



SPECIALIST PROSECUTOR'S OFFICE  
ZYRA E PROKURORIT TË SPECIALIZUAR  
SPECIJALIZOVANO TUŽILAŠTVO

**In:** KSC-BC-2020-06  
**Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi**

**Before:** Trial Panel II  
Judge Charles L. Smith, III, Presiding Judge  
Judge Christoph Barthe  
Judge Guénaél Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor's Office

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**Prosecution motion for admission of Shala Zone and Karadak Zone documents  
with confidential Annexes 1-3**

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## I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law,<sup>1</sup> Rules 137-138 of the Rules,<sup>2</sup> and the Conduct of Proceedings Order,<sup>3</sup> the Specialist Prosecutor's Office ('SPO') requests the admission of contemporaneous KLA records ('Proposed Exhibits') relating to the Shala and Karadak Operational Zones ('Shala OZ' and 'Karadak OZ', respectively). The Proposed Exhibits listed in Annexes 1-2<sup>4</sup> are *prima facie* authentic, relevant, and have probative value that is not outweighed by any prejudice.<sup>5</sup>

## II. SUBMISSIONS

2. The Proposed Exhibits corroborate and complement witness and documentary evidence, and adjudicated facts,<sup>6</sup> which, taken together, demonstrate: (i) the high level of organisation of the KLA, including in the Shala OZ and Karadak OZ during relevant parts of the Indictment period; (ii) that KLA members in the Shala OZ and

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<sup>1</sup> Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). All references to 'Article' or 'Articles' herein refer to the Law, unless otherwise specified.

<sup>2</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

<sup>3</sup> Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order'), paras 60-62. Pursuant to paragraph 61 of the Conduct of Proceedings Order, Proposed Exhibits in Annexes 1 and 2 were sent to the Defence and Victims' Counsel for *inter partes* consultation. The Defence responded, submitting that the Proposed Exhibits should be tendered through a witness and otherwise reserved its position until the filing of the upcoming bar table motion. Victims' Counsel indicated that he did not have any objections.

<sup>4</sup> Annex 1 contains the Shala OZ documents and Annex 2 contains the Karadak OZ documents. Both annexes include specific indicia of the *prima facie* authenticity, relevance, and probative value of each Proposed Exhibit. They also indicate the relevant Indictment paragraphs for each Proposed Exhibit and identify exhibits associated with witness testimony. See Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01409, 31 March 2023, Confidential ('First Decision'), para.22. Annex 3 links the abbreviations used in the 'Indictment Primary Paragraphs' column of Annex 1 with the primary Indictment paragraph(s) to which each item relates. See Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022, Confidential ('Indictment'). Annex 3 also defines other abbreviations and short names used in this filing and Annex 1.

<sup>5</sup> The applicable law has been set out in prior decisions. See *e.g.* First Decision, KSC-BC-2020-06/F01409, paras 8-13.

<sup>6</sup> A non-exhaustive selection of Proposed Exhibits has been set out below, with further detail provided in Annexes 1-2. Likewise, taking into account the public nature of this filing, a non-exhaustive selection of corroborative and complementary testimony, statements, exhibits, and adjudicated facts is cited below, with further details set out in the Annexes.

Karadak OZ acted under the authority and pursuant to the instructions of the Accused and General Staff; and (iii) that the JCE members, including the Accused and certain KLA members in the Shala OZ and Karadak OZ, shared the common criminal purpose, which they implemented personally and through the structures in place. The Proposed Exhibits also corroborate and complement other evidence and adjudicated facts concerning the charged crimes; the armed conflict and widespread and systematic attack against the civilian population; the Accused's effective control, including both directly and through the Shala OZ and Karadak OZ structures; the practical assistance, encouragement, and/or moral support the Accused provided to the perpetrators of the charged crimes; and the Accused's and other JCE members' knowledge and intent.

