



**In:** **KSC-BC-2023-10**  
**Specialist Prosecutor v. Sabit Januzi and Ismet Bahtijari**  
**KSC-BC-2023-11**  
**Specialist Prosecutor v. Haxhi Shala**

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

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor's Office

**Date:** 12 January 2024

**Language:** English

**Classification:** Public

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**Submission of joint Indictment**  
**with confidential Annexes 1 and 2**

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**Specialist Prosecutor's Office**

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1. Pursuant to the Pre-Trial Judge's oral orders announced during the 14 December 2023 status conference in KSC-BC-2023-10 ('Case 10')<sup>1</sup> and the 15 December 2023 status conference in KSC-BC-2023-11 ('Case 11'),<sup>2</sup> the Specialist Prosecutor's Office ('SPO') hereby submits a joint indictment for Cases 10 and 11.<sup>3</sup> The proposed joint indictment does not add new counts or modes of liability, but rather provides certain limited additional factual allegations in respect of Januzi and Bahtijari,<sup>4</sup> and such clarifications and alignments of language necessary to the joinder. As such, there are no new or more serious charges,<sup>5</sup> and Rule 86(3)-(4)<sup>6</sup> does not apply. Nonetheless, as a courtesy to facilitate review, and as previously undertaken, a corresponding Rule 86(3)(b) outline is also provided.<sup>7</sup>

2. All supporting materials for the joint indictment, as cited in the Rule 86(3)(b) outline attached, have already been disclosed to the Defence in both Cases 10 and 11. As an additional courtesy to facilitate review, the SPO will transmit to each Accused in Cases 10 and 11 a list of supporting materials cited in the attached Rule 86(3)(b) outline via *inter partes* email, along with the dates and disclosure package numbers corresponding to the materials' disclosure to the Defence.

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<sup>1</sup> Transcript (Status Conference), Case 10, 14 December 2023, p.132, lines 20-23, p.133, lines 2-10.

<sup>2</sup> Transcript (Status Conference), Case 11, 15 December 2023, p.38, lines 9-23.

<sup>3</sup> See Annex 1. See Prosecution request for joinder, KSC-BC-2023-10/F00132, KSC-BC-2023-11/F00016, 13 December 2023.

<sup>4</sup> In particular, an offer of assistance supporting the 'promise of gift or other form of benefit' alternative limb of the intimidation charge.

<sup>5</sup> See, e.g., *Prosecutor v. Thaçi et al.*, Decision on Defence Motions Alleging Defects in the Form of the Indictment, KSC-BC-2020-06/F00413, paras 27-40, 91 (considering that factual allegations – which go to, *inter alia*, the commission of the crimes charged, and the direct participation of the Accused in criminal incidents – constitute facts and particulars supporting or underpinning the charges). See also *Prosecutor v. Gucati and Haradinaj*, Decision on the Defence Appeals Against Decision on Preliminary Motions, KSC-BC2020-07/IA004/F00007, 23 June 2021, para.37, citing with approval ICTR, *Prosecutor v. Muwunyi*, ICTR-00-55AAR73, Decision on Prosecution Interlocutory Appeal Against Trial Chamber II Decision of 23 February 2005, 12 May 2005, para.19 ('There is a clear distinction between counts or charges made in an indictment and the material facts that underpin the charge or count. The count or charge is the legal characterization of the material facts which support the count or charge.').

<sup>6</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD0-3/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' herein refer to the Rules.

<sup>7</sup> See Annex 2. The Rule 86(3)(b) outline attached is identical to that submitted in Case 11, save for the insertion of a witness code and such linguistic changes as necessary to include all three Accused.

**Word count: 464**



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**Kimberly P. West**

**Specialist Prosecutor**

Friday, 12 January 2024

At The Hague, the Netherlands.