



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-06

**The Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli,
Rexhep Selimi, and Jakup Krasniqi**

Before: Trial Panel II

Judge Charles L. Smith III, Presiding Judge

Judge Christoph Barthe

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 22 January 2024

Language: English

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**Public Redacted Version of Decision on Resubmission of the Fourteenth Registry
Report on Victims' Applications for Participation in the Proceedings**

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Head of VPO

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Counsel for Rexhep Selimi
David Young

Counsel for Jakup Krasniqi
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TRIAL PANEL II (“Panel”), pursuant to Articles 22, 23(1) and 40 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 80, 113 and 114 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 18 January 2023, the Panel ordered the Registry to submit any remaining applications for admission of victims wishing to participate in the proceedings by 15 February 2023 (“Order”).¹
2. On 3 April 2023, the Specialist Prosecutor’s Office (“SPO”) opened its case.²
3. On 22 August 2023, the Victims’ Participation Office (“VPO”) filed the fourteenth report on victims’ applications, transmitting to the Panel nine applications (“Applications”) for the status of participating victims (“Report”).³
4. On 19 September 2023, the Panel denied without prejudice the Applications, stating that the VPO was “at liberty to resubmit the Report, clearly articulating the reasons why the [A]pplications were submitted late, and why those reasons were outside the VPO’s control” (“Decision on 14th Report”).⁴

¹ Transcript of Hearing, 18 January 2023 (Oral Order Setting Deadline for Applications for Admissions of Victims Participating in the Proceedings), pp. 1902-1903.

² See Transcript of Hearing, 15 February 2023, pp. 2038-2039; Transcript of Hearing, 3 April 2023, p. 2140.

³ F01725, Registry, *Fourteenth Registry Report on Victims’ Applications for Participation in the Proceedings*, 22 August 2023, strictly confidential and *ex parte*, with Annexes 1-10, strictly confidential and *ex parte* (a confidential and *ex parte* redacted version of the Report was filed on the same day, F01725/CONF/RED; this confidential and *ex parte* version of the Report was reclassified as public on 23 August 2023).

⁴ F01801, Panel, *Decision on Fourteenth Registry Report on Victims’ Applications*, 19 September 2023, strictly confidential and *ex parte*, para. 13 (a public redacted version was filed on the same day, F01801/RED).

5. On 11 October 2023, the VPO provided additional information and resubmitted the Report (“Additional Information”).⁵

6. The Parties did not respond to the Report or the Additional Information.

II. SUBMISSIONS

7. In the Additional Information, the VPO provided explanations as to why the nine applicants concerned in the Report were, for reasons outside of the VPO’s control, unable to apply earlier and without direct assistance.⁶ The VPO concluded that it was not practically possible for the applicants to have applied prior to the deadline set in the Order.⁷ The VPO submits that the applicants have met the threshold for consideration by the Panel based on a showing of good cause under Rule 9(5)(b). The VPO requests the Panel to consider the merits of the Applications despite the expiration of the time limit.⁸

III. APPLICABLE LAW

8. The Panel incorporates by reference the applicable law set out in its previous decisions.⁹

⁵ F01850, Registry, *Resubmission of the Fourteenth Registry Report on Victims’ Applications for Participation in the Proceedings*, strictly confidential and *ex parte*, with one Annex, strictly confidential and *ex parte* (a confidential redacted version was filed on 27 October 2023, F01850/CONF/RED).

⁶ See Additional Information, paras 4, 6-21.

⁷ Additional Information, para. 22.

⁸ Additional Information, para. 22.

⁹ Decision on 14th Report, paras 7-8; F01774, Panel, *Seventh Decision on Victims’ Participation* (“Seventh Decision”), 7 September 2023, strictly confidential and *ex parte*, paras 12-15 (a public redacted version was filed on 11 September 2023, F01774/RED).

