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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 Guénaël Mettraux Judge Fergal Gaynor, Reserve Judge
Registrar:	Dr Fidelma Donlon
Filing Participant:	Counsel for Hashim Thaçi Counsel for Kadri Veseli Counsel for Rexhep Selimi Counsel for Jakup Krasniqi
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Public Redacted Version of Joint Defence Response to Victims' Counsel's Request for Partial Reconsideration of Decision F03533

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I. INTRODUCTION

1. The Defence for Messrs. Thaçi, Veseli, Selimi and Krasniqi ("the Defence") hereby file their response to the Victims' Counsel's Request for Partial Reconsideration of the Decision on Victims' Counsel's Request for Admission of Evidence Pursuant to Rule 153 and Rule 155[1] ("Request"). Instead of establishing that the requirements of Rule 79 have been met in respect of the Decision,[2] the Request is replete with attempts by Victims' Counsel ("VC") to relitigate the standard concerning requests for anonymity pursuant to Rule 80(4)(e), notwithstanding that the standard in question has been established and consistently applied in the jurisprudence of the KSC and of other international tribunals.

2. Further, instead of acknowledging the failure to abide by the relevant standard at the time of the original tender,[3] VC maintains that this standard was not binding, and that the Decision unjustifiably favored the rights of the Accused to confront the evidence against them over the rights of victims to have their harm acknowledged. As such, VC argues that the Trial Panel erred in not rewarding this failure by advancing the interests of the victims to the detriment of the rights of the Accused, even though the participation of victims in the proceedings is only permitted insofar as it is not prejudicial to or inconsistent with the rights of the Accused,[4] and therefore any determination of protective measures must ensure that the rights of the Accused are at all times the primary consideration, whereas the rights of witnesses and victims remain a secondary consideration.[5]

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[1] KSC-BC-2020-06/F03554, Victims' Counsel's Request for Partial Reconsideration of the Decision on Victims' Counsel's Request for Admission of Evidence Pursuant to Rule 153 and Rule 155, 31 October 2025.
[2] KSC-BC-2020-06/F03533, Decision on Victims' Counsel's Request for Admission of Evidence Pursuant to Rule 153 and Rule 155, 21 October 2025 ("Decision").
[3] KSC-BC-2020-06/F03363, Victims' Counsel's Request for Admission of Evidence Pursuant to Rule153 and Rule 155 and Related Request, 23 July 2025.
[4] Article 22(6) of the Law.
[5] ICTY, *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, Decision on Prosecution Motion for Trial Related Protective Measures for Witnesses (Croatia), 30 July 2002, para. 4; *Prosecutor v. Brđanin* & *Talić,*

3. Therefore, as the VC has failed to establish the requirements for certification pursuant to Rule 79, the Request should be rejected.

II. SUBMISSIONS

4. From the outset, the Request alleges that the Decision imposes upon the concerned Participating Victims ("VPPs") a false dilemma, namely to choose between the acknowledgment of their harm and their security,[6] and that the Trial Panel's alleged imposition of this choice on the VPPs deprives them of their rights protected by Article 22(3) of the Law.[7] This premise is predicated on a fundamentally flawed and deliberately misleading reading of the Decision.

5. The Decision underscores that the rights of the Accused to confront the evidence against them and to be shielded from anonymous accusations can only be curtailed through the imposition of protective measures when objectively justifiable risks exist in respect of their accusers.[8] As such, the Decision highlights that the VC's failure to establish the existence of such objectively justifiable risks cannot serve as a justification for curtailing the aforementioned rights of the Accused.[9] Indeed, as previously held by the Trial Panel, the VPP's interests in the ascertainment of the truth does not eliminate the need for a Party or participant to establish the requirements of admissibility in respect of the evidence being offered,[10] - requirements which serve to, *inter alia,* protect the Accused from undue prejudice.

Case No. IT-99-36-PT, Decision on Motion by Prosecution for Protective Measures, 3 July 2000, para. 20; Decision on Second Motion by Prosecution for Protective Measures, 27 October 2000, para. 18; *Prosecutor v. Sainović & Ojdanić,* Case No. IT-99-37-AR65, Decision on Provisional Release, 30 October 2002, Dissenting Opinion of Judge David Hunt, para. 73.

