



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

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: 4 March 2025

Language: English

Classification: Public

**Decision on Prosecution Motion for Admission of Shala Zone and Karadak Zone
Documents**

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 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 24 July 2024, the SPO filed a motion for admission of documents (“Motion”) related to the Shala and Karadak operational zones (“Annex 1 to the Motion” and “Annex 2 to the Motion”, respectively).¹
2. On 30 August 2024, the Defence filed a joint response to the Motion (“Response”).²
3. On 9 September 2024, the SPO filed a reply to the Response (“Reply”).³

II. SUBMISSIONS

4. The SPO requests the admission of contemporaneous Kosovo Liberation Army (“KLA”) records relating to the Shala and Karadak operational zones (“Shala OZ”, “Karadak OZ” and “Proposed Exhibits”).⁴ The SPO submits that the Proposed Exhibits: (i) corroborate and complement witness and documentary

¹ F02468, Specialist Prosecutor, *Prosecution Motion for Admission of Shala and Karadak Zone Documents*, 24 July 2024, with Annexes 1-3, confidential.

² F02521, Specialist Counsel, *Joint Defence Response to Prosecution Motion Admission of Shala and Karadak Zone Documents*, 30 August 2024, confidential, with Annex 1-3, confidential (a corrected version was filed on 3 September 2024, F02521/COR).

³ F02539, Specialist Prosecutor, *Prosecution Reply Relating to its Motion to Admit Shala and Karadak Zone Documents (F02468)*, 9 September 2024.

⁴ Motion, paras 1, 20, referring to Annex 1 and 2 to the Motion.

evidence, and adjudicated facts;⁵ (ii) are relevant⁶ and *prima facie* authentic;⁷ and (iii) have probative value that is not outweighed by any prejudice.⁸

5. The Defence responds that the SPO fails to comply with its obligation to introduce only material of high probative value into the evidentiary record.⁹ The Defence submits that the SPO's heavy reliance on the wholesale submission of evidence via the bar table is a key contributor to the size of the evidential record and raises concern that the size may negatively impact the fairness of these proceedings and impede their streamlining.¹⁰ In addition, the Defence objects to the admission of the Proposed Exhibits¹¹ as: (i) their relevance is not apparent;¹² (ii) they lack *prima facie* authenticity and need to be authenticated through witnesses;¹³ and (iii) any probative value is outweighed by their prejudicial effect.¹⁴ In particular, the Defence relies on the same categories of objections previously formulated,¹⁵ and argues that: (i) several documents contain virtually no indication of authenticity and, contrary to the SPO's submissions, a collection of poorly authenticated or non-authenticated documents cannot serve to authenticate another document suffering the same deficiencies;¹⁶ (ii) the Proposed Exhibits include lengthy "compilations" sometimes with no discernible link to each other;¹⁷ (iii) the Panel should take into consideration the Defence's prior objections in relation to the Proposed Exhibits seized from Mr Selimi's residence;¹⁸

⁵ Motion, para. 2.

⁶ Motion, paras 1, 3-14. *See also* Annex 1 and 2 to the Motion.

⁷ Motion, paras 1, 15-17. *See also* Annex 1 and 2 to the Motion.

⁸ Motion, paras 1, 18. *See also* Annex 1 and 2 to the Motion.

⁹ Response, para. 1.

¹⁰ Response, para. 1.

¹¹ Response, paras 1-3, 15.

¹² Response, paras 8-10. *See also* Annex 1 to the Response, pp. 2-40; Annex 2 to the Response, pp. 2-18.

¹³ Response, paras 4-7. *See also* Annex 1 to the Response, pp. 2-40; Annex 2 to the Response, pp. 2-18.

¹⁴ Response, paras 11-13. *See also* Annex 1 to the Response, pp. 2-40; Annex 2 to the Response, pp. 2-18.

¹⁵ Response, para. 3 referring to F01387/A07, Specialist Counsel, *Annex 7 to Joint Defence Response to Prosecution Application for Admission of Material Through the Bar Table*, 21 March 2023, confidential.

¹⁶ Response, paras 4-6.

¹⁷ Response, para. 4.

¹⁸ Response, para. 5.

