



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: 11 August 2025

Language: English

Classification: Public

**Decision on Salih Mustafa's Application for Leave to Appeal
Decision R001/F00032**

To be notified to:

Victims' Counsel
Anni Pues

Counsel for Salih Mustafa
Julius von Bóné

THE SINGLE JUDGE¹ hereby renders this Decision on Salih Mustafa's Application for Leave to Appeal Decision R001/F00032.

I. PROCEDURAL BACKGROUND

1. On 16 July 2025, the Single Judge issued the Decision on the Payment of Interest by Salih Mustafa in Relation to Reparations (Impugned Decision),² whereby he found, *inter alia*, that, an interest rate of eight percent (8%) per annum should apply to Salih Mustafa (Mr Mustafa) for delays in executing the reparation order,³ which had been issued by Trial Panel I against him for the benefit of eight (8) victims as compensation for the harm inflicted by the war crimes⁴ for which he was convicted (Reparation Order).⁵
2. On 23 July 2025, Specialist Counsel for Mr Mustafa (Specialist Counsel) filed a request for leave to appeal the Impugned Decision (Request).⁶
3. On 4 August 2025, Victims' Counsel responded to the Request.⁷
4. Mr Mustafa did not reply.

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

² KSC-BC-2020-05/R001, F00032, Single Judge, [Decision on the Payment of Interest by Salih Mustafa in Relation to Reparations](#), 16 July 2025, public.

³ Impugned Decision, paras 19, 23, 31(b).

⁴ 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](#). A Panel of the Court of Appeals Chamber confirmed all the convictions which form the basis of the reparation order against Mr Mustafa, 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, 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](#). It is recalled that neither Mr Mustafa nor Victims' Counsel appealed the Reparation Order.

⁶ KSC-BC-2020-05/R001, F00033, Specialist Counsel, *Mustafa's Application for Leave to Appeal through Certification from Decision KSC-BC-2020-05/R001/F00032*, 23 July 2025, public.

⁷ KSC-BC-2020-05/R001, F00036, Victims' Counsel, *VC Submission on Mustafa's Application for Leave to Appeal through Certification from Decision KSC-BC-2020-05/R001/F00032* (Response), 4 August 2025, public.

II. APPLICABLE LAW

5. The Single Judge takes note of Articles 22, 53, and 162 of the Constitution of the Republic of Kosovo (Constitution), Article 6 of the (European) Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Articles 3, 22, 44(6), and 45 of the Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law), and Rules 2 and 77 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (Rules).

III. DISCUSSION

A. SUBMISSIONS

6. Specialist Counsel submits that the Impugned Decision is not compliant with Article 3 of the Law, Articles 22(2)-(3), 31(2), and 32 of the Constitution, and the principle of legality.⁸ Specialist Counsel also avers that Mr Mustafa objects to the Impugned Decision as regards the interest to be paid, the rate of interest that is to be calculated, the point at which it starts to accrue, as well as how it shall be calculated for each victim.⁹ According to Specialist Counsel, the identified issues significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, an immediate resolution by a Court of Appeals Panel which may materially advance the proceedings being thus necessary.¹⁰ Specialist Counsel, for this reason, seeks leave to appeal the Impugned Decision.¹¹

7. Victims' Counsel responds that neither Article 45 nor Article 46 of the Law provide for appeal proceedings as part of the enforcement procedure of the Reparation Order.¹² She further underlines that the wording of Article 45 of the Law

⁸ Request, para. 13.

⁹ Request, para. 14.

¹⁰ Request, paras 12, 14.

¹¹ Request, paras 8, 15.

¹² Response, para. 2.

only relates to the criminal law proceedings conducted against an accused, which are at present closed against Mr Mustafa by a judgment which is final.¹³ Furthermore, she claims that even if there was any scope for an appeal at this stage, Mr Mustafa fails to identify any relevant issue.¹⁴ Victims' Counsel concludes that the Request must be rejected.¹⁵

B. DETERMINATION

1. Legal Standing

8. At the outset, the Single Judge observes that Article 45(1) of the Law stipulates that "[a] Court of Appeals Panel shall hear interlocutory appeals from an accused or from the Specialist Prosecutor", while Rule 77(1) of the Rules refers to interlocutory appeals from "a Party". Pursuant to Rule 2 of the Rules, "unless the context otherwise requires", the term "Party" refers to the "Specialist Prosecutor or the Defence", the latter being defined as "[t]he suspect/Accused and/or Specialist Counsel".

