

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 Christophe Barthe

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hysni Gucati

Date: 3 September 2021

Language: English

Classification: Public

Defence Response to Order on Reclassifications and Redacted Versions

Specialist Prosecutor

Jack Smith

Counsel for Hysni Gucati

Jonathan Elystan Rees QC

Huw Bowden

Counsel for Nasim Haradinaj

Toby Cadman

Carl Buckley

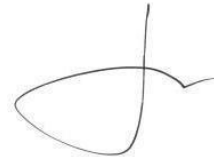
1. In accordance with paragraph 13 of the Order on Reclassification and Redacted Versions (the "Order")¹, and Articles 21(2) and 39(6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rule 82(5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, the Defence hereby requests that F00157, 10 February 2021, and F00255, 8 July 2021 are reclassified as public.
2. In accordance with paragraph 13 and 14 of the Order, the Defence confirms that it has today filed public redacted versions of the following filings:
 - F00119, 10 February 2021;
 - F00122, 11 February 2021;
 - F00258, 12 July 2021; and
 - F00199, 10 May 2021.
3. In assessing whether the information could be reclassified as public or whether redactions were required, the Defence noted the invitation from the Court of Appeals Panel in its Decision on the Appeals Against Disclosure Decision to exercise caution and to follow the guidance provided by the redactions appended in the public redacted versions of the relevant decisions issued by the Pre-Trial Judge² and followed that guidance. The Defence maintains its position however that nothing in the filings necessitates confidentiality.
4. Furthermore, the Defence noted the SPO's statement made on 1 September 2021 that "a media article or video taken from open source is not going to have a

¹ *Order on Reclassifications and Redacted Versions*, KSC-BC-2020-07/F00264, 15 July 2021, paragraph 13

² *Decision on the Appeals Against Disclosure Decision*, KSC-BC-2020-07/IA005/F00008, 29 July 2021, paragraph 15

confidential classification”³ and on that basis has not applied redactions to quotes from open source materials.

Word count: 271 words



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3 September 2021

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³ *Transcript of Trial Preparation Conference*, 1 September 2021, page 429, lns 12-14