



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-06

Before: **A Panel of the Court of Appeals Chamber**
Judge Michèle Picard
Judge Emilio Gatti
Judge Kai Ambos

Registrar: Fidelma Donlon

Date: 31 January 2022

Original language: English

Classification: Public

Public Redacted Version of

**Decision on Deferred Determination on Appeal Against “First Decision on
Victims’ Participation”**

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THE PANEL OF THE COURT OF APPEALS CHAMBER of the Kosovo Specialist Chambers (“Court of Appeals Panel” or “Appeals Panel” or “Panel” and “Specialist Chambers”, respectively)¹ acting pursuant to Article 33(1)(c) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 169 of the Rules of Procedure and Evidence (“Rules”) is seised of an appeal filed on 7 June 2021 by the Counsel for Denied Applicants, Victims 08/06, 09/06, 10/06, 11/06, 13/06 and 14/06 (“Denied Applicants”² and “Appeal”,³ respectively), against the “First Decision on Victims’ Participation” (“Impugned Decision”).⁴ The Denied Applicants requested the Panel to reverse the Impugned Decision and to admit them as victims participating in the proceedings (“VPPs”) in this case.⁵ On 16 July 2021, the Panel denied the Appeal, in part, deferred its determination on one ground of appeal and remanded the matter to the Pre-Trial Judge for further consideration (“First Appeal Decision”).⁶ The Panel now considers the pending ground of appeal as addressed by the Pre-Trial Judge in the “Second Decision on Victims’ Participation” issued on 10 December 2021 (“Remanded Decision”).⁷

¹ F00005, Decision Assigning a Court of Appeals Panel, 7 June 2021.

² F00293, Notification of Assignment of Counsel to Denied Applicants, 12 May 2021, para. 8.

³ F00004/RED, Public Redacted Version of the Appeal against the “First Decision on Victims’ Participation” pursuant to Rule 113(6) of the Rules, 7 June 2021 (strictly confidential and *ex parte* version filed on 7 June 2021) (“Appeal”).

⁴ F00257/RED, Public Redacted Version of the First Decision on Victims’ Participation, 21 April 2021 (confidential version filed on 21 April 2021) (“Impugned Decision”).

⁵ Appeal, para. 51. Veseli and Krasniqi both responded that the Appeal should be rejected. See F00006, Veseli Defence Response to Duty Counsel for Victim-Applicants’ Appeal - KSC-BC-2020-06/IA005-F00004/RED, 15 June 2021 (“Veseli Response”), para. 7; F00007, Krasniqi Defence Response to the Appeal Against the “First Decision on Victims’ Participation” Pursuant to Rule 113(6) of the Rules, 17 June 2021 (“Krasniqi Response”), para. 32. The other Accused and the Specialist Prosecutor’s Office (“SPO”) did not file any responses to the Appeal. The Denied Applicants did not reply.

⁶ F00008, Decision on Appeal Against “First Decision on Victims’ Participation”, 16 July 2021 (“First Appeal Decision”).

⁷ F00611/RED, Public Redacted Version of Second Decision on Victims’ Participation, 10 December 2021 (strictly confidential and *ex parte* version filed on 10 December 2021) (“Remanded Decision”), paras 63-69.

I. BACKGROUND

1. On 26 October 2020, the Pre-Trial Judge confirmed the indictment against Thaçi, Veseli, Selimi and Krasniqi.⁸ On 30 October 2020, the SPO submitted the indictment as confirmed.⁹ On 3 September 2021, the SPO submitted a corrected indictment (“Indictment”).¹⁰

2. On 21 April 2021, the Pre-Trial Judge issued the “First Decision on Victims’ Participation”, in which he *inter alia* rejected the applications of seven victims, including those of the Denied Applicants.¹¹

3. On 16 July 2021, the Court of Appeals Panel denied grounds (a)-(d) of the Appeal filed by the Denied Applicants.¹² The Panel deferred its determination of ground (e) pertaining to alleged errors in the assessment of the applications filed by the Denied Applicants, as the Pre-Trial Judge did not provide detailed reasoning on why he rejected the applications in the Impugned Decision, and instructed the Pre-

⁸ F00026/RED, Public Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi, 30 November 2020 (strictly confidential and *ex parte* version filed on 26 October 2020).

⁹ F00034/A01, Indictment, 30 October 2020 (strictly confidential and *ex parte*); F00045/A03, Further redacted Indictment, 4 November 2020 (strictly confidential and *ex parte*, reclassified as public on 5 November 2021).