9. It is recalled that in the context of reparations proceedings, which are distinct from criminal proceedings, Trial Panel I concluded that the term "Parties" refers to Mr Mustafa (who was an accused at the time), and the victims participating in the proceedings, represented by Victims' Counsel.¹⁶ The Single Judge is of the view that the same definition continues to apply at the stage of the implementation of the Reparation Order, which is part of the reparation proceedings. Therefore, the Single Judge concludes that Mr Mustafa, who is now a sentenced person, is a "Party" within the meaning of Rule 77(1) of the Rules and has standing to submit a request under Article 45 of the Law.

¹³ Response, para. 3.

¹⁴ Response, para. 4.

¹⁵ Response, para. 7.

¹⁶ See KSC-BC-2020-05, F00124, Trial Panel I, [Decision on the appointment of expert\(s\)](#), 21 May 2021, public, paras 9, 17. See also KSC-BC-2020-04, F00421, Trial Panel I, [Decision on Reparation Proceedings](#), 9 February 2023, public, para. 11.

2. Applicability of Article 45 of the Law/Rule 77 of the Rules

10. Until the present Request, the Single Judge has not yet had cause to determine whether Article 45(2) of the Law is applicable to this stage of the reparations proceedings, namely the implementation and execution of the Reparation Order. The resolution of this issue is a prerequisite to any discussion on the standard for certification under Article 45(2) of the Law.

11. In this regard, the Single Judge first notes that the terminology used in Article 45 of the Law, and especially the references to “accused”, “Pre-Trial Judge or Trial Panel”, seem to indicate that interlocutory appeals are only designed to be available for decisions issued against an accused until the judgment, pronounced in accordance with Article 43 of the Law, has become final. However, the term “proceedings” in Article 45(2) of the Law has been interpreted by all Panels of the Specialist Chambers (SC) as referring, in principle, “to the entirety of the judicial process before the [SC]”,¹⁷ including the investigation stage.¹⁸ The Single Judge observes that, following this broad interpretation, suspects, and not just accused, were allowed to challenge decisions concerning them during the investigation stage.¹⁹

12. In this regard, the Single Judge further observes that the International Criminal Court (ICC) has also found that article 82(1)(d) of the Rome Statute (ICC Statute), which is the equivalent provision to Article 45(2) of the Law and is worded in a similar

¹⁷ See also, for example, KSC-BC-2020-06, F00172, Pre-Trial Judge, [Decision on the Thaçi Defence Application for Leave to Appeal](#) (Thaçi Decision on Leave to Appeal), 11 January 2021, public, para. 13; KSC-BC-2020-07, F00169, Pre-Trial Judge, [Decision on the Defence Applications for Leave to Appeal the Decision on the Defence Preliminary Motions](#) (Gucati and Haradinaj Decision on Leave to Appeal), 1 April 2021, public, para. 14; KSC-BC-2020-04, F00401, Trial Panel I, [Decision on Request for Leave to Appeal the Decision Concerning Prior Statements Given by Pjetër Shala](#) (Shala Decision on Leave to Appeal), 24 January 2023, public, para. 17; KSC-BC-2023-12, F00149, Pre-Trial Judge, [Decision on Specialist Prosecutor's Request for Leave to Appeal the "Decision on the Confirmation of the Indictment"](#) (Thaçi et al. Decision on Leave to Appeal), 30 January 2025, public, para. 19.

¹⁸ See also KSC-BC-2018-01, F00184, Single Judge, [Decision on Application for Leave to Appeal the Decision F00180](#) (Decision on Leave to Appeal re Investigations), 24 August 2021, public, para. 12.

