



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:** 1 April 2025

**Language:** English

**Classification:** Public

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**Decision on Prosecution Motion for Admission of Pashtrik Zone Documents**

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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 31 March, 9 June, 27 July, 8 August, 3 October and 5 December 2023, as well as on 21 and 26 February 2025, and 4 March 2025, the Panel issued a number of decisions addressing bar table motions filed by the Specialist Prosecutor's Office ("SPO").<sup>1</sup>
2. On 18 February 2025, the SPO filed a motion for admission of Pashtrik Operational Zone ("Pashtrik OZ") documents ("Motion").<sup>2</sup>
3. On 7 March 2025, after being granted an extension of time for filing of responses,<sup>3</sup> the Defence filed a joint response to the Motion ("Response").<sup>4</sup>

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<sup>1</sup> F01409, Panel, *Decision on Specialist Prosecutor's Bar Table Motion* ("Decision on Bar Table Motion"), 31 March 2023, confidential; F01596, Panel, *Second Decision on Specialist Prosecutor's Bar Table Motion* ("Second Decision on Bar Table Motion"), 9 June 2023; 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* ("Sixth Decision on Bar Table Motion"), 5 December 2023; F02951, Panel, *Decision on Prosecution Motion for Admission of Llap Zone Documents and Related Request* ("Decision on Llap Zone Bar Table Motion"), 21 February 2025; F02967, Panel, *Decision on Prosecution Motion for Admission of Drenica Zone Documents* ("Decision on Drenica Zone Bar Table Motion"), 26 February 2025, confidential (a public redacted version was issued on the same day, F02967/RED); F02980, Panel, *Decision on Prosecution Motion for Admission of Shala and Karadak Zone Documents* ("Decision on Shala Zone and Karadak Zone Documents"), 4 March 2025.

<sup>2</sup> F02944, Specialist Prosecutor, *Prosecution Motion for Admission of Pashtrik Zone Documents*, confidential, with Annexes 1-3, confidential (a public redacted version was filed on 21 February 2025, F02944/RED).

<sup>3</sup> Transcript of Hearing, 19 February 2025, p. 25471, line 14 to p. 25472, line 2.

<sup>4</sup> F02991, Specialist Counsel, *Joint Defence Response to 'Prosecution Motion for Admission of Pashtrik Zone Documents (F02944)'*, 7 March 2025, confidential, with Annex 1, confidential.

4. On 17 March 2025, the SPO filed a reply to the Response (“Reply”).<sup>5</sup>

## II. SUBMISSIONS

5. The SPO requests the admission of contemporaneous Kosovo Liberation Army (“KLA”) records (“Proposed Exhibits”) related to the Pashtrik OZ. The SPO submits that each and all of the Proposed Exhibits are *prima facie* authentic, relevant, and have probative value that is not outweighed by any prejudice.<sup>6</sup>

6. The SPO submits that the Proposed Exhibits are *prima facie* relevant as they relate to various allegations and facts relevant to the charges in the Indictment, and corroborate and complement witness testimony, other documentary evidence, and noticed adjudicated facts.<sup>7</sup> The SPO also submits that the Proposed Exhibits contain multiple indicia of authenticity, as indicated in Annex 1.<sup>8</sup> The SPO further submits that as the Proposed Exhibits are relevant, *prima facie* authentic, and reliable, they also have probative value.<sup>9</sup>

7. The Defence objects to the admission of the Proposed Exhibits as:<sup>10</sup> (i) many of the Proposed Exhibits are not *prima facie* authentic, are of little to no probative value and lack the requisite *indicia* of reliability;<sup>11</sup> (ii) the SPO seeks to add hundreds of documents to an already unmanageable case record, impairing the Defence’s ability to make meaningful submissions on the admitted exhibits in the final trial briefs.<sup>12</sup> The Defence avers that the need for the Panel to strictly

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<sup>5</sup> F03030, Specialist Prosecutor, *Prosecution Reply Relating to Motion to Admit Pashtrik Zone Documents (F02944)*, 17 March 2025, confidential.

<sup>6</sup> Motion, paras 1, 33, *referring to* Annex 1 to the Motion, Proposed Exhibits 1-316.

<sup>7</sup> Motion, para. 26.

<sup>8</sup> Motion, paras 27-30.

<sup>9</sup> Motion, para. 31.

<sup>10</sup> Response, paras 2-8, 52. The Panel notes the Defence’s additional individual objections listed in Annex 1 to the Response which it will address in its assessment of the Rule 138(1) requirements of the relevant Proposed Exhibits below.

<sup>11</sup> Response, paras 2, 15-19.

<sup>12</sup> Response, paras 2, 15.

scrutinise the admissibility of the Proposed Exhibits is even more important at this stage of the trial, when none of the remaining witnesses that the SPO intends to call are relevant to the Pashtrik OZ.<sup>13</sup>

8. The Defence relies on the same categories of objections previously formulated in respect of earlier SPO bar table motions, and argues that: (i) the Motion is replete with handwritten, unsigned, undated, unstamped or generally unofficial documents;<sup>14</sup> (ii) the SPO continues to corroborate the Proposed Exhibits by other similar, equally unreliable documents tendered in the Motion;<sup>15</sup> (iii) contrary to the Panel's previous decisions on the matter, the SPO bases its authentication assessment on evidentiary material which is neither in evidence nor tendered for admission;<sup>16</sup> (iv) the Proposed Exhibits include lengthy "compilations" often with no discernible connection with one another;<sup>17</sup> (v) the SPO seeks admission of documents which were disavowed by, or seized at the residence of, witnesses that the SPO then chose to drop from its Witness List;<sup>18</sup> (vi) the SPO seeks admission of documents which were never shown to the relevant witnesses when they testified before the Panel;<sup>19</sup> (vii) the SPO seeks admission of documents that relevant witnesses failed to authenticate, contextualise, or corroborate;<sup>20</sup> (viii) the SPO seeks admission of documents that are contradicted by other evidence on the record;<sup>21</sup> (ix) admitting numerous documents, which are purportedly relevant to

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<sup>13</sup> Response, paras 22, 23, 40.

<sup>14</sup> Response, para. 17. *See also* Response, para. 51; Annex 1 to the Response, C.12 and A.1.4 Objections.

<sup>15</sup> Response, paras 19-21; Annex 1 to the Response, C.1, C.1.3, C.12, A.1 A.1.1 A.1.2 A.1.3, A.1.4 A.3 A.3.3 A.3.3.1 Objections.

<sup>16</sup> Response, para. 21.

<sup>17</sup> Response, para. 2; Annex 1 to the Response, C.1, C.1.3, C.4, C.8, C.11, C.12, and C.13 Objections.

<sup>18</sup> Response, paras 3, 17, 24-32; Annex 1 to the Response, C.3, C.3.4, C.8 Objections.

<sup>19</sup> Response, paras 5, 33-40; Annex 1 to the Response, C.3, C.3.4, C.8 Objections.

<sup>20</sup> Response, paras 4, 41-47; Annex 1 to the Response, C.3, C.3.4, C.8 Objections.

<sup>21</sup> Response, paras 48, 49; Annex 1 to the Response, C.3, C.3.4, C.8 Objections.

the key tenets of the Prosecution's case, at this stage of the trial would be prejudicial to the Defence.<sup>22</sup>

9. The SPO replies that the Defence repeats prior objections to broad categories of evidence, which have been considered and dismissed by the Panel, and misrepresents and ignores submissions in the Motion.<sup>23</sup> In particular, the SPO submits that, contrary to Defence submissions, it has put to and tendered through witnesses a significant number of contemporaneous KLA documents relating to the Pashtrik OZ and these witnesses contextualised, commented on, and/or authenticated them.<sup>24</sup> The SPO further replies that the Defence had an opportunity to use the Proposed Exhibits and put them to witnesses given that they have been long disclosed to the Defence and are on the SPO Exhibit List.<sup>25</sup>

10. In its Reply, the SPO also seeks leave to replace the tendered translation of Proposed Exhibit 155 with its revised version and withdraws its request in relation to Proposed Exhibits 130, 146, 156, 167, 169, 206, and 231, which have been admitted following the filing of the Motion.<sup>26</sup>

### III. APPLICABLE LAW

11. The applicable law regarding the present matter is set out, in particular, in Article 40(6)(h) and 138(1), and has been laid out extensively in the Panel's prior decisions.<sup>27</sup> The Panel will apply these standards to the present decision.

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<sup>22</sup> Response, paras 6, 7; Annex 1 to the Response, R.3 Objection.

<sup>23</sup> Reply, paras 1, 2, 4.

<sup>24</sup> Reply, para. 3.

<sup>25</sup> Reply, para. 5.

<sup>26</sup> Reply, para. 6.

<sup>27</sup> See *e.g.*, Decision on Bar Table Motion, paras 8-13.

## IV. DISCUSSION

### A. GENERAL CONSIDERATIONS

12. The Panel first recalls that there is no requirement under the Specialist Chambers' legal framework that Proposed Exhibits be authenticated through witnesses before they can be admitted.<sup>28</sup> 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.<sup>29</sup> 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.<sup>30</sup> What must be verified is whether the tendering Party has demonstrated the relevance, and *prima facie* authenticity and probative value of the tendered items pursuant to Rule 138(1) and shown that any prejudice arising from admission does not outweigh the material's probative value.

13. 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.<sup>31</sup> Moreover, the use of proposed exhibits during the testimony of witnesses might

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<sup>28</sup> Decision on Llap Zone Bar Table Motion, para. 23; Decision on Bar Table Motion, para. 12. *See also* Rule 138(1). *Contra* Response, paras 3-5, 17, 24-40; Annex 1 to the Response, C.1, C.1.3, C3, C.3.2, and C.13 Objections.

<sup>29</sup> Second Decision on Bar Table Motion, para. 84. *Contra* Response, paras 6, 7; Annex 1 to the Response, R.3 Objection.

<sup>30</sup> Sixth Decision on Bar Table Motion, para. 92.

<sup>31</sup> Decision on Bar Table Motion, para. 16.

provide valuable context relevant, for instance, to the weight or reliability of that exhibit.<sup>32</sup> The Panel notes, in this respect, that many of the documents pertaining to the Pashtrik OZ have been used in court with witnesses.

14. With respect to the Defence's argument that Proposed Exhibits were replete with handwritten, often unsigned documents, whose authors had not been identified and that the SPO had failed to provide any relevant information as to the circumstances in which those documents were created,<sup>33</sup> the Panel recalls that documents bearing no indication of a named source or other indicators of origin might be considered to lack the requisite indicia of authenticity.<sup>34</sup> However, 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.<sup>35</sup> 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 admitted, in accordance with Rule 139(2).<sup>36</sup>

15. The Panel also recalls 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.<sup>37</sup>

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<sup>32</sup> Decision on Bar Table Motion, para. 17.

<sup>33</sup> Response, para. 17; Annex 1 to the Response, C.12 and A.1.4 Objections.

<sup>34</sup> Decision on Llap Zone Bar Table Motion, para. 23; Decision on Bar Table Motion, para. 59.

<sup>35</sup> Decision on Llap Zone Bar Table Motion, para. 23.

<sup>36</sup> See Second Decision on Bar Table Motion, para. 82. *Contra* Response, paras 17, 51.

<sup>37</sup> Decision on Shala Zone and Karadak Zone Documents, para. 10; Decision on Llap Zone Bar Table Motion, para. 24. *Contra* Response, para. 2; Annex 1 to the Response, C.1, C.1.3, C.4, C.8, C.11, C.12, and C.13 Objections.



16. The Panel now turns to the Defence's argument that the SPO seeks admission of documents which were never shown to the relevant witnesses when they testified before the Panel.<sup>38</sup> In this regard, the Panel recalls that the right to confrontation does not encompass a right for the non-calling Party to have each and every exhibit or document produced through a witness, which the non-calling Party is then able to question in respect of its content. However, if proposed exhibits are not put, by the calling Party, 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.<sup>39</sup>

17. In this regard, the Panel notes that the Defence objects in particular to documents related to W04745<sup>40</sup> on the basis that they were never shown to the witness for authentication.<sup>41</sup> The Panel observes that several of the Proposed Exhibits which are tendered in the Motion were included by the SPO in its notification of documents to be used with W04745 during his *viva-voce* testimony.<sup>42</sup> This was an indication of the SPO's initial intention to use these documents with the witness; however, by no fault of its own, it was unable to do so due to W04745's lack of cooperation.<sup>43</sup> Failure of a witness to cooperate with a party cannot serve as a basis for the non-admission of documents that the witness might have been able to contextualise or comment upon. The Defence argument is therefore without merit.

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<sup>38</sup> Response, paras 5, 33-40; Annex 1 to the Response, C.3, C.3.4, C.8 Objections.

<sup>39</sup> Decision on Shala Zone and Karadak Zone Documents, para. 14; *See* Rule 139(2).

<sup>40</sup> Response, paras 35, 36.

<sup>41</sup> Transcript of Hearing, 24 February 2025, confidential; Transcript of Hearing, 25 February 2025, confidential.

<sup>42</sup> *Compare e.g.*, Annex 1 to the Motion, Proposed Exhibits 7, 8, 9, 153, 156, 239, 251, 252, 256, 257, 258, 259, 260, 263, 264 and Annex 1 to F02833, Prosecution Submissions Concerning Post-January 2025 Witnesses, 14 January 2025, confidential, Items 9, 10, 25, 21, 20, 19, 18, 17, 13, 15, 16, 11, 12, 14, 22 respectively.

<sup>43</sup> Transcript of Hearing, 1 April 2025, p. 26121, line 14 to p. 26126, line 20.



18. Similarly, the Panel considers that the fact that some of the documents were not authenticated, nor corroborated and even in certain instances contradicted by the witnesses who testified, or by other evidence on the record,<sup>44</sup> does not prevent their admission if the requirements of Rule 138 are otherwise met, though this may negatively impact the weight that the Panel might be prepared to attribute to such evidence.

19. The Panel notes in this regard that the Defence specifically challenges the Proposed Exhibits which relate to W04460 on the ground that W04460 did not authenticate some of the Proposed Exhibits, and the SPO then removed this witness from its Witness List. Furthermore, the Defence argues that the SPO impermissibly relies, to support the authenticity of these Proposed Exhibits, on its assertion that they were purportedly seized from W04460's residence.<sup>45</sup> The Panel is of the view that the first part of the Defence's arguments pertains to the evidentiary weight to be given to such evidence by the Panel, which the Panel will only evaluate at the end of trial and in light of the totality of the evidence. The Panel also reiterates that the authentication of a document for the purpose of admission does not require that this be done through a witness. Regarding the second part of the Defence's argument, the Defence fails to explain how or why it would be impermissible for the SPO to point to the fact that the document was seized from W04460's residence as one of the indicators of its authenticity. This argument must fail, too.

20. The Defence further contends that the SPO refers to evidentiary material which is neither in evidence nor tendered for admission in order to authenticate documents tendered through this bar table motion.<sup>46</sup> The Panel has repeatedly indicated that it will not rely on items neither admitted nor offered for admission

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<sup>44</sup> Response, paras 4, 41, 47-49; Annex 1 to the Response, C.3, C.3.4, C.8 Objections.

<sup>45</sup> Response, para. 32; Annex 1 to the Response, Proposed Exhibits 274, 278.

<sup>46</sup> Response, para. 21; Annex 1 to the Response, C.3, C.3.4, C.8 Objections.

as a basis to decide the admission of another item.<sup>47</sup> The Panel also recalls that for an item to be admitted from the bar table, it must meet the cumulative requirements of Rule 138(1).<sup>48</sup> Corroboration based on material either already admitted or offered for admission may assist to establish these criteria when not evident on the face of a document; as noted above, however, corroboration is not, in and of itself, a requirement for admission.<sup>49</sup>

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

#### B. ASSESSMENT OF PROPOSED EXHIBITS

##### **1. Proposed Exhibits 1-23: Documents Related to the Pashtrik OZ Command**

###### (a) Relevance

22. Regarding the relevance of Proposed Exhibits 1-23, the SPO submits that they relate to: (i) control, management, and administration by the Pashtrik OZ Command over KLA units and members in 1998 and 1999; (ii) the degree of membership, organisation and functioning of the KLA special units in Pashtrik OZ; and (iii) command and control of the KLA General Staff over the commanding structure of the Pashtrik OZ.<sup>50</sup> In this regard, the Panel notes that: (i) Proposed Exhibits 3, 11, and 14 consist of documents related to KLA General Staff, including decisions appointing Pashtrik OZ Command staff (“KLA General Staff Decisions”); (ii) Proposed Exhibits 1, 4, 9, 12, and 15 consist of documents related to the appointment, movement, or transfer of military personnel, documents related to staffing and disciplinary measures against KLA members (“Personnel Documents”); (iii) Proposed Exhibits 2 and 16 consist of documents related to

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<sup>47</sup> Decision on Shala Zone and Karadak Zone Documents, para. 15; Decision on Drenica Zone Bar Table Motion, para. 10.

