



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

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

Before: Trial Panel II
Judge Charles L. Smith, III, Presiding Judge
Judge Christoph Barthe
Judge Guénaël Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor

Date: 27 August 2021

Language: English

Classification: Public

Public redacted version of

'Prosecution notification and request to provide summary'

Specialist Prosecutor's Office

Jack Smith

Counsel for Mr Gucati

Jonathan Elystan Rees

Counsel for Mr Haradinaj

Toby Cadman

1. As part of its ongoing Rule 103¹ obligations, and in light of recent Defence *inter partes* disclosure requests, the Specialist Prosecutor's Office ('SPO') conducted a further review of its collection for information related to the credibility of information provided by (potential) SPO witnesses relevant to the charge of intimidation or retaliation. This review has generated a small number of additional disclosable items. One of these was disclosed with the same identity redactions previously authorised.²
2. The remaining materials identified in the course of this review concern [REDACTED]. On [REDACTED], the (potential) witness informed the SPO that he had security concerns following the unauthorised publication of his name by the accused.³ The official note memorialising this contact was disclosed with redactions to the Defence. [REDACTED].⁴
3. [REDACTED]. [REDACTED]. During his SPO interview, [REDACTED] acknowledged that this claim was not true.⁵ He explained that at the time he was subject to intimidation and feared for his safety and that of his family.⁶ [REDACTED].⁷
4. Nonetheless, despite such context, [REDACTED]'s prior false claim relating to a security matter could be construed as falling under Rule 103 in the context of this case where certain of the matters at issue relate to stated security concerns.
5. [REDACTED].⁸ In order to balance the protection of [REDACTED] with the rights of the accused in this case, the SPO requests to provide a summary of

¹ Rule 103 of the 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.

² Disclosure Package 37. *See also* Decision on Non-Disclosure of Certain Witness Contacts, KSC-BC-2020-07/F00136, 22 February 2021, Confidential.

³ Official Note of Contact on [REDACTED], 091907-091908 RED2.

⁴ Official Note of Contact on [REDACTED], 091907-091908 RED2, p.091907.

⁵ [REDACTED].

⁶ [REDACTED].

⁷ [REDACTED].

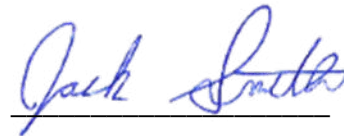
⁸ [REDACTED].

[REDACTED]'s potentially exculpatory information relevant to this case. No undue prejudice would be caused, as: (i) the summary would provide all potentially exculpatory information; and (ii) [REDACTED] only plays a small role in this case – he is not being called as a witness and the evidence of his security concerns is cumulative in light of all other official notes disclosed.

6. This application is filed confidential and *ex parte* in order to protect [REDACTED]'s identity [REDACTED]. A confidential redacted version will be filed.

7. For the foregoing reasons, the SPO requests to disclose the summary contained as Annex 1 of the present application to the Defence in lieu of [REDACTED]'s prior statements.

Word count: 412



Jack Smith

Specialist Prosecutor

Friday, 27 August 2021

At The Hague, the Netherlands