¹⁹ See Decision on Leave to Appeal re Investigations, para. 9.

way, applies to judicial proceedings in their entirety and, therefore, extends to proceedings regarding the implementation stage of a final reparation order:

The Chamber recalls that the reparations stage is distinct from the criminal proceedings. However, the Chamber considers that the term “proceedings” in article 82(1)(d) of the Statute refers, in principle, to the judicial proceedings before the Court in their entirety and, consequently, the reparations proceedings are not excluded. Moreover, it seems appropriate that article 82(1)(d) of the Statute, the object of which is to pre-empt the repercussions of erroneous decisions on the fairness of the proceedings, should also apply to the reparations stage.²⁰

Given that the object and purpose of Article 45(2) of the Law is entirely similar to the object and purpose of article 82(1)(d) in the ICC Statute, the Single Judge considers the ICC jurisprudence to be relevant and instructive for the interpretation of Article 45 of the Law.

13. Furthermore, the Single Judge notes that the European Court of Human Rights (ECtHR) has held that Article 6(1) of the ECHR applies to all stages of legal proceedings for the determination of civil rights and obligations, not excluding stages subsequent to a judgment on the merits, and that the implementation and execution of judicial decisions must be seen as an integral part of the “trial” for the purposes of Article 6 of the ECHR.²¹ Article 6(1) of the ECHR, as interpreted in the case-law of the

²⁰ See, ICC, *Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06-3256-tENG, Trial Chamber II, [Decision Rejecting the Application of the Defence for Thomas Lubanga Dyilo for Leave to Appeal the Decision of 6 October 2016](#), 1 November 2016, public, para. 9. This jurisprudence is applied consistently in, for example, ICC, *Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06-3445-tENG, [Decision on the Application by the Defence Team for Thomas Lubanga Dyilo for Leave to Appeal Against the Decision of 7 February 2019](#), 4 March 2019, public; *Prosecutor v. Germain Katanga*, ICC-01/04-01/07-3931-Red, Trial Chamber II, [Public Redacted Version of Decision on the request for reconsideration of or leave to appeal the “Order on the mandate of the Legal Representative of Victims” \(ICC-01/04-01/07-3925\)](#), 10 June 2024, public.

²¹ See, for example, ECtHR, [Romańczyk v. France](#), no. 7618/05, 18 November 2010, para. 53; [Hornsby v. Greece](#), no. 18357/91, 19 March 1997, para. 40.

ECtHR, is applicable before the SC through Articles 22, 53, and 162(2) of the Constitution, taken in conjunction with Article 3(2)(a) of the Law.

14. As a result, the Single Judge finds that Article 45 of the Law is applicable at the reparation stage, including the phase of the implementation and execution of the Reparation Order in the present case. Having determined that Article 45(2) of the Law is applicable to this stage of the proceedings, the Single Judge now turns to the legal test for certification enshrined therein.

3. Legal Test

15. A right to appeal arises only if the Single Judge is of the opinion that the standard for certification set forth in Article 45(2) of the Law and Rule 77(2) of the Rules has been met.²² Interlocutory appeals, interrupting the continuity of the proceedings, are the exception.²³ Considerations that an interlocutory appeal would address fundamental questions or would be to the benefit of the Specialist Chambers do not *per se* warrant certifying the appeal.²⁴

16. Mindful of the restrictive nature of this remedy, the following specific requirements apply:

- (a) Whether the matter is an “appealable issue”;
- (b) Whether the issue at hand would significantly affect:
 - i. The fair and expeditious conduct of the proceedings, or
 - ii. The outcome of the trial; and

²² See also *Thaçi* Decision on Leave to Appeal, para. 9; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 10; *Shala* Decision on Leave to Appeal, para. 13; *Thaçi et al.* Decision on Leave to Appeal, para. 15. See, similarly, ICC, *Situation in the Democratic Republic of the Congo*, ICC-01/04-168, Appeals Chamber, [Judgment on the Prosecutor’s Application for Extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision Denying Leave to Appeal](#) (Judgment on Extraordinary Review), 13 July 2006, public, para. 20.

²³ See also *Thaçi* Decision on Leave to Appeal, para. 9, with further references; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 10; *Shala* Decision on Leave to Appeal, para. 13.

²⁴ See also *Thaçi* Decision on Leave to Appeal, para. 9, with further references; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 10; *Shala* Decision on Leave to Appeal, para. 13.

(c) Whether, in the opinion of the Single Judge, an immediate resolution by the Court of Appeals Panel may materially advance the proceedings.

