

**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 Sabit Januzi

**Date:** 6 December 2024

**Language:** English

**Classification:** Confidential

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Januzi Submissions re Sentence pursuant to Plea Agreement

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## I. INTRODUCTION

1. Pursuant to the Decision<sup>1</sup>, the defence makes the following submissions addressing matters related to sentencing pursuant to the plea agreement between the Specialist Prosecutor and the defence.

## II. APPLICABLE LAW

2. Sentence should be proportional to the gravity of the criminal conduct and the culpability of the convicted person<sup>2</sup>.
3. Such a sentence will necessarily provide adequate retribution and deterrence<sup>3</sup>.
4. Rehabilitation, which aims to reintegrate the convicted person into society after his release, is also a relevant consideration for sentencing<sup>4</sup>.
5. Pursuant to Article 44(4) of the Law<sup>5</sup>, the punishment imposed for crimes under Article 15(2) of the Law shall be in line with the punishments for those crimes set out in the KCC.

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<sup>1</sup> KSC-BC-2023-10/F00612, *Decision on Matters Related to Plea Proceedings with one confidential and ex parte annex*, Trial Panel I, 29 November 2024, Confidential at paragraphs 27 and 34(c)

<sup>2</sup> KSC-BC-2020/07/F00611, *Trial Judgment*, Trial Panel II, 18 May 2022, Confidential at paragraphs 938 and 939

<sup>3</sup> KSC-BC-2020/07/F00611, *Trial Judgment*, Trial Panel II, 18 May 2022, Confidential at paragraphs 938 and 939

<sup>4</sup> KSC-BC-2020/07/F00611, *Trial Judgment*, Trial Panel II, 18 May 2022, Confidential at paragraphs 938 and 939

<sup>5</sup> Law No.05 L-053

6. Article. 44(5) of the Law requires the court to take into account aggravating and mitigating factors, including the gravity of the crime and its consequences and the individual circumstances of the convicted person.
7. Rule 163(1)(b) of the Rules<sup>6</sup> and Article 70(2) of the KCC set out specific aggravating circumstances to be taken into account where applicable.
8. Rule 163(1)(a) of the Rules and Article 70(3) of the KCC set out specific mitigating circumstances to be taken into account where applicable.
9. Rule 163(1) of the Rules specifically states that a plea agreement pursuant to Rule 94 shall result in a reduced sentence. The timing of the plea agreement shall be taken into account.
10. Pursuant to Article 48(1), (2) and (4) and 71(1.1.3) of the KCC, when the court imposes a punishment of imprisonment when the defendant has entered into a plea agreement, the court may at the same time order that that punishment shall not be executed if the convicted person does not commit another criminal offense for the verification period (which must be between 1 and 5 years). That discretion properly extends to the Specialist Chambers<sup>7</sup>.
11. The Accused falls to be sentenced on the facts set out in the plea agreement (specifically those 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) and the Agreed Factual Basis set out in Annex 1 to the plea agreement, and no other facts. No facts other than those that are agreed have been established.

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<sup>6</sup> KSC-BD-03/Rev3

<sup>7</sup> KSC-BC-2020/07/F00611, *Trial Judgment*, Trial Panel II, 18 May 2022, Confidential at paragraph 959

12. It is agreed pursuant to Rule 94 that the appropriate range of sentence is 24 to 30 months' imprisonment, and that credit is to be given for time served pursuant to Rule 163(1) of the Rules.

### III. SUBMISSIONS

13. At the hearing on 18 December 2024, the defence will submit the following on behalf of the Accused.

14. It is submitted that the appropriate sentence is at the lowest end of that range, namely 24 months.

15. The Accused was acting under direction.

16. The Accused met with Witness 1 on a single occasion only.

17. The inducement offered was simply an unspecified offer of 'help'. There can be no lower level of inducement.

18. Although Witness 1 himself then requested a monetary sum, that was subsequently rejected, and no further attempt to induce the witness was made.

