

In: KSC-CC-2023-22
Haradinaj Defence Referral to the Specialist Chamber of the Constitutional Court

Before: **The Specialist Chamber of the Constitutional Court**
Judge Vidar Stensland, Presiding
Judge Roumen Nenkov
Judge Roman Incutti

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Nasim Haradinaj

Date: 10 February 2024

Language: English

Classification: **Public**

Reply to Prosecution Response to Haradinaj Defence Referral to the Specialist Chamber of the Constitutional Court with Annex 1

Specialist Prosecutor's Office

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I. INTRODUCTION

1. The Defence for Mr. Nasim Haradinaj (“Applicant”) hereby files this Reply to the Prosecution Response to Haradinaj Defence Referral to the Specialist Chamber of the Constitutional Court (“Response”).¹ Where the submissions in the Response are not addressed, they are not accepted, unless otherwise stated to the contrary.
2. The submissions in the Haradinaj Defence Referral to the Specialist Chamber of the Constitutional Court (“SCCC”)² and the Request for Admission of Whistleblower Complaint (with confidential annex)³ are maintained except where otherwise stated.

II. PROCEDURAL BACKGROUND

3. Following the Appeal Judgment,⁴ the Accused and Mr. Hysni Gucati both submitted requests for protection of legality.⁵

¹ KSC-CC-2023-22, F00009, Prosecution Response to Haradinaj Defence Referral to the Specialist Chamber of the Constitutional Court (“Response”).

² KSC-CC-2023-22/F00001, 20 November 2023, confidential (reclassified as public on 11 December 2023) (“Referral”).

³ KSC-CC-2023-22/F00005/RED (“Additional Evidence Request”).

⁴ KSC-CA-2022-01/F00114, Appeal Judgment, 2 February 2023.

⁵ 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, 3 May 2023 (confidential), with Annex; KSC-SC-2023-01/F00009,

4. On 18 September 2023, the Specialist Chamber of the Supreme Court issued the Decision on Requests for Protection of Legality (“Supreme Court Decision”),⁶ in which it, *inter alia*, rejected both Appellants’ requests in their entirety.⁷
5. On 21 November 2023, the Applicant filed the Referral to the SCCC.⁸
6. On 28 December 2023, the Applicant filed the Additional Evidence Request in which he sought admission of a letter from Compass Law Partners containing a Whistleblower Complaint in a Confidential Annex (“Tendered Letter”).⁹
7. On 22 January 2024 the Specialist Prosecutor’s Office (“SPO”) filed the Response addressing both the Referral and the Additional Evidence Request.

III. SUBMISSIONS

(i) *Referral Admissibility Requirements*

8. The SPO submits that whilst the SCCC can consider referrals alleging violations of the individual rights and freedoms guaranteed by the

Haradinaj Defence Re-filed Request for Protection of Legality, 9 May 2023 (“Haradinaj Request for Protection of Legality”).

⁶ KSC-SC-2023-01/F00021.

⁷ Supreme Court Decision, para. 126.

⁸ KSC-CC-2023-22/F00001, 20 November 2023, confidential (reclassified as public on 11 December 2023) (“Referral”).

⁹ Additional Evidence Request, para. 1.

Constitution or European Convention for the Protection of Human Rights and Fundamental Freedoms (“ECHR”), it cannot be considered as a fourth instance of appeal.¹⁰ The SPO further submits in paragraph 15 of the Response:

“The SCCC is not generally mandated to assess facts or interpret the law, as these are responsibilities of other courts. The SCCC cannot interfere with these determinations unless it can be substantiated that the other courts’ determinations were so flagrantly and manifestly arbitrary as to give rise to a constitutional violation.”¹¹

9. The jurisprudence of the European Court of Human Rights (“ECtHR”) reveals that the bald statement in paragraph 15 requires qualification. In *Sisojeva and Others v. Latvia*, the ECtHR held:

“In particular, it is not the ECtHR’s function to deal with errors of fact or law allegedly committed by a national court or to substitute its own assessment for that of the national courts or other national authorities unless and in so far as they may have infringed rights and freedoms protected by the Convention (see, for example, *García Ruiz v. Spain* [GC], no. 30544/96, §§ 28-29, ECHR 1999-I). In other words, the Court cannot

¹⁰ Response, para. 10.

