



In: KSC-BC-2020-06

**The Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli,
Rexhep Selimi, and Jakup Krasniqi**

Before: Trial Panel II

Judge Charles L. Smith III, Presiding Judge

Judge Christoph Barthe

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 21 February 2025

Language: English

Classification: Public

**Decision on Prosecution Motion for Admission of Llap Zone Documents and
Related Request**

Specialist Prosecutor

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TRIAL PANEL II (“Panel”), pursuant to Articles 21, 37 and 40(2) and (6)(h) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 118(2), 137 and 138(1) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 31 March, 9 June, 27 July, 8 August, 3 October and 5 December 2023, the Panel issued a number of decisions addressing bar table motions filed by the Specialist Prosecutor’s Office (“SPO”)’s (“Decision on Bar Table Motion”, “Second Decision on Bar Table Motion”, “Third Decision on Bar Table Motion”, “Fourth Decision on Bar Table Motion”, “Fifth Decision on Bar Table Motion” and “Sixth Decision on Bar Table Motion”, respectively).¹

2. On 30 May, 10 and 12 July, 25 August, 19 September, 3 November, 15 December 2023, 15 January, 15 March, 19 April, 16 and 27 August, 19 December 2024, 5 and 14 February 2025, upon authorisation from the Panel,²

¹ F01409, Panel, *Decision on Specialist Prosecutor’s Bar Table Motion*, 31 March 2023, confidential; F01596, Panel, *Second Decision on Specialist Prosecutor’s Bar Table Motion*, 9 June 2023, confidential and *ex parte* (a confidential redacted version was issued on the same day, F01596/CONF/RED; the *ex parte* marking of the decision was lifted on 22 June 2023, F01596/CONF; the decision was reclassified as public on 15 November 2023, F01596); F01705, Panel, *Third Decision on Specialist Prosecutor’s Bar Table Motion*, 27 July 2023; F01716, Panel, *Fourth Decision on Specialist Prosecutor’s Bar Table Motion*, 8 August 2023, confidential; F01832, Panel, *Fifth Decision on Specialist Prosecutor’s Bar Table Motion*, 3 October 2023; F01983, Panel, *Sixth Decision on Specialist Prosecutor’s Bar Table Motion*, 5 December 2023.

² F01352, Panel, *Decision on Prosecution Request to Amend the Exhibit List and Related Matters*, 8 March 2023, confidential (a public redacted version was issued on 1 November 2023, F01352/RED); F01544, Panel, *Decision on Prosecution Request to Add Five Items Relating to Expert Witness to the Exhibit List* (“23 May 2023 Decision”), 23 May 2023; Transcript of Hearing, 12 July 2023, p. 5551, line 9 to p. 5553, line 19; F01656, Panel, *Decision on Prosecution Request to Add Intercepted Communications to the Exhibit List* (“Intercepts Decision”), 7 July 2023, confidential (a public redacted version was issued on 14 November 2023, F01656/RED); F01739, Panel, *Decision on Prosecution Request to Amend the Exhibit List* (F01728), 24 August 2023, confidential (a public redacted version was issued on 15 November 2023, F01739/RED); F01785, Panel, *Decision on Prosecution Requests to Amend the Exhibit List* (F01689 and F01747), 12 September 2023, confidential (“12 September 2023 Decision”) (a public redacted version was issued on 10 November 2023, F01785/RED); F01902, Panel, *Decision on Prosecution Request to Amend the Exhibit List* (F01858) (“3 November 2023 Decision”), 3 November 2023; F01995, Panel, *Decision on Prosecution Request to Amend the Exhibit List* (F01844) (“8 December 2023 Decision”), 8 December 2023,

the Specialist Prosecutor's Office ("SPO") amended its list of proposed exhibits ("Exhibit List").³

confidential (a public redacted version was issued on the same day, F01995/RED); F02044, Panel, *Decision on Prosecution Motion for Admission of Evidence of Witnesses W01163, W02144, W02749, W04230, W04445, W04489, W04576, W04739, W04741, and W04820 Pursuant to Rule 154 and Related Request*, 8 January 2024, confidential (a public redacted version was issued on the same day, F02044/RED); F02167, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F02099)* ("7 March 2024 Decision"), 7 March 2024, confidential (a public redacted version was filed on the same day, F02167/RED); F02245, Panel, *Decision on Prosecution Motion for Admission of Evidence of W01978, W02540, W02677, W02714, W02951, W03865, W03881, W04371, W04710, and W04850 Pursuant to Rule 154 and Amendment of Exhibit List (F02196)*, 16 April 2024, confidential (a public redacted version was filed on the same day, F02245/RED); Transcript of Hearing, 4 June 2024, p. 16597, line 12 to p. 16598, line 16; F02489, Panel, *Decision on Prosecution Motion for Admission of Evidence of Witnesses W03871, W04735 and W04868 Pursuant to Rule 154 and Related Requests (F02450)*, 13 August 2024, confidential (a public redacted version was issued on the same day, F02489/RED); F02501, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F02279) and on Thaçi Defence Motion for Exclusion of Materials in Limine*, 22 August 2024, confidential (a public redacted version was issued on 20 December 2024, F02501/RED); Transcript of Hearing, 23 October 2024, p. 20994, line 7 to p. 20996, line 9; Transcript of Hearing, 25 November 2024, p. 22537, line 10 to p. 22540, line 2, confidential; F02787, Panel, *Decision on Prosecution Motion for Admission of Evidence of Witnesses W04826, W04874, and W04875 pursuant to Rules 138, 149, and 154 and Related Request*, 16 December 2024, confidential (a public redacted version was issued on the same day, F02787/RED); F02883, Panel, *Decision on Prosecution Request to Amend the Exhibit List and Admit Video following W04410's Testimony*, 31 January 2025, confidential (a public redacted version was issued on the same day, F02883/RED); F02913, Panel, *Decision on Prosecution Consolidated Motion for Admission of Evidence of W04290 and W04403 Pursuant to Rule 154 and Related Request Regarding W04745*, 7 February 2025, confidential (a public redacted version was issued on the same day, F02913/RED).

³ F01562, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 30 May 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01662, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 10 July 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01669, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 12 July 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01744, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 25 August 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01802, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 19 September 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01906, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 3 November 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02014, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 15 December 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02061, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 15 January 2024, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02184, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 15 March 2024, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02254, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 19 April 2024, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02493, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 16 August 2024, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02511, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 27 August 2024, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02807, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 19 December 2024, with Annex 1,

3. On 14 March 2024, the SPO filed a motion for admission of Llap Operational Zone (“Llap OZ”) documents and a related request (“Motion”).⁴
4. On 18 March 2024, the Panel extended the deadline for the Defence to file a joint response to the Motion and for the SPO to file any reply to 15 April 2024 and 25 April 2024, respectively.⁵
5. On 15 April 2024, the Defence filed a joint response to the Motion (“Response”).⁶
6. On 25 April 2024, the SPO filed a reply to the Response (“Reply”).⁷

II. SUBMISSIONS

7. The SPO requests: (i) the addition of SITF00069013-SITF00069013 and its English translation SITF00069013-SITF00069013-ET (“Additional Document”) to its Exhibit List;⁸ and (ii) the admission of contemporaneous Kosovo Liberation Army (“KLA”) records including the Additional Document (“Proposed Exhibits”), relating to the Llap OZ.⁹
8. The Defence responds that the SPO is using the bar table procedure to avoid fair and effective scrutiny of its proposed exhibits.¹⁰ The Defence further submits

strictly confidential and *ex parte*, and Annex 2, confidential; F02903, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 5 February 2025, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02928, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 14 February 2025, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential.

⁴ F02178, Specialist Prosecutor, *Prosecution Motion for Admission of Llap Zone Documents and Related Request*, 14 March 2024, with Annexes 1-3, confidential.

⁵ Transcript of Hearing, 18 March 2024, p. 13199, lines 4-18.

⁶ F02243, Specialist Counsel, *Joint Defence Response to Prosecution Motion for Admission of Llap Zone Documents and Related Request (F02178)*, 15 April 2024, confidential, with Annex 1, confidential (a public redacted version was filed on 24 April 2024, F02243/RED).

⁷ F02266, Specialist Prosecutor, *Prosecution Reply Relating to its Motion to Admit Llap Zone Documents (F02138)*, 25 April 2024.

⁸ Motion, paras 1, 27, referring to Annex 1 to the Motion, Proposed Exhibit 125.

⁹ Motion, paras 1, 27, referring to Annex 1 to the Motion, Proposed Exhibits 1-290. See also Reply, para. 6(c).

¹⁰ Response, para. 6. See also Response, para. 41.

that the Motion is premature, and requests the Panel to defer its decision until all relevant witnesses have testified about the Llap OZ.¹¹ The Defence also argues that, should the Panel decline to defer its decision, it should reject the admission of the Proposed Exhibits for the reasons set out in the Response and Annex 1 thereto,¹² as addressed below.¹³ The Defence also objects to the requested amendment of the Exhibit List.¹⁴

9. The SPO replies that the Response mischaracterises and ignores submissions made in the Motion, and repeats prior objections to broad categories of evidence, which have already been considered and dismissed by the Panel.¹⁵ The SPO therefore requests that the Panel grant the Motion.¹⁶ The SPO further requests: (i) that the translations of certain Proposed Exhibits be substituted with their revised versions;¹⁷ and (ii) authorisation to make limited corrections to the metadata (namely, dates and descriptions) of certain Proposed Exhibits.¹⁸

III. APPLICABLE LAW

10. The applicable law regarding the present matter is set out, in particular, in Article 40(6)(h) and Rules 118(2) and 138(1), and has been laid out extensively in the Panel's prior decisions.¹⁹ The Panel will apply these standards to the present decision.

¹¹ Response, paras 10, 42. *See also* Response, paras 7-9.

