



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: Fidelma Donlon

Date: 27 February 2025

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Reasons for the Decision on the Plea Agreements

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TRIAL PANEL I (Panel) hereby provides the reasons for the decision on the plea agreements.

I. PROCEDURAL BACKGROUND

1. On 13 November 2024, the Specialist Prosecutor's Office (SPO) informed the Panel that it entered into plea agreements with Haxhi Shala (Mr Shala), Sabit Januzi (Mr Januzi) and Ismet Bahtijari (Mr Bahtijari) (together, Accused) and disclosed said agreements to the Panel.¹

2. On 6 December 2024, pursuant to a decision by the Panel (Decision F00612),² the SPO filed: (i) revised versions of the plea agreements for Mr Shala (Shala Plea Agreement), Mr Januzi (Januzi Plea Agreement) and Mr Bahtijari; (ii) submissions on said agreements and sentencing;³ and (iii) a revised indictment.⁴ On the same day, the Defence for Mr Shala (Shala Defence),⁵ the Defence for Mr Januzi

¹ KSC-BC-2023-10, F00596, Specialist Prosecutor, *URGENT Prosecution notification of plea agreements*, 13 November 2024, public, para. 1, with Annexes 1-3, confidential. Corrected versions of the main filing and the annexes were filed on 14 November 2024, F00596/COR, F00596/COR/A01, F00596/COR/A02, F00596/COR/A03.

² KSC-BC-2023-10, F00612, Trial Panel I, *Decision on Matters Related to Plea Proceedings*, 29 November 2024, confidential, paras 20-23, 27, 34(a)-(c), with Annex 1, confidential. A public redacted version was issued on 22 January 2025, [F00612/RED](#).

³ KSC-BC-2023-10, F00618, Specialist Prosecutor, *URGENT Prosecution submissions on plea agreements and sentencing* (SPO Sentencing Submissions), 6 December 2024, confidential, with Annexes 1-2, public (containing the [Shala Plea Agreement](#) and the [Januzi Plea Agreement](#), respectively) and Annex 3, public. A public redacted version of the main filing was filed on 5 February 2025, but was reclassified as confidential, F00618/RED. A new public redacted version was filed on 18 February 2025, F00618/RED2.

⁴ KSC-BC-2023-10, F00619, Specialist Prosecutor, *URGENT Submission of revised Indictment*, 6 December 2024, public, with Annex 1, confidential (containing the indictment). A public redacted version of the indictment was filed on 5 February 2025, F00672/A01.

⁵ KSC-BC-2023-10, F00616, Shala Defence, *Written Submissions on Sentencing* (Shala Sentencing Submissions), 6 December 2024, public, with Annexes 1-4, confidential.

(Januzi Defence)⁶ and the Defence for Mr Bahtijari (Bahtijari Defence)⁷ (together, Defence) filed their respective submissions addressing matters related to sentencing and presenting relevant information and/or evidence.

3. On 16 December 2024, the SPO informed the Panel that it entered into a new plea agreement with Mr Bahtijari (Bahtijari Plea Agreement) and disclosed said agreement to the Panel.⁸

4. On 17 December 2024, the SPO filed a further revised indictment (17 December 2024 Indictment).⁹ In the 17 December 2024 Indictment, the SPO withdrew one count of obstructing official persons in performing official duties, by serious threat, punishable under Article 401(1) and (5) of the 2019 Kosovo Criminal Code, Code No. 06/L-074 (KCC) and Article 5(2) of the Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law) and the "serious threat" limb of intimidation

⁶ KSC-BC-2023-10, F00617, Januzi Defence, *Januzi Submissions re Sentence pursuant to Plea Agreement* (Januzi Sentencing Submissions), 6 December 2024, confidential. A public redacted version was filed on 20 February 2025, F00617/RED.

⁷ KSC-BC-2023-10, F00620, Bahtijari Defence, *BAHTIJARI Submissions on Sentencing* (Bahtijari Sentencing Submissions), 6 December 2024, confidential, with Annexes 1-3, confidential. A corrected version was filed on 11 December 2024, F00620/COR. A public redacted version of the original filing was filed on 18 December 2024, [F00620/RED](#).

⁸ KSC-BC-2023-10, F00628, Specialist Prosecutor, *URGENT Joint submission of Plea Agreement*, 16 December 2024, public, with Annex 1, public (containing the [Bahtijari Plea Agreement](#)).

⁹ KSC-BC-2023-10, F00630, Specialist Prosecutor, *Submission of Further Revised Indictment*, 17 December 2024, public, with Annex 1, confidential. A public redacted version of the indictment was filed on 5 February 2025, F00672/A02.

during criminal proceedings under Article 387 of the KCC.¹⁰ On the same day, the SPO filed additional submissions on sentencing.¹¹

5. On 18 and 19 December 2024, the Panel held hearings on the plea agreements for each Accused (Plea Hearings).¹² During the Plea Hearings, the Accused pleaded guilty to one count of obstructing official persons in performing official duties pursuant to Article 401(2) and (5) of the KCC and Article 15(2) of the Law and one count of intimidation during criminal proceedings pursuant to Article 387 of the KCC and Article 15(2) of the Law.¹³

6. On 23 and 24 January 2025, pursuant to the order of 16 January 2025,¹⁴ the Parties filed submissions on the evidentiary material that they deem relevant to the Panel's assessment of the requirement under Rule 94(5)(e) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (Rules).¹⁵

¹⁰ See 17 December 2024 Indictment, para. 30. More specifically, this concerns Counts 1 and 3 of the indictment of 10 July 2024 (see KSC-BC-2023-10, F00379/A03, Specialist Prosecutor, [Public redacted version of 'Confirmed Amended Indictment'](#), 10 July 2024, public, paras 6, 10, 20, 22-23, 33).

¹¹ KSC-BC-2023-10, F00629, Specialist Prosecutor, *Prosecution submission of additional information for sentencing* (SPO Additional Sentencing Submissions), 17 February 2025, confidential, with Annexes 1-2, confidential. A public redacted version of the main filing was filed on 19 February 2025, F00629/RED.

¹² Transcript of Hearing, 18 December 2024, public, pp. 378-532 (18 December 2024 Transcript); Transcript of Hearing, 19 December 2024, public, pp. 533-604 (19 December 2024 Transcript).

¹³ **Mr Shala**: 18 December 2024 Transcript, p. 430, line 23 to p. 432, line 18; **Mr Januzi**: 18 December 2024 Transcript, p. 483, line 3 to p. 484, line 8; **Mr Bahtijari**: 19 December 2024 Transcript, p. 560, line 19 to p. 562, line 13.

¹⁴ KSC-BC-2023-10, F00642, Trial Panel I, *Order for Submission of Evidentiary Material* (16 January 2025 Order), 16 January 2025, public.

¹⁵ KSC-BC-2023-10, F00651, Specialist Prosecutor, *Prosecution submissions pursuant to Order F00642* (SPO Evidence Submissions), 23 January 2025, public; F00654, Januzi Defence, *Januzi Response to F00642* (Januzi Evidence Submissions), 23 January 2025, public; F00657, Bahtijari Defence, *BAHTIJARI SUBMISSIONS PURSUANT TO ORDER F00642* (Bahtijari Evidence Submissions), 24 January 2025, public; F00659, Shala Defence, *Haxhi Shala Submissions regarding Evidentiary Material* (Shala Evidence Submissions), 24 January 2025, public.

7. On 29 January 2025, pursuant to the oral order of 18 December 2024,¹⁶ and following the filing of a report by the Victims' Participation Office¹⁷ and the submissions of the Parties,¹⁸ the Panel decided to: (i) admit an applicant as victim to participate in the proceedings (*i.e.* V01/10) and requested the Parties to file revised versions of their respective plea agreements with proposals for reparations to be awarded to the victim in this case; and (ii) schedule a hearing on 4 February 2025 for the purpose of ruling on the Shala Plea Agreement, the Januzi Plea Agreement, and the Bahtijari Plea Agreement (29 January 2025 Decision).¹⁹

8. On 3 February 2025, pursuant to the 29 January 2025 Decision, the Parties jointly made submissions on reparations and, in particular, agreed that the Accused would jointly pay 500 EUR as reparations to V01/10, as part of the Shala Plea Agreement, the Januzi Plea Agreement, and the Bahtijari Plea Agreement (together, Plea Agreements).²⁰

¹⁶ 18 December 2024 Transcript, p. 398, line 1 to p. 400, line 5.

¹⁷ KSC-BC-2023-10, F00647, Registrar, *Registry Report on Victims' Applications for Participation in the Proceedings*, 20 January 2025, confidential and *ex parte*, with Annex 1, confidential and *ex parte*. A confidential redacted version of the main filing was filed on the same day, F00647/CONF/RED. A lesser confidential redacted version was filed on 30 January 2025, F00647/CONF/RED2.

¹⁸ KSC-BC-2023-10, F00658, Bahtijari Defence, *BAHTIJARI RESPONSE TO REPARATION REQUEST*, 24 January 2025, confidential; a public redacted version was filed on 3 February 2025, F00658/RED; F00661, Januzi Defence, *Januzi Response to F00647/CONF/RED*, 26 January 2025, confidential; F00662, Specialist Prosecutor, *Prosecution response to the report on victims' applications*, 27 January 2025, confidential; F00663, Shala Defence, *Haxhi Shala Response to Registry Report on Victims' Applications for Participation in Proceedings*, 27 January 2025, confidential.

¹⁹ KSC-BC-2023-10, F00667, Trial Panel I, *Decision on Victims' Participation, Scheduling a Hearing on Plea Agreements and related matters*, 29 January 2025, confidential. A public redacted version was issued on 31 January 2025, [F00667/RED](#).

²⁰ KSC-BC-2023-10, F00669, Specialist Prosecutor, *Prosecution submissions pursuant to Decision F00667 (Parties Submissions on Reparations)*, 3 February 2025, public, with Annex 1 (Annex to Parties Submissions on Reparations), public.

9. On 4 February 2025, during a hearing, the Panel: (i) approved the Plea Agreements; (ii) found the Accused guilty under Count 1 (obstructing official persons in performing official duties – by common action of a group) and Count 2 (intimidation during criminal proceedings) of the 17 December 2024 Indictment; (iii) sentenced Mr Shala to three years of imprisonment, and Messrs Januzi and Bahtijari to two years of imprisonment each; (iv) instructed the Accused to pay jointly 500 EUR as reparations to V01/10, no later than 19 February 2025; and (v) indicated that it would issue in due course the written reasons for its approval of the Plea Agreements pursuant to Rule 94(8) of the of Rules.²¹

II. APPLICABLE LAW

10. The Panel notes Articles 21, 22, 34, 40(2) and 44(4)-(5) of the Law and Rules 23(8) 94, 163(1)-(4) and 6 of the Rules, and, by virtue of Articles 6(2), 15(2), 16(3) and 64 of the Law, Articles 17, 21, 31, 387, and 401 of the KCC.²²

²¹ Transcript of Hearing, 4 February 2025, public, p. 612, line 19 to p. 618, line 23 (4 February 2025 Transcript).

