



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA 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:** 24 January 2025

**Language:** English

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**Public Redacted Version of**  
**Decision on the Eighth Review of Detention of Ismet Bahtijari**

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**To be notified to:**

**Specialist Prosecutor**

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**TRIAL PANEL I** (Panel) hereby renders this decision on the eighth review of detention of Ismet Bahtijari.

## I. PROCEDURAL BACKGROUND

1. On 26 November 2024, the Panel reviewed the detention of Ismet Bahtijari (Mr Bahtijari) and ordered his continued detention (Seventh Detention Decision).<sup>1</sup>
2. On 19 December 2024, the Panel held hearings on, *inter alia*, the plea agreement entered between the Specialist Prosecutor's Office (SPO) and Mr Bahtijari (Plea Agreement),<sup>2</sup> during which the latter pleaded guilty to one count of obstructing official persons in performing official duties and one count of intimidation during criminal proceedings.<sup>3</sup>
3. On 6 January 2025, the SPO filed its submissions on the eighth review of detention of Mr Bahtijari, requesting his continued detention (SPO Submissions).<sup>4</sup>
4. On 10 January 2025, the Defence for Mr Bahtijari (Bahtijari Defence) filed its response to the SPO Submissions and requested the Panel to order the conditional release of Mr Bahtijari (Defence Response).<sup>5</sup>
5. On 17 January 2025, the SPO replied to the Defence Response (SPO Reply).<sup>6</sup>

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<sup>1</sup> KSC-BC-2023-10, F00611, Trial Panel I, *Decision on the Seventh Review of Detention of Ismet Bahtijari*, 26 November 2024, confidential. A public redacted version was issued on 27 November 2024, [F00611/RED](#).

<sup>2</sup> See KSC-BC-2023-10, F00628, Specialist Prosecutor, *URGENT Joint submission of Plea Agreement*, 16 December 2024, confidential, with Annex 1, public (containing the plea agreement); Transcript of Hearing, 18 December 2024, confidential, p. 395, line 18 to p. 397, line 22; Transcript of Hearing, 19 December 2024, confidential, p. 535, line 15 to p. 592, line 4.

<sup>3</sup> Transcript of Hearing, 19 December 2024, public, p. 560, line 19 to p. 562, line 13.

<sup>4</sup> KSC-BC-2023-10, F00636, Specialist Prosecutor, *Prosecution submission pertaining to periodic detention review of Ismet Bahtijari*, 6 January 2025, public.

<sup>5</sup> KSC-BC-2023-10, F00637, Bahtijari Defence, *BAHTIJARI Submissions on detention review and request for release on humanitarian grounds*, 10 January 2025, confidential, paras 9 (p. 9), 60-61, 64.

<sup>6</sup> KSC-BC-2023-10, F00645, Specialist Prosecutor, *Prosecution reply to Bahtijari's submissions on detention review*, 17 January 2025, confidential.

## II. SUBMISSIONS

### A. SPO SUBMISSIONS

6. The SPO submits that the continued detention of Mr Bahtijari remains necessary, reasonable and proportionate, as there has been no change in circumstances that warrants deviating from the Panel's determination in the Seventh Detention Decision.<sup>7</sup>

7. More specifically, the SPO avers that there remains a grounded suspicion that Mr Bahtijari committed crimes within the jurisdiction of the Specialist Chambers (SC) as provided under Article 41(6)(a) of Law no. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law), which has been reinforced by the advancement of the proceedings, including Mr Bahtijari's guilty plea.<sup>8</sup>

8. With respect to the first limb of Article 41(6)(b) of the Law, the SPO argues that Mr Bahtijari's risk of flight "is elevated to a 'sufficiently real possibility'", given Mr Bahtijari's guilty plea to serious charges and the potential imprisonment he is facing while calling for immediate release.<sup>9</sup>

9. With respect to the second limb of Article 41(6)(b) of the Law, the SPO avers that the Panel's findings in the Seventh Detention Decision continue to apply and thus Mr Bahtijari continues to present a risk of obstructing the SC proceedings.<sup>10</sup>

10. With respect to the third limb of Article 41(6)(b) of the Law, the SPO maintains its position that the unacceptable risk of the further commission of crimes by Mr Bahtijari, especially in light of the continuing disclosure, mandates his continued detention.<sup>11</sup>

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<sup>7</sup> SPO Submissions, paras 1, 5, 18, 21, 26-27.

