

1 Monday, 9 October 2023

2 [Initial Appearance of Sabit Januzi]

3 [Open session]

4 [The accused entered the courtroom]

5 --- Upon commencing at 3.15 p.m.

6 JUDGE GUILLOU: Good afternoon and welcome, everyone inside and  
7 outside the courtroom.

8 Before we start, I had indicated in my order scheduling this  
9 Initial Appearance that there would be some pictures, but I've been  
10 told that you would rather have the same pictures as the one in the  
11 previous Initial Appearance, with no close-ups of your client.

12 Is that correct, counsel?

13 MR. GILLIS: Yes, Your Honour. That's correct.

14 JUDGE GUILLOU: Then I would ask the photographers to take  
15 pictures exactly as you did for the previous Initial Appearance, with  
16 no close-ups of the accused, just global pictures of the courtroom,  
17 for one and a half minutes, please.

18 Thank you, Madam Photographer.

19 And now, Madam Court Officer, can you please call the case.

20 THE COURT OFFICER: Your Honour, this is file KSC-BC-2023-10,  
21 The Specialist Prosecutor versus Sabit Januzi and Ismet Bahtjari.

22 JUDGE GUILLOU: Thank you, Madam Court Officer.

23 Before asking everyone present in the courtroom to introduce  
24 themselves, I would like to remind one more time everyone of a few  
25 rules that must be observed at all times in order to make courtroom

1 proceedings smooth.

2 Please make sure you activate your microphone before speaking  
3 and that you switch it off as soon as you're finished. Talk slowly  
4 and clearly as we have interpretation from and into Albanian and  
5 Serbian. Wait five seconds before responding to me or any party or  
6 participant in order to allow the interpreters to finish the  
7 interpretation.

8 What is said in this hearing will be transcribed in realtime and  
9 will be reflected in a transcript available to the parties and to the  
10 public after this hearing.

11 I would also like to remind the parties that certain information  
12 in this case is subject to protective measures and confidentiality  
13 orders. Confidential information shall not be disclosed in open  
14 session. If any party or participant must go into private session  
15 and refer to any confidential information, please indicate the  
16 reasons.

17 Now, I would kindly ask the parties and participants to  
18 introduce themselves starting with the Specialist Prosecutor.

19 Madam Prosecutor.

20 MS. SHAHABUDDIN: Good afternoon, Your Honour. For the  
21 Prosecution my name is Taz Shahabuddin. Next to me are Josh Hafetz  
22 and John Devaney. Seated behind me is Fabian Unser-Nad.

23 JUDGE GUILLOU: Thank you, Madam Prosecutor.

24 Now, I turn to the Defence.

25 Counsel, please.

1 MR. GILLIS: Thank you, Your Honour. My name is  
2 Mr. Thomas Gillis. I am a solicitor in Belgium, Ghent, Belgium Bar  
3 Association, and I am the Duty Counsel of Mr. Sabit Januzi. Thank  
4 you.

5 JUDGE GUILLOU: Thank you, Mr. Gillis. And for the record, I  
6 note that Mr. Januzi is also present in the courtroom.

7 Now, I turn to the Registry.

8 MR. NILSSON: Good afternoon, Your Honours. Jonas Nilsson,  
9 Deputy Registrar. I am representing the Registry today together with  
10 the head of unit and the staff of the Court Management Unit. Thank  
11 you.

12 JUDGE GUILLOU: Thank you, Mr. Nilsson.

13 And, for the record, I am Nicolas Guillou, Pre-Trial Judge for  
14 this case.

15 The accused is appearing today for the first time before the  
16 Specialist Chambers following the indictment confirmed against him.

17 Mr. Januzi, will you please rise.

18 Can you tell us your full name?

19 THE ACCUSED JANUZI: [Interpretation] I am Sabit Januzi.

20 JUDGE GUILLOU: What is your place and date of birth?

21 THE ACCUSED JANUZI: [Interpretation] Born on 29 April 1966 in  
22 the location, place called Fushtice e Eperme.

23 JUDGE GUILLOU: What is your citizenship or what are your  
24 citizenships?

25 THE ACCUSED JANUZI: [Interpretation] I have the Kosovo

1 citizenship.

