



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2023-10
The Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and Haxhi Shala

Before: **Trial Panel I**
Judge Mappie Veldt-Foglia, Presiding Judge
Judge Roland Dekkers
Judge Gilbert Bitti
Judge Vladimir Mikula, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Registrar

Date: 20 January 2025

Language: English

Classification: Public

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

with one strictly confidential and *ex parte* Annex

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Registry
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I. INTRODUCTION

1. The Victims' Participation Office ('VPO') hereby files a report ('Report') on victims' applications for participation in the proceedings pursuant to Rule 113(2) of the Rules.¹

2. With this Report, the VPO transmits to Trial Panel I ('the Panel') one application for the status of victim participating in the proceedings and provides a recommendation on admissibility, common representation and protective measures.

II. PROCEDURAL HISTORY

3. On 4 October 2023, the Specialist Prosecutor's Office ('SPO') filed a confirmed indictment against Mr Sabit Januzi ('Mr Januzi') and Mr Ismet Bahtijari ('Mr Bahtijari') ('Case 10 Confirmed Indictment').²

4. On 6 December 2023, the SPO filed a confirmed indictment against Mr Haxhi Shala ('Mr Shala') ('Case 11 Confirmed Indictment').³

5. On 8 February 2023, the Pre-Trial Judge granted the SPO's request to join the case against Mr Januzi and Mr Bahtijari ('Case 10') with the case against Mr Shala ('Case 11') and to amend the Case 10 Confirmed Indictment.⁴

¹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

² KSC-BC-2023-10, F00010, Submission of Confirmed Indictment, 4 October 2023, strictly confidential and *ex parte*, with Annex 1, strictly confidential. A public redacted version of the submission and of the Annex were filed on 6 October 2023, F00016 and F00016/A01.

³ KSC-BC-2023-11, F00007, Submission of Confirmed Indictment, 6 December 2023, public, with Annex 1, confidential. A public redacted version of the submission and of the Annex were filed on 12 December 2023, F00013 and F00013/A01.

⁴ KSC-BC-2023-10, F00161, Decision on Request for Joinder and Amendment of the Indictment, 8 February 2024, confidential; a public redacted version of the decision was issued on the same day, F00161/RED; KSC-BC-2023-11, F00041, Decision on Request for Joinder and Amendment of the Indictment, 8 February 2024, confidential; a public redacted version of the decision was issued on the same day, F00041/RED (collectively, 'Joinder Decision').

6. On 16 February 2024, pursuant to the Joinder Decision, the SPO filed an amended version of the Case 10 Confirmed Indictment ('Revised Case 10 Confirmed Indictment').⁵
7. On 17 May 2024, the Pre-Trial Judge granted the SPO leave to amend the Revised Case 10 Confirmed Indictment.⁶ On 8 July 2024, the Pre-Trial Judge confirmed the amendments contained in the Revised Case 10 Confirmed Indictment, and ordered the SPO to file a joint confirmed indictment concerning all three of the Accused.⁷
8. On 10 July 2024, the SPO filed a joint confirmed indictment ('Confirmed Indictment of 10 July 2024').⁸
9. On 13 November 2024, the SPO filed a notification of plea agreements concluded with Mr Januzi, Mr Bahtijari and Mr Shala.⁹
10. On 18 and 19 December 2024, the Panel held plea agreement hearings and issued an oral order concerning victims' participation. The Panel ordered the VPO to ensure that it immediately reaches out to assist any would-be applicants with the application process. The Panel further ordered that, should there be any applicants, the VPO file, by 20 January 2025, a report before the Panel, which includes: (i) a summary of the process of collecting the applications; (ii) the total number of applications received and the number of applications submitted; (iii) the number of direct and indirect victims whose applications have been submitted, and the type of documentation

⁵ KSC-BC-2023-10, F00176, Submission of amended Indictment with confidential Annex 1 and public Annex 2, 16 February 2024, public.

⁶ KSC-BC-2023-10, F00294, Decision on Prosecution Request to Amend the Indictment, 17 May 2024, confidential. A public redacted version of the decision was filed on 9 July 2024, F00294/RED.

⁷ KSC-BC-2023-10, F00377, Decision on the Confirmation of Amendments to the Indictment and Related Matters, 8 July 2024, confidential. A public redacted version of the decision was filed on 9 July 2024, F00377/RED.

⁸ KSC-BC-2023-10, F00379, Prosecution submission of confirmed amended Indictment with confidential Annexes 1 and 2 and public Annexes 3 and 4, 10 July 2024, public; KSC-BC-2023-10, F00379/A01, Confirmed Amended Indictment, 10 July 2024, confidential; KSC-BC-2023-10, F00379/A03, Public redacted version of 'Confirmed Amended Indictment', 10 July 2024, public.