<sup>8</sup> SPO Submissions, paras 6-7.

<sup>9</sup> SPO Submissions, paras 8-10.

<sup>10</sup> SPO Submissions, paras 11-15.

<sup>11</sup> SPO Submissions, paras 16-18.

11. Lastly, the SPO maintains that: (i) no modalities of conditional release could sufficiently mitigate the existing risks, and (ii) as proceedings continue to move forward expeditiously, as demonstrated, in particular, by Mr Bahtijari having entered a guilty plea, Mr Bahtijari's detention remains proportional.<sup>12</sup>

12. On this basis, the SPO requests that Mr Bahtijari remain in detention.<sup>13</sup>

## B. DEFENCE RESPONSE

13. The Bahtijari Defence responds that Mr Bahtijari's conditional release is warranted, since the criteria for his continued detention, pursuant to Article 41(6) of the Law, are no longer met.<sup>14</sup>

14. In particular, the Bahtijari Defence submits that the "grounded suspicion" criterion under Article 41(6)(a) of the Law retains little relevance for the review of detention of Mr Bahtijari, given the current stage of proceedings and latest developments in the case, including Mr Bahtijari's guilty plea.<sup>15</sup>

15. With regard to the first limb of Article 41(6)(b) of the Law, the Bahtijari Defence avers that nothing has changed since the Panel's determination in the Seventh Detention Decision that Mr Bahtijari presents no risk of flight.<sup>16</sup>

16. With regard to the second and third limbs of Article 41(6)(b) of the Law, the Bahtijari Defence argues that there is no risk, nor evidence, that Mr Bahtijari will obstruct the progress of proceedings before the SC or commit other criminal offences, since: (i) there is no longer an ongoing investigation in the present case for which evidence may be destroyed, hidden, changed or forged; (ii) Mr Bahtijari's involvement in the commission of the offences, as set out in the Plea Agreement, was limited; (iii)

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<sup>12</sup> SPO Submissions, paras 19--26.

<sup>13</sup> SPO Submissions, para. 27.

<sup>14</sup> Defence Response, paras 3 (p. 2), 1 (p. 8), 60-62, 64.

<sup>15</sup> Defence Response, paras 3-6 (pp. 8-9).

<sup>16</sup> Defence Response, paras 10-11 (pp. 9-10).

Mr Bahtijari acted under direction and not from a personal desire to obstruct the SC proceedings; (iv) evidence shows that, at the time of offending, Mr Bahtijari was in fear as well as afflicted by diminished cognitive ability; (v) Mr Bahtijari's offending does not carry a significant level of seriousness given that (a) it consists of approaching one single individual, [REDACTED], without resorting to any threat and (b), following the approach, the [REDACTED]; (vi) Mr Bahtijari has no prior criminal record and has cooperated with the SPO and the SC during the proceedings, including by entering a plea agreement prior to the commencement of trial; (vii) Mr Bahtijari's demeanour during the Plea Hearing showed remorse for his actions and his goal now is to return to his quiet life with his family; (viii) the stress experienced by Mr Bahtijari as a result of the proceedings in this case alone provides abundant deterrence from re-offending; and (ix) Mr Bahtijari's good character and personal circumstances ensure his rehabilitation and compliance with any court order if released.<sup>17</sup>

17. Regarding the proportionality of detention, the Bahtijari Defence submits that the continued detention of Mr Bahtijari would be unreasonable given the offences he pleaded guilty to.<sup>18</sup>

18. On the basis of the above, the Bahtijari Defence requests that Mr Bahtijari be released to Kosovo subject to conditions that would be "acceptable to the Court".<sup>19</sup>

### C. SPO REPLY

19. The SPO replies that the Defence Response does not substantially challenge the "well-established grounds" for Mr Bahtijari's detention.<sup>20</sup> In particular, with regard to the Bahtijari Defence argument that the advanced stage of proceedings negates the risks of the second and third limbs of Article 41(6)(b) of the Law, the SPO submits that:

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<sup>17</sup> Defence Response, paras 4 (p. 9), 12-18 (pp. 10-11), 19-31 (pp. 11-13), 63.

