



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 Guénaël Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

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Public Redacted Version of 'Prosecution motion for admission of Nerodime Zone documents with confidential Annexes 1-2'

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I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law,¹ Rules 137-138 of the Rules,² and the Conduct of Proceedings Order,³ the Specialist Prosecutor's Office ('SPO') requests the admission of contemporaneous KLA records ('Proposed Exhibits') relating to the Nerodime Operational Zone ('Nerodime OZ'). The Proposed Exhibits listed in Annex 1⁴—organised, for the most part, chronologically⁵—are *prima facie* authentic, relevant, and have probative value that is not outweighed by any prejudice.⁶

2. In addition, the SPO also provides supplementary submissions concerning one item tendered in the Llap Motion.⁷

¹ 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.

² 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.

³ 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 Annex 1 were sent to the Defence and Victims' Counsel for *inter partes* consultation. The Defence responded, confirming that a response would be provided in the form of a response to the filed motion.

⁴ Annex 1 contains the Nerodime OZ documents. The annex includes 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 2 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 2 also defines other abbreviations and short names used in this filing and Annex 1.

⁵ The Proposed Exhibits are organised chronologically, with separate sections for communications documents and videos.

⁶ The applicable law has been set out in prior decisions. See e.g. First Decision, KSC-BC-2020-06/F01409, paras 8-13.

⁷ See Section II(D) below. Prosecution motion for admission of Llap Zone documents and related request, KSC-BC-2020-06/F02178/A01, 14 March 2024, Public ('Llap Motion').

II. SUBMISSIONS

3. The Proposed Exhibits corroborate and complement witness and documentary evidence,⁸ and adjudicated facts,⁹ which, taken together, demonstrate: (i) the high level of organisation of the KLA, including in the Nerodime OZ during relevant parts of the Indictment period; (ii) that KLA members in the Nerodime 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 Nerodime 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 Nerodime 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 PROPOSED EXHIBITS ARE *PRIMA FACIE* RELEVANT

4. The Nerodime OZ encompassed, *inter alia*, the municipalities of Shtime/Stimlje, Ferizaj/Uroševac, Shtrpcë/Štrpce, and Kačanik/Kaçanik.¹⁰ In late spring and summer

⁸ In addition to making reference to the Proposed Exhibits, as appropriate, this motion and Annex 1 contain references to supporting documentary and witness evidence admitted by the Panel or given in the courtroom. In addition, this Motion and Annex 1 refer to the provisionally admitted evidence of W01453, the Nerodime OZ commander (as admitted in Decision on Prosecution Motion for Admission of Evidence of W01453, W03878, W04446, W04575, and W04651 Pursuant to Rule 154 (F02005), KSC-BC-2020-06/F02117, 12 February 2024, Confidential) and includes reference to [REDACTED] ([REDACTED]; [REDACTED]), which will be tendered shortly in a separate bar table motion.

⁹ A non-exhaustive selection of Proposed Exhibits has been set out below, with further detail provided in Annex 1. Likewise, a non-exhaustive selection of corroborative and complementary testimony, statements, exhibits, and adjudicated facts is cited below, with further details set out in Annex 1.

¹⁰ KSC-BC-2020-06/F01534/A01, Fact 292; P00189 / P00189_ET (Public), p.U015-8869.

1998, KLA forces were being organised in, and arms were being transported into and throughout, the Nerodime OZ, with the approval and assistance of the General Staff.¹¹

5. From at least March 1998, Shukri BUJA (aka 'Kustrim', 'Gazetar(i)', and 'Sokoli'),¹² operating first in Drenica,¹³ then near Krojmir/Krajmirovce,¹⁴ and then in the area of the Nerodime OZ,¹⁵ maintained close ties to and collaborated with the General Staff.¹⁶ During this time period, namely spring and summer 1998, BUJA was involved in the arrest, detention, and release of victims at Llapushnik/Lapušnik.¹⁷ By July 1998, following a decision by the General Staff, BUJA was appointed Nerodime OZ commander.¹⁸ BUJA's appointment as Nerodime OZ commander was conveyed to him by Jakup KRASNIQI.¹⁹ Imri ILAZI, who previously acted as the leader of units in Ferizaj/Uroševac,²⁰ was appointed deputy zone commander.²¹ The commander of

¹¹ IT-03-66 T3761-T3827 Unredacted, pp.3768, 3773-3776, 3795; P00189 / P00189_ET (Public), p.U015-8869-U015-8870; IT-03-66 T3915-T4001_F02117, pp.3924-3928,3945; P01015 / P01015_ET (Public), p.036645.

¹² P01114.1 (Confidential), p.3591; Transcript, 22 April 2024, p.14649 (Open); P01427 / P01427_ET (Public), p.SPOE00226766; Transcript, 2 July 2024, p.17474 (Open); P01116, pp.061332-061333 / P01116_ET.6 (Public); P01120 (Public); P01264 / P01264_ET (Public), pp.SPOE00128620-00128621. *See e.g.* Annex 1: items 51 (U001-1508-U001-1508 / U001-1508-U001-1508-ET), 53 (U001-1533-U001-1533 / U001-1533-U001-1533-ET Revised).

¹³ IT-03-66 P160-TR-ET_F02117, pp.28-29, 32; IT-03-66 T3686-T3760 (Confidential), pp.3744, 3746.

