



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

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

**The 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:** 18 December 2024

**Language:** English

**Classification:** Public

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**Public Redacted Version of Decision on Victims' Counsel's Request for  
Resumption of Action Initiated by V254/06**

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**TRIAL PANEL II** (“Panel”), pursuant to Articles 3, 21(2), 22(3) and (6) and 23 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 4(1), 5, 80 and 114(4)(a) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 15 February 2023, the Panel granted V254/06’s application to participate as a victim in these proceedings.<sup>1</sup>
2. On 13 November 2024, Victims’ Counsel notified the Panel of V254/06’s death, and filed a request to permit [REDACTED] to resume the action initiated by V254/06 (“Request”).<sup>2</sup>
3. No responses to the Request were filed.

## II. SUBMISSIONS

4. Victims’ Counsel requests that the Panel allows [REDACTED] to resume the action of V254/06.<sup>3</sup> Victims’ Counsel submits that he has standing to bring the Request given that he was previously appointed to represent V254/06’s interests.<sup>4</sup> Victims’ Counsel asserts that, pursuant to the Specialist Chambers’ jurisprudence, a close relative or closely-connected individual is permitted to continue an action initiated by a victim who subsequently dies before the completion of proceedings.<sup>5</sup> Victims’ Counsel argues that, as a closely-connected individual of V254/06,

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<sup>1</sup> F01293, Panel, *Fifth Decision on Victims’ Participation* (“Fifth Decision on Victims’ Participation”), 15 February 2023, strictly confidential and *ex parte*, para. 47(a) (a public redacted version was filed on 20 February 2023, F01293/RED).

<sup>2</sup> F02717, Victims’ Counsel, *Victims’ Counsel’s Request for Resumption of Action Initiated by V254/06*, 13 November 2024, confidential (a public redacted version was filed on 14 November 2024, F02717RED), with Annex 1, strictly confidential and *ex parte*.

<sup>3</sup> Request, para. 11.

<sup>4</sup> Request, para. 7.

<sup>5</sup> Request, para. 8.

[REDACTED] should be permitted to participate as a victim in the current proceedings on V254/06's behalf.<sup>6</sup>

### III. DISCUSSION

5. The Panel notes that the question of whether a close family member or a closely-connected individual may continue the action of a deceased participating victim is not expressly regulated in the Law or in the Rules.<sup>7</sup>

6. However, as the Panel previously held, it is appropriate to interpret the participatory rights of victims in Rules 113 and 114 so as to extend to a participating victim's heirs in the event of death.<sup>8</sup> This interpretation is supported by Article 22(3) of the Law, which provides that victims have the right to notification, acknowledgement, and reparation. As noted by the Pre-Trial Judge, the right of acknowledgement requires that the harm suffered by the victim is recognised.<sup>9</sup> In order to guarantee the effectiveness of this right, relatives of deceased victims or closely-connected individuals may participate in their place if specific parameters are satisfied.<sup>10</sup> The European Court of Human Rights accepts that an application lodged by the original applicant before his or her death may be continued by heirs or close family members expressing the wish to pursue the

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<sup>6</sup> Request, para. 10.

<sup>7</sup> F01834, Panel, *Decision on Victims' Counsel's Request for Resumption of Action on Behalf of V252/06 by Relatives* ("V252/06 Decision"), 4 October 2023, strictly confidential and *ex parte* (a public redacted version was filed the same day, F01834/RED), para. 5. *See also* F01692, Panel, *Decision on Victims' Counsel's Request for Resumption of Action on Behalf of V131/06 by an Immediate Family Member* ("V131/06 Decision"), 21 July 2023, strictly confidential and *ex parte* (a public redacted version and a corrected public redacted version were filed the same day, F01692/RED and F01692/RED/COR), para. 5; F00611, Pre-Trial Judge, *Second Decision on Victims' Participation* ("Second Decision on Victims' Participation"), 10 December 2021, strictly confidential and *ex parte* (a confidential redacted version and a public redacted version were filed on the same date, F00611/CONF/RED, F00611/RED), para. 32.

<sup>8</sup> *See* V252/06 Decision, para. 6; V131/06 Decision, para. 6.

