



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2018-01
Before: Single Judge Panel
Judge Nicolas Guillou
Registrar: Dr Fidelma Donlon
Date: 03 May 2023
Language: English
Classification: Public

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

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KSC-BC-2018-01 1 3 May 2023

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. On 2 May 2023, the Specialist Prosecutor's Office ("SPO") submitted the "Urgent Prosecution request for order authorising search and seizure" ("Request") related to Sabit Januzi ("Mr Januzi").²

II. SUBMISSIONS

2. The SPO submits that [REDACTED]. It further reports that [REDACTED].³ According to the SPO, [REDACTED] (on 5 April 2023), [REDACTED] was threatened [REDACTED] if he did not withdraw his testimony.⁴ Specifically, the SPO contends that on 5 April 2023, [REDACTED] received at his house a visit by [REDACTED], Ismet Bahtjari ("Mr Bahtjari") ("5 April 2023 Visit"), who – [REDACTED] believes from the message and context – was sent by Haxhi Shala ("Mr Shala"), [REDACTED] to deliver this message to the witness.⁵ [REDACTED] is reported to have responded that he [REDACTED].⁶

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 KSC-BC-2018-01, F00345, Specialist Prosecutor, *Urgent Prosecution Request for Order Authorising Search and Seizure*, 2 May 2023, strictly confidential and *ex parte*, with Annex 1, strictly confidential and *ex parte*.

³ Request, para. 7.

⁴ Request, para. 8.

⁵ Request, para. 8.

⁶ Request, para. 10.

3. The SPO further submits that [REDACTED] reported that on 12 April 2023 he received a further visit at his house by Mr Januzi, a former Kosovo Liberation Army (“KLA”) member, [REDACTED].⁷ According to [REDACTED], Mr Januzi informed him that Mr Bahtjari had conveyed [REDACTED] response to Mr Shala, who had not understood [REDACTED] response about testifying.⁸ The SPO submits that, in [REDACTED] opinion, Mr Januzi was sent to “clarify things”.⁹ He perceived Mr Januzi’s visit as an attempt to induce him to soften or withdraw his testimony and to make him more vulnerable to attack.¹⁰ [REDACTED].¹¹

4. In light of the foregoing, the SPO requests the Single Judge to issue an order authorising the search and seizure of all mobile telephones of Mr Januzi, including [REDACTED].¹² The SPO also seeks authorisation to search the location of execution, [REDACTED] his residence, vehicle or person of Mr Januzi, for the purpose of searching and seizing his mobile telephones.¹³ Additionally, the SPO requests that the 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”).¹⁴

5. [REDACTED].¹⁵

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 Januzi.¹⁶ The SPO further contends that: (i) the measures sought

⁷ Request, paras 9, 19.

⁸ Request, para. 10.

⁹ Request, para. 10.

¹⁰ Request, para. 12.

¹¹ Request, para. 11.

¹² Request, paras 1, 39(a).

¹³ Request, paras 1, 39(b).

¹⁴ Request, paras 2, 32, 39(c).

¹⁵ Request, paras 3, 39(d).

¹⁶ Request, paras 4, 18-20.

are necessary; (ii) they constitute the only effective means of obtaining the aforementioned evidence; and (iii) the resulting interference with Mr Januzi's rights is proportionate to the legitimate aim of the investigation and does not negate the essence of the guaranteed rights.¹⁷

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 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

¹⁷ Request, paras 4, 21-26.

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 [REDACTED] residence of Mr Januzi, his vehicle, his person, as well as his mobile telephones to be seized, may be authorised if:

- (a) The mobile telephones are either the property of Mr Januzi, 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 searches of property, locations or objects, there is a grounded suspicion that: (i) Mr Januzi has committed, is committing or is about to commit a crime within the jurisdiction of the SC and the searches will result in his arrest or in the discovery and seizure of evidence necessary for the investigation;¹⁸ and/or (ii) the searches are 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.¹⁹ With regard

¹⁸ Rule 37(2)(a) of the Rules.

¹⁹ Rule 37(2)(c) of the Rules.

to the search of Mr Januzi's person, there must be a grounded suspicion the search will result in the discovery of evidence of a crime within the jurisdiction of the SC, and seizure thereof accordingly;²⁰

- (c) The searches and seizures are necessary for the investigation;²¹
- (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;²²
- (e) The resulting interference with Mr Januzi's 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.²³

(a) Property or Reasonable Expectation of Privacy

19. As regards Mr Januzi's reasonable expectation of privacy in respect of the locations of execution, including his residence and vehicle, the Single Judge notes that [REDACTED]. [REDACTED],²⁴ [REDACTED].²⁵ [REDACTED]. [REDACTED],²⁶ [REDACTED]. Accordingly, the protections set out in the Law and Rules shall apply.