¹⁴ Transcript, 14 August 2023, pp.6276 (Open), 6309 (Private), 6345 (Private); P01115.3_ET (Public), pp.31-32; Transcript, 23 April 2024, p.14761 (Open); IT-03-66 P160-TR-ET_F02117, pp.39-40, 43-44, 66; IT-03-66 T3761-T3827 Unredacted, pp.3777-3778; P00189 / P00189_ET (Public), p.U015-8869.

¹⁵ IT-03-66 P160-TR-ET_F02117, pp.31-32, 64-71; P00189 / P00189_ET (Public), p.U015-8870.

¹⁶ IT-03-66 P160-TR-ET_F02117, pp.61-62; IT-03-06 T3915-T4001_F02117, pp.3924-3928, 3945, 3998; IT-03-66 T3686-T3760 Unredacted, pp.3750-3751, 3758-3759; IT-03-66 T3761-T3827 Unredacted, pp.3762, 3773-3774; IT-03-66 T4002-T4087 Unredacted_F02117, pp.4015, 4018, 4021; [REDACTED]; [REDACTED]; [REDACTED].

¹⁷ KSC-BC-2020-06/F01534/A01, Fact 394; 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.310.

¹⁸ KSC-BC-2020-06/F01534/A01, Facts 242(f), 293; P00189 / P00189_ET (Public), p.U015-8869; P00761.6_ET (Confidential), pp.2-4; IT-03-66 T3761-T3827 Unredacted, pp.3782-3783, 3797; IT-03-66 T4088-T4174_F02117, p.4117.

¹⁹ KSC-BC-2020-06/F01534/A01, Facts 242(f), 293; IT-03-66 P160-TR-ET_F02117, pp.50, 62, 64, 68-69; IT-03-66 T3761-T3827 Unredacted, p.3798; IT-03-06 T3915-T4001_F02117, pp.3988-3989, 3991; IT-03-66 T4088-T4174_F02117, p.4094; P00796 (Public), p.3481.

²⁰ IT-03-66 T3761-T3827 Unredacted, pp.3768, 3774-3776; P00189 / P00189_ET (Public), p.U015-8870.

²¹ P00610 / P00610_ET (Public); P01015 / P01015_ET (Public), p.036669.

the first units in Kaçanik/Kaçanik, Agim BAJRAMI (aka 'Commander Zefi'),²² was made commander of the Kaçanik/Kaçanik unit by BUJA,²³ following the decision of the General Staff.²⁴

6. The Zone commander received instructions from members of the General Staff²⁵ and reported to the General Staff.²⁶ The General Staff made appointments to zone level staff positions,²⁷ delineated zone boundaries,²⁸ approved military strategy,²⁹ and inspected units.³⁰ KLA units in Nerodime OZ engaged in heavy fighting³¹ and the

²² IT-03-66 P160-TR-ET_F02117, pp.31-32; Transcript, 22 February 2024, p.12812 (Open); P00189 / P00189_ET (Public), pp.U015-8870-U015-8871; Transcript, 22 April 2024, p.14646 (Open).

²³ P01015 / P01015_ET (Public), p.036645; P01020.3_ET (Public), pp.2, 6; Transcript, 21 February 2024, pp.12657-12658 (Open).

²⁴ P00189 / P00189_ET (Public), pp.U015-8870-U015-8871; P01015 / P01015_ET (Public), p.036645; Transcript, 21 February 2024, pp.12657-12659 (Open).

²⁵ P01017 / P01017_ET (Public); IT-03-66 P160-TR-ET_F02117, pp.61-62; [REDACTED]; [REDACTED]. *See also* 1D00033 / 1D00033_ET (Confidential), pp.SPOE00226330-00226334.

²⁶ P01116, pp.061332-061333 / P01116_ET.6 (Public); P01115.4_ET, pp.5-14 (Public); 1D00033 / 1D00033_ET (Confidential), pp.SPOE00226330-00226334); P01109 / P01109_ET (Public), p.U002-2860; [REDACTED]; [REDACTED]. *See also* Transcript, 23 April 2024, pp.14729-14731 (Open); Transcript, 24 April 2024, pp.14837-14841 (Open); P00228 / P00228_ET (Public); P00886 / P00886_ET (Public).

²⁷ P00610 / P00610_ET (Public); P00774 (Confidential), p.SPOE00067171. *See e.g.* Annex 1: item 6 (SPOE00248504-00248504/ SPOE00248504-SPOE00248504-ET).

²⁸ P01393 / P01393_ET (Public), p.SPOE00226625; P01109 / P01109_ET (Confidential), p.U002-2861; P01108 / P01108_ET (Confidential); [REDACTED].

²⁹ [REDACTED]; Transcript, 27 August 2024, p.19106 (Private); P01558 (Confidential), para.30.

³⁰ 1D00033 / 1D00033_ET (Confidential), pp. SPOE00226329-SPOE00226336; P01015 / P01015_ET (Public), p.036807; 3D00027 / 3D00027_ET (Public). *See e.g.* Annex 1: items 6 (SPOE00248504-00248504 / SPOE00226642-SPOE00226642-ET), 28 (U001-1011-U001-1011 / U001-1011-U001-1011-ET), 94 (018652-01 / 018652-01-TR / 018652-01-TR-ET), 5 (U001-2063-U001-2101 / U001-2063-U001-2101-ET Revised 1).

