



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-06

**The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi,
and Jakup Krasniqi**

Before: Trial Panel II

Judge Charles L. Smith III

Judge Christoph Barthe

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

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Public Redacted Version of Sixth Decision on Victims' Participation

Victims' Participation Office

Acting Head of VPO

Counsel for Victims

Simon Laws

Acting Specialist Prosecutor

Alex Whiting

Counsel for Hashim Thaçi

Gregory Kehoe

Counsel for Kadri Veseli

Ben Emmerson

Counsel for Rexhep Selimi

David Young

Counsel for Jakup Krasniqi

Venkateswari Alagendra

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TRIAL PANEL II (“Panel”), pursuant to Articles 22 and 40 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 80, 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 4 January 2021 and 6 July 2021, the Pre-Trial Judge issued the “Framework Decision on Victims’ Applications” (“First Framework Decision”) and the “Second Framework Decision on Victims’ Applications” (“Second Framework Decision”), establishing the principles governing the admission of victims to participate in the proceedings.¹
2. On 30 September 2022, the SPO submitted the confirmed amended indictment (“Indictment”).²
3. On 18 January 2023, the Panel ordered the Registry to submit any remaining applications for admission of victims participating in the proceedings by 15 February 2023 and ordered the Parties to file any submissions on legal grounds regarding admissibility and common representation if they so wish no later than 22 February 2023 at 4.00 p.m. (“Panel’s 18 January 2023 Order”).³

¹ F00159, Pre-Trial Judge, *Framework Decision on Victims’ Applications*, 4 January 2021; F00382, Pre-Trial Judge, *Second Framework Decision on Victims’ Applications*, 6 July 2021.

² F00999, Specialist Prosecutor, *Submission of Confirmed Amended Indictment*, 30 September 2022, with Annex 1, strictly confidential and *ex parte*, Annex 2, confidential and Annex 3. See also F01296/03, Specialist Prosecutor, *Public Lesser Redacted Version of Amended Indictment*, 15 February 2023.

³ Transcript of Hearing, 18 January 2023 (Oral Order Setting Deadline for Applications for Admissions of Victims Participating in the Proceedings), pp. 1902-1903.

4. On 7 and 14 February 2023, the Victims' Participation Office ("VPO") filed, successively: (i) the eleventh report on victims' applications, transmitting nine applications ("Eleventh Report");⁴ and (ii) the twelfth report on victims' applications, transmitting one application ("Twelfth Report");⁵ (collectively, "Reports"). The Parties did not file responses to the Reports.

II. SUBMISSIONS

5. The VPO assesses that five of the ten applications submitted in the Reports are incomplete.⁶ As regards admissibility, the VPO recommends that the Panel: (i) admit three applicants as participating victims to the proceedings ("Group A Applicants");⁷ and (ii) deny seven applicants as participating victims to the proceedings ("Group B Applicants").⁸ As regards legal representation, the VPO: (i) recommends that Group A 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; and (ii) makes no recommendation for Group B Applicants.⁹ As regards protective measures, the VPO recommends that: (i) Group A Applicants be granted anonymity; and (ii) Group B Applicants' names and identifying information be withheld from the Parties and the public.¹⁰

⁴ F01264, Registrar, *Eleventh Registry Report on Victims' Applications for Participation in the Proceedings*, 7 February 2023, with strictly confidential and *ex parte* Annexes 1-5, paras 2, 7.

⁵ F01292, Registrar, *Twelfth Registry Report on Victims' Applications for Participation in the Proceedings*, 14 February 2023, with strictly confidential and *ex parte* Annex 1, para. 2.

⁶ Eleventh Report, para. 14 referring to **Victims 275/06, 277/06, 279/06, 280/06, 281/06** Applications. The VPO notes that **Victims 275/06, 279/06, 280/06 and 281/06** did not submit a valid ID or passport, and **Victim 277/06** did not sign the application.

⁷ Eleventh Report (2 applicants): Eleventh Report, paras 35, 39; Annex 2 to the Eleventh Report; **Victims 282/06 and 283/06**. Twelfth Report (1 applicant): Twelfth Report, para. 25; Annex 1 to the Twelfth Report; **Victim 284/06**.

