

**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:** Counsel for Kadri Veseli

**Date:** 25 February 2022

**Language:** English

**Classification:** Public

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**Public Redacted Version of Veseli Defence Reply to the  
Prosecution response to Veseli Defence request for a lesser redacted public  
version of KSC-BC-2020-06/F00562**

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## I. INTRODUCTION

1. The Defence for Mr Kadri Veseli (“the Defence”) hereby replies to the “Prosecution response to Veseli Defence request for a lesser redacted public version of KSC-BC-2020-06/F00562”.<sup>1</sup>
2. To respect the publicity of proceedings and the fair trial rights of the accused, the Defence requests the Pre-Trial Judge to reclassify paragraphs 5, 6, 23 and 24, and associated footnotes 12, 14, 15, 57 and 58 of the SPO response to Kosovo Police submissions, and order the SPO to file a lesser redacted version of said submissions.

## II. SUBMISSIONS

### A. Redactions to paragraphs 5, 6 and 23 (including corresponding footnotes)

1. It is abundantly clear that the SPO’s position cannot be reconciled with the fundamental principle of the right to a public trial.<sup>2</sup> The argument that “analysis of public information” should be classified as confidential because it may expose the named individuals to “excessive and necessary public scrutiny” is devoid of any legal basis.<sup>3</sup> It directly violates the accused’s right to a public hearing as well as the rights of the named individuals to defend their reputations, should they wish to do so.
2. The Defence recalls that the public character of the proceedings must be the norm, subject to very specific, clearly defined exceptions which justify the

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<sup>1</sup> F00703, Prosecution response to Veseli Defence request for a lesser redacted public version of KSC-BC-2020-06/F00562, 18 February 2022.

<sup>2</sup> *Riepan v. Austria* (no. 35115/97) [Judgement](#) Strasbourg, 14 November 2000, (respectively) paras 27 and 34. See also “There is a high expectation of publicity in ordinary criminal proceedings, which may well concern dangerous individuals, notwithstanding the attendant security problems” *Krestovsky v. Russia* (no. 14040/03) [Judgment](#) Strasbourg, 28 October 2010, para. 24.

<sup>3</sup> F00703, Prosecution response to Veseli Defence request for a lesser redacted public version of KSC-BC-2020-06/F00562, 18 February 2022, para. 4.

classification of information as confidential.<sup>4</sup> In this regard, the failure of the SPO to cite the legal basis upon which it relies to justify its redactions is, in the opinion of the Defence, sufficient to grant the Request.

3. To the extent that the Pre-Trial Judge may consider the SPO Response on the basis of information classified in order to protect “the public interest and the rights of third parties,”<sup>5</sup> the Defence makes the following observations.
4. First, if the SPO intended to protect these individuals from excessive and unnecessary public scrutiny, it could have redacted the annex, as well as the picture depicting them together with the accused. While the Defence would of course have opposed this course of action, it is all the more important that the context of that annex made public, now that it is in the public domain.
5. Second, the named individuals are public figures who occupy the highest offices of the Kosovo Police. They do not have a similar expectation to privacy equivalent to that which is enjoyed by ordinary private citizens. They do, however, have a right to respond to allegations made against them, particularly allegations that have been made by the Prosecutor’s Office, in the context of a high-profile criminal case such as this.
6. Third, it is at least equally important that the public is informed that **[REDACTED]** of its own police force have been accused by the Prosecutor’s Office of involvement in organised crime, and that this matter is not simply ‘brushed under the rug’.
7. Finally, with regard to the *Gucati and Haradinaj* authority, the Defence notes that the details of the Trial Chamber’s reasoning remain redacted, thus making it impossible to assess the veracity of the SPO’s claim. Even assuming that the

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<sup>4</sup> See, F00099, Framework Decision on Disclosure of Evidence and Related Matters, 23 November 2020, para. 82.

<sup>5</sup> F00099, para. 82. ((iii) the public interest and the rights of third parties).

considerations of the *Gucati and Haradinaj* Chamber are directly comparable, the Defence submits that the holding of Trial Chamber is, respectfully, unpersuasive. No explanation is provided of the legal basis for the redaction; how the SPO's redaction would "protect these individuals from unnecessary and excessive public scrutiny"; or why the redactions were "necessary and reasonable."<sup>6</sup>

#### B. Redactions to paragraph 24

8. The SPO alleges that the information in paragraph 24 is indeed confidential and the source was not cited deliberately.<sup>7</sup> The Defence recalls that the burden is on the SPO to substantiate such claim and observes that they have failed in this regard.

#### III. CONCLUSION

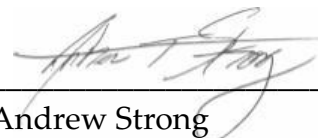
9. For the foregoing reasons, the Defence respectfully requests the Pre-Trial Judge to grant the Request and order the SPO to submit a lesser redacted version of its response to the Kosovo Police submissions.

**Word Count: 785**



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<sup>6</sup> KSC-BC-2020-07/F00556, *Prosecutor v. Gucati and Haradinaj*, Decision on the Application for Reclassification of F00500, KSC-BC-2020-07/F00556, 8 February 2022, para. 14.

<sup>7</sup> Response, para. 7.