



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: 5 November 2021
Language: English
Classification: Public

Prosecution notification of disclosure and request for admission of evidence

Specialist Prosecutor's Office

Jack Smith

Counsel for Mr Gucati

Jonathan Elystan Rees

Counsel for Mr Haradinaj

Toby Cadman

I. SUBMISSIONS

1. Pursuant to the Trial Panel's Oral Decision,¹ on 5 November 2021 the Specialist Prosecutor's Office ('SPO') disclosed² a lesser redacted version of P00104 MFI,³ lifting several redactions to the six pages⁴ which were previously entirely redacted. The SPO also disclosed English translations of three of these pages.⁵ For the same reasons set out in relation to P00104 MFI,⁶ the SPO requests the admission of the lesser redacted version of P00104 MFI along with that of the English Translations. The lifting of the redactions means that this item's authenticity, reliability, relevance and probative value are now even higher.

2. Further, as anticipated during the 5 November 2021 hearing,⁷ given that the same six pages in P00104 MFI also appear in Batches 1 and 4, the SPO also disclosed⁸ the corresponding pages from these Batches⁹ with identical redactions. The SPO requests admission of these items for the same reasons set out in relation to P00104 MFI.

3. Should the Trial Panel admit the lesser redacted version of P00104 MFI, the SPO would maintain its position concerning the manner in which the pages which were never redacted in P00104 MFI could be made available to the public.¹⁰ The six pages in which the SPO has now lifted redactions should be redacted from the public since

¹ KSC-BC-2020-07, 5 November 2021 Draft Transcript, p.2, ln.14 – p.3, ln.9 ('Oral Decision').

² Disclosure Package 59.

³ P00104 MFI is 079512-080448 RED, Redacted version of documents seized from KLA WVA on 17 September 2020.

⁴ P00104 MFI, pp.080126-080131.

⁵ 080128-080128-ET and 080130-080131-ET ('English Translations').

⁶ See KSC-BC-2020-07, 18 October 2021 Transcript, p.920, lns.5-17; KSC-BC-2020-07, 28 October 2021 Transcript, p.1658, ln.24 - p.1660, ln.3.

⁷ KSC-BC-2020-07, 5 November 2021 Draft Transcript, p.51, ln.16 - p.52, ln.5, p.54, lns.6 -10.

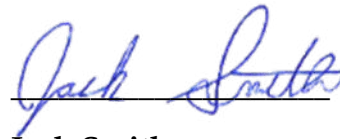
⁸ Disclosure Package 59.

⁹ Batch 1: 080705-080705 RED; 080706-080706 RED; 080757-080757 RED; 080763-080763 RED; 080776-080776 RED; 081209-081209 RED. Batch 4: 078590-078590 RED; 078592-078592 RED; 078867-078867 RED; 079159-079159 RED; 079160-079160 RED; 079200-079200 RED.

¹⁰ See KSC-BC-2020-07, 28 October 2021 Transcript, p.1659, ln.15 – p.1660, ln.3.

the present proceedings should not become an avenue for publication of information contained in the Batches which had not been placed in the public domain before the events relevant to the charges in the Indictment.¹¹ For the same reasons, should the Trial Panel admit the excerpts from Batches 1 and 4 referred to above, these items should continue to be classified as confidential.

Word count: 412



Jack Smith

Specialist Prosecutor

Friday, 5 November 2021

At The Hague, the Netherlands

¹¹ See Decision on the Classification and Public Redacted Versions of Exhibits Admitted Through the Bar Table, KSC-BC-2020-07/F00350, 5 October 2021, para.18.