⁸ Eleventh Report (7 applicants): Eleventh Report, paras 36-38, 40; Annexes 3-5 to the Eleventh Report; **Victims 275/06, 276/06, 277/06, 278/06, 279/06, 280/06 and 281/06**.

⁹ Eleventh Report, paras 45-46, 48-49; Twelfth Report, paras 30, 32.

¹⁰ Eleventh Report, paras 54-56; Twelfth Report, paras 37-38.

III. APPLICABLE LAW

6. The Panel recalls that the participation of victims is regulated by Article 22 and Rules 80, 113 and 114.

7. The Panel is also guided by the Court of Appeals' decisions on victim participation in relation to the requirement that the applicants demonstrate that they are a victim of a crime specified in the Indictment, the requirement for the Panel to give reasons for denying applications for participation, and the anonymity of victims participating in the proceedings.¹¹

IV. DISCUSSION

A. ASSESSMENT OF APPLICATIONS

8. Having assessed the application forms and supporting documentation submitted in the Reports, the Panel observes that five applications from the Eleventh Report are incomplete.¹² The Panel notes VPO's submissions that, despite all its efforts, it did not receive the missing information or documentation from the five applicants, but that it nonetheless submitted their applications with the Eleventh Report pursuant to the Panel's 18 January 2023 Order.¹³ The Panel acknowledges that one of the applicants did not sign the application and four applicants failed to provide an ID card or passport in support of their applications. That said, the Panel considers that there is sufficient information before it to assess these applications despite the missing information. Therefore, the Panel will proceed with

¹¹ IA0023/F00006, Court of Appeals, *Decision on Veseli's Appeal Against "Third Decision on Victims' Participations"* ("Appeal Decision on Third Decision on Victims' Participation"), 15 September 2022, paras 51-52. A corrected version was filed on the same day, IA023/F00006/COR.

¹² Eleventh Report, para. 14, fn. 17 referring to **Victims 275/06, 279/06, 280/06** and **281/06** who did not submit a valid ID or passport and **Victim 277/06** who did not sign the application.

¹³ Eleventh Report, para. 14.

assessing them on the basis of the information submitted. The Panel is satisfied that all the remaining applications are complete.¹⁴

9. For some applications, the Panel received English versions only of the summaries of the application forms and not of the forms themselves.¹⁵ The Panel notes that the VPO stated that “where applicable, supporting documents are being translated and will be uploaded in LW”.¹⁶ At the time of filing the decision, some English translations were still to be filed. In this instance, the absence of an English translation of certain documentation did not affect the Panel’s assessment of the applications, as the relevant applications were decided on other available material. That said, the Panel reiterates that, should there be any future submissions from the VPO, it ought to provide English translations of *all* supporting documents.¹⁷

10. The Panel notes that six applicants provided a valid ID card or passport as proof of identity. As regards the four applicants who did not, the Panel observes that they provided their birth and/or marriage certificates as well as the death certificate of their relative, alleged direct victim.¹⁸ The Panel is therefore satisfied that all the victim applicants in the Reports are natural persons.¹⁹

¹⁴ Eleventh Report, para. 15; Twelfth Report, para. 11.

¹⁵ See e.g. **Victims 282/06, 283/06, 284/06** Application Forms.

¹⁶ Eleventh Report, para. 10, fn. 10; Twelfth Report, para. 8, fn. 7.

¹⁷ See Fifth Decision on Victims’ Participation, para. 11. See also Fourth Decision on Victims’ Participation, para. 39. See also F00611, Pre-Trial Judge, *Second Decision on Victims’ Participation* (“Second Decision on Victims’ Participation”), 10 December 2021, strictly confidential and *ex parte*, para. 38, fn. 33. A confidential redacted and a public redacted version were filed on the same day, F00611/CONF/RED and F00611/RED.

¹⁸ **Victims 275/06** (birth and death certificates), **279/06, 280/06** and **281/06** (birth, marriage and death certificates). See **Victims 275/06, 279/06, 280/06** and **281/06** Supporting Documents.

