



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

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

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

**Before:** **Trial Panel I**

Judge Mappie Veldt-Foglia, Presiding Judge

Judge Roland Dekkers

Judge Gilbert Bitti

Judge Vladimir Mikula, Reserve Judge

**Registrar:** Fidelma Donlon

**Date:** 24 October 2024

**Language:** English

**Classification:** **Public**

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**Decision on the date for the commencement of the trial**

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**To be notified to:**

**Specialist Prosecutor**  
Kimberly P. West

**Counsel for Sabit Januzi**  
Jonathan Elystan Rees

**Counsel for Ismet Bahtijari**  
Felicity Gerry

**Counsel for Haxhi Shala**  
Toby Cadman

TRIAL PANEL I (Panel) hereby renders this decision on the date for the commencement of the trial.

## I. PROCEDURAL BACKGROUND

1. On 4 September 2024, the Pre-Trial Judge transmitted the case file to the Panel.<sup>1</sup>
2. On 24 September 2024, the Panel sought submissions from the Parties on, *inter alia*, the date of commencement of the trial, the opening statements and related matters.<sup>2</sup>
3. Between 28 September and 2 October 2024, the Specialist Prosecutor's Office (SPO),<sup>3</sup> the Defence for Haxhi Shala (Shala Defence),<sup>4</sup> the Defence for Ismet Bahtijari (Bahtijari Defence),<sup>5</sup> the Defence for Sabit Januzi (Januzi Defence)<sup>6</sup> and the Registry<sup>7</sup> made their submissions.

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<sup>1</sup> KSC-BC-2023-10, F00468, Pre-Trial Judge, [Decision Transmitting the Case File to Trial Panel I](#), 4 September 2024, public, with Annex 1, confidential, and Annex 2, public. *See also* F00466, President of the Specialist Chambers, [Decision Assigning Trial Panel I](#), 3 September 2024 (notified on 4 September 2024), public.

<sup>2</sup> KSC-BC-2023-10, F00479, Trial Panel I, [Decision setting the dates for trial preparation conferences, requesting submissions and on related matters](#), 24 September 2024, public, para. 14.

<sup>3</sup> KSC-BC-2023-10, F00491, Specialist Prosecutor, *Prosecution submissions in advance of trial preparation conferences* (SPO Submissions), 1 October 2024, confidential, with Annex 1, confidential. A public redacted version of the main filing was filed on 4 October 2024, F00491/RED.

<sup>4</sup> KSC-BC-2023-10, F00482, Shala Defence, *Submission by the Defence of Haxhi Shala of written information as specified in paragraphs 12-20 of F00479 with one public Annex* (Shala Defence Submissions), 28 September 2024, public, with Annex 1, public.

<sup>5</sup> KSC-BC-2023-10, F00494, Bahtijari Defence, *BAHTIJARI submissions on trial preparation pursuant to F00479* (Bahtijari Defence Submissions), 2 October 2024, confidential. A public redacted version was filed on 18 October 2024, F00494/RED.

<sup>6</sup> KSC-BC-2023-10, F00495, Januzi Defence, *Submissions for the Trial Preparation Conferences on behalf of Januzi* (Januzi Defence Submissions), 2 October 2024, public.

<sup>7</sup> KSC-BC-2023-10, F00490, Registry, *Registry Submissions for Trial Preparation Conferences*, 1 October 2024, public, with Annex 1, confidential and Annexes 2-5, strictly confidential and *ex parte*.

4. On 7 and 8 October 2024, the Panel convened trial preparation conferences, where the Parties and the Registry made further submissions.<sup>8</sup>

## II. APPLICABLE LAW

5. The Panel notes Article 40(2) and (6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rules 9(5)(a), 116(1), 117(2), 118(3), 124, 125 and 126 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (Rules).

## III. DISCUSSION

### A. COMMENCEMENT OF TRIAL

6. Having received all necessary submissions from the Parties and the Registry, the Panel does not find it necessary to hold any further preparation conferences before the opening of the trial. The Parties do not request any further preparation conferences, at this stage, either.<sup>9</sup> The Panel further notes that all Parties are ready to start the trial in November 2024.<sup>10</sup> Accordingly, the Panel varies, pursuant to Rule 9(5)(a) of the

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<sup>8</sup> KSC-BC-2023-10, Transcript of Hearing, 7 October 2024, confidential, pp. 279-360; *see, in particular*, p. 327, line 1 to p. 331, line 2; Transcript of Hearing, 8 October 2024, confidential, pp. 361-377. Public redacted versions of both transcripts are available.

