

In: KSC-BC-2023-10

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

Before: Pre-Trial Judge

Judge Marjorie Masselot

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Haxhi Shala

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Response to Januzi Application to Extend the Time Limit for the Filing of Defence Pre-Trial Briefs

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I. INTRODUCTION

1. The Defence for Mr. Haxhi Shala (“Haxhi Shala Defence”) hereby responds to the Januzi Application to Extend the Time Limit for the Filing of Defence Pre-Trial Briefs (“Januzi Application”)¹ in which the Defence for Mr. Sabit Januzi (“Sabit Januzi Defence”) requests that the time limit to file any defence pre-trial brief be extended to seven days following notification of the final determination of any preliminary motion (including any interlocutory appeal in relation thereto).²

II. PROCEDURAL BACKGROUND

2. On 20 June 2024, in Decision on Januzi Request for Extension of Time,³ the Pre-Trial Judge ordered the Defence Teams to submit a pre-trial brief, if any, by seven days following notification of the decision on the amendments of the indictment that the Specialist Prosecutor’s Office (“SPO”) was seeking.⁴

¹ KSC-BC-2023-10/F00386, 15 July 2024.

² Januzi Application, paras. 2, 10.

³ KSC-BC-2023-10/F00345.

⁴ KSC-BC-2023-10/F00345, para. 20(b)>

3. On 8 July 2024 in Decision on the Confirmation of Amendments to the Indictment and Related Matters (“Confirmation Decision”)⁵ the Pre-Trial Judge confirmed amendments to the indictment that the SPO had sought and the charges against Sabit Januzi and Ismet Bahtijari contained in them⁶ and ordered the Sabit Januzi Defence and the Defence for Mr Bahtijari (“Ismet Bahtijari Defence”) to file, if they so wished, a preliminary motion by 19 July 2024, the SPO to file a response, if it so wished, by 26 July 2024, and Sabit Januzi Defence and Ismet Bahtijari Defence to file a reply, if they so wished, by 2 August 2024.⁷
4. It followed from the Confirmation Decision⁸ and the Decision on Januzi Request for Extension of Time⁹ that the Defence Pre-Trial Briefs were to be filed by Monday 15 July.
5. On 12 July 2024 in Decision Concerning Case Calendar (“Calendar Decision”)¹⁰ the Pre-Trial Judge decided to vacate the date of 15 July 2024 for

⁵ KSC-BC-2023-10/F00377, confidential.

⁶ Confirmation Decision, paras. 79(a) and 79(b).

⁷ Confirmation Decision, para. 79(g).

⁸ Confirmation Decision, paras. 79(a) and 79(b).

⁹ KSC-BC-2023-10/F00345, para. 20(b).

¹⁰ KSC-BC-2023-10/F00382.

the filing of the defence's pre-trial briefs and set timings for filings on the extension of the time-limit for the Pre-Trial Briefs.¹¹

III. SUBMISSIONS

6. In the Calendar Decision, the Pre-Trial Judge stated that because of the Sabit Januzi Defence's stated intention to file a preliminary motion with respect to the new charge contained in the Joint Indictment she found it appropriate to vacate the date for the transmission of the case file to the Trial Panel, which had been set for 22 July 2024.¹² The trial will therefore be postponed because of amendments of the indictment relating only to Sabit Januzi and Ismet Bahtijari. The right of Haxhi Shala to be tried within a reasonable time pursuant to Article 21(4)(d) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law")¹³ will be undermined, if he continues to be joined with Sabit Januzi and Ismet Bahtijari. He will therefore be seeking severance from the current indictment.

¹¹ Calendar Decision, paras. 16(a), 16(b).

¹² Calendar Decision, para. 15.

¹³ Law no.05/L-053, 3 August 2015. See also Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Ratified 04 November 1950, in force 03 September 1953, 213 UNTS 221; Article 31(2), Constitution of the Republic of Kosovo, Code No. K-09042008, Official Gazette of the Republic of Kosovo, 9 April 2008.

7. In addition, the postponement of the time limit for filing the defence pre-trial brief that the Sabit Januzi Defence is seeking is based on amendments in the indictment that relate only to Sabit Januzi and Ismet Bahtijari.
8. In terms of the position of the Haxhi Shala Defence to the request of the Sabit Januzi Defence, it would not be appropriate to adopt any position other than one of neutrality. No criticism is made of the Sabit Januzi Defence for taking legitimate points regarding the indictment, nor any future interlocutory appeal, as this concerns matters that were entirely and reasonably foreseeable and in the view of the Haxhi Shala Defence should have been resolved long before now. Further, these matters are central to the precise reasons for why joinder was opposed, and the Haxhi Shala Defence has consistently raised the issue of being trial ready on multiple occasions.

IV. CONCLUSION

9. Since the Haxhi Shala Defence will be seeking severance and the Sabit Januzi Application concerns only the prosecution case against Sabit Januzi and Ismet Bahtijari, the Haxhi Shala Defence does not take a position on the Januzi Application.

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At Doha, the State of Qatar