¹⁹ Eleventh Report, para. 19; Twelfth Report, para. 15.

1. Correspondence Between the Alleged Crimes in the Applications and the Indictment

11. The Panel recalls that, as confirmed by the Court of Appeals, “the crime(s) in relation to 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” and that “Schedule C, read in conjunction with the relevant sections of the Indictment, provides an exhaustive description of the crimes of enforced disappearance with which the Accused are charged.”²⁰

12. It follows that an applicant who claims to be an indirect victim of the crime of enforced disappearance must establish *prima facie* that they are an immediate family member of a person named in Schedule C. For the same reason, an applicant who claims to be an indirect victim of the crime of murder must establish *prima facie* that they are an immediate family member of a person named in Schedule B.

13. In making its assessment, the Panel conducted an individualised analysis of each application, based on the Reports, the application forms, the supporting documentation and the relevant parts of the Indictment.

(a) Group A Applicants (Recommended for Admission by the VPO)

14. The Panel is satisfied that three applicants in the Reports are victims of crimes allegedly committed at locations identified in the Indictment and that the alleged crimes fall within the temporal scope of the charges as specified in the Indictment in relation to each of the locations.²¹ More specifically:

²⁰ IA005/F00008, Court of Appeals, *Decision on Appeal Against “First Decision on Victims’ Participation”* (“Decision on Appeal of First Decision on Victims’ Participation”), 16 July 2021, para. 35. See also First Framework Decision, para. 32; First Decision on Victims’ Participation, paras 24, 35.

²¹ Eleventh Report: 2 applicants (**Victims 282/06** and **283/06**). Twelfth Report: 1 applicant (**Victim 284/06**).

(a) *Direct Victims*. **Victims 282/06, 283/06 and 284/06** are direct victims of imprisonment/illegal or arbitrary arrest and detention, other inhumane acts or cruel treatment and/or torture, allegedly committed in Likoc/Likovac (Skënderaj/Srbica municipality) and [REDACTED] (Prizren municipality) in April 1998 and [REDACTED] 1999.²²

(b) *Indirect Victims*. **Victims 282/06 and 283/06** are also indirect victims of imprisonment/illegal or arbitrary arrest and detention, other inhumane acts and cruel treatment, torture, enforced disappearance and murder allegedly committed in Likoc/Likovac (Skënderaj/Srbica municipality) in April 1998 against an immediate family member.²³

(b) Group B Applicants (Not Recommended for Admission by the VPO)

15. The Panel is not satisfied that the seven individuals constituting Group B Applicants in the Reports have established, on a *prima facie* basis, that the crimes they claim to have been victims of fall under the temporal, geographical and material scope of the charges, as specified in the Indictment.²⁴ In accordance with the Court of Appeals' finding,²⁵ the Panel has set out in the footnotes below the reasons why each denied applicant falls outside the scope of Article 22(1). This is so that the

²² Eleventh Report: Victims 282/06 and 283/06 (direct victims of unlawful detention, inhumane and cruel treatment and torture allegedly committed at Likoc/Likovac (Skënderaj/Srbica municipality) in April 1998. See Application Forms and Supporting Material; Annex 2 to the Eleventh Report. See also Indictment, paras 62, 99. Twelfth Report: Victim 284/06 (direct victim of imprisonment/illegal or arbitrary arrest and detention, as well as other inhumane acts and cruel treatment and torture allegedly committed in [REDACTED] (Prizren municipality) in [REDACTED] 1999) See Application Form and Supporting Material; Annex 1 to the Twelfth Report. See also Indictment, paras [REDACTED].

²³ See Eleventh Report, Application Forms and Supporting Material; Annex 2 to the Eleventh Report. See also Indictment, para. [REDACTED]; Schedule B, [REDACTED]; Schedule C, [REDACTED].

²⁴ Eleventh Report: Victims 275/06, 276/06, 277/06, 278/06, 279/06, 280/06, 281/06.

