



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

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

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

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor

Date: 8 November 2022

Language: English

Classification: Confidential

**Prosecution Response to Applications for Extension of Time to File Motions for
Additional Evidence on Appeal**

Specialist Prosecutor's Office

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Toby Cadman

1. The last-minute Requests¹ to extend the deadline for applications to file additional evidence are not justified and should be rejected.
2. The timing of the Requests is inexcusable. W04730's two interviews at the heart of the Requests were disclosed on 26 September 2022.² The Defence has had over a month to investigate them, and has known since 26 October at the latest that the SPO would not facilitate the requested interviews.³ The Defence waited without justification and filed requests notified on 8 November 2022, which is the day of the deadline required by Rule 181(1) of the Rules.⁴
3. The Defence argues that filing Rule 181 motions is premature because it has requests for interview contact details pending with the Appeals Panel.⁵ However, the prospect of hypothetically gathering further evidence cannot justify delaying an application to admit any additional evidence currently in the Defence's possession. Arguments that the redactions in W04730's interviews compromise Defence investigations⁶ are also nothing more than an unfounded request to reconsider the Appeals Panel's protective measures decision.⁷

¹ Application for an Extension of Time to File any Motion to Present Additional Evidence before the Court of Appeals Panel Pursuant to Rule 181, KSC-CA-2022-01/F00087, 7 November 2022, Confidential ('Gucati Request'); Haradinaj Application to Join Gucati Filing KSC-CA-2022-01/F00087, KSC-CA-2022-01/F00088, 8 November 2022, Confidential ('Haradinaj Request').

² Disclosure Package 1.

³ Email from the SPO to the Defence, 26 October 2022, at 12:36.

⁴ 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.


⁵ Gucati Request, KSC-CA-2022-01/F00087, para.16; Haradinaj Request, KSC-CA-2022-01/F00088, para.7. Responses to these requests for contact details (KSC-CA-2022-01/F00079) and (KSC-CA-2022-01/F00081) will be filed within the statutory deadline.

⁶ Gucati Request, KSC-CA-2022-01/F00087, para.18.

⁷ Confidential Redacted Version of Decision on Specialist Prosecutor's Office Request for Protective Measures, KSC-CA-2022-01/F00049/CONF/RED, 23 September 2022, Confidential (confidential redacted version notified 26 September 2022).

4. For the reasons above, the relief sought in the Requests should be rejected. Any proposed additional evidence in the Defence's possession should be included in requests filed by the 8 November 2022 deadline.⁸

Word count: 358



Jack Smith
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Tuesday, 8 November 2022

At The Hague, the Netherlands.

⁸ This filing is filed confidentially pursuant to Rule 82(4).