<sup>48</sup> Decision on Bar Table Motion, para. 9.

<sup>49</sup> Decision on Shala Zone and Karadak Zone Documents, para. 15.

<sup>50</sup> Annex 1 to the Motion, pp. 2-18, Proposed Exhibits 1-23.

logistics (“Logistics Documents”); (iv) Proposed Exhibits 5-8, and 10 consist of documents related to financial matters (“Financial Documents”); (v) Proposed Exhibit 13 consists of a handwritten notebook containing information regarding the KLA’s functioning and activities; and (vi) Proposed Exhibits 17-23 consist of various KLA templates (“Templates”).<sup>51</sup>

23. The Panel further notes that the SPO relies on a number of Proposed Exhibits related to the Pashtrik OZ Command to demonstrate, *inter alia*, that: (i) the KLA General Staff held and exercised authority in the Pashtrik OZ, including by direct oversight or implementation of rules and regulations;<sup>52</sup> (ii) the KLA General Staff appointed, via a written order, Muse Jashari as Pashtrik OZ Commander, and later, appointed Ekrem Rexha (also known as Commander Drini) into the same position;<sup>53</sup> (iii) the composition of the Pashtrik OZ Command Staff was consistent with that of other OZs and the KLA General Staff, including within the various sectors, such as administration, logistics, or finance;<sup>54</sup> and (iv) the Pashtrik OZ Command held regular meetings, was responsible for KLA units in the Pashtrik OZ, made and received orders, instructions and regulations, which it then implemented.<sup>55</sup>

24. Having carefully reviewed Proposed Exhibits 1-18 and 21-23, the Panel is satisfied that each and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>56</sup>

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<sup>51</sup> In relation to Proposed Exhibit 14, the Panel notes that the SPO only tenders the following parts: U003-1741-U003-1749, pp. U003-1743, U003-1747-U003-1749 given that U003-1741-U003-1749, pp. U003-1744-U003-1746 was partially admitted as P00650.

<sup>52</sup> Motion, paras 5, 6.

<sup>53</sup> Motion, para. 12.

<sup>54</sup> Motion, para. 13.

<sup>55</sup> Motion, para. 14.

<sup>56</sup> See e.g. F00999/A01, Specialist Prosecutor, Annex 1 to *Submission of Confirmed Amended Indictment (“Indictment”)*, 30 September 2022, confidential, paras 8-55; see also F01594/A03, Specialist Prosecutor, Annex 3 to *Prosecution Submission of Updated Witness List and Confidential Lesser Redacted Version of the*

25. Turning to Proposed Exhibits 19 and 20, the Panel observes that they are blank templates bearing the KLA emblem/header. The Panel notes that these documents are void of any other content. The SPO asserts that these documents are probative of the level of organisation of the Pashtrik OZ. The Panel notes that the SPO has tendered other such documents for this purpose.<sup>57</sup> The relevance and probative value of these documents is, individually, quite limited. The Panel notes, however, that breadth and spread of such documents across the KLA and different OZs might be relevant to demonstrating the level of organisation of the KLA, as well as the fact that it was using certain uniform procedures across time and places. In these circumstances, the Panel finds that the said templates are relevant and have *prima facie* probative value in these proceedings.

(b) Authenticity

26. Regarding authenticity, the Panel notes that most of the Proposed Exhibits 1-23 consist of contemporaneous typewritten or handwritten documents containing signatures which appear to belong to the KLA members.

27. Regarding KLA General Staff Decisions, the Panel observes that all Proposed Exhibits bear KLA headers, are stamped, signed, dated, and contain reference numbers.<sup>58</sup> In relation to Proposed Exhibit 3, the Panel also observes that it refers to the name of a Pashtrik OZ commander, which is also referred to in adjudicated facts of which the Panel has taken judicial notice.<sup>59</sup> Moreover, Proposed Exhibits 11 and 14 are signed by Ekrem Rexha (also known as Commander Drini).

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*Pre-Trial Brief* ("SPO Pre-Trial Brief"), 9 June 2023, confidential (a public redacted version was filed on 3 April 2023, F01415/A01), paras 178, 228-239. *Contra* Annex 1 to the Response, R.1 Objections.

<sup>57</sup> See e.g., Proposed Exhibits 17, 18.

<sup>58</sup> Proposed Exhibits 3, 11, 14.

<sup>59</sup> See Adjudicated Fact 242(e).

Additionally, the Panel notes that Proposed Exhibit 11 was seized from the residence of Mr Selimi.<sup>60</sup>

28. The Panel notes that the Defence objects to the admission of Proposed Exhibit 14 on the grounds that W04691 raised concerns about its authenticity and reliability.<sup>61</sup> However, the Panel notes that the information on which the Defence seeks to rely is not admitted on the record of these proceedings and therefore provides no grounds on which to decide admissibility.

29. For these reasons, the Panel is satisfied that the KLA General Staff Decisions bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

30. In relation to Personnel Documents, the Panel observes that Proposed Exhibit 1 is signed and dated, and the contents of the document is corroborated by other evidence admitted on the record.<sup>62</sup> While Proposed Exhibit 4 is not stamped, it is dated as “1998” and contains a signature block for Commander Agim Demiri, whose role in the KLA Battalion is corroborated by other evidence admitted on the record.<sup>63</sup> In addition, Proposed Exhibit 9 contains a KLA heading, a reference number, and is signed by Ekrem Rexha (also known as Commander Drini). Additionally, Proposed Exhibits 12 and 15 are signed, stamped, and dated. The Panel considers that the Defence objection that Proposed Exhibit 15 contains unknown acronyms that need contextualisation is of no importance at this stage.<sup>64</sup>

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<sup>60</sup> 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*.

<sup>61</sup> Response, para. 28; Annex 1 to the Response, pp. 22-25, Proposed Exhibit 14.

<sup>62</sup> Proposed Exhibit 1.

<sup>63</sup> Proposed Exhibit 4.

<sup>64</sup> *Contra* Annex 1 to the Response, pp. 25, 26, Proposed Exhibit 15.

For these reasons, the Panel is satisfied that the Personnel Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

31. In relation to the Logistics Documents, the Panel notes that both, Proposed Exhibits 2 and 16 bear a KLA header and/or emblem, are stamped, dated in August 1999, and are signed by Pashtrik OZ Commander Tahir Sinani whose role is further corroborated by other evidence admitted on the record. For these reasons, the Panel is satisfied that the Logistics Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

32. Regarding the Financial Documents,<sup>65</sup> the Panel notes that they are all dated from 1999, bear KLA Pashtrik OZ heading, are written on templates bearing resemblance to one another, contain reference numbers, and are signed by either Pashtrik OZ Commander Ekrem Rexha (also known as Commander Drini) or by Ismet Tara, who attested to his role as Chief of Finance and Logistics for Pashtrik OZ during his testimony.<sup>66</sup> Furthermore, all of these documents refer to amounts of money to be allocated or distributed to the relevant Pashtrik OZ brigades. Additionally, the Panel notes that Proposed Exhibits 5, 8, and 10 were seized from the residence of Mr Selimi.<sup>67</sup> For these reasons, the Panel is satisfied that the Financial Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

33. Turning to Proposed Exhibit 13, the Panel notes that it consists of a handwritten and unsigned notebook containing a list of soldiers purportedly belonging to Çeliku 5 Unit. The Panel notes the Defence objection that Proposed Exhibit 13 does not contain information regarding its provenance or signs of authorship and appears to be written by more than one author.<sup>68</sup> Nevertheless, the Panel notes that the entries in the notebook relate to the period February 1999 to

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<sup>65</sup> Proposed Exhibits 5, 6, 7, 8, 10.

<sup>66</sup> Trial Hearing, 25 February 2025, p. 25600, lines 2-4.

<sup>67</sup> See above, footnote 60.

<sup>68</sup> Annex 1 to the Response, pp. 20, 21, Proposed Exhibit 13.

March 1999, i.e., a period of time relevant to the Indictment, and that other evidence on the record, or tendered in the Motion corroborate the contents and substance of Proposed Exhibit 13, namely the existence and functioning of Çeliku 5 Unit.<sup>69</sup> The Panel is therefore satisfied that Proposed Exhibit 13 bears sufficient indicia of authenticity and is *prima facie* authentic.

34. With respect to the Templates,<sup>70</sup> the Panel observes that they all bear the KLA Pashtrik OZ heading and/or emblem and the format of the Templates resemble one another. In addition, Proposed Exhibits 18, 21, 22, and 23 also contain a signature box for a named KLA Commander, and Proposed Exhibits 21, 22, and 23 contain a publication number. The Panel also observes that the Templates contain operational instructions for individual infantry companies. For these reasons, the Panel is satisfied that the Templates bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

35. Having found Proposed Exhibits 1-23 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 1-23 is not outweighed by any prejudice to the Accused.

(d) Conclusion

36. In light of the above, the Panel is satisfied that Proposed Exhibits 1-23 are admissible pursuant to Rule 138(1).

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<sup>69</sup> Annex 1 to the Motion, Proposed Exhibit 13.

<sup>70</sup> Proposed Exhibits 17-23.



## 2. Proposed Exhibits 24-32: Llapushnik/Lapušnik

### (a) Relevance

37. Regarding the relevance of Proposed Exhibits 24<sup>71</sup>-32, the SPO submits that they relate to: (i) the KLA structure and organisation in the Llapushnik/Lapušnik area, and activities and cooperation between units; (ii) the existence of an armed conflict; and (iii) crimes charged in the Indictment as well as the existence of a common criminal purpose.<sup>72</sup> In this regard, the Panel notes that: (i) Proposed Exhibits 24 and 32 consist of handwritten diaries related to KLA activities in Llapushnik/Lapušnik; (ii) Proposed Exhibits 25-29 consist of documents related to search and seizure, disciplinary measures, and lists of KLA soldiers (“Personnel Documents”); and (iii) Proposed Exhibits 30 and 31<sup>73</sup> consist of documents related to arrest and seizure of items from suspected collaborators and enemies (“Collaborators Documents”).

38. The Panel further notes that the SPO relies on Proposed Exhibits 24-32 to demonstrate, *inter alia*, that: (i) KLA units and members in the Pashtrik OZ were coordinating operations in areas under their control, including in and around Llapushnik/Lapušnik;<sup>74</sup> (ii) by May 1998, the KLA controlled the Llapushnik/Lapušnik gorge;<sup>75</sup> (iii) commanders of KLA units kept detailed records of members and their weapons and duties;<sup>76</sup> and (iv) Pashtrik OZ brigade members investigated, targeted, arrested, and detained alleged collaborators and other opponents.<sup>77</sup>

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<sup>71</sup> The Panel notes that Proposed Exhibit 24 was marked for identification by the Panel as P01804 MFI.

<sup>72</sup> Annex 1 to the Motion, pp. 19-24, Proposed Exhibits 24-32.

<sup>73</sup> The Panel observes that Proposed Exhibit 31 has been marked for identification as P01803 MFI.

<sup>74</sup> Motion, para. 4.

<sup>75</sup> Motion, para. 9.

<sup>76</sup> Motion, para. 16.

<sup>77</sup> Motion, para. 19.

39. Having carefully reviewed Proposed Exhibits 24-30, and 32, the Panel is satisfied that each of them and all of them are relevant to allegations and charges in the Indictment.<sup>78</sup>

40. Regarding Proposed Exhibit 31, the Panel notes the SPO's submission that this item purportedly demonstrates the authority of the KLA to arrest and seize personal belongings of the detainees.<sup>79</sup> While W04798 recognised seizing this document from the MUP in Llapushnik/Lapušnik in July 1998, no further context is provided for this item. The Panel also observes that nothing in the contents or substance of Proposed Exhibit 31 indicates its relevance to the Indictment and the charges therein. For these reasons, the Panel is not satisfied that Proposed Exhibit 31 is not relevant.

(b) Authenticity

41. Regarding the Personnel Documents,<sup>80</sup> the Panel notes that the vast majority of these items are dated, contain references to the relevant unit, and are signed. The Panel notes that while Proposed Exhibit 29 is not signed, it contains a list of soldiers which bears resemblance to Proposed Exhibit 28, and contains reference to Guri 3 unit, a known KLA unit. The Panel also observes that the information contained in Proposed Exhibit 29 is corroborated in part by other evidence admitted on the record.<sup>81</sup> Furthermore, the Panel observes that Proposed Exhibit 25 was seized from the residence of Mr Krasniqi. For these reasons, the Panel is satisfied that the Personnel Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

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<sup>78</sup> Indictment, paras 18-55; SPO Pre-Trial Brief, paras 303-309. *Contra* Annex 1 to the Response, Objections R.1.

<sup>79</sup> Annex 1 to the Motion, pp. 23, 24, Proposed Exhibit 31.

<sup>80</sup> Proposed Exhibits 25-29.

<sup>81</sup> Annex 1 to the Motion, pp. 22, 23, Proposed Exhibit 29.

42. In relation to Proposed Exhibit 30, the Panel first observes that a duplicate portion of this item has already been admitted as P01792.<sup>82</sup> The Panel observes that this item bears resemblance to the portion of this same item that has been admitted and the contents of this item is also corroborated in part by other evidence on the record as well as adjudicated facts of which the Panel has taken judicial notice.<sup>83</sup> For these reasons, the Panel is satisfied that Proposed Exhibit 30 bears sufficient indicia of authenticity and is *prima facie* authentic.

43. Turning to Proposed Exhibit 24, the Panel notes that the Defence objects to its admission and submits that it should not be tendered in the Motion in its totality, but only specific pages used with, and contextualised and authenticated by a witness.<sup>84</sup> The Panel observes that Proposed Exhibit 24 provides detailed, almost daily accounts of activities of a KLA unit. It also refers to a number of KLA Commanders. The Panel also notes that the content of Proposed Exhibit 24 is further corroborated by other evidence on the record.<sup>85</sup> In light of this, the Panel also finds Proposed Exhibit 24 to be *prima facie* authentic. Given that the information contained therein covers a period of time which is relevant to the Indictment, the Panel does not agree with the Defence that only portions of Proposed Exhibit 24 should be admitted.

44. Regarding Proposed Exhibit 32, the Panel observes that it contains handwritten entries between February 1999 and April 1999.<sup>86</sup> While it is not signed, it bears a handwritten name of a KLA soldier whose position is confirmed by other evidence admitted on the record.<sup>87</sup> For these reasons, the Panel is satisfied

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<sup>82</sup> See Transcript of Hearing, 30 October 2024, confidential, p. 21507, lines 5, 6.

<sup>83</sup> See Adjudicated Facts 396, 422 and 423. See also Annex 1 to the Motion, *referring*, in relevant parts, to P00869 and P01802.

<sup>84</sup> Response, paras 50, 51; Annex to the Response, p. 39, Proposed Exhibit 24.

<sup>85</sup> Annex 1 to the Motion, pp. 24, 25, Proposed Exhibit 24.

<sup>86</sup> Proposed Exhibit 32.

<sup>87</sup> Annex 1 to the Motion, p. 24, Proposed Exhibit 32.

that Proposed Exhibit 32 bears sufficient indicia of authenticity and is *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

45. Having found Proposed Exhibits 24-30 and 32 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 24-30 and 32 is not outweighed by its prejudicial effect.