²⁵ Decision on Appeal of First Decision on Victims' Participation, paras 38-40.

denied applicants can fully understand why their applications were rejected and so as to enable them to exercise their right of appeal in case they choose to do so:

- (a) *Temporal scope*. The Panel observes that all Group B Applicants have shown, on a *prima facie* basis, that the crimes they claim that their immediate family members were victims of fall within the temporal scope of the Indictment, which is March 1998 to September 1999;²⁶
- (b) *Geographical scope (crime sites)*. **Victim 275/06** has not established, on a *prima facie* basis, that the crimes she claims that her immediate family members were victims of fall within the geographical scope of the Indictment. This is because the applicant describes events that took place at a location that is not named in the Indictment;²⁷ and
- (c) *Material Scope*.²⁸ **Victims 276/06, 277/06, 278/06, 279/06, 280/06, and 281/06** have not established, on a *prima facie* basis, that the alleged murder and/or enforced disappearance of their immediate family members fall within the material scope of the Indictment.²⁹ This is because the alleged direct victims are not among the victims of murder and/or of enforced disappearance named in Schedule B or Schedule C to the Indictment.³⁰

²⁶ Eleventh Report: Victims 275/06 ([REDACTED]); **276/06, 277/06, 278/06, 279/06, 280/06, 281/06** ([REDACTED]). See Application Forms; Annexes 3-5 to the Eleventh Report. See also Indictment, para. 16.

²⁷ Eleventh Report: Victim 275/06 (direct victims were allegedly wounded [REDACTED]). The Panel notes that VPO states that it requested the applicant to provide to VPO further information on the described events, and that the applicant has not done so). See Application Form and Supporting Material, Annex 3 to the Eleventh Report. See also Indictment, Schedule A.

²⁸ The Panel notes that for the applicants who were assessed as falling outside the temporal scope and/or geographical scope of the Indictment, it is not necessary for the Panel to assess whether these applicants fall within the material scope.

²⁹ Eleventh Report: Victims 276/06, 277/06, 278/06, 279/06, 280/06, 281/06. See Application Forms and Supporting Documents; Annexes 4-5 to the Eleventh Report.

³⁰ See generally Indictment, paras 138-174; Schedule B; Schedule C; Decision on Appeal of First Decision on Victims' Participation, para. 24: "Schedule C, read in conjunction with the relevant sections of the Indictment, provides an exhaustive description of the crimes of enforced disappearance with which the Accused are charged" (footnote omitted). See similarly Fifth Decision on Victims' Participation para. 18(c), fn. 49.

16. The above determinations are without prejudice to any future ruling on the commission of the charged crimes, on the admissibility of victims' applications, including on the harm they may have suffered as a result of the alleged crimes, following a possible amendment of the Indictment, or supplemental information enabling a determination that the events described in the application fall within the scope of the charges. The Panel will not assess the remaining admissibility criteria of the applicants whose applications fall outside the scope of the charges.

2. Alleged Harm

17. The Panel is satisfied that all victims constituting Group A Applicants have *prima facie* suffered harm as a direct result of the alleged crimes described by them, as follows:

(a) *Direct victims – Physical and mental harm.* **Victims 282/06, 283/06 and 284/06** have personally suffered physical harm (heavily beaten) and mental harm (stress, depression, psychological trauma), as a direct result of their alleged detention and mistreatment.³¹

(b) *Indirect victims – Mental harm.* **Victims 282/06 and 283/06**, as immediate family members, have personally suffered mental harm (psychological trauma) as a direct result of the harm purportedly suffered by the direct victim.³²

18. The above findings concerning harm are without prejudice to any future ruling following submission of additional material.

³¹ Eleventh Report: Victims 282/06 and 283/06 (physical and mental harm claims) Application Forms and Supporting Documentation; Annex 2 to the Eleventh Report. Twelfth Report: Victim 284/06 (physical and mental harm claims) Application Form and Supporting Documentation; Annex 1 to the Twelfth Report.

³² Eleventh Report: Victims 282/06 and 283/06 (mental harm claim) Application Forms and Supporting Documentation; Annex 2 to the Eleventh Report.

