



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA 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: 29 May 2025

Language: English

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**Public Redacted Version of Decision on Prosecution Motion for Admission of
Documents concerning Murder Victims and Related Request**

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

I. PROCEDURAL BACKGROUND

1. On 31 March, 9 June, 27 July, 8 August, 3 October and 5 December 2023, as well as on 21 and 26 February, 4 March, 1 and 4 April and 13 May 2025, the Panel issued a number of decisions addressing bar table motions filed by the Specialist Prosecutor's Office ("SPO").¹

2. On 13 December 2024, the SPO filed a motion for admission of murder victims' ("Murder Victims") documents and a related request ("Motion").²

¹ F01409, Panel, *Decision on Specialist Prosecutor's Bar Table Motion*, 31 March 2023, confidential; F01596, Panel, *Second Decision on Specialist Prosecutor's Bar Table Motion* ("9 June 2023 Decision"), 9 June 2023, confidential and *ex parte* (a confidential redacted version was issued on the same day, F01596/CONF/RED; the *ex parte* marking of the decision was lifted on 22 June 2023, F01596/CONF; the decision was reclassified as public on 15 November 2023, F01596); F01705, Panel, *Third Decision on Specialist Prosecutor's Bar Table Motion*, 27 July 2023 ("27 July 2023 Decision"); 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, *Corrected Version of Sixth Decision on Specialist Prosecutor's Bar Table Motion* ("5 December 2023 Decision"), 5 December 2023; F02951, Panel, *Decision on Prosecution Motion for Admission of Llap Zone Documents and Related Request* ("21 February 2025 Decision"), 21 February 2025; F02967, Panel, *Decision on Prosecution Motion for Admission of Drenica Zone Documents*, 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*, 4 March 2025; F03070, Panel, *Decision on Prosecution Motion for Admission of Pashtrik Zone Documents*, 1 April 2025; F03082, Panel, *Decision on Prosecution Motion for Admission of Nerodime Zone Documents*, 4 April 2025; F03178, Panel, *Decision on Prosecution Motion for Admission of Dukagjin Zone Documents*, 13 May 2025.

² F02784, Specialist Prosecutor, *Prosecution Motion for Admission of Documents Concerning Murder Victims and Related Request*, 13 December 2024, with Annexes 1, confidential ("Annex 1 to the Motion"), and Annex 2, confidential.

3. On 23 January 2025, upon authorisation by the Panel,³ the Defence filed a joint response to the Motion (“Response”).⁴
4. On 28 January 2025, the SPO replied (“Reply”).⁵
5. On 7 April 2025, upon authorisation from the Panel,⁶ the SPO amended its list of proposed exhibits (“Exhibit List”).⁷

II. SUBMISSIONS

6. The SPO requests: (i) leave to amend its Exhibit List to add an item with ERN SPOE00325698-00325769, which is a compilation of documents related to the autopsy, DNA analysis and identification of a victim named in the Indictment (“Additional Item”);⁸ and (ii) the admission of documents related to the deaths of alleged victims, including selected pages of the Additional Item (“Proposed Exhibits”).⁹ All but one of those alleged victims are named in Schedule B to the Indictment.¹⁰ The SPO submits that the Proposed Exhibits are relevant, *prima facie* authentic and have probative value that is not outweighed by any prejudice.¹¹

³ F02800, Panel, *Order on the Extension of Time for Filings and Private Session Transcript Reviews During Winter Recess Period*, 19 December 2024, paras 14, 15(b).

⁴ F02853, Specialist Counsel, *Joint Defence Response to Prosecution Motion for Admission of Documents Concerning Murder Victims*, 23 January 2025, confidential, with Annex 1, confidential (“Annex 1 to the Response”), and Annex 2, confidential.

⁵ F02867, Specialist Prosecutor, *Prosecution Reply to ‘Joint Defence to Prosecution Motion for Admission of Documents Concerning Murder Victims’ (F02853)*, 28 January 2025, confidential.

⁶ F03071, Panel, *Decision on Prosecution Request to Amend the Exhibit List and Admit Items*, 1 April 2025 (“1 April 2025 Decision”).

⁷ F03090, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 7 April 2025, with Annex 1, confidential.

⁸ Motion, paras 1, 11, 13, referring to Annex 1 to the Motion, Proposed Exhibit 63.

⁹ Motion, paras 2-11, 13, referring to Annex 1 to the Motion, Proposed Exhibits 1-90. See also Reply, paras 2-10, 12.

¹⁰ [REDACTED] is not named in the Indictment, nor in the Schedules thereto. Evidence relating to his death is addressed in paragraphs 93-96 below.

¹¹ Motion, paras 1, 10, referring to Annex 1 to the Motion, Proposed Exhibits 1-90.

7. The SPO submits that the Proposed Exhibits are relevant, as they: (i) establish the mistreatment or deaths of numerous victims as charged in the Indictment,¹² with several also demonstrating the similar circumstances or causes of the victims' deaths at the same location; and (ii) corroborate evidence of cruel treatment and torture of detainees who made it out of the detention sites alive.¹³ The SPO also submits that the Proposed Exhibits contain multiple indicia of authenticity, as indicated in Annex 1 to the Motion.¹⁴ The SPO further submits that as the Proposed Exhibits are relevant, *prima facie* authentic, and reliable, they also have probative value.¹⁵ The SPO further argues that the probative value of the Proposed Exhibits is not outweighed by any prejudice, in particular as: (i) the hearsay information contained therein does not mean that their *prima facie* probative value is outweighed by their prejudicial effect; (ii) the Defence has had, and will have, the opportunity to address and make submissions concerning the Proposed Exhibits; and (iii) the Panel will assess what weight to assign to any admitted exhibits at the end of the trial, in light of the entire record.¹⁶

8. The Defence responds that: (i) the initial title of the provisional version of the Motion, referring to forensic documents, was more accurate than the current title as the Motion consists of expert forensic evidence and witness statements produced by experts and others;¹⁷ (ii) the Motion relies solely on the provisions contained in Rules 137 and 138, whereas the material it seeks to tender consists of expert forensic evidence, which is governed by Rule 149 for its admissibility, and cannot be admitted through Rule 138, as it would result in its probative value being outweighed by its prejudicial effect, given that the Defence cannot challenge

¹² F00999/A01, Specialist Prosecutor, *Annex 1 to Submission of Confirmed Amended Indictment* ("Indictment"), 30 September 2022, confidential (a public lesser redacted version was filed on 27 February 2023, F01323/A01).

¹³ Motion, paras 4-5, *referring to, inter alia*, 5 December 2023 Decision, paras 52-53.

¹⁴ Motion, paras 6-9.

¹⁵ Motion, para. 10.

¹⁶ Motion, para. 10.

¹⁷ Response, paras 9-10.

the evidence against them, contrary to Rule 149;¹⁸ (iii) the SPO seeks to tender numerous witness statements under Rule 138 that can only be admitted under the *lex specialis* provisions of Rules 153-155;¹⁹ (iv) an autopsy report or findings as to cause of death are central evidence in a murder trial and cannot be admitted without challenge, contrary to Rule 149;²⁰ (v) DNA reports and analyses are also expert evidence and DNA certificates do not meet the minimum threshold of reliability;²¹ (vi) statements from forensic anthropologists concerning exhumations also amounts to expert evidence, as recognized by international criminal tribunals, and should therefore be admitted through expert witnesses, pursuant to Rule 149;²² (vii) the United Nations Mission in Kosovo (“UNMIK”) and International Criminal Tribunal for the Former Yugoslavia (“ICTY”) documents that the SPO seeks to tender amount to records of what a person has said in respect of facts and circumstances relevant to the case, in the context of a criminal investigation, and therefore amount to witness statements;²³ (viii) photo logs tendered by the SPO have no value in isolation without the accompanying evidence of a witness explaining their purpose and photographs are therefore inadmissible via the bar table, in the absence of explanatory evidence;²⁴ (ix) the Panel cannot assess the weight of expert evidence in the abstract, particularly as the evidence concerns technical matters beyond the Panel’s expertise, and must therefore hear from the experts and allow the evidence to be challenged;²⁵ and

¹⁸ Response, paras 11-21, 28-29.

