

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: Dr Fidelma Donlon

Filing Participant: **Specialist Counsel for Ismet Bahtijari**

Date: 6 February 2025

Language: English

Classification: Confidential

BAHTIJARI SUBMISSIONS ON CLASSIFICATION OF F00637 AND F00650

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I. INTRODUCTION

1. Pursuant to Rule 82(3) of the *Rules of Procedure and Evidence* and the Trial Panel's oral order on 4 February 2025, the Defence for Mr Ismet Bahtijari ('the Defence') hereby submits its reasons for retaining the confidential classification of F00637 and F00650 in relation to the request for Mr Bahtijari's release on humanitarian grounds.

II. PROCEDURAL HISTORY

2. On 6 January 2025, the SPO requested for continued detention of Mr Bahtijari.¹
3. On 10 January 2025, the Defence filed its submissions on detention which included a request for Mr Bahtijari's release on humanitarian grounds (F00637).² A public redacted version was filed on 3 February 2025.³
4. On 15 January 2025, the Panel ordered responses by the Registry and the SPO to the Defence request,⁴ who did so on 16, 17 and 21 January respectively.⁵
5. On 17 January 2025, the Defence submitted an addendum report from Professor Henry Kennedy.⁶ A public redacted version of the cover filing was filed on 5 February 2025.⁷

¹ F00636, Prosecution submission pertaining to periodic detention review of Ismet Bahtijari, 6 January 2025, public.

² F00637, BAHTIJARI Submissions on detention review and request for release on humanitarian grounds, 10 January 2025, confidential.

³ F00637/RED, Public Redacted Version of BAHTIJARI Submissions on detention review and request for release on humanitarian grounds, 3 February 2025, public.

⁴ F00639, Order for Submissions in Relation to F00637, 15 January 2025, confidential.

⁵ F00645, Prosecution reply to Bahtijari's submissions on detention review, 17 January 2025, confidential; F00643, Registrar's Submissions on Bahtijari Request for Release on Humanitarian Grounds (F00637), 16 January 2025, confidential; F00649, Prosecution response to Bahtijari humanitarian release request, 21 January 2025, confidential.

⁶ F00646/A01, Annex 1 to BAHTIJARI Request to Submit Additional Information, 17 January 2025, confidential.

⁷ F00646/RED, Publicly redacted version BAHTIJARI Request to submit further report with one confidential annex, 5 February 2025, public.

6. On 22 January 2025, the Defence replied to the Registry and SPO responses on review of detention and humanitarian release (F00650).⁸
7. On 23 January 2025, the Registry made further submissions in response to F00650.⁹
8. On 4 February 2025, the Trial Panel ordered the Defence to indicate whether it disagrees with the reclassification of F00637 and F00650 to public and, if so, specify the reasons pursuant to Rule 82(3) and indicate whether and when the classification may be changed. If the classification is to be retained, the Defence is ordered to file public redacted versions by 11 February 2025.¹⁰

III. SUBMISSIONS

9. The two filings in question contain discussion about Mr Bahtijari's personal and medical circumstances. Their confidential classification should be retained to protect Mr Bahtijari's privacy.
10. Sensitive personal data are protected under Kosovo's *Law on Protection of Personal Data*.¹¹ The confidentiality of such data does not expire.¹² Therefore, the current classification filings cannot be changed in any foreseeable circumstances.
11. The Defence has already submitted the public redacted version of F00637 with the sensitive information removed. It undertakes to do the same for F00650 by 11 February 2025. The limited extent of redaction would satisfy the interest of public access to the judicial proceedings.

⁸ F00650, Bahtijari Reply to Registry and SPO on Review of Detention and Humanitarian Release.

⁹ F00656, Registrar's Submissions on Bahtijari's New Arguments Related to Detention Conditions in Reply F00650, 23 January 2025, confidential.

¹⁰ Transcript, Decision on Plea Agreement – 4 February 2025 (Draft), p. 610, ln. 18 – p. 611, ln. 7 (private session).

¹¹ [Law on Protection of Personal Data](#) (No. 06/L-082), 25 February 2019, Article 1(1.16).

¹² Cf. [Law on Protection of Personal Data](#) (No. 06/L-082), 25 February 2019, Article 13.

IV. CONCLUSION

12. In light of the above, the Defence respectfully request that F00637 and F00650 be kept confidential for the foreseeable future, while their public redacted version will be filed by 11 February 2025.

V. CLASSIFICATION

13. This submission is classified as confidential as the corresponding oral order was made in private session. The Defence does not oppose to its reclassification to public.

Word count: 650

A handwritten signature in black ink, appearing to read 'Felicity Gerry', with a long, sweeping horizontal line underneath.

Dr Felicity Gerry KC
Counsel for Mr Bahtijari

6 February 2025

At London, the United Kingdom