¹¹ Response, para. 15.

question the assessment of the domestic authorities unless there is clear evidence of arbitrariness, which there is not in the instant case.”¹²

10. In *Kemmache v. France (no. 3)*, the ECtHR found that although it was not normally the Court’s task to review the observance of domestic law by the national authorities, it was otherwise in relation to matters where the Convention referred directly back to that law; for, in such matters, disregard of the domestic law entailed breach of the Convention, with the consequence that the Court could and should exercise a certain power of review.¹³ In that case the ECtHR was considering Article 5(1) of the ECHR. However, as will be discussed later, the same principle applies to Article 7.
11. In the Referral, the Applicant submitted that arguments that could reasonably have been raised at earlier stages of the proceedings could be raised *de novo* before the Constitutional Court Panel.¹⁴ The SPO, on the other hand, contends that exhaustion of remedies also requires applicants to take advantage of all effective procedural avenues available to them prior to submitting their referral.¹⁵ However, in the Applicant’s submission the position is less rigid.

¹² *Sisojeva and Others v. Latvia*, Judgment, 15 January 2007, Appl. no. 60654/00, para. 89.

¹³ *Kemmache v. France (no. 3)*, Judgment, 24 November 1994, Appl. no. 17621/91, para. 37. See also *Lukanov v. Bulgaria*, Judgment, 20 March 1997, Appl. no. 21915/93.

¹⁴ Referral paras. 23-27.

¹⁵ Response, para. 14.

12. The ECtHR has frequently underlined “the need to apply the exhaustion rule with some degree of flexibility and without excessive formalism”.¹⁶ The rule of exhaustion is neither absolute nor capable of being applied automatically. It does not, as far as the international legal principle, mean pleading every argument at every stage of proceedings, but going up to the highest court in the land. In the case of *Vladimir Romanov v Russia*, failures in formal procedure did not amount to the non-exhaustion of local remedies where the domestic courts nevertheless examined the substance of the applicant’s complaint.¹⁷

(ii) *Violations of Article 33(1) of the Constitution and Article 7 of the ECHR*

13. In the Applicant’s submission, he was found guilty of crimes under unjustifiably broad interpretations of Articles 401(1), 387 and 392(2) of the Criminal Code of the Republic of Kosovo (“KCC”)¹⁸ which are such that his actions did not constitute criminal offences under these Articles at the time

¹⁶ *Vuckovic and others v Serbia*, Judgment, 25 March 2014, Appl. no. 17153/11 et al., para. 76.

¹⁷ *Vladimir Romanov v Russia*, Judgment, 24 January 2008, Appl. no. 41461/02, para. 52.

¹⁸ Code No. 06/L-074, Criminal Code of the Republic of Kosovo, Official Gazette of the Republic of Kosovo No. 2/14 January 2019.

that they were found to have been committed, thereby giving rise to violations of Article 33(1) of the Constitution and Article 7 of the ECHR.¹⁹

14. The SPO's position is that the Applicant is merely dissatisfied with the interpretation of the Articles of the KCC²⁰ and there is nothing flagrantly and manifestly arbitrary in the Supreme Court Panel's assessment.²¹ The implication is that the Applicant is not complaining of violations of individual rights and freedoms guaranteed by the Constitution. However, this is not consistent with the ECtHR jurisprudence on the scope of review of Article 7 of the ECHR.

15. Article 7(1) of the ECHR provides, *inter alia*:

“No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed.”

16. In *Vasiliauskas v. Lithuania* which concerned a historic conviction for genocide the ECtHR reiterated that, in principle, it was not its task to substitute itself for the domestic jurisdictions²² but that its powers of review must be greater

¹⁹ Referral, paras. 28-31.

²⁰ Response, paras. 19, 23.

²¹ Response, paras. 19, 23, 29.

²² *Vasiliauskas v. Lithuania*, Judgment, 20 October 2015, Appl. no. 35343/05, para. 160

when the Convention right itself, Article 7 in the present case, required that there was a legal basis for a conviction and sentence.²³ The Court continued:

“Article 7 § 1 requires the Court to examine whether there was a contemporaneous legal basis for the applicant’s conviction and, in particular, it must satisfy itself that the result reached by the Lithuanian courts was compatible with Article 7 of the Convention, even if there were differences between the legal approach and reasoning of this Court and the relevant domestic decisions. To accord a lesser power of review to this Court would render Article 7 devoid of its purpose.

