



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2020-06
Specialist 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 Prosecutor

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Prosecution reply to Veseli Defence Response to Filing F00252

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1. The Specialist Prosecutor's Office ('SPO') hereby replies to new issues¹ arising from the Response,² namely, certain unjustified and unnecessary requirements for use of electronic victim application forms proposed by the Veseli Defence. For the reasons set out in the Request,³ use of electronic application forms may, in certain circumstances, be necessary to ensure fair, efficient, and expeditious proceedings, and avoid undue prejudice to the interests, safety, and security of victims.

2. The Framework Decision acknowledges that victims are entitled to, *inter alia*, fill out application forms on their own and/or with remote or in person assistance of the Victims' Participation Office ('VPO').⁴ Accordingly, considering that the application process should enable, not hinder, the ability of victims to exercise their rights, a victim applicant who does not have safe and secure access to reasonably available scanning and printing facilities should not be required to engage counsel, as suggested by the Veseli Defence,⁵ or otherwise undertake unnecessary expenses or risks to their safety and security to submit an application form with a handwritten signature.⁶ Proof of identification, together with a solemn undertaking and the interactive and central role of VPO in, *inter alia*, ensuring that application forms are complete and making recommendations on admissibility,⁷ are more than sufficient guarantees of authenticity.⁸

¹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'), Rule 76. All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

² Veseli Defence Response to Registry Filing KSC-BC-2020-06/F00252-Red, KSC-BC-2020-06/F00273, 3 May 2021 ('Response').

³ Request for Authorization to Use an Electronic Victims' Application Form, KSC-BC-2020-06/F00252, 16 April 2021, Confidential and *Ex Parte* ('Request').

⁴ Framework Decision on Victims' Applications, KSC-BC-2020-06/F00159, 4 January 2021 ('Framework Decision'), para.17.

⁵ Response, KSC-BC-2020-06/F00273, para.11.

⁶ See, *similarly*, Request, KSC-BC-2020-06/F00252, paras 10-11.

⁷ Framework Decision, KSC-BC-2020-06/F00159, paras 14, 17, 20, 23.

⁸ See, *similarly*, Request, KSC-BC-2020-06/F00252, para.13 and the sources cited therein.

3. For the foregoing reasons, electronic application forms should be permissible whenever there are practical difficulties and security risks, like those set out in the Request.⁹ Further, in light of the VPO's role, it is unnecessary for the victim applicant to stipulate to 'exceptional circumstances'.¹⁰ The VPO, in consultation, as appropriate, with the victim applicant, is best-placed to determine and confirm whether the circumstances justify use of electronic application forms.¹¹

4. Finally, in relation to the proposed text of the solemn undertaking,¹² the SPO notes that language used for solemn undertakings in other contexts before the Specialist Chambers ('SC'),¹³ as well as the language of the existing application form,¹⁴ may be adapted as appropriate.¹⁵

Word count: 513



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At The Hague, the Netherlands.

⁹ *Contra* Response, KSC-BC-2020-06/F00273, para.14 (indicating that an 'absolute necessity' standard should apply).

¹⁰ *Contra* Response, KSC-BC-2020-06/F00273, para.15(ii).

¹¹ The VPO already reports on the manner in which applications were received. *See* Framework Decision, KSC-BC-2020-06/F00159, para.18.

¹² Response, KSC-BC-2020-06/F00273, para.15(i).

¹³ *See, for example*, Rule 141(2).

¹⁴ *See* Application for Admission as a Victim Participating in Proceedings, available on the SC website, p.4.

¹⁵ For example: 'Conscious of the significance of my application and my legal responsibility, I solemnly declare that the information provided in this form is correct to the best of my knowledge'.