

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

**Before:** **President of the Kosovo Specialist Chambers**  
Judge Ekaterina Trendafilova

**Registrar:** Dr Fidelma Donlon

**Filed by:** Dr Anni Pues, Duty Victims' Counsel

**Date:** 28 May 2021

**Language:** English

**Classification:** Public

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**Motion for clarification and variation of time limit pursuant to Rule 9 (5) of the  
Rules of Procedure and Evidence**

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**Specialist Prosecutor's Office**  
Jack Smith

**Duty Victims' Counsel**  
Dr Anni Pues

**Counsel for Hasim Thaçi**  
David Hooper QC

**Counsel for Kadri Veseli**  
Ben Emmerson CBE QC

**Counsel for Rexhep Selimi**  
David Young QC

**Counsel for Jakup Krasniqi**  
Venkateswari Alagendra

1. Pursuant to Rule 113(6) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ('Rules')<sup>1</sup>, Dr Anni Pues, Duty Victims' Counsel for denied applicants denied applicants Victim- 08-06, Victim-09/06, Victim-10/06, Victim-11/06, Victim-13/06 and Victim-14/06<sup>2</sup>, Duty Counsel seeks clarification and variation of time limit for submission of the appeal against the First Decision on Victims' Participation.

## I. PROCEDURAL BACKGROUND

2. On 21 April 2021, the Pre-Trial Judge rendered the First Decision on Victims' Participation.
3. With assignment letter of 12 May 2021, Anni Pues was called as Duty Counsel for the denied applicants to assist them with the appeal.
4. Until today, the access to the victims' entities in Legal Workflow is not possible. Only with the assistance of VPO, the Duty Counsel was able to get the victims' folders.
5. Access to Legal Workflow is problematic, technical problems interrupted access. Most functions in the remote working environment such as access to documents in Kosmos do currently not work. IT support services have been helpful but have not had a chance to sufficiently resolve the existing problems.
6. On Friday 14 May 2021, applicants Victims 08/06 and 13/06 were the first among the denied applicants to be notified of the decision in their language. Therefore, the time limit for them starts on 17 May 2021 and runs until 30 May 2021 (Sunday), thus ends on 31 May 2021.

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<sup>1</sup> Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020.

<sup>2</sup> No such clarification is sought for V 06/06, who will not appeal the First Decision on Victim Participation, as the application falls outside the temporal jurisdiction of the Court.

7. Victims 09/06, 10/06 and 11/06 were notified on 17 May 2021, whereas Victim 14/06 has not yet been formally notified. Victim 14/06 has only been informed through communication with Duty Counsel.
8. The applicants did not receive the decision in English but the translations into their respective language.

## II. APPLICABLE LAW

9. Pursuant to Rule 113 (6) of the Rules, denied applicants may appeal as of right the decision of the Pre-Trial Judge within fourteen days of notification.
10. The time limit pursuant to Rule 9 (2) of the Rules starts from the first working day after the notification to the applicant of the decision denying the admission. The Framework Decision specifies that the time limit starts with notification to the applicant of the decision denying the admission.<sup>3</sup> The Appeal Panel should also adopt this specification because meaningful discussion of the decision is only possible when the denied applicants have had a chance to read and understand the decision.

## III. SUBMISSION

### *i. Ambiguity in the Rules*

11. The Rules do not specify how to determine the starting date, when groups of victims are notified at varying dates. Submission of the appeal based on the notification of denied applicants Victims 08/06 and 13/06 would disadvantage other applicants, specifically denied applicant Victim 14/06, who has not had a

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<sup>3</sup> Framework Decision on Victims' Applications, KSC-BC-2020/06/F00159, 4 January 2021, para. 55.

chance yet to read the decision and discuss the possibility of an appeal fully prepared with Duty Counsel.

12. It would not seem suitable to trigger appeals proceedings for denied applicants individually, because the reasons for the denial as well as the main arguments of the appeal are the same for all appellants. In addition, this would affect the efficiency of the Court.
13. Rule 4 (3) of the Rules provides that any ambiguity shall be resolved by the adoption of the most favourable interpretation to the suspect or Accused. No similar provision exists for denied victims. Hence, an analogous interpretation would suggest that the last date of notification triggers the deadline. However, given the critical nature of the decision to the denied applicants, clarification is warranted to avoid any loss of rights.

*ii. Exceptional circumstances*

14. The appeal against the First Decision on Victim Participation will address fundamental questions that will set a precedent for the future scope of victim participation in this case.
15. The technical difficulties have seriously impacted and hampered the Duty Counsel's ability to work on the appeal.
16. The requested minor time limit variation – should the Panel find that the first date of notification triggers the time limit - will not delay the overall proceedings in the case, as not start of trial proceedings is imminent.

#### IV. CONCLUSION

17. In light of the aforementioned, it is respectfully requested
  - a. to clarify the applicable time limit;

- b. should the time limit to finish on Monday 31 May 2021, to extend the time limit by one week to 7 June 2021.

**Word count: 767**



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**Dr Anni Pues**

**Duty Victims' Counsel**

Friday, 28 May 2021

At The Hague, the Netherlands