¹⁹ Response, paras 7; 22-27.

²⁰ Response, para. 13. *See also* Response, paras 11-12.

²¹ Response, para. 14.

²² Response, paras 19-21 *referring to* ICTY, [Prosecutor v. Karadžić](#), IT-95-5/18-T, Public Redacted Version of Judgment Issued on 24 March 2016, 24 March 2016, paras 19, 5253-5259, 5261-5263; ICTY, [Prosecutor v. Krstić](#), IT-98-33-T, Judgment, 2 August 2001, para. 72; ICTY, [Prosecutor v. Popović](#), IT-05-08-T, Transcript of Hearing, 15 March 2007; ICC, [Prosecutor v. Ntaganda](#), ICC-01/04-02/06, Transcript of Hearing, 6 September 2016.

²³ Response, para. 26, *referring to* Annex 1, item 14, 33, 43-44.

²⁴ Response, para. 27.

²⁵ Response, paras 30-32

(x) the SPO has not demonstrated good cause for amending the Exhibit List under Rule 118(2).²⁶

9. The SPO replies that the Response misstates the regulatory framework, ignores the Panel's previous decisions, and is otherwise unfounded.²⁷ The SPO further submits that: (i) the Proposed Exhibits do not constitute expert reports as defined in Rule 149 and do not qualify as expert evidence falling under this Rule;²⁸ (ii) the determination as to whether the DNA reports amount to an expert report within the meaning of Rule 149 has to be made by the Panel;²⁹ (iii) the Proposed Exhibits do not comprise witness statements as defined by the Panel;³⁰ (iv) the DNA certificates cited as examples by the Defence are not tendered in the Request, and, according to the SPO's expert DNA witness, the DNA certificates tendered in the Request should, in an ideal situation, be used in forming the opinion on identification;³¹ (v) photo logs are necessary to understand the photographs concerning charged murder victims, and corroborate reports which have also been tendered for admission;³² (vi) autopsy reports address the cause of death and do not detract from the Panel's ability to rule on whether or not the victim's death has been proven and amounts to a crime at the end of the case, therefore the fact that evidence concerning exhumations was tendered through experts at other courts is irrelevant;³³ (vii) the Defence contradicts itself arguing that certain issues are not related to weight;³⁴ (viii) the admission of Proposed Exhibits would not cause undue prejudice to the Defence as the Accused's rights are protected by the

²⁶ Response, paras 34-36.

²⁷ Reply, paras 2, 7, referring to, *inter alia*, F02787, Panel, *Decision on Prosecution Motion for Admission of Evidence of Witnesses W04826, W04874, and W04875 pursuant to Rules 138, 149, and 154 and Related Request* ("16 December 2024 Decision"), confidential, para. 41 (a public redacted version was issued on the same day, F02787/RED).

²⁸ Reply, para. 2. *See also* Reply, para. 3.

²⁹ Reply, para. 3.

³⁰ Reply, para. 4.

³¹ Reply, para. 5, referring to W04875.

³² Reply, para. 6.

³³ Reply, para. 9.

³⁴ Reply, para. 7.

Defence's ability to lead evidence to the contrary and making submissions concerning the Proposed Exhibits;³⁵ and (ix) the fact that the Defence objected to the admission of certain comparable items is irrelevant as there is no suggestion by the SPO that the Proposed Exhibits be admitted based on anything other than the law.³⁶

III. APPLICABLE LAW

10. The applicable law regarding the present matter is set out, in particular, in Article 40(6)(h) and Rules 118(2) and 138(1), and has been laid out extensively in the Panel's prior decisions.³⁷ The Panel will apply these standards to the present decision.

IV. DISCUSSION

A. REQUESTED AMENDMENT OF EXHIBIT LIST

11. Pursuant to Rule 118(2), the Panel may permit, upon timely notice and a showing of good cause, the amendment of the lists of witnesses and/or exhibits filed pursuant to Rule 95(4)(b) and (c). As proceedings advance, any further requests to amend the Exhibit List will be subject to greater scrutiny.³⁸ As previously stated, the Panel has already permitted the SPO to add items to the

³⁵ Reply, para. 8.

³⁶ Reply, para. 10.

³⁷ 1 April 2025 Decision, para. 10; F01409, Panel, *Decision on Specialist Prosecutor's Bar Table Motion*, 31 March 2023, confidential, paras 8-13.

³⁸ See, amongst many, 1 April 2025 Decision, para. 9; F01995, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F01844)* ("8 December 2023 Decision"), 8 December 2023, confidential, para. 9 (a public redacted version was issued on the same day, F01995/RED); F02167, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F02099)*, 7 March 2024, confidential, para. 10 (a public redacted version was filed on the same day, F02167/RED); F02501, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F02279) and on Thaçi Defence Motion for Exclusion of Materials in Limine* 22 August 2024, confidential, para. 23 (a public redacted version was issued on 20 December 2024, F02501/RED).

Exhibit List several times and the Exhibit List is already, by any standards, voluminous. With this in mind, the Panel will assess whether, at the current stage of proceedings, the SPO has provided timely notice and shown good cause for the amendment of its Exhibit List, and that no undue prejudice is caused to the Defence as a result.³⁹

12. As regards the timeliness of notice, the Panel is of the view that inclusion of the Additional Item on the Exhibit List could and should have been sought by the SPO at an earlier stage. However, the Panel notes the SPO's submission that the Additional Item has been identified for addition to the Exhibit List during a document review in preparation of the tender of items related to victims of murder charged in the Indictment.⁴⁰

13. The Panel further notes that: (i) the Additional Item was disclosed to all Defence teams on 15 October 2024 pursuant to Rule 102(3);⁴¹ (ii) the SPO notified the Defence of its intention to add the item to the Exhibit List on 13 December 2024; and (iii) the Defence did not contest the timeliness of notice. Bearing in mind that a certain degree of flexibility must be maintained in the context of a complex multi-accused trial,⁴² and considering the limited size of the item and the fact that it had been in possession of the Defence for some time, the Panel finds the notice provided by the SPO to be timely.

14. As regards good cause and the question of the relevance and importance of the Additional Item, the Panel recalls its previous finding that inadvertent omission, on its own and at this stage of the proceedings, does not constitute good

³⁹ F01656, Panel, *Decision on Prosecution Request to Add Intercepted Communications to the Exhibit List*, 7 July 2023, confidential, para. 11 (a public redacted version was issued on 14 November 2023, F01656/RED); F01785, Panel, *Decision on Prosecution Requests to Amend the Exhibit List (F01689 and F01747)* ("12 September 2023 Decision"), 12 September 2023, confidential, para. 15 (a public redacted version was issued on 10 November 2023, F01785/RED). *See also*, 8 December 2023 Decision, para. 9.

⁴⁰ Motion, para. 11.

⁴¹ Disclosure Package 1446.

⁴² 8 December 2023 Decision, para. 14; F01902, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F01858)*, 3 November 2023, para. 7.

cause.⁴³ The Panel acknowledges that the relevance and importance of certain items may become more apparent to a Party as the trial proceeds.⁴⁴ However, the Additional Item is a compilation of reports from the European Union Rule of Law Mission in Kosovo ("EULEX"), UNMIK, and International Commission on Missing Person ("ICMP") concerning the death certificate, autopsy reports, and DNA analysis of a victim that the SPO named in a Schedule to the Indictment.⁴⁵ As such, its relevance to these proceedings should have been obvious to the SPO during its pre-trial preparations. The SPO should have included the Additional Item on its list of exhibits before the trial began, and it has not provided a cogent explanation for its failure to do so. The Panel therefore finds that the SPO has failed to establish good cause for the late addition of the Additional Item to the Exhibit List. The Panel rejects the SPO request for leave to add the Additional Item (Proposed Exhibit 63) to the Exhibit List.

