

**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  
Judge Roland Dekkers  
Judge Gilbert Bitti  
Judge Vladimir Mikula, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Counsel for Haxhi Shala

**Date:** 19 November 2024

**Language:** English

**Classification:** Public

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**Public Redacted Version of Response to F00599 Bahtijari Request on Classification**

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**Specialist Prosecutor**  
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## I. INTRODUCTION

1. The Defence for Mr Haxhi Shala ('Defence') hereby respond to Mr Bahtijari's 'request on classification' dated 14 November 2024 ('Bahtijari Request').<sup>1</sup>

## II. PROCEDURAL BACKGROUND

2. On 13 November 2024, the Specialist Prosecutor's Office ('SPO') hereby informed the Trial Panel that [REDACTED].<sup>2</sup> The SPO [REDACTED]. The SPO's filing was confidential [REDACTED].<sup>3</sup> The SPO confirmed that a public redacted version would also be filed.<sup>4</sup>[REDACTED].
3. On 14 November 2024, the Defence for Mr Bahtijari ('Bahtijari Defence') filed a request seeking that [REDACTED]<sup>5</sup> In the alternative, the Bahtijari Defence requests that [REDACTED].<sup>6</sup>
4. On 15 November 2024, the SPO responded, asking the Panel to reject the Request and authorise the SPO to immediately file a public redacted version

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<sup>1</sup> KSC-BC-2023-10/F00599, BAHTIJARI request on classification, 14 November 2024, Confidential.

<sup>2</sup> KSC-BC-2023-10/F00596, [REDACTED], 13 November 2024, Confidential ('F00596').

<sup>3</sup> F00596, para. 3.

<sup>4</sup> F00596, para. 3.

<sup>5</sup> KSC-BC-2023-10/F00599, Bahtijari Defence, BAHTIJARI request on classification, 14 November 2024, confidential, paras 1, 4-6.

<sup>6</sup> Bahtijari Request, para. 7.

[REDACTED] ('SPO Response').<sup>7</sup> The SPO argues that [REDACTED].<sup>8</sup>

According to the SPO, [REDACTED].<sup>9</sup>

5. On 18 November 2024, the Trial Panel held that, prior to adjudicating the merits of the Request, the Panel deems it appropriate to receive submissions from the Defence for Mr Januzi and the Defence for Mr Shala on the issue.<sup>10</sup> Accordingly, with a view to ruling on the matter in an expeditious manner, and pursuant to Rule 9(5)(a) of the Rules, the Panel ordered the Januzi Defence and the Shala Defence, if they so wish, to provide written submissions on the Request and the Response by no later than Tuesday, 19 November 2024.<sup>11</sup>

### III. APPLICABLE LAW

11. Pursuant to Article 40(2) of Law on Specialist Chambers and Specialist Prosecutor's Office<sup>12</sup> ('Law'), the Trial Panel shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the Rules

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<sup>7</sup> KSC-BC-2023-10, F00603, Specialist Prosecutor, *Prosecution response to F00599*, 15 November 2024, confidential, para. 5, with Annex 1, confidential and *ex parte*.

<sup>8</sup> SPO Response, paras 3-4.

<sup>9</sup> SPO Response, para. 4.

<sup>10</sup> KSC-BC-2023-10/F00605, Order for Submissions in relation to F00599, 18 November 2024, Confidential ('F00605').

<sup>11</sup> F00605, para. 8.

<sup>12</sup> Law no.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015.

of Procedure and Evidence Before the Kosovo Specialist Chambers,<sup>13</sup> ('Rules'), with full respect for the rights of the accused and due regard for the protection of victims and witnesses. The Trial Panel, having heard the parties, may adopt such procedures and modalities as are necessary to facilitate the fair and expeditious conduct of proceedings, and may give directions for the conduct of fair and impartial proceedings and in accordance with the Rules.

12. [REDACTED].

[REDACTED].

[REDACTED].

[REDACTED].

13. Pursuant to Article 22(2) of the Constitution of the Republic of Kosovo<sup>14</sup> ('Constitution'), human rights and fundamental freedoms guaranteed by, *inter alia*, the ECHR are guaranteed by the Constitution, are directly applicable in the Republic of Kosovo and, in the case of conflict, have priority over provisions of laws and other acts of public institutions.

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<sup>13</sup> KSC-BD-03/Rev3/2020, 2 June 2020.

<sup>14</sup> Constitution of the Republic of Kosovo, Official Gazette of the Republic of Kosovo No. K-09042008 of 9 April 2008.

14. Article 19(2) of the Law provides that the Rules shall reflect the highest standards of international human rights law including the European Convention on Human Rights ('ECHR') and the International Covenant on Civil and Political Rights ('ICCPR') with a view to ensuring a fair and expeditious trial taking into account the nature, location and specificities of the proceedings to be heard by the Specialist Chambers.

#### **IV. SUBMISSIONS**

6. Mr Shala's (the Accused') position is that [REDACTED].
15. The Defence submits that [REDACTED].
16. The Defence therefore submit that [REDACTED].

#### **V. CLASSIFICATION**

7. [REDACTED].

#### **VI. CONCLUSION**

8. The Defence respectfully request the Trial Panel to [REDACTED].

**Word Count: [1321 words]**



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**Toby Cadman**

**Specialist Counsel**

**19 November 2024**

**At Abu Dhabi, United Arab Emirates**