Ibid* at paragraphs 11 and 12

5. Accordingly, the Haradinaj Defence would submit that the respective submissions of the Defence teams have not been necessitated through anything done or not done by either Defendant or Defence team.
6. The salient point is that per the position of the Gucati filing, the Defence team(s) are prevented from undertaking any investigation(s) that may be deemed necessary at this stage,⁴ and therefore, it simply is not possible to file any motion seeking to adduce any further evidence before the Appeals Panel,⁵ given that it is not possible to determine whether there is any relevant further evidence to be subject to such a filing.
7. Again therefore, and in agreement with the Gucati filing, to file any motion per Rule 181(1) would at this stage be wholly premature,⁶ and further, likely to be 'in the abstract' given the unanswered questions in respect of possible witness evidence.

III. CONCLUSION

8. The Haradinaj Defence joins the Gucati submission and seeks the same relief, in that the Defence Team(s) are granted an extension of time to file any Rule

⁴ *Ibid* at paragraphs 15-18

⁵ Rule 181(1) Rules of Procedure and Evidence

⁶ KSC-CA-2022-01/F00087 at paragraph 16

181 application of 14 days after the Appeals Panel has ruled upon the
Applications for Contact Details.

Word Count: [357] words



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