



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-04
The Specialist Prosecutor v. Pjetër Shala

Before: Trial Panel I
Judge Mappie Veldt-Foglia, Presiding Judge
Judge Roland Dekkers
Judge Gilbert Bitti, Judge Rapporteur
Judge Vladimir Mikula, Reserve Judge

Registrar: Fidelma Donlon

Date: 29 November 2024

Language: English

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**Public redacted version of
Reparation Order against Pjetër Shala**

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TRIAL PANEL I (Panel) hereby renders this Reparation Order against Pjetër Shala (Mr Shala).

I. PROCEDURAL BACKGROUND

1. On 12 June 2020, the Pre-Trial Judge confirmed the indictment against Mr Shala.¹
2. On 15 December 2021, 11 August 2022, and 19 September 2022, the Pre-Trial Judge admitted a total of eight (8) victims to participate in the proceedings (together, Victims).²
3. On 21 September 2022, the Pre-Trial Judge transmitted the case file to the Panel.³
4. On 9 February 2023, the Panel decided that reparation proceedings shall be conducted concurrently with criminal proceedings in the present case and that, in case

¹ KSC-BC-2020-04, F00007, Pre-Trial Judge, *Decision on the Confirmation of the Indictment Against Pjetër Shala* (Confirmation Decision), 12 June 2020, strictly confidential and *ex parte*. A confidential redacted version and a public redacted version were filed on 6 May 2021, F00007/CONF/RED and [F00007/RED](#), respectively. On 1 November 2021, the Specialist Prosecutor's Office (SPO) submitted a corrected confirmed indictment (Confirmed Indictment), KSC-BC-2020-04, F00098/A01, Specialist Prosecutor, *Annex 1 to Submission of Corrected Indictment*, 1 November 2021, confidential. A public redacted version was filed on 16 November 2021, [F00107/A01](#).

² KSC-BC-2020-04, F00123, Pre-Trial Judge, *First Decision on Victims' Participation* (First Decision on Victims' Participation), 15 December 2021, confidential, para. 50(a). A public redacted version was filed on the same day, [F00123/RED](#); F00249, Pre-Trial Judge, *Second Decision on Victims' Participation* (Second Decision on Victims' Participation), 11 August 2022, confidential, para. 43(b). A public redacted version was filed on the same day, [F00249/RED](#); F00279, Pre-Trial Judge, *Third Decision on Victims' Participation* (Third Decision on Victims' Participation), 19 September 2022, confidential, para. 43(a). A public redacted version was filed on the same day, [F00279/RED](#).

³ KSC-BC-2020-04, F00284, Pre-Trial Judge, [Decision Transmitting the Case File to Trial Panel I](#) (Decision Transmitting the Case File to Trial), 21 September 2022, public, with Annexes 1-4, strictly confidential and *ex parte*.

of a conviction, it would not refer victims to civil litigation in Kosovo courts, but issue a reparation order itself.⁴

5. On 21 February 2023, the trial commenced with the opening statements of the SPO and Victims' Counsel, and the Defence for Mr Shala (Defence) made its opening statement on 22 February 2023.⁵

6. On 24 February 2023, the Panel issued the Decision on victims' procedural rights during trial and related matters.⁶

7. From 27 March 2023 to 6 July 2023, the SPO presented its case.⁷

8. On 4 May 2023, the Panel, by oral order, set out further procedural steps for the presentation of evidence by Victims' Counsel (Oral Order of 4 May).⁸

9. On 30 June 2023, Victims' Counsel submitted two expert reports (Victims' Counsel 30 June 2023 Submissions)⁹ – one concerning the physical and mental harm caused to V01/04 and one concerning the material harm suffered by the Victims

⁴ KSC-BC-2020-04, F00421, Trial Panel I, [Decision on reparation proceedings](#), 9 February 2023, public.

⁵ KSC-BC-2020-04, F00405, Trial Panel I, [Decision on the date for the commencement of the trial, evidence presentation and related matters](#) (Decision on Date for the Commencement of the Trial), 26 January 2023, public, para. 18(a)-(b); [T. 21 February 2023](#), public, p. 497, lines 11-12; p. 502, line 21 to p. 503, line 9; [T. 22 February 2023](#), public, p. 570, lines 17-20.

⁶ KSC-BC-2020-04, F00433, Trial Panel I, [Decision on victims' procedural rights during trial and related matters \(Victims' Procedural Rights Decision\)](#), 24 February 2023, public.

⁷ [T. 27 March 2023](#), public, p. 609, lines 11-13; KSC-BC-2020-04, F00570, Specialist Prosecutor, [Prosecution notice of the closing of its case pursuant to Rule 129](#), 6 July 2023, public.

⁸ [T. 4 May 2023](#), public, p. 1356, line 11 to p. 1361, line 6.

⁹ KSC-BC-2020-04, F00558, Victims' Counsel, *Victims' Counsel's Submissions pursuant to the Order of 4 May 2023 setting further procedural steps for the presentation of evidence by Victims' Counsel*, 30 June 2023, confidential, with Annexes 1-6, confidential. A public redacted version was filed on 15 August 2023, [F00558/RED](#).

(iMMO Expert Report¹⁰ and Lerz Report,¹¹ collectively VC Expert Reports) – and requested the Panel to call two of the three experts to testify.

10. On 10 July 2023, the Defence submitted that it does not intend to challenge the qualifications of the experts authoring the iMMO Expert Report and the Lerz Report.¹²

11. On 21 August 2023, Victims' Counsel called two expert witnesses (iMMO Experts), with the leave of the Panel.¹³ The Panel also heard the testimony of five (5) victims participating in the proceedings during the course of the trial.

12. From 20 September 2023 to 15 January 2024, the Defence presented its case.¹⁴

13. On 11 October 2023, the Defence submitted questions concerning the Lerz Report,¹⁵ and on 27 October 2023, Victim's Counsel filed answers thereto.¹⁶

14. On 25 October 2023, by oral order, the Panel admitted the iMMO Expert Report into evidence.¹⁷

¹⁰ KSC-BC-2020-04, F00558/A01, ANNEX one to Victims' Counsel's Submissions pursuant to the Order of 4 May 2023 setting further procedural steps for the presentation of evidence by Victims' Counsel, 30 June 2023, confidential.

¹¹ KSC-BC-2020-04, F00558/A04, ANNEX four to Victims' Counsel's Submissions pursuant to the Order of 4 May 2023 setting further procedural steps for the presentation of evidence by Victims' Counsel, 30 June 2023, confidential.

¹² KSC-BC-2020-04, F00578, Defence, *Defence Notice on Evidence of Victims' Counsel's Expert Witnesses Pursuant to the Trial Panel's Order of 4 May 2023*, 10 July 2023, confidential. A public redacted version was filed on 13 July 2023, [F00578/RED](#).

¹³ KSC-BC-2020-04, F00598, Trial Panel I, [Decision on Victims' Counsel's request to call expert witnesses to testify](#), 21 July 2023, public, para. 12(a); [T. 21 August 2023](#), public, p. 2249, lines 13-16.

¹⁴ [T. 20 September 2023](#), public, p. 2450, lines 12-14; KSC-BC-2020-04, F00772, Defence, [Defence Notice of Closing its Case Pursuant to Rule 131 of the Rules](#), 15 January 2024, public.

¹⁵ KSC-BC-2020-04, F00687, Defence, [Defence Submission of Written Questions for Victims' Counsel's Expert Witness](#), 11 October 2023, public, with Annex 1, confidential.

¹⁶ KSC-BC-2020-04, F00696, [Victims' Counsel, Victims' Counsel's Submission of Expert's Answers to Written Questions from the Defence \(Victims' Counsel Expert Answers\)](#), 27 October 2023, public, with Annex 1, confidential.

¹⁷ [T. 25 October 2023](#), public, p. 3151, line 9 to p. 3153, line 8.

15. On 13 November 2023, the Defence presented its own expert report concerning the economic loss of victims participating in the proceedings (Defence Expert Report).¹⁸ On 27 November 2023, Victims' Counsel submitted questions concerning the Defence Expert Report,¹⁹ and on 6 December 2023, the Defence filed answers thereto.²⁰

16. On 9 February 2024, the Panel closed the evidentiary proceedings²¹ and directed Victims' Counsel to file his request for reparations by 4 March 2024 and his statement on the impact of the alleged crimes on Victims (Impact Statement) by 25 March 2024.²²

17. On 4 March 2024, Victims' Counsel filed his request for reparations (Victims' Counsel Reparations Request).²³

¹⁸ KSC-BC-2020-04, F00716/A01, Defence, *Defence Submission of an Expert Report for the Purposes of the Reparations Proceedings*, 13 November 2023, confidential.

¹⁹ KSC-BC-2020-04, F00728, Victims' Counsel, *Victims' Counsel's questions for Defence expert (Victims' Counsel Questions for Defence Expert)*, 27 November 2023, confidential, with Annex 1, confidential. A public redacted version was filed on 14 December 2023, [F00728/RED](#).

²⁰ KSC-BC-2020-04, F00736, Defence, *Defence Submission of Expert's Answers to Written Questions from Victims' Counsel*, 6 December 2023, confidential, with Annex 1, confidential. A public redacted version was filed on 11 December 2023, [F00736/RED](#).

²¹ KSC-BC-2020-04, F00795, Trial Panel I, *Decision on the Defence motion for a crime site visit, closing the evidentiary proceedings and giving directions on final briefs, request for reparations and closing statements*, 9 February 2024, confidential, paras 23, 52(b). A public redacted version was filed on 20 February 2024, [F00795/RED](#).

²² [Decision Closing Evidentiary Proceedings](#), paras 36, 41, 52(g), (h).

²³ KSC-BC-2020-04, F00804, Victims' Counsel, *Victims' Counsel's Request for reparations to address the physical, mental, and material harm suffered by victims participating in the proceedings*, 4 March 2024, confidential. A public redacted version was filed on 23 August 2024, [F00804/RED](#).

18. On 25 and 26 March 2024, the Parties and Victims' Counsel filed their final trial briefs and Impact Statement, respectively.²⁴ They presented their closing statements between 15 and 17 April 2024.²⁵
19. On 25 March 2024, the Defence filed its response to Victims' Counsel Reparations Request (Defence Response to Victims' Counsel Reparations Request).²⁶
20. On 17 April 2024, the Presiding Judge declared the case closed.²⁷
21. On 16 July 2024, the Panel pronounced in open court the trial judgment against Mr Shala,²⁸ convicting him for war crimes and sentencing him to 18 years of imprisonment (Trial Judgment).²⁹ The Panel indicated that it would subsequently issue a Reparation Order pursuant to Articles 22(8) and 44(6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law), and retained, to that effect, the necessary jurisdiction.³⁰

²⁴ KSC-BC-2020-04, F00818, Specialist Prosecutor, *Prosecution Final Trial Brief* (SPO Final Trial Brief), 25 March 2024, confidential, with Annexes 1 and 3, confidential, and Annex 2, public (a public redacted version was filed on 26 August 2024, [F00818/RED](#)); F00821, Defence, *Defence Final Trial Brief* (Defence Final Trial Brief), 26 March 2023, confidential, with Annex 1, confidential; F00815, Victims' Counsel, *Victims' Counsel's Statement on the impact of the alleged crimes on victims participating in the proceedings in Case 04* (Impact Statement), 25 March 2024, confidential (a public redacted version was filed on 23 August 2024, [F00815/RED](#)).

²⁵ T. 15 April 2024, confidential, pp. 4080-4168; T. 16 April 2024, confidential, pp. 4172-4280; T. 17 April 2024, confidential, pp. 4283-4374.

²⁶ KSC-BC-2020-04, F00819, Defence, *Defence Response to Victims' Counsel's Request for Reparations to Address the Physical, Mental, and Material Harm Suffered by Victims Participating in the Proceedings*, 25 March 2024, confidential. The Panel notes that, pursuant to a recent decision, public redacted versions of the Defence Final Trial Brief and Defence Response to Victims' Counsel Reparations Request remain to be filed, see KSC-BC-2020-04, F00865, Trial Panel, *Decision on joint submission of proposed redactions to the Defence Final Trial Brief and the Defence response to Victims' Counsel's request for reparations*, 28 November 2024, confidential. A public redacted version was filed on the same day, F00865/RED.

²⁷ [T. 17 April 2024](#), public, p. 4374, lines 9-10.

²⁸ [T. 16 July 2024](#), public, pp. 4375-4396.

²⁹ KSC-BC-2020-04, F00847, Trial Panel I, *Trial Judgment and Sentence*, 16 July 2024, confidential, with Annex 1, confidential. A public redacted version was filed on 24 September 2024, [F00847/RED](#).

³⁰ See [Trial Judgment](#), paras 1042, 1127.

II. SCOPE OF THE CASE

22. The Panel recalls that, as established in the Trial Judgment, the crimes in this case were committed between approximately 17 May 1999 and 5 June 1999, in the context of and associated with a non-international armed conflict between, on one side, the *Ushtria Çlirimtare e Kosovës*, known in English as the Kosovo Liberation Army (KLA), and, on the other, forces of the Federal Republic of Yugoslavia and the Republic of Serbia, including units of the Yugoslav Army, police and other units of the Ministry of Internal Affairs, and other groups fighting on behalf of the Federal Republic of Yugoslavia and the Republic of Serbia, which occurred at the time of the crimes charged.³¹

23. Within this context, the Panel found that, Mr Shala, a Kosovar national, born on 17 September 1963, in Prizren, Kosovo, played an active role in the illegal detention and systematic mistreatment of individuals at the Kukës Metal Factory (KMF), a former metal works factory in Kukës, Albania.³² At the relevant time of the charges, the KMF served as a KLA headquarters in Kukës and was used for a variety of purposes, including recruitment, mobilisation and logistics.³³ The Panel has found that the KMF was also used by certain KLA members to detain, interrogate and mistreat persons who were perceived to be “spies” or “traitors”, or collaborating with, being associated with, or sympathizing with the Serbian authorities, or not being sufficiently supportive of the KLA effort.³⁴ The purpose of these brutal mistreatments was to obtain information or a confession from the detainees, to punish, to intimidate, to

³¹ [Trial Judgment](#), paras 919 *et seq.*

³² [Trial Judgment](#), paras 284, 903-914, 1015, 1028, 1104.

³³ [Trial Judgment](#), paras 306-307.

³⁴ [Trial Judgment](#), paras 336-363, 587-591, 748-753, 1009-1015.

coerce and/or discriminate on political grounds against them.³⁵ The total number of detainees who were held at the KMF during the time relevant to the charges is unknown, but it is estimated to be around 40 people. The Panel was able to identify eighteen (18) persons who were detained at the KMF during the relevant period.³⁶

24. Mr Shala, together with other members of the KLA at the KMF, as part of a joint criminal enterprise (basic form), participated in the arbitrary detention of at least eighteen (18) individuals who were held in inhumane and degrading conditions.³⁷ Mr Shala was physically present at the KMF on several occasions and personally participated in the transfer of one detainee to the KMF and the repeated interrogation and mistreatment of several detainees.³⁸ He also participated in the brutal mistreatment of one detainee who died after having been shot in the leg by Xhemshit Krasniqi in Mr Shala's presence (Murder Victim).³⁹ The Murder Victim died on or about 5 June 1999, while still in detention at the KMF, from the consequences of the gunshot wounds inflicted upon his leg, combined with the denial of appropriate medical treatment.⁴⁰

25. The Panel found that Mr Shala, together with other KLA members, shared the common purpose to arbitrarily detain, interrogate, torture and murder detainees at the KMF who were perceived to be "spies" or "traitors", or to collaborate with, be associated with, or sympathize with the Serbian authorities or who were considered not sufficiently supportive of the KLA effort.⁴¹ Through his participation in the

³⁵ [Trial Judgment](#), paras 983-984.

³⁶ [Trial Judgment](#), paras 589-591.

³⁷ [Trial Judgment](#), paras 1025-1028, 1037-1039.

³⁸ [Trial Judgment](#), para. 1025.

³⁹ [Trial Judgment](#), paras 830-832, 1025.

⁴⁰ [Trial Judgment](#), paras 778, 832.

⁴¹ [Trial Judgment](#), paras 1022, 1024.

transfer, interrogation and mistreatment of detainees at the KMF, Mr Shala made a significant contribution to furthering this common purpose.⁴² Accordingly, the Panel convicted Mr Shala, as part of a joint criminal enterprise (basic form), of three counts of war crimes, namely arbitrary detention, torture, and murder,⁴³ and sentenced him to eighteen (18) years of imprisonment, with credit for the time served since 16 March 2021.⁴⁴

III. APPLICABLE LAW AND PRINCIPLES ON REPARATIONS

A. RELEVANT LEGAL TEXTS AND INSTRUMENTS

26. The Panel notes Articles 6(1) and 13 of the [European] Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR),⁴⁵ Articles 2(3) and 14(1) of the International Covenant on Civil and Political Rights (ICCPR),⁴⁶ Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),⁴⁷ Articles 22 and 54 of the Constitution of the Republic of Kosovo (Constitution and Kosovo, respectively), Articles 3, 22, 23, 34(1), 43, and 44(6) the Law and Rules 80, 159(5) and 168 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (Rules).

⁴² [Trial Judgment](#), paras 1025-1028.

⁴³ [Trial Judgment](#), paras 1037-1039.

⁴⁴ [Trial Judgment](#), paras 1123, 1125.

⁴⁵ [European Convention for the Protection of Human Rights and Fundamental Freedoms](#), as amended by Protocols Nos. 11, 14, and 15, supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16, 4 November 1950, ETS 5.

⁴⁶ [International Covenant on Civil and Political Rights](#), 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

⁴⁷ [Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85.

27. The Panel notes in particular that Article 22(3) of the Law, first sentence, provides that “[a] [v]ictim’s personal interest and rights in the criminal proceedings before the Specialist Chambers (SC) are notification, acknowledgement and *reparation*” [emphasis added].

28. Pursuant to Article 22(8) of the Law, “[i]n the event that a Trial Panel or Court of Appeals Panel of the Specialist Chambers adjudges an accused guilty of a crime, it may make an order directly against that accused specifying appropriate reparation to, or in respect of, Victims collectively or individually”.

