



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-04
The Prosecutor v. Pjetër Shala

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 19 September 2022

Language: English

Classification: Public

**Public Redacted Version of
Third Decision on Victims' Participation**

Specialist Prosecutor

Jack Smith

Counsel for Pjetër Shala

Jean-Louis Gilissen

Victims' Participation Office

Acting Head of Victims' Participation

Office

Counsel for Victims

Simon Laws

- I. PROCEDURAL BACKGROUND 2**
- II. SUBMISSIONS..... 3**
- III. APPLICABLE LAW 4**
 - A. Application and Admission to the Proceedings 4
 - B. Participation in Pre-Trial Proceedings 6
 - C. Protective Measures 7
- IV. DISCUSSION..... 7**
 - A. Assessment of Application 9
 - 1. Completeness of Application 9
 - 2. Admissibility of Application..... 9
 - 3. Conclusion 11
 - B. Protective Measures 11
 - C. Grouping and Common Legal Representation..... 14
 - D. Participation in Pre-Trial Proceedings 14
- V. DISPOSITION 15**

THE PRE-TRIAL JUDGE,¹ pursuant to Articles 22 and 39(11) and (13) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 80, 95(2)(h) and (i), 113 and 114 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 19 June 2020, further to a decision by the Pre-Trial Judge,² the Specialist Prosecutor's Office ("SPO") submitted the Confirmed Indictment against Pjetër Shala ("Mr Shala" or "Accused").³

2. On 1 September 2021, the Pre-Trial Judge issued the "Framework Decision on Victims' Applications" ("Framework Decision"),⁴ thereby, *inter alia*, ordering the Victims' Participation Office ("VPO") to file, by no later than 1 October 2021, its first report pursuant to Rule 113(2) of the Rules to the Pre-Trial Judge and the Parties regarding the submitted applications and to submit further such reports, if any, on a regular basis and, at the latest, two weeks prior to the submission of the Defence filing pursuant to Rule 95(5) of the Rules.⁵

¹ KSC-BC-2020-04, F00001, President, *Decision Assigning a Pre-Trial Judge*, 14 February 2020, public.

² KSC-BC-2020-04, F00007, Pre-Trial Judge, *Decision on the Confirmation of the Indictment against Pjetër Shala*, 12 June 2020, strictly confidential and *ex parte*. A confidential redacted version and a public redacted version were issued on 6 May 2021, F00007/CONF/RED and F00007/RED.

³ KSC-BC-2020-04, F00010, Specialist Prosecutor, *Submission of Confirmed Indictment*, 19 June 2020, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential. A confidential, lesser redacted version and a public, further redacted version of the Confirmed Indictment were submitted on 31 March 2021, F00016/A01 and F00016/A02. A further lesser redacted, confidential version of the Confirmed Indictment was submitted on 25 May 2021, F00038/A01. Following the Pre-Trial Judge's Decision on the Defence's motion challenging the form of the Confirmed Indictment, a corrected indictment was submitted on 1 November 2021, F00098/A01, confidential. A public redacted version of the corrected indictment was submitted on 16 November 2021, F00107/A01.

⁴ KSC-BC-2020-04, F00064, Pre-Trial Judge, *Framework Decision on Victims' Applications*, 1 September 2021, public.

⁵ Framework Decision, paras 21, 30, 32, 63(c)-(e).

3. On 15 December 2021, the Pre-Trial Judge issued the first decision on victims' participation, admitting one victim to participate in the proceedings ("First Decision on Victims' Participation").⁶
4. On 11 August 2022, the Pre-Trial Judge issued the second decision on victims' participation, admitting one victim to participate in the proceedings ("Second Decision on Victims' Participation").⁷
5. On 1 September 2022, the VPO filed a third report on victims' applications for participation in the proceedings, transmitting the applications of six further individuals, Victims 03/04, 04/04, 05/04, 06/04, 07/04 and 08/04 ("Applicants"), and providing recommendations on admissibility, grouping, common legal representation and protective measures ("Third Registry Report").⁸
6. The SPO and the Defence for Mr Shala ("Defence") did not respond to the Third Registry Report.

