

1 Tuesday, 4 February 2025
2 [Open session]
3 [Decision on Plea Agreements]
4 [The accused entered the court]
5 --- Upon commencing at 2.30 p.m.

6 PRESIDING JUDGE VELDT-FOGLIA: Good afternoon and welcome to the
7 people in the courtroom, in the public gallery, and through
8 streaming.

9 Court Officer, could you please call the case.

10 THE COURT OFFICER: Good afternoon, Your Honours. This is file
11 KSC-BC-2023-10, The Specialist Prosecutor versus Sabit Januzi,
12 Ismet Bahtijari, and Haxhi Shala.

13 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

14 I would kindly ask the parties to introduce themselves, and I
15 will start with the Specialist Prosecutor's Office.

16 You have the floor.

17 MS. SHAHABUDDIN: Good afternoon, Your Honour. Seated directly
18 behind me is Ward Ferdinandusse, the Deputy Specialist Prosecutor;
19 behind me and to my left is seated Line Pedersen, Case Manager; to my
20 direct left is John Devaney, Associate Prosecutor; and I am
21 Tazneen Shahabuddin, Prosecutor.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

23 And then I will turn now to the Defence, and I would like to ask
24 you to add to your introduction who of your team is participating
25 remotely or is present in the courtroom and likewise for your client.

1 And we will start with the Defence for Mr. Shala.

2 MR. CADMAN: [via videolink] Good afternoon, Your Honour.

3 Toby Cadman, Specialist Counsel for Mr. Haxhi Shala, who appears in
4 person in the courtroom. I'm appearing remotely. I'm also joined
5 remotely by Mr. John Cubbon, Specialist Co-Counsel, and
6 Mr. Admir Berisha, investigator.

7 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

8 Now I turn to the Defence for Mr. Januzi.

9 MR. REES: [via videolink] I appear on behalf of Mr. Januzi. I'm
10 appearing remotely, Your Honour. Mr. Huw Bowden, co-counsel, is
11 present in the courtroom, as is Mr. Muharem Halilaj, assisting me.
12 Mr. Januzi is also present in the courtroom.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence counsel.

14 And now I turn to the Defence for Mr. Bahtijari. Please, you
15 have the floor.

16 MS. GERRY: [via videolink] Good afternoon to the Court. I am
17 Felicity Gerry, Specialist Counsel for Mr. Bahtijari. I'm online.
18 In court are Marion Carrin, who is Specialist Co-Counsel, and legal
19 associate Yuqing Liu. Mr. Bahtijari is present in person in court.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much.

21 We intend to conduct the hearing today in public session. We
22 remind the parties that in case there's any need to go into a private
23 session - for instance, to respect the privacy of the accused or to
24 avoid disclosing any other confidential information - that you revert
25 back to me and then we will decide on the matter as soon as possible.

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1 [Private session text removed]

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9 [Open session]

10 THE COURT OFFICER: Your Honours, we're in public session.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

12 We will now proceed with the hearing on reparations.

13 The Panel will now ask each accused to confirm their agreement
14 on the reparations to be awarded to Victim 1 as contained in filing
15 669, Annex 1.

16 I will start with you, Mr. Shala. Mr. Shala, can you confirm
17 that you have agreed to the sum of 500 euros as reparations to
18 Victim 1, and that the payment will be as follows: You will pay
19 400 euros; Mr. Januzi will pay 100 euros; and Mr. Bahtijari will not
20 make a payment.

21 You have the floor.

22 THE ACCUSED SHALA: [Interpretation] Yes, Your Honour.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

24 Then I will turn to Mr. Januzi.

25 Mr. Januzi, can you confirm that you have agreed to the sum of

1 500 euros as reparations to Victim 1, and that the payment will be as
2 follows: Mr. Shala will pay 400 euros; you will pay 100 euros; and
3 Mr. Bahtijari will not make a payment.

4 You have the floor.

5 THE ACCUSED JANUZI: [Interpretation] Yes, Your Honour. I can
6 confirm.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

8 Mr. Bahtijari, can you confirm that you have agreed to the sum
9 of 500 euros as reparations to Victim 1, and that the payment will be
10 as follows: Mr. Shala will pay 400 euros; Mr. Januzi will pay
11 100 euros; and you will not make a payment.

12 You have the floor.

13 THE ACCUSED BAHTIJARI: [Interpretation] Yes, Your Honour.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

15 Henceforth, the Panel decides to consider filing 669, Annex 1,
16 as an addendum to the plea agreements, and I will refer to it as "the
17 addendum to the plea agreements," and together I will call them "the
18 plea agreements."

19 I will now turn to the Panel's ruling on the plea agreements and
20 the addendum to the plea agreements, and I will start off with the
21 procedural background.

