



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:** 27 October 2023

**Language:** English

**Classification:** **Public**

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**Order Setting the Date for the Second Status Conference and for Submissions**

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**Specialist Prosecutor**  
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**Duty Counsel for Ismet Bahtjari**  
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THE PRE-TRIAL JUDGE,<sup>1</sup> pursuant to Article 39(1) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law"), and Rule 96(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules") hereby renders this order.

## I. PROCEDURAL BACKGROUND

1. On 12 October 2023, following the initial appearances of Sabit Januzi and Ismet Bahtjari ("Mr Januzi", "Mr Bahtjari", and together, "Accused") on 9 October 2023,<sup>2</sup> the first status conference in the case took place ("First Status Conference").<sup>3</sup>

2. On 24 October 2023, the Pre-Trial Judge issued the decision: (i) on the framework for the disclosure of evidence and related matters; as well as (ii) on the framework for the handling of confidential information during investigations and contact between a Party or participant and witnesses of the opposing Party or of a participant ("Disclosure Decision").<sup>4</sup>

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<sup>1</sup> KSC-BC-2023-10, F00001, President, *Decision Assigning a Pre-Trial Judge*, 11 September 2023, public.

<sup>2</sup> KSC-BC-2023-10, [Transcript of Hearing](#), 9 October 2023, public, pp. 1-16; [Transcript of Hearing](#), 9 October 2023, public, pp. 17-32. See also F00017, Pre-Trial Judge, [Decision Setting the Date for the Initial Appearances of Sabit Januzi and Ismet Bahtjari and Related Matters](#), 6 October 2023, public, para. 21(a)-(b).

<sup>3</sup> KSC-BC-2023-10, [Transcript of Hearing](#), 12 October 2023 ("First Status Conference Transcript"), public, pp. 33-71.

<sup>4</sup> KSC-BC-2023-10, F00076, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters*, 24 October 2023, confidential, with Annex 1, public. A public redacted version of the decision was filed on the same day, [F00076/RED](#).

## II. APPLICABLE LAW

### A. STATUS CONFERENCE

3. Pursuant to Rule 96(1) of the Rules, following the first status conference after the initial appearance of the Accused, the Pre-Trial Judge shall subsequently convene a status conference as deemed necessary in order to, *inter alia*: (i) organise exchanges between the Parties and, where applicable, Victims' Counsel so as to ensure expeditious preparation for trial; (ii) take steps to ensure that all necessary preparations are being conducted by the Parties in a timely and diligent fashion; and (iii) review the status of the case and allow the Parties the opportunity to raise issues in relation thereto.

4. Pursuant to Rule 96(2) of the Rules, with the Accused's written consent after receiving advice from Counsel, a status conference may be conducted: (i) in the Accused's presence, with Counsel participating via video-conference; (ii) in Defence Counsel's presence, with the Accused participating via video-conference; or (iii) in the Accused's absence, with Counsel present or participating via video-conference. In addition, any request to attend the status conference via video-conference, shall be made directly to the Registrar, in accordance with the Registrar's Practice Direction on Video Links (KSC-BD-23/COR), sufficiently in advance for the Registrar to take the appropriate steps, including to inform the Pre-Trial Judge.<sup>5</sup>

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<sup>5</sup> See also KSC-BC-2020-06, F00062, Pre-Trial Judge, [Decision Authorising Video Link Participation](#), 6 November 2020, public, para. 10; F00069, Pre-Trial Judge, [Decision Authorising Video Link Participation](#), 9 November 2020, public, para. 9.

## B. DISCLOSURE

5. Pursuant to Article 21(6) of the Law, all material and relevant evidence or facts in possession of the Specialist Prosecutor's Office ("SPO") which are for or against the Accused shall be made available to the Accused before the beginning of and during the proceedings, subject only to restrictions which are strictly necessary and when any necessary counter-balance protections are applied. Pursuant to Rule 102(3) of the Rules, the SPO shall provide detailed notice to the Defence of any material and evidence in its possession.

6. Pursuant to Rule 109(b) and (c) of the Rules, both the SPO and the Defence, should it choose to disclose any evidence, shall submit, when disclosing: (i) a clear and concise description of the documents, or categories of documents, disclosed to the opposing Party; and (ii) a categorisation of the information disclosed, in accordance with the charges in the confirmed indictment, with specific reference to the underlying crimes, contextual elements of the crimes charged, the alleged conduct of the Accused or, where applicable, evidence to be presented by the SPO.

## C. REDACTIONS

7. Pursuant to Article 23(1) of the Law and Rule 80(1) of the Rules, a Panel may order appropriate measures for the protection, safety, physical and psychological well-being, dignity and privacy of witnesses, victims participating in the proceedings, as well as other persons at risk on account of testimony given by witnesses.