[6] Request, para. 15.

[7] Request, para. 60.

[8] Decision, para.22.

[9] Decision, paras. 23-24.

[10] KSC-BC-2020-06/F03438, Decision on Request for Partial Reconsideration of the Decision on Victims' Counsel's Request for Admission of Documents Through the Bar Table, 3 September 2025, para. 22.

6. Therefore, the Trial Panel did not impose at any point the false choice upon the VPPs, as alleged by VC, but instead simply refused to sanction the imposition of protective measures limiting the rights of the Accused because VC did not adduce enough support in respect of his application to satisfy the requirements of Rule 80(4)(e). Hence, the effect of the Decision on the rights of the VPPs as claimed by the VC is a direct consequence of the refusal to abide by the relevant requirements for the granting of anonymity.

7. Nonetheless, VC accuses the Trial Panel of several purported errors of reasoning, which he seeks to establish through (i) attempts to minimize the impact of the admission of the Supplementary Information on Harm ("SIHs") on the rights of the Accused;[11] (ii) claims that the Trial Panel adopted a wrong test in applying Rule 80(4)(e);[12] and (iii) allegations that the Trial Panel erred in relying on the jurisprudence of the ICC and the STL.[13] These submissions are addressed below.

A. The Request wrongly downplays the impact of the SIHs on the rights of the Accused

1. Status of the VPP's application forms

8. Throughout the Request, VC consistently categorizes the impact of the SIHs on the Accused as *de minimis* by claiming, *inter alia,* that the allegations contained in the SIHs are already on the record and the SIHs merely expand on that evidence, that there is no need for the Accused to confront the evidence in the SIHs in light of their minimal impact, and that there is no entitlement for the Accused to challenge such material.[14] These submissions are borne out of an inapposite

[11] Request, paras. 19, 21, 56-58.
[12] Request, paras. 20-32.
[13] Request, paras. 34-40.
[14] Request, 19, 21, 56-58.

interpretation of the KSC legal framework concerning the admission and use of evidence.

9. Foremost, the VC maintains that the application forms of the single status VPPs have been provided at the time of the victim's admission to participate in the proceedings "remain on the record of the case" and provide *prima facie* evidence of harm that "will necessarily form the basis of the Panel's acknowledgment of these VPP's harm in the Judgment and of a possible future order on reparations."[15] The VC claims that this state of affairs has already resulted in prejudice to the Defence, and that the existing prejudice will not be compounded by the admission of the VPP's SIHs.[16] The VC further avers that Rule 113(1) allowing such application forms to be submitted anonymously necessarily entails that the Rules allow VPPs to submit evidence of harm anonymously.[17]

10. The Request fundamentally misconstrues the status and possible use of the application forms in these proceedings. In particular, the application forms are not *prima facie* evidence of harm for the purposes of trial proceedings. Instead, as the Trial Panel determined in response to the VC's claim that the forms qualify as some form of *prima facie* trial evidence, which VC now claims has been left unaddressed in the Decision,[18] the application forms are merely procedural requirements necessary for the VPPs' application process.[19] This was confirmed by the Pre-Trial Judge, who held that "victim application forms have a limited purpose and, as administrative documents, are primarily intended to enable the Pre-Trial Judge or Trial Panel to assess whether victims should be admitted to participate in the proceedings. The victim application forms are *not intended to be*

[15] Request, para. 19.
[16] Request, paras. 56-59.
[17] Request, para. 19.
[18] Request, para. 19.
[19] Decision, paras. 17-18.

used as evidence in the present case […] [emphasis added]."[20] The Pre-Trial Judge has also specifically declined to assess the admissibility of application forms by reference to Rule 138 and/or Rules 153-155, and has instead relied on factors such as the intrinsic coherence of the application or whether the information contained therein is "manifestly non-authentic" or not.[21]

11. Hence, application forms have never been intended to serve as evidence, and their admissibility was assessed based on a completely different standard compared to that applicable to evidence adduced at trial. VC's submissions that the application forms constitute some in-between category of evidence that is not recognized by the KSC legal framework, and that they can therefore be used by the Trial Panel in its judgment in addressing the issue of sentencing and in a possible order for reparations[22] are therefore misguided.

