



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2018-01
Before: Single Judge Panel
Judge Nicolas Guillou
Registrar: Dr Fidelma Donlon
Date: 28 April 2023
Language: English
Classification: Public

Public Redacted Version of Decision Authorising Search and Seizure
[REDACTED]

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THE SINGLE JUDGE,¹ pursuant to Articles 33(2), 35(3) and 53 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 2, 31[REDACTED], 37, 39, 42(1), 48(2), 49(1), 200 and 202 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. [REDACTED].²

2. Also on 20 April 2023, in the context of the same investigation, the SPO submitted the "Prosecution request for order authorising search and seizure of mobile telephones" ("Request") related to Ismet Bahtjari ("Mr Bahtjari") and Haxhi Shala ("Mr Shala").³

II. SUBMISSIONS

3. The SPO submits that [REDACTED]. It further reports that [REDACTED].⁴ According to the SPO, [REDACTED] (on 5 April 2023), [REDACTED] was threatened [REDACTED] if he did not withdraw his testimony.⁵ Specifically, the SPO contends that on 5 April 2023, [REDACTED] received a visit by [REDACTED] at his house, Mr Bahtjari, who was sent by Mr Shala to deliver a message to the witness, notably that [REDACTED] is "[Mr] Selimi's weakness" and he should "withdraw".⁶ Asked by the witness, Mr Bahtjari confirmed that if [REDACTED]

¹ KSCPR-2018, F00004, President, *Decision Assigning a Single Judge Pursuant to Article 33(2) of the Law*, 29 May 2018, strictly confidential and *ex parte*.

² [REDACTED]. [REDACTED].

³ KSC-BC-2018-01, F00335, Specialist Prosecutor, *Prosecution Request for Order Authorising Search and Seizure of Mobile Telephones*, 20 April 2023, strictly confidential and *ex parte*.

⁴ Request, para. 7.

⁵ Request, para. 8.

⁶ Request, para. 11.

does not withdraw his testimony “they” will [REDACTED].⁷ The SPO submits that in the witness’s understanding “they” means Mr Shala and [REDACTED].⁸ The SPO also submits that according to [REDACTED], Mr Shala and [REDACTED] are responsible for the current message to withdraw his testimony before the Specialist Chambers (“SC”).⁹ In this respect, the SPO specifies that [REDACTED].¹⁰ After the conversation, Mr Bahtjari left [REDACTED]’s residence in the company of at least two other unknown men, who, according to the witness, had been likely watching the house while the encounter took place.¹¹ As a result of Mr Bahtjari’s visit, [REDACTED] is concerned with the safety of [REDACTED], rather than his own.¹²

4. In light of the foregoing, the SPO requests the Single Judge to issue two separate orders authorising the search and seizure of all mobile telephones of Mr Bahtjari and Mr Shala, including [REDACTED].¹³ The SPO also seeks authorisation to search the respective locations of execution, [REDACTED] their respective residences, and persons of Mr Bahtjari and Mr Shala for the purpose of searching and seizing their mobile telephones.¹⁴ Additionally, the SPO requests that each order contain a provision: (i) [REDACTED]; and (ii) clarifying that failure to obey the Single Judge’s orders may result in criminal sanctions pursuant to Article 15(2) of the Law in conjunction with Article 393 of the 2019 Criminal Code of Kosovo (Law No. 06/L-074) (“KCC”).¹⁵

5. [REDACTED].¹⁶

⁷ Request, para. 13.

⁸ Request, para. 13.

⁹ Request, para. 14.

¹⁰ Request, para. 18.

¹¹ Request, para. 16.

¹² Request, para. 17.

¹³ Request, paras 1, 44(a).

¹⁴ Request, paras 1, 44(b).

¹⁵ Request, paras 2, 44(c).

¹⁶ Request, paras 3, 44(d).

