



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-05/R001

The Specialist Prosecutor v. Salih Mustafa

Before: Single Judge Panel

Judge Gilbert Bitti

Registrar: Fidelma Donlon

Date: 16 July 2025

Language: English

Classification: Public

Decision on the Payment of Interest by Salih Mustafa in Relation to Reparations

To be notified to:

Registry
Fidelma Donlon

Counsel for Salih Mustafa
Julius von Bóné

Victims' Counsel
Anni Pues

THE SINGLE JUDGE¹ hereby renders this Decision on the Payment of Interest by Salih Mustafa in Relation to Reparations.

I. PROCEDURAL BACKGROUND

1. On 6 April 2023, after convicting Salih Mustafa (Mr Mustafa) for war crimes,² Trial Panel I issued a reparation order against him, directing the payment of a total sum of 207,000 EUR to eight (8) victims as compensation for the harm inflicted by the crimes for which he was convicted (Reparation Order).³ Neither Mr Mustafa nor Victims' Counsel appealed the Reparation Order.
2. On 14 December 2023, a Panel of the Court of Appeals Chamber confirmed all convictions which form the basis of the Reparation Order.⁴
3. On 19 January 2024, Victims' Counsel requested the Single Judge to set a time limit for the payment of reparations awarded to victims by Mr Mustafa, and further underlined the importance of the payment of statutory interest on the amounts owed for reparations.⁵ Mr Mustafa did not submit any response.

¹ KSC-BC-2020-05/R001, F00002, President of the Specialist Chambers, [Decision Assigning a Single Judge](#), 17 January 2024, public; F00024, President of the Specialist Chambers, [Decision Assigning a Single Judge](#), 18 February 2025, public.

² KSC-BC-2020-05, F00494, Trial Panel I, *Trial Judgment*, 16 December 2022, confidential, para. 831. A public redacted version was issued on 8 June 2023, [F00494/RED3/COR](#).

³ 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 Reparation Order was issued on 14 April 2023, [F00517/RED/COR](#).

⁴ KSC-CA-2023-02, F00038/RED, Court of Appeals Panel, [Public Redacted Version of Appeal Judgment](#), 14 December 2023, public, para. 481.

⁵ KSC-BC-2020-05/R001, F00003, Victims' Counsel, *Request to Set a Date for Payment of Reparations*, (Victims' Counsel Request) 19 January 2024, confidential, para. 7(c). A public redacted version was filed on 26 February 2024, F00003/RED. *See also* F00010, Victims' Counsel, *VC Response to the Registrar's Submissions on the Implementation of the Reparation Order* (Victims' Counsel Response), 28 February 2024, confidential, paras 15-17. A public redacted version was filed on 4 April 2024, F00010/RED.

4. 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).⁶ Finding that the Reparation Order, which had become final, was immediately enforceable, the Single Judge also addressed, *inter alia*, the issue of the interest rate on reparations, (i) ordering the Registrar to request information from the Kosovo Ministry of Justice as to the applicable law and practice of Kosovo courts on: (a) the interest rate to be applied in cases of reparation awards for damages based on a final criminal conviction, and (b) when interest would start to accrue in such cases before Kosovo courts; and, as such, (ii) deferring a decision on this issue.⁷ Likewise, the Single Judge instructed the Registrar to: (i) inform Mr Mustafa of the modalities for any voluntary payment that he may wish to make to meet his obligations towards the victims and to report to the Single Judge whether Mr Mustafa agreed to any payment or whether he declared his intention to do so; and (ii) conduct an indigence assessment on Mr Mustafa to assess whether his current and future available means, taking into consideration his family's needs, would allow him to pay the reparations ordered in full, within a reasonable time.⁸ The Single Judge also ordered the payment of reparations to victims from Mr Mustafa's assets, thus partially enforcing the Reparation Order.⁹

5. On 10 May 2024, the Registrar informed the Single Judge that Mr Mustafa had refused to complete the declaration of means form which she had transmitted to him for the purpose of the indigence assessment, and submitted that, in the absence of such

⁶ 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*, with Annexes 1-3, strictly confidential and *ex parte*. A confidential redacted version and a confidential redacted and *ex parte* version were filed on the same day, F00012/CONF/RED and F00012/CONF/RED2. A public redacted version was filed on 22 July 2024, [F00012/RED](#).

