



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

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

**Before:** Pre-Trial Judge  
  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Date:** 31 October 2023

**Language:** English

**Classification:** Confidential

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**Order Regarding (Re)classification of Filings**

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**Specialist Prosecutor**  
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**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Articles 21(2) and (6), 23(1), and 39(6) and (11) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 80(1) and 82(5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby issues the following order.

## I. PROCEDURAL BACKGROUND

1. On 2 October 2023, the Pre-Trial Judge confirmed the indictment against Sabit Januzi and Ismet Bahtijari<sup>2</sup> ("Mr Januzi", "Mr Bahtijari", and together, "Accused", "Confirmation Decision").<sup>3</sup>
2. On 9 October 2023, upon their arrest and transfer from Kosovo,<sup>4</sup> the Accused appeared before the Pre-Trial Judge.<sup>5</sup>
3. On 17 October 2023, the Single Judge, responsible for matters emanating from KSC-BC-2018-01, ordered the transfer of relevant filings and decisions from the KSC-BC-2018-01 file to the present case file.<sup>6</sup>

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<sup>1</sup> KSC-BC-2023-10, F00001, President, *Decision Assigning a Pre-Trial Judge*, 11 September 2023, public.

<sup>2</sup> The Pre-Trial Judge has taken note that the correct spelling of the accused's surname is "Bahtijari" (see KSC-BC-2023-10, F00080, Registrar, *Notification of Identity Document*, 26 October 2023, confidential and *ex parte*, with Annex 1, confidential and *ex parte*).

<sup>3</sup> KSC-BC-2023-10, F00008, Pre-Trial Judge, *Decision on the Confirmation of the Indictment*, 2 October 2023, strictly confidential and *ex parte*. A confidential redacted version and a corrected version of the public redacted version of the decision were filed on 12 October 2023, F00008/CONF/RED and [F00008/RED/COR](#).

<sup>4</sup> KSC-BC-2023-10, F00011, Registrar, *Notification of Arrest of Ismet Bahtijari Pursuant to Rule 55(4)*, 5 October 2023, strictly confidential and *ex parte*; F00012, Registrar, *Notification of Arrest of Sabit Januzi Pursuant to Rule 55(4)*, 5 October 2023, strictly confidential and *ex parte*; F00014, Registrar, *Notification of the Reception of Ismet Bahtijari in the Detention Facilities of the Specialist Chambers*, 6 October 2023, strictly confidential and *ex parte*, with Annex 1, strictly confidential and *ex parte*; F00015, Registrar, *Notification of the Reception of Sabit Januzi in the Detention Facilities of the Specialist Chambers*, 6 October 2023, strictly confidential and *ex parte*, with Annex 1, strictly confidential and *ex parte*.

<sup>5</sup> KSC-BC-2023-10, [Transcript of Hearing](#), 9 October 2023, public, pp. 1-16; [Transcript of Hearing](#), 9 October 2023, public, pp. 17-32. See also F00017, Pre-Trial Judge, *Decision Setting the Date for the Initial Appearances of Sabit Januzi and Ismet Bahtijari and Related Matters*, 6 October 2023, public, para. 21(a)-(b).

<sup>6</sup> KSC-BC-2018-01, F00482, Single Judge, *Order for the Transfer of Documents*, 17 October 2023, strictly confidential and *ex parte*. This filing was subsequently cross-filed to the present case file (see KSC-BC-2023-10, F00037).

## II. APPLICABLE LAW

4. Pursuant to Article 21(2) of the Law, in the determination of charges against him or her, the Accused shall be entitled to a fair and public hearing, subject to Article 23 of the Law and Rule 80(1) of the Rules, and any measures ordered by the Specialist Chambers (“SC”) for the protection of victims and witnesses.

5. Pursuant to Article 21(6) of the Law, all material and relevant evidence or facts in possession of the Specialist Prosecutor’s Office (“SPO”) which are for or against the Accused shall be made available to the Accused before the beginning of and during the proceedings, subject only to restrictions which are strictly necessary and when any necessary counter-balance protections are applied.

6. Pursuant to Rule 82(5) of the Rules, where the basis for reclassification no longer exists, whoever submitted the original filing shall apply to the Panel for reclassification. A Panel may also reclassify a filing upon request by any other participant or *proprio motu*.

## III. DISCUSSION

7. The Pre-Trial Judge finds it necessary to make available to Mr Januzi and Mr Bahtijari relevant filings and decisions, including those that have been issued prior to the Confirmation Decision in relation to them, as they may be material for the preparation of their defence.

8. The Pre-Trial Judge further pays heed to, on the one hand, the principle of publicity of proceedings, as enshrined under Articles 21(2) and 39(6) of the Law, which extends beyond hearings in the courtroom to also cover filings and any

other submission in the case file,<sup>7</sup> and, on the other hand, the duty of the Pre-Trial Judge to provide for the protection of witnesses and victims, and confidential information, in accordance with Article 23(1) of the Law and Rule 80(1) of the Rules.