29. The Panel further notes that it may only make a reparation order against a convicted person, pursuant to Article 22(8) of the Law, after having decided on the scope and extent of harm suffered by the victims in the case at hand pursuant to Article 22(7) of the Law and Rule 168 of the Rules. Likewise, as required in Article 22(7) of the Law, first sentence, the decision on the scope and extent of harm presupposes that the Panel “[...] state[s] the principles on which it is acting”. Thus, prior to making a reparation order against a convicted person, the Panel ought to set out the principles relating to reparations and determine the scope and extent of harm suffered by the victims in the case at bar.⁴⁸

30. In addition, the Panel notes that at the SC, like at the International Criminal Court (ICC) – which was the first international criminal jurisdiction to introduce a reparation system for victims of crimes within its jurisdiction – a system of reparations is foreseen within the context of criminal proceedings. The Panel notes in this respect that Article 22 of the Law and Rule 168 of the Rules mirror to some extent the wording

⁴⁸ Similarly, KSC-BC-2020-05, F00517, Trial Panel I, *Reparation Order against Salih Mustafa (Mustafa Reparation Order)*, 6 April 2023, confidential, para. 62, with Annexes 1-4, strictly confidential and *ex parte*. A corrected public redacted version of the *Mustafa Reparation Order* was issued on 14 April 2023, [F00517/RED/COR](#).

of the relevant provisions on reparations in the legal texts of the ICC. For that reason, the Panel finds it appropriate to take guidance from the case-law of the ICC, including for formulating the principles relating to reparations.⁴⁹

31. Other international instruments, such as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power⁵⁰ (Declaration of Basic Principles of Justice), the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law⁵¹ (UN Basic Principles on Reparations) and significant human rights reports, also provide guidance to the Panel in establishing the principles relating to reparations.⁵²

32. Lastly, the Panel will be guided by the jurisprudence of regional human rights courts – such as the European Court of Human Rights and Fundamental Freedoms (ECtHR) and the Inter-American Court of Human Rights (IACtHR), while noting the differences between such courts and the reparations system at the SC, given their substantial contribution in furthering the right of individuals to an effective remedy and to reparations.⁵³

⁴⁹ Similarly, [Mustafa Reparation Order](#), para. 63 and references therein.

⁵⁰ United Nations General Assembly, A/RES/40/34, [Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power](#), 29 November 1985.

⁵¹ United Nations General Assembly, A/RES/60/147, [United Nations Basic Principles on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#), 16 December 2005.

⁵² Similarly, [Mustafa Reparation Order](#), para. 64.

⁵³ Similarly, [Mustafa Reparation Order](#), para. 65.

B. PRINCIPLES ON REPARATIONS: OVERVIEW

33. At the outset, the Panel wishes to stress that redress and reparations for victims of serious violations of human rights and international humanitarian law are an imperative demand of justice. The Panel wishes further to emphasise that, in its view, the objective of reparations at the SC is not solely to punish the convicted person as foreseen in Article 44(6) of the Law; rather it serves to acknowledge and to repair, to the extent possible, the harm caused to the victims.⁵⁴

34. The principles on reparations are general concepts that together constitute the legal framework which will guide the Panel when determining the scope and extent of harm suffered by the victims in the case at bar, the scope of the convicted person's liability for reparations, and the reparations to be awarded to the victims.⁵⁵

35. As a general principle, reparations at the SC ought to be victim-centred. This means that victims' interests, needs, views and concerns ought to drive the decision-making process in all matters related to reparations.⁵⁶

36. In this respect, the SC shall give due consideration to the victims and properly involve them in the proceedings in accordance with Article 22(11) of the Law, to ensure that their rights to truth, justice, and reparations are respected and enforced.⁵⁷

37. Victims should be able to participate throughout the reparation proceedings and receive adequate support in order to make their participation substantive and

⁵⁴ Similarly, [Mustafa Reparation Order](#), para. 66 and references therein.

⁵⁵ Similarly, [Mustafa Reparation Order](#), para. 67 and references therein.

⁵⁶ Similarly, [Mustafa Reparation Order](#), para. 68 and references therein.

⁵⁷ Similarly, [Mustafa Reparation Order](#), para. 69 and references therein.

effective. In this context, timely and effective outreach action aimed at informing victims about reparations is critical.⁵⁸

38. All victims are to enjoy a fair and equal treatment as regards reparations. They shall have equal access to information relating to their right to reparations and to assistance from the SC.⁵⁹ Yet, during the implementation and execution of the reparations awarded by the Panel, priority may need to be given to certain victims, who are in a particularly vulnerable situation or who require urgent assistance.⁶⁰

39. The SC shall treat victims with humanity, and their dignity and human rights shall be respected.⁶¹ To this end, the SC shall implement appropriate protective measures to ensure the victims' safety, physical, and psychological well-being, dignity and privacy,⁶² including during the implementation and execution of reparation orders.⁶³

40. Interactions with victims should proceed with caution, avoiding re-traumatisation, and managing their expectations sensitively.⁶⁴

41. Victims should receive reasonable, appropriate, and prompt reparations. The reparations process, including the implementation and execution of a reparation

⁵⁸ See KSC-BC-2020-04, F00064, Pre-Trial Judge, [Framework Decision on Victims' Applications](#) (Victims' Applications Framework Decision), 1 September 2021, public, para. 17. See also, similarly, [Mustafa Reparation Order](#), para. 70.

⁵⁹ See [Victims' Applications Framework Decision](#), para. 17. See also, similarly, [Mustafa Reparation Order](#), para. 71 and references therein.

⁶⁰ Similarly, [Mustafa Reparation Order](#), para. 71 and references therein.

⁶¹ Similarly, [Mustafa Reparation Order](#), para. 72 and references therein.

⁶² Similarly, [Mustafa Reparation Order](#), para. 72 and references therein. See also [Victims' Applications Framework Decision](#), paras 52-53.

⁶³ Similarly, [Mustafa Reparation Order](#), para. 72 and references therein.

⁶⁴ Similarly, [Mustafa Reparation Order](#), para. 73 and references therein.

order, should be as expeditious as possible and avoid unnecessarily protracted, complex, and expensive litigation.⁶⁵

42. The reparation award ought to be proportional to the harm caused, in the specific circumstances of the case.⁶⁶

43. Reparations shall be granted to victims without adverse distinction on the grounds of sex, gender identity, age, race, colour, language, religion or belief, political or other opinion, sexual orientation, national, ethnic or social origin, wealth, birth, marital, or other status.⁶⁷

44. Moreover, reparations shall avoid replicating discriminatory practices or structures that predated the commission of the crimes, and which prevented equal opportunities to victims. The SC should avoid further stigmatisation of the victims and reinforcing discrimination by their families and communities. In particular reparations awards must avoid creating tensions, jealousy, or animosity among affected communities and between cohabiting groups.⁶⁸

45. Reparations are voluntary and the informed consent of the recipient is necessary prior to any award of reparations.⁶⁹

46. Nothing in these principles shall prejudice or be inconsistent with the rights of the accused or convicted person to fair and expeditious proceedings. Moreover, the accused or the convicted person, as the case may be, must be afforded the time and opportunity to respond and/or make submissions on reparations.⁷⁰

⁶⁵ Similarly, [Mustafa Reparation Order](#), para. 74 and references therein.

⁶⁶ Similarly, [Mustafa Reparation Order](#), para. 75 and references therein.

⁶⁷ Similarly, [Mustafa Reparation Order](#), para. 76 and references therein.

⁶⁸ Similarly, [Mustafa Reparation Order](#), para. 77 and references therein.

⁶⁹ Similarly, [Mustafa Reparation Order](#), para. 78 and references therein.

⁷⁰ Similarly, [Mustafa Reparation Order](#), para. 79 and references therein.

47. During all stages of reparations and in particular during the implementation and execution of reparation orders, all entities and persons in Kosovo have the obligation to cooperate fully with the SC.⁷¹

48. Finally, reparations awarded pursuant to a reparation order do not exonerate Kosovo from its separate obligations, under domestic law or international treaties, to provide reparations to its citizens.⁷²

C. BENEFICIARIES OF REPARATIONS

49. The Panel notes that the Pre-Trial Judge ruled on the criteria to be met for victims to be admitted in the proceedings pursuant to Article 22(1) of the Law.⁷³ The Panel sees no reason to depart from this jurisprudence for the purpose of reparations, noting however the different standard of proof to be met by victims for the purposes of reparations.⁷⁴ Consequently, the Panel incorporates by reference the applicable law and criteria previously set out and will only briefly discuss them here.⁷⁵

50. In order to be eligible for reparations, victims need to meet the following criteria:

- i. the victim is a natural person;
- ii. the crime from which the harm arises must be one of which the person was convicted;
- iii. the victim has personally suffered harm; and

⁷¹ Similarly, [Mustafa Reparation Order](#), para. 80 and references therein.

⁷² Similarly, [Mustafa Reparation Order](#), para. 81 and references therein.

⁷³ [Victims' Applications Framework Decision](#), paras 34, 36, 38-45. See also [First Decision on Victims' Participation](#), paras 26-33.

⁷⁴ See paras 67 *et seq* below.

⁷⁵ Similarly, [Mustafa Reparation Order](#), para. 82 and references therein.

iv. the harm was the direct result of a crime of which the person was convicted.⁷⁶

51. Victims must thus fulfil the same criteria as to be admitted in the proceedings, except that the harm suffered arises as a direct result of a crime of which the person was convicted instead of a crime in the confirmed indictment.⁷⁷

52. In relation to the harm having been suffered personally by the victim, the Panel recalls that this denotes a requirement that the harm is suffered *by* the victim, *i.e.* his or her physical or mental well-being or economic situation is affected. This may include harm suffered by victims subjected to the acts of the perpetrator(s) (direct victims).⁷⁸

53. Harm suffered by one victim as a result of one or more crimes of which the person was convicted can give rise to harm suffered by other victims. This may include harm suffered by individuals in a close personal relationship with the direct victim killed or injured by the perpetrator(s) (indirect victims).⁷⁹ Immediate family members (spouse, parents, children, siblings) are presumed to be in a close relationship with a direct victim.⁸⁰

54. The Panel wishes to stress that demonstrating the existence of a “close personal relationship” with the direct victim is one way in which indirect victims can prove

⁷⁶ For the purpose of this Reparation Order, only victims admitted to participate in the proceedings in this case will be considered. *See, similarly, [Mustafa Reparation Order](#), para. 83.*

⁷⁷ *See [Victims’ Applications Framework Decision](#), para. 34(b) and (d). See also, similarly, [Mustafa Reparation Order](#), para. 84 and references therein.*

⁷⁸ *See [Victims’ Applications Framework Decision](#), para. 40. See, similarly, [Mustafa Reparation Order](#), para. 85 and references therein.*

⁷⁹ *See [Victims’ Applications Framework Decision](#), para. 40. See, similarly, [Mustafa Reparation Order](#), para. 86 and references therein.*

⁸⁰ *See [First Decision on Victims’ Participation](#), para. 28 and references therein. See also, similarly, [Mustafa Reparation Order](#), para. 86 and references therein.*

they have suffered personal harm and that the harm resulted from the crimes of which the person was convicted. The Panel also considers that indirect victims could encompass those who suffered harm in intervening to assist victims in distress or to prevent victimisation.⁸¹

55. In the event that a victim who was found eligible for reparations dies before receiving the reparations awarded, the victim's descendants or successors shall be equally entitled to the reparations awarded.⁸²

D. HARM

1. Concept and Types of Harm

56. The concept of harm captures "any damage, loss and injury".⁸³

57. The Law and the Rules identify three types of harm: physical, mental, and material.⁸⁴ The Panel incorporates by way of reference the definitions set out by the Pre-Trial Judge regarding the types of harm⁸⁵ and will only expand upon them here if deemed applicable.

58. In this regard, the Panel wishes to highlight that victims of serious violations of human rights and international humanitarian law, such as torture, will often suffer from long-term consequences going beyond an immediate physical, mental, or material harm. This manifests into lost opportunities, including those relating to

⁸¹ Similarly, [Mustafa Reparation Order](#), para. 87 and references therein.

⁸² Similarly, [Mustafa Reparation Order](#), para. 88 and references therein.

⁸³ See Article 22(7) of the Law.

⁸⁴ Article 22(1) of the Law; Rule 2 of the Rules; [First Decision on Victims' Participation](#), para. 29 and references therein. Similarly, [Mustafa Reparation Order](#), para. 90 and references therein.

⁸⁵ [Victims' Applications Framework Decision](#), paras 41-43.

employment, education, and social benefits.⁸⁶ The Panel also recalls its earlier findings in the *Mustafa* Reparation Order regarding the concept of damage to a life plan or project of life, which recognises the fact that the life of the victim and/or his or her family members is interrupted or disrupted as a result of the crimes committed against them. More specifically, the concept refers to the lack of full self-realization of a person, who, considering his or her vocation, aptitudes, circumstances, potential and aspirations, may have reasonably expected to realise certain things in life. It is expressed in the expectations of personal, professional, and family development, which are possible under normal conditions. Such damage implies loss or severe diminution of prospects for development, in a manner that is irreparable or reparable only with great difficulty.⁸⁷

59. The Panel is also of the view that harm may be transgenerational, *i.e.* when social violence is passed on from ascendants to descendants with traumatic consequences for the latter.⁸⁸

2. Causation

60. The Panel recalls that, pursuant to Article 22(1) of the Law and Rule 2 of the Rules, “[a] Victim is a natural person who has personally suffered harm, including physical, mental or material harm, as a *direct result of* a crime within the jurisdiction of the Specialist Chambers” [emphasis added]. It notes that neither the Law nor the Rules

⁸⁶ Similarly, [Mustafa Reparation Order](#), para. 91 and references therein. See also, ICC, *Prosecutor v Ongwen*, ICC-02/04-01/15-2074, Trial Chamber IX, [Reparations Order](#) (*Ongwen* Reparations Order), 28 February 2024, para. 168 and references therein.

⁸⁷ Similarly, [Mustafa Reparation Order](#), para. 91 and references therein.

⁸⁸ Similarly, [Mustafa Reparation Order](#), para. 92 and references therein. See also, in relation to transgenerational harm, [Ongwen Reparations Order](#), paras 168 *et seq.*

define the precise requirements of the causal link between the crime and the relevant harm for the purposes of reparations.⁸⁹

61. In the view of the Panel, the causal link between the crime and the harm for the purposes of reparations is to be determined in light of the specificities of a case.⁹⁰

62. As for factual causation, the Panel adopts the “but/for” relationship between the crime and the harm, which means that but for the crime(s) committed by the convicted person, the harm would not have occurred.⁹¹

63. As regards proximate cause or legal cause, the Panel endorses the Pre-Trial Judge’s conclusion in the context of victims’ participation, namely that the harm is the direct result of the crime:

where, in the circumstances prevailing at the relevant place and time and taking in consideration the personal situation of the victim, the acts or omissions of the perpetrator(s) would most likely bring about that harm, as viewed by an objective observer.⁹²

64. The Panel further finds that the crime does not have to be the only cause of the harm suffered, but it must have contributed thereto.⁹³

65. Concerning indirect victims, applicants must show that the harm they suffered was the result of the harm suffered by the direct victim.⁹⁴ That being said, for mental harm, the emotional suffering (such as grief, sorrow, bereavement or distress) of an

⁸⁹ Similarly, [Mustafa Reparation Order](#), para. 93.

⁹⁰ Similarly, [Mustafa Reparation Order](#), para. 94 and references therein.

⁹¹ Similarly, [Mustafa Reparation Order](#), para. 95 and references therein.

⁹² [Victims’ Applications Framework Decision](#), para. 45. Similarly, [Mustafa Reparation Order](#), para. 96 and references therein.

⁹³ The Panel does not subscribe to the Pre-Trial Judge’s conclusion that the crime must have *significantly* contributed to the harm (see [First Decision on Victims’ Participation](#), para. 33). Similarly, [Mustafa Reparation Order](#), para. 97 and references therein.

⁹⁴ [First Decision on Victims’ Participation](#), paras 30-33 and references therein. See paras 53-54 above. Similarly, [Mustafa Reparation Order](#), para. 98 and references therein.

indirect victim as a result of the death or grave injury of a direct victim shall be presumed, provided that the close relationship between them is sufficiently established.⁹⁵

3. Burden and Standard of Proof

66. Victims seeking reparations must provide sufficient proof of: their identity as a natural person; the scope and extent of harm suffered; and the causal link between the crime for which a conviction has followed and the harm suffered.⁹⁶

67. Unlike for the participation of victims in the proceedings,⁹⁷ the Law and the Rules do not specify the standard of proof applicable to reparations. In the view of the Panel, what the “appropriate” standard of proof is and what is “sufficient” for the purposes of meeting the burden of proof, will depend upon the specific circumstances of the case.⁹⁸

68. In this regard, taking into consideration that reparations are fundamentally different from trial proceedings, where the guilt of the accused must be proven beyond reasonable doubt, a less exacting standard of proof than the one applicable during trial should apply.⁹⁹ In the same vein, the Panel is of the view that the “*prima facie*” standard of proof¹⁰⁰ applied by the Pre-Trial Judge or the Panel, as the case may be, to assess the information and supporting material submitted by individuals with

⁹⁵ [First Decision on Victims’ Participation](#), para. 31. Similarly, [Mustafa Reparation Order](#), para. 98 and references therein. Concerning “close personal relationship”, see para. 53 above.

⁹⁶ Similarly, [Mustafa Reparation Order](#), para. 99.

⁹⁷ See Rule 113(4) of the Rules.

⁹⁸ Similarly, [Mustafa Reparation Order](#), para. 100.

⁹⁹ Similarly, [Mustafa Reparation Order](#), para. 101 and references therein.

¹⁰⁰ See Rule 113(4) of the Rules. “*Prima facie*” means “at first sight; on the face of it; as it appears at first without investigation” ([Victims’ Applications Framework Decision](#), para. 35 and references therein). Similarly, [Mustafa Reparation Order](#), para. 101 and references therein.

a view to participate in the proceedings, is not appropriate, considering the convicted person's obligations arising from a reparation order.

69. Accordingly, the Panel adopts the "balance of probabilities" test as the appropriate standard of proof for the purpose of reparations. This standard of proof means that the victim must show that it is more probable than not that he or she suffered harm as a consequence of one of the crimes of which Mr Shala was convicted.¹⁰¹

70. Furthermore, the Panel is of the view that certain harms may be presumed, once a victim has demonstrated, on the balance of probabilities, to be a victim of the crimes of which the convicted person was convicted, and that it may rely upon circumstantial evidence when a victim lacks direct proof. However, when resorting to presumptions, the Panel must respect the rights of the victims as well as of the convicted person.¹⁰²

E. TYPES AND MODALITIES OF REPARATIONS¹⁰³

71. Pursuant to Articles 22(8), and 44(6) of the Law and Rule 168 of the Rules, reparations may be awarded to victims "collectively or individually". In the Panel's opinion, these two types of reparations are not mutually exclusive and can be awarded concurrently.¹⁰⁴

¹⁰¹ Similarly, [Mustafa Reparation Order](#), para. 102 and references therein.

¹⁰² Similarly, [Mustafa Reparation Order](#), para. 103 and references therein.

¹⁰³ As to the distinction between "types" and "modalities" of reparations, see ICC, *Prosecutor v Katanga*, ICC-01/04-01/07-3728-tENG, Trial Chamber II, [Order for Reparations pursuant to Article 75 of the Statute](#), 24 March 2017 (English translation filed on 17 August 2017), public, paras 265-295 (as for types), 296-305 (as for modalities), with Annex I, public and Annex II, confidential and *ex parte*.

¹⁰⁴ Similarly, [Mustafa Reparation Order](#), para. 104 and references therein.