2 JUDGE GUILLOU: And what is your current profession?

3 THE ACCUSED JANUZI: [Interpretation] I'm currently a pensioner,  
4 veteran. I receive a pension as a veteran of the Kosovo Liberation  
5 Army war. In the past, I used to be a builder.

6 JUDGE GUILLOU: Thank you, Mr. Januzi. You may be seated.

7 Let me now move to the procedural history of the case.

8 On 2 October 2023, in my capacity as Pre-Trial Judge, I  
9 confirmed the indictment submitted by the SPO against Mr. Januzi  
10 charging him with the offences of: Count 1, attempt to obstruct  
11 official persons in performing official duties by serious threat;  
12 Count 2, attempt to obstruct official persons in performing official  
13 duties by participating in the common action of a group; and Count 3,  
14 intimidation during criminal proceedings.

15 On 5 October 2023, the SPO arrested Mr. Januzi in Kosovo, at  
16 which point he was served with the Confirmed Indictment. Mr. Januzi  
17 was transferred to the detention facilities of the Kosovo Specialist  
18 Chambers in The Hague on 6 October 2023.

19 Mr. Januzi, before we proceed any further, I have to make sure  
20 that you can follow the proceedings in a language that you understand  
21 and speak. Can you confirm that you understand and speak Albanian?

22 THE ACCUSED JANUZI: [Interpretation] Yes.

23 JUDGE GUILLOU: Thank you, Mr. Januzi. By this, I am satisfied  
24 that you can follow the proceedings in Albanian, a language that you  
25 understand and speak in accordance with Rule 92 of the Rules of

1 Procedure and Evidence.

2 And, Mr. Januzi, if at any moment in the course of the  
3 proceedings you are not receiving interpretation, please draw my  
4 attention to it immediately.

5 Now allow me to explain the specific purpose of the Initial  
6 Appearance for the benefit of the accused and those joining us in the  
7 public gallery and following the proceedings online.

8 Today's hearing is not a trial. No evidence will be presented  
9 or debated. And the guilt or innocence of the accused will not be  
10 discussed or decided. The purpose of this Initial Appearance is  
11 regulated by Article 39 of the Law and Rule 92 of the rules.

12 According to these provisions, as Pre-Trial Judge, I shall have  
13 the charges in the Confirmed Indictment read to the accused in a  
14 language he understands and speaks; confirm that the accused  
15 understands the indictment; satisfy myself that the rights of the  
16 accused, in particular, his right to counsel, are respected; inform  
17 the accused that within 30 days of today's hearing he will be called  
18 upon to admit guilt or plead not guilty on each charge set out in the  
19 indictment.

20 If the accused wishes to do so, he may immediately admit guilt  
21 or plead not guilty.

22 And, finally, I shall also set other dates as appropriate in  
23 performing my functions as Pre-Trial Judge. I expect the parties to  
24 adhere to these matters which I will address in turn. And, again,  
25 should either party wish to discuss any other matter that is not

1 expressly foreseen in the context of the Initial Appearance, they are  
2 invited to do so in writing by making a filing before me.

3 First, may I ask you, Mr. Januzi, to confirm that you have  
4 received the Confirmed Indictment in a language that you understand  
5 and speak?

6 THE ACCUSED JANUZI: [Interpretation] Yes, I have received it in  
7 the Albanian language.

8 JUDGE GUILLOU: Thank you, Mr. Januzi.

9 I will now ask Madam Court Officer to read out the charges set  
10 out in the Confirmed Indictment as foreseen in Article 39 of the Law  
11 and Rule 92.

12 THE COURT OFFICER: Thank you, Your Honour. In the Confirmed  
13 Indictment, the Specialist Prosecutor charges Mr. Sabit Januzi with:

14 Count 1: Attempting to obstruct official persons in performing  
15 official duties by serious threat punishable under Article 401(1) and  
16 (5) of the 2019 Kosovo Criminal Code and Article 15(2) of the Law;

17 Count 2: Attempting to obstruct official persons in performing  
18 official duties by participating in the common action of a group,  
19 punishable under Article 401(2) and (5) of the 2019 Kosovo Criminal  
20 Code and Article 15(2) of the Law; and

21 Count 3: Intimidation during criminal proceedings, punishable  
22 under Article 387 of the 2019 Kosovo Criminal Code and Article 15(2)  
23 of the Law.

