



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

In: KSC-CA-2022-01
Specialist Prosecutor v. Hysni Gucati and Nasim Haradinaj

Before: **Court of Appeals Panel**
Judge Michèle Picard, Presiding Judge
Judge Kai Ambos
Judge Nina Jørgensen

Registrar: Dr Fidelma Donlon

Filing Participant: Acting Specialist Prosecutor

Date: 12 January 2023

Language: English

Classification: Public

Public Redacted Version of

Prosecution notice of additional item 206 and challenge to disclosure

Specialist Prosecutor's Office

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Counsel for Mr Haradinaj

Toby Cadman

1. Pursuant to the Appeals Panel's Decision¹ and Rule 102(3) of the Rules,¹ the Specialist Prosecutor's Office ('SPO') adds the following item to its Rule 102(3) Notice ('Item 206'):

Item no.	ERN	Date of document	Document language	Description
206	[REDACTED]	27.01.2022	English	[REDACTED]

2. In the interest of resolving the disclosure of Item 206 as soon as possible, if this item is selected by the Defence the SPO's challenges to disclosure are as follows.

3. First, this item is immaterial. The only possible relevance Item 206 could have for the Defence is with respect to its ungrounded allegations that the SPO entrapped the Accused. But this item contains no information or opinion regarding any role or involvement the SPO would have had in the provenance of the Batches.² Such an item could not have been a decisive factor in reaching a decision at trial.³

4. Second, even if Item 206 was deemed material, disclosing the identity of the Author would prejudice ongoing or future investigations and cause grave risks to his security.⁴

5. The SPO's investigation into the Batches is part of a multi-faceted obstruction investigation.⁵ Revealing the source behind Item 206 would fundamentally compromise this broader investigation.

¹ KSC-CA-2022-01/F00044, 15 September 2022, Confidential and *Ex Parte*, para.38(c).

² Decision on the Prosecution Challenges to Disclosure of Items in the Updated Rule 102(3) Notice, KSC-BC-2020-07/F00413, 3 November 2021, Confidential, paras 58-59, 95.

³ Rule 181(3).

⁴ Rule 108(1)(a)-(b).

⁵ See Corrected version of Prosecution challenges to disclosure of items in updated Rule 102(3) Notice, KSC-BC-2020-07/F00316, 7 September 2021, Strictly Confidential and *Ex Parte*, paras 22-36.

6. [REDACTED]. [REDACTED],⁶ [REDACTED].

7. Given the risks involved, no information from Item 206 can be disclosed beyond that contained in the Rule 102(3) notice above.

8. For the foregoing reasons, the SPO: (i) provides notice of Item 206 and, if the item is selected by the Defence, (ii) challenges any disclosure of this item for the reasons set out above.⁷

Word count: 347



Alex Whiting
Acting Specialist Prosecutor

Thursday, 12 January 2023

At The Hague, the Netherlands.

⁶ [REDACTED].

⁷ This filing is submitted strictly confidential and *ex parte* in order to protect SPO investigations and the Author. A confidential redacted version is filed simultaneously.