15. The Panel will therefore not assess whether the Additional Item is admissible pursuant to Rule 138.

1. Admission of Proposed Exhibits: General Considerations

16. *Expert evidence.* The Panel notes the Defence's argument that expert evidence cannot be admitted through the bar table and that seeking to tender expert evidence through Rule 138 would result in its probative value being outweighed by its prejudicial effect, as the Defence cannot challenge the evidence against them.⁴⁶

⁴³ 12 September 2023 Decision, para. 27; F01352, Panel, *Decision on Prosecution Request to Amend the Exhibit List and Related Matters*, 8 March 2023, confidential, para. 31 (a public redacted version was issued on the same day).

⁴⁴ See also 12 September 2023 Decision, para. 27.

⁴⁵ Motion, para. 11, referring to Indictment, Schedule B, victim 28.1.

⁴⁶ See above para. 8.

17. The Panel considers that the report or parts thereof of any expert witness to be called by a Party cannot be admitted through the bar table through Rule 138. In this regard, the Panel recalls that, according to Rule 149(1) and (3), “[t]he final report of any expert witness to be called by a Party shall be disclosed to the opposing Party” and “[i]f [the opposing] Party exercised its rights under paragraph (2)(b) or (c) [of Rule 149], the Panel shall decide on the admissibility of the expert witness report following the testimony and questioning of the expert”. Rule 149 does not address the question of admission of any evidence other than the expert witness “report”, or parts thereof, nor does Rule 149 refer to any category of witnesses other than an “expert witness to be called by a Party”.

18. The Panel is of the view that evidence may qualify as an “expert report” if it falls within the scope of application of Rule 149, and is tendered through an “expert witness to be called by a Party”. The Panel notes that the Proposed Exhibits are not expert reports of any expert witness to be called by any Party. Rather, they have been tendered by the SPO under Rule 138, and therefore are not being offered nor qualify for the purpose of these proceedings as expert evidence as understood under Rule 149.⁴⁷ The fact that the Proposed Exhibits contain information that relied on their author’s expertise does not render them inadmissible under Rule 138. The fact, however, that their author has not been called and his or her qualification established to draw up the items concerned will be considered by the Panel when determining the weight, if any, to be attributed to them. In light of the above, the Panel rejects the Defence’s submissions regarding the *prima facie* probative value of the Proposed Exhibits being outweighed by their prejudicial effect.⁴⁸

19. *Witness statements.* The Panel notes the Defence’s argument that witness statements can only be admitted under the *lex specialis* provisions of Rules 153-

⁴⁷ See 5 December 2023 Decision, paras 52-57, referring to P00854; P00855; P00866.

⁴⁸ Annex 1 to the Response, O1, O2, O3, O4 and O7 Objections.

155, and the Defence's reliance on the definition of witness statement as "a record, in whatever form, of what the Witness said in respect of facts and circumstances relevant to the case in the context of a criminal investigation or proceedings".⁴⁹ The Panel recalls that it has denied the admission of witness statements constituting or containing statements or records of interviews prepared for the purposes of legal proceedings, offered for the truth of their content, and, as such, subject to Rules 153-155.⁵⁰ In the current circumstances, the Panel is satisfied that none of the Proposed Exhibits fall under the definition of 'witness statement' as the relevant items consist of: (i) exhumation reports including photos;⁵¹ (ii) UNMIK documents related to the exhumation of victims at a specific location;⁵² (iii) a report on the investigation of cartridge cases, bullets and fragments from Kosovo;⁵³ and (iv) a UNMIK report on an exhumation at a specific location.⁵⁴

20. *Photo logs.* The Panel notes the Defence's argument that admission of the photo logs should be denied as they have no value without the accompanying evidence of a witness explaining their purpose, which the Defence argues is inadmissible via the bar table.⁵⁵ The Panel notes that the photo logs appear to be lists of photographs, prepared by EULEX forensic teams, taken by forensic photographers of exhumed remains indicating the date of each photograph and what each photograph depicts. The Panel is satisfied that the relevance of the

⁴⁹ Response, para. 24, *referring to, inter alia*, F02580, Panel, *Reasons for Admission of W03780's Statements and Related Order*, 15 February 2024, para. 10; F01923, Panel, *Decision on Admission of Documents Shown to W04769*, 27 November 2023, para. 15; F01852, Panel, *Decision on Admission of Evidence of Fist Twelve SPO Witnesses Pursuant to Rule 154*, 16 March 2023, confidential, paras 12, 26 (a public redacted version was issued on 7 November 2023, F01380/RED).

⁵⁰ 5 December 2023 Decision, para. 126.

⁵¹ See Annex 1 to the Motion, item 14.

⁵² See Annex 1 to the Motion, item 33. In this regard, the Panel notes that, contrary to its title, item 33 consists of reports, depictions of grids, lists of retrieved objects and other items, and does not contain a witness statement (*see Reply*, para. 4).

⁵³ See Annex 1 to the Motion, item 43.

⁵⁴ See Annex 1 to the Motion, item 44; *contra* Annex 1 to the Response, O5 Objection.

⁵⁵ Response, para. 27.

photo logs is clear when read in conjunction with the information provided by the SPO in Annex 1 to the Request.⁵⁶

21. *Proposed Evidence.* The Panel will now turn to consider the Parties' submissions regarding authenticity. In particular, the Panel notes the Defence's arguments that there are insufficient indicators of authenticity of certain Proposed Exhibits, including: (i) the absence of indication of authorship;⁵⁷ (ii) the insufficiently detailed, incomplete, and/or unverifiable chain of custody;⁵⁸ and (iii) the absence of signatures.⁵⁹ The Panel first recalls that proof of provenance or authorship is not strictly required when assessing *prima facie* authenticity and reliability under Rule 138(1).⁶⁰ Secondly, the Panel recalls its previous findings that proof or a record of chain of custody is not a pre-condition for the admission of evidence under Rule 138(1).⁶¹ Thirdly, the Panel recalls that the presence of a signature is not a condition for the admission of evidence under Rule 138(1).⁶² *Prima facie* authenticity can be established in a variety of ways, in light in particular of a document's content, markings, origin, provenance, and relation to other authenticated items. This being said, the Panel recalls that certain categories of documents, bearing no indication of a source or other indicators of origin, might lack the indicia of reliability or authenticity required for admission, unless they contain other relevant indicators.⁶³ In this regard, the fact that a document does not identify its source does not entail that there cannot be other indications as to who authored the item, or from where it originated. For the purpose of admission,

⁵⁶ *Contra* Annex 1 to the Response, O6 Objection.

⁵⁷ Annex 1 to the Response, A.1 and A.1.4 Objections.

⁵⁸ Annex 1 to the Response, A.1 and A.3 Objections.

⁵⁹ Annex 1 to the Response, A.1 and A.1.2 Objections.

⁶⁰ 21 February 2025 Decision, para. 23; *contra* Annex 1 to the Response, A.1 and A.1.4 Objections.

⁶¹ 9 June 2023 Decision, para. 109.

⁶² 27 July 2023 Decision, paras 39-40.

⁶³ 9 June 2023 Decision, para. 59, referring to ICTY, *Prosecutor v. Mladić*, IT-09-92-T, [Decision on Defence's Fifth Motion for the Admission of Documents from the Bar Table](#), 30 May 2016, para. 23.

the question is whether the document in question meets the requirements of Rule 138(1).