<sup>18</sup> Defence Response, paras 7 (p. 9), 62-63.

<sup>19</sup> Defence Response, paras 60-61, 62, 64.

<sup>20</sup> SPO Reply, paras 1-2.

(i) equivalent arguments have previously been rejected by the Panel; (ii) the conduct with which Mr Bahtijari is charged took place after the beginning of trial in KSC-BC-2020-06 (Case 06); and (iii) it is premature to proceed at this juncture on the assumption that the present case has run its course since the Panel is yet to approve the plea agreements.<sup>21</sup>

### III. APPLICABLE LAW

20. The Panel notes Article 6(2) of the (European) Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Articles 29, 31(5) and 53 of the Constitution of the Republic of Kosovo (Constitution), Articles 3(2), 21(3), and 41(6) and (10)-(12) of the Law and Rules 56(2) and 57(2) of the Rules.

### IV. ANALYSIS

#### A. PRELIMINARY ISSUE

21. The Panel takes note of the arguments of the Bahtijari Defence [REDACTED].<sup>22</sup> The Panel also acknowledges the Bahtijari Defence submission that the Panel shall consider said arguments also for the purposes of the present review of Mr Bahtijari's detention.<sup>23</sup> Nevertheless, the Panel considers that the Bahtijari Defence does not clarify how the aforementioned circumstances affect, mitigate or eliminate the factors relevant for the review of Mr Bahtijari's detention, namely the criteria of Article 41(6)(a) and (b)(i), (ii), (iii) of the Law. In this light, the Panel will not consider them further for the purposes of the present review of detention of Mr Bahtijari.

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<sup>21</sup> SPO Reply, para. 3.

<sup>22</sup> Defence Response, paras 32-59.

<sup>23</sup> Defence Response, para. 7 (p. 8).

## B. MERITS

22. At the outset, the Panel recalls that the presumption of innocence, as provided for in Article 31(5) of the Constitution, Article 21(3) of the Law, and Article 6(2) of the ECHR, is the starting point for the assessment of the continued detention on remand.<sup>24</sup> Accordingly, continued detention cannot be maintained lightly and the accused should be released once his continued detention ceases to be reasonable.<sup>25</sup> The SPO bears the burden of establishing that the detention of the accused is necessary.<sup>26</sup>

### 1. Grounded Suspicion

23. The Panel recalls that, as found in the “Decision on the Confirmation of the Indictment” (Confirmation Decision),<sup>27</sup> there is a “well-grounded suspicion” within the meaning of Article 39(2) of the Law that Mr Bahtijari committed offences within the SC’s jurisdiction, namely intimidation during criminal proceedings “by serious threat, or any other means of compulsion”, and obstructing official persons in performing official duties within the meaning of Articles 387 and 401(1), (2) and (5) of the 2019 Kosovo Criminal Code, Code No. 06/L-074 (KCC), and Articles 15(2) and 16(3) of the Law.<sup>28</sup> The Panel also recalls that, as found in the “Decision on the Confirmation of Amendments to the Indictment and Related Matters” (Amendment

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<sup>24</sup> KSC-BC-2020-06, IA004/F00005/RED, Court of Appeals, [Public Redacted Version of Decision on Hashim Thaçi’s Appeal Against Decision on Interim Release](#) (Thaçi Interim Release Appeal Decision), 30 April 2021, public, para. 17.

<sup>25</sup> ECtHR, *Buzadji v. The Republic of Moldova* [GC], no. 23755/07, [Judgment](#) (*Buzadji v. The Republic of Moldova*), 5 July 2016, paras 89-90.

<sup>26</sup> KSC-BC-2020-06, F00177/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Hashim Thaçi’s Application for Interim Release](#) (Thaçi Interim Release Decision), 22 January 2021, public, para. 19 and references therein.

<sup>27</sup> KSC-BC-2023-10, F00008, Pre-Trial Judge, *Decision on the Confirmation of the Indictment* (Confirmation Decision), 2 October 2023, strictly confidential and *ex parte*. A confidential redacted version and a public redacted version of the decision were filed on 12 October 2023, F00008/CONF/RED and F00008/RED. A corrected version of the public redacted version of the decision was issued on 12 October 2023, [F00008/RED/COR](#).