(d) Conclusion

46. In light of the above, the Panel is satisfied that Proposed Exhibits 24-30, and 32 are admissible pursuant to Rule 138(1) and denies, without prejudice, the admission of Proposed Exhibit 31.

47. Having found Proposed Exhibit 24 to be admissible, the Panel further instructs the Registry to reflect the evidentiary status of P01804 MFI as admitted.

### **3. Proposed Exhibits 33-50: Malishevë/Mališevo**

(a) Relevance

48. Regarding the relevance of Proposed Exhibits 33-50, the SPO submits that they relate to: (i) the hierarchy, structure and organisation of KLA units, including the Lumi and Çeliku Units in Pashtrik OZ, and in Malishevë/Mališevo area; and (ii) the ability of various KLA units to issue and enforce orders.<sup>88</sup> In this regard, the Panel notes that: (i) Proposed Exhibits 33 and 49 consist of combat plans and a map of Malishevë/Mališevo ("Combat Documents"); (ii) Proposed Exhibits 34-39, 44-47, and 50 consist of documents such as notes on membership, lists of soldiers, travel permits, weapons allocations, and rules on approval and authorisation of

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<sup>88</sup> Annex 1 to the Motion, pp. 25-37, Proposed Exhibits 33-50.

movement of personnel ("Personnel Documents"); (iii) Proposed Exhibits 40-43 contain reports about disciplinary measures against members of the units ("Disciplinary Documents"); and (iv) Proposed Exhibit 48 consists of an evaluation report by the LDK Leadership.

49. The Panel further notes that the SPO relies on Proposed Exhibits 33-50 to demonstrate, *inter alia*, that: (i) KLA units and members in the Pashtrik OZ were coordinating operations in the areas, including in Malishevë/Mališevo;<sup>89</sup> (ii) by at least March 1998, Gani Krasniqi and Hysni Kilaj began recruiting members to the Lumi unit and establishing KLA bases in Malishevë/Mališevo town and the surrounding areas;<sup>90</sup> (iii) by May 1998, Malishevë/Mališevo was controlled by the KLA;<sup>91</sup> and (iv) commanders of respective units managed and distributed weapons and supplies, kept detailed records of members and their weapons and duties, and provided that disobedience or failure to implement orders would lead to disciplinary measures.<sup>92</sup>

50. Having carefully reviewed Proposed Exhibits 33-50, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>93</sup>

(b) Authenticity

51. Regarding the Combat Documents,<sup>94</sup> the Panel observes that they are typewritten documents containing handwritten markings. The Panel also observes that, while the Combat Documents are not signed, dated, or stamped, they contain detailed information on combat operations in the Malishevë/Mališevo area,

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<sup>89</sup> Motion, para. 4.

<sup>90</sup> Motion, para. 8.

<sup>91</sup> Motion, para. 9.

<sup>92</sup> Motion, para. 16.

<sup>93</sup> Indictment, paras 18-55; SPO Pre-Trial Brief, paras 228, 229, 359-367. *Contra* Annex 1 to the Response, Objections R.1.

<sup>94</sup> Proposed Exhibits 33 and 49.

including lists of soldiers with their personal details, as well as a list of commanders for respective platoons or squadrons. Moreover, other evidence admitted on the record, including witness evidence, provides some corroboration of the general substance of the Combat Documents.<sup>95</sup> For these reasons, the Panel is satisfied that the Combat Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

52. Regarding the Personnel Documents,<sup>96</sup> the Panel observes that they are handwritten notes providing detailed accounts of the movement of personnel and weapons. In addition, Proposed Exhibits 34, 38, 39, 45, and 47 are dated and/or signed. Furthermore, the Personnel Documents refer to Guri 3 and Lumi units, or purported Pashtrik OZ Commanders. Membership of some of the listed soldiers is corroborated in part by other evidence admitted on the record, or tendered in the Motion.<sup>97</sup> For these reasons, the Panel is satisfied that the Combat Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

53. Turning to the Disciplinary Documents,<sup>98</sup> the Panel notes that they are handwritten notes providing accounts of events which are said to have occurred in July 1998. All the items are dated, refer to a place where the named soldiers served, and refer to the Lumi and Guri units. While the Panel observes that the Disciplinary Documents contain portions which are illegible, this does not affect their overall authenticity as the nature and substance of the item can be derived from the rest of the content. For these reasons, the Panel is satisfied that the Disciplinary Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

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<sup>95</sup> See Annex 1 to the Motion, in relevant parts.

<sup>96</sup> Proposed Exhibits 34-39, 44-47, and 50. In relation to Proposed Exhibit 36, the Panel observes that the SPO does not seek to tender pages U002-2186-U002-2192.

<sup>97</sup> See Annex 1 to the Motion, in relevant parts.

<sup>98</sup> Proposed Exhibits 40-43.

54. In relation to Proposed Exhibit 48, the Panel observes that the item is dated and signed, and refers to events which occurred in Malishevë/Mališevo. In addition, membership of the individual named within the document is corroborated by evidence admitted on the record.<sup>99</sup> In light of the foregoing, the Panel is satisfied that Proposed Exhibit 48 bears sufficient indicia of authenticity and is *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

55. Having found Proposed Exhibits 33-50 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 33-50 is not outweighed by any prejudice to the Accused.

(d) Conclusion

56. In light of the above, the Panel is satisfied that Proposed Exhibits 33-50 are admissible pursuant to Rule 138(1).

**4. Proposed Exhibits 51-98: Vrrin/Verrin and Jeshkovë/Ješkovo Staff**

(a) Relevance

57. Regarding the relevance of Proposed Exhibits 51-98, the SPO submits that they relate to: (i) the KLA organisation and military structure in Vrrin/Verrin area, Prizren area and Pashtrik OZ in summer 1998; (ii) the ability of relevant KLA units to keep records and registers; (iii) the existence of a non-international armed conflict during the Indictment period; and (iv) the existence of a KLA policy against perceived collaborators and the common criminal purpose.<sup>100</sup> In this regard, the Panel notes that: (i) Proposed Exhibits 51-53, 55, 69, 85, 91, and 92 consist of lists, records, and rosters of soldiers and travel permits ("Personnel

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<sup>99</sup> See P01198.1\_ET; See also Annex 1 to the Motion, p. 35, Proposed Exhibit 48.

<sup>100</sup> Annex 1 to the Motion, pp. 38-72, Proposed Exhibits 51-98.



Documents”); (ii) Proposed Exhibits 54, 63, 65, 66, 72, 75, 80, 83, 84, 86, and 87 consist of notes and records of supplies and distribution of ammunition and weapons, notes and records of other supplies (“Logistics Documents”); (iii) Proposed Exhibits 56, 74, 77, 78, 90, and 93 consist of orders issued by KLA Commanders to local staff, minutes of meetings of the KLA staff, the stamp of the KLA Prizren HQ and a diagram of communication codes used by the Pashtrik OZ Commander with Prizren local staff (“KLA Command Documents”); (iv) Proposed Exhibits 57, 58, 60, 61, 64, 68, 70, 89, and 95 consist of notes mapping the situation at the border, journals and notes on combat and fighting, notes of meetings regarding civilian defences and the situation on the ground, and KLA military plans (“Combat Documents”); (v) Proposed Exhibits 59,<sup>101</sup> 76, 79, 81, 82,<sup>102</sup> and 98 consist of notes and statements on alleged collaborators (“Collaborators Documents”); (vi) Proposed Exhibits 62, 94, and 97 consist of collections of receipts and invoices (“Financial Documents”); and (vii) Proposed Exhibits 67, 71, and 88 consist of statements on incidents, and requests for disciplinary measures (“Disciplinary Documents”).

58. The Panel further notes that the SPO relies on Proposed Exhibits 51-98 to demonstrate, *inter alia*, that: (i) in June 1998, Vrrin/Verrin was declared a free zone and, in coordination with the KLA General Staff, the KLA set up its local command for Prizren in Jeshkovë/Ješkovo;<sup>103</sup> (ii) KLA units and members in the Pashtrik OZ were coordinating operations in the areas, including in Jeshkovë/Ješkovo;<sup>104</sup> (iii) the Pashtrik OZ Command held regular meetings, was responsible for KLA units in the Pashtrik OZ and made and received reports and orders, instructions,

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<sup>101</sup> The Panel notes that the SPO only seeks to tender p. U000-4854. See Annex 1, p. 42, Proposed Exhibit 59.

<sup>102</sup> The Panel notes that the SPO only seeks to tender p. D008-5363-D008-5364 and D008-5412. See Annex 1, p. 60, Proposed Exhibit 82.

<sup>103</sup> Motion para. 9.

<sup>104</sup> Motion, para. 4.

and regulations;<sup>105</sup> (iv) commanders of respective units managed and distributed weapons and supplies, kept detailed records of members and their weapons and duties, and provided that disobedience or failure to implement orders would lead to disciplinary measures; and (v) Pashtrik OZ brigade members investigated and/or detained alleged collaborators.<sup>106</sup>

59. Having carefully reviewed Proposed Exhibits 51-64 and 66-98, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>107</sup>

60. Turning to Proposed Exhibit 65, the Panel notes that much of this item constitutes a list of supplies, relevance of which is very limited without proper contextualisation. Compared to other similar items tendered in the Motion which the Panel deems appropriate for admission,<sup>108</sup> this exhibit provides little context for what it is intended. The Panel is therefore not satisfied that Proposed Exhibit 65 has been shown to have probative value in respect of any fact relevant to this case.

(b) Authenticity

61. Regarding the Personnel Documents,<sup>109</sup> the Panel observes that they are all dated and contain references to commanders of respective units, as well as references to KLA operations, and repeatedly refer to Agim Shala whose purported position within the KLA is corroborated by other evidence admitted on the record. Additionally, Proposed Exhibits 69, 85, and 91 are signed and show the KLA emblem. In light of the foregoing, the Panel is satisfied that the Personnel Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

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<sup>105</sup> Motion, para. 14.

<sup>106</sup> Motion, para. 16.

<sup>107</sup> Indictment, paras 18-55; SPO Pre-Trial Brief, paras 228, 403-411. *Contra* Annex 1 to the Response, Objections R.1.

<sup>108</sup> See e.g. Proposed Exhibits 80, 83.

<sup>109</sup> Proposed Exhibits 51-53, 55, 69, 85, 91, 92.

62. In relation to the Logistics Documents,<sup>110</sup> the Panel observes that Proposed Exhibits 63, 66, 72, 75, 80, 83, 84, 86, and 87 are all signed, dated, and contain references to KLA operations in Prizren or Jeshkovë/Ješkovo. Additionally, Proposed Exhibits 72, 75, 86, and 87 show the KLA emblem or header, and Proposed Exhibits 75, 83, and 86 are also stamped. Proposed Exhibit 54 contains references to Jeshkovë/Ješkovo and positions within the KLA of some of the soldiers referenced in the document are corroborated by other evidence on the record. In light of the foregoing, the Panel is satisfied that the Logistics Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

63. Turning to the KLA Command Documents,<sup>111</sup> the Panel observes that, while much of the documents are handwritten, they refer to the activities or matters of the KLA Command in Prizren, the substance of which is corroborated by other evidence admitted on the record.<sup>112</sup> Furthermore, Proposed Exhibit 90 is also signed by Commander “Sokoli” and, together with Proposed Exhibit 93, is also dated. Additionally, in relation to Proposed Exhibit 77, the Panel notes that it refers to names and facts that are also referred to in adjudicated facts of which the Panel has taken judicial notice.<sup>113</sup> In light of the foregoing, the Panel is satisfied that the KLA Command Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

64. In relation to the Combat Documents,<sup>114</sup> the Panel observes that while many of the items are handwritten, they provide detailed accounts of combat operations in Kosovo and near border regions, and the described operations clearly refer to the involvement of the KLA and/or specific units during the period relevant to the Indictment. The Panel further observes that all items are dated. Additionally,

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<sup>110</sup> Proposed Exhibits 54, 63, 66, 72, 75, 80, 83, 84, 86, and 87.

<sup>111</sup> Proposed Exhibits 56, 74, 77, 78, 90, and 93.

<sup>112</sup> See Annex 1 to the Motion, in relevant parts.

<sup>113</sup> Adjudicated Fact 230.

<sup>114</sup> Proposed Exhibits 57, 58, 60, 61, 64, 68, 70, 89, and 95.

Proposed Exhibits 61 and 68 are signed, Proposed Exhibits 60, 61 and 64 also include names of respective commanders, such as Commander “Petrity” or other KLA officials whose positions are corroborated in part by other evidence admitted on the record.<sup>115</sup> Additionally, in relation to Proposed Exhibit 61, the Panel notes that it refers to facts which are also referred to in adjudicated facts of which the Panel has taken judicial notice.<sup>116</sup> In light of the foregoing, the Panel is satisfied that the Combat Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

65. Turning to the Collaborators Documents,<sup>117</sup> the Panel notes that while most of Proposed Exhibits are handwritten, they are all dated, and the dates correspond to the period relevant to the Indictment. Proposed Exhibits provide references to the KLA, the KLA in Prizren, or to the LDK. In addition, Proposed Exhibits 81 and 98 are signed, and Proposed Exhibit 82 includes a reference number. In light of the foregoing, the Panel is satisfied that the Collaborators Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

66. Regarding the Financial Documents,<sup>118</sup> the Panel first notes that the Defence specifically objects to Proposed Exhibit 62 on the basis that: (i) the SPO did not provide information regarding the author of a number of signatures contained within the item; and (ii) the purported author of some of the signatures is not a witness in these proceedings.<sup>119</sup> In this regard, the Panel recalls that the fact that a document does not name a source does not entail that there cannot be other indications of its origin.<sup>120</sup> Also, as already indicated, there is no requirement under the Specialist Chambers’ legal framework that Proposed Exhibits be

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<sup>115</sup> See Annex 1 to the Motion, in relevant parts.

<sup>116</sup> See Adjudicated Fact 263.

<sup>117</sup> Proposed Exhibits 59, 76, 79, 81, 82, 98.

<sup>118</sup> Proposed Exhibits 62, 94, 97.

<sup>119</sup> Response, para. 20; Annex 1 to the Response, p. 98, Proposed Exhibit 62.

<sup>120</sup> See above, para. 14.

authenticated through a witness.<sup>121</sup> Proposed Exhibit 62 consists of a number of items which are dated, signed, contain a KLA header and are provided on identical templates. The Panel is satisfied that Proposed Exhibit 62 is *prima facie* authentic. Regarding the remaining Financial Documents, the Panel observes that they are all dated, signed, contain a KLA emblem/header and provide a reference number. Moreover, they are all contained on an official template, bearing resemblance to one another. In light of the foregoing, the Panel is satisfied that the Financial Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

67. In relation to the Disciplinary Documents,<sup>122</sup> the Panel notes that while all Proposed Exhibits are handwritten, they are all dated, and the dates contained therein correspond to the period relevant to the Indictment. Additionally, Proposed Exhibits 67 and 71 are signed, and Proposed Exhibit 71 contains references to the KLA in Prizren. The Panel also notes that based on their substance, the Disciplinary Documents reflect the fact that they relate to the KLA units' disciplinary measures. In light of the foregoing, the Panel is satisfied that the Disciplinary Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

68. Having found Proposed Exhibits 51-64 and 66-98 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 51-64 and 66-98 is not outweighed by any prejudice to the Accused.

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<sup>121</sup> See above, para. 12.

<sup>122</sup> Proposed Exhibits 67, 71, 88.

(d) Conclusion

69. In light of the above, the Panel is satisfied that Proposed Exhibits 51-64 and 66-98 are admissible pursuant to Rule 138(1) and denies, without prejudice, admission of Proposed Exhibit 65.

**5. Proposed Exhibits 99-103: Suharekë/Suva Reka**

(a) Relevance

70. Regarding relevance of Proposed Exhibits 99-103, the SPO submits that they relate to: (i) the degree of organisation and structure of the KLA in the Pashtrik OZ and control over KLA soldiers as well as coordination within KLA units; and (ii) the organised nature of the KLA operating in Suharekë/Suva Reka in July and August 1998 and its record keeping capacity.<sup>123</sup> In this regard, the Panel notes that Proposed Exhibits 99, 101, and 102 consist of travel permits authorising soldiers to travel, handwritten notes and/or notebooks containing lists and rosters of KLA soldiers in Suharekë/Suva Reka and KLA personnel duties. Furthermore, Proposed Exhibit 100 consists of KLA reports on duty assignments in the area, and Proposed Exhibit 103 consists of orders related to logistics from KLA local staff in Suharekë/Suva Reka.