¹⁰ F00455/RED/A01, Public Redacted Version of ‘Indictment’, KSC-BC-2020-06/F00455/A01, dated 3 September 2021, 8 September 2021 (strictly confidential and *ex parte* version filed on 3 September 2021) (“Indictment”). The corrected indictment was submitted pursuant to the Pre-Trial Judge’s Decision on Defence Motions Alleging Defects in the Form of the Indictment, in which the Pre-Trial Judge ordered the SPO to remove or replace words or phrases or provide more specificity as to some allegations. The corrections do not affect the assessment of the pending ground of appeal (e) before the Appeals Panel. See F00413/RED, Public Redacted Version of Decision on Defence Motions Alleging Defects in the Form of the Indictment, 22 July 2021 (confidential version filed on 22 July 2021) (“Decision on Defects in the Form of the Indictment”), paras 80, 92, 95, 101, 106, 143, 160, 171, 176, 179(d). In line with the Decision, the SPO made changes to paragraphs 35, 40, 43, 47-51, 57-59, 75, 94-95, 136, and 171 of the Indictment. See F00455/RED, Public Redacted Version of ‘Submission of corrected Indictment and request to amend pursuant to Rule 90(1)(b)’, KSC-BC-2020-06/F00455, dated 3 September 2021, 8 September 2021 (strictly confidential and *ex parte* version filed on 3 September 2021), fn. 2.

¹¹ Impugned Decision, para. 85. The Panel notes that Victim 06/06, whose application was also rejected in the Impugned Decision, accepts the decision of the Pre-Trial Judge and did not participate in the Appeal; see Appeal, para. 1.

¹² First Appeal Decision, paras 29, 36, 41.

Trial Judge to revert to it with an individual assessment of the applications and the reasons underpinning his decision to reject them.¹³

4. On 20 August 2021, Counsel for Denied Applicants submitted observations on the harm suffered by the Denied Applicants and requested the Pre-Trial Judge to reconsider his decision and to admit the Denied Applicants as VPPs.¹⁴

5. On 10 December 2021, the Pre-Trial Judge, in the Remanded Decision, provided further reasoning for his decision to reject the Denied Applicants' applications and rejected the request for reconsideration.¹⁵

II. STANDARD OF REVIEW

6. The Court of Appeals Panel adopts the standard of review for interlocutory appeals established in its first decision and applied subsequently.¹⁶

III. DISCUSSION

A. SUBMISSIONS

7. In their Appeal, the Denied Applicants argue that the Pre-Trial Judge made several errors in the individual assessment of victim applications, in particular errors of law and fact in the assessment of the applications of Victims 08/06, 09/06, 10/06, 11/06 and 13/06, and an error of law in the assessment of Victim 14/06's application.¹⁷ The Denied Applicants provide explanations regarding the individual applications

¹³ First Appeal Decision, paras 38-41.

¹⁴ F00436, Observations on Individual Applications of Denied Victims, 20 August 2021 (strictly confidential and *ex parte*) ("Observations of Denied Applicants" or "Observations"), p. 6.

¹⁵ Remanded Decision, paras 63-69, 70(j).

¹⁶ KSC-BC-2020-07, F00005, Decision on Hysni Gucati's Appeal on Matters Related to Arrest and Detention, 9 December 2020, paras 4-14. See also e.g. First Appeal Decision, para. 4.

¹⁷ Appeal, paras 47-50.

they filed and argue that they demonstrated, on a *prima facie* basis, a sufficient link between the harm they suffered and the crimes in the Indictment.¹⁸

8. Krasniqi responds that the applications filed by the Denied Applicants fall outside of the scope of the charges in the Indictment and were rightly rejected.¹⁹

B. ASSESSMENT

9. In the First Appeal Decision, the Panel found that it was not able to fully address ground of appeal (e) because the Impugned Decision did not provide individual assessments of the Denied Applicants' applications but rather addressed their case in general terms.²⁰ The relevant finding of the Impugned Decision reads as follows:

As regards the [Denied Applicants], the Pre-Trial Judge finds that the crimes they claim to have been victims of do not fall under the temporal, geographical and material scope of the charges, as specified in the Confirmed Indictment, and therefore fall outside the scope of Rules 2 and 113(1) of the Rules. [...].²¹

10. The Panel notes that in the Remanded Decision, the Pre-Trial Judge provided further reasoning for the rejection of the Denied Applicants' applications.²²

11. The Panel recalls that it found in the First Appeal Decision that the Pre-Trial Judge did not err in finding that the crime(s) of which an applicant claims to be a victim must fall under the material, geographical and temporal parameters of the charges as specified in the Indictment.²³ The Panel will therefore not proceed to conduct a *de novo* review of the Pre-Trial Judge's individual assessment of the denied

¹⁸ Appeal, paras 47-50.

