



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
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Decision on Prosecution Request for Call Data Records

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THE SINGLE JUDGE,¹ pursuant to Articles 33(2), 35(2)-(3), 53 and 55 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law"), and Rules 2, 31-35, 200, 202 and 208 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

2. On 23 June 2023, the Specialist Prosecutor's Office ("SPO") submitted a request seeking the Single Judge to: (i) order Kosovo-Telecom Vala ("Vala") and Ipko Telecommunications LLC ("Ipko"); and (ii) request the assistance of the Dutch authorities to order all Dutch telecom providers, to produce call data records of phone numbers attributed to Sabit Januzi ("Mr Januzi"), Ismet Bahtjari ("Mr Bahtjari"), [REDACTED], for the period from 1 January 2023 to 23 June 2023 ("Request").²

II. SUBMISSIONS

3. The SPO recalls that [REDACTED].³

4. The SPO recalls in particular that [REDACTED], reported that Mr Bahtjari and Mr Januzi visited his home, respectively, on 5 and 12 April 2023, and that both men delivered messages aimed at [REDACTED]. According to the SPO, [REDACTED] was told that the messages were delivered at the instruction of Mr H. Shala, and [REDACTED] believes that these messages ultimately emanated from Mr H. Shala, [REDACTED].⁴

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

² KSC-BC-2018-01, F00378, Specialist Prosecutor, *Prosecution Requests for Records*, 23 June 2023, strictly confidential and *ex parte*, paras 1, 54, with Annex 1, strictly confidential and *ex parte*.

³ Request, para. 3.

⁴ Request, paras 7-8.

5. The SPO further recalls that the Single Judge has previously found on the basis of the above-described events that there is a grounded suspicion that Mr Januzi, Mr Bahtjari, and Mr H. Shala, potentially acting on instruction/direction of/ or together with others, have committed, are committing or are about to commit offences under Article 15(2) of the Law.⁵

6. In the view of the SPO, the legal and factual basis upon which the Single Judge reached these findings, as well as newly collected evidence, support its Request.⁶

7. More specifically, the SPO submits that its preliminary and ongoing analysis of the seized mobile telephones of Mr Bahtjari, Mr Januzi, and Mr H. Shala in May 2023 and of the call data records relating to Mr H. Shala has revealed numerous telephone communications corroborating [REDACTED] account and strengthening the grounded suspicion of obstruction offences committed by Mr Bahtjari, Mr Januzi, and Mr H. Shala, among others.⁷

8. In support of its Request, the SPO also provides factual details as regards the (telephone) contacts and/ or links between: (i) Mr H. Shala and Mr Januzi, and [REDACTED]; (ii) Mr Januzi and [REDACTED]; and (iii) Mr Januzi and [REDACTED].⁸

9. Lastly, the SPO recalls previous factual submissions as regards the contacts and/ or links between [REDACTED], Mr Bahtjari, Mr Januzi, and Mr H. Shala.⁹

10. Against this background, the SPO recalls that [REDACTED]. The SPO further recalls that the first obstructive visit to [REDACTED], on 5 April 2023, [REDACTED].¹⁰

⁵ Request, para. 5.

⁶ Request, para. 6.

⁷ Request, paras 9-16.

⁸ Request, paras 17-25.

⁹ Request, paras 28-30.

¹⁰ Request, para. 27.

11. In light of the foregoing, the SPO requests the Single Judge to issue an order to Vala (Kosovo Telecom-Vala, doing business as Vala, at Vala HQ, Dardania n/n street, Pristinë, 10000, Kosovo) and Ipko (IPKO Telecommunications LLC, doing business as IPKO, at Ulpiana, Zija Shemsiu street no.34, Pristinë, 10000, Kosovo) to produce the call data records and text (SMS and MMS) messages to and from the telephone numbers [REDACTED], from 1 January 2023 to 23 June 2023, including the following data records in readable electronic format schedules, namely comma separated values ("CSV") format:

- i. Subscriber information;
- ii. Subscriber information for all numbers called/received;
- iii. Log of incoming and outgoing calls;
- iv. Log of incoming and outgoing text (SMS and MMS) messages;
- v. Date of call/ text message;
- vi. Time of call/ text message;
- vii. Duration of call;
- viii. Data usage for each call/ text message, including data connection duration and kilobytes of data used;
- ix. IMSI and IMEI of the calling party for each call and of the sending party for each text message;
- x. Cell-site information for each participant in the call, including the cell-site initiating and ending each call, including the cell-site name and/or identifier; and
- xi. Geographic location of each cell-site at the start of each call and geographic location of each cell-site at the end of each call

specifically cell-site latitude, longitude and Azimuth direction (collectively, “Call Data Records”).¹¹

12. The SPO also requests the Call Data Records to be provided to it as indicated in Annex 1 to the Request, and seeks the Single Judge’s authorisation for Annex 1 to be appended to any order issued.¹² The SPO further requests that Vala and Ipko provide certain content with each production report.¹³

13. Likewise, the SPO requests that the Single Judge issue a request for assistance and cooperation to the Dutch authorities to order all Dutch telecom providers to produce the Call Data Records for any registered contacts that the telephone numbers [REDACTED] had with Dutch telephone numbers, starting from 1 January 2023 to 23 June 2023.¹⁴

14. In addition, the SPO requests the Single Judge to (i) authorise it to serve the relevant orders to Vala and Ipko within ninety (90) days from their issuance;¹⁵ (ii) designate the SPO as the competent authority for service on Vala, Ipko, as well as the Dutch authorities, the last of which it aims to serve by way of a request for international assistance;¹⁶ (iii) order Vala and Ipko to produce the requested data within seven (7) days from the service of any order;¹⁷ (iv) permit the SPO to delay notification of the special investigative measures to Mr Januzi, Mr Bahtjari, [REDACTED] until the conclusion of the related criminal investigation;¹⁸ and (v) authorise the SPO, as appropriate and necessary, to disclose the requested orders and request, for the purpose of execution.¹⁹

¹¹ Request, paras 43, 54(a)-(b).

¹² Request, paras 44, 46.

¹³ Request, para. 45.

¹⁴ Request, paras 47, 54(c).

¹⁵ Request, paras 48, 54(a)-(b).

¹⁶ Request, paras 48, 54(d).

¹⁷ Request, para. 49.

¹⁸ Request, paras 51-52, 54(f).

¹⁹ Request, para. 54(e).

15. Finally, the SPO submits that the requested measures, i.e. the orders to Vala and Ipko, as well as the request for assistance and cooperation to the Dutch authorities, to produce the Call Data Records, meet the relevant requirements for authorisation.²⁰

III. APPLICABLE LAW

16. Pursuant to Article 35(2) of the Law, the SPO has the authority to conduct criminal investigations within the subject matter jurisdiction of the Specialist Chambers (“SC”). Pursuant to Article 35(2)(b) of the Law, the SPO may collect and examine information and evidence.

17. Pursuant to Rule 34(1)-(2) of the Rules, a special investigative measure, as identified in Rule 2 of the Rules, may only be undertaken when there is a grounded suspicion that a crime listed in Rule 34(1) of the Rules has been, is being or is about to be committed. Such measures may be undertaken in respect of, *inter alia*, a person who: (i) has committed, is committing or is about to commit any of the crimes set out in Rule 34(1) of the Rules, or one who (ii) receives or transmits communication intended for or emanating from the suspect or Accused, or whose communication device the suspect or Accused is using. Pursuant to Rules 31(1) and 34(2) of the Rules, a special investigative measure must be necessary for the investigation, unavoidable (i.e. the evidence cannot be obtained by other, less intrusive but equally effective means), as well as proportionate (i.e. the resulting interference with the concerned person’s right(s) must be proportionate to the legitimate aim of the investigation and should not negate the essence of the guaranteed right(s)).

18. Pursuant to Rule 34(3) of the Rules, a person in respect of whom a special investigative measure is authorised pursuant to Rule 34(2) of the Rules shall be

²⁰ Request, paras 2, 31-42.

notified by the SPO of any measure undertaken in respect of that person as long as the objective of the measure or the conduct of proceedings are not likely to be jeopardised as a result.

