



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

File number: KSC-SC-2025-05/CS001

Before: The President of the Specialist Chambers
Judge Ekaterina Trendafilova

Registrar: Fidelma Donlon

Date: 19 February 2025

Language: English

Classification: Confidential

Corrected Version of
Decision on Commutation, Modification or Alteration of Sentence
with Confidential and *Ex Parte* Annexes

Specialist Prosecutor:
Kimberly West

Counsel for Sabit Januzi:
Jonathan Elystan Rees

THE PRESIDENT of the Specialist Chambers (“President”), noting Article 51(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”), Rules 196 and 197 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”) and Articles 3, 6 and 9 to 11 of the Practice Direction on Commutation of Sentences (“Practice Direction”), having consulted with the Judges of the sentencing Panel, hereby issues this decision on the commutation, modification or alteration of Mr Sabit Januzi’s sentence.

I. PROCEDURAL BACKGROUND

1. On 4 February 2025, Trial Panel I issued a decision under Rule 94 of the Rules, approving the plea agreement entered into by Mr Januzi, wherein he admitted guilt to one charge of obstructing official persons in performing official duties and one charge of intimidation in criminal proceedings, and sentenced him to two years of imprisonment, with credit for time served.¹ The Trial Panel further confirmed Mr Januzi’s agreement to pay the sum of 100 Euros as reparation to the victim admitted to participate in the proceedings.²

2. On 4 February 2025, the Registrar notified the President, pursuant to Article 3(3) of the Practice Direction, that Mr Januzi will become eligible for commutation of his sentence on 5 February 2025, after having served two-thirds of his sentence.³

3. On 5 February 2025, the President requested the Registrar to collect and convey the information set forth in Rule 196(3) of the Rules and to take the steps prescribed in Article 4 of the Practice Direction.⁴

¹ Transcript, 4 February 2025, pp. 616-617.

² Transcript, 4 February 2025, pp. 616-617.

³ KSC/REG/IOR/7631, Notification of Eligibility of Mr Sabit Januzi for Commutation of Sentence, 4 February 2025 (confidential).

⁴ KSC/CHA/PRE/0998, Notice of Commutation of Sentences Messrs Sabit Januzi and Ismet Bahtijari, 5 February 2025 (confidential).

4. On 12 February 2025, the Registrar conveyed to the President the information collected pursuant to Rule 196(3) of the Rules and Article 5(1) of the Practice Direction.⁵ Specifically, the Registrar included: (i) a report from the Detention Management Unit (“DMU” and “DMU Report”); (ii) a report from the Specialist Prosecutor’s Office (“SPO” and “SPO Report”); and (iii) the Registrar’s own submissions (“Registrar’s Submissions”).

5. On 13 February 2025, Mr Januzi conveyed his observations to the Registrar’s Submissions and related reports through the Court Management Unit (“Januzi’s Submissions”).⁶

6. On 12 February 2025 and 14 February respectively, the President provided all the information received by the Registrar and Mr Januzi to the Judges of the sentencing Panel in accordance with Article 51(2) of the Law, Rule 196(1) of the Rules and Article 6 of the Practice Direction and sought their views on Mr Januzi’s commutation of sentence or alternatively, on the modification or alteration of his sentence to include conditions imposed upon his release as provided for in Articles 10 and 11 of the Practice Direction.⁷

7. Given the nature of the proceedings, the President did not consider it necessary to convene an oral hearing.

II. ANALYSIS

8. The President reiterates that persons convicted by the Specialist Chambers become eligible for *consideration* of commutation of sentence upon having served two-thirds

⁵ KSC/REG/IOR/7661, Requested Information Related to Article 5 of the Practice Direction on Commutation of Sentence Concerning Mr Sabit Januzi, 12 February 2025 (confidential).

⁶ KSC-SC-2025-05/CS001/F00001, Januzi Written Submissions on Commutation pursuant to Article 5(3) of the Practice Direction on Commutation of Sentences KSC-BD-48, 13 February 2025 (confidential and ex parte).