72. Reparations can be described as individual when the ensuing benefit is afforded directly to a victim to repair the harm suffered as a consequence of the crimes of which the accused was convicted; they confer upon the victim a benefit to which she or he is exclusively entitled. Individual reparations should be awarded in a way that avoids creating or adding tensions and divisions within the relevant communities.¹⁰⁵

73. Collective reparations can refer to the nature of reparations (type of goods or services distributed or mode of their distribution) or their recipients (communities or groups). They differ from individual reparations in that they benefit a group or category of persons who have suffered a shared harm. Collective reparations may address the harm the victims suffered on an individual or a collective basis.¹⁰⁶

74. Article 44(6) of the Law sets out only two modalities of reparations, namely restitution and compensation. The Panel recalls its findings in the *Mustafa* Reparation Order that two additional modalities of reparations, namely rehabilitation and satisfaction, as provided for in the UN Basic Principles on Reparations,¹⁰⁷ are also available before the SC.¹⁰⁸

75. Reparations may also have a symbolic, preventative, or transformative value, and may assist in promoting reconciliation between the victims of the crime, the affected communities, and the convicted person.¹⁰⁹

76. Restitution is defined as measures which strive to re-establish, as much as possible, the life of the victim prior to the violations, including a return to one's family, home, previous employment, providing continuing education, or the returning of lost

¹⁰⁵ Similarly, [Mustafa Reparation Order](#), para. 105 and references therein.

¹⁰⁶ Similarly, [Mustafa Reparation Order](#), para. 106 and references therein.

¹⁰⁷ See [UN Basic Principles on Reparations](#), paras 18-22.

¹⁰⁸ See [Mustafa Reparation Order](#), para. 107 and references therein.

¹⁰⁹ Similarly, [Mustafa Reparation Order](#), para. 108 and references therein.

or stolen property. This modality of reparations may not always be sufficient or appropriate.¹¹⁰

77. Compensation is usually the award of monetary funds as payment for the damages suffered. In certain cases, it takes the form of a “substitute remedy” given that it cannot return a family member who has been killed or restore the physical capacities of a person who has been injured. It can apply to both pecuniary and non-pecuniary damages.¹¹¹

78. Rehabilitation measures may include medical care, economic development, social assistance, or legal services.¹¹²

79. Satisfaction may consist of measures that acknowledge the violations of international human rights law or serious violations of international humanitarian law. It may include, for instance, a public apology from the perpetrators of the violence, together with acknowledgement of the facts and acceptance of responsibility, full and public disclosure of the truth to the extent that it does not cause new harm to the victims and their families or threatens the safety of witnesses and victims, or commemorations and tributes to the victims.¹¹³

F. CONVICTED PERSON’S LIABILITY FOR REPARATIONS

80. Reparations at the SC must reflect the context from which they arise, namely a legal system whereby individual criminal responsibility for crimes under the Law is established. Accordingly, a reparation order shall not go beyond the crimes of which

¹¹⁰ Similarly, [Mustafa Reparation Order](#), para. 109 and references therein.

¹¹¹ Similarly, [Mustafa Reparation Order](#), para. 110 and references therein.

¹¹² Similarly, [Mustafa Reparation Order](#), para. 111 and references therein.

¹¹³ Similarly, [Mustafa Reparation Order](#), para. 112 and references therein.

the convicted person was held liable and shall be issued in all circumstances against the convicted person.¹¹⁴

81. The convicted person's liability for reparations must be proportional to the harm caused, in the specific circumstances of the case.¹¹⁵

82. In determining the amount of the convicted person's liability for reparations, the primary consideration should be the scope and extent of the harm suffered by the victims.¹¹⁶

83. The responsibility of other persons, organisations, or State responsibility is irrelevant to determine the convicted person's liability for reparations.¹¹⁷

84. Likewise, the convicted person's indigence is irrelevant to this determination. Indeed, the indigence of the convicted person at the time of the issuance of the reparation order is neither an obstacle to the imposition of liability for reparations, nor does it give the convicted person any right to benefit from reduced liability. In fact, the reparation order can be enforced against the convicted person when the monitoring of the financial situation reveals that the person has the means to comply with the order. Whilst the convicted person's financial circumstances may affect the way in which reparations are implemented and executed, enforcement constitutes a separate matter that goes beyond the setting of the convicted person's liability for reparations.¹¹⁸

¹¹⁴ Similarly, [Mustafa Reparation Order](#), para. 113 and references therein.

¹¹⁵ Similarly, [Mustafa Reparation Order](#), para. 114 and references therein.

¹¹⁶ Similarly, [Mustafa Reparation Order](#), para. 115 and references therein.

¹¹⁷ Similarly, [Mustafa Reparation Order](#), para. 116 and references therein.

¹¹⁸ Similarly, [Mustafa Reparation Order](#), para. 117 and references therein.

IV. EVIDENCE BEFORE THE PANEL AND THE PANEL'S APPROACH TO THE ASSESSMENT OF THE REQUEST FOR REPARATIONS

85. In determining whether the victims have demonstrated the existence of the harm alleged and the causal nexus between the harm and the crimes of which Mr Shala was convicted, the Panel will consider: (i) the Victims' Counsel Reparations Request submitted on behalf of the applicants; (ii) the decisions admitting the applicants as participating victims;¹¹⁹ (iii) the applicants' evidence before the Panel;¹²⁰ (iv) the Impact Statement; (v) the iMMO Expert Report; (vi) the Lerz Report, and (vii) the Defence Expert Report.

86. The Panel stresses that it is bound by the factual and legal findings made in the Trial Judgment, which led to the conviction and sentencing of Mr Shala. It will therefore rely on any relevant findings made therein, including regarding credibility or reliability. The Panel will not rely on information or supporting material that is manifestly non-authentic.¹²¹

87. In relation to expert reports, the Panel considers factors such as the established competence of the experts in their field of expertise, the methodologies used, the extent to which the findings are consistent with other evidence, and the general reliability of the experts' evidence.¹²²

88. The Panel's assessment of the request for reparations against those criteria is undertaken on a balance of probabilities, considering the intrinsic coherence of the

¹¹⁹ See [First Decision on Victims' Participation](#); [Second Decision on Victims' Participation](#); and [Third Decision on Victims' Participation](#).

¹²⁰ The Panel notes that five (5) applicants have dual status as participating victim and witness, and that all five testified in the trial proceedings.

¹²¹ Similarly, [Mustafa Reparation Order](#), paras 119-120 and references therein.

¹²² [Trial Judgment](#), para. 88. Similarly, [Mustafa Reparation Order](#), para. 120 and references therein.

entire request, including supporting documentation, relevant findings in the Trial Judgment, and all relevant circumstances.¹²³

89. The Panel will consider any difficulties victims may have faced in gathering and producing information, such as medical, financial, and employment records, including due to the passage of time since the crimes were committed.¹²⁴ The Panel will also take into account the fact that victims may have refrained from disclosing to others what they experienced at the KMF, including as a result of the climate of fear and intimidation in Kosovo against persons who provide evidence in investigations or prosecutions of crimes allegedly committed by former KLA members.¹²⁵ In the absence of any documentation, a victim's coherent and credible account may be accepted as sufficient evidence to support a request for reparations on a balance of probabilities.¹²⁶

90. The Panel will also, where it sees fit, proceed on presumptions, once a victim has proved, on a balance of probabilities, to be a victim of the crimes of which Mr Shala was convicted, or rely on circumstantial evidence.¹²⁷

¹²³ Similarly, [Mustafa Reparation Order](#), para. 121 and references therein; *see also*, albeit applying a different standard of proof, [First Decision on Victims' Participation](#), para. 25 and references therein.

¹²⁴ *See* para. 67 above; similarly, [Mustafa Reparation Order](#), para. 122 and references therein.

¹²⁵ *See* [Trial Judgment](#), paras 96-97 and references therein.

¹²⁶ Similarly, [Trial Judgment](#), para. 90 ("In line with Rule 139(3) of the Rules, it is within the Panel's discretion to consider whether a single piece of evidence or the sum of several pieces of evidence suffice to prove a specific fact"). Similarly, [Mustafa Reparation Order](#), para. 122 and references therein.

¹²⁷ Similarly, [Mustafa Reparation Order](#), para. 123.

V. SCOPE AND EXTENT OF HARM

A. SUBMISSIONS

91. **Victims' Counsel's Submissions.** Victims' Counsel submitted a request for reparations on behalf of the Victims.¹²⁸

92. With regard to V01/04, Victims' Counsel avers that he suffered harm in consequence of the war crimes of arbitrary detention, torture and murder committed by Mr Shala, [REDACTED].¹²⁹ According to Victims' Counsel, the harm V01/04 suffered at the KMF, from his [REDACTED] mistreatment [REDACTED], must be understood holistically and its component parts cannot be viewed in isolation.¹³⁰ Victims' Counsel argues that V01/04 suffered significant physical and mental harm, as well as material harm as a consequence of the crimes committed by Mr Shala [REDACTED].¹³¹

93. With regard to V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04, Victims' Counsel contends that, as indirect victims, all of them suffered long-lasting mental and material harm as a result of the war crimes of arbitrary detention and torture committed by Mr Shala against their family member.¹³²

94. **Defence Response.** In response, the Defence argues that Victims' Counsel has failed to identify the scope and extent of the physical harm suffered, as far as V01/04

¹²⁸ [Victims' Counsel Reparations Request](#), paras 18-58.

¹²⁹ [Victims' Counsel Reparations Request](#), paras 18-34.

¹³⁰ [Victims' Counsel Reparations Request](#), para. 18.

¹³¹ [Victims' Counsel Reparations Request](#), paras 20-22 (regarding physical harm), 23-30 (regarding mental harm) and 31-34 (regarding material harm); Impact Statement, paras 38-102.

¹³² [Victims' Counsel Reparations Request](#), paras 35-47, 48-55; Impact Statement, paras 103-183.

is concerned.¹³³ With regard to V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04, the Defence avers that Victims' Counsel failed to provide proof to the requisite standard of the material harm.¹³⁴ The Defence also avers that both the physical and mental harm suffered by the Victims was not directly caused by the crimes of which Mr Shala was convicted, as the acts causing the harm were not carried out by Mr Shala.¹³⁵ Consequently, according to the Defence, Mr Shala cannot be held responsible to repair the material harm suffered by the Victims.¹³⁶ The Defence thus requests the Panel to reject the Victims' Counsel Reparations Request and reject issuing a reparation order.¹³⁷

95. In the following section, the Panel will proceed with the analysis of the Victims' Counsel Reparations Request to determine the scope and extent of harm suffered by the Victims.

B. IDENTITY AS A NATURAL PERSON

96. At the outset, the Panel notes that the Victims were admitted to the proceedings as participating victims and provided, in that context, supporting official documentation regarding their identity as natural persons.¹³⁸ Having reviewed the supporting documentation provided in the application for admission as a victim participating in the proceedings against the requisite standard at this stage of the

¹³³ Defence Response to Victims' Counsel Reparations Request, para. 29.

¹³⁴ Defence Response to Victims' Counsel Reparations Request, paras 59-61.

¹³⁵ Defence Response to Victims' Counsel Reparations Request, paras 20-21, 32-44, 48-55, 64.

¹³⁶ Defence Response to Victims' Counsel Reparations Request, paras 44 and 61.

¹³⁷ Defence Response to Victims' Counsel Reparations Request, paras 6, 68.

¹³⁸ [First Decision on Victims' Participation](#), para. 26 and references therein (regarding V01/04); [Second Decision on Victims' Participation](#), para. 25 and references therein, (regarding V02/04) and [Third Decision on Victims' Participation](#), para. 28 and references therein (regarding V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04).

proceedings, the Panel finds that each victim has established on a balance of probabilities his or her identity as a natural person.¹³⁹

C. HARM SUFFERED BY THE VICTIMS

1. Preliminary matters

97. Before proceeding further, the Panel deems it necessary to address two of the Defence's arguments in response to the Victims' Counsel Reparations Request, as those pertain to all Victims in this case.

98. First, as to the Defence's proposition that Victims' Counsel failed to identify the scope and extent of the physical harm suffered, the Panel recalls that alleged victims need to detail, to the extent possible, the type, gravity, body region and number of injuries as well as their effects on the victim's health, ability to work and well-being.¹⁴⁰ To the extent available, alleged victims may present supporting documentation such as medical certificates, medication prescriptions, photographs or any other records attesting to the bodily injury suffered.¹⁴¹ That being said, victims are not required to document every individual injury incurred in the course of their mistreatment, nor identify the individual perpetrator thereof, provided that the harm arises from the crimes of which Mr Shala has been convicted. Considering Victims' Counsel Reparations Request and Impact Statement, as well as the findings made beyond a

¹³⁹ Similarly, [Mustafa Reparation Order](#), para. 130 and references therein. The Panel notes that this determination was already made by the Pre-Trial Judge, albeit at a lower standard of proof. The Panel recalls that the Pre-Trial Judge or the Panel, as the case may be, assesses the information and supporting material submitted by individuals with a view to participate in the proceedings on a *prima facie* basis (see Rule 113(4)), which means "at first sight; on the face of it; as it appears at first without investigation"; see, similarly, [Victims' Applications Framework Decision](#), para. 35 and references therein.

¹⁴⁰ [Victims' Applications Framework Decision](#), para. 41.

¹⁴¹ [Victims' Applications Framework Decision](#), para. 41.

reasonable doubt in the Trial Judgment, the Panel finds that the Victims' Counsel Reparation Request lays out in sufficient detail the scope and extent of the alleged harm. The Panel therefore finds this argument by the Defence without merit.

99. Second, as to the Defence's argument that the crimes which resulted in the Victims' suffering were not carried out by the acts of Mr Shala, the Panel finds that the Defence fundamentally misinterprets the requirement for causal link. The causal nexus needs to be established between the crimes of which Mr Shala has been found guilty and the alleged harm suffered by the Victims.¹⁴² Mr Shala's obligation to repair the harm arises from his individual criminal responsibility as a member of a joint criminal enterprise having committed the aforementioned crimes, as established in the Trial Judgment.¹⁴³ In this regard, the Panel notes that Mr Shala did in fact actively participate in some of the beatings, and therefore also directly participated in the harm suffered by the Victims.¹⁴⁴ Nevertheless, the Panel underlines that it does not matter whether he personally carried out individual acts resulting in said harm, nor is it necessary, or for that matter possible, to link each specific harm suffered to each specific instance of mistreatment. This is especially the case when victims have been systematically mistreated in a variety of ways during several weeks, including by being subjected to inhumane and degrading conditions of detention.¹⁴⁵ As will be laid out in detail below, the Panel is satisfied that there is sufficient proof that the harm suffered by the Victims in this case arises from the crimes of which Mr Shala has been convicted. The Panel therefore dismisses the Defence's argument in this regard.

¹⁴² See, similarly, ICC, *Prosecutor v. Ntaganda*, ICC-01/04-02/06-2659, Trial Chamber VI, [Reparations Order](#), 8 March 2021, paras 31, 75-76.

¹⁴³ See, in particular, [Trial Judgment](#), paras 994, 1007, 1037-1039.

¹⁴⁴ See, in particular, [Trial Judgment](#), paras 1014, 1017, 1025 and 1028.

¹⁴⁵ On the systematic character of the mistreatment of detainees at the KMF, see [Trial Judgment](#), paras 1015 and 1022.

2. Harm suffered by V01/04 [REDACTED]

100. **Preliminary considerations.** At the outset, the Panel recalls that it has established beyond reasonable doubt that: (i) V01/04 [REDACTED] arbitrarily detained and tortured at the KMF by KLA members, including by Mr Shala;¹⁴⁶ and that (ii) the Murder Victim died in detention, as a result of a gunshot injury inflicted upon his leg during one of the interrogations, combined with the denial of appropriate medical treatment.¹⁴⁷

101. Against this backdrop, the Panel is mindful of Victims' Counsel's submission that it is difficult to disentangle the harm suffered by V01/04 [REDACTED].¹⁴⁸ The Panel nevertheless deems it appropriate to discuss, to the extent possible, the harm that V01/04 suffered [REDACTED], while acknowledging that certain types of harm (e.g. physical harm) [REDACTED].

102. In assessing the physical and mental harm, the Panel relies on the findings made in the Trial Judgment, V01/04's testimony before the Panel, as well as expert testimonies and reports.¹⁴⁹ The Panel recalls that it found V01/04 credible and reliable in his testimony and relied on his evidence in the Trial Judgment.¹⁵⁰ The Panel further found expert witnesses Ms Duhne-Prinsen, Dr Lozano Parra [REDACTED] highly credible and relied on their evidence in the Trial Judgment.¹⁵¹ Lastly, with regard to

¹⁴⁶ [Trial Judgment](#), paras 368-414, 654-688.

¹⁴⁷ [Trial Judgment](#), para. [REDACTED].

¹⁴⁸ [Victims' Counsel Reparations Request](#), para. 18.

¹⁴⁹ See iMMO Expert Report; the testimony of **Ms Duhne-Prinsen and Dr Lozano Parra**: T. 21 August 2023, confidential, pp. 2251-2333; [REDACTED].

¹⁵⁰ [Trial Judgment](#), paras 98-119.

¹⁵¹ [Trial Judgment](#), paras [REDACTED] and 211-212.

the material harm, the Panel will refer to, as necessary, findings in the Lerz Report and the Defence Expert Report.

103. **Physical harm.** V01/04 was arbitrarily detained for approximately [REDACTED] at the KMF.¹⁵² Throughout this time, he was subjected to severe mistreatment, including routine beatings, harassment and humiliation by members of the KLA, including by Mr Shala.¹⁵³ V01/04 was hit with, *inter alia*, metal bars, baseball bats, rubber batons and - on at least one occasion - a gun.¹⁵⁴ He was mistreated for hours on end, sometimes until losing consciousness.¹⁵⁵ [REDACTED] and [REDACTED].¹⁵⁶ On one occasion, [REDACTED].¹⁵⁷ On another occasion, [REDACTED].¹⁵⁸ Mr Shala was present and participated in the mistreatment of V01/04 [REDACTED].¹⁵⁹ In addition to the mistreatment suffered in detention, V01/04 [REDACTED], like other detainees at the KMF, [REDACTED] also subjected to inhumane and degrading conditions of detention.¹⁶⁰

104. As a result of the conditions of detention, V01/04 lost a lot of weight.¹⁶¹ As a result of the severe mistreatment, he also sustained a number of injuries to body parts,

¹⁵² [Trial Judgment](#), paras 382 and 401.

¹⁵³ [Trial Judgment](#), paras 404, 655, 1106.

¹⁵⁴ [Trial Judgment](#), para. 655 and references therein.

¹⁵⁵ [Trial Judgment](#), paras 655, 1017 and references therein; Impact Statement, paras 45, 48-49.

¹⁵⁶ [Trial Judgment](#), para. [REDACTED]; Impact Statement, para. [REDACTED] and references therein; *see also*, [REDACTED]; *see also*, [REDACTED].

¹⁵⁷ [Trial Judgment](#), para. 666.

¹⁵⁸ [Trial Judgment](#), para. 675; [REDACTED] T. 31 May 2023, confidential, p. 1527, lines 13-16.

¹⁵⁹ [Trial Judgment](#), paras [REDACTED]; [REDACTED].