⁷ Decision on Payment of Reparations, paras 28-29, 52, 66(a), (o).

⁸ Decision on Payment of Reparations, paras 30-31, 58, 66(m).

⁹ Decision on Payment of Reparations, paras 39-45, 66(c), (g).

a declaration, the assessment of Mr Mustafa's indigence would be a considerably more complex process.¹⁰ She therefore requested that the Single Judge order Mr Mustafa to complete the declaration of means form and provide the information required.¹¹

6. On 29 May 2024, the Registrar reported to the Single Judge that she had not received any response from Mr Mustafa on the matter of voluntary payment to the victims, and submitted the information provided by the Kosovo Ministry of Justice regarding the interest rate on reparations (Information from the Kosovo Ministry of Justice).¹² Neither Mr Mustafa nor Victims' Counsel submitted a response thereto.

7. On 19 July 2024, the Registrar informed the Single Judge that his order regarding the (partial) payment of reparations to victims had been executed, and submitted a table detailing the *pro rata* amounts distributed to each of the victims.¹³

8. On 18 September 2024, the Single Judge issued the Decision on the Registrar's Request for Order to Mr Mustafa to Cooperate, ordering him to fill out, without delay, the declaration of means form for the purpose of the indigence assessment, and

¹⁰ KSC-BC-2020-05/R001, F00014, Registrar, *Registrar's Request for Order to Mr Mustafa to Cooperate for the Purposes of the Indigence Assessment* (Registrar's Request for Order), 10 May 2024, confidential and *ex parte*, paras 10-12, with Annexes 1-2, confidential and *ex parte*. A confidential redacted version was filed on 25 October 2024, F00014/CONF/RED. A public redacted version was filed on 14 March 2025, F00014/RED.

¹¹ Registrar's Request for Order, para. 13.

¹² KSC-BC-2020-05/R001, F00016, Registrar, *Registrar's Report on Execution of the Decision and Orders related to Reparations (F00012)* (Registrar's Report), confidential and *ex parte*, 29 May 2024, paras 17-21, with Annexes 1-4, strictly confidential and *ex parte*, Annexes 5, 7, confidential and *ex parte*, and Annex 6, confidential. Confidential redacted and *ex parte* versions were filed on 3 June 2024, F00016/CONF/RED, and F00016/CONF/RED2. A public redacted version was filed on 14 March 2025, F00016/RED. *See also* Annex 6 to Registrar's Report. Annex 6 to Registrar's Report was reclassified as public on 18 March 2025.

¹³ KSC-BC-2020-05/R001, F00017, Registrar, *Additional Registrar's Report on Execution of the Decision and Orders related to Reparations (F00012)*, confidential and *ex parte*, 19 July 2024, with Annex 1, strictly confidential and *ex parte*. A public redacted version was filed on 14 March 2025, F00017/RED.

varying the deadline for the Registrar to submit her report on Mr Mustafa's indigence assessment.¹⁴

9. On the same day, the Single Judge took note of the waiver of any payment in enforcement of the Reparation Order submitted by one of the victims,¹⁵ and decided that no payment will be made to that victim in the execution of the Reparation Order.¹⁶

10. On 13 December 2024, the Registrar informed the Single Judge that she never received a completed declaration of means form from Mr Mustafa.¹⁷

11. On 16 December 2024, pursuant to a request by the Registrar,¹⁸ the Single Judge issued a decision whereby he: (i) found that Mr Mustafa was in violation of a previous judicial order by virtue of refusing to fill out the declaration of means form, and had consistently refused to take action for the benefit of the victims in compliance with his obligations under the Reparation Order; (ii) issued a number of orders to facilitate the

¹⁴ KSC-BC-2020-05/R001, F00018, Single Judge, *Decision on the Registrar's Request for Order to Mr Mustafa to Cooperate*, 18 September 2024, confidential and *ex parte*, paras 8, 10, 13(a), (f). A confidential redacted version was filed on the same day, F00018/CONF/RED. A public redacted version was filed on 15 April 2025, F00018/RED.

¹⁵ KSC-BC-2020-05/R001, F00015/RED, Victims' Counsel, *Public Redacted Version of VC Notification of Waiver of Reparations Payments [REDACTED]*, 17 March 2025, public. The original confidential and *ex parte* version was filed on 15 May 2024, F00015. A confidential redacted version was also filed on 17 March 2025, F00015/CONF/RED.