(iv) several of the Proposed Exhibits bear only tenuous connection to the facts and circumstances alleged in the Indictment in the absence of further contextualizing testimony;¹⁹ (v) the SPO is attempting to establish the relevance of a document based on inferences;²⁰ (vi) the Defence will be prejudiced by the admission of the Proposed Exhibits as the SPO has failed to identify the specific witnesses through which the Defence will be in a position to challenge the contents of these documents;²¹ and (vii) the SPO failed to offer any details of chain of custody information, beyond generic descriptions about the source being the ICTY/IRMCT, or national authorities.²²

6. The SPO replies that the Response misrepresents the Motion and repeats prior objections to broad categories of evidence, which have already been considered and dismissed by the Panel.²³ The SPO argues that there is no requirement that documents be tendered through a witness and that the admission of documents through the bar table is not, in and of itself, prejudicial.²⁴ The SPO submits that the Proposed Exhibits should be considered holistically in light of all of the relevant information and evidence.²⁵

III. APPLICABLE LAW

7. The applicable law regarding the present matter is set out, in particular, in Article 40(6)(h) and Rule 138(1), and has been laid out extensively in the Panel's prior decisions.²⁶ The Panel will apply these standards to the present decision.

¹⁹ Response, para. 8.

²⁰ Response, para. 9.

²¹ Response, paras 7, 11-12.

²² Annex 1 to the Response, A.3, A.3.2 and A3.3 Objections.

²³ Reply, paras 1, 5.

²⁴ Reply, para. 2.

²⁵ Reply, para. 4.

²⁶ See e.g. F01409, Panel, *Decision on Specialist Prosecutor's Bar Table Motion* ("Decision on Bar Table Motion"), 31 March 2023, confidential, paras 8-13.

IV. DISCUSSION

A. GENERAL CONSIDERATIONS

8. The Panel first notes that there is no requirement under the Specialist Chambers' legal framework that Proposed Exhibits be authenticated through witnesses.²⁷ 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.²⁸ 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.²⁹ 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). 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, 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 from 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.³⁰ Moreover, the use of proposed exhibits during testimony of witnesses might provide valuable context relevant, for instance, to the weight or reliability of that exhibit.³¹

²⁷ See Decision on Bar Table Motion, para. 12. See also Rule 138(1). *Contra* Response, paras 2, 7; Annex 1 to the Response, Proposed Exhibits 1, 3-6, 8-10, 12, 15, 17-19; Annex 2 to the Response, Proposed Exhibits 6-7, 9.

²⁸ F01596, Panel, *Second Decision on Specialist Prosecutor's Bar Table Motion* ("Second Decision on Bar Table Motion"), 9 June 2023, confidential and *ex parte*, para. 84 (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). *Contra* Response, paras 11-12; Annex 1 to the Response, R.3 Objection.

²⁹ F01983, Panel, *Sixth Decision on Specialist Prosecutor's Bar Table Motion*, 5 December 2023, para. 92.

³⁰ Decision on Bar Table Motion, para. 16.

³¹ Decision on Bar Table Motion, para. 17.

9. The Panel further recalls that proof of provenance or authorship of the tendered items is not required when assessing *prima facie* authenticity and reliability under Rule 138(1), as such proof pertains to the evidentiary weight of the tendered items rather than to their admissibility and, as such, will be duly assessed by the Panel at the end of trial, having regard to the entire body of evidence.³² This being said, the Panel recalls that handwritten documents bearing no indication of a named source or which have yet to be corroborated are often considered to lack the requisite indicia of reliability unless they contain other relevant indications of their reliability.³³

10. The Panel is of the view that the fact that the tendered items are offered as part of lengthy compilations, 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.³⁴

11. The Panel is also of the view that if some parts of a Proposed Exhibit are illegible or torn, this does not affect admissibility if the material parts of the document relied upon by the moving Party are unaffected and enable the Panel to adequately evaluate the relevance, authenticity, and probative value of the item.³⁵

12. Regarding the Defence's submissions that the SPO failed to provide any information regarding the chain of custody for tendered items,³⁶ the Panel recalls

³² Second Decision on Bar Table Motion, para. 82. *Contra* Response, paras 6, 12; Annex 1 to the Response, A1.4 Objections; Annex 2 to the Response, A1.4 Objection.

³³ Decision on Bar Table Motion, para. 59.

³⁴ F02951, Panel, Decision on Prosecution Motion for Admission of Llap Zone Documents and Related Request, 21 February 2025, para. 24. *Contra* Response, para. 4; Annex 1 to the Response, Proposed Exhibits 1, 5, 10, 16.