12. The VC's claim that the KSC legal framework allows the Trial Panel to account for "any relevant information" when determining the appropriate sentence[23] is opaque. It is unclear whether VC avers that this entails that the application forms can already be used by the Trial Panel for the purposes of a potential sentence determination, therefore further minimizing the prejudice occasioned by the admission of the SIHs. At the same time, VC's submissions may also be understood as claiming that the SIHs should be admitted at this stage as "any relevant information" within the meaning of Rule 162(1).

13. If VC argues the former, this conveniently ignores that Rule 162(5) provides that "[f]or the determination of the sentence, the Panel shall rely on the evidence presented and, at the request of the Parties and, where applicable, Victims'

[20] KSC-BC-2020-06/F01153, Decision on Thaçi Defence's Request for Disclosure of Dual Status Witnesses, 13 December 2022, para. 30.
[21] KSC-BC-2020-06/F00257, First Decision on Victims' Participation, 21 April 2021, para. 43.
[22] Request, paras. 19, 57.
[23] Request, paras. 51-52.

Counsel and if necessary, it may hear additional evidence." Further, KSC Trial Panels have consistently emphasized that "the Parties and Victims' Counsel must, therefore, have planned for and presented at trial all evidence they considered relevant to sentencing."[24] Indeed, the Trial Panel in Case 07 has confirmed that sentencing submissions must be based only on admitted evidence,[25] and when the Parties intended to supplement the evidence presented during the proceedings, their respective tenders were assessed by reference to the ordinary rules of admissibility.[26] VC's averment that the reference to "any relevant information" in Rule 162(1) entitles the Parties and participants to rely on unadmitted material in their sentencing submissions, thereby circumventing the procedure for tendering additional sentencing evidence envisaged by Rule 162(5), is therefore incompatible with the Rules and with the practice of the KSC Trial Panels on the issue. For these reasons, the suggestion that the application forms amount to sentencing evidence and that the admission of the SIHs would not cause additional prejudice, since they merely supplement the application forms, ought to be discarded.

14. In contrast, if VC argues the SIHs should be admitted at this stage as "any relevant information", this invitation is plainly at odds with the timeline established by Rule 162(1) whereby such submissions must be made within 15 days of the issuance of the trial judgment, and only in the event that the Trial Panel decides to adopt a bifurcated procedure on the issuance of a sentencing

[24] KSC-BC-2020-05/F00439, Decision on the closing of the evidentiary proceedings and related matters, 20 June 2022, para. 15; KSC-BC-2020-07/F00553, Decision on the Closing of the Evidentiary Proceedings and on Submissions Pursuant to Rules 134(b), (d) and 159(6) of the Rules, 3 February 2022, para. 16; KSC-BC-2020-07/F00572, Decision on SPO Request for Disclosure of Additional Sentencing Evidence, 10 March 2022, para. 11; KSC-BC-2020-07/F00578, Decision on Sentencing Evidence, 16 March 2022, para. 16.
[25] KSC-BC-2020-07/F00578, Decision on Sentencing Evidence, 16 March 2022, para. 17.
[26] KSC-BC-2020-07/F00578, Decision on Sentencing Evidence, 16 March 2022, paras. 18-21.

judgment separate from the trial judgment. Such a request is therefore entirely premature.

15. In a similar vein, concerning the VC's argument that the application forms may be considered for the purposes of reparations,[27] thereby further minimizing the impact that the admission of the SIHs would have on the Defence, the Trial Panel has not yet decided whether it will issue a reparation order in the event of conviction or if it will refer the VPPs to civil litigation.[28] Further, even if the Trial Panel elects to issue a reparation order, the practicalities of the reparations procedure, and in particular the material that may be used in determining the reparation award, have yet to be decided. Therefore, VC's submissions that the application forms will necessarily form part of any future reparation order are speculative and unsubstantiated.