“In sum, the Court’s function under Article 7 § 1 is to assess whether there was a sufficiently clear legal basis, having regard to the applicable law in 1953, for the applicant’s conviction.”²⁴

17. The submissions in the Referral on the scope of Articles 401(1), 387 and 392(2) of the KCC²⁵ parallel the position taken in *Vasiliauskas*: they show that there was no contemporaneous legal basis for the Applicant’s conviction. There is thus a violation of Article 33(1) of the Constitution and Article 7 of the ECHR.

²³ *Vasiliauskas*, para. 161.

²⁴ *Vasiliauskas*, paras. 161-162.

²⁵ Referral, paras. 28-50.

The SPO, on the other hand, applies the incorrect test of whether the Defence has substantiated anything flagrantly and manifestly arbitrary in the Supreme Court Panel's assessment.²⁶

18. The other submissions of the SPO on Articles 401(1), 387 and 392(2) of the KCC are also fundamentally flawed.
19. The SPO's arguments²⁷ on the interpretation of Article 401(1) of the KCC consist to a large extent of broad assertions rather than any evidence based or properly put arguments.
20. With regard to Article 387 of the KCC, the SPO points out that the Supreme Court summarily dismissed the Applicant's arguments²⁸ because he had not raised them previously before the Appeals Panel.²⁹ However, the Supreme Court did examine the statutory construction of Article 387 advanced in the Referral in addressing the submissions of Hysni Gucati,³⁰ who was joined to the proceedings. It has, therefore, examined the position that the Applicant is advocating even if it did not do so in relation to him. By applying the principle

²⁶ Response, paras. 19, 23, 29.

²⁷ Response, paras. 20-21.

²⁸ Referral, paras. 41-43.

²⁹ Response, para. 22 (referring to Supreme Court Decision, para. 56).

³⁰ Supreme Court Decision, paras. 60-62.

established in *Romanov*,³¹ since the Supreme Court examined the argument in substance in relation to Gucati, the Applicant should not be precluded from raising it also before the Constitutional Court.³²

21. Furthermore, Article 7 of the ECHR is considered an essential element of the rule of law, occupies a prominent place in the ECHR system of protection and should be construed and applied, as follows from its object and purpose, in such a way as to provide safeguards against arbitrary prosecution, conviction and punishment.³³ It is therefore submitted that irrespective of whether the Applicant has raised the issue before the lower courts, there is an obligation to ensure that a conviction is in accordance with the law and that the domestic law that is applied does not operate in breach of such a fundamental principle.
22. The SPO's arguments on the interpretation of Article 387 also fail. Its construction of the Article in paragraph 24 of the Response takes no account of the submissions on its formulation in paragraphs 24-26 of the Request for Protection of Legality which are reaffirmed in paragraph 42 of the Referral. In paragraph 25 of the Response the SPO's submissions rest on the assumption that the titles of the Articles in the KCC are precise descriptions of their

³¹ *Vladimir Romanov v Russia*, para. 153.

³² Supreme Court Decision, paras. 59-65.

³³ *Vasiliauskas*, paras. 161-162.

contents. This is incorrect because, for example, the title of the very next Article (“Retaliation”) is much broader than its content.³⁴

23. As to Article 392(2), the SPO states that the Supreme Court Decision summarily dismissed Haradinaj’s arguments because they were factual in character, beyond the scope of what he had argued on appeal and unsubstantiated.³⁵ The SPO concluded that they were inadmissible.³⁶
24. It is not correct to assert that the Supreme Court found that Haradinaj’s arguments under Article 392(2) of the KCC were factual in character. It simply noted that the arguments in relation to this ground before the Court of Appeals Panels were either qualified as factual in nature or developed on different grounds.³⁷
25. The Applicant’s submissions concerning this provision before the Supreme Court were in essence not factual in nature.³⁸ The Supreme Court did find that they were unsubstantiated³⁹ but on erroneous grounds for reasons given in paragraph 49 of the Referral.

³⁴ See also Article 243 of the KCC (Mistreating or abandoning a child) and Article 330 (Breach of trust).

³⁵ Response, para. 26 (citing Supreme Court Decision, paras. 81-82).

³⁶ Response, para. 26.

³⁷ Supreme Court Decision, para. 81.