II. SUBMISSIONS

7. The VPO seeks leave to file the Third Registry Report with the Pre-Trial Judge after the deadline set by the Pre-Trial Judge in the Framework Decision as the case has not yet been transferred to trial. The VPO submits that it took more time to file the Third Registry Report as the Applicants live in different countries, the

⁶ KSC-BC-2020-04, F00123, Pre-Trial Judge, *First Decision on Victims' Participation*, 15 December 2021, confidential, para. 50(a). A public redacted version was issued on the same day, F00123/RED.

⁷ KSC-BC-2020-04, F00249, Pre-Trial Judge, *Second Decision on Victims' Participation*, 11 August 2022, confidential, para. 43(b). A public redacted version was issued on the same day, F00249/RED.

⁸ KSC-BC-2020-04, F00260, VPO, *Third Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings*, 1 September 2022, public, paras 2, 11, 30 [sic], 35, 37, 43, with one Annex, strictly confidential and *ex parte*. The Pre-Trial Judge notes that the VPO had anticipated in the second report that it would file a further report on victims' applications for participation, see KSC-BC-2020-04, F00236, VPO, *Second Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings*, 21 July 2022, public, para. 10.

Applicants needed assistance with filing in the application forms and, initially, the only point of contact was Victim 02/04.⁹

8. The VPO assesses the applications to be complete and admissible and recommends the Pre-Trial Judge to admit the Applicants as participating victims.¹⁰ It further recommends that the Applicants be grouped with the already admitted victims for the purpose of common legal representation and that they be represented by the assigned Victims' Counsel.¹¹ Lastly, the VPO proposes that the Applicants be assigned pseudonyms and granted anonymity towards the public, the Accused and Defence Counsel to ensure their protection.¹²

III. APPLICABLE LAW

A. APPLICATION AND ADMISSION TO THE PROCEEDINGS

9. Pursuant to Article 22(1) of the Law and Rule 2 of the Rules, a victim is a natural person who has personally suffered harm, including physical, mental or material harm, as a direct result of a crime within the jurisdiction of the Specialist Chambers ("SC") and alleged in an indictment confirmed by the Pre-Trial Judge.

10. Pursuant to Rule 113(1) of the Rules, after the confirmation of an indictment and sufficiently in advance of the opening of the case, a person claiming to be a victim of a crime alleged in the indictment may file an application for admission as a victim participating in the proceedings, specifying how he or she qualifies as a victim and providing the location and date of an alleged crime giving rise to harm. Application forms shall not be disclosed to the Parties.

⁹ Third Registry Report, para. 11.

¹⁰ Third Registry Report, paras 16, 30 [*sic*].

¹¹ Third Registry Report, paras 35, 37.

¹² Third Registry Report, para. 43.

11. Pursuant to Rule 113(2) of the Rules, the VPO registers and assesses the applications and files them before the Pre-Trial Judge together with a recommendation on admissibility and common representation, and a request for protective measures under Rule 80 of the Rules, as applicable. The VPO must also submit a confidential report to the Parties, without providing any identifying information of the applicants.

12. Pursuant to Rules 95(2)(i) and 113(4)-(5) of the Rules, the Pre-Trial Judge shall consider whether the applicant has provided *prima facie* evidence of the harm suffered as a direct result of a crime in the indictment and shall render a reasoned decision granting or denying admission in the proceedings. The Pre-Trial Judge shall also decide on common representation and any requests for protective measures. The decision shall be notified to the applicant, the VPO and the Parties.

