



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA 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: Dr Fidelma Donlon

Filing Participant: Dr Fidelma Donlon

Date: 14 December 2023

Language: English

Classification: **Confidential and *Ex Parte***

**Confidential Redacted Version of “Fifteenth Registry Report on Victims’
Applications for Participation in the Proceedings, with one strictly confidential and
ex parte Annex”, filing F02006**

Registry

Victims’ Participation Office

I. INTRODUCTION

1. The Victims' Participation Office ('VPO') hereby files the Fifteenth Report ('Fifteenth Report') on victims' applications for participation in the proceedings pursuant to Rule 113(2) of the Rules.¹

2. With this Fifteenth Report, the VPO transmits to Trial Panel II ('the Panel') one application for the status of a participating victim in the proceedings and provides a recommendation on admissibility, grouping, common representation and protective measures.

II. PROCEDURAL HISTORY

3. On 18 January 2023, at the trial preparation conference, the Panel set 15 February 2023 as the deadline for the Registry to submit any remaining applications for admission of victims participating in the proceedings.²

4. The Registry filed two additional reports on victims' applications for participation in the proceedings since that time,³ and the Panel admitted one additional participating victim.⁴

5. On 19 October 2023, the VPO was informed [REDACTED] that [REDACTED] ('the Applicant') wished to apply as a participating victim and needed assistance with

¹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

² Oral Order setting deadline for applications for admission of victims participating in the proceedings, 18 January 2023, Transcript p. 1902 l. 20 – p. 1903 l. 4. *See also* F01264, Eleventh Registry Report on Victims' Applications in the proceedings, 7 February 2023, public, with strictly confidential and *ex parte* Annexes 1 – 5; F01292, Twelfth Registry Report on Victims' Applications for Participation in the Proceedings, 14 February 2023, public, with one strictly confidential and *ex parte* annex; F01355, Sixth Decision on Victims' Participation, 8 March 2023, strictly confidential and *ex parte* (*see also* F01355/RED, 10 March 2023).

³ F01605, Thirteenth Registry Report on Victims' Applications for Participation in the Proceedings, 14 June 2023, strictly confidential and *ex parte*, with one strictly confidential and *ex parte* annex, (*see also* F01605/CONF/RED, 15 June 2023, public); F01801, Fourteenth Report on Victims' Applications for Participation in the Proceedings, 18 August 2023, strictly confidential and *ex parte*, with ten strictly confidential and *ex parte* annexes (*see also* F01801/RED, 22 August 2023, public); F01850, Resubmission of the Fourteenth Registry Report on Victims' Applications for Participation in the Proceedings with one strictly confidential and *ex parte* Annex, 11 October 2023.

⁴ F01774, Seventh Decision on Victims' Participation, 7 September 2023, strictly confidential and *ex parte*.

the application form. The Applicant had not been identified as a person who has suffered harm as a direct result of a crime in the Confirmed Indictment. Nevertheless, the VPO met with the Applicant on the same day and provided information and assistance. The VPO explained the application process and indicated that the deadline for the submission of applications had passed. The Applicant understood that it was likely that their application would not be admitted, but wished nevertheless to submit an application. The VPO proceeded by assisting the applicant with completing the application form.

III. CLASSIFICATION

6. This filing is submitted as confidential and *ex parte* as it contains information related to the Applicant's [REDACTED]. The VPO will file a confidential and *ex parte* redacted version of this Fifteenth Report, in accordance with Rule 113 of the Rules. The VPO has no objection to the reclassification of the redacted version of the Fifteenth Report so that it can be disclosed to the Parties, as it contains no identifying information of the Applicant. For the same reason, the VPO does not object to the reclassification of the redacted version of the Report as public. In the event that the Panel decides to re-classify the redacted version of the Report, it may also constitute the report to the Parties pursuant to Rule 113(2) of the Rules.⁵

7. Together with this Fifteenth Report, the VPO submits one strictly confidential and *ex parte* Annex, containing a summary of the application prepared by the VPO, along with basic information on the Applicant, a summary of the alleged events and harm suffered, and any request for protective measures. The Annex does contain identifying information of the Applicant and is therefore filed as strictly confidential and *ex parte* pursuant to Rule 113(2) and Rule 82(1) of the Rules.⁶

⁵ F00159, Framework Decision on Victims' Applications, 4 January 2021, public ('Framework Decision'), para. 50.