A. THE SHALA OZ PROPOSED EXHIBITS ARE *PRIMA FACIE* RELEVANT

3. The Shala OZ encompassed, *inter alia*, the municipalities of Mitrovicë/Mitrovica, Vushtrri/Vuçitrn, Leposaviq/Leposavić, and Zveçan/Zvečan.<sup>7</sup>

4. By July 1998, the General Staff had appointed Rrahman RAMA as Shala OZ Commander.<sup>8</sup> Mensur KASUMI was Shala OZ Deputy Commander.<sup>9</sup> Members of the General Staff, and later PGoK officials, met and maintained contact with the Shala OZ Command during the Indictment period, receiving reports and issuing orders, including in relation to the transfer and release of prisoners.<sup>10</sup> The Shala OZ, which

<sup>7</sup> KSC-BC-2020-06/F01534/A01, Fact 287; Lesser Redacted Version of 'Confidential Redacted Version of Corrected Version of Prosecution Pre-Trial Brief', KSC-BC-2020-06/F01594/A03, 9 June 2023, Confidential ('Pre-Trial Brief'), para.219.

<sup>8</sup> KSC-BC-2020-06/F01534/A01, Facts 242, 288; P00776, pp.39-41, 95-96; P00774\_ET, p.SPOE00067171. *See also* Annex 1: item 23 (U000-2196-U000-2196 / U000-2196-U000-2196-ET).

<sup>9</sup> *See e.g.* U015-8743-U015-9047 / U015-8743-U015-8935-ET Revised 1, p.U015-8860; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, para.220.

<sup>10</sup> *See e.g.* P01093\_ET; P00515\_ET.4; P00515\_ET.6; P00515\_ET.7; P00515\_ET.17; P00515\_ET.51, p.008532; P00739.8\_ET, pp.1-2; P00767, pp.SITF00364479-SITF00364481; P00811\_ET.7; P00811\_ET.10, pp.SPOE00053596-SPOE00053597; P00811\_ET.11; P00811\_ET.15; P00813\_ET.5; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras 224-226. *See also* P00515\_ET.48; KSC-BC-2020-06/F01534/A01, Fact 113.

shared boundaries with the Drenica OZ in the southwest and Llap OZ in the northeast, also coordinated logistics and personnel with these and other OZs.<sup>11</sup>

5. Proposed Exhibits demonstrate that, by May 1998 and throughout the summer, KLA headquarters, including in Zhilivodë/Žilivoda and Oshlan/Ošljan, in the Çiçavica/Čičavica area,<sup>12</sup> were registering and training soldiers; organising duty officer and guard schedules; controlling movement, including at checkpoints; enforcing discipline and taking disciplinary measures, including for desertion, 'in accordance with the law'; and collecting information about and compiling lists of 'wanted persons', alleged collaborators, and LDK members.<sup>13</sup>

6. By June 1998, draft KLA regulations had been circulated to the Zhilivodë/Žilivoda headquarters. They concerned, *inter alia*, General Staff authority, structure, logistics, discipline and disciplinary measures, and criminal responsibility, *inter alia*, for 'acts of national treason for the interests of the invader' and 'collaboration of Albanian citizens with the invader for reason of loyalty or material gains', punishable by death.<sup>14</sup> By August 1998, soldiers joining the KLA in Shala OZ signed declarations confirming they had been informed of the KLA Provisional Regulations.<sup>15</sup>

<sup>11</sup> See e.g. Annex 1: items 6 (097059-097135 / 097059-097135-ET Revised), 8 (U000-4168-U000-4169 / U000-4168-U000-4169-ET Revised), 20 (SITF00435966-SITF00436009 / SITF00435966-SITF00436009-ET).

<sup>12</sup> By May and continuing into August 1998, the Çiçavica 'Subzone' or 'Operational Staff' covered areas that fell within the boundaries of the Shala OZ and its commander, Mensur KASUMI (see e.g. Annex 1: item 8, U000-4168-U000-4169 / U000-4168-U000-4169-ET Revised), was the Shala OZ Deputy Commander by August 1998. See e.g. U015-8743-U015-9047 / U015-8743-U015-8935-ET Revised 1, p.U015-8860.

