



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: 23 July 2024

Language: English

Classification: Public

Decision on Various Defence Requests

Specialist Prosecutor

Kimberly P. West

Counsel for Sabit Januzi

Jonathan Elystan Rees

Registrar

Fidelma Donlon

Counsel for Ismet Bahtijari

Felicity Gerry

Counsel for Haxhi Shala

Toby Cadman

THE PRE-TRIAL JUDGE,¹ pursuant to Articles 39(1) and (13) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9(5)(a), 82(5), 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

1. On 16 May 2024, the Defence for Haxhi Shala ("Mr Shala" or "Shala Defence") requested the Pre-Trial Judge to convene a status conference ("Shala Request for Hearing").²
2. On 23 May 2024, the Registrar made representations on the Shala Request for Hearing ("Registrar Submissions").³
3. On 24 May 2024, the Specialist Prosecutor's Office ("SPO") responded to the Shala Request for Hearing ("SPO Response to Shala Request for Hearing").⁴
4. On 31 May 2024, the Shala Defence replied to the SPO Response to Shala Request for Hearing and the Registrar Submissions.⁵
5. On 19 June 2024, the Defence for Ismet Bahtijari ("Mr Bahtijari" or "Bahtijari Defence") filed its pre-trial brief.⁶
6. On 20 June 2024, following a specific request by the Defence for Sabit Januzi ("Mr Januzi" or "Januzi Defence"),⁷ the Pre-Trial Judge: (i) granted an extension of the

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

² KSC-BC-2023-10, F00292, Shala Defence, *Request for the Pre-Trial Judge to Convene a Status Conference*, 16 May 2024, public.

³ KSC-BC-2023-10, F00299, Registrar, *Registry's Submissions Regarding Shala's Request for a Status Conference (F00292)*, 23 May 2024, confidential and *ex parte*, with Annex 1, confidential and *ex parte*.

⁴ KSC-BC-2023-10, F00300, Specialist Prosecutor, *Prosecution Response to F00292*, 24 May 2024, public.

⁵ KSC-BC-2023-10, F00312, Shala Defence, *Reply to Registrar's Submissions on F00292* ("Shala Reply to Registrar"), 31 May 2024, confidential and *ex parte*; F00314, Shala Defence, *Reply to Prosecution Response to F00292* ("Shala Reply to SPO"), 31 May 2024, public.

⁶ KSC-BC-2023-10, F00343, Bahtijari Defence, *Bahtijari Pre Trial Brief*, 19 June 2024, confidential.

⁷ KSC-BC-2023-10, F00340, Januzi Defence, *Januzi Request to Extend Time for Filing a Pre-Trial Brief*, 17 June 2024, public.

deadline for the filing of the defence's pre-trial brief(s), if any, by seven (7) days following notification of the decision on the SPO request to amend the indictment against Mr Januzi and Mr Bahtijari; and (ii) instructed the Bahtijari Defence to file, if it so wishes, an updated pre-trial brief, within the same extended time limit.⁸

7. On 8 July 2024, the Pre-Trial Judge issued the "Decision on the Confirmation of Amendments to the Indictment and Related Matters" amending the charge of intimidation against Mr Januzi and Mr Bahtijari ("Amendment Decision")⁹ and ordering their joint further appearance on 12 July 2024.¹⁰

8. On 12 July 2024, the further appearance of Mr Januzi and Mr Bahtijari took place ("12 July 2024 Hearing") during which, *inter alia*, the Januzi Defence requested that the deadline for the filing of its pre-trial brief be extended ("Second Januzi Request for Extension of Time").¹¹ The Pre-Trial Judge ordered the Januzi Defence to make the request in writing.

9. On the same day, after the further appearances, the Pre-Trial Judge issued the "Decision Concerning Case Calendar", *inter alia*, vacating the date for the filing of the Defence pre-trial brief(s), if any, and established a briefing schedule for the Second Januzi Request for Extension of Time.¹² Thereafter, the Shala Defence made submissions in relation to the further appearances of Mr Januzi and Mr Bahtijari ("Shala Submissions on 12 July 2024 Hearing").¹³

⁸ 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.

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

¹⁰ Amendment Decision, paras 75-76, 79(e).

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, F00382, Pre-Trial Judge, *Decision Concerning Case Calendar* ("Case Calendar Decision"), 12 July 2024, public, para. 16(a) and (b).

¹³ KSC-BC-2023-10, F00384, Shala Defence, *Submission Regarding Hearing on 12 July 2024*, 12 July 2024, public.

