

ANNEX 1 to

Prosecution Brief in Response to Defence Appeals

Public

List of Authorities**I. KSC – Gucati and Haradinaj**

1.	Further Corrected Version of Defence Appeal Brief on Behalf of Mr. Nasim Haradinaj, KSC-CA-2022-01/F00035/COR2, 2 September 2022 (Haradinaj Appeal or KSC-CA-2022-01/F00035/COR2)
2.	Public Redacted Version of Gucati Appeal Brief Pursuant to Rule 179(1) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ("Rules"), KSC-CA-2022-01/F00036/RED, 22 August 2022 (Gucati Appeal or KSC-CA-2022-01/F00036/RED) (collectively with Haradinaj Appeal: Appeals)
3.	Haradinaj Defence Re-Filed Notice of Appeal of Trial Judgement, KSC-CA-2022-01-F00029, 8 July 2022 (HARADINAJ Notice)
4.	Trial Judgment, KSC-BC-2020-07/F00611, 18 May 2022 (Judgment)
5.	Decision on the Defence Requests for Permission to Make Further Submissions on Disclosure, KSC-BC-2020-07/F00610, 17 May 2022 (KSC-BC-2020-07/F00610)
6.	Haradinaj Request for Permission to Make Further Submissions re: Disclosure, KSC-BC-2020-07/F00606, 12 May 2022 (KSC-BC-2020-07/F00606)
7.	Gucati Request for Permission to Make Further Submissions re Disclosure, KSC-BC-2020-07/F00605, 12 May 2022 (KSC-BC-2020-07/F00605)
8.	Decision on Nasim Haradinaj's Appeal Against Decision on Prosecution Requests in Relation to Proposed Defence Witnesses, KSC-BC-2020-07/IA006/F00006, 7 January 2022 (KSC-BC-2020-07/IA006/F00006)
9.	Defence Application for Leave to Appeal in respect of 'Decision on Prosecution Requests in Relation to Proposed Defence Witnesses', KSC-BC-2020-07/F00474, 6 December 2021 (KSC-BC-2020-07/F00474)
10.	Decision on Prosecution Requests in Relation to Proposed Defence Witnesses, KSC-BC-2020-07/F00470, 3 December 2021 (KSC-BC-2020-07/F00470)
11.	Decision on the Defence Motions to Dismiss Charges, KSC-BC-2020-07/F00450, 26 November 2021 (KSC-BC-2020-07/F00450)
12.	Defence Motion under Rule 130 'Dismissal of Charges', KSC-BC-2020-07/F00440, 17 November 2021 (KSC-BC-2020-07/F00440)
13.	Decision on the Prosecution Request Related to Rule 102(3) Notice Item 201, KSC-BC-2020-07/F00435, 15 November 2021 (KSC-BC-2020-07/F00435)
14.	Decision on the Admissibility of Deferred Exhibits and the Classification of Certain Admitted Exhibits, KSC-BC-2020-07/F00427, 9 November 2021 (KSC-BC-2020-07/F00427)

