



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: **KSC-BC-2023-10**

The Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and Haxhi Shala

Before: **Pre-Trial Judge**

Judge Marjorie Masselot

Registrar: Dr Fidelma Donlon

Date: 12 July 2024

Language: English

Classification: **Public**

Decision Concerning Case Calendar

Specialist Prosecutor

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THE PRE-TRIAL JUDGE,¹ pursuant to Articles 39(1) and 39(13) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9(5)(a), 95(2)(f) and (j), 95(5), and 98(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules") hereby renders this decision.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 5 June 2024, following a request by the Defence for Ismet Bahtijari ("Mr Bahtijari" or "Bahtijari Defence"),² the Pre-Trial Judge extended the deadline for the filing of the pre-trial briefs by the defence of all Accused to Thursday, 20 June 2024 and further decided to set the new tentative date for the transmission of the case file to the Trial Panel to Friday, 5 July 2024.³

2. On 19 June 2024, the Bahtijari Defence filed its pre-trial brief.⁴

3. On 20 June 2024, following a specific request by the Defence for Sabit Januzi ("Mr Januzi" or "Januzi Defence"),⁵ the Pre-Trial Judge: (i) granted a further extension of the deadline for the filing of the defence's pre-trial briefs, if any, by seven (7) days following notification of the decision on the request by the Specialist Prosecutor's Office ("SPO") to amend the indictment against Mr Januzi and Mr Bahtijari ("Amendment Request"); and (ii) instructed the Bahtijari Defence to file, if it so wishes, an updated pre-trial brief, within the same extended time limit; as well as (iii) set the new tentative date for the transmission of the case file to the Trial Panel to

¹ KSC-BC-2023-10, F00327, President, *Decision Assigning a Pre-Trial Judge*, 6 June 2024, public.

² KSC-BC-2023-10, F00310, Defence for Mr Bahtijari, *Bahtijari Filing to Extend Time for Filing a Pre-Trial Brief*, 31 May 2024, public.

³ KSC-BC-2023-10, F00324, Pre-Trial Judge, *Decision on Bahtijari Request for Extension of Time*, 5 June 2024, public.

⁴ KSC-BC-2023-10, F00343, Defence for Mr Bahtijari, *Bahtijari Pre Trial Brief*, 19 June 2024, confidential.

⁵ KSC-BC-2023-10, F00340, Defence for Mr Januzi, *Januzi Request to Extend Time for Filing a Pre-Trial Brief*, 17 June 2024, public.

fourteen (14) days following notification of the forthcoming decision on the Amendment Request.⁶

4. On 8 July 2024, the Pre-Trial Judge issued the decision on the Amendment Request (“Confirmation Decision on Amendment”) and ordered the submission of a new joint indictment.⁷ The Pre-Trial Judge also varied the briefing schedule for the submission of any preliminary motions by the Januzi Defence and the Bahtijari Defence.⁸

5. On 10 July 2024, as instructed by the Pre-Trial Judge, the SPO filed its joint indictment (“Joint Indictment”).⁹

6. On 12 July 2024, the further appearances of Mr Januzi and Mr Bahtijari took place.¹⁰ During the hearing, the Januzi Defence requested that the Pre-Trial Judge extend the deadline for the filing of its pre-trial brief to seven days following final determination on any preliminary motions.¹¹ Considering that, due to its nature, the hearing was held in the presence of Mr Januzi and Mr Bahtijari only, the Pre-Trial Judge instructed the Januzi Defence to submit its request in writing.¹² Furthermore, upon inquiry by the Pre-Trial Judge, the Januzi Defence confirmed its intent to file a preliminary motion pursuant to Rule 97 of the Rules with respect to the new charge

⁶ KSC-BC-2023-10, F00345, Pre-Trial Judge, *Decision on Januzi Request for Extension of Time* (“20 June 2024 Decision”), 20 June 2024, public, paras 18-20.

⁷ KSC-BC-2023-10, F00377, Pre-Trial Judge, *Decision on the Confirmation of Amendments to the Indictment and Related Matters*, 8 July 2024, confidential, para. 79(c). A public redacted version was issued on 9 July 2024, F00377/RED.

⁸ Confirmation Decision on Amendment, para. 79(g).

⁹ KSC-BC-2023-10, F00379, Specialist Prosecutor, *Prosecution Submission of Confirmed Amended Indictment*, 10 July 2024, public, with Annexes 1-2, confidential, and Annexes 3-4, public.

¹⁰ KSC-BC-2023-10, Transcript of Hearing, 12 July 2024, public, pp. 262-278.

¹¹ KSC-BC-2023-10, Transcript of Hearing, 12 July 2024, p. 274, lines 19-22; p. 275, line 15 to p. 276, line 12. The SPO did not make observations on the request. *See* Transcript of Hearing, 12 July 2024, p. 276, lines 20-21.