³⁸ Request for Protection of Legality, paras. 33-39.

³⁹ Supreme Court Decision, para. 82.

26. The Supreme Court found that the Applicant's arguments on the scope of the phrase "under protection in the criminal proceedings" in Article 392(2) of the KCC were developed on different grounds from those in its Appeal Brief and partly for this reason summarily dismissed them.⁴⁰ The SPO submits that the Applicant's arguments in this part of the Referral should be time-barred for raising matters in a manifestly ineffective manner before the Supreme Court.⁴¹
27. However, in the Defence submission, the Supreme Court Panel erred in dismissing the Applicant's arguments. His arguments were in essence advanced at the appeal stage in the Gucati Appeal Brief⁴² and considered by the Appeals Chamber in the Appeal Judgment.⁴³ Therefore, again in light of *Romanov*⁴⁴ the finding that Haradinaj's arguments were beyond the scope of what he had argued on appeal⁴⁵ should not have prevented him from advancing them before the Supreme Court. Accordingly, he should not be disqualified from doing so before the SCCC either.

⁴⁰ Supreme Court Decision, paras. 81-83.

⁴¹ Response, para. 26.

⁴² KSC-CA-2022-01/F00036, 19 August 2022, paras. 217-222.

⁴³ Appeal Judgment, paras. 181-185.

⁴⁴ *Vladimir Romanov v Russia*, para. 52.

⁴⁵ Response, para. 26; Supreme Court Decision, paras. 81-82.

28. In response to the Applicant's submissions on the interpretation of Article 392(2), the SPO is brief.⁴⁶ Article 392(2) of the KCC provides:

“Whoever without authorization reveals information on the identity or personal data of a person under protection in the criminal proceedings or in a special program of protection shall be punished by imprisonment of up to three (3) years.”

29. The SPO claims incorrectly that “it follows from the plain meaning of Article 392(2) of the Criminal Code” that persons named in confidential documents not authorised for disclosure are “under protection in the criminal proceedings”.⁴⁷ The fact that a person's name appears in a confidential document in criminal proceedings, does not mean that the person is “under protection in the criminal proceedings” neither does it mean that the document is confidential in order to protect that person. Therefore, to say that such a person was “under protection in the criminal proceedings” does not follow from the plain meaning of the provision. The two matters are quite distinct.

⁴⁶ Response, paras. 27-28.

⁴⁷ Response, para. 28.

30. The key word is “protection” which is given meaning in the context of criminal proceedings at the Specialist Chambers in Article 23(1) of the Law on Specialist Chambers and Specialist Prosecutor’s Office.⁴⁸ The definition of “protected person” in Article 3(1.3) of the Law on Witness Protection reinforces this interpretation. The SPO points out that this provision is not incorporated in the legal framework of the Kosovo Specialist Chambers.⁴⁹ It has indeed not been expressly incorporated into the Law and, therefore, pursuant to Article 3(4) of the Law it does not apply to the organisation, administration, functions or jurisdiction of the Specialist Chambers or the SPO. However, this is no obstacle to its consideration in the interpretation of an Article of the KCC.
31. Once again, we must remind ourselves that the Specialist Chambers and the SPO are *domestic* institutions created by legislation adopted by the National Assembly and an amendment to the Constitution. They are institutions that fall within the national justice system,⁵⁰ and notwithstanding Article 3(4) of the Law, there is an obligation to not act in a manner that is inconsistent with domestic law and disregard the jurisprudence of the domestic courts.

⁴⁸ Law No 05/L-053.

⁴⁹ Response, para. 28.

⁵⁰ See Articles 1(2), 3(1) of the Law.

(iii) *Violations of Article 31(2) of the Constitution and Article 6(1) of the ECHR*

32. For the trial to be fair within the meaning of Article 6(1) of the ECHR, all evidence obtained as a result of police incitement must be excluded or a procedure with similar consequences must apply.⁵¹ It falls to the prosecution to prove that there was no incitement, provided that the defendant's allegations are not wholly improbable. In the absence of any such proof, it is the task of the judicial authorities to examine the facts of the case and to take the necessary steps to uncover the truth in order to determine whether there was any incitement.⁵²

33. In both the Haradinaj Request for Protection of Legality and the Referral the Applicant submitted that the Appeals Chamber erroneously found that there should be *prima facie* evidence of entrapment,⁵³ which in this context is interchangeable with incitement.

