



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

In: KSC-BC-2018-01

Before: Single Judge Panel
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

Date: 26 July 2023

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 Search and Seizure Decision F00342,¹ the Specialist Prosecutor's Office ('SPO') hereby requests the Single Judge's authorisation for the SPO's further retention of the seized mobile telephone of Ismet BAHTJARI.
2. As previously reported to the Single Judge, the SPO executed the BAHTJARI search and seizure on 4 May 2023. The SPO seized one Samsung mobile telephone from BAHTJARI (the 'BAHTJARI Phone').
3. As previously reported to the Single Judge,² the BAHTJARI Phone contains information relevant to the SPO's ongoing investigations, including evidence corroborating, *inter alia*, [REDACTED] prior statements to the SPO about attempts by BAHTJARI and others to intimidate [REDACTED] and to interfere with and obstruct [REDACTED]. BAHTJARI remains a suspect in the SPO's ongoing investigation into the serious offences of intimidation and obstruction of the administration of justice. The SPO's investigation is necessary to, *inter alia*, protect SPO witnesses and ensure the integrity of the ongoing judicial proceedings before the KSC.³
4. Relevant data has already been extracted from the BAHTJARI Phone, which the SPO will retain consistent with the Search and Seizure Decision and the Rules.⁴ The SPO's retention of the physical phone itself is also necessary. Specifically, it is necessary for the SPO to retain the BAHTJARI Phone through the conclusion of the ongoing SPO investigation and through the completion of any future judicial proceedings resulting from that investigation – including any future trial. Such retention is necessary to, *inter alia*, (1) preserve the ability to conduct further forensic investigation of the device as necessary, (2) ensure the proper preservation of the original evidence for potential use in further proceedings, including any trial, and (3)

¹ Decision Authorising Search and Seizure and Related Measures, KSC-BC-2018-01/F00342, 28 April 2023, Strictly Confidential and *Ex Parte* ('Search and Seizure Decision F00342').

² See Prosecution report pursuant to Decisions F00342 and F00348, KSC-BC-2018-01/F00368, 8 June 2023, Strictly Confidential and *Ex Parte*, para.25. See also [REDACTED].

³ See generally Rule 33(b)(i)-(iii) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020. All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

⁴ See Search and Seizure Decision F00342, KSC-BC-2018-01/F00342, para.44. See also Rules 32 and 33.

ensure the rights of the accused in any future trial to inspect and examine the physical device in support of the accused's rights to a fair trial.⁵

5. Accordingly, the SPO requests the Single Judge to authorise the SPO to retain the BAHTJARI Phone for a period of six months, unless BAHTJARI or another accused to whom the BAHTJARI Phone is relevant in such proceedings is indicted by the SPO, in which case the SPO will retain BAHTJARI Phone through the completion of all relevant judicial proceedings.

6. This filing is submitted as strictly confidential and *ex parte* in accordance with Rule 82(4).

Word count: 496

/signed/

Ward Ferdinandusse

Acting Deputy Specialist Prosecutor

Wednesday, 26 July 2023

At The Hague, the Netherlands

⁵ See Search and Seizure Decision F00342, KSC-BC-2018-01/F00342, para.44.