The Hague, 16 December 2022

Summary of Trial Judgment in

Specialist Prosecutor v. Salih Mustafa (KSC-BC-2020-05)

[*Please find below the summary of the Trial Judgment delivered by Trial Panel I, as read out by the Presiding Judge.*]

TRIAL PANEL I will render today the Trial Judgment in the case of the *Specialist Prosecutor v. Salih Mustafa*. The Panel is composed of Judges Roland Dekkers, Gilbert Bitti and Vladimir Mikula, as Reserve Judge, and myself, Mappie Veldt-Foglia, as Presiding Judge. This Judgment is pronounced in public, in the name of the people of Kosovo, and in the presence of Mr Mustafa.

1. While I will read a summary of the central findings made by the Panel, this summary is not part of the Trial Judgment, which is the only authoritative account of the Panel's ruling and findings. The non-authoritative summary will be available on the website of the Specialist Chambers.

2. These proceedings concern the acts of Mr Mustafa at a compound in Zllash/Zlaš in Kosovo between approximately 1 April 1999 and around the end of April 1999.

3. Today's Judgment marks a milestone for the Specialist Chambers. It constitutes the first Judgment for war crimes of this tribunal. It represents another step towards delivering justice and promoting accountability for serious violations of international humanitarian and criminal law allegedly committed in Kosovo between 1 January 1998 and 31 December 2000.

4. Before turning to the Panel's findings on the charges against Mr Mustafa, the Panel wishes to address a few important issues.

5. Firstly, there seems to be sometimes a misconception that these charges were brought against the Kosovo Liberation Army as such or against the people of Kosovo as a whole. Nothing could be further from the truth. To the contrary, it was the people of Kosovo – through their Parliament – who chose to create and empower this institution.

6. In addition, criminal responsibility before the Specialist Chambers is only personal. This principle is enshrined in the legal framework of the Specialist Chambers. It grants this tribunal jurisdiction over natural persons only. Accordingly, the Specialist Chambers will only hold accountable persons for crimes they committed individually. In the present case, the charges presented by the Specialist Prosecutor relate solely to the individual criminal responsibility of Mr Mustafa and his involvement in the war crimes of arbitrary detention, cruel treatment, torture and murder, as alleged in the charges in the Confirmed Indictment. At no point in time was the Kosovo Liberation Army on trial. Mr Mustafa and his alleged actions were on trial.

7. Secondly, the victims alleged to have suffered harm because of the actions of Mr Mustafa are citizens of Kosovo and of Albanian ethnicity. Their efforts to seek justice and truth lie at the heart of these proceedings.

8. Finally, the Panel has heard several first-hand accounts of witnesses, some of whom are also participating victims in the case. These witnesses testified on the traumatic events they experienced and the continuous psychological impact these events have had on their lives and on the lives of their families.

9. The Panel recognizes that it takes tremendous courage to come forward to testify. The victims did so in a pervasive climate of fear and intimidation that persists in Kosovo to this day. Throughout the course of this trial, the Panel has heard credible evidence from multiple witnesses indicating that those who cooperate — or are believed to cooperate – with the Specialist Chambers or with the Specialist Prosecutor are labelled in Kosovo as "traitors" or "collaborators" and are subjected to threats and

intimidation, either themselves or their families. The victims who have come forward as witnesses in this case now live in constant fear that something will happen to them or to their families. They are still to this day unable to speak freely about the traumatic events they experienced and the harm they suffered.

10. This climate of fear and intimidation – directed against witnesses who provide evidence in investigations or prosecutions of crimes allegedly committed by former members of the Kosovo Liberation Army – is one of the reasons why this Court was created and is located here in The Hague and not in Kosovo. It is also the reason why the Pre-Trial Judge and the Panel have put in place protective measures for witnesses and participating victims with a view to conceal their identity from the public. However, the identity of the witnesses was disclosed to Mr Mustafa and his lawyers to ensure his right to a fair trial.

