

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: 6 September 2021

Language: English

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List of Legislation on Whistleblowing *per* Trial Panel II Oral Order Number 3

Specialist Prosecutor

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I. INTRODUCTION

1. On 21 July 2021, the Trial Panel II issued its 'Order for Submissions and Scheduling the Trial Preparation Conference',¹ fixing 1 and 2 September 2021 for the Trial Preparation Conference.²
2. During the Trial Preparation Conference held on 1 and 2 September 2021, the Trial Panel II issued a number of 'Oral Orders'.
3. Oral Order Number 3, as per the draft transcript of that hearing, at provisional page 28, as well as Ordering written submissions on 2 specific points, also asked for an annex concerning any Kosovan legislation that dealt with the issue of Whistle-blowers.
4. Oral Order No. 3 states:³

“By the same token, the Haradinaj Defence is ordered to file written submissions on the legal basis relied upon them in respect of entrapment and to provide any Kosovo legislation on whistle blowers.”

¹ KSC-BC-2020/07/F00267, Trial Panel II, Order for Submissions and Scheduling the Trial Preparation Conference, 21 July 2021, Public.

² Ibid. para. 34(h)

³ Trial Preparation Conference, 2 September 2021, Public, Page 601 Line 17 to Page 602 to Line 10

5. The Defence for Mr. Haradinaj have accordingly set out the relevant legislation to this filing and provided a hyperlinked list to the same below as requested in the second limb of Oral Order No. 3.

6. The Defence for Mr. Haradinaj has not at this stage set out any additional written submissions as to the extent to which the various legislation applies as it has not been directed to do so. It will of course in the fullness of time set out its full submission and will serve expert evidence on the relevance of these points.

II. List of Domestic Legislation of the Republic of Kosovo

7. The applicable legislation identified thus far by the Defence for Mr. Haradinaj and which it intends to reference at trial is as follows:
 - a. [Law on the Kosovo Specialist Chambers and Specialist Prosecutor's Office of the Republic of Kosovo](#), Law No. 05/L-053, Official Gazette of the Republic of Kosovo No. 2015/26 of 31 August 2015;

 - b. [Criminal Code of the Republic of Kosovo](#), Law No. 06/L-074, Official Gazette of the Republic of Kosovo No. 2019/02 of 14 January 2019;

- c. [Criminal Procedure Code of the Republic of Kosovo](#), Law No. 04/L-123, Official Gazette of the Republic of Kosovo No. 2012/37 of 28 January 2012;
- d. [Law on the Protection of Whistleblowers of the Republic of Kosovo](#), Law No.06/L-085, Official Gazette of the Republic of Kosovo No. 2108/22 of 18 December 2018;
- e. [Law on the Anti-Corruption Agency of the Republic of Kosovo](#), Law No.03/L-159, Official Gazette of the Republic of Kosovo No. 2010/65 of 5 February 2010
- f. [Law on the Protection from Discrimination of the Republic of Kosovo](#), Law No. 05/L-021, Official Gazette of the Republic of Kosovo No. 2015/16 of 26 June 2015;
- g. [Law on Classification of Information and Security Clearances of the Republic of Kosovo](#), Law No. 03/L-178, Official Gazette of the Republic of Kosovo No. 2010/76 of 10 August 2010;
- h. [Regulation No. 17/2011 on Classification and Declassification of Information of the Republic of Kosovo](#);
- i. [Constitution of the Republic of Kosovo](#);

- j. [European Convention on the Protection of Human Rights and Fundamental Freedoms;](#)
- k. [International Covenant on Civil and Political Rights;](#)
- l. [Directive \(EU\) 2019/1937](#) of the European Parliament and of the Council of 23 October 2019 on the Protection of Persons who Report Breaches of Union Law.

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