¹⁶ KSC-BC-2020-05/R001, F00019/RED, Single Judge, *Public Redacted Version of Decision on the "VC Notification of Waiver of Reparations Payments [REDACTED]"* (Decision F00019), 3 April 2025, public. The original confidential and *ex parte* version was filed on 18 September 2024, F00019. A confidential redacted version was also filed on 3 April 2025, F00019/CONF/RED.

¹⁷ KSC-BC-2020-05/R001, F00022, Registrar, *Registrar's Submission in relation to F00018*, 13 December 2024, public, para. 5.

¹⁸ KSC-BC-2020-05/R001, F00020/RED, Registrar, *Public Redacted Version of Registrar's Request for Orders to [REDACTED] for the Purpose of the Indigence Assessment*, 10 July 2025, public. The original confidential and *ex parte* version, with Annex 1, confidential and *ex parte* was filed on 10 October 2024, F00020. A confidential redacted and *ex parte* version and a confidential redacted version were filed on 14 March 2025, F00020/CONF/RED, and F00020/CONF/RED2.

conduct of Mr Mustafa's indigence assessment; and (iii) varied, *proprio motu*, the time limit for submission of the Registrar's report on Mr Mustafa's indigence assessment.¹⁹

II. APPLICABLE LAW

12. The Single Judge notes Articles 22 and 53 of the Constitution of the Republic of Kosovo (Constitution), and Articles 3(2), 7, and 22 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law).

III. DISCUSSION

A. SUBMISSIONS

1. Victims' Counsel

13. First, Victims' Counsel argues that setting a time-limit for Mr Mustafa to pay the reparations is critical for the calculation of any statutory interest owed in the future on the reparations, which would have to be based on the relevant due date.²⁰

14. Second, while Victims' Counsel recognises that the issue of payment of statutory interest on the amounts owed could be seen as a hypothetical consideration at this juncture, when it is still unclear if and to what extent the main debt will be satisfied, she underlines that such interest is of importance to ensure that the awards are not economically devalued with the passing of time. With regard to the interest rate to be applied, Victims' Counsel refers to Article 382 of the Kosovo Law No. 04/L-077 on

¹⁹ KSC-BC-2020-05/R001, F00023/RED, Single Judge, *Public Redacted Version of Decision on Salih Mustafa's Refusal to Comply with his Obligations Pursuant to the Reparation Order and on the Registrar's Request for Orders to [REDACTED] for the Purpose of the Indigence Assessment*, 15 July 2025, public, paras 10-12, 15-18, 23. The original confidential and *ex parte* version, with Annexes 1-5, strictly confidential and *ex parte*, was filed on 16 December 2024, F00023. A confidential redacted version and a confidential redacted and *ex parte* version were filed on 19 February 2025, F00023/CONF/RED, and F00023/CONF/RED2.

²⁰ Victims' Counsel Request, para. 7(c); Victims' Counsel Response, para. 15.

Obligational Relationships²¹ (Kosovo Law on Obligations), which provides for an interest rate of eight percent (8%) per annum.²²

2. Information from the Kosovo Ministry of Justice

15. First, regarding the interest rate to be applied in cases of reparation awards for damages based on a final criminal conviction, the Kosovo Ministry of Justice submits that: (i) this aspect was not regulated by the 1978 Law on Obligational Relationships, but that Kosovo courts had decided on an interest rate for late payment which was applied by Kosovo banks on funds without a specific destination deposited for a term of one year, from the day of issuance of the court decision until full payment; and (ii) since the entry into force of the Kosovo Law on Obligations on 20 December 2012, the interest rate was established at eight percent (8%) per annum.²³

16. Second, regarding the question as to when interests start to accrue in such cases before Kosovo courts, the Kosovo Ministry of Justice, distinguishing between material harm and non-material (moral) harm, submits that interest starts to accrue from the moment the indictment is filed with the court for the former, and from the receipt of the expert report for the latter.²⁴ The Kosovo Ministry of Justice also cites Article 357 of the Kosovo Law on Obligations, which provides for statutes of limitations for compensation claims, namely three (3) years from the date the injured party became aware of the harm and the person that caused it, or, in any case, five (5) years from the time the harm was caused.²⁵

²¹ Promulgated by Decree No. DL-024-2012, dated 30 May 2012, and published in the Official Gazette of the Republic of Kosovo, No. 16, 19 June 2012.