2. Proposed Exhibits 1-9: victims 17.1-17.5

(a) Relevance

22. Regarding the relevance of Proposed Exhibits 1-9, the Panel observes that the SPO submits that they relate to a number of alleged victims listed in the Indictment, namely, [REDACTED].⁶⁴ In this regard, the Panel notes that: (i) Proposed Exhibits 1-5 consist of photo logs listing the photographs taken of exhumed remains, assigned to specific victims in relevant locations; (ii) Proposed Exhibits 6-7 consist of ante mortem/victim identification reports for specific victims in relevant locations; (iii) Proposed Exhibit 8 consists of an *ante mortem* investigation about a burial site in a location relevant to the assessment of the circumstances surrounding the deaths of specific victims; and (iv) Proposed Exhibit 9 consists of an exhumation report (“Exhumation Report”) at a relevant location referring to specific victims.⁶⁵

23. The Panel is satisfied that Proposed Exhibits 1-9 are relevant to allegations of mistreatment and/or cause and circumstances of death of alleged victims as charged in the Indictment.⁶⁶

24. In addition, the Panel notes and agrees with the SPO’s submission that the Proposed Exhibits are also relevant to and might corroborate certain witness testimony,⁶⁷ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.⁶⁸

⁶⁴ See Annex 1 to the Motion, pp. 1-9, Proposed Exhibits 1-9.

⁶⁵ See Annex 1 to the Motion, pp. 1-9.

⁶⁶ See also Motion, paras 2, 4-5.

⁶⁷ Motion, para. 2 referring to W04826, W04874 and W04875.

⁶⁸ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 1-9.

25. In light of the above and having assessed the content of the Proposed Exhibits, the Panel is satisfied that Proposed Exhibits 1-9 are relevant to allegations and charges in the Indictment.⁶⁹

(b) Authenticity

26. Regarding authenticity, the Panel notes that Proposed Exhibits 1-5: (i) bear EULEX and Office on Missing Persons and Forensics (“OMPF”) logos; (ii) refer to a relevant case number; (iii) indicate the dates corresponding to each photograph; (iv) describe each photograph; and (v) refer to the name of the forensic photographer. For these reasons, the Panel is satisfied that Proposed Exhibits 1-5 bear sufficient indicia of authenticity and are therefore *prima facie* authentic.

27. The Panel further notes that Proposed Exhibits 6-7 contain: (i) the date and location of the interview contained in Proposed Exhibit 7; (ii) the name or signature of the interviewer and of the persons filling in the reports, and indications of their organisations; (iii) personal information about the informant in relation to Proposed Exhibit 7; (iv) personal details and information about the missing persons; (v) relevant information related to the missing persons’ disappearance; and (vi) photos of the missing person. For these reasons, the Panel is satisfied that Proposed Exhibits 6-7 bear sufficient indicia of authenticity and are therefore *prima facie* authentic.⁷⁰

28. The Panel notes that Proposed Exhibits 8-9 contain: (i) the EULEX logo and OMPF acronym, respectively; (ii) the date and location of the search and exhumation; (iii) the relevant location number; (iv) photographs of the relevant locations; (v) notes on the photographs; (vi) the name of the photographer in Proposed Exhibit 9; (vii) names of the attendees to the search and exhumation;

⁶⁹ See e.g. Indictment, Schedule B, victims 17.1-17.5.

⁷⁰ *Contra* Response; Annex 1 to the Response, Proposed Exhibits 6-7, A.3.3.1 Objection.

(viii) location maps for the relevant sites; and (ix) further investigative steps or conclusions. For these reasons, the Panel is satisfied that Proposed Exhibits 8-9 are *prima facie* authentic.⁷¹

(c) Probative value not outweighed by prejudicial effect

29. Having found Proposed Exhibits 1-9 to be relevant and *prima facie* authentic, the Panel is also satisfied that these items bear probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 22-23.⁷²

30. The Panel further finds that the probative value of Proposed Exhibits 1-9 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of the weight and probative value of these items and may, if it so chooses, challenge the content of any of these items through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

31. In light of the above, the Panel is satisfied that Proposed Exhibits 1-9 are admissible pursuant to Rule 138(1).

3. Proposed Exhibit 10: victim 19.1

(a) Relevance

32. Regarding the relevance of Proposed Exhibit 10, the Panel observes that the SPO submits that it relates to alleged victim [REDACTED].⁷³ In this regard, the Panel notes that Proposed Exhibit 10 consists of a report on the recovery,

⁷¹ *Contra* Annex 1 to the Response, A.1 and A.3 Objections.

⁷² *Contra* Annex 1 to the Response, PV.1 and PV.3 Objections.

⁷³ *See* Annex 1 to the Motion, pp. 9-10, Proposed Exhibit 10. The Panel notes that victim 19.2 is not mentioned in Proposed Exhibit 10.

examination and identification of the remains of this specific victim, and that the SPO states that it received the report from the Basic Court of Prizren.⁷⁴

33. The Panel is satisfied of the item's relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of an alleged victim as charged in the Indictment.⁷⁵

34. In addition, the Panel notes that the Proposed Exhibits are relevant to and might corroborate certain witness testimony,⁷⁶ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.⁷⁷

35. In light of the above, the Panel is satisfied that Proposed Exhibit 10 is relevant to allegations and charges in the Indictment.⁷⁸

(b) Authenticity

36. Regarding authenticity, the Panel notes that Proposed Exhibit 10: (i) refers to the date and name of the author of the report; (ii) is signed by the author of the report and stamped by the Department of Justice, on every page; (iii) refers to the methodology used in the report; and (iv) contains photographs of the human remains with a reference number. For these reasons, the Panel is satisfied that Proposed Exhibit 10 is *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

⁷⁴ See Annex 1 to the Motion, pp. 9-10.

⁷⁵ See also Motion, paras 4-5.

⁷⁶ Motion, para. 2 *referring to* W04826, W04874 and W04875.

⁷⁷ Motion, para. 2. *See also* Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 9-10.

⁷⁸ *See e.g.* Indictment, Schedule B, victims 19.1.

37. Having found Proposed Exhibit 10 to be *prima facie* relevant and authentic, the Panel is also satisfied that it bears *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 32-33.

38. The Panel further finds that the probative value of Proposed Exhibit 10 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of the weight and probative value of the item and could, if it so chooses, challenge its content through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

39. In light of the above, the Panel is satisfied that Proposed Exhibit 10 is admissible pursuant to Rule 138(1).⁷⁹

4. Proposed Exhibits 11-13: victims 20.1, 22.2, 22.3, 23.1, and 23.2

(a) Relevance

40. Regarding the relevance of Proposed Exhibits 11-13, the Panel observes that the SPO submits that they relate to alleged victims [REDACTED].⁸⁰ In this regard, the Panel notes that Proposed Exhibits 11-13 consist of documents identifying those specific victims.⁸¹

41. The Panel is satisfied of the item's relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of an alleged victim as charged in the Indictment.⁸²

⁷⁹ The Panel notes that SPOE00208422-00208440 RED, pp. SPOE00208436-SPOE00208440 has already been admitted into evidence through F03202. The Panel directs the Registry to add Proposed Exhibit 10 to the already admitted exhibit.

⁸⁰ See Annex 1 to the Motion, pp. 10-11, Proposed Exhibits 11-13.

⁸¹ See Annex 1 to the Motion, pp. 10-11.

⁸² See also Motion, paras 4-5.

42. In addition, the Panel notes and agrees with SPO's submission that the Proposed Exhibits are relevant to and might corroborate certain witness testimony,⁸³ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.⁸⁴

43. In light of the above, the Panel is satisfied that Proposed Exhibits 11-13 are relevant to allegations and charges in the Indictment.⁸⁵

(b) Authenticity

44. Regarding authenticity, the Panel notes that Proposed Exhibits 11-13 contain: (i) a header from the provider; (ii) a reference to a case number; (iii) relevant dates, names and locations; and (iv) pictures or descriptions of relevant information regarding and identifying the victim. The Panel is of the view that notes in the margins of a document, such as those in Proposed Exhibit 11, do not affect the admissibility of an item but may bear on the weight the Panel will give to it at the end of the trial.⁸⁶ For these reasons, the Panel is satisfied that Proposed Exhibits 11-13 are *prima facie* authentic.⁸⁷

(c) Probative value not outweighed by prejudicial effect

45. Having found Proposed Exhibits 11-13 to be *prima facie* relevant and authentic, the Panel is also satisfied that these items bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 40-41.⁸⁸

⁸³ Motion, para. 2 referring to W04826, W04874 and W04875.

⁸⁴ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 10-12.

