



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

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

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

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

Date: 14 May 2024

Language: English

Classification: Public

Public redacted version of 'Prosecution request for retention of evidence'

Specialist Prosecutor's Office

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1. Pursuant to the Decision,¹ the Specialist Prosecutor's Office ('SPO') hereby requests authorisation for the SPO's further retention of the seized mobile phones of Sabit JANUZI² and Ismet BAHTIJARI³ (collectively, the 'Subject Phones').

2. As previously detailed, the SPO investigated efforts undertaken by SHALA, JANUZI, BAHTIJARI (collectively, the 'Accused'), and others aimed at obstructing the testimony of a protected witness [REDACTED].⁴ Based on evidence uncovered during its investigation, the SPO submitted indictments for confirmation against SHALA, JANUZI, and BAHTIJARI.⁵ On 2 October 2023, the Pre-Trial Judge in KSC-BC-2023-10 ('Case 10') confirmed the Indictment against JANUZI and BAHTIJARI.⁶ On 5 October 2023, the SPO arrested JANUZI and BAHTIJARI.⁷ On 4 December 2023, the Pre-Trial Judge in KSC-BC-2023-11 ('Case 11') confirmed the Indictment against SHALA,⁸ who was arrested on 11 December 2023.⁹ On 8 February 2024, the Pre-Trial Judge joined

¹ Decision Authorising Searches and Seizures, KSC-BC-2023-10/F00155, 29 January 2024, Confidential ('Decision'), para.59.

² Evidence bag #D320458.

³ Evidence bag #D320459.

⁴ See e.g. Indictment, KSC-BC-2023-11/F00007/A01, 6 December 2023, Confidential; Annex 2 to Submission of Indictment for confirmation and related requests, KSC-BC-2023-11/F00002/A02, Confidential; Indictment, KSC-BC-2023-10/F00010/A01, 4 October 2023, Strictly Confidential; Annex 2 to Submissions of Indictment for confirmation and related request, KSC-BC-2023-10/F00002/A02, Confidential.

⁵ See Confidential redacted version of 'Submission of Indictment for confirmation and related requests with strictly confidential and *ex parte* Annexes 1-3', KSC-BC-2023-11/F00002/CONF/RED, 20 November 2023, Confidential; Confidential redacted version of 'Submission of Indictment for confirmation and related requests with strictly confidential and *ex parte* Annexes 1-3', KSC-BC-2023-10/F00002/CONF/RED, 11 September 2023, Confidential.

⁶ See Confidential Redacted Version of Decision on the Confirmation of the Indictment, KSC-BC-2023-10/F00008/CONF/RED, 2 October 2023, Confidential.

⁷ See Decision, KSC-BC-2023-10/F00155, para.4.

⁸ See Decision on the Confirmation of the Indictment, KSC-BC-2023-11/F00005, 4 December 2023, Confidential.

⁹ See Notification of Arrest of Haxhi Shala Pursuant to Rule 55(4), KSC-BC-2023-11/F00008, 11 December 2023, para.4.

Cases 10 and 11.¹⁰ On 23 February 2024, pursuant to the Decision, the SPO seized the Subject Phones.

3. Relevant data has already been extracted from the Subject Phones, which the SPO will retain consistent with the Rules.¹¹ The SPO has also requested authorisation to add to its exhibit list and disclose pursuant to Rule 102(1)(b) the forensic images of the Subject Phones in Case 10.¹² That request remains pending.

4. The SPO's retention of the physical phones is necessary through the conclusion of the proceedings in Case 10. Such retention is necessary to, *inter alia*, (i) preserve the ability to conduct further forensic investigation of the Subject Phones as necessary, (ii) ensure the proper preservation of the original evidence for potential use in Case 10, and (iii) ensure the rights of the Accused to inspect and examine the physical items in support of the Accused's rights to a fair trial.

5. Accordingly, the SPO requests the Pre-Trial Judge to authorise the SPO to retain the Subject Phones until at least the conclusion of proceedings in Case 10.

6. This filing is submitted as confidential in accordance with Rule 82(4).

¹⁰ See Decision on Request for Joinder and Amendment of the Indictment, KSC-BC-2023-10/F00161, 8 February 2024, Confidential.

¹¹ Rules 32 and 33 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

¹² See Prosecution request for Rule 102(1)(b) disclosure and to amend exhibit list, KSC-BC-2023-10/F00242, 5 April 2024, Confidential, para.4.

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Tuesday, 14 May 2024

At The Hague, the Netherlands.