¹⁶⁰ [Trial Judgment](#), para. 971; Impact Statement, para. 42

¹⁶¹ [REDACTED] T. 31 May 2023, public, p. 1552, line 22.

including to his head.¹⁶² Upon release, V01/04 reported [REDACTED].¹⁶³ He initially refrained from [REDACTED], as he felt [REDACTED].¹⁶⁴

105. Lastly, the Panel notes V01/04's testimony that to this day, he still has visible scars [REDACTED] from the physical abuse he suffered;¹⁶⁵ that he continues to experience pain [REDACTED]; and that he suffers from headaches [REDACTED].¹⁶⁶

106. In light of the above, the Panel is satisfied that it has been established that V01/04, [REDACTED], suffered physical harm as a result of the crimes of arbitrary detention and torture for which Mr Shala has been convicted. The Panel further acknowledges that the physical harm suffered by V01/04 had long-lasting consequences.

107. **Mental harm.** When he was detained at the KMF, V01/04 was not informed of the reasons for his deprivation of liberty.¹⁶⁷ He did not know for how long that detention would last, nor did he have access to his family or to the outside world.¹⁶⁸

108. Throughout his detention, V01/04 could hear his co-detainees, [REDACTED], being mistreated and saw the injuries inflicted on them and the state they were in when they were brought back to the room where he was held.¹⁶⁹ In one instance, [REDACTED];¹⁷⁰ [REDACTED].¹⁷¹ V01/04 was also present when, following severe mistreatment, [REDACTED].¹⁷²

¹⁶² The Panel notes in particular the injury V01/04 sustained as a result of [REDACTED]; see [Trial Judgment](#), para. [REDACTED]; [REDACTED] referring to [REDACTED].

¹⁶³ [REDACTED].

¹⁶⁴ [REDACTED].

¹⁶⁵ See also, [REDACTED] and [REDACTED].

¹⁶⁶ [REDACTED].

¹⁶⁷ [Trial Judgment](#), para. 403, 406.

¹⁶⁸ [Trial Judgment](#), paras 404, 1100.

¹⁶⁹ [Trial Judgment](#), para. 647; [REDACTED]; [REDACTED].

¹⁷⁰ [Trial Judgment](#), para. 667.

¹⁷¹ [Trial Judgment](#), para. 667.

¹⁷² [Trial Judgment](#), paras 779-785.

109. As a result of his [REDACTED] detention and mistreatment at the KMF, V01/04 suffered both immediate and long-lasting mental harm.

110. As an immediate consequence, the Panel notes that V01/04 experienced fear from the severe mistreatment [REDACTED] suffered, from the atmosphere of terror and intimidation at the KMF, as well as from being threatened with death while in detention.¹⁷³ V01/04 also witnessed [REDACTED].¹⁷⁴ This caused him profound grief, helplessness and anger.¹⁷⁵

111. In addition, the Panel observes that V01/04 was labelled, by Mr Shala and other KLA members mistreating him, as collaborating with the Serbian authorities and being a “spy”.¹⁷⁶ V01/04 described suffering profound hurt, confusion and betrayal from being stigmatised this way, as he could not understand why [REDACTED]:

[REDACTED].¹⁷⁷

112. V01/04 further elaborated what an insidious effect the act of calling him a “spy” had on his well-being well past his detention at the KMF:

[REDACTED].¹⁷⁸

113. The Panel highlights this is a distinct aspect of the mental harm inflicted upon V01/04, as the accusations of being a “collaborator” or a “spy” also cast a long-lasting social stigma on V01/04 and his family.

¹⁷³ [REDACTED].

¹⁷⁴ [Trial Judgment](#), paras [REDACTED].

¹⁷⁵ [REDACTED]; Impact Statement, paras 62, 191.

¹⁷⁶ [Trial Judgment](#), paras 403-404, 656, 688, 740, 947 and references therein; Impact Statement, para. 68.

¹⁷⁷ [REDACTED].

¹⁷⁸ [REDACTED].

114. In the longer term, V01/04 experienced further trauma [REDACTED].¹⁷⁹
[REDACTED].¹⁸⁰

115. As a long-lasting consequence of V01/04's mistreatment in detention, [REDACTED], the Panel notes the clear diagnosis [REDACTED].¹⁸¹ [REDACTED].¹⁸² Notably, V01/04 fears for his safety even today and is constantly on watch. [REDACTED] V01/04 fears [REDACTED].¹⁸³ As a result of this fear, V01/04 currently does not work [REDACTED].¹⁸⁴ The [REDACTED] also affect his social and family life.¹⁸⁵ According to [REDACTED], all of the aforementioned symptoms arise directly from the violence that V01/04 underwent while in detention at the KMF.¹⁸⁶

116. In light of the above, the Panel is satisfied that it has been established on the balance of probabilities that V01/04, [REDACTED], suffered immediate and long-lasting mental harm as a result of the crimes of arbitrary detention, torture and murder for which Mr Shala has been convicted.

117. **Material harm.** Victims' Counsel argues that V01/04's [REDACTED] have made it impossible for him to conduct his life as he would have before, and in particular that he is no longer able to provide for himself [REDACTED].¹⁸⁷ He submits that the mental harm caused to V01/04 is the only reason why he is unable to work.¹⁸⁸

118. The Panel considers that intense psychological trauma, anguish, and pain, such as suffered by V01/04, may not only lead to developing physical and mental

¹⁷⁹ [REDACTED]; Impact Statement, para. 67.

¹⁸⁰ [REDACTED]; Impact Statement, para. 69.

¹⁸¹ [REDACTED].

¹⁸² [REDACTED].

¹⁸³ [Trial Judgment](#), [REDACTED] and references therein; [REDACTED]; *see also* [REDACTED].

¹⁸⁴ [Trial Judgment](#), [REDACTED].

¹⁸⁵ [Trial Judgment](#), [REDACTED].

¹⁸⁶ [REDACTED].

¹⁸⁷ *See* [Victims' Counsel Reparations Request](#), paras 31-32; Impact Statement, paras 92-96.

¹⁸⁸ [Victims' Counsel Reparations Request](#), para. 34.

conditions, but may also affect an individual's capabilities to function within society. For instance, it will impact a victim's capacity to gain full employment and regular income.

119. In the case at hand, the Panel is of the view that, had the arbitrary detention and torture of V01/04 [REDACTED] (with the associated stigma of being labelled as a "traitor", "spy", or "Serb collaborator") [REDACTED], not occurred, and considering V01/04's age at the time of the relevant events, V01/04 would have more likely than not been able to pursue "an average career path" and gain employment with regular income.¹⁸⁹ The Panel is therefore persuaded that the crimes of which Mr Shala was convicted contributed to V01/04's loss of opportunities and inability to regain his financial independence [REDACTED].¹⁹⁰

120. Thus, the Panel finds that V01/04 incurred a loss of earnings and a damage to his life plan.

121. **Conclusion.** In the Panel's view, V01/04 has provided proof to the requisite standard of the harm outlined above as well as the causal link between said harm and the crimes of which Mr Shala was convicted.

122. In light of the foregoing, the Panel finds that V01/04 experienced physical and mental harm, as well as material harm, with long-lasting consequences, as a result of the war crimes of arbitrary detention, torture and murder for which Mr Shala was convicted.

¹⁸⁹ See para. 62 above as to factual causation.

¹⁹⁰ See para. 63 above as to legal causation.

3. Harm Suffered by V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04 as indirect victims

123. At the outset, the Panel notes that V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04 all provided material supporting kinship with W04733.¹⁹¹ V03/04 was the wife of W04733 for [REDACTED], and is now his widow. [REDACTED]. All are immediate family members and thus presumed to be in a close relationship with W04733 (Indirect Victims).¹⁹²

124. Before proceeding with an assessment of the harm the Indirect Victims may have suffered, the Panel will first set out its findings with regard to W04733, in relation to whom the family members claim harm.

a) Harm suffered by W04733

125. At the outset, the Panel recalls that it has established beyond a reasonable doubt that W04733 was arbitrarily detained and mistreated at the KMF, by members of the KLA, including Mr Shala.¹⁹³ In relation to the harm suffered by W04733, the Panel primarily relies on the written evidence of W04733 and W01448,¹⁹⁴ the testimonial evidence of [REDACTED],¹⁹⁵ [REDACTED],¹⁹⁶ [REDACTED],¹⁹⁷ [REDACTED],¹⁹⁸

¹⁹¹ See [Second Victims Participation Decision](#), para. 26; [Third Victims Participation Decision](#), para. 29. The Panel notes that the determination by the Pre-Trial Judge was made on the basis of a lower standard of proof (See Rule 113(4) of the Rules, [Third Victims Participation Decision](#), para. 12).

¹⁹² See paras 53, 65 above.

¹⁹³ [Trial Judgment](#), paras 441-473, 640-653 and 689-706.

¹⁹⁴ KSC-BC-2020-04, F00562, Trial Panel I, *Decision on the Specialist Prosecutor's motion for admission of evidence pursuant to Rule 155 of the Rules*, 4 July 2023, confidential, para. 70(b). A public redacted version was filed on 16 August 2023, [F00562/RED](#).

¹⁹⁵ [REDACTED].

¹⁹⁶ [REDACTED].

¹⁹⁷ [REDACTED].

¹⁹⁸ [REDACTED].

[REDACTED]¹⁹⁹ and [REDACTED],²⁰⁰ as well as relevant medical evidence.²⁰¹ The Panel recalls that it found W04733, W01448, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] credible and relied on their evidence.²⁰²

126. **Physical harm.** While in detention at the KMF, W04733 was subjected to severe mistreatment at the hands of KLA members, including by Mr Shala.²⁰³ Notably, W04733 was brutally and repeatedly beaten by Mr Shala and other KLA members, who kicked him, punched him and hit him with a rubber baton and a baseball bat.²⁰⁴ On one occasion, W04733 was hit in the head, causing him to bleed and resulting in his head being bandaged.²⁰⁵ Despite the obvious injury, one of the KLA members repeatedly cut the dressing off with a knife.²⁰⁶ Similarly to [REDACTED], W04733 was beaten until losing consciousness and had salt rubbed on his wounds and eyes.²⁰⁷ Lastly, W04733 like other detainees, was kept in inhumane and degrading conditions of detention.²⁰⁸

127. As a consequence of the mistreatment, W04733 suffered multiple injuries and scars, including a scar on his forehead, burn marks on his chest and shoulder, an

¹⁹⁹ [REDACTED].

²⁰⁰ [REDACTED].

²⁰¹ [REDACTED].

²⁰² [Trial Judgment](#), paras 98-119, 144-154, 169-175, 176-188, 198-199.

²⁰³ [Trial Judgment](#), paras 689-706.

²⁰⁴ [Trial Judgment](#), paras 690-691.

²⁰⁵ [Trial Judgment](#), paras 691, 1017.

²⁰⁶ [Trial Judgment](#), para. 691.

²⁰⁷ [Trial Judgment](#), paras 691, 694 and references therein.

²⁰⁸ [Trial Judgment](#), paras 593-638.

injured elbow, and broken teeth.²⁰⁹ He also sustained a cut on his wrist from a KLA member who attacked him with a large knife, causing him to bleed profusely.²¹⁰

128. The family members who welcomed W04733 upon his release also attested to the terrible physical condition in which they found him: W04733 was pale,²¹¹ covered in blood,²¹² had wounds all over his body,²¹³ and had lost a lot of weight.²¹⁴

129. In the long term, W04733 reported having difficulty extending his left arm; [REDACTED];²¹⁵ and experiencing an exacerbation of his pre-existing [REDACTED] since the events at the KMF.²¹⁶ In addition, W04733 reported having issues with his feet as a consequence of a specific instance in which Mr Shala beat him on the soles of his feet at the KMF.²¹⁷

130. In light of the above, the Panel is satisfied that W04733 suffered physical harm as a result of the crimes of arbitrary detention and torture of which Mr Shala has been convicted. The Panel further acknowledges that the physical harm suffered by W04733 had long-lasting consequences.

²⁰⁹ [Trial Judgment](#), paras 690-691, 700, 1097.

²¹⁰ [Trial Judgment](#), para. 693. *See also* SITF00019793-SITF00019810, pp. SITF00019795, SITF00019801; **Dr Gasior**: T. 27 June 2023, public, p. 2131, line 8 to p. 2132, line 5.

²¹¹ [REDACTED] T. 28 March 2023, public, p. 824, lines 11-14.

²¹² [REDACTED] T. 27 March 2023, public, p. 683, lines 2-6; [REDACTED] T. 28 March 2023, public, p. 824, lines 11-21.

²¹³ [REDACTED] T. 27 March 2023, public, p. 667, lines 6-11; [REDACTED] T. 28 March 2023, confidential, p. 824, lines 18-19; [REDACTED] T. 29 March 2023, public, p. 911, lines 6-17; [REDACTED] T. 30 March 2023, public, p. 989, 4-9.

²¹⁴ [Trial Judgment](#), para. 703; [REDACTED] T. 27 March 2023, public, p. 667, lines 6-9; [REDACTED] T. 28 March 2023, public, p. 824, lines 11-13; [REDACTED] T. 29 March 2023, public, p. 911, lines 6-7; [REDACTED] T. 30 March 2023, public, p. 988, lines 21-25.

²¹⁵ **W04733**: 082892-TR-AT-ET Part 9 RED2, pp. 21-22.

²¹⁶ **W04733**: SPOE00013793-SPOE00013847 RED2, p. 40.

²¹⁷ [Trial Judgment](#), para. 448; **W04733**: 082892-TR-AT-ET Part 2 RED3, p. 44, lines 3-7.

131. **Mental harm.** W04733 suffered both immediate and long-lasting psychological consequences as a result of his detention at the KMF.

132. First, similar to other detainees at the KMF, he was not informed of the reasons for his arrest or deprivation of liberty.²¹⁸ Like other detainees, he experienced the climate of fear and brutality at the KMF and feared for his life.²¹⁹

133. Second, while being brutally mistreated, W04733 was repeatedly interrogated and accused of collaborating with Serbian authorities and committing unspeakable crimes.²²⁰ This made him experience frustration and a sense of injustice done to him.²²¹ In addition, he was made to witness the suffering and humiliation of other detainees, including by Mr Shala, while also being beaten and humiliated in their presence.²²²

134. In the long term, as a consequence of his arbitrary detention and mistreatment, W04733 reported experiencing flashbacks, nightmares and feeling under stress.²²³ He became irritable.²²⁴ He was also fearful and constantly on watch, wary that someone is following him and his family.²²⁵ Notably, he refrained from seeking medical help for the injuries he had sustained at the KMF out of fear that he was being followed.²²⁶ W04733 himself stated that he felt “broken down” as a result of what he experienced at the KMF.²²⁷

²¹⁸ [Trial Judgment](#), paras 441, 470-473.

²¹⁹ [Trial Judgment](#), paras 645-653; **W04733**: 082892-TR-AT-ET Part 9 RED2, p. 24; Impact Statement, para. 127.

²²⁰ [Trial Judgment](#), paras 692, 694.

²²¹ Impact Statement, para. 123.

²²² Impact Statement, para. 125.

²²³ [Trial Judgment](#), para. 701.

²²⁴ Impact Statement, paras 141-144.

²²⁵ Impact Statement, para. 139 and references therein.

²²⁶ [Trial Judgment](#), para. 701; Impact Statement, para. 132.

²²⁷ **W04733**: 082892-TR-AT-ET Part 9 RED2, p. 18, lines 5-6.

135. In light of the above, the Panel is satisfied that W04733 suffered mental harm as a result of the crimes of arbitrary detention and torture for which Mr Shala has been convicted. The Panel further acknowledges that the mental harm suffered by W04733 had long-lasting consequences.

- a) Harm suffered by V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04

136. **Mental harm.** At the moment of W04733's arrest, the family described suffering fear and anxiety from not knowing where their father and husband was taken and whether they would see him again.²²⁸

137. Upon W04733's release, the family members were distressed from seeing him in the condition in which he was, both physically and mentally. [REDACTED] testified in court: "When my father came back, he was in a completely inhuman state. He stunk; that is, he was not clean".²²⁹ V03/04, W04733's wife, also testified about the first time she saw her husband following his release. She vividly recalled: "We took him inside. He was unwashed. He was covered in blood. He had a bad odour. [...] That was a very difficult moment for us psychologically, mentally. My sons, my daughters were crying. [...] We cleaned him".²³⁰

138. The family also suffered mentally from the long-term impact of the detention and mistreatment on W04733's psychological state.²³¹ [REDACTED] poignantly described the effect which W04733's detention and mistreatment at the KMF had on his father (W04733): "He was destroyed because of his detention in Kukës [...]"

²²⁸ [REDACTED] T. 27 March 2023, confidential, p. 687, lines 18-24; [REDACTED] T. 30 March 2023, public, p. 993, lines 19-21.

²²⁹ [Trial Judgment](#), para. 624; [REDACTED] T. 27 March 2023, public, p. 667, lines 7-8.

²³⁰ [REDACTED] T. 28 March 2023, public, p. 809, lines 4-13.

²³¹ [Trial Judgment](#), para. 704.

Everything changed. He became more aggressive, psychological effects".²³² W04733's family had to learn to live with the changes in personality and behaviour that he exhibited, as well as the manifestations of his trauma.²³³ The testimonies of W04733's family members are very telling in this regard. [REDACTED], for instance, testified that: "[T]he experience was harrowing because we all suffered the effects [...] we felt the condition that was caused to him".²³⁴ V03/04 testified that the crimes committed against W04733 at KMF had a devastating impact on the entire family: "[I]t affected my husband's health and the health of the entire family because we were also traumatised, used therapies, medicine."²³⁵ Asked about how what happened to her husband affected her life as his wife at that time, V03/04 testified: "This affected us greatly, creating extraordinarily difficult moments. So many -- such difficult moments that I cannot even count them. Each one of them had a harder impact, tougher impact on me and my entire family. So, this impacted us emotionally, psychologically".²³⁶

139. Lastly, the allegations made against W04733 by members of the KLA contributed to the stigma cast on the family as well. Consequently, some of W04733's children felt fear and insecurity and as a result, could not pursue their chosen life paths.²³⁷

²³² [REDACTED] T. 27 March 2023, public, p. 686, lines 15-16; p. 687, lines 4-5. *See also*, [REDACTED] T. 30 March 2023, public, p. 989, lines 12-13: "He was the person he used to be character-wise, but he was broken"; [REDACTED] T. 29 March 2023, public, p. 913, lines 24-25: "Psychologically, he was not the same man as before. He was a completely different person."

²³³ [Victims' Counsel Reparations Request](#), para. 41.

²³⁴ [REDACTED] T. 27 March 2023, public, p. 687, lines 9-15.

²³⁵ [REDACTED] T. 28 March 2023, public, p. 826, lines 7-9.

²³⁶ [REDACTED] T. 29 March 2023, public, p. 846, lines 5-8.

²³⁷ [REDACTED] T. 29 March 2023, p. 847, public, lines 10-19; p. 847, line 24 to p. 848, line 6; p. 877, lines 18-20; [REDACTED] T. 29 March 2023, p. 912, public, lines 8-21; [REDACTED] T. 27 March 2023, public, p. 687, line 25 to p. 688, line 5.