34. In summary, the Appeals Panel noted that the Trial Panel correctly identified the fact that "provided that the accused's allegations are not wholly

⁵¹ Referral, para. 52 (citing *Akay and Others v. Germany*, Judgment, 15 October 2020, ECtHR, Application nos. 40495/15 and 2 others, para. 123).

⁵² Referral, para. 52 (citing *Ramanauskas v Lithuania*, para. 70).

⁵³ Request for Protection of Legality, paras. 63-64; Referral, paras. 54-55.

improbable, it falls on the prosecution to prove that there was no entrapment”,⁵⁴ but it goes on to introduce evidential requirements that are not supported by the jurisprudence.

35. In the Response the SPO rejects the Defence submission on the grounds that it is a point of substantive legal interpretation that generally falls outside the ambit of consideration of the SCCC, because only procedural fairness is considered when assessing claims brought under Article 31 of the Constitution and Article 6 of the ECHR.⁵⁵ The SPO cites in support an earlier Decision of the Constitutional Court which sets out the main implications of procedural fairness ending with the assertion that the proceedings viewed in their entirety should be fair.⁵⁶

36. The Defence submissions on entrapment/incitement do indeed concern procedural fairness and, more particularly, they show that the proceedings viewed in their entirety were not fair. What is at issue is the criterion for the not wholly improbable threshold which requires that the prosecution should prove that there has been no incitement. The SPO quite simply fails to engage with the Defence arguments on this point in paragraphs 54-58 of the Referral.

⁵⁴ Appeal Judgment, para. 363.

⁵⁵ Response, paras. 30-31.

⁵⁶ Response n. 64 (citing KI 146/20, para. 45).

37. The SPO misstates the Defence argument as that “evidence falling below a *prima facie* standard should suffice to substantiate entrapment.”⁵⁷ The Defence argument is not that there should be *prima facie* evidence of entrapment but a *prima facie* case for entrapment.⁵⁸ It is not incumbent on the Defence to adduce *prima facie* evidence of *each element* of entrapment, but there should be evidence that *as a whole makes entrapment not wholly improbable* without constituting *prima facie* evidence for any one of its elements.⁵⁹ The SPO failed to acknowledge this distinction.⁶⁰

(iv) Violation of Article 10 of the ECHR

38. In the Referral the Applicant submitted that a finding of criminal responsibility in his case was a violation of his right to freedom of expression under Article 40 of the Constitution and Article 10 of the ECHR.⁶¹ The SPO responds that these submissions amount to an argument that the Applicant’s alleged public interest was mis-weighed and that the Supreme Court Panel

⁵⁷ Response, para. 33.

⁵⁸ Referral para. 54; Request for Protection of Legality, para. 64.

⁵⁹ Referral, para. 57.

⁶⁰ Response, paras. 33-34.

⁶¹ Referral, paras. 67-83.

correctly found that they were beyond the scope of the challenge to protection of legality.⁶²

39. Without prejudice to the validity of all the other submissions in the Referral on the Applicant's right to freedom of expression, paragraphs 81 and 82 do not concern the weighing of public interest. Here the Applicant argues that contrary to requirements established in ECtHR case law the Specialist Chambers failed to consider whether there were any other means than prosecution to attain the objectives set forth in Article 10(2) of the ECHR. Again, the SPO does not reply to these submissions.

(v) Request for admission of Tendered Letter

40. The SPO opposes the admission of the Tendered Letter sought in the Additional Evidence Request for reasons related to relevance,⁶³ disclosure,⁶⁴ admissibility,⁶⁵ effect on constitutionality⁶⁶ and content.⁶⁷

⁶² Response, para. 35 (referring to Supreme Court Decision, paras. 124-125).

⁶³ Referral, para. 39.

⁶⁴ Referral, para. 40.

⁶⁵ Referral, para. 41.

⁶⁶ Referral, para. 42.

⁶⁷ Referral, paras. 43-44.