⁸⁵ See e.g. Indictment, Schedule B, victims 1 20.1, 22.2, 22.3, 23.1, and 23.2.

⁸⁶ Contra Annex 1 to the Response, item 11, A.3 Objection.

⁸⁷ Contra Annex 1 to the Response, A.1, A.1.2, A.3 Objections.

⁸⁸ Contra Annex 1 to the Response, PV.1 and PV.3 Objections.

46. The Panel further finds that the probative value of Proposed Exhibits 11-13 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of their weight and probative value and may, if it so chooses, challenge their content through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

47. In light of the above, the Panel is satisfied that Proposed Exhibits 11-13 are admissible pursuant to Rule 138(1).

5. Proposed Exhibits 14-25: victims 18.1-18.12

(a) Relevance

48. Regarding the relevance of Proposed Exhibits 14-25, the Panel observes that the SPO submits that they relate to alleged victims [REDACTED].⁸⁹ In this regard, the Panel notes that: (i) Proposed Exhibit 14 consists of an exhumation report, explaining the planning and mapping of the site as well as the specifics of the excavations, also identifying victims from the exhumation site; (ii) Proposed Exhibits 15-24 consist of reports of autopsies of human remains identifying victims and determining the cause and/or circumstances of death; and (iii) Proposed Exhibit 25 consists of a colour photograph of the relevant exhumation site.⁹⁰

49. The Panel is satisfied of the items' relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of alleged victims as charged in the Indictment.⁹¹

50. In addition, the Panel also notes and agrees with the SPO's submission that the Proposed Exhibits are relevant to and could corroborate certain witness

⁸⁹ See Annex 1 to the Motion, pp. 12-21, Proposed Exhibits 14-25.

⁹⁰ See Annex 1 to the Motion, pp. 12-21.

⁹¹ See also Motion, paras 4-5.

testimony,⁹² documentary evidence and adjudicated facts of which the Panel has taken judicial notice.⁹³

51. In light of the above, the Panel is satisfied that Proposed Exhibits 14-25 are relevant to allegations and charges in the Indictment.⁹⁴

(b) Authenticity

52. Regarding authenticity, the Panel notes that Proposed Exhibit 14 provides: (i) the dates of the exhumation; (ii) the position of the mass grave, with Universal Transverse Mercator (“UTM”) grid references; (iii) specific findings of the excavation; (iv) photographs of all evidence collected and numbered; and (v) information about the involvement of the German Kosovo Force (“KFOR”) soldiers in providing a topographical survey. For these reasons, the Panel is satisfied that Proposed Exhibit 14 are *prima facie* authentic.⁹⁵

53. The Panel further notes that each of Proposed Exhibits 15-24 contains: (i) the date of the autopsy; (ii) the location of the autopsy centre; (iii) the name and signature of the author; (iv) the case number assigned to the human remains; (v) photographs of the human remains with the assigned number; and (vi) the autopsy findings and conclusions. For these reasons, the Panel is satisfied that Proposed Exhibits 15-24 are *prima facie* authentic.

54. The Panel notes that Proposed Exhibits 25 consists of and provides: (i) a colour photograph of an exhumation site; and (ii) a location number corresponding to a relevant exhumation site where human remains, articles of

⁹² Motion, para. 2 referring to W04826, W04874 and W04875.

⁹³ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 12-21.

⁹⁴ See e.g. Indictment, Schedule B, victims 18.1-18.12.

⁹⁵ Contra Annex 1 to the Response, A.1 and A1.4 Objections.

clothing and personal belongings have been analysed and collected.⁹⁶ For these reasons, the Panel is satisfied that Proposed Exhibits 25 is *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

55. Having found Proposed Exhibits 14-25 to be *prima facie* relevant and authentic, the Panel is also satisfied that these items bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 49.

56. The Panel further finds that the probative value of Proposed Exhibits 14-25 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of their weight and probative value and may, if it so chooses, challenge their content through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

57. In light of the above, the Panel is satisfied that Proposed Exhibits 14-25 are admissible pursuant to Rule 138(1).

6. Proposed Exhibits 26-28: victim 7.1

58. At the outset, the Panel notes that Proposed Exhibit 28 has already been admitted through F03203.⁹⁷ The Panel therefore declares moot the request for the admission of this item.

⁹⁶ See Annex 1 to the Motion, items 14-24.

⁹⁷ F03203, Panel, *Decision on the Admission of Expert Evidence of W04874*, 27 May 2025, para. 36.

(a) Relevance

59. Regarding the relevance of Proposed Exhibits 26-27, the Panel observes that the SPO submits that it relates to alleged victim [REDACTED].⁹⁸ In this regard, the Panel notes that: (i) Proposed Exhibit 26 consists of a letter from the ICMP to UNMIK enclosing a list of DNA matching reports related to ICTY cases, concerning a relevant victim ; and (ii) Proposed Exhibit 27 consists of a record of the recovery of human remains in a relevant location, at the request of the District Court Investigative Judge, identifying a relevant victim.⁹⁹

60. The Panel is satisfied of the items' relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of an alleged victim as charged in the Indictment.¹⁰⁰

61. In addition, the Panel also notes and agrees with the SPO's submission that the Proposed Exhibits are relevant to and could corroborate certain witness testimony,¹⁰¹ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.¹⁰²

62. In light of the above, the Panel is satisfied that Proposed Exhibits 26-27 are relevant to allegations and charges in the Indictment.¹⁰³

(b) Authenticity

63. Regarding authenticity, the Panel notes that Proposed Exhibit 26 contains: (i) an ICMP header; (ii) a date, time and fax number; (iii) a case number and name; and (iv) a date and signature. The Panel further notes that Proposed Exhibit 26

⁹⁸ See Annex 1 to the Motion, pp. 21-23, Proposed Exhibits 26-28.

⁹⁹ See Annex 1 to the Motion, pp. 21-23.

¹⁰⁰ Motion, paras 4-5.

¹⁰¹ Motion, para. 2 referring to W04826, W04874 and W04875.

¹⁰² Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 21-23.

¹⁰³ See e.g. Indictment, Schedule B, victim 7.1.

relates to a relevant victim and location. For these reasons, the Panel is satisfied that Proposed Exhibit 26 are *prima facie* authentic.

64. The Panel further notes that Proposed Exhibit 27 contains: (i) a reference to a request from the District Court Investigative Judge regarding the work of a forensic medical team at a specific location and date; (ii) records of site visits with dates, locations and relevant information related to specific victims; and (iii) the signatures of the Investigative Judge and the expert for the medical commission. For these reasons, the Panel is satisfied that Proposed Exhibit 27 is *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

65. Having found Proposed Exhibits 26-27 to be *prima facie* relevant and authentic, the Panel is also satisfied that these items bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 59-60.

66. The Panel further finds that the probative value of Proposed Exhibits 26-27 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of their weight and probative value and may, if it so chooses, challenge their content through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

67. In light of the above, the Panel is satisfied that Proposed Exhibits 26-27 are admissible pursuant to Rule 138(1).

7. Proposed Exhibits 29-32: victims 16.1 and 16.2

(a) Relevance

68. Regarding the relevance of Proposed Exhibits 29-31, the Panel observes that the SPO submits that they relate to alleged victims [REDACTED].¹⁰⁴ The Panel notes that: (i) Proposed Exhibit 29 is a report on the recovery of two sets of human remains from a relevant location; (ii) Proposed Exhibit 30 is a compilation of forensic documents related to a specific victim; and (iii) Proposed Exhibits 31 and 32 are photo logs listing the photographs taken of exhumed remains of specific victims in relevant locations.¹⁰⁵

69. The Panel is satisfied of the items' relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of alleged victims as charged in the Indictment.¹⁰⁶

70. In addition, the Panel notes and agrees with the SPO's submission that the Proposed Exhibits are relevant to and could corroborate certain witness testimony,¹⁰⁷ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.¹⁰⁸

71. In light of the above, the Panel is satisfied that Proposed Exhibits 29-31 are relevant to allegations and charges in the Indictment.¹⁰⁹

(b) Authenticity

72. Regarding authenticity, the Panel notes that Proposed Exhibits 29 and 30 contain: (i) a header from the provider; (ii) a reference to relevant locations, dates

¹⁰⁴ See Annex 1 to the Motion, pp. 23-25, Proposed Exhibits 29-32.