<sup>13</sup> See e.g. Annex 1: items 1 (096537-096563 / 096537-096563-ET), 2 (U000-8844-U000-8860 / U000-8844-U000-8860-ET), 3 (U000-8811-U000-8814 / U000-8811-U000-8814-ET), 4 (096566-096590 / 096566-096590-ET), 7 (U000-8636-U000-8637 / U000-8636-U000-8637-ET Revised), 9 (U000-8583-U000-8583 / U000-8583-U000-8583-ET Revised), 10 (096592-096653 / 096592-096653-ET), 11 (U000-8830-U000-8830 / U000-8830-U000-8830-ET), 12 (U000-8824-U000-8828 / U000-8824-U000-8828-ET). See also P00284 / P00284\_ET.

<sup>14</sup> Annex 1: item 5 (096797-096858 / 096797-096858-ET). This compilation also includes excerpts of KLA Provisional/Interim Rules dated September 1998, *inter alia*, emphasising loyalty to the KLA and General Staff, and requiring all ranks to strictly execute decisions and orders of the General Staff. See also Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, para.227.

<sup>15</sup> Annex 1: item 15 (SITF00435385-SITF00435385 / SITF00435385-SITF00435385-ET). See also Annex 1: item 21 (SITF00435491-SITF00435504 / SITF00435491-SITF00435504-ET).

From summer 1998 and thereafter, Brigades 141-142, military police, special units, and intelligence services were established and active in Shala OZ.<sup>16</sup>

7. The Shala OZ Command issued public statements, *inter alia*, against collaborators, the LDK, and BUKOSHI's government-in-exile, and recognising the sole authority of the General Staff.<sup>17</sup> Proposed Exhibits, together with other documentary and witness evidence, demonstrate that, during the Indictment period, collaborators, other 'suspicious' persons, and perceived Opponents,<sup>18</sup> including charged victims in this case, were targeted, arrested, detained, and mistreated at locations in Shala OZ, including some then transferred to other OZs.<sup>19</sup>

B. THE KARADAK OZ PROPOSED EXHIBITS ARE *PRIMA FACIE* RELEVANT

8. The Karadak OZ encompassed the municipalities of Gjilan/Gnjilane, Kamenicë/Kamenica, Viti/Vitina, and Novobërdë/Novo Brdo.<sup>20</sup>

9. By early 1999, the General Staff had appointed Ahmet ISUFI (alias Rexha) as Karadak OZ Commander,<sup>21</sup> and was in contact thereafter with both ISUFI and his

<sup>16</sup> See e.g. Annex 1: items 18 (SITF00285776-SITF00285778 / SITF00285777-SITF00285778-ET), 19 (SPOE00226325-SPOE00226325 / SPOE00226325-SPOE00226325-ET), 20 (SITF00435966-SITF00436009 / SITF00435966-SITF00436009-ET), 21 (SITF00435491-SITF00435504 / SITF00435491-SITF00435504-ET), 22 (SITF00435508-SITF00435545 / SITF00435508-SITF00435545-ET), 23 (U000-2196-U000-2196 / U000-2196-U000-2196-ET), 24 (SITF00435934-00435935 / SITF00435934-00435935-ET), 25 (SITF00285701-SITF00285702 / SITF00285702-SITF00285702-ET), 26 (060465-060465 / 060465-060465-ET), 27 (060466-060467 / 060466-060467-ET), 28 (SITF00435943-SITF00435943 / SITF00435943-SITF00435943-ET); Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras 221-223, 225; KSC-BC-2020-06/F01534/A01, Fact 289; P00515\_ET.45, p.008461; P00515\_ET.24, p.008015; P00811\_ET.11.

<sup>17</sup> See e.g. P00515\_ET.45, p.008461; P00515\_ET.48; P00812\_ET.15.

<sup>18</sup> Indictment, KSC-BC-2020-06/F00999/A01, para.32 (defining 'Opponents').

<sup>19</sup> See e.g. Annex 1: item 22 (SITF00435508-SITF00435545 / SITF00435508-SITF00435545-ET); P00970, pp.SPOE00078776-SPOE00078777; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras 222-223, 227, 505.

<sup>20</sup> SITF00223935-00223961, p.SITF00223938; KSC-BC-2020-06/F01534/A01, Fact 295; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, para.251.