⁷ KSC/CHA/PRE/1002, Commutation of Sentence – Mr Sabit Januzi, 12 February 2025 (confidential).

of their sentence.⁸ Eligibility denotes consideration and *not an inherent right* to commutation after having served two-third of a sentence. Thus, commutation, modification or alteration of a sentence is a discretionary decision for the President to take in consultation with the judges of the Specialist Chambers on the basis of the “interests of justice and general principles of law”,⁹ and in accordance with the procedure set forth in the legal framework of the Specialist Chambers. There is therefore no burden of proof on the part of the President to demonstrate that the sentenced person has not fulfilled the criteria for release on conditions.¹⁰

9. The President recalls that the Law, the Rules and the Practice Direction limit her competence to considering only the eligibility of a convicted person for commutation, modification or alteration of sentence and *not* the judgments rendered by the competent Panels.¹¹

10. Further, before taking a decision, the President consults the views of the Judges of the sentencing Panels without, however, engaging with their analysis in her decision. The President will examine the factors set forth in Rule 196(3) of the Rules and determine, based on the facts of this case, whether there are sufficient factors present that warrant the commutation, modification or alteration of Mr Januzi’s sentence.

a) Genuine dissociation from the crime

11. While the Registrar submits that Mr Januzi has not made any reported expression of remorse or regret to DMU staff members regarding the crimes he has been convicted of, given that he does not engage in conversations on his case or the crimes with DMU Staff,¹² the Registrar’s and DMU report reflects that Mr Januzi

⁸ See Rule 196(2) of the Rules; Article 3(1) of the Practice Direction; Gucati Decision, para. 9

⁹ Article 51(2) of the Law.

¹⁰ Gucati Decision, para. 9.

¹¹ Gucati Decision, para. 10.

¹² Registrar’s Submissions, para. 30.

understands why he was convicted and why he is in detention.¹³

12. The SPO do not make any submissions on any genuine disassociation from his crimes, but only state that before the plea agreement and at the stage when Mr Januzi gave a voluntary statement, he denied any wrongdoing and lied to the SPO.¹⁴

13. Mr Januzi contends in his written submissions that Mr Januzi has “made a public expression of remorse and disassociated himself from his past conduct at the time of plea and sentence”.¹⁵

14. The President notes the comments of Mr Januzi when asked by the Trial Panel to confirm the statement of his Specialist Counsel who indicated on his behalf that he wished to state that he would remorseful for his conduct in April 2023, wherein he stated:

Presiding Judge: “And could you indicate to the Panel why you regret what you did?”

[...]

Mr Januzi: “Well, taking into account that my contact with a witness of the Prosecution constitutes obstruction of justice, of course, I -- I am not happy with what I did. And, of course, I'm not a legal person. But I regret what I did.”

15. Coupled with the plea agreement, through which Mr Januzi acknowledges his wrongdoing, the President considers these expressions of regret to be genuine and that Mr Januzi has chosen to disassociate himself from his actions.

16. Accordingly, the President finds that this factor weighs in favour of a possible commutation, modification or alteration of Mr Januzi’s sentence.

b) Demonstration of rehabilitation

17. Mr Januzi submits that he has shown clear signs of rehabilitation and that he

¹³ Registrar’s Submissions, para. 30.

¹⁴ SPO Submissions, para. 8.

¹⁵ Januzi Submissions, para. 26 (p. 8).

will continue to abide by any and all conditions imposed.¹⁶

18. According to the DMU Report, Mr Januzi has displayed a friendly, responsible and respectful behaviour toward DMU,¹⁷ has not engaged in any inappropriate conduct or displayed any aggressive behaviour, verbal or otherwise,¹⁸ and has fully complied with the Rules of Detention and instructions provided by staff members.¹⁹

19. The President notes that Mr Januzi has complied with all rules and regulations while detained at the Detention Facilities, has behaved in a respectful and kind manner to DMU staff and other detainees. The President further notes that Mr Januzi has voluntarily agreed to pay a small amount of reparations to Victim 1.

