

In: **KSC-BC-2020-06/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

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

DISTRIBUTION :

Victim's Participation Office

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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

3. [REDACTED]⁴: Is incumbent of the Prosecutor to conduct investigations independently⁵, [REDACTED]⁶The Constitutional Court Chambers withheld the right of the victims to truth⁷, also the Trial Panel I⁸. This interpretation is in line with the findings of ECHR and ICC⁹. Victims' central interest is justice to be done. [REDACTED]¹⁰

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 Reports of the Secretary General on the UN Interim Administration Mission on Kosovo, S/1999/987, 16 September 1999, S/1999/1250, 23 December 1999; Report of Humanitarian Law Center [Fond za humanitarno pravo \(hlc-rdc.org\)](#); Human Rights Watch Report <https://www.hrw.org/reports/1999/kosov2/>; Amnesty International report <https://www.amnesty.org/ar/wp-content/uploads/2021/06/eur701061999en.pdf>; OSCE report, Annex I, Annex II <https://www.osce.org/files/f/documents/9/5/17781.pdf>

⁴ Applications of the victims V-23/06, V-32/06, V-29/06, V-42/06, V-43/06, V-50/06, V-51/06, V-52/06, V-60/06, V-61/06, V-62/06, V-69/06, V-81/06, V-83/06

⁵ Article 35 of the Law 05/L-053; Perez vs France (GC), 47287/99, 12 February 2004

⁶ Law No.5/L-053, Article 2, 6, 19 para 2,3, KSC-BD-03/Rev3/2020, Rules of procedure and evidence, Rules 113, 4 paras 1-2. Rule 5; Law No.04/L-123 Kosovo Criminal Procedure Code 2012, Articles 79-80

⁷ KSC-CC-2020-11, Judgement on the Referral of Proposed Amendment to the Constitution of Kosovo, Constitutional Court Chambers, 26 November 2020, para 69

⁸ KSC-BC-2020-05/F00152, Trial Panel I, Decision on victims' procedural rights during trial, paras 14-16

⁹ 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

¹⁰ Law No.5/L-053, Article 35

[REDACTED] This would be in the capacity of “victim/victims”, pursuant to the Article 22 of the Law¹¹.

4. Article 13 of the Declaration¹² 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 to the truth.¹³ Violation of procedural rights has led to a violation of substantive law. [REDACTED] Thus, the ECHR case-law recognized from early on [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 attention¹⁴.

5. [REDACTED]¹⁵ [REDACTED]

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

Word count: 4 681

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¹¹ Law No.5/L-053

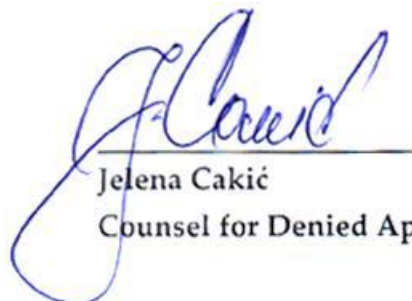
¹² UN Declaration on the Protection all persons from Enforced Disappearance, adopted 18 December 1992; see also Article 32 to the Protocol I to the Geneva Convention

¹³ General Comment on the Right to the Truth in Relation to Enforced Disappearance ,Working Group on Enforced or Involuntary Disappearance

¹⁴ Case Warnava and others vs Turkey ,(GC) 2009, para 200

¹⁵ See article 22(1) of the Law No.05/L-053, Rule 2(1) of the Rules of procedure and evidence, Article 79-80 of the Code of Criminal Procedure of Kosovo

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