¹⁹ Krasniqi Response, paras 30-31. Veseli does not respond to this specific ground of appeal but argues, in general terms, that the Denied Applicants do not specify any real error of law or fact arising out of the Impugned Decision and simply disagree with the Pre-Trial Judge's rejection of their applications. See Veseli Response, para. 2.

²⁰ First Appeal Decision, paras 37-38, referring to Impugned Decision, para. 48.

²¹ Impugned Decision, para. 48.

²² Remanded Decision, paras 63-69.

²³ First Appeal Decision, paras 16, 36. See also Impugned Decision, paras 45, 48.

applications. It will only assess the Denied Applicants' arguments insofar as they pertain to alleged errors of law and fact which have not already been addressed in the First Appeal Decision,²⁴ and in accordance with the general principles governing the status of victims participating in the proceedings before the Specialist Chambers recalled throughout that Decision. Furthermore, the Panel will not consider the arguments by the Denied Applicants in their Observations as it remanded the matter to the Pre-Trial Judge only in order for him to provide further reasons for rejecting the applications of the Denied Applicants, not for the Pre-Trial Judge to reconsider his previous decision.²⁵ The Panel is therefore of the view that the Observations have not been validly submitted on appeal.²⁶

12. For reasons of clarity, the Panel will address the alleged errors for each Victim individually, with the exception of Victims 09/06, 10/06 and 11/06, who are members of the same family and allege they suffered harm from the same crimes alleged in the Indictment.

1. Victim 08/06

13. The Panel notes that Victim 08/06 claims that [REDACTED] was kidnapped on [REDACTED] in [REDACTED] and held by KLA members at detention sites in [REDACTED], [REDACTED] and [REDACTED], and that he remains missing to this day.²⁷ The Pre-Trial Judge rejected Victim 08/06's application for the following

²⁴ For example, with regard to Victims 08/06, 09/06, 10/06 and 11/06, the Panel will not address the arguments pertaining to the continuous nature of the crime of enforced disappearance. See Appeal, paras 47-48; First Appeal Decision, para. 36 ("Regarding the arguments on the continuing nature of the crime of enforced disappearance and the uncertainty regarding the end date of this offence, an applicant must at least be able to demonstrate that the start date of the alleged crime falls within the temporal scope of the charges"). See also First Appeal Decision, para. 24 ("Schedule C, read in conjunction with the relevant sections of the Indictment, provides an exhaustive description of crimes of enforced disappearance with which the Accused are charged").

²⁵ See Remanded Decision, para. 62.

²⁶ See Observations of Denied Applicants, paras 6-13.

²⁷ Remanded Decision, para. 63. See also Victim 08/06, SD1_Statement on Crime_ENG; F00203/A09, Annex 9 to First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings, 15 February 2021 (confidential and *ex parte*).

reasons: (i) [REDACTED] does not appear in the Indictment as a charged location;²⁸ (ii) the direct victim's alleged imprisonment/detention in [REDACTED] falls outside the temporal scope of the charges related to these sites;²⁹ (iii) the direct victim is not among the alleged victims of enforced disappearance named in the Indictment or Schedule C;³⁰ and (iv) the charges of other inhumane acts and cruel treatment must be read together with the charges of imprisonment/arbitrary arrest and detention, which are alleged to have been committed at one of the identified detention sites or at a location identified in the Indictment and Schedule A.³¹

14. The Denied Applicants claim that the crime against humanity of inhumane acts and cruel treatment does not require a clear link to specific sites.³² In their view, it was sufficient to provide *prima facie* evidence that Victim 08/06's requests to obtain information from KLA members regarding [REDACTED] were unsuccessful.³³

15. The Panel notes that the Denied Applicants mischaracterise the Indictment. As correctly highlighted by the Pre-Trial Judge, the Indictment pleads that "JCE Members and Tools established and maintained inhumane conditions *at detention sites identified in Schedule A*".³⁴ The Panel agrees with the Pre-Trial Judge that it is clear from the Indictment that the charges of other inhumane acts and cruel treatment are connected to and must be read together with the charges of imprisonment/arbitrary arrest and detention, which are alleged to have been committed at one of the identified detention sites or at a location identified in a similar manner in the Indictment and Schedule A.³⁵

²⁸ Remanded Decision, para. 63.

