



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2023-10
The Prosecutor v. Sabit Januzi and Ismet Bahtjari

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filed by: Registrar

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Public Redacted Version of "Report on the Arrest and Transfer of Ismet Bahtjari to the Detention Facilities, with strictly confidential and *ex parte* Annexes 1-3", filing F00021 with confidential redacted and *ex parte* Annexes 1 - 3

Specialist Prosecutor's Office
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I. INTRODUCTION

1. Pursuant to the Decision on Arrest and Transfer,¹ the Registrar hereby reports to the Pre-Trial Judge on the arrest and transfer of Mr Ismet Bahtjari ('Mr Bahtjari') to the Detention Facilities of the Specialist Chambers ('Detention Facilities') in The Hague, the Netherlands ('Host State').

II. PROCEDURAL HISTORY

2. On 2 October 2023, the Pre-Trial Judge issued the Confirmation Decision, confirming the charges against Mr Bahtjari for intimidation during criminal proceedings; attempting to obstruct by serious threat official persons, including Specialist Prosecutor's Office ('SPO') prosecutors and investigators in performing official duties; and attempting to obstruct, by common action of a group, official persons, including SPO prosecutors and investigators in performing official duties.²

3. On 2 October 2023, the Pre-Trial Judge also issued an arrest warrant for Mr Bahtjari and ordered his transfer to the Detention Facilities of the Specialist Chambers in The Hague, the Netherlands.³

4. On 4 October 2023, the SPO filed a revised version of the indictment ('Confirmed Indictment'),⁴ reflecting the Confirmation Decision.

5. On 5 October, in accordance with Rule 55(4) of the Rules,⁵ the Registrar notified the Pre-Trial Judge of Mr Bahtjari's arrest.⁶

¹ KSC-BC-2023-10, F00009, Decision on Request for Arrest Warrants and Transfer Orders, 2 October 2023, strictly confidential and *ex parte* ('Decision on Arrest and Transfer'), with four strictly confidential Annexes, paras 28, 29(g).

² F00008, Decision on the Confirmation of the Indictment, 2 October 2023, strictly confidential and *ex parte* ('Confirmation Decision').

³ Decision on Arrest and Transfer, fn. 1, above. *See also* F00009/A03, Arrest Warrant for Ismet Bahtjari, 2 October 2023, strictly confidential; F00009/A04, Order for Transfer to Detention Facilities of the Specialist Chambers, 2 October 2023, strictly confidential.

⁴ F00010/A01, Annex 1 to Submission of Confirmed Indictment, 4 October 2023, strictly confidential.

⁵ Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

⁶ F00011, Notification of the Arrest of Ismet Bahtjari Pursuant to Rule 55(4), 5 October 2023, strictly confidential and *ex parte*.

6. On 6 October 2023, following the notification to the Pre-Trial Judge of the reception of Mr Bahtjari in the Detention Facilities,⁷ the SPO filed a public redacted version of the Confirmed Indictment.⁸

7. On 7 October 2023, the Registrar informed the Pre-Trial Judge of the assignment of Duty Counsel to Mr Bahtjari.⁹

III. REPORT

8. The Pre-Trial Judge directed the Registrar to submit a report on the arrest and transfer of Mr Bahtjari, including any relevant details and information provided by the SPO.

A. ARREST

9. At 06:33 on 5 October 2023, Mr Bahtjari was placed under arrest by the SPO Operational Security Officer, accompanied by other SPO staff members and an interpreter.¹⁰ The location of arrest was a short distance from Mr Bahtjari's house [REDACTED].

10. The SPO Operational Security Officer, with the assistance of an interpreter, confirmed Mr Bahtjari's identity and informed him that a warrant had been issued for his arrest by the Specialist Chambers. Mr Bahtjari was also informed of his right to silence. A security search was conducted at 06:35.¹¹

11. Mr Bahtjari was then transported to [REDACTED], located at [REDACTED], where the SPO Operational Security Officer served Mr Bahtjari with certified copies

⁷ F00014, Notification of the Reception of Ismet Bahtjari in the Detention Facilities of the Specialist Chambers, 6 October 2023, strictly confidential and *ex parte*, with one strictly confidential and *ex parte* Annex.

