

**In:** KSC-CA-2022-01/CR002  
**The Prosecutor v. Hysni Gucati and Nasim Haradinaj**

**Before:** Single Judge Panel  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Counsel for Nasim Haradinaj

**Date:** 29 March 2023

**Language:** English

**Classification:** Public

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**Public Redacted Version of Haradinaj Defence Application to Reclassify as Public Filings**

**KSC-CA-2022/01/CR002/F00001, KSC-CA-2022/01/CR002/F00005, KSC-CA-  
2022/01/CR002/F00008**

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## I. INTRODUCTION

1. On 27 March 2023, the Single Judge ordered that the Haradinaj Defence and the Registry indicate whether the filings in relation to the Haradinaj Defence for Temporary Request on Compassionate Grounds, could be reclassified as public.<sup>1</sup> The filings in question are as follows:

- i. The Haradinaj Request (CR002/F00001, main filing only);
- ii. The SPO Response (CR002/F00003);
- iii. The Supplement to the Haradinaj Request (CR002/F00005, main filing only);
- iv. The Extension of Time Request (CR002/F00006);
- v. The Withdrawal of the Haradinaj Request (CR002/F00008); and
- vi. The Registrar's Submission of Additional Information (CR002/F00009, including Annexes 1 -2).

## II. BACKGROUND

2. On 2 February 2023, a Panel of the Court of Appeals Chamber rendered the Appeal Judgment wherein it partially affirmed the convictions by Trial Panel II of Hysni Gucati and Nasim Haradinaj ("Mr Haradinaj"),<sup>2</sup> reducing their sentences to four years and three months of imprisonment, with credit for time served, further

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<sup>1</sup> KSC-CA-2022-01/CR002/F00010, Single Judge, *Decision on Haradinaj Defence Request for Temporary Release on Compassionate Grounds*, 27 March 2023, confidential and *ex parte*.

<sup>2</sup> KSC-BC-2020-07, F00611/RED, Trial Panel II, *Public Redacted Version of the Trial Judgment*, 18 May 2022, public.

affirming the additional sentence imposed on each to pay a fine of one hundred Euros (100 EUR).<sup>3</sup>

3. Pursuant to Articles 39(1) and (3) of the Law, the Pre-Trial Judge may issue any order as may be required for the conduct of the investigation and for the preparation of a fair and expeditious trial.
4. On 3 March 2023, Counsel for Mr. Haradinaj filed a request seeking temporary release on compassionate grounds (“Haradinaj Request”).<sup>4</sup> Mr. Nasim Haradinaj (“Applicant”) requested a custodial visit to attend the funeral of his brother, Agron Haradinaj, who passed away at 23h45 on 1 March 2023, in Germany.<sup>5</sup> The Applicant likewise requested to attend the three-day mourning period to be held following the funeral according to mourning rites.<sup>6</sup>
5. On 3 March 2023, the SPO filed a response to the Haradinaj Request (“SPO Response”), agreeing to a one-day custodial visit under conditions and deferring to the Registrar as to whether and when such a visit would be most appropriate.<sup>7</sup>

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<sup>3</sup> KSC-CA-2022-01, F00114, Court of Appeals, *Appeal Judgment*, (“Appeal Judgment”), 2 February 2023, public, para. 442.

<sup>4</sup> KSC-CA-2022-01, CR002/F00001, Specialist Counsel, *Haradinaj Defence Request for Temporary Release on Compassionate Grounds*, 3 March 2023, confidential, with one Annex, confidential.

<sup>5</sup> Haradinaj Request, paras 1-2, 23-24. *See also* Annex A to Haradinaj Request.

<sup>6</sup> Haradinaj Request, paras 16, 23-24

<sup>7</sup> KSC-CA-2022-01, CR002/F00003, Specialist Prosecutor, *Prosecutor Response to Haradinaj Request for Temporary Release on Compassionate Grounds*, 3 March 2023, confidential.

6. On 3 March 2023, the Single Judge rendered an order instructing the Registrar to file submissions on the Haradinaj Request by Monday 6 March 2023 at 16h00, and ordering the Applicant to file a reply to the SPO Response and the Registrar's forthcoming submissions, if he so wished, by Tuesday 7 March 2023, at 12h00.<sup>8</sup>
7. On 3 March 2023 after working hours, the Haradinaj Defence filed further submissions<sup>9</sup> informing the Single Judge that the funeral was scheduled for 5 March 2023 at 15h00, in Glllogjan, Kosovo, and seeking an urgent ruling on the Haradinaj Request ("Supplement to the Haradinaj Request.")<sup>10</sup>
8. On 6 March 2023 noting, *inter alia*, incorrectly alleging missing information in the Haradinaj Request concerning the location of custodial visit in Kosovo, the Registrar requested an extension of two working days to file her submissions on the Haradinaj Request ("Extension of Time Request").<sup>11</sup> The Registrar further informed the Single Judge that [REDACTED], and that she would be evaluating the impact thereof of her assessment of feasibility, in particular in relation to mission security.<sup>12</sup>

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<sup>8</sup> KSC-CA-2022-01, CR002/F00004, Single Judge, *Order for Submissions on Temporary Release Request*, 3 March 2023, confidential.

<sup>9</sup> KSC-CA-2022-01, CR002/F00005, Specialist Counsel, *Urgent Filing Further Submissions on the Haradinaj Defence Request for Temporary Release on Compassionate Grounds*, confidential, with one Annex, confidential.

<sup>10</sup> Supplement to the Haradinaj Request, paras 1-2. *See also* Annex A to Supplement to the Haradinaj Request.

<sup>11</sup> KSC-CA-2022-01, CR002/F00006, Registrar, *Request for Extension of Time to File the Registrar's Submissions on the Haradinaj Request for Temporary Release on Compassionate Grounds*, 6 March 2023, confidential.

<sup>12</sup> Extension of Time Request, para. 5

9. On 6 March 2023, the Haradinaj Defence withdrew the Haradinaj Request on the basis that the funeral of the Applicant;s brother was held on 5 March 2023, and the attendance at the funeral was the central part of the Request.<sup>13</sup>
10. On 27 March 2023, the Single Judge took note of the withdrawal of the Haradinaj Request and found that a ruling on the matter was thus rendered moot.<sup>14</sup>

### III. SUBMISSIONS

11. In line with the direction of the Single Judge (of 27 March 2023), the Haradinaj defence submit that all the following filings can be reclassified as public:
- i. The Haradinaj Request (CR002/F00001, main filing only);
  - ii. The SPO Response (CR002/F00003);
  - iii. The Supplement to the Haradinaj Request (CR002/F00005, main filing only);
  - iv. The Extension of Time Request (CR002/F00006);
  - v. The Withdrawal of the Haradinaj Request (CR002/F00008); and
  - vi. The Registrar’s Submission of Additional Information (CR002/F00009, including Annexes 1 -2).

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<sup>13</sup> KSC-CA-2022-01, CR002/F00008, Specialist Counsel, *Withdrawal of the Haradinaj Defence Request for Temporary Release on Compassionate Grounds*, 6 March 2023, confidential, para. 3

<sup>14</sup> KSC-CA-2022-01/CR002/F00010, para. 13.

**IV. CLASSIFICATION**

12. In accordance with Rule 82(4) of the Rules of Procedure and Evidence<sup>15</sup> before the Kosovo Specialist Chambers, this filing is classified as confidential.

Word Count: [910 words]



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**Toby Cadman**  
**Specialist Counsel**

**Wednesday, 29 March 2023**  
**At London, The United Kingdom**

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<sup>15</sup> KSC-BD-03/2020