3. Conclusion

19. In light of the above, the Panel finds that there is *prima facie* evidence that all Group A Applicants have suffered harm as a direct result of crimes alleged in the Indictment. Accordingly, the Panel admits all Group A Applicants as participating victims in the proceedings.

20. The Panel further finds that Group B Applicants, for the reasons provided at paragraph 15, are not admitted to the proceedings as participating victims.

B. PROTECTIVE MEASURES

1. Group A Applicants

21. The VPO recommends that all Group A Applicants be granted anonymity under Rule 80(4)(e)(i).³³

22. The Panel observes that all Group A Applicants are dual status witnesses³⁴ who, as SPO witnesses, were granted protective measures.³⁵ The Panel further observes that these protective measures remain in place vis-à-vis the public but are no longer in place vis-à-vis the Accused.³⁶

³³ Eleventh Report, para. 54; Twelfth Report, para. 37.

³⁴ **Victims 282/06** and **283/06** are [REDACTED], see Annex 2 to the Eleventh Report, fn. 1. **Victim 284/06** is [REDACTED], see Annex 1 to the Twelfth Report, fn. 1.

³⁵ See previous decisions granting protective measures to [REDACTED] (i.e. **Victims 282/06** and **283/06**) and [REDACTED] (i.e. **Victim 284/06**): [REDACTED].

³⁶ F01296/A02, Specialist Prosecutor, *Annex 2 to Prosecution Submissions Pursuant to Decision F01229*, 15 February 2023, confidential, pp. [REDACTED].

(a) Application Forms

23. The Panel notes that, in accordance with Rule 113(1), all application forms, application summaries and supporting documents shall remain strictly confidential and *ex parte*.³⁷ This is without prejudice to the Panel's decision to grant access to the Defence to redacted versions of section 2 of the application forms and, where necessary, supporting documents of dual status witnesses.³⁸

(b) Identity of Applicants and Witness Codes

24. The Panel recalls that the legal test applicable for protective measures in relation to victims is the same as that applicable in relation to witnesses.³⁹

25. The Panel is satisfied that the objectively justifiable risk underlying the granting of the protective measures to Group A Applicants as SPO witnesses still exists and that these measures remain necessary vis-à-vis the public.⁴⁰ The Panel further recalls the general climate of witness and victim intimidation prevailing in Kosovo, particularly in criminal proceedings against former members of the Kosovo Liberation Army.⁴¹ Further, the Panel is mindful that by virtue of their status as

³⁷ See F01237, Trial Panel, *Decision on Taçi Defence Request for Leave to Appeal Decision on Disclosure of Dual Status Witnesses*, 30 January 2023, para. 28.

³⁸ F01348, Trial Panel, *Order on the Disclosure of Application Forms Pertaining to Dual Status Witnesses*, 6 March 2023, with Annexes 1-3, strictly confidential and *ex parte*.

³⁹ Fifth Decision on Victims' Participation, paras 31-36. See also First Framework Decision, para. 47; First Decision on Victims' Participation, para. 67; Second Decision on Victims' Participation, para. 50; Third Decision on Victims' Participation, para. 42; F00817, Pre-Trial Judge, *Third Decision on Victims' Participation* ("Third Decision on Victims' Participation"), 25 May 2022, strictly confidential and *ex parte*, para. 42. A public redacted version was filed on the same day, F00817/RED.

⁴⁰ See [REDACTED].

⁴¹ See IA015/F00005, Court of Appeals, *Public Redacted Version of Decision on Rexhep Selimi's Appeal Against Decision on Remanded Detention Review and Periodic Review of Detention*, 25 March 2022, para. 43; KSC-BC-2020-07, F00611, Trial Panel II, *Public Redacted Version of Trial Judgement*, 18 May 2022, paras 577-581, 593, 646-645, 968; KSC-BC-2020-05, F00494, Trial Panel I, *Public Redacted Version of Trial Judgement*, 16 December 2022, para. 50; F01212, Trial Panel II, *Decision on Periodic Review of Detention of Jakup Krasniqi*, 17 January 2023, confidential, paras 22-23. A public redacted version was issued on the same day, F01212/RED; F01213, Trial Panel II, *Decision on Periodic Review of Detention of Rexhep Selimi*,

victims participating in the proceedings, these individuals are especially vulnerable.⁴²