16. Thus, as the application forms do not have the evidentiary value professed by the VC, the Trial Panel was correct in dismissing the VC's argument that Rule 113(1) provides an avenue for single status VPP to submit evidence anonymously due to the different purpose that the submission of application forms pursuant to Rule 113(1) serves. In contrast, the SIHs, if admitted pursuant to Rule 153, would instead constitute independent evidence of harm. That evidence may then be used in the determination of the Accused's sentence in the event of a conviction. Similarly, should the Trial Panel decide to issue a reparation order, the SIHs may be considered by the Trial Panel in the determination of the reparation award based on their status as admitted evidence. The Trial Panel was therefore entirely justified in recognizing the prejudice inherent to an outcome where the Accused's potential sentence and

[27] Request, para. 53.
[28] KSC-BC-2020-06/F03565, Order for Submissions on Reparation Proceedings, 6 November 2025.

financial liability would be impacted by the evidence of anonymous accusers that the Defence has no avenue to confront.

2. The Accused's right to confront the evidence in the SIHs

17. The VC's claim that there is no right for the Accused to respond to material impacting their potential sentence and financial liability plainly ignores the jurisprudence of the KSC and other international tribunals, and the cardinal principle prohibiting anonymous accusations.[29]

18. The Trial Panel in Case 07 underscored the necessity of affording the parties the possibility to make full and effective submissions on sentencing.[30] Naturally, the Defence's ability to make informed submissions on sentencing is dependent on whether the Defence is in possession of the evidence underpinning the determinative factors that the Trial Panel may consider in imposing the sentence. Conversely, the VC fails to explain how the Defence can make informed submissions on accusations stemming from anonymous sources, or how it is supposed to exercise its right to request the admission of additional sentencing evidence pursuant to Rule 162(5) to rebut such allegations when it cannot ascertain who the accusers are.

19. In a similar context, the STL has relevantly held that "[w]here a VPP is found to have suffered harm resulting from an act for which an accused is held criminally responsible, and then proceeds against the accused for compensation, the accused is entitled to know the identity of the claimant VPP in order to be able to contest whether the claimant was indeed harmed by the accused's alleged

[29] ICC, *Prosecutor v. Lubanga,* Case No. ICC-01/04-01/06, Decision on the Arrangements for the Participation of Victims a/0001/06, a/0002/06 and a0003/06 at the Confirmation Hearing, 22 September 2006, p. 7.
[30] Case KSC-BC-2020-07, Transcript of 17 March 2022, p. 3853; KSC-BC-2020-07/F00578, Decision on Sentencing Evidence, 16 March 2022, para. 17.

criminal act, and is thereby entitled to seek compensation."[31] The VC's suggestion that the rights of the Accused do not encompass the right to respond to accusations that may impact upon his financial liability is therefore plainly misguided.

20. Nonetheless, the VC claims that there is no need for the Defence to rebut the allegations in question since the Trial Panel's decision to admit the SIHs of dual status VPPs absent cross-examination necessarily entails that there is no need for the Defence to challenge the SIHs of single status VPPs.[32] However, this attempt to equate the SIHs of dual status VPPs with those of anonymous single status VPPs blatantly ignores that the Defence is in a position to make submissions on the weight to be accorded to the admitted evidence of dual status VPPs on account of their identity having been disclosed to the Defence. The Defence may also avail itself of the avenues prescribed in the Rules for leading additional evidence in order to rebut the evidence proffered by the dual status VPPs should it so wish.[33] [REDACTED].[34]

21. In contrast, had the SIHs been admitted on the condition of anonymity, none of the abovementioned opportunities to address the evidence of single status VPPS would have been available to the Defence, and the Trial Panel was correct in recognizing the prejudice inherent to this outcome.[35]

22. Concerning the VC's claim that the right of the Accused to challenge the evidence against them is not unqualified and therefore does not include the right to respond to the SIHs,[36] while the Accused's right to confrontation is not absolute,