<sup>21</sup> P00796, p.35; U015-8743-U015-9047 / U015-8743-U015-8935-ET Revised 1, p.U015-8876; SPOE00230829-SPOE00230900 / SPOE00230829-SPOE00230900-ET, p.SPOE00230887; KSC-BC-2020-06/F01534/A01, Facts 242, 296; P00776, pp.19, 39-41; P00796, p.35. See also Annex 2: items 5 (106016-106016 / 106016-106016-ET), 6 (SITF40007408-SITF40007408 / SITF40007408-SITF40007408-ET Revised),

Deputy Commander Shemsi SYLA.<sup>22</sup> Proposed Exhibits demonstrate that organisational, logistical, and other issues arising in the Karadak OZ were addressed to the General Staff and PGoK for resolution.<sup>23</sup> The Karadak OZ also cooperated closely with the bordering Llap Zone.<sup>24</sup>

10. By April 1999, the Karadak OZ had military police<sup>25</sup> and had established Brigade 171.<sup>26</sup> Brigades 172 and 173 were established later.<sup>27</sup> As of 8 June 1999, the first battalion of Brigade 173 was active in Vërban/Vrban, Viti/Vitina.<sup>28</sup> In mid-June 1999, as his forces approached and entered Viti/Vitina and Gjilan/Gnjilane, the Karadak OZ Commander was in contact with the General Staff, including about the release of detained Serbs and reinforcements.<sup>29</sup>

11. Proposed Exhibits show that, by 19 or 20 June 1999 at the latest, the Karadak OZ Command was in the centre of Gjilan/Gnjilane, and immediately began collecting weapons from both Albanians and Serbs, issuing vouchers on typewritten templates with official seals and letterheads.<sup>30</sup> The Karadak OZ Commander also issued written orders for persons to report to the Karadak OZ Command.<sup>31</sup> The Karadak OZ

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7 (077978-077982, p.077980 / 077978-077982-ET Revised 1, p.077980), 8 (SITF40007080-40007084 / SITF40007080-SITF40007080-ET).

<sup>22</sup> SPOE00230829-SPOE00230900 / SPOE00230829-SPOE00230900-ET, p.SPOE00230888; SPOE00231894-00231894 / SPOE00231894-SPOE00231894-ET. *See also* Annex 2: item 1 (SITF00240755-SITF00240755 / SITF00240755-SITF00240755-ET Revised).

<sup>23</sup> *See e.g.* Annex 2: items 2 (U003-3307-U003-3311 / U003-3307-U003-3308-ET, U003-3309-U003-3310-ET, U003-3311-U003-3311-ET), 9 (SPOE00231630-SPOE00231630 / SPOE00231630-SPOE00231630-ET).

<sup>24</sup> *See e.g.* Annex 2: item 1 (SITF00240755-SITF00240755 / SITF00240755-SITF00240755-ET Revised); Transcript (W04746), 12 July 2023, pp.5605, 5608.

<sup>25</sup> *See e.g.* Annex 2: item 2 (U003-3307-U003-3311 / U003-3307-U003-3308-ET, U003-3309-U003-3310-ET, U003-3311-U003-3311-ET).

<sup>26</sup> *See e.g.* Annex 2: item 2 (U003-3307-U003-3311 / U003-3307-U003-3308-ET, U003-3309-U003-3310-ET, U003-3311-U003-3311-ET); P01356\_ET / P01356\_AT, p.255; KSC-BC-2020-06/F01534/A01, Fact 297.

<sup>27</sup> P00778, pp.13, 63; P00761.3\_ET / P00761.3\_AT, p.15; KSC-BC-2020-06/F01534/A01, Fact 297.

<sup>28</sup> P00814\_ET.29.

<sup>29</sup> 095941-095942-ET Revised.

<sup>30</sup> *See e.g.* Annex 2: item 3 (023880-023881 / 023880-023881-ET Revised). *See also* 095961-095963 / 095961-095963-ET Revised.

