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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 Guénaël Mettraux Judge Fergal Gaynor, Reserve Judge
Registrar:	Dr Fidelma Donlon
Filing Participant:	Victims' Counsel
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Public redacted version of Victims' Counsel's Submissions in Response to the Order for Submissions on Reparation Proceedings (F03565)

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I. INTRODUCTION

1. Pursuant to the Order of the Panel,[1] Victims' Counsel hereby provides his submissions regarding (i) whether the Trial Panel should refer the VPPs to civil litigation in Kosovo, pursuant to Article 22(9), (ii) the feasibility of holding reparations proceedings between the closing arguments and the rendering of the trial judgment such that the reparation order could be issued together with the trial judgment; and (iii) the substantive, procedural, and logistical considerations related to any alternative courses of action.

2. The Panel requested that Victims' Counsel address specific steps, including the time frames necessary for their completion.[2] These steps are addressed below.

II. CLASSIFICATION

3. This filing is classified as confidential pursuant to Rule 82(4) as it relates to a confidential filing. Victims' Counsel does not object to it being reclassified as public.

III. PROCEDURAL HISTORY

4. There are one hundred and fifty-five victims participating in the proceedings in Case 06.[3]

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[1] KSC-BC-2020-06/F03565, Order for Submissions on Reparation Proceedings, 6 November 2025, paras 11-14, 19(a) ("Order").

[2] Order, para. 12.

[3] KSC-BC-2020-06/F00257, First Decision on Victims' Participation, 21 April 2021; F00611, Second Decision on Victims' Participation, 10 December 2021; F00817, Third Decision on Victims' Participation, 25 May 2022; F01152, Fourth Decision on Victims' Participation, 12 December 2022; F01293, Fifth Decision on Victim's Participation, 15 February 2023; F01355, Sixth Decision on Victims' Participation, 9 March 2023; F01774, Seventh Decision on Victim's Participation, 7 September 2023; F02071, Decision on Resubmission of the Fourteenth Registry Report on Victims' Applications for Participation in the Proceedings, 19 January 2024; F02439, Decision on the Sixteenth Registry Report on Victims' Applications for Participation in the Proceedings, 10 July 2024; F02786, Decision on Seventeenth Registry Report on Victims' Applications for Participation in the Proceedings, 16 December 2024; F03179, Consolidated Decision on the Eighteenth and Nineteenth Registry Report on Victims' Applications for Participation in the Proceedings, 15 May 2025. Three VPPs passed away during the course of the proceedings and without a successor to date, see F02512, Victims' Counsel's Notification of death of Victim 02-06, 27 August 2024; F03113, Victims' Counsel's Notification of death of Victim 217-06, 14 April 2025; and F03231, Victims' Counsel's Notification of death of Victim 296-06, 5 June

5. The trial commenced on 3 April 2023.

6. On 4 December 2024, after having heard Victims' Counsel and the Parties, the Panel ordered that any request for reparations was to be filed after the trial judgment is rendered ("Order of 4 December 2024").[4]

7. On 2 May 2025, Victims' Counsel submitted expert reports relevant to the victims' case.[5] These reports included a report by Dr Stefan Lerz, an expert in calculation of income loss, on material harm suffered by VPPs, as well as his reports in cases 04 and 05. On 3 July 2025, the Panel rejected, without prejudice, the admission of Dr Lerz's reports.[6]

8. On 23 July 2025, Victims' Counsel filed a request for the admission of 74 SIHs pursuant to Rules 153 and 155.[7] On 21 October 2025, the Panel admitted the SIHs of 23 VPPs whose identity was known to the Parties and rejected the admission of SIHs for 51 single status victims unless their protective measures were varied to waive their anonymity *vis-à-vis* the Parties.[8]

2025. Four other VPPs have passed away since their admission and their claims are continued by a successor or successors, see F00611, Second Decision on Victims' Participation, 10 December 2021, para. 33; F01692, Decision on Victims' Counsel's Request for Resumption of Action on Behalf of V131/06 by an Immediate Family Member, 21 July 2023; F01834, Decision on Victim's Counsel's Request for Resumption of Action on Behalf of V252/06 by Relatives, 4 October 2023; F02789, Decision on Victims' Counsels Request for Resumption of Action Initiated by V254/06, 18 December 2024. One VPP has withdrawn from the proceedings, see F03022, Victims' Counsel's Notification of withdrawal from participation as a victim of [REDACTED], 17 March 2025.