³¹ *See e.g.* P00515_ET.11 (Public); Transcript, Trial Hearing, 27 August 2024, p.19030 (Private); Annex 1: items 52 (U000-4680-U000-4680 / U000-4680-U000-4680-ET), 50 (U001-1461-U001-1463 / U001-1461-U001-1463-ET Revised 1), 25 (U001-0990-U001-0990 / U001-0990-U001-0990-ET), 27 (U001-1473-U001-1473 / U001-1473-U001-1473-ET), 33 (U001-1441-U001-1441 / U001-1441-U001-1441-ET), 36 (U001-1471-U001-1471 / U001-1471-U001-1471-ET), 38 (U001-1504-U001-1504 / U001-1504-U001-1504-ET), 39 (U001-1502-U001-1502 / U001-1502-U001-1502-ET), 41 (U001-1596-U001-1597 / U001-1596-U001-1597-ET), 48 (U000-4678-U000-4678 / U000-4678-U000-4678-ET), 52 (U000-4680-U000-4680 / U000-4680-U000-4680-ET), 53 (U001-1533-U001-1533 / U001-1533-U001-1533-ET Revised), 54 (U001-1465-U001-1465 / U001-1465-U001-1465-ET Revised), 61 (U001-1412-U001-1412 / U001-1412-U001-1412-ET Revised), 62 (U001-1537-U001-1537 / U001-1537-U001-1537-ET), 64 (U001-1043-U001-1046 / U001-1043-U001-1046-ET), 70 (U001-1457-U001-1457 / U001-1457-U001-1457-ET).

General Staff was informed, through meetings and through the reporting chain, of operational matters, including losses and the need for reinforcements.³²

7. In January 1999, SELIMI and other General Staff members visited the zone and inspected units,³³ while later in the spring, Bislim ZYRAPI ordered the transfer of Pashtrik OZ units to Nerodime OZ to support the 161 Brigade for six weeks in 'fierce fighting' against Serbian forces.³⁴ Around March or April 1999, THAÇI, SELIMI, VESELI, and Fatmir LIMAJ came, on various occasions, to the zone, where the General Staff was temporarily based.³⁵ THAÇI visited Ferizaj several times,³⁶ inspected military operations,³⁷ and was also present at the headquarters of the 162 Brigade with members of the military police.³⁸ KDOM personnel observed that the General Staff had leadership and control over the Nerodime OZ under commander BUJA,³⁹ who remained the zone commander throughout the Indictment period.⁴⁰

³² See e.g. P00811 / P00811_ET.22 (Public); 1D00033 / 1D00033_ET (Confidential), pp.SPOE00226330-00226333; P01554.3_ET (Confidential), p.15; P01558 (Confidential), para.30; Transcript, 27 August 2024, pp.19086, 19106 (Private); P00189 / P00189_ET (Public), pp.U015-8870-U015-8872; [REDACTED]. See e.g. Annex 1: items 64 (U001-1043-U001-1046 / U001-1043-U001-1046-ET), 68 (U001-1453-U001-1453 / U001-1453-U001-1453-ET), 70 (U001-1457-U001-1457 / U001-1457-U001-1457-ET), 66 (U001-1535-U001-1535 / U001-1535-U001-1535-ET), 62 (U001-1537-U001-1537 / U001-1537-U001-1537-ET), 47 (U001-1717-U001-1727 / U001-1717-U001-1727-ET), 5 (U001-2063-U001-2101 / U001-2063-U001-2101-ET Revised 1).

³³ 1D00033 / 1D00033_ET (Confidential), pp. SPOE00226329-SPOE00226336.

³⁴ P01554.3_ET, p.15 (Confidential); P01558, para.30 (Confidential); [REDACTED]. See e.g. Annex 1: item 70 (U001-1457-U001-1457 / U001-1457-U001-1457-ET).

³⁵ See also P00787 (Confidential), paras 4, 6; P00772 (Confidential), paras 18-19, 22, 29-31, 34-36; P00763.5_ET (Public), pp.17-21; P00769 (Confidential), paras 7-15, 26-29, 33-37; P01097.7_ET (Confidential), pp.26-27; P01097.8_ET (Confidential), pp.1-4; [REDACTED]; Transcript, 3 July 2024, pp.17504-17507 (Open).

³⁶ Transcript, 27 August 2024, p.19052 (Private); P00769 (Confidential), paras 7-15, 26-29.

³⁷ P00769 (Confidential), paras 26-29.

³⁸ P01015 / P01015_ET (Public), p.036807. See e.g. Annex 1, items 28 (U001-1011-U001-1011 / U001-1011-U001-1011-ET), 94 (018652-01 / 018652-01-TR / 018652-01-TR-ET).

³⁹ P01066 (Confidential), para.44.

⁴⁰ KSC-BC-2020-06/F01534/A01, Facts 242(f), 293; P00761.6_ET (Confidential), pp.5-6.