²² Victims' Counsel Response, paras 16-17.

²³ Annex 6 to Registrar's Report, p. 3

²⁴ Annex 6 to Registrar's Report, p. 3

²⁵ Annex 6 to Registrar's Report, p. 3.

B. DETERMINATION

17. At the outset, the Single Judge recalls that, while recognising the importance of potential interest rates on the amounts owed by Mr Mustafa, in his Decision on the Payment of Reparations, he found that this issue was obviously not urgent as it was not clear whether and when those amounts would be paid, and therefore deferred his decision in this regard.²⁶

18. The Single Judge further notes that, to this date, the Reparation Order has not been implemented in full, and it remains uncertain if and when this will occur. Nevertheless, the Single Judge concurs with Victims' Counsel, that, as a matter of principle, interest should be paid by Mr Mustafa on the amounts owed as reparations to the victims, to ensure that awards are not economically devalued with the passing of time.

19. *Legal Framework.* The Single Judge observes that the Law and the Rules of Procedure and Evidence before the Kosovo Specialist Chambers are silent on both the question of the interest rate to be applied and the point at which such interest starts to accrue. Moreover, the Single Judge is mindful that the Kosovo legislation referred to by Victims' Counsel and the Kosovo Ministry of Justice, namely the Kosovo Law on Obligations, is not expressly incorporated and applied by the Law and that, as such, the Specialist Chambers (SC) are not bound to adjudicate in accordance with it.²⁷

20. Likewise, in the Single Judge's view, the Information from the Kosovo Ministry of Justice is not complete, or ambiguous, as it does not indicate (i) the interest rate applied by Kosovo courts before the entry into force of the Kosovo Law on Obligations, or (ii) a legal basis supporting its assertions as to the point at which such interest starts to accrue.

²⁶ Decision on Payment of Reparations, paras 50-52, 66(o).

²⁷ See Article 3(2)(c) of the Law.

21. Furthermore, the Single Judge fails to understand why, when referring to the statute of limitations for compensation claims — an issue which was not raised by the Single Judge —, the Kosovo Ministry of Justice only mentions Article 357 of the Kosovo Law on Obligations while overlooking Article 358, titled “Compensation Claims for Damage Inflicted by Criminal Offence”, which seems more pertinent to the case at hand and stipulates that: “if the damage was inflicted by a criminal offence and a longer statute-barring period is stipulated for criminal prosecution, a compensation claim against the person responsible shall become statute-barred when the period stipulated for the statute-barring of criminal prosecution expires”. Notably though, in light of the SC’s temporal jurisdiction under Article 7 of the Law, there is no statute of limitations for the prosecution of war crimes before the SC and, accordingly, no statute of limitations for compensation claims for damages inflicted by such crimes under Article 22 of the Law. In any event, a time-limitation for the prosecution of war crimes would run contrary to the jurisprudence of the European Court of Human Rights, especially with regard to obligations under Article 2 (right to life) of the European Convention for the Protection of Human Rights and Fundamental Freedoms²⁸ and, as such, would be in contradiction with Articles 22 and 53 of the Constitution. It is the Single Judge’s view that the same principle applies to compensation claims for damages inflicted by such crimes.

22. For these reasons, the Single Judge finds that the Information from the Kosovo Ministry of Justice is of limited use for the purpose of this decision.

23. *Interest Rate.* With regard to the interest rate to be applied, the Single Judge notes that Article 382 of the Kosovo Law on Obligations establishes a penalty interest of eight percent (8%) rate per annum. While, for the reasons espoused in paragraph 19 of this decision, the Single Judge is not bound by the Kosovo Law on Obligations, he

²⁸ European Court of Human Rights, *Aslakhanova and Others v. Russia*, nos. 2944/06, 8300/07, 50184/07, 332/08 and 42509/10, 18 December 2012, para. 237.

nevertheless notes that this is the interest rate that Mr Mustafa and the victims would typically expect to pay/be paid for delay in the performance of any other pecuniary obligations they may owe/be owed in Kosovo. Being further mindful that the SC's legal framework is silent on this issue, the Single Judge considers that, for reasons of foreseeability and legal certainty, and to safeguard victims' interests, the same interest rate should apply to delays in executing the Reparation Order. The Single Judge thus finds that the interest rate to be paid by Mr Mustafa in this regard shall amount to eight percent (8%) per annum.