22 On 13 November, the SPO informed the Panel that it had entered
23 into plea agreements with Mr. Shala, Mr. Januzi, and Mr. Bahtijari
24 and disclosed said agreements to the Panel. This is filing 596/COR.

25 On 6 December 2024, pursuant to a decision by the Panel, the SPO

1 filed revised versions of each plea agreement - and for Mr. Shala
2 this is filing 618, Annex 1, and for Mr. Januzi the same filing but
3 then Annex 2 - submissions on said agreements and sentencing, and a
4 revised indictment.

5 On 16 December, the SPO informed the Panel that it entered into
6 a new plea agreement with Mr. Bahtijari and disclosed said agreement
7 to the Panel. And this is filing 628, Annex 1.

8 On 17 December, the SPO filed a further revised indictment,
9 which is filing 630, Annex 1. And in this 17 December 2024
10 indictment, the SPO withdrew one count of obstructing official
11 persons in performing official duties by serious threat, punishable
12 under Article 401(1) and (5) of the 2019 Kosovo Criminal Code and
13 Article 15(2) of the Law and the "serious threat" limb of
14 intimidation during criminal proceedings under Article 387 of the
15 2019 Kosovo Criminal Code.

16 On the 18th and 19th December, the Panel held hearings on the
17 plea agreements for the three accused.

18 On 29 January, following the filing of a report by the Victims
19 Participation Office and the submissions of the parties, pursuant to
20 the oral order of 18 December 2024, the Panel decided to admit an
21 applicant as victim to participate in the proceedings - this is
22 Victim 1 - and requested the parties to file revised versions of
23 their respective plea agreements with proposals for reparations to be
24 awarded to Victim 1. And it scheduled today's hearing for the
25 purpose of ruling on the plea agreements, which is filing 667 RED.

1 On 3 February 2025, so yesterday, pursuant to the decision of
2 29 January 2025, the parties jointly filed the addendum to the plea
3 agreements, which is filing 669, Annex 1, as I already said.

4 Now turning to the ruling of the Panel.

5 The Panel is satisfied at the outset that, as mandated under
6 Rule 94(2) of the Rules, each plea agreement contains an agreement
7 between the SPO and the Defence on the charges, which include the
8 accused's participation in the offences charged and modes of
9 liability; a specific sentence or sentencing range; and reparations
10 for the victim participating in the proceedings.

11 As regards the charges, each accused have agreed to admit guilt
12 in relation to one count of obstructing official persons in
13 performing official duties, by participating in a common action of a
14 group, and one count of intimidation during criminal proceedings.
15 Each accused pleaded guilty to these counts during the hearings of 18
16 and 19 December.

17 The SPO and each accused have agreed to the following facts as
18 contained in an annex to their plea agreements.

19 Each accused accepts that they were part of a group which sought
20 to induce Witness 1 to refrain from giving evidence before the
21 Kosovo Specialist Chambers through the promise of a benefit. In
22 particular, Mr. Januzi and Mr. Bahtijari, acting at the direction of
23 Mr. Shala, approached the witness at his home on the 5th and
24 12th April 2023, respectively.

25 During the 5 April 2023 approach, Mr. Bahtijari told the witness

1 that he should withdraw his testimony before the Kosovo Specialist
2 Chambers.

3 During the 12 April 2023 approach, Mr. Januzi followed up on the
4 first approach and relayed to the witness an offer that Mr. Shala and
5 others would help him if he withdrew his testimony.

6 Mr. Shala and Mr. Januzi communicated and coordinated with each
7 other regarding their interactions with the witness before and after
8 each of the 5 and 12 April 2023 approaches. Mr. Bahtijari
9 communicated and coordinated with Mr. Shala and Mr. Januzi, regarding
10 their interactions with the witness, before and after 5 April 2023
11 approach and before the 12 April 2023.

12 As regards sentencing, Mr. Shala agrees to the imposition of a
13 sentence of three years' imprisonment; Mr. Januzi agrees to the
14 imposition of a sentence within the range of 24 to 30 months'
15 imprisonment; and Mr. Bahtijari agrees to the imposition of a
16 sentence of two years' imprisonment.

17 And as regards the reparations, the accused have agreed to pay
18 the total sum of 500 euros to Victim 1, as contained in the addendum
19 to the plea agreements.

20 The Panel is further satisfied that, as mandated under
21 Rule 94(5) of the Rules, and as verified during the hearings of the
22 18th and 19th December of last year, and today, the first part of the
23 hearing, that each Defence counsel has discussed the terms of the
24 plea agreements with their respective clients; that Mr. Shala,
25 Mr. Januzi, and Mr. Bahtijari understand the terms of their

1 respective plea agreement; that Mr. Shala, Mr. Januzi, and
2 Mr. Bahtijari admit facts in respect of the charges contained in
3 their respective plea agreements and have agreed to the plea
4 agreements voluntarily, without threats or coercion; Mr. Shala,
5 Mr. Januzi, and Mr. Bahtijari understand the consequences of their
6 respective plea agreement and waive their right to be tried under the
7 ordinary trial procedure.

