



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** KSC-BC-2020-07  
*The Prosecutor v. Hysni Gucati and Nasim Haradinaj*

**Before:** **Single Judge**  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Filed by:** Dr Fidelma Donlon

**Date:** 14 October 2020

**Language:** English

**Classification:** **Confidential**

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**Registrar's Submissions on the Reclassification of Filings**

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## I. INTRODUCTION

1. On 30 September 2020, the Pre-Trial Judge requested the Registrar to submit her reasons for maintaining the classification of certain filings in case file KSC-BC-2020-07 or to submit confidential (redacted) and/or public (redacted) versions thereof ('Order').<sup>1</sup> Pursuant to the Order and Rule 82 of the Rules<sup>2</sup>, the Registrar hereby provides submissions on the reclassification of filings in case file KSC-BC-2020-07.
2. This submission is filed as confidential in accordance with Rule 82(4).

## II. SUBMISSIONS

### A. RECLASSIFICATION: PUBLIC

3. The Registrar submits that she has no objection to the reclassification, as public, of the following filings:
  - a. F00015, "Notification of Arrest Pursuant to Rule 55(4)", 25 September 2020;
  - b. F00016, "Notification of Arrest Pursuant to Rule 55(4)", 25 September 2020;
  - c. F00018, "Notification of the Reception of Hysni Gucati in the Detention Facilities of the Specialist Chambers", 25 September 2020;
  - d. F00020, 26 September 2020, "Notification of the Reception of Nasim Haradinaj in the Detention Facilities of the Specialist Chambers", 26 September 2020.
4. Pursuant to Article 39 of the Practice Direction on Files and Filings,<sup>3</sup> changes to the classification of F00015, F00016, F00018, and F00020 may be implemented by the Court Management Unit ('CMU') upon judicial authorisation.
5. Accordingly, pursuant to the Order, the Registrar respectfully requests the Pre-Trial Judge to authorise CMU to implement the changes to the classification of the above filings from strictly confidential and *ex parte* to public.

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<sup>1</sup> Order for Submissions on the Reclassification of Filings, KSC-BC-2020-07/F00036, 30 September 2020.

<sup>2</sup> Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, as amended on 29 and 30 April 2020.

<sup>3</sup> Practice Direction on Files and Filings before the Kosovo Specialist Chambers, KSC-BD-15, 17 May 2019.

**B. RECLASSIFICATION: CONFIDENTIAL**

6. Pursuant to the Order, the Registrar also respectfully requests the Pre-Trial Judge to authorise CMU to reclassify the following filings as confidential and available to Counsel for Mr Gucati and Mr Haradinaj (the ‘Suspects’):

- a. F00018/A01, “Annex 1 to Notification of the Reception of Hysni Gucati in the Detention Facilities of the Specialist Chambers”;
- b. F00019, “Preliminary report on the arrest and transfer of Hysni Gucati pursuant to Decision KSC-BC-2018-01/F00128”, 25 September 2020.
- c. F00020/A01, “Annex 1 to Notification of the Reception of Nasim Haradinaj in the Detention Facilities of the Specialist Chambers”;
- d. F00021, “Preliminary report on the arrest and transfer of Nasim Haradinaj pursuant to Decision KSC-BC-2018-01/F00128,” 26 September 2020.

**C. RECLASSIFICATION: PUBLIC (REDACTED)**

7. Pursuant to the Order, the Registrar informs the Pre-Trial Judge that she has submitted a public, redacted version of the following filing:

- a. F00022, “Submission of the Registrar Pursuant to Rule 23(2) on COVID-19 Risk Mitigation Measures”, 28 September 2020.