24 These offences were committed between at least 5 and 12 April  
25 2023.

1 In relation to these offences, there is a well-grounded  
2 suspicion that Mr. Sabit Januzi is criminally responsible, pursuant  
3 to Article 16(3) of the Law for:

4 (a) Committing the offence under Count 3, pursuant to Article 17  
5 of the 2019 Kosovo Criminal Code;

6 (b) co-perpetrating with Mr. Ismet Bahtjari the offences under  
7 Counts 1 to 3, pursuant to Article 31 of the 2019 Kosovo Criminal  
8 Code;

9 (c) assisting in the commission of the offences under Counts 1  
10 to 3, pursuant to Article 33 of the 2019 Kosovo Criminal Code;

11 (d) agreeing to commit with Mr. Ismet Bahtjari the offences  
12 under Counts 1 to 3, pursuant to Article 35 of the 2019 Kosovo  
13 Criminal Code; and/or

14 (e) attempting to commit the offences under Counts 1 to 2,  
15 pursuant to Article 28 of the 2019 Kosovo Criminal Code.

16 Thank you.

17 JUDGE GUILLOU: Thank you, Madam Court Officer.

18 Mr. Januzi, I wish to remind you that this is not the time to  
19 contest the charges but simply to acknowledge your understanding of  
20 the charges. You will have ample opportunity to challenge the  
21 charges with the assistance of your counsel.

22 Mr. Januzi, did you understand the charges contained in the  
23 Confirmed Indictment as read out to you by Madam Court Officer?

24 THE ACCUSED JANUZI: [Interpretation] I believe I did.

25 JUDGE GUILLOU: Thank you, Mr. Januzi. You may be seated.

1           Now let me inform you of your rights before this Court. The Law  
2 on the Specialist Chambers and the Rules of Procedure and Evidence  
3 guarantee you a number of rights, and I will read out to you the most  
4 important ones.

5           First, you shall be presumed innocent until proven guilty beyond  
6 reasonable doubt. In the determination of the charges against you,  
7 you are entitled to a fair and public hearing, subject to any  
8 measures ordered for the protection of victims and witnesses.

9           You have the right to be informed promptly and in detail in a  
10 language which you understand of the nature and cause of the charges  
11 against you.

12           You have the right to have adequate time and facilities for the  
13 preparation of your defence and to communicate with the counsel of  
14 your own choosing.

15           You have the right to be tried within a reasonable time.

16           You have the right to be tried in your presence and to defend  
17 yourself through your counsel.

18           You have the right to have counsel assigned to you and without  
19 payment if you do not have sufficient means to pay for it.

20           You have the right to examine or have examined the witnesses  
21 against you and to obtain the attendance and examination of witnesses  
22 on your behalf.

23           You have the right to have the free assistance of an interpreter  
24 if you cannot understand or speak the language used in the Court.

25           You have the right not to be compelled to testify against



1     yourself or to admit guilt.

2             You have the right to remain silent and no adverse inference  
3 shall be drawn from your silence.

4             You also have the right to make unsworn statements relevant to  
5 the case, and you may appear as a witness under oath.

6             You have the right to lodge preliminary motions, to challenge  
7 the jurisdiction of the Specialist Chambers, to allege defects in the  
8 form of the indictment, and to seek the severance of the indictment.

9             You have the right to receive, within 30 days of today's  
10 hearing, the supporting material to the indictment submitted for  
11 confirmation.

12            You have the right to receive all statements of witnesses whom  
13 the Specialist Prosecutor intends to call to testify at trial in the  
14 language you understand and speak, namely, Albanian.

15            You have the right to receive immediately any information which  
16 may reasonably suggest your innocence or mitigate your guilt, or  
17 affect the credibility or reliability of the Specialist Prosecutor's  
18 evidence, as soon as the information is in its custody, control, or  
19 actual knowledge.

20            You have the right that all material and relevant evidence of  
21 facts in possession of the Specialist Prosecutor be made available to  
22 you before the beginning of and during the proceedings. This right  
23 is only subject to restrictions which are strictly necessary and when  
24 any counterbalancing protections are applied.

25            You have the right not to be detained for an unreasonable period

1 prior to the opening of the case, to request review of decision on  
2 detention, and to appeal such decision directly before the Court of  
3 Appeal.