²⁹ Remanded Decision, para. 63.

³⁰ Remanded Decision, para. 63.

³¹ Remanded Decision, para. 64.

³² Appeal, para. 47. As noted above in footnote 24, the Appeals Panel has already made findings regarding the crime of enforced disappearance. The Panel therefore only addresses the Denied Applicants' argument pertaining to the crime against humanity of inhumane acts and cruel treatment.

³³ Appeal, para. 47, referring to Indictment, para. 96.

³⁴ Remanded Decision, para. 64, citing Indictment, para. 94.

³⁵ Remanded Decision, para. 64. See Indictment, paras 94-96. Furthermore, the underlying events referred to in paragraphs 97 to 134 of the Indictment are all related to the detention sites listed in Schedule A.

The Panel further finds that Schedule A, read in conjunction with the relevant sections of the Indictment, provides an exhaustive list of the detention sites, their locations and the approximate dates of their existence as alleged in the Indictment.³⁶

16. Accordingly, the Panel finds that the Denied Applicants have not demonstrated any error in the Pre-Trial Judge's individual assessment of Victim 08/06's application.

2. Victims 09/06, 10/06 and 11/06

17. The Panel notes that Victims 09/06, 10/06 and 11/06 claim that their immediate family member was arrested by KLA members on [REDACTED] in [REDACTED] and that he remains missing to this day.³⁷ The Pre-Trial Judge rejected the applications of Victims 09/06, 10/06 and 11/06 for the following reasons: (i) the alleged arrest and detention of the direct victim falls outside the temporal scope of the charges as specified in the Indictment in relation to the detention site in [REDACTED] where the direct victim was allegedly held;³⁸ (ii) the direct victim is not among the alleged victims of enforced disappearance named in the Indictment;³⁹ (iii) the charges of other inhumane acts/cruel treatment are linked to the detention sites identified in the Indictment;⁴⁰ and (iv) the charge of persecution must be read together with the charges of imprisonment/arbitrary arrest and detention, other inhumane acts/cruel treatment, torture, murder and enforced disappearance.⁴¹

³⁶ See First Appeal Decision, fn. 58. See also First Appeal Decision, para. 24, wherein the Panel made a similar finding with regard to Schedule C and the charge of enforced disappearance. See also Appeal, para. 22, where the Denied Applicants acknowledged that the events underlying their respective applications are not listed in Schedules A to C of the Indictment.

³⁷ Remanded Decision, para. 65. See also Victim 09/06, Application Form_ENG; Victim 10/06, Application Form_ENG; Victim 11/06, Application Form_ENG; F00203/A10, Annex 10 to First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings, 15 February 2021 (confidential and *ex parte*); F00203/A11, Annex 11 to First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings, 15 February 2021 (confidential and *ex parte*); F00203/A12, Annex 12 to First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings, 15 February 2021 (confidential and *ex parte*).

³⁸ Remanded Decision, para. 65.

³⁹ Remanded Decision, para. 66.

⁴⁰ Remanded Decision, para. 66.

⁴¹ Remanded Decision, para. 66.

18. In their Appeal, the Denied Applicants argue that the allegation in the Indictment of an illegal detention site in [REDACTED] “[REDACTED]” does not exclude that this detention site was operational beforehand, in particular at the time of the disappearance of the direct victim on [REDACTED].⁴² In the Panel’s view, the term “at least” is not in this context an open-ended term that includes events occurring before such period. Furthermore, the relevant detention site listed in Schedule A, as noted by the Pre-Trial Judge, refers specifically to the period “[REDACTED]”.⁴³ Therefore, the Pre-Trial Judge did not err in finding that the alleged arrest and detention of the direct victim falls outside the temporal scope of the charges in relation to the detention site in [REDACTED].

19. The Denied Applicants further argue that the charge of persecution explicitly covers the entire Indictment period.⁴⁴ The Panel notes again that the Denied Applicants misinterpret the Indictment, in which the “Indictment Period” clearly refers to the temporal scope of the widespread or systematic attack against a civilian population,⁴⁵ and not to the temporal scope of specific charges.⁴⁶ In light of the language of paragraph 58 of the Indictment, the Panel finds no error in the Pre-Trial Judge’s finding⁴⁷ that the charge of persecution must be read together with the charges

⁴² Appeal, para. 48 [REDACTED].