11. As a result of the protective measures put in place, several trial hearings were conducted in private session – without the public being able to hear what was discussed in the courtroom. This guaranteed the effective protection of the identity of those who wanted to tell their story before this Panel. For the same reason, the Panel ordered the temporary segregation of Mr Mustafa and certain restrictions to his communications with the outside world. The Panel has nonetheless always been attentive to the rights of Mr Mustafa and has, at all times, balanced the interests of witnesses and victims, on the one hand, and Mr Mustafa's rights, on the other.

12. I will now begin with the summary of the Judgment.

The Accused and the charges

13. Mr Salih Mustafa – the Accused in this case – is a Kosovar national, born on 1 January 1972 in Prishtinë/Priština, Kosovo.

14. According to the charges presented by the Specialist Prosecutor and confirmed by the Pre-Trial Judge, at all times relevant to the Confirmed Indictment, Mr Mustafa was the Commander of the BIA Guerrilla unit, a unit of the Kosovo Liberation Army.

According to the Confirmed Indictment, the BIA had its base in a compound in Zllash/Zlaš, in the Gollak region of Kosovo. This compound was allegedly used by the BIA as a safe house and as a detention and interrogation site. The Specialist Prosecutor asserts that the crimes charged were committed at this compound. I will refer to it as the Zllash/Zlaš Detention Compound.

15. The Specialist Prosecutor charged Mr Mustafa with four counts of war crimes under Article 14(1)(c) of the Law: arbitrary detention (Count 1), cruel treatment (Count 2), torture (Count 3), and murder (Count 4). The Prosecution alleged that Mr Mustafa is individually criminally responsible, under various modes of liability, pursuant to Article 16(1)(a) and (c) of the Law, for the arbitrary detention, cruel treatment, and torture of at least six persons at the Zllash/Zlaš Detention Compound, between approximately 1 April 1999 and 19 April 1999, and for the murder of one person, between approximately 19 April 1999 and around the end of April 1999.

16. Mr Mustafa pleaded not guilty to all counts.

Overview of trial proceedings

17. I will give a short overview of the trial proceedings. The Trial commenced on 15 September 2021 with the opening statements of the Specialist Prosecutor's Office and the Victims' Counsel. The Defence made its opening statement on 22 March 2022.

18. During the trial, the Panel has heard 28 witnesses, 13 called by the Specialist Prosecutor and 15 by the Defence. The Panel has further considered written statements, documentary evidence and expert reports.

19. Moreover, eight victims have participated in the proceedings, all of whom benefitted from protective measures.

20. Following the hearing on the closing statements, the Presiding Judge closed the case on 15 September 2022, and the Panel entered its deliberations for the 90-day period provided in Rule 159(1) of the Rules.

Evidence assessment

21. Let me turn to how the Panel assessed the evidence presented in this case by the Specialist Prosecutor's Office and the Defence.

22. Prior to entering its factual and legal findings, the Panel conducted a general assessment on the credibility and reliability of the Specialist Prosecutor and Defence witnesses. The Panel also took into consideration the impact that the prevailing climate of witness intimidation had on the evidence of these witnesses.

23. As concerns the witnesses of the Specialist Prosecutor, the Panel found that their testimonies were, to a great extent, clear, coherent and consistent. Their descriptions were graphic, rich in detail and narrated with emotion. This demonstrates that the victims experienced the events personally. In addition, the testimonies of the witnesses corroborated each other and were further corroborated by other credible and reliable evidence before the Panel. Overall, the Panel found that the evidence provided by the witnesses called by the Specialist Prosecutor was credible and relied on it, albeit to different degrees.

24. Turning to the Defence witnesses, the Panel discerned several factors negatively affecting their credibility. These factors included:

- strong and deep ties between the witnesses and Mr Mustafa, rooted in their subordinate-superior relationship when they were in the BIA unit in 1999 and in personal relationships (they are friends or related through family);
- close interactions between witnesses and Mr Mustafa before and after their interviews with the Specialist Prosecutor;
- strong expressions of distrust or bias shown on social media against the judicial processes before the Specialist Chambers; and
- reluctance by several witnesses to provide information concerning the BIA unit and to associate themselves with any BIA-related activities.