8. Pursuant to Rule 80(4)(a)(i)-(iii), (d) and (e) of the Rules, such measures may include the redaction of names and other identifying information in order to prevent disclosure to the Accused and/or the public, where necessary, of the identity and/or

whereabouts of a witness, a victim participating in the proceedings or of a person related to or associated with them.

9. Pursuant to Rule 108(1) of the Rules, the SPO may apply confidentially and *ex parte* to the Panel to withhold information in whole or in part where the disclosure of such information may, *inter alia*, prejudice ongoing or future investigations. Pursuant to Rule 108(6) of the Rules, the same applies *mutatis mutandis* to the Defence.

#### D. PRE-TRIAL BRIEFS

10. Pursuant to Rule 95(4) of the Rules, the Pre-Trial Judge shall order the SPO to file, within a set time limit: (i) its Pre-Trial Brief, including any admissions by the Defence and a statement of matters which are not in dispute; (ii) a list of witnesses it intends to call to testify at trial; and (iii) a list of exhibits it intends to present at trial, including, where possible, any Defence objections to authenticity.

11. Pursuant to Rule 95(5) of the Rules, after the submission of the items mentioned in Rule 95(4) of the Rules by the SPO, the Pre-Trial Judge shall invite the Defence to file a Pre-Trial Brief within a set time limit. In addition, within a time limit set by the Pre-Trial Judge, the Defence shall notify the SPO of its intention to offer a defence of alibi or any other grounds excluding criminal responsibility, including that of diminished or lack of mental capacity, intoxication, necessity, duress, and mistake of fact or law.

#### III. DISCUSSION

12. The Pre-Trial Judge convenes the second status conference on **Friday, 3 November 2023, at 09:30 hours.**

13. The Pre-Trial Judge will ask the Parties to provide updates, if any, on the outstanding issues detailed in the agenda for the First Status Conference,<sup>6</sup> and their written and oral submissions in relation to those issues.<sup>7</sup> Specifically and additionally, the Pre-Trial Judge will request updates on the following matters:

- a) whether the Parties are facing any difficulties related to the disclosure of evidentiary material;
- b) whether the Parties are facing any issues regarding the translation of evidentiary material;
- c) whether the SPO has made substantial progress with its outstanding investigations or when the SPO will complete its investigations;
- d) when the SPO will be able to file its Pre-Trial Brief and related material pursuant to Rule 95(4)(a)-(c) of the Rules, in light of the disclosure calendar set out in the Disclosure Decision; and
- e) based on the SPO's updates regarding the preceding matters and the ongoing disclosure of evidence process (scheduled to continue into early 2024), whether the Defence is – or when it expects to be - in a position to provide more information on: (i) the status of its investigations; (ii) any intention to give notice of an alibi or grounds for excluding responsibility pursuant to Rule 95(5) of the Rules and any associated disclosure pursuant to Rule 104(1) and (2) of the Rules; and

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<sup>6</sup> KSC-BC-2023-10, F00022, Pre-Trial Judge, [Order Setting the Date for the First Status Conference and for Submissions](#), 9 October 2023, public, with Annex 1, public.

<sup>7</sup> KSC-BC-2023-10, F00025, Defence for Mr Bahtjari, *Submissions on the Agenda for the Status Conference*, 10 October 2023, public; F00026, Specialist Prosecutor, *Prosecution Submissions for First Status Conference*, 11 October 2023, public; F00027, Defence for Mr Januzi, *Submissions on the Agenda for the Status Conference*, 11 October 2023, confidential; [First Status Conference Transcript](#).

(iii) any intention to make requests concerning unique investigative opportunities, pursuant to Rule 99(1) of the Rules.

14. Lastly, the Pre-Trial Judge recalls that both Parties will give an update on their *inter partes* discussions on the case-specific sub-categorisation to be applied in Legal Workflow.<sup>8</sup>

15. The Pre-Trial Judge orders the SPO, the Defence for Mr Januzi, and the Defence for Mr Bahtjari to file written submissions on any of the aforementioned matters, including the topics discussed during the First Status Conference, any other matter not covered in the agenda for the second status conference, or any difficulty related to the disclosure of evidentiary material, by no later than Tuesday, 31 October 2023, at 16:00 hours (SPO), and Wednesday, 1 November 2023, at 16:00 hours (Defence for the Accused).


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<sup>8</sup> [Disclosure Decision](#), paras 87-89.

## IV. DISPOSITION

16. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a. **DECIDES** to convene a status conference in the presence of the SPO, the Defence for Mr Bahtjari, and the Defence for Mr Januzi, in line with paragraph 12 above, on **Friday, 3 November 2023, at 09:30 hours**; and
- b. **ORDERS** the SPO and the Defence for the Accused to provide written submissions on the issues listed in paragraphs 13-14 above, by **Tuesday, 31 October 2023, at 16:00 hours**, and by **Wednesday, 1 November 2023, at 16:00 hours**, respectively.



**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Friday, 27 October 2023  
At The Hague, the Netherlands.