

In: KSC-BC-2023-10

**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 Haxhi Shala

Date: 24 February 2025

Language: English

Classification: Confidential and *Ex Parte*

Reply to Registrar's Response to Haxhi Shala's Request for Reconsideration

Counsel for Haxhi Shala

Toby Cadman

I. INTRODUCTION

1. The Defence for Mr. Haxhi Shala ("Defence") hereby replies to Registrar's Response to Haxhi Shala's Request for Reconsideration (F00685)¹ ("Response to Request for Reconsideration")

II. PROCEDURAL HISTORY

2. On 2 October 2024 the Registrar issued the Decision On Counsel's Request to Amend the Legal Aid Fee Pursuant to Regulation 18(6) of the Legal Aid Regulations² ("October 2024 Decision"), in which she found that there were no grounds for revision of the Complexity Level or amendment of the Legal Aid Fee.³
3. On 9 October 2024, in Request for Review of Decision of the Registrar on the Legal Aid Fee ("Request for Review"),⁴ the Defence again requested the ranking of the case as Complexity Level 3 and a monthly lump sum of €14,850.⁵

¹ KSC-BC-2023-10/F00688, 24 February 2025, Confidential and *Ex Parte*.

² KSC/REG/IOR/7287 (Request for Review of Decision of the Registrar on the Legal Aid Fee, *ex parte* and confidential Annex 3).

³ October 2024 Decision, paras. 28, 41.

⁴ KSC-BC-2023-10/F00518, confidential and *Ex parte*.

⁵ Request for Review, para. 13.

4. On 13 February 2025, the Trial Panel issued Decision on the Request for Review of the Decision of the Registrar on the Legal Aid Fee (F00518) ("Trial Panel Decision"),⁶ in which it rejected the Request for Review.⁷
5. On 19 February 2025, the Defence submitted Request for reconsideration of the Decision on the Request for Review of the Decision of the Registrar on the Legal Aid Fee (F00518) ("Request for Reconsideration").⁸

III. SUBMISSIONS

6. The Response to Request for Reconsideration contains the assertion that the Registrar understands Mr. Haxhi Shala's argument regarding relative levels of complexity,⁹ but there is nothing in the filing to indicate that this is the case.¹⁰ The Registrar does not address the Defence's reasons for asserting that she has not understood it.¹¹
7. Instead the Registrar focuses on the criteria in Regulation 16(3) of the Legal Aid Regulations ("LAR")¹² claiming three times that the Defence fails to

⁶ KSC/BC-2023/F00680.

⁷ Trial Panel Decision, para. 37(a).

⁸ KSC-BC-2023-10/F00685, Confidential and *ex parte*.

⁹ Response to Request for Reconsideration, para. 5.

¹⁰ In footnote 8 there is a citation of paragraphs 17-21 of the October 2024 Decision. Paragraph 21 reveals a clear misunderstanding of the Defence's position.

¹¹ Request for Reconsideration, paras. 10-13.

¹² Registry Practice Direction, KSC-BD-25/Rev1/2024, 22 February 2024.

engage with them.¹³ This ignores paragraph 21 of the Request for Reconsideration which is a critical part of the submission.

8. The Defence agrees that Complexity Level is to be determined by scrutinising the criteria in Regulation 16(3) on a case by case basis¹⁴ but the process is not conducted in a vacuum. It is intrinsically comparative. It would be illogical to suggest that no other cases need be taken into consideration. A failure to properly understand the relationship between Complexity Levels for domestic and international crimes will lead to misclassification where the criteria apply differently to the two types of crimes¹⁵ and where an *exact comparison* can be made between the Complexity Levels for the two types.¹⁶ The latter characteristic is the only factor in the process that is at all precisely quantifiable¹⁷ and therefore of special importance.

IV. CONCLUSION

9. For the foregoing reasons the Defence reasserts its request that the Trial Panel find that the case be ranked as Complexity Level 3 and that the monthly lump sum to be allocated should be €14,850 per month or, in the alternative, that the Trial Panel revise its finding on Complexity Levels and refer the decision on the Legal Aid Fee to the Registrar to make a further determination.¹⁸

¹³ Response to Request for Reconsideration, paras. 4, 5, 6.

¹⁴ Cf. October 2024 Decision, para. 18.

¹⁵ Request for Reconsideration, para. 21.

¹⁶ Cf. Request for Reconsideration, paras. 13, 15.

¹⁷ Request for Reconsideration, paras. 20-21.

¹⁸ Request for Reconsideration, paras. 22 and 23.

V. QUALIFICATION

10. The present filing has been classified as confidential and *ex parte* pursuant to Rule 82(4) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers.¹⁹ However, the Defence has no objection to it being reclassified as public.

Word Count: [671 words]



Toby Cadman

Specialist Counsel

24 February 2025

At London, United Kingdom

¹⁹ KSC-BD-03/Rev3/2020, 2 June 2020.