



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:** 27 August 2024

**Language:** English

**Classification:** Public

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**Corrected Version of**

**Decision Concerning Timeframe for Filing of Defence Pre-Trial Briefs**

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THE PRE-TRIAL JUDGE,<sup>1</sup> pursuant to Article 39(1) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9(5)(a) and (6), 76, 82(5) and 95(5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules") hereby renders this decision.

## I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 19 July 2024, the Defence for Ismet Bahtijari ("Mr Bahtijari" and "Bahtijari Defence") and the Defence for Sabit Januzi ("Mr Januzi" and "Januzi Defence") filed preliminary motions against the "Decision on the Confirmation of Amendments to the Indictment and Related Matters"<sup>2</sup> ("Preliminary Motions").<sup>3</sup>

2. On 23 July 2024, the Pre-Trial Judge issued the "Decision on Various Defence Requests", *inter alia*, setting the time limit for the filing of the Defence pre-trial briefs to five (5) days following a final determination on the Preliminary Motions ("Extension Decision").<sup>4</sup>

3. On 12 August 2024, the Pre-Trial Judge issued the "Decision on Preliminary Motions and Related Requests" ("Preliminary Motions Decision"), rejecting the Preliminary Motions.<sup>5</sup>

4. On 16 August 2024, the Bahtijari Defence filed a request for an extension of the time limit set in the Extension Decision for the filing of its updated pre-trial brief,

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

<sup>2</sup> 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 was issued on 9 July 2024, F00377/RED.

<sup>3</sup> KSC-BC-2023-10, F00399, Bahtijari Defence, *BAHTIJARI Filing on Motion Regarding Indictment*, 19 July 2024, public; F00402, Januzi Defence, *Januzi Preliminary Motion*, 19 July 2024, confidential.

<sup>4</sup> KSC-BC-2023-10, F00406, Pre-Trial Judge, *Decision on Various Defence Requests*, 23 July 2024, public.

<sup>5</sup> KSC-BC-2023-10, F00433, Pre-Trial Judge, *Decision on Preliminary Motions and Related Requests*, 12 August 2024, confidential. A public redacted version was issued on the same day, F00433/RED.

citing concerns that the Januzi Defence will be provided more time to file its pre-trial brief as a result of having filed a request for leave to appeal the Preliminary Motions Decision (“Request for Extension”).<sup>6</sup>

5. On 19 August 2024, the Bahtijari Defence filed its updated pre-trial brief, wherein it reiterates its pending Request for Extension to file a further updated pre-trial brief and reserves the right to further update its pre-trial brief following receipt of medical evidence and the completion of defence investigations.<sup>7</sup>

6. On 20 August 2024, the Januzi Defence filed a request for certification to appeal the Preliminary Motions Decision (“Januzi Application to Appeal”).<sup>8</sup>

7. On 23 August 2024, the Pre-Trial Judge dismissed the Januzi Application to Appeal as untimely filed, in violation of the timeframe provided in Rule 77(1) of the Rules (“Dismissal Decision”).<sup>9</sup>

8. On 27 August 2024, the Pre-Trial Judge denied the Januzi Defence’s urgent application for reconsideration of the Dismissal Decision (“Reconsideration Decision”).<sup>10</sup>

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<sup>6</sup> KSC-BC-2023-10, F00436, Bahtijari Defence, *BAHTIJARI Request to Extend Time to File an Updated Pre-Trial Brief*, 16 August 2024, confidential.

<sup>7</sup> KSC-BC-2023-10, F00439, Bahtijari Defence, *Bahtijari Updated Pre-Trial Brief*, 19 August 2024, confidential, paras 3, 27.

<sup>8</sup> KSC-BC-2023-10, F00442, Januzi Defence, *Application for Leave to Appeal Through Certification From Decision KSC-BC-2023-10/F00433 Pursuant to Article 45(2) and Rule 77(1)*, 20 August 2024, public.

<sup>9</sup> KSC-BC-2023-10, F00444, Pre-Trial Judge, *Decision Dismissing Application for Leave to Appeal F00433*, 23 August 2024, public.

