



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-06

**The Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli,
Rexhep Selimi, and Jakup Krasniqi**

Before: Trial Panel II

Judge Charles L. Smith III, Presiding Judge

Judge Christoph Barthe

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 3 July 2025

Language: English

Classification: Public

**Decision on Victims' Counsel's Submission of Expert Reports and Request to
Admit Them into Evidence**

Specialist Prosecutor

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TRIAL PANEL II ("Panel"), pursuant to Articles 19(3), 21, 22, 37, and 40 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 114, 137, 138 and 149 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 15 April 2025, the SPO filed a notice announcing the closing of its case.¹
2. On 23 April 2025, the Panel held a status conference during which it ordered, *inter alia*, Victims' Counsel to present *inter alia*: (i) a list of proposed witnesses to be called should the Panel find the joint Rule 130 motion unsuccessful; (ii) statements and/or reports of these witnesses; (iii) summaries of the witnesses' proposed evidence; and (iv) a list of evidentiary items to be tendered.² The Panel also ordered the Parties to notify the Panel by 9 June 2025 whether they object to the proposed admission of the Victims' Counsel's evidence and inform the Panel which witnesses the Parties intended to cross-examine.³
3. On 2 May 2025, Victims' Counsel filed a request ("Request") seeking admission into evidence of seven expert reports from expert witnesses on issues of mental, physical and material harm, and economic loss, suffered by the victims participating in the proceedings ("VPPs"), including reports prepared specifically for this case, and reports prepared for cases KSC-BC-2020-04 ("Case 04") and KSC-BC-2020-05 ("Case 05") (collectively, "Expert Reports").⁴

¹ F03121, Specialist Prosecutor, *Prosecution Notice Pursuant to Rule 129*, 15 April 2025.

² Transcript of Hearing, 23 April 2025, p. 26177, lines 2-13.

³ Transcript of Hearing, 23 April 2025, p. 26177, lines 14-20.

⁴ F03160, Victims' Counsel, *Victims' Counsel's Submission of Expert Reports with a Request to Admit them into Evidence*, 2 May 2025, confidential, paras 1, 31, with Annexes 1-8, confidential.

4. On 28 May 2025, Victims' Counsel filed submissions on the presentation of the Victims' case⁵ as well as his witness and exhibit lists, and requested that two of the expert witnesses testify at the same time, and together ("Related Request").⁶

5. On 3 June 2025, the Panel granted, in part, an urgent Defence request to access certain confidential filings in Case 04 and Case 05 in order to properly respond to the Request.⁷

6. On 10 June 2025, the Specialist Prosecutor's Office ("SPO") filed its consolidated response to submissions filed by Victims' Counsel, including the Request and the Related Request ("SPO Response").⁸ On the same day, the Defence filed a joint response to the Request and provided its Rule 149(2) Notice ("Defence Response").⁹

7. On 16 June 2025, Victims' Counsel filed a reply to the Defence Response ("Reply").¹⁰

II. SUBMISSIONS

8. Victims' Counsel requests the admission into evidence, pursuant to Rules 114(5), 138, 149, and/or 168, of the following Expert Reports:¹¹

⁵ F03205, Victims' Counsel, *Victims' Counsel's Submissions on the Presentation of the Victims' Case* ("Submission of 28 May 2025"), 28 May 2025.

⁶ F03209, Victims' Counsel, *Victims' Counsel's Submission of Witness and Exhibit Lists and Related Requests*, 28 May 2025, with Annexes 1 and 2, confidential.

⁷ RAC004/F00004, Panel, *Decision on Urgent Joint Defence Request to Access Confidential Material*, 3 June 2025, confidential, para. 28.

⁸ F03243, Specialist Prosecutor, *Prosecution Consolidated Response to Victims' Counsel's Submissions F03160, F03206, F03207, and F03208*, 10 June 2025, confidential.

⁹ F03251, Specialist Counsel, *Joint Defence Response to 'Victims' Counsel's Submission of Expert Reports (F03160)' and Rule 149(2) Notice*, 10 June 2025, confidential. See also CRSPD809, Expedited Briefing Schedule and Responses to F03160, 21 May 2025, confidential; CRSPD805, Email from Trial Panel II to the Parties Regarding Clarification Concerning F03160, 8 May 2025, confidential.

