



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

**In:** KSC-BC-2018-01  
**Before:** Single Judge  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon  
**Filing Participant:** Specialist Prosecutor's Office  
**Date:** 6 February 2024  
**Language:** English  
**Classification:** Public

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Public redacted version of 'Prosecution request for retention of evidence (F00521)'

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1. Pursuant to the Search and Seizure Decision,<sup>1</sup> the Specialist Prosecutor's Office ('SPO') hereby requests the Single Judge's authorisation for the SPO's further retention of the seized mobile phone of Haxhi SHALA (the 'SHALA Phone').
2. As previously detailed to the Single Judge, the SPO is actively investigating efforts undertaken by SHALA, JANUZI, BAHTJIARI (collectively, the 'Accused'), and others aimed at obstructing the testimony of a protected witness [REDACTED].<sup>2</sup> Based on evidence uncovered during its investigation, the SPO submitted Indictments for confirmation against SHALA, JANUZI and BAHTIJARI.<sup>3</sup> On 2 October 2023, the Pre-Trial Judge in KSC-BC-2023-10 ('Case 10') confirmed the Indictment against JANUZI and BAHTIJARI,<sup>4</sup> and on 4 December 2023, the Pre-Trial Judge in KSC-BC-2023-11 ('Case 11') confirmed the Indictment against SHALA.<sup>5</sup> On 11 December 2023, the SPO arrested SHALA<sup>6</sup> and subsequently seized the SHALA Phone.<sup>7</sup> [REDACTED].

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<sup>1</sup> Decision Authorising Search and Seizure and Special Investigative Measures, KSC-BC-2018-01/F00521, 30 November 2023, Strictly Confidential and *Ex Parte* ('Search and Seizure Decision'), para.51.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> See Confidential Redacted Version of Decision on the Confirmation of the Indictment, KSC-BC-2023-10/F00008/CONF/RED, 2 October 2023, Confidential.

<sup>5</sup> See Decision on the Confirmation of the Indictment, KSC-BC-2023-11/F00005, 4 December 2023, Confidential.

<sup>6</sup> See Notification of Arrest of Haxhi Shala Pursuant to Rule 55(4), KSC-BC-2023-11/F00008, 11 December 2023, para.4.

<sup>7</sup> See Prosecution report pursuant to Decision F00521 with strictly confidential and *ex parte* Annexes 1 and 2, KSC-BC-2018-01/F00541, Strictly Confidential and *Ex Parte*. See also Annex 2 to Prosecution report pursuant to Decision F00521, KSC-BC-2018-01/F00541/A02, Strictly Confidential and *Ex Parte*, p.10. The SHALA Phone is listed as item #1 in the list of seized evidence and was placed in evidence bag #E215622. The SPO's review and analysis of the SHALA Phone remains ongoing.

3. Relevant data has already been extracted from the SHALA Phone, which the SPO will retain consistent with the Search and Seizure Decision and the Rules.<sup>8</sup> However, the SPO's retention of the physical phone itself is also necessary. Specifically, it is necessary for the SPO to retain the SHALA Phone 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 SHALA Phone 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 item in support of the Accused's rights to a fair trial.

5. Accordingly, the SPO requests the Single Judge to authorise the SPO to retain the SHALA Phone until at least the conclusion of proceedings in Case 10 and Case 11.

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

**Word count: 637**



**Kimberly P. West**

**Specialist Prosecutor**

Tuesday, 6 February 2024

At The Hague, the Netherlands.

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<sup>8</sup> See Search and Seizure Decision, KSC-BC-2018-01/F00521, para. 52. See also 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'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.