8. Proposed Exhibits demonstrate the support of the General Staff in Nerodime OZ, personally,⁴¹ and through the distribution of various regulations,⁴² as well as the implementation of a system of reporting and communication in the zone,⁴³ all indicating a high level of organisation and recordkeeping.⁴⁴

9. Throughout the Indictment period – as reflected in witness evidence and contemporaneous records, including admitted and Proposed Exhibits – Nerodime OZ KLA members were present and coordinating operations in areas under their control, including near Petrovë/Petrova, Bob, Ivajë/Ivaja, Biçec/Biçevac, Varosh/Varoš Selo, and Nerodimja e Ulët/Donje Nerodimlje, and established bases in these locations.⁴⁵ KLA members in these locations targeted, arrested, detained, mistreated, and killed

⁴¹ See e.g. footnotes in preceding paragraph and Annex 1: items 28 (U001-1011-U001-1011 / U001-1011-U001-1011-ET), 42 (U001-1524-U001-1524 / U001-1524-U001-1524-ET Revised).

⁴² See e.g. Annex 1: items 5 (U001-2063-U001-2101 / U001-2063-U001-2101-ET Revised 1), 8 (U017-3163-U017-3194 / U017-3163-U017-3194-ET).

⁴³ See e.g. Annex 1: items 74 to 92 (U001-1835-U001-1836 / U001-1835-U001-1836-ET; U001-1771-U001-1771 / U001-1771-U001-1771-ET; U001-1805-U001-1805 / U001-1805-U001-1805-ET; U001-1765-U001-1770 / U001-1765-U001-1770-ET; U001-0951-U001-0952 / U001-0951-U001-0952-ET Revised; U001-1826-U001-1826 / U001-1826-U001-1826-ET Revised; U001-0940-U001-0941 / U001-0940-U001-0941-ET; U001-1842-U001-1852 / U001-1842-U001-1852-ET; U001-2348-U001-2350 / U001-2348-U001-2350-ET; U001-1773-U001-1773 / U001-1773-U001-1773-ET Revised; U001-1812-U001-1812 / U001-1812-U001-1812-ET; U001-1786-U001-1786 / U001-1786-U001-1786-ET; U001-1788-U001-1804 / U001-1788-U001-1804-ET; U000-4398-U000-4398 / U000-4398-U000-4398-ET Revised; U001-1814-U001-1814 / U001-1814-U001-1814-ET; U001-1827-U001-1827 / U001-1827-U001-1827-ET; U001-2245-U001-2275 / U001-2245-U001-2275-ET Revised; U001-2277-U001-2281 / U001-2277-U001-2281-ET; U001-2235-U001-2243 / U001-2235-U001-2243-ET), 15 (U001-0947-U001-0947 / U001-0947-U001-0947-ET), 95 (018656-01 / 018656-01-TR / 018656-01-TR-ET).

⁴⁴ See e.g. Annex 1: items 70 (U001-1457-U001-1457 / U000-1457-U001-1457-ET), 4 (U001-1877-U001-1885 / U001-1877-U001-1885-ET), 45 (U001-1637-U001-1712 / U001-1637-U001-1712-ET), 3 (U001-1127-U001-1131 / U001-1127-U001-1131-ET), 63 (U001-1393-U001-1393 / U001-1393-U001-1393-ET), 47 (U001-1717-U001-1727 / U001-1717-U001-1727-ET), 43 (U001-1729-U001-1745 / U001-1729-U001-1745-ET), 5 (U001-2063-U001-2101 / U001-2063-U001-2101-ET Revised 1), 49 (U001-2307-U001-2309 / U001-2307-U001-2309-ET), 23 (U001-2358-U001-2524 / U001-2358-U001-2524-ET Revised), 34 (U001-2525-U001-2536 / U001-2527-U001-2536-ET).

⁴⁵ See e.g. KSC-BC-2020-01/F01534/A01, Facts 556-557, 564-565; P01001 (Confidential), p.SPOE00092189; P01002 (Public); P00998.2_ET (Confidential), pp.14-15, 18-20; P01000 (Confidential), pp.SPOE00092121–SPOE00092122; P00344 (Confidential), pp.SPOE00091020-00091024. See e.g. Annex 1, items 32 (U001-1578-U001-1579 / U001-1578-U001-1578-ET Revised), 74 (U001-1835-U001-1836 / U001-1835-U001-1836-ET), 67 (U001-1554-U001-1554 / U001-1554-U001-1554-ET Revised), 93 (018655-01); Transcript, 22 February 2024, pp.12875-12877 (Open).

Serbs, alleged collaborators, and other perceived Opponents,⁴⁶ including charged victims in this case.⁴⁷ Reports of the arbitrary detention and mistreatment of individuals were brought to the attention of both the Nerodime OZ Commander and international observers.⁴⁸

i. Brigades

10. Following General Staff meetings in mid-August 1998,⁴⁹ existing military formations in the Nerodime OZ became the 161 and 162 Brigades.⁵⁰ Brigade commander candidates were proposed by zone commanders, and then subject to the approval of the General Staff.⁵¹ For example, after the death of Kaçanik/Kaçanik unit commander Agim BAJRAMI on 10 August 1998, Qamil ILAZI (aka 'Bardhi')⁵² was appointed as unit commander by BUJA and the General Staff⁵³ and under ILAZI this unit became the 162 Brigade.⁵⁴ ILAZI was also assisted by Ejup RUNJEVA (aka

⁴⁶ The term 'Opponents' is defined at para.32 of the Indictment.

