

PUBLIC

KOSOVO SPECIALIST CHAMBERS

The Hague

The Netherlands

In: KSC-BC-2019-2
Before: Single Judge Panel
Judge Nicolas Guillou
Date: 10 March 2019
Language: Albanian
Classification: Public

REPLY TO THE REGISTRAR'S RESPONSE

Applicant: Dr Sc Hazër R. Susuri, Counsel
for the Applicant, Mr. Ruzhdi Saramati

Pursuant to the Order issued by Single Judge Nicolas Guillou, judge at the Kosovo Specialist Chambers in The Hague, the Netherlands, I, Dr Sc Hazër R. Susuri, with a law practice based in Prizren, Counsel for the Applicant, Mr. Ruzhdi Saramati, of Dobrushtë village, Prizren municipality, Republic of Kosovo, duly submit the Applicant's Reply to Registrar's Response of 6 March 2019 to the Request for Review of the Decision on Legal Aid, Ref: KSC/REG/IOR 1632, dated 18 February 2019, rejecting Mr. Ruzhdi Saramati's request for legal aid.

I. PROCEDURAL BACKGROUND

I respectfully note that we have only received the English version of the Response of the Registrar, Dr Fidelma Donlon, of 6 March 2019, filed pursuant to Single Judge Nicolas Guillou's Order, while its Albanian translation was not transmitted to us (because of the time limit for the reply). Notwithstanding the above, we hereby comply with the directions of the Single Judge of the Kosovo Specialist Chambers in The Hague, the Netherlands, seized of this matter.

I consider that the procedural background is the same as the procedural background set forth by the Registrar, Dr Fidelma Donlon (hereinafter 'the Registrar'), in her submissions concerning the request for legal aid filed by the Applicant, Mr. Ruzhdi Saramati, with the entire attached documentation (19 Annexes), as well as in the Registrar's decision rejecting legal aid and in the orders issued by Single Judge Nicolas Guillou thus far.

On 23 February, Mr. Ruzhdi Saramati filed a Request for Review of Registrar's Decision, whereby he submitted that her decision was unlawful and proposed that his legal aid request be granted as he meets the legal requirements for having legal aid awarded to him.

II. SUBJECT MATTER OF THE REPLY

Dr Sc Hazër R. Susuri, Counsel for the Applicant, Mr. Ruzhdi Saramati, considers that the Registrar's Response of 6 March 2019 is legally unfounded and as such should be dismissed in the review procedure for the following reasons:

1. In her decision Ref: KSC/REG/IOR/1632, of 18 February 2019, to reject legal aid and assignment of counsel, the Registrar erroneously assessed the factual situation and consequently reached an unlawful decision. Therefore, the reasoning provided in the Registrar's Response cannot form the basis for a decision to reject Mr. Ruzhdi Saramati's legal aid request.
2. It is not factually correct that Mr. Ruzhdi Saramati has not, on the face of it, met the legal requirements and those stemming from the relevant rules and regulations governing the award of legal aid and assignment of counsel. The documentation and the annexes submitted for review to the Single Judge seized of this matter, prove that Mr. Saramati fulfils the legal requirements for the award of legal aid.
3. The Applicant, Mr. Ruzhdi Saramati, provided in writing (via email) all the consistent and substantiated information in relation to the three (3) bank accounts, which are the only ones in his use. The information is accurate and fully corresponds with the bank statements for each account, as Single Judge Nicolas Guillou, judge at the Kosovo Specialist Chambers in The Hague, duly noted:
*"13. The card number of one of the Applicant's Raiffeisen Bank accounts is identical to the number he provided in the Consent Form. Whilst, as indicated above, the relevant bank statement does not provide the bank card number in full, 5167 66** **** 6955 – at the very least – bears a substantial similarity to the number provided in the Consent Form (5167 6694 2582 6955)"¹.*
4. Mr. Saramati has no other bank accounts. In case of any doubt, the veracity of the information on the bank accounts and of the documentation in the annexes, which is public, may be verified with the competent authorities.

¹ KSC-BC-2019, Single Judge, *Order to the Registrar on Submissions*, 4 March 2019; The Hague, the Netherlands.

3. Mr. Saramati provided the information about the vehicle when the Registrar requested it. This information is complete and included in the annexed documentation, and constitutes valid proof based on which a decision can be made.

4. In reaching her decision, the Registrar reviewed the documentation submitted by Mr. Saramati from a formal, rather than from a factual, legal and substantive point of view. Her findings in the Decision that is subject of review is unlawful and as such do not constitute legal grounds for a decision rejecting legal aid; quite the contrary, they are grounds for a decision granting Mr. Ruzhdi Saramati's legal aid request.

III. DISCUSSION

The following is a hypothetical discussion of the Request for the Review of Registrar's Decision, Ref.: KSC/REG/IOR/1632, of 18 February 2019. Were the Decision rejecting his legal aid request to be upheld, the Applicant, Mr. Ruzhdi Saramati, would be left without counsel, as he genuinely does not have the financial means to pay for one privately. Consequently, in case of further criminal proceedings against Mr. Ruzhdi Saramati, the problem of securing counsel for him would arise and the Kosovo Specialist Chambers would then be obliged to assign him Counsel, since without a defence counsel the criminal proceedings against Mr. Ruzhdi Saramati would come to a standstill.

Therefore, even on this ground, Mr. Ruzhdi Saramati's request for review is legally founded.

IV. CLASSIFICATION

Given that the present Reply filed by Mr. Ruzhdi Saramati's Counsel is of a public nature, I consider that it falls under the classification of PUBLIC documents.

VI. RELIEF SOUGHT

I request that the Registrar's Response of 6 March 2019 to Applicant's Request for Review of the Decision, Ref: KSC/REG/IOR/1632, of 18 February 2019, rejecting his legal aid request, BE DISMISSED, and

that the Reply filed by Mr. Ruzhdi SARAMATI's Counsel, Dr Sc (PhD) Hazër R. Susuri, be confirmed as legally founded by granting Mr. Ruzhdi Saramati's legal aid request.

Prizren,
11 March 2019

For Mr. Ruzhdi Saramati
Dr Sc Hazër R. Susuri, Counsel