25. Moreover, the Panel took into consideration the readiness of certain Defence witnesses to align their evidence to that of other witnesses in a manner that was beneficial to Mr Mustafa. The evidence presented by these witnesses was therefore considered with extreme caution. Further, some of the Defence witnesses lacked a proper basis of knowledge to be reliably used. In other instances, their evidence was essentially irrelevant to the charges, and therefore was not relied upon by the Panel.

26. Lastly, the Panel found that many witnesses had problems remembering dates accurately or experienced memory lapses. Some of these witnesses were called by the Defence to testify about a possible alibi. The Panel considered the systematic difficulties in remembering dates, as a factor potentially affecting the reliability of the witnesses' evidence when assessing the alibi presented by the Defence.

The role of the Accused

27. Let me now briefly summarise the Panel's findings in relation to the role of Mr Mustafa within the Kosovo Liberation Army at the time relevant to the Confirmed Indictment.

28. The Panel found that in May 1998, Mr Mustafa was appointed as the Commander of the then newly created BIA unit. The BIA unit formed part of the Kosovo Liberation Army. Mr Mustafa held this position until approximately mid-June 1999, when the BIA was disbanded. Mr Mustafa was known by the nickname "Cali" and was also referred to as "Commander Sali". As stated by Mr Mustafa himself, and corroborated by ample evidence, he was the overall and only BIA commander throughout the BIA's existence, including in April 1999, and was also in charge of intelligence gathering. Mr Mustafa had the power to make appointments within the BIA unit, to issue orders to his subordinates, and to discipline them.

Alibi

29. Before moving to the Panel's findings in relation to the crimes charged, I will summarise the findings concerning the alibi. The Defence submitted that Mr Mustafa could not have committed the crimes charged. It averred that during the time relevant to the charges, Mr Mustafa was in other locations than the Zllash/Zlaš Detention Compound. The Panel has carefully analysed the totality of the evidence and found that such evidence did not establish a reasonable doubt with regard to Mr Mustafa's presence at the crime scene. In particular, the Panel found that the evidence of alibi was mostly vague or inconsistent, particularly when weighed against the consistent and ample evidence pointing at Mr Mustafa's presence at the crime scene at relevant times. In addition, credible and corroborating evidence, including from Mr Mustafa himself, showed that he was able to move across the territory surrounding Zllash/Zlaš and in fact did so repeatedly during the course of April 1999.

The crimes charged

30. I turn now to the Panel's findings in relation to the crimes charged in the Confirmed Indictment.

Count 1: Arbitrary detention

31. I will start with Count 1, arbitrary detention. Based on the evidence taken as a whole, the Panel found that at least six persons were deprived of their liberty between approximately 1 April 1999 and on or around 19 April 1999 at the Zllash/Zlaš Detention Compound. Victims were apprehended by BIA members or other KLA members in different locations around Zllash/Zlaš. They were then handed over to BIA members at the Zllash/Zlaš Detention Compound. The evidence clearly proves that the Zllash/Zlaš Detention Compound was under the sole control of the BIA and his commander, Mr Mustafa.

32. The Panel found that, at no point during their detention, the victims were provided with any of the basic procedural safeguards that are mandatory under international humanitarian law for persons deprived of their liberty. Specifically, they were not informed of the reasons for which they were deprived of their liberty; they were not brought before a judge or other competent authority; and they were not provided with an opportunity to challenge the lawfulness of their detention.

33. In addition, the evidence established that Mr Mustafa was present at the Zllash/Zlaš Detention Compound on various occasions during April 1999. These included the time when one of the victims was handed over to BIA members at the Zllash/Zlaš Detention Compound, at the beginning of April 1999, and other instances in the course of the first two weeks of April 1999. The Panel also found that Mr Mustafa ordered his BIA subordinates to take detainees back to their place of detention, after they were interrogated. Accordingly, the Panel found that Mr Mustafa intentionally deprived the victims of their liberty and knew that no basic guarantees were afforded to them for the entire duration of their detention.

34. The Panel therefore found that the Specialist Prosecutor has established beyond reasonable doubt that the war crime of arbitrary detention under Count 1 was committed against at least six persons at the Zllash/Zlaš Detention Compound between approximately 1 April 1999 and on or around 19 April 1999.