¹⁰ F03265, Victims' Counsel, *Victims' Counsel's Reply to the "Joint Defence Response to 'Victims' Counsel's Submission of Expert Reports (F03160)' and Rule 149(2) Notice"*, 16 June 2025, confidential, with Annex 1, confidential.

¹¹ Request, paras 1, 2, 9, 31.

- a) a report dated 29 April 2025 prepared for this case by Karin Duhne-Prinsen (“Ms Duhne-Prinsen”), Jet Steen (“Ms Steen”), and Catherine Nicola Black (“Dr Black”) from the *instituut voor Mensenrechten en Medisch Onderzoek* (“iMMO”) on psychological harm suffered by victims of grave crimes, and an analysis of the harm suffered by the VPPs in this case (“iMMO Report of 29 April 2025”);¹²
- b) a report dated 15 June 2023 prepared by the iMMO in Case 04 (“iMMO Case 04 Report”), authored by Ms Duhne-Prinsen and Chayne Lozano Parra;¹³
- c) two reports dated 23 May 2022 prepared by the iMMO in Case 05 (“iMMO Case 05 Reports”),¹⁴ one of which was authored by Ms Duhne-Prinsen and Sonja Swen-van Langen (“First iMMO Case 05 Report”)¹⁵ and the other by Mr Lozano Parra and Ms Swen-van Langen (“Second iMMO Case 05 Report”);¹⁶
- d) a report dated 18 April 2025 by Dr Stefan Lerz (“Dr Lerz”) on material harm suffered by VPPs prepared for this case (“Dr Lerz’s Report of 18 April 2025”);¹⁷
- e) a report dated 23 June 2023 prepared by Dr Lerz for Case 04 (“Dr Lerz’s Case 04 Report”);¹⁸ and

¹² Request, paras 1, 9, 11, 31. Annex 1 to the Request.

¹³ Request, paras 1, 6, 12, 14, 16, 31; Annex 6 to the Request, V0000041-V0000062.

¹⁴ Request, paras 1, 4, 5, 10, 12, 13, 15, 16, 31; Annex 6 to the Request.

¹⁵ Annex 6 to the Request, V0000063-V0000084.

¹⁶ Annex 6 to the Request, V0000085-V0000112. Unless stated otherwise, the Panel will refer to reports prepared by iMMO in this case, Case 04, and Case 05 collectively as “iMMO Reports.”

¹⁷ Request, paras 1, 9, 21, 25, 31; Annex 7 to the Request.

¹⁸ Request, paras 1, 9, 22, 23, 31; Annex 8 to the Request, V0000201-V0000275.

f) a report dated 22 June 2022 prepared by Dr Lerz for Case 05 (“Dr Lerz’s Case 05 Report”).¹⁹

9. Victims’ Counsel submits that the Expert Reports meet the criteria of Rule 138 as they are relevant to the assessment of harm for all of the VPPs in this case, are authored and signed by the experts and are therefore authentic, have probative value and are not prejudicial.²⁰ Additionally, Victims’ Counsel argues that the evidence presented thus far does not adequately address the impact that the alleged crimes had on the VPPs, and that the Expert Reports are therefore admissible in accordance with Rule 114(5).²¹

10. Additionally, Victims’ Counsel requests that two experts from the iMMO, namely Ms Duhne-Prinsen and Dr Black, testify jointly.²² Victims’ Counsel submits that their concurrent testimony would reflect the joint character of the opinions expressed in the iMMO Report of 29 April 2025, and would offer the Panel a clear and comprehensive understanding of their joint report.²³ Victims’ Counsel does not seek to call Dr Lerz as a live witness.²⁴

11. Victims’ Counsel states that Ms Duhne-Prinsen and Dr Black are expected to testify as to: (i) the methodology adopted in relation to the iMMO Report of 29 April 2025; (ii) their findings on the psychological and psychiatric consequences of the crimes charged in the indictment and symptoms thereof; and (iii) the coping mechanisms, consequences, and possible remedies for the harm suffered by the VPPs.²⁵

¹⁹ Request, paras 1, 9, 22, 24, 31; Annex 8 to the Request, V0000276-V0000322. Unless stated otherwise, the Panel will refer to reports prepared by Dr Lerz in this case, Case 04, and Case 05 collectively as “Dr Lerz’s Reports.”