²² The Panel notes that Article 15(2) of the Law refers to the 2012 Kosovo Criminal Code, Code 04/L-082 (2012 KCC) which was, however, replaced in 2019 by the KCC. The KCC renumbered the provisions referred to in Article 15(2) of the Law, including the provisions on the basis of which the Accused are charged in the present case. It is recalled that when specific 2012 KCC provisions, set forth in Articles 15 and 16 of the Law, are replaced, the Law must be interpreted, by virtue of Article 64 of the Law, as relating to the analogous provisions of the successor legislation. In the present instance, the offences under Articles 387 and 401 of the KCC are analogous to the corresponding offences under Articles 395 and 409 of the 2012 KCC. See KSC-BC-2020-07, F00147/RED, Pre-Trial Judge, [Public Redacted Version of Decision on Defence Preliminary Motions](#), 8 March 2021, public, paras 28-34; F00057, Single Judge, [Decision on Defence Challenges](#), 27 October 2020, public, para. 24. The Panel further recalls that it has jurisdiction over the specific offences against the administration of justice, as confirmed by the Pre-Trial Judge. See KSC-BC-2023-11, F00005, Pre-Trial Judge, *Decision on the Confirmation of the Indictment* (Case 11 Confirmation Decision), 4 December 2023, confidential, paras 14-16, 22 and further references therein; a public redacted version of the decision was issued on 30 January 2024, [F00005/RED](#); KSC-BC-2023-10, F00008, Pre-Trial Judge, *Decision on the Confirmation of the Indictment* (Case 10 Confirmation Decision),

III. PRELIMINARY ISSUE

11. The Panel recalls that, in its Decision F00612, it set out the law applicable to proceedings pursuant to Rule 94 of the Rules,²³ which the SPO sought to challenge.²⁴ It is also recalled that the SPO eventually withdrew its challenge (Notice of Withdrawal),²⁵ noting, however, that it has a different reading from the Panel with respect to the law and maintaining that the scope of any right of appeal could be adjudicated following the issuance of the Panel's present decision.²⁶

12. The Panel finds that the aforementioned position of the SPO appears to suggest that Decision F00612, in particular the finding that "Rule 94 of the Rules excludes the accused and the SPO from appealing the Trial Panel's decision under Articles 46-47 of the Law",²⁷ is not binding. However, the Panel reminds the Parties that they are bound by judicial decisions issued by first-instance panels, unless said decisions are amended or reversed by a Court of Appeals panel.²⁸ Parties cannot withdraw an appeal in a manner that in essence disregards the decision of a panel or part thereof by suggesting

2 October 2023, strictly confidential and *ex parte*, paras 14-16, 22 and further references therein; a confidential redacted version and a public redacted version of the Case 10 Confirmation Decision were issued on 12 October 2023, F00008/CONF/RED and F00008/RED; a corrected version of the public redacted version of the Case 10 Confirmation Decision was filed on 12 October 2023, F00008/RED/COR; a lesser redacted version of the corrected version of the public redacted version of the Case 10 Confirmation Decision was issued on 3 September 2024, [F00008/RED2/COR](#).

²³ See Decision F00612, paras 13-18.

²⁴ KSC-BC-2023-10, F00621, Specialist Prosecutor, *Prosecution request for reconsideration and/or leave to appeal of Decision F00612*, 9 December 2024, public.

²⁵ KSC-BC-2023-10, F00631, Specialist Prosecutor, *Prosecution notice of withdrawal of filing F00621*, 17 December 2024, public.

²⁶ Notice of Withdrawal, para. 2.

²⁷ Decision F00612, para. 18.

²⁸ Similarly ICC, *Situation in the Islamic Republic of Afghanistan*, ICC-02/17-216, Appeals Chamber, [Decision on Prosecutor's notice of discontinuance of the appeal](#), 16 March 2023, para. 37.

that it could still proceed contrary to the Panel's decision. Therefore, the SPO's position in the Notice of Withdrawal runs contrary to the correct functioning of the Specialist Chambers (SC), and, more generally, to the proper administration of justice.

IV. BACKGROUND OF THE ACCUSED

13. Mr Shala was born on 17 March 1970, in Banje, Malisheve, Republic of Kosovo (Kosovo). He is in the military and also works as a lawyer.²⁹ Mr Shala is the former commander of Messrs Bahtijari and Januzi in Brigade 121 of the Kosovo Liberation Army (KLA) during the war between the KLA and the Serbian forces in 1998-1999 (1998-1999 War).³⁰

14. Mr Januzi was born on 29 April 1966 in Fushticë e Epërme, Kosovo and he is retired.³¹ He joined the KLA and served in Brigade 121 from June 1998 until the end of the 1998-1999 War.³² [REDACTED].³³

15. Mr Bahtijari, also known as "Shema", was born on 27 February 1963 in Fushticë e Poshtme, Kosovo. He is a builder and electrician.³⁴ He joined the KLA and served in Brigade 121 from May 1998 until the end of the 1998-1999 War.³⁵ [REDACTED].³⁶

²⁹ KSC-BC-2023-11, Transcript of Hearing, 13 December 2023, p. 3, lines 10-20; 082195-082199, p. 082197; 124051-124112-ET, p. 124052.

³⁰ 116063-TR-ET Part 1, pp. 9-10; 116065-TR-ET Part 1 RED2, pp. 7-9; 083076-083076-ET Revised; *see*, for instance, KSC-BC-2020-05, F00494/RED3/COR, Trial Panel I, *Further redacted version of Corrected version of Public redacted version of Trial Judgment*, 16 December 2022, public, paras 701, 710; KSC-BC-2020-04, F00847/RED, Trial Panel I, [Public redacted version of Trial Judgment and Sentence](#) (Shala Trial Judgment), 16 July 2024, public, paras 919-921, with Annex 1, confidential.

³¹ KSC-BC-2023-10, Transcript of Hearing, 9 October 2023, p. 19, line 10 to p. 20, line 5; 116063-TR-ET Part 1 RED, p. 4, line 8, p. 9, lines 3-6, 12-17.

³² 116063-TR-ET Part 1, p. 9, line 20 to p. 10, line 19.

³³ [REDACTED].

³⁴ KSC-BC-2023-10, Transcript of Hearing, 9 October 2023, p. 4, lines 6-15; 116065-TR-ET Part 1 RED2, p. 5, lines 17-25, p. 6, lines 6-13, 18-19.

³⁵ 116065-TR-ET Part 1 RED2, p. 7, lines 2 to p. 8, line 9.

³⁶ [REDACTED].

V. RULE 94(2) AND (5) REQUIREMENTS

16. In order to approve the Plea Agreements, the Panel must be satisfied that the requirements under Rule 94(2) and (5) of the Rules are met.

A. RULE 94(2)

17. Having reviewed the Plea Agreements, the Panel is satisfied, as mandated under Rule 94(2) of the Rules, that they each contain an agreement between the SPO and the Defence on: (i) the charges, which include the Accused's participation in the offences charged and modes of liability; (ii) a specific sentence or sentencing range; and (iii) reparations for the victim participating in the proceedings.

B. RULE 94(5)(A)-(D) AND (F)

18. As regards the requirements under Rule 94(5)(a)-(d) of the Rules, the Panel takes note that the Accused have each confirmed both in writing and orally that: (a) their respective Counsel have discussed with them the terms of their respective plea agreements;³⁷ (b) the Accused understand the terms of their respective plea agreements;³⁸ (c) the Accused admit facts in respect of the charges contained in their

³⁷ **Mr Shala:** Shala Plea Agreement, paras 6, 19, 24; 18 December 2024 Transcript, p. 409, line 21 to p. 410, line 4; *see also* 18 December 2024 Transcript, p. 429, line 23 top. 430, line 6; Parties Submissions on Reparations, para. 1; **Mr Januzi:** Januzi Plea Agreement, paras 6, 19, 24; 18 December 2024 Transcript, p. 466, lines 15-21; Parties Submissions on Reparations, para. 1; **Mr Bahtijari:** Bahtijari Plea Agreement, paras 6, 19, 24; 19 December 2024 Transcript, p. 541, line 21 to p. 542, line 1; Parties Submissions on Reparations, para. 1.

³⁸ **Mr Shala:** Shala Plea Agreement, paras 1, 6-10, 12, 13, 17-22, 24; 18 December 2024 Transcript, p. 410, lines 17-22; **Mr Januzi:** Januzi Plea Agreement, paras 1, 6-10, 12, 13, 17-22, 24; 18 December 2024 Transcript, p. 467, lines 3-12; **Mr Bahtijari:** Bahtijari Plea Agreement, paras 1, 6-10, 12, 13, 17-22, 24; 19 December 2024 Transcript, p. 542, line 11 to p. 543, line 1.

respective plea agreements and have agreed to the plea agreements voluntarily, without threats or coercion;³⁹ and (d) the Accused understand the consequences of their respective plea agreements and waive their right to be tried under the ordinary trial procedure.⁴⁰

19. As regards the requirement under Rule 94(5)(f) of the Rules, the Panel notes at the outset that plea agreements, which are a form of negotiated justice used in international criminal justice,⁴¹ can have a multitude of benefits for the SC, as an accused's acceptance of responsibility through the conclusion of a plea agreement can provide some measure of closure and recognition for the victims, offer finality and certainty to the proceedings and lead to a swifter resolution of the case, thus, saving valuable time and resources. Furthermore, the conclusion of a plea agreement reduces or obviates the need for witnesses and victims to testify, while, at the same time, it allows the accused person to assume responsibility for his or her actions. In that sense, plea agreements serve the broader objectives of justice by ensuring accountability and contributing to the establishment of the truth while optimizing judicial resources.

³⁹ **Mr Shala:** Shala Plea Agreement, paras 5-8, 19, 24 and Annex 1; 18 December 2024 Transcript, p. 410, line 23 to p. 424, line 23; **Mr Januzi:** Januzi Plea Agreement, paras 5-8, 19, 24 and Annex 1; 18 December 2024 Transcript, p. 467, line 13 to p. 479, line 20; **Mr Bahtijari:** Bahtijari Plea Agreement, paras 5-8, 19, 24 and Annex 1; 19 December 2024 Transcript, p. 543, line 2 to p. 557, line 22.

⁴⁰ **Mr Shala:** Shala Plea Agreement, paras 12-13, 17-18, 24; 18 December 2024 Transcript, p. 424, line 25 to p. 430, line 22; **Mr Januzi:** Januzi Plea Agreement, paras 12-13, 17-18, 24; 18 December 2024 Transcript, p. 479, line 22 to p. 483, line 2; **Mr Bahtijari:** Bahtijari Plea Agreement, paras 12-13, 17-18, 24; 19 December 2024 Transcript, p. 557, line 24, to p. 560, line 17.

⁴¹ Plea agreements have been used at the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda (see Rule 62^{ter} of the [Rules of Procedure and Evidence of the International Criminal Tribunal for the former Yugoslavia](#) and Rule 62^{bis} of the [Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda](#)). Article 65 of [Rome Statute of the International Criminal Court](#) sets out proceedings on admission of guilt for the crimes with which the accused person is charged. Paragraph 5 of the aforementioned article acknowledges the possibility of "discussions between the Prosecutor and the defence". Those are, however, not binding on the Court.