15.	Decision on the Prosecution Challenges to Disclosure of Items in the Updated Rule 102(3) Notice, KSC-BC-2020-07/F00413, 3 November 2021 (KSC-BC-2020-07/F00413)
16.	Defence Submissions on Elements of Crimes and Modes of Liability, KSC-BC-2020-07/F00342, 30 September 2021 (KSC-BC-2020-07/F00342)
17.	Prosecution submissions on the applicable law with one public annex, KSC-BC-2020-07/F00341, 30 September 2021 (KSC-BC-2020-07/F00341)
18.	Decision on the Prosecution Request for Admission of Items Through the Bar Table, KSC-BC-2020-07/F00334, 29 September 2021 (KSC-BC-2020-07/F00334)
19.	Order on Rule 117 Defence Motions, KSC-BC-2020-07/F00328, 27 September 2021 (KSC-BC-2020-07/F00328)
20.	Prosecution submissions on use of the term 'witness', KSC-BC-2020-07/F00281, 23 August 2021 (KSC-BC-2020-07/F00281)
21.	Decision on the Request for Reconsideration of the Decision on Recusal or Disqualification, KSC-BC-2020-07/F00278, 20 August 2021 (KSC-BC-2020-07/F00278)
22.	Request for Reconsideration of the Decision on Recusal or Disqualification, KSC-BC-2020-07/F00274, 12 August 2021 (KSC-BC-2020-07/F00274)
23.	Decision on the Application for Recusal or Disqualification, KSC-BC-2020-07/F00272, 6 August 2021 (KSC-BC-2020-07/F00272)
24.	Decision on the Appeals Against Disclosure Decision, KSC-BC-2020-07/IA005/F00008, 29 July 2021 (KSC-BC-2020-07/IA005/F00008)
25.	Application for the Recusal of the President of the Specialist Chambers, Judge Ekterna Trendafilova, and the Vice President of the Specialist Chambers, Judge Charles L. Smith, Presiding Judge of Trial Panel II, KSC-BC-2020-07/F00268, 26 July 2021 (KSC-BC-2020-07/F00268)
26.	Decision Transmitting Case File to Trial Panel II, KSC-BC-2020-07/F00265, 16 July 2021 (KSC-BC-2020-07/F00265)
27.	Defence Pre-Trial Brief on behalf of Hysni Gucati, KSC-BC-2020-07/F00258, 12 July 2021 (KSC-BC-2020-07/F00258)
28.	ANNEX 1 to Submission of corrected Indictment, KSC-BC-2020-07/F00251/A01, 5 July 2021 (Indictment)
29.	Decision on the Non-Disclosure of Information Requested by the Defence, KSC-BC-2020-07/F00171, 1 April 2021 (KSC-BC-2020-07/F00171)

30.	Decision on the Defence Applications for Leave to Appeal the Decision on the Defence Preliminary Motions, KSC-BC-2020-07/F00169, 1 April 2021 (KSC-BC-2020-07/F00169)
31.	ANNEX 1 to Prosecution request for non-disclosure of certain information requested by the Defence pursuant to Rule 102(3), KSC-BC-2020-07/F00154/A01, 17 March 2021 (KSC-BC-2020-07/F00154/A01)
32.	Decision on Disclosure of Certain Documents Seized from the KLA War Veterans Association, KSC-BC-2020-07/F00141, 23 February 2021 (KSC-BC-2020-07/F00141)
33.	Preliminary Motion Alleging Defects in the Form of the Indictment Pursuant to Rule 97(1)(b), KSC-BC-2020-07/F00113/RED, 3 February 2021 (KSC-BC-2020-07/F00113/RED)
34.	Annex 1 to Prosecution submissions on the disclosure of certain documents seized from the KLA War Veterans Association, KSC-BC-2020-07/F00110/A01, 1 February 2021 (KSC-BC-2020-07/F00110/A01)
35.	Annex 2 to Prosecution submissions on the disclosure of certain documents seized from the KLA War Veterans Association, KSC-BC-2020-07/F00110/A02, 1 February 2021 (KSC-BC-2020-07/F00110/A02)
36.	Decision on the Confirmation of the Indictment, KSC-BC-2020-07/F00074, 11 December 2020 (Confirmation Decision)
37.	Decision on Hysni Gucati's Appeal on Matters Related to Arrest and Detention, KSC-BC-2020-07/IA001/F00005, 9 December 2020 (KSC-BC-2020-07/IA001/F00005)

II. KSC – Other cases

1.	Judgment on the Referral of the Rules of Procedure and Evidence Adopted by the Plenary on 17 March 2017 to the Specialist Chambers of the Constitutional Court Pursuant to Article 19(5) of Law no. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, KSC-CC-PR-2017-01/F00004, 26 April 2017 (KSC-CC-PR-2017-01/F00004)
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III. Kosovo Jurisprudence