[4] Oral Order, T. 4 December 2024, 23304:18-24: "Any request for reparations should be filed by Victims' Counsel after the judgment in the case and after any verdicts on the counts are determined."

[5] F03160, Victims' Counsel's submission of expert reports with a request to admit them into evidence, 2 May 2025.

[6] F03305, Decision on Victims' Counsel's Submission of Expert Reports and Request to Admit them into Evidence, 3 July 2025 ("Decision on Expert Reports").

[7] F03363, Victims' Counsel's Request for Admission of Evidence Pursuant to Rule153 and Rule 155 and Related Request, 23 July 2025.

[8] F03533, Decision on Victims' Counsel's Request for Admission of Evidence Pursuant to Rule 153 and Rule 155, 21 October 2025.

9. On 31 October 2025, Victims' Counsel requested reconsideration of the Panel's decision rejecting SIHs from single status victims.[9]

10. Victims' Counsel's impact statement is to be filed by 22 December 2025.[10]

IV. SUBMISSIONS

A. Whether Victims' Counsel would be in the position to provide submissions as to whether the Panel shall refer victims to civil litigation in Kosovo, pursuant to Article 22(9) and Rule 167 or issue a reparation order pursuant to Articles 22(8) and 44(6)

11. In the event of any convictions, it is submitted that the Panel should not refer the VPPs in this case to civil litigation in Kosovo. The overwhelming likelihood is that such a decision would prevent the VPPs realising their right to reparations.

12. Trial Panel I considered this issue in both the *Salih Mustafa*[11] and *Pjetër Shala*[12] cases. In the *Mustafa* case, the Panel ordered the Registry to instruct three experts to provide reports addressing the issue of the suitability of civil litigation in Kosovo as an alternative to the Panel making a Reparation Order.[13]

13. Based on this expertise Trial Panel I concluded that pursuing civil litigation in Kosovo would be incompatible with victims retaining their anonymity:

> 37. The Panel notes that, based on the information provided by the Appointed Experts, it appears **that the current legal framework in Kosovo does not provide for anonymous civil claims and/or the possibility of protective measures in civil cases more generally**. While the Third Expert submits that the relevant legal provisions suggest that a person who submits a civil claim may request the application of certain protective measures upon showing of good cause, according

[9] F03554, Victims' Counsel's Request for Partial Reconsideration of the Decision on Victims' Counsel's Request for Admission of Evidence Pursuant to Rule 153 and Rule 155, 31 October 2025 ("Request for Reconsideration").
[10] F03435, Further Order on the Scheduling of the Defence Case, 2 September 2025, para. 35(n).
[11] KSC-BC-2020-05/F00310/RED, Public redacted version of Decision on the application of Article 22(9) of the Law, setting further procedural steps in the case, and requesting information, 4 February 2022 ("*Mustafa* Decision on the application of Article 22(9) of the Law").
[12] *Specialist Prosecutor v. Pjetër Shala*, KSC-BC-2020-04/F00421, Decision on reparation proceedings, 9 February 2023 ("*Shala* Decision on reparation proceedings").
[13] KSC-BC-2020-05/F00124, Decision on the appointment of expert(s), 20 May 2021.

to the same expert, on the basis of court practice to date and the research conducted for the purposes of the Third Report, this has never occurred in practice. Moreover, with regard to the practical experience of national Kosovo courts with regard to compensation claims in war crimes cases, the Panel also notes that, according to the Third Expert, there has not yet been a single confirmed case in Kosovo of a victim initiating proceedings for compensation following the rendering of a final judgment in a war crimes case. According to the same expert, this may have been caused, inter alia, by the fact that such victims, after having benefitted from anonymity or other protective measures in criminal proceedings, may not wish to publicly request compensation from convicted KLA members, also considering the widespread public disapproval of such trials.