[31] *Prosecutor v. Ayyash et al,* Case No. STL-11-01/PT/PTJ, Decision on the Legal Representative of Victims' First, Second and Third Motions for Protective Measures for Victims Participating in the Proceedings, 19 December 2012, para. 24.
[32] Request, paras. 54-55.
[33] See, *inter alia,* Rules 133 and 162(5).
[34] [REDACTED].
[35] Decision, para. 21.
[36] Request, para. 47.

it may only be limited subject to necessary safeguards and insofar as the proposed limitations have a legitimate aim, are strictly necessary and proportionate, and do not otherwise undermine the essence of the Accused's fair trial rights.[37]

23. First, the VC fails to establish that the only avenue through which the single status VPPs may realize their right to acknowledgment is through the admission of their SIHs. While VC argues that "[t]he right to acknowledgement must be understood to mean the Panel permitting a more detailed account of harm suffered than is available in the often sparse descriptions in the application forms",[38] he provides no jurisprudential support for this position, and makes no attempt to substantiate his approach as to why the victim's right to acknowledgment cannot be safeguarded through less intrusive means other than infringing the Accused's right to confront evidence relevant to their potential sentence and financial liability. Consequently, the VC has failed to establish the legitimacy, necessity and proportionality of his requested limitation on the Accused's fair trial rights.

24. Second, and for the reasons outlined below, the protection of single status VPPs whose security concerns have not been demonstrated to the requisite extent owing to the VC's maintained refusal to provide individualized submissions in their respect does not constitute a legitimate aim for limiting the Accused's right of confrontation.

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[37] KSC-BC-2020-06/F03322, Decision on Victims' Counsel's Request for Admission of Evidence pursuant to Rule 153, 9 July 2025, para. 18; ICC, *Prosecutor v. Al Hassan,* Case No. ICC-01/12-01/18 OA4, Judgment on the appeal of the Prosecution against Trial Chamber X's "Decision on second Prosecution request for the introduction of P-0113's evidence pursuant to Rule 68(2)(b) of the Rules", 13 May 2022, para. 78; *Prosecutor v. Said,* Case No. ICC-01/14-01/21, Decision on the Defence's Request for Leave to Appeal the 'Decision on the Prosecution's First, Second and Fourth Requests Pursuant to Rule 68(2)(b) of the Rules' (ICC-01/14-01/21-507-Conf), 28 November 2022, para. 22; ECtHR, *Van Mechelen and Others v. The Netherlands,* Application nos. 21363/93, 21364/93, 21427/93 and 22056/93, Judgment, 23 April 1997, paras. 57-58.
[38] Request, paras. 15, 43.

B. The Trial Panel applied the correct test in relation to Rule 80(4)(e)

1. Individualised assessment requirement

25. The VC's claim that the Trial Panel committed an error of reasoning in requiring that an individualised assessment be conducted in respect of each VPP demanding anonymity[39] ignores the established practice in the assessment of anonymity requests made by witnesses and misleadingly argues that the assessment made by the Pre-Trial Judge in respect of the VPPs is transposable and dispositive in these circumstances.

26. The VC ignores the requirement that, when determining whether protective measures are warranted, the Trial Panel must be satisfied that "there is an objective basis justifying such a measure in respect of the witness concerned", and the onus of establishing such a basis rests with the requesting Party.[40] Equally, the Trial Panel determined, at the outset of the trial, that "it will not grant protective measures based on generic claims or allegations *that do not specifically pertain to the witness concerned* or which have not been adequately established [emphasis added]."[41] The Trial Panel in Case 07 has previously denied granting protective measures where the requesting Party did not provide "specific personal or contextual circumstances" in respect of the witness for whom protective measures are requested, or "concrete or verifiable information relating to specific individual(s) with respect to whom the likelihood of danger or risk standard could effectively be assessed."[42] The Trial Panel in Case 07 has