71. The Panel further notes that the SPO relies on Proposed Exhibits 99-103 to show that: (i) KLA units and members in the Pashtrik OZ were coordinating operations in the area, including in Suharekë/Suva Reka;<sup>124</sup> (ii) the Pashtrik OZ was responsible for the provision of goods and other supplies for the needs of the KLA;<sup>125</sup> and (iii) the Pashtrik OZ coordinated across units and local staffs.<sup>126</sup>

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<sup>123</sup> Annex 1 to the Motion, Proposed Exhibits 99-103.

<sup>124</sup> Motion, para. 4.

<sup>125</sup> Motion, para. 14.

<sup>126</sup> Motion, para. 16.

72. Having carefully reviewed Proposed Exhibits 99-103, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>127</sup>

(b) Authenticity

73. The Panel is satisfied that the SPO has established the *prima facie* authenticity of Proposed Exhibits 99-103. Specifically, the Panel notes that these Proposed Exhibits: (i) are dated or the entries within the items are dated with dates that are relevant to the Indictment;<sup>128</sup> (ii) are signed or some entries therein are signed;<sup>129</sup> (iii) contain the name of the authors;<sup>130</sup> (iv) contain detailed accounts and references to contemporaneous activities of the Pashtrik OZ units, including the “Lisi Unit;”<sup>131</sup> and (v) are templates that bear the name or a header of the KLA Local Staff in Suharekë/Suva Reka.<sup>132</sup> In light of the foregoing, the Panel finds that Proposed Exhibits 99-103 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

74. Having found Proposed Exhibits 99-103 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 99-103 is not outweighed by any prejudice to the Accused.

(d) Conclusion

75. In light of the above, the Panel is satisfied that Proposed Exhibits 99-103 are admissible pursuant to Rule 138(1).

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<sup>127</sup> Indictment, paras 18-55; SPO Pre-Trial Brief, paras 228, 680, 681. *Contra* Annex 1 to the Response, R.1 Objections.

<sup>128</sup> Proposed Exhibits 99, 100, 101, 102, 103.

<sup>129</sup> Proposed Exhibits 99, 100, 103.

<sup>130</sup> Proposed Exhibit 103.

<sup>131</sup> Proposed Exhibits 100, 101, 102.

<sup>132</sup> Proposed Exhibit 103.



## 6. Proposed Exhibits 104-126: Budakovë/Budakovo

### (a) Relevance

76. Regarding relevance of Proposed Exhibits 104-126, the SPO submits that they relate to: (i) the organisation of the KLA; (ii) the alleged existence of an armed conflict; (iii) the existence of a regular reconnaissance reporting system; (iv) the documentation of orders for later reporting to the KLA General Staff; and (v) a KLA policy against collaborators.<sup>133</sup> In this regard, the Panel notes that: (i) Proposed Exhibits 104-106, 109-115, and 117-119 consist of KLA Reconnaissance and/or Surveillance Reports (“KLA Reconnaissance Reports”); (ii) Proposed Exhibit 107<sup>134</sup> consists of a list of KLA soldiers; (iii) Proposed Exhibit 108 consists of records of services provided to the KLA; (iv) Proposed Exhibit 116 consists of a note related to a KLA policy against perceived collaborators; (v) Proposed Exhibits 120 and 123-126 consist of KLA Budakovë/Budakovo templates (“Templates”); (vi) Proposed Exhibit 121 consists of a report on collection of weapons; and (vii) Proposed Exhibit 122 consists of a KLA Budakovë/Budakovo book-keeping plan.

77. The Panel further notes that the SPO relies on Proposed Exhibits 104-126 to show that: (i) KLA units and members in the Pashtrik OZ were coordinating operations in the area, including in Budakovë/Budakovo;<sup>135</sup> (ii) the KLA General Staff held and exercised authority in the Pashtrik OZ throughout the Indictment period, including by establishment of reporting and communication structures;<sup>136</sup> (iii) Pashtrik OZ brigade and battalion commanders and subordinate commanders

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<sup>133</sup> Annex 1 to the Motion, pp. 80-90, Proposed Exhibits 104-126.

<sup>134</sup> The Panel notes that the SPO does not seek to tender p. U001-8784.

<sup>135</sup> Motion, para. 4.

<sup>136</sup> Motion, para. 5.

issued standardised communication documents;<sup>137</sup> and (iv) Pashtrik OZ brigade members investigated, arrested and/or targeted alleged collaborators.<sup>138</sup>

78. Having carefully reviewed Proposed Exhibits 104-107 and 109-126, the Panel is satisfied that each of them and all of them are relevant to the facts and circumstances material to the charges in the Indictment.<sup>139</sup>

79. Turning to Proposed Exhibit 108, the Panel observes that this item lists names of purported tailors, whose relevance to KLA activities in the Pashtrik OZ, or in Budakovë/Budakovo, is unknown without proper contextualisation. The Panel is therefore not satisfied that the SPO has established the relevance of Proposed Exhibit 108.

#### (b) Authenticity

80. The Panel is satisfied that the SPO has established the *prima facie* authenticity of the KLA Reconnaissance Reports.<sup>140</sup> Specifically, the Panel notes that these Proposed Exhibits are: (i) dated<sup>141</sup>; (ii) signed;<sup>142</sup> and (iii) provide the specific times of the reconnaissance activities,<sup>143</sup> with clear references to the Budakovë/Budakovo area.<sup>144</sup> In light of the foregoing, the Panel is satisfied that the KLA Reconnaissance Reports<sup>145</sup> bear sufficient indicia of authenticity and are *prima facie* authentic.

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<sup>137</sup> Motion, para. 18.

<sup>138</sup> Motion, para. 19.

<sup>139</sup> Indictment, paras 18-55; SPO Pre-Trial Brief, paras 228, 384-389. *Contra* Annex 1 to the Response, R.1 Objections.

<sup>140</sup> Proposed Exhibits 104-106, 109-115, 117-119.

<sup>141</sup> Proposed Exhibits 104-106, 109-115, 117-119.

<sup>142</sup> Proposed Exhibits 104-106, 109-115, 117-119.

<sup>143</sup> Proposed Exhibits 104-106, 110, 111, 113, 118, 119.

<sup>144</sup> Proposed Exhibits 109, 111, 112, 115, 117-119.

<sup>145</sup> Proposed Exhibits 104-106, 109-115, 117-119.

81. The Panel is also satisfied that the SPO has established the *prima facie* authenticity of the Templates.<sup>146</sup> Specifically, the Panel notes that these Proposed Exhibits: (i) contain a KLA header;<sup>147</sup> (ii) are dated in 1998; (iii) are intended for the Commander of the battalion;<sup>148</sup> and (iv) refer to Budakovë/Budakovo.<sup>149</sup> Furthermore, Proposed Exhibit 120 also includes the name of Commander Sadik Halitjaha, whose position is corroborated by other evidence on the record.<sup>150</sup>

82. The Panel is further satisfied that Proposed Exhibit 107 is *prima facie* authentic given that, while not dated or signed: (i) it contains a KLA header with reference to Commander of the battalion, (ii) it provides names of soldiers with their personal details, and (iii) that membership of some of the soldiers in the Budakovë/Budakovo 2<sup>nd</sup> Battalion is further corroborated by other evidence admitted on the record.<sup>151</sup> Similarly, Proposed Exhibit 116 is dated and signed and identifies individuals suspected of collaborating with Serbs by name and personal details. The Panel is therefore satisfied that Proposed Exhibit 116 is *prima facie* authentic. Regarding Proposed Exhibit 121, the Panel notes that (i) it is dated, (ii) its intended use is for the Commander of the 2<sup>nd</sup> Battalion in Budakovë/Budakovo, and (iii) it provides detailed accounts of contemporaneous events involving the KLA. Furthermore, this item was seized from the residence of Mr Krasniqi. The Panel is therefore satisfied that Proposed Exhibit 121 is *prima facie* authentic.

83. In relation to Proposed Exhibit 122, the Panel observes that the document is neither signed nor attributed to any entity or person, and does not provide a clear

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<sup>146</sup> Proposed Exhibits 120, 123-126.

<sup>147</sup> Proposed Exhibits 120, 123-126.

<sup>148</sup> Proposed Exhibits 120, 123-126.

<sup>149</sup> Proposed Exhibits 120, 123-125.

<sup>150</sup> Annex 1 to the Motion, pp. 87, 88, Proposed Exhibit 120.

<sup>151</sup> Annex 1 to the Motion, p. 82, Proposed Exhibit 107.

reference to the KLA; it refers generally to Budakovë/Budakovo. The SPO has therefore failed to establish that Proposed Exhibit 122 is *prima facie* authentic.

84. In light of the foregoing, the Panel finds that Proposed Exhibits 104-107, 109-121, and 123-126 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

85. Having found Proposed Exhibits 104-107, 109-121, and 123-126 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 104-107, 109-121, and 123-126 is not outweighed by any prejudice to the Accused.

(d) Conclusion

86. In light of the above, the Panel is satisfied that Proposed Exhibits 104-107, 109-121, and 123-126 are admissible pursuant to Rule 138(1) and denies, without prejudice, Proposed Exhibits 108 and 122.

**7. Proposed Exhibits 127-160: Rahovec/Orahovac**

87. At the outset, the Panel authorises the SPO to substitute the translation tendered in the Motion for Proposed Exhibit 155 with the revised translation.<sup>152</sup>

88. Furthermore, the Panel notes that the SPO seeks withdrawal of Proposed Exhibits 130, 146, and 156 given that they have already been admitted.<sup>153</sup> The Panel declares the request to admit Proposed Exhibits 130 and 146, admitted as P02076 and P02077, respectively, to be moot.

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<sup>152</sup> Reply, para. 6.

<sup>153</sup> Reply, para. 6.

89. Regarding Proposed Exhibit 156, while the SPO submits that it has been admitted into evidence, rendering its admission moot, the Panel observes that it has only been marked for identification as P02078 MFI.

(a) Relevance

90. Regarding relevance of Proposed Exhibits 127-129, 131-145, and 147-160, the SPO submits that they relate to: (i) the KLA structure and high level of organisation in the Pashtrik OZ; (ii) the existence of a unified and standardised communication network; (iii) coordination across KLA units; (iv) the ability of the KLA to issue disciplinary proceedings against its members; (v) activities of KLA units in Rahovec/Orahovac; (vi) the authority of Sabahajdin Cena in Rahovec/Orahovac; (vii) the chain of command; and (viii) the battle of Rahovec/Orahovac.<sup>154</sup> In this regard, the Panel notes that: (i) Proposed Exhibits 127, 129, 131-132, 138, and 149 constitute or include lists of soldiers and KLA members in Rahovec/Orahovac and/or the Pashtrik OZ, (“Personnel Documents”); (ii) Proposed Exhibits 133, 136, 139-145, 147, 151-153, 155, and 157 consist of notes, statements, and/or certificates of the Pashtrik OZ Regional Operation Command “Arti” in Rahovec/Orahovac regarding donations and funds to the KLA (“KLA Donations Documents”); (iii) Proposed Exhibit 134 consists of a note about the repair of a car belonging to the KLA; (iv) Proposed Exhibits 135, 137, and 156 consist of documents related to disciplinary measures against KLA members (“Disciplinary Documents”); (v) Proposed Exhibits 128, 138, 148, 150, 154, and 158-160 consist of a list of code names associated with KLA positions, orders and/or instructions issued by the Deputy Commander of the Regional Operational Staff “Arti” related to KLA operations, notes related to internal conflicts within KLA units, lists of visitors to the KLA Rahovec/Orahovac HQ, statements regarding KLA Commanders in Rahovec/Orahovac and statements

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<sup>154</sup> Annex 1 to Motion, pp. 91-124, Proposed Exhibits 127-160.

regarding KLA strategies in the Rahovec/Orahovac offensive (“KLA Operations Documents”).

91. The Panel further notes that the SPO relies on Proposed Exhibits 127-129, 131-145, and 147-160 to show that: (i) KLA units and members in the Pashtrik OZ were coordinating operations in the area, including in Rahovec/Orahovac;<sup>155</sup> (ii) the Pashtrik OZ Command held regular meetings, was responsible for KLA units in the OZ, and regulated the provision of goods and other supplies for the needs of the KLA;<sup>156</sup> (iii) commanders of respective units coordinated across units and local staffs;<sup>157</sup> and (iv) brigade and battalion commanders and subordinate commanders kept detailed records of members and their weapons and activities and issued standardised communication documents.<sup>158</sup>

92. Having carefully reviewed Proposed Exhibits 127-129, 131-145, and 147-160, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>159</sup>

(b) Authenticity

93. Regarding authenticity of the Personnel Documents,<sup>160</sup> the Panel observes that these Proposed Exhibits refer to the “Arti” unit in Rahovec/Orahovac,<sup>161</sup> include names of commanders<sup>162</sup> whose positions are corroborated in part by other evidence on the record.<sup>163</sup> Proposed Exhibit 131 refers to nicknames of Commanders whose positions in Rahovec/Orahovac are also corroborated by

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<sup>155</sup> Motion, para. 4.

<sup>156</sup> Motion, para. 14.

<sup>157</sup> Motion, para. 16.

<sup>158</sup> Motion, para. 18.

<sup>159</sup> Indictment, paras 18-55; SPO Pre-Trial Brief, paras 228, 338, 635, 636. *Contra* Annex 1 to the Response, R.1 Objections.

<sup>160</sup> Proposed Exhibits 127, 129, 131, 132, 138, 149.

<sup>161</sup> Proposed Exhibits 127, 129, 131, 132, 138, 149.

<sup>162</sup> Proposed Exhibits 127, 129, 138.

<sup>163</sup> *See* Annex 1 to the Motion, in relevant parts.

other evidence on the record.<sup>164</sup> Additionally, Proposed Exhibits 138 and 149 are dated, and Proposed Exhibit 149 is signed. Furthermore, on the face of the documents, these Proposed Exhibits appear to be what they purport to be, namely lists of KLA soldiers with their personal details, providing details of their daily activities and allocated weapons. In light of the foregoing, the Panel is satisfied that the Personnel Documents<sup>165</sup> bear sufficient indicia of authenticity and are *prima facie* authentic.

94. In relation to the KLA Donations Documents,<sup>166</sup> the Panel observes that they are signed,<sup>167</sup> dated,<sup>168</sup> include names of their author and provide references to “Arti” Regional Operational Command in Rahovec/Orahovac.<sup>169</sup> Additionally, the Panel notes that Proposed Exhibits 145 and 152 are signed by Commander Sabahajdin Cena whose role in KLA in Rahovec/Orahovac was also confirmed by W00498.<sup>170</sup> Additionally, Proposed Exhibit 153 is signed by Ismet Tara, who confirmed his role in the KLA in Rahovec/Orahovac during his testimony.<sup>171</sup> In light of the foregoing, the Panel is satisfied that the KLA Donations Documents<sup>172</sup> bear sufficient indicia of authenticity and are *prima facie* authentic.

95. Regarding Proposed Exhibit 134, the Panel observes that much of the information is provided on templates, each item contained therein is signed, provides a reference number and a date, and refers to the KLA local HQ. In light of the foregoing, the Panel is satisfied that Proposed Exhibit 134 bears sufficient indicia of authenticity and is *prima facie* authentic.

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<sup>164</sup> See Annex 1 to the Motion, pp. 94, 95, Proposed Exhibit 131.

<sup>165</sup> Proposed Exhibits 127, 129, 131, 132, 138, 149.

<sup>166</sup> Proposed Exhibits 133, 136, 139-145, 147, 151-153, 155, 157.

<sup>167</sup> Proposed Exhibits 133, 136, 139-145, 147, 151-153, 155, 157.

<sup>168</sup> Proposed Exhibits 133, 136, 139-145, 147, 151-153, 155, 157.