140. **Material harm.** The Panel first recalls that, as a result of the physical and mental harm resulting from his detention and mistreatment at the KMF, W04733 was no longer able to provide for his family upon his return.²³⁸

141. In this regard, the Panel is of the view that, had the arbitrary detention and torture not occurred with the associated stigma of being labelled as a “traitor”, “spy”, or “Serb collaborator”, and considering his age at the time of events ([REDACTED]),²³⁹ W04733 would have more likely than not been able to pursue “an average career path” and continue to gain employment with regular income. The Panel is also persuaded that the crimes of which Mr Shala was convicted contributed to W04733’s loss of opportunities and inability to regain his financial independence and provide for his family. As a result, the family was deprived of their main breadwinner.²⁴⁰

142. In addition, the Panel notes Victims’ Counsel’s submission that the Indirect Victims incurred certain costs with regard to the medical care provided to W04733 to address the physical injuries he suffered at the KMF, as well as his declining health over the years.²⁴¹ As a general matter, the Panel considers that financial costs incurred in relation to medical treatment addressing the physical or psychological harm suffered by a direct victim as a consequence of the crimes form part of the material harm caused to the indirect victims. The Panel will discuss the exact amount of costs

²³⁸ [Trial Judgment](#), para. 1093; Impact Statement, paras 178-179. V03/04 testified in this regard: “We also lost a lot of financial income because of the medical condition my husband was in, because he could not work. He only could -- was able to work a little bit by harvesting or in agriculture. But because of his medical condition, he could not -- he could no longer work to provide for the family, to become a main source of income so that we could be financially supported. And this was all impacted -- this all had an impact on us”, [REDACTED] T. 29 March 2023, public, p. 875, line 24 to p. 876, line 5.

²³⁹ [Victims’ Counsel Reparations Request](#), para. 49.

²⁴⁰ [Victims’ Counsel Reparations Request](#), para. 51.

²⁴¹ [Victims’ Counsel Reparations Request](#), paras 48-52.

allegedly incurred by the family of W04733 and the issue of supporting documentation in the following section.²⁴²

143. Finally, the Panel notes that, as a result of the crimes committed against W04733 at the KMF, the family lived in fear for their safety, and as a consequence made choices and decisions which limited their future prospects. The Panel notes in this regard, in particular: (i) the discontinued education of the [REDACTED] daughters of W04733 ([REDACTED])²⁴³ and [REDACTED]²⁴⁴ due to the stigma attached to W04733 linked to the accusations made against him at the KMF; and (ii) [REDACTED], [REDACTED], [REDACTED] and [REDACTED] refraining from pursuing their chosen career paths for the same reason.²⁴⁵ [REDACTED], [REDACTED] and [REDACTED] further testified that the family felt unsafe, as they were afraid that more harm would come towards their way. W04733's wife at the time, V03/04, also explained that her [REDACTED] daughters interrupted their education as the family was concerned about their safety.²⁴⁶ In this regard, [REDACTED] stated: "But also for us [REDACTED], the perspectives were not the same".²⁴⁷ "[We were] seen as a family of

²⁴² See para. 179 below.

²⁴³ [Trial Judgment](#), para. 1093; Impact Statement, paras 160-163. V03/04 testified in this regard: "As a result, my daughters interrupted schooling because of safety reasons. A lot of incidents were happening. Immoral actions were committed and, as a result, we decided to interrupt our daughters' schooling", [REDACTED] T. 29 March 2023, public, p. 847, lines 15-19; on the issue of material harm because of interruption and loss of schooling, see [Ongwen Reparations Order](#), para. 374.

²⁴⁴ V02/04 testified that: "[REDACTED]", [REDACTED] T. 30 March 2023, confidential, p. 1018, lines 13-14.

²⁴⁵ [Trial Judgment](#), para. 1093; Impact Statement, para. 172.

²⁴⁶ V03/04 testified about the consequences for her daughters on their career and more generally to their life-plan due to the interruption of their schooling: "It was difficult. Because we wanted to avoid something worse happening, we had to keep them at home, engage them in other work, crafts or something else, related to the household", [REDACTED] T. 29 March 2023, public, p. 877, lines 18-20.

²⁴⁷ [REDACTED] T. 30 March 2023, public, p. 960, line 17. [REDACTED] further testified: "My eldest brother was working with the police, and sometime in 2006 or 2007, he quit, because he felt somehow unsafe". According to him, this was linked to what happened to his father, see [REDACTED] T. 30 March 2023, public, p. 960, lines 21-25. [REDACTED] also testified: "I was also to the police. My

spies by some people, or considered as such, because of what happened to our father”. V03/04’s testimony reveals that the harm caused to the family persists until today: “The entire family, myself, all of my children, suffered a lot of stress. What befell on us will stay with us and we will never be able to erase it”.²⁴⁸ Considering the above, the Panel finds that the crimes committed against W04733 altered the family members’ life path, as the stigma associated to what happened to W04733 at the KMF extended to the family, which was seen as a family of spies, and triggered an associated loss of opportunities. The Indirect Victims therefore suffered, as part of their material harm, a damage to their life plan as a result of the crimes of which Mr Shala was convicted with regard to W04733.²⁴⁹

144. In light of the above, the Panel finds that, V02/04, V03/04, V05/04, V06/04, V07/04 and V08/04 have provided proof of their kinship with W04733, who was a direct victim of the crimes of arbitrary detention and torture for which Mr Shala was convicted. The Panel further finds that V02/04, V03/04, V05/04, V06/04, V07/04 and V08/04 suffered both mental and material harm, with long-lasting consequences, as a result of the war crimes of arbitrary detention and torture for which Mr Shala was convicted with regard to W04733.

VI. REPARATION ORDER AGAINST MR SHALA

145. This order is made directly against Mr Shala pursuant to Articles 22(8) and 44(6) of the Law.²⁵⁰

name came up that I had been admitted, selected, but then later on it was removed, meaning my name”, [REDACTED] T. 30 March 2023, public, p. 961, lines 9-11.

²⁴⁸ [Trial Judgment](#), para. [REDACTED] and references therein.

²⁴⁹ See, similarly, [Mustafa Reparation Order](#), para. 141.

²⁵⁰ See para. 80 above.

A. BENEFICIARIES OF REPARATIONS AND HARM

146. In the previous section, the Panel set out the scope and extent of the harm suffered by the Victims in this case. As established above, V01/04 has suffered physical, mental and material harm, and V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04 have all suffered mental and material harm as a result of the crimes of which Mr Shala was convicted.

B. TYPES AND MODALITIES OF REPARATIONS

1. Submissions

147. Victims' Counsel submits that the Victims in this case have come forward primarily in a quest for justice and finding out the truth of what happened.²⁵¹ Victims' Counsel therefore requests that their harm is specifically acknowledged as a form of reparation in its own right and that monetary compensation is made to each of them.²⁵²

148. Victims' Counsel argues that the Panel should follow the same approach to the assessment of compensation as the one adopted by the Panel in the *Mustafa* case.²⁵³

149. In addition, Victims' Counsel proposes that the Panel take the following factors into consideration when determining the compensation amount to be awarded to direct victims: (i) physical harm that the victim suffered in relation to arrest, detention and ill-treatment; (ii) mental harm suffered in relation to arrest, detention and ill-treatment; (iii) duration of the above physical and mental harm; (iv) material damages, including loss of employment and income, as well as loss of potential earnings; (v)

²⁵¹ [Victims' Counsel Reparations Request](#), para. 2.

²⁵² [Victims' Counsel Reparations Request](#), para. 3; *see also*, [Victims' Counsel 30 June 2023 Submissions](#), para. 35.

²⁵³ [Victims' Counsel 30 June 2023 Submissions](#), para. 36.

loss of opportunities, including employment, education and social benefits and more generally a life plan; (vi) the gravity of the crimes; (vii) whether the victim has already been awarded any form of reparations/compensation; and (viii) compensation awarded in comparable cases concerning torture, inhuman or degrading treatment and arbitrary detention in other fora.²⁵⁴

150. With regard to indirect victims, Victims' Counsel proposes that the Panel take the following factors into consideration when determining the compensation amount to be awarded: (i) the nature of the relationship between the indirect and direct victim; (ii) the harm resulting from the crime and its impact on indirect victims; (iii) duration of the harm; (iv) material damages, including loss of employment and income, as well as loss of potential earnings; (v) loss of opportunities suffered by indirect victims, including employment, education and social benefits and more generally a life plan; (vi) the gravity of the crimes; (vii) whether indirect victims have already been awarded any form of reparations/compensation; and (viii) compensation awarded in comparable cases concerning torture, inhuman or degrading treatment and arbitrary detention in other fora.²⁵⁵

151. The Defence responds that the *Mustafa* Reparation Order is inapposite and cannot be treated as precedent save where there are sufficient reasons to follow the approach taken in that case for the purposes of the specific circumstances in this case. The Defence avers that unlike Mr Shala, Mr Mustafa was a commander and was charged with superior criminal responsibility, and that neither the number of alleged victims nor the financial situation of the two accused in the two cases is similar.²⁵⁶

²⁵⁴ [Victims' Counsel 30 June 2023 Submissions](#), para. 53.

²⁵⁵ [Victims' Counsel 30 June 2023 Submissions](#), para. 54.

²⁵⁶ KSC-BC-2020-04, F00585, Defence, *Defence Response to the Victims' Counsel's Submissions pursuant to the Order of 4 May 2023 setting further procedural steps for the presentation of evidence by Victims' Counsel*

2. Determination by the Panel

152. In accordance with Article 22(8) of the Law, the Panel will specify below the appropriate reparations.

153. Before doing so, the Panel wishes to stress that the conviction and sentencing in the Trial Judgment already constitute, in and of themselves, a form of remedy for the Victims which is foreseen under the right to “acknowledgement” in Article 22(3) of the Law. The Panel recalls in this regard that acknowledgment of serious breaches of human rights and international humanitarian law is an important form of remedy for victims.²⁵⁷ In this case, the conviction and sentencing in the Trial Judgment serve to acknowledge and detail the crimes that harmed the Victims, as well as to hold Mr Shala accountable for the serious crimes committed and the harm caused to them.

154. The proceedings in this case which led to the conviction and sentencing of Mr Shala also gave the opportunity to the Victims – notwithstanding the climate of fear and witness intimidation in Kosovo – to be heard, and to demand justice and redress for crimes committed more than two decades ago against them and against their family members who are no longer with them.

155. In this regard, the Panel recalls its findings in the Trial Judgment as to the pervasive climate of fear and intimidation in Kosovo against witnesses or potential witnesses of the SC, their families and, more broadly, against those who provide

with six confidential annexes, 12 July 2023, confidential, para. 10 (Defence Response to 30 June 2023 Submissions). A public redacted version was filed on 14 July 2023, [F00585/RED](#).

²⁵⁷ See [Trial Judgment](#), para. 1063; [Victims’ Procedural Rights Decision](#), para. 26.

evidence in investigations or prosecutions of crimes allegedly committed by former KLA members, including Mr Shala, against Kosovar Albanians.²⁵⁸

156. Lastly, the conviction and sentencing in the Trial Judgment contribute to the right of the Victims, and more broadly their families and their communities, to have access to the truth of what happened.²⁵⁹

157. As regards the appropriate reparations pursuant to Article 22(8) of the Law, the Panel recalls the type of harms suffered by the Victims²⁶⁰ and the context of the case, namely: the climate of witness intimidation in Kosovo; the need to preserve the anonymity of the Victims *vis-à-vis* the public; and the need to avoid creating tension within the community.

158. Having carefully reviewed the Victims' Counsel's submissions, the Panel finds that individual and collective reparations in the form of compensation constitute the most appropriate type and modality of reparations in this case, as they will provide some measure of financial relief to the Victims.

C. SCOPE OF MR SHALA'S LIABILITY FOR REPARATIONS

1. Submissions

a) Victims' Counsel

159. **Legal framework.** Victims' Counsel proposes that the Panel consider the jurisprudence and practice of the ECtHR in respect of just satisfaction awards and the

²⁵⁸ [Trial Judgment](#), paras 96-97 and references therein.

²⁵⁹ See [UN Basic Principles on Reparations](#), paras 22(b), 24; on the victims' right to have access to the truth, see also [Victims' Procedural Rights Decision](#), para. 26.

²⁶⁰ See paras 100-144 above.

ECtHR Practice Direction on just satisfaction claims, insofar as they provide relevant guidance regarding the assessment of mental or material harm.²⁶¹

160. With regard to relevant Kosovo legislation in assessing reparations, Victims' Counsel notes the Guidelines for determining the indicative criteria and amount for compensation for non-material damages approved by the Supreme Court of Kosovo on 27 February 2023 (Kosovo Guidelines).²⁶² Victims' Counsel, however, underlines that the Kosovo Guidelines relate to domestic compensation proceedings before civil courts in Kosovo whereas the case at hand concerns damage arising from war crimes inflicted by members of the KLA against Kosovar Albanians, with the specific stigma and associated consequences that accompany such crimes.²⁶³ Victims' Counsel therefore submits that the Kosovo Guidelines should be considered as a reference point for the Trial Panel, particularly with regard to its assessment of monetary reparations in the economic context of Kosovo, but that the Panel's determination is not limited by them.²⁶⁴

161. **Expert reports.** Victims' Counsel argues that the estimates in the Lerz Report, concerning the material harm suffered by V01/04 and V02/04 -V08/04 as a result of the crimes committed by Mr Shala respectively against V01/04 and W04733, are intended to show the extent of individual material harm suffered by the Victims, as would have been done in regular injury/compensation proceedings. These estimates are to serve

²⁶¹ [Victims' Counsel Reparations Request](#), para. 47; [Victims' Counsel 30 June 2023 Submissions](#), paras 37-48, referring to ECtHR, *Practice direction issued by the President of the Court in accordance with Rule 32 of the Rules of Court*, issued on 28 March 2007 and amended on 9 June 2022 (ECtHR Practice Direction).

²⁶² [Victims' Counsel Reparations Request](#), para. 14. See Supreme Court of Kosovo, S.C.F. No: 41/2023, *Udhëzime për caktimin e kritereve orientuese dhe lartësisë së shpërblimit të drejtë në të holla të dëmit ho material (Guidelines on setting the guiding criteria and amounts of just monetary compensation for immaterial damage)*, 27 February 2003.

²⁶³ [Victims' Counsel Reparations Request](#), para. 16.

²⁶⁴ [Victims' Counsel Reparations Request](#), paras 14-17.

as a reference point for the Trial Panel in its assessment of harm suffered and the determination of adequate/appropriate reparations.²⁶⁵ Victims' Counsel concedes that, with regard to V01/04 in particular, the figures in the Lerz Report are significantly higher than any potential reparation order.²⁶⁶

162. Victims' Counsel in turn challenges the findings in the Defence Expert Report which he avers to be of low probative value as a result of its errors and lack of clarity.²⁶⁷

163. **V01/04.** For V01/04's physical harm, Victims' Counsel requests a symbolic monetary reparation in the amount of €10,000. Victims' Counsel submits that this amount is reasonable and appropriate when considering the Kosovo Guidelines, the amounts awarded for physical harm in the *Mustafa* case, as well as the just satisfaction awarded by the ECtHR in comparable cases of physical mistreatment.²⁶⁸

164. For V01/04's mental harm, Victims' Counsel requests a monetary reparation in the amount of €30,000. Victim's Counsel argues that while monetary reparation in the *Mustafa* case did not exceed €10,000, in this case V01/04 suffered compounded mental harm [REDACTED], and such harm was both immediate and long-lasting.²⁶⁹ Victims' Counsel submits that this amount is reasonable and appropriate when considering the Kosovo Guidelines and the amounts awarded by the ECtHR in comparable just satisfaction cases.²⁷⁰

165. For V01/04's material harm, Victims' Counsel requests a symbolic monetary reparation in the amount of €60,000, noting that in this case – unlike in the *Mustafa*

²⁶⁵ [Victims' Counsel Expert Answers](#), para. 9.

²⁶⁶ [Victims' Counsel Expert Answers](#), para. 10.

²⁶⁷ [Victims' Counsel Reparations Request](#), para. 32; *see also* [Victims' Counsel Questions for Defence Expert](#), para. 5.

²⁶⁸ [Victims' Counsel Reparations Request](#), para. 22.

²⁶⁹ [Victims' Counsel Reparations Request](#), para. 29.

²⁷⁰ [Victims' Counsel Reparations Request](#), para. 30.

proceedings – the mental harm suffered by V01/04 is the sole cause of his inability to work.²⁷¹ Victims' Counsel notes the two scenarios outlined in the Lerz Report regarding material harm in the form of income loss which V01/04 suffered as a result of the crimes ([REDACTED] and [REDACTED], respectively).²⁷² He also notes that the Defence Expert Report estimated V01/04's material harm as amounting to [REDACTED].²⁷³

166. In light of both of those estimates, Victims' Counsel submits that the figure requested is significantly lower, as it takes into account the economic context of Kosovo and the jurisprudence of the SC.²⁷⁴

167. **V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04 (Indirect Victims).** Victims' Counsel requests a sum of €10,000 as monetary compensation for the mental harm suffered by V03/04 as the spouse (and now the widow) of W04733. Victims' Counsel suggests that a distinction should be made between the harm suffered by V03/04 and the rest of the Indirect Victims. This is because V03/04 was married to W04733 for [REDACTED] prior to his detention and mistreatment, she built a life together with him and brought up [REDACTED] children, and she continued to live with W04733 for two decades after the crimes committed at the KMF, until his death.²⁷⁵

168. Victims' Counsel further requests that V02/04, V04/04, V05/04, V06/04, V07/04 and V08/04 ([REDACTED]) should each be awarded €8,000 for the mental harm they suffered. Victims' Counsel considers that it would be inappropriate to differentiate [REDACTED], since they all suffered equally. Victims' Counsel further argues that

²⁷¹ [Victims' Counsel Reparations Request](#), para. 34.

²⁷² [Victims' Counsel Reparations Request](#), para. 32.

²⁷³ [Victims' Counsel Reparations Request](#), para. 32.

²⁷⁴ [Victims' Counsel Reparations Request](#), para. 32.

²⁷⁵ [Victims' Counsel Reparations Request](#), paras 45, 58 (A)(ii).

these amounts are justified, taking into account the Kosovo Guidelines, the practice before the SC, the relevant ECtHR jurisprudence and the gravity and context of the crimes committed against W04733 by KLA members and the harm endured by his family.²⁷⁶

169. Regarding material harm, Victims' Counsel submits that €50,000 in total is an appropriate sum by way of reparation for the material harm suffered by the Indirect Victims.²⁷⁷ Victims' Counsel arrives at this figure after considering figures reported by W04733²⁷⁸ and V03/04²⁷⁹ in their evidence regarding medical costs borne by the family,²⁸⁰ as well as the Lerz Report's estimate of the family's income loss as a result of W04733's inability to work after the crimes ([REDACTED]).²⁸¹ Victims' Counsel considers the latter estimate entirely reasonable given its modest premise, namely that someone with W04733's experience and abilities would not have earned more than the average annual wage in Kosovo.²⁸²

170. Furthermore, Victims' Counsel submits that reparation for material harm stemming from the loss of income and the costs of medical treatment should be awarded to the family collectively and distributed to them in accordance with their instructions. This is because all family members have participated in different ways in bearing these costs and contributing to the family's economic wellbeing.²⁸³

²⁷⁶ [Victims' Counsel Reparations Request](#), paras 46-47.