IV. DISCUSSION

A. VALIDITY OF THE FILING OF THE REPORT

9. The Panel notes that Rule 113(1) requires that applications for admission of victims participating in the proceedings be filed “sufficiently in advance of the opening of the case pursuant to Rule 124”. The Panel recalls that: (i) it ordered the Registry to file any applications for admission of victims participating in the proceedings by 15 February 2023;¹⁰ (ii) the case opened pursuant to Rule 124 on 3 April 2023;¹¹ (iii) as acknowledged by the VPO,¹² the time limit to file applications for admission of victims participating in the proceedings has expired; (iv) it found the Report untimely insofar as it was “not persuaded that there was good cause to recognise as valid the transmission of the Applications after the expiration of the time limit set in the Order”;¹³ and (v) it indicated that the VPO was at liberty to resubmit the Report, clearly articulating the reasons why the Applications were submitted late, and why those reasons were outside the VPO’s control.¹⁴

10. The Panel will thus assess whether the circumstances set out in the Additional Information meet the “good cause” requirement under Rule 9(5)(b) to assess whether it can recognise the Report as being validly filed.

11. Regarding the eight applicants residing in [REDACTED], the Panel notes the reasons provided by the VPO as to why its mission to [REDACTED] was not possible before [REDACTED].¹⁵ In particular, the Panel notes that: (i) the VPO had been engaged in setting up a cooperation framework with [REDACTED] for

¹⁰ Transcript of Hearing, 18 January 2023, pp. 1902-1903.

¹¹ See Transcript of Hearing, 15 February 2023, pp. 2038-2039; Transcript of Hearing, 3 April 2023, p. 2140.

¹² Additional Information, para. 22; Report, para. 8.

¹³ Decision on 14th Report, paras 12, 14.

¹⁴ Decision on 14th Report, para. 13.

¹⁵ See generally Additional Information.

several years;¹⁶ (ii) since [REDACTED], the SPO and the Registry had attempted to set up a [REDACTED] to facilitate the management of matters related, *inter alia*, to participating victims to no avail; (iii) cooperation with [REDACTED] has [REDACTED]; (iv) in early 2021, the [REDACTED] agreed that the [REDACTED] regarding victims' participation process but, despite several discussions and meetings held in [REDACTED], cooperation was not forthcoming;¹⁷ (v) in [REDACTED] 2022, the [REDACTED] was informed that [REDACTED] expressed a willingness to cooperate;¹⁸ (vi) [REDACTED] was planned for [REDACTED]; (vii) attempts to engage with [REDACTED] continued into 2023;¹⁹ and (viii) in [REDACTED] 2023, [REDACTED] meetings with individuals who had expressed an interest in applying to participate as victims in the proceedings and the earliest possible time the mission [REDACTED] could be organised was [REDACTED] 2023.²⁰ On this basis, the Panel is satisfied that it was not practically possible for the VPO to organise the mission earlier and, in turn, for these applicants to apply prior to the deadline set in the Panel's Order.

12. The ninth applicant, Victim-286/06, first expressed the wish to apply as a participating victim in the proceedings during the preparation session [REDACTED] on [REDACTED]. The Panel notes the VPO's explanation that Victim-286/06: (i) was neither aware of nor advised by the VPO [REDACTED] of the possibility to participate as a victim in the proceedings prior to [REDACTED]; and (ii) expressed a desire to participate as soon as made aware of this possibility.²¹ In particular, the Registry submits that this was "due to an internal oversight" for which the applicant is not responsible.²²

¹⁶ Additional Information, para. 9.

¹⁷ Additional Information, paras 11-16.

¹⁸ Additional Information, para. 17.

¹⁹ Additional Information, para. 18.

²⁰ Additional Information, para. 19.

²¹ Additional Information, para. 21.

²² Additional Information, para. 21.

13. The Panel is satisfied that these circumstances were outside Victim-286/06's control and that it is in the interests of justice to consider the merits of Victim-286/06's application.

14. In light of the above, the Panel is satisfied that the circumstances provided by the VPO in the Additional Information meet the "good cause" requirement under Rule 9(5)(b). The Panel recognises as valid the filing of the Report and the transmission of the Applications therein after the expiration of the time limit set in the Order.