20. As regards Mr Januzi's mobile telephones, the SPO submits that it took a screenshot of [REDACTED] mobile telephone showing the contact entry for

²⁰ Rule 37(3) of the Rules.

²¹ Rule 31(1)(b) of the Rules.

²² 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.

²³ Rule 31(1)(c) of the Rules.

²⁴ [REDACTED]; [REDACTED].

²⁵ [REDACTED].

²⁶ [REDACTED].

Mr Januzi.²⁷ As shown in the records provided by [REDACTED], Mr Januzi used the telephone number [REDACTED] in his communications with the witness.²⁸ Insofar as the mobile telephone(s) to be seized are linked to the above telephone number, the Single Judge is persuaded that Mr Januzi has a reasonable expectation of privacy in relation thereto. As regards Mr Januzi's other mobile telephones, their associated telephone numbers being unknown at this stage, the Single Judge finds that Mr Januzi has a reasonable expectation of privacy in relation to his own mobile telephones.

21. In sum, the Single Judge is satisfied that Mr Januzi has a reasonable expectation of privacy in relation to all his mobile telephones as well as the locations of execution, including his residence and vehicle.

(b) Grounded Suspicion

22. Regarding the existence of a grounded suspicion, the SPO submits that, in light of the incidents involving [REDACTED] described in its Request,²⁹ there is grounded suspicion that Mr Januzi, acting on the instruction or direction of others and/or in co-perpetration with others, including likely Mr Bahtjari and Mr Shala, has committed, is committing or is about to commit an offence within the meaning of Article 15(2) of the Law. Notably, the SPO alleges that Mr Januzi sought to influence [REDACTED]'s testimony by drawing on the fact that Mr Januzi told [REDACTED] explicitly that he was visiting him to follow-up on Mr Bahtjari's visit, thereby showing that Mr Januzi had direct knowledge of the 5 April 2023 Visit and its illicit purpose.³⁰ The SPO also provides context insofar as it maintains that [REDACTED].³¹ According to the SPO, there is thus grounded suspicion that

²⁷ Request, para. 13.

²⁸ Request, paras 13, 20; Annex 1 to Request.

²⁹ The SPO incorporates by reference its previous submissions in KSC-BC-2018-01, [REDACTED]; F00335, Specialist Prosecutor, *Prosecution Request for Orders Authorising Search and Seizure of Mobile Telephones*, 20 April 2023, strictly confidential and *ex parte*, paras 3-5.

³⁰ Request, para. 18.

³¹ Request, para. 19. [REDACTED].

Mr Januzi's mobile telephones, including the one associated with telephone number [REDACTED], may have been used to communicate with Mr Bahtjari, and/or Mr Shala, and/or others about [REDACTED] status as a witness and attempts to pressure him to withdraw his testimony.³² The SPO concludes that there is thus grounded suspicion that they contain evidence of his criminal conduct, [REDACTED].³³

23. The Single Judge recalls that he has founded grounded suspicion that, at the occasion of the 5 April 2023 Visit, 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.³⁴ Further, in light of Mr Januzi's (i) use of mobile telephone(s) when communicating with [REDACTED], (ii) [REDACTED], (iii) knowledge of the 5 April 2023 Visit and Mr Bahtjari's attempt to pressure [REDACTED] to withdraw his testimony, (iv) likely communication with Mr Bahtjari and Mr Shala and possibly with other potential perpetrators,³⁵ there is grounded suspicion that the mobile telephones of Mr Januzi contain a diverse and relevant range of evidence supporting the various allegations. This may include evidence of: (i) Mr Januzi's, Mr Bahtjari's and Mr Shala's conduct in relation to the threats delivered to [REDACTED]; (ii) their communications ahead or after the 5 April 2023 Visit and Mr Januzi's visit to the witness on 12 April 2023; and (iii) communications with other potential perpetrators.

24. In light of the foregoing considerations, the Single Judge is satisfied that there is a grounded suspicion that: (i) Mr Januzi, potentially acting on the instruction or direction of others and/or in co-perpetration with others, including Mr Bahtjari

³² Request, para. 20.

³³ Request, paras 20, 22.

³⁴ KSC-BC-2018-01, F00342, Single Judge, *Decision Authorising Search and Seizure and Related Measures* ("28 April 2023 Decision"), 28 April 2023, strictly confidential and *ex parte*, paras 23-26, with Annexes 1-2, strictly confidential.

³⁵ Request, para. 18.

and Mr Shala, has committed, is committing or is 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 his residence, vehicle, and his 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 the locations of execution, including Mr Januzi's residence, vehicle and mobile telephones, pursuant to Rule 37(2)(c) of the Rules; and/or (iii) the search of Mr Januzi's person will result in the discovery of evidence of these offences, pursuant to Rule 37(3) of the Rules.