⁶ F00257, First Decision on Victims' Participation, 21 April 2021, confidential (*see also* F00257/RED) ('First Decision'), para. 66.

8. The application form and supporting documentation have been disclosed only to the Panel through Legal Workflow ('LW')⁷ in accordance with Rule 113(1) of the Rules, which provides that application forms shall not be disclosed to the Parties.⁸

IV. ASSESSMENT OF APPLICATION

9. The VPO has assessed the formal completeness of the application form and the content of the application in light of the requirements stemming from the definition of a participating victim under Article 22(1) of the Law⁹ and Rule 113(1) of the Rules.

A. COMPLETENESS OF APPLICATION FORMS

10. In assessing the completeness of the application, the VPO reviewed the application against the criteria listed in the Framework Decision¹⁰ and applied additional guidance provided by the Pre-Trial Judge in the First Decision¹¹ and the Second Framework Decision.¹²

11. The VPO notes that the application submitted with this Fifteenth Report can be considered as formally complete.

⁷ Translations of supporting documents have also been filed - *see* F01152, Fourth Decision on Victims' Participation, 12 December 2022, strictly confidential and *ex parte* (*see also* F01152/RED) ('Fourth Decision'), para. 39.

⁸ Framework Decision, para. 25; *see also* First Decision, para. 64.

⁹ Law on Specialist Chambers and Specialist Prosecutor's Office, Law No.05/L-053, 3 August 2015 ('Law').

¹⁰ Framework Decision, para. 22.

¹¹ First Decision, paras 34-35.

¹² F00382, Second Framework Decision on Victims' Applications, 6 July 2021, public ('Second Framework Decision'), para. 19.

B. CRITERIA OF ADMISSIBILITY AND STANDARD OF PROOF

1. Standard of proof

12. In assessing the application and making its recommendation in this Fifteenth Report, the VPO applied the *prima facie* standard¹³ for all requirements, as well as any supporting documentation.

2. Criteria of Admissibility

13. The VPO based the assessment of admissibility on the same general principles and criteria applied in the First Report,¹⁴ following the guidelines and requirements set out in the Framework Decision.¹⁵ The VPO also took into consideration the findings of the First Decision¹⁶ and the Second Decision¹⁷, issued by the Pre-Trial Judge and the Fifth Decision¹⁸ and Sixth Decision¹⁹ issued by the Panel.

14. Consequently, the VPO's assessment and recommendation to the Panel is based on the following requirements:

(a) Natural person

15. The VPO notes that the application does not raise questions regarding the requirement for an applicant to be a "natural person". The applicant submitted a valid ID card.

¹³ Rule 113(4) of the Rules. See Framework Decision, para. 29 ("the Pre-Trial Judge reviews the submitted information and supporting material on a case-by-case basis, taking into account: (i) all relevant circumstances as apparent at first sight; and (ii) the intrinsic coherence of the application"); First Decision, para. 43.

¹⁴ F00203, First Registry Report to the Pre-Trial Judge on Victims' Applications for Participation in the Proceedings, 15 February 2021, public, with confidential and *ex parte* Annexes 1-19 ('First Report'), paras 17-20.

¹⁵ Framework Decision, paras 31, 35-37.

¹⁶ First Decision, paras 44-45, 51-55.

¹⁷ F00611, Second Decision on Victims' Participation, 10 December 2021, strictly confidential and *ex parte* (see also F00611/CONF/RED and F00611/RED) ('Second Decision'), paras 36, 44, 62-68.

