

**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 Guenael Mettraux

Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Counsel for Nasim Haradinaj

**Date:** 2 September 2021

**Language:** English

**Classification:** Confidential

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**Defence Submissions on Reclassifications and Redacted Versions**

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**Specialist Prosecutor**

Jack Smith

**Counsel for Nasim Haradinaj**

Toby Cadman

Carl Buckley

**Counsel for Hysni Gucati**

Jonathan Elystan Rees QC

Huw Bowden

## SUBMISSIONS

1. On 15 July 2021, the Pre-Trial Judge ordered the Defence for Mr. Haradinaj to refile its submissions F00256, F00260 and F00123 as public or submit publicly redacted versions of the same.<sup>1</sup>
2. The Defence for Mr. Haradinaj refiles public redacted versions of all three filings but wishes to make the following additional submissions on the Pre-Trial Judge's Order.
3. At paragraph 10 of the Order, the Pre-Trial Judge set out a list of items to be redacted from parties' submissions, including *"(ii) national [...] entities cooperating with the SPO for the purpose of its investigations"*. The Defence understands this to include references to the Serbian (war crimes) prosecutor's office that cooperating with the SPO according to evidence disclosed in the Batches. This cooperation, or collaboration, with the Serbian prosecutor's office is a central element of Mr. Haradinaj's public interest/whistleblower defence. The Defence for Mr. Haradinaj respectfully objects to the requirement for such redactions and requests the Trial Panel to reconsider the Pre-Trial Judge's Order in this respect.

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<sup>1</sup> KSC-BC-2020-07/F00264, at para. 15.

4. Finally, noting paragraph 10 of the Appeal Panel’s Decision of 29 July 2021, which urges the parties to “*exercise caution*” when deciding what submissions can be reclassified as public,<sup>2</sup> this submission is filed confidentially as a precaution, however there is no objection to its full reclassification as public.

Word Count: 310 words



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<sup>2</sup> KSC-BC-2020-07/IA005-F00008, at para. 15