



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

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

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

Registrar: Dr Fidelma Donlon

Date: 15 July 2021

Language: English

Classification: **Public**

Order on Reclassifications and Redacted Versions

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THE PRE-TRIAL JUDGE,¹ in accordance with Articles 21(2) and 39(6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 82(5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby issues the following order.

I. PROCEDURAL BACKGROUND

1. On 10 June 2021, the Pre-Trial Judge ordered the Parties to make submissions on the reclassification of filings ("Order").²
2. On 21 June 2021, the Specialist Prosecutor's Office ("SPO") made submissions pursuant to the Order.³
3. On 23 June 2021, the Pre-Trial Judge informed the Parties that the transmission of the case file pursuant to Rule 98(3) of the Rules is set to 16 July 2021.⁴
4. On 25 June 2021, the Defence for Hysni Gucati ("Mr Gucati") made submissions pursuant to the Order.⁵
5. On 29 June 2021, the SPO responded to the submissions of the Defence for Mr Gucati.⁶ The Defence submitted no reply.

¹ KSC-BC-2020-07, F00061, President, *Decision Assigning a Pre-Trial Judge*, 29 October 2020, public.

² KSC-BC-2020-07, F00225, Pre-Trial Judge, *Order for Submissions on the Reclassification of Filings* ("Order"), 10 June 2021, public.

³ KSC-BC-2020-07, F00240, Specialist Prosecutor, *Prosecution Submissions on the Reclassification of Filings*, 21 June 2021, public.

⁴ KSC-BC-2020-07, F00244, Pre-Trial Judge, *Order for the Submission of a Corrected Indictment and for a Second Revised Calendar for the Remainder of the Pre-Trial Proceedings*, 23 June 2021, public, para. 22(e).

⁵ KSC-BC-2020-07, F00247, Defence for Mr Gucati, *Defence Response to Order for Submissions on the Reclassification of Filings*, 25 June 2021, public.

⁶ KSC-BC-2020-07, F00248, Specialist Prosecutor, *Prosecution Response to Defence Submissions on the Reclassification of Filings*, 29 June 2021, public.

6. On 29 June 2021, four days after the deadline set by the Pre-Trial Judge, the Defence for Nasim Haradinaj (“Mr Haradinaj”) made submissions pursuant to the Order.⁷

II. APPLICABLE LAW

7. Pursuant to Articles 21(2) and 39(6) of the Law, hearings shall be public, unless the competent Judge decides otherwise in accordance with the Rules.

8. Pursuant to Rule 82(5) of the Rules, where the basis for reclassification no longer exists, whoever submitted the original filing shall apply to the Panel for reclassification. A Panel may also reclassify a filing upon request by any other participant or *proprio motu*.

III. DISCUSSION

9. The Pre-Trial Judge considers it is necessary to review the classification of certain filings in the case file, in order to adhere to the principle of publicity of proceedings, which extends beyond hearings in the courtroom to cover filings and any other submissions in the case file. The Pre-Trial Judge recalls the interpretation of these provisions as set out in detail previously.⁸

10. In accordance with Articles 23 and 62 of the Law, Rule 80 of the Rules and Article 33 of the Practice Direction on Files and Filings, the Pre-Trial Judge reminds the Parties that public redacted versions of filings should remove any information revealing: (i) the name, identity or other personal details of (potential) witnesses, other persons, including state officials, interacting with the SPO as well as staff members of

⁷ KSC-BC-2020-07, F00249, Defence for Mr Haradinaj, *Defence for Mr Haradinaj Submissions on Reclassification of Filings*, 29 June 2021, public.

⁸ Order, paras 9-10.

the SPO; (ii) national or international organisations or entities cooperating with the SPO for the purpose of its investigations; (iii) documents or excerpts thereof disclosed to the Defence on a confidential basis; and (iv) the content of any other documents subject to confidentiality pursuant to Specialist Chambers orders.

11. Having considered the aforementioned submissions of the Parties and the confidentiality indications provided in other filings by the Parties, the Pre-Trial Judge orders the Registry to reclassify the following filings as **public**:

- F00046, 14 October 2020;
- F00049, 14 October 2020;
- F00180, 9 April 2021;
- F00185, 20 April 2021;
- F00198, 9 May 2021;
- F00200, 11 May 2021;
- F00202, 17 May 2021;
- F00211, 26 May 2021;
- F00216, 3 June 2021;
- F00217, 3 June 2021;
- F00218, 3 June 2021;
- F00219, 3 June 2021;
- F00220, 7 June 2021;
- F00221, 7 June 2021;
- F00223, 8 June 2021;
- F00226, 10 June 2021;
- F00227, 10 June 2021;
- F00230, 14 June 2021;
- F00231, 14 June 2021;

- F00233, 14 June 2021;
- F00234, 14 June 2021;
- F00235, 15 June 2021;
- F00236, 15 June 2021;
- F00237, 15 June 2021;
- F00239, 17 June 2021;
- F00253, 6 July 2021;
- F00257, 9 July 2021.⁹

12. The Pre-Trial Judge further orders the SPO to file public redacted versions of the following of its confidential filings or indicate whether they can be reclassified as public:

- F00107, 29 January 2021;
- F00110, 1 February 2021;
- F00118, 9 February 2021;
- F00127, 16 February 2021;
- F00130, 19 February 2021;
- F00149, 8 March 2021;
- F00164, 26 March 2021;
- F00181/A01, 9 April 2021;
- F00252, 5 July 2021.¹⁰

13. The Pre-Trial Judge further orders the Defence for Mr Gucati to file public redacted versions of the following of its confidential filings or indicate whether they can be reclassified as public:

⁹ The date indicated in the list above is the date of submission, as it appears in Legal Workflow.

¹⁰ The date indicated in the list above is the date of submission, as it appears in Legal Workflow.

- F00119, 10 February 2021;
- F00122, 11 February 2021;
- F00157, 18 March 2021;
- F00255, 8 July 2021;
- F00258, 12 July 2021.¹¹

14. In addition, the Pre-Trial Judge orders the Defence for Mr Gucati to file a public redacted version of F00199, applying the redactions proposed by the SPO in F00248, Annex 1.

15. The Pre-Trial Judge further orders the Defence for Mr Haradinaj to file public redacted versions of the following of its confidential filings or indicate whether they can be reclassified as public:

- F00123, 12 February 2021;
- F00256, 8 July 2021;
- F00260, 12 July 2021.¹²

16. The Pre-Trial Judge notes that annexes are covered by the above orders only where they are expressly indicated.

IV. DISPOSITION

17. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a. **ORDERS** the Registry to reclassify as public the filings referenced in paragraph 11 by **Wednesday, 21 July 2021**;

¹¹ The date indicated in the list above is the date of submission, as it appears in Legal Workflow.

¹² The date indicated in the list above is the date of submission, as it appears in Legal Workflow.

- b. **ORDERS** the SPO to submit public redacted versions or request reclassification as public of the filings referenced in paragraph 12 by **Friday, 27 August 2021**;
- c. **ORDERS** the Defence for Mr Gucati to submit public redacted versions or request reclassification as public of the filings referenced in paragraph 13 by **Friday, 3 September 2021**;
- d. **ORDERS** the Defence for Mr Gucati to submit a public redacted version of F00199 as provided in paragraph 14 by **Friday, 3 September 2021**; and
- e. **ORDERS** the Defence for Mr Haradinaj to submit public redacted versions or request reclassification as public of the filings referenced in paragraph 15 by **Friday, 3 September 2021**.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Thursday, 15 July 2021

At The Hague, the Netherlands.