



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

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: Fidelma Donlon

Date: 28 March 2022

Language: English

Classification: Public

Order for Submissions on Reclassification of Transcripts and Filings

Specialist Prosecutor

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TRIAL PANEL II (“Panel”), pursuant to Articles 21 and 40 of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 84 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this order.

I. APPLICABLE LAW

1. Pursuant to Article 21(2) of the Law, the Accused shall be entitled to a public hearing, subject to Article 23 of the Law and any measures ordered by the Specialist Chambers for the protection of victims and witnesses.
2. Pursuant to Article 40(4) of the Law, hearings shall be public unless the Panel decides to close the proceedings in accordance with the Rules.
3. Pursuant to Article 40(6) of the Law, the Panel may as necessary during the course of a trial provide for the protection of, *inter alia*, confidential information, the Accused, witnesses and victims.
4. Pursuant to Rule 84 of the Rules, on an ongoing basis and before rendering its Judgment, the Panel shall review the classification of records of proceedings and evidence and, where applicable, order their reclassification.

II. DISCUSSION

5. Pursuant to Rule 84 of the Rules, the Panel reviewed and determined the classification of filings and evidence during the proceedings.
6. As regards outstanding reclassifications of filings, the Panel notes that the Defence for Hysni Gucati (“Gucati Defence”) only filed a confidential version of its Final Trial Brief.¹ The Panel directs the Gucati Defence to file a public redacted version of its Final Trial Brief. The Panel reminds the Gucati Defence that a public redacted version

¹ F00567, Gucati Defence, *Final Trial Brief on Behalf of Hysni Gucati*, 3 March 2022, confidential.

should remove any information revealing: (i) the name, identity or other personal details of SPO staff members (who are not witnesses in this case) and of individuals named in the documents seized or received in the various batches;² (ii) organisations or entities cooperating with the SPO on a confidential basis; (iii) documents or excerpts thereof disclosed to the Defence on a confidential basis; and (iv) the content of any other documents subject to confidentiality pursuant to Specialist Chambers orders.³

7. As regards the reclassification of transcripts of the proceedings, the Panel is currently conducting a review thereof with a view to ordering the reclassification of confidential parts to public, wherever applicable. In this regard, the Panel is mindful that the following parts of the proceedings were held in private session, namely transcripts:

- (i) 2 September 2021, pages 561-564, 598;
- (ii) 7 October 2021, pages 753-754, 763-764;
- (iii) 18 October 2021, pages 864-867, 883-885, 917-919, 931-933;
- (iv) 19 October 2021, pages 953-961, 968-971, 1006-1008;
- (v) 20 October 2021, pages 1092-1099, 1110-1115, 1123, 1126-1128, 1131-1146;
- (vi) 21 October 2021, pages 1169, 1216-1249, 1249-1252;
- (vii) 25 October 2021, pages 1305-1308, 1316-1339, 1343-1354, 1365-1366, 1386-1407;
- (viii) 26 October 2021, pages 1428-1430, 1435, 1439, 1467-1469, 1518-1519;
- (ix) 4 November 2021, pages 1773-1777, 1780-1793, 1891-1900;
- (x) 5 November 2021, pages 1920-1925, 1942-1943;

² Other than Mr Vladimir Vukcevic. *See* Transcript, 6 December 2021, pp 2146-2147 (Oral Order on Use of Names Mentioned in the Batches).

³ F00501, Panel, *Order on Reclassifications and Public Redacted Versions*, 16 December 2021.

(xi) 8 December 2021, pages 2385-2387; and

(xii) 15 December 2021, pages 2622-2626, 2627-2636

(collectively "Private Sessions").

8. In the conduct of its review of the classification of the proceedings, the Panel would welcome the views of the Parties. On this basis, the Panel orders the Parties to file submissions, if they so wish, on the reclassification of the abovementioned Private Sessions.

III. DISPOSITION

9. For these reasons, the Panel:

- a. **ORDERS** the Parties to make submissions, if they so wish, on the reclassification of the Private Sessions by **8 April 2022**; and
- b. **ORDERS** the Gucati Defence to file a public redacted version of its Final Trial Brief (F00567), in compliance with paragraph 6, by **8 April 2022**.



Judge Charles L. Smith, III
Presiding Judge

Dated this Monday, 28 March 2022

At The Hague, the Netherlands