<sup>31</sup> Annex 2: item 7 (077978-077982, p.077980 / 077978-077982-ET Revised 1, p.077980). *See also* 105816-106095, p.105998.



controlled PGoK municipal structures, public services, utilities, and provisional administrators.<sup>32</sup> ISUFI issued orders to such entities, *inter alia*, forbidding agreements with 'the Serbian party, KFOR or any other party'.<sup>33</sup> The Karadak OZ also maintained rosters, training schedules and materials, meal tickets, military police paperwork, and records of persons who were not considered loyal to the KLA.<sup>34</sup>

12. As reflected in witness evidence and contemporaneous records, including admitted and Proposed Exhibits, ISUFI and the Karadak OZ Command were in charge of and coordinating operations in areas under its control, including Kamenicë/Kamenica, Gjilan/Gnjilane, Viti/Vitina and Novobërdë/Novo Brdo municipalities,<sup>35</sup> appointing commanders and establishing illegal KLA assembly points, police stations, and bases in these locations.<sup>36</sup> Between mid-June and late July 1999, KLA members in these locations targeted, arrested, detained, mistreated, and killed Serbs, Romas, alleged collaborators, and other perceived Opponents, including charged victims in this case.<sup>37</sup> Abductions and detentions were common knowledge,

<sup>32</sup> See e.g. Annex 2: items 6 (SITF40007408-SITF40007408 / SITF40007408-SITF40007408-ET Revised), 8 (SITF40007080-40007084 / SITF40007080-SITF40007080-ET); SPOE00217519-SPOE00217918, p. SPOE00217738; SITF00265444-00265444; SITF00011432-00011434, p.SITF00011433; P00746, pp.SITF40008715, SITF40008721; SITF00384859-00384861, p.SITF00384860; P00743.2, p.SITF00001571; SITF00265608-00265612, pp.SITF00265608-SITF00265609; SITF00265467-00265470, p.SITF00265469; 103757-TR-ET Part 2 RED, pp.10-11 (tendered in KSC-BC-2020-06/F02450/A09, item 1); P00006, p. SITF00249805.

<sup>33</sup> Annex 2: item 6 (SITF40007408-SITF40007408 / SITF40007408-SITF40007408-ET Revised).

<sup>34</sup> See e.g. Annex 2: items 3 (023880-023881 / 023880-023881-ET Revised), 4 (U001-2019-U001-2020 / U001-2019-U001-2020-ET); 106349-TR-ET Part 2, pp.17-18 (tendered in KSC-BC-2020-06/F02450/A09, item 2); 105816-106095, pp.105825-105826, 105902 (pp.105825-105826 tendered in KSC-BC-2020-06/F02450/A09, item 8 ); SPOE00215203-SPOE00215209, p.SPOE00215206 (tendered in KSC-BC-2020-06/F02450/A09, item 4).

<sup>35</sup> 103757-TR-ET Part 2 RED, p.18; 106349-TR-ET Part 1, p.36 (both tendered in KSC-BC-2020-06/F02450/A09, items 1 and 2). Travel was regulated, with authorisations issued for soldiers to travel, for example, from Gjilan/Gnjilane to Viti/Vitina. See e.g. Annex 2: item 3 (023880-023881 / 023880-023881-ET).

<sup>36</sup> See e.g. Annex 2: item 5 (106016-106016 / 106016-106016-ET); 103757-TR-ET Part 2 RED, p.9; 105816-106095, pp.105900, 106007-106009 (tendered in KSC-BC-2020-06/F02450/A09, item 1 and p.106009 in item 10).

<sup>37</sup> P00005; P00006, pp.5-8; P00743.2, pp.5-6; P01170.1\_ET, pp.7,13-20, 28-29; P01171\_ET, pp.3-5; P01297.1\_ET; P01297.2\_ET; P01297.3\_ET; 103757-TR-ET Part 2 RED, pp.15-17, 30, 33, 37, 41; 105816-106095, pp.10-12, 85, 87; 105979-105979-ET; 106349-TR-ET Part 1, pp.40-45; 106349-TR-ET Part 2, pp.20,

and the dormitory in Gjilan/Gnjilane was known as a place one did not come back from.<sup>38</sup>

13. On multiple occasions, KFOR and OSCE representatives approached the KLA leadership in Gjilan/Gnjilane, including ISUFI, but they denied all knowledge, offering no assistance or information about the fate of abductees.<sup>39</sup>