20. In the present case, the Panel notes, on the one hand, that the SPO agreed with the Defence to withdraw the count of obstructing official persons in performing official duties, by serious threat, punishable under Article 401(1) and (5) of the KCC and Article 15(2) of the Law and the “serious threat” limb of intimidation during criminal proceedings under Article 387 of the KCC from the indictment of 10 July 2024.⁴² Further, the Panel pays heed to the fact that the Plea Agreements were submitted shortly before the opening of the trial proceedings. On the other hand, the Panel considers that: (i) the witnesses have fully endorsed the resolution of the case by way of the Plea Agreements and have expressed their relief that they are no longer required to testify, a factor to which the Panel attaches great weight;⁴³ (ii) the Accused’s acknowledgement of their criminal conduct and their agreement to pay reparations, albeit symbolic, provides closure and recognition for V01/10; (iii) the Accused’s admissions contribute to the establishment of the truth with regard to some of the events surrounding the 5 and 12 April 2023 approaches to [REDACTED] (Witness 1) (First Approach and Second Approach, respectively, and together, Approaches) and confirm outright the existence of a persisting climate of witness intimidation in Kosovo against witnesses or potential witnesses of the SC; (iv) if a trial were held, the increased attention by and scrutiny in the press and media could have further aggravated security risks *vis-à-vis* the witnesses and could have entailed the implementation of additional protective measures – a requirement that is obsolete in the present instance;⁴⁴ (v) the resolution of the case prior to the opening of the trial saves significant SC/SPO resources that can be devoted to other investigations and/or prosecutions; and (vi) the conclusion of the Plea Agreements may encourage other

⁴² See *supra* footnote 10.

⁴³ SPO Sentencing Submissions, para. 17; KSC-BC-2023-10, F00603/A01, Specialist Prosecutor, *Annex 1 to Prosecution response to F00599* (F00603 Annex), 15 November 2024, confidential and *ex parte*, paras 2-3.

⁴⁴ F00603 Annex, para. 1.

perpetrators to come forward and acknowledge their crimes. The Panel is thus satisfied that the interests of justice are duly taken into account as required under Rule 94(5)(f) of the Rules.

21. In light of the above, the Panel is satisfied that the requirements under Rule 94(5)(a)-(d) and (f) of the Rules are met.

C. RULE 94(5)(E)

1. Approach of the Panel

22. The Panel notes that, pursuant to Rule 94(5)(e) of the Rules, in order to approve the Plea Agreements, it must satisfy itself that there is a sufficient factual basis establishing the essential facts that are required to prove the offences and the participation of the Accused. The Panel considers that the aforementioned requirement entails a factual as well as a legal assessment.

23. As regards the relevant evidentiary material in support of the factual assessment, the Panel notes the SPO's and the Januzi Defence's submissions according to which the factual basis agreed to by the Parties, as set out in the Plea Agreements (Agreed Factual Basis),⁴⁵ is sufficient to satisfy the requirement under Rule 94(5)(e) of the Rules.⁴⁶ The Panel also notes that the Januzi Defence and the Bahtijari Defence refer to the fact that during the Plea Hearings, the Accused confirmed their admission of the Agreed Factual Basis and, most importantly, entered guilty pleas in relation to

⁴⁵ See Shala Plea Agreement, p. 12 (Annex 1); Januzi Plea Agreement, p. 12 (Annex 1); Bahtijari Plea Agreement, p. 12 (Annex 1).

⁴⁶ SPO Evidence Submissions, para. 2; Januzi Evidence Submissions, para. 3.

these facts.⁴⁷ The Januzi Defence and the SPO further argue that the facts contained in the Plea Agreements have been confirmed by the Pre-Trial Judge, following the submission by the SPO of the initial indictments, together with evidentiary material supporting the allegations pursuant to Rule 86(3)(a)-(b) of the Rules (Rule 86(3) Outline).⁴⁸ The SPO submits that the Panel has before it all relevant evidence necessary to satisfy itself that the Agreed Factual Basis is supported by independent evidence, should it choose to conduct such an assessment.⁴⁹ Similarly, the Shala Defence avers that the Plea Agreements and the evidentiary material cited in the Rule 86(3) Outline satisfy the requirement of Rule 94(5)(e) of the Rules.⁵⁰

24. Having considered the Parties' submissions, the Panel reiterates its view that, for the purpose of approving the Plea Agreements, it must be satisfied that the Agreed Factual Basis is also supported by evidence.⁵¹ To this end, the Panel will assess whether the evidentiary material disclosed by the SPO in the record of this case (Case Record Material) supports each agreed fact.

25. As regards the legal assessment, the Panel must satisfy itself that the conduct of the Accused, as set out in the Agreed Factual Basis, fulfils the legal elements of the offences under Articles 387 and 401(2) and (5) of the KCC as well as the relevant modes of liability.

⁴⁷ Januzi Evidence Submissions, para. 4; Bahtijari Evidence Submissions, para. 11. *See also* SPO Evidence Submissions, para. 3.

⁴⁸ SPO Evidence Submissions, paras 1, 6; Januzi Evidence Submissions, para. 3.

⁴⁹ SPO Evidence Submissions, paras 1, 7.

⁵⁰ Shala Evidence Submissions, para. 8.

⁵¹ 16 January 2025 Order, paras 8-9.

2. Factual Assessment

26. Having assessed the Case Record Material, the Panel is satisfied that the Agreed Factual Basis, reproduced in substance below, is also supported by evidence:

Each Accused accepts that they were part of a group which sought to induce Witness 1 to refrain from giving evidence before the Kosovo Specialist Chambers through the promise of a benefit. In particular, Mr Januzi and Mr Bahtijari – acting at the direction of Mr Shala⁵² – approached Witness 1 at his home on 5 and 12 April 2023, respectively.⁵³ During the First Approach, Mr Bahtijari told Witness 1 that he should withdraw his testimony before the Kosovo Specialist Chambers.⁵⁴ During the Second Approach, Mr Januzi followed up on the First Approach and relayed to Witness 1 an offer that Mr Shala and others would help him if he withdrew his testimony.⁵⁵ Mr Shala

⁵² 112768-112768 RED, p. 112768, para. 2; 112769-112772 RED2, pp. 112769-112770, paras 3-5; 112906-TR-AT Part 1 Revised 1-ET RED2, p. 7, lines 17-19; 116599-TR-ET Part 1, p. 9, lines 6-8, 22-23; 120547-01-TR-AT-ET, p. 5, line 7 to p. 6, line 2; 117751-TR-ET Part 1 RED, p. 17, line 13; *see also* 117047-TR-ET Part 1 RED2, p. 24, line 20 to p. 25, line 11.

⁵³ **First Approach:** 112768-112768 RED2, p. 1; 112769-112772 RED2, paras 3-8; 112906-TR-AT Part 1 Revised 1-ET RED2, p. 4, line 1 to p. 5, line 1; p. 22, line 11 to p. 23, line 4; 112909-TR-ET Part 1, p. 4, line 5 to p. 6, line 23, p. 8, line 9-11. **Second Approach:** 120547-01-TR-AT-ET, p. 3, line 21 to p. 10, line 20, p. 22, lines 24-25, p. 26, lines 17-18, p. 28, lines 5-6, 12-19, p. 31, lines 13-17, p. 33, lines 1-12, p. 47, lines 3-15, p. 49, lines 10-12; 112906-TR-AT Part 1 Revised 1-ET RED2, p. 5 line 23 to p. 10, line 13; 116599-TR-ET Part 1 RED, p. 14, line 25 to p. 15, line 10, p. 16, line 5 to p. 17, line 5.

⁵⁴ 112768-112768 RED2, p. 1; 112769-112772 RED2, paras 3-8; 112906-TR-AT Part 1 Revised 1-ET RED2, p. 4, line 1 to p. 5, line 1; p. 22, line 11 to p. 23, line 4; -TR-ET Part 1, p. 4, line 5 to p. 6, line 23, p. 8, line 9-11.

⁵⁵ *See for instance* 120547-01-TR-AT-ET, p. 3, line 21 to p. 10, line 20, p. 22, lines 24-25, p. 26, lines 17-18, p. 28, lines 5-6, 12-19, p. 31, lines 13-17, p. 33, lines 1-12, p. 47, lines 3-15, p. 49, lines 10-12; 112906-TR-AT Part 1 Revised 1-ET RED2, p. 5 line 23 to p. 10, line 13; 116599-TR-ET Part 1 RED, p. 14, line 25 to p. 15, line 10, p. 16, line 5 to p. 17, line 5.

and Mr Januzi communicated and coordinated with each other, regarding their interactions with Witness 1, before and after each of the Approaches.⁵⁶ Mr Bahtijari communicated and coordinated with Mr Shala and Mr Januzi, regarding their interactions with Witness 1, before and after the First Approach and before the Second Approach.⁵⁷

3. Legal Assessment

a) Intimidation During Criminal Proceedings (Count 2)⁵⁸

i. Applicable Law

27. Article 387 of the KCC provides that whoever uses force or serious threat, or any other means of compulsion, a promise of a gift or any other form of benefit to induce another person to refrain from making a statement or to make a false statement or to otherwise fail to state true information to the police, a prosecutor or a judge, when such information relates to the obstruction of criminal proceedings, shall be punished

⁵⁶ See for instance Call Data Records from Mobile Telephone of Mr Januzi, SPOE00339028-00339032 RED, pp. SPOE00339029-SPOE00339032; Call Data Records from Mobile Telephone of Mr Shala, SPOE00339009-00339013 RED, pp. SPOE00339010-SPOE00339013; Recording, 120547-01-TR-AT-ET, p. 5, line 6 to p. 10, line 20, p. 27, lines 3-15, p. 28, lines 5-6, p. 47, line 20 to p. 48, line 1.

⁵⁷ See for instance Call Data Records from Mobile Telephone of Mr Bahtijari, SPOE00339014-00339017 RED, pp. SPOE00339015-SPOE00339017; Call Data Records from Mobile Telephone of Mr Januzi, SPOE00339033-00339038 RED, pp. SPOE00339035- SPOE00339038; Recording, 120547-01-TR-AT-ET, p. 3, lines 21-22, p. 4, line to p. 5, line 7, p. 6, lines 21-22, 24-25, p. 28, lines 5-6.

⁵⁸ The Panel finds it appropriate to begin its legal assessment with Count 2, since, in its view, the facts underpinning the offence of intimidation during criminal proceedings constitute the starting point for the offence of obstructing official persons in performing official duties under Count 1.

by a fine of up to one hundred and twenty-five thousand (125,000) EUR and by imprisonment of two (2) to ten (10) years.⁵⁹

28. Co-perpetration, within the meaning of Article 31 of the KCC, requires that (i) two or more persons jointly (ii) participate in or substantially contribute in any other way to the commission of an offence.⁶⁰ As regards its mental element, this mode of liability requires direct or eventual intent, within the meaning of Article 21 of the KCC.⁶¹

ii. Analysis

29. *Offence: material and mental elements.* The Panel finds that the offer of “help” made by Mr Januzi to Witness 1 during the Second Approach – as set out in the Agreed Factual Basis – represents a “declaration or assurance” to Witness 1, “stating a commitment” that Mr Shala and others would “help” Witness 1, should Witness 1 withdraw his testimony before the SC.⁶² The Panel also finds that the aforementioned acts and statements of Mr Januzi denote an offer of some form of benefit, such as an

⁵⁹ See also Case 11 Confirmation Decision, para. 26 and further references therein. For a further explanation of the material and mental elements of the offence, see paras 27-35 and further references therein. See also Case 10 Confirmation Decision, para. 26 and further references therein. For a further explanation of the material and mental elements of the offence, see paras 27-28, 30, 32-35 and further references therein.

⁶⁰ See also Case 11 Confirmation Decision, para. 58 and further references therein. For a further explanation of the elements of the mode of liability, see paras 59-60 and further references therein. See also Case 10 Confirmation Decision, para. 58 and further references therein. For a further explanation of the elements of the mode of liability, see paras 59-60 and further references therein.

⁶¹ See also Case 11 Confirmation Decision, para. 56 (and further references therein); Case 10 Confirmation, para. 56 (and further references therein).