²⁷⁷ [Victims' Counsel Reparations Request](#), para. 54.

²⁷⁸ W04733 stated that [REDACTED], *see* [REDACTED].

²⁷⁹ V03/04 testified that the costs of medical treatment for W04733 born by the family reached up to €150,000, *see* [REDACTED] T. 29 March 2023, public, p. 876, line 18.

²⁸⁰ Victims' Counsel estimates such costs at approximately €30,000; *see* [Victims' Counsel Reparations Request](#), para. 54.

²⁸¹ [Victims' Counsel Reparations Request](#), paras 51, 54.

²⁸² [Victims' Counsel Reparations Request](#), para. 50.

²⁸³ [Victims' Counsel Reparations Request](#), para. 55.

b) Defence

171. **Legal framework.** The Defence also requests the Panel to require adherence to the standards set by the ECtHR in its Practice Direction on Just Satisfaction Claims and relevant jurisprudence, referred to and relied upon by Victims' Counsel.²⁸⁴ The Defence places particular emphasis in this regard on the ECtHR's Practice Direction requirement to provide "relevant evidence to prove, as far as possible, not only the existence but also the amount or value of the damage".²⁸⁵ The Defence argues, however, that the ECtHR jurisprudence cited by Victims' Counsel regarding just satisfaction claims does not concern evidently comparable situations to the one in the present case.²⁸⁶

172. **Scope of Mr Shala's responsibility.** The Defence submits that Mr Shala cannot be held responsible to repair the harm not directly caused by a crime for which he is not convicted, and nor can he be expected to repair any harm caused by crimes or acts carried out by other KLA members during the relevant time period.²⁸⁷

173. The Defence further submits that all claims made by Victims' Counsel relating to the harm alleged by the Victims are excessive and disproportionate.²⁸⁸

174. **Expert Reports.** The Defence challenges the findings in the Lerz Report as being based on general statistical data and not on actual data and information relating to the

²⁸⁴ [Defence Response to 30 June 2023 Submissions](#), paras 12-13.

²⁸⁵ [Defence Response to 30 June 2023 Submissions](#), para. 13, referring to [ECtHR Practice Direction](#), para. 9.

²⁸⁶ [Defence Response to 30 June 2023 Submissions](#), para. 15 and references therein.

²⁸⁷ Defence Response to Victims' Counsel Reparations Request, para. 15.

²⁸⁸ Defence Response to Victims' Counsel Reparations Request, para. 16.

personal circumstances of the alleged victims, which - in the Defence's view - renders the report overly broad and general and its conclusions in this case unreliable.²⁸⁹

175. Lastly, the Defence submits that the Defence Expert Report directly responds to the Lerz Report, and demonstrates an alternate calculation of the total damage sustained by V01/04 and V2/04 to V2/08. The Defence avers in particular that the Defence Expert Report includes details not considered in the Lerz Report, such as, *inter alia*, the effects of the rebuilding period after the war, the economic impact of the COVID-19 pandemic, and the operations of the Kosovo Pension Savings Trust Fund and its specific application to individuals on disability benefits. Thus, according to the Defence, the Defence Expert Report would support the Panel in more accurately assessing the scope of any material damages sustained by the Victims.²⁹⁰

2. Determination by the Panel

a) General considerations

176. At the outset, the Panel recalls that Mr Shala is liable to repair the harm caused to all Direct and Indirect Victims of the crimes of which he was convicted, regardless of whether others may have also contributed to the harm.²⁹¹ The Panel also recalls that the indigence of the convicted person at the time of the issuance of the reparation

²⁸⁹ KSC-BC-2020-04, F00711, Defence, *Defence Objection to the Admissibility of Victims' Counsels Expert Witness Report and Request to Call the Expert Witness to Testify Live*, 8 November 2023, confidential, paras 17-20. A public redacted version was filed on 13 November 2023, [F00711/RED](#).

²⁹⁰ KSC-BC-2020-04, F00716, Defence, *Defence Submission of an Expert Report for the Purposes of the Reparations Proceedings*, 13 November 2023, confidential, with Annex 1, confidential, paras 8-9. A public redacted version was filed on 16 November 2023, [F00716/RED](#).

²⁹¹ See para. 99 above.

order is neither an obstacle to the imposition of liability for reparations, nor does it give the convicted person any right to benefit from reduced liability.²⁹²

177. Moreover, the Panel recalls the principle that the convicted person's liability for reparations must be proportional to the harm caused.²⁹³ In other words, it must reflect the scope and extent of the harm suffered by the victims.²⁹⁴ Thus, in setting the amount of Mr Shala's financial liability, the Panel will consider the scope and extent of the harm as established above.²⁹⁵

178. Recalling that reparations at the SC ought to be victim-driven and victim-centred,²⁹⁶ the Panel will primarily rely on the Victims' Counsel Reparations Request and, more specifically, on his submissions regarding the amount of Mr Shala's financial liability (and corresponding reparations awards). It will consider in this context any relevant submissions and material produced to assess the scope and extent of harm in financial terms.²⁹⁷

179. The Panel stresses in this regard that it is not a requirement to furnish data as to the costs of medical treatments or other harm of financial or patrimonial nature, considering notably: (i) the lapse of more than twenty years since the commission of the crimes; (ii) the fact that [REDACTED] W04733 reported refraining from seeking certain medical treatment for [REDACTED] physical injuries, primarily out of fear or

²⁹² See para. 84 above; *see, similarly*, [Mustafa Reparation Order](#), para. 209.

²⁹³ See para. 81 above.

²⁹⁴ See para. 82 above.

²⁹⁵ See, *similarly*, [Mustafa Reparation Order](#), para. 210.

²⁹⁶ See para. 35 above.

²⁹⁷ The Panel notes that some physical, mental, or material harm may be assessed in financial terms (for instance, medical costs, lost wages, future care costs, and damage to any property) whereas some other types of harm cannot be easily quantified; *see, similarly*, [Mustafa Reparation Order](#), paras 211-212 and references therein.

due to stigma,²⁹⁸ and (iii) the fact that at least one victim ([REDACTED]) suffered mental harm which has reportedly remained untreated until today.²⁹⁹

180. Furthermore, the Panel will refrain from exceeding the Victims' Counsel Reparations Request when setting the amount of Mr Shala's financial liability and corresponding reparations awards, except under exceptional circumstances.³⁰⁰

181. Ultimately, by applying judicial discretion, the Panel will set an amount for each type of harm – and the overall amount of Mr Shala's financial liability – that it considers reasonable, in accordance with Article 22(3) of the Law, in the circumstances of the case, and that properly reflects the rights and interests of the victims, bearing in mind the rights of the convicted person.³⁰¹

b) International jurisprudence

182. Having carefully reviewed Victims' Counsel's and the Defence's submissions on international case law, and ECtHR jurisprudence in particular, the Panel considers that ECtHR case law may offer some guidance regarding the methodology of assessing the extent and scope of harm in the context of the present reparations proceedings.

183. However, the Panel finds that just satisfaction awards before the ECtHR are to be distinguished from reparations proceedings before the SC, as the former engage the responsibility of States for violations of individual human rights. Therefore, while outlining useful principles on assessing mental and material harm, the ECtHR

²⁹⁸ See also paras 104 and 134 above.

²⁹⁹ See [REDACTED]; see, similarly, [Mustafa Reparation Order](#), para. 212.

³⁰⁰ See, similarly, [Mustafa Reparation Order](#), para. 213 and references therein.

³⁰¹ See, similarly, [Mustafa Reparation Order](#), para. 214 and references therein.

jurisprudence and practice remains of limited relevance in the Panel's determination of the scope of Mr Shala's liability for reparations.

c) Kosovo legislation and Guidelines

184. The Panel further recalls that existing Kosovo legislation provides an indication of what is considered a proportionate level of redress for harm resulting from the war in Kosovo in 1998-1999, even though these laws do not address the specific harm suffered by the Victims in this case. The Panel will consider Kosovo legislation – as a reference point – in order to set a reparation award that is deemed reasonable in the context of Kosovo.³⁰²

185. More specifically, the Panel will consider the following laws: (i) Law No. 04/L-054 on the Status and Rights of the Martyrs, Invalids, Veterans, Members of the Kosovo Army, Civilian Victims of War and their Families of 8 December 2011³⁰³ (Law No. 04/L-054), subsequently amended by Law No. 04/L-172 on Amending and Supplementing the Law No. 04/L-054 on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and their Families of 20 March 2014³⁰⁴ (Law No. 04/L-172), to include victims of sexual violence; and (ii) Law No. 04/L-261 on Kosovo Liberation Army War Veterans of 23 April 2014³⁰⁵ (Law No. 04/L-261), subsequently amended by

³⁰² See, similarly, [Mustafa Reparation Order](#), paras 217-218.

³⁰³ [Law No. 04/L-054 on the Status and Rights of the Martyrs, Invalids, Veterans, Members of the Kosovo Army, Civilian Victims of War and their Families](#), 8 December 2011.

³⁰⁴ [Law No. 04/L-172 on Amending and Supplementing the Law No. 04/L-054 on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and their Families](#), 20 March 2014.

³⁰⁵ [Law No. 04/L-261 on Kosovo Liberation Army War Veterans](#), 23 April 2014.

Law No. 05/L-141 on Amending and Supplementing the Law No. 04/L-261 on Kosovo Liberation Army War Veterans of 14 April 2017³⁰⁶ (Law No. 05/L-141).³⁰⁷

186. The Panel observes that the aforementioned laws regulate the rights and benefits to which veterans and civilians who were harmed in the context of the war in Kosovo in 1998-1999 or participated in the war efforts, as well as family members of deceased or missing KLA members and civilians, are entitled. The benefits available vary pursuant to the category to which an individual belongs and range from monthly pensions to residential care and assistance, medical and physical rehabilitation, medical services abroad, professional rehabilitation, priority in employment, housing assistance, secondary school and university scholarships, and tax release.³⁰⁸ The entitlements provided for by these laws do not apply retroactively.³⁰⁹

187. The Panel further notes that Law No. 04/L-172, which amended Law No. 04/L-054 to include victims of sexual violence, suggests that Kosovo aspires to provide a support to all the victims harmed during the war in 1998-1999. However, the use of the word “enemy” throughout the text of the legislation appears to exclude the victims participating in this case, since they were harmed by members of the KLA and not by the “enemy” forces, i.e., Serbian forces.³¹⁰

188. Nevertheless, given that this legislation seeks – for all intents and purposes – to repair the harm suffered by individuals during the war in 1998-1999 or support those

³⁰⁶ [Law No. 05/L-141 on Amending and Supplementing the Law No. 04/L-261 on Kosovo Liberation Army War Veterans](#), 14 April 2017.

³⁰⁷ See, similarly, [Mustafa Reparation Order](#), para. 219.

³⁰⁸ See Articles 5-15 of [Law No. 04/L-054](#) and Articles 6-7 of [Law No. 04/L-172](#); Articles 23-33 of [Law No. 04/L-261](#).

³⁰⁹ See Article 22(2) of [Law No. 04/L-054](#); Article 39(2) of the [Law No. 04/L-261](#); see, similarly, [Mustafa Reparation Order](#), para. 220.

³¹⁰ See Article 3(1.7) and (1.10 and 1.12.) of [Law No. 04/L-054](#); see, similarly, [Mustafa Reparation Order](#), para. 221.

who participated in the war efforts, the Panel finds the following figures of relative relevance for determining the financial liability of Mr Shala for reparations. The Panel will also consider the fact that the beneficiaries under these laws are entitled, in addition to pensions, to other (considerable) aids.³¹¹

189. Pursuant to Law No. 04/L-054, monthly pensions for a “KLA Invalid”³¹² range from €255 (with body injury over 31-40%) to €358,50 (with body injury over 80%).³¹³ Monthly pensions for a “Civilian invalid of War”³¹⁴ range from €96 (with body injury over 40-60%) to €122 (with body injury over 80%).³¹⁵ Close family members of a civilian victim³¹⁶ are entitled to a monthly family pension of €135 (as well as other benefits).³¹⁷

³¹¹ See Articles 9-11, 13-14 of [Law No. 04/L-054](#); Articles 6-7 of [Law No. 04/L-172](#); Articles 23-33 of [Law No. 04/L-261](#); see, similarly, [Mustafa Reparation Order](#), para. 222.

³¹² Article 3(1.7) of [Law No. 04/L-054](#), as amended by [Law No. 04/L-172](#), provides that a “KLA Invalid” is a “fighter, member and the deported (the imprisoned) of KLA, who has suffered wounds, physical or psychic injuries (damages) or serious diseases during the war or at the prisons or camps of the enemy, during the war period, with the degree of disability at least ten percent (10%)”.

³¹³ See [Annex to Law No. 04/L-054](#). A KLA invalid with invalidity level from 10%-19% is not eligible to a personal invalid pension (Article 10(4) of [Law No. 04/L-054](#)).

³¹⁴ Article 3(1.8) of [Law No. 04/L-054](#) provides that a “Civilian Invalid of War” is a “[...] person, whose organism has been damaged at least 40% due to [sic] wounds received from weapons, disease acquired in the camps or prisons during the recent war in Kosovo, since 27.02.1998 till 20.06.1999, and other persons, whose organism has been damaged at least 40% as a result of explosive devices left after the end of war”.

³¹⁵ See [Annex to Law No. 04/L-054](#).

³¹⁶ “Civilian Victim of War” is defined as “the person who has died or got wounded, by the enemy forces from period 27.02.1998 up to 20.06.1999, as well as the persons who have suffered as a consequence of the war within three (3) years after the war ended from explosive devices left out from the war” pursuant to Article 3(1.10) of [Law No. 04/L-054](#). Article 3(1.12) of [Law No. 04/L-054](#) defines “Civilian Hostage of war” as “the civilian person, who during the war has been arrested and imprisoned in enemy camps for at least three (3) days respectively seventy-two (72) hours”. Article 3(1.14) of [Law No. 04/L-054](#) defines “Missing Civilian Person” as a “person whose whereabouts is unknown to his or her family members and who based on reliable information was reported missing during the period between 1 January 1998 and 31 December 2000, as a consequence of the war in Kosovo during 1998-1999”. “Members of close family” is defined as “husband, wife, children, children out of wedlock, the adopted children (foster), parents, stepfather, stepmother, stepchild and extramarital husband/wife” pursuant to Article 3(1.15) of [Law No. 04/L-054](#). Thus, the use of the term “enemy” excludes in this case both the Direct and the Indirect victims.

³¹⁷ See Article 13 of [Law No. 04/L-054](#) and [Annex to Law No. 04/L-054](#).

Pursuant to Law No. 04/L-261, unemployed veterans³¹⁸ not entitled to benefits under another pension scheme, such as for injuries sustained during the war in Kosovo in 1998-1999,³¹⁹ were eligible to a monthly pension of €170.³²⁰ The Panel notes that while victims of “enemy” forces have been receiving and continue to receive, as shown by the calculations made in the *Mustafa* Reparation Order,³²¹ pensions amounting to tens of thousands of euros since the adoption of the above-mentioned legislation, victims of crimes committed by KLA members in the context of the Kosovo armed conflict have been excluded from the benefit of such pensions and other (considerable) aid.

190. As regards the Kosovo Guidelines, the Panel concurs with Victims’ Counsel that they provide a useful indication of how compensation is awarded in Kosovo, especially with regard to physical and/or mental harm. The Panel nevertheless notes that the Kosovo Guidelines are strictly speaking meant to provide guidance in civil litigation cases before Kosovo courts and as such are not of direct application in reparations proceedings related to war crimes/crimes against humanity cases before

³¹⁸ According to Article 3(1.3) of [Law No. 04/L-261](#), a KLA veteran is a “participant in the war for liberation in Kosovo” and includes “KLA war invalid”, “KLA fighter veteran”, “[t]he deported of KLA”, “KLA member”, “participant in war”, and “[m]issing fighter of KLA”. See Articles 16(4) and 18 of [Law No. 04/L-261](#).

³¹⁹ See Article 2(2) of [Law No. 04/L-261](#).

³²⁰ As mentioned above, [Law No. 04/L-261](#) was subsequently amended by [Law No. 04/L-172](#). Article 16A of [Law No. 04/L-172](#) now defines three categories of veterans:

“1.1. Category One: KLA Fighter Veteran engaged from 1991 until the 5th of March 1998 and has been active until the day the war ended; 1.2. Category Two: KLA Fighter Veteran, engaged in the war after the 5th of March 1998 and has been active until the day the war ended; 1.3. Category Three: KLA Fighter Veteran, mobilized in the war after the 31st of March 1999 and has been active until the day the war ended, as well as KLA Fighter Veteran, engaged in the war from 1991, respectively after the 5th of March 1998, but who has not been active until the day the war ended”.

A category one veteran is entitled to €250, a category two, to €170, and a category three, to €120.

³²¹ See [Mustafa Reparation Order](#), paras 223-226.

the SC. The Panel therefore considers them of relevance primarily insofar as they provide useful monetary estimates for the harm suffered, in the current economic context in Kosovo.

d) Expert Reports

191. At the outset, the Panel notes that Victims' Counsel and the Defence each requested admission into evidence of the Lerz Report and the Defence Expert Report, respectively. The Panel recalls that, as communicated previously to Victims' Counsel and the Defence, both reports remain available to the Panel.³²² The Panel wishes to clarify that both reports were submitted solely in the framework of reparations proceedings in the present case, i.e. pursuant to Rule 168 of the Rules. In this context, the Panel recalls that Rule 168 of the Rules is the *lex specialis* rule governing the specific context of reparations and Rule 149 of the Rules, pertaining generally to expert witnesses, does not apply.³²³ Thus, the Rules clearly foresee that in principle, the Panel is to receive and assess expert evidence in the context of reparation proceedings only in writing. Furthermore, contrary to Rule 149(4) of the Rules,³²⁴ Rule 168 of the Rules does not require the Panel to take any decision as to the admissibility of an expert witness report concerning solely reparations. In light of the above, the Panel will not proceed with any determination of admissibility of either report, but will rather refer to their content and challenges thereto, as necessary.

³²² See E-mail correspondence from Trial Panel I, *Clarification of status of expert report*, 1 March 2024, at 12:10.

³²³ See KSC-BC-2020-04, F00749, Trial Panel I, *Decision on Defence requests F00716, F00725 and F00731 on matters related to the Defence expert on material harm*, 13 December 2023, confidential, para. 22. A public redacted version was filed on the same day, [F00749/RED](#); see also KSC-BC-2020-05, F00425, Trial Panel I, [Decision appointing a financial expert and setting out further procedural steps with regard to reparation proceedings](#), 1 June 2022, public, para. 10.

³²⁴ See KSC-BC-2020-05, F00169, Trial Panel I, [Decision on the submission and the admissibility of evidence](#), 25 August 2021, public, para. 24; see also, KSC-BC-2020-04, F00461, Trial Panel I, [Decision on the submission and admissibility of non-oral evidence](#), 17 March 2023, public, para. 29.