8. The redactions to F00022 are necessary to protect the private medical information of the Suspects and others in the Detention Facilities and the Prison; to protect information related to the safe and secure transport of Detainees, as well as officers involved in the transport; and to protect the confidentiality of operations within the Detention Facilities and the Prison. In addition, redactions are necessary to maintain the confidentiality of the Registry’s consultations and communications with external parties, which carry a reasonable expectation of privacy and non-disclosure.<sup>4</sup> Public

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<sup>4</sup> Cf. Rule 111(2) of the Rules (regarding the non-disclosure of communications should the Panel decide that, *inter alia*, “such communications are made in the course of a confidential relationship producing a reasonable expectation of privacy and non-disclosure”).

disclosure of the above-mentioned information would be detrimental to the Registrar's exercise of her functions, including the detention function.<sup>5</sup>

9. The Registrar also informs the Pre-Trial Judge that she has submitted public, redacted versions of the following filings:

- a. F00026/COR, "Corrected Report on the Arrest and Transfer of Nasim Haradinaj to the Detention Facilities," 28 September 2020.
- b. F00031, "Report on the Arrest and Transfer of Hysni Gucati to the Detention Facilities," 30 September 2020.

10. The redactions to F00026/COR and F00031 are necessary to protect: the private medical information or other personal details of the Suspects; information in which disclosure may be contrary to the rights of third parties; and/or information related to the safe and secure transport of Detainees and transport operations.

#### **D. RECLASSIFICATION: CONFIDENTIAL AND EX PARTE WITH (REDACTED) ANNEXES**

11. Pursuant to the Order, the Registrar also informs the Pre-Trial Judge that she has submitted confidential and *ex parte* versions of the following filings:

- a. F00026/COR, "Corrected Report on the Arrest and Transfer of Nasim Haradinaj to the Detention Facilities," 28 September 2020, including a confidential and *ex parte*, redacted version of its annex, F00026/COR/A01.
- b. F00031, "Report on the Arrest and Transfer of Hysni Gucati to the Detention Facilities," 30 September 2020, including a confidential and *ex parte*, redacted version of its annex, F00031/A01.

12. F00026/COR and F00031 are submitted as confidential and *ex parte* (un-redacted) in order to protect the confidentiality of operations and investigations from public disclosure, to protect the private medical information of the Suspects, and to protect

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<sup>5</sup> Cf. Administrative Directive on Information Asset Management, KSC-AD-13-v2.2, 22 July 2020, sect. 12.1 (defining records classified as confidential are those in which unauthorized disclosure "could reasonably be expected" to, *inter alia*, prejudice the Specialist Chambers and noting that such prejudice could be indicated by "damage to the effectiveness, reputation, stability, or security of the Specialist Chambers, Specialist Prosecutor's Office, States, Intergovernmental Organizations, Non-Governmental Organizations, or individuals").

information in which public disclosure may be contrary to the rights of third parties and/or intermediaries.

13. The redactions to the annexes to those core filings, namely F00026/COR/A01 and F00031/A01, are necessary as they contain information in which disclosure could jeopardize ongoing or future operations and investigations, including: information on locations of secure accommodation; identifying information of staff or contractors of the Specialist Prosecutor's Office and the Registry; and identifying information of intermediaries. The redactions are also necessary to protect information related to the safe and secure accommodation and transport of Detainees, including information on officers and other authorities involved in the transport of Detainees.

**E. RETAIN CLASSIFICATION: CONFIDENTIAL**

14. The Registrar submits that the following filing should remain confidential:

- a. F00022/A01, Registrar, "Annex 1 to Submission of the Registrar Pursuant to 23(2) on COVID-19 Risk Mitigation Measures".

15. Retaining the classification of F00022/A01 is necessary at this time to protect the private medical information of the Suspects and others in the Detention Facilities and the Prison, as well as to protect the confidentiality of operations within the Detention Facilities and the Prison. In addition, retaining the classification is necessary to maintain the confidentiality of the Registry's consultations and communications with external parties, which carry a reasonable expectation of privacy and non-disclosure.<sup>6</sup> Public disclosure of F00022/A01 would be detrimental to the Registrar's exercise of her functions, including the detention function.<sup>7</sup>

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<sup>6</sup> See *supra*, fn. 3.

<sup>7</sup> See *supra*, fn. 4.

16. Based on the important interests at stake, the Registrar submits that F00022/A01 should retain its classification as confidential unless and until the external parties to those communications consent to their public (redacted) disclosure.

**Word count: 1160**



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**Dr Fidelma Donlon**  
**Registrar**

Wednesday, 14 October 2020  
At The Hague, the Netherlands