4 You have the right to appeal directly before the Court of Appeal  
5 a decision on preliminary motions, challenging the jurisdiction of  
6 the Specialist Chambers, and you have the right to seek leave to  
7 appeal other decisions.

8 Mr. Januzi, you heard the most important rights that you enjoy  
9 in accordance with the applicable legal framework of the Specialist  
10 Chambers.

11 Do you understand these rights, Mr. Januzi?

12 THE ACCUSED JANUZI: [Interpretation] I do.

13 JUDGE GUILLOU: Thank you, Mr. Januzi. You may be seated.

14 I wish to inform you that, according to Article 21(5) of the  
15 Law, you may not represent yourself because you are currently in  
16 detention. Representation by a Specialist Counsel is, therefore,  
17 mandatory.

18 It is my duty, as Pre-Trial Judge, to ensure that your right to  
19 counsel is respected. To this end, I have noted the Registrar's  
20 filing informing me of the assignment of Duty Counsel. I also  
21 understand from the Registrar's filing that pending the appointment  
22 or assignment of counsel, you have been assigned Mr. Thomas Gillis as  
23 Duty Counsel in accordance with Section 17(2) of the Directive on  
24 Counsel and Regulation 21 on the Legal Aid Regulations.

25 Mr. Januzi, can you confirm that Mr. Thomas Gillis has been

1 assigned to you as Duty Counsel today?

2 THE ACCUSED JANUZI: [Interpretation] Yes, I confirm it.

3 JUDGE GUILLOU: Thank you, Mr. Januzi. You may be seated.

4 And it follows that the accused is presently represented by  
5 Specialist Counsel.

6 I will now turn to the possibility for the accused to enter a  
7 plea, if any, in accordance with Rule 92.

8 Mr. Januzi, within 30 days from today, you will be called upon  
9 to admit guilt or plead not guilty on each charge of the Confirmed  
10 Indictment. If you wish to do so, you may choose to immediately  
11 admit guilt or plead not guilty.

12 I would, therefore, like to ask you, Mr. Januzi, if you have had  
13 the opportunity to discuss the charges in the Confirmed Indictment  
14 with your counsel, and if you are prepared to enter a plea at this  
15 time. And if this is the case, I invite you to stand up while you  
16 plead.

17 Mr. Januzi.

18 THE ACCUSED JANUZI: [Interpretation] Yes, I am ready. And I  
19 plead not guilty to any charges raised against me and read in --  
20 mentioning my name.

21 JUDGE GUILLOU: Thank you, Mr. Januzi. You may be seated.

22 Now, let me turn to the working language of the proceedings.

23 In the Scheduling Order for this Initial Appearance, I asked the  
24 parties to make oral submissions at today's hearing on the working  
25 language to be used in the present case according to Rule 8. And I

1 will ask the parties to indicate their preference for the record.

2 Madam Prosecutor.

3 MS. SHAHABUDDIN: Thank you, Your Honour. Our preference would  
4 be English.

5 JUDGE GUILLOU: Thank you, Madam Prosecutor.

6 Counsel.

7 MR. GILLIS: Yes, Your Honour. Also English, of course.

8 JUDGE GUILLOU: Thank you, counsel.

9 I will issue a decision in due course on this matter, but I take  
10 note of your submissions.

11 In the Scheduling Order for the Initial Appearance, I indicated  
12 that I intend to schedule, pursuant to Rule 96, the first Status  
13 Conference on Thursday, 12 October, at 1400. The purpose of the  
14 Status Conference will be to review the status of the case and to  
15 organise exchanges between the parties to ensure expeditious  
16 preparation for trial.

17 Mr. Januzi, I wish to remind you that you have the right to  
18 attend this Status Conference with your counsel. However, with your  
19 written consent, and after receiving advice from your counsel,  
20 pursuant to Rule 96(2), the Status Conference may be attended by you  
21 in person with your counsel participating via video-conference link,  
22 by your counsel with you, Mr. Januzi, participating via  
23 video-conference link, or it may also take place in your absence,  
24 Mr. Januzi, with your counsel present or participating via  
25 video-conference link.

1 I remind everyone in this regard that should counsel of the  
2 accused wish to participate via video-conference, written notice must  
3 be provided 24 hours in advance of the relevant hearing so that the  
4 Registry has time to make the appropriate accommodations, and such  
5 notice shall be sent via e-mail to the Registry and should include  
6 the written consent of the accused. The Registry shall file these  
7 e-mails as correspondences on the record of the proceedings.