⁹ KSC-BC-2023-10, F00596/COR, Corrected version or 'URGENT Prosecution notification of plea agreements with confidential Annexes 1-3', 13 November 2024, confidential.

accepted to prove identity, kinship, and guardianship; (iv) the type of harm alleged and the type of documentation submitted to prove such harm; (v) a summary of the protective measures requested and the VPO's recommendations regarding such measures; and (vi) a summary of the VPO's recommendation on admissibility, indicating the number of applicants proposed to be admitted or rejected, with a general description of the reasons for each group.¹⁰

11. The Panel further ordered that the VPO receive the Confirmed Indictment of 10 July 2024 and the plea agreements.¹¹

III. SUBMISSION OF APPLICATION

12. On 5 January 2025, the VPO met with [REDACTED] to provide information on victims' participation and assist with the application process, as ordered by the Panel. [REDACTED].

13. After the VPO provided [REDACTED] with all of the relevant information concerning victim participation and victims' rights under the Law¹² and concerning the application process, [REDACTED] ('Applicant') decided to apply for participation as a victim in the proceedings and the VPO assisted them with filling in the application form.

IV. ASSESSMENT OF APPLICATION

14. The VPO has assessed the formal completeness of the application form and the content of the application in light of the requirements stemming from the definition of a participating victim under Article 22(1) of the Law and Rule 113(1) of the Rules.

¹⁰ Transcript, Plea Agreement Hearing, 18 December 2024, pp. 398-400.

¹¹ Transcript, Plea Agreement Hearing, 19 December 2024, p. 603.

¹² Law on Specialist Chambers and Specialist Prosecutor's Office, Law No.05/L-053, 3 August 2015 ('Law').

A. COMPLETENESS OF APPLICATION FORM

15. In assessing the completeness of the application, the VPO considered whether: (i) there is sufficient proof of identity and, where relevant, kinship and/or legal guardianship; (ii) personal details are complete; (iii) all relevant sections of the Application Form are filled in; (iv) the date/period and location of the crimes, as well as the harm suffered, are sufficiently clearly indicated; (v) relevant and sufficient documentation has been submitted, to the extent possible; and (vi) the application is signed by the Applicant or his/her legal guardian.

16. The VPO notes that the application submitted with this Report can be considered as formally complete.

B. CRITERIA OF ADMISSIBILITY AND STANDARD OF PROOF

1. Standard of proof

17. In assessing the application and making its recommendation in this Report, the VPO applied the *prima facie* standard¹³ for all requirements.

2. Criteria of Admissibility

18. Article 22(1) of the Law provides that a victim is a natural person who has personally suffered harm, including physical, mental and material harm, as a direct result of a crime within the jurisdiction of the Specialist Chambers.

19. Rule 113(1) of the Rules further stipulates that a person claiming to be a victim of a crime alleged in the indictment may file an application for admission as a victim participating in the proceedings, specifying how he or she qualifies as a victim and providing the location and date of an alleged crime giving rise to harm.

¹³ Rule 113(4) of the Rules.

20. In assessing whether the Applicant meets the definitions set out in Article 22(1) of the Law and Rule 113(1) of the Rules, the VPO considered the requirements listed below, in light of the description of the events and supporting material, if available.

21. Consequently, the VPO's assessment and recommendation to the Panel is based on the following requirements:

(a) Natural person

22. The VPO notes that the application does not raise questions regarding the requirement for an applicant to be a "natural person". The Applicant submitted a valid identification card.

(b) Alleged crimes and general description of the application

23. The Applicant states that, [REDACTED]. They allege that [REDACTED].

24. As regards crimes, the VPO assesses whether the acts described in the application appear to constitute alleged crimes within the material, temporal and geographical scope of the indictment. As instructed by the Panel, the VPO based its assessment on the Confirmed Indictment of 10 July 2024.

25. The VPO notes that, in the Confirmed Indictment of 10 July 2024, the Accused are charged with: 1) *Obstructing official persons in performing official duties* and 2) *Intimidation during criminal proceedings*. The alleged crimes were committed between 5 April and 12 April 2023 at the home of Witness 1. The VPO further notes that [REDACTED].

26. Based on the Confirmed Indictment of 10 July 2024, the VPO assesses that the crimes that the Applicant claims to be a victim of fall within the material, temporal, and geographical parameters of the charges, as specified in the indictment.

(c) Harm and Direct result

27. As a [REDACTED] victim, the Applicant claims to have [REDACTED] as a result of the events described in the Confirmed Indictment of 10 July 2024. Specifically, the Applicant states that, as a result of these events, they have been [REDACTED].¹⁴

28. In reviewing the application, the VPO assessed [REDACTED] which is described sufficiently in detail.

29. Based on the Confirmed Indictment of 10 July 2024 and the information provided by the Applicant, the VPO assessed whether there is *prima facie* evidence of a causal link between harm and crime. The VPO assesses that the application meets this requirement on a *prima facie* basis.

C. RECOMMENDATION ON ADMISSIBILITY

30. As instructed, the VPO carried out the assessment based on the Confirmed Indictment of 10 July 2024, and recommends to the Panel to admit the Applicant as a participating victim.