10. On 15 July 2024, the Januzi Defence submitted the Second Januzi Request for Extension of Time in writing.¹⁴ On 16 July 2024, the SPO, the Bahtijari Defence and Shala Defence responded to the request.¹⁵

11. On 17 July 2024, the Registrar made representations on the Shala Submissions on 12 July 2024 Hearing (“Registry Information on Shala Submissions on 12 July 2024 Hearing”).¹⁶

12. On 19 July 2024, the Januzi Defence and the Bahtijari Defence filed preliminary motions against the Amendment Decision.¹⁷

13. On 22 July 2024, the Shala Defence replied to the Registry Information on Shala Submissions on 12 July 2024 Hearing.¹⁸

II. SUBMISSIONS

A. SHALA REQUEST FOR HEARING

14. The Shala Defence requests the Pre-Trial Judge to convene a status conference to discuss (i) the uncertainty as to whether there will be a joint indictment;¹⁹ (ii) difficulties in accessing disclosed evidence in Legal Workflow;²⁰ and (iii) the

¹⁴ KSC-BC-2023-10, F00386, Januzi Defence, *Januzi Application to Extend the Time Limit for the Filing of Defence Pre-Trial Briefs*, 15 July 2024, public.

¹⁵ KSC-BC-2023-10, F00390, Specialist Prosecutor, *Prosecution Submissions on F00382* (“SPO Response re Pre-Trial Brief Deadline”), 16 July 2024, public; F00391, Bahtijari Defence, *BAHTIJARI Request for Further Time for any Updated Pre-Trial Brief* (“Bahtijari Response re Pre-Trial Brief Deadline”), 16 July 2024, confidential; F00392, Shala Defence, *Response to Januzi Application to Extend the Time Limit for the Filing of Defence Pre-Trial Briefs* (“Shala Response re Pre-Trial Brief Deadline”), 16 July 2024, public.

¹⁶ KSC-BC-2023-10, F00395, Registrar, *Registrar’s Submissions Regarding F00384*, 17 July 2024, public.

¹⁷ KSC-BC-2023-10, F00399, Bahtijari Defence, *BAHTIJARI Filing on Motion Regarding Indictment*, 19 July 2024, confidential; F00402, Januzi Defence, *Januzi Preliminary Motion*, 19 July 2024, public.

¹⁸ KSC-BC-2023-10, F00405, Januzi Defence, *Reply to Registrar’s Submissions Regarding F00384* (“Shala Reply to Registry Information on Shala Submissions on 12 July 2024 Hearing”), 22 July 2024, public.

¹⁹ Shala Request for Hearing, para. 12.

²⁰ Shala Request for Hearing, paras 14-15.

reduction in staffing of the Shala Defence team due to termination of their contracts.²¹

15. The Registrar submits that Mr Shala's access difficulties in Legal Workflow had not been brought to her attention prior to the distribution the Shala Request for Hearing. She explains that the access limitation was due to an unforeseen technical error, which was promptly resolved,²² and that the Shala Defence confirmed having full access in Legal Workflow.²³ As to the reduction in the Shala Defence staffing, the Registrar submits that this is due to the fact that the appointment of Mr Shala's Counsel was terminated and, consequently, that of his team members, as a result of his conversion from "appointed" Counsel to "conditionally assigned" Counsel, following Mr Shala's request for legal aid on 13 May 2024.²⁴ The Registrar adds that Counsel for Mr Shala was informed of the next steps under the Legal Aid Regulations with regard to any Defence team member he would like to engage as newly assigned Counsel.²⁵ She recalls that Counsel for Mr Shala was again informed on 15 May 2024 about the necessary steps to be undertaken.²⁶ According to the Registrar, Counsel for Mr Shala requested on the same day the approval of four Shala Defence team members, but as of the date of filing her representations on the matter (i.e. 23 May 2024), had failed to submit the required supporting documentation.²⁷

16. The SPO responds that the Shala Request for Hearing should be denied as matters raised by the Shala Defence are either moot or more appropriately addressed in other forums.²⁸

²¹ Shala Request for Hearing, para. 16.

²² Registrar Submissions, para. 3.

²³ Registrar Submissions, para. 5.

²⁴ Registrar Submissions, para. 7.

²⁵ Registrar Submissions, para. 7.

²⁶ Registrar Submissions, para. 8.

²⁷ Registrar Submissions, paras 9-12.