17. Only an “issue” may form the basis of an appealable decision. An “issue” has been described as an identifiable topic or subject, the resolution of which is essential for determination of the matters arising in the judicial cause under examination, and not merely a question over which there is disagreement or conflicting opinion.²⁵ An appealable issue requires the applicant to articulate clearly discrete issues for resolution by the Court of Appeals Panel that emanate from the impugned decision concerned and do not amount to abstract questions or hypothetical concerns.²⁶ It is generally insufficient to argue that the entirety of the Single Judge’s reasoning is erroneous.²⁷

18. Not every issue will be certified for appeal. The first prong of the certification test, as set out in (b), contains two alternatives: The issue must have significant repercussions on either (i) “the fair and expeditious conduct of proceedings” or (ii) “the outcome of the trial”.²⁸ Use of the term “significantly” in the wording of the first prong of the certification test indicates that an applicant must not only show how

²⁵ See also *Thaçi* Decision on Leave to Appeal, para. 11; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 12; *Shala* Decision on Leave to Appeal, para. 15; *Thaçi et al.* Decision on Leave to Appeal, para. 17. Similarly, ICC, ICC-01/04-168, Judgment on Extraordinary Review, para. 9.

²⁶ See also *Thaçi* Decision on Leave to Appeal, para. 11; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 12; *Shala* Decision on Leave to Appeal, para. 15; *Thaçi et al.* Decision on Leave to Appeal, para. 17. See, similarly, ICC, *Prosecutor v. Jean-Pierre Bemba Gombo*, ICC-01/05-01/08-75, Pre-Trial Chamber III, [*Decision on the Prosecutor’s Application for Leave to Appeal Pre-Trial Chamber III’s Decision on Disclosure*](#), 25 August 2008, para. 11.

²⁷ See also *Thaçi* Decision on Leave to Appeal, para. 9; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 12; *Shala* Decision on Leave to Appeal, para. 15; *Thaçi et al.* Decision on Leave to Appeal, para. 17. See, similarly, ICC, *Prosecutor v. Dominic Ongwen*, ICC-02/04-01/15-529, Trial Chamber IX, [*Decision on Defence Request for Leave to Appeal Decision ICC-02/04-01/15-521*](#), 2 September 2016, para. 6; *Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, ICC-01/09-01/11-596, Trial Chamber V, [*Decision on the Joint Defence Request for Leave to Appeal the Decision on Witness Preparation*](#), 11 February 2013, public, para. 11.

²⁸ See also *Gucati and Haradinaj* Decision on Leave to Appeal, para. 13; *Shala* Decision on Leave to Appeal, para. 16; *Thaçi et al.* Decision on Leave to Appeal, para. 18. Similarly, ICC, ICC-01/04-168, Judgment on Extraordinary Review, para. 10.

the issue affects (i) the fair and expeditious conduct of proceedings, or (ii) the outcome of the trial, but must also demonstrate the (significant) degree to which these factors are affected.²⁹ The issue must be one likely to have repercussions on either of the above two elements.³⁰

19. The “fair and expeditious conduct of proceedings” is generally understood as referencing the norms of fair trial.³¹ The principles of fair trial are not confined to trial proceedings, but extend to all stages of the proceedings, including the implementation or execution of reparation orders, as discussed above.³² Expeditiousness, i.e. conducting proceedings speedily, within a reasonable time, without prejudice to the rights of the Parties concerned, is but one attribute of a fair trial.³³

20. Alternatively, the first prong of the certification test may be met if the issue significantly affects the outcome of proceedings. Thus, it must be considered whether a possible error in an interlocutory decision would impact the outcome of proceedings. The exercise involves a forecast of the consequence of such an occurrence.³⁴

21. The second prong of the test for certification is an additional limiting factor. Because of the test’s cumulative nature, the failure of an applicant to establish the first

²⁹ See also *Thaçi* Decision on Leave to Appeal, para. 12, with further references; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 13; *Shala* Decision on Leave to Appeal, para. 16; *Thaçi et al.* Decision on Leave to Appeal, para. 18.

³⁰ See also *Thaçi* Decision on Leave to Appeal, para. 12; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 13; *Shala* Decision on Leave to Appeal, para. 16; *Thaçi et al.* Decision on Leave to Appeal, para. 18. Similarly, ICC, ICC-01/04-168, Judgment on Extraordinary Review, para. 10.