(c) Necessity

25. The SPO submits that the requested searches and seizures of the content of Mr Januzi's mobile telephones are necessary measures to investigate the ongoing witness intimidation and interference with obstruction of criminal proceedings.³⁶ 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 Januzi's obstructive conduct against [REDACTED]; and (ii) the identities, roles and conduct of other potential co-perpetrators, including but not limited to Mr Bahtjari, [REDACTED], Mr Shala, [REDACTED] and others.³⁷

26. The Single Judge recalls and takes into consideration the circumstances surrounding the 5 April 2023 Visit.³⁸ Importantly, the Single Judge notes the timing of this specific visit, which occurred [REDACTED].³⁹ Moreover, the Single Judge considers it relevant that, subsequent to the 5 April 2023, Mr Januzi met [REDACTED] and informed him of what happened after the 5 April 2023 Visit, demonstrably showing his knowledge of the purpose of the 5 April 2023 Visit.

³⁶ Request, para. 21.

³⁷ Request, para. 22.

³⁸ 28 April 2023 Decision, paras 3, 23-26.

³⁹ Request, para. 7.

27. Taking into consideration the conduct of Mr Januzi and the possible involvement of other individuals, including Mr Bahtjari, Mr Shala, [REDACTED], the Single Judge is satisfied that the requested measures will: (i) assist the SPO in its investigation into Mr Januzi'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 witnesses and the integrity of [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

28. 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.⁴⁰

29. 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 Januzi's alleged criminal conduct and of his contacts or interactions with other potential co-perpetrators, including Mr Bahtjari and Mr Shala, is through (i) the requested searches of Mr Januzi's person and of his residence and vehicle, or other locations, if deemed necessary; and (ii) an analysis of Mr Januzi'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

⁴⁰ Request, para. 23.

of Mr Januzi and/or others, including Mr Bahtjari and Mr Shala, for offences within the meaning Article 15(2) of the Law.

(e) Proportionality

30. The SPO submits that the requested order is proportionate to the legitimate aim of the investigation and does not negate the essence of any guaranteed rights on the basis that: (i) it is in accordance with the Law and Rules; (ii) its 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 measures for the protection and due respect of victims and witnesses, and the fundamental rights of (potential) suspects and/or accused.⁴¹

31. 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.⁴² The legitimate aim of the SPO's investigation is to examine allegations of obstruction of justice involving Mr Januzi and other potential co-perpetrators, including Mr Bahtjari and Mr Shala, 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 Januzi 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

⁴¹ Request, para. 26.

⁴² 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

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

32. 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 Januzi's residence ([REDACTED]), vehicle, or other locations, if deemed necessary; (ii) his mobile telephones, one of which is associated with the telephone number [REDACTED]; and (ii) the person of Mr Januzi.

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

33. 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 3-5 May 2023, subject to operational concerns as well as the safety of [REDACTED] and his family.⁴³

34. As regards the scope of the requested searches and seizures, the SPO submits that it requests authorisation to search the respective locations, including [REDACTED] Mr Januzi's residence, vehicle, and person of Mr Januzi for the limited purpose of searching and seizing their mobile phones.⁴⁴

35. Noting the SPO's submissions on the safety concerns regarding [REDACTED] and his family, as well as Mr Januzi'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 **3 August 2023**, to be appropriate for the execution of the searches and seizures of Mr Januzi's person, mobile telephones, residence, vehicle, or other locations, if deemed necessary.

⁴³ Request, para. 37 and footnote 21.

⁴⁴ Request, para. 29.

36. As regards the scope of the searches and seizures, the Single Judge finds that the person of Mr Januzi and his residence, vehicle, or other locations, if deemed necessary, must be searched for the purpose of searching and seizing his mobile telephones. In this regard, the Single Judge further specifies that the SPO is authorised to search and seize the mobile telephones of Mr Januzi that (i) are associated with the telephone number set forth in paragraph 20 above; and (ii) any other mobile telephone associated to Mr Januzi that may be found on his person 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].

37. Lastly, the Single Judge recalls that the searches and seizures must take place in the presence of Mr Januzi and his counsel, unless he waives his 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

38. 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

39. The SPO requests authorisation to retain Mr Januzi'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 its/their potential use in evidence.⁴⁵

40. 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 telephone(s) and extracted data in a report.

41. 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 Januzi, unless it is requested that their further retention is necessary for the ongoing investigation or future proceeding.

42. 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

⁴⁵ Request, paras 29, 39(f).