¹⁰⁵ See Annex 1 to the Motion, pp. 23-25.

¹⁰⁶ See also Motion, paras 4-5.

¹⁰⁷ Motion, para. 2 referring to W04826, W04874 and W04875.

¹⁰⁸ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 23-25.

¹⁰⁹ See e.g. Indictment, Schedule B, victims 16.1, 16.2.

and names; (iii) signatures and/or stamps for Proposed Exhibit 30; and (iv) colour photographs of the excavation and human remains and sketch of the map of the sits for Proposed Exhibit 29. For these reasons, the Panel is satisfied that Proposed Exhibits 29 and 30 are *prima facie* authentic.

73. The Panel further notes that Proposed Exhibits 31 and 32: (i) bear a EULEX header; (ii) refer to a case number linked to a relevant location; (iii) indicate the dates corresponding to each photograph; (iv) describe each photograph; and (iv) refer to the name of the forensic photographer. For these reasons, the Panel is satisfied that Proposed Exhibits 31 and 32 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

74. Having found Proposed Exhibits 29-32 to be *prima facie* relevant and authentic, the Panel is also satisfied that these items bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 68-69.¹¹⁰

75. The Panel further finds that the probative value of Proposed Exhibits 29-32, is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of their weight and probative value and may, if it so chooses, challenge their content through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

In light of the above, the Panel is satisfied that Proposed Exhibits 29-32 are admissible pursuant to Rule 138(1).

¹¹⁰ *Contra* Annex 1 to the Response, PV.1 and PV.3 Objections.

8. Proposed Exhibits 33-55: victims 1.1-1.9

76. At the outset, the Panel notes that Proposed Exhibits 46 and 48-54 are better quality, colour versions of portions of Exhibit P00854,¹¹¹ which have already been found admissible by the Panel.¹¹² The Panel is therefore satisfied that Proposed Exhibits 46 and 48-54 are admissible pursuant to Rule 138(1), and directs the Registry to assign new exhibit numbers to those items, linking them to the relevant portions of P00854.

(a) Relevance

77. Regarding the relevance of Proposed Exhibits 33-45, 47 and 55, the Panel observes that the SPO submits that they relate to alleged victims [REDACTED].¹¹³ The Panel notes that: (i) Proposed Exhibit 33 consists of a compilation of UNMIK documents; and (ii) Proposed Exhibits 34-45, 47 and 55 consist of forensic documents in relation to relevant locations and individuals.¹¹⁴

78. The Panel is satisfied of the items' relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of alleged victims as charged in the Indictment.¹¹⁵

79. In addition, the Panel also notes the SPO's submission that the Proposed Exhibits are relevant to and could corroborate certain witness testimony,¹¹⁶ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.¹¹⁷

¹¹¹ See Annex 1 to the Motion, items 46, 48-54.

¹¹² 5 December 2023 Decision, para. 57.

¹¹³ See Annex 1 to the Motion, pp. 25-36, 38 Proposed Exhibits 33-45, 47 and 55.

¹¹⁴ See Annex 1 to the Motion, pp. 25-36, 38.

¹¹⁵ Motion, paras 4-5.

¹¹⁶ Motion, para. 2 *referring to* W04826, W04874 and W04875.

¹¹⁷ Motion, para. 2. *See also* Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 25-36, 38.

80. In light of the above, the Panel is satisfied that Proposed Exhibits 33-45, 47 and 55 are relevant to allegations and charges in the Indictment.¹¹⁸

(b) Authenticity

81. Regarding authenticity, the Panel notes that Proposed Exhibit 33 contains or relates to other pages containing: (i) UNMIK headers; (ii) signatures and reference to relevant names and locations; (iii) a list of exhibits from post-mortem exhumations; and (iv) a UNMIK memorandum regarding the handover of bone samples from the Central Criminal Investigation Unit ("CCIU") to the Missing Person Unit ("MPU"). For these reasons, the Panel is satisfied that Proposed Exhibit 33 is *prima facie* authentic.

82. In relation to Proposed Exhibits 34-45, 47 and 55, the Panel notes that they contain: (i) a header from the provider; (ii) signatures, dates and references to relevant names and locations; and (iii) file numbers and descriptions of the relevant exhibits. For these reasons, the Panel is satisfied that Proposed Exhibits 34-45, 47 and 55 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

83. Having found Proposed Exhibits 33-45, 47 and 55 to be *prima facie* relevant and authentic, the Panel is also satisfied that these items bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 77-78.¹¹⁹

84. The Panel further finds that the probative value of Proposed Exhibits 33-45, 47 and 55 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of the weight and

¹¹⁸ See e.g. Indictment, Schedule B, victims 1.1-1.9.

¹¹⁹ *Contra* Annex 1 to the Response, PV.3 Objections.

probative value of these items and could, if it so chooses, challenge the content of any of these items through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

85. In light of the above, the Panel is satisfied that Proposed Exhibits 33-55 are admissible pursuant to Rule 138(1).

9. Proposed Exhibits 56-59: victim 34.1

(a) Relevance

86. Regarding the relevance of Proposed Exhibits 56-59, the Panel observes that the SPO submits that they relate to alleged victim [REDACTED].¹²⁰ In this regard, the Panel notes that Proposed Exhibits 56-59 consist of documents related to the death of a specific victim.¹²¹

87. The Panel is satisfied of the items' relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of an alleged victim as charged in the Indictment.¹²²

88. In addition, the Panel notes the SPO's submission that the Proposed Exhibits are relevant to certain witness testimony,¹²³ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.¹²⁴ In light of the

¹²⁰ See Annex 1 to the Motion, pp. 39-40, Proposed Exhibits 56-59.

¹²¹ See Annex 1 to the Motion, pp. 39-40.

¹²² Motion, paras. 4-5.

¹²³ Motion, para. 2 referring to W04826, W04874 and W04875.

¹²⁴ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 39-40.

above, the Panel is satisfied that Proposed Exhibits 56-59 are relevant to allegations and charges in the Indictment.¹²⁵

(b) Authenticity

89. Regarding authenticity, the Panel notes that Proposed Exhibits 56-59 contain: (i) an official header of the provider for Proposed Exhibits 56, 57 and 59; (ii) dates, stamps or signatures; and (iii) relevant information regarding a specific victim. For these reasons, the Panel is satisfied that Proposed Exhibits 56-59 are *prima facie* authentic.¹²⁶

(c) Probative value not outweighed by prejudicial effect

90. Having found Proposed Exhibits 56-59 to be *prima facie* relevant and authentic, the Panel is also satisfied that these items bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 86-87.¹²⁷

91. The Panel further finds that the probative value of Proposed Exhibits 56-59 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of the weight and probative value of these items and could, if it so chooses, challenge the content of any of these items through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

¹²⁵ See e.g. Indictment, Schedule B, victim 34.1.

¹²⁶ *Contra* Annex 1 to the Response, A.1 Objection.

¹²⁷ *Contra* Annex 1 to the Response, PV.1 and PV3 Objections.

92. In light of the above, the Panel is satisfied that Proposed Exhibits 56-59 are admissible pursuant to Rule 138(1).

10. Proposed Exhibits 60: [REDACTED]

(a) Relevance

93. Regarding the relevance of Proposed Exhibit 60, the Panel observes that the SPO submits that it relates to [REDACTED].¹²⁸ Proposed Exhibit 60 consists of the death certificate relating to his death.¹²⁹ The Panel notes that, upon authorisation by the Panel, the SPO added this document to its Exhibit List in December 2024.¹³⁰

94. As mentioned in a previous decision,¹³¹ Proposed Exhibit 60 relates to, *inter alia*, (i) the death of [REDACTED]; (ii) the circumstances of his alleged detention; and (iii) a pattern of conduct at a relevant detention location. The Panel is therefore of the view that, even if [REDACTED] is not a named victim in the Indictment or the Schedules to it, evidence of his death in KLA detention is relevant, *inter alia*, to establishing certain patterns regarding the treatment and alleged killing of KLA detainees and the cause and circumstances of death of some of those detainees.