Counts 2 and 3: Cruel treatment and torture

35. I now turn to Counts 2 and 3, which are cruel treatment and torture. The Panel found that the detainees at the Zllash/Zlaš Detention Compound were held in inhumane and degrading conditions of detention. They were kept in barns suitable for animals, in deplorable conditions, with livestock excrements lying around. They did not have any beds and had to sleep on the ground, in water puddles, on hay. In the barns, it was always dark. The detainees were not provided sufficient food. Witnesses testified that two or three days could pass without them having anything to eat at all.

The detainees were also not provided sufficient water and when they asked for water, BIA soldiers urinated upon them, saying: "Here's water for you". They were only given limited access to a toilet and were forced to relieve themselves inside the barn, in a bucket, in front of each other. The Panel also found that the detainees were denied medical care, and were prevented from talking to each other, under threat of death.

36. Furthermore, the evidence shows that Mr Mustafa and his BIA subordinates at the Zllash/Zlaš Detention Compound routinely assaulted the detainees, both physically and psychologically. The BIA members had a certain *modus operandi*. Inside the barns where the detainees were kept, the victims were kicked, punched and slapped on a daily basis. In addition, BIA members took detainees out of the barns, one by one, and brought them – most of the time – to a room located above one of the barns, where they endured harsh interrogations and brutal beatings. The detainees were beaten, often by several BIA members at the same time, they were hit with baseball bats, iron and rubber batons, they were burnt, electrocuted, stabbed, kicked, punched and slapped.

37. They were subjected to harsh interrogations and accused of being spies, Serb collaborators, traitors, thieves, or liars. They were ordered to express support for the Kosovo Liberation Army and made to shout: "[d]eath to the traitors, death to the thieves, death to the thugs, and glory to the Kosovo Liberation Army", as one witness recalled.

38. The mistreatment left the detainees severely injured: bruised, covered in blood, unable to stand or speak, and sometimes even unconscious. One detainee – the alleged murder victim – was so severely mistreated that he ended up in a near-to-death state. One witness testified – in a manner that is revealing of the extreme suffering that he endured – that he wished he had been killed.

39. Mr Mustafa himself interrogated and mistreated two of the detainees personally, on different occasions. He subjected one of them to a mock execution. He also beat him repeatedly all over his body. Mr Mustafa further ordered his subordinates to beat

one of the detainees until he lost consciousness and was present at other times when the detainees were mistreated by his BIA subordinates.

40. The detainees were also psychologically abused by BIA members. From the barns where they were kept, they could see and hear their co-detainees being beaten and saw the injuries inflicted on them. As a result, they lived in constant fear that they could be next. One witness stated: "you could hear people screaming, howling like dogs, making sounds like cats, screaming cats. Because of the torture and the pain". Another explained that they could hear this almost every night and that they could not sleep. The testimony of one witness speaks for itself about their immense psychological strain: "you just stayed and waited who will come to get you and take you upstairs for beating", "[y]ou were just waiting for death, when it will come. Today, tomorrow. You were waiting […] to be killed".

41. The physical and psychological abuse, coupled with the inhumane and degrading conditions of detention, left the detainees with life-long injuries, both physical and psychological.

42. The Panel thus found that Mr Mustafa and his BIA subordinates intentionally inflicted severe physical and mental pain and suffering upon at least six persons detained at the Zllash/Zlaš Detention Compound for the purposes of obtaining information or a confession, punishing, intimidating, coercing and/or discriminating against them on political grounds.

43. Taking the mistreatment suffered by the victims as a whole, the Panel therefore found that the Specialist Prosecutor has established beyond reasonable doubt that the war crime of torture under Count 3 was committed against at least six persons at the Zllash/Zlaš Detention Compound between approximately 1 April 1999 and on or around 19 April 1999.

44. The Panel considered that the charge of cruel treatment was fully consumed by the charge of torture and thus decided not to consider it further. This was for reasons of fairness to Mr Mustafa.

