



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: **KSC-BC-2023-10**
The Prosecutor v. Sabit Januzi and Ismet Bahtjari

Before: **Pre-Trial Judge**
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 2 October 2023

Language: English

Classification: **Public**

Public Redacted Version of Arrest Warrant for Ismet Bahtjari

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I, Judge Nicolas Guillou, Pre-Trial Judge of the Kosovo Specialist Chambers, assigned by the President of the Specialist Chambers pursuant to Article 33(1)(a) of the Law No. 05/L-53 on Specialist Chambers and Specialist Prosecutor's Office ("Law");

Being seised of the strictly confidential and *ex parte* "Submission of Indictment for Confirmation and Related Requests" ("Indictment"), dated 11 September 2023, of the Specialist Prosecutor's Office ("SPO");

Having confirmed in the "Decision on the Confirmation of the Indictment", dated 2 October 2023, the Indictment ("Confirmed Indictment"), and having found therein that there is a well-grounded suspicion that Ismet Bahtjari ("Mr Bahtjari") committed, and/or participated in the commission of, and/or attempted to commit offences within the jurisdiction of the Specialist Chambers ("SC");

Pursuant to Articles 35(3), 39(3), 41, 53 and 55 of the Law, as well as Rules 50(1), 53, 55, 86(6)(b), 200 and 202 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chamber ("Rules");

ISSUE AN ARREST WARRANT FOR

ISMET BAHTJARI, also known as "Shema", born on **27 FEBRUARY 1963** in **FUSHTICË E POSHTME/DONJA FUŠTICA**, Kosovo, **PERSONAL IDENTIFICATION NUMBER [REDACTED]**.

A. CRIMES AND CONCISE STATEMENT OF FACTS

1. As set out in the Confirmed Indictment, there is a well-grounded suspicion that Mr Bahtjari is criminally responsible for the offences of intimidation during criminal proceedings under Article 387 of the 2019 Kosovo Criminal Code, Code No. 06/L-074 ("KCC") (Count 3), and obstructing official persons in performing official duties within the meaning of Article 401(1), (2) and (5) of the KCC (Counts 1 and 2)

in violation of Article 15(2) of the Law. In relation to the aforementioned offences, there is a well-grounded suspicion that Mr Bahtjari is criminally responsible, pursuant to Article 16(3) of the Law, for:

- (i) committing, either alone or in co-perpetration, the offence under Count 3 within the meaning of Articles 17, 21 and 31 of the KCC;
- (ii) assisting in the commission of the offences under Counts 1-3 within the meaning of Articles 17, 21 and 33 of the KCC;
- (iii) agreeing to commit the offences under Counts 1-3 within the meaning of Articles 17, 21 and 35 of the KCC;
- (iv) attempting to commit, either alone or in co-perpetration, the offence under Count 1 within the meaning of Articles 17, 21, 28 and 31 of the KCC; and
- (v) attempting to commit the offence under Count 2 within the meaning of Articles 17, 21 and 28 of the KCC.

2. As specified in the Confirmed Indictment, there is a well-grounded suspicion that Mr Bahtjari is criminally responsible for committing, and/or assisting in the commission of, and/or agreeing to commit the offence under Count 3. Specifically, there is a well-grounded suspicion that, on two separate occasions between at least 5 April and 12 April 2023 Mr Bahtjari and Sabit Januzi ("Mr Januzi"), jointly with or on behalf of Haxhi Shala ("Co-Perpetrator 1"), tried to dissuade [REDACTED] ("Witness 1") from testifying in SC proceedings, including by confirming to Witness 1 that failure to withdraw his testimony could result in [REDACTED]. The offence under Count 3 was committed [REDACTED], creating a serious threat to use force or to inflict serious harm on the well-being, safety, security or privacy of Witness 1 [REDACTED], with the purpose of inducing him to refrain from testifying in SC proceedings.

3. Furthermore, as specified in the Confirmed Indictment, there is a well-grounded suspicion that Mr Bahtjari is criminally responsible for attempting to commit, and/or assisting in the commission of, and/or agreeing to commit the offences under Counts 1 and 2. Specifically, there is a well-grounded suspicion that the serious threat on Witness 1 [REDACTED] generated by Mr Bahtjari's above-mentioned conduct, as well as Mr Bahtjari's participation in the common action of a group, comprising at least Mr Januzi and Co-Perpetrator 1, for the purpose of dissuading Witness 1 from testifying in SC proceedings could, in principle, result in the obstruction of the work of SC/SPO officials, in particular SPO prosecutors and investigators, in the context of SC proceedings.