⁸ F00016, Submission of Public Redacted Version of Confirmed Indictment, 6 October 2023, public, with one public Annex.

⁹ F00019, Notification of Assignment of Duty Counsel to Ismet Bahtjari, 7 October 2023, strictly confidential and *ex parte*, with one confidential Annex.

¹⁰ Annex 2, SPO Report (Arrest)

¹¹ Annex 3, Registry Report (Transfer of Custody).

(in both English and Albanian) of the Arrest Warrant and Transfer Order at 07:51.¹² Mr Bahtjari refused to confirm with his signature that he had received certified copies of the Arrest Warrant and Transfer Order.¹³

12. At that time, the SPO Operational Security Officer, in the presence of three other SPO staff members, informed Mr Bahtjari of the reason for his arrest and of his rights, which were stated out loud to him in English and translated into Albanian by the interpreter.¹⁴

13. The SPO Operational Security Officer informed Mr Bahtjari, *inter alia*, that he has: the right to legal assistance of Specialist Counsel of his choice and to have Specialist Counsel assigned free of charge if he does not have sufficient means to pay for it; the right to notify or have notified a family member or another appropriate person of his choice about his arrest; and the right to remain silent and that any statement he makes shall be recorded and may be used in evidence. The SPO Operational Security Officer also provided Mr Bahtjari with a hardcopy of Articles 21 and 41(4) of the Law,¹⁵ which were additionally read aloud to him. At 07:54, Mr Bahtjari confirmed with his signature that he had been provided with information about his rights.¹⁶

14. [REDACTED].

15. [REDACTED].

16. [REDACTED].

17. Following transfer, at approximately 18:00, on request of the KSC, the SPO delivered a letter (in English and Albanian) from the Head of the Defence Office to the home of Mr Bahtjari's relatives. The letter provides information on Mr Bahtjari's

¹² Annex 1, Memorandum of Service (Arrest Warrant and Transfer Order); Annex 2, SPO Report (Information About Rights). *See also* KSC-BC-2023-10/F00009/A03, Arrest Warrant for Ismet Bahtjari ('Arrest Warrant'), 2 October 2023, strictly confidential (*see also* F00009/A03/sqi); KSC-BC-2023-10/F00009/A04, Order for Transfer to Detention Facilities of the Specialist Chambers ('Transfer Order'), 2 October 2023, strictly confidential (*see also* F00009/A04/sqi).

¹³ Annex 1, Memorandum of Service (Arrest Warrant and Transfer Order).

¹⁴ Annex 2, SPO Report (Information About Rights).

¹⁵ Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

¹⁶ Annex 2, SPO Report (Information About Rights).

transfer, as well as information on his right to counsel and information on contacting Mr Bahtjari at the Detention Facilities.¹⁷

B. TRANSFER

18. On 5 October 2023, the transfer of Mr Bahtjari into the custody of the KSC was executed by the Registry's mission security coordinator ('MSC') and the Registry's escort team, accompanied by an interpreter.

19. At 12:43, [REDACTED], the MSC signed for the transfer of custody of Mr Bahtjari from the SPO to the KSC after confirming Mr Bahtjari's identity.¹⁸ The MSC also signed for the transfer of Mr Bahtjari's personal property.¹⁹

20. [REDACTED].²⁰

21. The MSC explained the transfer process to Mr Bahtjari, with the assistance of an interpreter, and informed him that he would be staying overnight in the transfer facility [REDACTED] before being transported by aircraft to the Detention Facilities in The Hague, the Netherlands.