19. In accordance with Rule 35(2) of the Rules, the Panel authorising the special investigative measure must indicate, among others, (i) the period for which the authorisation is granted, which may not exceed sixty (60) days, as well as (ii) the procedure for reporting on the implementation of the authorised measure and the collected material.

20. Pursuant to Rule 32(1) of the Rules, material collected as a result of any measure pursuant to Rules 34 to 41 of the Rules, shall be appropriately retained, stored and protected. The Panel authorising such measure shall indicate, *inter alia*, (i) the procedure and precautions for the storage, (ii) the duration of retention, and (iii) instructions and a timeline for the return or destruction of the material.

21. Pursuant to Article 53(1) of the Law and Rules 200 and 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, which may include the provision of records and documents, including official records and documents, as provided for in paragraph (g) of Article 53(1) of the Law.

22. Article 55(1) of the Law and Rule 208(1) of the Rules provide that the SC may request assistance and co-operation from other States, international organisations, and other entities, as necessary for the investigation and prosecution of persons accused of committing crimes within the subject matter jurisdiction of the SC.

IV. DISCUSSION

A. REQUIREMENTS FOR AUTHORISATION OF THE SPECIAL INVESTIGATIVE MEASURES

23. Pursuant to Rules 2, 31 and 34 of the Rules, the requested special investigative measures, specifically the orders to Vala and Ipko, as well as the request for assistance and cooperation to the Dutch authorities, to produce the Call Data Records, may be authorised if:

- i. there is a grounded suspicion that an offence referred to in Article 15(2) of the Law, has been, is being or is about to be committed, pursuant to Rule 34(1) of the Rules;
- ii. the measure is necessary for the investigation;
- iii. the measure is unavoidable, i.e. the evidence cannot be obtained by other less intrusive but equally effective means; and
- iv. the resulting interference with the rights to personal integrity, privacy or property of Mr Januzi, Mr Bahtjari, [REDACTED] is proportionate to the legitimate aim of the investigation and does not negate the essence of the guaranteed right(s).

1. Legal Basis

24. The requested orders to Vala and Ipko, as well as the request for assistance and cooperation to the Dutch authorities, to produce the Call Data Records, concern the special investigative measure known as “metering of telephone calls” pursuant to Article 86(1.9) of the 2022 Kosovo Criminal Procedure Code, Code No. 08/L-032 (“KCPC”). Article 85(12) of the KCPC defines “metering of telephone calls” as obtaining a record of telephone calls made from a given telephone number. Thus, the Single Judge finds that the requested special investigative

measures fall within the ambit of Article 85(12) and 86(1.9) of the KCPC and, thus, Rule 2 of the Rules.

2. Grounded Suspicion

25. The SPO contends that a grounded suspicion exists that Mr Bahtjari, Mr Januzi, and others, attempted to pressure [REDACTED].²¹

(a) Attribution of the Relevant Telephone Numbers

26. As regards attribution of the relevant telephone numbers, the Single Judge notes the SPO's submissions that:

- i. telephone number [REDACTED] is registered to Mr Januzi's seized mobile telephone,²² and, thus, the Single Judge is satisfied that said telephone number may be attributed to Mr Januzi;
- ii. telephone number [REDACTED] is registered to Mr Bahtjari's seized mobile telephone,²³ and, thus, the Single Judge is satisfied that said telephone number may be attributed to Mr Bahtjari;
- iii. [REDACTED],²⁴ [REDACTED];
- iv. [REDACTED],²⁵ [REDACTED];
- v. [REDACTED],²⁶ [REDACTED]; and
- vi. [REDACTED],²⁷ [REDACTED].

27. [REDACTED]. As a result, the SPO is ordered to provide the Single Judge with this information, within seven (7) days from the notification of the present

²¹ Request, paras 2, 5, 10.

²² Request, paras 1(a), 34.

²³ Request, paras 1(b), 34.

²⁴ Request, paras 1(d), 18.

²⁵ Request, paras 1(d), 17, 19.

²⁶ Request, paras 1(e), 22-23.

²⁷ Request, paras 1(e), 26.

decision. Once apprised of this information, the Single Judge will further consider the Request as concerns [REDACTED].

