

In: KSC-BC-2023-10

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

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

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Haxhi Shala

Date: 11 October 2024

Language: English

Classification: **Public**

**Public Redacted Version of Haxhi Shala Response to Prosecution Request to
amend the exhibit list**

Specialist Prosecutor
Kimberly P. West

Counsel for Sabit Januzi
Jonathan Elystan Rees
Huw Bowden

Counsel for Ismet Bahtijari
Dr. Felicity Gerry
Marion Carrin

Counsel for Haxhi Shala
Toby Cadman
John Cubbon

I. INTRODUCTION

1. The Defence for Haxhi Shala ("Defence") hereby responds to Prosecution Request to amend the exhibit list with two confidential annexes ("Request"),¹ in which the Specialist Prosecutor's Office ("SPO") requested, *inter alia*, the addition to the Exhibit List² of six (6) supplemental reports from the [REDACTED] regarding the 'phones of Sabit Januzi, Ismet Bahtijari and Haxhi Shala which were seized in connection with this case.³ ("[REDACTED] Reports")

II. SUBMISSIONS

2. The [REDACTED] Reports purport to explain the production of the forensic working copies of the 'phones of Sabit Januzi, Ismet Bahtijari and Haxhi Shala,⁴ from which the purported records of 'phone interactions have been obtained.⁵ It follows that the SPO is not correct in its assertion that the

¹ KSC-BC-2023-10/F00512, 8 October 2024.

² Annex 1 to Prosecution submission of amended exhibit list, KSC-BC-2023-10/F00374/A01, 5 July 2024, Confidential.

³ Request, Annex 1 (122051-122056, 122057-122063, 122064-122070, 122964-122971, 122972-122980, 122981-122989).

⁴ Item Nos. 73, 76, 77, 168, 187 and 188 in the Exhibit List.

⁵ Item Nos. 150, 151, 152, 153, 154, 155, 156, 157, 169, 170, 198 in the Exhibit List.

additions are limited in scope.⁶ Whilst they are limited in scope, it should nevertheless be noted that the evidential status of these highly technical [REDACTED] Reports remains questionable since the SPO has repeatedly made clear that it is not intending to call an expert to testify as to their validity (even though the same [REDACTED] signed all six of them).

3. The technical character of the [REDACTED] Reports is such that the considerable amount of time required for their proper assessment will not be available to the Defence before the envisaged start of the trial on 7 November 2024 for a number of reasons. In addition to preparing for the trial, the Defence Team faces a large amount of work as a result of the oral orders issued at the hearing on 8 October 2024.⁷ In recent weeks there have been other Disclosures from the SPO which have required attention.⁸ In addition, the Defence has limited resources available as a result of its dependence on legal aid funding. Mr Haxhi Shala will have been in detention for almost a year by the time of the envisaged start of the trial. It is therefore not in the interests of a justice for there to be any further postponement of the trial because of a request by the

⁶ Request, para. 6.

⁷ Transcript, 8 October 2024, pp. 365-373.

⁸ For example, since the transfer of the case to the Trial Chamber the SPO has disclosed 32 items consisting of 65 pages in 9 Disclosure Packages.

SPO. The Defence submits that in these circumstances the request of the SPO to add the [REDACTED] Reports to the Exhibit List should be denied.

III. QUALIFICATION

4. This filing is submitted confidentially pursuant to Rule 82(4) of the Rules.

Word Count: [472 words]



Toby Cadman

Specialist Counsel

11 October 2024

At London, United Kingdom