24. *Timing.* With regard to the point at which said interest starts to accrue, the Single Judge is mindful that, in principle, interest starts to accrue from the date payment is due, unless a grace period is requested and granted. The Single Judge recalls his finding in the Decision on Payment of Reparations, namely that payment was due as of the moment the Reparation Order became final.²⁹ Even though Mr Mustafa was notified thereof, he has neither made submissions on the matter nor requested a grace period in this connection. Therefore, interest was in principle due as of the moment the Reparation Order became final, which in the present case was when the time limit to appeal the Reparation Order expired.

25. However, in the view of the Single Judge, the question when interest starts to accrue also involves, in the present case, aspects of fairness towards Mr Mustafa. Without a (clear) legal framework or judicial ruling determining when and which interest starts to accrue, the Single Judge is of the view that in the present case interest shall not start to run until, and unless, Mr Mustafa has been given the opportunity to comply with the Reparation Order, and is duly informed of when and which interest starts to accrue.

²⁹ Decision on Payment of Reparations, paras 28-29, 66(a).

26. At present, the Single Judge notes that Victims' Counsel requested twice that an interest rate be established in order to preserve the victims' rights, to which Mr Mustafa did not respond. Moreover, Mr Mustafa was afforded ample opportunity – by now more than a year – to comply with the Reparation Order, which he has refused. Indeed, he failed to take any steps with a view to compensating the victims in the case. As a result, he has failed to comply with his obligations under the Reparation Order.

27. Bearing in mind the considerations set out in paragraph 19 above, as well as the Single Judge's earlier decision to defer his ruling on the question of the interest rate, and for reasons of fairness towards the convicted person/debtor, the Single Judge finds that interest may only start to accrue as of the date this decision is notified to Mr Mustafa.

28. Therefore, the Single Judge informs Mr Mustafa that an interest rate of eight percent (8%) per annum will start to apply as of the date this decision is notified to him, and until the Reparation Order is fully complied with.

29. *Calculation of Interest Rate.* With regard to the modalities of calculation of the established interest rate, the Single Judge decides that it will be applied on the part of the Reparation Order which has not yet been executed as of the date on which this decision is notified to Mr Mustafa, and every year thereafter on the same date. The Single Judge further finds that interest shall not be capitalised, that is, no interest shall be calculated on previously accrued interest. As such, interest shall be calculated separately from the outstanding portion of the Reparation Order. Interest shall be payable only if and when the Reparation Order is executed in full, and shall be

calculated *pro rata* for each victim,³⁰ in line with the amount awarded to them in the Reparation Order.

30. *Reporting.* In light of the above, the Single Judge orders the Registrar to submit, starting one (1) year from the date this decision is notified to Mr Mustafa, and every year thereafter on the same date, on a confidential basis if necessary,³¹ an annual report indicating, for each victim, (i) the outstanding amount still to be paid by Mr Mustafa under the Reparation Order and, separately, (ii) the interest accrued in accordance with the present decision. This reporting obligation shall remain in force until both the Reparation Order and the interest thereon have been satisfied in full.

IV. DISPOSITION

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

- a. **FINDS** that Salih Mustafa has failed to comply with his obligations under the Reparation Order;
- b. **INFORMS** Salih Mustafa that an interest rate of eight percent (8%) per annum shall start to accrue on the part of the Reparation Order which has not yet been executed as of the date on which the present decision is notified to him; and
- c. **ORDERS** the Registrar to submit to the Single Judge, starting one (1) year from the date this decision is notified to Salih Mustafa and every year thereafter on the same date, on a confidential basis if necessary, an annual report indicating, for each victim, (i) the outstanding amount still to be paid by Salih Mustafa pursuant to the

³⁰ The Registrar will have to take into consideration the waiver of reparations payments made by one of the victims (*see* Decision F00019). *See also* above, para. 9.

³¹ Should the Registrar consider that the information must be submitted confidentially for the protection of victims in this case, she shall simultaneously submit a public redacted version thereof.

Reparation Order and, separately, (ii) the interest accrued, as set out in paragraph 30 of the present decision.

A handwritten signature in black ink, appearing to read 'Bitti', with a large, stylized flourish extending to the left.

Judge Gilbert Bitti
Single Judge

Dated this Wednesday, 16 July 2025

At The Hague, the Netherlands.