²⁸ SPO Response to Shala Request for Hearing, paras 1-6.

17. In reply, the Shala Defence confirms that the technical difficulties in Legal Workflow have been resolved.²⁹ It also reiterates that, as a consequence of Counsel's conditional assignment, the size of the defence team of Mr Shala was reduced.³⁰ The Shala Defence contends that a considerable amount of preparation for trial is still needed and reaffirms its request for a status conference, which it asserts will allow more expeditious resolution of issues.³¹

B. SECOND JANUZI REQUEST FOR EXTENSION OF TIME

18. The Januzi Defence requests an extension of time to submit its pre-trial brief to seven (7) days following notification of the final determination of any preliminary motion (including any interlocutory appeal in relation thereto).³² It maintains that the scope of the charges at trial should be determined before the Defence is required to file its pre-trial brief.³³ In this context, it recalls its submission in the 12 July 2024 Hearing that it will challenge the new charge by way of a preliminary motion.³⁴

19. The SPO responds that it defers to the Pre-Trial Judge as to whether a reasonable, limited extension of the deadline for the filing of pre-trial brief(s) is justified, provided that any such extension does not prevent the timely transmission of the case file to the Trial Panel.³⁵

20. In response, the Bahtijari Defence requests that it be given the same time as his co-Accused to submit a pre-trial brief.³⁶

²⁹ Shala Reply to Registrar, para. 2; Shala Reply to SPO, para. 3.

³⁰ Shala Reply to SPO, paras 5-6.

³¹ Shala Reply to SPO, paras 7-9.

³² Second Januzi Request for Extension of Time, paras 2, 10.

³³ Second Januzi Request for Extension of Time, para. 9.

³⁴ Second Januzi Request for Extension of Time, paras 6-7.

³⁵ SPO Response re Pre-Trial Brief Deadline, para. 3.

³⁶ Bahtijari Response re Pre-Trial Brief Deadline, para. 3.

21. The Shala Defence does not take any position on the Second Januzi Request for Extension of Time.³⁷

C. MATTERS RAISED BY MR SHALA AFTER 12 JULY 2024 HEARING

22. The Shala Defence contends that its request to attend the 12 July 2024 Hearing was denied by the Pre-Trial Judge,³⁸ thus compelling the Shala Defence to follow the hearing online and preventing it from participating and advancing any submissions on Mr Shala's behalf.³⁹ The Shala Defence also argues that some of its members were unable to follow the 12 July 2024 Hearing online, as the streaming of the hearing took place with a 10-minute delay, rather than a 45-minute delay, as indicated for public hearings on the website of the Specialist Chambers ("SC").⁴⁰ Lastly, the Shala Defence claims unequal treatment as, because of its absence from the hearing, it did not partake in the discussion related to the time limit for the filing of defence pre-trial briefs.⁴¹

23. The Shala Defence requests that the Pre-Trial Judge: (i) order the Registrar to provide accurate information regarding the streaming of hearings on the SC website, ensure that such information is adequately communicated to Counsel, and to report on the actions that she has taken;⁴² (ii) explain why the Shala Defence was denied the opportunity to participate in the 12 July 2024 Hearing in which

³⁷ Shala Response re Pre-Trial Brief Deadline, para. 9.

³⁸ Counsel for Mr Shala recalls that he had addressed this request to the Pre-Trial Judge via email through the Court Management Unit ("CMU"). He submits that the Pre-Trial Judge responded, via email through CMU, that his presence was not required. *See* Shala Submissions on 12 July 2024 Hearing, paras 3-7.

³⁹ Shala Submissions on 12 July 2024 Hearing, para. 7. *See also* Shala Reply to Registry Information on Shala Submissions on 12 July 2024 Hearing, para. 3.

⁴⁰ Shala Submissions on 12 July 2024 Hearing, para. 8.

⁴¹ Shala Submissions on 12 July 2024 Hearing, paras 9-10.