⁶² See *supra* para. 26. See also, KSC-BC-2023-10, F00377, Pre-Trial Judge, *Decision on the Confirmation of Amendments to the Indictment and Related Matters* (Case 10 Amendment Decision), 8 July 2024, confidential, paras 34 (and references therein), 53; a public redacted version was issued on 9 July 2024, [F00377/RED](#); Case 11 Confirmation Decision, paras 29 (and references therein), 95.

advantage, profit or good.⁶³ Thus, the Panel finds that the acts and statements of Mr Januzi during the Second Approach amount to “a promise of a gift or any other form of benefit” within the meaning of Article 387 of the KCC.

30. Considering that, according to the Agreed Factual Basis, the offer of help was made in exchange for Witness 1 *to withdraw his testimony before the SC*, the Panel further finds that: (i) Witness 1 is a person who gave or is likely to give evidence before the SC/SPO;⁶⁴ and (ii) the purpose of the offer of help was to induce Witness 1 to refrain from testifying in official proceedings of the SC (SC Proceedings), within the meaning of Article 387 of the KCC.⁶⁵

31. The Panel finds that Mr Januzi was aware of, and acted with a desire for, using a promise of a benefit in order to induce Witness 1 to refrain from giving evidence to the SC/SPO in the context of SC Proceedings, therefore acting with direct intent within the meaning of Article 21 of the KCC.⁶⁶

32. *Mode of liability: co-perpetration.* The Panel finds that – as set out in the Agreed Factual Basis – Messrs Shala, Januzi, and Bahtijari acted in a concerted manner, participating in or substantially contributing to the commission of the offence enshrined in Count 2, considering the following: (i) the First Approach and the Second Approach were both undertaken for the purpose of inducing Witness 1 to refrain from

⁶³ See *supra* para. 26. See also Case 10 Amendment Decision, paras 34 (and references therein), 53; Case 11 Confirmation Decision, paras 29 (and references therein), 95.

⁶⁴ See *supra* para. 26. See also Case 11 Confirmation Decision, paras 30 (and further references therein), 73, 85, 94; Case 10 Confirmation Decision, paras 30 (and further references therein), 74. [REDACTED].

⁶⁵ See *supra* para. 26. See also Case 11 Confirmation Decision, paras 93, 95; Case 10 Amendment Decision, para. 53.

⁶⁶ See also Case 10 Amendment Decision, para. 56; Case 10 Confirmation Decision, paras 32-33, and further references therein; Case 11 Confirmation Decision, paras 32-33 and further references therein.

giving evidence before the SC; (ii) the Accused divided the tasks amongst them; (iii) Messrs Januzi and Bahtijari acted at the direction of Mr Shala, receiving instructions from and reporting back to him on the outcome of said Approaches; (iv) the Second Approach was carried out as a necessary follow-up to the First Approach; and (v) the Accused communicated and coordinated between each other regarding the interactions with Witness 1, before and after the First Approach and the Second Approach.⁶⁷

33. Regarding the mental element of this mode of liability, the Panel finds that the acts and statements of the Accused were made with direct intent.⁶⁸

34. *Conclusion.* The Panel is satisfied that: (i) the acts and statements of Mr Januzi fulfil the elements of the offence of intimidation during criminal proceedings; and (ii) the conduct of the Accused fulfils the elements of the mode of liability of co-perpetration. Accordingly, the Panel finds that the offence under Article 387 of the KCC and Article 15(2) of the Law, contained in Count 2 of the 17 December 2024 Indictment, was committed jointly and intentionally by the Accused, within the meaning of Articles 21 and 31 of the KCC and Article 16(3) of the Law.

b) Obstructing Official Persons in Performing Official Duties (Count 1)

i. Applicable law

35. Article 401(2) of the KCC provides that whoever participates in a group of persons which by common action obstructs or attempts to obstruct an official person

⁶⁷ See *supra* para. 26. See also Case 11 Confirmation Decision, para. 134; Case 10 Amendment Decision, para. 62.

⁶⁸ See *supra* para. 26. See also Case 11 Confirmation Decision, para. 136; Case 10 Amendment Decision, para. 63.

in performing official duties or, using the same means, compels him or her to perform official duties, shall be punished by a fine or by imprisonment of up to three (3) years.⁶⁹

36. Article 401(5) of the KCC stipulates that “[W]hen the offense [in Article 401(2)] is committed against a judge, a prosecutor, an official of a court, a prosecution officer or a person authorized by the court and prosecution office, a police officer, a military officer, a customs officer or a correctional officer during the exercise of their official functions, the perpetrator shall be punished by imprisonment of one (1) to five (5) years”.⁷⁰

37. Commission, within the meaning of Article 17(1) of the KCC, requires that the perpetrator physically carries out the objective elements of an offence, or omits to act when required to do so under the law.⁷¹ As regards its mental element, this mode of liability requires direct or eventual intent, within the meaning of Article 21 of the KCC.⁷²

⁶⁹ See also Case 11 Confirmation Decision, para. 47 and further references therein. For a further explanation of the elements of the offence, see paras 42, 48-52 and further references therein. See also Case 10 Confirmation Decision, para. 47 and further references therein. For a further explanation of the elements of the offence, see paras 42, 48-52 and further references therein.

⁷⁰ See also Case 11 Confirmation Decision, para. 37, see also para. 41 (and further references therein); Case 10 Confirmation Decision, para. 37, see also para. 41 (and further references therein).

⁷¹ See also Case 11 Confirmation Decision, paras 56-57 (and further references therein); Case 10 Confirmation, paras 56-57 (and further references therein).

⁷² See also Case 11 Confirmation Decision, para. 56 (and further references therein); Case 10 Confirmation, para. 56 (and further references therein).

ii. Analysis

38. *Offence: material and mental elements.* The Panel finds that the Accused formed a “group” consisting of at least three persons, as foreseen under Article 113(12) of the KCC.⁷³

39. “[C]ommon action”. The Panel also finds that the Accused each contributed to, or enabled in some other form, the “common action” within the meaning of Article 401(2) of the KCC,⁷⁴ considering the following: (i) Mr Januzi and Mr Bahtijari approached Witness 1 at his home on 5 and 12 April 2023, respectively, under the direction of Mr Shala; (ii) during the First Approach, Mr Bahtijari told Witness 1 that he should withdraw his testimony before the SC; (iii) during the Second Approach, Mr Januzi followed up on the First Approach and relayed to Witness 1 an offer that Mr Shala and others would help him if he withdrew his testimony before the SC; (iv) the First Approach and the Second Approach were undertaken for the purpose of inducing Witness 1 to refrain from giving evidence before the SC; and (v) the Accused communicated and coordinated between each other regarding the interactions with Witness 1, before and after the First Approach and the Second Approach.⁷⁵

40. “[O]bstructs”. The Panel is of the view that the conduct of the Accused – as described above – could in principle, impede, hinder and/or delay the work of SPO prosecutors and investigators, as well as SC staff members, in the context of SC Proceedings,⁷⁶ if the offer of “help” created a strong disincentive for Witness 1 to

⁷³ See *supra* para. 26. See also Case 11 Confirmation Decision, paras 49 (and further references therein), 119, 124; Case 10 Confirmation Decision, paras 49 (and references therein), 113, 124.

⁷⁴ See also Case 11 Confirmation Decision, paras 49 (and further references therein), 124; Case 10 Confirmation Decision, paras 49 (and further references therein), 124.

⁷⁵ See *supra* para. 26. See also Case 11 Confirmation Decision, paras 119-124; Case 10 Confirmation Decision, paras 113-118.

⁷⁶ See also Case 11 Confirmation Decision, paras 41-42 (and further references therein); Case 10 Confirmation Decision, paras 41-42 (and further references therein).

testify in SC Proceedings and, as a result, Witness 1 decided to cease his cooperation with the SPO/SC and refuse to provide evidence in SC Proceedings. However, in the case at hand, the Agreed Factual Basis does not: (i) [REDACTED]; (ii) indicate any concrete and actual impediment to the investigations of the SPO that could be imputed to the conduct of the Accused, or that the conduct of the SC Proceedings have been negatively impacted as a result of their actions; (iii) point to any act that the SC/SPO was prevented from, hindered or delayed in performing as part of their work in SC Proceedings; or (iv) demonstrate that, as a result of additional expenditure to investigate the facts agreed in the present case,⁷⁷ the SPO was prevented from or delayed in carrying out its regular investigative functions.⁷⁸ Thus, the Panel finds that the Agreed Factual Basis does not establish that the Accused obstructed official persons in performing official duties.⁷⁹

41. Notwithstanding the above, Article 401(2) of the KCC also prohibits the *attempt* to obstruct official persons in performing official duties.⁸⁰ The Panel has already found that the Accused – as a group – participated in a joint endeavor for the purpose of inducing Witness 1 to refrain from testifying in SC Proceedings, which in principle could result in the obstruction of the work of SPO prosecutors and investigators, as well as SC staff members, in the context of SC Proceedings.⁸¹ Accordingly, the aforementioned acts and statements of the Accused fulfil one of the material elements

⁷⁷ See 17 December 2024 Indictment, para. 18.

⁷⁸ See similarly KSC-BC-2020-07, F00611/RED, Trial Panel II, [Public Redacted Version of the Trial Judgment \(Gucati and Haradinaj Trial Judgment\)](#), 18 May 2022, public, paras 648-649, 651, 653.

⁷⁹ See also Case 11 Confirmation Decision, paras 42 (and further references therein), 110-111, 125; Case 10 Confirmation Decision, paras 42 (and further references therein) 104-105, 119.

⁸⁰ See *supra* para. 35 and further references therein.

⁸¹ See *supra* paras 38-40.

of the present offence, amounting to an attempted form of the offence of obstructing official persons in performing official duties.⁸²

42. *Aggravated form.* The Panel recalls that the acts and statements of the Accused amount to obstruction of the work of the SPO prosecutors and investigators, as well as SC staff members, within the context of SC Proceedings.⁸³ Accordingly, the Panel finds that Accused committed the offence against an “official”, in the performance of “official duties,” within the meaning of Article 113(2) of the KCC, and, more specifically, against a judge, a prosecutor, an official of a court, a prosecution officer or a person authorised by the court and prosecution office.⁸⁴ In this light, the Panel finds that the requirements of the aggravated form of the offence set forth under Article 401(5) of the KCC are met.

43. The Panel finds that the Accused acted with awareness of, and desire for, inducing Witness 1 to refrain from testifying in SC Proceedings, thus, ultimately, obstructing the work of the SPO/SC officials, in particular SPO prosecutors and investigators, within the context of SC Proceedings, and that the Accused intended to participate in the common action of a group to achieve the obstructive purpose, therefore acting with direct intent within the meaning of Article 21 of the KCC.⁸⁵

⁸² See also Case 11 Confirmation Decision, paras 126-127, 129; Case 10 Confirmation Decision, paras 120-121, 123.

⁸³ See *supra* paras 40-41.

⁸⁴ See *supra* para. 36 and further references therein. See also Case 11 Confirmation Decision, para. 127; Case 10 Confirmation Decision, para. 121.

⁸⁵ See also Case 11 Confirmation Decision, paras 51-52 (and further references therein), 128; Case 10 Confirmation Decision, paras 51-52 (and further references therein), 122.

