



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2023-10
Specialist Prosecutor v. Sabit Januzi and Ismet Bahtijari

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

Date: 10 November 2023

Language: English

Classification: Public

**Prosecution request for leave to amend the Indictment
with strictly confidential Annex 1 and public Annex 2**

Specialist Prosecutor's Office
Kimberly P. West

Duty Counsel for Sabit Januzi
Jonathan Elystan Rees

Duty Counsel for Ismet Bahtijari
Hendrik Sytema

1. Pursuant to Article 39(8) of the Law¹ and Rule 90(1)(b) of the Rules,² the Specialist Prosecutor's Office ('SPO') requests leave to amend the Indictment³ to reflect revisions to a transcript relied upon in the Indictment supporting materials ('Requested Amendments'). In addition to the Requested Amendments, the annexed version of the Indictment⁴ also includes the correct spelling of Ismet BAHTIJARI's name.⁵

2. The Requested Amendments are not prejudicial to or inconsistent with the rights of the Accused. Rather, they provide greater accuracy, are being made in a timely manner, and will ultimately facilitate fair and expeditious proceedings.⁶

3. The Requested Amendments, which arise from revisions to one of Witness 1's interview transcripts,⁷ are necessary to provide an accurate depiction of the evidence. In the context of this case, and consistent with the Indictment,⁸ Rule 86(3)(b) outline,⁹ and Confirmation Decision,¹⁰ what exactly Witness 1 told JANUZI during the 'second approach'¹¹ is one of many evidentiary details relevant to material facts underpinning

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD0-3/Rev3/2020, 2 June 2020 ('Rules').

³ Annex 1 to Submission of confirmed Indictment, KSC-BC-2023-10/F00010/A01, 4 October 2023, Strictly Confidential ('Indictment'). *See also* Annex 1 to Submission of public redacted version of confirmed Indictment, KSC-BC-2023-10/F00016/A01, 6 October 2023.

⁴ *See* Annexes 1 (strictly confidential) and 2 (public redacted).

⁵ Transcript (Status Conference), 3 November 2023, pp.74-75. In the interest of efficiency and to avoid filing (potentially unnecessary) multiple versions of the Indictment, the SPO has combined the name corrections with the Requested Amendments pending a decision on this request.

⁶ *Specialist Prosecutor v. Thaçi et al.*, Public Redacted Version of Decision Concerning Submission of Corrected Indictment and Request to Amend Pursuant to Rule 90(1)(b), KSC-BC-2020-06/F00635/RED, 23 December 2021 ('Thaçi Amendment Decision'), para.32 (finding that relevant factors to be considered for any amendments include: (i) whether the amended indictment improves the clarity and precision of the case to be met; (ii) the diligence of the prosecution in making the amendment; and (iii) any delay or prejudice to the Defence).

⁷ Both the original and revised versions of the transcript have been disclosed to the Defence. *See* Disclosure Packages 2-3 containing 112906-TR-AT Part 1 Revised 1-ET-RED, 112906-TR-ET Part 1-RED.

⁸ Indictment, KSC-BC-2023-10/F00010/A01, *inter alia*, paras 7-17, 22.

⁹ Rule 86(3)(b) Outline, KSC-BC-2023-10/F00002/A02.

¹⁰ Confidential Redacted Version of the Decision on the Confirmation of the Indictment, KSC-BC-2023-10/F00008/CONF/RED, 2 October 2023, Confidential ('Confirmation Decision'), paras 72-88, 92-94.

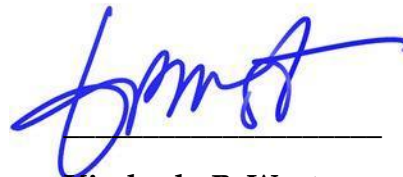
¹¹ *Compare* Indictment, KSC-BC-2023-10/F00010/A01, para.15 *with* Annex 1, para.15.

the charges.¹² As such, the Requested Amendments fall within and do not impact the scope of the existing, confirmed Indictment, and do not add new or more serious charges.¹³

4. For the foregoing reasons, the Requested Amendments should be granted.

5. Annex 1 is strictly confidential pursuant to Rule 82(4).

Word count: 545



Kimberly P. West

Specialist Prosecutor

Friday, 10 November 2023

At The Hague, the Netherlands.

¹² See *Specialist Prosecutor v. Thaçi et al.*, Public Redacted Version of Decision on Defence Appeals Against Decision on Motion Alleging Defects in the Form of the Indictment, KSC-BC-2020-06/IA012/F00015/RED, 22 August 2022, para.20 (finding that ‘a distinction should be drawn between what constitutes a material fact to be pleaded in an indictment and additional details that can be provided through subsequent disclosure of evidentiary materials’).

¹³ Pursuant to Rule 90(2), Rule 86(3)-(4) do not apply. See also *Thaçi* Amendment Decision, KSC-BC-2020-06/F00635/RED, para.23.