¹² KSC-BC-2023-10, Transcript of Hearing, 12 July 2024, p. 276, lines 3-25.

in the Joint Indictment, whereas the Bahtijari Defence indicated that it is yet undecided.¹³

II. APPLICABLE LAW

7. Pursuant to Article 39(1) of the Law, the Pre-Trial Judge shall have the power to make any necessary orders or decisions to ensure the case is prepared properly and expeditiously for trial.

8. Pursuant to Article 39(13) of the Law and Rule 95(5) of the Rules, after submission of the items under Rule 95(4) of the Rules, the Pre-Trial Judge shall invite the Defence to file a pre-trial brief within a set time limit.

9. Pursuant to Rule 9(5)(a) of the Rules, the Panel may, *proprio motu*, or upon showing of good cause, extend or reduce any time limit prescribed by the Rules or set by the Panel.

10. Pursuant to Rule 95(2)(f) of the Rules, the Pre-Trial Judge shall decide on preliminary motions filed pursuant to Rule 97 of the Rules before the transmission of the case file to the Trial Panel.

11. Pursuant to Rule 95(2)(j) of the Rules, the Pre-Trial Judge shall set a target date for the readiness of the case for trial.

12. Pursuant to Rule 98(1) of the Rules, after receiving the filings from the Specialist Prosecutor and the Defence pursuant to Rules 95(4) and (5), and Rule 97 of the Rules, and within thirty (30) days of any final decision on preliminary motions, the Pre-Trial Judge shall transmit to the Trial Panel a complete case file.

¹³ KSC-BC-2023-10, Transcript of Hearing, 12 July 2024, p. 277, lines 11-23.

III. DISCUSSION

A. FILING OF DEFENCE'S PRE-TRIAL BRIEFS

13. The Pre-Trial Judge recalls that the date for the filing of the defence's pre-trial briefs was set, as proposed by Mr Januzi,¹⁴ to seven (7) days following the issuance of the Confirmation Decision on Amendments (i.e. Monday, 15 July 2024).¹⁵

14. Considering the impending deadline, and the fact that the Defence for Haxhi Shala ("Shala Defence"), who is also entitled to submit a pre-trial brief, was not present due to the nature of the hearing, the Pre-Trial Judge decides, *proprio motu*, to (i) vacate the date of Monday, 15 July 2024, for the filing of the defence's pre-trial briefs; (ii) instruct the Januzi Defence to file its request for extension of the time limit for the filing of its pre-trial brief, with reasons in support thereof, by **Monday, 15 July 2024, at 16:00 hours**; and (iii) instruct the Bahtijari Defence, the Shala Defence and the SPO to file a response to said request, if they so wish, by **Tuesday, 16 July 2024**. The Pre-Trial Judge informs the Parties that no replies will be entertained and that a decision on the forthcoming request by the Januzi Defence will be issued in due course.

B. TRANSMISSION OF THE CASE TO THE TRIAL PANEL

15. The Pre-Trial Judge pays heed to the Januzi Defence's stated intention to file a preliminary motion with respect to the new charge contained in the Joint Indictment.¹⁶ Consequently, the Pre-Trial Judge finds it appropriate to vacate the date for the transmission of the case file to the Trial Panel, which was set to be fourteen (14) days following issuance of the Confirmation Decision on Amendments (i.e. Monday, 22 July 2024).¹⁷ The Pre-Trial Judge informs the Parties that a new date will be set in due course.

¹⁴ 20 June 2024 Decision, para. 8.

¹⁵ 20 June 2024 Decision, para. 20(b).

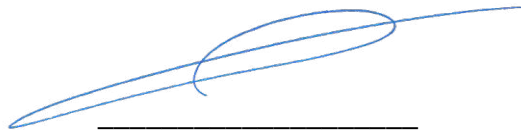
¹⁶ See *supra* para. 6.

¹⁷ 20 June 2024 Decision, para. 20(c).

IV. DISPOSITION

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

- a) **VACATES** *proprio motu* the date for the filing of the defence's pre-trial briefs, as set forth in paragraph 14 of the present decision;
- b) **INSTRUCTS** (i) the Januzi Defence to submit its request for extension of the time limit for the filing of its pre-trial brief, with reasons in support thereof, by **Monday, 15 July 2024, at 16:00 hours**; and (ii) the Bahtijari Defence, the Shala Defence and the SPO to file a response thereto, if they so wish, by **Tuesday, 16 July 2024**, as set forth in paragraph 14 of the present decision;
- c) **VACATES** the date for the transmission of the case file to the Trial Panel, as set forth in paragraph 15 of the present decision; and
- d) **INFORMS** the Parties that a new date for the transmission of the case file to the Trial Panel will be set in due course.



Judge Marjorie Masselot
Pre-Trial Judge

Dated this Friday, 12 July 2024
At The Hague, the Netherlands.