44. *Mode of liability: commission.* The Panel finds that the Accused physically and intentionally carried out the offence of obstructing official persons in the performance of official duties.⁸⁶

45. *Conclusion.* The Panel is satisfied that (i) the acts and statements of the Accused fulfil the elements of the offence of obstructing official persons in performing official duties; and (ii) they committed the offence as direct perpetrators. Accordingly, the Panel finds that the offence under Article 401(2) and (5) of the KCC and Article 15(2) of the Law, contained in Count 1 of the 17 December 2024 Indictment, was committed intentionally by the Accused, within the meaning of Articles 17 and 21 of the KCC and Article 16(3) of the Law.

4. Conclusion

46. Having considered the above, the Panel is satisfied – as set out under Rule 94(5)(e) of the Rules – that there is sufficient factual basis establishing the essential facts that are required to prove the offences and the participation of the Accused, as set out in the Plea Agreements.

D. CONCLUSION ON THE REQUIREMENTS UNDER RULE 94(2) AND (5)

47. In light of the above, the Panel is satisfied that the requirements under Rule 94(2) and (5) are met and accepts the guilty pleas made by the Accused during the Plea Hearings. The Panel thus finds the Accused guilty of Counts 1 and 2, as contained in the 17 December 2024 Indictment.

⁸⁶ See *supra* para. 26. See also Case 11 Confirmation Decision, paras 56-57 (and further references therein), 132; Case 10 Confirmation Decision, paras 56-57 (and further references therein), 126.

VI. SENTENCING

48. Having found Mr Shala, Mr Januzi and Mr Bahtijari guilty under Counts 1 and 2 as contained in the 17 December 2024 Indictment, the Panel will now determine the sentence in respect of each of them.

A. SUBMISSIONS OF THE PARTIES

1. SPO

49. The SPO submits that, with a view to strengthening the SC's and SPO's mandate to protect witnesses and victims, the Panel should impose significant terms of imprisonment on the Accused, reflecting, *inter alia*, the gravity of their offences, their roles and acts, the presence of multiple aggravating factors, the importance of deterrence and the lack of any meaningful mitigating factors.⁸⁷

a) Gravity and consequences of the offences

50. The SPO recalls that there were multiple approaches to Witness 1 at his home by two of the Accused, [REDACTED], coordinated by the three Accused as a group, acting as part of and/or on behalf of a larger cabal involving unnamed others.⁸⁸ According to the SPO, the fact that [REDACTED], and, more generally, it has a chilling effect on the public's confidence in the effectiveness of the SC's orders and decisions.⁸⁹ The SPO further maintains that the fact that the additional promise of a benefit was offered during the Second Approach underscores the Accused's determination and resolve to apply any means necessary to achieve their goal.⁹⁰

⁸⁷ SPO Sentencing Submissions, paras 24, 27-30.

⁸⁸ SPO Sentencing Submissions, para. 46.

⁸⁹ SPO Sentencing Submissions, paras 47-48.

⁹⁰ SPO Sentencing Submissions, para. 49.

b) Participation of the Accused in the offences

51. *Mr Shala*. The SPO argues that Mr Shala's conduct was deliberate, persistent, and coordinated as: (i) he met with and/or engaged in communications with both Mr Bahtijari and Mr Januzi before and after setting into motion the Approaches; (ii) he purposefully chose Mr Bahtijari and Mr Januzi, [REDACTED], as his intermediaries to ensure maximum effectiveness; this approach also highlights his awareness that his endeavor was criminal; (iii) he tasked Mr Bahtijari and Mr Januzi with getting Witness 1 to withdraw his testimony; and (iv) when Mr Bahtijari's approach did not appear to have secured the withdrawal of the witness's testimony, Mr Shala directed Mr Januzi to offer "help".⁹¹

52. *Mr Januzi*. The SPO submits that Mr Januzi's conduct was deliberate, coordinated and persistent as: (i) he engaged in communications with Mr Shala and Mr Bahtijari before and (after) the Approaches; and (ii) he arrived at Witness 1's home approximately one week after Mr Bahtijari had been there and told him, *inter alia*, that he was following-up on the First Approach and that other unknown individuals were offering "help" to Witness 1 in exchange for his agreement not to testify.⁹²

53. *Mr Bahtijari*. The SPO submits that Mr Bahtijari showed persistence in his behavior as he: (i) called Witness 1's phone, learned that he was home, and then arrived at his home without invitation; (ii) conveyed the message that Witness 1 should refrain from testifying before the SC; and (iii) remained in close communication with Mr Shala and Mr Januzi, both before and after the First Approach.⁹³

⁹¹ SPO Sentencing Submissions, paras 51-55.

⁹² SPO Sentencing Submissions, paras 56-58.

⁹³ SPO Sentencing Submissions, para. 59.

c) Aggravating circumstances

54. The SPO submits as aggravating circumstances: (i) the involvement of multiple victims, within the meaning of Rule 163(1)(b)(iv) of the Rules; and (ii) the victims' vulnerability, within the meaning of Rule 163(1)(b)(iii) of the Rules, given the climate of witness intimidation in Kosovo and [REDACTED].⁹⁴

55. As regards Mr Shala and Mr Januzi, the SPO additionally submits that they both have prior criminal histories in Kosovo.⁹⁵ [REDACTED].⁹⁶ [REDACTED].⁹⁷ [REDACTED].⁹⁸

d) Mitigating circumstances

56. The SPO submits that, while the Plea Agreements shall result in reduced sentences, in accordance with Rule 163(2) of the Rules, there are no further mitigating circumstances *vis-à-vis* the Accused.⁹⁹ The SPO emphasizes that: (i) cooperation in the form of the Plea Agreements did not occur until shortly before trial; (ii) to the extent that voluntary interviews were given, the Accused denied any wrongdoing; and (iii) despite the Accused's admissions regarding the involvement of "others" in the

⁹⁴ SPO Sentencing Submissions, para. 60.

⁹⁵ SPO Sentencing Submissions, para. 61; SPO Additional Sentencing Submissions, para. 2.

⁹⁶ SPO Additional Sentencing Submissions, paras 5-7.

⁹⁷ SPO Additional Sentencing Submissions, paras 6-7; *see also* 18 December 2024 Transcript, confidential, pp. 454-456.

⁹⁸ SPO Additional Sentencing Submissions, paras 8-11. In this respect, the SPO maintains that Rule 163(1)(b) of the Rules does not limit the Panel in considering *only* the aggravating circumstances enumerated therein, *e.g.* prior criminal convictions, but rather, the Panel can consider other relevant information, [REDACTED], *see* 18 December 2024 Transcript, confidential, pp. 493, 495-496. The SPO made these submissions in response to the arguments advanced by the Januzi Defence with regard to [REDACTED], *see infra* para. 64.

⁹⁹ SPO Sentencing Submissions, paras 24, 66.

offences, they have yet to identify these persons to the SPO.¹⁰⁰ Against this background and considering the gravity of the offences, the SPO advances that no substantial weight should be given to any possible submissions on the good character of any of the Accused.¹⁰¹

57. As regards Mr Bahtijari in particular, the SPO contends that the Bahtijari Defence failed to establish that his ability to understand the nature, importance, and consequences of his actions at the time of the commission of the offences was substantially diminished due to his medical conditions.¹⁰² The SPO further argues that, in any event, it has given appropriate weight to Mr Bahtijari's medical conditions in making its sentencing recommendation.¹⁰³

e) Requested Sentences

58. The SPO requests the Panel to impose the following sentences on the Accused:

- (i) For Mr Shala: (i) **Count 1:** 36 months' imprisonment; (ii) **Count 2:** 36 months' imprisonment; and (iii) **Aggregate sentence:** 36 months' imprisonment;
- (ii) For Mr Januzi: (i) **Count 1:** 30 months' imprisonment; (ii) **Count 2:** 30 months' imprisonment; and (iii) **Aggregate sentence:** 30 months' imprisonment; and

¹⁰⁰ SPO Sentencing Submissions, para. 67; *see also* 18 December 2024 Transcript, p. 456 (as regards Mr Shala); 18 December 2024 Transcript, pp. 517-518 (as regards Mr Januzi).

¹⁰¹ SPO Sentencing Submissions, para. 69.

¹⁰² 19 December 2024 Transcript, confidential, pp. 581-582.

¹⁰³ 19 December 2024 Transcript, confidential, p. 582.

- (iii) For Mr Bahtijari: (i) **Count 1:** 24 months' imprisonment;
(ii) **Count 2:** 24 months' imprisonment; and (iii) **Aggregate sentence:** 24 months' imprisonment.¹⁰⁴

59. As regards the Januzi Defence's request for a suspended sentence,¹⁰⁵ the SPO submits that a sentence of 30 months' imprisonment to be served in prison would be just, appropriate and necessary given the gravity of Mr Januzi's offences, his specific role and actions as well as the importance of deterrence.¹⁰⁶

2. Shala Defence

60. The Shala Defence submits that the imposition of the agreed punishment of three years' imprisonment is consistent with the law applicable before the SC and will ensure that the interests of justice are duly taken into account, as required by Rule 94(5)(f) of the Rules.¹⁰⁷

61. More specifically, the Shala Defence submits that a number of mitigating factors exist *vis-à-vis* Mr Shala, which the SPO fails to take into account.¹⁰⁸ As regards the

¹⁰⁴ SPO Sentencing Submissions, para. 75.

¹⁰⁵ See *infra* para. 65.

¹⁰⁶ 18 December 2024 Transcript, pp. 512-513.

¹⁰⁷ Shala Sentencing Submissions, paras 7, 38. The Shala Defence further submits that the conclusion that the imposition of a sentence of three years' imprisonment is in the interests of justice is reinforced by the international criminal law practice, including the proceedings in KSC-BC-2020-07. See Shala Sentencing Submissions, paras 16-33.

¹⁰⁸ Shala Sentencing Submissions, paras 9-14; 18 December 2024 Transcript, pp. 446-447. In relation to Count 1, the Shala Defence argues, *inter alia*, that: (i) the Agreed Factual Basis does not state that Mr Shala actually obstructed official persons in performing their official duties but, rather, it only implies that there was an attempt to do so; (ii) the *actus reus* of the offence is relatively small-scale since it consists of one approach to one individual on two days; (iii) Mr Shala's communication with his co-Accused are actions inherent in an offence which requires participation in a group of persons that obstructs or attempts to obstruct by common action; and (iv) there was no abuse of power or official capacity by Mr Shala. In relation to Count 2, the Shala Defence argues, *inter alia*, that: (i) Mr Shala has

SPO's claim of lack of cooperation on the part of Mr Shala, the Shala Defence maintains that this is an issue that the SPO never raised before and that the SPO's submissions in this regard should have no bearing on Mr Shala's character.¹⁰⁹ As regards Mr Shala's prior criminal convictions referred to by the SPO, the Shala Defence submits that said convictions concern offences at the low end of the sentencing scale which is reflected in the suspended sentences that were imposed on Mr Shala.¹¹⁰

62. The Shala Defence further submits that, given the nature and contents of the offences and considering the fact that he entered into a plea agreement, the appropriate punishment would be at the lower end of the applicable sentencing range.¹¹¹ Lastly, the Shala Defence argues that a long sentence of imprisonment would have an especially damaging effect on Mr Shala and his family.¹¹²

3. Januzi Defence

63. The Januzi Defence submits that the appropriate sentence for Mr Januzi is at the lowest end of the sentencing range agreed to with the SPO, namely 24 months.¹¹³ In

agreed that he is guilty for directing members of a group to induce Witness 1 to refrain from giving evidence through the promise of a benefit, and not by use of force or serious threat, or any other means of compulsion and, therefore, the offence under Count 2 is among the least serious of those listed under Article 387 of the KCC; and (ii) the offence is relatively small-scale.