<sup>169</sup> Proposed Exhibits 133, 136, 139-145, 147, 151-153, 155, 157.

<sup>170</sup> Transcript of Hearing, 20 February 2024, p. 12527, lines 4-6.

<sup>171</sup> Transcript of Hearing, 24 February 2025, p. 25481, lines 1-3.

<sup>172</sup> Proposed Exhibits 127, 129, 131, 132, 138, 149.



96. In relation to the Disciplinary Documents,<sup>173</sup> the Panel observes that these Proposed Exhibits are signed, dated, refer to the “Arti” Regional Operative HQ in Rahovec/Orahovac. Additionally, the Panel observes that, on the face of the documents, these Proposed Exhibits are what they intend to be, namely records of disciplinary measures against KLA members in Rahovec/Orahovac. Additionally, in relation to Proposed Exhibit 135, the Panel notes that it refers to facts which are also referred to in adjudicated facts of which the Panel has taken judicial notice<sup>174</sup> and Proposed Exhibit 156 was seized from the residence of Mr Krasniqi. In light of the foregoing, the Panel is satisfied that Proposed Exhibits 135, 137, and 156 bear sufficient indicia of authenticity and are *prima facie* authentic.

97. Turning to the KLA Operations Documents,<sup>175</sup> the Panel observes that these Proposed exhibits: (i) are signed;<sup>176</sup> (ii) are dated;<sup>177</sup> (iii) provide clear references to the KLA in Rahovec/Orahovac;<sup>178</sup> (iv) refer to the names of KLA Commanders in Rahovec/Orahovac;<sup>179</sup> and (v) refer to contemporaneous events concerning combat actions in Rahovec/Orahovac.<sup>180</sup> In light of the foregoing, the Panel is satisfied that Proposed Exhibits 128, 148, 150, 154, and 158-160 bear sufficient indicia of authenticity and are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

98. Having found Proposed Exhibits 127-129, 131-145, and 147-160 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case.

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<sup>173</sup> Proposed Exhibits 135, 137, 156.

<sup>174</sup> Adjudicated Facts 456-467.

<sup>175</sup> Proposed Exhibits 128, 148, 150, 154, 158-160.

<sup>176</sup> Proposed Exhibits 148, 150, 154, 158.

<sup>177</sup> Proposed Exhibits 148, 150, 154, 158-160.

<sup>178</sup> Proposed Exhibits 148, 150, 154, 158.

<sup>179</sup> Proposed Exhibits 158-160.

<sup>180</sup> Proposed Exhibits 158-160.

The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 127-129, 131-145, and 147-160 is not outweighed by any prejudice to the Accused.

(d) Conclusion

99. In light of the above, the Panel is satisfied that Proposed Exhibits 127-129, 131-145, and 147-160 are admissible pursuant to Rule 138(1).

100. Having found Proposed Exhibit 156 to be admissible, the Panel instructs the Registry to reflect the evidentiary status of P02078 MFI as admitted.

**8. Proposed Exhibits 161-172: Ratkoc/Ratkovac**

101. The Panel notes that the SPO seeks withdrawal of Proposed Exhibits 167 and 169 given that they have been admitted as P02045 and P02044 following the filing of the Motion.<sup>181</sup> The Panel therefore declares the request to admit Proposed Exhibits 167 and 169 to be moot.

(a) Relevance

102. Regarding relevance of Proposed Exhibits 161-166, 168, and 170-172, the SPO submits that they relate to: (i) the existence of a KLA recruitment system in the Pashtrik OZ; (ii) KLA presence in Ratkoc/Ratkovac and Rahovec/Orahovac Municipality; (iii) the system of reporting internal disputes to KLA HQ; and (iv) the KLA Military Police's ability to arrest and detain civilians on suspicion of collaboration.<sup>182</sup> In this regard, the Panel notes that: Proposed Exhibits 161, 162, 164-166, 168, 170, and 171 consist of: (i) travel permits, lists of KLA volunteers, lists of soldiers from Second Company in Ratkoc/Ratkovac and Dejani unit, and medical certificates of soldiers ("Personnel Documents"); (ii) Proposed Exhibit 163 is a statement of a KLA member in relation to an internal dispute; and

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<sup>181</sup> Reply, para. 6.

<sup>182</sup> Annex 1 to the Motion, pp. 125-134, Proposed Exhibits 161-172.

(iii) Proposed Exhibit 172 constitutes a list of vehicles of the KLA Second Company in Ratkoc/Ratkovac.

103. The SPO further relies on Proposed Exhibits 161-166, 168, and 170-172 to show that: (i) the Pashtrik OZ Command coordinated with other OZs and took measures to recruit, train, and deploy new soldiers;<sup>183</sup> (ii) it kept detailed records of members and their weapons and activities; (iii) brigade and battalion commanders and subordinate commanders issued standardised communication documents;<sup>184</sup> and (iv) the Pashtrik OZ brigade members investigated, arrested and detained alleged collaborators.<sup>185</sup>

104. Having carefully reviewed Proposed Exhibits 161-166, 168, and 170-172, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>186</sup>

(b) Authenticity

105. Regarding authenticity of the Personnel Documents,<sup>187</sup> the Panel observes that these Proposed Exhibits: (i) are dated;<sup>188</sup> (ii) provide names of soldiers with their personal details;<sup>189</sup> (iii) are signed;<sup>190</sup> (iv) refer to duties of KLA members in their assigned posts, which are also defined within the documents;<sup>191</sup> and (v) refer to the KLA in Ratkoc/Ratkovac.<sup>192</sup> Additionally, in relation to Proposed Exhibit 164, the Panel notes that it refers to facts which are also referred to in adjudicated facts of which the Panel has taken judicial notice.<sup>193</sup> Additionally, the content of Proposed

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<sup>183</sup> Motion, para. 14.

<sup>184</sup> Motion, para. 18.

<sup>185</sup> Motion, para. 19.

<sup>186</sup> Indictment, paras 18-55, 152; SPO Pre-Trial Brief, paras 228, 273-276, 279, 356, 339. *Contra* Annex 1 to the Response, R.1 Objections.

<sup>187</sup> Proposed Exhibits 161, 162, 164-166, 168, 170, 171.

<sup>188</sup> Proposed Exhibits 161, 162, 164, 165, 168, 170, 171.

<sup>189</sup> Proposed Exhibits 161, 165, 168, 170.

<sup>190</sup> Proposed Exhibits 162, 164, 165, 168, 170, 171.

<sup>191</sup> Proposed Exhibit 161, 165, 168, 170, 171.

<sup>192</sup> Proposed Exhibit 162, 164, 165, 168, 170, 171.

<sup>193</sup> Adjudicated Facts 462-463.

Exhibit 162 is included on KLA Ratkoc/Ratkovac templates and contain reference numbers. In light of the foregoing, the Panel is satisfied that Proposed Exhibits 161,162, 164-166, 168, 170, and 171 bear sufficient indicia of authenticity and are *prima facie* authentic.

106. Turning to Proposed Exhibit 163, the Panel notes that, while the handwritten note is not signed, it is attributed to an individual whose personal details are also included within the document. On the face of the document, information regarding disciplinary measures against the referenced individual are provided in sufficient detail. In light of the foregoing, the Panel is satisfied that Proposed Exhibit 163 bears sufficient indicia of authenticity and is *prima facie* authentic.

107. The Panel is also satisfied that Proposed Exhibit 172 bears sufficient indicia of authenticity given that it is signed and dated and provides clear reference to the Command of the Second Company of the KLA in Ratkoc/Ratkovac.

(c) Probative value not outweighed by prejudicial effect

108. Having found Proposed Exhibits 161-166, 168, and 170-172 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 161-166, 168, and 170-172 is not outweighed by any prejudice to the Accused.

(d) Conclusion

109. In light of the above, the Panel is satisfied that Proposed Exhibits 161-166, 168, and 170-172, are admissible pursuant to Rule 138(1).

## 9. Proposed Exhibits 173-177: Drenoc/Drenovac

### (a) Relevance

110. Regarding relevance of Proposed Exhibits 173-177,<sup>194</sup> the SPO submits that they relate to: (i) the KLA's ability to communicate and standardise their communications and instructions; (ii) the degree of organisation of the KLA in Drenoc/Drenovac; and (iii) the KLA policy against opponents and the existence of a common criminal purpose.<sup>195</sup> In this regard, the Panel notes that Proposed Exhibits 173-177 consist of operational instructions, including code/call signs, sets of handwritten notes relating to military drills, and handwritten notes and statements related to suspected collaborators and interrogation of detained persons.

111. The Panel further observes that the SPO relies on these Proposed Exhibits to show that: (i) KLA units and members in the Pashtrik OZ were coordinating operations in areas under their control, including in and around Drenoc/Drenovac;<sup>196</sup> and (ii) brigade and battalion commanders and subordinate commanders issued standardised communication documents and trained officers consistent with KLA General Staff orders.<sup>197</sup>

112. Having carefully reviewed Proposed Exhibits 173-177, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>198</sup>

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<sup>194</sup> The Panel notes that, in relation to Proposed Exhibit 175, the SPO does not tender the following parts: U017-3055-U017-3078/U017-3055-U017-3078-ET, pp. U017-3058-U017-3065, U017-3068; U017-3071-U017-3074, U017-3077 and U017-3078.

<sup>195</sup> Annex 1 to the Motion, pp. 135-140.

<sup>196</sup> Motion, para. 4.

<sup>197</sup> Motion, para. 18.

<sup>198</sup> Indictment, paras 18-55, 148; SPO Pre-Trial Brief, paras 228, 338-345, 351. *Contra* Annex 1 to the Response, R.1 Objections.

## (b) Authenticity

113. Regarding authenticity, the Panel notes that Proposed Exhibits 173 and 174 consist of typed instructions on radio-communications and call signs. While these items are not signed or stamped, the Panel considers that they clearly refer to KLA commanders in Drenoc/Drenovac, such as “Gjermani” or “Gani”, or to KLA locations in the area, such as Ratkoc/Ratkovac. The Panel is of the view that the authenticity of the documents is further corroborated by witness evidence<sup>199</sup> as well as other evidence admitted on the record.<sup>200</sup> In light of the foregoing, the Panel is satisfied that Proposed Exhibits 173 and 174 bear sufficient indicia of authenticity and are *prima facie* authentic.

114. Turning to Proposed Exhibit 175, the Panel observes that it is dated, signed, provides reference numbers, and refers to contemporaneous activities of the KLA in Drenoc/Drenovac as well as its members for whom personal details are provided within the document. Regarding Proposed Exhibits 176 and 177, the Panel notes that they are signed and dated and the names of the authors are provided within the document. Additionally, in relation to Proposed Exhibit 176, the Panel notes that it refers to facts which are also referred to in adjudicated facts of which the Panel has taken judicial notice.<sup>201</sup> In light of the foregoing, the Panel is satisfied that Proposed Exhibits 175-177 bear sufficient indicia of authenticity and are *prima facie* authentic.

## (c) Probative value not outweighed by prejudicial effect

115. Having found Proposed Exhibits 173-177 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel

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<sup>199</sup> See Annex 1 to the Motion, pp. 135, 136, Proposed Exhibits 173, 174.

<sup>200</sup> See e.g., P00011.

<sup>201</sup> Adjudicated Facts 464, 465.

is satisfied that the *prima facie* probative value of Proposed Exhibits 173-177 is not outweighed by any prejudice to the Accused.

(d) Conclusion

116. In light of the above, the Panel is satisfied that Proposed Exhibits 173-177 are admissible pursuant to Rule 138(1).

**10. Proposed Exhibits 178-209: Brigade 121**

117. The SPO seeks withdrawal of Proposed Exhibit 206 given that it has been admitted into evidence following the filing of the Motion as P02019.<sup>202</sup> The Panel therefore declares the request to admit Proposed Exhibit 206 to be moot.

(a) Relevance

118. Regarding relevance of Proposed Exhibits 178-205 and 207-209, the SPO submits that they relate to: (i) the degree of organisation and structure of the KLA and its control over its members and coordination across units; (ii) the existence of KLA Military Police units' rules; (iii) the KLA practice of identifying and investigating those suspected of collaboration; (iv) KLA units' enforcement of discipline over its members; (v) the relationship between the KLA General Staff and the Brigade 121; (vi) the existence of an armed conflict; (vii) charged crimes in the Pashtrik OZ, as well as the existence of the alleged common criminal purpose; and (viii) the chain of command at brigade and battalion levels.<sup>203</sup> In this regard, the Panel notes that: (i) Proposed Exhibits 178, 180,<sup>204</sup> 184, 185, 189, 195, 197, 203, 204, 207, and 208 consist of daily timetables, rules and routines of Brigade 121 members, notes on tactical learning of soldiers, orders on duty assignments,

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<sup>202</sup> Reply, para. 6.

<sup>203</sup> Annex 1 to the Motion, pp. 141-164, Proposed Exhibits 178-205, 207-209.

<sup>204</sup> The Panel notes that p. U001-8514-U001-8514 has been admitted as P01693/P01693\_ET through W04590. See Annex 1 to the Motion, p. 143, Proposed Exhibit 180.

requests by Brigade 121 for immunisation of soldiers within the brigade, and shift schedules; (ii) Proposed Exhibits 182, 183, 190, 198,<sup>205</sup> and 199 consist of records of expenses and supplies for soldiers, requests for compensation, receipts of donations of supplies to the KLA, orders related to inventory of vehicles and ammunition (“Supplies Documents”); (iii) Proposed Exhibits 186, 187, 191, 193,<sup>206</sup> 200, and 202 consist of orders and handwritten notes regarding movement of troops, assignment of individual members to combat action, instructions related to KLA offensive and patrol reports (“Operations Documents”); (iv) Proposed Exhibits 179,<sup>207</sup> 181, 192, and 201 consist of handwritten notes relating to individuals sentenced or accused of criminal activity, orders regarding reorganisation and division of battalions’ areas of responsibility referencing the KLA Discipline Rules of procedure, military oath, and minutes of meetings discussing discipline of soldiers within Brigade 121 (“Discipline Documents”); (v) Proposed Exhibits 188,<sup>208</sup> 196, and 205 consist of lists of imprisoned individuals; and (vi) Proposed Exhibit 209 is an envelope which appears to have previously contained a telegram addressed to Mr Selimi.

119. The Panel further observes that the SPO relies on these Proposed Exhibits to show that: (i) the Pashtrik OZ Command held regular meetings, was responsible for KLA units in the OZ, and was in regular contact with the General Staff;<sup>209</sup> (ii) the Pashtrik OZ Command made reports which it then implemented and distributed to subordinate commands;<sup>210</sup> (iii) the Pashtrik OZ Command also coordinated with other OZs and took measures to recruit, train, and deploy new

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<sup>205</sup> In relation to Proposed Exhibit 198, the Panel notes that the SPO does not seek admission of p. U000-6034.

<sup>206</sup> The Panel notes that p. U000-5985 has been admitted as P02016.

<sup>207</sup> Regarding Proposed Exhibit 179, the Panel notes that it has been previously marked for identification as P01123 MFI.

<sup>208</sup> In relation to Proposed Exhibit 188, the Panel notes that the SPO does not seek admission of the last page of this document given that it has been admitted as P00259.

<sup>209</sup> Motion, para. 14.

<sup>210</sup> Motion, para. 14.



soldiers;<sup>211</sup> (iv) commanders of KLA units and staffs in the Pashtrik OZ administered KLA oaths and managed and distributed weapons and supplies;<sup>212</sup> (v) brigade and battalion commanders distributed funds and supplies to local headquarters;<sup>213</sup> (vi) brigade and battalion commanders regulated the daily schedules of their soldiers, kept detailed records of members and their weapons and activities and trained officers consistent with General Staff orders;<sup>214</sup> (vii) brigade and battalion commanders provided that disobedience or failure to implement orders would lead to disciplinary measures;<sup>215</sup> (viii) the military police was responsible for discipline within the KLA ranks and civilian police functions in areas under their control;<sup>216</sup> and (ix) the military police was regularly involved in and responsible for the identification, arrest, detention, and interrogation of opponents.<sup>217</sup>

120. Having carefully reviewed Proposed Exhibits 178-205 and 207-209, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>218</sup>

(b) Authenticity

121. The Panel is satisfied that the SPO has established the *prima facie* authenticity of the Personnel Documents.<sup>219</sup> Specifically, the Panel notes that these Proposed Exhibits: (i) are dated;<sup>220</sup> (ii) many of them are signed or contain a box for a

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<sup>211</sup> Motion, para. 14.

