

The background of the page is a light blue gradient. Overlaid on this is a large, stylized 'L' shape composed of numerous blue dots of varying sizes. The dots are arranged in a grid-like pattern that follows the contours of the 'L', with the density of dots being higher in the solid parts and more sparse in the corners and along the edges.

COALITION ALL FOR FAIR TRIALS

(DE)CLASSIFICATION

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(DE)CLASSIFICATION

The introduction of a new practice by the court to apply the “preliminary” hearings in summary/shortened procedures, not only found its way into the case “Fortress”, but was also expanded with requirements of states (judicial) authorities, in this case Special Public Prosecutor (SPP), to formally address in writing the Administration for Security and Counterintelligence (ASC) in order to undertake actions which are not required by the law.

Namely, the classification of information and their presentation in the courtroom under the Criminal Procedure Code is not arguable if all participants in the procedure have a security certificate, in order to receive the content of this information, actions determined in a legal procedure – the security certificate is issued for an appropriate level of classified information in a procedure started by submitting a written request from any interested person to the ASC, which issues the certificate after a security check. What makes this case controversial, besides the new lawyer in the procedure who does not possess security certificate, is the fact that the court entailed the SPP to file a request for declassification of the information addressed to the ASC.

Article 16 of the Classified information Code anticipate that the classification of information stops in several exhaustively described situations: with expiration of the date indicated on the document, by the occurrence of certain event specified in the document, with expiration of the time period named in the document and with declassification. Declassification like a mechanism foreseen in this law can only transform the classified information into information of free access (Article 17). This transformation is done by the creator of the information, who then notifies the beneficiary of this information.

This narrow definition of the mechanism does not provide a freedom of interpretation nor does it give the opportunity for anyone to plea the ASC (action which the SPP is required to do) to perform any kind of declassification of data concerning information which will be used in the procedure. The obvious intention of the legislator promulgating this law was to provide an arbitrary disposition in order for the ASC to be able to decide, which and when information created by the same agency will be declassified.

Therefore the intention of the court to oblige the SPP to seek out declassification of data is not truly clear, especially when the court has the authority (fact known by everyone present in the courtroom) to mandate all the defense attorneys in the procedure to provide a security certificate in order to be able to undertake actions in the proceedings, which will prevent further delays of the “preparatory” and “evidentiary” hearings, which by the way are not allowed in the shortened/ summary procedure according to the Criminal Procedure Code.

Another omission in this procedure is that the court excluded the public in order to review the exchanged correspondences between the parties of the procedure and the court, and in this case the correspondence between the SPP and the court. If the public was excluded because of “security issues” regarding the sensibility of the classified content of the information, because of lack of legitimacy (for needs of the procedure), the question remains – why the court allowed the presence of one of the defense attorney who did not have a security certificate?! Classified information are – classified information, if so categorized.