B. NECESSITY OF THE ARREST

4. Mr Bahtjari's arrest is necessary in accordance with Article 41(6)(b) of the Law. There are articulable grounds to believe that he is a flight risk, since he (i) is aware of the charges against him as contained in the Confirmed Indictment, and the potential penalties, (ii) has an opportunity to travel freely to jurisdictions beyond the reach of the SC, and (iii) has already demonstrated a blatant disregard for the laws and rules of the SC, in particular court-ordered protective measures. Further, Mr Bahtjari may obstruct the progress of the criminal proceedings by influencing witnesses, victims or accomplices, considering (i) the offences allegedly committed by Mr Bahtjari and, in particular, his persistence in the approaches made to Witness 1; (ii) Mr Bahtjari's connections and close coordination with other alleged co-perpetrators; and (iii) the pervasive climate of fear and intimidation in Kosovo against witnesses or potential witnesses of the SC. For the same reasons, Mr Bahtjari may commit further offences.

C. EXECUTION OF ARREST WARRANT

5. Given that, according to the information currently available, Mr Bahtjari resides in Kosovo, the Pre-Trial Judge orders the SPO to execute and serve the arrest warrant.

Pursuant to Article 35(3) of the Law, the police within the SPO shall have the authority and responsibility to exercise powers given to the Kosovo Police under Kosovo law. It may therefore be considered a “competent authority” under Rule 49(1) of the Rules, capable of executing and serving the present arrest warrant. In this regard, the Pre-Trial Judge recalls that, pursuant to Articles 53(3) and 54(1) of the Law, the SC have primacy over all other courts in Kosovo and that the present arrest warrant has the same force and effect as a warrant of arrest issued by any other Kosovo court. Pursuant to Article 53(1) of the Law, all entities and persons in Kosovo shall cooperate with the SPO and the SC, and shall comply without delay with any order or decision.

6. If information is available that Mr Bahtjari is present on the territory of a Third State, the Registrar shall transmit the arrest warrant to the competent authorities of that Third State, and request that it be served and executed in the presence of SPO representatives, in conformity with Article 55 of the Law. Moreover, the Third State is requested to promptly notify the Registrar of the date, time, location, and any other relevant details regarding Mr Bahtjari’s arrest and transfer to the SC, in accordance with Article 55 of the Law. Should there be any technical or logistical difficulties or impediments in the execution of this arrest warrant, the competent authorities of the Third State are invited to raise such issues with the representatives of the SPO and/or the Registry, as the case may be.

D. TRANSFER AND DETENTION FACILITY

7. Pursuant to Articles 3(8)(a), and 41(5) and (7) of the Law and Rule 55(4) of the Rules, upon arrest, Mr Bahtjari shall be transferred to the detention facilities in the Netherlands (“Host State”), overseen by the SC, and managed by the Registry. The Registrar shall execute the order for transfer and make the necessary arrangements for the prompt transfer of Mr Bahtjari.

E. MR BAHTJARI'S RIGHTS

8. Upon arrest, Mr Bahtjari is entitled to the rights under Articles 21, and 41(4) of the Law, which must be read out to him upon transfer to the custody of the SC, or upon arrest by the SPO, as the case may be.

9. Mr Bahtjari shall be brought without delay before the Pre-Trial Judge pursuant to Article 41(5) of the Law.

10. Mr Bahtjari has the right to challenge, pursuant to Article 41(2) and (5) of the Law, the lawfulness of his arrest, the transfer order and the conditions of detention before the Pre-Trial Judge, and he has the right to appeal before the SC Court of Appeal.

F. OTHER REQUESTS AND ORDERS

11. The arrest warrant, which is currently classified as strictly confidential, may be communicated, or its existence be revealed, to the accused, Mr Bahtjari, and to the competent authorities of Kosovo or any Third State, including the Host State, as necessary for the execution of the arrest warrant.

12. Considering the classification of the present arrest warrant, the Pre-Trial Judge requests the competent authorities of Kosovo or any Third State, as the case may be, to refrain from disclosing the existence and contents of this arrest warrant, except to those persons whose involvement is strictly necessary for its execution and service upon Mr Bahtjari.

13. Should any entity, any official of the Kosovo Government, or any other person in Kosovo obstruct the execution of the present arrest warrant, this may constitute an offence pursuant to Article 15(2) of the Law.



Judge Nicolas Guillou

Pre-Trial Judge

Dated this Monday, 2 October 2023

At The Hague, the Netherlands.