²⁰ Request, paras 18, 20, 28, 30.

²¹ Request, paras 19, 27.

²² Related Request, paras 2, 9, 11, 20.

²³ Related Request, para. 11.

²⁴ Related Request, para. 15. *See also* Annex 1 to the Related Request, p. 1.

²⁵ Related Request, para. 12. *See also* Annex 1 to the Related Request, p. 1.

12. Victims' Counsel states that Ms Duhne-Prinsen and Dr Black are available to testify in the weeks commencing 7 and 14 July 2025,²⁶ and estimates that direct examination will take three hours.²⁷

13. The SPO responds that it: (i) does not oppose the Request; (ii) does not challenge the qualifications of the expert witnesses; (iii) accepts the Expert Reports;²⁸ (iv) does not object to the concurrent testimony of Ms Duhne-Prinsen and Dr Black;²⁹ and (v) reserves the right to question Ms Duhne-Prinsen and Dr Black for two hours should they appear jointly before the Panel.³⁰

14. The Defence, in compliance with Rule 149(2), indicates that it: (i) challenges the qualification of the expert witnesses and the relevance of the Expert Reports; (ii) does not accept the Expert Reports; and (iii) wishes to cross-examine the expert witnesses.³¹ The Defence's combined estimated time for cross-examination is five hours.³² The Defence did not take a position in respect of the suggestion of joint testimony of two proposed expert witnesses.

15. The Defence responds that the Expert Reports suffer serious deficiencies and should not be admitted.³³ In the Defence's view, the Expert Reports rely on speculative methodology, unsupported assumptions and approximations, fail to account for critical contingencies, and are detached from the victims' lived realities.³⁴ The Defence also notes that Victim's Counsel does not propose to call to testify all the authors of the iMMO Reports, and argues that Dr Lerz's Reports are exclusively relevant to reparations and therefore inadmissible at this stage of

²⁶ Related Request, para. 14; Submission of 28 May 2025, para. 6. *See also* Annex 1 to the Related Request.

²⁷ *See* Annex 1 to the Related Request, p. 1.

²⁸ SPO Response, para. 2.

²⁹ SPO Response, footnote 8.

³⁰ SPO Response, para. 2.

³¹ Defence Response, paras 1, 17.

³² Defence Response, para. 18.

³³ Defence Response, paras 1, 11, 38-40, 51, 64.

³⁴ Defence Response, paras 64.

the proceedings. The Defence's submissions concerning the iMMO Reports and Dr Lerz's Reports are discussed further below.

16. Victims' Counsel replies, *inter alia*, that the iMMO Reports were prepared by experts who represent the same institute, have similar qualifications, and have undergone specialised training. Victims' Counsel further replies that, given the limited scope of the Defence's objections to the iMMO Reports, it would suffice to examine Ms Duhne-Prinsen and Dr Black on the following matters: (i) the methodology adopted by the iMMO; (ii) whether a psychiatrist working for the iMMO has qualifications to report on physical injuries; and (iii) whether the authors of the report in Case 04 had the necessary expertise.³⁵

III. APPLICABLE LAW

17. Rule 149(2) provides that within seven days of disclosure of the report of an expert witness, or as directed by the Panel, the opposing Party shall file a notice indicating whether:

- a) it challenges the qualifications of the witness as an expert or the relevance of all or parts of the expert witness report and, if so, which parts;
- b) it accepts the expert witness report or parts thereof; or
- c) it wishes to cross-examine the expert witness.

18. Rule 149(3) provides that if the opposing Party accepts the expert witness report or parts thereof, the latter may be admitted into evidence by the Panel without calling the expert witness to testify in person.

19. Rule 149(4) provides that if a Party exercised its rights under paragraph (2)(b) or (c), the Panel shall decide on the admissibility of the expert witness report following the testimony and questioning of the expert.