13. Pursuant to Rule 113(6) of the Rules, denied applicants may appeal as of right the decision within fourteen (14) days of notification of the decision denying admission in a language he or she understands.¹³

14. Pursuant to Rule 113(8) of the Rules, the Pre-Trial Judge, after having consulted the VPO, shall decide whether to divide the victims participating in the proceedings into groups having common representation, taking into consideration: (a) any conflicting interests that may hinder common representation; (b) any similar interests that may facilitate common representation; and (c) the rights of the accused and the interests of a fair and expeditious trial.

¹³ See also KSC-BC-2020-06, IA005/F00003, Court of Appeals, *Decision on Counsel's Motion for Clarification and Variation of Time Limit*, 31 May 2021, public, p. 3.

B. PARTICIPATION IN PRE-TRIAL PROCEEDINGS

15. Pursuant to Article 22(3) of the Law, a victim's personal interests and rights in criminal proceedings before the SC are notification, acknowledgement and reparation.

16. Pursuant to Rule 113(7) of the Rules, where victims are granted the right to participate in the proceedings, the Registrar shall assign a Victims' Counsel to a group of victims participating in the proceedings in accordance with the Directive on Counsel.

17. Pursuant to Article 22(6) of the Law and Rule 114(1) of the Rules, victims participating in the proceedings shall exercise their rights through an assigned Victims' Counsel during, *inter alia*, pre-trial proceedings, when their interests are impacted and only when it is not prejudicial to or inconsistent with the rights of the accused.

18. Pursuant to Rule 114(4) of the Rules, where necessary and depending on the circumstances, the Pre-Trial Judge shall issue specific guidelines regulating the participation of victims in the pre-trial proceedings, in accordance with Article 22(3) and (6) of the Law.

19. Pursuant to Rule 114(2) of the Rules, Victims' Counsel may be present at pre-trial proceedings if deemed necessary by the Pre-Trial Judge, in order to ensure the personal interests and rights of the victims participating in the proceedings, in accordance with Article 22(3) of the Law.

20. Pursuant to Rule 114(3) of the Rules, Victims' Counsel shall have access to confidential material, unless otherwise provided in the Rules or as determined by the Pre-Trial Judge. Victims' Counsel shall keep his or her clients informed of relevant developments in the case in a manner which does not reveal confidential information.

21. Pursuant to Rule 114(4) of the Rules, whenever the personal interests of victims participating in the proceedings are affected, and unless otherwise provided in the Rules, Victims' Counsel may, under the control of the Panel, make oral and written submissions.

C. PROTECTIVE MEASURES

22. Pursuant to Article 39(11) of the Law and Rule 95(2)(h) of the Rules, the Pre-Trial Judge may, where necessary, decide on motions related to the protection and privacy of victims and witnesses filed before the transmission of the case file to the Trial Panel.

23. Pursuant to Rule 80(1) of the Rules, the Pre-Trial Judge may order, *proprio motu* or upon request, appropriate measures for the protection, safety, physical and psychological well-being, dignity and privacy of, *inter alia*, victims participating in the proceedings.

24. Pursuant to Rule 80(4) of the Rules, such measures may include non-disclosure to the Parties of any material or information that may lead to the disclosure of the identity of a victim participating in the proceedings.

IV. DISCUSSION

25. At the outset, the Pre-Trial Judge notes that the VPO has filed the Third Registry Report after the deadline set in the Framework Decision.¹⁴ The deadline serves to organise the pre-trial proceedings and makes it possible for the Pre-Trial Judge to render a decision on applications in time. It does not impede the VPO from submitting applications until "sufficiently in advance of the opening of the

¹⁴ See Third Registry Report, para. 11; Framework Decision, para. 63(e)

case pursuant to Rule 124” of the Rules, subject to the Panels’ orders.¹⁵ Having ruled on Victim 02/04’s application for participation, a family member of the Applicants, and in the spirit of efficiency and proper trial preparation, the Pre-Trial Judge deems it appropriate to rule on the six applications prior to submitting the case file to the Trial Panel. Nevertheless, in respect of any future applications, the Pre-Trial Judge invites the VPO to be proactive when assisting victims with preparing their applications in order for the VPO to file its reports in accordance with any deadlines set by the Pre-Trial Judge.

