



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

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: 1 February 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 Haxhi SHALA,² Sabit JANUZI,³ and Ismet BAHTIJARI⁴ (collectively, the 'Seized Phones').

2. As previously detailed to the Pre-Trial Judge, the SPO is actively investigating efforts undertaken by SHALA, JANUZI, BAHTJIARI (collectively, the 'Accused'), and others aimed at obstructing the testimony of protected SPO witness Witness 1 [REDACTED].⁵ Based on evidence uncovered during its investigation, including evidence retrieved from the Seized Phones, the SPO submitted Indictments for confirmation against the Accused.⁶ On 2 October 2023, the Pre-Trial Judge in KSC-BC-2023-10 ('Case 10') confirmed the Indictment against JANUZI and BAHTIJARI,⁷ and on 4 December 2023, the Pre-Trial Judge in KSC-BC-2023-11 ('Case 11') confirmed the Indictment against SHALA.⁸ The Seized Phones are now evidence in Case 10 and Case 11.

¹ Decision on the Prosecution Requests for Variation of Time Limits concerning Retention of Evidence, KSC-BC-2023-10/F00064, 28 July 2023, Strictly Confidential and *Ex Parte*, para.23(b).

² Evidence bag #B30976423. The SPO previously indicated that two SIM cards seized from SHALA (Evidence bags #A50186303 and #A50186302) were pending forensic examination by an external forensic institute at the time of reporting. *See* Confidential redacted version of 'Prosecution request for retention of evidence', KSC-BC-2018-10/F00060/CONF/RED, 26 July 2023, Strictly Confidential and *Ex Parte*, para.6. The external forensic institute has informed the SPO that further technical examination is necessary. Once that examination is complete, the SPO will promptly review and assess the content of the SIM cards for relevance in accordance with the Search and Seizure Decision and the Rules.

³ Evidence bag #B30976424.

⁴ Evidence bag #B30976428.

⁵ *See e.g.* Indictment, KSC-BC-2023-11/F00007/A01, 6 December 2023, Strictly Confidential and *Ex Parte*; Annex 2 to Submission of Indictment for confirmation and related requests, KSC-BC-2023-11/F00002/A02, Strictly Confidential and *Ex Parte*; Indictment, KSC-BC-2023-10/F00010/A01, 4 October 2023, Strictly Confidential and *Ex Parte*; Annex 2 to Submissions of Indictment for confirmation and related request, KSC-BC-2023-10/F00002/A02, Strictly Confidential and *Ex Parte*.

⁶ *See* Submission of Indictment for confirmation and related requests with strictly confidential and *ex parte* Annexes 1-3, KSC-BC-2023-11/F00002, 20 November 2023, Strictly Confidential and *Ex Parte*; Submission of Indictment for confirmation and related requests with strictly confidential and *ex parte* Annexes 1-3, KSC-BC-2023-10/F00002, 11 September 2023, Strictly Confidential and *Ex Parte*.

⁷ *See* Decision on the Confirmation of the Indictment, KSC-BC-2023-10/F00008, 2 October 2023, Strictly Confidential and *Ex Parte*.

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

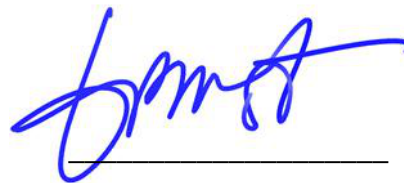
3. Relevant data has already been extracted from the Seized Phones, which the SPO will retain consistent with the Rules.⁹ However, the SPO's retention of the physical phones themselves is also necessary. Specifically, it is necessary for the SPO to retain the Seized Phones through the conclusion of the proceedings in Case 10 and Case 11.

4. Such retention is necessary to, *inter alia*, (i) preserve the ability to conduct further forensic investigation of the Seized Phones as necessary, (ii) ensure the proper preservation of the original evidence for potential use in Case 10 and Case 11, 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 Seized Phones until at least the conclusion of proceedings in Case 10 and Case 11.

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

Word count: 584



Kimberly P. West

Specialist Prosecutor

Thursday, 1 February 2024

At The Hague, the Netherlands.

⁹ Rules 32 and 33.