(b) Existence of a Grounded Suspicion

28. As regards the existence of a grounded suspicion, with respect to Mr Bahtjari and Mr Januzi, the Single Judge recalls that, in the context of recent SPO requests for search and seizures and special investigative measures, he has already made findings to the requisite standard that these individuals, potentially acting on the instructions or direction of others and/ or in co-perpetration with others, have committed, are committing or are about to commit offences under Article 15(2) of the Law, in relation to acts of intimidation or obstruction involving [REDACTED].²⁸ The Single Judge finds that these factual findings equally apply in the present case and, thus, incorporates them by way of reference.

29. [REDACTED].²⁹

30. More specifically, concerning [REDACTED], the Single Judge pays heed to the SPO's submissions that [REDACTED] telephone logs show: (i) that [REDACTED] and Mr Januzi's respective telephones connected on 12 April 2023, at 21:23 and 21:41; and (ii) a missed call on the same day, at 21:57.³⁰ The Single Judge notes that, according to the SPO, these telephone logs indicate that the meeting between [REDACTED] and Mr Januzi took place on 12 April 2023, at approximately 22:00.³¹ Moreover, the Single Judge takes note of the SPO's

²⁸ See KSC-BC-2018-01, F00342, Single Judge, *Decision Authorising Search and Seizure* [REDACTED], 28 April 2023 ("28 April 2023 Decision"), strictly confidential and *ex parte*, para. 26, with Annexes 1-2, strictly confidential; F00348, Single Judge, *Decision Authorising Search and Seizure and Related Measures*, 3 May 2023, strictly confidential and *ex parte*, para. 24, with Annex 1, strictly confidential. See also F00355, Single Judge, *Decision on the Prosecution Requests for* [REDACTED] *Call Data Records*, 16 May 2023, strictly confidential and *ex parte*, para. 30 [REDACTED].

²⁹ Request, para. 3.

³⁰ Request, para. 15.

³¹ Request, para. 15.

submissions that [REDACTED].³² [REDACTED]. [REDACTED].³³ The Single Judge is of the view that the timing of [REDACTED] tends to indicate that Mr Januzi is referring [REDACTED] to the 12 April 2023 meeting between [REDACTED] and Mr Januzi, during which the latter allegedly attempted to interfere with [REDACTED].

31. Furthermore, the Single Judge notes the SPO's submissions that records from the seized mobile telephone of Mr H. Shala, who is himself purportedly implicated in the intimidation and obstruction attempts involving [REDACTED],³⁴ [REDACTED]. The SPO adds that call data records and records found on Mr H. Shala's seized mobile telephone show that, [REDACTED].³⁵ [REDACTED]. [REDACTED].³⁶

32. [REDACTED].

33. [REDACTED].³⁷

34. [REDACTED].³⁸ [REDACTED].³⁹ [REDACTED].⁴⁰

35. [REDACTED],⁴¹ [REDACTED].

36. In light of the foregoing, the Single Judge is satisfied that a grounded suspicion that Mr Januzi, Mr Bahtjari, [REDACTED] have committed, are committing or are about to commit offences under Article 15(2) of the Law exists.

³² Request, para. 17.

³³ Request, para. 17.

³⁴ 28 April 2023 Decision, para. 26.

³⁵ Request, para. 18.

³⁶ Request, para. 19.

³⁷ Request, para. 22.

³⁸ Request, para. 23.

³⁹ Request, para. 18.

⁴⁰ Request, para. 25.

⁴¹ [REDACTED].

3. Necessity

37. The SPO submits that the requested measures are necessary to confirm the existence of contacts and pattern of contacts with specific telephone numbers as well as to establish the identities of individuals potentially involved in acts of intimidation and obstruction involving [REDACTED].⁴²

38. More specifically, with respect to the Call Data Records relating to Mr Bahtjari and Mr Januzi, the SPO argues that it seeks: (i) to confirm the records in these individuals' seized mobile telephones; and (ii) to determine whether call logs, relating to telephone calls between Mr Januzi and [REDACTED] as well as between Mr Januzi and Mr H. Shala, may have been deleted.⁴³

39. [REDACTED].⁴⁴

40. Bearing in mind the alleged serious and direct attempt to interfere with and obstruct [REDACTED], the Single Judge is satisfied that the requested special investigative measures will assist the SPO: (i) to determine whether Mr Bahtjari and Mr Januzi may have deleted potential evidence of their alleged unlawful conduct; and (ii) [REDACTED]. The Single Judge is also satisfied that the requested special investigative measures will contribute to ensuring [REDACTED].