20. The President therefore considers that Mr Januzi has shown signs of rehabilitation and finds that this factor weighs in favour of a possible commutation, modification or alteration of Mr Januzi's sentence.

c) Prospect of resocialisation and successful resettlement

21. Mr Januzi contends that he has established positive family relationships and a stable living environment which indicate a likelihood of successful resocialization and resettlement after his release.²⁰

22. The DMU Report confirms Mr Januzi has an established family connection, which exerts a positive influence on him, and stable social networks that could support his resocialisation after release.²¹

23. The President is of the view that Mr Januzi's close and stable family ties and

¹⁶ Januzi Submissions, para. 6.

¹⁷ DMU Report, para. 9.

¹⁸ DMU Report, para. 9.

¹⁹ DMU Report, para. 9, 13.

²⁰ Januzi Submissions, para. 4.

²¹ DMU Report, paras 23, 25.

social network will likely assist him in adapting and integrating in Kosovo if released.

24. The President therefore considers this information as a positive factor when assessing whether to grant Mr Januzi's commutation, modification or alteration of his sentence.

d) Gravity of the crimes for which the person was convicted

25. Mr Januzi contends that as the gravity of the crime for which Mr Januzi was convicted was at the lowest end of the range within the jurisdiction of the Specialist Chambers, the factor in Rule 196(3)(d) of the Rules arguably weighs in favour of advance release, or, at least, is neutral.²²

26. The SPO submits that the offences for which Mr Januzi has been convicted for are "a grave challenge to the security and integrity of judicial proceedings" and that Mr Januzi's interference was "substantial".²³ The SPO further contends that the impact of these offences have a "chilling effect on the public confidence in the effectiveness of KSC orders and decisions, including those relating to protective measures."²⁴ The SPO submits that these facts accordingly mitigate against commutation of Mr Januzi's sentence.²⁵

27. Even though the President notes that Mr Januzi was convicted at the lowest sentencing range of the offence, which is punishable between two and ten years, the President observes that Mr Januzi's conduct indeed had a chilling effect on a specific witness and his family and that the conduct more generally has an effect on other witnesses who may appear before the Specialist Chambers and the ability of the court to undertake its mandate. The President further notes that the gravity of offences against the administration of justice, in particular the intimidation of witnesses, has

²² Januzi Submissions, para. 35.

²³ SPO Report, paras 3-4.

²⁴ SPO Report, para. 5.

²⁵ SPO Report, paras 3-7.

been acknowledged in the jurisprudence of the Specialist Chambers and that a sentence at the lowest sentencing range does not diminish the specific gravity of the offence. Furthermore, the President considers that the statements of Victim 1 – that the release of Mr Januzi would not raise concerns for his or his family’s safety – do not have any impact on considerations of the gravity of the offence, given that the protected value underlining the prohibition of offences against the administration of justice is primarily preserving the integrity of the administration of justice.

28. The President therefore finds that this factor weighs against commutation of Mr Januzi’s sentence.

e) Treatment of similarly situated prisoners

29. The DMU Report reflects that in two previous cases before the Specialist Chambers sentences were reviewed once the convicted persons had served two-thirds of their sentences.²⁶

30. The President observes, as is reflected in the DMU Report, that this is the third occasion where persons convicted by the Specialist Chambers have served two-thirds of their sentences. Accordingly, the President finds that there are similarly situated prisoners, which is a positive factor that weighs for commutation, modification or alteration of Mr Januzi’s sentence.

f) Whether release would give rise to significant social instability

31. Mr Januzi contends that the probability of significant social instability resulting from his release is assessed as “very low”.²⁷ Mr Januzi submits that this factor weighs in favour of advanced release.²⁸

²⁶ DMU Report, para. 26.

²⁷ Januzi Submissions, para. 3, referring to the DMU Report, para. 13.

²⁸ Januzi Submissions, para. 20.

32. The Registrar submits that following an assessment undertaken by the Safety and Security Unit (“SSU”), the release of Mr Januzi would “elicit a limited public reaction [and that] the probability of this resulting in a level of civil disorder that could be considered significant social instability is expected to be very low”.²⁹ Moreover, Mr Januzi does not have such a profile or politicised role that could be considered to give rise to significant social instability.³⁰

33. The President notes that the SSU undertook a thorough risk analysis in this respect, to which the President attaches considerable weight. Having considered the information before her, the President is of the view that the risk for significant social instability in Kosovo upon Mr Januzi’s release is very low.