6. In support of its Request, the SPO avers that there is grounded suspicion that evidence of a crime within the SC's jurisdiction is to be found on the mobile telephones of Mr Bahtjari and Mr Shala.¹⁷ The SPO further contends that: (i) the measures sought are necessary; (ii) they constitute the only effective means of obtaining the aforementioned evidence; and (iii) the resulting interference with Mr Bahtjari's and Mr Shala's rights is proportionate to the legitimate aim of the investigation and does not negate the essence of the guaranteed rights.¹⁸

III. APPLICABLE LAW

A. SEARCH AND SEIZURE

7. Pursuant to Article 53(1) of the Law and Rule 202(3) of the Rules, all entities and persons in Kosovo shall co-operate with the SC and SPO and shall comply without undue delay with any request for assistance, order or decision issued by the SC. Pursuant to Rule 202(2) of the Rules, the Single Judge may impose any conditions deemed necessary, including relating to confidentiality and protective measures.

8. Pursuant to Article 35(2) of the Law, the Specialist Prosecutor has the authority to conduct criminal investigations within the subject matter jurisdiction of the Specialist Chambers. Pursuant to Article 35(2)(b) of the Law, such authority includes the collection and examination of information and evidence.

9. Pursuant to Article 35(3) of the Law, the police within the SPO has the authority and responsibility to exercise powers given to Kosovo Police under Kosovo law.

10. Pursuant to Rules 31(1) and 37(1)-(3) of the Rules, a Panel may authorise the search of the property of a person, such other locations, premises or objects in

¹⁷ Request, para. 4.

¹⁸ Request, para. 4.

respect of which that person has a reasonable expectation of privacy, or a person, and the seizure of items found during the search, if there is, *inter alia*, a grounded suspicion that (i) the person concerned has committed, is committing or is about to commit a crime within the jurisdiction of the SC, and the search will result in his or her arrest or in the discovery and seizure of evidence necessary for the investigation; and/or (ii) the evidence of a crime within the SC's jurisdiction is on the property, location, premises or object to be searched; and/or (iii) the search will result in the discovery of evidence of a crime within the jurisdiction of the SC and seizure thereof accordingly, provided that the measure is necessary for the investigation, unavoidable, and proportionate to the legitimate aim of the investigation.

11. Pursuant to Rule 37(4) of the Rules, any decision authorising the requested search and seizure shall include: (a) the time, duration and scope of its execution, including an indication of the person or property, location, premises or object in relation to which the measure is authorised; and (b) the procedure for reporting on its implementation in accordance with Rule 31(2) of the Rules.

12. Pursuant to Rule 39(1) and (2) of the Rules, the search and seizure must be executed in the presence of the person concerned, unless he or she cannot be found or refuses to attend the search, and if the delay in execution would jeopardise the investigation or the safety or property of a witness, victim or other person at risk. The SPO must likewise provide the person concerned with a certified copy of the decision of the Panel, inform the person of his or her rights under Rule 42 or Rule 43 of the Rules, ensure the presence of counsel, unless the person waives this right or counsel's presence cannot reasonably be awaited, as well as the presence of an independent observer.

13. Pursuant to Rules 32(1) and 39(5) of the Rules, material seized as a result of any measure pursuant to Rule 34 to Rule 41 of the Rules, shall be appropriately retained, stored and protected. The Panel authorising such measure shall indicate

the procedure and precautions for the storage, protection and transfer, the duration of retention of the seized material, and instructions and a timeline for the return or destruction of the material.

B. [REDACTED]

14. [REDACTED]. [REDACTED]. [REDACTED].

15. [REDACTED].

16. [REDACTED].

17. [REDACTED]. [REDACTED].

IV. DISCUSSION

A. SEARCH AND SEIZURE OF MOBILE TELEPHONES

1. Requirements for Search and Seizure

18. Pursuant to Rules 31 and 37 of the Rules, the search and seizure of the locations of execution, including the residences of Mr Bahtjari and Mr Shala, the mobile telephones of Mr Bahtjari and Mr Shala, as well as their persons, may be authorised if:

- (a) The mobile telephones are either the property of Mr Bahtjari and Mr Shala, or there is a reasonable expectation of privacy with respect to the locations and items to be searched and seized;
- (b) With regard to the search of property, locations or objects, there is a grounded suspicion that: (i) Mr Bahtjari and Mr Shala have committed, are committing or are about to commit a crime within the jurisdiction of the SC and the search will result in their arrest or in the discovery and seizure of evidence necessary for the investigation;¹⁹ and/or (ii) the

¹⁹ Rule 37(2)(a) of the Rules.

