



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: 26 May 2021

Language: English

Classification: Public

Prosecution Submissions for fifth Status Conference

with Confidential Annex 1

Specialist Prosecutor's Office

Jack Smith

Counsel for Mr Gucati

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Counsel for Mr Haradinaj

Toby Cadman

I. SUBMISSIONS

1. Pursuant to the Status Conference Order,¹ the Specialist Prosecutor's Office ('SPO') hereby provides written submissions on the agenda items identified by the Pre-Trial Judge.²

A. SPO Requests for Non-Disclosure

2. As requested in the Status Conference Order,³ the SPO provides submissions on this matter in confidential Annex 1 to the present filing.⁴

B. Disclosure

3. The SPO does not foresee any difficulties related to the remainder of the disclosure process.

4. The SPO has previously submitted that it had an outstanding request to third parties which may result in the production of relevant material ('Third-Party Request').⁵ On 7 May 2021, the SPO received a partial response to the Third-Party Request. The relevant material was disclosed on 25 May 2021⁶ pursuant to Rule 102(1)(b) of the Rules⁷ and Rule 103. Accordingly, the Third-Party Request remains partly outstanding. The SPO is undertaking efforts to ensure that the remaining materials are received expeditiously and does not anticipate that the residual response

¹ Order Setting the Date for the Fifth Status Conference, KSC-BC-2020-07/F00204, Public, 20 May 2021 ('Status Conference Order'), paras 14, 16(c).

² Status Conference Order, KSC-BC-2020-07/F00204, paras 14-15.

³ Status Conference Order, KSC-BC-2020-07/F00204, paras 14(1), 16(c).

⁴ Annex 1.

⁵ Prosecution Submissions for second Status Conference, KSC-BC-2020-07/F00140, Public, 23 February 2021, para.5; Prosecution Submissions for third Status Conference, KSC-BC-2020-07/F00165, Public, 26 March 2021, para.5; Prosecution Submissions for fourth status conference, KSC-BC-2020-07/F00191, Public, 28 April 2021, para.2.

⁶ KSC-BC-2020-07, Disclosure 30.

⁷ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified. The SPO envisages filing a request to add this information to the list of exhibits once the remainder of the materials is received.

would lead to the need to seek protective measures or the receipt of information pursuant to Rule 107. Any materials subsequently received will also be disclosed pursuant to the applicable legal framework.

C. Agreements on points of law and fact

5. On 12 March 2021, the SPO communicated to the Defence, on an *inter partes* basis, proposed agreed facts pursuant to Rule 95(3) and requested a response to this proposal⁸ as to what could be agreed upon in the joint submission requested by the Pre-Trial Judge.⁹ To date, the SPO has not received a response from the Defence to its agreed facts proposal.¹⁰ The possibility of reaching an agreement before the envisaged transmission of the case file¹¹ depends on the Defence's willingness to provide any response within the relevant time-frame.¹²

D. Additional Status Conference

6. The SPO will welcome an additional Status Conference after the deadline for the submission of the Defence Pre-Trial Briefs¹³ and before the transmission of the case file.

⁸ Emails from the SPO to Defence Counsel sent on 12 March 2021 at 03:12 p.m. and on 6 April 2021 at 12:33 p.m.

⁹ Consolidated Calendar for the Remainder of the Pre-Trial Proceedings, KSC-BC-2020-07/F00148, Public, 8 March 2021 ('Consolidated Calendar') para.6(a)(vi).

¹⁰ See Submission of Pre-Trial Brief, witness and exhibit lists and Rule 109(c) chart, KSC-BC-2020-07/F00181, 9 April 2021, Public, para.3.

¹¹ See Consolidated Calendar, KSC-BC-2020-07/F00148, para.6(c).

¹² See KSC-BC-2020-07, Status Conference, Transcript of 30 April 2021, pp.254-257.

¹³ Consolidated Calendar, KSC-BC-2020-07/F00148, para.6(b)(ii)(4).

II. CONFIDENTIALITY

7. Annex 1 is classified as 'Confidential' as requested in the Status Conference Order.¹⁴

Word Count: 550



Jack Smith
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Wednesday, 26 May 2021
At The Hague, the Netherlands

¹⁴ Status Conference Order, KSC-BC-2020-07/F00204, paras 14(1), 16(c).