



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

File number: KSC-CC-2019-05

Before: **The Specialist Chamber of the Constitutional Court**
Judge Ann Power-Forde, Presiding
Judge Vidar Stensland
Judge Roland Dekkers

Registrar: Dr Fidelma Donlon

Date: 15 February 2019

Copy: **Petitioner**
Mr Mahir Hasani

PUBLIC

**Notice of withdrawal and
request for dismissal of Mr Mahir Hasani's referral**

1. On 11 February 2019, Mr Mahir Hasani ('Petitioner') duly appeared for questioning by the Specialist Prosecutor's Office ('SPO'). As a result, and in light of the SPO's continuing investigations, the materials requested in the order for production of documents and records dated 20 December 2018 ('Production Order') are no longer sought. The SPO hereby notifies the Petitioner and the panel of the Specialist Chamber of the Constitutional Court¹ ('Panel') of its withdrawal of the Production Order.

2. Consequently, the Referral² is now moot as (i) the circumstances complained of in the Referral no longer exist; and (ii) any potential impact of any alleged violation of the Petitioner's rights has been redressed by the Interim Measure Order³ and the SPO's withdrawal of the Production Order.⁴ The SPO therefore requests the Panel to dismiss the Referral.



Jack Smith
Specialist Prosecutor

Done in English, on 15 February 2019
At The Hague, the Netherlands

¹ Decision to Assign Judges to a Constitutional Court Panel, KSC-CC-2019-05/F00002, 15 January 2019. A corrigendum was filed on 21 January 2018, KSC-CC-2019-05/F00002/COR.

² Petition by Mr Mahir Hasani on the Violation of his Fundamental Rights by the Specialist Prosecutor's Office through the Issuance of Order VIY689, Dated 20 December 2018, To Produce Documents and Records and Request for Interim Measures, KSC-CC-2019-05/F00001, filed on 15 January 2019, with three confidential annexes ('Referral'). An English translation of the Referral was distributed on 18 January 2019 (KSC-CC-2019-05/F00001/eng). On 30 January 2019, corrections to the translation were made (KSC-CC-2019-05/F00001/eng/COR).

³ Order on Request of Mahir Hasani for Interim Measure, KSC-CC-2019-05/F00010, 7 February 2019.

⁴ See, similarly, Rules of Procedure of the Constitutional Court of the Republic of Kosovo ('CCK'), Rule 32(4); CCK, Case No. KO 63/12, *Applicants Alma Lama et al.*, Decision to Strike Out the Referral in Case KO 63/12, 10 December 2012, paras 23 ('As a general procedural principle, Courts should not make decisions on cases where the issue is no longer a live one and the case becomes moot. Courts do not deal with hypothetical or academic cases. This is a generally accepted principle of behaviour of courts and it is analogous to the principle of judicial restraint'), 24; European Convention on Human Rights ('ECHR'), Art.37(1); European Court of Human Rights, *Ponomaryov & Others v. Bulgaria*, no.5335/05, Decision, 10 February 2009, p.12, para.1.2.