34. The President therefore considers that this factor weighs in favour of a possible commutation, modification or alteration of Mr Januzi’s sentence.

g) Any substantial cooperation with the SPO

35. Mr Januzi submits that save for the plea agreement there is no indication that the SPO has ever sought Mr Januzi’s cooperation and that therefore this factor weighs in favour or, at least, is neutral.³¹

36. The SPO contends that Mr Januzi’s limited cooperation in the form of concluding a plea agreement only came after significant litigation and only shortly before the commencement of the trial and that this sort of cooperation has already been given credit pursuant to Rule 163(2) of the Rules and therefore should not constitute a factor to be taken into consideration militating in favour of commutation.³²

37. The President agrees with the SPO that the plea agreement itself was

²⁹ Registrar’s Submissions, para. 16.

³⁰ Registrar’s Submissions, paras 17-19.

³¹ Januzi Submissions, para. 38.

³² SPO Report, para. 8.

sufficiently acknowledged and credit given pursuant to Rule 163(2) of the Rules and that this factor alone cannot be taken into consideration militating in favour of commutation.

38. The President observes that there is no indication that Mr Januzi provided further cooperation to the SPO beyond the plea agreement. Accordingly, the President considers this a neutral factor when assessing whether to grant Mr Januzi commutation, modification or alteration of his sentence.

h) Voluntary assistance of the convicted person in enabling the enforcement of the judgments and orders of the Specialist Chambers

39. Mr Januzi submits that his payment of reparations to Witness 1 weighs in favour of advanced release in Mr Januzi's case, as it has to be considered as a factor of enabling the enforcement of an order pursuant to Rule 196(3)(i) of the Rules.³³

40. Even though the Registrar noted that she does not have information regarding any voluntary assistance of Mr Januzi in enabling the enforcement of Specialist Chambers judgments and orders in other cases,³⁴ the President notes that since the submission of her report, Mr Januzi has paid the reparation of 100 Euros.³⁵

41. The President therefore considers this a factor militating for a consideration for commutation, modification or alteration of Mr Januzi's sentence.

i) Any significant action taken by the convicted person for the benefit of victims as well as any impact on the victims and their family in case of commutation, modification or alternation of sentence

42. The Registrar submitted that Victim 1 noted that the release of Mr Januzi would

³³ Januzi Submissions, para. 22.

³⁴ Registrar's Submissions, para. 25.

³⁵ KSC-BC-2023-10/F00684, Registrar's Report on Payment of Reparations, 19 February 2025, para. 4.

not raise concerns with regard to his safety or the safety of his family.³⁶

43. As the payment of the 100 Euros as compensation were already considered above, the President is of the view that this is a factor weighing in favour of Mr Januzi's commutation, modification or alteration of his sentence.

j) The individual circumstances of the convicted person

44. The President notes that no significant information was submitted under this factor and therefore it will be considered neutral in the assessment of Mr Januzi's possible commutation, modification or alteration of his sentence.

k) Other factors establishing a clear and significant change of circumstances sufficient to justify commutation, modification or alteration of sentence

45. The SPO contends that numerous other witnesses are still scheduled to testify in the *Thaçi et al.* case through April 2025, which is an added reason to ensure that Mr Januzi serves his full sentence "as this would mean that [he] continue[s] to be imprisoned while important evidence is heard by the court".³⁷

46. The President is not persuaded by the SPO's general submissions that any commutation, modification or alteration of sentence should depend on the evidence that is being heard in other cases, without alluding to any detailed circumstances or risks. The President further observes that the SPO case against *Hashim Thaçi et al.* will most likely close in April 2025.³⁸ Furthermore, the SPO submissions are too general in order to be construed as a justified concern that Mr Januzi would reoffend while evidence is being heard before the Specialist Chambers. Accordingly, the President does not deem this information relevant for her consideration of commutation,

³⁶ Registrar's Submissions, para. 21.

³⁷ SPO Report, para. 10.

