

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

**Before:** Single Judge  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Duty Counsel for Nasim Haradinaj

**Date:** 16 November 2020

**Language:** English

**Classification:** Public

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**Submissions on the Conduct of Proceedings Concerning the Review of the  
Indictment**

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Jack Smith

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Gucati**  
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**SUBMISSIONS ON THE CONDUCT OF PROCEEDINGS CONCERNING THE  
REVIEW OF THE INDICTMENT**

1. In response to the Order for Submission on the Conduct of Proceedings Concerning the Review of the Indictment dated 11<sup>th</sup> November 2020 (F00065) on behalf of Najim Haradinaj it is submitted that the Defence takes the position that the Indictment will be made available to the Defence and that submissions can be made while it is being reviewed by the Pre-Trial Judge.
2. In determining this, the Defense requests the Single Judge to find that the Defense should be granted access to the full and unredacted indictment and all materials collected by SPO in the case. The Defense repeats, this is not a war crimes case. This is a case about a person who appeared in 3 press moments in September 2020 and allegedly shared confidential information.  
  
SPO has, after the First Appearance of October 1, 2020, provided written transcripts of the said press moments. In those transcripts, which, at this moment, provide the only evidentiary background of the accusations, no indications can be found of committing any acts that might lead to the suspicion of criminal retaliation, nor violations or disclosures of any secrets.
3. The transcripts provide insight into the gravity of the case and the seriousness and weight of the accusations. The Defense submits that the matter is much less serious than at first glance. The Defense will request to release Mr. Haradinaj on the next hearing of Single Judge, determining detention on remand. As Mr. Haradinaj has been in detention since

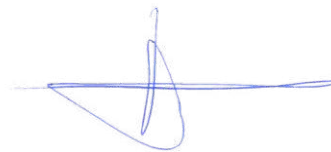
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4. September 24<sup>th</sup>, 2020, a hearing after two months will follow shortly. The principle of equality of arms provides that the Defense should be given adequate time and opportunity to examine the Indictment and supporting material for purposes of preparing the Defense on the next hearing concerning the pre-trial detention. At this point, SPO has full insight in the Indictment and supporting evidence, which SPO can hold against Mr. Haradinaj in the next hearing. The Defense only has the warrant and the transcripts. SPO is fully documented. SPO could and should have already provided a full and unredacted Indictment with all supporting documents in this case with and oversee able scope by the end of October, 2020. SPO has chosen to keep these documents ex parte.
  
5. For the reasons above, the Defense requests the Single Judge to find that the Defense should be granted access to a full and unredacted Indictment and all supporting materials and to classify these documents as 'Public'.

**[Word count: 512]**



Bas Martens

**Duty Counsel for Nasim Haradinaj**

17/11/2020

At The Hague, the Netherlands