



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

**In:** KSC-BC-2023-10  
**Specialist Prosecutor v. Sabit Januzi and Ismet Bahtijari**

**Before:** Pre-Trial Judge  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Acting Specialist Prosecutor

**Date:** 2 May 2023

**Language:** English

**Classification:** Public

---

**Public redacted version of 'Urgent Prosecution request for order authorising search and seizure with strictly confidential and *ex parte* Annex'**

---

**Specialist Prosecutor's Office**  
Alex Whiting

**Duty Counsel for Sabit Januzi**  
Jonathan Elystan Rees

**Duty Counsel for Ismet Bahtijari**  
Hendrik Sytema

## I. INTRODUCTION

1. Pursuant to Articles 35(2), 39(3) and 53 of the Law<sup>1</sup> and Rules 30-33, 37, 39 and 48(2) of the Rules,<sup>2</sup> the Specialist Prosecutor's Office ('SPO') requests an order from the Single Judge authorising the search and seizure by the SPO of all mobile telephones (collectively, 'the Subject Phone(s)') of Sabit JANUZI, [REDACTED]. The SPO further requests that the order include the authority to search the residence, vehicle and person of JANUZI for the limited purpose of searching and seizing Subject Phone(s) at his residence.

2. [REDACTED].

3. [REDACTED].

4. The relevant requirements are satisfied in this case. There is grounded suspicion that evidence of a crime within the jurisdiction of the Kosovo Specialist Chambers ('KSC') is to be found on the Subject Phone(s). The measures sought are necessary, insofar as the examination of the content of the Subject Phone(s) is the only effective means of obtaining such evidence. The resulting interference with JANUZI's rights is proportionate to the legitimate aim of the investigation, and does not negate the essence of the guaranteed rights.

## II. FACTUAL AND PROCEDURAL HISTORY

5. [REDACTED].<sup>3</sup> [REDACTED].

---

<sup>1</sup> Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). All references to 'Article' or 'Articles' herein refer to articles of the Law, unless otherwise specified.

<sup>2</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

<sup>3</sup> See e.g., [REDACTED].

6. The facts detailed in the SPO's prior requests<sup>4</sup> and the Single Judge's decision<sup>5</sup> related to the recent intimidating and obstructive conduct directed at [REDACTED] is hereby incorporated by reference. Mindful that the Single Judge is well-versed in the facts detailed in these prior filings, the SPO will not repeat them here. However, a brief summary of the operative facts regarding [REDACTED] and the recent conduct related to his testimony is provided below.

7. [REDACTED].

8. On 5 April 2023, [REDACTED] reported to the SPO that he was threatened [REDACTED] if he did not withdraw his testimony. Specifically, and as previously detailed,<sup>6</sup> [REDACTED] Ismet BAHTJARI visited [REDACTED] on 5 April 2023. Acting on instructions [REDACTED], BAHTJARI instructed [REDACTED] to withdraw his testimony or [REDACTED]. Based on BAHTJARI's statements to him and [REDACTED]'s assessment of the context of the message, as well as [REDACTED], [REDACTED] believes that [REDACTED] are responsible for the threat.<sup>7</sup>

9. On 20 April 2023, the SPO conducted a [REDACTED] interview with [REDACTED]. [REDACTED] informed the SPO that since the last time he spoke to the SPO, he had been approached again about his testimony. Specifically, on 12 April 2023, Sabit JANUZI came to [REDACTED]'s home. JANUZI is a former acquaintance of [REDACTED]. JANUZI went through [REDACTED] to get in contact with [REDACTED]. [REDACTED] described JANUZI as a former KLA member [REDACTED].

---

<sup>4</sup> See [REDACTED]; Prosecution request for orders authorising search and seizure of mobile telephones, KSC-BC-2018-01/F00335, 20 April 2023, Strictly Confidential and *Ex Parte* ('BAHTJARI [REDACTED] Search and Seizure Request'), paras 3-5.

<sup>5</sup> Decision Authorising Search and Seizure and Related Measures, KSC-BC-2018-01/F00342, 28 April, 2023, Strictly Confidential and *Ex Parte* ('BAHTJARI [REDACTED] Search and Seizure Decision').

<sup>6</sup> BAHTJARI [REDACTED] Search and Seizure Request, KSC-BC-2018-01/F00335, paras 5-19.

<sup>7</sup> See BAHTJARI [REDACTED] Search and Seizure Request, KSC-BC-2018-01/F00335, paras 8, 13-18.

10. Upon arriving at [REDACTED]'s home, JANUZI told [REDACTED] that following Ismet BAHTJARI's recent visit to [REDACTED] during which BAHTJARI instructed him to withdraw his testimony, BAHTJARI conveyed [REDACTED]'s response to [REDACTED]. [REDACTED], however, had not understood [REDACTED]'s response to BAHTJARI about testifying, so JANUZI was sent to clarify things. [REDACTED] opined to the SPO that BAHTJARI may have been afraid to relay [REDACTED]'s reaction [REDACTED] because [REDACTED] had told BAHTJARI, among other things, that if called to The Hague [REDACTED].