⁴³ See Remanded Decision, para. 65, referring to Indictment, Schedule A, section [REDACTED].

⁴⁴ Appeal, para. 48, referring to Indictment, para. 57 (which states that “[*d*uring the Indictment Period, the JCE Members and Tools conducted a campaign of persecution against Opponents [in Kosovo and in northern Albania]” (emphasis added)).

⁴⁵ See Indictment, paras 16, 18-19.

⁴⁶ The Panel notes that for each charge, the SPO has specified that it falls under “the Indictment Period”. See Indictment, paras 57 (persecution), 59 (imprisonment/ illegal or arbitrary arrest and detention), 94-95 (other inhumane acts and cruel treatment), 136 (murder), 171 (enforced disappearance of persons). The Panel recalls that if the incidents falling under the chapeau element of crimes against humanity are not connected to the precise conduct of the Accused in relation to the underlying crimes charged against him or them, they are not relevant to deciding on victims’ participation. See First Appeal Decision, para. 20.

⁴⁷ See Remanded Decision, para. 66. The Panel notes that the Pre-Trial Judge referred therein to the same finding in his Decision on Defects in the Form of the Indictment and that this finding has not been appealed by Thaçi, Selimi and Krasniqi in their respective appeals. See F00413/RED, Public Redacted Version of Decision on Defence Motions Alleging Defects in the Form of the Indictment, 22 July 2021 (confidential version filed on 22 July 2021) (“Decision on Defects in the Form of the Indictment”), paras 139, 144. See also F00006/RED, Public Redacted Version of Thaçi Defence Appeal

of imprisonment/arbitrary arrest and detention, other inhumane acts/cruel treatment, torture, murder and enforced disappearance. Recalling that these charges are limited to the events included in Schedules A to C, read in conjunction with the relevant sections of the Indictment,⁴⁸ the Panel also notes that the Denied Applicants acknowledged that the events underlying their respective applications are not listed in these Schedules.⁴⁹

20. Accordingly, the Panel finds that the Denied Applicants have failed to establish that the Pre-Trial Judge's assessment of the applications of Victims 09/06, 10/06 and 11/06 was erroneous.

3. Victim 13/06

21. The Panel notes that Victim 13/06 claims that his [REDACTED] was kidnapped on [REDACTED] in [REDACTED] by KLA members and was moved from detention site to detention site, and that he remains missing to this day.⁵⁰ The Pre-Trial Judge rejected Victim 13/06's application because (i) the information provided is not sufficient for a *prima facie* finding that the direct victim was held at one of the detention sites identified in the Indictment; and (ii) the direct victim is not among the alleged victims of enforced disappearance named in the Indictment or Schedule C.⁵¹

22. The Denied Applicants submit that the fact that his [REDACTED] disappeared in the municipality of [REDACTED] at a time "when at least one illegal detention

with Leave Against the "Decision on Defence Motions Alleging Defects in the Form of the Indictment", 7 December 2021 (confidential version filed on 12 November 2021); F00007, Selimi Defence Appeal against "Decision on Defence Motions Alleging Defects in the Form of the Indictment", 12 November 2021; F00008, Krasniqi Defence Appeal Against Decision on Defence Motions Alleging Defects in the Form of the Indictment, 12 November 2021.

⁴⁸ First Appeal Decision, para. 24, fn. 58. See also above, para. 15.

⁴⁹ Appeal, para. 22.

⁵⁰ Remanded Decision, para. 67. See also Victim 13/06, Application Form_ENG; SD3_Chronology of kidnapping_ENG; SD4-Reports_Correspondance on investigations KFOR_OSCE; F00203/A14, Annex 14 to First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings, 15 February 2021 (confidential and *ex parte*).