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]

43. The SPO requests that each order contain a provision: (i) [REDACTED]; and (ii) providing 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 KCC.⁴⁶ The SPO submits that this measure is both necessary and appropriate to ensure the proper execution of the requested search and seizure order.⁴⁷ [REDACTED].⁴⁸ [REDACTED].⁴⁹ [REDACTED].⁵⁰

44. [REDACTED]:

- (a) [REDACTED];
- (b) [REDACTED]; and
- (c) [REDACTED].

45. [REDACTED].⁵¹ [REDACTED].⁵² [REDACTED].

46. [REDACTED]⁵³ [REDACTED]. [REDACTED]. [REDACTED].⁵⁴ [REDACTED]. [REDACTED].

47. [REDACTED].⁵⁵ [REDACTED].⁵⁶ [REDACTED]. [REDACTED]. [REDACTED].

⁴⁶ Request, paras 2, 32, 39(c).

⁴⁷ Request, para. 33.

⁴⁸ Request, para. 33. The SPO clarifies that, [REDACTED].

⁴⁹ Request, para. 34.

⁵⁰ Request, para. 34.

⁵¹ [REDACTED].

⁵² [REDACTED].

⁵³ Annex 1 to Request.

⁵⁴ Request, para. 33.

⁵⁵ [REDACTED].

⁵⁶ [REDACTED].

C. EXECUTION AND SERVICE OF THE REQUESTED ORDERS

48. 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.⁵⁷ 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.⁵⁸

49. 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.⁵⁹ Accordingly, the Single Judge authorises the SPO to serve and execute the orders annexed to the present decision.

D. DISCLOSURE OF THE ANNEXED ORDERS

50. The SPO is authorised to disclose, as appropriate and necessary, including to Mr Januzi, the annexed order for the purpose of its execution.

E. [REDACTED]

1. [REDACTED]

51. [REDACTED].⁶⁰

52. [REDACTED].⁶¹

53. [REDACTED].

⁵⁷ Request, paras 31, 39(e).

⁵⁸ Request, para. 30.

⁵⁹ 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.

⁶⁰ Request, paras 35, 39(d).

⁶¹ Request, para. 36.

(a) [REDACTED]

54. [REDACTED]. [REDACTED]. [REDACTED].

55. [REDACTED]. [REDACTED]. [REDACTED].

(b) [REDACTED]

56. [REDACTED].⁶²

(c) [REDACTED]

57. [REDACTED].⁶³

58. [REDACTED]. [REDACTED].⁶⁴

(d) [REDACTED]

59. [REDACTED][REDACTED];⁶⁵ [REDACTED].

(e) [REDACTED]

60. [REDACTED]. [REDACTED].⁶⁶

61. [REDACTED].⁶⁷ [REDACTED]. [REDACTED].

(f) [REDACTED]

62. [REDACTED].

2. [REDACTED]

63. [REDACTED].⁶⁸

64. [REDACTED].⁶⁹ [REDACTED].⁷⁰

⁶² [REDACTED].

⁶³ Request, paras 13, 36.

⁶⁴ Request, para. 36.

⁶⁵ Request, para. 36.

⁶⁶ Request, para. 36.

⁶⁷ [REDACTED].

⁶⁸ Request, paras 35, 39(d).

⁶⁹ See also [REDACTED]; [REDACTED].

⁷⁰ [REDACTED].

65. [REDACTED].

66. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

3. [REDACTED]

67. [REDACTED]. [REDACTED].

4. [REDACTED]

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

5. [REDACTED]

69. [REDACTED]. [REDACTED]. [REDACTED].

V. DISPOSITION

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

- (a) **GRANTS** the Request and issues the annexed order;
- (b) **AUTHORISES** the search and seizure of Mr Januzi's person, his mobile telephones, and location of execution of the measures concerned, including his residence and vehicle, under the following conditions:
 - i. the searches and seizures are to be executed until **3 August 2023** at the latest;
 - ii. the seized mobile telephones are associated to Mr Januzi, including with the telephone number set forth in this decision;
 - iii. [REDACTED];
 - iv. the person of Mr Januzi and the location of execution of the measures concerned, including his residence and vehicle, are searched for the limited the purpose of searching and seizing Mr Januzi's mobile telephones;
 - v. the scope of the searches concerns evidence pertaining to Mr Januzi's alleged responsibility for offences under Article 15(2) of the Law, as detailed in the present decision;
 - vi. to permit Mr Januzi, his 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) **ORDERS** Mr Januzi [REDACTED], recalling that, if he fails to obey, he may be subject to criminal sanctions pursuant to Article 15(2) of the Law in conjunction with Article 393 of the KCC;
- (d) **AUTHORIZES** the SPO to serve and execute the attached order 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 Januzi, the annexed order for the purposes of its execution; and
- (h) [REDACTED].

[signed]

Judge Nicolas Guillou

Single Judge

Dated this Wednesday, 3 May 2023

At The Hague, the Netherlands.