<sup>9</sup> *See* V252/06 Decision, para. 6; V131/06 Decision, para. 6. *See also* Second Decision on Victims' Participation, para. 32 referring to KSC-BC-2020-05, F00152, Trial Panel I, *Decision on Victims' Procedural Rights During Trial*, 12 July 2021, para. 16.

<sup>10</sup> *See* V252/06 Decision, para. 6; V131/06 Decision, para. 6. *See also* Second Decision on Victims' Participation, para. 32.

proceedings, provided that they have a sufficient/legitimate interest in the case.<sup>11</sup>

7. In order for an individual to stand in for the deceased victim, evidence must be provided that:

- a) the victim is deceased, and
- b) the individual seeking to resume the action on behalf of the deceased victim was a relative or closely-connected individual.<sup>12</sup>

8. In support of the Request, Victims' Counsel submitted: (i) the death certificate of V254/06; and (ii) an unreadable and untranslated document.<sup>13</sup> In addition, the Panel notes that, with the Ninth Report,<sup>14</sup> the Registrar provided the Pre-Trial Judge with: (i) the applications of [REDACTED] and V254/06 to participate as victims in the proceedings ("Applications");<sup>15</sup> and (ii) the documents supporting the Applications, *inter alia*, [REDACTED] and V254/06's identity documents and [REDACTED]'s birth certificate and [REDACTED] certificate ("Supporting Documents").<sup>16</sup> Each of these documents reflects its official nature based upon its letterhead, layout and official stamp<sup>17</sup> and the Panel is therefore satisfied of the authenticity and reliability of these documents. The Panel is further satisfied that the documents establish V254/06's death and that [REDACTED] is a close relative of V254/06. Accordingly, the Panel finds that Victims' Counsel's submissions

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<sup>11</sup> See ECtHR, *López Ribalda and Others v. Spain* [GC], nos. 1874/13 and 8567/13, 17 October 2019, paras 71-73; *Malhous v. the Czech Republic (dec.)* [GC], no. 33071/96, 12 July 2021; *Tagiyev and Huseynov v. Azerbaijan, no. 13274/08*, 5 May 2020, paras 23-24 (and the authorities cited therein).

<sup>12</sup> See V252/06 Decision, para. 6; V131/06 Decision, para. 6; Second Decision on Victims' Participation, para. 32 (and the authorities cited therein).

<sup>13</sup> F02717/A01, *Annex to Victim's Counsel's Request for Resumption of Action Initiated by V254/06* ("Annex to Request"), 13 November 2023, strictly confidential and *ex parte*.

<sup>14</sup> F01046, Registrar, *Ninth Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings* ("Ninth Report"), 20 October 2022, confidential and *ex parte* (reclassified as public on 21 October 2022).

<sup>15</sup> F01046/A05, *Annex 5 to the Ninth Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings*, 20 October 2022, strictly confidential and *ex parte*; and Supporting Documents.

<sup>16</sup> Ninth Report; [REDACTED] and Supporting Documents.

<sup>17</sup> Annex to the Request; [REDACTED] and Supporting Documents.

satisfy the requirements outlined above for the closely-connected individual to V254/06 to continue the action.<sup>18</sup>

#### IV. PROTECTIVE MEASURES

9. V254/06's identity is known to the Parties, as V254/06 was a dual status witness.<sup>19</sup> [REDACTED].<sup>20</sup>

#### V. DISPOSITION

10. For the foregoing reasons, the Panel hereby **GRANTS** Victims' Counsel's Request, and allows [REDACTED] to resume V254/06's action as a victim participating in the present proceedings.



**Judge Charles L. Smith, III**

**Presiding Judge**

Dated this Wednesday, 18 December 2024

At The Hague, the Netherlands.

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<sup>18</sup> This determination is without prejudice to the standing that V254/06's representatives may have to claim reparations if a conviction is entered.

<sup>19</sup> See F01676/CONF/A051, Panel, *Annex 51 to Notification of Application Forms of Dual Status Witnesses to the Defence Pursuant to F01348*, 13 July 2023, confidential.

<sup>20</sup> *Fifth Decision on Victims' Participation*, para. 36.