⁵¹ Remanded Decision, para. 67, referring to First Appeal Decision, para. 24; Decision on Defects in the Form of the Indictment, para. 171.

facility was allegedly existing in the municipality”, should suffice to establish *prima facie* the necessary link.⁵²

23. The Panel recalls that Schedule C, read in conjunction with the relevant sections of the Indictment, provides an exhaustive description of the crime of enforced disappearance with which the Accused are charged.⁵³ The Panel also recalls its similar finding above with regard to Schedule A of the Indictment.⁵⁴

24. Given the reasoning provided by the Pre-Trial Judge and the absence of a specific detention site mentioned in Victim 13/06’s application, the Panel finds no error in the Pre-Trial Judge’s finding that Victim 13/06 did not provide sufficient information for a *prima facie* finding that the direct victim was held at one of the detention sites identified in the Indictment.⁵⁵ Furthermore, the Panel notes that, according to the Indictment, at the time of the disappearance of Victim 13/06’s [REDACTED], one illegal detention facility allegedly existed in [REDACTED] municipality, specifically at a KLA base in [REDACTED],⁵⁶ and the following incidents occurred there: “[REDACTED] [...] by certain KLA members [REDACTED]”;⁵⁷ and “[REDACTED] killed by certain KLA members [REDACTED].”⁵⁸ However, while Schedule B specifies that [REDACTED],⁵⁹ the Denied Applicants submit that the harm suffered by Victim 13/06 was not listed in Schedules A to C of the Indictment.⁶⁰

25. In light of the aforementioned, the Panel finds that the Denied Applicants have failed to establish that the Pre-Trial Judge’s assessment of Victim 13/06’s application was erroneous.

⁵² Appeal, para. 49.

⁵³ First Appeal Decision, para. 24.

⁵⁴ See above, para. 15.

⁵⁵ Remanded Decision, para. 67.

⁵⁶ See Indictment, para. 93, Schedule A, section [REDACTED].

⁵⁷ Indictment, para. [REDACTED].

⁵⁸ Indictment, para. [REDACTED].

⁵⁹ Indictment, Schedule B, section [REDACTED].

⁶⁰ Appeal, para. 22.

4. Victim 14/06

26. The Panel notes that Victim 14/06 claims that his [REDACTED] was killed on [REDACTED] in [REDACTED] by KLA members.⁶¹ The Pre-Trial Judge rejected Victim 14/06's application because (i) the alleged murder of the direct victim does not appear to be among the charged incidents expressly referred to in the Indictment; and (ii) the charge of persecution must be read together with the charge of murder.⁶²

27. The Denied Applicants argue that the charge of murder covers the entire Indictment period.⁶³ The Panel recalls that reference to the "Indictment Period" in the Indictment does not refer to the temporal scope of this specific charge.⁶⁴ As correctly observed by the Pre-Trial Judge,⁶⁵ the scope of the charge of murder is limited to the incidents expressly referred to in the Indictment, including in Schedule B, and the alleged murder of Victim 14/06's family member does not appear to be included in the Indictment based on the information provided.

28. Accordingly, the Panel finds that the Denied Applicants have failed to establish that the Pre-Trial Judge's assessment of Victim 14/06's application was erroneous.

29. In light of the aforementioned, the Panel dismisses the Denied Applicants' ground of appeal (e).

30. In conclusion, the Court of Appeals Panel recalls that the legal requirements applicable to VPPs are not designed to prevent the participation of persons who may very well be the victims of grievous crimes and suffering, but are meant to ensure the integrity of particular criminal proceedings, and the respect of the rights of the

⁶¹ Remanded Decision, para. 68. See also Victim 14/06, Application Form_ENG; F00203/A15, Annex 15 to First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings, 15 February 2021 (confidential and *ex parte*).

⁶² Remanded Decision, para. 68.

⁶³ Appeal, para. 50.

⁶⁴ See also above, para. 19.

⁶⁵ Remanded Decision, para. 68, referring to Decision on Defects in the Form of the Indictment, para. 160.

accused, together with the celerity of the proceedings.⁶⁶ The Panel underlines that the present decision is without prejudice to any future ruling on the admissibility of denied applications, following a possible amendment of the Indictment.⁶⁷ Furthermore, the Panel recalls that pursuant to Article 22(2) of the Law, “[i]f a victim [...] has not been accepted as a participant or determined to be a Victim under this Law, this shall not limit his or her rights under other laws or through other reparation mechanisms in Kosovo”.

IV. DISPOSITION

31. For these reasons, the Court of Appeals Panel:

DENIES ground (e) of the Appeal.



**Judge Michèle Picard,
Presiding Judge**

Dated this Monday, 31 January 2022

At The Hague, the Netherlands

⁶⁶ First Appeal Decision, para. 27.

⁶⁷ See Impugned Decision, para. 48.