41. In light of the foregoing, the Single Judge finds that the requested measures are necessary for the SPO's investigation in accordance with Rule 31(1)(b) of the Rules.

⁴² Request, paras 2, 31, 33.

⁴³ Request, para. 35.

⁴⁴ Request, paras 38, 40.

4. Unavoidability

42. The SPO maintains that the sought information and evidence cannot be obtained by other less intrusive but equally effective means.⁴⁵

43. The Single Judge is persuaded that there are no other less intrusive but equally effective means to collect the sought information and evidence than by metering the telephone communications of Mr Januzi, Mr Bahtjari, [REDACTED]. In the view of the Single Judge, no less intrusive measure could help the SPO to determine whether Mr Bahtjari and Mr Januzi deleted potential evidence of their alleged unlawful conduct from their seized mobile telephones. Such data, over the requested period of time, would also enable the SPO to ascertain the pattern of contacts of Mr Januzi and Mr H. Shala with [REDACTED], as well as their frequency and duration. 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 Januzi, Mr Bahtjari, Mr H. Shala, [REDACTED] for offences under Article 15(2) of the Law.

5. Proportionality

44. The SPO submits that the requested measures would enable it to corroborate the fact that offences under Article 15(2) of the Law were, are being or are about to be committed, and to ensure the safety and protection of witnesses at risk on account of information provided to the SPO.⁴⁶ The SPO also alleges that any resulting interference with any concerned persons' right to personal privacy is proportionate to the legitimate aim of the investigation and does not negate the essence of any guaranteed right.⁴⁷

⁴⁵ Request, paras 2, 35, 38, 40.

⁴⁶ Request, paras 2, 42.

⁴⁷ Request, paras 2, 31, 42.

45. In assessing the proportionality of the resulting interference with the rights of Mr Januzi, Mr Bahtjari, Mr H. Shala, [REDACTED] *vis-à-vis* the legitimate aim of the investigation, the Single Judge recalls that he may consider, among others, the following factors: the severity of the offences concerned, the duration and scope of the requested investigative measures, and any safeguards to be implemented.⁴⁸

46. At the outset, the Single Judge notes that the legitimate aim of the SPO investigation is to examine serious allegations of witness intimidation and obstruction of justice, preserve the integrity of the proceedings before the SC, and ensure the safety of protected witnesses at risk.

47. The Single Judge also notes that the nature, duration, and scope of the requested measure is tailored to the need to ascertain whether the communication between Mr Januzi, Mr Bahtjari, [REDACTED] provide evidence of offences under Article 15(2) of the Law. The Single Judge further notes that the requested measures are limited to a specific time-frame that is relevant to the SPO's investigation, that is from 1 January 2023 to 23 June 2023, a time-frame which likely encompasses communications between Mr Januzi and Mr H. Shala and [REDACTED].

48. In light of the foregoing, the Single Judge finds that, to the extent that the SPO abides by the conditions set forth in the Rules and in the present decision, including the requirements regarding the duration and scope, and the retention of the obtained material, the requested measures meet the proportionality requirement.

⁴⁸ 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* ("Constitutional Court Chamber 28 June 2017 Judgment"), 28 June 2017, public, paras 64-65.

6. Conclusion

49. For these reasons, the Single Judge authorises the orders to Vala and Ipko, and a request for assistance and cooperation to the Dutch authorities, to provide the Call Data Records, under the parameters set out in this decision.