11. [REDACTED] did not confirm to JANUZI that [REDACTED]. JANUZI told [REDACTED] that he would not visit him again about the topic.

12. [REDACTED] told the SPO that he perceived JANUZI's message as less threatening than BAHTJARI's visit, and that he believed JANUZI's visit might be an attempt to induce him to soften or withdraw his testimony in exchange for something. [REDACTED] further opined that this could also be a ploy to make him more vulnerable to attack.

13. As part of his SPO interview, the SPO took screenshots of [REDACTED]'s mobile phone showing the contact entry for JANUZI. [REDACTED] explained that JANUZI's phone number is saved in [REDACTED]'s phone under the name [REDACTED]. As shown in the records provided by [REDACTED], JANUZI used mobile number [REDACTED] for communication with [REDACTED].<sup>8</sup>

14. As part of the SPO investigation into the obstructive and intimidating conduct directed at [REDACTED], the SPO has already requested from the Single Judge orders

---

<sup>8</sup> A copy of the screenshot of [REDACTED]'s mobile phone showing the contact name and number for JANUZI is attached hereto as Annex 1.

authorising the SPO to (1) obtain [REDACTED],<sup>9</sup> and (2) search and seize the mobile phones of BAHTJARI [REDACTED].<sup>10</sup>

15. On 28 April 2023, the Single Judge issued a decision authorising the search and seizure of BAHTJARI's [REDACTED] mobile phones, [REDACTED].<sup>11</sup> The remaining requests related to BAHJTARI [REDACTED] are pending.

### III. APPLICABLE LAW

16. Under Rule 37, the SPO shall request authorisation for search and seizure of the Subject Phone(s), including the authority to search the residence, vehicle and person of JANUZI for the purpose of executing the seizure of the Subject Phone(s). The Single Judge has identified the relevant requirements for such measures as follows:<sup>12</sup>

- a. the mobile telephone is the property of the person concerned;
  - b. there is grounded suspicion that, *inter alia*, evidence of a crime within the jurisdiction of the Specialist Chambers is on the mobile telephone;
  - c. the seizure is necessary for the investigation;
  - d. the measure sought is unavoidable (in that, in the specific circumstances, evidence may not be otherwise obtained and the requested seizure appears to be the only effective means for the purposes of the investigation);
  - e. the resulting interference into the person's right to personal integrity, privacy or property is proportionate to the legitimate aim of the investigation and does not negate the essence of the guaranteed right;
- and

---

<sup>9</sup> [REDACTED].

<sup>10</sup> BAHTJARI [REDACTED] Search and Seizure Request, KSC-BC-2018-01/F00335.

<sup>11</sup> BAHTJARI [REDACTED] Search and Seizure Decision, KSC-BC-2018-01/F00342.

<sup>12</sup> See BAHTJARI [REDACTED] Search and Seizure Decision, KSC-BC-2018-01/F00342, paras 7-13.

- f. The material collected as a result of the search and seizure will 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.

#### IV. SUBMISSIONS

##### A. THERE IS GROUNDED SUSPICION THAT THE SUBJECT PHONE(S) CONTAIN EVIDENCE OF A CRIME WITHIN THE JURISDICTION OF THE KSC

17. In the BAHTJARI [REDACTED] Search and Seizure Decision, the Single Judge found grounded suspicion that BAHTJARI [REDACTED], '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 with the meaning of Article 15(2) of the law.'<sup>13</sup>

18. The same reasoning applies here. Based on the facts set forth above and in related prior filings, there is a grounded suspicion that JANUZI has committed, is committing and/or is about to commit an offence within the meaning of Article 15(2) of the law. The facts support the conclusion that JANUZI, likely acting on the instruction or direction of others and/or in co-perpetration with others, including likely BAHTJARI [REDACTED], sought to influence [REDACTED]'s testimony. Indeed, as detailed above, JANUZI explicitly told [REDACTED] that he was visiting [REDACTED] to follow-up on BAHTJARI's visit, showing that JANUZI has direct knowledge of that visit and its illicit purpose.

---

<sup>13</sup> BAHTJARI [REDACTED] Search and Seizure Decision, KSC-BC-2018-01/F00342, paras 23-26.

19. The grounded suspicion is further supported by, *inter alia*, [REDACTED]'s statement that JANUZI is a former KLA member [REDACTED]. [REDACTED]. [REDACTED].<sup>14</sup> [REDACTED].

20. Moreover, there is also grounded suspicion that JANUZI's mobile phone(s) contain evidence of the criminal conduct at issue. The SPO recalls, for example, that JANUZI used a mobile phone with the number [REDACTED] to communicate with [REDACTED] around the time of JANUZI's visit to [REDACTED]'s residence. It is also likely that JANUZI used a mobile phone to communicate with BAHTJARI and/or [REDACTED] and/or others about [REDACTED]'s status as a witness and the attempts to pressure [REDACTED] to withdraw his testimony [REDACTED].