<sup>28</sup> [Confirmation Decision](#), paras 95, 111, 123, 126, 131, 135, 139, 144.



Decision),<sup>29</sup> there is further well-grounded suspicion that Mr Bahtijari is criminally liable for the offence of intimidation during criminal proceedings through the additional limb of “promise of a gift or any other form of benefit” under Article 387 of the KCC, and Articles 15(2) and 16(3) of the Law.<sup>30</sup>

24. As regards the SPO’s and the Bahtijari Defence’s submissions stemming from the Plea Agreement process,<sup>31</sup> the Panel stresses at the outset that said agreement is yet to be approved by the Panel. The Panel further notes that, while the Bahtijari Defence argues that the Plea Agreement process, including Mr Bahtijari’s guilty plea, has rendered the requirement under Article 41(6)(a) of the Law no longer a significant or relevant criterion for detention,<sup>32</sup> it does not challenge the fact that there continues to be a grounded suspicion that Mr Bahtijari has committed offences under the jurisdiction of the SC.

25. Therefore, and in the absence of any contrary intervening information or developments, the Panel finds that the requirement under Article 41(6)(a) of the Law has not ceased to exist and hence continues to be met.

## 2. Necessity of Detention

26. The Panel recalls that, once the threshold in Article 41(6)(a) of the Law is met, the grounds that would justify a person’s deprivation of liberty must be “articulable” in the sense that they must be specified in detail.<sup>33</sup> On the basis of the available

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<sup>29</sup> KSC-BC-2023-10, F00377, Pre-Trial Judge, *Decision on the Confirmation of Amendments to the Indictment and Related Matters* (Amendment Decision), 8 July 2024, confidential, paras 79(a)-(c), (g). A public redacted version was issued on 9 July 2024, [F00377/RED](#).

<sup>30</sup> [Amendment Decision](#), paras 57, 63, 66, 69, 70, 79(b). *See, similarly*, KSC-BC-2023-10, F00379, Specialist Prosecutor, [Prosecution Submission of Confirmed Amended Indictment](#), 10 July 2024, public, with Annexes 1-2, confidential and Annexes 3-4, public, para. 23.

<sup>31</sup> *See supra* paras 7, 14.

<sup>32</sup> *See supra* para. 14.

<sup>33</sup> Article 19.1.31 of the Kosovo Criminal Procedure Code 2022, Law No. 08/L-032 defines “articulable” as: “the party offering the information or evidence must specify in detail the information or evidence



evidence, the specific articulable grounds must support the “belief” that any of the risks under the three limbs of Article 41(6)(b) of the Law exist.<sup>34</sup> The standard to be applied is less than certainty, but more than a mere possibility of a risk materialising.<sup>35</sup> The Panel further recalls that it may refer to findings in prior decisions if it is satisfied that the evidence or information underpinning those decisions still supports the findings made at the time of the review.<sup>36</sup> Finally, since the three grounds under Article 41(6) of the Law are listed in the alternative, the existence of one ground suffices to determine the necessity of detention of the Accused.<sup>37</sup>

### **i. Risk of Flight**

27. As regards the risk of flight under Article 41(6)(b)(i) of the Law, the Panel recalls that it has previously found that Mr Bahtijari is not at flight risk on the basis of the following factors: (i) the cooperation shown by Mr Bahtijari towards the SPO following his arrest; (ii) Mr Bahtijari’s permanent place of residence in Kosovo; (iii) his rootedness in his residential community; and (iv) his stable family relationship and economic and social links with his home country.<sup>38</sup>

28. With respect to the SPO’s general argument that the risk of flight increases due to the guilty plea entered by Mr Bahtijari and the potential imprisonment he is facing as a result,<sup>39</sup> the Panel considers that the SPO fails to present specific reasoning based on evidence supporting the belief of a “sufficiently real possibility” that Mr Bahtijari will abscond as a result of said development. In light of the above, the Panel remains satisfied that Mr Bahtijari is not at flight risk and that such a risk, even if existent,

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being relied upon”. See also KSC-BC-2020-06, IA001/F00005, Court of Appeals, [Decision on Kadri Veseli’s Appeal Against Decision on Interim Release](#), 30 April 2021, public, paras 18-19.