26. In assessing the applications of the Applicants, the Pre-Trial Judge is guided by the principles set out in the Framework Decision and the First Decision on Victims’ Participation with regard to the requirements for an application to be considered complete,¹⁶ the admissibility criteria,¹⁷ the standard of proof,¹⁸ the legal test applicable in granting protective measures¹⁹ and the criteria for grouping victims for the purpose of common legal representation.²⁰

¹⁵ Rule 113(1) of the Rules. *See also* KSC-BC-2020-05, F00126/RED, Trial Panel I, *Public Redacted Version of Third Decision on Victims’ Participation*, 21 May 2021, public, para. 41.

¹⁶ Framework Decision, para. 24; Second Decision on Victims’ Participation, para. 26.

¹⁷ Framework Decision, paras 34, 36-45; First Decision on Victims’ Participation, paras 28-33.

¹⁸ Framework Decision, para. 35.

¹⁹ Framework Decision, paras 52-56; KSC-BC-2020-06, F00817, Pre-Trial Judge, *Third Decision on Victims’ Participation*, 25 May 2022, strictly confidential and *ex parte*, paras 36-40, 42. A public redacted version was filed on the same day, F00817/RED. The Court of Appeals Panel confirmed the Pre-Trial Judge’s legal test applicable in granting protective measures, KSC-BC-2020-06, IA023/F00006, *Decision on Veseli’s Appeal Against “Third Decision on Victims’ Applications”* (“Court of Appeals Decision”), 15 September 2022, public.

²⁰ Framework Decision, paras 48-51 (*see also* paras 33, 46-47, 51, and 56 on the role of the VPO in conducting the preliminary assessment regarding admissibility, grouping and protective measures).

A. ASSESSMENT OF APPLICATION

1. Completeness of Application

27. Having assessed the application form and supporting documentation against the requirements set out in the Framework Decision,²¹ the Pre-Trial Judge is satisfied that the applications are complete.²²

2. Admissibility of Application

28. *Natural persons.* The Pre-Trial Judge is satisfied that the Applicants have provided adequate proof of identity and are natural persons.²³

29. *Alleged crimes.* The Pre-Trial Judge is satisfied that the Applicants are indirect victims of crimes (arbitrary detention, cruel treatment, torture) allegedly committed at the Metal Factory in Kukës, Albania, at [REDACTED] 1999 against an immediate family member who is named in the Confirmed Indictment.²⁴ The Pre-Trial Judge notes that [REDACTED].²⁵ The Pre-Trial Judge notes that, in addition to the alleged crimes in 1999, Victims 03/04 and 08/04 describe alleged

²¹ Framework Decision, para. 24.

²² Third Registry Report, para. 16. The Pre-Trial Judge notes that, while documentation regarding the harm suffered has not been submitted by the Applicants, the detailed accounts provided by the Applicants are sufficient to allow the relevant findings to be made.

²³ Third Registry Report, para. 20; Victim 03/04, Application Form, p. 1; SD1-Passport; Victim 04/04, Application Form, p. 1; SD1-ID; Victim 05/04, Application Form, p. 1; SD1-Passport; Victim 06/04, Application Form, p. 1; SD1-ID; Victim 07/04, Application Form, p. 1; SD1-Passport; SD2-ID; Victim 08/04, Application Form, p. 1; SD1-ID.

²⁴ Third Registry Report, paras 21-23; Annex to the Third Registry Report, p. 2; Victim 03/04, Application Form, p. 2; SD5-Note to the File; Victim 04/04, Application Form, p. 2; SD4-Note to the File; Victim 05/04, Application Form, p. 2; SD5-Note to the File; Victim 06/04, Application Form, p. 2; SD4-Note to the File; Victim 07/04, Application Form, p. 2; SD5-Note to the File; Victim 08/04, Application Form, p. 2; SD4-Note to the File; Confirmed Indictment. The Pre-Trial Judge considers that references to paragraphs in the Confirmed Indictment could lead to the identification of Victims 03/04-08/04.

