



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: 21 June 2021

Language: English

Classification: Public

Prosecution response to Defence Application to Vary the Consolidated Calendar

Specialist Prosecutor's Office

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I. SUBMISSIONS

1. The Defence Applications¹ requesting an extension of the deadline for the filing of the Defence Pre-Trial Briefs until 12 July 2021 once again fail to present the procedural history concerning disclosure in its proper context.² The Specialist Prosecutor's Office ('SPO') has adhered to the deadlines set by the Pre-Trial Judge and to its disclosure obligations.
2. Significantly, there have been no voluminous disclosures or any other relevant changes in circumstances since 9 June 2021 when the Pre-Trial Judge rejected a previous request for extension of the deadline for the filing of the Defence Pre-Trial Briefs until 12 July 2021³ and granted a limited extension until 22 June 2021.⁴ Indeed, since 9 June 2021, the SPO only released one disclosure package to the Defence, containing two items with a combined total of seven pages, largely duplicative of items previously disclosed.⁵
3. Nevertheless, the SPO does not oppose the Defence request for an extension of time for the filing of the Defence Pre-Trial Briefs.⁶

¹ Defence Application to Vary the Consolidated Calendar, KSC-BC-2020-07-F00241, 21 June 2021 ('Haradinaj Application'); Defence Application to Vary the Consolidated Calendar, KSC-BC-2020-07-F00242, 21 June 2021 (together with the Haradinaj Application, the 'Defence Applications').

² By way of example, the Defence Applications do not distinguish between disclosures made pursuant to the various rules of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules', unless otherwise indicated, all references to 'Rule(s)' are to the Rules). In this regard it is noted that the Defence requested the disclosure of almost every item on the Consolidated Rule 102(3) Notice. Further, the Defence statistics on disclosure make no mention of the fact that several items, such as transcripts of audio-visual material, were disclosed multiple times following revisions thereto; *See also* Prosecution reply to Gucati response to Prosecution request to add items to the Exhibit List, KSC-BC-2020-07-F00202, 17 May 2021, Confidential, para.1, fn.6.

³ KSC-BC-2020-07, Transcript, 28 May 2021, pp.331, 340-341.

⁴ Revised Calendar for the Remainder of the Pre-Trial Proceedings and Order Setting the Date for the Sixth Status Conference, KSC-BC-2020-07-F00224, 9 June 2021, paras 19-22.

⁵ Disclosure 35, 11 June 2021; *See* Prosecution notification related to Filing KSC-BC-2020/07/F00190/RED, KSC-BC-2020-07-F00229. In relation to paragraph 36 of the Haradinaj Application, the SPO notes that, as set out in an *inter partes* communication from the SPO to both Defence teams, Disclosure 27 was released to the Gucati Defence only, *see* Email from SPO to the Defence dated 28 April 2021 at 19:00. In relation to paragraph 41 of the Haradinaj Application, the SPO notes that Disclosure 32 was released to the Pre-Trial Judge only, *see* KSC-BC-2020-07, Transcript, 28 May 2021, pp.342-343.

⁶ In this regard, *see* Rule 72 of the Rules.

Word count: 450



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At The Hague, the Netherlands.