³¹ See also *Thaçi* Decision on Leave to Appeal, para. 13; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 14; *Shala* Decision on Leave to Appeal, para. 17; *Thaçi et al.* Decision on Leave to Appeal, para. 19. Similarly, ICC, ICC-01/04-168, Judgment on Extraordinary Review, para. 11.

³² See paragraphs 11-14 above.

³³ See also *Thaçi* Decision on Leave to Appeal, para. 13; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 14; *Thaçi et al.* Decision on Leave to Appeal, para. 19. Similarly, ICC, ICC-01/04-168, Judgment on Extraordinary Review, para. 11.

³⁴ See also *Thaçi* Decision on Leave to Appeal, para. 14; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 15; *Shala* Decision on Leave to Appeal, para. 18; *Thaçi et al.* Decision on Leave to Appeal, para. 20. Similarly, ICC, ICC-01/04-168, Judgment on Extraordinary Review, para. 13.

prong of the test will necessarily exempt the Panel from considering whether the second prong has been met.³⁵

22. The second prong of the test for certification requires a determination that prompt referral of an issue to the Court of Appeals Panel will settle the matter and rid the “judicial process of possible mistakes that might taint either the fairness of proceedings or mar the outcome of the trial” thereby moving the proceedings forward along the right course.³⁶

23. Lastly, certification is not concerned with whether a decision is correctly reasoned, but whether the standard for certification has been met.³⁷ The decision examining a request for leave to appeal is not an opportunity to explain the contested decision to the Parties. However, where necessary, the Single Judge will provide explanations if it is clear that a misrepresentation of the decision so warrants.³⁸

4. Issues

24. Before turning to the Request, the Single Judge notes, with some concern, that Specialist Counsel has neither formulated the issues proposed for certification with the requisite clarity, nor substantiated if the issues meet the legal test of Article 45(2) of the Law/Rule 77(2) of the Rules. To argue that Mr Mustafa “objects” to the Impugned Decision on a number of issues that essentially make out the entirety of the decision, is simply not sufficient. Further, it is also recalled that Mr Mustafa, despite

³⁵ See also *Thaçi* Decision on Leave to Appeal, para. 15, with further references; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 16; *Shala* Decision on Leave to Appeal, para. 19; *Thaçi et al.* Decision on Leave to Appeal, para. 21.

³⁶ See also *Thaçi* Decision on Leave to Appeal, para. 16; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 17; *Shala* Decision on Leave to Appeal, para. 19; *Thaçi et al.* Decision on Leave to Appeal, para. 21. Similarly, ICC, ICC-01/04-168, Judgment on Extraordinary Review, paras 14-16, 18-19.

³⁷ See also *Thaçi* Decision on Leave to Appeal, para. 17, with further references; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 18; *Shala* Decision on Leave to Appeal, para. 20; *Thaçi et al.* Decision on Leave to Appeal, para. 22.

³⁸ See also *Thaçi* Decision on Leave to Appeal, para. 17, with further references; *Gucati and Haradinaj* Decision on Leave to Appeal, para. 18; *Shala* Decision on Leave to Appeal, para. 20; *Thaçi et al.* Decision on Leave to Appeal, para. 22.

having had the opportunity, has chosen not to appeal the Reparation Order or to participate in the proceedings leading up to the Impugned Decision. With the Request, Specialist Counsel submits a Rule 77 application for the first time in the present case. In these circumstances, and to uphold Mr Mustafa's rights, the Single Judge is prepared to entertain the Request, despite its shortcomings, as presented by Specialist Counsel. Nevertheless, the Single Judge underscores that it is the obligation of Specialist Counsel to properly and diligently prepare requests so as to give effect to the rights of his client. The Single Judge expects Specialist Counsel to abide by such duty in the future.

a) Appealable Issue

25. While Specialist Counsel has failed to formulate concrete issues against the requisite standard, as set out above, the Single Judge recalls that a right to appeal arises if *the Panel* is of the opinion that any such decision must receive the immediate attention of the Court of Appeals Panel. This opinion constitutes the definitive element for the genesis of a right to appeal. This signifies that, in essence, the Single Judge is vested with the power to state, or more accurately still, to certify the existence of an appealable issue, despite Specialist Counsel's shortcomings in articulating the issues.³⁹