¹⁰⁹ 18 December 2024 Transcript, pp. 448-449, 458.

¹¹⁰ 18 December 2024 Transcript, pp. 449-450.

¹¹¹ Shala Sentencing Submissions, paras 8, 13, 15.

¹¹² Shala Sentencing Submissions, para. 34. The Shala Defence refers, in this respect, to the four reference letters annexed to the Shala Sentencing Submissions, demonstrating the high regard in which Mr Shala is held by his family and community and the contribution that he was able to make to them and his country.

¹¹³ Januzi Sentencing Submissions, para. 14.

particular, the Januzi Defence submits that: (i) Mr Januzi was acting under direction; (ii) he met with Witness 1 on a single occasion only; (iii) the inducement offered was simply an unspecified offer of “help”; (iv) [REDACTED] no further attempt to induce him to refrain from giving evidence was made; (v) [REDACTED]; and (vi) there is no suggestion that an act of an SC and/or SPO official was in fact prevented or delayed as a result of Mr Januzi’s actions.¹¹⁴

64. The Januzi Defence further contends that none of the aggravating circumstances listed in Rule 163(1)(b) of the Rules are present *vis-à-vis* Mr Januzi,¹¹⁵ since he has no previous relevant convictions,¹¹⁶ and he is a man of good character.¹¹⁷ As regards the existence of mitigating circumstances, the Januzi Defence submits that the following factors should be considered: (i) the fact that Mr Januzi entered a plea agreement and the fact that its conclusion saved significant court time and expenses; (ii) Mr Januzi’s remorse;¹¹⁸ (iii) the fact that he has no relevant previous convictions on his record; (iv) the fact that, prior to his arrest, he cooperated with the SPO and remained at his residence, knowing he was under investigation; and (v) his personal circumstances and character, including his strong ties with his local community, as well as his modest financial means.¹¹⁹

¹¹⁴ Januzi Sentencing Submissions, paras 15-20.

¹¹⁵ Januzi Sentencing Submissions, para. 21.

¹¹⁶ [REDACTED]. [REDACTED].

¹¹⁷ 18 December 2024 Transcript, confidential, pp. 490-492.

¹¹⁸ During the Plea Hearings, in response to questions posed to him by the Presiding Judge, Mr Januzi confirmed that he has reflected upon his time in detention and that he is remorseful for his criminal conduct. He stated “I regret what I did. [...] Now that I understand the importance of this matter, of course I would never do it again”. *See* 18 December 2024 Transcript, pp. 520-521.

¹¹⁹ Januzi Sentencing Submissions, paras 22-35.

65. Lastly, the Januzi Defence invites the Panel to order that the term of imprisonment imposed on Mr Januzi shall not be executed, unless he commits another offence during a verification period of not less than one year.¹²⁰

4. Bahtijari Defence

66. The Bahtijari Defence argues that the offences in the present case did not have permanent or serious consequences for public order or the administration of justice, considering that Mr Bahtijari's limited actions implicated only one witness, whom he neither threatened nor harmed, [REDACTED].¹²¹ The Bahtijari Defence also presented arguments as to Mr Bahtijari's good character,¹²² past and present medical history (which impaired his mental capacity at the time of the commission of the offences warranting a mitigation of his punishment),¹²³ and family circumstances.¹²⁴ In addition, the Bahtijari Defence argues that Mr Bahtijari acted under the direction of Mr Shala and played a minor role in the commission of the offences.¹²⁵ Furthermore, the Bahtijari Defence requests the Panel to consider Mr Bahtijari's lack of motive and

¹²⁰ Januzi Sentencing Submissions, para. 36; 18 December 2024 Transcript, pp. 510-512. In this regard, the Januzi Defence submits that the Panel has the discretion to do so pursuant to Articles 48(1)-(2) and (4) and 71(1.1.3) of the KCC and that such an order would further both the principles of rehabilitation and prevention in creating a powerful incentive not to transgress again.

¹²¹ Bahtijari Sentencing Submissions, paras 26-27, 67.

¹²² The Bahtijari Defence refers in particular to Mr Bahtijari's reputation and standing within his community, *see* Bahtijari Sentencing Submissions, para. 29 and Annexes 2-3 containing reference letters from Mr Bahtijari's family and community members.

¹²³ Bahtijari Sentencing Submissions, paras 32-50, 53-54, 67. In this regard, the Bahtijari Defence argues that: (i) Mr Bahtijari did not commit the offences with a high degree of will; (ii) his ability to be discerning of his actions and decisions was lowered; and (iii) he was more likely to succumb to direction.

¹²⁴ The Bahtijari Defence argues that Mr Bahtijari's family was affected by Mr Bahtijari's arrest, *see* Bahtijari Sentencing Submissions, paras 30-31.

¹²⁵ Bahtijari Sentencing Submissions, paras 55-57, 67.

conduct after the commission of the offences, in particular his cooperation with the SPO during and after his arrest, and his satisfactory behavior while in detention.¹²⁶

67. Moreover, the Bahtijari Defence submits that there are no aggravating circumstances *vis-à-vis* Mr Bahtijari as he does not have any prior criminal convictions, there was no abuse of power or official capacity and the offences he committed did not involve particularly vulnerable victims or cruelty.¹²⁷ According to the Bahtijari Defence, the mitigating and favorable factors, if considered holistically, warrant a sentence of time served and Mr Bahtijari's release as soon as possible.¹²⁸

68. Lastly, the Bahtijari Defence submits that, given his indigence and health situation, any fine should be deemed as fully covered by the time served, and any further retribution, custodial or monetary, would be disproportionately strident.¹²⁹

B. LEGAL FRAMEWORK

69. *Purpose of Sentencing.* At the outset, the Panel recalls that, as stipulated in the SC's jurisprudence,¹³⁰ the primary purposes of sentencing are rooted in deterrence¹³¹ and

¹²⁶ Bahtijari Sentencing Submissions, paras 58-61.

¹²⁷ Bahtijari Sentencing Submissions, para. 22.

¹²⁸ Bahtijari Sentencing Submissions, paras 23, 63-65, 67, 69; 19 December 2024 Transcript, pp. 564-565, 579.

¹²⁹ Bahtijari Sentencing Submissions, paras 65-66, 68.

¹³⁰ See [Shala Trial Judgment](#), para. 1060.

¹³¹ Regarding deterrence, the Panel recalls that a sentence should be adequate to dissuade a convicted person from re-offending (individual deterrence), while also aiming to dissuade other potential perpetrators from committing the same or similar offence(s) (general deterrence). See [Shala Trial Judgment](#), para. 1060.

retribution;¹³² rehabilitation¹³³ is relevant but should not play a predominant role. The Panel further recalls that punishment must also reflect the call for justice from persons who have – directly or indirectly – been victims of the offence(s). Another important purpose of sentencing is the acknowledgment of the harm and suffering caused to them and to society.¹³⁴

70. *Sentencing Regime.* When determining the sentence for offences under Article 15(2) of the Law, by virtue of Article 3(2)(b)-(c) and (4) of the Law, the Panel shall apply the regime provided for under Article 44(4)-(5) of the Law and Rule 163(1)-(4) and (6) of the Rules, and said sentence shall be in line with the punishments set out in the KCC for those offences.

71. *Identifying and Balancing Relevant Factors.* The Panel first identifies relevant factors pursuant to Article 44(5) of the Law and Rule 163(1)-(3) of the Rules and, second, weighs and balances all such factors, and determines the sentence.

72. The relevant factors in determining the sentence are: (i) primarily, the gravity of an offence and its consequences; (ii) the convicted person's personal contribution to the offence(s); and (iii) the individual circumstances of the convicted person

¹³² Retribution is understood as the imposition of an appropriate punishment which reflects the culpability of the convicted person, but it should not express revenge or vengeance. See [Shala Trial Judgment](#), para. 1060.

¹³³ Rehabilitation is focused on the reintegration of the convicted person into society. See [Shala Trial Judgment](#), para. 1060.

¹³⁴ See Article 38(1)(1.3) of the KCC stating that one of the purposes of sentencing is "to provide compensation to victims or the community for losses or damages caused by the criminal conduct". See also [Shala Trial Judgment](#), para. 1063.

(Three Categories). In addition, the Panel may consider the existence of mitigating and aggravating circumstances under any of the Three Categories.¹³⁵

73. Gravity is measured *in abstracto*, by analysing the nature of the offence in general terms and *in concreto*, by assessing the particular circumstances of the case.¹³⁶ When assessing the gravity of an offence, the Panel shall consider its nature, scope, and circumstances as well as its consequences.¹³⁷ Indicators of gravity include the scale of the offence, the number of victims, the vulnerability of the victims, the age of the victims, the extent of the victims' suffering and the impact on the victims' relatives.¹³⁸ Any factors taken into consideration as aspects of the gravity of an offence cannot additionally be considered as separate aggravating circumstances, and *vice versa*.¹³⁹

74. With regard to the personal contribution to the offence(s), the Panel examines the convicted person's role and position, the means employed to execute the offence(s), and the degree of intent.¹⁴⁰

¹³⁵ See KSC-CA-2023-02, F00038/RED, Court of Appeals Panel, [Public Redacted Version of Appeal Judgment](#), 14 December 2023, public, para. 458; [Shala Trial Judgment](#), para. 1072.

¹³⁶ See [Shala Trial Judgment](#), para. 1077.

¹³⁷ See [Shala Trial Judgment](#), para. 1076; see also [Gucati and Haradinaj Trial Judgment](#), para. 951 and references therein.

¹³⁸ See [Shala Trial Judgment](#), para. 1078; [Gucati and Haradinaj Trial Judgment](#), para. 951 and references therein.

¹³⁹ See [Shala Trial Judgment](#), para. 1078. Similarly, ICC, *Prosecutor v. Katanga*, ICC-01/04-01/07-3484-tENG-Corr, Trial Chamber II, [Decision on Sentence pursuant to article 76 of the Statute](#), 23 May 2014, para. 35.

¹⁴⁰ See [Shala Trial Judgment](#), para. 1079.

75. With regard to the individual circumstances, the Panel examines the personal situation of the convicted person, such as his or her age, health, family situation, education, prior convictions¹⁴¹ or character.¹⁴²

76. In the present case, the Panel will additionally consider the conclusion of the Plea Agreements which, pursuant to Rule 163(2) of the Rules, shall result in a reduced sentence. The Panel will in this context take into account the timing of the Plea Agreements.

77. Mitigating circumstances must relate directly to the convicted person; they need not however directly relate to the offence(s) and are not limited to the scope of the charge(s).¹⁴³ The Panel must be convinced of the existence of mitigating circumstances on a balance of probabilities.¹⁴⁴ The existence of mitigating circumstances does not lessen the gravity of the offence(s) but becomes relevant for diminishing the sentence.¹⁴⁵

78. Aggravating circumstances must relate to the offence(s) of which the person is convicted or to the person him- or herself.¹⁴⁶ The Panel must be convinced of the existence of aggravating circumstances beyond reasonable doubt.¹⁴⁷ The absence of mitigating circumstances does not serve as an aggravating circumstance.¹⁴⁸ Lastly, an

¹⁴¹ Rule 163(3) of the Rules.

¹⁴² See [Shala Trial Judgment](#), para. 1080.

¹⁴³ See [Shala Trial Judgment](#), para. 1081.