⁴⁷ See e.g. KSC-BC-2020-06/F01534/A01, Facts 556-567; P01130 / P01130_ET (Public); P01018 / P01018_ET (Public); P01131 (Confidential), p.101838; P01128_ET (Confidential), p.SPOE00092374; P00992 (Confidential), pp.SPOE00089678-00089679; P00352 (Confidential), p.SPOE00090836-00090837; P00343 (Confidential), pp.SPOE00090963-00090966; Transcript, 5 September 2023, pp. 7179-7181, 7235-7237, 7246 (Open). See also Annex 1: items 19 (IT-03-66 P23 / IT-03-66 P23a), p.9, 35 (U001-1021-U001-1023 / U001-1021-U001-1023-ET); 1D00033 / 1D00033_ET (Confidential), p.SPOE00226332.

⁴⁸ P00003 (Public); Transcript, 7 December 2023, pp.10863-10864 (Open); P00743.1 (Public), p.SPOE00198221. See also P01074 (Public), p.075344; P01097.8_ET (Confidential), p.3; P00772 (Confidential), pp.SITF00009292-00009293.

⁴⁹ KSC-BC-2020-06/F01534/A01, Fact 224; P01138 / P01138_ET (Confidential), pp.SPOE00231431-00231432; P00643 / P00643_ET (Public), pp. SPOE00229214-00229215; P01277 / P01277_ET (Confidential), p.U015-8836; P00187 / P00187_ET (Public), p.SPOE00055738; P01114.3 (Confidential), pp.3692-3693; P01327.1_ET (Confidential), pp.19-20, 28; IT-03-66 P160-TR-ET_F02117, p.78.

⁵⁰ KSC-BC-2020-06/F01534/A01, Fact 294; P01356_ET (Public), pp.6258-6259; P00515_ET.29 (Public), p.008091.

⁵¹ KSC-BC-2020-06/F01534/A01, Fact 225; P01356_ET (Public), p.5964; P00774 (Confidential), p.SPOE00067171.

⁵² Transcript, 1 February 2024, p.12504 (Open); Transcript, 21 February 2024, p.12650 (Open); Transcript, 22 February 2024, p.12851 (Open); [REDACTED].

⁵³ Transcript, 1 February 2024, p.12504 (Open); Transcript, 21 February 2024, p.12650 (Open); P00189 / P00189_ET (Public), p.U015-8872; P00998.2_ET (Confidential), pp.16-17.

⁵⁴ P01020.1_ET (Public), p.24.

‘Commander Era’).⁵⁵ 162 Brigade members, including Ejup RUNJEVA, were involved in the arrest, detention, and mistreatment of charged victims in this case, including some who were never heard from again.⁵⁶

11. The General Staff appointed Ahmet KAÇIKU commander of the 161 Brigade⁵⁷ (also referred to as the Ahmet Kaçiku Brigade following his death in January 1999).⁵⁸ After KAÇIKU’s death, Ilmi RAMUSHOLLI (aka ‘Graniti’) became the 161 Brigade commander.⁵⁹ This brigade covered, at various times, the areas of Lipjan/Lipljan, Ferizaj/Uroševac, and Jezerce/Jerzerc.⁶⁰

12. Contemporaneous KLA records, including Proposed Exhibits, show that brigades in the Nerodime OZ received orders and instructions, including from the General Staff⁶¹ and zone commander,⁶² and that KLA members received instructions

⁵⁵ Transcript, 22 February 2024, p.12908 (Open); P00992 (Confidential), p.SPOE00089686; P01001 (Confidential), p.SPOE00092191; P00344 (Confidential), p.SPOE00091019.

⁵⁶ KSC-BC-2020-06/F01534/A01, Facts 561, 564-567; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras 528-529, 532-533, 535; P00344 (Confidential), pp.SPOE00091019-00091022; P00352 (Confidential), p.SPOE00090837; P00353 (Confidential), pp.SPOE00091429-00091430.

⁵⁷ P00610 / P00610_ET (Public); P00189 / P00189_ET (Public), pp.U015-8870, U015-8872.

⁵⁸ P00515_ET.29 (Public), p.008090. *See e.g.* Annex 1: items 57 (U001-1410-U001-1410 / U001-1410-U001-1410-ET), 61 (U001-1412-U001-1412 / U001-1412-U001-1412-ET Revised), 50 (U001-1461-U001-1463 / U001-1461-U001-1463-ET Revised 1), 54 (U001-1465-U001-1465 / U001-1465-U001-1465-ET Revised), 42 (U001-1524-U001-1524 / U001-1524-U001-1524-ET Revised), 15 (U001-0947-U001-0947 / U001-0947-U001-0947-ET), 26 (U001-1459-U001-1459 / U001-1459-U001-1459-ET), 30 (U001-1367-U001-1368 / U001-1367-U001-1367-ET), 40 (U001-1526-U001-1526 / U001-1526-U001-1526-ET), 46 (U001-1113-U001-1113 / U001-1113-U001-1113-ET), 51 (U001-1508-U001-1508 / U001-1508-U001-1508-ET), 59 (U001-1713-U001-1713 / U001-1713-U001-1713-ET), 68 (U001-1453-U001-1453 / U001-1453-U001-1453-ET), 82 (U001-2348-U001-2350 / U001-2348-U001-2350-ET), 83 (U001-1773-U001-1773 / U001-1773-U001-1773-ET Revised), 84 (U001-1812-U001-1812 / U001-1812-U001-1812-ET).