²⁵ Victim 03/04, SD5-Note to File; Victim 07/04, Application Form, p. 2; SD5-Note to the File.

events in [REDACTED], which the Pre-Trial Judge considers are outside the temporal scope of the Confirmed Indictment.²⁶

30. *Harm.* The Pre-Trial Judge is satisfied that the Applicants as immediate family members to a direct victim have personally suffered mental harm (psychological trauma, distress, nightmares, anxiety and grief) as a direct result of the alleged arbitrary detention, cruel treatment and torture purportedly suffered by the direct victim.²⁷ Additionally, the Applicants claim that they suffered material harm (destruction of property, loss of income and in respect of [REDACTED]), Victim 07/04 claims that he suffered physical harm during the abduction of his direct family member and Victim 08/04 claims that he suffered physical and mental harm as a result of alleged events in [REDACTED].²⁸ The Pre-Trial Judge considers that: (i) there is not sufficient information for a *prima facie* finding that the Applicants suffered material harm (loss of income and in respect of [REDACTED]) as a direct result of the charged crimes; (ii) there is not sufficient information for a *prima facie* finding that Victim 07/08 suffered physical harm as a direct result of the charged crimes; (iii) the physical and mental harm that Victim 08/04 alleges as result of events in [REDACTED] is outside the temporal scope of the Confirmed Indictment;²⁹ and (iv) the material harm connected to the destruction of the Applicants' property is outside the temporal scope of the Confirmed Indictment.³⁰

²⁶ Annex to the Third Registry Report, p. 4; Victim 03/04, Application Form, p. 2; Victim 08/04, Application Form, p. 2; Confirmed Indictment, para. 8.

²⁷ Third Registry Report, paras 24-29; Annex to the Third Registry Report, pp.2-3; Victim 03/04, Application Form, p. 3; SD2-Marriage Certificate; Victim 04/04, Application Form, p. 2; SD2-Birth Certificate; Victim 05/04, Application Form, p. 2; SD2-Birth Certificate; Victim 06/04, Application Form, p. 2; SD3-Birth Certificate; Victim 07/04, Application Form, p. 2; SD4-Birth Certificate; Victim 08/04, Application Form, p. 2; SD3-Birth Certificate.

²⁸ Third Registry Report, para. 30; Annex to the Third Registry Report, p. 3; Victim 03/04, Application Form, p. 3; Victim 04/04, Application Form, p. 2; Victim 05/04, Application Form, p. 2; Victim 06/04, Application Form, p. 2; Victim 07/04, Application Form, p. 2; Victim 08/04, Application Form, p. 2.

²⁹ Confirmed Incitement, para. 8.

³⁰ Confirmed Indictment, para. 8.

31. The above findings are without prejudice to any future ruling following submissions of additional material.

3. Conclusion

32. In light of the above, the Pre-Trial Judge finds that there is *prima facie* evidence that the Applicants have suffered harm as a direct result of crimes alleged in the Confirmed Indictment and admits the Applicants as participating victims in the proceedings.

B. PROTECTIVE MEASURES

33. The VPO recommends that the Applicants be assigned pseudonyms and granted non-disclosure of their identities to the public, the Accused and Defence Counsel.³¹

34. The Pre-Trial Judge recalls that, as indicated in the Framework Decision, the legal test applicable for protective measures in relation to victims is the same as that applicable in relation to witnesses.³²

35. In assessing the existence of an objectively justifiable risk and the necessity of the protective measures for the Applicants, the Pre-Trial Judge takes into account the following factors: (i) the Applicants allege that they suffer from mental trauma as a result of the mistreatment the Applicants' immediate family member allegedly suffered; (ii) the Applicants have [REDACTED];³³ and

³¹ Third Registry Report, para. 43.