26. It appears from the submissions in the Request that the main gist of the Specialist Counsel's argumentation is that the Single Judge's findings in the Impugned Decision regarding the interest rate to be applied, if any, the point at which it starts to accrue, and the modalities of calculation have no legal basis.⁴⁰ These issues were addressed in

³⁹ See also, KSC-BC-2020-04, F00116, Pre-Trial Judge, [Decision on Application for Leave to Appeal "Decision on Motion Challenging the Form of the Indictment"](#), 29 November 2021, public, para. 26; *Shala* Decision on Leave to Appeal, para. 42. Similarly, ICC, ICC-01/04-168, Judgment on Extraordinary Review, para. 20; *Prosecutor v William Ruto and Joshua Arap Sang*, ICC-01/09-01/11-912, Pre-Trial Chamber II, [Decision on the Prosecutor's Request for Leave to Appeal the Decision Rejecting the Amendment of the Charges \(ICC-01/09-01/11-859\)](#), 6 September 2013, public, para. 67; *Prosecutor v Jean-Pierre Bemba Gombo et al.*, ICC-01/05-01/13-1893, Trial Chamber VI, [Decision on Defence request seeking leave to appeal the "Decision on request for compensation for unlawful detention"](#), 13 May 2016, public, para. 23.

⁴⁰ Request, paras 13-14.

the Impugned Decision and emanate therefrom. With a view to providing more clarity, which could assist the Court of Appeals Panel, the Single Judge reformulates the issues as follows:

- (1) *First Reformulated Issue*: Whether the Single Judge erred in determining that an interest rate applies to the part of the Reparation Order which has not been executed yet by Mr Mustafa, and up until the Reparation in Order is paid in full;
- (2) *Second Reformulated Issue*: Whether the Single Judge erred in determining that such an interest rate should be eight percent (8%) per annum;
- (3) *Third Reformulated Issue*: Whether the Single Judge erred in determining that the established interest rate starts to accrue as of the date on which the Impugned Decision was notified to Mr Mustafa;
- (4) *Fourth Reformulated Issue*: Whether the Single Judge erred in determining the modalities of the calculation of the established interest rate, as set forth in paragraph 29 of the Impugned Decision (together, Reformulated Issues).

b) Remaining Requirements of the Legal Test

27. In what follows, the Single Judge will apply the test for certification to the Reformulated Issues. For reasons of expediency, the Single Judge will proceed to analyse the test for all issues together.

28. The Single Judge observes that, given the finality of the Reparation Order, the Impugned Decision settles related aspects which cannot, at this point, be further litigated before the Single Judge. The issues, as reformulated, raise questions of their legal basis as well as their legal and factual accuracy. Early resolution of the issues at the appellate level would also streamline the reparation proceedings, avoid any future litigation on this matter, and ensure that reparation proceedings do not continue in contravention of Mr Mustafa's (and victims') rights. For these reasons, the Single Judge finds that the Reformulated Issues significantly affect the fair and expeditious conduct of the reparation proceedings, as provided in Article 45(2) of the Law and Rule 77(2) of the Rules.

29. The Single Judge also considers that an authoritative determination of a Court of Appeals Panel of the Reformulated Issues would put Mr Mustafa and the victims on notice of the (i) correct interest rate, if any,⁴¹ (ii) the starting point for interest to be paid by Mr Mustafa,⁴² and (iii) the modalities of calculation of the established interest rate to be applied in the future for each victim,⁴³ thereby moving the reparation proceedings forward along the right course. If those issues were not settled at this stage, they would mar the outcome of reparation proceedings in this case. For these reasons, the Single Judge finds that an authoritative determination of a Court of Appeals Panel of the Reformulated Issues would materially advance reparation proceedings, as provided in Article 45(2) of the Law and Rule 77(2) of the Rules.

c) Overall Conclusion

30. The Single Judge finds that the Reformulated Issues meet the test for certification and grants leave to appeal.

IV. DISPOSITION

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

GRANTS the Request on the issues as reformulated in paragraph 26 above.



Judge Gilbert Bitti
Single Judge

Dated this Monday, 11 August 2025

At The Hague, the Netherlands.

⁴¹ First and Second Reformulated Issues.

⁴² Third Reformulated Issue.

⁴³ Fourth Reformulated Issue.