

**Annex 2 to**  
**URGENT Prosecution submissions on plea agreements and sentencing**

Confidential



## SPECIALIST PROSECUTOR'S OFFICE

The Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and Haxhi Shala,KSC-BC-2023-10Introduction

1. This document constitutes the Plea Agreement ('Agreement') between Sabit JANUZI, through his Specialist Counsel, Jonathan ELYSTAN REES, and the Specialist Prosecutor's Office ('SPO' or 'Prosecution'). This agreement sets out the entire understanding of the Parties as to its nature and consequences and as to the nature and consequences of Sabit JANUZI's admission of guilt. It is further intended to assist the Parties and the Trial Panel of the Kosovo Specialist Chambers ('KSC') in ensuring that the plea is knowingly and voluntarily made, in accordance with Rule 94 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ('Rules').
2. The terms of the agreement are as follows:

Agreement Regarding Admission of Guilt

3. Sabit JANUZI agrees to admit guilt before the Trial Panel pursuant to Rule 94 of the Rules in relation to Counts Two (2) and Three (3) of the Indictment, dated 10 July 2024, to the extent they are alleging, in Count Two (2), obstructing official persons in performing official duties by participating in the common action of a group between at least 5 and 12 April 2023, punishable under Kosovo Criminal Code ('KCC') Articles 17, 21, 28, 33, 35, and 401(2) and (5), and Articles 15(2) and 16(3) of the Law on the Specialist Chambers and Specialist Prosecutor's Office ('Law'), and, in Count Three (3), intimidation during criminal proceedings by means of a promise of a gift or any other form of benefit, between at least 5 and 12 April 2023, punishable under KCC Articles



## SPECIALIST PROSECUTOR'S OFFICE

17, 21, 31, 33, 35, and 387, and Articles 15(2) and 16(3) of the Law, including all modes of liability alleged therein.

Factual Basis

4. The principal factual basis for Sabit JANUZI's admission of guilt is set forth in the Agreed Factual Basis attached hereto as Annex 1.
5. Sabit JANUZI and the Prosecution agree that if the Prosecution were to proceed with evidence, the facts and allegations as set out in paragraphs 8-9, 13-18, and 24 (limited to sub-paragraphs i(i), ii, and iii) of the Indictment dated 10 July 2024 would be proven beyond reasonable doubt, and that those facts are true and correct and not disputed by Sabit JANUZI. Sabit JANUZI retains his right to dispute any of the other facts or allegations contained in the Indictment dated 10 July 2024, and any findings based thereon.
6. The Prosecution and the Specialist Counsel in consultation with Sabit JANUZI have jointly prepared the Agreed Factual Basis. Sabit JANUZI has reviewed it in a language he fully understands with his Specialist Counsel, and he affirms that the facts contained therein are true and correct to the best of his knowledge. He further agrees that those facts support a finding of guilt on the charges described at paragraph 3 above.
7. Sabit JANUZI agrees to make an admission of guilt in relation to the charges identified at paragraph 3 above because he is in fact guilty and acknowledges his guilt and accepts full responsibility for his conduct as described in the Agreed Factual Basis.

Nature of the Charges

8. Sabit JANUZI fully understands that he is admitting guilt in relation to Counts Two (2) and Three (3) of the Indictment, as described above, and specifically



## SPECIALIST PROSECUTOR'S OFFICE

admitting his conduct as set forth in paragraphs 8-9, 13-18, and 24 (limited to sub-paragraphs i(i), ii, and iii) of the Indictment and as further described in the Agreed Factual Basis.

9. Sabit JANUZI understands that if a trial were held, the Prosecution would be required to prove the following elements of Articles 21, 387, and 401(2) and (5), beyond reasonable doubt:

*Count Two (2)*

- a. Participation in a group which by common action (KCC Article 401(2))
- b. Obstructs or attempts to obstruct an official person in performing official duties (KCC Article 401(2))
- c. The offence was committed against a judge, a prosecutor, an official of a court, prosecution officer or a person authorized by the court and prosecution office, or a police officer during the exercise of their official functions (KCC Article 401(5))
- d. Awareness of, and desire to commit, the act, or awareness that a prohibited consequence can occur as a result of the act or omission and accession to its occurrence (KCC Article 21)

*Count Three (3)*

- a. The use of force or serious threat, or any other means of compulsion, a promise of a gift or any other form of benefit (KCC Article 387)
- b. To induce another person to refrain from making a statement or to make a false statement or to otherwise fail to state true information to the police, a prosecutor or a judge and such information relates to obstruction of criminal proceedings (KCC Article 387)





## SPECIALIST PROSECUTOR'S OFFICE

- c. Awareness of, and desire to commit, the act, or awareness that a prohibited consequence can occur as a result of the act or omission and accession to its occurrence (KCC Article 21)

