



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: 28 September 2021

Language: English

Classification: Strictly confidential and *ex parte*

Prosecution submission pursuant to KSC-BC-2020-07/F00320

Specialist Prosecutor's Office

Jack Smith

1. The Specialist Prosecutor's Office ('SPO') hereby provides the further submissions ordered by the Trial Panel.¹
2. As regards item 191 on the Rule 102(3) Notice Addendum,² four hard copies of this report were delivered to the Trial Panel on 28 September 2021.
3. As regards the steps and verifications items 195-200 on the Rule 102(3) Notice Addendum (the call data records, or 'CDRs'), the SPO analyses these records within the database of such records maintained by the SPO. Targeted searches have been conducted, looking in particular for patterns of call activity around the times of the deliveries of the Batches which would lead to further investigation. Searches have extended to the names of those whose phone subscriber information has been received to date.
4. In the course of this analysis, there is no evidence whatsoever that any SPO staff had anything to do with the process by which the Batches were delivered to the KLA WVA. Every phone number in these CDRs has been checked against the internal phone numbers the SPO has in its files. This includes operational phone numbers, as well as those of current and former staff of the SITF/SPO.³ These internal phone numbers also include Kosovo numbers and non-Kosovo numbers. Using the subscriber information for the numbers contained in the CDRs, the SPO has further analysed whether any of the numbers within the CDRs is attributed to anyone currently or formerly with the SITF/SPO.

¹ Order for Further Submissions in Relation to the Prosecution Challenges to Disclosure of Items in the Updated Rule 102(3) Notice, KSC-BC-2020-07/F00320, 22 September 2021, Confidential ('Order').

² Annex 1 to Prosecution addendum to its Consolidated Rule 102(3) Notice, 9 September 2021, KSC-BC-2020-07/F00307/A01, Confidential ('Rule 102(3) Notice Addendum').

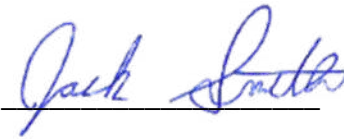
³ There is no other person acting under the SPO's instruction or control who had access to the Batches. See Order, KSC-BC-2020-07/F00320, para.8.

5. No record of an internal phone number contact appears in any of the CDRs before the delivery of the Batches.⁴ Moreover, no phone numbers belonging to the Benelux Area appear in any of the CDRs provided to the Trial Panel.

6. The analysis conducted confirms that these CDRs have no connection to current or former SITF/SPO staff. Any other information sought by the Accused is irrelevant to the entrapment allegations, making no counterbalancing measures necessary.

7. This filing is strictly confidential and *ex parte* in accordance with the Trial Panel's order.⁵

Word count: 445



Jack Smith

Specialist Prosecutor

Tuesday, 28 September 2021

At The Hague, the Netherlands

⁴The only internal phone contact appearing in any of these CDRs are two calls the SPO made to W04796 in December 2020 (from a Kosovo number) to facilitate the interview later disclosed to the Defence. W04796 Interview, 18 December 2020, 088935-TR-ET (two parts).

⁵ Order, KSC-BC-2020-07/F00320, para.9.