14. On 9/10 August 1999, following a series of raids at other KLA bases, KFOR raided the dormitory in Gjilan/Gnjilane,<sup>40</sup> discovering, *inter alia*, a 'torture chamber' where detainees had allegedly been mistreated.<sup>41</sup> KFOR arrested ten KLA soldiers.<sup>42</sup> Senior Karadak OZ officials, including ISUFI, were present during and after the raid, seeking the release of the detained KLA soldiers.<sup>43</sup> After the dormitory raid, the Karadak OZ military police commander reported to the General Staff and PGoK Ministry of Public Order about the raid and the arrests.<sup>44</sup>

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23, 25-26, 33; 103600-103601; 106349-TR-ET Part 2, pp.17-18, (tendered in KSC-BC-2020-06/F02450/A09, item 2); SPOE00215203-SPOE00215209, p.4; R091-3823-R091-3824; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, Sections III(U), (AA), (CC). At the end of and in the weeks after the Indictment period, these activities continued in the Karadak OZ. *See e.g.* Annex 2: item 10 (084345-084348 / 084345-084348-ET).

<sup>38</sup> *See e.g.* 082037-TR-ET Part 2, p.2; 005402-TR-ET Part 3 Revised, p.27-29; SITF00159155-SITF00159164-ET RED, p.8; P01170.1\_ET, p.14; SITF00195888-SITF00195912-ET RED, p.23; 092974-TR-ET Part 2, pp.10-11. *See also* 076248-TR-ET Part 2, p.8; 103757-TR-ET Part 2 RED, pp.15-16 (tendered in KSC-BC-2020-06/F02450/A09, item 1).

<sup>39</sup> P00005; P00006, p.2; 103757-TR-ET Part 2 RED, p.21, (tendered in KSC-BC-2020-06/F02450/A09, item 1); 106349-TR-ET Part 2, pp.32, 51-52, (tendered in KSC-BC-2020-06/F02450/A09, item 2); 105816-106095, p.105826 (pp.105825-105876 tendered in KSC-BC-2020-06/F02450/A09, item 8).

<sup>40</sup> 105816-106095, p.105827 (pp.105825-105876 tendered in KSC-BC-2020-06/F02450/A09, item 8).

<sup>41</sup> 103757-TR-ET Part 2 RED, pp.38-40, (tendered in KSC-BC-2020-06/F02450/A09, item 1); 105816-106095, pp.105846-105847, 105902 (pp.105825-105876 tendered in KSC-BC-2020-06/F02450/A09, item 8).

<sup>42</sup> 106349-TR-ET Part 2, pp.5-6, 37 (tendered in KSC-BC-2020-06/F02450/A09, item 2).

<sup>43</sup> 106349-TR-ET Part 1, pp.40-45; 106349-TR-ET Part 2, pp.2-5, 20 (tendered in KSC-BC-2020-06/F02450/A09, item 2); 105816-106095, pp.105829, 105831 (pp.105825-105876 tendered in KSC-BC-2020-06/F02450/A09, item 8).

<sup>44</sup> Annex 2: item 9 (SPOE00231630-SPOE00231630 / SPOE00231630-SPOE00231630-ET).



C. THE PROPOSED EXHIBITS ARE *PRIMA FACIE* AUTHENTIC AND RELIABLE

15. The Proposed Exhibits contain multiple indicia of authenticity, as indicated for each in Annexes 1-2.<sup>45</sup> Many bear official headers, signatures (including of Rahman RAMA,<sup>46</sup> Mensur KASUMI,<sup>47</sup> and Ahmet ISUFI<sup>48</sup>), reference numbers, stamps, seals, and insignia.<sup>49</sup>

16. In addition to such formalities, other indicia of authenticity can be seen when the collection is viewed holistically. For example, as reflected in detail in Annexes 1-2: (i) many of the Proposed Exhibits, including from different periods of time, were signed, prepared, and issued by, and/or concern, the same persons; (ii) administrative and operational records track similar information, including on official templates; (iii) many of the Proposed Exhibits contain detailed information, including on routine and administrative matters, that only Shala OZ and Karadak OZ KLA members would be in a position to know; and (iv) numerous Proposed Exhibits are interconnected with, replicate, and/or are corroborated by other Proposed Exhibits, admitted evidence and other items on the Exhibit List, and witness evidence.<sup>50</sup>

17. Finally, while proof of provenance or authorship is not required,<sup>51</sup> the provenance of each Proposed Exhibit is indicated in Annexes 1-2. The majority of the

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<sup>45</sup> For purposes of assessing certain of the indicia (such as signatures, insignia, stamps, seals, and formatting) identified below and in Annexes 1-2, both the original and translation should be consulted.