<sup>212</sup> Motion, para. 18.

<sup>213</sup> Motion, para. 18.

<sup>214</sup> Motion, para. 16.

<sup>215</sup> Motion, para. 16.

<sup>216</sup> Motion, paras 22, 25.

<sup>217</sup> Motion, para. 22.

<sup>218</sup> Indictment, paras 18-55; SPO Pre-Trial Brief, para. 491. *Contra* Annex 1 to the Response, R.1 Objections.

<sup>219</sup> Proposed Exhibits 178, 180, 184, 185, 189, 195, 197, 203, 204, 207, 208.

<sup>220</sup> Proposed Exhibits 178, 180, 184, 185, 189, 195, 197, 203, 204.

signature of its author;<sup>221</sup> (iii) provide explicit references to the KLA or Brigade 121;<sup>222</sup> and (iv) contain names of soldiers with their personal details and duties assigned to them.<sup>223</sup> Additionally, Proposed Exhibit 184 was seized from the house of Mr Krasniqi.

122. The Panel is also satisfied that the SPO has established the *prima facie* authenticity of the Supplies Documents.<sup>224</sup> In particular, the Panel notes that these Proposed Exhibits: (i) are dated;<sup>225</sup> (ii) are signed by the indicated author;<sup>226</sup> (iii) provide a reference to the KLA General Staff, the KLA or the commander of the respective unit;<sup>227</sup> or (iv) contain a reference number.<sup>228</sup> Additionally, Proposed Exhibit 182 was seized from the house of Mr Krasniqi.

123. Regarding the Operations Documents,<sup>229</sup> the Panel observes that these Proposed Exhibits: (i) provide detailed accounts regarding contemporaneous military operations of the KLA, including the time and date of the respective operation;<sup>230</sup> (ii) are signed or the name of the issuing authority is provided within the document;<sup>231</sup> (iii) are dated;<sup>232</sup> and (iv) provide references to Brigade 121, including the names of the respective commanders.<sup>233</sup> In light of the foregoing, the Panel is satisfied that Proposed Exhibits 186, 187, 191, 193, 200, and 202 bear sufficient indicia of authenticity and are *prima facie* authentic.

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<sup>221</sup> Proposed Exhibits 178, 184, 189, 195, 204, 207, 208.

<sup>222</sup> Proposed Exhibits 178, 180, 184, 185, 189, 195, 197, 203, 204.

<sup>223</sup> Proposed Exhibits 178, 180, 184, 185, 189, 195, 197, 203, 204, 207, 208.

<sup>224</sup> Proposed Exhibits 182, 183, 190, 198, 199.

<sup>225</sup> Proposed Exhibits 182, 183, 190, 198, 199.

<sup>226</sup> Proposed Exhibits 182, 183, 190, 198, 199.

<sup>227</sup> Proposed Exhibits 182, 183, 190, 198, 199.

<sup>228</sup> Proposed Exhibits 182, 190, 199.

<sup>229</sup> Proposed Exhibits 186, 187, 191, 193, 200, 202.

<sup>230</sup> Proposed Exhibits 186, 187, 191, 193, 200, 202.

<sup>231</sup> Proposed Exhibits 186, 191, 193, 202.

<sup>232</sup> Proposed Exhibits 186, 187, 191, 193, 200, 202.

<sup>233</sup> Proposed Exhibits 186, 187, 191, 193, 200, 202.

124. In relation to the Discipline Documents,<sup>234</sup> the Panel observes that these Proposed Exhibits: (i) are dated;<sup>235</sup> (ii) contain the signature and/or the name of their author;<sup>236</sup> (iii) provide references to the KLA, platoons, or respective commanders;<sup>237</sup> and (iv) refer to individuals whose personal details are provided within the documents.<sup>238</sup> In light of the foregoing, the Panel is satisfied that Proposed Exhibits 179, 181, 192, and 201 bear sufficient indicia of authenticity and are *prima facie* authentic.

125. Regarding Proposed Exhibits 188, 196, and 205, the Panel notes that the SPO submits that these items constitute handwritten notes listing imprisoned individuals in Kleckë/Klečka prison.<sup>239</sup> While the items are handwritten and do not contain a date or signature of its author, the Panel observes that Proposed Exhibits 196 and 205 are extracts of already admitted exhibits.<sup>240</sup> Moreover, various witness statements of the purported author of these handwritten notes have been admitted that corroborate in part those records, and one of the named individuals is among the victims in this case.<sup>241</sup> The Panel notes that some of this information is also referred to in adjudicated facts of which the Panel has taken judicial notice.<sup>242</sup> In this context, the Panel is satisfied that Proposed Exhibits 196 and 205 bear sufficient indicia of authenticity and are *prima facie* authentic.

126. Turning to Proposed Exhibit 209, the Panel observes that this item is an envelope which the SPO submits previously contained a telegram addressed to Mr Selimi.<sup>243</sup> The Panel notes that the envelope is marked with “10”, reportedly a

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<sup>234</sup> Proposed Exhibits 179, 181, 188, 192, 201.

<sup>235</sup> Proposed Exhibits 179, 188, 192, 201.

<sup>236</sup> Proposed Exhibits 179, 181, 201.

<sup>237</sup> Proposed Exhibits 179, 192.

<sup>238</sup> Proposed Exhibits 179, 181.

<sup>239</sup> See Annex 1 to the Motion, pp. 155, 161, Proposed Exhibits 196, 205.

<sup>240</sup> See P00986 and P00987.

<sup>241</sup> See SPO Pre-Trial Brief, para. 492.

<sup>242</sup> Adjudicated Fact 554.

<sup>243</sup> Annex 1 to the Motion, p. 164, Proposed Exhibit 209.

nickname for Mr Selimi and that the telegram has been admitted as P02014. This item was also seized from the residence of Mr Selimi.<sup>244</sup> In this context, the Panel is satisfied that Proposed Exhibit 209 bears sufficient indicia of authenticity and is *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

127. Having found Proposed Exhibits 178-205 and 207-209 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 178-205 and 207-209 is not outweighed by any prejudice to the Accused.

(d) Conclusion

128. In light of the above, the Panel is satisfied that Proposed Exhibits 178-205 and 207-209 are admissible pursuant to Rule 138(1). Having found Proposed Exhibit 179 to be admissible, the Panel also instructs the Registry to reflect the evidentiary status of P01123 MFI as admitted.

## **11. Proposed Exhibits 210-222: Brigade 122**

(a) Relevance

129. Regarding relevance of Proposed Exhibits 210-222, the SPO submits that they relate to: (i) the hierarchy and military structure of the Pashtrik OZ Command and Brigade 122; (ii) the submission of requests within Brigade 122 in accordance with the chain of command; (iii) the KLA policy against suspected collaborators; (iv) the KLA General Staff's structure, organisation and effective control and; (v) the role of commanders of Brigade 122 within the KLA.<sup>245</sup> In this regard, the

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<sup>244</sup> Annex 1 to the Motion, p. 164, Proposed Exhibit 209.

<sup>245</sup> Annex 1 to the Motion, pp. 165-173, Proposed Exhibits 210-221.

Panel notes that: (i) Proposed Exhibits 210-213, 220, and 222 consist of requests for supplies from platoon commanders of Brigade 122; (ii) Proposed Exhibit 214 is an intelligence report relating to internal investigations; (iii) Proposed Exhibit 215 contains a KLA General Staff order signed by Mr Krasniqi addressed to the Command of Brigade 122; (iv) Proposed Exhibits 216,<sup>246</sup> 219, and 221 consist of travel permits; and (v) Proposed Exhibits 217 and 218 are documents describing the chain of command and duties of squad commanders as well as listing duties of soldiers.

130. The Panel further observes that the SPO relies on these Proposed Exhibits to show that: (i) the KLA General Staff held and exercised control in the Pashtrik OZ, including through implementation of rules and regulations;<sup>247</sup> (ii) brigade and battalion commanders coordinated with units in other OZs, transferring and requesting soldiers;<sup>248</sup> and (iii) brigade and battalion commanders provided that disobedience or failure to implement orders would lead to disciplinary measures.<sup>249</sup>

131. Having carefully reviewed Proposed Exhibits 210-222, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>250</sup>

(b) Authenticity

132. Regarding authenticity of Proposed Exhibits 210-213, 220, and 222, the Panel observes that the Proposed Exhibits: (i) are dated;<sup>251</sup> (ii) signed by the respective

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<sup>246</sup> The Panel notes that p. U000-5837 has been admitted as P01697. *See* Annex 1 to the Motion, p. 169, Proposed Exhibit 216.

<sup>247</sup> Motion, para. 5.

<sup>248</sup> Motion, para. 18.

<sup>249</sup> Motion, para. 18.

<sup>250</sup> Indictment, paras 18-55. *Contra* Annex 1 to the Response, R.1 Objections.

<sup>251</sup> Proposed Exhibits 210-213, 220, 222.

platoon commanders of Brigade 122,<sup>252</sup> whose roles within the KLA are corroborated by other evidence admitted on the record;<sup>253</sup> and (iii) provide clear references to the KLA and/or Brigade 122.<sup>254</sup> Additionally, the Panel observes that all these Proposed Exhibits bear resemblance to one another. In light of the foregoing, the Panel is satisfied that Proposed Exhibits 210-213, 220, and 222 bear sufficient indicia of authenticity and are *prima facie* authentic.

133. In relation to Proposed Exhibit 214, the Panel observes that while it is not signed, the author of the document is named within the Proposed Exhibit, it is dated, provides a reference to the KLA and specifically to Brigade 122. Additionally, the Proposed Exhibit refers to relevant contemporaneous events, which occurred during KLA combat actions.

134. Concerning Proposed Exhibit 215, the Panel notes that it: (i) consists of a typewritten ordinance; (ii) bears the KLA General Staff header; (iii) includes a KLA General Staff stamp; and (iv) is signed by Mr Krasniqi whose signature is corroborated by other evidence admitted on the record.<sup>255</sup> The Panel observes that the Defence objects to the admission of this item given that it was signed by Mr Krasniqi. In the Defence's view, anything which is alleged to originate from the Accused is potentially central to the case.<sup>256</sup> However, the Panel recalls that 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.<sup>257</sup>

135. Regarding Proposed Exhibits 216, 219, and 221, the Panel observes that these Proposed Exhibits: (i) are all signed; (ii) are dated; (iii) contain references to the KLA; and (iv) include KLA headings and reference numbers. Additionally,

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<sup>252</sup> Proposed Exhibits 210-213, 220, 222.

<sup>253</sup> Annex 1 to the Motion, pp. 165, 166, 171, 172, Proposed Exhibits 210-213, 220, 222.

<sup>254</sup> Proposed Exhibits 210-213, 220, 222.

<sup>255</sup> See e.g. P01105, P00623, P01424, P01415.

<sup>256</sup> Response, para. 7; Annex 1 to the Response, pp. 350-353, Proposed Exhibit 215.

<sup>257</sup> See above at para. 12.

Proposed Exhibit 216 includes a series of travel permits which are all included on an official template. Turning to Proposed Exhibits 217 and 218, the Panel notes that both Proposed Exhibits: (i) are signed by First Battalion Commander of Brigade 122; (ii) are dated; (iii) include reference numbers; and (iv) reference the KLA and Brigade 122. In light of the foregoing, the Panel is satisfied that Proposed Exhibits 214-219 and 221 bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

136. Having found Proposed Exhibits 210-222 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 210-222 is not outweighed by any prejudice to the Accused.

(d) Conclusion

137. In light of the above, the Panel is satisfied that Proposed Exhibits 210-222 are admissible pursuant to Rule 138(1).

## 12. Proposed Exhibits 223-232: Brigade 123

138. The SPO seeks withdrawal of Proposed Exhibit 231 given that it has been admitted as 1D00020 following the filing of the Motion.<sup>258</sup> The Panel notes that the tendered ERN range of Proposed Exhibit 231 differs<sup>259</sup> from 1D00020. However, upon review, the Panel is satisfied that the documents are duplicates of each other. The Panel therefore declares admission of Proposed Exhibit 231 to be moot.

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<sup>258</sup> Reply, para. 6.

<sup>259</sup> Compare U000-6713-U000-6714 and SITF00032906-SITF00032918, pp. SITF00032916-SITF00032917.

## (a) Relevance

139. Regarding Proposed Exhibits 223-230, and 232, the SPO submits that they relate to: (i) the authority of the Battalion Commander in Brigade 123; (ii) the organisation, hierarchy and structure of the KLA and Brigade 123 in the Pashtrik OZ; (iii) the functions and responsibilities of Brigade 123 in relation to issuing travel permits, standardised forms, or its ability to conduct investigations; and (iv) the relationship between the Ministry of Defence and the KLA General Staff in relation to Brigade 123.<sup>260</sup> In this regard, the Panel also notes that: (i) Proposed Exhibits 223, 225, and 232 consist of registers or lists of KLA soldiers within Brigade 123 as well as their travel permits; (ii) Proposed Exhibit 224 contains a record of vehicle supplies; (iii) Proposed Exhibit 226 consists of an order from the Commander of Brigade 123 regarding handover of property for the needs to the KLA; (iv) Proposed Exhibits 227 and 228 consist of statements relating to investigations carried out by the ZKZ; (v) Proposed Exhibit 229 consists of a handwritten note about a meeting between the KLA General Staff, the Ministry in Exile and a member of Brigade 123; and (vi) Proposed Exhibit 230 is an organisational report by the Commander of the 2<sup>nd</sup> Battalion, 123<sup>th</sup> Brigade.<sup>261</sup>

140. The Panel further observes that the SPO relies on these Proposed Exhibits to show, *inter alia*, that brigade and battalion commanders kept detailed records of members and their weapons.<sup>262</sup>

141. Having carefully reviewed Proposed Exhibits 223-230 and 232, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>263</sup>

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<sup>260</sup> Annex 1 to the Motion, pp. 174-181, Proposed Exhibits 223-232.

<sup>261</sup> In relation to Proposed Exhibit 230, the Panel notes that SPOE0026707-SPOE0026708 has been admitted as 1D00073/1D00073\_ET; and pages SPOE0026714-SPOE0026715 have been admitted as 4D00014/4D00014\_ET.

<sup>262</sup> Motion, para. 18.

<sup>263</sup> Indictment, paras 18-55; SPO Pre-Trial Brief, paras 384-387 *Contra* Annex 1 to the Response, R.1 Objections.



## (b) Authenticity

142. Regarding the authenticity of Proposed Exhibits 223, 225, and 232, the Panel observes that these Proposed Exhibits are signed, dated, refer to the KLA and the Command of Brigade 123. Regarding Proposed Exhibit 232, while the Panel notes that this item is neither signed nor dated, it lists individuals with their personal details, weapons and ammunition that had been allocated to them, and their membership in Brigade 123, and is further corroborated in some parts by other evidence tendered in the Motion.<sup>264</sup> In relation to Proposed Exhibit 224, the Panel notes that it is dated and its content is corroborated in part by other evidence admitted on the record. Further, Proposed Exhibit 226 contains references to the KLA within the document, it bears the KLA header with a reference number, and it is dated and signed. The Panel further observes that Proposed Exhibits 227 and 228 are dated and signed, contain a KLA header and were given to KFOR by the KLA.<sup>265</sup> Concerning Proposed Exhibit 229, the Panel notes that while it is neither signed nor dated, it provides a detailed account of a meeting between the KLA and the Government in Exile in 1998, the content of which is corroborated by other evidence on the record. In addition, the Panel notes that this item was seized from Mr Krasniqi's residence. Regarding Proposed Exhibit 230, the Panel notes that it is dated, authorship of this document was confirmed by W04765,<sup>266</sup> and it was seized from Mr Selimi's residence. In light of the foregoing, the Panel is satisfied that Proposed Exhibits 223-230 and 232 bear sufficient indicia of authenticity and are *prima facie* authentic.

