



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

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

**Before:** Trial Panel I  
Judge Mappie Veldt-Foglia, Presiding Judge  
Judge Roland Dekkers  
Judge Gilbert Bitti  
Judge Vladimir Mikula, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filed by:** Registrar

**Date:** 18 October 2024

**Language:** English

**File Name:** The Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and Haxhi Shala

**Classification:** Confidential and *Ex Parte*

---

**Registrar's Submissions Concerning F00518**

---

**Specialist Counsel for Haxhi Shala**

Toby Cadman

1. Pursuant to Article 34(1) of the Law<sup>1</sup> and Rule 23(2)(a) of the Rules,<sup>2</sup> the Registrar hereby makes submissions concerning a request for judicial review ('Request') of a decision of the Registrar regarding the Legal Aid Fee to be paid to conditionally Assigned Counsel under the Legal Aid Regulations ('LAR'), filed by Counsel for Mr Haxhi Shala ('Mr Shala').<sup>3</sup>

## I. BACKGROUND

2. On 19 September 2024, the Registrar issued a decision determining the Complexity Level and the Legal Aid Fee for the Trial Stage of the proceedings.<sup>4</sup> The Registrar found, having considered the factors in Regulation 16(3) of the LAR, and following consultations with the Trial Panel and Counsel for Mr Shala, that the case should be categorised as Complexity Level 2 at the Trial Stage.<sup>5</sup> The Registrar also determined, in light of the maximum amounts set out in Annex C to the LAR and considering Mr Shala's eligibility to receive funding (€ 1,000.00 per month) under Kosovo Law No. 05/L-054, that the remuneration of Counsel for Mr Shala (and his Team, if any) would be € 11,675.00 per month for the Trial Stage.<sup>6</sup> In terms of the reimbursement of costs actually incurred, the Registrar also determined that Counsel would receive the applicable allotments for contracting external investigators/consultants and supporting investigations, for translation/interpretation costs, and for miscellaneous costs.<sup>7</sup> Together, these two components, the remuneration

---

<sup>1</sup> Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

<sup>2</sup> Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020, public ('Rules').

<sup>3</sup> KSC-BC-2023-10, F00518, Request for Review of Decision of the Registrar on the Legal Aid Fee with three *ex parte* and confidential Annexes, 9 October 2024, confidential and *ex parte* ('Request'); Registry Practice Direction, Legal Aid Regulations, KSC-BD-25-Rev1, 22 February 2024, public ('LAR').

<sup>4</sup> KSC-BC-2023-10, F00518/A01, Annex 1 to Request for Review of Decision of the Registrar on the Legal Aid Fee, 9 October 2024, confidential and *ex parte* ('Annex 1 to Request').

<sup>5</sup> Annex 1 to Request, Section IV, para. 6.

<sup>6</sup> Annex 1 to Request, Section V, paras 10-11, 15; Annex C to the Legal Aid Regulations, Scope of Services and Maximum Amounts for Legal Aid Fee, KSC-BD-25/Rev1/2024/Annex C/Rev1, 22 February 2024, public ('Annex C to the LAR'), Section 2(2).

<sup>7</sup> Annex 1 to Request, Section V, para. 15. *See also* Annex C to the LAR, Section 3(2).

of Counsel (and his or her Team, if any) and the reimbursement of costs actually incurred in accordance with the allotments set out in Annex C to the LAR, make up the Legal Aid Fee.<sup>8</sup>

3. On 23 September 2024, Counsel for Mr Shala submitted a request under Regulation 18(6) of the LAR, asking the Registrar to amend her determination of the Complexity Level and the Legal Aid Fee for the Trial Stage.<sup>9</sup> In relevant part, Counsel argued that the Registrar had misunderstood and misapplied the Defence's position regarding the complexity of "domestic crimes" as opposed to "international crimes".<sup>10</sup>

4. On 2 October 2024, the Registrar issued a decision on Counsel's request, finding that there are no grounds for the amendment of the Legal Aid Fee ('Impugned Decision').<sup>11</sup>

## II. SUBMISSIONS

5. The Registrar submits that Counsel for Mr Shala fails to demonstrate any error in the Impugned Decision. Rather, Counsel merely repeats arguments that he has already unsuccessfully advanced before the Registrar, without explaining why the Registrar erred in rejecting those arguments. While Counsel continues to complain that the Registrar has misunderstood and misapplied his arguments, Counsel's own arguments remain obscure and internally contradictory.<sup>12</sup>

6. Specifically, Counsel submits that, because under Annex C to the LAR the maximum level of remuneration at Complexity Level 3 for "domestic crimes" is "far below" the maximum level of remuneration at Complexity Level 1 for "international crimes", a much lower level of complexity is required for a "domestic crime" to reach

---

<sup>8</sup> Regulation 14 of the LAR.

