



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

**In:** KSC-BC-2020-05/R001  
  
The Specialist Prosecutor v. Salih Mustafa

**Before:** Single Judge Panel  
  
Judge Gilbert Bitti

**Registrar:** Fidelma Donlon

**Date:** 18 September 2024

**Language:** English

**Classification:** Public

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**Public Redacted Version of Decision on the “VC Notification of waiver of reparations payments [REDACTED]”**

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**To be notified to:**

**Victims’ Counsel**  
Anni Pues

**Registry**  
Fidelma Donlon

**Specialist Counsel for Salih Mustafa**  
Julius von Boné

**THE SINGLE JUDGE**<sup>1</sup> hereby renders this decision on the “VC Notification of waiver of reparations payments [REDACTED]”.

## I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 6 April 2023, Trial Panel I issued a reparation order against Salih Mustafa (Reparation Order and Mr Mustafa, respectively), ordering Mr Mustafa to pay reparations in the form of compensation to eight (8) victims (Victims) of crimes he was convicted of, as compensation for the harm inflicted.<sup>2</sup> The Reparation Order was not appealed either by Mr Mustafa or by Victims’ Counsel.

2. On 14 December 2023, a Panel of the Court of Appeals Chamber confirmed all of the convictions which formed the basis of the Reparation Order.<sup>3</sup>

3. On 25 March 2024, the Single Judge issued the “Decision on Victims’ Counsel’s Request to Set a Date for the Payment of Reparations and other Matters” (Decision on Payment of Reparations), in which he, *inter alia*, ordered the funds [REDACTED] of Mr Mustafa to be used for the partial execution of the Reparation Order on a *pro rata* basis amongst the Victims.<sup>4</sup>

4. On 15 May 2024, Victims’ Counsel filed the “VC Notification of waiver of reparations payments [REDACTED]” (Request), in which she conveyed [REDACTED] waiver of reparations payment and requested the Single Judge to order the Registrar

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<sup>1</sup> KSC-BC-2020-05/R001, F00002, President, [Decision Assigning a Single Judge](#), 17 January 2024, public.

<sup>2</sup> KSC-BC-2020-05, F00517, Trial Panel I, *Reparation Order against Salih Mustafa*, 6 April 2023, confidential, paras 250-252, 283, with Annexes 1-4, strictly confidential and *ex parte*. A corrected public redacted version of the decision was issued on 14 April 2023, [F00517/RED/COR](#).

<sup>3</sup> KSC-CA-2023-02, F00038/RED, Panel of the Court of Appeals Chamber, [Public Redacted Version of Appeal Judgment](#), 14 December 2023, para. 481.

<sup>4</sup> KSC-BC-2020-05/R001, F00012, Single Judge, *Decision on Victims’ Counsel’s Request to Set a Date for the Payment of Reparations and other Matters*, 25 March 2024, confidential and *ex parte*, para. 39, with Annexes 1-3, strictly confidential and *ex parte*. A public redacted version of the decision was issued on 22 July 2024, [F00012/RED](#).

to distribute the *pro rata* amount to which [REDACTED] would be entitled amongst the remaining Victims.<sup>5</sup>

5. On 29 May 2024, the Registrar submitted the “Report on Execution of the Decision and Orders related to Reparations” (Registrar’s First Report), informing the Single Judge that the total amount received [REDACTED] would be distributed [REDACTED].<sup>6</sup>

6. On 19 July 2024, the Registry filed the “Additional Registrar’s Report on Execution of the Decision and Orders related to Reparations (F00012)” (Registrar’s Second Report), in which the Registrar informed the Single Judge that each victim had received the *pro rata* amounts.<sup>7</sup>

## II. APPLICABLE LAW

7. The Single Judge notes Articles 22(8), 34(1) and 44(6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (Law).

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<sup>5</sup> KSC-BC-2020-05/R001, F00015, Victims’ Counsel, *VC Notification of waiver of reparations payments [REDACTED]*, 13 May 2024, confidential and *ex parte*, with Annex 1, confidential and *ex parte*.

<sup>6</sup> KSC-BC-2020-05/R001, F00016, Registrar, *Registrar’s Report on Execution of the Decision and Orders related to Reparations (F00012)*, 29 May 2024, confidential and *ex parte*, paras 22-24, with Annexes 1-4, strictly confidential and *ex parte*, Annexes 5 and 7, confidential and *ex parte*, and Annex 6, confidential. Confidential redacted versions of the main filing were filed on 3 June 2024, F00016/CONF/RED and F00016/CONF/RED2, respectively.

<sup>7</sup> KSC-BC-2020-05/R001, F00017, Registrar, *Additional Registrar’s Report on Execution of the Decision and Orders related to Reparations (F00012)*, 19 July 2024, confidential and *ex parte*, para. 4, with Annex 1, strictly confidential and *ex parte*.

### III. ANALYSIS

8. The Single Judge takes note [REDACTED] wish to waive any reparation payment from Mr Mustafa, as awarded [REDACTED].<sup>8</sup> Consequently, no payment will be made to [REDACTED] in execution of the Reparation Order.

9. However, the Single Judge finds that the waiver of [REDACTED] does not (and cannot) change the terms of the Reparation Order, which was rendered by a different Panel, namely Trial Panel I, and which the Single Judge is mandated to enforce. The Reparation Order is final and sets out the amounts to be paid to each individual victim based on the assessment of harm suffered.<sup>9</sup>

10. Insofar as Victims' Counsel requests the total amount of money awarded [REDACTED] to be distributed amongst the remaining Victims, the Single Judge finds that this would result in the remaining Victims receiving more compensation in execution of the Reparation Order than was awarded to them. This would not comport with the terms of the Reparation Order.

11. Nevertheless, given that reparations are not yet paid in full to the remaining Victims,<sup>10</sup> the Single Judge finds it appropriate [REDACTED], in accordance with previous consultations with the Single Judge,<sup>11</sup> to distribute the amount from Mr Mustafa's [REDACTED] that would have been paid [REDACTED], amongst the remaining victims, on a *pro rata* basis. Doing so would not change the terms of the total amount awarded to each victim, as set out in paragraph 283(f) of the Reparation Order, but would simply ensure that the available funds are efficiently distributed amongst the remaining Victims.

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<sup>8</sup> Notification of Waiver, para. 3, and Annex 1 thereto.

<sup>9</sup> See Reparation Order, para. 247; Decision on Payment of Reparations, para. 46.

<sup>10</sup> See Registrar's Second Report and Annex 1 thereto.

<sup>11</sup> See Registrar's First Report, para. 24.

## IV. DISPOSITION

12. For the above-mentioned reasons, the Single Judge hereby:

- a. **NOTES** [REDACTED] waiver of any payment in enforcement of the reparations awarded [REDACTED] as per the terms of the Reparation Order;
- b. **DISMISSES** the Request to distribute the amount of money awarded [REDACTED] amongst the remaining Victims; and
- c. **ORDERS** [REDACTED], at this stage, to distribute the amount of money awarded [REDACTED], to the remaining Victims on a *pro rata* basis.



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**Judge Gilbert Bitti**  
**Single Judge**

Dated this Wednesday, 18 September 2024

At The Hague, the Netherlands.