¹² Response, para. 42. *See also* Response, paras 4, 13-40; Annex 1 to the Response, pp. 2-255.

¹³ *See below* Section (IV)(B)(3)-(5).

¹⁴ Annex 1 to the Response, p. 113.

¹⁵ Reply, para. 1.

¹⁶ Reply, para. 7.

¹⁷ Reply, para. 7, *referring to* Reply, para. 6(c).

¹⁸ Reply, para. 7, *referring to* Reply, para. 6(d).

¹⁹ *See e.g.* Decision on Bar Table Motion, paras 8-13; F01785, Panel, *Decision on Prosecution Requests to Amend the Exhibit List (F01689 and F01747)*, 12 September 2023, confidential, paras 15-17 (a public redacted version was issued on 10 November 2023, F01785/RED).

IV. DISCUSSION

A. REQUESTED AMENDMENT OF EXHIBIT LIST

11. The SPO contends that: (i) the Additional Document is *prima facie* relevant;²⁰ and (ii) the Requested Amendment is timely and would cause no undue prejudice to the Defence.²¹

12. The Defence objects to the Requested Amendment of the Exhibit List and submits it is both untimely and prejudicial to the Defence to request amendment of the Exhibit List while simultaneously seeking to admit the relevant document through the bar table.²²

13. Pursuant to Rule 118(2), the Panel may permit, upon timely notice and a showing of good cause, the amendment of the lists of witnesses and/or exhibits filed pursuant to Rule 95(4)(b) and (c). As proceedings advance, any further requests to amend the Exhibit List will be subject to greater scrutiny.²³ As previously stated,²⁴ the Panel has already permitted the SPO to add items to the Exhibit List several times and the Exhibit List is already, by any standards, voluminous. With this in mind, the Panel will assess whether, at the current stage of proceedings, the SPO has provided timely notice and shown good cause for the amendment of its Exhibit List, and that no undue prejudice is caused to the Defence as a result.²⁵

²⁰ Motion, para. 23.

²¹ Motion, para. 24.

²² Annex 1 to the Response, p. 113.

²³ See 7 March 2024 Decision, para. 10; 8 December 2023 Decision, para. 9; 3 November 2023 Decision, para. 7; 12 September 2023 Decision, para. 15, *referring to* F00727, Pre-Trial-Judge, *Decision on Specialist Prosecutor's Request to Amend its Exhibit List and to Authorise Related Protective Measures*, 8 March 2022, strictly confidential and *ex parte*, para. 30 (a confidential redacted version was filed on the same day, F00727/CONF/RED). See also Transcript of Hearing, 15 February 2023, pp. 2017-2018.

²⁴ 7 March 2024 Decision, para. 10; 8 December 2023 Decision, para. 9; 3 November 2023 Decision, para. 7; 12 September 2023 Decision, para. 16.

²⁵ 7 March 2024 Decision, para. 10; 8 December 2023 Decision, para. 9; 3 November 2023 Decision, para. 7; 12 September 2023 Decision, para. 16. Similarly 23 May 2023 Decision, para. 8; Intercepts Decision, para. 10.

14. As regards the timeliness of notice, the Panel is of the view that inclusion of the Additional Document on the Exhibit List could and should have been sought by the SPO at an earlier stage. This being said, the Panel notes that the SPO did not seek inclusion of the Additional Document on the Exhibit List in light of its largely duplicative nature to P00224.²⁶ The Panel further observes that the SPO submits that: (i) the evidential significance of the Additional Document became apparent during the questioning of W02161 in December 2023;²⁷ (ii) in light of a translation error highlighted during questioning, a revised translation of the Additional Document was disclosed on 8 January 2024;²⁸ and (iii) the Motion was filed in mid-March 2024. In addition, contrary to the Defence's submissions, the Panel is satisfied that requesting simultaneously the addition of a document to the Exhibit List and its admission through the bar table is not *per se* prejudicial and may promote judicial economy.²⁹ In light of the Additional Document's duplicative nature, and considering that its revised translation was disclosed to the Defence promptly after the testimony of W02161 and in advance of the filing of the Motion, the Panel considers the notice provided by the SPO in respect of the Additional Documents to be timely.

15. As regards good cause and the question of the relevance and importance of the Additional Document, the Panel observes that the Additional Document is a list of persons (including scheduled Indictment victims) who were being detained at Llapashticë/Lapaštica by the Llap OZ military police on 18 February 1999. The Panel is satisfied that the Additional Document is *prima facie* relevant and of sufficient importance, and that there is good cause for its late addition to the Exhibit List.

²⁶ Motion, para. 23.

²⁷ Motion, paras 23-24.

²⁸ Motion, para. 24.

²⁹ *Contra* Annex 1 to the Response, p. 113.

16. As regards prejudice, the Panel observes that the Additional Document is one page long and largely duplicative of Exhibit P00224 and other admitted documents containing related information.³⁰ The Panel further notes that the Defence has had and will continue to have ample opportunity to challenge the reliability of such documents. In addition, given the Additional Document's duplicative nature, and considering that its revised translation was disclosed to the Defence promptly after the testimony of W02161 and in advance of the filing of the Motion,³¹ the Panel is satisfied that no prejudice results from the SPO simultaneously requesting that the Additional Document be added to the Exhibit List and admitted through the bar table.³² The Panel therefore finds that no undue prejudice is caused by the addition of the Additional Document to the Exhibit List.

17. For these reasons, the Panel finds that the SPO has provided timely notice and shown good cause for the requested amendment of the Exhibit List, and demonstrated that no prejudice will be caused to the Defence as a result of the addition of the Additional Document to the Exhibit List. The Panel therefore authorises the addition of the Additional Document to the SPO's Exhibit List and orders the SPO to file its amended Exhibit List no later than **Friday, 28 February 2025**.

B. ADMISSION OF PROPOSED EXHIBITS

1. The Parties' Submissions

18. The SPO submits that the Proposed Exhibits are *prima facie* relevant as they relate to various allegations and charges in the Indictment, and corroborate and complement witness testimony, other documentary evidence, and noticed

³⁰ See e.g. P00003; P00010; P00104; P00116; P00738; 1D00007.

³¹ See *above* para. 14.

³² *Contra* Annex 1 to the Response, p. 113.

adjudicated facts.³³ The SPO also submits that the Proposed Exhibits are *prima facie* authentic and reliable as they contain multiple indicia of authenticity – when viewed individually and holistically – as well as provenance.³⁴ The SPO further argues that the Proposed Exhibits are probative and their probative value is not outweighed by any prejudice.³⁵

19. The Defence challenges the relevance, authenticity, and probative value of the Proposed Exhibits and therefore: (i) requests the Panel to defer its consideration of the Motion until after the SPO's Llap OZ witnesses have testified; and, in the alternative, (ii) objects to the admission of the Proposed Exhibits into evidence.³⁶ In addition to the individual objections listed in Annex 1 to the Response,³⁷ which have been considered by the Panel in its assessment of the Rule 138(1) requirements of the relevant Proposed Exhibits,³⁸ the Defence makes the following submissions on particular characteristics of the Proposed Exhibits which, according to the Defence, render them unsuitable for admission through the bar table:

- (a) Purported KLA documents should be authenticated through witnesses to ensure their proper contextualisation, and to allow witnesses to speak to the documents' background, authorship, and authenticity;³⁹

³³ Motion, paras 3-18; Annex 1 to the Motion, Proposed Exhibits 1-290, "Relevance/Probative Value" column.

³⁴ Motion, paras 19-21; Annex 1 to the Motion, Proposed Exhibits 1-290, "Indicia of authenticity" column.

³⁵ Motion, para. 22; Annex 1 to the Motion, Proposed Exhibits 1-290, "Relevance/Probative Value" column.

³⁶ See generally Response, paras 13, 15, 17-19, 28-29, 31-34, 36, 38-42.

³⁷ Annex 1 to the Response, Proposed Exhibits 1-290, "Defence comments" column.

³⁸ See below Section (IV)(B)(3)-(5).

³⁹ Response, paras 13-18. See also Annex 1 to the Response, C.1, C.1.3, C.3, C.3.2, C.13 and R.3 Objections

- (b) The SPO is unable to offer any details of chain of custody information, beyond generic descriptions about the source being the ICTY/IRMCT, EULEX or the Serbian authorities;⁴⁰
- (c) The Proposed Exhibits include lengthy “compilations”, being a number of different documents presented together, sometimes with no discernible link to each other, or to events in the Llap OZ;⁴¹
- (d) Handwritten documents should not be admitted through the bar table in the absence of evidence relating to their creation and authorship, particularly if the document is not the original;⁴²
- (e) Proposed Exhibits containing testimonial documents cannot be admitted through the bar table;⁴³ and
- (f) The Selimi Defence relies upon its prior objections in relation to the Proposed Exhibits seized from the residence of Mr Selimi (Proposed Exhibits 73 and 289).⁴⁴

20. The SPO replies that there is no requirement that documents be tendered through a witness or that a decision on admission should be deferred until after relevant witnesses appear.⁴⁵ The SPO further submits that authenticity and reliability of the Proposed Exhibits should not be assessed in isolation but considered holistically in light of all relevant information and evidence.⁴⁶

⁴⁰ Response, paras 19-27. *See also* Annex 1 to the Response, C.6 Objections.

⁴¹ Response, paras 28-29. *See also* Annex 1 to the Response, C.1, C.1.3, C.4, C.8, C.11, C.12, and C.13 Objections.

⁴² Response, paras 30-32. *See also* Annex 1 to the Response, C.12 Objections.

⁴³ Response, paras 33-35. *See also* Annex 1 to the Response, C.8 Objections.

⁴⁴ Response, para. 36, *referring to* F01387, Specialist Counsel, *Joint Defence Response to Prosecution Application for Admission of Material Through the Bar Table*, 21 March 2023, confidential, with Annexes 1-8, confidential, paras 31-51.