³⁵ Reply, paras 20, 21.

IV. DISCUSSION

A. PRELIMINARY MATTER

20. At the outset, the Panel emphasises that this decision is issued without prejudice to the Panel's adjudication of the Rule 130 Motion. In this regard, the Panel notes the limited nature of the Rule 130 Motion,³⁶ and considers that, as a result of its limited nature, the proceedings will progress to the next stage. The Panel notes that the present matter is unaffected by the issues raised in the Rule 130 Motion so that the Panel need not await the resolution of the Rule 130 matter before deciding the present Request. The Panel further notes that the present decision becomes moot if the Rule 130 Motion is granted. With this in mind, the Panel will proceed in assessing the Request and the submissions in response and reply.

B. THE QUALIFICATIONS OF MS DUHNE-PRINSEN AND DR BLACK

21. The Panel recalls that evidence from an expert report is admissible if: (i) the proposed witness can be regarded as an expert; (ii) the expert report meets the requirements of Rule 138(1), including in respect of minimum standards of reliability, relevance and probative value; and (iii) the content of the expert report falls within the accepted expertise of the expert witness and is permissible.³⁷

22. The Panel observes that neither the Law nor the Rules expressly define who qualifies as an expert witness. Rule 149(2)(a) makes it clear that an expert witness must have requisite qualifications or expertise, which does not fall within the remit of the Panel, and that his or her evidence must be relevant to the

³⁶ F03256, Specialist Counsel, *Joint Defence Motion Pursuant to Rule 130* ("Rule 130 Motion"), 12 June 2025, confidential, with Annexes 1 and 2, confidential, paras 1-4, 164.

³⁷ F02787, Panel, *Decision on Prosecution Motion for Admission of Evidence of Witnesses W04826, W04874, and W04875 pursuant to Rules 138, 149, and 154 and Related Request* ("Decision of 16 December 2024"), 16 December 2024, confidential, para. 27 (a public a redacted version was filed the same day, F02787/RED).

proceedings. An expert within the meaning of Rule 149 may thus be defined as “[a] person who by virtue of some specialised knowledge, skill or training can assist the trier of fact to understand or determine an issue in dispute”.³⁸ The purpose of expert testimony is to supply specialised knowledge that might assist the trier of fact in understanding the evidence before it; an expert witness offers a view based on specialised knowledge regarding a technical, scientific or otherwise discrete set of ideas or concepts that is expected to fall outside the lay person’s ken.³⁹ The Panel notes that the SPO does not object to the qualifications of the Experts.⁴⁰ The Panel further observes that, while the Defence challenges the qualifications of the expert witnesses,⁴¹ it did not put forward any specific submissions challenging their professional or academic qualifications.

1. Ms Duhne-Prinsen

23. Having reviewed Ms Duhne-Prinsen’s *curriculum vitae* (“CV”), the Panel observes that she has obtained degrees in developmental psychology.⁴² According to her CV, Ms Duhne-Prinsen has worked as a mental health psychologist and cognitive behavioural therapist at various clinics since at least 2002.⁴³ Ms Duhne-Prinsen has also worked as a psychologist with the iMMO since 2015, dealing with,

³⁸ Decision of 16 December 2024, para. 28. See also ICTY, *Prosecutor v. Perišić*, No. IT-04-81-T, Trial Chamber, [Decision on Expert Reports by Richard Butler](#), 4 March 2009, para. 9; ICTY, *Prosecutor v. Stanišić & Simatović*, IT-03-69-PT, Trial Chamber, [Decision on Prosecution’s Submission of the Expert Report of Nena Tromp and Christian Nielsen Pursuant to Rule 94 bis](#), 18 March 2008, para. 8; ICTY, *Prosecutor v. Popović et al*, IT-05-88-T, Trial Chamber, [Second Decision Regarding the Evidence of General Rupert Smith](#), 11 October 2007, p. 3; ICTY, *Prosecutor v. Milošević*, IT-98/29-1-T, Trial Chamber, [Decision on Admission of Expert Report of Robert Donia](#), 15 February 2007, para. 7; ICTY, *Prosecutor v. Martić*, IT-95-11-T, Trial Chamber, [Decision on Prosecution’s Motions for Admission of Transcripts Pursuant to Rule 92 bis\(d\) and of Expert Reports Pursuant to Rule 94 bis](#), 13 January 2006, para. 22.