B. ASSESSMENT OF APPLICATIONS

15. The Panel recalls that, in the Report, the VPO recommends that the Panel admit all nine applicants as participating victims.²³

16. Having assessed the application forms and supporting documentation submitted in the Report, the Panel is satisfied that the Applications are complete.²⁴ The Panel notes that all nine applicants provided a valid ID card.²⁵ The Panel is satisfied that all the victim applicants in the Report are natural persons.²⁶

1. Correspondence Between the Alleged Crimes in the Applications and the Indictment

17. The Panel recalls that, as confirmed by the Court of Appeals, "the crime(s) in relation to which an applicant claims to be a victim must fall under the material, geographical and temporal parameters of the charges, as specified in the Indictment" and that "Schedule C, read in conjunction with the relevant sections of the Indictment, provides an exhaustive description of the crimes of enforced

²³ Report, para. 43.

²⁴ Report, para. 14.

²⁵ See **Victims 286/06, 287/06, 288/06, 289/06, 290/06, 291/06, 292/06, 293/06** and **294/06** Supporting Documents.

²⁶ Report, para. 19.

disappearance with which the Accused are charged.”²⁷ It follows that an applicant who claims to be an indirect victim of the crime of enforced disappearance must establish *prima facie* that they are an immediate family member of a person named in Schedule C. For the same reason, and as confirmed by the Court of Appeals Panel,²⁸ an applicant who claims to be an indirect victim of the crime of murder must establish *prima facie* that they are an immediate family member of a person named in Schedule B.²⁹

18. In making its assessment, the Panel conducted an individualised analysis of each application, based on the Report, the application forms, the supporting documentation and the relevant parts of the indictment (“Indictment”).³⁰

19. The Panel is satisfied that the nine applicants are victims of crimes allegedly committed at locations identified in the Indictment and that the alleged crimes fall within the temporal scope of the charges as specified in the Indictment in relation to each of the locations.³¹ More specifically:

- (a) *Direct Victims*. **Victims 286/06, 287/06, 288/06, 289/06, 291/06, 292/06, and 294/06** are direct victims of imprisonment/illegal or arbitrary arrest and detention, other inhumane acts or cruel treatment and/or torture,

²⁷ IA005/F00008, Court of Appeals, *Decision on Appeal Against “First Decision on Victims’ Participation”* (“Decision on Appeal of First Decision on Victims’ Participation”), 16 July 2021, para. 35. *See also* First Framework Decision, para. 32; F00257, Pre-Trial Judge, *First Decision on Victims’ Participation* (“First Decision”), 21 April 2021, confidential, paras 24, 35 (a public redacted version was filed on the same day, F00257/RED).

²⁸ IA027/F00004, Court of Appeals, *Decision on Appeals Against “Fifth Decision on Victims’ Participation”*, 21 June 2023, strictly confidential and *ex parte*, para. 13 (a public redacted version was filed on the same day, IA027/F00004/RED).

²⁹ *See similarly* F01293, Panel, *Fifth Decision on Victims’ Participation* (“Fifth Decision”), 15 February 2023, strictly confidential and *ex parte*, paras 13-14 (a confidential redacted version was filed on 20 February 2023, F01293/RED).

³⁰ F00999, Specialist Prosecutor, *Submission of Confirmed Amended Indictment*, 30 September 2022, with Annex 1, strictly confidential and *ex parte*, Annex 2, confidential and Annex 3. *See also* F01323/A01, Specialist Prosecutor, *Public Lesser Redacted Version of Amended Indictment*, 27 February 2023.

³¹ **Victims 286/06, 287/06, 288/06, 289/06, 290/06, 291/06, 292/06, 293/06 and 294/06.**

allegedly committed in [REDACTED] in [REDACTED] 1998 and [REDACTED] 1999.³²

(b) *Indirect Victims*. **Victims 290/06** and **293/06** are also indirect victims of imprisonment/illegal or arbitrary arrest and detention, other inhumane acts and cruel treatment, torture, enforced disappearance, and murder allegedly committed in [REDACTED] in [REDACTED] and [REDACTED] 1999 against an immediate family member.³³

2. Alleged Harm

20. The Panel is satisfied that all victim applicants have *prima facie* suffered harm as a direct result of the alleged crimes described by them, as follows:

(a) *Direct victims – Physical and mental harm*. **Victims 286/06, 287/06, 288/06, 289/06, 291/06, 292/06, and 294/06** have personally suffered physical harm (heavy beating) and mental harm (stress, depression, psychological trauma), as a direct result of their alleged detention and mistreatment.³⁴

(b) *Indirect victims – Mental harm*. **Victims 290/06** and **293/06**, as immediate family members, have personally suffered mental harm (psychological

³² **Victims 286/06** (direct victim of unlawful detention, inhumane and cruel treatment and torture allegedly committed at [REDACTED] in [REDACTED] 1998; **287/06, 288/06** and **289/06** (direct victims of unlawful detention, inhumane and cruel treatment and torture allegedly committed at [REDACTED] in [REDACTED] 1998; **291/06** and **292/06** (direct victims of unlawful detention, inhumane and cruel treatment and torture allegedly committed at [REDACTED] in [REDACTED] 1999; **294/06** (direct victim of unlawful detention, inhumane and cruel treatment and torture allegedly committed at [REDACTED] in [REDACTED] 1998. See Application Forms and Supporting Material; Annexes 2-5, 7-8, 10 to the Report. See also Indictment, paras [REDACTED].

³³ See Report, **Victims 290/06** and **293/06** Application Forms and Supporting Material; Annexes 6 and 9 to the Report. See also Indictment, paras [REDACTED].

³⁴ **Victims 286/06, 287/06, 288/06, 289/06, 291/06, 292/06, and 294/06** (physical and mental harm claims) Application Forms and Supporting Documentation; Annexes 2-5, 7-8, 10 to the Report.

trauma) as a direct result of the harm purportedly suffered by the direct victim.³⁵

21. Lastly, in addition to mental and/or physical harm, **Victims 287/06, 288/06, 289/06, 290/06, 291/06, 292/06, and 293/06** also claim material harm, *inter alia* through loss of income, loss of property, or other specific circumstances.³⁶ As harm of a physical and/or mental nature has already been demonstrated to the requisite degree for these victims at this stage, it is not necessary for the Panel to decide on the material harm alleged by these victims. These determinations will be made in the reparations order, if any.³⁷

22. The above findings concerning harm are without prejudice to any future ruling following submission of additional material.

3. Conclusion

23. In light of the above, the Panel finds that there is *prima facie* evidence that all nine applicants have suffered harm as a direct result of crimes alleged in the Indictment. Accordingly, the Panel admits all nine applicants as participating victims in the proceedings.

C. PROTECTIVE MEASURES

24. The VPO recommends that the Panel follow its previous approach as regards dual status witnesses and maintain the protective measures currently in force for

³⁵ **Victims 290/06 and 293/06** (mental harm claims) Application Forms and Supporting Documentation; Annexes 6 and 9 to the Report.

³⁶ **Victims 287/06, 288/06, 289/06, 290/06, 291/06, 292/06, and 293/06** (material harm claims) Application Forms and Supporting Documentation; Annexes 3-9 to the Report.

³⁷ *See similarly* Fifth Decision, para. 22.

them as SPO witnesses, and grant non-disclosure of any identifying information to the public.³⁸

25. As regards the applicants' request for non-disclosure of any "identifying information" towards the public *and* the Defence [REDACTED],³⁹ the Panel makes the following observations. First, all nine applicants are SPO witnesses and their identities, as SPO witnesses, have been disclosed to the Defence.⁴⁰ Second, only Victims 286/06, 287/06 and 288/06 were, as SPO witnesses, granted in-trial protective measures vis-à-vis the public, namely pseudonym, face and voice distortion.⁴¹ The remaining applicants are non-protected witnesses, and the Panel has received no request for in-trial protective measures for them. It follows that the Defence is aware of the identities, as SPO witnesses, of [REDACTED], who continue to benefit from protective measures vis-à-vis the public.⁴² The Defence is also aware of the identities of the remainder of the applicants, who do not benefit from protective measures as SPO witnesses, and whose identities have been or will be disclosed to the public when they testify. Consequently, the Panel cannot give effect to the requests of [REDACTED] regarding the non-disclosure of their identifying information to the Defence. Nor can the Panel give effect to the request of applicants who are non-protected SPO witnesses regarding the non-disclosure of their identifying information to the public.