26. On this basis, the Panel reiterates its finding that disclosure of the identities of dual status witnesses to the public – at any point – poses an objectively justifiable risk to them and their families.⁴³

27. As regards the proportionality of the measures, the Panel recalls that: (i) the witness codes and identities of dual status witnesses will be disclosed to the Accused as set out below; and (ii) 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, if and when the need arises.⁴⁴

28. In light of the above, the Panel finds that the protective measures currently in force vis-à-vis the public for Group A applicants (all of whom are dual status witnesses) as SPO witnesses shall be maintained.

29. Therefore, and to facilitate the disclosure of information pertaining to dual status witnesses, the Panel orders:

- (a) Victims' Counsel to liaise with the SPO to identify dual status witnesses admitted to participate as a result of the present decision and file an updated list of dual status witnesses, strictly confidential and *ex parte*, by **Wednesday, 15 March 2023**, to be notified to WPSO and VPO;

17 January 2023, confidential, paras 24-25. A public redacted version was issued on 18 January 2023, F01213/RED. KSC-CA-2022-01, F00114, Appeals Chamber, *Appeal Judgment*, 2 February 2023, paras 424, 438.

⁴² See First Decision on Victims' Participation, para. 68; Second Decision on Victims' Participation, para. 51; Third Decision on Victims Participation, para. 43; Fourth Decision on Victims' Participation, para. 59; Fifth Decision, para. 32.

⁴³ Fifth Decision on Victims' Participation, para. 33.

⁴⁴ See First Decision on Victims' Participation, para. 69; Second Decision on Victims' Participation, para. 53; Third Decision on Victims' Participation, para. 45; Fourth Decision on Victims' Participation, para. 61; Fifth Decision on Victims' Participation, para. 35.

- (b) Victims' Counsel to inform dual status witnesses that the fact that they are a victim will be disclosed to the Defence. Should the dual status witnesses have any concerns, they can raise them with the Panel. Victims' Counsel should file any application for relief associated with the expression of such concerns by **Wednesday, 29 March 2023**; and
- (c) Subject to any concerns, in the discretion of the Panel, the Panel will order that the updated list of dual status witnesses be reclassified as confidential.

2. Group B Applicants

30. As regards VPO's recommendation that the names and identifying information of Group B Applicants be withheld from the Parties and the public,⁴⁵ the Panel considers that, by virtue of the confidentiality of the application process, as provided in Rule 113(1)-(2), and taking into consideration the applicants' protection of privacy, the non-disclosure to the Parties and the public of their names and identifying information is necessary. The Panel is further of the view that, given that none of the Group B Applicants are admitted as victims participating in the proceedings, no prejudice is caused to the Accused by this non-disclosure.

31. The Panel accordingly orders that the names and any identifying information of Group B Applicants be withheld from the Parties and the public and, as a result, finds it appropriate to maintain the classification of the respective application forms, summaries and supporting documentation as strictly confidential and *ex parte*.

⁴⁵ Eleventh Report, para. 56.

C. GROUPING AND COMMON LEGAL REPRESENTATION

32. As regards the VPO's recommendation that all Group A Applicants be grouped together with the other victims participating in the proceedings,⁴⁶ the Panel recalls the Pre-Trial Judge's finding that a need to divide applicants into more than one group arises where the situation or specificity of the victims is so different that their interests are irreconcilable, making common representation impracticable.⁴⁷

33. The Panel observes that Group A Applicants have different backgrounds, reside in different areas and speak different languages. At the same time, all Group A Applicants, whether direct and/or indirect victims, were subjected to similar alleged types of crimes in generally similar circumstances and have suffered from similar forms of harm. As a result, the Panel is of the view that all Group A Applicants seem to share a common interest of participating in the proceedings and pursuing their rights. Moreover, all aforementioned applicants have indicated that they do not object to being in a group with other victims.

