



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-06

**The Specialist 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: 8 February 2024

Language: English

Classification: Public

**Public Redacted Version of Decision on the Fifteenth Registry Report
on Victims' Applications for Participation in the Proceedings**

Victims' Participation Office
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Counsel for Kadri Veseli
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Counsel for Rexhep Selimi
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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’s Office (“SPO”) opened its case.²
3. On 14 December 2023, the Victims’ Participation Office (“VPO”) filed the fifteenth report on victims’ applications, transmitting to the Panel one application (“Application”) of an individual [REDACTED] (“Applicant”) for the status of participating victims (“Report”).³
4. The Parties did not respond to the Report.

II. SUBMISSIONS

5. The VPO provides an explanation as to the timing of the Report and the transmission of the Application after the expiration of the applicable time limit.⁴ The VPO submits that the Applicant has not sufficiently demonstrated that the

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 F02006, Registry, *Fifteenth Registry Report on Victims’ Applications for Participation in the Proceedings*, 14 December 2023, confidential and *ex parte*, with Annex 1, strictly confidential and *ex parte* (a confidential and *ex parte* redacted version was filed on 11 January 2024, F02006/CONF/RED, which was reclassified as public on 15 January 2024, F02006/RED).

⁴ Report, para. 5.

events described in his Application fall within the geographical parameters of the confirmed amended indictment (“Indictment”).⁵ Should the Panel consider the Application on its merits, the VPO recommends denying the Application.⁶

III. APPLICABLE LAW

6. The Panel incorporates by reference the applicable law set out in its previous decisions.⁷

IV. DISCUSSION

A. VALIDITY OF THE FILING OF THE REPORT

7. The Panel notes that Rule 113(1) requires that applications for admission of victims participating in the proceedings be filed “sufficiently in advance of the opening of the case pursuant to Rule 124”. The Panel recalls that: (i) it ordered the Registry to file any applications for admission of victims participating in the proceedings by 15 February 2023;⁸ and (ii) the case opened pursuant to Rule 124 on 3 April 2023.⁹ Therefore, as acknowledged by the VPO,¹⁰ the time limit to file

⁵ Report, para. 17 referring to 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 F01323/A01, Specialist Prosecutor, *Public Lesser Redacted Version of Amended Indictment*, 27 February 2023.

⁶ Report, para. 21.

⁷ F01801, Panel, *Decision on Fourteenth Registry Report on Victims’ Applications* (“Decision on Fourteenth Registry Report”), 19 September 2023, strictly confidential and *ex parte*, paras 7-8 (a public redacted version was filed on the same day, F01801/RED); F01774, Panel, *Seventh Decision on Victims’ Participation* (“Seventh Decision”), 7 September 2023, strictly confidential and *ex parte*, paras 12-15 (a public redacted version was filed on 11 September 2023, F01774/RED).

⁸ Transcript of Hearing, 18 January 2023, pp. 1902-1903.

⁹ See Transcript of Hearing, 15 February 2023, pp. 2038-2039; Transcript of Hearing, 3 April 2023, p. 2140.

¹⁰ Report, para. 5.

applications for admission of victims participating in the proceedings has expired.¹¹

8. The Panel will assess whether the circumstances set out by the VPO in the Report meet the “good cause” requirement under Rule 9(5)(b).

9. The Panel notes that the Applicant is [REDACTED],¹² which is available to the VPO. The Panel also notes the VPO’s submissions that: (i) the Witness Participation and Support Office informed the VPO on 19 October 2023 that the Applicant wished to apply as a participating victim and needed assistance with the application form; (ii) the Applicant had not been identified as a person who has suffered harm as a direct result of a crime in the Indictment; (iii) on 19 October 2023, the VPO assisted the Applicant with the application process and indicated that the deadline for submitting applications had passed; and (iv) the Applicant understood that the Application would likely not be admitted but wished to submit it nevertheless.¹³

10. On the basis of this information, and in particular considering that the Applicant has been [REDACTED], the Panel concludes that good cause has not been shown to recognise as valid the transmission of the Application after the expiration of the time limit set in the Order.