³⁹ ICTY, *Prosecutor v. Popović et al*, IT-05-88-A, Appeals Chamber, [Judgement](#), 30 January 2015, para. 375. See also ICTY, *Prosecutor v. Prlić et al*, IT-04-74-A, Appeals Chamber, [Judgement](#), 29 November 2017, para. 196; ICTR, *Prosecutor v. Nahimana et al*, ICTR-99-52-A, Appeals Chamber, [Judgment](#), 28 November 2007, para. 198; ICTR, *Prosecutor v. Simba*, ICTR-01-76-A, Appeals Chamber, [Judgment](#), 27 November 2007, para. 174.

⁴⁰ SPO Response, para. 2.

⁴¹ Defence Response, para. 17.

⁴² Annex 2 to the Request, V0000035.

⁴³ Annex 2 to the Request, V0000034.

inter alia, psychological examinations of suspected victims of torture and inhumane treatment.⁴⁴ The Panel is therefore satisfied that, as a psychologist, Ms Duhne-Prinsen qualifies as an expert within the meaning of Rule 149.

2. Dr Black

24. Having reviewed Dr Black's CV, the Panel observes that she has obtained a doctoral degree in medicine and received training in psychiatry.⁴⁵ She has worked as a psychiatrist at various clinics, including as part of her psychiatry residency, since at least 2010, dealing with psychiatric diagnostics, pharmacotherapy, and diagnosis and treatment of post-traumatic stress disorder, including working at an outpatient clinic and day treatment centre for refugees and asylum seekers.⁴⁶ Dr Black currently works with the iMMO as a psychiatrist.⁴⁷ The Panel also observes that Dr Black has published extensively on subjects relevant to her field.⁴⁸ The Panel is therefore satisfied that, as a psychiatrist, Dr Black qualifies as an expert within the meaning of Rule 149.

C. ADMISSIBILITY OF THE iMMO REPORTS

25. Victims' Counsel requests the admission of the iMMO Reports pursuant to Rules 138 and 149.⁴⁹ As noted, the Defence objects to their admission, and wishes to cross-examine the expert witnesses.⁵⁰ The Defence argues that the psychiatrists who authored the iMMO Case 04 Report, and the two iMMO Case 05 Reports, are not being called to give evidence, and that this means that the Defence are unable to challenge the findings of those experts.

⁴⁴ Annex 2 to the Request, V0000034.

⁴⁵ Annex 2 to the Request, V0000037.

⁴⁶ Annex 2 to the Request, V0000036.

⁴⁷ Annex 2 to the Request, V0000036.

⁴⁸ Annex 2 to the Request, V0000038.

⁴⁹ Related Request, paras 11, 12.

⁵⁰ See *above* paras 14-15.

26. The Panel notes that the four iMMO Reports are all co-authored. Ms Duhne-Prinsen and Dr Black co-authored the Report of 29 April 2025 with Ms Steen. Ms Duhne-Prinsen co-authored the iMMO Case 04 Report and one of the iMMO Case 05 Reports. Neither Ms Duhne-Prinsen nor Dr Black co-authored the second iMMO Case 05 Report. Victims' Counsel does not intend to call either Mr Lozano Parra or Ms Swen-van Langen, who authored the second iMMO Case 05 Report. Victims' Counsel argues that even though Dr Black is not listed as a co-author of this report, as a psychiatrist, she may be examined on, *inter alia*, the methodology adopted by the iMMO in preparing the other reports.⁵¹

27. Rule 149(1) refers to the "report of any expert witness *to be called by a Party*".⁵² Rule 149(1) thus conditions admission of an expert report to its author being called to testify and does not foresee the possibility of tendering an expert report written by an individual who is not to be called as a witness. Rule 149(3) permits the admission of an expert report "without calling the expert witness to testify in person" only if the opposing Party accepts the expert witness report or parts thereof. This suggests that the opposing Party must be given an opportunity to cross-examine the expert witness whose report the Party or the participant concerned wishes to tender pursuant to Rule 149.