[39] Request, para. 20.
[40] KSC-BC-2020-06/F01226/A01, Annex 1 to Order on the Conduct of Proceedings, 25 January 2023, para. 66.
[41] KSC-BC-2020-06/F01226/A01, Annex 1 to Order on the Conduct of Proceedings, 25 January 2023, para. 68.
[42] KSC-BC-2020-07/F00303, Decision on the Prosecution Request for Protective Measures, 7 September 2021, para. 15.

also refused to grant protective measures for witnesses in respect of whom the information adduced applies to virtually all individuals in their category.[43]

27. Similarly, the Pre-Trial Judge determined that one of the factors to be assessed in determining whether a witness is entitled to anonymity is the personal circumstances of the witness, and the Pre-Trial Judge has instructed the requesting Party to provide more specific submissions in that regard to demonstrate the existence of objectively justifiable risks in respect of every witness for whom anonymity was requested.[44] The jurisprudence of other international tribunals further confirms the requirement of individualized submissions in the assessment of a request for anonymity.[45] Therefore, VC has been on notice that the demonstration of exceptional circumstances warranting anonymity pursuant to Rule 80(4)(e) requires him to present individualized submissions.

28. However, VC may argue that the single status VPPs do not constitute "witnesses" and therefore the heightened requirements that apply to the granting of protective measures in respect of witnesses are inapplicable to them. This argument ignores that, by virtue of the VC tendering their SIHs pursuant to Rule 153, which concerns the admissibility of "the written statement of a *witness*, or a transcript of evidence provided by a *witness* in proceedings before the Specialist Chambers", the position of single status VPPs is virtually indistinguishable from that of witnesses in these proceedings. Similarly, due to the use that their evidence may be put, there is no reason why the security

[43] KSC-BC-2020-07/F00373, Decision on the WPSO Request for Protective Measures, 15 October 2021, para. 24.
[44] KSC-BC-2020-06/F00133/COR/CONF/RED, Confidential Redacted Version of Corrected Version of First Decision on Specialist Prosecutor's Request for Protective Measures, 10 December 2020, para 109.
[45] ICC, *Prosecutor v. Mbarushimana,* Case No. ICC-01/04-01/10, Decision on the Prosecution's applications for redactions pursuant to Rule 81(2) and Rule 81(4), 20 May 2011, para. 12; STL, *Prosecutor v. Ayyash et al,* Case No. STL-11-01/PT/PTJ, Decision on the Legal Representative of Victims' First, Second and Third Motions for Protective Measures for Victims Participating in the Proceedings, 19 December 2012, paras. 16, 32-34.

concerns of single status VPPs should be judged by reference to a more lenient standard where the potential impact that their evidence may have on the Accused's potential sentence and financial liability is comparable to the evidence of a witness. The sole reason why the single status VPPs do not feature as such on the VC's witness list is due to his proposition that their evidence can be admitted without recourse to the ordinary rules of admissibility, which has been rejected by the Trial Panel.[46]

29. With respect to the claim that the granting of anonymity to the single status VPPs by the Pre-Trial Judge without individualised assessments being conducted entails that the threshold of "exceptional circumstances" has been already demonstrated in their respect,[47] the VC conspicuously ignores the preliminary nature of that assessment. As recognized by the Trial Panel, the assessment in question may need to be revisited in light of the elevated participation in the proceedings of the victims concerned.[48] VC nonetheless takes issue with the Trial Panel's determination to that effect, claiming that the Trial Panel arrived at that conclusion on the basis of the jurisprudence of the ICC and of the STL that is inapplicable in this case in light of the KSC legal framework concerning victim participation and the security context in which the KSC operates.[49] However, the VC remarkably fails to acknowledge that the principles deriving from the ICC and STL jurisprudence concerned[50] have been upheld by several KSC Panels.