192. **Lerz Report.** The Panel notes that the Lerz Report provides rough estimations of the material harm incurred by V01/04 and V02/04-V08/04. However, the Panel finds that the Lerz Report estimates are out of proportion with the existing jurisprudence of the SC, and the Kosovo legislation and Guidelines. The Panel further notes that the Lerz Report can only provide an estimate of the material harm rather than a precise calculation thereof, as it bases its analysis on statistical data, some of which does not originate from Kosovo.³²⁵ The Panel will therefore consider the estimates as a reference point, but is not bound by them when determining the reparation award.

193. **Defence Expert Report.** The Panel acknowledges that the Defence Expert Report reflects more closely the legislation in place in Kosovo and bases its estimates on statistical data emanating from Kosovo.³²⁶ The Defence Expert Report, however, has a number of major deficiencies which affect the scope and validity of its findings: (i) it purports the absence of a causal link³²⁷ between the crimes committed against V01/04 in 1999 and the material harm suffered in terms of loss of earnings in the subsequent years;³²⁸ (ii) it misapprehends the total number of Indirect Victims related to W04733 to be four, rather than seven, which impacts on the total calculation of the estimated material harm they suffered;³²⁹ (iii) it avers that victims V02/04-V08/04 have suffered

³²⁵ See e.g. Lerz Report, pp. 18-23; 33; 41; see also [Victims' Counsel Expert Answers](#).

³²⁶ This is particularly the case with regard to the pension system, disability benefits and mortality rates in Kosovo, see e.g. Defence Expert Report, in particular pp. DPS01627, DPS01633, DPS01637, DPS01641.

³²⁷ It would have been preferable for the Defence expert to limit her analysis to the *calculation* of income loss and not to attempt to establish the *existence* of a causal link which is within the sole purview of the Panel.

³²⁸ See e.g. Defence Expert Report, pp. DPS01631, DPS01637, DPS01640, DPS01643; KSC-BC-2020-04, F00736/A01, Defence, *Defence Submission of Expert's Answers to Written Questions from Victims' Counsel*, confidential, 6 December 2023, pp. 2, 6-7 (Defence Expert Answers). The Panel recalls in this regards that it was satisfied, on the balance of probabilities, that the crimes committed by Mr Shala against V01/04 in 1999 directly caused the material harm alleged in terms of loss of earnings, see paras 119-121 above.

³²⁹ See e.g. Defence Expert Report, pp. DPS01641- DPS01642, indicating that the calculation concerns only [REDACTED]; Defence Expert Answers, pp. 3, 8-9.

only non-material harm and proceeds to calculate said harm;³³⁰ (iv) it contains no estimate whatsoever of the potential material harm suffered by V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04 as a result of W04733's loss of earnings following the crimes committed against him;³³¹ and (v) it calculates non-material harm suffered by V01/04 taking into consideration facts which are unrelated to this case, although the announced scope of the report was limited to income loss.³³² In light of the above, the Panel is unable to rely on the estimates provided in the Defence Expert Report. Therefore, as with the Lerz Report, the Panel will instead only consider them as a reference point in its determination of the reparations award.

e) Discussion

194. Taking into account the economic context of Kosovo, the relevant Kosovo legislation and being guided by the practice before the SC in the *Mustafa* case, the Panel makes the following findings.

195. **V01/04.** The Panel recalls that V01/04 sustained long-standing physical harm as a result of the war crimes of arbitrary detention and torture of which Mr Shala was convicted.³³³ The Panel therefore finds that the compensation of €10,000 requested by Victims' Counsel is adequate and reasonable.

³³⁰ Defence Expert Report, pp. DPS01641-DPS01642; Defence Expert Answers, pp. 3, 9 (answers 4 and 25). The Panel also notes that the Defence expert is ill-placed to make determinations about the existence of harm. It would have been preferable that the Defence expert made assumptions on the basis of the existence of such harm.

³³¹ The Panel considers that it would have been better assisted by the Defence Expert Report, in this regard, if the report had provided even rough estimates of possible material harm, rather than questioning the existence of the harm itself. The Defence Expert Report instead contains estimates of non-material harm, which go beyond the scope of the report.

³³² Defence Expert Report, p. DPS01642; [Victims' Counsel Questions for Defence Expert](#), para. 5, and KSC-BC-2020-04, F00728/A01, Victims' Counsel, *Victims' Counsel's questions for Defence expert*, 27 November 2023, confidential, question 19, p. 4; for the answer, *see* Defence Expert Answers, p. 7.

³³³ *See* paras 103-106 above.

196. V01/04 also experienced severe and long-lasting mental harm as a result of the crimes of arbitrary detention, torture and murder, [REDACTED].³³⁴ The Panel further recalls that due to the mental harm he suffered as a result of the crimes committed against him, V01/04 was not able to continue his employment, and experienced difficulties in his social and family life.³³⁵ The Panel therefore finds that the compensation of €30,000 requested by Victims' Counsel is adequate and reasonable. While no amount of money will be able to erase what happened [REDACTED], this compensation serves as acknowledgment of the multi-layered and long-lasting suffering that V01/04 was subjected to, [REDACTED] as a result of his [REDACTED] detention and torture at the hands of KLA members including Mr Shala; but also because [REDACTED].³³⁶

197. Regarding material harm, according to the Lerz Report, estimations as to V01/04's income losses range from [REDACTED] to [REDACTED].³³⁷ The Defence Expert Report, with all the caveats outlined above, estimates income losses to amount to [REDACTED].³³⁸ The Panel observes that the compensation award of €60,000 requested by Victims' Counsel for V01/04 is significantly lower than the findings of either the Defence Expert Report and the Lerz Report. In the same vein, the Panel considers that these amounts are not disproportionate when compared to the benefits available under Kosovo legislation.³³⁹ The Panel is therefore satisfied that the compensation of €60,000 requested by Victims' Counsel is adequate and reasonable.

³³⁴ See paras 107-116 above.

³³⁵ See paras 113, 115 above.

³³⁶ See [Trial Judgment](#), para. 827.

³³⁷ Lerz Report, p. 3.

³³⁸ Defence Expert Report, p. DPS01640.

³³⁹ See paras 189-190 above.

198. **V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04.** As for the Indirect Victims, the Panel considers that the sums requested by Victims' Counsel (€10,000 for V03/04, and €8,000 per person for V02/04, V04/04, V05/04, V06/04, V07/04 and V08/04) to repair the mental harm suffered by these victims are in line with the requested sum pertaining to V01/04, although understandably lower.³⁴⁰ These figures are also within the range of the reparation awards given to indirect victims in the *Mustafa* case.³⁴¹ The Panel further accepts Victims' Counsel's proposition that while the requested amount in relation to V03/04 in particular slightly exceeds the amounts suggested by the Kosovo Guidelines, the gravity of the crimes committed against W04733 and the extent of harm suffered by the family justify the proposed amounts.³⁴² Lastly, the Panel considers it appropriate, for the reasons given by Victims' Counsel,³⁴³ to distinguish between the amount to be awarded to V03/04 (the wife of W04733) and V02/04, V04/04, V05/04, V06/04, V07/04 and V08/04 ([REDACTED]) for the mental harm they suffered.

199. With regard to the material harm suffered by V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04 as a result of the crimes committed against W04733, the Panel recalls that the Lerz Report estimates the income loss to amount to [REDACTED].³⁴⁴ The Defence Expert Report makes no relevant estimate in this regard, as it only refers to the estimation of non-material damages for an incorrect number of Indirect Victims.³⁴⁵ The Lerz Report estimates do not include any medical costs or expenses incurred in relation to the treatment W04733 would have received

³⁴⁰ See para. 164 above. The Panel notes that V01/04 suffered mental harm both as a direct and indirect victim (also as a result of the crime of murder).

³⁴¹ [Mustafa Reparation Order](#), para. 248.

³⁴² [Victims' Counsel Reparations Request](#), para. 47.

³⁴³ [Victims' Counsel Reparations Request](#), paras 45, 58 A)ii).

³⁴⁴ Lerz Report, p. 17.

³⁴⁵ Defence Expert Report, pp. DPS01641-DPS01642.

throughout the years as a result of the crimes committed against him at the KMF. Victims' Counsel's request in this regard is to award an amount of €50,000 collectively to the whole family, reflecting both W04733's loss of earnings and (partially) the medical costs reported by the family of W04733.³⁴⁶

200. The Panel finds that Victims' Counsel's request of a final sum of €50,000 is on the conservative end of any estimates of the material harm suffered by the family of W04733 for the following reasons: (i) the portion of the requested amount pertaining to income loss *purely* in relation to W04733 (i.e. €20,000) falls below the estimates provided by the Lerz Report; (ii) the estimates of the Lerz Report do not account for any loss of earnings incurred by the Indirect Victims themselves (e.g. the fact that W04733's daughters had to interrupt their education and [REDACTED] as the family was concerned about their safety; and the fact that [REDACTED] also lost opportunities with regard to [REDACTED] employment following the stigma the family experienced as a result of W04733's detention at the KMF);³⁴⁷ and (iii) both V03/04 and W04733 provided figures of estimated medical costs associated with [REDACTED]³⁴⁸ – and Victims' Counsel's request falls well within these figures. The Panel has already concluded that the physical and mental harm suffered by W04733 had long-lasting consequences,³⁴⁹ although it acknowledges that not all aspects of W04733's declining health over the years are a direct result of the crimes committed against him at the KMF. Given the brutality of those crimes, however, and the state in which he was when he arrived home from his detention at the KMF, the Panel finds that they can only have had an exacerbating effect on his overall health, [REDACTED].

³⁴⁶ [Victims' Counsel Reparations Request](#), paras 53-54.

³⁴⁷ See para. 143 above.

³⁴⁸ See [Victims' Counsel Reparations Request](#), para. 52: W04733 reported that [REDACTED], whereas his wife testified that the overall costs for W04733's medical treatments, [REDACTED], was as high as €150,000.

³⁴⁹ See paras 130 and 135 above.

In light of the foregoing, the Panel finds that a figure of €30,000 for medical costs is adequate and reasonable.

201. Lastly, the Panel takes note of Victims' Counsel's request that the reparation for material harm stemming from the loss of income and the costs of medical treatment should be awarded to the family collectively and distributed to them in accordance with their instructions. As underlined above, reparations are to be victim-centred and victim-driven, which means that "victims' interests, needs, views and concerns ought to drive the decision-making process in all matters related to reparations".³⁵⁰ The Panel notes that in accordance with Articles 22(8) and 44(6) of the Law, and Rule 168 of the Rules, reparations may be awarded to victims "collectively or individually", and that those two types of reparations are not mutually exclusive and can be awarded concurrently.³⁵¹ Collective reparations can refer either to their nature or to their recipients, which could be either a community or a group, and they differ from individual reparations in that they benefit a group or category of persons who have suffered a shared harm.³⁵² Therefore, the Panel is of the view that the Law and the Rules expressly provide for a collective reparation to be awarded to a specific group – a family in the present case –especially when such a group has suffered a shared harm. In this regard, the Panel finds appropriate to award a collective reparation with regard to the material harm suffered by W04733's family, as all the family members have participated in different ways in bearing the costs of the loss of income and medical treatment for W04733 and have therefore suffered a shared harm.³⁵³ Finally, the Panel pays particular attention to the fact that the entire family as such has suffered

³⁵⁰ See para. 35 above.

³⁵¹ See para. 71 above.

³⁵² See para. 73 above.

³⁵³ [Victims' Counsel Reparations Request](#), para. 55.

mental and material harm as a result of the crimes committed against W04733 and the associated stigma of being labelled as a “traitor”, “spy”, or “Serb collaborator”, as all the family members were seen “as a *family* of spies by some people, or considered as such”, because of what happened to W04733.³⁵⁴ W04733’s wife’s testimony clearly underlined that the harm caused to the family was dire and long-lasting: “The entire family, myself, all of my children, suffered a lot of stress. What befell on us will stay with us and we will never be able to erase it”.³⁵⁵

202. The Panel observes that the modalities of how V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04 may access this collective award would be a matter to be determined at the implementation stage of the present Reparation Order, and would be subject to their instructions. In case disagreements amongst them would arise at the moment of the payment of this collective award, Victims’ Counsel is to seize the Single Judge to be appointed by the President of the SC in accordance with Article 33(2) of the Law³⁵⁶ for monitoring and overseeing the implementation of this Reparation Order.

f) Conclusion

203. In light of the above, the Panel finds that the sums of €10,000 for physical harm, €30,000 for mental harm, and €60,000 for material harm, for a total of €100,000, reflect the scope and extent of harm suffered by V01/04 and are reasonable as foreseen in Article 22(3) of the Law.

³⁵⁴ [REDACTED] T. 29 March 2023, public, p. 912, lines 19-21 (emphasis added); see Section V above, para. 143.

³⁵⁵ [Trial Judgment](#), para. [REDACTED] and references therein.

³⁵⁶ See Section VII. Implementation of the Reparation Order below.

204. Likewise, the Panel finds that the sums for mental harm of €10,000 for V03/04, and €8,000 per person for V02/04, V04/04, V05/04, V06/04, V07/04 and V08/04, as well as the total sum of €50,000 for material harm for V02/04-08/04 collectively, for a total of €108,000, reflect the scope and extent of harm suffered by the Indirect Victims and are reasonable as foreseen in Article 22(3) of the Law.

205. Taking all the above considerations into account, considering the scope and extent of the harm suffered by the Direct and Indirect Victims, resolving uncertainties in favour of the convicted person, pondering the need for accuracy of monetary estimates against the objective of awarding reparations promptly, the Panel sets the total reparation award for which Mr Shala is liable at €208,000.

206. Accordingly, the Panel orders Mr Shala to pay, as compensation for the harm inflicted:

- €100,000 to V01/04, for physical, mental and material harm;
- €8,000 per person to V02/04, V04/04, V05/04, V06/04, V07/04 and V08/04 for mental harm;
- €10,000 to V03/04, for mental harm; and
- €50,000 collectively to V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04 for material harm.

207. Finally, the Panel notes that the present Reparation Order does not go beyond the crimes of which Mr Shala was convicted.

VII. IMPLEMENTATION AND EXECUTION OF THE REPARATION ORDER

A. MONITORING AND OVERSIGHT

208. The Panel recalls that its jurisdiction in this case will cease with the issuance of this Reparation Order, in line with Article 33(1)(b) of the Law.³⁵⁷ It is thus not empowered to monitor and oversee the implementation and execution of the Reparation Order. The Panel notes in this regard that neither the Law nor the Rules specify the body that is to monitor and oversee the implementation and execution of a reparation order.³⁵⁸

209. The Panel is also of the view that a judicial body is necessary to monitor and oversee the implementation and execution of this Reparation Order, to ensure an effective and prompt process for the benefit of the Victims. The Panel also foresees that, in the course of the implementation and execution of this Reparation Order, certain issues might arise that require resolution by a judicial body.³⁵⁹

210. Considering the above, the Panel invites the President of the SC, as the person responsible for the judicial administration of the SC, to assign a Single Judge, in accordance with Article 33(2) of the Law, to monitor and oversee the implementation and execution of this Reparation Order, as was done in the context of the implementation of the *Mustafa* Reparation Order.³⁶⁰

³⁵⁷ Article 33(1)(b) of the Law provides that: “The assignments of Trial Panel judge(s) shall elapse on the day a Court of Appeals Panel is constituted to hear an appeal against its judgement or the time period for appeal expires without an appeal being filed, *unless the Trial Panel is concurrently involved in other proceedings, in which case the judges’ assignments shall elapse when those proceedings are completed*” [emphasis added].

³⁵⁸ See, similarly, [Mustafa Reparation Order](#), para. 250.

³⁵⁹ See, similarly, [Mustafa Reparation Order](#), para. 251.

³⁶⁰ KSC-BC-2020-05/R001, F00002, President, [Decision Assigning a Single Judge](#), 17 January 2024, public.

211. The Registry, as the organ “responsible for the administration and servicing of the Specialist Chambers and all necessary and affiliated functions” pursuant to Article 34(1) of the Law, will perform any action needed to implement and execute the Reparation Order, as directed in it or, upon its issuance, by the Single Judge designated to monitor and oversee its implementation and execution.³⁶¹

B. FUNDING

1. By the Convicted Person

212. As held above, Mr Shala is liable to pay €208,000 to the Victims, as compensation for the harm inflicted.³⁶²

213. Considering however, that the Panel has no information at this stage indicating that Mr Shala is or will be in a position to pay the amount awarded to the Victims in this Reparation Order, the Panel finds Mr Shala indigent for the purpose of reparations.³⁶³

214. Furthermore, given that Mr Shala appears – at this time – to be unable to pay the reparation award, the Panel is of the view that other actors ought to step in to execute it. These will be considered below.³⁶⁴ Nonetheless, the Panel’s point of departure is that Mr Shala remains liable for the totality of the reparation award.³⁶⁵ Accordingly, should a State (such as Kosovo) or any other institution advance the funds necessary to execute this Reparation Order for the benefit of the victims, this would not relieve Mr Shala from his liability and he would still have the obligation to reimburse those

³⁶¹ See, similarly, [Mustafa Reparation Order](#), para. 253.

³⁶² See para. 205 above.

³⁶³ See, similarly, [Mustafa Reparation Order](#), para. 258.

³⁶⁴ See paras 215-238 below.

³⁶⁵ See para. 205 above.

funds when the monitoring of his financial situation would reveal that he has the means to comply with this Reparation Order. For that purpose, the Single Judge assigned with monitoring and overseeing the implementation and execution of this Reparation Order may wish [REDACTED] to monitor Mr Shala's financial situation on an ongoing basis, with a view to enforce the present Reparation Order.³⁶⁶

2. By Kosovo

215. The Panel recalls that, in the context of the *Mustafa* proceedings, it requested the Ministry of Justice of Kosovo to provide specific information pertaining to the possibility for victims of crimes under the jurisdiction of the SC to benefit from: (i) currently existing victim compensation funds; (ii) or, if not possible, from a newly established fund financed by the budget of Kosovo.³⁶⁷

a) Existing victim compensation funds in Kosovo

216. The Panel recalls, as confirmed by the Ministry of Justice of Kosovo in the context of the *Mustafa* proceedings,³⁶⁸ that victims of crimes under the jurisdiction of the SC may be awarded compensation or restitution from the victim compensation program established pursuant to Law No. 05/L-036 on Crime Victim Compensation (Law No. 05/L-036 and Crime Victim Compensation Program, respectively), where it has been

³⁶⁶ See, similarly, [Mustafa Reparation Order](#), para. 259 and references therein.

³⁶⁷ KSC-BC-2020-05, F00310, Trial Panel I, *Decision on the application of Article 22(9) of the Law, setting further procedural steps in the case, and requesting information*, 4 February 2022, confidential, para. 50(f) (a public redacted version was filed the same day, [F00310/RED](#)) and subsequently, KSC-BC-2020-05, F00396, Trial Panel I, [Order requesting the Ministry of Justice of Kosovo to provide further submissions](#), 25 April 2022, public.