¹⁴⁴ See [Shala Trial Judgment](#), para. 1081.

¹⁴⁵ See [Shala Trial Judgment](#), para. 1081.

¹⁴⁶ See [Shala Trial Judgment](#), para. 1082.

¹⁴⁷ See [Shala Trial Judgment](#), para. 1082.

¹⁴⁸ See [Shala Trial Judgment](#), para. 1082.

element of the offence(s) or mode of liability cannot at the same time be considered as an aggravating circumstance of the same offence(s).¹⁴⁹

79. The Panel has discretion in weighing and balancing the above-mentioned factors when determining the sentence.¹⁵⁰ The Panel must explain the weight given to such circumstances and the specific evidence it relied upon.¹⁵¹ Likewise, the Panel has a considerable degree of discretion, in the light of the circumstances of the case, in determining what constitutes a mitigating or aggravating circumstance in addition to those explicitly set out in Rule 163(1) of the Rules.¹⁵² Lastly, the convicted person must be sufficiently put on notice of the facts that are taken into account to aggravate the sentence.¹⁵³

80. *Determination of Sentence.* In determining the appropriate sentence, the Panel shall take into account the agreement reached between each Accused and the SPO on the sentence or sentencing range to be imposed, in accordance with Rule 94(2)(b) of the Rules. However, the Panel recalls that, pursuant to Rule 94(6) of the Rules, it is not bound by such an agreement and may propose to the Parties amendments for their consideration.

81. Pursuant to Rule 163(4) of the Rules, the Panel shall determine a sentence in respect of each charge in the confirmed indictment under which the person has been convicted and shall impose a single sentence reflecting the totality of the criminal

¹⁴⁹ See [Shala Trial Judgment](#), para. 1082.

¹⁵⁰ See, *inter alia*, Article 44(5) of the Law; Rule 163(1)(a)-(b) of the Rules. See also [Shala Trial Judgment](#), para. 1073.

¹⁵¹ See [Shala Trial Judgment](#), para. 1075.

¹⁵² See [Shala Trial Judgment](#), para. 1074.

¹⁵³ See [Shala Trial Judgment](#), para. 1075.

conduct of the convicted person. The single sentence shall not be less than the highest individual sentence determined in respect of each charge.¹⁵⁴ Lastly, pursuant to Rule 163(6) of the Rules, when imposing a sentence of imprisonment, the Panel shall deduct the time, if any, during which the convicted person was detained prior to or during trial.¹⁵⁵

C. FINDINGS

1. Mr Shala

82. The Panel finds that the offences of obstructing official persons in performing official duties (Count 1) and intimidation during criminal proceedings (Count 2), pursuant to Articles 387 and 401(2) and (5) of the KCC, for which Mr Shala has been found guilty, are grave for the following reasons: (i) offences against the administration of justice constitute a grave challenge to the security and integrity of judicial proceedings, and undermine the discovery of the truth and impede justice for victims and for society as a whole;¹⁵⁶ (ii) Mr Shala intimidated, through his unlawful actions, Witness 1 [REDACTED];¹⁵⁷ (iii) Mr Shala's unlawful actions had an impact on the public's trust in the effectiveness of the SC's orders and decisions; and (iv) the

¹⁵⁴ See [Shala Trial Judgment](#), para. 1084.

¹⁵⁵ See [Shala Trial Judgment](#), para. 1085.

¹⁵⁶ See [Gucati and Haradinaj Trial Judgment](#), para. 951. See further KSC-SC-2023-01/CS001, F00002, President of the Specialist Chambers, [Decision on Commutation, Modification or Alteration of Sentence](#) (Gucati Modification Decision), 12 October 2023, public, para. 37, with Annexes, confidential and *ex parte*; ICC, *Prosecutor v. Bemba et al.*, ICC-01/05-01/13, Trial Chamber VII, [Decision on Sentence Pursuant to Article 76 of the Statute](#) (Bemba et al. Sentencing Decision), 22 March 2017, para. 46; IRMCT, *Prosecutor v. Nzabonimpa et al.*, MICT-18-116, Single Judge, [Judgement](#) (Nzabonimpa et al. Trial Judgement), 25 June 2021, para. 397.

¹⁵⁷ [REDACTED].

offences were part of a plan to induce Witness 1 to withdraw evidence or refrain from providing evidence in SC Proceedings, coordinated by a group of persons, namely Mr Shala, his co-Accused, and other unidentified individuals. The fact that, as argued by the Shala Defence,¹⁵⁸ the Approaches occurred only on two days, did not involve an “actual threat” but only a monetary promise, and involved only two persons, does not negate the seriousness and gravity of the offences.

83. The Panel also takes into consideration Mr Shala’s prominent role in intentionally directing and orchestrating the commission of the offences, through Messrs Januzi and Bahtijari, as set forth in detail above.¹⁵⁹

84. The Panel has further considered Mr Shala’s personal and family situation, as well as his criminal record, which includes convictions for offences relevant to the ones for which he is convicted in the present case, and which demonstrate that Mr Shala is not afraid to engage in criminal conduct to achieve his goals.¹⁶⁰ Moreover, the Panel notes that Mr Shala did not show remorse.

85. In mitigation, the Panel has laid emphasis on the fact that: (i) Mr Shala’s admission of guilt and the conclusion of a plea agreement prior to the opening of the trial serves the interests of justice, provides some measure of closure and recognition for V01/10 and offers finality and certainty to the proceedings;¹⁶¹ and (ii) Mr Shala agreed, after the Panel’s intervention, to pay reparations to V01/10.

86. Mindful of the purposes of sentencing, and having weighed and balanced all factors set out above, the Panel approves the sentence agreed between the SPO and Mr Shala and sentences Mr Shala to:

¹⁵⁸ See *supra* footnote 108.

¹⁵⁹ See *supra* para. 26.

¹⁶⁰ See Annex 1 to SPO Additional Sentencing Submissions.

¹⁶¹ See *supra* para. 20.

- (i) a term of three (3) years of imprisonment for the offence of obstructing official persons in performing official duties by participating in the common action of a group (Count 1); and
- (ii) a term of three (3) years of imprisonment for the offence of intimidation during criminal proceedings (Count 2).

87. Having determined the above sentences, the Panel imposes on Mr Shala a single sentence of three (3) years of imprisonment, reflecting the totality of his criminal conduct and the offences he committed.

88. As regards credit for the time served, the Panel notes that Mr Shala was arrested on 11 December 2023¹⁶² and has been detained at the SC Detention Facilities since 12 December 2023.¹⁶³ The Panel accordingly deducts from the imposed sentence the time spent in detention since 11 December 2023.

2. Mr Januzi

89. The Panel recalls that the offences of obstructing official persons in performing official duties (Count 1) and intimidation during criminal proceedings (Count 2), pursuant to Articles 387 and 401(2) and (5) of the KCC, for which Mr Januzi has been found guilty, are grave for the following reasons: (i) offences against the administration of justice constitute a grave challenge to the security and integrity of judicial proceedings and undermine the discovery of the truth and impede justice for

¹⁶² KSC-BC-2023-11, F00008, Registrar, *Notification of Arrest of Haxhi Shala Pursuant to Rule 55(4)*, 11 December 2023, public, para. 4.

¹⁶³ KSC-BC-2023-11, F00011, Registrar, *Notification of Reception of Haxhi Shala in the Detention Facilities of the Specialist Chambers*, 12 December 2023, public, para. 2, with Annex 1, strictly confidential and *ex parte*.

victims and for society as a whole;¹⁶⁴ (ii) Mr Januzi intimidated, through his unlawful actions, in particular by offering “help”, Witness 1 [REDACTED];¹⁶⁵ (iii) Mr Januzi’s unlawful actions had a direct impact on the public’s trust in the effectiveness of the SC’s orders and decisions; and (iv) the offences were part of a plan to induce Witness 1 to withdraw evidence or refrain from providing evidence in SC Proceedings, coordinated by a group of persons, namely Mr Januzi, his co-Accused, and other unidentified individuals. The fact that, as argued by the Januzi Defence,¹⁶⁶ Mr Januzi met Witness 1 only on one occasion or that his actions involved only an offer of “help”, as opposed to force or serious threat, does not negate the seriousness and gravity of the offences. By the same token, the argument that [REDACTED]¹⁶⁷ must fail as the offence of intimidation does not require proof of consequence.¹⁶⁸ Likewise, the argument that no act of an SPO/SC official was obstructed¹⁶⁹ is without merit because Article 401(2) of the KCC punishes obstruction and attempted obstruction in the same manner.¹⁷⁰

90. The Panel also has taken into consideration that Mr Januzi, under the direction of Mr Shala, was aware of and intentionally contributed to the plan to induce Witness 1 to withdraw evidence or refrain from providing evidence in SC Proceedings. More specifically, Mr Januzi: (i) communicated and coordinated with other group members regarding their interactions with Witness 1 before and after the

¹⁶⁴ See [Gucati and Haradinaj Trial Judgment](#), para. 951. See further [Gucati Modification Decision](#), para. 37; [Bemba et al. Sentencing Decision](#), para. 46; [Nzabonimpa et al. Trial Judgement](#), para. 397.

¹⁶⁵ [REDACTED].

¹⁶⁶ See *supra* para. 63.

¹⁶⁷ See *supra* para. 63.

¹⁶⁸ Case 10 Confirmation Decision, para. 31 and references therein.

¹⁶⁹ See *supra* para. 63.

¹⁷⁰ See [Gucati and Haradinaj Trial Judgment](#), para. 141.

two Approaches; and (ii) was the go-between between Witness 1, on the one hand, and Mr Shala and other unidentified individuals, on the other hand.¹⁷¹

91. The Panel has further considered Mr Januzi's personal, financial and family situation and criminal record, which no longer contains a conviction.

92. In mitigation, the Panel attaches weight to the fact that: (i) Mr Januzi's admission of guilt and the conclusion of a plea agreement prior to the opening of the trial proceedings serves the interests of justice, provides some measure of closure and recognition for V01/10 and offers finality and certainty to the proceedings;¹⁷² (ii) Mr Januzi expressed remorse for his criminal conduct and indicated he would not engage in similar conduct again;¹⁷³ and (iii) he agreed, after the Panel's intervention, to pay reparations to V01/10.

93. Conversely, while the Panel acknowledges Mr Januzi's cooperation with the SPO,¹⁷⁴ the Panel recalls that compliance with the law or court-imposed orders are expected of any person, and therefore does not, on its own, constitute a mitigating circumstance, unless exceptional.¹⁷⁵ The Panel is not persuaded that Mr Januzi's cooperation with the SPO, beyond the conclusion of the plea agreement, has been exceptional and, therefore, it does not accord any mitigation value to this circumstance.

94. Mindful of the purposes of sentencing, and having weighed and balanced all factors set out above, the Panel approves the sentencing range agreed between the SPO and Mr Januzi and decides to sentence Mr Januzi to:

¹⁷¹ See *supra* para. 26.

¹⁷² See *supra* para. 20.

¹⁷³ 18 December 2024 Transcript, pp. 520-521.

¹⁷⁴ This concerns in particular Mr Januzi's compliance to be interviewed by the SPO.

¹⁷⁵ See [Shala Trial Judgment](#), para. 1115.

- (i) a term of two (2) years of imprisonment for the offence of obstructing official persons in performing official duties by participating in the common action of a group (Count 1); and
- (ii) a term of two (2) years of imprisonment for the offence of intimidation during criminal proceedings (Count 2).