search is necessary to collect and preserve evidence of a crime within the SC's jurisdiction and there is a grounded suspicion that such evidence is on the locations or mobile telephones sought to be searched.²⁰ With regard to the searches of Mr Bahtjari's and Mr Shala's persons, there must be a grounded suspicion the searches will result in the discovery of evidence of a crime within the jurisdiction of the SC, and seizure thereof accordingly;²¹

- (c) The searches and seizures are necessary for the investigation;²²
- (d) The investigative measures are unavoidable, i.e. in the specific circumstances the evidence cannot be obtained by other, less intrusive but equally effective means, and the requested searches and seizures appear to be the only effective means for the purposes of the investigation;²³
- (e) The resulting interference with their rights to personal integrity, privacy or property is proportionate to the legitimate aim of the investigation and does not negate the essence of the guaranteed rights.²⁴

(a) Property or Reasonable Expectation of Privacy

19. As regards Mr Bahtjari's and Mr Shala's reasonable expectation of privacy in respect of the locations of execution, including their residences, the Single Judge notes that [REDACTED]. [REDACTED].²⁵ [REDACTED].²⁶ [REDACTED],²⁷

²⁰ Rule 37(2)(c) of the Rules.

²¹ Rule 37(3) of the Rules.

²² Rule 31(1)(b) of the Rules.

²³ Rule 37(1) of the Rules. *See also* KSC-CC-PR-2017-03, F00006, Constitutional Court Chamber, *Judgment on the Referral of Revised Rules of Procedure and Evidence Adopted by Plenary on 29 May 2017 to the Specialist Chamber of the Constitutional Court Pursuant to Article 19(5) of Law no. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office*, 28 June 2017, paras 62-67.

²⁴ Rule 31(1)(c) of the Rules.

²⁵ Request, para. 26.

²⁶ Request, para. 27.

²⁷ Request, para. 25.

[REDACTED]. Accordingly, the protections set out in the Law and Rules shall apply.

20. As regards Mr Bahtjari's mobile telephone, the number being unknown at this stage,²⁸ the Single Judge finds that Mr Bahtjari has a reasonable expectation of privacy in relation to his own mobile telephone(s).

21. As regards Mr Shala's mobile telephone(s), the SPO submits that [REDACTED] Mr Shala uses phone number [REDACTED].²⁹ Insofar as the mobile telephone(s) to be seized are linked to the above telephone number, the Single Judge is persuaded that Mr Shala has a reasonable expectation of privacy in relation thereto.

22. In sum, the Single Judge is satisfied that Mr Bahtjari and Mr Shala have a reasonable expectation of privacy in relation to all their mobile telephones as well as the locations of execution, including their residences.

(b) Grounded Suspicion

23. Regarding the existence of a grounded suspicion, the SPO submits that, in light of the incident involving [REDACTED] described in its Request, there is grounded suspicion that both Mr Bahtjari and Mr Shala, acting on the instruction or direction of others and/or in co-perpetration with others, have committed, are committing or are about to commit an offence within the meaning of Article 15(2) of the Law. According to the SPO, there is thus grounded suspicion that their mobile telephones contain evidence of their criminal conduct, including [REDACTED].³⁰

24. The Single Judge notes the SPO submission that Mr Bahtjari met Mr Shala at a café prior to the 5 April 2023 meeting with [REDACTED], where Mr Shala

²⁸ Request, paras 9, 23; [REDACTED]. The Single Judge observes that, even though Mr Bahtjari had made telephone contact with [REDACTED]. [REDACTED].

²⁹ Request, paras 22, 27; [REDACTED].

³⁰ Request, paras 21, 24.

allegedly directed Mr Bahtjari to deliver the threatening message to the witness together with the instruction to withdraw his testimony.³¹ The Single Judge further considers relevant that Mr Bahtjari purportedly contacted [REDACTED] via Facebook Messenger in order to arrange the meeting where he delivered the message, as requested by Mr Shala.³²

25. In light of Mr Bahtjari's and Mr Shala's use of mobile telephones, the likely communication between those two and possibly with other potential perpetrators,³³ there is grounded suspicion that the mobile telephone(s) of Mr Bahtjari and Mr Shala contain a diverse and relevant range of evidence supporting the allegations. This may include evidence of: (i) their conduct in relation to the threats delivered to [REDACTED]; (ii) their communications ahead of the 5 April 2023 meeting and thereafter; (iii) the location of the meeting where Mr Shala directed Mr Bahtjari to deliver the threat to [REDACTED]; and (iv) communications with other potential perpetrators.

