

**In:** KSC-SC-2023-01

**The Prosecutor v. Hysni Gucati and Nasim Haradinaj**

**Before:** A Panel of the Supreme Court Chamber  
Judge Ekaterina Trendafilova, Presiding  
Judge Christine van den Wyngaert  
Judge Daniel Fransen

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Counsel for Hysni Gucati

**Date:** 30 July 2023

**Language:** English

**Classification:** Confidential

---

**Gucati Request for an Oral Hearing before the Supreme Court on a Request for  
Protection of Legality**

---

**Specialist Prosecutor's Office**

Ward Ferdinandusse

Matt Halling

James Pace

**Counsel for Hysni Gucati**

Jonathan Elystan Rees KC

Huw Bowden

Eleanor Stephenson

**Counsel for Nasim Haradinaj**

Toby Cadman

Almudena Bernabeu

John Cubbon

## I. INTRODUCTION

1. On 2 and 3 May 2022, Haradinaj and Gucati filed Requests for Protection of Legality (“Requests”)<sup>1</sup>.
2. On 3 July 2023, the Prosecution filed their consolidated Response<sup>2</sup> to the Requests (with notification received on 4 July 2023).
3. In accordance with the Order on the Time-Limits for Submissions<sup>3</sup>, defence replies to the Response, if any, are due by 4 August 2023.
4. Gucati hereby requests that an oral hearing of the Requests is held before the Supreme Court.

## II. SUBMISSIONS

5. Haradinaj has already requested an oral hearing in paragraphs 77-80 of the Haradinaj Request for Protection of Legality.
6. At paragraph 11 of the Response, the Prosecution does not object to the request and states that it is available for any such hearing.

---

<sup>1</sup> KSC-SC-2023-01/F00001, *Haradinaj Request for Protection of Legality*, Haradinaj, 2 May 2023, Confidential; KSC-SC-2023-01/F00002, *Gucati Request for Protection of Legality pursuant to Article 48(6) to (8) of the Law and Rule 193 of the Rules*, Gucati, 3 May 2023, Confidential

<sup>2</sup> KSC-SC-2023-01/F00014, *Prosecution Consolidated Response to Requests for Protection of Legality*, Prosecution, 3 July 2023

<sup>3</sup> KSC-SC-2023-01/F00004, *Order on the Time-Limits for Submissions*, Supreme Court, 4 May 2023, Public

7. Gucati adopts the submissions set out in paragraphs 77-80 of the Haradinaj Request regarding an oral hearing.
8. Additionally, Gucati notes that Article 48 of the Law and Rules 193-194 of the Rules, which set out the statutory framework for requests for protection of legality, do not set out any specific procedural approach to requests for protection of legality before the KSC (in contrast to other proceedings before the KSC). For example, as the Supreme Court Panel in the present case has recognised, aside from the general provisions on time limits set forth in Rule 76 of the Rules, the Rules do not establish specific time limits within which the parties are to file responses and replies to requests for protection of legality in accordance with Article 48(6) of the Law.
9. Moreover, in contrast to other appellate proceedings before the KSC<sup>4</sup>, there is no specific provision in the statutory framework of the KSC which contemplates that a request for protection of legality may be determined other than after an oral hearing. The presumption, in the absence of any specific provision to the contrary, should be that an oral hearing in public is held (see Article 6(1) of the European Convention on Human Rights and Human Rights Practice at §6.136-6.138 and §6.164).

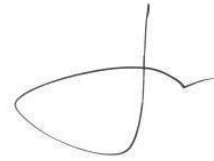
## VI. CLASSIFICATION

10. This filing is classified as public.

---

<sup>4</sup> For example, Rule 170(3) and Rule 180 of the Rules of Procedure and Evidence of the KSC, KSC-BD-03/Rev3/2020

Word count: 435 words



JONATHAN ELYSTAN REES KC

Specialist Counsel for Mr Gucati

HUW BOWDEN

Specialist Co-Counsel for Mr Gucati

ELEANOR STEPHENSON

Specialist Co-Counsel for Mr Gucati

Cardiff, UK