³⁵ F01716, Panel, *Fourth Decision on Specialist Prosecutor's Bar Table Motion*, 8 August 2023, confidential, para. 83.

³⁶ Annex 1 to the Response, A.3, A.3.2 and A3.3 Objections.

its prior finding that proof or record of chain of custody is not a condition for the admission of evidence.³⁷

13. In relation to Defence's objections to the Proposed Exhibits seized from the residence of Mr Selimi,³⁸ 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.³⁹

14. The Panel now turns to the argument that the Defence will be prejudiced by the admission of the Proposed Exhibits as the SPO has failed to identify specific witnesses through which the Defence will be in a position to challenge the contents of these documents.⁴⁰ In this regard, the Panel notes that the right to confrontation does not encompass a right for a Party to have each and every exhibit or document produced through a witness, which the Party is then able to question in respect of its content. However, if proposed exhibits are not put to witnesses who are able to contextualise them, this may negatively impact the weight that the Panel might be prepared to give to such an exhibit at the end of trial.⁴¹

15. The Defence further contends that the SPO repeatedly relies on cross-references to material not tendered for admission to buttress the authenticity of the proposed exhibits.⁴² The Panel has repeatedly indicated that it will not rely on items not admitted or offered for admission as a basis to decide the admission of another item.⁴³ The Panel also recalls that for an item to be admitted from the bar

³⁷ Second Decision on Bar Table Motion, para. 109.

³⁸ Response, para 5.

³⁹ 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).

⁴⁰ Response, para. 11.

⁴¹ See Rule 139(2); See for example, Second Decision on Bar Table Motion, para. 178.

⁴² Response, para. 5.

⁴³ F01603, Panel, *Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 155*, 14 June 2023 confidential, para. 50 (a public redacted version was issued on 8 September 2023, F01603/RED); F02967, Panel, *Decision on Prosecution Motion for Admission of Drenica Zone Documents*,

table, it must meet the cumulative requirements of Rule 138(1).⁴⁴ Corroboration may assist to establish these criteria when not evident on the face of a document but is not, in and of itself, a requirement for admission. Accordingly, the Panel will assess whether the Proposed Exhibits meet the *prima facie* requirements of Rule 138(1).

16. 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 Annexes 1 and 2 to the Motion and Annexes 1 and 2 to the Response.

B. PROPOSED EXHIBITS 1-28: SHALA OZ DOCUMENTS

(a) Relevance

17. In relation to Proposed Exhibits 1-28 in Annex 1 to the Motion, the Panel notes that: (i) Proposed Exhibits 1-4 consist of documents listing soldiers, training plans and a request to participate in the special unit training;⁴⁵ (ii) Proposed Exhibit 5 consists of KLA service regulations;⁴⁶ (iii) Proposed Exhibit 6 consists of a collection of permits for issuance of gasoline and oil; (iv) Proposed Exhibits 7 and 11-12 consist of guard duty rosters and duty officers' schedules; (v) Proposed Exhibit 8 consists of a KLA Operational Staff of Cicavica document with a list of names of persons that were to travel to Glllogjan to obtain arms; (vi) Proposed Exhibits 9 and 23 consist of KLA orders on military matters by Shala Operational Zone Commander and civilian matters by Cicavica Subzone Staff Commander; (vii) Proposed Exhibits 10, 17-18, 20-22, and 25 consist of handwritten as well as

26 February 2025, confidential, para. 10 (a public redacted version was issued on the same day, F02967/RED).

⁴⁴ Decision on Bar Table Motion, para. 9.

⁴⁵ The Panel notes that the SPO is not tendering page 096543 of Proposed Exhibit 1 and related translation. *See* Annex 1 to the Motion, p. 2 (Proposed Exhibit 1). The Panel also notes that the SPO is only tendering pages U000-8859-U000-8860 of Proposed Exhibit 2 and the related translation. *See* Annex 1 to the Motion, p. 2 (Proposed Exhibit 2).