³² Framework Decision, para. 54; First Decision on Victims' Participation, para. 36.

³³ Third Registry Report, para. 43; Victim 03/04, Application Form, p. 3; Victim 04/04, Application Form, pp. 2-3; Victim 05/04, Application Form, pp. 2-3; Victim 06/04, Application Form, p. 2; Victim 07/06, Application Form, p. 3; Victim 08/04, Application Form, p. 3. The Pre-Trial Judge notes that Victims 03/04 and 07/04 have not expressed concerns about their identities being revealed to the Parties.

(iii) Victim 02/04 benefits from protective measures³⁴ that would otherwise be impaired if the identities of his family members would be shared with the Parties at this stage. In addition, the Pre-Trial Judge pays regard to: (i) the general climate of witness and victim intimidation prevailing in Kosovo, particularly in criminal proceedings against former members of the Kosovo Liberation Army;³⁵ and (ii) there is a risk that the Accused will obstruct the progress of SC proceedings and/or commit further crimes in view of *inter alia* [REDACTED].³⁶ Moreover, the Pre-Trial Judge is also mindful that adequate protective measures for a victim are often the legal means by which their participation in the proceedings can be secured and such measures are a necessary step in order to safeguard their safety, physical and psychological well-being, dignity and privacy in accordance with Rule 80 of the Rules.³⁷ For these reasons, the Pre-Trial Judge considers that disclosure to the public, the Accused and the Defence of any material or information leading to the identification of the Applicants poses an objectively justifiable risk to them. Accordingly, the Pre-Trial Judge finds that anonymity under Rule 80(4)(e)(i) of the Rules is the most appropriate and necessary measure at this stage of the proceedings.

36. Regarding the proportionality of the measure, the Pre-Trial Judge notes that any protective measures ordered at this stage in relation to any of the admitted victims are without prejudice to their variation at a later stage, including by the

³⁴ Second Decision on Victims' Participation, para. 36.

³⁵ KSC-BC-2020-04, F00045, Pre-Trial Judge, *Decision on Pjetër Shala's Request for Provisional Release* ("Provisional Release Decision"), 15 June 2021, confidential, para. 26. A public redacted version was issued on 23 June 2021, F00045/RED; F00224, Pre-Trial Judge, *Decision on Review of Detention of Pjetër Shala* ("Decision on Review of Detention"), 22 June 2022, confidential, para. 30. A public redacted version was filed on the same day, F00224/RED,

³⁶ KSC-BC-2020-04, F00008, Pre-Trial Judge, *Decision on Request for Arrest Warrant and Transfer Order*, 12 June 2020, confidential, paras 21-22. A public redacted version was issued on 6 May 2021, F00008/RED; Provisional Release Decision, paras 32-33, 35, 39-40; Decision on Review of Detention, paras 33, 35, 39.

³⁷ See First Decision on Victims' Participation, para. 37; Similarly ICC, *Prosecutor v. Lubanga*, ICC-01/04-01/06-1119, Trial Chamber I, [Decision on Victims' Participation](#), 18 January 2008, para. 128.

Trial Panel, if and when the need arises.³⁸ For these reasons, the Pre-Trial Judge finds that anonymity under Rule 80(4)(e)(i) of the Rules is a proportionate measure at this stage of the proceedings.

37. In light of the above, the Pre-Trial Judge finds that the following measures are appropriate, necessary and proportionate at this stage of the proceedings, namely: (i) redactions of the Applicants' names and identifying information from the SC public records (Rule 80(4)(a)(i) of the Rules); (ii) non-disclosure to the public of any records identifying the Applicants (Rule 80(4)(a)(ii) of the Rules); (iii) the assignment of pseudonyms (Rule 80(4)(a)(vi) of the Rules); (iv) non-disclosure to the Accused by Specialist Counsel of any material or information that may lead to disclosure of the identities of the Applicants (Rule 80(4)(d) of the Rules); and (v) non-disclosure to the Defence of any material or information that may lead to the disclosure of the identities of the Applicants (Rule 80(4)(e)(i) of the Rules).