<sup>9</sup> *See* Bahtijari Defence Submissions, para. 7, submitting that it would be necessary to hold at least one status conference, but following the closing of the SPO's case and prior to the presentation of the Defence cases, if any.

<sup>10</sup> SPO Submissions, para. 14; Annex 1 to Shala Defence Submissions, para. 14(a); Bahtijari Defence Submissions, para. 12; Januzi Defence Submissions, para. 8; Transcript of Hearing, 7 October 2024, public, p. 327, lines 3-21. *See also* KSC-BC-2023-10, F00509, Bahtijari Defence, *BAHTIJARI filing on availability*, 8 October 2024, confidential, para. 2. A public redacted version was filed on 18 October 2024, F00509/RED; F00510, Shala Defence, *Submission of Requested Confirmation of Availability for Forthcoming Hearings*, 8 October 2024, public, paras 2-3; F00511, Januzi Defence, *Re Date for Prosecution Opening and Commencement of Evidence*, 8 October 2024, public, paras 2-3.

Rules, the time limit prescribed in Rule 118(3) of the Rules and decides that the trial shall open on **Thursday, 14 November 2024, at 09:30.**

7. The trial shall open with the procedures set out in Rules 124 and 125 of the Rules. Pursuant to Rule 124(1) of the Rules, the Presiding Judge shall open the trial and ask the Registrar to call the case. Thereafter, the trial shall proceed with the reading by the SPO of the Joint Indictment,<sup>11</sup> pursuant to Rule 124(2) of the Rules. In this regard, the Panel notes that none of the Defence teams objects to a reading of a summary of the Joint Indictment,<sup>12</sup> but the Januzi Defence submits that this is subject to being provided with a copy of the proposed summary by the SPO in advance.<sup>13</sup> The Panel recalls in this regard its oral order that, no later than **Friday, 1 November 2024**, the SPO and the Januzi Defence shall file a joint proposal of a summary of the Joint Indictment or otherwise inform the Panel that no such proposal was agreed upon. In the event that the SPO and the Januzi Defence fail to reach an agreement, the Joint Indictment will be read in its entirety.<sup>14</sup>

8. Subsequently, the Accused will be asked whether they understand the Joint Indictment and will be given the opportunity to confirm their initial pleas pursuant to Rule 124(3) of the Rules.<sup>15</sup> Pursuant to Rule 125 of the Rules, the Presiding Judge will then inform the Accused of their rights and obligations and the measures provided for under Rule 61(2) of the Rules.

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<sup>11</sup> 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.

<sup>12</sup> Annex 1 to Shala Defence Submissions, para. 14(b); Bahtijari Defence Submissions, para. 13; Januzi Defence Submissions, para. 9.

<sup>13</sup> Januzi Defence Submissions, para. 9.

<sup>14</sup> KSC-BC-2023-10, Transcript of Hearing, 8 October 2024, public, p. 372, line 18 to p. 373, line 8.

<sup>15</sup> KSC-BC-2023-10, Transcript of Initial Appearance of Ismet Bahtjari, 9 October 2023, public, p. 12, lines 6-9; Transcript of Initial Appearance of Sabit Januzi, 9 October 2023, public, p. 27, lines 18-20; Transcript of Further Appearance of Ismet Bahtjari and Sabit Januzi, 12 July 2024, public, p. 272, line 14 to p. 274, line 1; KSC-BC-2023-11, Transcript of First Status Conference, 15 December 2023, public, p. 42, lines 8-18.

## B. OPENING STATEMENTS

9. The Panel notes that the SPO, the Shala Defence and the Januzi Defence have signalled their intention to present their opening statements following the opening of the trial.<sup>16</sup> The Bahtijari Defence prefers to make its opening statement after the closing of the SPO case.<sup>17</sup> Seeing that, in addition to the SPO, two of the Defence teams prefer to make their opening statements following the opening statement of the SPO, the Panel decides to hear said opening statements starting on **Thursday, 14 November 2024, at 9:30**, following the opening of the case. The SPO shall present its opening statement first, followed by the Januzi Defence and the Shala Defence, in this order. The opening statements will continue on **Friday, 15 November 2024**, if need be.