³⁸ Report, para. 56.

³⁹ See Report, para. 56.

⁴⁰ **Victims 286/06** ([REDACTED]), **287/06** ([REDACTED]), **288/06** ([REDACTED]), **289/06** ([REDACTED]), **290/06** ([REDACTED]), **291/06** ([REDACTED]), **292/06** ([REDACTED]), and **293/06** ([REDACTED]), and **294/06** ([REDACTED]). See Report, para. 55. See also Annexes 2-10. See also F01594/A02, *Annex 2 to Prosecution Submission of Updated Witness List and Confidential Lesser Redacted Version of Pre-Trial Brief*, 9 June 2023, confidential.

⁴¹ [REDACTED].

⁴² F01296/A02, Specialist Prosecutor, *Annex 2 to Prosecution Submissions Pursuant to Decision F01229*, 15 February 2023, confidential, pp. [REDACTED].

1. Application Forms

26. The Panel notes the VPO's recommendation to follow past practice for dual status witnesses.⁴³

27. In this regard, the Panel recalls that it granted access to the Defence to redacted versions of Section 2 of the application forms and, where necessary, supporting documents of dual status witnesses, in accordance with a procedure previously set out in detail.⁴⁴

28. Following this same procedure,⁴⁵ the Panel will allow Victims' Counsel and the SPO to review the application forms *ex parte*, consult with the applicants, and submit any concerns that they have regarding disclosure of Section 2 of those forms to the Defence. The Panel recalls that, in this process, Victims' Counsel should make the applicants aware that, subject to redactions justified by fact-specific reasons if any, Section 2 of their application forms will be transmitted to the Defence.⁴⁶ The Panel observes that the application forms will *not* be shared with the public.

2. Identity of Applicants and Witness Codes

29. The Panel recalls that the legal test applicable for protective measures in relation to victims is the same as that applicable in relation to witnesses.⁴⁷

⁴³ Report, para. 56.

⁴⁴ F01348, Trial Panel, *Order on the Disclosure of Application Forms Pertaining to Dual Status Witnesses* ("Order on the Disclosure of Application Forms"), 6 March 2023, with Annexes 1-3, strictly confidential and *ex parte*. See also Sixth Decision, para. 23.

⁴⁵ Order on the Disclosure of Application Forms, paras 25, 27.

⁴⁶ *Ibid.*

⁴⁷ Sixth Decision, para. 24; Fifth Decision, paras 31-36. See also First Framework Decision, para. 47; First Decision, para. 67; F00611, Pre-Trial Judge, *Second Decision on Victims' Participation*, 10 December 2021, strictly confidential and *ex parte*, para. 50 (a public redacted version was filed the same day, F00611); F00817, Pre-Trial Judge, *Third Decision on Victims' Participation* ("Third Decision"), 25 May 2022, strictly confidential and *ex parte*, para. 42 (a public redacted version was filed on the same day, F00817/RED).

30. The Panel is satisfied that the objectively justifiable risks underlying the granting of the protective measures to [REDACTED] as SPO witnesses still exist and that these measures remain necessary vis-à-vis the public.⁴⁸

31. In addition, as regards all nine applicants (Victims 286/06, 287/06, 288/06, 289/06, 290/06, 291/06, 292/06, 293/06, and 294/06), the Panel recalls the general climate of witness and victim intimidation prevailing in Kosovo, particularly in criminal proceedings against former members of the Kosovo Liberation Army.⁴⁹ Further, the Panel is mindful that by virtue of their status as victims participating in the proceedings, these individuals are especially vulnerable.⁵⁰

32. On this basis, the Panel reiterates its finding that disclosure of the status of dual status witnesses to the public – at any point – poses an objectively justifiable risk to them and their families.⁵¹ For this reason, unless the dual status witnesses specifically waive this protective measure, the dual status of the applicants will not be revealed to the public and questions pertaining to their victim status should be asked in private session.

33. As regards the necessity of the protective measures, the Panel considers that, for the reasons set out above, the protective measures currently in force for

⁴⁸ See fn. 41 above.