B. FORMAT AND PRESENTATION

50. The Single Judge recalls that the SPO requests that the information be provided to it as indicated in Annex 1 to the Request, and the Single Judge's authorisation for Annex 1 to be appended to any order and request issued.⁴⁹ To promote the efficient analysis of the Call Data Records, the SPO also requests that the Single Judge order Vala and Ipko, and request the Dutch authorities to provide the following content with each production report: (i) identification of any codes or abbreviations used in the Call Data Records (for example codes or abbreviations denoting incoming calls, outgoing calls, text messages etc.); (ii) explanation for any anomalies (for example if the data is not recorded); (iii) explanation for missing subscriber information (including if the calling or receiving party is not a subscriber of the telecom provider); and (iv) reasons for any exceptions (for example for missing data that is not held due to roaming) ("Additional Information").⁵⁰

51. In order to facilitate the exchange of information, the Single Judge orders Vala and Ipko, and requests the Dutch authorities, to provide the Call Data Records in the format laid out in Annex 1 to the Request, which should be attached by the SPO to the relevant orders and request, and to provide the Additional Information as necessary. In this regard, Vala and Ipko shall immediately inform the SPO if the requested information or specifications in Annex 1 to the Request require further

⁴⁹ Request, para. 44.

⁵⁰ Request, para. 45.

clarification. The Single Judge likewise requests that, to the extent practicable, the Dutch authorities inform the SPO whether any of the requested information or specifications in Annex 1 to the Request require further clarification.

C. SCOPE AND DURATION

52. The special investigative measures cover the production of the Call Data Records for: (i) the telephone number [REDACTED], attributed to Mr Januzi; (ii) the telephone number [REDACTED], attributed to Mr Bahtjari; (iii) [REDACTED]; and (iv) [REDACTED], starting from 1 January 2023 to 23 June 2023.

53. The Single Judge also recalls that, pursuant to Rule 35(2)(a) of the Rules, the Panel authorising a special investigative measure must indicate, *inter alia*, the period for which the authorisation is granted, which may not exceed sixty (60) days unless the requirements of Rule 35(3) of the Rules have been met.⁵¹ The Single Judge is mindful that a person's right to privacy cannot be unduly infringed by authorising a measure which, even if it may fall within the confines of Rule 35 of the Rules, allows for the retrieval of information without further specifications.⁵²

54. In the present circumstances, the Single Judge considers: (i) [REDACTED]; and (ii) [REDACTED].

55. The Single Judge is of the view that to understand the links between Mr Januzi, Mr H. Shala, [REDACTED], and to further ascertain their respective involvement in the intimidation and obstruction attempts concerning [REDACTED], it is necessary to examine the Call Data Records prior to and after the date of the alleged visits [REDACTED]. Moreover, the Single Judge recalls the

⁵¹ See also KSC-CC-PR-2017-01, F00004, *Judgment on the Referral of the Rules of Procedure and Evidence Adopted by Plenary on 17 March 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*, 26 April 2017, para. 66; Constitutional Court Chamber 28 June 2017 Judgment, para. 58.

⁵² Article 36(1) and (3) of the Constitution of the Republic of Kosovo.

SPO's previous submissions that, despite the attempts to pressure [REDACTED].⁵³
In this light, the Single Judge finds it appropriate to order Vala and Ipko, and request the Dutch authorities, to provide the SPO with the Call Data Records for the above-mentioned telephone numbers, starting from 1 January 2023 to 23 June 2023. The Single Judge finds that this is a reasonable and specific time-frame which is confined to the period relevant for the SPO's investigation.

56. In addition, considering the nature of the alleged offences and the potential risks to information and persons protected under the legal framework of the SC, the Single Judge further orders Vala and Ipko to provide the Call Data Records within seven (7) days from service of the attached orders.

D. REPORTING

57. In accordance with Rules 31(2) and 35(2)(b) of the Rules, the SPO is required to report on the implementation of the requested special investigative measures and the collected Call Data Records. Considering the time needed to prepare such reports following the execution of the requested measures, the SPO shall submit such reports within fourteen (14) days of obtaining the relevant information from Vala, Ipko, and the Dutch authorities. The SPO reports shall address, *inter alia*, the date of service of the annexed orders and request, the implementation of the requested measures, as well as a summary of the information obtained.