1.	Basic Court of Giljan, <i>LT</i> , P 873/2020, Judgment, 12 February 2021 (<i>LT</i>) (Translation available in Annex 2)
2.	Basic Court of Ferizaj, <i>KS and RB</i> , PKR 36/19, Judgment, 10 June 2020 (<i>KS and RB</i>) (Translation available in Annex 2)

3.	Court of Appeals, <i>M.I. et al</i> , PAKR 513/2013, Judgment , 28 May 2014 (<i>M.I. et al.</i>)
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IV. ECCC

1.	ECCC, <i>Prosecutor v. Duch</i> , Case 001-F28 Appeal Judgment , 3 February 2012, (<i>Duch AJ</i>)
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V. ECtHR

1.	ECtHR, <i>D. and Others v. Romania</i> , Judgment , 75953/16, 22 June 2020 (<i>D. and Others</i>)
2.	ECtHR <i>Khodorkovskiy and Lebedev v. Russia</i> (no.2), Judgment , 51111/07 and 42757/07, 14 January 2020 (<i>Khodorkovskiy and Lebedev</i>)
3.	ECtHR, <i>Abdullayev v. Azerbaijan</i> , Judgment , 6005/08, 7 March 2019 (<i>Abdullayev</i>)
4.	ECtHR, <i>Paci v. Belgium</i> , Judgment , 45597/09, 17 April 2018 (<i>Paci</i>)
5.	ECtHR, <i>M v. the Netherlands</i> , Judgment , 2156/10, 25 July 2017 (<i>M v. the Netherlands</i>)
6.	ECtHR, <i>Vardanyan and Nanushyan v. Armenia</i> , Judgment , 8001/07, 27 October 2016 (<i>Vardanyan and Nanushyan</i>)
7.	ECtHR, <i>Šmajgl v. Slovenia</i> , Judgment , 29187/10, 4 October 2016 (<i>Šmajgl</i>)
8.	ECtHR, <i>Kapustyak v. Ukraine</i> , Judgment , 26230/11, 3 March 2016 (<i>Kapustyak</i>)
9.	ECtHR, <i>Schatschaschwili v. Germany</i> , Judgment , 9154/10, 15 December 2015 (<i>Schatschaschwili</i>)
10.	ECtHR, <i>Dimitrov and others v. Bulgaria</i> , Judgment , 77938/11, 1 July 2014 (<i>Dimitrov and others</i>)
11.	ECtHR, <i>Donohue v Ireland</i> , Judgment , 19165/08, 12 December 2013 (<i>Donohue</i>)
12.	ECtHR, <i>Shuvalov v. Estonia</i> , Judgment , 39820/08 and 14942/09, 29 May 2012 (<i>Shuvalov</i>)
13.	ECtHR, <i>Leas v Estonia</i> , Judgment , 59577/08, 6 March 2012 (<i>Leas</i>)
14.	ECtHR, <i>Al-Khawaja and Tahery v. UK</i> , Judgment , 26766/05 and 22228/06, 15 December 2011 (<i>Al-Khawaja</i>)
15.	ECtHR, <i>Huseyn and Others v. Azerbaijan</i> , Judgment , 35485/05, 45553/05, 35680/05 and 36085/05, 26 July 2011 (<i>Huseyn and Others</i>)
16.	ECtHR, <i>Ramanauskas v. Lithuania</i> , Judgment , 74420/01, 5 February 2008 (<i>Ramanauskas 2008</i>)

17.	ECtHR, <i>Nešťák v. Slovakia</i> , Judgment , 65559/01, 27 February 2007 (<i>Nešťák</i>)
18.	ECtHR, <i>Kyprianou v. Cyprus</i> , Judgment , 73797/01, 15 December 2005 (<i>Kyprianou</i>)
19.	ECtHR, <i>Perna v. Italy</i> , Judgment , 48898/99, 6 May 2003 (<i>Perna</i>)
20.	ECtHR, <i>Rowe and Davis v. the United Kingdom</i> , Judgment , 28901/95, 16 February 2000 (<i>Rowe and Davis</i>)
21.	ECtHR, <i>Jasper v the UK</i> , Judgment , 27052/95, 16 February 2000 (<i>Jasper</i>)