⁵⁹ Transcript, 28 August 2024, p.19135 (Private). *See e.g.* Annex 1: items 19 (IT-03-66 P23 / IT-03-66 P23a), 2 (U001-1389-U001-1389 / U001-1389-U001-1389-ET), 29 (U001-1569-U001-1569 / U001-1569-U001-1569-ET), 21 (U001-2352-U001-2355 / U001-2352-U001-2355-ET). *See also* P00874 / P00874_ET (Public), P00878 / P00878_ET (Public), P00896 / P00896_ET (Public), P00897 / P00897_ET (Public), P00898 / P00898_ET (Public).

⁶⁰ IT-03-66 P160-TR-ET_F02117, p.79; P01015 / P01015_ET (Public), p.036669; P01001 (Confidential), p.SPOE00092194.

⁶¹ P00610 / P00610_ET (Public); P00900 / P00900_ET (Public). *See e.g.* Annex 1: item 6 (SPOE00248504-00248504 / SPOE00248504-SPOE00248504-ET).

⁶² P01014, p.044181 / P01014_ET.2 (Public). *See e.g.* Annex 1: item 51 (U001-1508-U001-1508 / U001-1508-U001-1508-ET), 21 (U001-2352-U001-2355 / U001-2352-U001-2355-ET).

to adhere to the rules and regulations, including on discipline, and otherwise face sanctions according to the rules and regulations in place.⁶³

ii. Military police

13. Military police were present in the area of the Nerodime OZ from early summer 1998 and the structures of the military police were crystallised and reorganised over the course of 1998.⁶⁴ Fatmir LIMAJ, as head of the General Staff military police directorate,⁶⁵ issued orders and clarified procedures concerning personnel,⁶⁶ arrests and the practices of the military police,⁶⁷ who were operating under military police commander Isak MUSLIU (aka 'Qerqizi').⁶⁸ Prior to his appointment as military police commander in the Nerodime OZ, Isak MUSLIU, together with others, detained, interrogated, and mistreated Opponents at the Llapushnik/Lapušnik detention site.⁶⁹ He continued to be involved in similar crimes after joining the Nerodime OZ Command.⁷⁰

14. Proposed Exhibits, together with other documentary and witness evidence, show that MUSLIU, who continued to receive assignments from the General Staff

⁶³ P00873 / P00873_ET (Public); P00874 / P00874_ET (Public); P00878 / P00878_ET (Public); Transcript, 27 August 2024, pp.19030-19031 (Private); P00897 / P00897_ET (Public); P00898 / P00898_ET (Public); P00896 / P00896_ET (Public); P00899 / P00899_ET (Public). *See e.g.* Annex 1: items 20 (U001-1886-U001-1905 / U001-1886-U001-1905-ET), 72 (U001-1529-U001-1529 / U001-1529-U001-1529-ET), 62 (U001-1530-U001-1530 / U001-1530-U001-1530-ET Revised) 53 (U001-1533-U001-1533 / U001-1533-U001-1533-ET Revised), 5 (U001-2063-U001-2101 / U001-2063-U001-2101-ET Revised 1).

⁶⁴ *See e.g.* IT-03-66 P160a-TR-ET_F02117, pp.35-39; IT-03-66 T4088-T4174_F02117, p.4145.

⁶⁵ KSC-BC-2020-06/F01534/A01, Fact 538; P00009 / P00009_ET (Public); P01355.5_ET (Confidential), p.21.

⁶⁶ P00872 / P00872_ET (Public). *See e.g.* Annex 1: items 8 (U017-3163-U017-3194 / U017-3163-U017-3194-ET), 30 (U001-1367-U001-1368 / U001-1367-U001-1367-ET), 57 (U001-1410-U001-1410 / U001-1410-U001-1410-ET Revised).

⁶⁷ P00887 / P00887_ET (Public); P00009 / P00009_ET (Public). *See e.g.* Annex 1: item 8 (U017-3163-U017-3194 / U017-3163-U017-3194-ET).

⁶⁸ IT-03-66 P160a-TR-ET_F02117, p.13; IT-03-66 T4088-T4174_F02117, pp.4146-4147; P01015 / P01015_ET (Public), p.036670. *See e.g.* Annex 1: items 2 (IT-03-66 P22 / IT-03-66 P22a), 19 (IT-03-66 P23 / IT-03-66 P23a), 8 (U017-3163-U017-3194 / U017-3163-U017-3194-ET).

⁶⁹ Pre-Trial Brief, KSC-BC-2020-06/F01594/A01, paras 307, 316. 321, 329, 330.

⁷⁰ *See e.g.* SPOE00185393-00185400RED, p.SPOE00185395 (tendered in KSC-BC-2020-06/F02599/A08, item 1).

through at least June 1999,⁷¹ participated in meetings with OZ staff, the 161 Brigade command and the military police,⁷² and kept contemporaneous notes containing his assessments on disciplinary matters and suspicious persons.⁷³ Through late spring 1999, the military police continued to grow in number, with the military police of 162 Brigade, under Xhabir ELEZI, numbering more than forty members in four squadrons.⁷⁴

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

15. The Proposed Exhibits contain multiple indicia of authenticity, as indicated for each in Annex 1.⁷⁵ Many bear official headers, signatures of commanders, reference numbers and stamps.⁷⁶ Notably, the Proposed Exhibits include template documents for use and an index contained in a protocol book cataloguing 161 Brigade reports, orders and other written instructions between 4 December 1998 and 7 May 1999, both

⁷¹ See e.g. Annex 1: item 19 (IT-03-66 P23 / IT-03-66 P23a).