<sup>34</sup> [Seventh Detention Decision](#), para. 19 and any references therein.

<sup>35</sup> [Seventh Detention Decision](#), para. 19 and any references therein.

<sup>36</sup> [Seventh Detention Decision](#), para. 19 and any references therein.

<sup>37</sup> [Seventh Detention Decision](#), para. 19 and any references therein.

<sup>38</sup> [Seventh Detention Decision](#), paras 20-21.

<sup>39</sup> See *supra* para. 8.

could be adequately mitigated by conditions to be imposed upon him pursuant to Article 41(12) of the Law and Rule 56(5) of the Rules.<sup>40</sup>

## ii. Risk of Obstructing the Progress of SC Proceedings

29. As regards the risk of obstructing proceedings under Article 41(6)(b)(ii) of the Law, the Panel finds that: (i) the circumstances and factors set out in the Seventh Detention Decision continue to apply;<sup>41</sup> and (ii) no information or developments have arisen which undermine them and the conclusion they underpin.

30. To the extent that the Bahtijari Defence repeats arguments regarding the lack of such risk,<sup>42</sup> the Panel will not address them further. With respect to the Bahtijari Defence's arguments based on the Plea Agreement process and its contents,<sup>43</sup> the Panel reiterates that said agreement has yet to be approved by the Panel and, accordingly, the proceedings in this case remain ongoing, as acknowledged by the Bahtijari Defence itself.<sup>44</sup> In this light, the Panel notes that the findings of the Pre-Trial Judge in the Confirmation Decision and the Amendment Decision as to Mr Bahtijari's involvement in the events at issue remain undisturbed. Therefore, the Panel considers that the current Plea Agreement process, including Mr Bahtijari's guilty plea, does not affect its findings regarding the risk under Article 41(6)(b)(ii) of the Law contained in the Seventh Detention Decision.<sup>45</sup>

31. With respect to the Bahtijari Defence's submission on Mr Bahtijari's cooperative behaviour throughout the proceedings and while in detention,<sup>46</sup> the Panel stresses that

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<sup>40</sup> [Seventh Detention Decision](#), para. 21.

<sup>41</sup> [Seventh Detention Decision](#), paras 22-23.

<sup>42</sup> *See supra* para. 16.

<sup>43</sup> *See supra* para. 16(i)-(iii), (v).

<sup>44</sup> *See supra* para. 24. The Panel notes that in this regard the Bahtijari Defence's submission in which it acknowledges that the development of the proceedings is "subject to the Panel's decision on the plea agreements and revised indictment" (Defence Response, para. 4 (p. 9).

<sup>45</sup> *See* [Seventh Detention Decision](#), para. 22.

<sup>46</sup> *See supra* para. 16(vi).

refraining from prohibited conduct should be the norm and, if anything, it highlights the effectiveness of the detention.<sup>47</sup>

32. With respect to the Bahtijari Defence's argument that Mr Bahtijari's experienced anguish as a result of the case proceedings is a deterrent against future obstructing actions,<sup>48</sup> the Panel finds it speculative, unsubstantiated, and insufficient to undermine its conclusion, based on other factors, that there is a risk of obstruction.

33. In light of the above, the Panel finds that there continues to be a risk that Mr Bahtijari might obstruct the progress of the SC's proceedings.

### iii. Risk of Committing Further Crimes

34. As regards the further commission of crimes under Article 41(6)(b)(iii) of the Law, the Panel is mindful of the fact that, while the existence of a risk of obstruction does not automatically translate into a risk of commission of further crimes, the factors underpinning the former risk are of relevance to the assessment of the latter risk in the circumstances of the present case.<sup>49</sup>

35. Accordingly, with regard to the Bahtijari Defence's arguments already raised in the context of the risk of obstruction, the Panel notes that the findings articulated when assessing said risk also apply when examining the risk of commission of further crimes.<sup>50</sup>

36. As for Mr Bahtijari's personal circumstances and character, as submitted extensively by the Bahtijari Defence,<sup>51</sup> the Panel considers that they do not undermine its previous conclusion that Mr Bahtijari presents a risk of committing further crimes.<sup>52</sup>

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<sup>47</sup> See similarly, KSC-BC-2020-04, F00776, Trial Panel I, [Public Redacted Version of Decision on the Fifteenth Review of Detention of Pjetër Shala](#), 19 January 2024, public, para. 26.