34. Based on these considerations, the Panel finds that all Group A Applicants shall be grouped together with the victims previously admitted, under Group 1.

35. Additionally, none of the Group A Applicants expressed preference with regard to legal representation.⁴⁸ The VPO recommends that all admitted applicants be represented by the assigned Victims' Counsel.⁴⁹ The Panel is satisfied that the recommended course is consistent with the effective guarantee of the rights of the applicants concerned.

⁴⁶ Eleventh Report, para. 45; Twelfth Report, para. 30.

⁴⁷ First Framework Decision, para. 43; First Decision on Victims' Participation, para. 76. *See also* Second Decision on Victims' Participation, para. 58; Third Decision on Victims' Participation, para. 48; Fourth Decision on Victims' Participation, para. 69; Fifth Decision on Victims' Participation, para. 41.

⁴⁸ Eleventh Report, para. 47; Twelfth Report, para. 31.

⁴⁹ Eleventh Report, para. 48; Twelfth Report, para. 32.

36. Based on the same considerations previously set out,⁵⁰ the Panel finds that Group 1 shall be represented by Victims' Counsel assigned to Group 1.

D. PARTICIPATION IN TRIAL PROCEEDINGS

37. Group A Applicants shall exercise their rights through Victims' Counsel and shall participate through the modalities described in the First Decision on Victims' Participation and in accordance with the Order on the Conduct of Proceedings.⁵¹

V. DISPOSITION

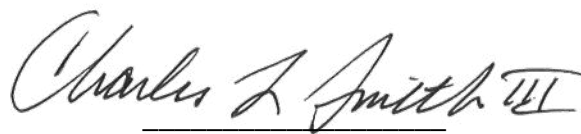
38. For the above-mentioned reasons, the Panel hereby:

- a. **GRANTS** the applications of Group A Applicants and admits them to participate as victims in the proceedings;
- b. **REJECTS** the applications of Group B Applicants as inadmissible;
- c. **DECIDES** that Group A Applicants shall be included in Group 1 for the purpose of common representation and shall be represented by Victims' Counsel for Group 1;
- d. **ADOPTS** the participation modalities and rights of Victims' Counsel as set out in paragraph 73(d) of the Fourth Decision on Victims' Participation;
- e. **ORDERS** the following protective measures under Rule 80(4)(e)(i):
 - i. the same protective measures to Group A Applicants as those granted to them as SPO witnesses; and

⁵⁰ Fifth Decision on Victims' Participation, para. 45. *See also* First Decision on Victims' Participation, para. 76; Second Decision on Victims' Participation, para. 58; Third Decision on Victims' Participation, para. 48; Fourth Decision on Victims' Participation, para. 69; First Framework Decision, para. 43.

⁵¹ Fifth Decision on Victims' Participation, para. 46. *See also* First Decision on Victims' Participation, paras 82-84, 85(d); F01226/01, Panel, *Annex 1 to Order on the Conduct of Proceedings*, 25 January 2023, paras 32-36. *See also* Fifth Decision on Victims' Participation, para. 46.

- ii. withholding from the Parties and the public the names and any identifying information of Group B Applicants, as well as maintaining the classification of their respective application forms, summaries and supporting documentation as strictly confidential and *ex parte*;
- f. **DECIDES** to maintain the classification strictly confidential and *ex parte* of all application forms, summaries and supporting documentation, without prejudice to the Defence's right to access redacted versions of section 2 of the application forms of dual status victims and, where necessary, supporting material;
- g. **ORDERS** Victims' Counsel, in respect of dual status witnesses, to:
 - i. liaise with the SPO to identify dual status witnesses and file an updated list of dual status witnesses, strictly confidential and *ex parte*, by **Wednesday, 15 March 2023**, to be notified to WPSO and VPO; and
 - ii. inform dual status witnesses that their victim status will be disclosed to the Defence, as set forth in paragraph 29 of this decision; and file before the Panel any concerns raised by dual status witnesses, if any, by **Wednesday, 29 March 2023**.



Judge Charles L. Smith, III

Presiding Judge

Dated this Wednesday, 8 March 2023

At The Hague, The Netherlands.