

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

Before: Pre-Trial Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Nasim Haradinaj

Date: 14 June 2021

Language: English

Classification: Confidential

**Reply to Prosecution Response to Defence Request for Clarification of
F00217 and F00220**

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I. CLASSIFICATION

1. The Defence for Mr. Haradinaj files this Reply confidentially, with reference to the confidential classification of the Decision on Prosecution Requests and Challenges Pursuant to F00172 (“Decision”)¹ of 26 April 2021. There is no objection to re-classify this filing as public.

II. SUBMISSIONS

2. The Defence for Haradinaj joins the Defence for Gucati’s Reply of 14 June 2021 to the SPO Response regarding clarification of the scope of disclosure ordered in the aforementioned Decision.²
3. The Defence for Mr. Haradinaj does not seek to repeat the arguments of the Gucati Defence but makes the following supplementary observations.
4. The SPO’s Response is a disconcerting example of its cavalier approach to disclosure.
5. Not only is the SPO construing the Pre-Trial Judge’s Order in an inexplicably narrow way, thereby unreasonably withholding disclosable information contrary to its obligations. Beyond that, when there is clearly a simple

¹ Decision on Prosecution Requests and Challenges Pursuant to F00172, KSC-BC-2020-07/F00210.

² Reply to Prosecution Response to Defence Requests for Clarification F00217 and F00220, KSC-BC-2020-07/F00231.

disagreement as to interpretation of the scope of disclosure between the parties, the SPO's submissions go as far as claiming the Defence cannot obtain an objective clarification from the Pre-Trial Judge on this point. Following that approach, in the event of a disagreement as to the meaning of an order, it would be the SPO that would have the final word. The SPO is respectfully reminded it cannot occupy the role of Prosecutor and Judge at the same time.

6. Therefore, the Defence for Haradinaj repeats its request, joining the Gucati Defence, for the Pre-Trial Judge to give appropriate clarifications on the Order on disclosure.

Word Count: 364 words



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