10. With regard to their length, the Panel decides to allocate two (2) hours to the SPO, one (1) hour to the Januzi Defence and thirty (30) minutes to the Shala Defence, as requested.<sup>18</sup>

11. The Parties are authorised to use visual aids and other material during their respective opening statements, if they so wish. Such visual aids and material shall be communicated to the Panel and the other Parties, as the case may be, *via* e-mail, *via* the Court Management Unit. This shall be done at the earliest opportunity and no later than **Wednesday, 6 November 2024, at 16:00**. Any objections to the use of any of the visual aids or other material shall be raised also *via* e-mail no later than **Friday, 8 November 2024, at 16:00** and any replies to objections no later than **Monday, 11 November 2024**. The Parties shall indicate whether the visual aids and material they intend to use may be broadcasted to the public.

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<sup>16</sup> SPO Submissions, para. 15; Annex 1 to Shala Defence Submissions, para. 14(d); Januzi Defence Submissions, para. 10.

<sup>17</sup> Bahtijari Defence Submissions, para. 16.

<sup>18</sup> SPO Submissions, para. 15; Januzi Defence Submissions, para. 10; Annex 1 to Shala Defence Submissions, para. 14(d).

12. Bearing in mind the importance of the principle of publicity of the proceedings, the Panel directs the Parties to present their opening statements, to the greatest extent possible, in open session and to rely on visual aids and material that can be broadcasted to the public. Where this is not possible, the Parties are directed to group together arguments to be made in private and/or closed session, in order to enhance the efficiency of the proceedings and avoid any unnecessary fluctuation between open and private or closed sessions. These directions are without prejudice to the protective measures in place for witnesses and the Parties' right to present their arguments in full.

13. The Panel further notes that Mr Januzi intends to make an unsworn statement at the start of the Defence case, after the closing of the SPO case.<sup>19</sup> The Panel will give directions on this matter at the appropriate time.

#### C. REQUESTS PURSUANT TO RULE 117(2) OF THE RULES

14. According to Rule 117(2) of the Rules, the Panel shall set a time limit for any motions to be made prior to the opening of the case. Such motions should include any matter the resolution of which is, in the view of the Parties, a pre-condition for the start of the trial. Accordingly, the Panel considers it appropriate to set **Friday, 1 November 2024**, as the deadline for the Parties to file any motions within the meaning of Rule 117(2) of the Rules. Any responses to such motions shall be filed by **Thursday, 7 November 2024** and any replies by **Monday, 11 November 2024**. The Panel may rule orally on any such motions before the opening statements.

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<sup>19</sup> Januzi Defence Submissions, para. 11.

## D. PRESENTATION OF EVIDENCE

15. Considering recent requests for assistance made by all Parties in this case to obtain further evidence,<sup>20</sup> which have an impact on the presentation of evidence and the expeditious conduct of the proceedings,<sup>21</sup> the Panel decides that the presentation of evidence by the SPO shall commence on **Monday, 9 December 2024, at 9:30**.

16. Further directions on the presentation of evidence and conduct of the proceedings will be given in due course.

## IV. DISPOSITION

17. For the above-mentioned reasons, the Panel hereby:

- a. **DECIDES** that the trial shall commence on **Thursday, 14 November 2024, at 09:30**;
- b. **DECIDES** that the SPO, the Januzi Defence and the Shala Defence shall make their opening statements on **Thursday, 14 November 2024** and **Friday, 15 November 2024**, if need be, in accordance with paragraphs 9-12 of the present decision;
- c. **ORDERS** the Parties to file any motions within the meaning of Rule 117(2) of the Rules by **Friday, 1 November 2024**, with responses to be filed by **Thursday, 7 November 2024** and any replies by **Monday, 11 November 2024**; and

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<sup>20</sup> See KSC-BC-2023-10, F00519, Specialist Prosecutor (also on behalf of the Januzi Defence, the Bahtijari Defence and the Shala Defence), *Joint submission requesting an RFA*, 10 October 2024, confidential. A public redacted version was filed on 14 October 2024, F00519/RED; F00524, Shala Defence (also on behalf of the Januzi Defence), *Joint Request by Sabit Januzi Defence and Haxhi Shala Defence for a Request For Assistance*, 11 October 2024, confidential, with Annex 1 confidential.

<sup>21</sup> KSC-BC-2023-10, F00548, Trial Panel I, *Decision Requesting Observations in Relation to filings F00519 and F00524*, 22 October 2024, confidential, para. 13.

- d. **DECIDES** that the presentation of evidence by the SPO shall commence on **Monday, 9 December 2024, at 9:30.**



**Judge Mappie Veldt-Foglia**  
**Presiding Judge**



**Judge Gilbert Bitti**



**Judge Roland Dekkers**

Dated this Thursday, 24 October 2024

At The Hague, the Netherlands.