⁷² See e.g. Annex 1: item 19 (IT-03-66 P23 / IT-03-66 P23a).

⁷³ See e.g. Annex 1: item 19 (IT-03-66 P23 / IT-03-66 P23a).

⁷⁴ P01014, p.044183 / P01014_ET.3 (Public); Transcript, 21 February 2024, p.12649 (Open); P00998.2_ET (Confidential), p.25. See e.g. Annex 1: item 29 (U001-1569-U001-1569 / U001-1569-U001-1569-ET).

⁷⁵ For purposes of assessing certain of the indicia (such as signatures, stamps, and formatting including headers) identified below and in Annex 1, both the original and translation should be consulted.

⁷⁶ See, *similarly*, Sixth Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01983, 5 December 2023, Public ('Sixth Decision'), paras 85, 111, 119. As an example, similarly formatted reports used by the 161 Brigade tendered herein speak to the wide use of such reports in the Nerodime OZ and support their authenticity. See e.g. Annex 1: items 50 (U001-1461-U001-1463 / U001-1461-U001-1463-ET Revised 1), 12 (U001-1540-U001-1540 / U001-1540-U001-1540-ET Revised), 11 (U001-1073-U001-1073 / U001-1073-U001-1073-ET Revised), 54 (U001-1465-U001-1465 / U001-1465-U001-1465-ET Revised), 16 (U001-1090-U001-1090 / U001-1090-U001-1090-ET Revised), 70 (U001-1457-U001-1457 / U001-1457-U001-1457-ET), 71 (U001-1528-U001-1528 / U001-1528-U001-1528-ET Revised 1), 55 (U001-1534-U001-1534 / U001-1534-U001-1534-ET Revised), 40 (U001-1526-U001-1526 / U001-1526-U001-1526-ET), 64 (U001-1043-U001-1046 / U001-1043-U001-1046-ET), 51 (U001-1508-U001-1508 / U001-1508-U001-1508-ET), 44 (U001-1506-U001-1506 / U001-1506-U001-1506-ET), 24 (U001-1520-U001-1520 / U001-1520-U001-1520-ET), 10 (U001-1431-U001-1431 / U001-1431-U001-1431-ET), 52 (U000-4680-U000-4680 / U000-4680-U000-4680-ET), 62 (U001-1537-U001-1537 / U001-1537-U001-1537-ET), 48 (U000-4678-U000-4678 / U000-4678-U000-4678-ET), 58 (U001-1532-U001-1532 / U001-1532-U001-1532-ET), 53 (U001-1533-U001-1533 / U001-1533-U001-1533-ET Revised), 61 (U001-1412-U001-1412 / U001-1412-U001-1412-ET Revised), 28 (U001-1011-U001-1011 / U001-1011-U001-1011-ET).

of which reinforce the authenticity of these KLA documents and support their reliability.⁷⁷

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 Annex 1 (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 operational, routine and administrative matters, that only Nerodime 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.⁷⁸

17. Finally, while proof of provenance or authorship is not required,⁷⁹ the provenance of each Proposed Exhibit is indicated in Annex 1. The majority of the Proposed Exhibits were obtained from KLA bases and/or members during and after the Indictment period,⁸⁰ including in the context of prior criminal investigations and

⁷⁷ See Annex 1: items 15 (U001-0947-U001-0947 / U001-0947-U001-0947-ET), 4 (U001-1877-U001-1885 / U001-1877-U001-1885-ET). Item 4 is missing a page, for documents dated between 27 March and 13 April 1999.

⁷⁸ See Annex 1; paras 4-14 above.

⁷⁹ 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, Public, paras 12, 14, 16; Transcript, 25 March 2024, p.13521.

⁸⁰ The majority of the Proposed Exhibits were seized by the Serbian authorities. See e.g. Annex 1, items 1, 3-5, 7, 9-17, 20-92; ICTY, *Prosecutor v. Haradinaj et al.*, IT-04-84-T, Prosecution's Submission of Chain of Custody Information for Exhibits Tendered through Bislim Zyrapi, 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. Two Proposed Exhibits were seized from Isak MUSLIU's residence in the context of the ICTY *Limaj et al.* case. See e.g. Annex 1, items 2 (IT-03-66 P22 / IT-03-66 P22a), and 19 (IT-03-66 P23 / IT-03-66 P23a); SITF00291733-00291778, pp.SITF00291754-SITF00291755, SITF00291764-SITF00291765. 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, 25 January 2023, Public, para.46. IRMCT and ICTY Chambers have considered

proceedings.⁸¹ Notably, as reflected where relevant in Annex 1 and in previous bar table motions,⁸² 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.

C. 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.⁸³ At the end of the trial, the Panel will assess what weight to assign any admitted exhibits in light of the entire record.⁸⁴

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.

⁸¹ Proposed Exhibits collected in the context of prior criminal investigations and proceedings, including by the ICTY and UNMIK, are identified in Annex 1 and at footnote 80 above. They are admissible, provided they satisfy the requirements of the Rules. See Article 37(1), (3)(c).