38. The above information is in stark contrast to the possibilities available and measures implemented before the SC. The Panel recalls that the victims in the present case were granted some of the most extensive protective measures available under the SC's legal framework, including the full range of in-court protective measures to protect their identities from the public during their testimonies. These protective measures were granted following the Pre-Trial Judge's finding that [REDACTED]. **Moreover, although not expressly mentioned in Article 22(3) of the Law, the protection of the safety, physical and psychological well-being, dignity and privacy of the victims provided for in Article 23 of the Law must be understood as an essential part of the victims' personal interests and rights**. The in-court protective measures adopted are: assignment of pseudonyms and identification as such throughout the proceedings; redaction of the names and identifying information from the SC's public records; non-disclosure to the public of any identifying records; testimony with face and voice distortion; and closed or private sessions for any identifying in-court discussion or testimony. See [REDACTED]. [REDACTED]. **As a consequence, the Panel must ensure the protection of victims as provided for in Article 23 of the Law throughout the entirety of the judicial process, including the reparations proceedings, irrespective of the forum in which such reparations proceedings are conducted. Notably, the obligation to protect victims and their families continues even after the trial has been concluded before the Panel. For these reasons, the ability to protect victims' identities, and consequently their and their families' safety and physical and psychological well-being, constitutes a key consideration for the Panel's assessment as to whether victims should be referred to civil litigation in Kosovo courts in case of a conviction.** In this regard, the Panel also pays heed to the Second Expert's assessment that "if victims are not willing and ready to proceed with civil claims in Kosovo with their identity revealed, every other discussion regarding the judicial system in Kosovo may not be of any use in practical terms".

39. On the basis of the information before it, and having regard to all the relevant facts and circumstances, **the Panel finds that referring victims to Kosovo courts bears the risk of infringing upon the measures taken by the SC to protect those victims in the present judicial proceedings, as it would not allow for adequate protection of their identities**. Therefore, the Panel can only conclude that the national courts in Kosovo do not provide a realistic avenue for victims to claim reparations.[14]

[14] *Mustafa* Decision on the application of Article 22(9) of the Law, paras 37-39.

14. As a result, Trial Panel I concluded:

> In light of the foregoing, the Panel considers that it would not be appropriate to refer victims to civil litigation in Kosovo courts pursuant to Article 22(9) of the Law and Rule 167 of the Rules. Rather, in case of a conviction, the Panel will issue a Reparation Order pursuant to Articles 22(8) and 44(6) of the Law.[15]

15. In the *Shala* case, Trial Panel I found in this regard:

> One of the issues identified in the expert reports was that the current legal framework in Kosovo does not provide for anonymous civil claims and/or the possibility of protective measures in civil cases more generally. The Panel recalls that this information is in stark contrast to the possibilities available and measures implemented before the SC. The Panel considers that, although not expressly mentioned in Article 22(3) of the Law, the protection of the safety, physical and psychological well-being, dignity and privacy of victims provided for in Article 23 of the Law must be understood as an essential part of the victims' personal interests and rights, and that consequently, the Panel must ensure the protection of victims as provided for in Article 23 of the Law throughout the entirety of the judicial process, including the reparation proceedings, irrespective of the forum in which such reparation proceedings are conducted. For these reasons, the ability to protect victims' identities, and consequently their and their families' safety and physical and psychological wellbeing, constitutes a key consideration for the Panel's assessment as to whether victims should be referred to civil litigation in Kosovo courts in case of a conviction. The Panel has no information at present to suggest that there has been a change in circumstances regarding this issue since the expert reports were produced. The Panel therefore does not consider it necessary to solicit further expert reports on this matter and instead finds that referring victims to Kosovo courts continues to bear the risk of infringing upon the measures taken by the SC to protect those victims in the present judicial proceedings, as it would not allow for adequate protection of their identities.[16]

16. Victims' Counsel has no information that would suggest that the circumstances regarding these issue(s) have changed and therefore respectfully requests the Panel to adopt the above findings for the purposes of reparation proceedings in this case.

17. Victims' Counsel notes that all of the VPPs have been granted the protective measure of anonymity *vis-à-vis* the public. Thus, the courts in Kosovo "do not provide a realistic avenue for these victims to claim reparations" and for that

[15] *Mustafa* Decision on the application of Article 22(9) of the Law, para. 40.
[16] *Shala* Decision on reparation proceedings, para. 22.

reason, this Trial Panel should not refer them to civil litigation in Kosovo pursuant to Article 22(9).