<sup>46</sup> Annex 1: item 23 (U000-2196-U000-2196 / U000-2196-U000-2196-ET).

<sup>47</sup> Annex 1: items 8 (U000-4168-U000-4169 / U000-4168-U000-4169-ET Revised), 9 (U000-8583-U000-8583 / U000-8583-U000-8583-ET Revised).

<sup>48</sup> Annex 2: items 5 (105816-106095 / 106016-106016-ET), 6 (SITF40007408-SITF40007408 / SITF40007408-SITF40007408-ET Revised), 7 (077978-077982 / 077978-077982-ET Revised 1), 8 (SITF40007080-SITF40007080 / SITF40007080-SITF40007080-ET).

<sup>49</sup> See, similarly, Sixth Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01983, 5 December 2023 ('Sixth Decision'), paras 85, 111, 119.

<sup>50</sup> See Annexes 1-2; paras 2-14 above.

<sup>51</sup> See e.g. Decision on Veseli Defence Request for Leave to Appeal Decision to Admit P959 and P960, KSC-BC-2020-06/F02157, 29 February 2024, paras 12, 14, 16; Transcript, 25 March 2024, p.13521.

Proposed Exhibits were: (i) seized by the SPO from Rexhep SELIMI's residence;<sup>52</sup> and (ii) obtained from KLA bases and/or members during and after the Indictment period,<sup>53</sup> including in the context of prior criminal investigations and proceedings.<sup>54</sup> Notably, as reflected where relevant in Annexes 1-2 and in previous bar table

<sup>52</sup> Annex 1: item 19 (SPOE00226325-SPOE00226325 / SPOE00226325-SPOE00226325-ET); Annex 2: items 9 (SPOE00231630-SPOE00231630 / SPOE00231630-SPOE00231630-ET), 10 (084345-084348 / 084345-084348-ET).

<sup>53</sup> Several Proposed Exhibits were provided in the context of SPO witness interviews. *See e.g.* Annex 1: items 26 (060465-060465 / 060465-060465-ET), 27 (060466-060467 / 060466-060467-ET); Annex 2: items 5 (105816-106095 / 106016-106016-ET), 7 (077978-077982 / 077978-077982-ET Revised 1). Other Proposed Exhibits were seized by the Serbian authorities during the Indictment period. *See e.g.* 095843-095872 RED / 095845-095862-ET RED, pp.095849-095850 concerning the following Proposed Exhibits found in Zhilivodë/Žilivoda: Annex 1, items 1(096537-096563 / 096537-096563-ET), 4 (096566-096590 / 096566-096590-ET), 5 (096797-096858 / 096797-096858-ET), 10 (096592-096653 / 096592-096653-ET); pp.095850-095855 concerning the following Proposed Exhibit found in Likoc/Likovac: Annex 1: item 6 (097059-097135 / 097059-097135-ET Revised); ICTY, *Prosecutor v. Haradinaj et al.*, IT-04-84-T, Prosecution's Submission of Chain of Custody Information for Exhibits Tendered through Bislim Zyrap, 7 November 2007, Annex A (Investigator Declaration), paras 6, 13 concerning documents provided to the SPO by the ICTY/IRMCT and falling in ERN range U000-0287-U002-3928. Other Proposed Exhibits were seized by UNMIK in the context of searches relating to the *Gani Imeri*, *Latif Gashi*, and *Limaj* cases. *See e.g.* SITF00073501-00073919 RED, p.SITF00073693 concerning Annex 1, items 13 (SITF00435562-00435564 / SITF00435562-SITF00435564-ET), 15 (SITF00435385-SITF00435385 / SITF00435385-SITF00435385-ET), 21 (SITF00435491-SITF00435504 / SITF00435491-SITF00435504-ET), 22 (SITF00435508-SITF00435545 / SITF00435508-SITF00435545-ET); Prosecution motion for admission of Llap Zone documents and related request, KSC-BC-2020-06/F02178, 14 March 2024 ('Llap Motion'), para.21, fn.99 (and sources cited therein) concerning Annex 2: item 1 (SITF00240755-SITF00240755 / SITF00240755-SITF00240755-ET Revised); ICTY, *Prosecutor v. Limaj et al.*, IT-03-66-T, Prosecution's Motion to Admit Rebuttal Statements via Rule 92bis, 29 June 2005, para.4, Appendix C, para.7, Exhibit B (including U003-3254-U003-3368) concerning Annex 2: item 2 (U003-3307-U003-3311 / U003-3307-U003-3308-ET, U003-3309-U003-3310-ET, U003-3311-U003-3311-ET). While the SPO has not tendered these provenance documents, it relies on them in support of its submissions concerning provenance and authenticity, considering that the Panel may request such information. *See* Conduct of Proceedings Order, KSC-BC-2020-06/F01226/A01, para.46. IRMCT and ICTY Chambers have considered party submissions concerning provenance, without the supporting documents having been tendered or admitted. *See e.g.* IRMCT, *Prosecutor v. Stanišić and Simatović*, MICT-15-96-T, Decision on Submissions Regarding Exhibits Marked for Identification, 22 February 2021, p.5; ICTY, *Prosecutor v. Mladić*, IT-09-92-T, Decision on Prosecution Motion to Admit Evidence from the Bar Table: Foča Municipality, 14 November 2013, para.12; ICTY, *Prosecutor v. Stanišić and Simatović*, IT-03-69-T, Decision on Prosecution's Second Motion for Admission of Exhibits from the Bar Table, 10 March 2011, paras 19-20, 27; ICTY, *Prosecutor v. Haradinaj et al.*, IT-04-84-T, Decision on Prosecution's Motion to Tender Documents on its Rule 65 *ter* Exhibit List, 30 November 2007, para.14.