<sup>10</sup> KSC-BC-2023-10, F00451, Pre-Trial Judge, *Decision on Request for Reconsideration of F00444*, 27 August 2024, public.

## II. APPLICABLE LAW

9. 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.

10. Pursuant to 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.

11. 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.

12. Pursuant to Rule 9(6) of the Rules, a motion for variation of time may be disposed of without giving the opposing Party the opportunity to be heard.

13. Pursuant to Rule 76 of the Rules, applications for extension of time shall be filed sufficiently in advance to enable the Panel to rule on the application before the expiry of the relevant time limit.

## III. DISCUSSION

14. At the outset, the Pre-Trial Judge finds that the Request for Extension was submitted sufficiently in advance, in accordance with Rule 76 of the Rules.

15. As regards the showing of good cause, the Pre-Trial Judge first recalls that, as clearly set forth in the Extension Decision, the time limit for the filing of the Defence's pre-trial briefs was set to five (5) days following a final determination on the Preliminary Motions.<sup>11</sup> The Pre-Trial Judge notes in this regard that a decision becomes final either (i) once the deadline for the filing of an appeal has passed and a

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<sup>11</sup> See Extension Decision, para. 37.

party has not sought appellate review, or (ii) should a party seek appellate review, once a final decision is rendered (a) by the Pre-Trial Judge on a request for certification pursuant to Rule 77 of the Rules, or (b) by the Court of Appeals Chamber pursuant to Rule 170(1) or (2) of the Rules. The Pre-Trial Judge again emphasises that this timeframe applies equally to all Accused in this case, even though only one has sought appellate review.<sup>12</sup>

16. Turning to the merits of the Request for Extension, the Pre-Trial Judge takes note of the Bahtijari Defence's submission that it does not intend to seek appellate review of the Preliminary Motions Decision.<sup>13</sup> The Pre-Trial Judge also takes note of the Bahtijari Defence's submission raising concern that the Januzi Defence will be provided more time to file its pre-trial brief as a result of having filed a request for certification to appeal the Preliminary Motions Decision.<sup>14</sup> In this regard, the Pre-Trial Judge notes that the Januzi Application to Appeal has been dismissed as untimely pursuant to Rule 77(1) of the Rules,<sup>15</sup> and the Januzi Defence's related urgent reconsideration request has been rejected.<sup>16</sup> Accordingly, consistent with the Extension Decision, the Defence pre-trial briefs – for all Defence teams – shall be submitted within five (5) days from notification of the Reconsideration Decision, i.e. on Monday, 2 September 2024 at the latest.

17. In light of the above, the Pre-Trial Judge finds that good cause has not been shown, warranting the requested extension of time.

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<sup>12</sup> In this regard, the Pre-Trial Judge recalls that, in the Extension Decision, she specifically addressed the Bahtijari Defence's request that "Mr Bahtijari have the same timetable as his co-accused" and determined that the Bahtijari Defence may update its pre-trial brief within the same time limits set forth in the decision. *See* Extension Decision, paras 38, 50(c).

<sup>13</sup> *See* Request for Extension, para. 3.

<sup>14</sup> *See* Request for Extension, para. 4.

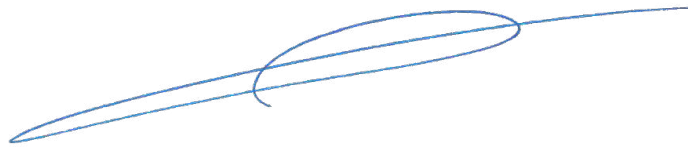
<sup>15</sup> Dismissal Decision, paras 9-10.

<sup>16</sup> Reconsideration Decision, paras 16, 18.

IV. DISPOSITION

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

- a) **REJECTS** the Request for Extension;
- b) **REMINDS** the Parties of the timeline for the submission of the Defence pre-trial briefs, as set out in paragraph 16 above; and
- c) **ORDERS** the Registrar to reclassify the Request for Extension (F00436) as public.



**Judge Marjorie Masselot**  
**Pre-Trial Judge**

Dated this Tuesday, 27 August 2024

At The Hague, the Netherlands.

Explanatory Note:

In paragraph 16, second line from bottom, the word "Dismissal" was replaced by the word "Reconsideration".