



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-CA-2022-01/CR001

Before: Single Judge Panel

Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 6 March 2023

Language: English

Classification: Public

Public Redacted Version of Decision on Extension of Time

Acting Specialist Prosecutor

Alex Whiting

Counsel for Hysni Gucati

Jonathan Elystan Rees

Registry

Fidelma Donlon

Counsel for Nasim Haradinaj

Toby Cadman

THE SINGLE JUDGE,¹ pursuant to Article 33(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 9(5)-(6) and 23(2)(a) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby issues this decision.

I. PROCEDURAL BACKGROUND

1. On 2 March 2023, Counsel for Hysni Gucati (“Mr Gucati”) filed a request for a fifth custodial visit on compassionate grounds (“Gucati Request”).²
2. On 2 March 2023, the Specialist Prosecutor’s Office (“SPO”) responded to the Gucati Request (“SPO Response to Gucati Request”).³
3. On 2 March 2023, Counsel for Nasim Haradinaj filed a request for temporary release on compassionate grounds (“Haradinaj Request”) to attend his brother’s funeral.⁴
4. On 3 March 2023, the Single Judge ordered the Registrar to make submissions on the Gucati Request until Monday, 6 March 2023, at 16:00 and ordered Mr Gucati to provide any additional information by Tuesday, 7 March 2023, at 16:00 (“Order for Submissions”).⁵

¹ KSC-CA-2022-01, CR001/F00003, President, *Decision Assigning a Single Judge*, 2 March 2023, confidential and *ex parte*.

² KSC-CA-2022-01, CR001/F00001, Specialist Counsel, *Re-Filed Gucati Request for Fifth Custodial Visit on Compassionate Grounds*, 2 March 2023, confidential, with one Annex, confidential and *ex parte*.

³ KSC-CA-2022-01, CR001/F00002, Specialist Prosecutor, *Prosecution Response to Re-Filed Gucati Request for Fifth Custodial Visit on Compassionate Grounds*, 2 March 2023, confidential and *ex parte*.

⁴ KSC-CA-2022-01, CR002/F00001, Specialist Counsel, *Haradinaj Defence Request for Temporary Release on Compassionate Grounds*, 2 March 2023, confidential, with one Annex, confidential; FCR002/F00005, Specialist Counsel, *Urgent Filing Further Submissions on the Haradinaj Defence Request for Temporary Release on Compassionate Grounds*, 3 March 2023, confidential, with Annex 1, confidential. On the same day, the SPO responded to the Haradinaj Request, CR002/F00003, Specialist Prosecutor, *Prosecution Response to Haradinaj Request for Temporary Release on Compassionate Grounds*, 3 March 2023, confidential.

⁵ KSC-CA-2022-01, CR001/F00005, Single Judge, *Order for Submissions on Requests for Temporary Release*, 3 March 2023, confidential.

5. On 6 March 2023, the Registrar requested an extension of two working days to file her submissions (“Extension of Time Request”).⁶

II. APPLICABLE LAW

6. Pursuant to Rule 9(5)(a) of the Rules, the Panel may, *proprio motu* or upon showing of good cause, extend or reduce any time limit prescribed by the Rules or set by the Panel.

7. Pursuant to Rule 9(6) of the Rules, where no prejudice is caused to the opposing Party or Victims’ Counsel, a motion for variation of time may be disposed of without giving the opposing Party or Victims’ Counsel, where applicable, the opportunity to be heard.

8. Pursuant to Rule 23(2)(a) of the Rules, the Registrar, in the execution of his or her functions as set out in the Law, the Rules and the relevant practice directions, may make representations to the President or any Panel on issues arising in the context of a specific case which affects the discharge of his or her functions.

III. DISCUSSION

9. The Registrar submits that Mr Haradinaj, who requests to be released on compassionate grounds at the same time as Mr Gucati, [REDACTED].⁷ She further submits that the Security and Safety Section of the Registry, together with external partners, is currently assessing the impact of [REDACTED] on the Registry’s assessment of feasibility, in particular in relation to mission security, [REDACTED].

⁶ KSC-CA-2022-01, CR001/F00006, Registrar, *Request for Extension of Time to File the Registrar’s Submissions on the Gucati Request for Temporary Release on Compassionate Grounds*, 6 March 2023, confidential.

⁷ Extension of Time Request, para. 3.

10. The Single Judge observes that the Extension of Time Request was submitted at the time the actual submissions had been ordered to be filed. Nevertheless, considering [REDACTED], the Single Judge finds that the Extension of Time Request was submitted timely.

11. With regard to showing good cause, the Single Judge accepts that the events described [REDACTED] may impact [REDACTED]. In the Single Judge's view, the Registrar convincingly explained that additional, yet limited, time is needed to complete her assessments, especially since consultations with external partners may be involved. On the other hand, the Single Judge is also mindful of the urgent nature of the Gucati Request, even though Mr Gucati did not advance any particular timing for the visit to take place. In light of the foregoing, the Single Judge considers that the Registrar has shown good cause, as required by Rule 9(5)(a) of the Rules, and orders her to file submissions on the Gucati Request by Wednesday, 8 March 2023, at 16:00.

12. Lastly, no prejudice is caused to Mr Gucati or the SPO by disposing of the Extension of Time Request without receiving their responses.

13. As a consequence of the above, the Single Judge also varies the time limit for Mr Gucati to make further submissions, including on the SPO Response to Gucati Request and Registrar's forthcoming submissions, as established in the Order for Submissions.

IV. DISPOSITION

14. For the above-mentioned reasons, the Single Judge hereby:

- a. **ORDERS** the Registrar to file submissions on the Gucati Request and the Haradinaj Request by **Wednesday, 8 March 2023, at 16:00;** and
- b. **ORDERS** Mr Gucati to file a reply to the SPO Response to Gucati Request, as well as the Registry's forthcoming submissions, and provide additional information on his mother's health, if he so wishes, by **Thursday, 9 March 2023, at 16:00.**



Judge Nicolas Guillou
Single Judge

Dated this Monday, 6 March 2023
At The Hague, the Netherlands.