Penalty and Sentencing

10. Sabit JANUZI understands that, pursuant to Article 44 of the Law, the penalties that may be imposed by a Trial Panel following a conviction in this case include:
  - a. a term of imprisonment up to and including ten (10) years' imprisonment; and
  - b. an order to make restitution or pay compensation to a victim or victims collectively, or to forfeit property, proceeds and any assets used for or deriving from the commission of the crime and their return to their rightful owner or sale and share between victims under Article 22 of the Law.
11. Sabit JANUZI agrees to the imposition of a sentence within the range of 24-30 months' imprisonment.
12. Sabit JANUZI understands that:
  - a. should the interpretation of the Trial Panel, as set out in decision KSC-BC-2023-10/F00612, be upheld, he will be precluded from pursuing appellate remedies against any judgment or any sentencing decision which accords with the sentencing recommendation in paragraph 16(a) below; and/or
  - b. in any event, he agrees that he will not appeal or otherwise challenge his sentence in the event that the Panel, considering only those specific facts and allegations agreed to by him in this Agreement and the Agreed



## SPECIALIST PROSECUTOR'S OFFICE

Factual Basis, imposes a term of imprisonment of 30 months or below;  
and

- c. he agrees that he will not move to withdraw his guilty plea or appeal his conviction pursuant to his guilty plea.

13. Sabit JANUZI understands that, in determining the sentence, the Trial Panel will apply the punishments for the Article 15(2) crimes provided in the 2019 KCC and, where applicable, any aggravating and mitigating factors, including the gravity of the crime and its consequences, the individual circumstances of the convicted person and any cooperation with the SPO and the KSC, as provided in Article 44 of the Law and Rule 163 of the Rules.

14. This Agreement does not in any way limit the Parties' ability to offer admissible evidence or make submissions to the Trial Panel regarding the factors referred to in paragraph 13 above or the determination of an appropriate sentence, so long as such evidence and submissions are not inconsistent with this Agreement and the Agreed Factual Basis.

#### Reparations

15. The SPO and Defendant Sabit JANUZI agree that, to the extent reparations may be applicable in this case, the issue of reparations will be addressed by the parties in submissions to the Trial Panel at or prior to the time of sentencing.

#### Agreements by the Specialist Prosecutor's Office

16. In exchange for Sabit JANUZI's admission of guilt, should the Plea Agreement be accepted by the Trial Panel, the Prosecution agrees to the following:

- a. the Prosecution will recommend to the Trial Panel a sentence within the range of 24-30 months' imprisonment and recommend that Sabit JANUZI be given credit for the time he has served in the custody of the KSC;



## SPECIALIST PROSECUTOR'S OFFICE

- b. further:
- a. should the interpretation of the Trial Panel, as set out in decision KSC-BC-2023-10/F00612, be upheld, the Prosecution will be precluded from pursuing appellate remedies against any judgment or any sentencing decision which accords with the sentencing recommendation in paragraph 16(a) above; and/or
  - b. in any event, the Prosecution will not appeal or otherwise challenge the sentence imposed by the Trial Panel in the event the Panel imposes a term of imprisonment of 24 months or above; and
  - c. the SPO will withdraw without prejudice to either party the remaining charge against Sabit JANUZI as set out in the Indictment of 10 July 2024.

Consequences of the Admission of Guilt for the Exercise of Certain Rights

17. By making an admission of guilt in relation to Counts Two (2) and Three (3) of the Indictment, Sabit JANUZI understands that he will be giving up, in whole or in part, the opportunity to exercise the following rights:
- a. the right to plead not guilty and to require the Prosecution to prove the charges in the Indictment beyond reasonable doubt at a fair and impartial public trial;
  - b. the right to be tried in his presence, and to defend himself through a Specialist Counsel at such trial;
  - c. the right to raise defences and grounds for excluding criminal responsibility and to present admissible evidence at such trial (without prejudice to the right to make submissions and present evidence with regard to sentencing);





## SPECIALIST PROSECUTOR'S OFFICE

- d. the right not to be compelled to testify against himself or to confess guilt;
  - e. the right to examine, or to have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him (without prejudice to his right to examine any witness that may be called to testify, and his right to call witnesses and have them examined on his behalf, at any proceedings with regard to sentencing);
  - f. the right to pursue appellate remedies with regard to conviction or sentencing, as specified in paragraph 12 above.
18. In pleading guilty, Sabit JANUZI retains all other rights, including, in particular:
- a. the right to be represented by Specialist Counsel at all stages of the proceedings and to communicate freely with such counsel in confidence;
  - b. the right to submit any information or evidence relevant for the determination of the sentence, pursuant to Rule 162(1) and (5) of the Rules; and
  - c. the right to appeal any reparations (if imposed in this case).