[46] KSC-BC-2020-06/F03340, Consolidated Decision on Victims' Counsel's Requests for Admission of Supplementary Information on Harm (F03208, F03279, and F03301), 17 July 2025, para. 23.
[47] Request, para. 20.
[48] Decision, para. 18.
[49] Request, paras. 34-40.
[50] In particular, STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/AC/AR126.3, Decision on Appeal by Legal Representative of Victims Against Pre-Trial Judge's Decision on Protective Measures, 10 April 2013; ICC, *Prosecutor v. Ngudjolo*, ICC-01/04-02/12-140, Decision on the participation of anonymous victims in the appeal and on the maintenance of deceased victims on the list of participating victims, 23 September 2013

30. In particular, the Pre-Trial Judge has confirmed that "[p]rotective measures in place for the Participating Victims are adjustable, mindful of the stage of the proceedings and the modalities of participation, under Article 22 of the Law and Rule 114 of the Rules, and may need to be reassessed."[51] The Pre-Trial Judge further underscored that the protective measures granted to VPPs are independent from any protective measures that they may be granted should they also become witnesses.[52] Similarly, the Appeals Panel has determined that the anonymity of victims may be warranted where their degree of participation is limited, such as in the case of pre-trial proceedings, but that their anonymity may need to be lifted should their participation in the proceedings increase.[53] The Appeals Panel equally stressed that "that the participation of anonymous victims may, in certain circumstances, infringe the accused's right to a fair trial" and that "[s]hould a VPP be called to appear as a witness, for example, the protective measures in place for the VPP might need to be reassessed."[54]

31. Notably, in reaching the above determination, the Appeals Panel specifically relied on the ICC and STL jurisprudence relied upon by the Trial Panel[55] that the VC claims is inapplicable in this context.[56] VC's arguments to the effect that the Trial Panel erred in relying on that jurisprudence because of the textual

[51] KSC-BC-2020-06/F01153, Decision on Thaçi Defence's Request for Disclosure of Dual Status Witnesses, 13 December 2022, para. 35.
[52] KSC-BC-2020-06/F00257, First Decision on Victims' Participation, 21 April 2021, para. 69.
[53] KSC-BC-2020-06/IA023/F00006/COR, Decision on Veseli's Appeal Against "Third Decision on Victims' Participation", 15 September 2022, para. 47.
[54] KSC-BC-2020-06/IA023/F00006/COR, Decision on Veseli's Appeal Against "Third Decision on Victims' Participation", 15 September 2022, para. 49.
[55] Decision, para. 19, fn. 50.
[56] KSC-BC-2020-06/IA023/F00006/COR, Decision on Veseli's Appeal Against "Third Decision on Victims' Participation", 15 September 2022, para. 49, fn. 114, 116. As per fn. 20, "STL Decision" relates to STL, *Prosecutor v. Ayyash et al.*, STL-11-01/PT/AC/AR126.3, Decision on Appeal by Legal Representative of Victims Against Pre-Trial Judge's Decision on Protective Measures, 10 April 2013, whereas as per fn. 40, "Ngudjolo Appeal Decision" relates to ICC, *Prosecutor v. Ngudjolo*, ICC-01/04-02/12-140, Decision on the participation of anonymous victims in the appeal and on the maintenance of deceased victims on the list of participating victims, 23 September 2013, both cited in the Decision, para. 19, fn. 50.

differences between the Rome Statute and the Statute of the STL on the one hand and the Law on the other;[57] the fact that the accused at the ICC or the STL do not enjoy widespread popular support;[58] or that the Lebanese authorities supported the VPPs at the STL whereas Kosovar authorities are inclined to turn a blind eye or even intimidate victims[59] are not only unsubstantiated and irrelevant, but also plainly contradict the jurisprudence of the KSC on the issue. Further, specifically with respect to the VC's serious allegation that Kosovar authorities are oblivious to the interests of victims or are otherwise prone to undermine their position, the VC's assertion is speculative, unsupported by any factual findings or sources, and risks undermining confidence in domestic institutions without any basis. [REDACTED][60] [REDACTED], and the lack of particulars in the VC's example further renders it impossible to ascertain the exact context in which this alleged instance of intimidation occurred, and whether it was motivated by such an attitude.