⁴⁹ See IA015/F00005, Court of Appeals, *Public Redacted Version of Decision on Rexhep Selimi's Appeal Against Decision on Remanded Detention Review and Periodic Review of Detention*, 25 March 2022, para. 43; KSC-BC-2020-07, F00611, Trial Panel II, *Public Redacted Version of Trial Judgement*, 18 May 2022, paras 577-581, 593, 646-645, 968; KSC-BC-2020-05, F00494, Trial Panel I, *Public Redacted Version of Trial Judgement*, 16 December 2022, para. 50; F01212, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 17 January 2023, confidential, paras 22-23. A public redacted version was issued on the same day, F01212/RED; F01213, Trial Panel II, *Decision on Periodic Review of Detention of Rexhep Selimi*, 17 January 2023, confidential, paras 24-25 (a public redacted version was issued on 18 January 2023, F01213/RED); KSC-CA-2022-01, F00114, Appeals Chamber, *Appeal Judgment*, 2 February 2023, paras 424, 438.

⁵⁰ See First Decision, para. 68; Second Decision, para. 51; Third Decision, para. 43; F01152, Panel, *Fourth Decision on Victims' Participation* ("Fourth Decision"), 12 December 2022, strictly confidential and *ex parte*, para. 59 (a public redacted version was filed on 14 December 2022, F01152/RED); Fifth Decision, para. 32; Sixth Decision, para. 25.

⁵¹ Fifth Decision, para. 33; Sixth Decision, paras 25-26.

[REDACTED], as well as the protection vis-à-vis the public of the participating victim status of all nine applicants, constitute necessary measures.

34. As regards the proportionality of the measures, the Panel recalls that: (i) the witness codes and identities of dual status witnesses will be (or have been) disclosed to the Accused; and (ii) any protective measures ordered at this stage in relation to any of the admitted victims are without prejudice to their variation at a later stage, if and when the need arises.⁵²

35. In light of the above, the Panel finds that the protective measures currently in force vis-à-vis the public for [REDACTED] as SPO witnesses shall be maintained. The Panel also finds that the protection vis-à-vis the public of the victim status of the applicants is both necessary and proportionate.

36. Lastly, to facilitate the disclosure of information pertaining to dual status witnesses, the Panel orders:

- (a) Victims' Counsel to file an updated list of dual status witnesses admitted to participate as a result of the present decision, strictly confidential and *ex parte*, by **Friday, 26 January 2024**, to be notified to the WPSO and VPO;
- (b) Victims' Counsel to inform dual status witnesses that the fact that they are a participating victim will be disclosed to the Defence, and their redacted application form will be transmitted to the Defence. Should the dual status witnesses have any concerns, they can raise them with the Panel. Victims' Counsel should file any application for relief associated with the expression of such concerns by **Friday, 2 February 2024**; and

⁵² See First Decision, para. 69; Second Decision, para. 53; Third Decision, para. 45; Fourth Decision, para. 61; Fifth Decision, para. 35; Sixth Decision, para. 27.

- (c) Subject to any concerns, in the discretion of the Panel, the Panel will order that the updated list of dual status witnesses be reclassified as confidential, available to the Defence.

After the conclusion of this consultation process and the disclosure of the status of participating victims to the Defence, the Panel will transmit to the SPO and Victims' Counsel Section 2 of the application forms of [REDACTED] for their review consistent with the Panel's Order on the Disclosure of Application Forms of 6 March 2023.⁵³

D. GROUPING AND COMMON LEGAL REPRESENTATION

37. As regards the VPO's recommendation that all applicants be grouped together with the other victims participating in the proceedings,⁵⁴ the Panel recalls the Pre-Trial Judge's finding that a need to divide applicants into more than one group arises where the situation or specificity of the victims is so different that their interests are irreconcilable, making common representation impracticable.⁵⁵

38. The Panel observes that the nine applicants have different backgrounds, reside in different areas and speak different languages. At the same time, all nine applicants, whether direct and/or indirect victims, were subjected to similar alleged types of crimes in generally similar circumstances and have suffered from similar forms of harm. As a result, the Panel is of the view that all nine applicants seem to share a common interest of participating in the proceedings and pursuing their rights. Moreover, all aforementioned applicants have indicated that they do not object to being in a group with other victims.

