

**In:** KSC-BC-2023-10  
**The Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and Haxhi Shala**

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

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** **Specialist Counsel for Ismet Bahtijari**

**Date:** 24 January 2025

**Language:** English

**Classification:** Public

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**(lesser redacted version F00658RED) BAHTIJARI RESPONSE TO REPARATION REQUEST**

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**Specialist Prosecutor's Office**

Kimberley P. West

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**Counsel for Ismet Bahtijari**

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## I. INTRODUCTION

1. The Defence for Mr Ismet Bahtijari ('the Defence') hereby submits this response to the Registry Report on Victims' Applications for Participation in the Proceedings (F00647), specifically on the issue of reparations.<sup>1</sup>

## II. PROCEDURAL HISTORY

2. At the Plea Agreement Hearing of 18<sup>th</sup> December Trial Panel I ('the Panel') ordered that the Victim Participation Office ('VPO') file a report on potential victims and reparations with respect to the instant case. The Panel also ordered that parties should file responses to the VPO report by 27 January 2025.<sup>2</sup>
3. On 21 January 2021 the VPO filed a confidential redacted version of their report on victims' applications for participation in the proceedings pursuant to Rule 113(2) of the Rules.<sup>3</sup>

## III. APPLICABLE LAW

4. Article 22 of the Law allows for reparations to be paid in relation to a victim of a crime within the jurisdiction of the KSC.

## IV. SUBMISSIONS

5. It is submitted that matters relating to reparations should not delay acceptance of the plea agreements, verdicts and sentencing.

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<sup>1</sup> KSC-BC-2023-10, F00647/CONF/RED, *Confidential and Ex Parte Redacted Version of Registry Report on Victims' Applications for Participation in the Proceedings with one strictly confidential and ex parte Annex*, confidential, 21 January 2025 ('Report')

<sup>2</sup> KSC-BC-2023-10, *Plea Agreement Hearing of 18 December 2024*, transcript, p 398–400. See also KSC-BC-2023-10, *Plea Agreement Hearing of 19 December 2024*, transcript, p 603.

<sup>3</sup> Report (n 1).

6. It is submitted that matters relating to reparations should not delay Mr Bahtijari's release.
7. For the following reasons, it I submitted that Mr Bahtijari should not be ordered to pay reparations:
  - a. It is accepted that the witness has felt distressed but, it is submitted, that the description is not sufficient for a conclusion that there has been harm caused within the meaning of "suffered harm, including physical, mental or material harm, as a direct result of a crime" as set out in Article 22.
  - b. Given that Mr Bahtijari was acting under direction then any effects need not be laid at his door.
  - c. It is not known which witness has provided the information but, given that Mr Bahtijari [REDACTED].
  - d. Given that Mr Bahtijari is indigent and unlikely to be able to return to work given his health issues, it is inappropriate to make any order for reparations against him.<sup>4</sup>
  - e. To order reparations against him would likely create a burden on his family who should not be punished for his situation.
8. The defence on behalf of Mr Bahtijari hope these submissions are of assistance to the Panel and ask that no order for reparations is made as against Mr Bahtijari.

## V. CONCLUSION

9. The Defence respectfully submits the above to assist the Panel and reiterates its request for Mr Bahtijari's release to Kosovo immediately. It remains at the Panel's disposal should the Panel require further information to rule on the

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<sup>4</sup> See also KSC-BC-2023-10, F00620/COR, *Corrected Version of BAHTIJARI Submissions on Sentencing with three confidential annexures*, confidential, 11 December 2024.

duration and/or modality of the release.

## **V. CLASSIFICATION**

10. This document is filed as confidential at this stage. A publicly redacted version will be filed forthwith.

Word count: 539

A handwritten signature in black ink, appearing to read 'Felicity Gerry', with a long, sweeping horizontal stroke underneath.

**Dr Felicity Gerry KC**  
**Counsel for Mr Bahtijari**

24 January 2025

At London, the United Kingdom