⁸² Llap Motion, KSC-BC-2020-06/F02178, para.21; Prosecution motion for admission of Drenica Zone documents, KSC-BC-2020-06/F02248, Public, 16 April 2024, para.21; Prosecution motion for admission of Shala Zone and Karadak Zone documents, KSC-BC-2020-06/F02468, 24 July 2024, Public, para.17.

⁸³ See, *similarly*, Sixth Decision, KSC-BC-2020-06/F01983, paras 32, 87, 97, 105, 113, 121.

⁸⁴ Sixth Decision, KSC-BC-2020-06/F01983, para.129.

D. ADDITIONAL DOCUMENT

19. The following document is not specific to the Nerodime OZ⁸⁵ and was included in the Llap Motion. Its admission should be considered in light of the following supplementary submissions.

20. P01687_ETMFI / P01687MFI, marked for identification on 26 September 2024,⁸⁶ was tendered in the Llap Motion.⁸⁷ On 26 September 2024, following its use with W04669, the SPO tendered this document, a list of prisoners, in court and agreed to (i) provide the translation of Serbian language pages and (ii) further information about the document's authenticity.⁸⁸ In relation to (i), the translation of the Serbian language pages – which are not tendered – have been disclosed.⁸⁹ In relation to (ii), information on the document's authenticity can be found in Annex 1 to the Llap Motion (item 130),⁹⁰ with further detail about provenance at footnote 98 of the Llap Motion.⁹¹ The document is also corroborated by other evidence detailing the detention and interrogation of numerous detainees and the alias of Salih MUSTAFA.⁹²

⁸⁵ As this document was tendered in another bar table motion, it is not included in Annex 1 to this Motion.

⁸⁶ Transcript, 26 September 2024, pp.20352-20359 (Private).

⁸⁷ See Llap Motion, KSC-BC-2020-06/F02178/A01, item 130 (U001-0310-U001-0325 / U001-0310-U001-0325-ET).

⁸⁸ Transcript, 26 September 2024, pp.20352-20359 (Private). In response to challenges to the authenticity of the document, the SPO noted that it was found reliable and authentic in the *Mustafa* trial judgment. The Presiding Judge indicated that it would be marked for identification pending receipt of further information, including as relied upon in the *Mustafa* trial.

⁸⁹ The English translation of the non-tendered, Serbian pages (U001-0323-U001-0325_ET) was disclosed in package 156 on 31 January 2022 (Rule 102(1)(b)). The SPO only relies on the pages tendered in English (see column 'ERN Translation(s)' at KSC-BC-2020-06/F02178/A01, item 130 (U001-0310-011-0322-ET)).

⁹⁰ Llap Motion, KSC-BC-2020-06/F02178/A01, item 130 (U001-0310-U001-0325 / U001-0310-011-0322-ET).

⁹¹ This footnote cites, *inter alia*, ICTY, *Prosecutor v. Haradinaj et al.*, IT-04-84-T, Prosecution's Submission of Chain of Custody Information for Exhibits Tendered through Bislim Zyrapi, 7 November 2007, Annex A (Investigator Declaration), paras 3, 13 (concerning documents provided to the SPO by the ICTY and falling in ERN range U000-0287-U002-3928). The concerned document falls in this range.

⁹² In respect of the detention of particular detainees, see e.g. P01680.2_ET (Confidential), pp.2-8, 11-12, 14, 17-19, 21-22, 31; P01645.3_ET (Confidential), pp.5-13; KSC-BC-2020-06/F02498/A01, Facts 812, 853, 855, 868-870, 879-881, 887-889, 895, 898-899. In respect of the interrogation of detainees, see e.g. P01680.2

III. CLASSIFICATION

21. This filing and Annex 1 are confidential to give effect to existing protective measures and to safeguard the interests and privacy of third parties. Considering his position, this filing and Annex 1 make extensive reference to the evidence of W01453. Exceptionally, and to avoid the filing of multiple (lesser) redacted versions, the SPO intends to only file one redacted version promptly upon completion of W01453's testimony.

22. For each Proposed Exhibit, the proposed classification is indicated in Annex 1, justifying confidential classification, where appropriate.⁹³

IV. RELIEF REQUESTED

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

Word count: 4861



Kimberly P. West

Specialist Prosecutor

Monday, 21 October 2024

At The Hague, the Netherlands.

ET (Confidential), pp.9-10, 11, 15-16, 23-25, 31-32; KSC-BC-2020-06/F02498/A01, Facts 847, 849, 861, 864, 866, 874, 876, 885, 893-894. P01680.2 ET (Confidential), pp.12-13, 20; P01680.2 ET (Confidential), pp.23-25, 31-32. In respect of the detention of additional detainees, *see e.g.* KSC-BC-2020-06/F02498/A01, Facts 936-937. In respect of the nickname 'Cali' found on the list of prisoners and a connection to the detainees, *see e.g.* [REDACTED]; P01645.1 ET (Confidential), pp.22-23; P01645.3 ET (Confidential), p.11; KSC-BC-2020-06/2498/A01, Fact 780. *See also* Annex 1 to Public Redacted Version of Annex 1 to 'Corrected version of 'Prosecution Final Trial Brief pursuant to Rule 134(b) with Confidential Annex 1 and Public Annex 2'', F00459/COR/A01, 22 July 2022, KSC-BC-2020-05/F00505/A01, 31 January 2023, Public, paras 171-175.

⁹³ *See* First Decision, KSC-BC-2020-06/F01409, para.22.