³⁸ Transcript 1 October 2024, p. 20535.

modification or alteration of Mr Januzi's sentence.

III. COMMUTATION OF SENTENCE

47. The President notes that Article 51(2) of the Law provides that a convicted person will become eligible for commutation of sentence upon having served two-thirds of his or her sentence.

48. The President recalls that Mr Januzi entered a guilty plea and concluded a plea agreement. Mr Januzi has shown signs that he has disassociated himself from the offences for which he was convicted, has expressed his intention to refrain from committing any offences against the administration of justice in the future, and has behaved positively while detained at the Detention Facilities. However, the offences for which he was convicted are grave, regardless of the relatively low sentence he received.

49. The President notes that commutation of sentence entails the immediate release of a convicted person, which would not allow for the imposition of conditions on the release. Given the nature of the offences for which Mr Januzi was convicted and the chilling effect his actions had on a specific witness, but also potential future witnesses, and having considered the interests of justice and general principles of law in light of the facts of his case, the President does not consider commutation of sentence appropriate. Accordingly, the President shall not grant Mr Januzi a commutation of his sentence.

50. The President will therefore decide whether to modify or alter Mr Januzi's sentence in accordance with Article 51(2) of the Law and Article 10 of the Practice Direction.

IV. MODIFICATION OR ALTERATION OF THE SENTENCE

51. According to Article 51(2) of the Law in conjunction with Articles 3(1) and 10

of the Practice Direction, the President may decide to modify or alter the sentence imposed on a convicted person once two-thirds of the sentence has been served, where she finds that commutation of sentence is not appropriate. To that end, the President may modify or alter the sentence of a convicted person by ordering his release under certain specific conditions. Such conditions shall apply for the duration of the term of imprisonment imposed on the convicted person or any other earlier specified date.³⁹ In accordance with Article 11(2) of the Practice Direction, the President may decide to revoke or modify her decision if the convicted person breaches one or more of the conditions imposed.

52. The President recalls that the offences of which Mr Januzi was convicted are indisputably grave given the impact of witness intimidation on the administration of justice. Nevertheless, the President finds that there are a number of factors that weigh in favour of the modification of Mr Januzi's sentence by way of release, albeit with conditions.

53. The President further recalls that: (i) Mr Januzi entered a guilty plea and accordingly concluded a plea agreement and has shown genuine signs of disassociation from the offences for which he was convicted; (ii) Mr Januzi has demonstrated positive signs of rehabilitation; (iii) the likelihood that Mr Januzi's release would give rise to significant social instability in Kosovo is low; (iii) Mr Januzi has stable familial and social ties, which would help him reintegrate back into Kosovo. The President notes that Mr Januzi has further firmly stated that he will abide by any conditions imposed on his release.⁴⁰

54. The President considers that Mr Januzi has had the opportunity to reflect on his actions while serving over two-thirds of his sentence and considers that

³⁹ See Article 11(1) of the Practice Direction.

⁴⁰ Gucati Submissions, para. 6.

Mr Januzi's expressions of regret before the Trial Panel was genuine.

55. Accordingly, while the sentence of Mr Januzi stands as pronounced by the Trial Panel, the President is of the view that the sentence should be modified to include Mr Januzi's release with conditions. The President notes that the conditions to be put in place will give Mr Januzi an opportunity to demonstrate that he continues on his path toward full rehabilitation and that he will abide by any orders issued by the Specialist Chambers in the future, where applicable.

56. In view of the foregoing, and having considered the totality of the information before her as well as the views of the Judges of the sentencing Panel, the President determines that the following conditions will apply to Mr Januzi's release in accordance with Article 11(1) of the Practice Direction for the remainder of the duration of the sentence pronounced by the Trial Panel:

- a) assurance of permanent residency at the home address set forth in the Registrar's Submissions;⁴¹
- b) notification to the Registrar and to the police station identified by the Registrar of any relocation of the permanent residence, subject to permission thereof granted by the President;
- c) weekly reporting to the police station identified by the Registrar;
- d) surrender of Mr Januzi's passport or travel documents to the Registrar;
- e) to remain in Kosovo and notify the Registrar of any wish to travel outside Kosovo and request for permission thereof to be granted by the President;
- f) refraining from any contact or communication with Victim 1 and the