8 I would now like to ask the Defence whether it plans to  
9 participate to the first Status Conference in person or via  
10 video-conference.

11 Mr. Gillis.

12 MR. GILLIS: Your Honour, I will be present and the client will  
13 be present also.

14 JUDGE GUILLOU: Thank you, Mr. Gillis. This is noted.

15 Madam Prosecutor, do you have anything to add on the Status  
16 Conference?

17 MS. SHAHABUDDIN: No, Your Honour.

18 JUDGE GUILLOU: Thank you very much.

19 You will receive a Scheduling Order that will include the agenda  
20 in due course, probably tonight or tomorrow morning. I will also ask  
21 the parties for written submissions on the topics of the Status  
22 Conference and any other matter they would like to raise during this  
23 Status Conference.

24 And I can already inform the parties that I intend to schedule  
25 Wednesday, 11 October, at noon, as for the date for filing these

1 written submissions.

2 After the Status Conference, I will issue a decision on the  
3 Specialist Prosecutor's disclosure obligations in accordance with  
4 Rule 102 and on the redaction regime for the proceedings. Before I  
5 issue this decision, I will seek submissions from the parties, and on  
6 that end I recommend the parties to review my framework decisions on  
7 disclosure in other cases before this Court before making their  
8 submissions.

9 At this point, I would like the parties to indicate if they have  
10 any other issues they would like to raise today starting with the  
11 Specialist Prosecutor's Office.

12 MS. SHAHABUDDIN: Nothing at this time, Your Honour.

13 JUDGE GUILLOU: Thank you, Madam Prosecutor.  
14 Counsel.

15 MR. GILLIS: Nothing at this moment, Your Honour.

16 JUDGE GUILLOU: Thank you, counsel.

17 Mr. Januzi, I would like to ask you if you have any issue you  
18 would like to raise regarding your arrest, transfer, or detention?

19 THE ACCUSED JANUZI: [Interpretation] Yes. I was arrested on  
20 5 October in the morning. If my memory is correct, it was 6.35 or  
21 40. However, on 4 October, I was summonsed to appear in the  
22 offices -- EULEX offices, to appear before the prosecutor for a  
23 statement.

24 I went there on my own, voluntarily, without any police  
25 presence, and I took a bus to go there. A lawyer joined me there

1 whom I had asked to be present, and we both went there.

2 On the next day, 5 October, surprisingly, to my surprise, I was  
3 not summonsed to appear again, but EULEX police forces were sent and  
4 I was arrested in front of the gates of my house. As -- as I was --  
5 the investigator called me on the phone asking if I could go outside.  
6 I was sleeping at that time. I heard the phone, answered the call,  
7 went outside and got arrested, which, in my opinion, was unnecessary  
8 because just like on 4 October when I went voluntarily there, I would  
9 have gone there on the 5th the same way if I had been asked to do so.

10 Now, if I had been informed that I had to absolutely travel to  
11 The Hague tribunal, it would have been again absolutely and wholly  
12 unnecessary to arrest me because I always answer to court summonses.

13 This was all I had to say, Your Honour.

14 JUDGE GUILLOU: Thank you very much, Mr. Januzi. This is noted  
15 and this is in the transcript.

16 Do the parties want to add anything either on this specific  
17 issue or on any other topic?

18 Madam Prosecutor.

19 MS. SHAHABUDDIN: Not at this time, Your Honour.

20 JUDGE GUILLOU: Thank you.

21 Mr. Gillis.

22 MR. GILLIS: Not at this particular moment, Your Honour.

23 JUDGE GUILLOU: Thank you, Mr. Gillis.

24 Finally, Mr. Januzi, as you remain in detention, I would like to  
25 inform you that you may challenge your detention on remand in

1 accordance with Rule 57, and this will be dealt with written rulings.

2 This concludes today's hearing. I thank the parties, the  
3 Registry for their attendance. I thank the interpreters,  
4 audio-visual technicians, stenographer, and security personnel for  
5 their assistance.

6 This hearing is adjourned. Thank you.

7 --- Whereupon the Initial Appearance adjourned  
8 at 3.44 p.m.

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