⁴⁵ Reply, para. 2.

⁴⁶ Reply, paras 3-5.

2. General Considerations

21. The Panel rejects the Defence's request to defer its consideration of the Motion until after the SPO's Llap OZ witnesses have testified. The Panel notes that there is no requirement under the SC's legal framework that Proposed Exhibits be authenticated through witnesses.⁴⁷ Similarly, there is no bar to the admission through the bar table of proposed exhibits on account of their alleged central importance to the Prosecution case.⁴⁸ The same conditions and requirements for admission, as set out in Rule 138(1), apply to all categories of proposed exhibits, regardless of their (perceived) importance to a Party's case.⁴⁹ What matters is that the tendering Party satisfies the Panel of the *prima facie* relevance, authenticity, and probative value of the tendered items pursuant to Rule 138(1). Furthermore, the Panel notes that there are few remaining witnesses who will be called to testify regarding events occurred in the Llap OZ at the relevant time and it has not been shown that the process of admission of any of the documents relevant to the present application would be assisted by those witnesses.

22. This being said, the Panel recalls that bar table motions should not be used as a way to render the principle of orality irrelevant to these proceedings. While the bar table procedure is in the interest of judicial economy and helps expedite the process of admission of evidence, it should not become an alternative to presenting the most important exhibits through witnesses who are in a position to speak to them and to be cross-examined about them. Even when a proposed exhibit is admitted through the bar table, the tendering party should consider making use of it in court with relevant witness(es) where the good comprehension of that document and its place in the Party's case justifies it.⁵⁰ Moreover, the use

⁴⁷ See First Decision on Bar Table Motion, para. 12. See also Rule 138(1). *Contra* Response, paras 13, 15-18; Annex 1 to the Response, C.1, C.1.3, C.3, C.3.2, and C.13 Objections.

⁴⁸ Second Decision on Bar Table Motion, para. 84. *Contra* Response, paras 14, 38; Annex 1 to the Response, R.3 Objections.

⁴⁹ Sixth Decision on Bar Table Motion, para. 92.

⁵⁰ Decision on Bar Table Motion, para. 16.

of proposed exhibits during testimony of witnesses might provide valuable context relevant, for instance, to the weight or reliability of that exhibit.⁵¹

23. The Panel will now turn to address the Defence's submissions on particular characteristics of the Proposed Exhibits.⁵² The Panel first recalls that although this would help establish the requirements for admission of evidence, proof of provenance or authorship of the tendered items is not strictly required when assessing *prima facie* authenticity and reliability under Rule 138(1).⁵³ This being said, the Panel recalls that certain categories of documents, including handwritten documents, bearing no indication of a source or other indicators of origin might lack the indicia of reliability required for admission unless they contain other relevant indications of their reliability.⁵⁴ The fact that a document does not name a source or that it is handwritten does not entail that there cannot be other indications as to who authored the item, or from where it originated. For the purpose of admission, the question is whether or not the document in question meets the requirements of Rule 138(1).

24. Similarly, the fact that tendered items are offered as part of lengthy compilations, including photos and videos, and sometimes bear no discernible link to one another is not a bar to their admission, provided that each of the tendered items is found to be *prima facie* relevant, authentic, probative and not unduly prejudicial to the Defence.⁵⁵

25. Regarding the Proposed Exhibits allegedly containing testimonial documents,⁵⁶ the Panel notes and accepts the SPO's submission that none of them

⁵¹ Decision on Bar Table Motion, para. 17.

⁵² See *above* para. 19(a)-(f).

⁵³ Second Decision on Bar Table Motion, para. 82. *Contra* Response, paras 19-27, 30-32; Annex 1 to the Response, C.6 and C.12 Objections.

⁵⁴ Decision on Bar Table Motion, para. 59, referring to ICTY, *Prosecutor v. Mladić*, IT-09-92-T, [Decision on Defence's Fifth Motion for the Admission of Documents from the Bar Table](#), 30 May 2016, para. 23.

⁵⁵ Compare with Third Decision on Bar Table Motion, para. 36. *Contra* Response, paras 28-29; Annex 1 to the Response, C.1, C.1.3, C.4, C.8, C.11, C.12, and C.13 Objections.

⁵⁶ Response, paras 33-35; Annex 1 to the Response, C.8 Objections.

constitute, or contain, statements or records of interviews prepared for the purposes of legal proceedings, or is offered for the truth of its content.⁵⁷ As such, the Panel finds that the Proposed Exhibits challenged by the Defence due to their purported testimonial nature are not subject to Rules 153-155.⁵⁸

26. Lastly, in relation to the Selimi Defence's objections to the Proposed Exhibits seized from the residence of Mr Selimi,⁵⁹ the Panel recalls its finding in the Second Decision on Bar Table Motion as to the lawfulness of the search and seizure operations, which was upheld by the Court of Appeals Panel.⁶⁰ The Defence has not sought reconsideration nor established that any of the issues decided in the Second Decision on Bar Table Motion warranted reconsideration pursuant to Rule 79.

27. The Panel will turn to assess whether the Proposed Exhibits are admissible pursuant to Rule 138. In doing so, the Panel will refer to the Proposed Exhibits as numbered in Annex 1 to the Motion and Annex 1 to the Response.

3. Proposed Exhibits 1-77: KLA Organisation in 1998 and early 1999

28. At the outset, the Panel authorises the SPO to make corrections to the metadata of Proposed Exhibit 9.⁶¹

29. The Panel further notes that Proposed Exhibits 17, 28, and 49 have been admitted as Exhibits P01762, P01763, and P01761, respectively, following the filing

⁵⁷ See Reply, footnote 20.

⁵⁸ Compare with Sixth Decision on Bar Table Motion, para. 126.

⁵⁹ Response, para. 36; Annex 1 to the Response, C.2 Objections.

⁶⁰ Second Decision on Bar Table Motion, paras 101-120; IA029/F00005, Court of Appeals Panel, *Decision on Veseli and Krasniqi Appeal against Second Decision on Specialist Prosecutor's Bar Table Motion*, 23 August 2023, confidential and *ex parte*, paras 32, 36-38 (a public redacted version was issued on the same day, IA029/F00005/RED).

⁶¹ See Reply, para. 6(d).

of the Motion. The Panel therefore declares the request to admit Proposed Exhibits 17, 28, and 49 to be moot.

(a) Relevance

30. Regarding the relevance of Proposed Exhibits 1-77, the Panel observes that the SPO submits that they relate to the KLA organisation in 1998 and early 1999.⁶² In this regard, the Panel notes that: (i) Proposed Exhibits 1-13 consist of decisions relating to the appointment of high-ranking officials in the Llap OZ as well as Brigades 151 and 152 (“Appointment Decisions”); (ii) Proposed Exhibits 14-20 consist of lists of individuals enrolled by the KLA in the Llap OZ in 1998 (“Enrolment Documents”); (iii) Proposed Exhibits 21-29 consist of instructions and documents relating to rosters and guard duty (“Rosters”); (iv) Proposed Exhibits 30-36 consist of KLA notes, reports and memos covering a period between June 1998 and April 1999 (“Memos”); (v) Proposed Exhibits 37-41 consist of standardised documents and templates used by the KLA (“Templates”); (vi) Proposed Exhibits 42-54 consist of documents, plans and programs relating to KLA training activities (“Training Documents”); (vii) Proposed Exhibits 55-61 consist of documents relating to Llap OZ finances, weapons ownership and supplies as well as communication codes (“Logistic Documents”);⁶³ and (viii) Proposed Exhibits 62-77 consist of KLA orders pertaining primarily to certain civilian matters (“Orders on Civilian Matters”).

31. The Panel further notes that the SPO relies on the Proposed Exhibits relating to the KLA organisation in 1998 and early 1999 to demonstrate, *inter alia*, that: (i) in August 1998, a KLA General Staff (“General Staff”) delegation including Hashim Thaçi (“Mr Thaçi”), Rexhep Selimi (“Mr Selimi”), and Jakup Krasniqi

⁶² See Annex 1 to the Motion, pp. 1-39, Proposed Exhibits 1-77.

⁶³ The Panel notes that the SPO is only tendering pages U001-0243-U001-0244 of the original version of Proposed Exhibit 59. See Annex 1 to the Motion, p. 30 (Proposed Exhibit 59).

("Mr Krasniqi") visited the Llap OZ and issued formal, written appointments for members of the Llap OZ Command ("Zone Command"), including the Head of Intelligence, Latif Gashi;⁶⁴ (ii) the Llap OZ Command held meetings, was responsible for all KLA units in the Llap OZ, was frequently in contact with subordinate commanders and other zones, and was in contact with the General Staff (including the Accused), making reports, and receiving orders, instructions, and regulations;⁶⁵ and (iii) from about June 1998, pursuant to General Staff orders, the Llap OZ Command took measures to recruit, train, and deploy new soldiers, as well as to expand and consolidate command structures.⁶⁶ In addition, the SPO relies on the Proposed Exhibits relating to the KLA organisation in 1998 and early 1999 with respect to: (i) the existence, structure of, and relationship between, the Territorial Defence, intelligence services and military police; (ii) armaments, mobilisation, and supplies; (iii) guard duty rosters; (iv) KLA training programs; (v) discipline and detention of KLA soldiers for disobedience; and (vi) the arrest of alleged collaborators.⁶⁷

32. Having carefully reviewed Proposed Exhibits 1-16, 18-27, 29-48, and 50-77, the Panel is satisfied that each and all of them are *prima facie* relevant to allegations and charges in the Indictment⁶⁸ as well as certain witness testimony.⁶⁹

(b) Authenticity

33. Regarding authenticity, the Panel notes that, while not all of the Appointment Decisions are signed,⁷⁰ they do bear a KLA header and/or emblem and refer to a

⁶⁴ Motion, para. 3.

