

**Question referred**

Is a national law which provides that the right of an accused person to be present in proceedings is safeguarded and the public prosecutor's office properly discharges its obligation to prove the guilt of the accused person compatible with Articles 8(1) and 6(1) of Directive 2016/343,<sup>(1)</sup> read in conjunction with recitals 33 and 34 thereof, and the second paragraph of Article 47 of the Charter if the testimony given at the pre-trial stage of the proceedings by witnesses who cannot be examined for objective reasons is introduced at the trial stage of the criminal proceedings, whereby those witnesses were examined solely by the prosecution and without the participation of the defence, but before a judge, and the prosecution could have provided the defence with the opportunity to participate in that examination at the pre-trial stage, but did not do so?

<sup>(1)</sup> Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ 2016 L 65, p. 1).

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**Request for a preliminary ruling from the Spetsializiran nakazatelen sad (Bulgaria) lodged on 4 June 2021 — Criminal proceedings against HYA and Others**

(Case C-349/21)

(2021/C 338/15)

*Language of the case: Bulgarian*

**Referring court**

Spetsializiran nakazatelen sad

**Parties to the main proceedings**

HYA and Others

**Questions referred**

Is a practice of national courts in criminal proceedings whereby the court authorises the interception, recording and storage of telephone conversations of suspects by means of a pre-drafted, generic text template in which it is merely asserted, without any individualisation, that the statutory provisions have been complied with compatible with Article 15(1) of Directive 2002/58,<sup>(1)</sup> read in conjunction with Article 5(1) and recital 11 thereof?

If not, is it contrary to EU law if the national law is interpreted as meaning that information obtained as a result of such authorisation is used to prove the charges brought?

<sup>(1)</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37, Special edition in Bulgarian: Chapter 13 Volume 036 P. 63).

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**Request for a preliminary ruling from the Spetsializiran nakazatelen sad (Bulgaria) lodged on 4 June 2021 — Criminal proceedings against Spetsializirana prokuratura**

(Case C-350/21)

(2021/C 338/16)

*Language of the case: Bulgarian*

**Referring court**

Spetsializiran nakazatelen sad

**Party to the main proceedings**

Spetsializirana prokuratura