18. The issue of anonymity, while sufficient for Trial Panel I to dispose of the issue of Article 22(9) in the *Mustafa* and *Shala* cases, was not the only problem that the experts identified in relation to the system of civil justice in Kosovo. Other shortcomings included:

> (i) the likely existence of a certain level of corruption and interference within the Kosovo legal system and the lack of efficient accountability structures for the judiciary; (ii) the length of civil proceedings; (iii) potential problems concerning the execution of awards issued by Kosovo courts against assets located in the territory of a country which lacks judicial cooperation agreements or diplomatic ties with Kosovo; (iv) the fact that existing funds for the provision of legal aid may not have sufficient resources to ensure that legal aid is continuously provided; and (v) the uncertainty with regard to the application of statutes of limitations, if any, to civil claims advanced by victims of war crimes.[17]

19. Victims' Counsel further requests the Panel to adopt these observations for the purpose of these proceedings.

20. It should further be noted that both the *Mustafa* and *Shala* cases dealt exclusively with VPPs of Kosovo Albanian ethnicity. In Case 06, the VPPs include [REDACTED]. It is very difficult to see how this group could be expected to seek reparations through civil litigation in Kosovo.

[17] *Mustafa* Decision on the application of Article 22(9) of the Law, para. 35; *Shala* Decision on reparation proceedings, para. 22: "The Panel recalls that according to the expert reports submitted on this matter in Case 05, the national courts in Kosovo do not offer a realistic avenue for the victims of the alleged crimes to claim reparations and, if reparations would be granted by judgments issued by national courts in Kosovo, to have such judgments enforced."

21. In summary, it is clear that a referral to civil litigation in Kosovo would be fraught with difficulty, inimical to the VPP's right to obtain reparations at all, let alone promptly, and thus, it is submitted, should not be pursued by the Panel.

B. Whether Victims' Counsel would be in the position to present evidence pursuant to Rule 168 before the trial judgement delivery

22. Victims' Counsel intends to submit expert evidence from two sources:

i) Three expert reports from Dr Lerz (see paragraph 7 above)

23. Victims' Counsel would be in a position to serve Dr Lerz's expert reports two weeks after closing statements pursuant to Rule 168.

ii) An expert opinion on possible forms of collective reparations

24. Victims' Counsel intends to engage an expert to report about possible forms of collective reparations appropriate in the context of this case. As set out further below at paragraphs 34 to 37, Victims' Counsel does not envisage being in a position to serve such a report until three months following the completion of closing statements. Additionally, Victims' Counsel is of the view that presenting such a report before any conviction in this case is not appropriate.

Other material

25. In addition to the expert evidence and depending on the decision on the Request for Reconsideration, Victims' Counsel may be seeking to provide further information related to individual VPPs for the purpose of reparations. This material will be submitted in writing and can be served two weeks after closing statements.

C. Should Victims' Counsel wish to present evidence pursuant to Rule 168, can Victims' Counsel provide an indication of what evidence is expected to be presented and whether such evidence would be led live or in writing, or both, in particular how many witnesses if any

26. Victims' Counsel's expert evidence will be limited to the material set out above in B (i) and (ii). Victims' Counsel envisages that this will all be done in writing.

27. In this context, Victims' Counsel submits that the Panel should adopt the interpretation of Rule 168 applied by Trial Panel I in the *Mustafa* and *Shala* cases:

> In this context [reports being submitted solely in the framework of reparations proceedings], the Panel recalls that Rule 168 of the Rules is the *lex specialis* rule governing the specific context of reparations and Rule 149 of the Rules, pertaining generally to expert witnesses, does not apply. Thus, the Rules clearly foresee that in principle, the Panel is to receive and assess expert evidence in the context of reparation proceedings only in writing. Furthermore, contrary to Rule 149(4) of the Rules, Rule 168 of the Rules does not require the Panel to take any decision as to the admissibility of an expert witness report concerning solely reparations. In light of the above, the Panel will not proceed with any determination of admissibility of either report, but will rather refer to their content and challenges thereto,[18] as necessary.[19]

28. This interpretation/application of Rule 168 would not be in conflict with the Panel's Decision not to admit the Lerz reports in evidence pursuant to Rule 149(4) issued during the trial:

> 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.[20]

D. Should Victims' Counsel also present evidence pursuant to Rule 168 live, what is the expected duration of such testimony

29. Not applicable.

[18] Note that in the *Shala* case, the Defence and Victims' Counsel submitted questions for the experts in writing, see e.g. F00687, Defence Submission of Written Questions for Victims' Counsel's Expert Witness with Confidential Annex I, 11 October 2023.
[19] KSC-BC-2020-04/F00866/RED, Public redacted version of Reparation Order against Pjetër Shala, 29 November 2024, para. 191 ("Case 04 Reparation Order").
[20] Decision on Expert Reports, para. 30.