28. Rule 149 does not expressly address the procedure to be adopted where an expert report is co-authored by two or more expert witnesses, and where the opposing Party challenges the report and expresses a wish to exercise its right to cross-examination. Specifically, Rule 149 does not clarify whether the opposing Party has a right to cross-examine each and all experts who have co-authored a single expert report. The Panel notes in this respect that the possibility to cross-examine must be meaningful and effective. While this does not necessarily entail that the cross-examining Party must be able to cross-examine all of the co-authors

⁵¹ Reply, para. 21.

⁵² Emphasis added.

of a report, it must mean that the cross-examining Party must be in a position to question one or more expert witnesses in respect of totality of the report, including its substance, methodology and findings. Where only one or some of the co-authors of such a report are called to testify, the cross-examining party should be permitted to question the witness(es) in respect of the role and involvement of other co-authors who are not called. When assessing the weight to attach to such a report, the Panel will in turn account for the fact that the cross-examining party was not able to cross-examine all of its co-authors, and may account for the inability of those who testified to provide answers in respect of those parts of a report written by a co-author who did not testify. Finally, as an additional safeguard, the Panel shall decide, as it has done in this case already, to postpone the formal admission of an expert report, in accordance with Rule 149(4), until after the testimony of the witness or witnesses concerned.⁵³

29. Victims' Counsel has presented all four iMMO Reports as expert reports, and intends to call only Ms Duhne-Prinsen and Dr Black to testify. In the present circumstances, the Panel considers that it is in the interest of the fair and expeditious conduct of the proceedings to permit Ms Duhne-Prinsen and Dr Black to testify in relation to the reports co-authored by one or both of them. The Panel is satisfied that the possibility to cross-examine both of these witnesses will enable the Defence to exercise its right to cross-examination in a fair, full and effective manner. The Defence will have an opportunity to put questions to Ms Duhne-Prinsen and Dr Black during cross-examination in support of the challenges set out in the Response concerning the methodology and content of the reports and the Panel will only decide upon the admission of their reports after they have testified in accordance with Rule 149(4).

30. At that time, Victims' Counsel and the Parties will have a further opportunity to advance arguments in support or against admission of the iMMO Reports based

⁵³ See e.g., Decision of 16 December 2024, paras 36, 37, 43.

on facts and circumstances established through questioning of these witnesses insofar as relevant to the question of admission.

31. Finally, the Panel notes that Victims' Counsel offers to tender pursuant to Rule 149 the Second iMMO Case 05 Report whose authors, *i.e.* Mr Lozano Parra and Ms Swen-van Langen, he does not propose to call to testify. The Panel considers such a course to be impermissible pursuant to Rule 149. First, as paragraph 1 of that provision makes clear, admission of an expert report is conditioned to its author being called to testify, subject to the opposing party waiving that right. Secondly, the possibility for the Party or Parties concerned to cross-examine the expert witnesses would be rendered ineffective without the possibility to question at least one of the authors of the report. The fact that the Defence would be able to cross-examine other witnesses who are not the authors of the said report would not, in the Panel's view, provide an effective means for the Defence to test and, as the case may be, challenge the content of the said report. For that reason, and without prejudice to Victim's Counsel calling the authors to testify, the Panel is not prepared to admit the Second iMMO Case 05 Report authored by Mr Lozano Parra and Ms Swen-van Langen. Victim's Counsel is directed to notify the Panel and the Parties by **Monday 7 July 2025** whether he intends to call Mr Lozano Parra and/or Ms Swen-van Langen to testify.

32. In respect of the remaining iMMO Reports and in light of the above, the Panel declines to make a preliminary ruling on the admissibility of the iMMO Reports and defers its decision on the admission of the iMMO Reports until it has received submissions from Victims' Counsel and the Parties, following the conclusion of the testimony of Ms Duhne-Prinsen and Dr Black, in accordance with Rule 149(4).