11. In light of the above, the Panel finds that the Application is untimely.

¹¹ See *similarly* Decision on Fourteenth Registry Report, para. 9.

¹² Report, para. 5.

¹³ Report, para. 5.

B. PROTECTIVE MEASURES

12. As regards the VPO's recommendation that the names and identifying information of the Applicant be withheld from the Parties and the public,¹⁴ 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 Applicant's protection of privacy, the non-disclosure to the public of his name and identifying information is necessary. The Panel accordingly orders that the name and any identifying information of the Applicant be withheld from the public and, as a result, finds it appropriate to maintain the classification of the Annex to the Report as strictly confidential and *ex parte*.

13. However, the Panel is of the view that the specific circumstances of the Applicant warrant that the Parties be informed of the fact that the Applicant applied to participate as a victim participating in the proceedings. Notwithstanding the rejection of the Application and the fact that [REDACTED], the Panel will allow the VPO [REDACTED] to review the application form *ex parte*, consult with the Applicant, and submit any concerns that they have regarding the disclosure of Section 2 of this form to the Defence. In this process, the VPO should make the Applicant aware that, subject to redactions justified by fact-specific reasons if any, Section 2 of his application form will be transmitted to the Parties.¹⁵ The Panel recalls that application form will *not* be shared with the public. For this reason, questions relating to the Application, if any, shall be asked in private session.¹⁶

¹⁴ Report, para. 25.

¹⁵ See similarly F01348, Trial Panel, *Order on the Disclosure of Application Forms Pertaining to Dual Status Witnesses* ("Order on the Disclosure of Application Forms"), 6 March 2023, with Annexes 1-3, strictly confidential and *ex parte*, paras 23, 25, 27.

¹⁶ See similarly F02071, Panel, *Decision on Resubmission of the Fourteenth Registry Report on Victims' Applications for Participation in the Proceedings*, 22 January 2024, strictly confidential and *ex parte*, para. 31.

14. To facilitate the disclosure of information pertaining to the Applicant, the Panel orders the VPO to inform the Applicant that the fact that he applied to participate as a victim will be disclosed to the Parties, and his redacted application form will be transmitted to the Defence. Should the Applicant have any concerns, he can raise them with the VPO. The VPO should file any application for relief associated with the expression of such concerns by **Friday, 23 February 2024**. After the conclusion of this consultation process, the Panel will transmit to [REDACTED] the VPO Section 2 of the application form of the Applicant for their review consistent with the Panel's Order on the Disclosure of Application Forms of 6 March 2023.¹⁷


V. DISPOSITION

15. For these reasons, the Panel hereby:

- a. **REJECTS** the Application as untimely;
- b. **DECIDES** to maintain the classification strictly confidential and *ex parte* of the application form, summary and supporting documentation, without prejudice to the Defence's right to access redacted versions of Section 2 of the application form of the Applicant;
- c. **ORDERS** the VPO to inform the Applicant that the fact that he applied to participate as a victim in the proceedings will be disclosed to the Parties and that the redacted application form will be disclosed to the Defence, as set forth in paragraph 14 of this decision; and file before the Panel any concerns raised by the Applicant, if any, by **Friday, 23 February 2024**; and

¹⁷ Order on the Disclosure of Application Forms, para. 30(b)-(c). The Panel notes that, in light of the specific circumstances of the present situation, it is not Victims' Counsel but the VPO which should carry out the review [REDACTED].

- d. **DIRECTS** the VPO to file a confidential lesser redacted version of the Report (F02006), by **Friday, 23 February 2024 February 2024**.

A handwritten signature in black ink that reads "Charles L. Smith III". The signature is written in a cursive style and is positioned above a horizontal line.

Judge Charles L. Smith, III

Presiding Judge

Dated this Thursday, 8 February 2024

At The Hague, The Netherlands.