9. In light of the foregoing, the **SPO** is ordered to indicate whether the following filings can be reclassified as public and/or confidential, and the *ex parte* marking lifted, as the case may be:

- F0004 (currently classified as strictly confidential and *ex parte*);
- F00013 (currently classified as strictly confidential and *ex parte*);
- F00023 (currently classified as strictly confidential and *ex parte*);
- F00024 (currently classified as strictly confidential and *ex parte*);
- F00036 (currently classified as strictly confidential and *ex parte*);
- F00038, F00038/A01, F00038/A02, F00038/A03 (currently classified as strictly confidential and *ex parte*);
- F00039 (currently classified as strictly confidential and *ex parte*);
- F00040 (currently classified as strictly confidential and *ex parte*);
- F00042, F00042/A01 (currently classified as strictly confidential and *ex parte*);
- F00044 (currently classified as strictly confidential and *ex parte*);
- F00046 (currently classified as strictly confidential and *ex parte*);
- F00047, F00047/A01, F00047/A02 (currently classified as strictly confidential and *ex parte*);

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<sup>7</sup> See KSC-BC-2020-04, F00277, Pre-Trial Judge, *Order for Submissions on the Reclassification of Filings or Redacted Versions*, 17 June 2021, public, para. 5; KSC-2020-07, F00115, Pre-Trial Judge, *Order for Reclassification of Filings*, 4 February 2021, public, para. 6.

- F00049, F00049/A01, F00049/A02, F00049/A03, F00049/A04 (currently classified as strictly confidential and *ex parte*);
- F00050 (currently classified as strictly confidential and *ex parte*);
- F00052, F00052/A01 (currently classified as strictly confidential and *ex parte*);
- F00053 (currently classified as strictly confidential and *ex parte*);
- F00054 (currently classified as strictly confidential and *ex parte*);
- F00057, F00057/A01 (currently classified as strictly confidential and *ex parte*);
- F00058 (currently classified as strictly confidential and *ex parte*);
- F00059 (currently classified as strictly confidential and *ex parte*);
- F00060 (currently classified as strictly confidential and *ex parte*);
- F00061 (currently classified as strictly confidential and *ex parte*);
- F00065, F00065/A01 (currently classified as strictly confidential and *ex parte*);
- F00068 (currently classified as strictly confidential and *ex parte*);
- F00070 (currently classified as strictly confidential and *ex parte*); and
- F00071, F00071/A01, F00071/A02 (currently classified as strictly confidential and *ex parte*).

10. The **Defence for Mr Bahtijari** is ordered to indicate whether filing F00073 (currently classified as confidential) can be reclassified as public.

11. The **Registrar** is also ordered to indicate whether the following filings can be reclassified as public and/or confidential, and the *ex parte* marking lifted, as the case may be:

- F00011 (currently classified as strictly confidential and *ex parte*);
- F00012 (currently classified as strictly confidential and *ex parte*);
- F00014, F00014/A01 (currently classified as strictly confidential and *ex parte*);
- F00015, F00015/A01 (currently classified as strictly confidential and *ex parte*);
- F00018 (currently classified as strictly confidential and *ex parte*);
- F00019 ((currently classified as strictly confidential and *ex parte*);
- F00020/A01, F00020/A02, F00020/A03 (currently classified as strictly confidential and *ex parte*);
- F00021/A01, F00021/A02, F00021/A03 (currently classified as strictly confidential and *ex parte*); and
- F00066 (currently classified as strictly confidential and *ex parte*).

12. Should the SPO, the Defence for Mr Bahtijari, or the Registrar wish to retain the current classification of one or all the above-mentioned filings, it/she shall: (i) specify the reasons for maintaining the current classification, in accordance with Rule 82(3) of the Rules, and indicate whether and when such classification may be changed; and (ii) submit public and/or confidential redacted version(s) thereof, as the case may be.

13. Moreover, the **Registrar** is ordered to reclassify as confidential, as well as to lift the *ex parte* marking of, the following filings:

- F00009 (currently classified as strictly confidential and *ex parte*), F00009/A01, F00009/A02, F00009/A03 (currently classified as strictly confidential);

14. The **Registrar** is ordered to reclassify as confidential, as well as to lift the *ex parte* marking of, and submit public redacted versions of the following filings:

- F00020/COR (without annexes) (currently classified as strictly confidential and *ex parte*); and
- F00021 (without annexes) (currently classified as strictly confidential and *ex parte*).

15. Lastly, the **Registrar** is ordered to reclassify as public filing F00027 (currently classified as confidential).

16. The Pre-Trial Judge informs the Parties that confidential and/or public redacted versions of the decisions in the case file will be prepared after the submission requested in this order.

#### IV. DISPOSITION

17. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a) **ORDERS** the SPO, the Defence for Mr Bahtijari, and the Registrar to indicate, **by Monday, 6 November 2023**, whether the filings listed in paragraphs 9-11 of the present order, can be reclassified as public and/or confidential, and the *ex parte* marking lifted, as the case may be, or to submit its/her reasons for maintaining the classification thereof and submit confidential redacted version(s) thereof, **by Monday, 13 November 2023**, and public redacted version(s) thereof, **by Monday, 27 November 2023**; and

- b) **ORDERS** the Registrar to reclassify as confidential the filings listed in paragraphs 13-15 of the present order, and to submit, **by Monday, 13 November 2023**, public redacted versions of the filings listed in paragraph 14 of the present order.



**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Tuesday, 31 October 2023  
At The Hague, the Netherlands.