D. THE QUALIFICATIONS OF DR LERZ AND THE ADMISSIBILITY OF DR LERZ'S REPORTS

33. Victims' Counsel submits that Dr Lerz is an expert in the calculation of capitalised income loss with a specialisation in performing such calculations in respect of foreign countries. He argues that, in line with Rule 114(5), the evidence presented thus far does not adequately address the impact that the alleged crimes have had on the personal interests of VPPs with regard to material harm, and that Dr Lerz's Reports provide evidence as to that issue. Victims' Counsel argues that Dr Lerz's Reports are also admissible under Rule 168 for the purposes of reparations proceedings

34. The Defence challenges the qualifications of Dr Lerz and objects to the admission of his reports.

35. The Panel will first address the question of Dr Lerz's qualifications. Having reviewed Dr Lerz's CV, the Panel observes that he has obtained a doctoral degree in economics.⁵⁴ According to his CV, Dr Lerz has worked with the *Nederlands Rekencentrum Letselschade* since 2010, specialising in capitalised income losses.⁵⁵ Dr Lerz is also a member of a register for experts working in courts at the University of Leiden.⁵⁶ The Panel is therefore satisfied that Dr Lerz qualifies as an expert within the meaning of Rule 149.

36. The Panel will turn now to the admissibility of Dr Lerz's Reports. The Defence submits that Dr Lerz's Reports are relevant only to reparations, that their admission is governed by Rule 168 and not Rule 149, and therefore, cannot be lawfully tendered by Victims' Counsel at this stage of the proceedings.⁵⁷ Moreover, the Defence avers that Rule 168 only permits the Panel to appoint experts after conviction and not at trial.⁵⁸

⁵⁴ Annex 7 to the Request, V0000194.

⁵⁵ Annex 7 to the Request, V0000194.

⁵⁶ Annex 7 to the Request, V0000195.

⁵⁷ Defence Response, paras 12-16, 52-54.

⁵⁸ Defence Response, para. 16.

37. Victims' Counsel replies that Dr Lerz's Report of 18 April 2025 is relevant not only to the issue of reparations, but also to the extent of the material harm suffered by the VPPs pursuant to Article 22(1) and (7).⁵⁹ Victims' Counsel further submits that, in his view, it is unnecessary for Dr Lerz to give oral evidence as his reports are based on statistical data, and are intended only as a reference point. Victims' Counsel proposes that Dr Lerz's evidence could be subject to the process of written questioning at the reparations stage, as it was in Case 04.⁶⁰

38. The Panel accepts that, as argued by Victims' Counsel, the evidence presented thus far might not fully address the impact that the alleged crimes have had on the personal interests of VPPs with regard to material harm.⁶¹ This is an aspect of the case in relation to which Victims' Counsel is permitted to seek to tender evidence.⁶²

39. The Panel recalls that Rule 149(4) envisions that, where a Party challenges an expert witness report, a decision on the admission of this evidence shall be rendered following the testimony and questioning of the expert. Victims' Counsel did not request that Dr Lerz testify before the Panel,⁶³ and makes no submissions in the Reply regarding the availability of Dr Lerz to appear for cross-examination. Victims' Counsel has merely stated that it is unnecessary for Dr Lerz to give oral evidence given that Dr Lerz's Reports are based on statistical data and are intended only as a point of reference for determining the material harm suffered by the VPPs in the reparation proceedings.⁶⁴

40. The Panel notes that Rule 149 is *lex specialis* for the admission of expert reports.⁶⁵ The Panel also reiterates the fact that admission of a report pursuant to

⁵⁹ Reply, para. 22.

⁶⁰ Reply, para. 26.

⁶¹ Request, para. 27.

⁶² See F01226, Panel, *Order on the Conduct of Proceedings*, 25 January 2023, Annex, paras 34 and 36.

⁶³ Related Request, para. 15. See also Annex 1 to the Related Request, p. 1.

⁶⁴ Request, para. 26; Reply, para. 26.

⁶⁵ See e.g., Decision of 16 December 2024, para. 41.

Rule 149(1) is conditioned on the author of the report being called to testify, subject to a waiver. The Panel therefore considers that, in the present circumstances, should Victims' Counsel wish to seek admission of Dr Lerz's Reports pursuant to Rule 149 in order to assist the Panel in its determination of the impact of the crimes and harm suffered by the VPPs, he should do so by calling Dr Lerz to testify in court and allow for cross-examination by the Defence, as envisioned by Rule 149(4). The Panel further notes that Rule 168 is not a rule regulating the conditions of admission of evidence and will not address Rule 168 further at this time.