E. STORAGE, PROTECTION AND RETENTION OF THE COLLECTED DATA

58. The Single Judge finds that the requested Call Data Records are necessary for the purpose of the ongoing investigation into offences pursuant to Article 15(2) of the Law. Therefore, the SPO may retain the collected data in accordance with Rule 33(1)(b) of the Rules until such time that they are no longer relevant for the

⁵³ [REDACTED].

purpose for which they were obtained. The Single Judge further recalls that, at that point, the collected data will have to be returned or destroyed pursuant to Rule 33(2)-(3) of the Rules. Conversely, if the SPO decides that the collected data fall outside the scope of the investigation for which they were obtained, they will have to be returned or destroyed immediately pursuant to Rule 33(1)(a)(i) and (2)-(3) of the Rules, unless they are relevant for the investigation of another crime or offence within the jurisdiction of the SC.

59. Moreover, the Single Judge orders the SPO to protect, at all times, the data collected against loss, accidental or unauthorized access, dissemination or destruction.

F. NOTIFICATION

60. The Single Judge considers that notifying Mr Januzi, Mr Bahtjari, [REDACTED] of the requested special investigative measures prior to the execution thereof would jeopardize the SPO investigation, and give them an opportunity to hide or destroy evidence, alert relevant contacts, or engage in obstruction-related activities. Accordingly, the Single Judge defers notification of the present decision until the conclusion of the SPO's investigation or until further order.

61. [REDACTED].

G. EXECUTION AND SERVICE OF THE ANNEXED ORDERS AND REQUEST

62. The Single Judge notes that, in accordance with Article 35(3) of the Law, the police within the SPO has the authority and the 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, including the annexed orders to Vala and Ipko. Moreover, the SPO may also serve

the relevant request for assistance and cooperation to the Dutch authorities, who may assist the SPO and the SC pursuant to Article 55(1)-(2) of the Law.⁵⁴

63. In view of the above, the Single Judge authorises the SPO: (i) to serve the annexed orders to Vala and Ipko; and (ii) to serve the attached request for assistance and cooperation to the Dutch authorities.

H. DISCLOSURE OF THE ANNEXED ORDERS AND REQUEST

64. The Single Judge further authorises the SPO to disclose, as appropriate and necessary, including to Vala and Ipko, as well as the Kingdom of the Netherlands and the relevant Dutch telecom providers, as the case may be, the annexed orders and request for the purpose of their execution.

V. DISPOSITION

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

- (a) **GRANTS** in part the Request and issues the annexed orders to Vala and Ipko;
- (b) **GRANTS** in part the Request and issues the annexed request for assistance and cooperation to the Kingdom of the Netherlands;
- (c) **ORDERS** Vala and Ipko to provide within seven (7) days from the service of the respective annexed orders the Call Data Records and Additional Information specified in the orders, in the format defined in Annex 1 to the Request;

⁵⁴ In notifying the present decision to the SPO through Legal Workflow, the transmission is deemed fulfilled, in accordance with Rule 49(1) of the Rules.

- (d) **ORDERS** the SPO to inform the Single Judge as to how telephone number [REDACTED] may be attributed to [REDACTED], within seven (7) days from the notification of the present decision;
- (e) **ORDERS** the SPO to report on the implementation of the special investigative measures within fourteen (14) days of obtaining all data;
- (f) **ORDERS** the SPO to store, protect, and retain the collected data in accordance with the Rules and the present decision;
- (g) **DEFERS** notification to Mr Januzi, Mr Bahtjari, [REDACTED] until the conclusion of the SPO's investigation into the aforementioned offences, as appropriate, or until further order;
- (h) **AUTHORISES** the SPO to disclose, as appropriate and necessary, including to Vala and Ipko, as well as the Kingdom of the Netherlands and relevant Dutch telecom providers, as the case may be, the annexed orders and request for assistance and cooperation for the purpose of their execution, and to attach Annex 1 to the orders and request for assistance and cooperation, to be served on Vala, Ipko and the Kingdom of the Netherlands, respectively; and
- (i) **AUTHORISES** [REDACTED].

[signed]

Judge Nicolas Guillou

Single Judge

Dated this Friday, 7 July 2023

At The Hague, the Netherlands.