## (c) Probative value not outweighed by prejudicial effect

143. Having found Proposed Exhibits 223-230 and 232 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie*

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<sup>264</sup> Annex 1 to the Motion, p. 180, Proposed Exhibit 232.

<sup>265</sup> Motion, footnote 112.

<sup>266</sup> Transcript of Hearing, 16 November 2023, p. 10236.

probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 223-230 and 232 is not outweighed by any prejudice to the Accused.

(d) Conclusion

144. In light of the above, the Panel is satisfied that Proposed Exhibits 223-230 and 232 are admissible pursuant to Rule 138(1).

**13. Proposed Exhibits 233-264: Brigade 124**

(a) Relevance

145. Regarding Proposed Exhibits 233-264, the SPO submits that they relate to: (i) the KLA structure and organisation, including the KLA Military Police's presence and operation in the Pashtrik OZ; (ii) Brigade 124's hierarchical organisation and record-keeping; (iii) the functioning of the brigade-level system of detentions and the authority of the KLA Military Police with regard to arrests and detention sites; (iv) the involvement of KLA members in charged crimes at Drenoc/Drenovac; (v) Brigade 124 having its headquarters in Reti/Retimlje in winter 1998/spring 1999; (vi) the authority of Ismet Tara, Ejup Kabashi and other commanders within the KLA Command in the Pashtrik OZ; (vii) the KLA General Staff's control and authority relating to civilian matters in the Pashtrik OZ; (viii) coordinated operations concerning the detention of civilians and suspected collaborators; and (ix) the violation of the KLA demilitarisation agreement. In this regard, the Panel notes that: (i) Proposed Exhibits 233, 237, and 250 consist of various KLA templates; (ii) Proposed Exhibits 234-236, 238-239, 246-249, 251, 259-260, and 263-264 consist of certificates of membership, reassignment forms, work schedules of Brigade 124, and personal biographies of KLA soldiers;

("Personnel"); (iii) Proposed Exhibits 240-241, 243-245, 252-258, and 261-262<sup>267</sup> consist of regulations of the Military Prison, orders and decisions authored by KLA Commanders in Pashtrik OZ ("KLA Command Documents"); and (iv) Proposed Exhibit 242 is a video showing members of Brigade 124.

146. The Panel observes that the SPO relies on these Proposed Exhibits to show, *inter alia*, that: (i) the KLA General Staff held and exercised authority in the Pashtrik OZ, including by direct oversight, implementation of rules and regulations, and the establishment of reporting and communication structures;<sup>268</sup> (ii) the Pashtrik OZ Command was in regular contact with the General Staff, making reports and receiving orders, instructions, and regulations;<sup>269</sup> (iii) consistent with General Staff orders, the Pashtrik OZ Command regulated the movement into, out of, and within the Pashtrik OZ;<sup>270</sup> (iv) brigade and battalion commanders regulated the daily schedules of their soldiers, kept detailed records of members and their weapons and activities, issued standardised communication documents, coordinated with units in other OZs, transferring and requesting soldiers and supplies, and communicated regularly and directly with the Pashtrik OZ Command and reported to and received direct orders from the General Staff;<sup>271</sup> and (v) the KLA Military Police was involved in and responsible for the identification, arrest, detention, and interrogation of opponents, including victims of charged crimes in this case.<sup>272</sup>

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<sup>267</sup> In relation to Proposed Exhibit 262, the Panel notes that the SPO does not seek admission of p. SITF00439028 as it was admitted as P01671.

<sup>268</sup> Motion, para. 5.

<sup>269</sup> Motion, para. 14.

<sup>270</sup> Motion, para. 14.

<sup>271</sup> Motion, para. 18.

<sup>272</sup> Motion, para. 22.

147. Having carefully reviewed Proposed Exhibits 233-264, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>273</sup>

(b) Authenticity

148. The Panel is satisfied that the SPO has established the *prima facie* authenticity of Proposed Exhibits 233, 237, and 250 consisting of various blank templates. In particular, the Panel notes that the templates bear a heading of Brigade 124, contain spaces for dates, signatures, and references, and refer to contemporaneous or day to day activities of Brigade 124. Additionally, the Panel notes that Proposed Exhibit 250, which consists of a notebook, contains several blank as well as filled in templates that include dates, signatures, KLA headers and/or refer to the KLA, respective KLA Commanders or Commanders of Brigade 124.

149. Regarding the Personnel Documents,<sup>274</sup> the Panel notes that these Proposed Exhibits: (i) are dated;<sup>275</sup> (ii) are signed;<sup>276</sup> (iii) contain a KLA stamp;<sup>277</sup> (iv) bear KLA headers with reference numbers;<sup>278</sup> and (v) contain references or are authored by known KLA Commanders.<sup>279</sup> When the Proposed Exhibits contain a list of soldiers, their personal details are also provided within those documents.<sup>280</sup> In light of the foregoing, the Panel is satisfied that Proposed Exhibits 234-236, 238-239, 246-249, 251, 259-260, and 263-264 bear sufficient indicia of authenticity and are *prima facie* authentic.

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<sup>273</sup> Indictment, paras 18-55; SPO Pre-Trial Brief, paras 338-340. *Contra* Annex 1 to the Response, R.1 Objections.

<sup>274</sup> Proposed Exhibits 234, 235, 236, 238, 239, 246, 247, 248, 249, 251, 259, 260, 263, 264.

<sup>275</sup> Proposed Exhibits 235, 238, 247, 248, 249, 251, 259, 260, 263, 264.

<sup>276</sup> Proposed Exhibits 234, 235, 236, 238, 239, 247, 249, 251, 259, 260, 263, 264.

<sup>277</sup> Proposed Exhibits 238, 239, 247, 251, 259, 260, 263, 264.

<sup>278</sup> Proposed Exhibits 234, 235, 236, 238, 239, 246, 247, 248, 249, 251, 260, 263, 264.

<sup>279</sup> Proposed Exhibits 234, 235, 236, 238, 239, 246, 247, 248, 249, 251, 259, 260, 263, 264.

<sup>280</sup> Proposed Exhibits 246, 248.

150. In relation to the KLA Command Documents,<sup>281</sup> the Panel notes that these Proposed Exhibits: (i) are dated;<sup>282</sup> (ii) are signed;<sup>283</sup> (iii) contain a KLA stamp;<sup>284</sup> (iv) bear KLA, Brigade 124 headers with reference numbers;<sup>285</sup> and (v) are authored by known KLA Commanders.<sup>286</sup> Regarding Proposed Exhibit 240, the Panel notes that while it is neither signed nor dated, it is authored by KLA Commander Gani Paçarizi and the document contains references to Brigade 124. Additionally, in relation to Proposed Exhibit 161, the Panel notes that it refers to facts which are also referred to in adjudicated facts of which the Panel has taken judicial notice.<sup>287</sup> In light of the foregoing, the Panel is satisfied that Proposed Exhibits 240-241, 243-245, 252-258, and 261-262 bear sufficient indicia of authenticity and are *prima facie* authentic.

151. Regarding Proposed Exhibit 242, the Panel notes that it is a video showing members of the “Gani Paçarizi Brigade” (Brigade 124) during a celebration. The SPO submits that Xheme Gashi, former Head of the Drenoc local unit, can be seen speaking in the video. The SPO submits that Xheme Gashi’s position as well as membership of the mentioned KLA “martyrs” is corroborated by other evidence admitted on the record.<sup>288</sup> The Panel recalls that admissibility of videos generally requires information regarding their origin and integrity.<sup>289</sup> The Panel notes in this regard that the video was downloaded by the SITF from YouTube and the SPO provided verbatim transcription of its contents. The Panel notes that the video contains superimposed text markings and depict the events allegedly recorded. The Panel finds that Proposed Exhibit 242 is *prima facie* authentic.

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<sup>281</sup> Proposed Exhibits 240, 241, 243, 244, 245, 252, 253, 254, 255, 256, 257, 258, 261, 262.

<sup>282</sup> Proposed Exhibits 241, 243, 244, 245, 252, 253, 254, 255, 256, 257, 258, 261, 262.

<sup>283</sup> Proposed Exhibits 241, 243, 244, 245, 252, 253, 254, 255, 256, 257, 258, 261, 262.

<sup>284</sup> Proposed Exhibits 241, 243, 244, 245, 252, 253, 254, 255, 256, 257, 258, 261, 262.

<sup>285</sup> Proposed Exhibits 241, 243, 244, 245, 252, 253, 254, 255, 256, 257, 258, 261, 262.

<sup>286</sup> Proposed Exhibits 240, 241, 243, 244, 245, 252, 253, 254, 255, 256, 257, 258, 261, 262.

<sup>287</sup> Adjudicated Facts 462, 463.

<sup>288</sup> Annex 1 to the Motion, p. 190, Proposed Exhibit 242.

<sup>289</sup> Decision on Bar Table Motion, para. 26.

(c) Probative value not outweighed by prejudicial effect

152. Having found Proposed Exhibits 233-264 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 233-264 is not outweighed by any prejudice to the Accused.

(d) Conclusion

153. In light of the above, the Panel is satisfied that Proposed Exhibits 233-264 are admissible pursuant to Rule 138(1).

#### **14. Proposed Exhibits 265-273: Brigade 125**

(a) Relevance

154. Regarding Proposed Exhibits 265-273, the SPO submits that they relate to: (i) the KLA structure and organisation, showing the distribution and issuance of unified ID cards; (ii) training of KLA soldiers within the Brigade 125 in matters of, *inter alia*, combat readiness; (iii) knowledge of the KLA units in the Pashtrik OZ of military formations and tactics in early 1999; (iv) the authority of 2<sup>nd</sup> Battalion Commander Kabashi and the existence of a system of call-up and enforcement of enlistments; and (v) operational and organisational structure of the 1<sup>st</sup> Company, 2<sup>nd</sup> Battalion in March 1999. In this regard, the Panel notes that: (i) Proposed Exhibits 265 and 273 consist of IDs of soldiers of the Brigade 125; (ii) Proposed Exhibit 266 consists of a KLA Infantry Manual prepared by W04764; (iii) Proposed Exhibits 267<sup>290</sup> and 268<sup>291</sup> consist of handwritten notebooks authored by Imer Muçaj regarding, *inter alia*, military tactics, formations, weapons and equipment;

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<sup>290</sup> The Panel notes that the SPO does not seek admission of p. U001-8825.

<sup>291</sup> The Panel notes that the SPO does not seek admission of p. U001-8838.

and (iv) Proposed Exhibits 269-272 consist of mobilisation and daily orders of Brigade 125.

155. The Panel further observes that the SPO relies on these Proposed Exhibits to show, *inter alia*, training in Nishor/Nišor in February 1999, where battalion commanders were lectured about, *inter alia*, the enemy's 'special war' and the 'Fifth Column', which included informants and collaborators.<sup>292</sup>

156. Having carefully reviewed Proposed Exhibits 265-273, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>293</sup>

(b) Authenticity

157. Regarding authenticity of Proposed Exhibits 265 and 273, the Panel observes that Proposed Exhibit 265 consists of an ID with the KLA emblem, includes an indication of Brigade 125, provides personal details of the named individual and is signed. Regarding Proposed Exhibit 273, the Panel notes that the list of soldiers contains personal details, ranks, as well as registration dates of the listed individuals. In relation to Proposed Exhibit 266, the Panel observes that the SPO submits that it contains handwritten notes with copies of a KLA Infantry Manual prepared by W04764. In this regard, the Panel notes that, while the handwritten notes are not signed, its author is indicated within the document. Regarding Proposed Exhibits 267 and 268, the Panel notes that they consist of handwritten notes providing detailed accounts of military tactics of the KLA. Both Proposed Exhibits are dated and signed. In relation to Proposed Exhibits 269-271, the Panel observes that these Proposed Exhibits are dated and signed and bear the KLA header with reference numbers. Turning to Proposed Exhibit 272, the Panel notes that, while the document is handwritten, it is dated and it provides an overview

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<sup>292</sup> Motion, para. 15.

<sup>293</sup> Indictment, paras 18-55, SPO Pre-Trial Brief, para. 235. *Contra* Annex 1 to the Response, R.1 Objections.



of daily duties of the 1<sup>st</sup> and 2<sup>nd</sup> platoons. The Panel observes that Proposed Exhibits 271 and 272 also overlap in substance. In light of the foregoing, the Panel is satisfied that Proposed Exhibits 265-273 bear sufficient indicia of authenticity and are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

158. Having found Proposed Exhibits 265-273 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 265-273 is not outweighed by any prejudice to the Accused.

(d) Conclusion

159. In light of the above, the Panel is satisfied that Proposed Exhibits 265-273 are admissible pursuant to Rule 138(1).

## **15. Proposed Exhibits 274-304: Intelligence/PU/MPO Police**

(a) Relevance

160. Regarding Proposed Exhibits 274-304, the SPO submits that they relate to: (i) the composition and structure of the KLA Military Police and its units within the brigades; (ii) the work of the KLA Military Police in Ratkoc/Ratkovac from early June 1998 until June 1999; (iii) the duties and responsibilities of the KLA Military Police, including in relation to arrests and detention of civilians, investigations, and enforcement of discipline; (iv) the KLA structure and organisation, showing the distribution and issuance of unified ID cards and travel permits to its members; (v) knowledge of the KLA General Staff and OZ Command of mistreatment and killings of civilians and their presence in the field, including in and around Kleckë/Klečka in April 1999; (vi) members of the Çeliku 3 unit participating in the military offensive in Llapushnik/Lapušnik; and (vii) the



violation of the demilitarisation agreement by the KLA.<sup>294</sup> In this regard, the Panel notes that: (i) Proposed Exhibits 274, 275, 281, and 285 consist of a combat journal and a notebook describing the activities of the KLA and the KLA Military Police platoon of Brigade 122, documents on positions of Serb forces and Serb offensives against KLA units, and calls for mobilisation (“Combat Documents”); (ii) Proposed Exhibits 276,<sup>295</sup> 278, 286, 295, 297, and 301 consist of a collection of documents relating to cases before the KLA Military Court in the Pashtrik OZ and/or cases investigated by the KLA Military Police as well as an arrest warrant (“Military Police Investigations Documents”); (iii) Proposed Exhibits 277, 279, 282-284, 287-289, 291, 293-294, 296, 300, and 304 consist of KLA Military Police ID cards, personal records of KLA Military Police members, guard shifts, statements of KLA soldiers related to the seizure of personal weapons, and travel authorisations (“Personnel Documents”); (iv) Proposed Exhibits 292 and 298 consist of a diary about the presence of the KLA Military Police in Rahovec/Orahovac in 1999; (v) Proposed Exhibit 299 consists of video footage of Hashim Thaçi; (vi) Proposed Exhibits 290 and 302 are letters signed by a KLA Deputy Commander; and (vii) Proposed Exhibit 303 is an order to return a weapon issued by a KLA Deputy Commander.

161. The Panel further observes that the SPO relies on these Proposed Exhibits to show, *inter alia*, that: (i) the KLA General Staff held and exercised authority in the Pashtrik OZ throughout the Indictment period, including by direct oversight;<sup>296</sup> (ii) brigade and battalion commanders kept detailed records of members and their

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<sup>294</sup> Annex 1 to the Motion, pp. 231-263, Proposed Exhibits 274-304.

<sup>295</sup> The Panel notes, in relation to Proposed Exhibit 276, that portions of this document have already been admitted into evidence: pp. 082996-083001 as 2D00020/2D00020\_ET; p. 082985-082985 as P00257/P00257\_ET; p. 082984-082984 as P00260/P00260\_ET; p. 083076-083076 as P00261/P00261\_ET; p. 082934-082934 as P00264/P00264\_ET; pp. 082939-082983 as P00263/P00263\_ET; pp. 082926-082938, 082986, 082989-082993, 083002-083011, 083014-083015, 083017-083046, 083048-083050, 083052, 083055-083075, 083083, 083085-083086, 083087 as P02010/ P02010\_ET.