⁶⁵ Motion, para. 4.

⁶⁶ Motion, para. 5.

⁶⁷ Motion, paras 5-13.

⁶⁸ See e.g. F00999/A01, Specialist Prosecutor, *Annex 1 to Submission of Confirmed Amended Indictment* ("Indictment"), 30 September 2022, confidential, paras 18-55, 70-73, 75, 106-109, 155, 157-158, 160. *Contra* Response, paras 5, 28, 32; Annex 1 to the Response, R.1, R.2, and R.2.1 Objections.

⁶⁹ See e.g. W04758 and W04485.

⁷⁰ Proposed Exhibits 1, 12-13.

specific date and/or to the Llap OZ as the issuing authority.⁷¹ Their substance and content is also indicative of their origin. In addition, one of the Appointment Decisions bears a KLA seal and is signed,⁷² while nine of them appear to be signed by Llap OZ Deputy Commander Kadri Kastrati ('Daja').⁷³ The Panel is of the view that the Defence's argument regarding the brigade number referenced in Proposed Exhibit 12 being mistaken pertains to the evidentiary weight to be given to such evidence by the Panel at the end of trial and in light of the totality of the evidence, rather than to its admissibility.⁷⁴ For these reasons, the Panel is satisfied that the Appointment Decisions bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

34. In relation to the Enrolment Documents, the Panel notes that they contain personal details and dates of enrolment in the KLA of a number of individuals as well as their area of responsibility, battalion of assignment or municipality/village of provenance.⁷⁵ In addition, Proposed Exhibit 17 appears to be signed by the enrolled soldiers and, on behalf of the KLA, mainly by Brigade 151 Commander Nuredin Ibishi ('Leka'). Similarly, part of Proposed Exhibit 18 also appears to be signed by Commander Leka.⁷⁶ The Panel also notes that portions of Proposed Exhibit 18 as well as Proposed Exhibit 21 were extensively discussed and authenticated by W04758 in the course of his testimony.⁷⁷ The Panel further notes that the fact that certain individuals referred to in Proposed Exhibit 15 were members of Brigade 151 appears to overlap with similar information contained in Proposed Exhibit 17. For these reasons, the Panel is satisfied that the Enrolment

⁷¹ Proposed Exhibits 1-13.

⁷² Proposed Exhibit 2.

⁷³ Proposed Exhibits 3-11.

⁷⁴ *Contra* Annex 1 to the Response, pp. 11-12 (Proposed Exhibit 12).

⁷⁵ Proposed Exhibits 14-20.

⁷⁶ Proposed Exhibit 18, p. 11.

⁷⁷ Transcript of Hearing, 23 October 2024, pp. 21036-21039.

Documents bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

35. Turning to the Rosters, the Panel notes that they are dated, signed by Llap OZ commanders, including Deputy Commander Kadri Kastrati ('Daja'), and/or contain rosters of the guard and other duties, scheduled daily routines for various periods in 1998, and the names of relevant soldiers.⁷⁸ In addition, Proposed Exhibits 28 and 29 bear the KLA header. For these reasons, the Panel is satisfied that the Rosters bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

36. Regarding the Memos, the Panel notes that, while some are handwritten,⁷⁹ they: (i) are dated; (ii) emanate from or refer to the Llap OZ; and (iii) account for contemporaneous events or names of relevant locations and individuals,⁸⁰ including Brigade 151 Commander Nuredin Ibishi ('Leka'), Llap OZ Commander Rrustem Mustafa ('Remi'), and Deputy Commander Kadri Kastrati ('Daja').⁸¹ In addition, Proposed Exhibits 35-36 bear the KLA header and contain documents that are signed by Brigade 153 Commander Adem Shehu and Deputy Commander Sejdi Veseli. The Panel also considers the SPO's submission that Proposed Exhibit 57 contains details similar to those included in Proposed Exhibit 34.⁸² While the substantive coincidence of multiple documents does not necessarily provide evidence of their authenticity, it could provide a relevant indication of their origin, as is the case in relation to these two items. The Panel further considers that Proposed Exhibit 36 consists of a better quality version of the text of pages 2-3 of Proposed Exhibit 35 as well as admitted exhibit P00170.⁸³ For these

⁷⁸ Proposed Exhibits 21-29.

⁷⁹ Proposed Exhibits 30-31, 33-34.

⁸⁰ Proposed Exhibits 30-36.

⁸¹ Proposed Exhibits 32, 34.

⁸² Annex 1 to the Motion. *See also below* para. 33.

⁸³ Reply, para. 6(b).

reasons, the Panel is satisfied that the Memos bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

37. With respect to the Templates, the Panel notes that Proposed Exhibits 37, 39, and 40-41 bear a KLA header, watermark or insignia, while Proposed Exhibit 38 appears to be signed by Brigade 151 Commander Nuredin Ibishi ('Leka'). In addition, Proposed Exhibits 39 and 41 contain dated documents and Proposed Exhibit 40 identifies the Llap OZ as issuing authority. The Panel also notes that Proposed Exhibits 38-41 are filled with personal data of named soldiers. For these reasons, the Panel is satisfied that the Templates bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

38. Turning to the Training Documents, the Panel notes that they consist of documents containing references to: (i) military training activities;⁸⁴ (ii) war tactics;⁸⁵ (iii) military drills;⁸⁶ (iv) elements of effective guerrilla warfare;⁸⁷ (v) the composition of KLA headquarters in peace and war;⁸⁸ (vi) military units and structures;⁸⁹ (vii) components of KLA Mountain Brigade and instructions on the use of artillery weapons;⁹⁰ and (viii) security action plans.⁹¹ The Panel is of the view that, in light of their context and references to operative staffs and zones, as well as structures implemented in KLA territories, the Training Documents appear, *prima facie*, to originate from the KLA. In addition, the Panel considers the SPO's submission that: (i) Proposed Exhibits 42, 43-44 and 47 contain information generally similar to that included in relevant parts of Proposed Exhibits 49, 52 and 53, thereby providing a degree of support regarding the source and origin of that material; (ii) the contents of Proposed Exhibits 43, 45, and 49 overlap with those

⁸⁴ Proposed Exhibits 42-43, 49.

⁸⁵ Proposed Exhibit 45.

⁸⁶ Proposed Exhibit 46.

⁸⁷ Proposed Exhibits 44, 47, 53.

⁸⁸ Proposed Exhibit 50.

⁸⁹ Proposed Exhibit 51.

⁹⁰ Proposed Exhibit 52.

⁹¹ Proposed Exhibits 48, 54.

of admitted exhibit P00187; and (iii) Proposed Exhibit 53 refers to information on Llap OZ special units, and these special units were discussed during W04746's testimony.⁹² The Panel further notes that Proposed Exhibits 43 and 49 are signed and identify the Llap OZ as the issuing authority. For these reasons, the Panel is satisfied that the Training Documents bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

39. In relation to the Logistic Documents, the Panel notes that they consist of documents containing references to: (i) finances;⁹³ (ii) weapon ownership;⁹⁴ (iii) arms and clothing issued;⁹⁵ (iv) weapon supply;⁹⁶ and (v) radio communication codes and instructions on drafting a communications plan.⁹⁷ The Panel is of the view that, in light of their contents, the Logistic Documents appear *prima facie*, to originate from the KLA. In addition, the Panel considers that: (i) Proposed Exhibits 55 and 58 are dated and signed; (ii) Proposed Exhibits 55-56 and 58 bear the KLA header and/or emblem; (iii) Proposed Exhibits 55-56 and 58-59 identify the Llap OZ as issuing authority; (iv) the SPO submits that Proposed Exhibit 57 contains information that overlaps with information contained in Proposed Exhibit 34, which provides further indication of its origin; and (v) the drafting of Proposed Exhibit 61 is described in admitted exhibit P00187.⁹⁸ For these reasons, the Panel is satisfied that the Logistic Documents bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

40. Regarding the Orders on Civilian Matters, the Panel notes that Proposed Exhibits 62-63 and 65-77: (i) bear a KLA header and/or emblem; (ii) contain an

⁹² Annex 1 to the Motion. *See also* Transcript of Hearing, 11 July 2023, pp. 5505-5506.

⁹³ Proposed Exhibit 55.

⁹⁴ Proposed Exhibit 56.

⁹⁵ Proposed Exhibits 57, 59. The Panel recalls that the SPO is only tendering pages U001-0243-U001-0244 of the original version of Proposed Exhibit 59. *See* Annex 1 to the Motion, p. 30 (Proposed Exhibit 59). *See above* footnote 63.

⁹⁶ Proposed Exhibit 58.

⁹⁷ Proposed Exhibits 60-61.

