

In: KSC-BC-2020-06
The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hashim Thaçi

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Thaçi Defence Response to Supplement to First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings with Recommendation on Grouping

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I. INTRODUCTION

1. On 4 January 2021, the Pre-Trial Judge issued a Framework Decision on Victims' Applications, setting principles for the grouping of victim applicants for their legal representation.¹ While the Pre-Trial Judge recognised that irreconcilable differences between victim applicants could justify dividing them into more than one group, he held that:

mere dissimilarity between the personal situations of the victims may not suffice to create more than one group. Accordingly, the fact that victims suffered different forms of harm, were subjected to different crimes, have different ethnicities, reside in different areas, originate from different countries, speak different languages, have different political views, or have an additional interest or view, which is not shared but not disputed by other victims, may not automatically warrant separate representation.²

2. On 15 February 2021, the Victims' Participation Office ("VPO") filed its First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings, notified to the defence for Mr Hashim Thaçi ("defence") on 18 February 2021.³ The VPO recommended the admission of 17 applicants as participating victims (from a total of 18 applicants).⁴ The Report did not contain recommendations as to how the victims should be grouped, as the VPO first needed additional information from the victim applicants in order to assess whether any conflicting interests may hinder common representation.⁵

¹ KSC-BC-2020-06/F00159, Pre-Trial Judge, Framework Decision on Victims' Applications, 4 January 2021 ("Framework Decision"), para. 43; *See also* KSC-BC-2020-06/F00241, Registrar, Supplement to First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings with Recommendation on Grouping, 1 April 2021 ("Supplement to First Registry Report"), para. 12.

² Framework Decision, para. 43.

³ KSC-BC-2020-06/F00203, Registrar, First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings, 15 February 2021.

⁴ *Ibid.*, para. 48.

⁵ *Ibid.*, para. 52.

3. On 26 February 2020, the defence submitted its Response to the First Registry Report on Victims' Applications for Participation in the Proceedings.⁶
4. On 1 April 2021, the VPO filed its Supplement to First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings with Recommendation on Grouping, notified to the defence on 7 April 2021.⁷ The VPO recommended that the Pre-Trial Judge group the remaining 16 victim applicants⁸ in one single group, noting that they were all victims of crimes allegedly committed by the same perpetrators, targeting perceived opponents or collaborators, and that despite their different backgrounds (different ethnicity, language (Serbian/Albanian), and/or geographical location (Serbia/Kosovo/other)), the majority of the applicants (*i.e.* 15 out of 16) did not object to being grouped together.⁹

II. SUBMISSIONS

5. The defence supports the VPO's recommendation that the victim applicants be grouped together in one single group to facilitate their common legal representation in these proceedings.
6. While the victims' applications have not been disclosed to the defence, the differences identified by the VPO between the applicants (ethnicity, language or geographical location) do not appear to amount to a conflict of interest warranting separate legal representation pursuant to Rule 113(8) of the Rules.¹⁰ The defence further

⁶ KSC-BC-2020-06/F00208, Thiçi Defence Response to the First Registry Report on Victims' Applications for Participation in the Proceedings, 26 February 2021.

⁷ See Supplement to First Registry Report.

⁸ The VPO has indicated that one applicant, Victim-05/06, has died. See Supplement to First Registry Report, footnote 10.

⁹ *Ibid.*, paras 25, 29.

¹⁰ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), KSC-BD-03/Rev3/2020, 2 June 2020.

agrees that the circumstances in which ICC judges assigned more than one common legal representative do not apply in the present case, where there are currently only 17 victim applicants and where *a priori* none of them is alleged to be the perpetrator of a crime.¹¹

7. The defence further notes that the appointment of a common legal representative for all current victim applicants is in the interests of the fair but efficient administration of justice, and is consistent with both Rule 113(8) of the Rules, and the Framework Decision on Victims' Applications.

[Word count: 670]

Respectfully submitted,



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¹¹ Supplement to First Registry Report, paras 17-21.