



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 Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 19 October 2021

Language: English

Classification: Public

Scheduling Order for *Ex Parte* Hearing

Specialist Prosecutor

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TRIAL PANEL II (“Panel”), pursuant to Article 40(2) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 116(4) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 18 October 2021, the Panel informed the Parties that a consolidated decision on the outstanding Rule 102(3) matters¹ will be issued as soon as practical during or immediately after having heard the evidence of witnesses W04841 and W04842. The Panel noted that such deferral was necessary because the materiality and disclosure of the Rule 102(3) items was closely connected to the entrapment allegations raised by the Defence and because, should witnesses W04841 and W04842 be in a position to give evidence with respect to the entrapment allegations, their evidence could affect the pending decision.²

II. APPLICABLE LAW

2. Pursuant to Rule 116(4) of the Rules, the Panel may issue orders on any matter as necessary to ensure a fair and expeditious trial.

III. DISCUSSION

3. The Panel finds it necessary to hear submissions from the Specialist Prosecutor’s Office (“SPO”) about pending Rule 102(3) disclosure issues and potential

¹ F00307, Specialist Prosecutor, *Prosecution Addendum to its Consolidated Rule 102(3) Notice with Confidential Annex 1*, strictly confidential and *ex parte*; see also F00307/RED, public; F00316, Specialist Prosecutor, *Prosecution Challenges to Disclosure of Items in Updated Rule 102(3) Notice* (“17 September 2021 SPO Filing”), 17 September 2021, strictly confidential and *ex parte*; see also F00316/RED, public; F00361, Specialist Prosecutor, *Prosecution Update to Rule 102(3) Notice Addendum*, 13 October 2021, confidential.

² Draft Transcript, 18 October 2021, pp. 816-817.



counterbalancing measures. The Panel notes that the matters to be discussed involve highly sensitive information related to ongoing investigations and security of witnesses as well as material that is subject to a pending request for non-disclosure.³

4. For this reason, the Panel orders that an *ex parte* hearing with the SPO take place on 21 October 2021, at 14:30 hours. The subject matter of the hearing is set out in more detail in the strictly confidential and *ex parte* annex of this order.

IV. DISPOSITION

5. For these reasons, the Panel **DECIDES** to convene an *ex parte* hearing with only the SPO on **21 October 2021, at 14:30 hours**.

Judge Charles L. Smith, III

Presiding Judge

Dated this Tuesday, 19 October 2021

At The Hague, the Netherlands

³ 17 September 2021 SPO Filing; *see also* F00316/RED, public.