38. However, the Pre-Trial Judge observes that some of the Applicants only requested anonymity towards the public.³⁹ Therefore, the Pre-Trial Judge finds it appropriate to order the protective measures under Rule 80(4)(d) and (e)(i) of the Rules on a provisional basis. Victims' Counsel, once appointed in accordance with the findings set out hereafter and after having consulted the Applicants, shall provide submissions as to the need for the continued application of these measures, in particular the need (if any) of non-disclosure of the Applicants' identities to Defence Counsel, by no later than **Friday, 7 October 2022**.

³⁸ See also First Decision on Victims' Participation, para. 39; Second Decision on Victims' Participation, para. 35; Court of Appeals Decision, para. 52.

³⁹ Third Registry Report, para. 43; Annex to the Third Registry Report, p. 4; Victim 03/04, Application Form, p. 3; Victim 07/04, Application Form, p. 3.

39. Lastly, the Pre-Trial Judge notes that, in accordance with Rule 113(1) of the Rules, all application forms, application summaries and supporting documentation shall remain strictly confidential and *ex parte*.

C. GROUPING AND COMMON LEGAL REPRESENTATION

40. The VPO recommends that the Applicants be grouped together with the other victims participating in the proceedings in Group 1 and that they are represented by the assigned Victims' Counsel.⁴⁰

41. Based on the same considerations as set out in the Framework Decision,⁴¹ the Pre-Trial Judge finds that the Applicants, who expressed no particular preference,⁴² shall be grouped together with the victims previously admitted, under Group 1, and shall be represented by Victims' Counsel previously assigned to represent Group 1.

D. PARTICIPATION IN PRE-TRIAL PROCEEDINGS

42. Victims 03/04, 04/04, 05/04, 06/04, 07/04 and 08/04 shall exercise their rights through Victims' Counsel and shall participate through the modalities described in the First Decision on Victims' Participation.⁴³

⁴⁰ Third Registry Report, paras 35, 37.

⁴¹ Framework Decision, para. 49.

⁴² Third Registry Report, para. 36.

⁴³ First Decision on Victims' Participation, paras 47-49, 50(c).

V. DISPOSITION

43. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- (a) **GRANTS** the Applicants' applications and admits the Applicants to the proceedings as victims participating in the proceedings;
- (b) **DECIDES** that the Applicants shall be included in Group 1 for the purposes of common representation and shall be represented by Victims' Counsel for Group 1;
- (c) **DECIDES** that Victims' Counsel shall:
 - (i) have access to the entire case file, including all public and confidential filings, transcripts and evidentiary material and excluding any *ex parte* items of the case file;
 - (ii) be notified of all distributed items in the case file, including all public and confidential filings, transcripts, disclosures of evidentiary material and excluding any distributed *ex parte* items of the case file;
 - (iii) neither have access to nor be notified of strictly confidential material, including filings, transcripts or evidentiary material, unless specifically provided so;
 - (iv) keep the victims participating in the proceedings informed of relevant developments in the case in a manner which does not reveal non-public information;
 - (v) be present at all pre-trial hearings, excluding any *ex parte* hearings; and
 - (vi) be permitted to make oral and written submissions whenever the personal interests of the victims participating in the proceedings are affected, without requiring prior leave;
- (d) **ORDERS** the protective measures for the Applicants as specified in paragraph 37 above;
- (e) **ORDERS** Victims' Counsel to provide submissions as to the need for the

continued application of the protective measures ordered pursuant to Rule 80(4)(d) and (e)(i) of the Rules by no later than **Friday, 7 October 2022**; and

- (f) **DECIDES** to maintain the classification strictly confidential and *ex parte* of all application forms, summaries and supporting documentation.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Monday, 19 September 2022

At The Hague, the Netherlands.