



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA 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:** 16 January 2025

**Language:** English

**Classification:** **Public**

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**Order for Submission of Evidentiary Material**

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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 order for submission of evidentiary material.

## I. PROCEDURAL BACKGROUND

1. On 13 November 2024, the Specialist Prosecutor's Office (SPO) informed the Panel that it entered into plea agreements with Haxhi Shala (Mr Shala), Sabit Januzi (Mr Januzi) and Ismet Bahtijari (Mr Bahtijari) (collectively, Accused) and disclosed said agreements to the Panel.<sup>1</sup>

2. On 6 December 2024, pursuant to a decision by the Panel,<sup>2</sup> the SPO filed: (i) revised versions of each plea agreement; (ii) submissions on said agreements and sentencing; and (iii) a revised indictment.<sup>3</sup> On the same day, the Defence for Mr Shala,<sup>4</sup> the Defence for Mr Januzi<sup>5</sup> and the Defence for Mr Bahtijari<sup>6</sup> filed their respective submissions addressing matters related to sentencing and presenting relevant information and/or evidence.

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<sup>1</sup> KSC-BC-2023-10, F00596, Specialist Prosecutor, *URGENT Prosecution notification of plea agreements*, 13 November 2024, confidential, with Annexes 1-3, confidential. Corrected versions of the cover filing and the annexes were filed on 14 November 2024, F00596/COR, F00596/COR/A01, F00596/COR/A02, F00596/COR/A03.

<sup>2</sup> KSC-BC-2023-10, F00612, Trial Panel I, *Decision on Matters Related to Plea Proceedings*, 29 November 2024, confidential, paras 20-23, 27, 34(a)-(c) with Annex 1, confidential and *ex parte*.

<sup>3</sup> KSC-BC-2023-10, F00618, Specialist Prosecutor, *URGENT Prosecution submissions on plea agreements and sentencing*, 6 December 2024, confidential, with Annexes 1-2, public (containing the Shala Plea Agreement and the Januzi Plea Agreement, respectively) and Annex 3, confidential; F00619, Specialist Prosecutor, *URGENT Submission of revised Indictment with confidential Annex 1*, 6 December 2024, confidential, with Annex 1, confidential.

<sup>4</sup> KSC-BC-2023-10, F00616, Shala Defence, *Written Submissions on Sentencing*, 6 December 2024, confidential, with Annexes 1-4, confidential.

<sup>5</sup> KSC-BC-2023-10, F00617, Januzi Defence, *Januzi Submissions re Sentence pursuant to Plea Agreement*, 6 December 2024, confidential.

<sup>6</sup> KSC-BC-2023-10, F00620, Bahtijari Defence, *BAHTIJARI Submissions on Sentencing*, 6 December 2024, confidential, with Annexes 1-3, confidential. A corrected version was filed on 11 December 2024, F00620/COR.

3. On 16 December 2024, the SPO informed the Panel that it entered into a new plea agreement with Mr Bahtijari and disclosed said agreement to the Panel.<sup>7</sup>
4. On 17 December 2024, the SPO filed a further revised indictment.<sup>8</sup>
5. On 18 and 19 December 2024, the Panel held hearings on the plea agreements.<sup>9</sup>

## II. APPLICABLE LAW

6. The Panel notes Article 40(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rules 9(5)(a) and 94 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (Rules).

## III. ANALYSIS

7. The Panel recalls that it may approve the plea agreements, if it is satisfied, amongst other, that there is a sufficient factual basis establishing the essential facts that are required to prove the offences and the participation of the Accused in them, as provided under Rule 94(5)(e) of the Rules. In this context, the Panel notes the factual basis agreed to by the Parties, as set out in each plea agreement.<sup>10</sup> Moreover, the Panel notes that, according to the plea agreements, if the SPO were to proceed with evidence, the facts and allegations set out in the confirmed indictment of 10 July 2024, which reflect the agreed factual basis, would be proven beyond reasonable doubt.<sup>11</sup>

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<sup>7</sup> KSC-BC-2023-10, F00628, Specialist Prosecutor, *URGENT Joint submission of Plea Agreement*, 16 December 2024, confidential, with Annex 1, public (containing the Bahtijari Plea Agreement).

<sup>8</sup> KSC-BC-2023-10, F00630, Specialist Prosecutor, *Submission of Further Revised Indictment*, 17 December 2024, confidential, with Annex 1, confidential.

<sup>9</sup> KSC-BC-2023-10, Transcript of Hearing, 18 December 2024, confidential, pp. 378-532; Transcript of Hearing, 19 December 2024, confidential, pp. 533-604.

<sup>10</sup> See Shala Plea Agreement, p. 12; Januzi Plea Agreement, p. 12; Bahtijari Plea Agreement, p. 12.

<sup>11</sup> See Shala Plea Agreement, para. 5; Januzi Plea Agreement, para. 5; Bahtijari Plea Agreement, para. 5.

8. In order to determine whether the requirement of Rule 94(5)(e) of the Rules is met, the Panel finds it necessary to examine whether the factual basis agreed to by the Parties is also supported by evidence.<sup>12</sup> To this end, the Panel orders the Parties to submit, either jointly or separately, the evidentiary material they deem relevant to the Panel's assessment under Rule 94(5)(e) of the Rules, as well as observations, indicating why the evidence in question is relevant, no later than **Friday, 24 January 2025, at 16:00**. Said evidence shall be attached as annex(es) to the Parties' written observations. Furthermore, in order to ensure that the proceedings continue expeditiously, the Panel finds it appropriate to shorten the time limits for the Parties' responses and replies, pursuant to Rule 9(5)(a) of the Rules. Accordingly, Parties shall file responses, if they so wish, no later than **Thursday, 30 January 2025, at 16:00**. Replies, if any, shall be filed no later than **Monday, 3 February 2025, at 16:00**.

9. Importantly, the Panel stresses that the proposed evidentiary material will be considered *solely* for the purpose of establishing whether the factual basis as agreed and circumscribed by the SPO and each accused in the plea agreements is also supported by evidence.

#### IV. DISPOSITION

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

- a. **ORDERS** the Parties to submit the evidentiary material they deem relevant to the Panel's assessment under Rule 94(5)(e) of the Rules, as well as observations, indicating why the evidence in question is relevant, no later

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<sup>12</sup> Similarly, ICTY, *Prosecutor v. Ranko Češić*, IT-95-10/1-S, Trial Chamber I, Sentencing Judgement, 11 March 2004, paras 5, 14; *Prosecutor v. Momir Nikolić*, IT-02-60/1-S, Trial Chamber I, Sentencing Judgement, 2 December 2003, para. 52.

than **Friday, 24 January 2025, at 16:00**, in line with the Panel's instructions in paragraph 8;

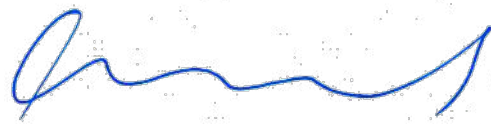
- b. **ORDERS** the Parties to file responses, if they so wish, no later than **Thursday, 30 January 2025, at 16:00** and replies, if any, no later than **Monday, 3 February 2025 at 16:00**; and
- c. **INSTRUCTS** the Parties to inform the Panel *via* e-mail in case they do not intend to file any submissions, responses and/or replies.



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



**Judge Gilbert Bitti**



**Judge Roland Dekkers**

Dated this Thursday, 16 January 2025

At The Hague, the Netherlands.