

**In:** KSC-BC-2020-06

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

**Before:** The Appeals Chamber

Judge Michèle Picard  
Judge Emilio Gatti  
Judge Kai Ambos

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Counsel for Kadri Veseli

**Date:** 15 June 2021

**Language:** English

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**Veseli Defence Response to  
Duty Counsel for Victim-Applicants' Appeal - KSC-BC-2020-06/IA005-F00004/RED**

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1. The fact that Rule 113(6) affords a victim-applicant the right to appeal the rejection of his application does not mean that he or she should exercise that right. With this in mind, the *Appeal against the "First Decision on Victims' Participation" pursuant to Rule 113(6) of the Rules*<sup>1</sup> ("Appeal") is, with respect, an academic exercise<sup>2</sup> devoid of legal merit.

2. The Defence for Kadri Veseli notes that Counsel for the rejected victim-applicants ("Counsel") does not specify any real error of law or fact arising out of the impugned decision. Rather, Counsel simply disagrees with the Pre-Trial Judge's rejection of victim status made *ex parte* and with the application of statutory criteria which do not leave any room for interpretation. In the circumstances, Counsel seeks to persuade the Appeals Chamber to legislate a new category of victims clearly not contemplated either by the statutory framework of the Kosovo Specialist Chambers or, for that matter, by the statutory framework of any other international criminal tribunal.

3. Substantively, the Pre-Trial Judge found that the applications lodged by Victim-Applicants 06/06, 08/06, 09/06, 10/06, 11/06, 13/06 and 14/06, fall without the temporal, geographical and material scope of the charges as specified in the confirmed indictment.<sup>3</sup>

4. Notwithstanding, Counsel appears to suggest that it is sufficient that a generic crime be alleged in an indictment for the victim of such a generic crime – without any

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<sup>1</sup> KSC-BC-2020-06/IA005-F00004/RED.

<sup>2</sup> Counsel makes erudite reference, for example, to both the Vienna Convention on the Law of Treaties and UN General Assembly Resolution 60/147 for the purpose of interpreting Article 22 of the KSC Law. Counsel, however, neglects the fact that the KSC Law is domestic legislation, subject to the Kosovo Constitution, and not to any international convention. A UN General Assembly Resolution is not even a treaty and, in any event, would have no binding effect under customary international law. As such, even if it were deemed to be of persuasive value, it cannot be used to interpret a provision of the KSC Law to the detriment of a suspect.

<sup>3</sup> KSC-BC-2020-06-F00257/RED at para. 48.

rational connection to the discrete alleged criminal conduct of a suspect – to be entitled to participatory status. In other words, Counsel argues that an individual who has suffered no direct harm as a result of events described in an indictment be permitted to assist in establishing the truth of those specific events and, thereafter, be entitled to reparation.

5. Such a proposition is both artificial and fallacious. If accepted, it would open the floodgates to an unmanageable torrent of speculative victim applications.

6. Article 22 of the KSC Law specifically states that a "*victim's personal interest and rights in the criminal proceedings before the Specialist Chambers are notification, acknowledgement and reparation*". Such "acknowledgment" can only relate to direct harm flowing from conduct imputed to a suspect and of which that suspect has been given advance notice in an indictment. Only with such notice would it be fair and in keeping with due process for a suspect, once convicted, to be obliged to make "reparation" to the victim in question.

7. The Appeals Chamber is respectfully requested to reject the Appeal.

**Word count: 524**



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