<sup>54</sup> Proposed Exhibits collected in the context of prior criminal investigations and proceedings, including by the ICTY and UNMIK, are identified in Annexes 1-2 and in fn.53 above. They are admissible, provided they satisfy the requirements of the Rules. *See* Article 37(1), (3)(c).

motions,<sup>55</sup> documents forming part of many of the relevant, seized collections and/or their contents have been or will be authenticated by witnesses, which buttress the authenticity of the collections as a whole, also considering the multiple indicia of authenticity on the face of the documents and their mutually corroborative nature.

D. THE PROBATIVE VALUE OF THE PROPOSED EXHIBITS IS NOT OUTWEIGHED BY ANY PREJUDICE

18. As the Proposed Exhibits are *prima facie* authentic, reliable, and relevant, they have probative value. No prejudice outweighs such probative value. The Defence has had and will have ample opportunity to address and make submissions concerning the Proposed Exhibits, put their contents to witnesses, and lead evidence to the contrary.<sup>56</sup> At the end of the trial, the Panel will assess what weight to assign any admitted exhibits in light of the entire record.<sup>57</sup>

III. CLASSIFICATION

19. Annexes 1-2 are confidential to give effect to existing protective measures and to safeguards the interests and privacy of third parties. Annex 3 contains information redacted from the public version of the Indictment. For each Proposed Exhibit, the proposed classification is indicated in Annexes 1-2, justifying confidential classification, where appropriate.<sup>58</sup>

IV. RELIEF REQUESTED

20. For the foregoing reasons, the Panel should admit the Proposed Exhibits.

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<sup>55</sup> Llap Motion, KSC-BC-2020-06/F02178, para.21; Prosecution motion for admission of Drenica Zone documents, KSC-BC-2020-06/F02248, 16 April 2024, para.21.

<sup>56</sup> See, *similarly*, Sixth Decision, KSC-BC-2020-06/F01983, paras 32, 87, 97, 105, 113, 121.

<sup>57</sup> Sixth Decision, KSC-BC-2020-06/F01983, para.129.

<sup>58</sup> See First Decision, KSC-BC-2020-06/F01409, para.22.

**Word count: 3454**



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**Kimberly P. West**

**Specialist Prosecutor**

Wednesday, 24 July 2024

At The Hague, the Netherlands.