



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: **KSC-BC-2023-10**

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

Filed by: Registrar

Date: 16 January 2025

Language: English

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

Classification: Public

Public Redacted Version of "Registrar's Submissions on Bahtijari Request for Release on Humanitarian Grounds (F00637)" (filing F00643)

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I. BACKGROUND

1. On 10 January 2025, the Defence for Mr Ismet Bahtijari ('Mr Bahtijari' or 'the Accused') filed its submissions on detention review,¹ in response to the Specialist Prosecutor.² In the same submissions, the Defence also requested Mr Bahtijari's conditional release for humanitarian reasons ('Humanitarian Release Request').

2. The Defence submits that "urgent humanitarian reasons" exist to release Mr Bahtijari, referring to "acute health conditions and necessity of appropriate medical treatment".³ The Defence also refers to "the deterioration of [Mr Bahtijari's] health between October 2023 and October 2024",⁴ and submits that [REDACTED].⁵

3. [REDACTED].⁶

II. SUBMISSIONS

4. Pursuant to [REDACTED] and Rule 23(1) of the Rules,⁷ the Registrar makes the following submissions related to the level of health care that Mr Bahtijari is receiving in the Detention Facilities.⁸

5. As stipulated in the Detention Rules, and indicated by the Registrar in response to previous, similar submissions of the Defence,⁹ all Detainees in the Specialist Chambers' Detention Facilities benefit from *at least* the same standards of health care as are available in the Host State.¹⁰ Detainees are seen on a regular basis by the Medical

¹ KSC-BC-2023-10, F00637, BAHTIJARI Submissions on detention review and request for release on humanitarian grounds, 10 January 2025, confidential.

² F00636, Prosecution submission pertaining to periodic detention review of Ismet Bahtijari, 6 January 2025, public.

³ Humanitarian Release Request, paras 4, and sub-title IV, 2(b).

⁴ *Id.*, para. 9.

⁵ [REDACTED].

⁶ [REDACTED].

⁷ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020, public ('Rules').

⁸ [REDACTED].

⁹ F00337, Registrar's Submissions Pursuant to F00293, 14 June 2024, confidential, para. 13; [REDACTED].

¹⁰ Rules of Detention, KSC-BD-08-Rev1, 23 September 2020), Detention Rule 30(2).

Officer in the Detention Facilities, who is responsible for the care of the physical and mental health of all Detainees.¹¹ The Medical Officer takes all measures necessary for a Detainee's treatment; this includes referral to a specialist, where specialised assessments or treatments are required.¹² [REDACTED].

6. Furthermore, pursuant to the Rules of Detention, the Panel shall be promptly informed whenever the Medical Officer considers continued detention or conditions of detention adversely affect a Detainee's health, or in case of serious illness or injury. Specifically, whenever the Medical Officer considers that the physical or mental health of a Detainee has been or likely will be adversely affected by continued detention or by any conditions of detention, subject to the informed consent of the Detainee, the Medical Officer shall promptly report to the Chief Detention Officer, who shall alert the Registrar. The matter is to be brought promptly to the attention of the Competent Panel by the Registrar.¹³ The Competent Panel shall also be promptly informed by the Registrar in case of serious illness or serious injury of a Detainee.¹⁴ [REDACTED].¹⁵

7. With regard to medical experts, the Defence [REDACTED] the Panel had refused its request for medical assessments of Mr Bahtijari,¹⁶ and submits that such assessments could not be covered through legal aid, as the funding is "not sufficient to pay for four separate medical examinations", particularly as the Defence used the funding allocated for a single report at reduced costs.¹⁷

8. To the extent the Defence might suggest that such assessments would be required for Mr Bahtijari's treatment, further to the above submissions,¹⁸ the Registrar

¹¹ Detention Rules 30(4), 31(1).

¹² *Id.*; Detention Rule 32.

¹³ Detention Rule 31(4).

¹⁴ Detention Rule 37(1).

¹⁵ [REDACTED].

¹⁶ [REDACTED]; F00508, fn. 15 above, paras 13, 24-27, 33.

¹⁷ Humanitarian Release Request, para. 13.

¹⁸ *See* para. 5 above.

clarifies that legal aid is not envisaged to cover medical treatment of a Detainee.¹⁹ Such treatment is provided through the medical services in the Detention Facilities.

9. In the interest of ensuring an accurate record before the Panel, the Registrar takes the opportunity to bring a further clarification related to legal aid. As the Panel is aware, Mr Bahtijari benefits from legal aid from the Specialist Chambers as of 10 May 2024.²⁰ As such, in line with the Legal Aid Regulations, the Defence receives a monthly remuneration for Counsel and members of her team.²¹ In addition, EUR 10,250 is allotted to Assigned Counsel for contracting external investigators/consultants for all stages, EUR 2,562 to support investigations/consultants (e.g. for travel) for the pre-trial stage, and EUR 5,125 for the trial stage.²² [REDACTED].²³ Finally, it is recalled that where during the course of proceedings, Counsel considers the legal aid fee is not sufficient, she may request that the Registrar amends the legal aid fee granted accordingly.²⁴ [REDACTED].

¹⁹ See Law on Specialist Chambers and Specialist Prosecutor's Office, Law No. 05/L-053, 3 August 2015, art. 34(7); Legal Aid Regulations, KSC-BD-25-Rev1, 22 February 2024, public ('LAR'), reg. 14.

²⁰ F00284, Notification of Conditional Assignment of Counsel, and Termination of Appointment of Co-Counsel, to Ismet Bahtijari, 13 May 2024, public.

²¹ LAR, reg. 14(a).

²² LAR, reg. 14(b), and Annex C, p. 3. Allotments may be carried over to the next month or Stage of Proceedings if not spent – *ibid.*

²³ [REDACTED].

²⁴ LAR, reg 18(6).

III. CLASSIFICATION

10. Pursuant to Rule 82(3) and (4) of the Rules, this filing is classified as confidential, in line with the classification of the Humanitarian Release Request. Following reclassification or issuance of a redacted version of this filing, the Registrar will file a public redacted version.

Word count: 1162

A handwritten signature in cursive script, reading "Fidelma Donlon", written over a horizontal line.

Dr Fidelma Donlon
Registrar

Thursday, 16 January 2025
At The Hague, the Netherlands