⁵³ Order on the Disclosure of Application Forms, para. 30(b)-(c).

⁵⁴ Report, para. 48.

⁵⁵ First Framework Decision, para. 43; First Decision, para. 76. *See also* Second Decision, para. 58; Third Decision, para. 48; Fourth Decision, para. 69; Fifth Decision, para. 41; Sixth Decision, para. 32.

39. Based on these considerations, the Panel finds that all nine applicants shall be grouped together with the victims previously admitted, under Group 1.

40. Additionally, none of the applicants expressed preference with regard to legal representation.⁵⁶ The VPO recommends that all admitted applicants be represented by the assigned Victims' Counsel.⁵⁷ The Panel is satisfied that the recommended course is consistent with the effective guarantee of the rights of the applicants concerned.

41. Based on the same considerations previously set out,⁵⁸ the Panel finds that all nine applicants shall be represented by Victims' Counsel assigned to Group 1.

E. PARTICIPATION IN TRIAL PROCEEDINGS

42. All nine applicants shall exercise their rights through Victims' Counsel and shall participate through the modalities described in the First Decision on Victims' Participation and in accordance with the Order on the Conduct of Proceedings.⁵⁹

V. DISPOSITION

43. For these reasons, the Panel hereby:

- a. **GRANTS** the Applications and admits the nine applicants (Victims 286/06, 287/06, 288/06, 289/06, 290/06, 291/06, 292/06, 293/06, and 294/06) to participate as victims in the proceedings;
- b. **DECIDES** that the nine applicants shall be included in Group 1 for the purpose of common representation and shall be represented by Victims' Counsel for Group 1;

⁵⁶ Report, para. 49.

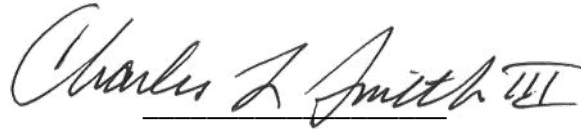
⁵⁷ Report, para. 50.

⁵⁸ Sixth Decision, para. 36. *See also* First Decision, para. 76; Second Decision, para. 58; Third Decision, para. 48; Fourth Decision, para. 69; Fifth Decision, para. 45; First Framework Decision, para. 43.

⁵⁹ *See* First Decision, paras 82-84, 85(d); F01226/01, Panel, *Annex 1 to Order on the Conduct of Proceedings*, 25 January 2023, paras 32-36; Fifth Decision, para. 46; Sixth Decision, para. 37.

- c. **ADOPTS** the participation modalities and rights of Victims' Counsel as set out in paragraph 73(d) of the Fourth Decision;
- d. **ORDERS** that the victim status of all applicants remain protected vis-à-vis the public and that the protective measures granted to [REDACTED] as SPO witnesses be maintained;
- e. **DECIDES** to maintain the classification strictly confidential and *ex parte* of all application forms, summaries and supporting documentation, without prejudice to the Defence's right to access redacted versions of Section 2 of the application forms of dual status victims and, where necessary, supporting material;
- f. **ORDERS** Victims' Counsel to:
 - i. file an updated list of dual status witnesses, strictly confidential and *ex parte*, by **Friday, 26 January 2024**, to be notified to the WPSO and VPO; and
 - ii. inform dual status witnesses that their participating victim status will be disclosed to the Defence and their redacted application form will be disclosed to the Defence, as set forth in paragraph 36 of this decision; and file before the Panel any concerns raised by dual status witnesses, if any, by **Friday, 2 February 2024**;
- g. **ORDERS** the Registry to reclassify the updated list of dual status witnesses as "confidential"; and

- h. **DIRECTS** the VPO to either file a public redacted version of the Report (F01850) or request the reclassification of F01850/CONF/RED as public, by **Friday, 26 January 2024.**

A handwritten signature in black ink, reading "Charles L. Smith III". The signature is written in a cursive style with a horizontal line underneath the name.

Judge Charles L. Smith, III

Presiding Judge

Dated this Monday, 22 January 2024

At The Hague, The Netherlands.