⁹⁸ Annex 1 to the Motion. *See also above* para. 36.

indication of the date, place of issuance and/or reference number; and (iii) identify the Llap OZ as issuing authority. In addition: (i) Proposed Exhibits 63, 66 and 70 appear to be signed by Llap OZ Commander Rustem Mustafa ('Remi'); (ii) Proposed Exhibits 65, 67-69, and 73 appear to be signed by Llap OZ Deputy Commander Kadri Kastrati ('Daja'); and (iii) Proposed Exhibits 73 was seized by the SPO from the residence of Mr Selimi.⁹⁹ The Panel further considers the SPO's submissions that: (i) Proposed Exhibit 64 refers to information of a similar nature to that contained in Proposed Exhibits 67-69; and (ii) Proposed Exhibits 72 and 74-76 contain orders of a similar nature and format to those included in Proposed Exhibits 112-121.¹⁰⁰ As noted above, these similarities and overlap provide further indications of the origin and source of this information. For these reasons, the Panel is satisfied that the Orders on Civilian Matters bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

41. In light of the above, the Panel finds that Proposed Exhibits 1-16, 18-27, 29-48, and 50-77 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

42. Having found Proposed Exhibits 1-77 to be *prima facie* relevant and authentic, the Panel is satisfied that these items also bear *prima facie* probative value

⁹⁹ See F00030, Pre-Trial Judge, *Decision Authorising Search and Seizure*, 26 October 2020, confidential; F00100, Specialist Prosecutor, *Prosecution Report on Search and Seizure Pursuant to KSC-BC-2020-06-F00030*, 23 November 2020, confidential, with Annex 1, confidential and *ex parte*, and Annexes 2-4, strictly confidential and *ex parte*; F00214, Specialist Prosecutor, *Prosecution Report on Review of Seized Items Pursuant to KSC-BC-2020-06-F00028*, KSC-BC-2020-06-F00029, KSC-BC-2020-06-F00030 and KSC-BC-2020-06-F00031COR, 11 March 2021, confidential, with Annexes 1-4, strictly confidential and *ex parte*; F00366, Specialist Prosecutor, *Prosecution Submission of Seized Item Indexes*, 23 June 2021, confidential, with Annexes 1-2, confidential and *ex parte*. See also above para. 26.

¹⁰⁰ Annex 1 to the Motion. See also below, para. 50.

regarding facts and circumstances relevant to this case as outlined above at paragraph 31.¹⁰¹

43. The Panel finds that the probative value of Proposed Exhibits 1-16, 18-27, 29-48, and 50-77 is not outweighed by their prejudicial effect, considering that the Defence could challenge the content of these items via cross-examination of the relevant witnesses as well as through the presentation of evidence, if it chooses to do so.

(d) Conclusion

44. In light of the above, the Panel is satisfied that Proposed Exhibits 1-16, 18-27, 29-48, and 50-77 are admissible pursuant to Rule 138(1).¹⁰²

4. Proposed Exhibits 78-131: Alleged Common Criminal Purpose in 1998 and early 1999

45. At the outset, the Panel notes that Proposed Exhibit 107 has been admitted as Exhibit P01046 following the filing of the Motion. The Panel therefore declares the request to admit Proposed Exhibit 107 moot.¹⁰³

(a) Relevance

46. Regarding the relevance of Proposed Exhibits 78-106 and 108-131, the Panel observes that the SPO submits that they relate to the KLA alleged common criminal purpose in 1998 and early 1999.¹⁰⁴ In this regard, the Panel notes that:

¹⁰¹ The Panel recalls that it has assessed only pages U001-0243-U001-0244 of Proposed Exhibit 59, and related translation. *See above* footnotes 63, 95.

¹⁰² The Panel recalls that it has assessed and admitted only pages U001-0243-U001-0244 of Proposed Exhibit 59, and related translation. *See above* footnotes 63, 95, 101.

¹⁰³ *See* Reply, para. 6(a).

¹⁰⁴ *See* Annex 1 to the Motion, pp. 39-100, Proposed Exhibits 78-106 and 108-131.

(i) Proposed Exhibits 78-79, 82-83, 88-89, 98, 100-101, 103, 108-109, 111, 124,¹⁰⁵ 127-128, and 130 consist of handwritten as well as typewritten notes, bundle of reports, narrative, diaries and notebook pages about the work of the Llap intelligence services and Territorial Defence, including names of suspected collaborators and log of detainees ("Notes"); (ii) Proposed Exhibits 80-81, 112-122,¹⁰⁶ and 125-126 consist of official KLA documents containing, respectively, decisions regarding the disciplinary detention of a number of soldiers, orders regarding civilian activities, and an amnesty decision releasing several detainees ("Decisions and Orders"); (iii) Proposed Exhibits 84-87, 90-92, 97, 99, 102, 104-106, and 110 consist of handwritten statements of alleged collaborators ("Statements"); (iv) Proposed Exhibits 93-96 consist of minutes and analysis of the investigations conducted by the KLA against certain individuals perceived to be collaborators ("Investigation Minutes and Analysis"); (v) Proposed Exhibits 123 and 131 consist of documents containing lists of LDK members and Serbian police officers ("Lists"), respectively; and (vi) Proposed Exhibit 129 consists of an official KLA document containing an ID card issued by Latif Gashi ("ID Card").

47. The Panel further notes that the SPO relies on Proposed Exhibits 78-106 and 108-131 to demonstrate that the brigade commands and subordinate units, acting together with the Llap OZ Command, intelligence services, and military police, collected information about, and were involved in arrests, detentions,

¹⁰⁵ The Panel notes that pages 1-2, 40-51 of Proposed Exhibit 124 have already been admitted as P00738. The Panel declares the request to admit those pages moot. The Panel has therefore only assessed the remaining pages of Proposed Exhibit 124, and related translation.

¹⁰⁶ The Panel notes that the SPO submits that it "is only tendering the pages of the original version of Proposed Exhibit 121 that have been translated (excluding U000-9107 and U000-9108)" (Annex 1 to the Motion, p. 85 (Proposed Exhibit 121)). Considering that U000-9107 has not been translated and that U000-9108 has been translated and is referred to by the SPO in the "Relevance/Probative Value" column for Proposed Exhibit 121, and given that U000-9125 has not been translated and is not referred to by the SPO, the Panel understands Proposed Exhibit 121 to consist of pages U000-9108-U000-9124 and related translation.

mistreatment, and interrogations of, *inter alia*, persons of Roma and Serb ethnicity, and alleged collaborators.¹⁰⁷

48. Having carefully reviewed Proposed Exhibits 78-106 and 108-131, the Panel is satisfied that all of these items relate to events that occurred in the Llap OZ in 1998 in early 1999, which are sufficiently connected to allegations and charges in the Indictment¹⁰⁸ as well as certain witness testimony.¹⁰⁹ The Panel therefore finds that Proposed Exhibits 78-106 and 108-131 are *prima facie* relevant.

(b) Authenticity

49. Regarding authenticity, the Panel observes that the Notes consist of handwritten and typewritten documents containing references to dates, locations, individuals/suspected collaborators, events and/or descriptions of KLA work and activity. In addition: (i) Proposed Exhibits 78 and 125 identify the Llap OZ as issuing authority; (ii) Proposed Exhibits 79, 88, 98, and 128 contain signatures by individuals from the Llap OZ, including Llap OZ Deputy Commander Kadri Kastrati ('Daja'); (iii) Proposed Exhibit 109 refers to Llap OZ Commander Rustem Mustafa ('Remi') and Deputy Commander Kadri Kastrati ('Daja') as well as Muhamet Latifi, Territorial Defence and later Military Police commander in the Llap OZ; and (iv) Proposed Exhibit 125 bears the KLA header and a reference number. The Panel also notes that: (i) page 4 of Proposed Exhibit 83 and page 11 of Proposed Exhibit 124 were shown to and discussed by W04422 in the course of his testimony;¹¹⁰ (ii) Proposed Exhibit 114 was shown to and discussed by W04758

¹⁰⁷ Motion, para. 13.

¹⁰⁸ See e.g. Indictment, paras 18-55, 70-73, 75, 106-109, 155, 160. *Contra* Annex 1 to the Response, R.1 Objections.

¹⁰⁹ See e.g. W04287, W04601, and W04758.

¹¹⁰ Transcript of Hearing, 25 September 2024, pp. 20218-20222, confidential. See P01679 MFI. The Panel recalls that it has only assessed pages 3-39, 52-60 of Proposed Exhibit 124, and related translation. See *above* footnote 105.

in the course of his testimony;¹¹¹ (iii) portions of Proposed Exhibit 127 were discussed and authenticated by W04651 in the course of his testimony;¹¹² and (iv) pages 5-6 of Proposed Exhibit 130 were discussed and authenticated by W04669 in the course of his testimony.¹¹³ The Panel is of the view that, in light of their contents, the Notes appear to originate from the KLA. The Panel also considers the SPO's submissions that: (i) Proposed Exhibits 79, 82-83, 88-89, 98, 100-101, 103, 108-109, 124, and 127-128 contain overlapping information and/or information of a similar nature to that included in relevant parts of Proposed Exhibits 14-15, 20, 33, 78, 81, 85-87, 90-97, 99, 102, 104, 110, 126, and 129, this overlap providing further indication of the origin and source of the material in question;¹¹⁴ and (ii) Proposed Exhibits 79, 82-83, 88-89, 98, 108-109, 124, 127, and 130 also refer to names and facts which are referred to in other admitted exhibits or adjudicated facts and/or were discussed by relevant witnesses during their testimony.¹¹⁵ For these reasons, the Panel is satisfied that the Notes bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

¹¹¹ Transcript of Hearing, 23 October 2024, pp. 21050-21052.

¹¹² Transcript of Hearing, 26 August 2024, pp. 18908-18917. See P01553 MFI.

¹¹³ Transcript of Hearing, 26 September 2024, pp. 20355-20356, confidential. See P01687 MFI. The Panel notes that it has also considered the further submissions on the authenticity, or lack thereof, of P01687 MFI made by the SPO and the Defence in three separate filings: F02667, Specialist Prosecutor, *Prosecution Motion for Admission of Nerodime Zone Documents* ("F02667"), 21 October 2024, confidential, with Annexes 1-2, confidential, paras 19-20 (a public redacted version was filed on 11 November 2024, F02667/RED); F02725, Specialist Counsel, *Joint Defence Response to Prosecution Motion for Admission of Nerodime Zone Documents Through the Bar Table and Related Request* (F02667), 15 November 2024, confidential, with Annex, confidential, paras 30-31 (a public redacted version was filed on 22 November 2024, F02725/RED); F02746, Specialist Prosecutor, *Prosecution Reply Relating to Motion to Admit Nerodime Zone Documents* (F02667), 22 November 2024, confidential, para. 7 (a public redacted version was filed on 25 November 2024, F02746/RED).