E. Whether Victims' Counsel would be in the position to file a request for reparations in sufficient time to enable the Defence and the SPO to respond before the trial judgement delivery and, if so, how much time would Victims' Counsel require to prepare the request

30. By way of preface, Victims' Counsel informs the Panel that the phases of the work of the Victims' Counsel Team have been planned in reliance on the Order of 4 December 2024 that the reparations phase should follow on from the delivery of the judgment, and that the request for reparations would be submitted one month after the judgment.[21]

31. Victims' Counsel had envisaged preparing the request for reparations during the 90-day period of the Panel's deliberations and then adjusting it as necessary in light of any relevant factual findings in the judgment, producing a request that is responsive to the Panel's conclusions.

32. Victims' Counsel maintains that this is the appropriate course for the Panel to follow. The *Mustafa* and *Shala* cases, in which it was ordered at an early stage that the reparation proceedings would be conducted alongside the trial, do not provide a useful point of comparison for the purpose of determining the appropriate timing of the reparation request in this case. They were both single-accused cases relating to one murder and detention-based crimes against a comparatively small number of prisoners at a single detention centre. In both cases, the evidential basis for the reparation request was of a narrow scope, with the likely verdicts being either a full acquittal or conviction (as proved to be the case). In this case, the extensive factual issues and permutations of possible verdicts across multiple locations and involving four Accused, present a quite different background to the reparation request. The judgment may exclude one, more or all of the Accused from criminal liability. Similarly, and importantly for

[21] T. 1 October 2024, 20572:25-20573:7.

the purposes of the reparation request, the judgment may exclude some or none of the VPPs from eligibility for reparations depending on the findings on each alleged crime site.

33. It should also be noted, in the context of the Order's reference to the delivery of the trial judgment and the reparation order at the same time,[22] that this was not what occurred in either the *Mustafa* or *Shala* cases. In the *Mustafa* case, judgment was delivered on 16 December 2022 and the Reparation Order on 6 April 2023. In the *Shala* case, judgment was delivered on 16 July 2024 and the Reparation Order (85 pages relating to eight VPPs) on 29 November 2024.

34. The work involved in the preparation of the reparations request falls into three parts:

    i) Setting out the legal framework in relation to the request.

    ii) Conducting an assessment aimed at determining adequate individual reparations for each of the VPPs, including monetary reparations with regard to a large number of VPPs.

    iii) Work on a possible proposal for collective reparations based on the expert report. Victims' Counsel emphasises that preliminary discussions with relevant experts have begun, with a view to being progressed in a timescale that accords with the Order of 4 December 2024.

35. Steps (ii) and (iii) will involve extensive consultation with many of the VPPs concerned. In this context, Victims' Counsel recalls the established principles in relation to reparations as set out by Trial Panel I:

> 35. As a general principle, reparations at the SC ought to be victim-centred. This means that victims' interests, needs, views and concerns ought to drive the decision-making process in all matters related to reparations.

[22] Order, para. 11.

> 36. In this respect, the SC shall give due consideration to the victims and properly involve them in the proceedings in accordance with Article 22(11) of the Law, to ensure that their rights to truth, justice, and reparations are respected and enforced.
>
> 37. Victims should be able to participate throughout the reparation proceedings and receive adequate support in order to make their participation substantive and effective. In this context, timely and effective outreach action aimed at informing victims about reparations is critical.[23]

36. In reliance on the schedule ordered by the Panel on 4 December 2024, Victims' Counsel has planned and organised its work accordingly. The current phase of work involves drafting the impact statement, and the next, reading the Parties' closing briefs and preparing closing statements. Work relating to points (ii) and (iii) are, thus, not at a sufficiently advanced stage of completion for a reparations request to be filed without additional time after closing statements.

37. Victims' Counsel considers that the work required by points (ii) and (iii) in paragraph 34 above would take approximately three months. The reparation request itself would then be served within four weeks of the judgment.

38. If, contrary to these submissions, Victims' Counsel is directed to serve the reparation request before the judgment, then the answer to the question of whether the Defence and the SPO will have time to respond to it will depend on the length of the Panel's deliberations.[24]

V. CONCLUSION

39. For the foregoing reasons, Victims' Counsel respectfully requests that the Trial Panel:

    i) Determine that it should make a reparation order in this case, and not refer the VPPs to civil litigation in Kosovo, and

    ii) Adhere to the Order of 4 December 2024.

[23] Case 04 Reparation Order, paras 35-37.
[24] Noting the discretion to extend the time for deliberations pursuant to Rule 159(1).

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