¹⁸ F01293, Fifth Decision on Victims' Participation, 15 February 2023, strictly confidential and *ex parte* (see also F01293/RED, 20 February 2023) ('Fifth Decision'), paras 10-12.

¹⁹ F01355, Sixth Decision on Victims' Participation, 8 March 2023, strictly confidential and *ex parte* (see also F01355/RED, 8 March 2023) ('Sixth Decision'), paras 8-9.

(b) Alleged crimes

16. The VPO assessed whether the acts described in the application appear to constitute alleged crimes within the scope of the Confirmed Amended Indictment²⁰ and evaluated whether the alleged events have taken place within the geographical and temporal scope of the indictment, thus in Kosovo and areas of northern Albania between March 1998 and September 1999.²¹

17. The Applicant alleges the following crimes: imprisonment/illegal or arbitrary arrest and detention, and cruel treatment/other inhumane acts. The VPO assess that the crimes that the applicant claims to be a victim of fall outside the geographical parameters of the Confirmed Amended Indictment.²²

18. The VPO notes that, in the First Decision, the Pre-Trial Judge found that 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 Confirmed Indictment.²³ This principle was confirmed by the Panel of the Court of Appeals Chamber,²⁴ and subsequently also applied by the Panel in the Fifth and Sixth Decisions on Victims' Participation.²⁵

(c) Harm and Direct result

19. The Applicant claims to have suffered physical and mental harm.

20. Given that the application seems to fall outside of the scope of the Confirmed Amended Indictment, the VPO did not assess the alleged harm and the causal link between harm and crime.

²⁰ F00999, Submission of Confirmed Amended Indictment, 30 September 2022, public, with strictly confidential and *ex parte* Annex 1, confidential Annex 2, and public Annex 3 ('Confirmed Amended Indictment').

²¹ *Id.*, para. 16.

²² Framework Decision, para. 32; First Decision, para. 45, Second Decision, para. 44; Fifth Decision, para. 13.

²³ First Decision, para. 48.

²⁴ IA005, F00008, Decision on Appeal Against "First Decision on Victims' Participation", 16 July 2021, public, paras 16, 20, 24.

²⁵ *See* Fifth Decision, para. 18 and Sixth Decision, para. 15.

C. RECOMMENDATION ON ADMISSIBILITY

21. The VPO assesses that the Applicant has not sufficiently demonstrated, on a *prima facie* basis, that the events described in their application fall within the geographical parameters of the confirmed charges, as described in the Confirmed Amended Indictment. Consequently, should the Panel consider this application on its merits, the VPO recommends to the Panel to deny the application submitted with this Fifteenth Report.

V. GROUPING OF VICTIMS AND COMMON LEGAL REPRESENTATION

22. Given the recommendation on admissibility, VPO does not make a recommendation on grouping and common legal representation for the Applicant included in this Fifteenth Report.

VI. PROTECTIVE MEASURES

23. The applicant requested non-disclosure to the public, Defence Counsel and the Accused.

24. The VPO reiterates that the applicant is [REDACTED].²⁶ [REDACTED].²⁷ The identity of the Applicant, [REDACTED].

25. With due consideration to the confidentiality of the application process and the applicant's protection of privacy, the VPO recommends to the Panel to follow the approach taken thus far and order that the name and identifying information of the Applicant be withheld from the Parties and the public.²⁸

²⁶ [REDACTED].

²⁷ *Id.*, p. 381.

²⁸ Fifth Decision, paras 39 - 40; Sixth Decision, paras 30 - 31.

Word count: 1834

A handwritten signature in cursive script, reading "Fidelma Donlon", written in black ink on a white background. The signature is positioned above a horizontal line.

Dr Fidelma Donlon
Registrar

Thursday, 14 December 2023
At The Hague, the Netherlands.