32. Notwithstanding the breadth of authorities requiring VC to present individualised submissions, it is maintained that "the circumstances of vulnerability and [REDACTED] of the VPPs concerned […] sufficiently individualises the risks to the safety, physical, and psychological well-being of each of the VPPs concerned."[61] VC presents several factors supporting the alleged risks to the safety and well-being of the VPPs concerned,[62] yet none of these submissions pertain to the individual circumstances of the single status VPPs. Instead, they fall squarely within the category of "generic claims or allegations that do not specifically pertain to the witness concerned", which the Trial Panel has determined to be insufficient for the purposes of demonstrating

[57] Request, para. 36.
[58] Request, para. 37.
[59] Request, para. 38.
[60] Request, para. 29.
[61] Request, para. 32.
[62] Request, paras. 23-31.

the existence of an objectively justifiable risk.[63] While the Request contains sporadic allusions to the predicaments of certain VPPs,[64] these references are entirely non-specific in that they fail to identify even the VPP concerned, and the small number of incidents so described markedly fails to justify the existence of objectively justifiable risks with respect to all 50 VPPs.

33. For these reasons, the VC's continued refusal to abide by the well-established requirement to provide individualized evidence in respect of a request for anonymity is not a legitimate aim for which the right of the Accused to challenge the evidence against them can be justifiably limited. Therefore, the Trial Panel committed no error of reasoning neither by requiring the VC to present such individualised submissions, nor by refusing to curtail the rights of the Accused in light of that failure.

2. Requirement of exceptional circumstances

34. The VC claims that the Trial Panel erred by assessing the request against the allegedly elevated standard of "extraordinary circumstances" as opposed to the "exceptional circumstances" standard contained in Rule 80(4)(e),[65] but he fails to demonstrate how the Trial Panel's assessment actually resulted in a stricter standard being applied. As outlined above, a request for anonymity, or any request for protective measures, must be accompanied by individualized submissions in respect of each individual concerned in order to establish the existence of an objectively justifiable risk to that individual, and, in respect of individuals for whom anonymity is requested, whether exceptional circumstances exist that warrant such an exceptional measure. It is only on the basis of such individualized submissions that the existence of exceptional

[63] KSC-BC-2020-06/F01226/A01, Annex 1 to Order on the Conduct of Proceedings, 25 January 2023, para. 68.
[64] Request, para. 27.
[65] Request, para. 20.

circumstances can be determined. However, by virtue of the VC's failure to provide such individualized submissions, the Trial Panel had no information available to even assess the existence of exceptional circumstances. Therefore, the VC's incomplete application entailed that the Trial Panel was neither in a position to, nor required to, apply the Rule 80(4)(e) standard.

35. Further, the Pre-Trial Judge, in assessing previous Rule 80(4)(e) applications, has also used the standard of "extraordinary circumstances" interchangeably with that of "exceptional circumstances".[66] In that respect, VC has provided no arguments as to why a reference to "extraordinary circumstances" necessarily entails an elevated standard. Even if it did, the result of the assessment would have been substantially the same, as the VC's failure to provide individualized submissions effectively impaired the Trial Panel's ability to conduct an assessment informed by either standard.

36. For these reasons, VC has failed to demonstrate that the Trial Panel committed any error of reasoning in its application of the Rule 80(4)(e) standard.

III. CLASSIFICATION

37. These submissions are filed confidentially pursuant to Rule 82(4).

IV. CONCLUSION AND RELIEF REQUESTED

38. In conclusion, the Defence respectfully requests the Trial Panel to REJECT the Request.

Word count: 5471

[66] KSC-BC-2020-06/F00133/COR/CONF/RED, Confidential Redacted Version of Corrected Version of First Decision on Specialist Prosecutor's Request for Protective Measures, 10 December 2020, para. 109; KSC-BC-2020-06/F00190/CONF/RED, Confidential Redacted Version of Decision on Specialist Prosecutor's Second Request for Protective Measures and Renewed Request for Protective Measures and Procedural Matters, 5 February 2021, paras. 25, 92.

Respectfully submitted on 13 November 2025,

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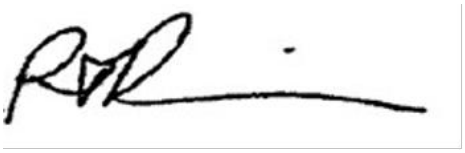

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