⁴² In this regard, the Shala Defence asserts that the measures outlined by the Registrar are insufficient to ensure proper notification to Defence teams regarding the accessibility of online streaming and that providing such information in advance, by email, would be a straightforward solution. *See* Shala Reply to Registry Information on Shala Submissions on 12 July 2024 Hearing, paras 6-8.

issues were raised that have an impact on the case against Mr Shala; (iii) ensure that a timely decision is issued on the Shala Request for Hearing prior to the transmission of the case to the Trial Panel; and (iv) ensure that the Shala Defence has adequate time and opportunity to make submissions on any application for an extension of time for the filing of the Defence pre-trial briefs, especially in view of its exclusion from the 12 July 2024 Hearing.⁴³

24. The Registrar highlights that, as indicated on the SC website, public hearings are streamed with a delay of 45-minute, unless otherwise specified. She explains that an announcement was posted on the SC website in all three languages, indicating that the hearing will be broadcast with a 10-minute delay in the “Live Update” section of the SC homepage.⁴⁴ She adds that hearings of initial and further appearances of accused are broadcast with a 10-minute delay, as was also the case for Mr Shala’s initial appearance.⁴⁵ Lastly, she affirms that the Shala Defence had and has access to the live transcript of hearings in this case, including the 12 July 2024 Hearing, and that said hearing is also now available on the SC YouTube channel.⁴⁶

III. APPLICABLE LAW

25. 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.

⁴³ Shala Submissions on 12 July 2024 Hearing, para. 11. *See also* Shala Reply to Registry Information on Shala Submissions on 12 July 2024 Hearing, para. 10.

⁴⁴ Registry Information on Shala Submissions on 12 July 2024 Hearing, para. 2.

⁴⁵ Registry Information on Shala Submissions on 12 July 2024 Hearing, para. 3.

⁴⁶ Registry Information on Shala Submissions on 12 July 2024 Hearing, para. 4.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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 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.

31. Pursuant to Rule 82(5) of the Rules, where the basis for the classification 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*.

IV. DISCUSSION

A. SHALA REQUEST FOR HEARING

32. The Pre-Trial Judge notes that the issues raised by the Shala Defence have been resolved or are obsolete, namely: (i) the Amendment Decision has been rendered on

8 July 2024;⁴⁷ (ii) the Shala Defence has confirmed that access to the disclosed evidence in Legal Workflow was restored;⁴⁸ and (iii) the matter of Defence funding has been settled, after Counsel for Mr Shala submitted all the required paperwork.⁴⁹ With the exception of a generic reference to Defence preparations for trial, no other concrete issue has been raised by the Shala Defence warranting the holding of a status conference.

33. In light of the above, the Shala Request for Hearing is rejected. For future purposes, the Shala Defence is reminded to raise any Legal Workflow and legal aid related issues first with the Registry before approaching the Panel, so that relief can be provided promptly and efficiently.

B. SECOND JANUZI REQUEST FOR EXTENSION OF TIME

34. 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,⁵⁰ to seven (7) days following the issuance of the Amendment Decision (i.e. Monday, 15 July 2024).⁵¹ The Januzi Defence requests an extension for the second time. The Pre-Trial Judge recalls that a decision on the Januzi Defence's renewed request was not rendered at the time of the 12 July 2024 Hearing, as the Shala Defence, equally affected by this decision, was not present.⁵² The Shala Defence was able to respond to the Second Januzi Request for Extension of Time, and thus, Mr Shala's right to be heard is maintained.

⁴⁷ See *supra* para. 7.

⁴⁸ See *supra* para. 17.

⁴⁹ See, in particular, KSC-BC-2023-10, F00283, Registry, *Registrar's Update on Defence Team Funding*, 10 May 2024, confidential, paras 5-8, with Annexes 1-13, confidential and *ex parte*; Registry, F00297, *Registrar's Update on Defence Team Funding*, 17 May 2024, confidential, paras 5-6, with Annexes 1-5, confidential and *ex parte*; F00302, Registrar, *Registrar's Update on Defence Team Funding*, 24 May 2024, confidential, para. 3, with Annexes 1-2, confidential and *ex parte*.

⁵⁰ 20 June 2024 Decision, para. 8.

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

⁵² See also Case Calendar Decision, para. 14.

35. The Pre-Trial Judge finds that the Second Januzi Request for Extension of Time was submitted sufficiently in advance, in accordance with Rule 76 of the Rules.

36. As to the showing of good cause, within the meaning of Rule 9(5)(a) of the Rules, the Pre-Trial Judge notes the Januzi Defence's preference to submit a pre-trial brief following notification of the final determination on any preliminary motion, which will delineate with clarity the scope of the case. The Pre-Trial Judge also notes that the Bahtijari Defence and the Shala Defence do not oppose this requested extension of time. Importantly, in the view of the Pre-Trial Judge, the submission of the Defence pre-trial brief(s), if any, will not further significantly delay the transmission of the case file to the Trial Panel.⁵³ On the other hand, the Pre-Trial Judge considers that the Januzi Defence, Bahtijari Defence⁵⁴ and Shala Defence have (had) ample time to prepare the pre-trial brief(s), if any, considering that their investigation is ongoing, the confirmation of amendment proceedings were recently concluded, and disclosure related matters in the case have been completed. With a view to expediting the proceedings, and mindful that co-Accused Mr Shala shall be tried within a reasonable time,⁵⁵ the Pre-Trial Judge considers the requested extension of time to be inappropriate.