VI. ICC

1.	ICC, <i>Prosecutor v. Ntaganda</i> , Public redacted version of Judgment on the appeal of Mr Bosco Ntaganda against the decision of Trial Chamber VI of 7 November 2019 entitled 'Sentencing judgment' , ICC-01/04-02/06-2667-Red, 30 March 2021 (<i>Ntaganda SAJ</i>)
2.	ICC, <i>Prosecutor v. Ntaganda</i> , Public redacted version of Judgment on the appeals of Mr Bosco Ntaganda and the Prosecutor against the decision of Trial Chamber VI of 8 July 2019 entitled 'Judgment' , ICC-01/04-02/06-2666-Red, 30 March 2021 (<i>Ntaganda AJ</i>)
3.	ICC, <i>Prosecutor v. Bemba et al.</i> , Public Redacted Judgment on the appeals of the Prosecutor, Mr Jean-Pierre Bemba Gombo, Mr Fidèle Babala Wandu and Narcisse Arido against the decision of Trial Chamber VII entitled "Decision on Sentence pursuant to Article 76 of the Statute" , ICC-01/05-01/13-2276-Red, 8 March 2018 (<i>Bemba et al. AJ</i>)
4.	ICC, <i>Prosecutor v. Bemba et al.</i> , Public Redacted Version of Judgment Pursuant to Article 74 of the Statute , ICC-01/05-01/13-1989-Red, 19 October 2016 (<i>Bemba et al. TJ</i>)
5.	ICC, <i>Prosecutor v. Thomas Lubanga Dyilo</i> , Judgment on the appeals of the Prosecutor and Mr Thomas Lubanga Dyilo against 'Decision on Sentence Pursuant to Article 76 of the Statute' , ICC-01/04-01/06-3122, 1 December 2014 (<i>Lubanga SAJ</i>)
6.	ICC, <i>Prosecutor v. Thomas Lubanga Dyilo</i> , Decision on Sentence Pursuant to Article 76 of the Statute , ICC-01/04-01/06-2901, 10 July 2012 (<i>Lubanga SJ</i>)