Count 4: Murder

45. Let me move to Count 4, murder. The Panel determined that on or around 19 April 1999, in light of the impending Serbian offensive in the area surrounding Zllash/Zlaš, BIA members under the authority of Mr Mustafa, as their commander, released a number of detainees from the Zllash/Zlaš Detention Compound. They also evacuated the premises of the compound. Nevertheless, and despite the exceptional circumstances created by the offensive, the Panel found that two specific detainees were not released by Mr Mustafa's BIA subordinates. These two detainees were, not coincidentally in the Panel's evidentiary assessment, the two most mistreated. One of them was last seen by his co-detainees in a near-to-death state, unable to move. He was later found dead. The Panel found that the identity of the body of the victim was positively established, through a combination of testimonies, documents and photographs, as one of the two detainees who were not released from the Zllash/Zlaš Detention Compound.

46. Considering that Mr Mustafa was the overall and only commander of the BIA, with full control over the Zllash/Zlaš Detention Compound, the Panel found that the only reasonable conclusion was that Mr Mustafa took the decisions to release specific detainees and to keep the murder victim in detention, while denying him medical care. These decisions, taken by Mr Mustafa in his capacity as BIA commander and in the context of the impending Serbian offensive, effectively equalled a decision to kill the murder victim, as at that stage he was denied any chance of survival.

47. The Panel concluded that the murder victim died between on or around 19 April and around the end of April 1999. The causes of death were: the severe mistreatment inflicted by the BIA members who detained him for almost three weeks; the denial of

medical aid by BIA members; and certain gunshot wounds identifiable on his body. The evidence irrefutably demonstrated that the first two causes of death, namely the extreme mistreatment inflicted upon the murder victim and the denial of medical aid, are exclusively attributable to acts and omissions of Mr Mustafa and his BIA subordinates at the Zllash/Zlaš Detention Compound.

48. With regard to the third cause of death, namely the gunshot wounds, while the most probable conclusion was that the BIA members fired the bullets at the murder victim before leaving the Zllash/Zlaš Detention Compound, this was not the only reasonable conclusion based on the totality of the evidence. There exists, in fact, a reasonable doubt as to whether the gunshot wounds identified on the body of the murder victim could be attributed to the BIA members or to the Serbian troops, for reasons explained in detail in the judgment. Nevertheless, the Panel concluded that this reasonable doubt had no bearing on the attribution of the victim's death to Mr Mustafa. This was the case because the extreme mistreatment inflicted upon the murder victim, jointly with the denial of medical aid, in the context of Mr Mustafa's decisions, as BIA commander, to neither release nor evacuate the victim when the Serbian forces approached the area, constituted substantial causes of the victim's death, irrespective of whether the victim was hit by one or more Serbian bullets.

49. In other words, the Panel considered that firing directly at the murder victim or putting him in a position to be fired at by the advancing Serbian forces — by abandoning him without protection in a near-to-death state at the Zllash/Zlaš Detention Compound — led exactly to the same conclusion. This conclusion is that the death of the victim could be attributed to acts and omissions of Mr Mustafa, in his capacity as BIA commander.

50. Accordingly, the Panel found that Mr Mustafa intended to kill the murder victim.

51. The Panel therefore found that the Specialist Prosecutor has established beyond reasonable doubt that the war crime of murder under Count 4 was committed against

one person at the Zllash/Zlaš Detention Compound between approximately 19 April 1999 and around the end of April 1999.

The Armed conflict – the nexus – the awareness

52. I will now turn to the armed conflict**.** The Panel further found that the crimes charged were committed in the context of a non-international armed conflict between the Kosovo Liberation Army and Serbian forces. Mr Mustafa was aware of the circumstances establishing the non-international armed conflict. He was also aware of the status of the victims as not taking active part in the hostilities, given that they were deprived of their liberty at the Zllash/Zlaš Detention Compound under his control.

Individual criminal responsibility

53. Allow me to turn to the nature of Mr Mustafa's participation in the commission of the crimes charged.

54. The Panel found that Mr Mustafa directly and personally mistreated two detainees. In this respect, the Panel considered it appropriate to reflect this conduct under direct commission as a mode of liability. The reason is that Mr Mustafa intended to engage in that conduct, including with the required purposes of torture as a war crime.