37. In light of the above, noting that the Januzi Defence and the Bahtijari Defence have filed preliminary motions against the Amendment Decision,⁵⁶ the time limit for submitting Defence pre-trial brief(s), if any, is extended as follows:

⁵³ The determinative factor for the remainder of the pre-trial phase is the submission of preliminary motions by the Januzi Defence and the Bahtijari Defence and their pursuit of appellate review. In this context, the Pre-Trial Judge recalls that, for the preliminary motions litigation, an abridged briefing schedule was established in the Amendment Decision so as to proceed without undue delay. *See* Amendment Decision, paras 78, 79(g).

⁵⁴ As recalled in the procedural history of the present decision, Mr Bahtijari already submitted a pre-trial brief. *See supra* para. 5.

⁵⁵ Article 21(4)(d) of the Law.

⁵⁶ *See supra* para. 12.

- (a) if the Januzi Defence and the Bahtijari Defence, as the case may be, do not seek appellate review of the Pre-Trial Judge's Rule 97 decision(s), then the Defence pre-trial brief(s), if any, shall be filed five (5) days after the Pre-Trial Judge's determinations on the preliminary motion(s) have become final, within the meaning of Rule 98(1) of the Rules; and
- (b) if the Januzi Defence and the Bahtijari Defence, as the case may be, seek appellate review of the Pre-Trial Judge's Rule 97 decision(s), then the Defence shall submit pre-trial brief(s), if any, five (5) days following the Court of Appeal Panel's decision(s).

38. The Pre-Trial Judge notes that the Bahtijari Defence requests that "Mr Bahtijari have the same timetable as his co-accused".⁵⁷ It is recalled that the Bahtijari Defence has been given the opportunity to file, if it so wishes, an updated pre-trial brief within the stipulated time limit.⁵⁸ The same approach is taken in the present instance. The Bahtijari Defence may update its pre-trial brief within the time limits set forth in paragraph 37 of the present decision.

C. MATTERS RAISED BY MR SHALA AFTER 12 JULY 2024 HEARING

39. In the Shala Submissions on 12 July 2024 Hearing, the Shala Defence makes a number of requests on discrete matters in connection with said hearing. As Mr Shala requests specific action on the part of the Pre-Trial Judge, and the Registrar has already made submissions on the matters raised, the Pre-Trial Judge decides to dispose of said requests without giving the other Parties the opportunity to be heard.

40. As to Mr Shala's request to order the Registrar to provide accurate information regarding the streaming of hearings and to communicate them clearly to Counsel, the Pre-Trial Judge notes that such information is unambiguously and clearly set out on

⁵⁷ Bahtijari Response re Pre-Trial Brief Deadline, para. 3.

⁵⁸ 20 June 2024 Decision, para. 18.

the SC website.⁵⁹ Having represented Mr Shala during his initial appearance on 13 December 2023, Counsel for Mr Shala, including his team members, should have known that this type of hearing is streamed with a 10-minute delay. In addition, the Shala Defence has access to the transcripts of all hearings in this case, including the 12 July 2024 Hearing, and may access the recording of said hearing on the SC YouTube channel. Accordingly, no action needs to be taken on the part of the Registrar.

41. As to Mr Shala's request that the Pre-Trial Judge explain why the Shala Defence was denied the opportunity to participate in the 12 July 2024 Hearing, the Pre-Trial Judge refers the Shala Defence to paragraphs 75-76 of the Amendment Decision, in which the purpose of the hearing was explained in clear and unambiguous terms. To be clear: as the amendment to the charge of intimidation did not concern Mr Shala, his presence at the hearing was not required.⁶⁰ No further explanation is necessary.

42. As to Mr Shala's request that the Pre-Trial Judge issue a decision on the Shala Request for Hearing prior to the transmission of the case to the Trial Panel, the Pre-Trial Judge considers this request to be moot.