Voluntariness of the Admission of Guilt

19. Sabit JANUZI acknowledges that he has entered into this Agreement freely and voluntarily after sufficient consultation with his Specialist Counsel, that no threats were made to induce him to make an admission of guilt, and that the only promises made to him are those set forth in this Agreement.





## SPECIALIST PROSECUTOR'S OFFICE

Agreement Not Binding on the Kosovo Specialist Chambers or on Other Jurisdictions

20. Sabit JANUZI and the Prosecution understand that no term of this Agreement is binding on the Trial Panel of the KSC, as provided in Rule 94 of the Rules.
21. The Parties further understand that the Trial Panel may propose amendments to the Agreement for consideration by the Parties, or reject the Plea Agreement if the conditions of Rule 94(5) are not met and order that the proceedings continue under Rule 94(7) of the Rules. If the Trial Panel orders the proceedings to continue under Rule 94(7) of the Rules, it will consider the Plea Agreement as not having been made.
22. Sabit JANUZI understands that the Agreement does not bind the KSC, nor any other national or international authorities or organisations.

Other Agreements

23. Except as expressly set forth herein, there are no promises, understandings, or agreements between the Prosecution and Sabit JANUZI or his Specialist Counsel, Jonathan ELYSTAN REES.

Declaration of Sabit JANUZI

24. I, Sabit JANUZI, have read this Agreement in a language which I fully understand, and have carefully reviewed every part of it with my Specialist Counsel, Jonathan ELYSTAN REES. Jonathan ELYSTAN REES has advised me of the nature of the charges against me, my rights, possible defences, and of the consequences of entering into this Agreement and making an admission of guilt. No other promises or inducements have been made to me, other than those contained in this Agreement. Furthermore, no one has threatened or forced me in any way to enter into this Agreement. I have entered into this



SPECIALIST PROSECUTOR'S OFFICE

Agreement freely and voluntarily, and I am of sound mind. I understand the terms of this Agreement, and I voluntarily agree to each of them.

Sabit JANUZI

6. 12. 2024.

Date

Declaration of Jonathan ELYSTAN REES

25. I, Jonathan ELYSTAN REES, in the capacity of Sabit JANUZI's Specialist Counsel, have carefully reviewed every part of this Agreement with my client. Furthermore, I have fully advised my client of his rights, and possible defences, of the maximum possible sentence, and of the consequences of entering into this Agreement and of making an admission of guilt. To my knowledge, my client is of sound mind and his decision to enter into this Agreement is an informed and voluntary one.

\_\_\_\_\_

Jonathan ELYSTAN REES

6 -12 - 2024

\_\_\_\_\_

Date

Specialist Counsel for Sabit JANUZI



SPECIALIST PROSECUTOR'S OFFICE

26. The undersigned parties fully agree to each and every term and condition of this Agreement:

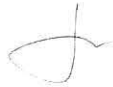
Done in English and Albanian, the English being authoritative.

  
\_\_\_\_\_

Sabit JANUZI

6. 12. 2024

Date

  
\_\_\_\_\_

Jonathan ELYSTAN REES

6 - 12 - 2024

Date

Specialist Counsel for Sabit JANUZI

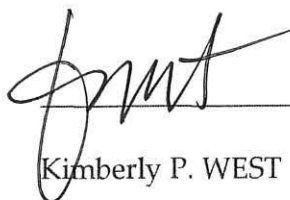
  
\_\_\_\_\_

Tazneen SHAHABUDDIN

6/12/24

Date

Prosecutor

  
\_\_\_\_\_

Kimberly P. WEST

6 December 2024

Date

Specialist Prosecutor



## SPECIALIST PROSECUTOR'S OFFICE

ANNEX 1AGREED FACTUAL BASIS

The Defendant Sabit JANUZI accepts that he was part of a group which sought to induce Witness 1 to refrain from giving evidence before the Kosovo Specialist Chambers through the promise of a benefit. In particular, members of the group – acting at the direction of Haxhi SHALA – approached Witness 1 at his home on 5 and 12 April 2023, respectively. During the 5 April 2023 approach, Ismet BAHTIJARI told Witness 1 that he should withdraw his testimony before the Kosovo Specialist Chambers. During the 12 April 2023 approach, the Defendant Sabit JANUZI followed up on the first approach and relayed to Witness 1 an offer that Haxhi SHALA and others would help him if he withdrew his testimony. Before and after each of the 5 and 12 April 2023 approaches the Defendant Sabit JANUZI communicated and coordinated with other group members regarding their interactions with Witness 1.