95. In addition, the Panel notes and agrees with the SPO's submission that the Proposed Exhibits are relevant to and could corroborate certain witness testimony,¹³² documentary evidence and adjudicated facts of which the Panel has taken judicial notice.¹³³

¹²⁸ See Annex 1 to the Motion, pp. 40-41, Proposed Exhibit 60.

¹²⁹ See Annex 1 to the Motion, pp. 40-41.

¹³⁰ 16 December 2024 Decision, paras 21-26 referring to IT-03-66 P228; F03090/A01, Annex 1 to Prosecution submission of amended exhibit list, 7 April 2025, confidential, item 20777.

¹³¹ 16 December 2024 Decision, para. 25.

¹³² Motion, para. 2 referring to W04826, W04874 and W04875.

¹³³ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 40-41.

96. In light of the above, the Panel is satisfied that Proposed Exhibit 60 is relevant to allegations and charges in the Indictment.¹³⁴

(b) Authenticity

97. Regarding authenticity, the Panel notes that Proposed Exhibit 60 contains: (i) an official header of the provider; (ii) a date, stamp and signature; and (iii) relevant information regarding a specific individual. For these reasons, the Panel is satisfied that Proposed Exhibit 60 is *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

98. Having found Proposed Exhibit 60 to be *prima facie* relevant and authentic, the Panel is also satisfied that this item bears *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 93-94.¹³⁵

99. The Panel further finds that the probative value of Proposed Exhibit 60 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of the weight and probative value of this item and could, if it so chooses, challenge its content through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

100. In light of the above, the Panel is satisfied that Proposed Exhibit 60 is admissible pursuant to Rule 138(1).

¹³⁴ See *e.g.* Indictment, Schedule B, victim 1.1.

¹³⁵ *Contra* Annex 1 to the Response, PV.3 Objection.

11. Proposed Exhibits 61 and 62: victims 8.1 and 8.2

(a) Relevance

101. Regarding the relevance of Proposed Exhibits 61 and 62, the Panel observes that the SPO submits that they relate to alleged victims [REDACTED].¹³⁶ In this regard, the Panel notes that: (i) Proposed Exhibit 61 consists of a collection of autopsy and exhumation documents related to a relevant victim; and (ii) Proposed Exhibit 62 consists of a death certificate and autopsy report related to a relevant victim.¹³⁷

102. The Panel is satisfied of the items' relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of alleged victims as charged in the Indictment.¹³⁸

103. In addition, the Panel notes and agrees with the SPO's submission that the Proposed Exhibits are relevant to and could corroborate certain witness testimony,¹³⁹ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.¹⁴⁰

104. In light of the above, the Panel is satisfied that Proposed Exhibits 61 and 62 are relevant to allegations and charges in the Indictment.¹⁴¹

(b) Authenticity

105. Regarding authenticity, the Panel notes that Proposed Exhibit 61 contains: (i) ICTY and UNMIK headers; (ii) dates and references to case numbers, relevant locations, including a grave site; (iii) a description of the human remains;

¹³⁶ See Annex 1 to the Motion, pp. 41-42, Proposed Exhibits 61-62.

¹³⁷ See Annex 1 to the Motion, pp. 41-42.

¹³⁸ Motion, paras 4-5.

¹³⁹ Motion, para. 2 referring to W04826, W04874 and W04875.

¹⁴⁰ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 41-42.

¹⁴¹ See e.g. Indictment, Schedule B, victims 8.1, 8.2.

(iv) conclusions regarding the cause of death of the relevant victim; and (v) signed DNA analysis with an ICMP header and stamp. For these reasons, the Panel is satisfied that Proposed Exhibit 61 is *prima facie* authentic.

106. The Panel further notes that Proposed Exhibit 62 contains: (i) a header from the providers; (ii) signatures and stamps; (iii) a reference to case numbers, dates and relevant locations; (iv) a description of the human remains; and (v) conclusions regarding the cause of death of the relevant victim. For these reasons, the Panel is satisfied that Proposed Exhibit 62 is *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

107. Having found Proposed Exhibits 61 and 62 to be *prima facie* relevant and authentic, the Panel is also satisfied that these items bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 101-102.¹⁴²

108. The Panel further finds that the probative value of Proposed Exhibits 61 and 62 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of the weight and probative value of these items and could, if it so chooses, challenge the content of any of these items through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

109. In light of the above, the Panel is satisfied that Proposed Exhibits 61 and 62 are admissible pursuant to Rule 138(1).

¹⁴² *Contra* Annex 1 to the Response, PV3 Objection.

12. Proposed Exhibits 64-71: victims 9.1-9.8

(a) Relevance

110. Regarding the relevance of Proposed Exhibits 64-71, the Panel observes that the SPO submits that they relate to alleged victims [REDACTED].¹⁴³ In this regard, the Panel notes that Proposed Exhibits 64-71 consist of compilations of documents related to the death of specific victims, such as autopsy reports, death certificates, exhumation and identification reports, and DNA analysis.¹⁴⁴

111. The Panel is satisfied of the items' relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of alleged victims as charged in the Indictment.¹⁴⁵

112. In addition, the Panel also notes and agrees with the SPO's submission that the Proposed Exhibits are relevant to and could corroborate certain witness testimony,¹⁴⁶ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.¹⁴⁷

113. In light of the above, the Panel is satisfied that Proposed Exhibits 64-71 are relevant to allegations and charges in the Indictment.¹⁴⁸

(b) Authenticity

114. Regarding authenticity, the Panel notes that Proposed Exhibits 64-71 contain: (i) a header from the providers; (ii) signatures and/or stamps; (iii) references to dates and relevant locations; and (iv) descriptive or conclusive findings

¹⁴³ See Annex 1 to the Motion, pp. 44-51, Proposed Exhibits 64-71.

¹⁴⁴ See Annex 1 to the Motion, pp. 44-51.

¹⁴⁵ Motion, paras 4-5.

¹⁴⁶ Motion, para. 2 referring to W04826, W04874 and W04875.

¹⁴⁷ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 44-51.

¹⁴⁸ See e.g. Indictment, Schedule B, victims 9.1-9.8.

concerning the relevant victims. For these reasons, the Panel is satisfied that Proposed Exhibits 64-71 are *prima facie* authentic.¹⁴⁹

(c) Probative value not outweighed by prejudicial effect

115. Having found Proposed Exhibits 64-71 to be *prima facie* relevant and authentic, the Panel is also satisfied that these items bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 110-111.¹⁵⁰

116. The Panel further finds that the probative value of Proposed Exhibits 64-71 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of the weight and probative value of these items and could, if it so chooses, challenge the content of any of these items through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

117. In light of the above, the Panel is satisfied that Proposed Exhibits 64-71 are admissible pursuant to Rule 138(1).

13. Proposed Exhibit 72: victim 26.1

(a) Relevance

118. Regarding the relevance of Proposed Exhibit 72, the Panel observes that the SPO submits that it relates to alleged victim [REDACTED].¹⁵¹ In this regard, the

¹⁴⁹ *Contra* Annex 1 to the Response, A.1.2 Objection.

¹⁵⁰ *Contra* Annex 1 to the Response, PV.1 Objection.

¹⁵¹ *See* Annex 1 to the Motion, pp. 51-52, Proposed Exhibit 72.