⁴⁶ The Panel notes that the SPO is not tendering pages 096801-096802 of Proposed Exhibit 5 and the related translation. *See* Annex 1 to the Motion, p. 10 (Proposed Exhibit 5).

typewritten notes, reports, diaries and notebook pages;⁴⁷ (viii) Proposed Exhibit 13 consists of a handwritten speech for the assistant commander for logistics of the Shala OZ; (ix) Proposed Exhibit 14 consists of a KLA document signed by a Commander giving authorisation to carry out repair work; (x) Proposed Exhibit 15 consists of a photo of a declaration from a soldier agreeing to join the KLA; (xi) Proposed Exhibit 16 consists of a list of members of battalions of the Mehe UKA Brigade and a list of houses that were burned down; (xii) Proposed Exhibit 19 consists of a request from the 141 Mehe UKA Brigade to the command of the Shala OZ for money; (xiii) Proposed Exhibit 28 consists of a request by a KLA member to the Command of Shala OZ to remain an officer of the KLA; (xiv) Proposed Exhibit 24 consists of a travel authorisation document issued by the Staff of the 4th Battalion of the 141st Brigade; and (xv) Proposed Exhibits 26-27 consist of lists of KLA military police.

18. The Panel further notes that the SPO relies on the Proposed Exhibits relating to the Shala OZ to demonstrate, *inter alia*, that the KLA was: (i) registering and training soldiers; (ii) organising duty officers and guard schedules; (iii) controlling movements, including at checkpoints; (iv) enforcing discipline and taking disciplinary measures; and (v) collecting information about and compiling lists of “wanted persons”.⁴⁸ In addition, the SPO relies on the Proposed Exhibits to demonstrate: (i) General Staff authority; (ii) KLA structure; (iii) logistics; (iv) KLA disciplinary measures; (v) criminal responsibility for crimes;⁴⁹ and that (vi) ‘suspicious’ persons, and perceived opponents, were

⁴⁷ The Panel notes that the SPO is only tendering pages SITF00285699-SITF00285700 of Proposed Exhibit 17 and the related translation. *See* Annex 1 to the Motion, p. 29 (Proposed Exhibit 17). The Panel also notes that the SPO is only tendering pages SITF00285777-SITF00285778 of Proposed Exhibit 18 and related translation. *See* Annex 1 to the Motion, p. 31 (Proposed Exhibit 18). The Panel further notes that the SPO is only tendering page SITF00285702 of Proposed Exhibit 25 and related translation. *See* Annex 1 to the Motion, p. 38 (Proposed Exhibit 25).

⁴⁸ Motion, para. 5.

⁴⁹ Motion, para. 6.

targeted, arrested, detained, and mistreated at locations in the Shala OZ, including some transferred to other OZs.⁵⁰

19. Having carefully reviewed Proposed Exhibits 1-28, the Panel is satisfied that they are all sufficiently connected to facts and circumstances linked to the charges in the Indictment.⁵¹ The Panel therefore finds that Proposed Exhibits 1-28 are relevant.

(b) Authenticity

20. The SPO has failed to establish the *prima facie* authenticity of Proposed Exhibits 13 and 17-18. The Panel considers that: (i) Proposed Exhibit 13 is unsigned, undated, and unstamped; it is unknown when the document was compiled and by whom; the mere fact that a certain document in evidence corroborates one aspect of the Proposed Exhibit is not, in itself, sufficient to establish *prima facie* authenticity; and (ii) while Proposed Exhibits 17-18 are dated, they are, however, unsigned, unstamped, and it is unknown who compiled the documents; in these circumstances, the mere fact that the content of Proposed Exhibits 17 and 18 overlap in some respects with other documents is insufficient to meet the requisite threshold.

21. The Panel is satisfied that the SPO has established the *prima facie* authenticity of Proposed Exhibits 1-12, 14-16, and 19-28. Specifically, the Panel notes that these Proposed Exhibits: (i) are dated or the entries within the item are dated;⁵² (ii) are signed or some entries therein are signed;⁵³ (iii) contain the name of the author;⁵⁴

⁵⁰ Motion, para. 7.

⁵¹ See e.g. F00999/A01, Specialist Prosecutor, *Annex 1 to Submission of Confirmed Amended Indictment* ("Indictment"), 30 September 2022, confidential, paras 18-55; see also F01594/A03, Specialist Prosecutor, *Annex 3 to Prosecution Submission of Updated Witness List and Confidential Lesser Redacted Version of the Pre-Trial Brief* ("SPO Pre-Trial Brief"), 9 June 2023, confidential (a public redacted version was filed on 3 April 2023, F01415/A01), paras 220-225, 227. *Contra* Annex 1 to the Response, R.1 Objections.

⁵² Annex 1 to the Motion, Proposed Exhibits 1-2, 4-7, 9-10, 14-16, 19-20, 23, 28.