31. However, the VPO notes that the recommendation does not consider possible changes to the crimes charged or to the factual basis as a result of the concluded plea agreements, if accepted by the Panel.¹⁵ In this respect, the VPO further notes that the crimes and the factual basis of the plea agreements are narrower compared to the Confirmed Indictment of 10 July 2024. While the temporal and geographical parameters of the charges in the plea agreements are the same in both documents, the plea agreements alter the material parameters of the charges. In particular, as regards the crime of *Intimidation during criminal proceedings*, it appears that all reference to threat is removed and only “promise of a gift or any other form of benefit” remains.¹⁶

¹⁴ The applicant indicated not having any documentation on harm.

¹⁵ See e.g. KSC-BC-2023-10, Transcript, 18 December 2024, pp. 387, 443-444, 447; KSC-BC-2023-10, Transcript, 19 December 2024, pp. 576, 586.

¹⁶ KSC-BC-2023-10, F00596/COR/A01, Annex 1 to Corrected version of ‘URGENT Prosecution notification of plea agreements’, confidential, paras 3 and 5; KSC-BC-2023-10, F00596/COR/A02, Annex

V. GROUPING OF VICTIMS AND COMMON LEGAL REPRESENTATION

32. Given that there is only one applicant, the VPO does not make any recommendation on grouping.

33. The Applicant did not indicate any preferences with regard to legal representation. If the Applicant is admitted, the VPO shall base its proposal for assignment of Victims' Counsel to the Registrar on a range of criteria, such as a demonstrated relationship of trust with victims, a demonstrated commitment to working with vulnerable persons, and relevant litigation expertise/experience.

VI. PROTECTIVE MEASURES

34. The Applicant requested non-disclosure of identifying information to the public.

35. The VPO reiterates that, pursuant to Rule 80(4)(a), (d) and (e) of the Rules, the measures relevant at this stage of proceedings are the following: (i) the redaction of names and identifying information from the Specialist Chambers' public records (Rule 80(4)(a)(i)); (ii) non-disclosure to the public of any records identifying the Applicant (Rule 80(4)(a)(ii)); (iii) the assignment of a pseudonym (Rule 80(4)(a)(vi)); (iv) non-disclosure to the Accused or Specialist Counsel of any material or information that may lead to the disclosure of the identity of the Applicant (Rule 80(4)(d)); or, in exceptional circumstances, and subject to any necessary safeguards, (vi) the non-disclosure to the Parties of any aforementioned material (Rule 80(4)(e)).

36. In making the recommendation on protective measures, the VPO applied the same legal test as in other cases, namely assessing whether: (i) the disclosure of the information in question poses an objectively justifiable risk to the protected person or interest; (ii) the protective measure is strictly necessary; and (iii) the protective

2 to Corrected version of 'URGENT Prosecution notification of plea agreements', confidential, paras 3 and 5; KSC-BC-2023-10, F00596/COR/A03, Annex 3 to Corrected version of 'URGENT Prosecution notification of plea agreements', confidential, paras 3 and 5.

measure is proportionate in view of the prejudice caused to the Accused and a fair trial.

37. The VPO reiterates that the Applicant [REDACTED].¹⁷ [REDACTED].

38. The VPO recommends that the Panel grant the protective measures of non-disclosure of any identifying information to the public. The VPO has assigned pseudonym Victim-01/10 to the Applicant.

39. The VPO considers that the above-requested protective measures are strictly necessary, appropriate and proportionate at this stage of the proceedings.

VII. CLASSIFICATION

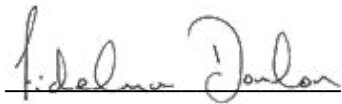
32. This filing is submitted as confidential and *ex parte*, [REDACTED]. The VPO will file a confidential and *ex parte* redacted version of this Report, in accordance with Rule 113 of the Rules. The VPO has no objection to the reclassification of the redacted version of the Report by lifting the *ex parte* marking so that it can be disclosed to the Parties, as it will contain no identifying information of the Applicant. In the event that the Panel decides to re-classify the redacted version of the Report, it may also constitute the report to the Parties pursuant to Rule 113(2) of the Rules. A public redacted version of the Report will be filed in due course.

33. Together with this Report, the VPO submits one strictly confidential and *ex parte* Annex, containing a summary of the application prepared by the VPO. The Annex contains the Applicant's identifying information and is therefore filed as strictly confidential and *ex parte* pursuant to Rule 113(2) and Rule 82(1) of the Rules.

¹⁷ [REDACTED].

34. The application form and supporting documentation will be disclosed only to the Panel through Legal Workflow, in accordance with Rule 113(1) of the Rules, which provides that application forms shall not be disclosed to the Parties.

Word count: 2,468

A handwritten signature in dark ink, appearing to read 'Fidelma Donlon', written over a horizontal line.

Dr Fidelma Donlon
Registrar

Monday, 20 January 2025
At The Hague, the Netherlands