26. In light of the foregoing considerations, the Single Judge is satisfied that there is a grounded suspicion that: (i) Mr Bahtjari and Mr Shala, potentially acting on the instruction or direction of others and/or in co-perpetration with others, have committed, are committing or are about to commit an offence within the meaning of Article 15(2) of the Law and that the search of the locations of execution, including their residences, and their respective mobile telephones will result in the discovery and seizure of evidence necessary for the investigation, pursuant to Rule 37(2)(a) of the Rules; (ii) there is evidence of these offences in Mr Bahtjari's and Mr Shala's respective locations of execution, including their respective residences, and their respective mobile telephones, pursuant to Rule 37(2)(c) of the

³¹ Request, para. 11.

³² Request, para. 23.

³³ Request, paras 18-19; [REDACTED].

Rules; and/or (iii) the search of Mr Bahtjari's and Mr Shala's persons will result in the discovery of evidence of these offences, pursuant to Rule 37(3) of the Rules.

(c) Necessity

27. The SPO submits that the requested searches and seizures of the content of Mr Bahtjari's and Mr Shala's mobile telephones are necessary measures to investigate the ongoing witness intimidation and interference with obstruction of criminal proceedings. According to the SPO, the mobile telephones are likely to contain relevant evidence, [REDACTED] that will assist the SPO to determine *inter alia*: (i) the full nature and scope of Mr Bahtjari's and Mr Shala's obstructive conduct against [REDACTED]; and (ii) the identities, roles and conduct of other potential co-perpetrators, including but not limited to [REDACTED].³⁴

28. The Single Judge takes into consideration the interaction between Mr Shala and Mr Bahtjari prior to the 5 April 2023 meeting, where the former directed the latter to deliver the threatening message to [REDACTED]. The Single Judge further considers of importance Mr Bahtjari's subsequent visit to the witness's residence to deliver the alleged threat.³⁵ In addition, the Single Judge notes the timing of such operation, which occurred [REDACTED].³⁶

29. Taking into consideration the conduct of Mr Shala and Mr Bahtjari and the possible involvement of other individuals, including [REDACTED], the Single Judge is satisfied that the requested measures will: (i) assist the SPO in its investigation into Mr Shala's and Mr Bahtjari's potential involvement in offences under Article 15(2) of the Law; (ii) contribute to identifying further persons of interest, relevant exchanges and/or additional investigative leads concerning this specific occurrence of alleged witness interference, as well as [REDACTED]; and, in that regard, (iii) will likely contribute to ensuring the safety of protected

³⁴ Request, paras 28-29.

³⁵ Request, para. 9-16.

³⁶ Request, para. 8.

witnesses and the [REDACTED]. Thus, the Single Judge finds that the requested measures are necessary for the SPO investigation in accordance with Rule 31(1)(b) of the Rules.

(d) Unavoidability

30. The SPO submits that the requested measures are the only effective means for the purposes of furthering the investigation and securing evidence that may not be otherwise obtained.³⁷

31. The Single Judge is persuaded that there are no other less intrusive but equally effective means to collect the sought evidence and the requested searches and seizures appear to be the only effective means for the purpose of furthering the investigation. The Single Judge is of the view that the only way to obtain an overview of Mr Bahtjari's and Mr Shala's alleged criminal conduct and of their contacts or interactions with other potential co-perpetrators is through (i) the requested searches of Mr Bahtjari's and Mr Shala's persons and of their respective residences, or other locations, if deemed necessary; and (ii) an analysis of Mr Bahtjari's and Mr Shala's mobile telephones, [REDACTED]. Thus, the Single Judge is satisfied that there are no other less intrusive but equally effective means to provide the SPO with the information and evidence it needs to assess the alleged responsibility of Mr Bahtjari and Mr Shala and/or others for offences within the meaning Article 15(2) of the Law.

