



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: 14 July 2021

Language: English

Classification: Public

Prosecution submissions on points of agreement on matters of fact

with Confidential Annex 1

Specialist Prosecutor's Office
Jack Smith

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Jonathan Elystan Rees

Counsel for Mr Haradinaj
Toby Cadman

I. SUBMISSIONS

1. On 12 March 2021, the Specialist Prosecutor's Office ('SPO') communicated to the Defence, on an *inter partes* basis, proposed agreed facts pursuant to Rule 95(3) of the Rules¹ and requested a response to this proposal² in order to file submissions on this matter by 9 April 2021 pursuant to the Pre-Trial Judge's order.³
2. The Defence did not respond to the SPO's communication and subsequently indicated that additional time was required in order for the Defence to be able to do so.⁴
3. On 9 June 2021, the Pre-Trial Judge ordered the Defence to incorporate any proposed agreements on points of law and fact in their respective Pre-Trial Briefs, then due by 22 June 2021.⁵ On 23 June 2021, the Pre-Trial Judge extended the deadline for such submissions to 12 July 2021.⁶
4. Annex 1 sets out the facts proposed by the SPO which, on 12 July 2021, the GUCATI Defence indicated that Hysni GUCATI can agree to,⁷ and the list of facts the HARADINAJ Defence asserted it is prepared to accept, which the SPO agrees to.⁸ This annex is classified as confidential pursuant to Rule 82(4). The SPO does not oppose Annex 1 being reclassified as public.

¹ 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).

² Email from the SPO to Defence Counsel sent on 12 March 2021 at 03:12 p.m. Since the SPO had not received a response, a reminder was sent to the Defence on 6 April 2021, Email from the SPO to Defence Counsel sent on 6 April 2021 at 12.33 p.m.

³ KSC-BC-2020-07, Transcript, 24 February 2021, pp.177-178; Consolidated Calendar for the Remainder of the Pre-Trial Proceedings, KSC-BC-2020-07/F00148, 8 March 2021, Public, para.6(a)(vi).

⁴ See, e.g., KSC-BC-2020-07, Transcript, 30 March 2021, p.208.

⁵ 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, Public, paras 25, 29(b).

⁶ Order for the Submission of a Corrected Indictment and for a Second Revised Calendar for the Remainder of the Pre-Trial Proceedings, KSC-BC-2020-07/F00244, 23 June 2021, Public, paras 18, 22(c).

⁷ The GUCATI Defence indicated Hysni GUCATI's agreement to thirteen facts proposed by the SPO by referring to the numbering attributed to such facts in the SPO's proposal, Annex 3 to Defence Pre-Trial Brief on behalf of Hysni Gucati: List of Any Proposed Agreements on Points of Law or Fact, KSC-BC-2020-07/F00258/A03, 12 July 2021, Confidential.

⁸ The HARADINAJ Defence did not specifically refer to any of the SPO's proposed facts but listed three facts that it is prepared to accept, Submission of interim Pre-Trial Brief on behalf of the Defence of Nasim Haradinaj, KSC-BC-2020-07/F00260, 12 July 2021, Confidential, para.302.

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At The Hague, the Netherlands.