



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-06

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 23 June 2020

Language: English

Classification: Strictly Confidential and *Ex Parte*

Decision on Specialist Prosecutor's Urgent Request

Specialist Prosecutor

Jack Smith

THE PRE-TRIAL JUDGE,¹ pursuant to Article 39(3) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law"), hereby issues the following decision.

I. PROCEDURAL BACKGROUND

1. On 24 April 2020, the Specialist Prosecutor's Office ("SPO") submitted for confirmation a strictly confidential and *ex parte* indictment ("Indictment") together with evidentiary material supporting the facts underpinning the charges and a detailed outline demonstrating the relevance of each item of evidentiary material to each allegation.²

2. On 23 June 2020, the SPO submitted an urgent request for authorisation to disclose information related to the Indictment ("Request").³

II. SUBMISSIONS

3. In the Request, the SPO submits that, in addition to previously reported efforts to interfere with SPO investigations and administration of justice,⁴ there exist acute and immediate risks to investigations, prosecutions, and proceedings arising from an ongoing campaign by two of the suspects identified in the Indictment, Hashim Thaçi ("Mr Thaçi") and Kadri Veseli ("Mr Veseli"), to obstruct and undermine the mandate of the Specialist Chambers ("SC") and SPO.⁵ The SPO contends that, in order to address such risks, including possible interference with witnesses and victims, it is

¹ KSC-BC-2020-06, F00001, President, *Decision Assigning a Pre-Trial Judge*, 23 April 2020, public.

² KSC-BC-2020-06, F00002, Specialist Prosecutor, *Submission of Indictment for Confirmation*, 24 April 2020, strictly confidential and *ex parte*, with Annexes 1-3, strictly confidential and *ex parte*.

³ KSC-BC-2020-06, F00008, Specialist Prosecutor, *Urgent Request for Authorisation to Disclose Information Relating to the Indictment*, 23 June 2020, strictly confidential and *ex parte*.

⁴ KSC-BC-2020-06, F00005, Specialist Prosecutor, *Request for Arrest Warrants and Related Orders*, 28 May 2020, strictly confidential and *ex parte*, paras 7-26.

⁵ Request, para. 2.

necessary to promptly release public notice of limited information from the Indictment, identifying Mr Thaçi and Mr Veseli as charged suspects and broadly describing the nature of the charges against them.⁶ The SPO also indicates that, when disclosing such information, it will specify that the Indictment is merely an accusation and that it is under review by the Pre-Trial Judge, who will ultimately decide whether to confirm the charges.⁷

4. The SPO accordingly requests authorisation from the Pre-Trial Judge to publicly disclose the following information from the Indictment: (i) the identities of Mr Thaçi and Mr Veseli as charged suspects; and (ii) the number of counts, legal characterisation and nature of the alleged crimes, approximate number of known victims, and their affiliation or ethnicity.⁸

III. APPLICABLE LAW

5. Article 39(3) of the Law provides that the Pre-Trial Judge may, at the request of the Specialist Prosecutor, issue such orders as may be required for the conduct of the investigation and for the preparation of a fair and expeditious trial.

6. Rule 86(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”) provides that the Specialist Prosecutor shall file the indictment confidentially and *ex parte* with the Pre-Trial Judge for a decision pursuant to Article 39(2) of the Law.

⁶ Request, para. 2.

⁷ Request, para. 2.

⁸ Request, para. 4.

IV. DISCUSSION

7. The Pre-Trial Judge recalls that, pursuant to Article 35(2)(f) of the Law, it is within the authority and responsibility of the Specialist Prosecutor to take the necessary measures to ensure the protection of any person and the preservation of evidence during its investigations and prosecutions. In this regard, the Pre-Trial Judge takes notice of the SPO's submissions as summarised in paragraphs 3-4.

8. In light of the aforementioned submissions, the Pre-Trial Judge considers that the requested authorisation is warranted on an exceptional basis. The present decision is without prejudice to any future finding under Article 39(2) of the Law and does not in any way affect the current classification of the Indictment and related documents as per Rule 86(2) of the Rules.

V. DISPOSITION

9. For these reasons, the Pre-Trial Judge hereby grants the Request as set out in paragraph 4 of this decision.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Tuesday, 23 June 2020
At The Hague, the Netherlands.