19. Witness 1 subsequently gave evidence before the KSC and did not refrain.

20. There is no suggestion that an act of an SC/SPO official was in fact prevented, impeded, hindered or delayed in performing as part of his/her SC/SPO work as a result of the Accused's actions, nor any suggestion that as a result of the

diversion of time and resources, the SPO was prevented from or delayed in carrying out its regular investigative functions<sup>8</sup>.

21. None of the aggravating features listed in Rule 163(1)(b) of the Rules<sup>9</sup> of Article 70(2) of the KCC are present in the Accused's case.

22. In relation to mitigating features listed in Rule 163(1)(a)(ii) and Article 70(3) of the KCC, the following features requiring a downward adjustment of the sentence are present:

- a. Entry into a plea agreement;
- b. Remorse;
- c. The Accused has no relevant previous convictions on his record [REDACTED];
- d. The Accused's conduct after the act including voluntary surrender and any cooperation with the Specialist Prosecutor and the Specialist Chambers;
- e. Mitigating relating to his personal circumstances and character.

23. The Accused entered into a plea agreement with the SPO prior to the Opening of the trial as is preferable (see Rule 94(1)).

24. The plea agreement was not made at the last opportunity – in accordance with Rule 94(1) a plea agreement may be made as late as the closing of the case under Rule 136.

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<sup>8</sup> KSC-BC-2020/07/F00611, *Trial Judgment*, Trial Panel II, 18 May 2022, Confidential at paragraph 652-653

<sup>9</sup> KSC-BD-03/Rev3

25. The Accused did so at a time when applications in relation to disclosure failings on the part of the SPO remained (and remain) outstanding.

26. The plea agreement has saved significant court time and expense. Significant credit should be given for the entry into the plea agreement accordingly.

27. Additionally, the Accused has reflected upon his time in detention on remand and wishes to state that he is remorseful for his conduct in April 2023.

28. The Accused did show an element of cooperation with the SPO at an earlier stage which is to his credit:

- a. He handed over his mobile phone 3 May 2023 to investigators, without requiring the execution of the search order that had been granted;
- b. He was aware that he had been under investigation since that day, yet remained resident in his family home throughout; and
- c. He attended for interview at the EULEX headquarters in October 2023 when requested and gave a voluntary interview.

29. The Accused has no relevant previous convictions.

30. He is 58 years of age, [REDACTED] and a hardworking [REDACTED] [REDACTED] throughout the years since.

31. He has very strong ties to his local community, having lived and worked in the [REDACTED] throughout his lifetime. His home address was built by the family on their plot and has been renovated subsequently by the family. The Accused lives there with [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] The Accused's wife [REDACTED]  
[REDACTED]

32. The Accused is a [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

33. The Accused's financial means are modest. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

34. Most of the Accused's free time is spent with his [REDACTED] – something which he has greatly missed whilst in detention on remand. His utmost wish is simply to return home to be with his [REDACTED] again as soon as possible.

35. It is submitted that taking all of the above matters into account requires the imposition of a sentence of imprisonment at the lowest end of the appropriate range, namely 24 months' imprisonment (less time served).

36. Further, the court is invited to consider further ordering that the term of imprisonment imposed (less time served) shall not be executed unless the Accused commits another offense during a verification period of not less than

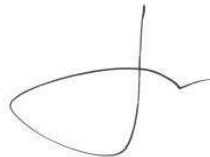
1 year. It is within the court's discretion to do so, and such an order would further both the principles of rehabilitation and prevention in creating a powerful incentive not to transgress again.

37. It is submitted that reparations under Rule 168 are not appropriate in the absence of any damage to, or in respect of, Witness 1.

#### IV. CLASSIFICATION

38. This filing is classified as confidential pursuant to Rule 82(4) of the Rules.

Word count: 1476 words



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4 November 2024

Cardiff, UK