



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 Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon
Filing Participant: Specialist Prosecutor
Date: 26 October 2021
Language: English
Classification: Confidential

**Prosecution response to the Haradinaj Defence request for reclassification of
testimony heard in private session**

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Counsel for Mr Haradinaj
Toby Cadman

I. SUBMISSIONS

1. The SPO does not object to the reclassification as public of the one excerpt identified for such reclassification in paragraph 16 of the Haradinaj Defence Request.¹ While there is certainly nothing ‘astonishing’ about this excerpt,² the SPO sees no reason for it to remain unavailable to the public.

2. While not objecting to the reclassification of this specific excerpt, the SPO notes that the Defence Request misstates W04841’s evidence and makes unsubstantiated assertions. In particular, W04841 did not assert that she has shared a desk for years with a certain SPO staff member named by the Defence,³ and the assertion that this same staff member is or was ‘leading the investigation around the Batches’⁴ is equally unsupported.

3. Further, should the Defence deem that further evidence heard in private session requires reclassification, it would assist the proceedings if the Defence could specify which excerpts it is referring to rather than extend a generic invitation to the Trial Panel to review private session transcripts with a view to reclassification or the provision of redacted versions.⁵

¹ Defence Submissions on the Reclassification as Public of Parts of the Trial Hearing Transcripts Held in Private Session, KSC-BC-2020-07/F00395, 24 October 2021, Confidential.

² *Contra* Defence Request, KSC-BC-2020-07/F00395, para.18.

³ *Contra* Defence Request, KSC-BC-2020-07/F00395, para.18; *See* Transcript, KSC-BC-2020-07, 21 October 2021, p.1234, ln.21 – p.1235, ln.5.

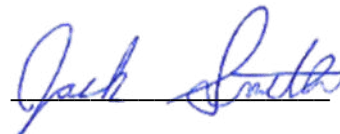
⁴ Defence Request, KSC-BC-2020-07/F00395, para.18.

⁵ *See* Defence Request, KSC-BC-2020-07/F00395, paras 3, 25.

II. CONFIDENTIALITY

4. Pursuant to Rule 82(4), this filing is confidential in line with the classification of the Defence Request. The SPO does not oppose the reclassification of the filing to public.

Word count: 263



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Tuesday, 26 October 2021

At The Hague, the Netherlands