(e) Proportionality

32. The SPO submits that the requested orders are proportionate to the legitimate aim of the investigation and do not negate the essence of any guaranteed rights on the basis that: (i) they are in accordance with the Law and Rules; (ii) their terms are tailored to the needs of the investigation and are designed to exclude information of no foreseeable relevance; and (iii) the SPO will take appropriate

³⁷ Request, para. 32.

measures for the protection and due respect of victims and witnesses, and the fundamental rights of (potential) suspects and/or accused.³⁸

33. The Single Judge recalls that, in assessing the proportionality of the requested measures, account must be taken of, *inter alia*, the gravity of the alleged offence, the duration and scope of the requested measures, and any safeguards to be implemented.³⁹ The legitimate aim of the SPO's investigation is to examine allegations of obstruction of justice involving Mr Bahtjari and Mr Shala and other potential co-perpetrators, and ensure the safety and protection of witnesses and the integrity of proceedings before the SC. With regard to the safeguards to be implemented, the Single Judge takes note of the SPO's assurances and the fact that, as enshrined in Rules 31-33 and 39 of the Rules, the SPO is duty-bound to take appropriate measures with respect to the rights to personal integrity, privacy or property. The Single Judge is also mindful of the seriousness of the allegations that Mr Bahtjari and Mr Shala engaged, potentially with other persons, in obstructive efforts relating to the SC proceedings, within the meaning of Article 15(2) of the Law. Accordingly, the Single Judge finds that, insofar as they abide by the conditions set forth in the Rules and the present decision, including the requirements regarding the time, duration and scope, as well as the retention of the seized material, the requested measures meet the proportionality test.

(f) Conclusion

34. For these reasons, as long as the execution of the requested measures meets the requirements set forth in the Rules and the present decision, the Single Judge authorises, under Rule 37 of the Rules, the search and seizure of (i) Mr Shala and Mr Bahtjari's respective residences, or other locations, if deemed necessary;

³⁸ Request, paras 31-33.

³⁹ KSC-CC-PR-2017-01, F00006, Constitutional Court Chamber, *Judgment on the Referral of Revised Rules of Procedure and Evidence Adopted by Plenary on 29 May 2017 to the Specialist Chamber of the Constitutional Court Pursuant to Article 19(5) of Law no. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office*, 28 June 2017, para. 64

(ii) their respective mobile telephones associated with the telephone numbers, where applicable, set forth in this decision, or as to be confirmed; and (ii) the persons of Mr Shala and Mr Bahtjari.

2. Time, Duration and Scope of the Search and Seizure

35. As regards the timing of the execution of the requested search and seizure, the SPO submits that it plans to execute the requested orders during the week of 1 May 2023, subject to operational concerns as well as the safety of [REDACTED] and his family.⁴⁰

36. As regards the scope of the requested searches and seizures, the SPO submits that it requests authorisation to search the respective locations, including [REDACTED] the residences, and persons of Mr Bahtjari and Mr Shala for the limited purpose of searching and seizing their mobile phones.⁴¹

37. Noting the SPO's submissions on the safety concerns regarding [REDACTED] and his family, as well as Mr Bahtjari's and Mr Shala's reasonable expectation of privacy and the need for judicial oversight over the execution of searches and seizures, the Single Judge considers a three-month timeframe, ending on **28 July 2023**, to be appropriate for the execution of the searches and seizures of Mr Bahtjari's and Mr Shala's mobile telephones, residences, or other locations, if deemed necessary, and persons.

38. As regards the scope of the searches and seizures, the Single Judge finds that the persons of Mr Bahtjari and Mr Shala and their respective residences, or other locations, if deemed necessary, must be searched for the purpose of searching and seizing their mobile telephones. In this regard, the Single Judge further specifies that the SPO is authorised to search and seize the mobile telephones of Mr Bahtjari and Mr Shala that (i) are associated with the telephone number set forth in

⁴⁰ Request, para. 42 and footnote 15.

⁴¹ Request, para. 34.

paragraph 21 above (limited to Mr Shala); (ii) are to be confirmed by the SPO prior to execution; (iii) and any other telephone associated to either of them that may be found on their persons and/or at the location of execution. In addition, the Single Judge finds that the scope of the requested searches and seizures must concern evidence pertaining to the aforementioned allegations concerning offences under Article 15(2) of the Law, or any other information relevant to the alleged offences. The Single Judge considers that such evidence may include, *inter alia*, [REDACTED]. In this regard, the Single Judge finds that the authorisation extends to [REDACTED].