³⁶⁸ KSC-BC-2020-05, F00407/eng, Ministry of Justice of Kosovo, [Response to your Document KSC-BC-2020-05](#) (Ministry of Justice of Kosovo Response), 13 May 2022, public, p. 1, where the Ministry states that "Victims of crime, including victims under the jurisdiction of the Specialist Chambers [...] may be awarded compensation or restitution from Kosovo's Victim Compensation Fund".

established that the convicted person is unable to pay the full amount, or part of, the restitution awarded.³⁶⁹

217. In the context of the *Mustafa* proceedings, the Ministry of Justice informed the Panel that victims applying for compensation can remain anonymous but only “with regard to persons other than those in charge of processing and executing such compensation claims”.³⁷⁰ The SC Registrar cannot act as the victims’ “authorised representative” and submit a claim for compensation or restitution on their behalf “in order to avoid any conflict of interest”, but the victim may request the assistance of a victims’ counsel to whom he/she has given a power of attorney for acting on his or her behalf.³⁷¹

218. The Panel notes that Law No. 05/L-036 was abrogated and replaced by Law No. 08/L-109 on Crime Victim Compensation of 2 November 2022 (Law No. 08/L-109).³⁷² The Panel notes, however, that the abovementioned submissions by the Ministry of Justice of Kosovo remain relevant in the context of Law No. 08/L-109.

219. At the outset, the Panel reiterates that it must ensure the protection of the Victims as provided for in Article 23 of the Law throughout the entirety of the judicial process, including the reparations proceedings and the enforcement of any reparation order, irrespective of the forum in which such reparations proceedings, or the enforcement of any reparation order, are conducted.³⁷³ The Panel recalls in this regard its finding as to the pervasive climate of fear and intimidation in Kosovo against witnesses or potential witnesses of the SC, and their families.³⁷⁴ It also recalls that the Pre-Trial

³⁶⁹ [Mustafa Reparation Order](#), para. 261 and references therein.

³⁷⁰ [Mustafa Reparation Order](#), para. 262 and references therein.

³⁷¹ [Mustafa Reparation Order](#), para. 262 and references therein.

³⁷² [Law No. 08/L-109 on Crime Victim Compensation](#), 2 November 2022.

³⁷³ See Rule 81(1) of the Rules.

³⁷⁴ [Trial Judgment](#), paras 96-97.

Judge and this Panel ordered protective measures *vis-à-vis* the Victims, namely that their names and any identifying information be withheld from the public.³⁷⁵

220. In these circumstances, disclosing the identity of the Victims to a wider number of individuals, such as to the Crime Victim Compensation Commission³⁷⁶ and its staff, increases the risk that their identity is revealed – intentionally or unintentionally – to the public, including to individuals with harmful intentions. Yet, the Panel finds that these circumstances – which arise through no fault of their own – cannot preclude the Victims from obtaining reparations.³⁷⁷

221. In light of the above, the Panel orders the Registrar, in coordination with Victims' Counsel, to seek compensation from the Crime Victim Compensation Program, on behalf of the Victims, in order to preserve the anonymity of the Victims and to ensure their protection. The Panel is of the view that no conflict of interest arises in this context since the Registry is a neutral organ of the SC, whose mandate is to administer and service the SC and perform all affiliated functions pursuant to Article 34(1) of the Law. In the performance of this task, the Registrar and Victims' Counsel shall only disclose to the Crime Victim Compensation Commission publicly available information pertaining to the Victims.³⁷⁸ In case of need, the Single Judge, assigned with monitoring and overseeing the implementation and execution of this Reparation Order, may certify that the Victims on behalf of whom the Registrar/Victims' Counsel are applying to the Crime Victim Compensation Commission are those who were awarded compensation by this Reparation Order.

³⁷⁵ See KSC-BC-2020-04, F00036, Pre-Trial Judge, *First Decision on Specialist Prosecutor's Request for Protective Measures*, 17 May 2021, strictly confidential and *ex parte*, paras 5-6. A confidential redacted version was filed on the same day, F00036/CONF/RED; [REDACTED].

³⁷⁶ The Panel notes that pursuant to Articles 3(1.12), 21 and 23 of Law No. 08/L-109, the decision-making body within the Crime Victim Compensation Program is the Crime Victim Compensation Commission.

³⁷⁷ See, similarly, [Mustafa Reparation Order](#), para. 265.

³⁷⁸ See, similarly, [Mustafa Reparation Order](#), para. 266.

222. The Panel requests, in accordance with Article 53(2) of the Law which mandates every natural person, corporation, authority or other entity in Kosovo to comply with any order issued by the SC, the Crime Victim Compensation Commission to give due consideration to the Victims' claims for compensation, on the basis of the information provided by the Registrar and Victims' Counsel, including the present Reparation Order, in its public redacted version. In this regard, the Panel underlines that the Reparation Order – in its public redacted version – provides the Crime Victim Compensation Commission with the required information in support of the Victims' claims for compensation, such as the Panel's findings as to: (i) the harm suffered by each victim as a result of the crimes committed by Mr Shala; (ii) the scope of Mr Shala's liability for reparations and the compensation to be awarded to the Victims; and (iii) Mr Shala's lack of financial means to comply with the Reparation Order, *i.e.* his inability – at this time – to pay the reparation award.³⁷⁹

223. If the Crime Victim Compensation Commission were to grant any compensation, such award ought to be transferred to the Registrar in accordance with Article 53(4) and (5) of the Law. In turn, the Registrar ought to disburse the compensation award to the Victims, eventually on a *pro rata* basis.³⁸⁰

224. The Registrar is to report to the Single Judge designated to monitor and oversee the implementation and execution of this Reparation Order, on any action taken before the Crime Victim Compensation Program.³⁸¹

225. Notwithstanding the above, the Panel is aware that the Victims may not receive the full compensation awarded by the Panel through the Crime Victim Compensation

³⁷⁹ See, similarly, [Mustafa Reparation Order](#), para. 267.

³⁸⁰ See, similarly, [Mustafa Reparation Order](#), para. 268.

³⁸¹ See, similarly, [Mustafa Reparation Order](#), para. 269.

Program, taking into consideration the maximum sums which can be awarded by this program.³⁸² Thus, other means of execution need to be considered with a view to implement and execute the present Reparation Order.³⁸³

b) Establishment of a new reparation mechanism in Kosovo

226. The Panel recalls that, in the context of the *Mustafa* proceedings, the Ministry of Justice of Kosovo reported that the establishment of a new fund or programme for the specific purpose of compensating the victims of crimes under the jurisdiction of the SC would require Kosovo's legislative body to enact distinct legislation, such as in the case of the financing of the defence for suspects and accused before the SC.³⁸⁴

227. In this context, the Panel notes that, whereas Kosovo foresaw the need to financially support the defence of suspects and accused before the SC, it is yet to take any concrete steps to prepare for the need to ensure reparations for victims of crimes under the jurisdiction of the SC, should a convicted person not have the means to comply with a reparation order.³⁸⁵

228. Furthermore, the Panel notes that the legislation in Kosovo which addresses harm and injuries suffered in the context of the armed conflict in Kosovo in 1998-1999

³⁸² See in this regard Articles 11-17 of [Law No. 08/L-109](#) which outline for each harm the maximum sum that can be awarded by the Crime Victim Compensation Commission. In particular, the Panel notes that, in accordance with Article 11 of [Law No. 08/L-109](#), the maximum amount for compensation in case of physical injury or damage to health is €4,000 (four thousand) for severe damages, injuries or illnesses, which can be increased up to €10,000 (ten thousand) in exceptional circumstances; the maximum amount for compensation in case of mental health impairment caused by a violent crime and mental suffering, including due to the loss of a family member is, in accordance with Articles 12-14 of Law No. 08/L-109, €3,000 (three thousand) for direct or indirect victims. The Panel also notes that pursuant to Article 23(3.1) of [Law No. 08/L-109](#): "The [Crime Victim Compensation Commission] shall at its discretion decide about [...] exceeding the maximum amounts provided for the specific categories of compensation, in cases where the documented costs are reasonable" [emphasis added].

³⁸³ See, similarly, [Mustafa Reparation Order](#), para. 270.

³⁸⁴ [Ministry of Justice of Kosovo Response](#), pp. 3-4; see, similarly, [Mustafa Reparation Order](#), para. 271.

³⁸⁵ See, similarly [Mustafa Reparation Order](#), para. 272 and references therein.

does not recognise the harm suffered by all victims during the war in Kosovo, as it refers exclusively to the victims of the enemy forces, i.e. Serbian forces, thereby introducing a discrimination between the victims of this armed conflict.³⁸⁶

229. While the Panel has no power to order Kosovo to pay the compensation awarded to the Victims, it finds it important to remind Kosovo of its obligations pertaining to the victims' right to an effective remedy, as enshrined in Article 54 of the Constitution, Articles 6(1) and 13 of the ECHR, Articles 2(3) and 14(1) of the ICCPR, and Article 14 of the CAT.³⁸⁷ This comprises also a duty to ensure that such a remedy is enforceable.³⁸⁸

230. In this respect, since distinctions are still being made between victims of the "enemy", who have been receiving (substantial) pensions under Kosovo legislation on the one hand and victims of crimes committed by KLA members in the context of the Kosovo armed conflict who have been excluded from the benefit of such pensions and other (considerable) aid on the other hand,³⁸⁹ the Panel again urges Kosovo to

³⁸⁶ See para. 189 above; see, similarly [Mustafa Reparation Order](#), para. 273.

³⁸⁷ See Article 14 of the CAT; Committee against Torture, General Comment No. 3, Implementation of article 14 by States parties, CAT/C/GC/3 (2012), para. 5; [Declaration of Basic Principles of Justice](#), paras 4-5, 12-13; [UN Basic Principles on Reparations](#), para. 16.

³⁸⁸ The ECtHR has held that the obligation of States under Article 13 of the ECHR also encompasses a duty to ensure that such a remedy is enforceable, as awarding a remedy without guaranteeing its enforceability would be incompatible with the principle of the rule of law (ECtHR, *Elvira Dmitriyeva v Russia*, nos. 60921/17 and 7202/18, [Judgment](#), 9 September 2019, para. 63; *VK v Croatia*, no. 38380/08, [Judgment](#), 29 April 2013, para. 114; *Kenedi v Hungary*, no. 31475/05, [Judgment](#), 26 August 2009, para. 47; *Kaić and Others v Croatia*, no. 22014/04, [Judgment](#), 17 October 2008, para. 40; *Z and Others v the United Kingdom*, no. 29392/95, [Judgment](#), 10 May 2001, paras 110-111). The United Nations Basic Principles on Reparations also provide that, in case of gross violations of international human rights law and serious violations of international humanitarian law, victims' right to remedies includes, under international law, equal and effective access to justice, and adequate, effective and prompt reparation for the harm suffered. More specifically, it provides that States should endeavour to establish national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations. Lastly, it provides that States should provide effective mechanisms for the execution or enforcement of reparation judgments under their national laws ([UN Basic Principles on Reparations](#), paras 11(a)-(b), 16, 17).

³⁸⁹ See para. 189 above.

enact the necessary legislation and establish a reparation mechanism for the purpose of fully compensating victims of crimes under the jurisdiction of the SC. This would also ensure, within the legal system of Kosovo, equal treatment³⁹⁰ between the victims and the suspects or accused before the SC, given that Kosovo legislation already provides for the financial support of the legal defence of suspects and accused before the SC, without requiring any proof of indigence on the part of the suspects or accused, and even provides for compensation in case of their acquittal, while nothing is specifically provided for victims of crimes under the jurisdiction of the SC.³⁹¹

231. Crucially, such a new reparation mechanism for those victims ought to be independent, neutral, and free from political considerations. Moreover, it ought to integrate an application process tailored to the challenges facing the SC, especially measures of protection for the victims applying to such a mechanism, including those ordered with regard to victims participating in the proceedings before the SC.³⁹²

232. Furthermore, consideration should be given to fund the reparation mechanism through the budget of Kosovo inasmuch as the defence of suspects and accused before the SC is also financed through said budget.³⁹³ This equal use of the budget of Kosovo would promote the mandate of the SC pursuant to Article 1(2) of the Law, as upheld by Kosovo and Members States of the European Union, together with other contributing countries (Canada, Norway, Switzerland, Turkey, and the United States of America), when establishing the SC and financially supporting its work.³⁹⁴ In this regard, the European Commission has recently underlined that:

³⁹⁰ See Article 24 of the Constitution.

³⁹¹ See para. 227 above; see, similarly, [Mustafa Reparation Order](#), para. 276.

³⁹² See, similarly, [Mustafa Reparation Order](#), para. 276.

³⁹³ See Article 3 of [Law No. 05/L-054](#).

³⁹⁴ See [Article 162 of the Constitution](#) and the Exchange of Letters of 14 April 2014 between the President of Kosovo and the High Representative of the European Union for Foreign Affairs and Security Policy

Kosovo has put in place a fund that dispenses legal aid to the accused at the Kosovo Specialist Chambers, as well as financial support to their families, without any proof of financial needs. However, no financial support has so far been made available for victims who have been found by the Kosovo Specialist Chambers to have suffered as a result of war crimes and crimes against humanity. The Kosovo Specialist Chambers has issued a first reparation order to victims. It is therefore not clear how the victims will be compensated in the absence of funds from the accused or a fund by Kosovo for this purpose. It is key that Kosovo addresses this inequality of treatment.³⁹⁵

233. Specifically, consideration may be given to include access to this reparation mechanism to other victims who sufficiently demonstrate that they have suffered harm within the parameters and scope of a case as established in the trial judgment.³⁹⁶ This would not however affect the liability of a convicted person as determined by a Trial Panel in a reparation order pursuant to Article 22(8) and 44(6) of the Law.³⁹⁷

234. Finally, the Panel recalls that, pursuant to Article 22(2) of the Law, if a victim does not apply to participate in proceedings before the SC, or has not been accepted as a participant or determined to be a victim under the Law, his or her rights under other laws or through other reparation mechanisms in Kosovo must not be limited.³⁹⁸

[\(Law No. 04/L-274 on Ratification of the International Agreement between the Republic of Kosovo and the European Union on the European Union Rule of Law Mission in Kosovo, 23 April 2014\).](#)

³⁹⁵ European Commission, Doc. No. SWD(2023) 692 final, [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: 2023 Communication on EU Enlargement policy](#), 8 November 2023, p. 23.

³⁹⁶ The Panel recalls in this regard that evidence adduced in the course of the trial established that there were more detainees held at the KMF than the individuals discussed in the Trial Judgment (see [Trial Judgment](#), para. 589 and references therein).

³⁹⁷ See, similarly, [Mustafa Reparation Order](#), para. 278.

³⁹⁸ See, similarly, [Mustafa Reparation Order](#), para. 279.

3. By the SC

235. The Panel notes that Mr Shala's present-day assets and the maximum sums that the Crime Victim Compensation Program can or may grant under its current legislation are in any event insufficient to cover the full compensation awarded by the Panel to the Victims in this Reparation Order.³⁹⁹ The Panel stresses, however, that if victims of crimes under the jurisdiction of the SC cannot enforce their right to reparations,⁴⁰⁰ this right, enshrined in Article 22(3) of the Law, becomes meaningless.⁴⁰¹

236. To that effect, in the context of the *Mustafa* proceedings, the Panel recommended the establishment of a trust fund, at the initiative of the SC and to be administered by the Registrar, for the benefit of victims of crimes under the jurisdiction of the SC.⁴⁰² The Panel noted that such a fund ought to be financially supported above all by Kosovo, taking into consideration its obligations towards victims as specified above,⁴⁰³ as well as other States and donors wishing to support victims.⁴⁰⁴

237. The Panel notes in this regard that, at present, there is already a possibility for the SC to receive non-earmarked voluntary donations for the purposes of contributing to the payment of reparations awarded to victims by a final reparation order issued by the SC.⁴⁰⁵

238. However, the Panel once more underlines that the existence of such a possibility through the SC does not relieve in any way: (i) Mr Shala of his obligation to compensate the Victims in accordance with this Reparation Order, and (ii) Kosovo

³⁹⁹ See, similarly, [Mustafa Reparation Order](#), para. 281.

⁴⁰⁰ Concerning the right to an effective remedy, see paras 229-230 above.

⁴⁰¹ See, similarly, [Mustafa Reparation Order](#), para. 280.

⁴⁰² See [Mustafa Reparation Order](#), paras 281, 282 and 283.

⁴⁰³ See para. 229 above.

⁴⁰⁴ See [Mustafa Reparation Order](#), para. 282.

⁴⁰⁵ Potential donors may address their queries related to reparations to victims under the jurisdiction of the SC to: info.donations.reparations@scp-ks.org.

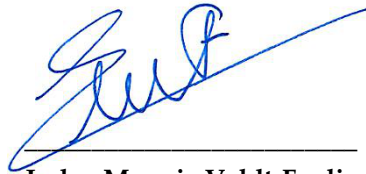
from upholding its obligations towards victims in a reasonable time through the establishment of a reparation mechanism as suggested in Section VII.B.2(b) of this Reparation Order.

VIII. DISPOSITION


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

- a) **ISSUES** a Reparation Order against Mr Shala;
- b) **FINDS** that V01/04, V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04 have shown to the standard of proof of balance of probabilities that they are victims of the crimes of which Mr Shala was convicted;
- c) **DECIDES**, accordingly, to award reparations to V01/04, V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04;
- d) **AWARDS** individual reparations, in the form of compensation to victim V01/04 for, respectively, his physical, mental and material harm; and individual and collective reparations, in the form of compensation to V02/04, V03/04, V04/04, V05/04, V06/04, V07/04 and V08/04 for, respectively, their mental and material harm;
- e) **SETS** the reparations award for which Mr Shala is liable at €208,000;
- f) **ORDERS** Mr Shala to pay, as compensation for the harm inflicted:
 - To V01/04: €10,000 for physical harm; €30,000 for mental harm, and €60,000 for material harm; and
 - To V02/04: €8,000 for mental harm;

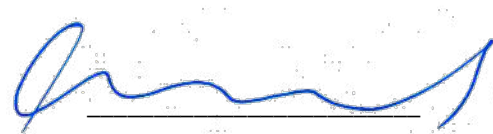
- To V03/04: €10,000 for mental harm;
 - To V04/04: €8,000 for mental harm;
 - To V05/04: €8,000 for mental harm;
 - To V06/04: €8,000 for mental harm;
 - To V07/04: €8,000 for mental harm;
 - To V08/04: €8,000 for mental harm; and
 - V02/04-V08/04, collectively: €50,000 for material harm;
- g) **DECLARES** Mr Shala indigent, at this stage, for the purpose of the enforcement of this Reparation Order;
- h) **ORDERS** the Registrar to take the necessary steps to implement this Reparation Order;
- i) **INVITES** the President of the SC to designate a Single Judge who will be in charge of monitoring and overseeing the implementation and execution of this Reparation Order;
- j) **INVITES** Kosovo to establish a new reparation mechanism for victims of crimes under the jurisdiction of the SC to correct the current inequalities in the Kosovo legal system as described in this Reparation Order; and
- k) **ORDERS** the Registrar to transmit the present Reparation Order, in its public redacted form, to the Government of Kosovo.



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Friday, 29 November 2024

At The Hague, the Netherlands.