<sup>296</sup> Motion, para. 5.

weapons and activities;<sup>297</sup> (iii) brigade and battalion commanders provided that disobedience or failure to implement orders would lead to disciplinary measures;<sup>298</sup> (iv) intelligence services and military police were active in the Pashtrik OZ from, at least, summer 1998, including at charged crime sites;<sup>299</sup> (v) military police and intelligence services existed at both Pashtrik OZ Command and brigade levels;<sup>300</sup> (vi) intelligence services and military police frequently acted together and were involved in and responsible for the identification, arrest, detention, and interrogation of opponents, including victims of charged crimes in this case;<sup>301</sup> and (vii) by early 1999, the General Staff had appointed Nexhmi Krasniqi as Pashtrik OZ Military Police Commander.<sup>302</sup>

162. Having carefully reviewed Proposed Exhibits 274-304, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>303</sup>

(b) Authenticity

163. Regarding the authenticity of the Combat Documents,<sup>304</sup> the Panel notes that these Proposed Exhibits: (i) are dated;<sup>305</sup> (ii) are signed;<sup>306</sup> (iii) contain the name of the author of the document;<sup>307</sup> (iv) contain KLA headers with reference numbers;<sup>308</sup> (v) contain references to the KLA and/or relevant brigades, such as Brigade 122;<sup>309</sup>

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<sup>297</sup> Motion, para. 18.

<sup>298</sup> Motion, para. 18.

<sup>299</sup> Motion, para. 20.

<sup>300</sup> Motion, para. 21.

<sup>301</sup> Motion, para. 22.

<sup>302</sup> Motion, para. 21.

<sup>303</sup> Indictment, paras 18-55, 78; SPO Pre-Trial Brief, paras 338-342, 617, 636. *Contra* Annex 1 to the Response, R.1 Objections.

<sup>304</sup> Proposed Exhibits 274, 275, 281, 285.

<sup>305</sup> Proposed Exhibits 274, 275, 281.

<sup>306</sup> Proposed Exhibits 274, 281, 285.

<sup>307</sup> Proposed Exhibits 274, 275, 281, 285.

<sup>308</sup> Proposed Exhibit 281.

<sup>309</sup> Proposed Exhibits 274, 275, 281, 285.

and (vi) refer to contemporaneous activities of the KLA and/or KLA Military Police during combat action.<sup>310</sup> Additionally, the Panel notes that Proposed Exhibits 274 and 281 refer to facts which are also referred to in adjudicated facts of which the Panel has taken judicial notice.<sup>311</sup> In light of the foregoing, the Panel is satisfied that Proposed Exhibits 274, 275, 281, and 285 bear sufficient indicia of authenticity and are *prima facie* authentic.

164. In relation to the Military Police Investigations Documents,<sup>312</sup> the Panel notes that these Proposed Exhibits: (i) are dated;<sup>313</sup> (ii) are signed;<sup>314</sup> (iii) contain the name of the author of the document<sup>315</sup> and KLA headers with reference numbers;<sup>316</sup> and (iv) contain references to the KLA and/or relevant brigades, such as Brigade 122.<sup>317</sup> Additionally, the Panel observes that Proposed Exhibit 295 refers to facts which are also referred to in adjudicated facts of which the Panel has taken judicial notice<sup>318</sup> and that the majority of these Proposed Exhibits are authored by known KLA Commanders. In light of the foregoing, the Panel is satisfied that Proposed Exhibits 276, 278, 286, 295, 297, and 301 bear sufficient indicia of authenticity and are *prima facie* authentic.

165. Turning to the Personnel Documents,<sup>319</sup> the Panel notes that these Proposed Exhibits: (i) are signed;<sup>320</sup> (ii) are dated;<sup>321</sup> (iii) bear KLA headers and/or emblems with reference numbers;<sup>322</sup> (iv) are contained on an official KLA template;<sup>323</sup> and

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<sup>310</sup> Proposed Exhibits 274, 275, 281, 285.

<sup>311</sup> Adjudicated Facts 264, 269, 462.

<sup>312</sup> Proposed Exhibits 276, 278, 286, 295, 297, 301.

<sup>313</sup> Proposed Exhibits 276, 278, 286, 295, 297, 301.

<sup>314</sup> Proposed Exhibits 276, 278, 286, 295, 297, 301.

<sup>315</sup> Proposed Exhibits 276, 278, 286, 295, 297, 301.

<sup>316</sup> Proposed Exhibits 278, 295, 297, 301.

<sup>317</sup> Proposed Exhibits 276, 278, 286, 295, 297, 301.

<sup>318</sup> Adjudicated Fact 462.

<sup>319</sup> Proposed Exhibits 277, 279, 282, 283, 284, 287, 288, 289, 291, 293, 294, 296, 300.

<sup>320</sup> Proposed Exhibits 277, 279, 282, 283, 287, 288, 289, 291, 293, 294, 296, 300.

<sup>321</sup> Proposed Exhibits 277, 279, 282, 283, 287, 288, 289, 291, 293, 294, 296, 300.

<sup>322</sup> Proposed Exhibits 277, 279, 287, 288, 289, 291, 294, 296.

<sup>323</sup> Proposed Exhibits 277, 282, 283, 289, 293.

(v) when the Proposed Exhibits constitute lists of KLA members, their personal details are provided.<sup>324</sup> Moreover, the Panel notes that Proposed Exhibits 282, 283, and 293 overlap in substance. Regarding Proposed Exhibit 304, the Panel notes that while it is neither signed nor dated, membership of the listed individuals in the KLA is corroborated by other evidence admitted on the record as well as by W03885.<sup>325</sup> Additionally, Proposed Exhibit 288 refers to facts which are also referred to in adjudicated facts of which the Panel has taken judicial notice.<sup>326</sup> In light of the foregoing, the Panel is satisfied that Proposed Exhibits 277, 279, 282-284, 287-289, 291, 293-294, 296, 300, and 304 bear sufficient indicia of authenticity and are *prima facie* authentic.

166. In relation to Proposed Exhibits 292 and 298, the Panel observes that they consist of handwritten notes authored by respective KLA Commanders. Both Proposed Exhibits contain dates and signatures within the documents, and Proposed Exhibit 292 also contains multiple stamps of the PGoK Municipal Assembly Rahovec. Regarding Proposed Exhibits 290, 302, and 303, the Panel notes that they are all authored and signed by a KLA Deputy Commander, are dated, and bear KLA headers with reference numbers. In light of the foregoing, the Panel is satisfied that Proposed Exhibits 290, 292, 298, 302, and 303 bear sufficient indicia of authenticity and are *prima facie* authentic.

167. Turning to Proposed Exhibit 299, the Panel observes that it consists of video footage from Associated Press showing Hashim Thaçi and others in Rahovec/Orahovac in a commemoration event for soldiers who fell in battle.<sup>327</sup> The Panel recalls that admissibility of videos generally requires information regarding their origin and integrity.<sup>328</sup> In this regard, the Panel observes that the SPO states

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<sup>324</sup> Proposed Exhibits 282, 283, 288, 293.

<sup>325</sup> See Transcript of Hearing, 23 September 2024, p. 20137, lines 9-15 to p. 20138, lines 6-11; P01670.

<sup>326</sup> Adjudicated Fact 262.

<sup>327</sup> Annex 1 to the Motion, pp. 258, 259.

<sup>328</sup> Decision on Bar Table Motion, para. 26.

that the video was downloaded from YouTube and it provided a verbatim transcription of its contents. The Panel notes that the video contains the TV symbol of Associated Press and depicts the events allegedly recorded. Additionally, the authenticity of this video is further corroborated by evidence tendered in the Motion and admitted by the Panel.<sup>329</sup> Furthermore, the video also relates to facts which are also referred to in adjudicated facts of which the Panel has taken judicial notice.<sup>330</sup> The Panel therefore finds that Proposed Exhibit 299 is *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

168. Having found Proposed Exhibits 274-304 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 274-304 is not outweighed by any prejudice to the Accused.

(d) Conclusion

169. In light of the above, the Panel is satisfied that Proposed Exhibits 274-304 are admissible pursuant to Rule 138(1).

## 16. Proposed Exhibits 305-316

(a) Relevance

170. Regarding Proposed Exhibits 305-316, the SPO submits that they relate to:

- (i) the control, management, and administration of troops in the Pashtrik OZ;
- (ii) the KLA structure, including in respect of special units allegedly involved in kidnappings, attacks, detentions and killings of civilians as well as the existence

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<sup>329</sup> See Annex 1 to the Motion, Proposed Exhibit 298. See also above at para. 158.

<sup>330</sup> Adjudicated Facts 74, 76-78.

of a KLA policy against suspected collaborators; (iii) the KLA operating headquarters and conducting investigations; (iv) KLA senior members conducting trainings; (v) Brigades 123, 124 and 125 as well as the Special Unit “Eye of the Eagle” operating in the Pashtrik OZ; and (vi) command and control of the OZs by the KLA/PGoK in May 1999. In this regard, the Panel notes that: (i) Proposed Exhibits 305, 308, 309, 310, 311, and 315 contain certificates of soldiers in the Pashtrik OZ, guard duties and rosters, notebooks regarding training schedules, tasks of KLA soldiers, and records of leave of absence; (ii) Proposed Exhibit 306 contains handwritten notes regarding a list of executive bodies at the KLA Local Staff; (iii) Proposed Exhibit 307 consists of a handwritten note in relation to a victim of murder; (iv) Proposed Exhibits 312,<sup>331</sup> 313, and 314 contain handwritten notes with entries relating to military strategy, military reports, call signs and codes of communication, information on the existence of an armed conflict, and a KLA situation report; and (v) Proposed Exhibit 316 contains a list of suspicious persons, including names of some of the victims named in the Indictment.<sup>332</sup>

171. The Panel further observes that the SPO relies on these Proposed Exhibits to show, *inter alia*: (i) that the intelligence services and military police frequently acted together, and were regularly involved in and responsible for the identification, arrest, detention, and interrogation of opponents, including victims of charged crimes in this case;<sup>333</sup> (ii) the composition of the Pashtrik OZ Command Staff;<sup>334</sup> (iii) that brigade and battalion commanders trained officers consistent with General Staff orders;<sup>335</sup> and (iv) that certain special units reported directly to

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<sup>331</sup> The Panel notes that the SPO only seeks to tender p. U003-1681-U003-1740.

<sup>332</sup> Annex 1 to the Motion, pp. 264-275, Proposed Exhibits 305-316.

<sup>333</sup> Motion, para. 22.

<sup>334</sup> Motion, para. 13.

<sup>335</sup> Motion, para. 18.

the General Staff, including the “Eye of the Eagle” unit commanded by Nezir Kryeziu.<sup>336</sup>

172. Having carefully reviewed Proposed Exhibits 305-316, the Panel is satisfied that each of them and all of them are relevant to facts and circumstances material to the charges in the Indictment.<sup>337</sup>

(b) Authenticity

173. Regarding the Personnel Documents,<sup>338</sup> the Panel observes that these Proposed Exhibits: (i) are dated;<sup>339</sup> (ii) are signed or name the author of the document;<sup>340</sup> (iii) contain KLA headers with reference numbers;<sup>341</sup> and/or (iv) provide references to the KLA.<sup>342</sup> Moreover, these Proposed Exhibits refer to contemporaneous daily activities of KLA soldiers for various periods in 1998 and the names of relevant soldiers.<sup>343</sup> For these reasons, the Panel is satisfied that the Personnel Documents bear sufficient indicia of authenticity and are *prima facie* authentic.

174. Turning to Proposed Exhibit 306, the Panel notes that, while it is neither signed nor dated, it contains references to the KLA Local Staff and lists various positions for the Executive Body of the KLA Local Staff. For these reasons, the Panel is satisfied that Proposed Exhibit 306 bears sufficient indicia of authenticity and is *prima facie* authentic.

175. Regarding Proposed Exhibits 312, the Panel observes that it is titled “KLA Documentation,” and the information provided therein is dated and refers to known KLA Commanders, including Bislim Zyrapi. Proposed Exhibit 313 is

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<sup>336</sup> Motion, para. 23.

<sup>337</sup> Indictment, paras 18-55. *Contra* Annex 1 to the Response, R.1 Objections.

<sup>338</sup> Proposed Exhibits 305, 308, 309, 310, 311, 315.

<sup>339</sup> Proposed Exhibits 305, 308, 309, 311, 315.

<sup>340</sup> Proposed Exhibits 305, 308, 310.

<sup>341</sup> Proposed Exhibit 305.

<sup>342</sup> Proposed Exhibits 305, 308, 309, 310, 311, 315.

<sup>343</sup> Proposed Exhibits 305, 308, 315.



dated, consists of information relating to contemporaneous KLA armed activities in 1999, such as the movement of brigades, and lists members of various KLA Brigades with their personal details. Furthermore, Proposed Exhibit 314 is also dated and signed, provides references to the KLA activities and brigades active in the KLA OZs. In relation to Proposed Exhibit 316, the Panel notes that while it is neither signed nor dated, names of the listed individuals are further corroborated by other evidence admitted on the record.<sup>344</sup> The Panel also notes that some of the named individuals are also listed as alleged victims in the Indictment.<sup>345</sup>

176. Turning to Proposed Exhibit 307, the Panel notes that it consists of a handwritten note that is neither signed, and while it is dated and provides a reference to “HQ”, the Panel considers that the information therein does not clarify that the mentioned individuals were linked to the KLA. The Panel notes that while the SPO submits that information contained in other, previously tendered documents corroborate the murder described in Proposed Exhibit 307, the Panel could not find such information in the referenced documents.<sup>346</sup> In light of the foregoing, the Panel is not satisfied that the SPO has demonstrated the *prima facie* authenticity of Proposed Exhibit 307.

(c) Probative value not outweighed by prejudicial effect

177. Having found Proposed Exhibits 305-306 and 308-316 to be relevant and *prima facie* authentic, the Panel is further satisfied that these items also bear *prima facie* probative value regarding facts and circumstances relevant to this case. The Panel is satisfied that the *prima facie* probative value of Proposed Exhibits 305-306 and 308-316 is not outweighed by any prejudice to the Accused.

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<sup>344</sup> See P00993.2\_ET.

<sup>345</sup> Compare Proposed Exhibit 316, item no. 68 and Indictment, para. 162.

<sup>346</sup> Annex 1 to the Motion, p. 265, Proposed Exhibit 307.



(d) Conclusion

178. In light of the above, the Panel is satisfied that Proposed Exhibits 305-306 and 308-316 are admissible pursuant to Rule 138(1) and denies, without prejudice, Proposed Exhibit 307.

V. CLASSIFICATION

179. The Panel notes that the Response was filed as confidential pursuant to Rule 82(4).<sup>347</sup> The Panel instructs the Defence to request reclassification or file a public redacted version of the Response within 7 days of the filing of the present Decision. The Panel also instructs the Registry to reclassify the Reply from confidential to public within 3 days of the filing of the present decision.

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

VI. DISPOSITION

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

- a) **GRANTS**, in part, the Motion;
- b) **ADMITS** into evidence the following Proposed Exhibits and any translations thereof: 1-30, 32-64, 66-107, 109-121, 123-129, 131-145, 147-166, 168, 170-205, 207-230, 232-306, and 308-316;
- c) **DENIES** the admission of Proposed Exhibits 31, 65, 108, 122, and 307 without prejudice;
- d) **INSTRUCTS** the Registry to reflect the evidentiary status of P01804 MFI, P02078 MFI, and P01123 MFI as admitted;
- e) **DECLARES** the request to admit Proposed Exhibits 130, 146, 167, 169,

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<sup>347</sup> Response, para. 9.

206, and 231 moot;

- f) **AUTHORISES** the SPO to substitute the translation tendered in the Motion for Proposed Exhibit 155 with the revised translation;
- g) **DIRECTS** the Registry to assign the admitted items: (i) exhibit numbers and (ii) the classification indicated in Annex 1 to the Motion;
- h) **DIRECTS** the Registry to reclassify the Reply as public within 3 days of the filing of the present Decision; and
- i) **DIRECTS** the Defence to request reclassification or file a public redacted version of the Response within 7 days of the filing of the present Decision.

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

**Judge Charles L. Smith, III**

**Presiding Judge**

Dated this Tuesday, 1 April 2025

At The Hague, the Netherlands.