⁴¹ Registrar's Submissions, para. 5.

spouse, their family and other relatives;

- g) refraining from any contact or communication with any (potential) witnesses or victims before the Specialist Chambers and SPO;
- h) refraining from making any direct or indirect public statements about the Specialist Chambers and SPO;
- i) requesting permission and approval from the Registrar in the event of conducting an interview with the media as provided for in the Practice Direction on Detainees (Media Communications);
- j) abiding by any decision or order of the Specialist Chambers; and
- k) refraining from making negative, violent, intimidating, threatening or coercive comments towards or about (potential) witnesses or other persons who are at risk on the account of their cooperation with the Specialist Chambers, officials of the Specialist Chambers or the SPO.

57. The President emphasises that the conditions, set forth above, on Mr Januzi's release remain in place for the remaining duration of the two-year sentence imposed on him by the Trial Panel, namely until 4 October 2025. The President further emphasises that failure by Mr Januzi to comply with any of the conditions set forth in paragraph 56 shall result in the revocation or modification of the present decision in accordance with Article 11(2) of the Practice Direction.

V. CONCLUSION

58. Having carefully considered the information before her, including the views of the Judges of the sentencing Panel, as well as the interests of justice and general principles of law in light of the facts of this case, the President finds that commutation of sentence is not appropriate. Instead, the President will modify Mr Januzi's sentence

to provide for his release with the conditions set forth in paragraph 56 above.

59. The President notes in this respect that the offences for which Mr Januzi has been convicted are grave and that while he has shown genuine signs of disassociation from his offences and positive signs of rehabilitation, it is important to ensure that by way of abiding by the conditions specified in paragraph 56 above, Mr Januzi continues down this road to full rehabilitation and disassociation. Given that the sentence is herewith modified, any consideration for an alteration of the sentence is moot.

VI. DISPOSITION

60. In view of the above, the President hereby:

DECIDES that commutation of Mr Januzi's sentence is not appropriate and is thus not granted;

DECIDES to modify Mr Januzi's sentence by releasing him with the conditions set forth in paragraph 56 above;

DECIDES that, subject to the transfer arrangements by the Registrar, Mr Januzi be released on 21 February 2025 to his permanent residence at the home address set forth in the Registrar's Submissions;

ORDERS Mr Januzi to abide by the conditions set forth in paragraph 56 above;

ORDERS the Registrar to take all necessary measures to ensure the transfer of Mr Januzi to his home address and the conditions set forth in paragraph 56 above;

ORDERS the Kosovo police or any other authority of Kosovo to cooperate pursuant to Article 53(1) of the Law with the Registrar on the enforcement of the conditions set forth in paragraph 56 above and to provide a monthly report

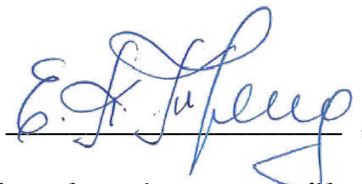
to the Registrar on the adherence by Mr Januzi to the condition set forth in paragraph 56(c) above;

ORDERS the Registrar to report to the President on a bi-monthly basis on the adherence of Mr Januzi to the conditions set forth in paragraph 56 above until the conclusion of his sentence of two years, namely on 4 October 2025, or sooner if a breach of the conditions has occurred;

ORDERS the Court Management Unit ("CMU") to serve this decision on Mr Januzi, his Counsel and the Specialist Prosecutor only upon confirmation of Mr Januzi's arrival in Kosovo;

ORDERS CMU to reclassify this decision as public upon confirmation from the Registrar of Mr Januzi's arrival at his designated location of release; and

ORDERS the CMU to ensure that the Annexes to this decision remain confidential and *ex parte*.



Judge Ekaterina Trendafilova,
President of the Specialist Chambers

Dated this Wednesday, 19 February 2025
At The Hague,
The Netherlands

Explanatory Note

In paragraph 13, the last part of the sentence “and the presence or absence of remorse is not included as a relevant factor” was deleted.