43. As to Mr Shala's request that the Pre-Trial Judge ensure that the Shala Defence has adequate time and opportunity to make submissions on any application for an extension of time for the filing of the Defence pre-trial briefs, the Pre-Trial Judge considers this request to be moot. Indeed, as foreseen by the Pre-Trial Judge during the 12 July 2024 Hearing, the Shala Defence was given the opportunity to express its position in relation to the Second Januzi Request for Extension of Time before any ruling.⁶¹

⁵⁹ See Annex 1 to Registry Information on Shala Submissions on 12 July 2024 Hearing.

⁶⁰ See also Amendment Decision, para. 42 ("The Pre-Trial Judge also recalls that the Main Amendment only bears [on] Mr Januzi and Mr Bahtijari, since the factual allegations underpinning this amendment is already part of the Case 11 Confirmed Indictment").

⁶¹ Case Calendar Decision, para. 14.

44. In light of the above, the requests contained in the Shala Submissions on 12 July 2024 Hearing are rejected in their entirety.

D. TRANSMISSION OF THE CASE FILE TO THE TRIAL PANEL

45. The Pre-Trial Judge recalls that she vacated the date for the transmission of the case file to the Trial Panel in light of the Januzi Defence's stated intention to file a preliminary motion with respect to the new charge, as confirmed in the Amendment Decision.⁶² Considering that the Januzi Defence and the Bahtijari Defence have filed preliminary motions against the Amendment Decision, the Pre-Trial Judge finds it appropriate to set the date for the transmission of the case file to the Trial Panel to two (2) days following the submission of the Defence's pre-trial brief(s), if any, or the expiry of the corresponding time limit.

E. CLASSIFICATION OF FILINGS

46. The Pre-Trial Judge notes that filings F00299, F00312 and F00391 are classified either as confidential or confidential *ex parte*.

47. *F00299 and F00312*. The Registrar does not oppose that the *ex parte* marking of filing F00299, including Annex 1, be lifted.⁶³ The Shala Defence opposes the Registrar's proposal, arguing that defence funding matters are of no concern to the SPO.⁶⁴

48. The Pre-Trial Judge notes that the Registrar's submissions in the main filing F00299 are reflected, in part, in the Shala Request for Hearing and, are also contained in the Registrar's weekly reports on Defence funding, which will be made public in due course.⁶⁵ Therefore, the Pre-Trial Judge rejects the Shala Defence's argument and

⁶² Case Calendar Decision, para. 15.

⁶³ Registrar Submissions, para. 14.

⁶⁴ Shala Reply to Registrar, paras 4-5.

⁶⁵ See KSC-BC-2023-10, F00388, Registrar, *Registrar's Request for Reclassification* ("Registrar Request F00388"), 15 July 2024, confidential. It is noted that the Registry consulted with the Defence regarding the reclassification of its previous weekly reports on Defence funding. See Registrar Request F00388, para. 1.

orders that F00299 be reclassified as public. Considering that Annex 1 to F00299 contains private and privileged information, it may remain classified as confidential; however, the *ex parte* marking shall be lifted. Relatedly, filing F00312 shall be reclassified as public, as it does not contain confidential information.

49. F00391. The Bahtijari Defence requests that filing F00319 remain confidential as it refers to outstanding issues.⁶⁶ The Pre-Trial Judge notes that some of these issues have already been discussed in public, while others are generically described. Therefore, filing F00391 shall be reclassified as public, as it does not contain confidential information.

⁶⁶ Bahtijari Response re Pre-Trial Brief Deadline, para. 2.

V. DISPOSITION

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

- a) **REJECTS** the Shala Request for Hearing;
- b) **GRANTS**, in part, the Second Januzi Request for Extension of Time and **DETERMINES** that the submission of the Defence's pre-trial brief(s), if any, is extended, as set forth in paragraph 37 of the present decision;
- c) **DETERMINES** that the Bahtijari Defence may update its pre-trial brief within the same time limits set forth in paragraph 37 of the present decision;
- d) **REJECTS** the requests contained in the Shala Submissions on 12 July 2024 Hearing;
- e) **SETS** the date for the transmission of the case file to the Trial Panel, as set forth in paragraph 45 of the present decision; and
- f) **ORDERS** the Registrar to reclassify as public filings F00299 (main filing), F00312 and F00391, and to lift the *ex parte* marking for F00299/A01, as set forth in paragraphs 48 and 49 of the present decision.



Judge Marjorie Masselot
Pre-Trial Judge

Dated this Tuesday, 23 July 2024
At The Hague, the Netherlands.