55. With regard to the remainder of the crimes, Mr Mustafa together with his BIA subordinates and other KLA members, shared the common purpose to detain and mistreat the detainees under BIA's custody at the Zllash/Zlaš Detention Compound, and to detain, mistreat and ultimately kill the murder victim.

56. The Panel found that Mr Mustafa significantly contributed to the implementation of the common purpose. In particular, Mr Mustafa provided multiple significant contributions to the common purpose, in his capacity as BIA commander at the Zllash/Zlaš Detention Compound: (i) he personally tortured two detainees, thereby providing a model or incentive for his BIA subordinates to perform similar

actions against the detainees at the Zllash/Zlaš Detention Compound; (ii) he ordered his BIA subordinates to torture some detainees and to return them to the detention barns; (iii) he denied medical care to the detainees despite their mistreatment and injuries; (iv) he did not release the detainees, thus allowing his BIA subordinates to mistreat them, until an exceptional change of circumstances occurred, namely the Serbian offensive; and (v) he never released nor evacuated the murder victim, who remained in detention while Mr Mustafa and his BIA subordinates left the Zllash/Zlaš Detention Compound in light of the impending Serbian offensive.

57. In light of the above, the Panel finds that Mr Mustafa is criminally responsible as direct perpetrator for the war crime of torture under Count 3, limited to those incidents against two specific detainees, in which Mr Mustafa personally participated.

58. The Panel further finds that Mr Mustafa is criminally responsible, through his significant contribution to a joint criminal enterprise, for the war crime of arbitrary detention (Count 1) and torture (Count 3) against at least six detainees, as well as for the war crime of murder (Count 4) against one detainee.

Sentencing

59. Before pronouncing the verdict and the sentence, I will briefly summarise the purposes of sentencing and the factors considered by the Panel to determine the appropriate sentence for the crimes of which Mr Mustafa is criminally responsible.

60. Prior to that, the Panel wishes to inform that it will issue in due course a Reparation Order pursuant to Articles 22(8) and 44(6) of the Law and retains the necessary jurisdiction to that effect.

61. The Panel recalls retribution and deterrence as primary purposes of sentencing an individual convicted of a crime.

62. Moreover, the Panel wishes to underline the importance of bringing to justice the perpetrators of those serious crimes of concern to the international community as

a whole in order to end impunity – even decades after the events concerned and notwithstanding a prevalent and long-standing climate of witness intimidation in Kosovo.

63. Another important purpose of sentencing is the acknowledgment of the harm and suffering caused to the victims and society.

64. The Panel lastly notes that the crimes in this case were directed exclusively against Kosovar Albanians. The Panel is of the view that the establishment of the truth resulting from this Judgment may further the reconciliation among affected communities in Kosovo in order to contribute to the restoration and maintenance of peace.

65. The Panel considered the gravity of the crime and its consequences, Mr Mustafa's personal contribution to the crimes, the individual circumstances of the convicted person, and mitigating and aggravating circumstances, as factors relevant to determine the appropriate sentence.

66. As to the gravity of the crimes, the Panel considered that arbitrary detention is grave in nature because it exposes victims to other additional human rights violations; torture represents an assault on human dignity, security, and mental and physical well-being; and murder is inherently one of the most serious crimes.

67. In this case, at least six detainees were deprived of their liberty, at the Zllash/Zlaš Detention Compound, in inhumane and degrading conditions, without any basic guarantees, and were routinely psychologically and physically assaulted. Moreover, one of the detainees died as a result of: the severe mistreatment inflicted by the BIA members who detained him for almost three weeks; the denial of medical aid by BIA members; and gunshot wounds identifiable on the body, in respect of which the Panel has established that there exists a reasonable doubt as to their attribution to the BIA members or to the Serbian forces. In this respect, the Panel does not take into consideration this last cause of death when determining the sentence.

68. As to the consequences of the crimes, the Panel considered that the victims in this case suffered long-lasting injuries, both physical and mental. They also experienced disruption in personal relationships and family life. Some further struggle(d) to make a living. The Panel also took into account not only the impact the murder had on the direct victim and those who witnessed his mistreatment, but also on the family members of the murdered victim left behind.