<sup>9</sup> KSC-BC-2023-10, F00518/A02, Annex 2 to Request for Review of Decision of the Registrar on the Legal Aid Fee, 9 October 2024, confidential and *ex parte* ('Annex 2 to Request').

<sup>10</sup> Annex 2 to Request, pp. 2-3.

<sup>11</sup> KSC-BC-2023-10, F00518/A03, Annex 3 to Request for Review of Decision of the Registrar on the Legal Aid Fee, 9 October 2024, confidential and *ex parte* ('Impugned Decision').

<sup>12</sup> See also Impugned Decision, para. 17.

Complexity Level 3.<sup>13</sup> Counsel appears to suggest that the most complex case involving “domestic crimes” cannot reach the same level of complexity as the least complex case involving “international crimes”. However, this contradicts Counsel’s argument that “[a]n individual international crime may be more or less complex than a domestic crime” based on the fact that the same scale of complexity applies to both “domestic” and “international” crimes under Regulation 16(3) of the LAR.<sup>14</sup>

7. More importantly, as noted in the Impugned Decision, Counsel fails to explain how the differences in the maximum levels of remuneration available for the two types of cases under Annex C to the LAR should have led the Registrar to consider and weigh the factors under Regulation 16(3) of the LAR differently in this particular case.<sup>15</sup> In short, Counsel does not advance any arguments as to why the Registrar’s individual assessments of the specific factors under Regulation 16(3) of the LAR were incorrect.

8. The Registrar notes that the Impugned Decision explains that the Complexity Level assessment in the case at hand does not use “international crimes” as a point of comparison, but rather only uses other “domestic crimes” for this purpose.<sup>16</sup> The Impugned Decision also explains that the criteria in Regulation 16(3) of the LAR are used in all Complexity Level assessments, whether they concern “domestic” or “international” crimes.<sup>17</sup> Therefore, Counsel appears to be broadly in agreement with the Registrar’s approach to determining the Complexity Level (i.e., not comparing the complexity of “domestic” and “international” crimes, while applying the criteria in Regulation 16(3) of the LAR to all Complexity Level assessments), and merely disagrees with the result of the Registrar’s assessment, without further elaborating

---

<sup>13</sup> Request, para. 10(ii)-(iii). *See also* Request, para. 9 (where Counsel makes essentially the same argument, but instead of comparing “international crimes” at Complexity Level 1 and “domestic crimes” at Complexity Level 3, he compares both types of crimes at Complexity Level 1).

<sup>14</sup> Request, para. 10(i).

<sup>15</sup> Impugned Decision, para. 21.

<sup>16</sup> Impugned Decision, paras 14, 19.

<sup>17</sup> Impugned Decision, paras 18-19.

thereon. The Registrar therefore submits that Counsel's arguments should be dismissed.


9. Finally, the Registrar notes that, while the Request does not advance any explicit arguments on the issue of Mr Shala's eligibility to receive € 1,000.00 under Kosovo Law No. 05/L-054, Counsel asks that the Trial Panel determine that Complexity Level 3 should apply at the Trial Stage, and that the monthly remuneration allocated under the Legal Aid Fee should be € 14,850.00. To the extent that Counsel's request may be interpreted as a request for the Trial Panel to overturn the Registrar's deduction of € 1,000.00 from the monthly remuneration to account for the funds available for Mr Shala's defence under Kosovo Law No. 05/L-054, the Registrar submits that this aspect of the Request should also be dismissed, as Counsel has failed to advance any arguments or show any error in the Registrar's findings in this regard.

10. In sum, Counsel has not demonstrated any error by the Registrar in her determination of the Complexity Level or the Legal Aid Fee. Consequently, the Registrar respectfully submits that the Request should be dismissed in its entirety.

### III. CLASSIFICATION

11. Pursuant to Rule 82(3) of the Rules, these submissions are filed as confidential and *ex parte*, to be distributed to the Trial Panel and Counsel for Mr Shala only, as they refer to another filing bearing this classification, as well as referring to a confidential decision of the Registrar regarding Counsel's request for the amendment of the Complexity Level and the Legal Aid Fee with respect to his client.

**Word count: 1,304**



**Dr Fidelma Donlon**

**Registrar**

Friday, 18 October 2024

At The Hague, the Netherlands