



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** **KSC-CA-2022-01**

**Before:** **A Panel of the Court of Appeals Chamber**  
Judge Michèle Picard  
Judge Kai Ambos  
Judge Nina Jørgensen

**Registrar:** Fidelma Donlon

**Date:** 31 January 2023

**Original language:** English

**Classification:** **Public**

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**Further Decision on Gucati Application F00097 and  
Decision on Requests to Reclassify F00088 and F00089**

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**Specialist Prosecutor's Office:**  
Alex Whiting

**Counsel for Hysni Gucati:**  
Jonathan Elystan Rees

**Counsel for Nasim Haradinaj:**  
Toby Cadman

**THE PANEL OF THE COURT OF APPEALS CHAMBER** of the Kosovo Specialist Chambers (“Court of Appeals Panel”, “Appeals Panel” or “Panel” and “Specialist Chambers”, respectively)<sup>1</sup> acting pursuant to Article 33(1)(c) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 172 of the Rules of Procedure and Evidence (“Rules”) is seised of: (i) an application filed by Mr Hysni Gucati (“Gucati”) seeking the reclassification, or issuance of public redacted versions, of five confidential Appeals Panel decisions (“Gucati Application”);<sup>2</sup> (ii) the Specialist Prosecutor’s Office’s (“SPO”) request to reclassify one confidential filing, F00089, to public (“SPO Request”);<sup>3</sup> and (iii) a request filed by Mr Nasim Haradinaj (“Haradinaj”) asking the Appeals Panel to reclassify one confidential filing, F00088, to public (“Haradinaj Request”).<sup>4</sup>

1. On 9 January 2023, the Appeals Panel issued the Decision on the Gucati Application,<sup>5</sup> ordering the Parties to file public redacted versions of their submissions underlying the five confidential Appeals Panel decisions which were the subject of Gucati’s Application and two additional filings underlying two additional Appeals

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<sup>1</sup> F00011, Decision Assigning a Court of Appeals Panel, 21 June 2022.

<sup>2</sup> F00097, Defence Application for Reclassification/Public Redacted Versions of Court of Appeal Panel Decisions, 29 November 2022 (distributed on 2 December 2022) (“Gucati Application”), paras 1-14, 26, referring to F00044/CONF/RED, Confidential Redacted Version of Decision on Prosecution Notifications, 26 September 2022 (confidential) (confidential and *ex parte* version filed on 15 September 2022); F00075, Decision on the Specialist Prosecutor’s Office’s Request Regarding Item 206, 21 October 2022 (confidential); F00083, Decision on Defence Motions for Alternate Relief Relating to Rule 103 Disclosure Violations, 7 November 2022 (confidential); F00090, Decision on Defence Requests for Extension of Time to File Potential Motions Pursuant to Rule 181, 9 November 2022 (confidential); F00094, Decision on Defence Requests to Interview Witnesses, to Order an Updated Rule 102(3) Notice and to Adjourn the Appeal Hearing, 28 November 2022 (confidential). The SPO did not respond.

<sup>3</sup> F00104, Prosecution Request to reclassify KSC-CA-2022-01/F00089, 12 January 2023 (“SPO Request”). The request concerns F00089, Prosecution Response to Applications for Extension of Time to File Motions for Additional Evidence on Appeal, 8 November 2022 (confidential).

<sup>4</sup> F00107, Haradinaj Defence Request to reclassify KSC-CA-2022-01/F00088, 19 January 2023 (“Haradinaj Request”). The request concerns F00088, Haradinaj Application to Join Gucati Filing KSC-CA-2022-01/F00087, 8 November 2022 (confidential).

<sup>5</sup> F00103, Decision on Gucati Application for Reclassification or Public Redacted Versions of Court of Appeals Panel Decisions, 9 January 2023 (“Decision on the Gucati Application”).

Panel decisions,<sup>6</sup> or to make submissions on why public redacted versions of certain filings could not (yet) be filed, within seven days of being notified of the Decision on the Gucati Application, with a view to issuing public redacted versions of the decisions resulting from these filings.<sup>7</sup>

2. Having received the public redacted versions filed by the Parties,<sup>8</sup> as well as the SPO Request and Haradinaj Request, the Panel notifies the Parties that, in line with

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<sup>6</sup> Decision on the Gucati Application, fn. 11, referring to F00049/CONF/RED, Confidential Redacted Version of Decision on Specialist Prosecutor's Office Request for Protective Measures, 26 September 2022 (confidential) (strictly confidential and *ex parte* version filed on 23 September 2022); F00096, Decision on Gucati Request for Full Disclosure of the Knowledge of the Court of Appeals Panel Regarding Defence Investigations, 30 November 2022 (confidential).