VII. ICTY

1.	ICTY, <i>Prosecutor v. Sainović et al.</i> , Judgement , IT-05-87-A, 23 January 2014 (<i>Sainović et al. AJ</i>)
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2.	ICTY, <i>Prosecutor v. Šešelj</i> , Decision on Defence Motion for Disqualification of Judge Frederik Harhoff and Report to the Vice-President , IT-03-67-T, 28 August 2013 (<i>Šešelj</i> 2013 Decision)
3.	ICTY, <i>Prosecutor v. Karadžić</i> , Transcript , IT-95-5/18-T, 28 June 2012 (<i>Karadžić</i> Transcript)
4.	ICTY, <i>Prosecutor v. Šešelj</i> , Judgment , IT-03-67-R77.2-A, 19 May 2010 (2010 <i>Šešelj</i> Contempt AJ)
5.	ICTY, <i>Prosecutor v. Tabaković</i> , Sentencing Judgement , IT-98-32/1-R77.1, 18 March 2010 (<i>Tabaković</i> SJ)
6.	ICTY, <i>Prosecutor v. Dragomir Milošević</i> , Judgement , IT-95-29/1-A, 12 November 2009 (<i>D.Milošević</i> AJ)
7.	ICTY, <i>Prosecutor v Perišić</i> , Decision on Defence Motion In Limine for Prosecution Witness Bretton Randall , IT-04-81-T, 11 February 2009 (<i>Perišić</i> Decision)
8.	ICTY, <i>Prosecutor v. Haraqija and Morina</i> , Judgement on Allegations of Contempt , IT-04-84-R77.4, 17 December 2008 (<i>Haraqija and Morina</i> TJ)
9.	ICTY, <i>Prosecutor v. Strugar</i> , Judgement , IT-01-42-A, 17 July 2008 (<i>Strugar</i> AJ)
10.	ICTY, <i>Prosecutor v. Brđanin</i> , Judgement , IT-99-36-A, 3 April 2007 (<i>Brđanin</i> AJ)
11.	ICTY, <i>Prosecutor v. Josip Jović</i> , Judgement , IT-95-14 & 14/2-R77, 30 August 2006 (<i>Jović</i> TJ)
12.	ICTY, <i>Prosecutor v. Milomir Stakić</i> , Judgement , IT-97-24-A, 22 March 2006, (<i>Stakić</i> AJ)
13.	ICTY, <i>Prosecutor v. Marijačić and Rebić</i> , Judgement , IT-95-14-R77.2, 10 March 2006 (<i>Marijačić and Rebić</i> TJ)
14.	ICTY, <i>Prosecutor v. Slobodan Milosević</i> , Decision on Interlocutory Appeal on Kosta Bulatović Contempt Proceedings , IT-02-54-A-R77.4, 29 August 2005 (<i>Bulatović</i> Appeal Decision)
15.	ICTY, <i>Prosecutor v. Babić</i> , Judgement on Sentencing Appeal , IT-03-72-A, 18 July 2005 (<i>Babić</i> AJ)
16.	ICTY, <i>Prosecutor v. Beqaj</i> , Judgement on Contempt Allegations , IT-03-66-T-R77, 27 May 2005 (<i>Beqaj</i> TJ)
17.	ICTY, <i>Prosecutor v. Delalić et al.</i> , Judgement , IT-96-21-A, 20 February 2001 (<i>Čelebići</i> AJ)
18.	ICTY, <i>Prosecutor v. Kordić and Čerkez</i> , Decision on Defence Motions for Judgment of Acquittal , IT-95-14/2-T, 6 April 2000 (<i>Kordić and Čerkez</i> Decision)

VIII. ICTR

1.	ICTR, <i>Prosecutor v. Nyiramasuhuko et al</i> , Judgement (Volume I) , ICTR-98-42-A, 14 December 2015 (<i>Nyiramasuhuko et al.</i> AJ)
2.	ICTR, <i>Prosecutor v. Nyiramasuhuko et al</i> , Judgement (Volume II) , ICTR-98-42-A, 14 December 2015 (<i>Nyiramasuhuko et al.</i> AJ)
3.	ICTR, <i>Prosecutor v. Renzaho</i> , Judgement , ICTR-97-31-A, 1 April 2011 (<i>Renzaho</i> AJ)
4.	ICTR, <i>Prosecutor v. Nshogoza</i> , Judgement , ICTR-2007-91-A, 15 March 2010, (<i>Nshogoza</i> AJ)
5.	ICTR, <i>Prosecutor v. Nchamihigo</i> , Decision on Simeon Nchamihigo's Second Motion for leave to present additional evidence on appeal , ICTR-2001-63-A, 28 September 2009 (<i>Nchamihigo</i> Decision)
6.	ICTR, <i>Prosecutor v. Semanza</i> , Judgement , ICTR-97-20-A, 20 May 2005 (<i>Semanza</i> AJ)
7.	ICTR, <i>Prosecutor v. Akayesu</i> , Judgement , ICTR-96-4-A, 1 June 2001 (<i>Akayesu</i> AJ)
8.	ICTR, <i>Prosecutor v. Kayishema & Ruzindana</i> , Judgment , ICTR-95-1A, 1 June 2001. (<i>Kayishema & Ruzindana</i> AJ)

