



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2020-06
Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi
Before: Pre-Trial Judge
Judge Nicolas Guillou
Registrar: Dr Fidelma Donlon
Filing Participant: Specialist Prosecutor
Date: 31 January 2022
Language: English
Classification: Confidential

Prosecution Rule 107(2) request pursuant to Decision F00559

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I. INTRODUCTION

1. Pursuant to the Decision,¹ the Framework Decision,² Articles 35(2)(e)-(f), and 39(1), (3) and (11) of the Law,³ and Rules 95(2)(h), 107, and 108 of the Rules,⁴ the Specialist Prosecutor's Office ('SPO') requests the Pre-Trial Judge to relieve the SPO of its disclosure obligations in relation to certain, discrete information contained in two documents falling under Rule 107 ('Rule 107 Information').⁵

II. SUBMISSIONS

2. In the Eleventh Decision, the Pre-Trial Judge extended the deadline for the SPO to make a Rule 107(2) request in relation to four documents.⁶ In light of, *inter alia*, the redactions applied and consultations with the information provider,⁷ the SPO has decided that it does not at this time intend to rely on documents SPOE00297872-00297878 and SPOE00295609-00295612.⁸

¹ Eleventh Decision on Specialist Prosecutor's Request for Protective Measures, KSC-BC-2020-06/F00559, 5 November 2021, Strictly Confidential and *Ex Parte* ('Decision'), para.486(i).

² Framework Decision on Disclosure of Evidence and Related Matters, KSC-BC-2020-06/F00099, 23 November 2020 ('Framework Decision'), paras 16, 22, 69-71, and 99(l).

³ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

⁴ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

⁵ The documents containing the Rule 107 Information subject of this request are provided in Annexes 1 and 2 (both redacted and unredacted versions).

⁶ Decision, KSC-BC-2020-06/F00559, para.23. *See also* Eleventh request for protective measures, KSC-BC-2020-06/F00456, 3 September 2021, Strictly Confidential and *Ex Parte* ('Request'), para.9; Prosecution reply to Defence responses and corrections to Eleventh Request for Protective Measures, KSC-BC-2020-06/F00482, 12 September 2021, Confidential, para.7. The relevant documents are SPOE00233959-00233959, SPOE00234435-00234438, SPOE00295609-00295612, and SPOE00297872-00297878.

⁷ Request, KSC-BC-2020-06/F00456, para.9 (the extension of time granted in the Decision was sought because the outcome of consultations with the provider could impact the SPO's decision about whether to rely on the documents).

⁸ To the extent information redacted from these documents falls under other disclosure provisions, the SPO is taking appropriate steps to discharge its disclosure obligations.

3. On the other hand, the SPO does intend to rely on documents SPOE00320934-00320934 (a lesser redacted version of SPOE00233959-00233959)⁹ and SPOE00320935-00320938 (a lesser redacted version of SPOE00234435-00234438).¹⁰ The documents contain very limited redactions to the name of an interpreter, the places of origin for certain individuals, a victim's relation, allegedly missing and/or killed persons of no apparent relevance to the case, and a person detained by the Serbian authorities. The relevant context is unredacted. Considering the nature¹¹ and limited scope of the redacted information and that no redactions are applied to exculpatory information, no counterbalancing measures are necessary.

III. CLASSIFICATION

4. This filing is confidential and Annexes 1 and 2 are strictly confidential and *ex parte* in accordance with Rules 82(4) and 107(2).

IV. RELIEF REQUESTED

5. For the foregoing reasons, the Pre-Trial Judge should relieve the SPO of its disclosure obligations in relation to the Rule 107 Information.

Word count: 503



Monday, 31 January 2022
At The Hague, the Netherlands.

Jack Smith
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⁹ Annex 1.

¹⁰ Annex 2.

¹¹ Many of the redactions would constitute authorised standard redactions consistent with the Framework Decision.