<sup>7</sup> Decision on the Gucati Application, paras 4-6.

<sup>8</sup> F00028/RED, Public Redacted Version of Notification on W04730 telephone contact, 12 January 2023 (confidential and *ex parte* version filed on 7 July 2022, confidential redacted version filed on 23 September 2022); F00038/RED, Public redacted version of Notification on communication received by the SPO, 12 January 2023 (confidential and *ex parte* version filed on 7 September 2022, confidential redacted version filed on 23 September); F00045/RED, Public Redacted Version of Request for Protective Measures, 12 January 2023 (strictly confidential and *ex parte* version filed on 19 September 2022); F00046/RED, Public Redacted Version of Prosecution notice of additional item 206 and challenge to disclosure, 12 January 2023 (strictly confidential and *ex parte* version filed on 19 September 2022, confidential redacted version filed on 23 September 2022); F00050/RED, Public Redacted Version of Gucati Response to Prosecution Notice of Additional Item 206 and Challenge to Disclosure, 20 January 2023 (confidential version filed on 29 September 2022); F00051/RED, Public Redacted Version of Haradinaj Defence Response to 'Prosecution notice of additional item 206 and challenge to disclosure', 19 January 2023 (confidential version filed on 29 September 2022); F00068/RED, Public Redacted Version of Gucati Motion for Alternate Relief relating to Disclosure Violations, namely, An Order Overturning the Convictions, with the Imposition of a Stay or Order for Re-Trial, 20 January 2023 (confidential version filed on 17 October 2022); F00073/RED, Public Redacted Version of Haradinaj Motion for Relief for Violations of Rule 103, 20 January 2023 (confidential version filed on 18 October 2022); F00076/RED, Public Redacted Version of Prosecution Consolidated Response to Defence Rule 103 Requests and Related Reconsideration Requests, 12 January 2023 (confidential version filed on 27 October 2022); F00078/RED, Public Redacted Version of Gucati Reply to Prosecution Consolidated Response to Defence Rule 103 Requests and Related Reconsideration Requests, 20 January 2023 (confidential version filed on 1 November 2022); F00079/RED, Public Redacted Version of Defence Request for an Order for Disclosure of Witness Contact Details, 19 January 2023 (confidential version filed on 2 November 2022); F00080/RED, Public Redacted Version of Defence Reply to SPO Consolidated Response to Defence Rule 103 Requests and Related Reconsideration Requests, 19 January 2023 (confidential version filed on 2 November 2022); F00081/RED, Public Redacted Version of Gucati Request for (i) a Declaration that Rule 102(3) applies to Appeal Proceedings; and (ii) an Order for Disclosure of Witness Contact Details, 20 January 2023 (confidential version filed on 2 November 2022); F00087/RED, Public Redacted Version of Application for an Extension of Time to File any Motion to Present Additional Evidence before the Court of Appeals Panel Pursuant to Rule 181, 19 January 2023 (confidential version filed on 7 November 2022); F00091/RED, Public redacted version of Prosecution Consolidated Response to Defence Disclosure Requests, 12 January 2023 (strictly confidential and *ex parte* version filed on 11 November 2022, confidential redacted version filed on 11

the Decision on the Gucati Application,<sup>9</sup> it will issue public redacted versions of the following Appeals Panel decisions: F00044, F00049, F00075, F00083, F00090, F00094 and F00096.

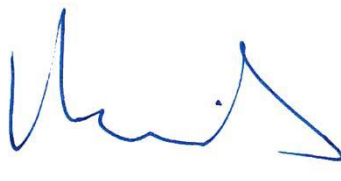
3. The Panel further notes that filings F00088 and F00089 do not contain any confidential information and can therefore be reclassified as public.

4. For these reasons, the Court of Appeals Panel:

**GRANTS** the Gucati Application;

**GRANTS** the Haradinaj Request and SPO Request; and

**ORDERS** the reclassification of filings F00088 and F00089 pursuant to Rule 82(5) of the Rules.



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**Judge Michèle Picard,  
Presiding Judge**

Dated this Tuesday, 31 January 2023

At The Hague, the Netherlands

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November 2022); F00093/RED, Public Redacted Version of Haradinaj Application to Adjourn the Oral Appeal Hearing, 24 January 2023 (confidential version filed on 28 November 2022); F00095/RED2, Public Redacted Version of Urgent Request for Full Disclosure as to Knowledge of the Court of Appeals Panel as to Defence Investigations, 30 January 2023 (confidential version filed on 29 November 2022).

<sup>9</sup> Decision on the Gucati Application, paras 4-5.