B. THE INFORMATION SOUGHT IS NECESSARY

21. Search and seizure of the content of the Subject Phone(s) is a necessary measure to investigate the ongoing witness intimidation and interference with obstruction of criminal proceedings.

22. Specifically, the Subject Phone(s) are likely to contain relevant evidence, [REDACTED]. Such evidence is necessary and indeed critical to determining, *inter alia*, (1) the full nature and scope of JANUZI's obstructive conduct in relation to [REDACTED] and potentially to other SPO witnesses, and (2) [REDACTED].

23. Based on the totality of the circumstances described above, the requested seizure is the only effective means for the purposes of furthering the investigation and securing evidence that may not be otherwise obtained.

---

<sup>14</sup> [REDACTED].

C. THE REQUESTED ORDERS ARE PROPORTIONATE TO THE LEGITIMATE AIM OF THE INVESTIGATION

24. The requested orders are relevant to corroborating the fact that an Article 15(2) crime was, is being or is about to be committed, enabling the SPO to advance the investigation by collecting relevant evidence and identifying all of the individuals involved in such offences and their respective roles in those offences, and ensuring the safety and protection of witnesses at risk because of information they have provided to the SPO.

25. The SPO further notes that [REDACTED]. This context thus further necessitates the requested search and seizure, which is the only effective means of obtaining the evidence in question.

26. Finally, the requested orders are proportionate to the legitimate aim of the investigation and do not negate the essence of any guaranteed rights because (i) they are in accordance with the Law and Rules; (ii) as set out below, 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 measures for the protection and due respect of victims and witnesses, and the fundamental rights of (potential) suspects and/or accused.

27. The SPO intends to execute the requested seizure of the Subject Phone(s) at JANUZI's residence or at his vehicle; however, this will depend on operational and security requirements and the seizures may be executed in another location as deemed necessary.

28. [REDACTED].

V. THE TERMS OF THE REQUESTED ORDERS



29. The SPO requests that the Single Judge authorise retention of the Subject Phone(s) for: (i) the time necessary to complete extraction, as applicable, and examination of its relevant content; and (ii) such further period of time as may be necessary for its potential use in evidence. The SPO further requests that the order include the authorisation to search the respective locations, anticipated to be the residence, and person of JANUZI for the limited purpose of searching and seizing their mobile phones.

30. In execution of the search and seizure, the SPO will comply with the safeguards outlined in Rule 39, 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.<sup>15</sup>

31. Pursuant to Rule 49(1), the SPO also requests to be designated as the competent authority<sup>16</sup> for service and execution of the requested search and seizure order.

32. The SPO further requests the Single Judge to include, as part of the search and seizure order for JANUZI's mobile phones, a provision ordering [REDACTED].

33. Such an order is both necessary and appropriate to ensure the proper execution of the requested search and seizure orders. In particular, [REDACTED]. [REDACTED]. [REDACTED].<sup>17</sup> [REDACTED].

34. Accordingly, [REDACTED]. [REDACTED]. [REDACTED].<sup>18</sup> The same rationale applies here.

---

<sup>15</sup> Cf. [REDACTED].

<sup>16</sup> See [REDACTED].

<sup>17</sup> [REDACTED].

<sup>18</sup> [REDACTED].

35. Finally, the SPO requests that the Single Judge include, as part of the requested search and seizure order, a provision authorising the SPO [REDACTED]. [REDACTED]. [REDACTED].<sup>19</sup>

36. [REDACTED].

#### VI. TIMING OF REQUEST

37. [REDACTED], the SPO anticipates executing the requested search and seizure as soon as practicable. [REDACTED].<sup>20</sup>

#### VII. CONFIDENTIALITY

38. This filing is classified as strictly confidential and *ex parte* to protect [REDACTED]. The SPO requests an opportunity to make submissions before any reclassification or redacted version is ordered.

#### VIII. RELIEF REQUESTED

39. The SPO hereby requests the Single Judge to grant this request, in the terms set out above, and:

- a. authorise the search and seizure of the mobile telephone(s) of Sabit JANUZI, [REDACTED];
- b. include in the search and seizure order the authority to search the location of execution, anticipated to be the residence or vehicle and person of JANUZI for the limited purpose of searching and seizing his mobile phone(s);
- c. include in the search and seizure order a provision ordering [REDACTED];
- d. [REDACTED];

---

<sup>19</sup> [REDACTED].

<sup>20</sup> [REDACTED].

- e. designate the SPO as the competent authority for service and execution; and authorise the SPO to disclose the order, as appropriate and necessary, for the purpose of execution; and
- f. authorise the SPO to store, protect, and retain the seized mobile telephones and the extracted data in accordance with the Rules.

**Word count: 4,066**

\ signed \

---

**Alex Whiting**

**Acting Specialist Prosecutor**

Tuesday, 2 May 2023

At The Hague, The Netherlands.