22. At 13:40, Mr Bahtjari was served refreshment.²¹ He was also provided with cigarette breaks throughout his time in custody at the transfer facility.²²

23. At 17:05, the SPO Operational Security Officer delivered five documents to the MSC that Mr Bahtjari had left in SPO custody prior to his transfer to the KSC. They included the certified copies of the Arrest Warrant and Transfer Order (in both English and Albanian) and the hardcopy of Articles 21 and 41(4) of the Law that had been read out to him upon arrest.²³ The five copies were added to Mr Bahtjari's property.

¹⁷ Annex 3, Registry Report (Letter "To Whom It May Concern" from the Head of the Defence Office, KSC/REG/DEF/245).

¹⁸ Annex 3, Registry Report (Transfer of Custody).

¹⁹ Annex 3, Registry Report (Transfer of Custody).

²⁰ Annex 3, Registry Report (Transport Log); Annex 3, Registry Report [REDACTED].

²¹ Annex 3, Registry Report (Transport Log).

²² Annex 3, Registry Report (Transport Log).

²³ Annex 3, Registry Report (Transport Log).

24. At 17:22, the MSC served Mr Bahtjari with a certified copy of the Confirmed Indictment (in both English and Albanian), with the assistance of an interpreter.²⁴ Mr Bahtjari signed to acknowledge service.²⁵

25. At that time, Mr Bahtjari provided the contact information for a relative to be informed of his arrest and transfer. This information was thereafter shared with SPO so that a letter could be delivered to Mr Bahtjari's relatives.²⁶ The same letter was also provided to Mr Bahtjari in hardcopy. At 18:07, the MSC confirmed to Mr Bahtjari that the letter had been delivered to his relatives in person.²⁷

26. That evening, Mr Bahtjari was provided with [REDACTED] and further refreshment.²⁸

27. [REDACTED]. [REDACTED].²⁹

28. Appropriate bedding, night clothes, and toiletries were provided to Mr Bahtjari, and he was secured in the transfer facility's holding cell for the evening at approximately 21:00. The Registry's escort team checked on Mr Bahtjari visually at least every half hour during the night while he slept.³⁰

29. The following day, at 08:43 on 6 October 2023, Mr Bahtjari was provided with refreshment.

30. [REDACTED].³¹

31. At 12:15, Mr Bahtjari was taken by vehicle to [REDACTED] and then moved from the vehicle to the aircraft.³² [REDACTED].

32. At 13:18, the airplane departed [REDACTED] with destination [REDACTED]. While in transit, Mr Bahtjari was served refreshment.³³

²⁴ Annex 1, Memorandum of Service (Indictment); Annex 3, Registry Report (Transport Log).

²⁵ Annex 1, Memorandum of Service (Indictment).

²⁶ See para. 17, above; Annex 3, Registry Report (Transport Log).

²⁷ Annex 3, Registry Report (Transport Log).

²⁸ Annex 3, Registry Report (Transport Log).

²⁹ Annex 3, Registry Report (Transport Log).

³⁰ Annex 3, Registry Report (Transport Log).

³¹ Annex 3, Registry Report [REDACTED].

³² Annex 3, Registry Report (Transport Log).

³³ Annex 3, Registry Report (Transport Log).