¹¹⁴ Annex 1 to the Motion. See also above paras 34, 36, and below paras 50, 51-52, 54.

¹¹⁵ Annex 1 to the Motion, referring to, in relevant parts, P00010; P00104; P00226; P00738; P00882; P00959; P00960; P01046; 1D00007; Transcript of Hearing, 19 June 2023, pp. 5028-5030; Transcript of Hearing, 12 July 2023, pp. 5515-5519, 5586, 5592-5594; Transcript of Hearing, 13 July 2023, p. 5616; Transcript of Hearing, 11 December 2023, pp. 10916, 10947; Transcript of Hearing, 29 January 2024, pp. 12004-12013, 12018-12019, 12024, 12044; Transcript of Hearing, 30 January 2024, p. 12138. See also F02667, para. 20, footnote 92, referring to P01645; P01680; Adjudicated Facts 780, 812, 847, 849, 853, 855, 861, 864, 866, 868-870, 874, 876, 879-881, 885, 887-889, 893-895, 898-899, 936-937; Transcript of Hearing, 26 September 2024, p. 20348, confidential.

50. Regarding Decisions and Orders, the Panel notes that they contain the KLA header and/or emblem, are signed (including by Llap OZ Deputy Commander Kadri Kastrati ('Daja'), and identify the Llap OZ as issuing authority. In addition, Proposed Exhibits 80-81 and 112-122 are dated, while Proposed Exhibits 112-122 and 126 contain a reference number and Proposed Exhibits 80 and 112-122 specifies the place of issuance. The Panel further notes that the SPO's submits that: (i) Proposed Exhibits 80-81 refer to details overlapping with those included in Proposed Exhibits 79, 83, and 124;¹¹⁶ (ii) Proposed Exhibits 112-122 contain orders of a similar nature and format to each other and to those included in Proposed Exhibits 72 and 74-76;¹¹⁷ (iii) Proposed Exhibit 126 contain information overlapping with that included in Proposed Exhibits 83, 103-104, 108, and 124 – providing further indications of their source and origin;¹¹⁸ and (iv) Proposed Exhibit 126 refers to names and facts which are also referred to in other admitted exhibits and/or were discussed by relevant witnesses during their testimony.¹¹⁹ For these reasons, the Panel is satisfied that the Decisions and Orders bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

51. Turning to the Statements, the Panel notes that they consist of documents containing detailed accounts of events that occurred in the Llap OZ in 1998. In addition: (i) Proposed Exhibits 84-87 are dated; and (ii) Proposed Exhibits 86-87, 90, 99, and 104-105 are signed. The Panel also considers the SPO's submissions that: (i) Proposed Exhibits 84-87, 90-92, 97, 99, 102, 104, 106, and 110 contain overlapping information and/or information of a similar nature to that included in relevant parts of Proposed Exhibits 79, 81, 83, 88-89, 93-96, 98, 103, 105, 108, 124,

¹¹⁶ Annex 1 to the Motion. *See also above* para. 49.

¹¹⁷ Annex 1 to the Motion. *See also above* para. 40. The Panel recalls that it understands Proposed Exhibit 121 to consist of pages U000-9108-U000-9124 and related translations. *See above* footnote 106.

¹¹⁸ Annex 1 to the Motion. *See also above* para. 49 and *below* para. 51.

¹¹⁹ Annex 1 to the Motion, pp. 92-94, *referring to* P00010; P00738; P00882; P00959; P00960; P01046; Transcript of Hearing, 11 December 2023, pp. 10923-10924, 10926-10929, 10947; Transcript of Hearing, 29 January 2024, pp. 12000-12007, 12019, 12024, 12044; Transcript of Hearing, 30 January 2024, p. 12138.

and 126-127, which provides additional indication of the source and origin of the material;¹²⁰ and (ii) Proposed Exhibits 90, 99, 104-106, and 110 also refer to names and facts which are referred to in other admitted exhibits and/or were discussed by relevant witnesses during their testimony.¹²¹ For these reasons, the Panel is satisfied that the Statements bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

52. In relation to the Investigation Minutes and Analysis, the Panel notes that Proposed Exhibits 93-96 consist of documents providing the details of suspects under investigation as well as the names of other individuals, locations and events. In addition, Proposed Exhibits 93-95 are dated. The Panel further considers the SPO's submissions that: (i) Proposed Exhibits 93 and 95 are identical versions (except for one page) of the same document and contain information which overlaps with that included in Proposed Exhibits 79, 83, 85, and 124;¹²² (ii) Proposed Exhibit 94 and 96 contain details which are also referred to in Proposed Exhibits 88-91 and 98;¹²³ and (iii) Proposed Exhibit 96 includes information which overlaps with relevant parts of Proposed Exhibits 88-92, 94, 98, and with a portion of W04746's testimony.¹²⁴ This provides further indication of the origin and source of this material. For these reasons, the Panel is satisfied that the Investigation Minutes and Analysis bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

53. With respect to the Lists, the Panel notes that they refer to the names and occupations of several LDK members and Serbian police officers.¹²⁵ In addition,

¹²⁰ Annex 1 to the Motion. *See also above* paras 49-50 and *below* para. 52.

¹²¹ Annex 1 to the Motion, *referring to*, in relevant parts, P00010; P00738; P00957, P00959; P00960; P01046; 1D00007; Transcript of Hearing, 12 July 2023, pp. 5592-5594; Transcript of Hearing, 11 December 2023, pp. 10923-10924, 10926-10929, 10947; Transcript of Hearing, 29 January 2024, pp. 11995-11996, 12000-12007, 12017-12019, 12021-12022, 12025, 12044; Transcript of Hearing, 30 January 2024, p. 12138.

¹²² Annex 1 to the Motion. *See also above* paras 49, 51.

¹²³ Annex 1 to the Motion. *See also above* paras 49, 51.

¹²⁴ Annex 1 to the Motion. *See also* Transcript of Hearing, 12 July 2023, pp. 5592-5594. *See also above* paras 49, 51.

¹²⁵ Proposed Exhibits 123, 131.

the Panel notes the SPO's submission that Proposed Exhibit 131 contains information regarding alleged collaborators of a similar nature to that contained in Proposed Exhibit 237.¹²⁶ For these reasons, the Panel is satisfied that the Lists bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

54. Regarding the ID Card, the Panel notes that it: (i) consists of a signed document bearing a KLA header, emblem and stamp; (ii) contains a photograph and the name of the document holder; and (iii) indicates Mr Latif Gashi, Chief of Military Intelligence Service, as issuing authority.¹²⁷ For these reasons, the Panel is satisfied that the ID Card bears sufficient indicia of authenticity and is therefore *prima facie* authentic.

55. In light of the above, the Panel is satisfied that Proposed Exhibits 78-106 and 108-131 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

56. Having found Proposed Exhibits 78-131 to be *prima facie* relevant and authentic, the Panel is satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 47.¹²⁸

57. The Panel further considers that the Defence could challenge the content of these items via cross-examination of relevant witnesses as well as through the presentation of evidence, if it chooses to do so. Therefore, the Panel finds that the probative value of Proposed Exhibits 78-106 and 108-131 is not outweighed by their prejudicial effect.

¹²⁶ Annex 1 to the Motion. *See also below* para. 67.

¹²⁷ Proposed Exhibit 129.

¹²⁸ *Contra* Annex 1 to the Response, PV.1 Objections. The Panel recalls that it has assessed only pages U000-9108-U000-9124 of Proposed Exhibit 121, and related translation. *See above* footnotes 106, 117. The Panel also recalls that it has assessed only pages 3-39, 52-60 of Proposed Exhibit 124, and related translation. *See above* footnotes 105, 110.

(d) Conclusion

58. In light of the above, the Panel is satisfied that Proposed Exhibits 78-106 and 108-131 are admissible pursuant to Rule 138(1).¹²⁹

5. Proposed Exhibits 132-290: KLA Organisation and Alleged Common Criminal Purpose in summer 1999

59. At the outset, the Panel authorises the SPO to: (i) substitute the translations tendered in the Motion for Proposed Exhibits 176, 235, 246, and 262 with the revised translations disclosed in Disclosure Package 1212; and (ii) make corrections to the metadata of Proposed Exhibits 272-273.¹³⁰

(a) Relevance

60. Regarding the relevance of Proposed Exhibits 132-290, the Panel observes that the SPO submits that they relate to the KLA organisation and alleged common criminal purpose in the summer of 1999.¹³¹ In this regard, the Panel notes that: (i) Proposed Exhibits 132-136 and 269 consist of documents containing the names of current and prospective staff members with the KLA Military Police in the Llap OZ ("Staff Lists"); (ii) Proposed Exhibits 137-141 consist of blank forms and templates of the KLA Military Police in the Llap OZ ("Forms"); (iii) Proposed Exhibits 142-143, 147-148, 154-155, 189, 196, 216, and 279 consist of notebooks and diaries from the KLA Military Police and intelligence services containing detailed

¹²⁹ The Panel recalls that it has assessed and admitted only pages U000-9108-U000-9124 of Proposed Exhibit 121, and related translation. *See above* footnotes 106, 117, 128. The Panel also recalls that it has only assessed and admitted pages 3-39, 52-60 of Proposed Exhibit 124, and related translation. *See above* footnotes 105, 110, 128.

¹³⁰ *See Reply*, para. 6(c)-(d).