⁵³ Annex 1 to the Motion, Proposed Exhibits 1-2, 4-12, 14-16, 19-21, 23, 25-27.

⁵⁴ Annex 1 to the Motion, Proposed Exhibits 3, 20-22, 24, 28.

(iv) include personal details of the author;⁵⁵ (v) have a KLA header;⁵⁶ (vi) a KLA emblem/logo;⁵⁷ (vii) a reference number;⁵⁸ or (viii) were seized by the SPO from the residence of Mr Selimi.⁵⁹

22. In light of the above, the Panel finds that Proposed Exhibits 1-12, 14-16, and 19-28 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

23. Having found Proposed Exhibits 1-12, 14-16, and 19-28 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 18.⁶⁰

24. The Panel is satisfied that the *prima facie* probative value of the documents in paragraph 17 is not outweighed by any prejudice to the Accused considering that the Defence will be able to make submissions in respect of the weight and probative value of these items and could, if it so chooses, challenge the content of these items through the presentation of evidence although it bears no onus to do so.

(d) Conclusion

25. In light of the foregoing, the Panel admits into evidence Proposed Exhibits 1-12, 14-16, and 19-28 and denies, without prejudice, admission of Proposed Exhibits 13 and 17-18.

⁵⁵ Annex 1 to the Motion, Proposed Exhibits 1, 3.

⁵⁶ Annex 1 to the Motion, Proposed Exhibits 5-6, 8-12, 16, 23, 26-28.

⁵⁷ Annex 1 to the Motion, Proposed Exhibits 6, 20, 22, 24, 28.

⁵⁸ Annex 1 to the Motion, Proposed Exhibit 19.

⁵⁹ Annex 1 to the Motion, Proposed Exhibits 8-9, 18-19.

⁶⁰ *Contra* Annex 1 to the Response, PV.1 Objections.

C. PROPOSED EXHIBITS 1-10: KARADAK OZ DOCUMENTS

26. At the outset, the Panel notes that, since the filing of the Motion, Proposed Exhibits 1, 5, 8 and 9 from Annex 2 have been admitted into evidence as P01659, P01522, P01532, and P01539, respectively. The request for admission of these items is, therefore, moot.

(a) Relevance

27. In relation to Proposed Exhibits 2-4, 6-7, and 10, the Panel notes that: (i) Proposed Exhibit 2 consists of a report from the Provisional Government of Kosovo ("PGoK") Ministry of Defence; (ii) Proposed Exhibit 3 consists of acknowledgments of receipts and a leave permit; (iii) Proposed Exhibit 4 consists of Karadak OZ forms regarding issuing weapons;⁶¹ (iv) Proposed Exhibits 6 and 7 consist of orders of the Karadak OZ Commander;⁶² and (v) Proposed Exhibit 10 consists of a handwritten military report detailing events that took place in the Karadak OZ in late 1999.

28. The Panel further notes that the SPO relies on the Proposed Exhibits relating to the Karadak OZ to demonstrate, *inter alia*, that: (i) organisational, logistical, and other issues arising in the Karadak OZ were addressed to the General Staff and Provisional Government of Kosovo;⁶³ (ii) the Karadak OZ cooperated closely with the bordering Llap Zone;⁶⁴ (iii) by April 1999, the Karadak OZ had military police and had established Brigade 171;⁶⁵ (iv) by 19 or 20 June 1999, the Karadak OZ Command began collecting weapons from both Albanians and Serbs and issuing vouchers;⁶⁶ (v) the Karadak OZ Commander issued written orders for persons to

⁶¹ The Panel notes that the SPO is only tendering pages U001-2019-U001-2020 of Proposed Exhibit 4 and related translation. *See* Annex 2 to the Motion, p. 7 (Proposed Exhibit 4).

⁶² The Panel notes that the SPO is only tendering page 077980 of Proposed Exhibit 7 and related translation. *See* Annex 2 to the Motion, p. 12 (Proposed Exhibit 7).

⁶³ Motion, para. 9.

⁶⁴ Motion, para. 9.

⁶⁵ Motion, para. 10.