41. Based on the above, Victim's Counsel is directed to notify the Panel and the Parties by **Monday 7 July 2025** whether he intends to call Dr Lerz to testify. Admission of Dr Lerz's Reports at this time is therefore denied without prejudice.

E. REQUEST TO PERMIT JOINT TESTIMONY

42. Victims' Counsel requests that Ms Duhne-Prinsen and Dr Black testify jointly. According to Victims' Counsel, this will allow Ms Duhne-Prinsen and Dr Black to explain the iMMO Report of 29 April 2025, with their respective complementary areas of expertise, in a way that reflects the joint character of the opinions expressed in it.⁶⁶ The Panel notes that the SPO did not object to this proposed modality.⁶⁷ As noted above, the Defence did not formally object to the suggestion and chose not to make submissions on this matter.

43. The Panel observes that nothing in the Rules prevents joint testimony of witnesses and that a decision to allow this procedure when a witness testifies is discretionary. The Panel further notes that the possibility to have more than one expert witnesses testify jointly has been entertained in other jurisdictions without

⁶⁶ Related Request, para. 11.

⁶⁷ SPO Response, footnote 8.

causing unfairness to the cross-examining party.⁶⁸ The Panel notes that Ms Duhne-Prinsen and Dr Black co-authored the iMMO Report of 29 April 2025, and accepts that their respective expertise in psychology and psychiatry may provide the Panel with a more comprehensive understanding of that report. Further, the Panel considers that the joint testimony of Ms Duhne-Prinsen and Dr Black may make the questioning and presentation of the evidence more effective, avoid repetition, and contribute to the expeditiousness of the proceedings. The Panel is also satisfied that, in the circumstances, this would not cause unfairness or undue prejudice to the cross-examining Parties.

44. In light of the foregoing, the Panel, exercising its discretion, permits Ms Duhne-Prinsen and Dr Black to testify jointly, and orders Victims' Counsel to make necessary arrangements for them to testify jointly on **Wednesday, 16 July 2025**.

V. DISPOSITION

45. In light of the foregoing, the Panel hereby:

- a) **GRANTS** the Request, in part;
- b) **PERMITS** Ms Duhne-Prinsen and Dr Black to testify at the same time, and together;
- c) **ORDERS** Victims' Counsel to make necessary arrangements for Ms Duhne-Prinsen and Dr Black to testify jointly on **Wednesday, 16 July 2025**;
- d) **DEFERS** its decision on the admission of: (i) the iMMO Report of

⁶⁸ See e.g., KSC-BC-2020-04, Transcript of Hearing, 21 August 2023, p. 2250. Cf ICC, *Prosecutor v. Ongwen*, ICC-02/04-01/15, Trial Chamber, [Decision on Requests Related to the Testimony of Defence Expert Witnesses D-0041 and D-0042](#), 1 October 2019, para. 9; STL, *Prosecutor v. Ayyash et al*, STL-11-01/T/TC, Trial Chamber, [Decision on Simultaneous or Concurrent Testimony of Expert Witnesses](#), 17 February 2015, para. 33.

- 29 April 2025; (ii) the iMMO Case 04 Report; and (iii) the First iMMO Case 05 Report until it has received submissions from Victims' Counsel and the Parties, following the conclusion of the testimony of Ms Duhne-Prinsen and Dr Black;
- e) **DENIES** without prejudice the admission of the Second iMMO Case 05 Report authored by Mr Lozano Parra and Ms Swen-van Langen;
- f) **DENIES** without prejudice the admission of Dr Lerz's Reports; and
- g) **ORDERS** Victims' Counsel to notify the Panel and the Parties by **Monday, 7 July 2025** if he intends to call Mr Lozano Parra, Ms Swen-van Langen or Dr Lerz to testify.



Judge Charles L. Smith, III
Presiding Judge

Dated this Thursday, 3 July 2025

At The Hague, the Netherlands.