33. At 17:38, the airplane landed at [REDACTED].
34. At 17:55, the MSC transferred Mr Bahtjari into the custody of the Transport and Support Service of the Dutch Prison Administration ('DV&O').³⁴ The personal property of Mr Bahtjari was retained by the MSC and delivered directly to the Chief Detention Officer of the Detention Management Unit ('DMU') of the Registry.³⁵
35. At 18:28, DV&O transferred Mr Bahtjari into the custody of the Chief Detention Officer, who received Mr Bahtjari into the Detention Facilities.³⁶
36. The Chief Detention Officer promptly notified the Registrar, who immediately informed the Pre-Trial Judge,³⁷ the President, and the Ombudsperson, as well as the Head of the Defence Office in accordance with Detention Rule 10.³⁸ The Registrar also informed the International Committee of the Red Cross.³⁹
37. At 18:46, the Registrar informed the Embassy of the Republic of Kosovo in The Hague that Mr Bahtjari had been transferred to the Detention Facilities in the Host State pursuant to an arrest warrant and transfer order.⁴⁰
38. Upon arrival at the Detention Facilities, Mr Bahtjari began the reception procedure in accordance with the Rules of Detention.
39. [REDACTED].⁴¹ [REDACTED].
40. At approximately 20:00, the Head of the Defence Office spoke with Mr Bahtjari in person, with the assistance of an interpreter. The Head of the Defence Office provided Mr Bahtjari with preliminary information and documentation concerning the availability of legal assistance pursuant to Detention Rule 12(2), including information on Duty Counsel that had been assigned to him pending the appointment

³⁴ Annex 3, Registry Report (Transport Log); Annex 3, Registry Report (Request for Transport).

³⁵ Annex 3, Registry Report (Transfer of Custody); Annex 3, Registry Report (Property Handover).

³⁶ Annex 3, Registry Report (Request for Transport).

³⁷ See para. 6, at fn. 7, above.

³⁸ Rules of Detention, KSC-BD-08-Rev1, 23 September 2020 ('Rules of Detention' or 'Detention Rules').

³⁹ See Agreement between the Kosovo Specialist Chambers and the International Committee of the Red Cross on Visits to Persons Deprived of Liberty Pursuant to the Jurisdiction of the Kosovo Specialist Chambers, 28 January 2019, para. 12(2).

⁴⁰ Note Verbale, Ref. KSC/NV2023/0047, 6 October 2023.

⁴¹ Annex 3, Registry Report [REDACTED].

or assignment of chosen Counsel.⁴² Mr Bahtjari was also given the opportunity to call Duty Counsel, [REDACTED].

41. The Head of the Defence Office confirmed that he would return the following day to ensure that Mr Bahtjari received all relevant documents concerning his right to counsel and legal aid.

42. At 20:38 on 6 October 2023, Mr Bahtjari was given the opportunity to make a telephone call to a family member, [REDACTED].

43. The Chief Detention Officer then conducted an arrival interview with Mr Bahtjari, with the assistance of an interpreter. During the arrival interview, Mr Bahtjari was provided with the information and documentation referenced in Detention Rule 12(3), as well as information concerning the consular representation available to him. The Chief Detention Officer confirmed that Mr Bahtjari had in his possession certified copies of the Arrest Warrant, Transfer Order, and the Confirmed Indictment.

44. The following morning, on 7 October 2023, the Chief Detention Officer completed the arrival interview with Mr Bahtjari.

45. Thereafter, the Defence Office had a further meeting with Mr Bahtjari, with the assistance of an interpreter, and provided him with further relevant information and documentation concerning the availability of legal assistance, including a letter explaining his right to counsel and legal aid, in both English and Albanian.⁴³ The Defence Office also spoke to Duty Counsel to ensure that all relevant information had been provided to Duty Counsel by the Registry's Court Management Unit.

46. [REDACTED].

47. [REDACTED].

48. [REDACTED].


⁴² See para. 7, above.

⁴³ Annex 3, Registry Report (Letter to the Accused from the Head of the Defence Office, KSC/REG/DEF/249).

IV. CLASSIFICATION

49. This report and its Annexes are submitted as strictly confidential and *ex parte* pursuant to Rule 82(4) of the Rules. The Registrar has no objection to this report (core filing) being reclassified as confidential in order to make it available to Mr Bahtjari's (Duty) Counsel, but requests the opportunity to review the Annexes for redactions before they are reclassified.

Word count: 2495

A handwritten signature in cursive script, reading "Fidelma Donlon", written over a horizontal line.

Dr Fidelma Donlon

Registrar

Monday, 9 October 2020

At The Hague, the Netherlands