

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: Dr Fidelma Donlon

Filing Participant: **Specialist Counsel for Ismet Bahtijari**

Date: 7 November 2024

Language: English

Classification: Public

(publicly redacted version) BAHTIJARI response to F00577

Specialist Prosecutor's Office

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I. INTRODUCTION

1. This document is a response to F00577 where the prosecution suggest [REDACTED] are not necessary despite having filed a joint filing (F00519) that they were.¹

II. PROCEDURAL BACKGROUND

2. Joint filing F00519 was made on 10 October 2024.²
3. It was supplemented by some keywords in F00524 on 11 October 2024.³
4. The expectation that such enquires could be done in time and need not delay witness evidence is set out on behalf of Mr Bahtijari in F00574.⁴

III. SUBMISSIONS

5. It remains Mr Bahtijari's position that if there was [REDACTED] on 5 April 2023 it would support his account and exonerate him.
6. Alternatively, if there never was [REDACTED] this would fundamentally undermine the credibility of the prosecution witnesses and also exonerate him.
7. Accordingly, the proposals in the joint filing F00519 were sensible and reasonable lines of enquiry and ought to be carried out.
8. As set out by the Januzi team in F00579 – there is sufficient time.⁵

¹ KSC-BC-2023-10, F00577, SPO, *Prosecution further submissions pursuant to Decision F00548*, 4 November 2024, Confidential; see also, KSC-BC-2023-10, F00519, SPO, *Joint submission requesting an RFA*, 10 October 2024, Confidential, paras 4-6.

² KSC-BC-2023-10, F00519, SPO, *Joint submission requesting an RFA*, 10 October 2024, Confidential.

³ KSC-BC-2023-10, F00524, Defence, *Joint Request by Sabit Januzi Defence and Hazhi Shala Defence for a Request for Assistance with one confidential Annex*, 11 October 2024, Confidential, para 5; F00524/A01, *ANNEX 1 – List of Keywords*, 11 October 2024, Confidential.

⁴ KSC-BC-2023-10, F00574, Defence, *Bahtijari filing on pre-trial objections*, 1 November 2024, Confidential, paras 7-8.

⁵ KSC-BC-2023-10, F00579, Defence, *Januzi Further Submissions pursuant to F00548*, 4 November 2024, Confidential, paras 4-5.

9. It remains Mr Bahtijari's position that this need not delay the [REDACTED] witnesses giving evidence.

10. Accepting that the Trial Chamber must balance fair trial rights with available resources, when the whole trial for Mr Bahtijari turns on what was said on 5 April 2023 [REDACTED], it is submitted that the balance is in favour of [REDACTED] being necessary as set out in the joint filing F00519.

IV. CLASSIFICATION

11. This filing is filed as confidential at this stage but a publicly redacted version will be filed in due course.

Word Count: 266

A handwritten signature in black ink, appearing to read 'Felicity Gerry', with a long horizontal flourish extending to the right.

Dr Felicity Gerry KC

Counsel for Mr Bahtijari

7 November 2024

At Victoria, Australia