95. Having determined the above sentences, the Panel imposes on Mr Januzi a single sentence of two (2) years of imprisonment reflecting the totality of Mr Januzi's criminal conduct and the offences he committed.

96. As regards credit for the time served, the Panel notes that Mr Januzi was arrested on 5 October 2023¹⁷⁶ and has been detained at the SC Detention Facilities since 6 October 2023.¹⁷⁷ The Panel accordingly deducts from the imposed sentence the time spent in detention since 5 October 2023.

97. As regards the Januzi Defence's request for a suspended sentence,¹⁷⁸ the Panel notes that a suspended sentence, within the meaning of Articles 46-48 of the KCC constitutes a form of alternative punishment. The Panel further recalls that, under Rule 94 of the Rules, the Panel cannot impose on the accused a sentence different than the one agreed to by the Parties or one falling outside the agreed sentencing range.¹⁷⁹ Considering that the request for a suspended sentence for Mr Januzi did not form part of his plea agreement with the SPO, the Panel rejects the Januzi Defence's request in this respect.

¹⁷⁶ KSC-BC-2023-10, F00012, Registrar, *Notification of Arrest of Sabit Januzi Pursuant to Rule 55(4)*, 5 October 2023, public, para. 4.

¹⁷⁷ F00015, Registrar, *Notification of the Reception of Sabit Januzi in the Detention Facilities of the Specialist Chambers*, 6 October 2023, public, para. 2, with Annex 1, strictly confidential and *ex parte*.

¹⁷⁸ *See supra* para. 65.

¹⁷⁹ Decision F00612, paras 16-17.

3. Mr Bahtijari

98. The Panel recalls that the offences of obstructing official persons in performing official duties (Count 1) and intimidation during criminal proceedings (Count 2), pursuant to Articles 387 and 401(2) and (5) of the KCC, for which Mr Bahtijari has been found guilty, are grave for the following reasons: (i) offences against the administration of justice constitute a grave challenge to the security and integrity of judicial proceedings, and undermine the discovery of the truth and impede justice for victims and for society as a whole;¹⁸⁰ (ii) Mr Bahtijari intimidated, through his unlawful actions, Witness 1 [REDACTED];¹⁸¹ (iii) Mr Bahtijari's unlawful actions had an impact on the public's trust in the effectiveness of the SC's orders and decisions; and (iv) the offences were part of a plan to induce Witness 1 to withdraw evidence or refrain from providing evidence in SC Proceedings, coordinated by a group of persons, namely Mr Bahtijari, his co-Accused, and other unidentified individuals. The Bahtijari Defence's allegation that the offences in the present case did not have a permanent or serious consequence¹⁸² [REDACTED].¹⁸³

99. The Panel has also taken into consideration that Mr Bahtijari, under the direction of Mr Shala, was aware of and intentionally contributed to the plan to induce Witness 1 to withdraw evidence or refrain from providing evidence in SC Proceedings. More specifically, Mr Bahtijari: (i) personally approached Witness 1 at his home, after making sure that Witness 1 was in fact there; and (ii) communicated

¹⁸⁰ See [Gucati and Haradinaj Trial Judgment](#), para. 951. See further [Gucati Modification Decision](#), para. 37; [Bemba et al. Sentencing Decision](#), para. 46; [Nzabonimpa et al. Trial Judgement](#), para. 397.

¹⁸¹ [REDACTED].

¹⁸² See *supra* para. 66.

¹⁸³ [REDACTED].

and coordinated with other group members regarding their interactions with Witness 1 before and after the First Approach and before the Second Approach.¹⁸⁴

100. The Panel has further considered Mr Bahtijari's personal, financial and family situation as well as his current state of health.

101. In mitigation, the Panel attaches weight to the fact that: (i) Mr Bahtijari's admission of guilt and the conclusion of a plea agreement prior to the opening of the trial proceedings serves the interests of justice, provides some measure of closure and recognition for V01/10 and offers finality and certainty to the proceedings;¹⁸⁵ and (ii) Mr Bahtijari expressed remorse for his criminal conduct.¹⁸⁶ Beyond the conclusion of the plea agreement with the SPO, the Panel does not accord any mitigating value to Mr Bahtijari's compliance with court orders, and good behavior in detention.

102. Mindful of the purposes of sentencing, and having weighed and balanced all factors set out above, the Panel approves the sentence agreed between the SPO and Mr Bahtijari and sentences Mr Bahtijari to:

- (i) a term of two (2) years of imprisonment for the offence of obstructing official persons in performing official duties by participating in the common action of a group (Count 1); and
- (ii) a term of two (2) years of imprisonment for the offence of intimidation during criminal proceedings (Count 2).

¹⁸⁴ See *supra* para. 26.

¹⁸⁵ See *supra* para. 20.

¹⁸⁶ 19 December 2024 Transcript, confidential, pp. 590-591.

103. Having determined the above sentences, the Panel imposes on Mr Bahtijari a single sentence of two (2) years of imprisonment reflecting the totality of his criminal conduct and the offences he committed.

104. As regards credit for the time served, the Panel notes that Mr Bahtijari was arrested on 5 October 2023¹⁸⁷ and has been detained at the SC Detention Facilities since 6 October 2023.¹⁸⁸ The Panel accordingly deducts from the imposed sentence the time spent in detention since 5 October 2023.

VII. REPARATIONS

A. 29 JANUARY 2025 DECISION

105. The Panel recalls that, in the 29 January 2025 Decision, it underlined that natural persons can be victims in the context of offences under Article 15(2) of the Law, provided that they meet the definition in Article 22(1) of the Law.¹⁸⁹

106. The Panel also recalls that, following its assessment of the application for participation, it held that it was satisfied that there was *prima facie* evidence that V01/10 personally suffered mental harm, in the form of anxiety, as a direct result of [REDACTED], amounting to the offences set out in the 17 December 2024 Indictment and the Agreed Factual Basis, and admitted V01/10 as a victim in the case.¹⁹⁰

107. Lastly, the Panel recalls that, having considered the advanced stage of the proceedings, where plea agreements had already taken place, and the need to ensure

¹⁸⁷ KSC-BC-2023-10, F00011, Registrar, *Notification of Arrest of Ismet Bahtijari Pursuant to Rule 55(4)*, 5 October 2023, public, para. 4.

¹⁸⁸ KSC-BC-2023-10, F00014, Registrar, *Notification of the Reception of Ismet Bahtijari in the Detention Facilities of the Specialist Chambers*, 6 October 2023, public, para. 2, with Annex 1, strictly confidential and *ex parte*.

¹⁸⁹ 29 January 2025 Decision, para. 18.

¹⁹⁰ 29 January 2025 Decision, paras 23-31 and further references therein.

the expeditious resolution of the proceedings, as well as the limited scope of the harm suffered by V01/10 which did therefore not require submissions from a Victims' Counsel for the purposes of reparations, it decided: (i) that the appointment of a Victims' Counsel was not warranted; (ii) to proceed *proprio motu* on reparations, pursuant to Article 22(7) of the Law; and (iii) to request, to this end, pursuant to Rule 94(2)(c) and (6) of the Rules, the Parties to file proposals for reparations to be awarded to V01/10.¹⁹¹

B. THE PARTIES' AGREEMENT ON REPARATIONS

108. The Parties submit that the Accused agreed to pay 500 EUR to V01/10, as reparations, and more precisely that Mr Shala will pay 400 EUR, Mr Januzi will pay 100 EUR, and Mr Bahtijari will not make any payment.¹⁹²

C. DETERMINATION AND IMPLEMENTATION

109. The Panel has considered the Parties' agreement on reparations as contained in the Plea Agreements and notes that such agreement was affirmed by the Messrs Shala, Januzi and Bahtijari during the hearing on 4 February 2025 (Agreed Reparations).¹⁹³

110. The Panel is satisfied that the Agreed Reparations, as part of the respective Plea Agreements and the present decision, provide some measure of acknowledgment by the convicted persons of the harm caused to V01/10, as well as recognition of the mental harm, in the form of anxiety, suffered by said victim.

¹⁹¹ 29 January 2025 Decision, paras 38-40.

¹⁹² Addendum to the Plea Agreements, para. 1; Annex 1 to Parties Submissions on Reparations, para. 1.

¹⁹³ Annex 1 to Parties Submissions on Reparations, para. 1; 4 February 2025 Transcript, p. 611, line 13 to p. 612, line 13.

111. Accordingly, the Panel instructs the convicted persons to pay 500 EUR to V01/10 as reparations. More specifically, Mr Shala and Mr Januzi shall pay 400 EUR and 100 EUR, respectively, whereas Mr Bahtijari is not to make any payment.

112. The payments are to be made no later than Wednesday, 19 February 2025. To this end, the Registrar is instructed to designate a bank account and to inform Mr Shala and Mr Januzi how to execute their respective payments. In this regard, V01/10 may receive assistance from the Registrar, including through the appointment of a Counsel, should V01/10 so wish. The Registrar is further instructed to report to the Panel, no later than Wednesday, 19 February 2025, on whether the sum has been paid to the designated bank account and to V01/10.¹⁹⁴

VIII. CONCLUSION

113. In light of the above, the Panel approves the Plea Agreements.

IX. DISPOSITION

114. For the above-mentioned reasons, the Panel hereby:

- a. **APPROVES** the Plea Agreements;
- b. **FINDS HAXHI SHALA GUILTY** of obstructing official persons in performing official duties, by participating in the common action of a group, and intimidation during criminal proceedings, as penalised under Articles 17, 21, 31, 387 and 401(2) and (5) of the KCC and Articles 15(2) and

¹⁹⁴ KSC-BC-2023-10, F00684, Registrar, *Registrar's Report on Payment of Reparations*, 19 February 2025, public. The Panel notes that the payment of the Agreed Reparations was executed on 17 February 2025, in compliance with its instructions (4 February 2025 Transcript, p. 617, line 25 to p. 618, line 9). Therefore, the Disposition below does not contain any order with regard to the payment of reparations, which has already been executed at the date of the issuance of the present decision.

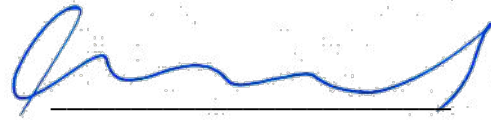
- 16(3) of the Law and **SENTENCES** him to a single sentence of three (3) years of imprisonment;
- c. **FINDS SABIT JANUZI GUILTY** of obstructing official persons in performing official duties, by participating in the common action of a group, and intimidation during criminal proceedings, as penalised under Articles 17, 21, 31, 387 and 401(2) and (5) of the KCC and Articles 15(2) and 16(3) of the Law and **SENTENCES** him to a single sentence of two (2) years of imprisonment; and
- d. **FINDS ISMET BAHTIJARI GUILTY** of obstructing official persons in performing official duties, by participating in the common action of a group, and intimidation during criminal proceedings, as penalised under Articles 17, 21, 31, 387 and 401(2) and (5) of the KCC and Articles 15(2) and 16(3) of the Law and **SENTENCES** him to a single sentence of two (2) years of imprisonment;
- e. **UNDERLINES** that, pursuant to Rule 94(8) of the Rules, the Panel's decision on the plea agreements has the force and effect of a final judgment and shall only be subject to the reopening of criminal proceedings pursuant to Article 48(1)-(3) of the Law and Rule 187 of the Rules; and
- f. **DECIDES** to retain jurisdiction for all other necessary purposes in this case.



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Thursday, 27 February 2025

At The Hague, the Netherlands.