39. Lastly, the Single Judge recalls that the searches and seizures must take place in the presence of Mr Bahtjari and Mr Shala and their respective counsel, unless they waive their right or counsel's presence cannot be reasonably awaited, as well as in the presence of an independent observer.

3. Reporting on the Search and Seizure

40. Taking into consideration the time needed to prepare such a report following the execution of the requested measures, the SPO is ordered to submit a report within fourteen (14) days of the completion of the searches or within fourteen (14) days of the elapse of the three-month timeframe provided for the execution, whichever is earlier. The report shall indicate the date, time and circumstances of the seizures, the duration and scope of the searches, and the fulfilment of the requirements under Rule 39 of the Rules.

4. Retention of Seized Items

41. The SPO requests authorisation to retain Mr Bahtjari's and Mr Shala's mobile telephones for: (i) the time necessary to complete extraction, as applicable, and examination of the relevant content; and (ii) such further period of time as may be necessary for their potential use in evidence.⁴²

⁴² Request, para. 34.

42. The Single Judge considers it necessary for the SPO to store, protect, and transfer the seized mobile telephones, in accordance with the standard chain of custody procedures. In so doing, the SPO must take appropriate measures to protect the seized mobile telephones against loss, accidental or unauthorised access, alteration, dissemination or destruction. The Single Judge notes that the data extracted from the mobile telephones also fall within the purview of Rules 32 and 39(5) of the Rules. Thus, it must be equally ensured that the extracted data is appropriately stored, protected and transferred. The SPO shall inform the Single Judge on the appropriate procedure and precautions for the storage and protection of the seized mobile telephones and extracted data in a report.

43. The Single Judge finds that a three-month timeframe from the execution of the requested searches and seizures is sufficient for the extraction and review of the seized material. At the end of this period, the mobile telephones shall be returned to Mr Bahtjari and Mr Shala, unless it is requested that their further retention is necessary for the ongoing investigation or future proceeding.

44. If the SPO decides that the data extracted from the seized mobile telephones is necessary for the ongoing investigation or future proceedings, it may retain it in accordance with Rule 33(1)(b) of the Rules until such time that it is no longer relevant for the purpose for which it was obtained. At that point, the seized data will have to be returned or destroyed pursuant to Rule 33(2)-(3) of the Rules. Conversely, if the extracted data falls outside the scope of the investigation for which it was obtained, the extracted data will have to be returned or destroyed immediately in accordance with Rule 33(1)(a)(i) and 33(2)-(3) of the Rules, unless it is relevant for the investigation of another crime within the SC's jurisdiction.

B. [REDACTED]

45. [REDACTED].⁴³ [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁴⁴

46. [REDACTED].

47. [REDACTED].⁴⁵ [REDACTED].⁴⁶ [REDACTED].

48. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

49. [REDACTED].⁴⁷ [REDACTED].⁴⁸ [REDACTED]. [REDACTED]. [REDACTED].

C. EXECUTION AND SERVICE OF THE REQUESTED ORDERS

50. The SPO requests to be designated as the competent authority for the service and execution of the requested orders pursuant to Rule 49(1) of the Rules. In this regard, the SPO submits that it will comply with the safeguards outlined in Rule 39 of the Rules, in a manner consistent with the Single Judge's findings regarding its purpose and the scope of feasible application, including, in particular, in the context of expert examinations.⁴⁹

51. Pursuant to Article 35(3) of the Law, the police within the SPO has the authority and responsibility to exercise powers given to Kosovo Police under Kosovo law and it may be considered a "competent authority" under Rule 49(1) of the Rules to serve and execute orders of the SC.⁵⁰ Accordingly, the Single Judge authorises the SPO to serve and execute the orders annexed to the present decision.

⁴³ Request, paras 2, 37, 44(c).

⁴⁴ Request, paras 38-39.

⁴⁵ [REDACTED].

⁴⁶ [REDACTED].

⁴⁷ [REDACTED].

⁴⁸ [REDACTED].

⁴⁹ Request, paras 35-36, 44(e).

⁵⁰ Notifying the present decision and annexed orders to the Specialist Prosecutor, the transmission is deemed fulfilled, in accordance with Rule 49(1) of the Rules.

