



SPECIALIST PROSECUTOR'S OFFICE  
ZYRA E PROKURORIT TË SPECIALIZUAR  
SPECIJALIZOVANO TUŽILAŠTVO

**In:** KSC-BC-2023-10  
**Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and Haxhi Shala**

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

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor's Office

**Date:** 5 April 2024

**Language:** English

**Classification:** Public

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**Public redacted version of 'Prosecution request for Rule 102(1)(b) disclosure and to amend exhibit list'**

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**Specialist Prosecutor's Office**

Kimberly P. West

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Jonathan Elystan Rees

**Counsel for Ismet Bahtijari**

Felicity Gerry

**Counsel for Haxhi Shala**

Toby Cadman

1. Pursuant to the Decision,<sup>1</sup> the Specialist Prosecutor's Office ('SPO') hereby requests authorisation to disclose certain limited additional evidentiary materials pursuant to Rule 102(1)(b) of the Rules<sup>2</sup> and to amend the list of proposed exhibits the SPO intends to present at trial ('Exhibit List').<sup>3</sup>
2. The SPO notes that the Pre-Trial Judge has already authorised the disclosure pursuant to Rule 102(1)(b) of, *inter alia*, [REDACTED] (collectively, the 'Recording Materials').<sup>4</sup> The SPO will disclose these materials after they have been received and processed, along with a transcript of the recording (the 'Recording Transcript').
3. The SPO further notes that the Pre-Trial Judge granted its first request to disclose certain additional evidentiary materials pursuant to Rule 102(1)(b) in an oral order announced at the status conference held on 22 March 2024.<sup>5</sup> Those materials consist of the forensic image of a phone seized from Haxhi SHALA, as well as extracts of records, including text messages and call log records, taken from the forensic image of that phone. They already appear on the Exhibit List as items 168 to 170.
4. The SPO seeks authorisation to disclose the following further materials pursuant to Rule 102(1)(b) (collectively, the 'Further Materials'):

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<sup>1</sup> Decision Setting out the Calendar for the Remaining Procedural Steps of the Pre-Trial Phase, KSC-BC-2023-10/F00233, 27 March 2024 ('Decision'), paras 23, 30(e).

<sup>2</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

<sup>3</sup> Annex 3 to Prosecution submission of Rule 109(c) chart and witness and exhibit lists and related request for Rule 102(1)(b) disclosure, KSC-BC-2023-10/F00164/A03, 9 February 2024, Confidential ('Exhibit List').

<sup>4</sup> Decision on Prosecution Request for an Order and Related Non-Disclosure, KSC-BC-2023-10/F00141, 21 December 2023, Confidential, paras 43, 45(g). *See also* Decision on Prosecution Supplemental Request for an Order, KSC-BC-2023-10/F00151, 22 January 2024, Confidential.

<sup>5</sup> Prosecution submission of Rule 109(c) chart and witness and exhibit lists and related request for Rule 102(1)(b) disclosure, KSC-BC-2023-10/F00164, 9 February 2024, Confidential, paras 4-6; Status Conference, Transcript of 22 March 2024, page 260 line 7 to page 261 line 10.

- a. The forensic image of a phone belonging to Sabit JANUZI (the 'JANUZI Phone'), as well as extracts of records, including text messages and call log records, taken from the forensic image of the JANUZI Phone. JANUZI was in possession of the JANUZI Phone at the time of his arrest in Kosovo on 5 October 2023. Pursuant to a court order,<sup>6</sup> the SPO seized the JANUZI Phone [REDACTED] on 23 February 2024 and subsequently reviewed it. Thus, the processing and analysis of the JANUZI Phone that led to the generation of these further materials had not been completed on 15 December 2023, the deadline for disclosures under Rule 102(1)(b) (the 'Rule 102(1)(b) Deadline').
- b. The forensic image of a phone belonging to Ismet BAHTIJARI (the 'BAHTIJARI Phone'). BAHTIJARI was in possession of the BAHTIJARI Phone at the time of his arrest in Kosovo on 5 October 2023. Pursuant to a court order,<sup>7</sup> the SPO seized the BAHTIJARI Phone [REDACTED] on 23 February 2024 and subsequently reviewed it. Thus, the processing and analysis of the BAHTIJARI Phone that led to the generation of this further material had not been completed on the Rule 102(1)(b) Deadline.
- c. [REDACTED]. [REDACTED],<sup>8</sup> [REDACTED].<sup>9</sup> [REDACTED] by the Rule 102(1)(b) Deadline. The SPO anticipates that it may still receive additional records that it would disclose, if appropriate, pursuant to Rule 102(1)(b). [REDACTED].<sup>10</sup>

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<sup>6</sup> Decision Authorising Searches and Seizures, KSC-BC-2023-10/F00155, 29 January 2024, Confidential ('Decision F00155').

<sup>7</sup> Decision F00155, KSC-BC-2023-10/F00155.

<sup>8</sup> [REDACTED].

<sup>9</sup> [REDACTED].

<sup>10</sup> [REDACTED].


5. Pursuant to Article 39(1) of the Law<sup>11</sup> and Rules 9(5), 95(2), and 95(4)(c), the SPO seeks authorisation to add to the Exhibit List the Recording Materials, Recording Transcript, and Further Materials identified herein. The Defence is aware of the SPO's investigative measures in relation to these materials and is anticipating their disclosure. The addition of these materials would not cause any undue prejudice to the Defence and would be in the interests of justice, in particular since the additions are limited in scope and given the pre-trial stage of the proceedings.

6. This filing is submitted confidentially pursuant to Rule 82(4). A public redacted version will be filed.

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<sup>11</sup> Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

**Word count: 905**



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**Kimberly P. West**

**Specialist Prosecutor**

Friday, 5 April 2024

At The Hague, the Netherlands