⁶⁶ Motion para. 11.

report to the Karadak OZ Command;⁶⁷ (vi) the Karadak OZ controlled PGoK municipal structures, public services, utilities, and provisional administrators;⁶⁸ (vii) Ahmet Isufi issued orders, *inter alia*, forbidding agreements with the Serbian party, NATO-led Kosovo Forces (“KFOR”) or any other party;⁶⁹ (viii) the Karadak OZ maintained rosters, training schedules and materials, meal tickets, military police paperwork, and records of persons who were not considered loyal to the KLA;⁷⁰ (ix) the Karadak OZ Command appointed commanders and established illegal KLA assembly points, police stations, and bases in areas under its control;⁷¹ (x) between mid-June and late July 1999, KLA members in these locations targeted, arrested, detained, mistreated, and killed alleged collaborators, and other perceived opponents, including charged victims in this case;⁷² and (xi) the Karadak OZ military police commander reported to the General Staff and PGoK Ministry of Public Order about a KFOR dormitory raid in Gjilan/Gnjilane and the arrests of KLA soldiers.⁷³

29. Having carefully reviewed Proposed Exhibits 2-4, 6-7, and 10, the Panel is satisfied that they are sufficiently connected to facts and circumstances linked to the charges in the Indictment⁷⁴ The Panel therefore finds that Proposed Exhibits 2-4, 6-7, and 10 are *prima facie* relevant.

(b) Authenticity

30. The Panel is satisfied with the *prima facie* authenticity of Proposed Exhibits 2-4, 6-7, and 10. Specifically, the Panel notes that these Proposed Exhibits: (i) are

⁶⁷ Motion para. 11.

⁶⁸ Motion, para. 11.

⁶⁹ Motion, para. 11.

⁷⁰ Motion, para. 11.

⁷¹ Motion, para. 12.

⁷² Motion, para. 12.

⁷³ Motion, para. 14.

⁷⁴ See e.g. Indictment, paras 18-55, 86, 92, 94, 124, 133, 135, 172. See also SPO Pre-Trial Brief, paras 251-259. *Contra* Annex 2 to the Response, R.1 Objections.

dated;⁷⁵ (ii) are signed or some entries therein are signed;⁷⁶ (iii) contain the name of the author;⁷⁷ (iv) have a KLA header;⁷⁸ (v) include a KLA emblem/logo;⁷⁹ (vi) have a protocol number;⁸⁰ or (vii) were seized by the SPO from the residence of Mr Selimi.⁸¹

31. In light of the above, the Panel finds that Proposed Exhibits 2-4, 6-7, and 10 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

32. Having found Proposed Exhibits 2-4, 6-7, and 10, 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 28.

33. The Panel is satisfied that the *prima facie* probative value of the documents in paragraph 27 is not outweighed by any prejudice to the Accused, considering that the Defence will be able to make submissions in respect of the weight and probative value of these items and could, if it so chooses, challenge the content of these items through the presentation of evidence although it bears no onus to do so.

(d) Conclusion

34. In light of the foregoing, the Panel admits into evidence Proposed Exhibits 2-4, 6-7, and 10.

⁷⁵ Annex 2 to the Motion, Proposed Exhibits 1-3, 5-8, 10.

⁷⁶ Annex 2 to the Motion, Proposed Exhibits 2-3, 7, 10.

⁷⁷ Annex 2 to the Motion, Proposed Exhibit 6.

⁷⁸ Annex 2 to the Motion, Proposed Exhibits 3-4, 6-7.

⁷⁹ Annex 2 to the Motion, Proposed Exhibits 3, 6-7.

⁸⁰ Annex 2 to the Motion, Proposed Exhibits 3, 5-7.

⁸¹ Annex 2 to the Motion, Proposed Exhibit 10.

V. CLASSIFICATION

35. The Panel directs the Registrar to assign the admitted items the classification indicated in Annex 1 and 2 to the Motion.

VI. DISPOSITION

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

- a) **GRANTS**, in part, the Motion;
- b) **ADMITS** into evidence Proposed Exhibits 1-12, 14-16, and 19-28 from Annex 1 to the Motion, and Proposed Exhibits 2-4, 6-7, and 10 from Annex 2 to the Motion and any translations thereof;
- c) **DENIES**, without prejudice, admission of Proposed Exhibits 13 and 17-18 from Annex 1 to the Motion;
- d) **DECLARES** the request to admit Proposed Exhibits 1, 5, and 8-9 from Annex 2 to the Motion moot; and
- e) **DIRECTS** the Registry to assign the admitted items: (i) exhibit numbers; and (ii) the classification indicated in Annex 1 and Annex 2 to the Motion.



Judge Charles L. Smith, III

Presiding Judge

Dated this Friday, 4 March 2025

At The Hague, the Netherlands.