<sup>48</sup> See *supra* para. 16(vii)-(viii).

<sup>49</sup> [Seventh Detention Decision](#), para. 24 and any references therein.

<sup>50</sup> See *supra* paras 30-33.

<sup>51</sup> Defence Response, paras 26-31.

<sup>52</sup> [Seventh Detention Decision](#), paras 24-25.

37. Therefore, in light of the above, and in the absence of any contrary intervening information, the Panel finds that there continues to be a risk that Mr Bahtijari might commit further crimes, including against witnesses who have provided or could provide evidence in the case and/or are due to appear before this Panel.

#### iv. Conclusion

38. In light of the foregoing, the Panel finds that there are articulable grounds to believe that the risk of obstructing the progress of the proceedings before the SC and the risk of committing further crimes continue to exist, therefore necessitating Mr Bahtijari's continued detention in accordance with Article 41(6)(b) of the Law. The Panel will assess below whether these risks can be adequately mitigated by any conditions for his release.

### 3. Conditional Release

39. The Panel notes that detention on remand should only be continued if there are no more lenient measures that could sufficiently mitigate the risks set out in Article 41(6)(b)(ii)-(iii) of the Law. The Panel has the obligation to inquire and evaluate, *proprio motu*, all reasonable conditions that could be imposed on an accused.<sup>53</sup> To the extent that the Bahtijari Defence does not present new conditions of release,<sup>54</sup> the Panel will not address the latter's arguments further.

40. In this regard, as found in the Seventh Detention Decision, the Panel remains of the view that there are no conditions which could address the fact that: (i) Mr Bahtijari has the means and the possibility to approach Witness 1, and has likely access to the associated networks of his co-Accused Haxhi Shala and other senior KLA leadership;

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<sup>53</sup> [Seventh Detention Decision](#), para. 27 and any references therein.

<sup>54</sup> Defence Response, paras 60-61, 64.

and, accordingly, (ii) should he be released, Mr Bahtijari would have the motive, means and opportunity to exert pressure on Witness 1 to dissuade him from participating in the proceedings, or to otherwise tamper with evidence.<sup>55</sup> The Panel recalls that, while the risk of illicit messages and instructions cannot be entirely eliminated, the measures in place at the SC Detention Facilities, viewed as a whole, provide assurances against unmonitored visits and Mr Bahtijari's communications with family members and preapproved visitors with a view to minimising the risk of obstruction as much as possible. Such measures, as well as additional measures, may be ordered *proprio motu* by the Panel pursuant to Rule 56(6) of the Rules.<sup>56</sup>

41. Therefore, the Panel remains satisfied that it is only through the communication monitoring framework applicable at the SC Detention Facilities that Mr Bahtijari's communications can be restricted in a manner that will sufficiently mitigate the risk of obstructing the progress of the SC's proceedings and the risk of committing further crimes, as set out in Article 41(6)(b)(ii)-(iii) of the Law.

#### 4. Proportionality of Detention

42. The Panel highlights the importance of the proportionality principle in the determination of the reasonableness of pre-trial detention and recalls that the longer a person remains in pre-trial detention, the higher the burden on the SPO to justify continued detention.<sup>57</sup> The duration of time in detention pending trial is a factor that needs to be considered along with the degree of the risks that are described in Article 41(6)(b) of the Law, in order to determine whether, all factors being considered, the continued detention "stops being reasonable" and the individual needs to be released.<sup>58</sup> However, the question whether it is reasonable for an accused to remain in

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<sup>55</sup> [Seventh Detention Decision](#), para. 28 and any references therein.

<sup>56</sup> [Seventh Detention Decision](#), para. 28 and any references therein.

<sup>57</sup> [Seventh Detention Decision](#), para. 30 and any references therein.