D. DISCLOSURE OF THE ANNEXED ORDERS

52. The SPO is authorised to disclose, as appropriate and necessary, including to Mr Shala and Mr Bahtjari, the annexed orders for the purposes of their execution.

E. [REDACTED]

1. [REDACTED]

53. [REDACTED].⁵¹

54. [REDACTED].⁵²

55. [REDACTED].

(a) [REDACTED]

56. [REDACTED]. [REDACTED]. [REDACTED].

57. [REDACTED]. [REDACTED]. [REDACTED].

(b) [REDACTED]

58. [REDACTED].⁵³

(c) [REDACTED]

59. [REDACTED].⁵⁴

60. [REDACTED]. [REDACTED].⁵⁵ [REDACTED].⁵⁶

(d) [REDACTED]

61. [REDACTED].

⁵¹ Request, paras 40, 44(d).

⁵² Request, para. 41.

⁵³ [REDACTED].

⁵⁴ Request, para. 41.

⁵⁵ Request, para. 27.

⁵⁶ Request, para. 26.

(e) [REDACTED]

62. [REDACTED]. [REDACTED].⁵⁷

63. [REDACTED].⁵⁸ [REDACTED]. [REDACTED].

(f) [REDACTED]

64. [REDACTED].

2. [REDACTED]

65. [REDACTED].⁵⁹

66. [REDACTED].⁶⁰ [REDACTED].⁶¹

67. [REDACTED].

68. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

3. [REDACTED]

69. [REDACTED]. [REDACTED].

4. [REDACTED]

70. [REDACTED]. [REDACTED]. [REDACTED].

5. [REDACTED]

71. [REDACTED]. [REDACTED]. [REDACTED].

⁵⁷ Request, para. 41.

⁵⁸ [REDACTED].

⁵⁹ Request, para. 40.

⁶⁰ [REDACTED]; [REDACTED].

⁶¹ [REDACTED].

V. DISPOSITION

72. For the above-mentioned reasons, the Single Judge hereby:

- (a) **GRANTS** the Request and issues the annexed orders;
- (b) **AUTHORISES** the search and seizure of Mr Shala and Mr Bahtjari's persons, their respective mobile telephones and location(s) of execution of the measures concerned, including their respective residences, under the following conditions:
 - i. the searches and seizures are to be executed until **28 July 2023** at the latest;
 - ii. the seized mobile telephones are associated to Mr Bahtjari and Mr Shala, including with the telephone numbers set forth in this decision or to be confirmed;
 - iii. [REDACTED];
 - iv. the persons of Mr Bahtjari and Mr Shala and the locations of execution of the measures concerned, including their respective residences, are searched for the limited the purpose of searching and seizing Mr Bahtjari's and Mr Shala's mobile telephones;
 - v. the scope of the searches concerns evidence pertaining to Mr Bahtjari's and Mr Shala's alleged responsibility for offences under Article 15(2) of the Law, as detailed in the present decision;
 - vi. to permit Mr Bahtjari, Mr Shala, their counsel(s), and an independent observer to be present during the execution of the authorised searches and seizures, unless their delay jeopardises the execution of the measure;
 - vii. that the SPO representative present record the time, duration, scope, and all other relevant details of the execution of this decision

as well as to prepare an inventory with a detailed description of
and information regarding each mobile telephone seized;

- (c) [REDACTED];
- (d) **AUTHORIZES** the SPO to serve and execute the attached orders in
accordance with Rule 39 of the Rules;
- (e) **ORDERS** the Specialist Prosecutor to report on the execution of the
searches and seizures within fourteen (14) days of the completion of the
searches or within fourteen (14) days, at the latest, of the elapse of the
three-month timeframe provided for their execution, whichever is
earlier;
- (f) **ORDERS** the Specialist Prosecutor to store, protect, and retain the seized
mobile telephones and the extracted data in accordance with the Rules
and the present decision;
- (g) **AUTHORIZES** the SPO to disclose, as appropriate and necessary,
including to Mr Bahtjari and Mr Shala, the annexed orders for the
purposes of their execution; and
- (h) [REDACTED].

[*signed*]

Judge Nicolas Guillou

Single Judge

Dated this Friday, 28 April 2023

At The Hague, the Netherlands.