¹³¹ *See Annex 1 to the Motion*, pp. 100-188, Proposed Exhibits 132-290.

account of events and persons involved (“Notebooks”); (iv) Proposed Exhibits 145-146, 149-150, 192, 199, 209,¹³² 211, 223, 232, 256, 272, 275, 280, and 286-290 consist of internal reports, notes, duty logbooks, documents, letters, and announcements – both handwritten and typewritten – from the KLA Military Police and intelligence services relating to their organisation and ongoing operations (“Reports”); (v) Proposed Exhibits 144, 151-153, 157, 161-163, 165, 169, 173, 175-178, 180-183, 185-186, 188, 190, 195, 207, 210, 212-214, 215, 222, 224-225, 228-231, 233-240, 242-254, 257-261, 263-267, 270-271, 273-274, 277-278, and 282-283 consist of official documents issued by the KLA Military Police and intelligence services including authorisations, summons, official notes, a confirmation of confiscation, declarations, reports, directives, verifications, statements, investigative case files, minutes, complaints, and a travel document (“Military Police Official Documents”); (vi) Proposed Exhibits 156, 158-160, 164, 166-168, 171-172, 174, 184, 191, 194, 197-198, 200, 202-206, 208, 217, 226-227, 255, 262, 281, and 285 consist of both handwritten and typewritten witness statements, complaints, requests, and informative notes, which were gathered, received, or created by the KLA Military Police, and indicate various names, locations, and events (“Statements and Complaints”); (vii) Proposed Exhibits 170, 187, 193, 201, and 241 consist of KLA documents containing official decisions, requests, statements and notes issued by and within the Llap OZ, and a KLA Duty Service Book (“Other KLA Documents”); (viii) Proposed Exhibits 179, 268 and 276 consist of official documents from and to the Provisional Government of Kosovo (“PGoK”) containing an order and two requests, respectively (“PGoK Official Documents”); (ix) Proposed Exhibits 218-221 consist of documents containing lists of Serbian individuals and members of the Egyptian minority, respectively (“Other Lists”);

¹³² The Panel notes that the English version tendered by the SPO for Proposed Exhibit 209 (SITF00243877-00243878-ET) does not include any translation for pages SITF00243879-00243880. The Panel has therefore only assessed pages SITF00243877-00243878 of Proposed Exhibit 209, and related translation.

and (x) Proposed Exhibit 284 consists of a request addressed to intelligence services to verify the employees of the Priština/Prishtinë airport (“Request”).

61. The Panel further notes that the SPO relies on Proposed Exhibits 132-290 in relation to the organisation of the KLA, in particular, the police and intelligence services in the Llap OZ as well as the National Guard established in May 1999, and their capacity to conduct investigations, including: (i) issuing, on standardised templates and pursuant to KLA regulations, orders and summonses; (ii) confiscating and allocating property, and receiving complaints; (iii) disciplining soldiers, including for ‘lying and breach of military law’; (iv) investigating war crimes by Serbian authorities and property disputes; (v) conducting on-site and crime-scene inspections, surveillance, and searches; and (vi) collecting information about, mistreating, arresting, and taking statements from and about, *inter alia*, persons of Serb and Roma ethnicities, alleged collaborators, and other opponents.¹³³

62. Having carefully reviewed Proposed Exhibits 132-290, the Panel is satisfied that they relate to events, facts and circumstances in the Llap OZ in summer 1999, which are sufficiently connected to allegations and charges in the Indictment¹³⁴ as well as certain witness testimony.¹³⁵ The Panel therefore finds that Proposed Exhibits 132-290 are *prima facie* relevant.

(b) Authenticity

63. Regarding authenticity, the Panel notes that the Staff Lists consist of documents listing personal details of members and prospective members of the KLA’s Military Police unit. In addition: (i) Proposed Exhibit 134 includes the

¹³³ Motion, paras 15-16.

¹³⁴ See e.g. Indictment, paras 18-55, 71-73, 76, 107-108, 110-111, 157-158. *Contra* Annex 1 to the Response, R.1 Objections.

¹³⁵ See e.g. W04758.

typed signature of Military Police commander Muhamet Latifi; (ii) Proposed Exhibit 136 includes a signature; and (iii) Proposed Exhibit 269 bears the KLA header with the date, place, and reference number and contains references to Military Police as issuing authority. The Panel further considers the SPO's submission that Proposed Exhibits 132-136 and 269 contain overlapping information and/or information of a similar nature to that included in relevant parts of Proposed Exhibits 129, 143-145, 173, 178, 188, 206, 250, 258, 264-265, 274, 277, and 289.¹³⁶ This provides additional indication of the source and origin of the material in question. For these reasons, the Panel is satisfied that the Staff Lists bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

64. Turning to the Forms, the Panel notes that they consist of blank typewritten templates bearing the KLA header and/or emblem and referring to the Military Police as issuing authority. In addition, Proposed Exhibit 138 includes a reference to its expected place of issuance. The Panel further considers the SPO's submission that (similar) signed versions of the template in Proposed Exhibit 139 and 141 are included in Proposed Exhibits 162 and 260, and 121, respectively.¹³⁷ For these reasons, the Panel is satisfied that the Forms bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

65. In relation to the Notebooks, the Panel notes that they consist of handwritten documents providing a detailed account of events occurred in the Llap OZ and persons involved therein, including lists of Serbian and Albanian individuals and information about their contacts with Serbs. In addition: (i) Proposed Exhibits 142-143, 147-148, 154-155, 196, and 279 contain references to relevant dates in 1999; (ii) Proposed Exhibits 142-143, 148, 154-155, and 196 contain signatures; and (iii) Proposed Exhibits 143, 147, and 154-155 bear the Military Police header and/or emblem or indicate the Llap OZ as the issuing authority. The Panel further

¹³⁶ Annex 1 to the Motion. *See also above* para. 54, and *below* para 65-68.

¹³⁷ Annex 1 to the Motion. *See also above* para. 50.

considers the SPO's submissions that: (i) Proposed Exhibits 154 and 189 contain overlapping information;¹³⁸ (ii) Proposed Exhibits 142-143, 148, 154, 216, and 279 refer to names and facts which are referred to in relevant parts of Proposed Exhibits 124, 129, 132, 156, 163, 175, 215, 219, 231, 235, 237, 256, and 286;¹³⁹ and (iii) Proposed Exhibit 279 also refers to names and facts which are referred to in admitted exhibit P00902.¹⁴⁰ This provides additional indication of the source and origin of the material in question. This being said, the Panel notes that Proposed Exhibit 279 is 112 pages in length and admission in its entirety does not therefore seem appropriate. The Panel is of the view that the SPO should identify the relevant excerpts which it seeks to rely upon or tender only the relevant pages through relevant witnesses. The Panel therefore denies admission of Proposed Exhibit 279, without prejudice. In light of the above, the Panel is satisfied that, except for Proposed Exhibit 279, the Notebooks bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

66. With respect to the Reports, the Panel notes that they consist of Military Police internal documents providing references to relevant dates, places, individuals and/or events, and refer to the Llap OZ Military Police and intelligence services as either the issuing or receiving authority. In addition: (i) Proposed Exhibits 145, 150, 192, 199, 211, 223, 286, 287, and 289 contain signatures of Military Police officers, including commander Muhamet Latifi; (ii) Proposed Exhibit 209¹⁴¹ contains the signature of an individual complaining to the Military Police; (iii) Proposed Exhibits 149 and 289 include a KLA/Llap OZ header; (iv) Proposed Exhibit 275 is dated, contains names of reporting individuals, and is addressed to the Llap OZ; (v) Proposed Exhibits 287-288 contain a reference number; and

¹³⁸ Annex 1 to the Motion.

¹³⁹ Annex 1 to the Motion. *See above* paras 49, 54, 63, and *below* paras 66-68, 71.

¹⁴⁰ Annex 1 to the Motion.

¹⁴¹ The Panel recalls that it has only assessed pages SITF00243877-00243878 of Proposed Exhibit 209, and related translation. *See above* footnote 132.

(vi) Proposed Exhibit 289 was seized from the residence of Mr Selimi.¹⁴² The Panel further considers the SPO's submissions that Proposed Exhibits 145-146, 199, 211, 256, 272, 286, and 289-290 refer to names and facts which are referred to in relevant parts of Proposed Exhibits 124, 127, 129, 134-135, 143, 163, 167, 172-173, 178, 188, 205, 213, 215, 218-219, 237, 250, 258, 264-265, 269, 274, 277, and 279,¹⁴³ which provides additional indication of the source and origin of the material in question. For these reasons, the Panel is satisfied that the Reports bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

67. Regarding the Military Police Official Documents, the Panel notes that they consist of authorisations, summonses, official notes, reports, directives, statements, and similar documents issued by the Llap OZ Military Police or intelligence services, indicating date and/or place, and including names and/or signatures of the Military Police officers compiling them. In addition, the Panel notes that Proposed Exhibits 152-153, 157, 161-163, 165, 169, 173, 175-178, 180-183, 185-186, 188, 190, 195, 207, 212-215, 224-225, 229-231, 233-240, 242, 245-247, 249-254, 257-261, 263-267, 270-271, 274, 277, and 282-283 bear the KLA header or stamp and/or include a reference number, and refer to the Llap OZ Military Police or intelligence services as issuing authority. The Panel further considers the SPO's submissions that: (i) Proposed Exhibits 151, 163, 173, 250, 185, 188, 173, 178, 212-214, 224-225, 240, 243-244, 258, 264-265, 274, and 277-278 contain overlapping information;¹⁴⁴ (ii) Proposed Exhibits 144, 157, 173, 175, 178, 180, 183, 188, 213-215, 224-225, 229-231, 233, 235-236, 239, 243, 245-247, 249, 252, 254, 258-259, 263-264, 266-267, 273-274, and 277 contain information of a similar nature or format to that included in relevant parts of Proposed Exhibits 127, 129, 134-135, 142-143, 167, 200, 204, 226-227, 269, 276, 279, and 289;¹⁴⁵ and (iii) Proposed Exhibits 260 and 273 refer

¹⁴² See above footnote 99. See also above para. 26.

¹⁴³ Annex 1 to the Motion. See also above paras 49, 54, 63, 65, and below paras 67-68, 71.

¹⁴⁴ Annex 1 to the Motion.

