



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

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

**Before:** Pre-Trial Judge  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor

**Date:** 16 February 2021

**Language:** English

**Classification:** Confidential

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**Submission of additional information relevant to filing KSC-BC-2020-07/F00107**

**with Strictly Confidential and *Ex Parte* Annex 1**

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**Specialist Prosecutor's Office**

Jack Smith

**Counsel for Mr Gucati**

Jonathan Elystan Rees

**Counsel for Mr Haradinaj**

Toby Cadman

1. In the Prosecution Submissions,<sup>1</sup> the Specialist Prosecutor's Office ('SPO') requested the Pre-Trial Judge to authorise the withholding of certain 'Underlying Information'.<sup>2</sup> Pursuant to Rule 108(2) of the Rules,<sup>3</sup> and in order to facilitate the Pre-Trial Judge's determination of the matter, the SPO attaches at Annex 1 copies of records containing Underlying Information.
2. The SPO has already proposed substantial counter-balancing measures, including not opposing admission of the Addendum,<sup>4</sup> and stipulation of relevant facts regarding its content.<sup>5</sup> Nonetheless, should the Pre-Trial Judge determine that disclosure in redacted form of documents containing Underlying Information would be an alternative, or additionally, appropriate measure, proposed redactions are indicated in Annex 1.
3. The proposed redactions relate to (i) the identity and identifying information of witnesses and victims;<sup>6</sup> (ii) internal work product;<sup>7</sup> and (iii) certain other irrelevant matters not falling within disclosure obligations.<sup>8</sup>
4. This filing is confidential in accordance with Rule 82(4). Annex 1 is strictly confidential and *ex parte* because it contains the information for which the SPO is seeking authorisation to withhold.

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<sup>1</sup> Prosecution request for non-disclosure of certain information pertaining to contacts with witnesses, KSC-BC-2020-07/F00107, Confidential, 29 January 2021 ('Prosecution Submissions').

<sup>2</sup> As defined in the Prosecution Submissions, KSC-BC-2020-07/F00107.

<sup>3</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

<sup>4</sup> As also defined in the Prosecution Submissions.

<sup>5</sup> See Prosecution Submissions, KSC-BC-2020-07/F00107, paras 21-24.

<sup>6</sup> Rule 108.

<sup>7</sup> Rule 106.

<sup>8</sup> This includes, *inter alia* (i) information and speculation regarding the manner in which Batches 1-3 were originally obtained, prior to coming into the possession of the Accused. Such information falls outside the scope of Rule 102(3) and 103, and in any event would be encompassed by Rule 108(1)(a) noting that investigation into such matters remains ongoing; and (ii) information regarding the security concerns, unrelated to this case, of certain witnesses and logistical or other unrelated matters.

**Word count: 305**



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**Jack Smith**

**Specialist Prosecutor**

Tuesday, 16 February 2021

At The Hague, the Netherlands.