<sup>58</sup> [Seventh Detention Decision](#), para. 30 and any references therein.

detention must be assessed based on the facts and circumstances of each case and according to its specific features.<sup>59</sup>

43. In this respect, the Panel recalls that: (i) Mr Bahtijari has been detained since his arrest on 5 October 2023;<sup>60</sup> (ii) he is charged with two counts of obstructing official persons in performing official duties and one count of intimidation during criminal proceedings, under alternative limbs of conduct, and pursuant to various modes of liability, carrying a possible sentence of up to five years and ten years of imprisonment, respectively;<sup>61</sup> and (iii) the risks under Article 41(6)(b)(ii) and (iii) of the Law cannot be mitigated by any conditions for release.<sup>62</sup>

44. Furthermore, pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, Mr Bahtijari's detention shall be reviewed every two months or as soon as a change in circumstances arises. The Panel has duly appraised the additional time spent in detention by Mr Bahtijari following the Seventh Detention Decision, including the resulting increase of the SPO's burden to justify Mr Bahtijari's continued detention. However, the Panel weighs these factors against the remaining ones and, in particular: (i) the serious nature of the charges against Mr Bahtijari; and (ii) the impossibility to mitigate the risks under Article 41(6)(b)(ii) and (iii) of the Law. As regards the advancement of the proceedings, the Panel recalls that: (i) on 12 November 2024, it adjourned the commencement of the trial, upon request of the Parties, in order to facilitate the completion of the process pursuant to Rule 94 of the Rules, following the notification of plea agreements;<sup>63</sup> (ii) on 18 and 19 December 2024, it held hearings on the plea agreements for each accused;<sup>64</sup> and (iii) on 16 January 2025, it ordered the Parties to submit, by 24 January 2025, evidentiary material that they deem relevant to

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<sup>59</sup> [Seventh Detention Decision](#), para. 30 and any references therein.

<sup>60</sup> See [Seventh Detention Decision](#), para. 31.

<sup>61</sup> See *supra* para. 23. See also [Seventh Detention Decision](#), para. 31.

<sup>62</sup> See *supra* paras 40-41.

<sup>63</sup> KSC-BC-2023-10, F00593, Trial Panel I, *Order on Adjournment of Hearings*, 12 November 2024, confidential, para. 5(a). A public redacted version was issued on the same day, [F00593/RED](#).

<sup>64</sup> See *supra* para. 2.

the Panel's assessment under Rule 94(5)(e) of the Rules,<sup>65</sup> and (iii) [REDACTED],<sup>66</sup> [REDACTED],<sup>67</sup> [REDACTED]. As recalled above, the Panel underlines that it has yet to approve the Plea Agreement.<sup>68</sup> Considering the above, the Panel finds that the detention of Mr Bahtijari has not become unreasonable under Rule 56(2) of the Rules.

45. For the foregoing reasons, the Panel concludes that, for the purposes of the periodic review of Mr Bahtijari's detention pursuant to Article 41(10) of the Law and Rule 57(2) of the Rules, the time Mr Bahtijari has spent in detention is not disproportionate.

## V. DISPOSITION

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

- a. **ORDERS** Mr Bahtijari's continued detention;
- b. **ORDERS** the SPO to file submissions on the next review of detention of Mr Bahtijari by no later than **Thursday, 6 March 2025**;
- c. **ORDERS** the Defence to file submissions on the next review of detention of Mr Bahtijari, if it so wishes, by no later than **Thursday, 13 March 2025**;
- d. **DETERMINES** that any reply, if the SPO so wishes, shall be filed by no later than **Monday, 17 March 2025**;
- e. **ORDERS** the Defence to file a public redacted version of the Defence Submissions by no later than **Monday, 3 February 2025**; and
- f. **INSTRUCTS** the Registry to reclassify as public the SPO Reply.

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<sup>65</sup> KSC-BC-2023-10, F00642, Trial Panel I, [Order for Submission of Evidentiary Material](#), 16 January 2025, public.

<sup>66</sup> [REDACTED].

<sup>67</sup> [REDACTED].

<sup>68</sup> See *supra* paras 24, 30.





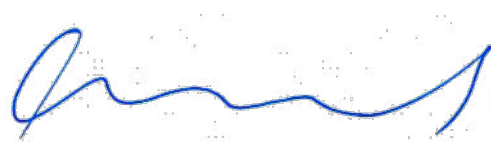
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**Judge Mappie Veldt-Foglia**  
**Presiding Judge**



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**Judge Gilbert Bitti**



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**Judge Roland Dekkers**

Dated this Friday, 24 January 2025

At The Hague, the Netherlands.