69. The Panel further considered two aggravating circumstances, namely that, as described earlier, the torture was committed with particular cruelty and that victims were particularly vulnerable and defenceless, given their status, isolation, and, in some instances, their young age (one of them was for example 18 years old).

70. For these reasons, the Panel assessed the gravity of the crimes considered as high.

71. As to Mr Mustafa's personal contribution to the crimes, the Panel considered the superior position and central role of Mr Mustafa in a system of illegal detentions and tortures at the Zllash/Zlaš Detention Compound, together with his continued approval and endorsement of the same acts in the period between on or around 1 April 1999 and 19 April 1999.

72. The Panel also considered that Mr Mustafa personally and intentionally tortured two of the detainees.

73. Furthermore, the Panel considered that Mr Mustafa intended the lethal treatment inflicted upon the murdered victim and for such mistreatment to carry on for around 19 days while denying medical care, basic guarantees or releasing him, which he had the power to do as BIA commander. Eventually, Mr Mustafa, in his capacity as BIA commander, decided not to release the murder victim — which effectively equalled a decision to kill him.

74. Accordingly, the Panel assessed the degree of Mr Mustafa's personal contribution to the crimes considered and his intent as very high.

75. Finally, the Panel did not accord any significant weight to Mr Mustafa's individual circumstances considering the nature and gravity of the proven crimes and his contribution to them.

Verdict

I will now pronounce the Verdict.

Mr Salih Mustafa, please stand.

In the name of the people of Kosovo, for the reasons set out in the Judgment and summarised earlier, and having considered all of the evidence and the arguments of the Parties and Victims' Counsel, the Panel, pursuant to Articles 43 and 44 of the Law and Rules 158, 159, 163 and 165 of the Rules, finds you, Mr Mustafa, **GUILTY** of:

a) Count 3, Torture as a War Crime, under Articles 14(1)(c)(i) and 16(1)(a) of the Law (direct commission);

b) Count 1, Arbitrary Detention as a War Crime, under Articles 14(1)(c) and Article 16(1)(a) of the Law (as part of a joint criminal enterprise, in its basic form);

c) Count 3, Torture as a War Crime, under Articles 14(1)(c)(i) and 16(1)(a) of the Law (as part of a joint criminal enterprise, in its basic form);

d) Count 4, Murder as a War Crime, pursuant to Article 14(1)(c)(i) of the Law (as part of a joint criminal enterprise, in its basic form).

The Panel finds you **NOT GUILTY** of the war crime of cruel treatment under Count 2.

I will now pronounce the Sentence.

Mr Mustafa, given that you have been found guilty of more than one crime, the Panel has determined an individual sentence for each crime for which a conviction has been entered, pursuant to Rule 163(4) of the Rules. I will thus first set out these individual sentences, thereafter I will, pronounce a single sentence for the totality of your criminal conduct.

The Panel has determined:

(i) a term of 10 (ten) years of imprisonment for the war crime of arbitrary detention (Count 1);

(ii) a term of 22 (twenty-two) years of imprisonment for the war crime of torture (Count 3); and

(iii) a term of 25 (twenty-five) years of imprisonment for the war crime of murder (Count 4).

The Panel sentences you to a single sentence of **twenty-six (26) years** of imprisonment, with credit for the time served.

Mr Mustafa, you may be seated.

The Registry shall now distribute the Trial Judgment in electronic form. A certified copy of the English version will be provided to Mr Mustafa as soon as possible today. The Albanian version shall be served on Mr Mustafa once it is ready.

The Panel will issue a public redacted version of the Trial Judgment in due course.

The Panel recalls that it retains jurisdiction in this case for the purposes of issuing in due course a Reparation Order specifying appropriate reparation to, or in respect of, victims, in accordance with Articles 22(8) and 44(6) of the Law.

Before adjourning, the Panel will also give an oral order.

The Panel considers that the remaining restrictions on the contacts and communications of Mr Mustafa are no longer necessary nor proportionate at this stage of the proceedings. Accordingly, the Panel hereby **decides to lift** *propio motu* any such measures, effective Wednesday, 21 December 2022, at noon**.**

The Panel will issue its written reasons next week, in accordance with Rule 75(2) of the Rules.