Tribunal de première instance
francophone de Bruxelles
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Cabinet du juge d'instruction
Frédéric de Visscher
-
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1000 Bruxelles
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ORDONNANCE

Art. 61 quinquies C.I.Cr.

Devoirs complémentaires
Accord partiel

File n°: 2022/087
Notice n°: BR53.99.789/22
Request n°: J 11/087/22/066/23/D

We, Frédéric de Visscher, investigating judge [juge d'instruction] at the French-speaking Court of First Instance in Brussels [tribunal de première instance francophone de Bruxelles],

Having regard to Article 61 quinquies of the Belgian Code of Criminal Procedure [Code d'instruction criminelle];

Having regard to the documents in the proceedings that we are investigating in the case of: KOZLOVSKA Lyudmyla and Open Dialogue Foundation (ODF)

on charges of violation of private and family life, violation of personality rights, instigation of hatred, insults, harassment and cyber-harassment.

Having regard to the application lodged on 17.11. 2023 by Mr Korenskikh Aleksandr Valeriyevich, Mr Shinbayev Aslanbek Nurlybekovich, Mr Abdil Amalbek Douyssenbekouly, Mr Abdukarimov Erkinbek Usenovich, Mr Kypshakbayev Daurenbek Sultanbekuly, Mr Nurov Kanat Karibayevich, Mr Sharipov Eszhan Baglanovich, on behalf of their respective minor children, civil parties, asking us to conduct one or more additional acts of investigation specified in the request, namely :

1. Request to provide all passports to Mrs KOZLOVSKA and copies of all the pages of her passports showing the dates of entry and exit from Belgium, in particular to the United States;
2. Request to provide Mrs KOZLOVSKA's registration for flights from Brussels on 3 December 2021 and from Washington to Brussels on 16 January 2022;
3. Request for the police in charge of checks and surveillance at the six Schengen airports on Belgium's external borders to provide records of Ms KOZLOVSKA's entries into and exits from Belgian territory during the infringement period;
4. Request for Mrs KOZLOVSKA's details of places of residence abroad, including in the United States, in Miami, and in Washington D.C., hotel receipts, as well as the movements in her accounts, confirming the financing of her stay there, including plane tickets;
5. Requests Mrs KOZLOVSKA and the Foundation for electronic communications between them during Mrs KOZLOVSKA's stays abroad, including in the United States;

6. Request to question the two directors of the Foundation, Mr Bartosz KRAMEK and Mr Marcin MYCIELSKI, in order to determine on what medium and how often Mrs KOZLOVSKA, in her capacity as Chairman of the Board of Directors, continued to manage the Foundation when she was abroad;
7. Request for the computer media, recordings, and photographs that contributed to the creation of the videos in question, in order to determine on what dates these photographs and recordings were incorporated into the said videos and from what location;
8. Requests for the two defendants to provide documentary evidence of the financing of the equipment, media, and tools needed to produce the videos in question (title deeds and financing of telephones, cameras and technicians);
9. Asks Ms KOZLOVSKA whether she has the power to stop the broadcasting of these videos from Belgian territory and, if not, notes that she refuses to do so;
10. Asks the Foundation if it has the power to stop the broadcasting of these videos on Belgian territory and, if it does not, declares that it refuses to do so;

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11. Requests the civil parties to confirm, through their agent appointed for the purposes of the proceedings, Mr Claude Moniquet, that they have lodged the complaint in their capacity as parents of their minor children who have a duty to protect and not in their capacity as civil servants;

Whereas the applicants are legally entitled to bring their application and it is appropriate to grant it in part to the extent specified below;

Whereas, with the exception of the duty requested in point 4, the requests as described in the application do not appear to be useful for ascertaining the truth:

- Concerning requests 2 and 3: in accordance with legal requirements, information relating to passenger data cannot be obtained concerning the offences denounced by the complaint;
- Concerning request 4: Mrs KOZLOVSKA should be questioned about the flight on 16.01.2022 and asked to provide objective evidence of her presence in the United States during the infringement period;
- Concerning requests 1, 5 to 8: the alleged criminal nature of the facts complained of is limited to the dissemination of the incriminating videos. It follows that the duties requested appear to be part of a desire to manipulate Belgian justice in order to gather as much of Mrs KOZLOVSKA's personal and private data as possible for purposes other than simply ascertaining the truth in the present case. There is therefore no need to carry out the duties described in points 1, 5 to 8;
- Concerning requests 9 and 10: Mrs KOZLOVSKA, who is President of the Foundation, has already been heard on 16.11.2022, in particular regarding her position on the withdrawal of the videos (see PV N°028300/22);
- Concerning request 1: as the status of the civil parties is already mentioned in the complaint with civil party status and in the King's prosecutor's indictment of 8 August 2023,

it does not appear necessary to request confirmation of this status from Mr Moniquet; for these reasons,

We hereby order that the following instruction be carried out:

- Proceed to hear Mrs KOZLOVSKA again regarding the flight of 16.01.2022 and ask her to provide objective evidence of her presence in the United States during the period of the offence;

Dismiss the remainder of the application.

Done and sealed in Brussels on 13/12/2023.

Investigating judge [juge d'instruction] Frédéric de Visscher

[Stamp] [Signature]

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