¹⁴⁵ Annex 1 to the Motion. See also above paras 49, 54, 63, 65-66 and below paras 68, 70.

to rules, names or events also referred to in admitted exhibits P00008 and P00269, respectively.¹⁴⁶ This provides additional indication of the source and origin of the material in question. For these reasons, the Panel is satisfied that the Military Police Official Documents bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

68. Turning to the Statements and Complaints, the Panel notes that they consist of documents containing detailed accounts of events that occurred in the Llap OZ in summer 1999. In addition: (i) Proposed Exhibits 156, 158, 166-167, 171-172, 174, 184, 191, 194, 197-198, 202, 204-206, 208, 262, 281, and 285 include relevant dates; (ii) Proposed Exhibits 164-165, 167-168, 171-172, 184, 191, 194, 197-198, 200, 202-206, 208, 226-227, 255, and 262 contain signatures; (iii) Proposed Exhibits 167-168, 198, 200, 202-206, 208, 255, and 285 bear the KLA header and/or reference numbers; and (iv) Proposed Exhibits 156, 159-160, 164, 167-168, 171, 184, 194, 198, 200, 202-205, 208, 217, 255, and 281 identify the Llap OZ Military Police as either issuing or receiving authority. The Panel further considers the SPO's submissions that: (i) the timeframe of Proposed Exhibits 168, 200 and 203, on the one hand, and Proposed Exhibit 226, on the other hand, can be inferred from the context and relevant details included in Proposed Exhibits 167 and 227, respectively;¹⁴⁷ (ii) Proposed Exhibits 158-160, 166-168, and 226-227 contain overlapping information;¹⁴⁸ and (iii) Proposed Exhibits 158-160, 166-167, 172, 191, 217, and 227 refer to names and facts which are referred to in relevant parts of Proposed Exhibits 129, 142-143, 155, 163, 183, 214-215, 225, 233, 236, 264, 269, 277, 279, and 289.¹⁴⁹ This provides additional indication of the source and origin of the material in question. For these

¹⁴⁶ Annex 1 to the Motion, pp. 164, 173. *See in particular* P00008, p. 14; P00269, p. 17.

¹⁴⁷ Annex 1 to the Motion. *See in particular* Proposed Exhibit 167, pp. 5-8, 10-13; Proposed Exhibit 227, pp. 1-2.

¹⁴⁸ Annex 1 to the Motion.

¹⁴⁹ Annex 1 to the Motion. *See also above* paras 54, 63, 65-67.

reasons, the Panel is satisfied that the Statements and Complaints bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

69. With respect to the Other KLA Documents, the Panel notes that: (i) Proposed Exhibits 170, 201, and 241 bear a KLA header and/or emblem; (ii) Proposed Exhibits 170 and 201 are signed by the Llap OZ Commander and Deputy Commander, respectively; (iii) Proposed Exhibits 187, 241, and 193 include signatures of KLA commanders and members; and (iv) Proposed Exhibits 170, 187, and 241 are dated. The Panel also considers the SPO's submission that Proposed Exhibits 187 and 201, on the one hand, and Proposed Exhibit 193, on the other hand, refer to individuals and events referred to in Proposed Exhibits 129 and 143, respectively.¹⁵⁰ This provides additional indication of the source and origin of the material in question. For these reasons, the Panel is satisfied that the Other KLA Official Documents bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

70. In relation to the PGoK Official Documents, the Panel notes that: (i) Proposed Exhibit 179 is dated and signed, contains a reference number, identifies the Podujevë Municipal Authority as issuing authority; (ii) Proposed Exhibit 268 is signed, dated, stamped, and indicates place, reference number, and the ministry of Public Order of the PGoK as the addressee; and (iii) Proposed Exhibit 276 is signed and dated, indicates date, place and reference number, bears the PGoK header and stamp and identifies the PGoK Director as issuing authority. In addition, the Panel considers the SPO's submissions that: (i) Proposed Exhibit 179 refers to an individual whose appointment is mentioned in Proposed Exhibit 279;¹⁵¹ (ii) Proposed Exhibits 267-268 contain overlapping information;¹⁵² and (iii) Proposed Exhibit 276 is interrelated with Proposed Exhibit 277.¹⁵³ This

¹⁵⁰ Annex 1 to the Motion. See also above paras 54, 65.

¹⁵¹ Annex 1 to the Motion. See also above para. 65. See in particular Proposed Exhibit 279, p. 5.

¹⁵² Annex 1 to the Motion. See also above para. 67.

¹⁵³ Annex 1 to the Motion. See also above para. 67.

provides additional indication of the source and origin of the material in question. For these reasons, the Panel is satisfied that the PGoK Official Documents bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

71. Regarding the Other Lists, the Panel notes that they consist of typewritten and handwritten documents indicating names and surnames of several individuals as well as allegations of crimes allegedly committed by some of them. In addition, Proposed Exhibit 221 is stamped. The Panel further considers the SPO's submission that the Other Lists contain information of a similar nature to that included in relevant parts of Proposed Exhibits 124, 215, and 237,¹⁵⁴ which provides additional indication of the source and origin of the material in question. For these reasons, the Panel is satisfied that the Other Lists bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

72. Turning to the Request, the Panel notes that it is dated, on Priština/Prishtinë airport letterhead, signed by the airport's director, and bears the official airport stamp. In addition, the Request contains personal information of airport employees. For these reasons, the Panel is satisfied that the Request bears sufficient indicia of authenticity and is therefore *prima facie* authentic.

73. In light of the above, the Panel is satisfied that Proposed Exhibits 132-278 and 280-290 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

74. Having found Proposed Exhibits 132-278 and 280-290 to be *prima facie* relevant and authentic, the Panel is satisfied that these items also bear *prima facie*

¹⁵⁴ Annex 1 to the Motion. See also above paras 49, 67.

probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 61.¹⁵⁵

75. Moreover, the Panel notes that the Defence will be able to challenge the content of these items via cross-examination of relevant witnesses as well as through the presentation of evidence, if it chooses to do so. The Panel therefore finds that the probative value of Proposed Exhibits 132-278 and 280-290 is not outweighed by their prejudicial effect.

(d) Conclusion

76. In light of the above, the Panel is satisfied that Proposed Exhibits 132-278 and 280-290 are admissible under Rule 138(1).¹⁵⁶ The Panel denies admission of Proposed Exhibit 279, without prejudice.

V. CLASSIFICATION

77. The Panel directs the Registry to assign the admitted items the classification indicated in Annex 1 to the Motion.

VI. DISPOSITION

78. For the above-mentioned reasons, the Panel hereby:

- (a) **GRANTS**, in part, the Motion;
- (b) **GRANTS** the SPO leave to add the Additional Document to the

¹⁵⁵ *Contra* Annex 1 to the Response, PV.1 Objections. The Panel recalls that it has assessed only pages SITF00243877-00243878 of Proposed Exhibit 209, and related translation. *See above* footnotes 132, 141.

¹⁵⁶ The Panel recalls that it has assessed only pages SITF00243877-00243878 of Proposed Exhibit 209, and related translation. *See above* footnotes 132, 141, 155.

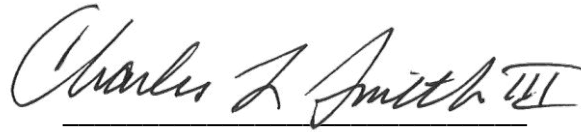
Exhibit List;

- (c) **ORDERS** the SPO to file its amended Exhibit List no later than **Friday, 28 February 2025**;
- (d) **REJECTS** the Defence's request to defer its consideration of the Motion until after the SPO's Llap OZ witnesses have testified;
- (e) **ADMITS** into evidence the following Proposed Exhibits and, subject to subparagraph (h) below, any translations thereof: Proposed Exhibits 1-16, 18-27, 29-48, 50-106,¹⁵⁷ 108-278,¹⁵⁸ and 280-290;
- (f) **DENIES** the admission of Proposed Exhibit 279, without prejudice;
- (g) **DECLARES** the request to admit Proposed Exhibits 17, 28, 49, 107, and pages 1-2, 40-51 of Proposed Exhibit 124 moot;
- (h) **AUTHORISES** the SPO to: (i) substitute the translations tendered in the Motion for Proposed Exhibits 176, 235, 246, and 262 with the revised translations disclosed in Disclosure Package 1212; and (ii) make corrections to the metadata of Proposed Exhibits 9 and 272-273; and
- (i) **DIRECTS** the Registry to assign the admitted items: (i) exhibit

¹⁵⁷ See Annex 1 to the Motion. The Panel recalls that it has assessed and admitted only pages U001-0243-U001-0244 of Proposed Exhibit 59, and related translation. *See above* footnotes 63, 95, 101, 102.

¹⁵⁸ See Annex 1 to the Motion. The Panel recalls that it has assessed and admitted only pages U000-9108-U000-9124 of Proposed Exhibit 121, and related translation. *See above* footnotes 106, 117, 128, 129. The Panel also recalls that it has assessed and admitted only pages 3-39, 52-60 of Proposed Exhibit 124, and related translation. *See above* footnotes 105, 110, 128, 129. The Panel also recalls that it has assessed and admitted only pages SITF00243877-00243878 of Proposed Exhibit 209, and related translation. *See above* footnotes 132, 141, 155, 156.

numbers,¹⁵⁹ and (ii) the classification indicated in Annex 1 to the Motion.

A handwritten signature in black ink, reading "Charles L. Smith, III". The signature is written in a cursive style with a horizontal line underneath.

Judge Charles L. Smith, III
Presiding Judge

Dated this Friday, 21 February 2025

At The Hague, the Netherlands.

¹⁵⁹ The Panel instructs the Registry to add the admitted pages from Proposed Evidence 124, and related translation, to exhibit P00738. *See above* footnotes 105, 158.