

In: **KSC-BC-2020-06/F01152/IA026**
The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and
Jakup Krasniqi

Before: **Judge Michele Picard**
Judge Emilio Gatti
Judge Kai Ambos

Registrar: **Dr Fidelma Donlon**

Filed by: Jelena Cakić, Counsel for Denied Applicants

Date: 28 February 2023

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**PUBLIC REDACTED VERSION OF VICTIMS' COUNSEL SUBMISSION
PURSUANT TO ARTICLE 22(6) OF THE LAW No.05/L-053**

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I LEGAL GROUND OF SUBMISSION

1. Victims' Counsel for denied applicants¹ notice the application procedure for the participating in the Trial procedure and the principles established by the Court of Appeals.²

2.[REDACTED]

3. [REDACTED] Is incumbent of the Prosecutor to conduct investigations independently [REDACTED] The Constitutional Court Chambers withheld the right of the victims to truth³, also the Trial Panel I⁴. This interpretation is in line with the findings of ECHR and ICC⁵. Victims' central interest is justice to be done. [REDACTED] This would be in the capacity of "victim/victims", pursuant to the Article 22 of the Law⁶.

4. Article 13 of the Declaration⁷ recognizes the obligation of the State to investigate [REDACTED]. Paragraph 4 of Article 13 specifies that "the findings of such an investigation shall be made available upon request to all interested persons, unless doing so would jeopardize an ongoing criminal investigation." [REDACTED] Providing general information on procedural matters, such as the fact that the matter has been given to a judge for examination, is insufficient and should be considered a violation of the right

¹ KSC-BC-2020-06/F01152 Fourth Decision on Victims' Participation, 12 December 2023, public version 14 December 2023

² KSC-BC-2020-06, IA005/F00008, Court of Appeals, Decision on Appeal Against "First Decision on Victims' participation, 16 July 2021, public

³ KSC-CC-2020-11, Judgement on the Referral of Proposed Amendment to the Constitution of Kosovo, Constitutional Court Chambers, 26 November 2020, para 69

⁴ KSC-BC-2020-05/F00152, Trial Panel I, Decision on victims' procedural rights during trial, paras 14-16

⁵ El Masri vs Former Yugoslav Republic of Macedonia (GC) no.39630/09, Judgement, 13 December 2012; ICC-01/04-01/07-474, Decision on the set of the Procedural Status of Victims at the Pre-Trial stage of a Case, paras 31-36, May 13, 2008

⁶ Law No.5/L-053

⁷ UN Declaration on the Protection all persons from Enforced Disappearance, adopted 18 December 1992; see also Article 32 to the Protocol I to the Geneva Convention

to the truth.⁸Violation of procedural rights has led to a violation of substantive law.[REDACTED]

Thus, the ECHR case-law recognized from early on that [REDACTED] may disclose inhuman and degrading treatment contrary to Article 3. The essence of the violation is not that there has been a serious human rights violation [REDACTED] it lies in the authorities' reactions and attitudes to the situation when it has been brought to their attention⁹.


5.[REDACTED]

6.This filing is submitted as STRICTLY CONFIDENTIAL and *ex parte* consistent with the current classification of Fourth Decision on Victims participation.

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At Nis,Republic of Serbia



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⁸ General Comment on the Right to the Truth in Relation to Enforced Disappearance ,Working Group on Enforced or Involuntary Disappearance

⁹ Case Warnava and others vs Turkey ,(GC) 2009, para 200

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