IX. IRMCT/MICT

1.	MICT, <i>Prosecutor v. Mladić</i> , Judgement , MICT-13-56-A, 8 June 2021 (<i>Mladić</i> AJ)
2.	MICT, <i>Prosecutor v. Uwinkindi</i> , Decision on an Appeal Concerning a Request for Revocation of a Referral , MICT-12-25-AR14.1, 4 October 2016 (<i>Uwinkindi</i> Decision)

X. SCSL

1.	SCSL, <i>Prosecutor v. Taylor</i> , Judgment , SCSL-03-01-A, 26 September 2013 (<i>Taylor</i> AJ)
2.	SCSL, <i>Prosecutor v. Sesay et al.</i> Judgment , SCSL-04-15-A, 26 October 2009 (<i>Sesay et al.</i> AJ)
3.	SCSL, <i>Independent Counsel v. Brima et al.</i> , Sentencing Judgement in Contempt Proceedings , SCSL-2005-02/03, 21 September 2005 (<i>Brima</i> SJ)

XI. STL

1.	STL, <i>In the Case against Al Jadeed S.A.L. & Ms. Al Khayat</i> , Public Redacted Version of Judgment on Appeal , STL-14-05/A/AP, 8 March 2016 (<i>Al Khayat AJ</i>)
2.	STL, <i>In the Case against Al Khayat</i> , Reasons for Sentencing Judgement , STL-14-06, 6 October 2015 (<i>Al Khayat Reasons</i>)
3.	STL, <i>In the Case against Al Khayat</i> , Public Redacted Version of Judgement , STL-14-05, 18 September 2015 (<i>Al Khayat TJ</i>)
4.	STL, <i>In the Case against Akhbar Beirut S.A.L. and Al Amin</i> , Decision on Motion for the disqualification of Judge Fransen , STL-14-06/PT/OTH/R25.2, 12 August 2014 (<i>Akhbar Beirut S.A.L. et Decision</i>)

XII. Other

1.	'Treatise on International Criminal Law: Volume III: International Criminal Procedure', Chapter I: 'The Framework of International Criminal Procedure: Conceptual Foundations, Origins, Goals, and Rights', Kai Ambos (Ambos)
2.	Black's Law Dictionary Online, www.thelawdictionary.org (Black's Law Dictionary Online)
3.	Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings, Official Journal of the European Union L 65/1 (EU Directive 2016/343)
4.	Ismet Salihu et al., Commentary on the Criminal Code of the Republic of Kosovo (Salihu et al. Commentary) (<i>See</i> KSC-BC-2020-07/F00341/A01)

XIII. Other Designated Short Forms

	Description	Short Form
1	Remnants of the documentation received by the SPO in September 2020, as defined in paragraphs 329-30 of the Judgment	Batches (Batch 1, Batch 2, Batch 3, Batch 4)
2	W04841's tabular descriptions of the Batches which were admitted into evidence by the Trial Panel (P00090; P00091)	Charts
3	Law No.03/L-0178 on Classification of Information and Security Clearances, 1 July 2010	Classification Law
4	Claim that the Accused were entrapped by SC/SPO officials, as defined in para.833 of the Judgment	Entrapment Claim
5	Code No.06/L-074 on Criminal Code of the Republic of Kosovo, 14 January 2019	KCC
6	Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015	Law. Unless otherwise indicated, reference to 'article' or 'articles' is in reference to the Law.
7	Provisional Criminal Code of Kosovo, 2004	PCCK
8	Registry Practice Direction on Files and Filings before the Kosovo Specialist Chambers, KSC-BD-2015, 17 May 2019	Practice Direction
9	Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020	Rules. Unless otherwise indicated, reference to 'rule' or 'rules' is in reference to the Rules.
10	Performance of any responsibility of work within the context of SC official proceedings, as defined in para.638 of the Judgment	SC/SPO Work
11	KLA WVA press conferences, as defined in paragraph 205 of the Judgment	Three Press Conferences
12	Witnesses and potential witnesses, as defined within the meaning of paragraphs 511-12 of the Judgment	Witnesses and Potential Witnesses