8 The Panel is also satisfied there is sufficient factual basis
9 establishing the essential facts that are required to prove the crime
10 and the participation of the accused.

11 And the Panel is, lastly, satisfied that the interests of
12 justice are duly taken into account.

13 Thus, the Panel decides, pursuant to Rule 94 of the Rules, to
14 approve the plea agreements for all three accused.

15 Mr. Shala, Mr. Januzi, and Mr. Bahtijari, would you please rise.

16 In the name of the people of Kosovo, the Panel finds you,
17 Mr. Shala, Mr. Januzi, and Mr. Bahtijari guilty of the following
18 offences under Counts 1 and 2 of the Indictment of 17 December 2024,
19 filing 630, Annex 1. These are:

20 Obstructing official persons in performing official duties, by
21 participating in the common action of a group, committed between at
22 least the 5th and 12th April 2023, pursuant to Articles 17, 21,
23 401(2) and (5) of the 2019 Kosovo Criminal Code and Articles 15(2)
24 and 16(3) of the Law; and intimidation during criminal proceedings,
25 committed between at least the 5th and 12th April 2023, pursuant to

1 Articles 21, 31, and 387 of the 2019 Kosovo Criminal Code and
2 Articles 15(2) and 16(3) of the Law.

3 Having found the accused guilty under Counts 1 and 2 of the
4 Indictment 17 December 2024, the Panel will proceed with the
5 sentencing.

6 Having considered the arguments and the evidence presented by
7 the parties, the Panel hereby sentences Mr. Haxhi Shala to three
8 years of imprisonment; Mr. Sabit Januzi to two years of imprisonment;
9 and Mr. Ismet Bahtijari to two years of imprisonment.

10 You may be seated.

11 As regards the credit for the time served, the Panel notes that
12 Mr. Bahtijari and Mr. Januzi were arrested on 5 October 2023 and have
13 both been detained at the detention facilities of the Specialist
14 Chambers since 6 October 2023. The Panel accordingly deducts from
15 the imposed sentences the time spent in detention since October 2023.

16 As regards Mr. Shala, the Panel notes that he was arrested on
17 11 December 2023 and has been detained at the detention facilities of
18 the Specialist Chambers since 12 December 2023. The Panel
19 accordingly deducts from the imposed sentence the time spent in
20 detention since 11 December 2023.

21 As regards reparations, the accused will pay the total sum of
22 500 euros to Victim 1, and the payments are as follows: Mr. Shala
23 will pay 400 euros; Mr. Januzi will pay 100 euros; and Mr. Bahtijari
24 will not make a payment.

25 The payments are to be made no later than Wednesday, 19 February

1 2025. And to this end, the Registrar is instructed to designate a
2 bank account and to inform Mr. Shala and Mr. Januzi how to execute
3 their respective payments.

4 In this regard, Victim 1 may receive assistance from the
5 Registrar, if the victim so wishes, including the appointment of a
6 counsel.

7 The Registrar is to report to the Panel no later than
8 19 February on whether the sum has been paid to the designated
9 bank account and to Victim 1.

10 And the Panel underlines that, pursuant to Rule 94(8) of the
11 Rules, the Panel's decision on the plea agreements has the force and
12 effect of a final judgment and shall only be subject to the reopening
13 of criminal proceedings pursuant to Article 48 of the Law and
14 Rule 187.

15 The Panel also underlines that upon serving two-thirds of the
16 sentence, an imprisoned person becomes eligible for the procedure
17 under Article 51(2) of the Law and Chapter 12 of the Rules.

18 I will now proceed with other matters.

19 As already indicated, the Panel will issue its written reasons
20 for today's ruling in due course, and the Panel notes that as
21 Mr. Shala, Mr. Januzi, and Mr. Bahtijari are today definitively
22 convicted, no further review of detentions will be issued and all
23 related briefing schedules are therefore cancelled.

24 Moreover, as the case will not proceed to trial, the following
25 pending requests are rendered moot: This is filing 287, filing 507,

1 519, 524, 529, 532, and 585.

2 And furthermore, the Panel decides to retain jurisdiction for
3 all other necessary purposes in this case.

4 And in particular, the Panel will decide in due course on filing
5 bearing number 516 and 518.

6 And this concludes today's hearing.

7 And I thank the parties for their attendance. And I wish to
8 thank the interpreters, the stenographers, and the audio-visual
9 technicians, and the security personnel for their assistance today.

10 This hearing is adjourned.

11 --- Whereupon the hearing adjourned at 3.03 p.m.

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