



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, Presiding Judge

Judge Christoph Barthe

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 19 September 2023

Language: English

Classification: Public

Public Redacted Version of

Decision on Fourteenth Registry Report on Victims' Applications

Victims' Participation Office

Head of VPO

Counsel for Hashim Thaçi

Gregory Kehoe

Counsel for Victims

Simon Laws

Counsel for Kadri Veseli

Ben Emmerson

Acting Deputy Specialist Prosecutor

Ward Ferdinandusse

Counsel for Rexhep Selimi

Geoffrey Roberts

Counsel for Jakup Krasniqi

Venkateswari Alagendra

TRIAL PANEL II (“Panel”), pursuant to Articles 22, 23(1) 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 18 January 2023, the Panel ordered the Registry to submit any remaining applications for admission of victims wishing to participate in the proceedings by 15 February 2023 (“Order”).¹
2. On 3 April 2023, the Specialist Prosecutor Office (“SPO”) opened its case.²
3. On 22 August 2023, the Victims’ Participation Office (“VPO”) filed the fourteenth report on victims’ applications, transmitting to the Panel nine applications for the status of participating victims (“Report”).³
4. The Parties did not file responses to the Report.

II. SUBMISSIONS

5. The VPO submits that, pursuant to the Order, it transmitted to the Panel all applications for admission of victims participating in the proceedings it had in its possession by 15 February 2023.⁴ The VPO transmits nine applications

¹ Transcript of Hearing, 18 January 2023 (Oral Order Setting Deadline for Applications for Admissions of Victims Participating in the Proceedings), pp. 1902-1903.

² See Transcript of Hearing, 15 February 2023, pp. 2038-2039; Transcript of Hearing, 3 April 2023, p. 2140.

³ F01725, Registry, *Fourteenth Registry Report on Victims’ Applications for Participation in the Proceedings*, 22 August 2023, strictly confidential and *ex parte*, with Annexes 1-10, strictly confidential and *ex parte* (a confidential and *ex parte* redacted version of the Report was filed on the same day, F01725/CONF/RED; this confidential and *ex parte* version of the Report was reclassified as public on 23 August 2023).

⁴ Report, para. 4.

(“Applications”) from applicants who “were, for reasons outside of the VPO’s control, unable to apply earlier and without direct assistance”.⁵ The VPO submits that Victim 286/06 first expressed the wish to apply as a participating victim in [REDACTED]. [REDACTED]. The remaining eight applicants could only be met with the assistance of the [REDACTED]. [REDACTED].

6. The VPO submits that, “despite being submitted – for reasons outside the VPO’s control – after the deadline” set in the Order, it would be in the interests of justice and would protect the rights of the victims to have the Applications considered. The VPO requests the Panel to consider the Report and the Applications.⁶

III. APPLICABLE LAW

7. Pursuant to Rule 113(1), “sufficiently in advance of the opening of the case”, a person may file an application to participate as a victim in the proceedings.

8. Pursuant to Rule 9(5)(b), the Panel may, *proprio motu* or upon showing of good cause, recognise as valid any act carried out after the expiration of a time limit.

IV. DISCUSSION

9. The Panel recalls that it ordered the Registry to file any applications for admission of victims participating in the proceedings by 15 February 2023,⁷ and the case opened on 3 April 2023.⁸ As acknowledged by the VPO,⁹ the time limit to file applications for admission of victims participating in the proceedings has thus now expired.

⁵ Report, para. 7.

⁶ Report, para. 8.

⁷ Transcript of Hearing, 18 January 2023, pp. 1902-1903.

⁸ See Transcript of Hearing, 15 February 2023, pp. 2038-2039; Transcript of Hearing, 3 April 2023, p. 2140.

⁹ Report, para. 8.

10. The Panel will assess whether the “good cause” requirement under Rule 9(5)(b) is met in light of the circumstances set out by the VPO in the Report.

11. The Panel notes [REDACTED],¹⁰ which is available to the VPO. It also notes the VPO’s submissions that: (i) all applicants “were, for reasons outside of the VPO’s control, unable to apply earlier and without direct assistance”; (ii) “[s]even applications were completed during a mission”; (iii) “one application, from the same group of applicants, immediately after the mission via video call”; (iv) [REDACTED]; and (v) “one victim first expressed the wish to apply as a participating victim [REDACTED]”; (vi) the “remaining eight applicants could only be met with the assistance of [REDACTED]” and (vii) [REDACTED].¹¹

12. On the basis of this information and in particular considering that all applicants are [REDACTED], it is unclear to the Panel why the applicants were unable to apply earlier and [REDACTED]. In particular, the “reasons outside the VPO’s control” are not set forth in the Report. The Panel is therefore not persuaded that there is good cause for the Panel to recognise as valid the transmission of the Applications after the expiration of the time limit set in the Order.

13. Accordingly, the Panel finds that the VPO’s Report is not timely, and declines to consider the merits of the Applications. The Applications are denied without prejudice. The VPO is at liberty to resubmit the Report, clearly articulating the reasons why the applications were submitted late, and why those reasons were outside the VPO’s control.

¹⁰ Report, para. 7.

¹¹ Report, paras 6-7.

V. DISPOSITION

14. For these reasons, the Panel hereby **DENIES** without prejudice the Applications transmitted in the Report.



Judge Charles L. Smith, III
Presiding Judge

Dated this Tuesday, 19 September 2023

At The Hague, The Netherlands.