41. With regard to the relevance of the Tendered Letter,⁶⁸ the Defence points out that page 4 of Exhibit A of the Whistleblower Complaint implies that the documents delivered at the Kosovo Liberation Army War Veterans' Association emanated from the former Specialist Prosecutor and page 3 of Exhibit C indicates the former Specialist Prosecutor's involvement in the leakage of the documents. Both passages have a bearing on the defence of entrapment/incitement.
42. The Applicant is not obliged to explain how a tendered item "adds to the disclosed information he chose not to use in earlier proceedings".⁶⁹ However, he is well-placed to do so in relation to the Tendered Letter. The SPO indicates that Exhibit E was already disclosed. It is in fact just one of the 11 Exhibits attached to the Whistleblower Complaint. Exhibit C purports to be a statement of the individual interviewed in Exhibit E, which, according to the SPO, "presents essentially the same allegations against the former Specialist Prosecutor", but Exhibit C is by no means identical to Exhibit E in substance. Other items in the Tendered Letter are significant, most notably the Whistleblower Complaint itself which is an affidavit by a former U.S. Drug Enforcement Administration employee which draws together the threads in

⁶⁸ Response, para. 39.

⁶⁹ Response, para. 40.

the various exhibits attached to it. It is quite wrong to suggest that the Tendered Letter should not be admitted because it contains information that the Applicant did not seek to admit previously.

43. The Defence rejects the SPO's claim that the Tendered Letter would have been inadmissible at trial or on appeal and should not be admitted in the context of a referral to the SCCC.⁷⁰ It consists of a letter containing an affidavit to which various items including statements are attached. Rules 153-155 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers⁷¹ ("Rules") would not be applicable. It may nevertheless be admitted, even if on its own and in the absence of additional material its probative value is limited.
44. The SPO states: "As a matter of principle, it is not the role of the SCCC to determine whether particular types of evidence may be admissible."⁷² It cites two authorities in support,⁷³ both of which concern the scope of review by the SCCC of the constitutionality of the admission of evidence, which is not in question in the Additional Evidence Request in which the Applicant is simply requesting that evidence be admitted. The SCCC has the power to do this pursuant to Rule 23 of the Rules of Procedure for the Specialist Chamber of

⁷⁰ Response, para. 41.

⁷¹ KSC-BD-03/Rev3/2020.

⁷² Response, para 41.

⁷³ KSC-CC-2023-21/F00006, paras. 23-24; KCC, KI 74/22, para. 87.

the Constitutional Court of Kosovo.⁷⁴ In one of the two cited authorities the SCCC found that “[i]t is not [...]the role of the Constitutional Court to determine, as a matter of principle, whether particular types of evidence may be admissible.”⁷⁵ The SPO has distorted the meaning of this finding by moving “as a matter of principle” to the beginning of the sentence in paragraph 41 of the Referral.

45. The SPO claims that the Applicant “cannot explain how the Tendered Item – or indeed any evidence – could be admitted at this point which affects the constitutionality of a decision on the protection of legality”.⁷⁶ This is not the appropriate criterion for admissibility: the SCCC should admit the Tendered Letter because it is the only Specialist Chamber seized and the contents of the document are so egregious and relevant to the case against the Applicant.⁷⁷
46. The SPO’s submissions on the alleged unreliability and implausibility of the Tendered Letter⁷⁸ have no bearing on its admissibility.
47. Throughout the entirety of the proceedings, it was the Applicant’s case that documents disclosed in the public interest were provided to him by an

⁷⁴ KSC-BD-03/Rev3/2020.

⁷⁵ KSC-CC-2023-21/F00006, para. 24.

⁷⁶ Response, para. 42.

⁷⁷ Additional Evidence Request, paras. 8, 10, 11.

⁷⁸ Response, paras. 43-44.

individual (or individuals) from the SPO or other linked institutions with the explicit intention that they be made public. The conclusion being logically deduced from the fact that those files could only have been in the possession of the SPO or an individual or entity working with it at that time or alternatively that the documents were as a result of a sophisticated action by Serbian State Intelligence.⁷⁹ The Whistleblower Complaint supports the theory.

48. In short, the SPO's objections to the admission of the Tendered Letter are invalid.

IV. CONCLUSION

49. For the foregoing reasons the Constitutional Court Panel is requested to dismiss the Response and take the actions requested in the Referral and the Additional Evidence Request.

Word Count: [4,151 words]

⁷⁹ Haradinaj Appeal Brief, Ground 9, paras. 108-114; Ground 10, paras. 115-126; Ground 11, paras. 128-134; Ground 13, paras. 137-144.



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Saturday, 10 February 2024

At London, United Kingdom