Panel notes that Proposed Exhibit 72 consists of a collection of documents regarding the exhumation of a specific victim ("Collection of Documents").¹⁵²

119. The Panel is satisfied of the item's relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of an alleged victim as charged in the Indictment.¹⁵³

120. In addition, the Panel also notes and agrees with the SPO's submission that the Proposed Exhibit are relevant to and could corroborate certain witness testimony,¹⁵⁴ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.¹⁵⁵

121. In light of the above, the Panel is satisfied that Proposed Exhibit 72 is relevant to allegations and charges in the Indictment.¹⁵⁶

(b) Authenticity

122. Regarding authenticity, the Panel notes that Proposed Exhibit 72 contains: (i) UNMIK header; (ii) signatures and names of relevant persons; (iii) reference to dates and relevant locations; (iv) pictures of the exhumation; and (v) findings regarding the cause of death. For these reasons, the Panel is satisfied that Proposed Exhibit 72 is *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

123. Having found Proposed Exhibit 72 to be *prima facie* relevant and authentic, the Panel is also satisfied that this item bears *prima facie* probative value regarding

¹⁵² See Annex 1 to the Motion, pp. 51-52.

¹⁵³ Motion, paras 4-5.

¹⁵⁴ Motion, para. 2 referring to W04826, W04874 and W04875.

¹⁵⁵ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 39-40.

¹⁵⁶ See e.g. Indictment, Schedule B, victim 26.1.

facts and circumstances relevant to this case as outlined above at paragraph 118-119.¹⁵⁷

124. The Panel further finds that the probative value of Proposed Exhibit 72 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of the weight and probative value of this item and could, if it so chooses, challenge it through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

125. In light of the above, the Panel is satisfied that Proposed Exhibit 72 is admissible pursuant to Rule 138(1).

14. Proposed Exhibits 73-76: victim 13.1

126. At the outset, the Panel notes that Proposed Exhibit 76 has already been admitted through F03203.¹⁵⁸ The Panel therefore declares the request for the admission of this item moot.

(a) Relevance

127. Regarding the relevance of Proposed Exhibits 73-75, the Panel observes that the SPO submits that they relate to alleged victim [REDACTED].¹⁵⁹ In this regard, the Panel notes that Proposed Exhibits 73-75 consist of documents related to the death and identification of a specific victim.¹⁶⁰

¹⁵⁷ *Contra* Annex 1 to the Response, PV.3 Objection.

¹⁵⁸ F03203, Panel, *Decision on the Admission of Expert Evidence of W04874*, 27 May 2025, para. 39

¹⁵⁹ See Annex 1 to the Motion, pp. 52-55, Proposed Exhibits 73-76.

¹⁶⁰ See Annex 1 to the Motion, pp. 52-55.

128. The Panel is satisfied of the items' relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of an alleged victim as charged in the Indictment.¹⁶¹

129. In addition, the Panel also notes and agrees with the SPO's submission that the Proposed Exhibit is relevant to and could corroborate certain witness testimony,¹⁶² documentary evidence and adjudicated facts of which the Panel has taken judicial notice.¹⁶³

130. In light of the above, the Panel is satisfied that Proposed Exhibits 73-75 are relevant to allegations and charges in the Indictment.¹⁶⁴

(b) Authenticity

131. Regarding authenticity, the Panel notes that Proposed Exhibits 73-75 contain: (i) stamps or signatures; (ii) relevant information such as dates, locations or case numbers; and (iii) relevant information regarding a specific victim. For these reasons, the Panel is satisfied that Proposed Exhibits 73-75 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

132. Having found Proposed Exhibits 73-76 to be *prima facie* relevant and authentic, the Panel is also satisfied that these items bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 127-128.¹⁶⁵

¹⁶¹ Motion, paras 4-5.

¹⁶² Motion, para. 2 referring to W04826, W04874 and W04875.

¹⁶³ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 52-55.

¹⁶⁴ See e.g. Indictment, Schedule B, victim 13.1.

¹⁶⁵ Contra Annex 1 to the Response, PV.3 Objections.

133. The Panel further finds that the probative value of Proposed Exhibits 73-75 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of the weight and probative value of these items and could, if it so chooses, challenge the content of any of these items through the presentation of evidence, although it bears no onus to do so.

(d) Conclusion

134. In light of the above, the Panel is satisfied that Proposed Exhibits 73-75 are admissible pursuant to Rule 138(1).

15. Proposed Exhibits 77-90: victims 10.1-10.15

(a) Relevance

135. Regarding the relevance of Proposed Exhibits 77-90, the Panel observes that the SPO submits that they relate to alleged victims [REDACTED].¹⁶⁶ In this regard, the Panel notes that Proposed Exhibits 77-90 consist of documents related to the death and identification of a specific victim.¹⁶⁷

136. The Panel is satisfied of the items' relevance in respect, in particular, of allegations of mistreatment and/or cause and circumstances of death of alleged victims as charged in the Indictment.¹⁶⁸

137. In addition, the Panel notes and agrees with the SPO's submission that the Proposed Exhibits are relevant to and could corroborate certain witness

¹⁶⁶ See Annex 1 to the Motion, pp. 55-66, Proposed Exhibits 77-90.

¹⁶⁷ See Annex 1 to the Motion, pp. 55-66.

¹⁶⁸ See also Motion, paras 4-5.

testimony,¹⁶⁹ documentary evidence and adjudicated facts of which the Panel has taken judicial notice.¹⁷⁰

138. In light of the above, the Panel is satisfied that Proposed Exhibits 77-90 are relevant to allegations and charges in the Indictment.¹⁷¹

(b) Authenticity

139. Regarding authenticity, the Panel notes that Proposed Exhibits 77-90 contain: (i) a header from the provider for Proposed Exhibit 78 (ii) relevant names, dates and case numbers; (iii) signatures or stamps; and (iv) pictures or descriptions of relevant information regarding the victims. For these reasons, the Panel is satisfied that Proposed Exhibits 77-90 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

140. Having found Proposed Exhibits 77-90 to be *prima facie* relevant and authentic, the Panel is also satisfied that these items bear *prima facie* probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 135-136.

141. The Panel further finds that the probative value of Proposed Exhibits 77-90 is not outweighed by any prejudicial effect. In particular, the Panel notes that the Defence will be able to make submissions in respect of the weight and probative value of these items and could, if it so chooses, challenge the content of any of these items through the presentation of evidence, although it bears no onus to do so.

¹⁶⁹ Motion, para. 2 referring to W04826, W04874 and W04875.

¹⁷⁰ Motion, para. 2. See also Motion, paras 4-5, and references cited therein; Annex 1 to the Motion, pp. 55-66.

¹⁷¹ See e.g. Indictment, Schedule B, victims 10.1-10.15.

(d) Conclusion

142. In light of the above, the Panel is satisfied that Proposed Exhibit 77-90 are admissible pursuant to Rule 138(1).

16. Conclusion

143. In light of the above, the Panel is satisfied that Proposed Exhibits 1-27, 29-75, and 77-90 are admissible pursuant to Rule 138(1), and that the request to admit Proposed Exhibits 28 and 76 is moot.

V. CLASSIFICATION

The Panel: (i) directs the Registry to assign the admitted items the classification indicated in Annex 1 to the Motion; (ii) orders the Defence to file a public redacted version or request the reclassification of the Response; and (iii) in light of para. 11 of the Reply, instructs the Registry to reclassify the Reply as public.

VI. DISPOSITION

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

- (a) **GRANTS** the Motion;
- (b) **REJECTS** the SPO request for leave to add the Additional Item (Proposed Exhibit 63) to the Exhibit List;
- (c) **ADMITS** into evidence Proposed Exhibits 1-27, 29-62, 64-75, and 77-90, including any translations thereof;
- (d) **DECLARES** the request to admit Proposed Exhibits 28 and 76 moot;
- (e) **DIRECTS** the Registry to assign the admitted items: (i) exhibit

- numbers;¹⁷² and (ii) the classification indicated in Annex 1 to the Motion;
- (f) **DIRECTS** the SPO to identify and provide any missing translations of the Proposed Exhibits without delay;
- (g) **DIRECTS** the SPO to submit a better-quality version of Proposed Exhibit 30, no later than **Thursday 5 June 2025**;
- (h) **ORDERS** the Defence to submit a public redacted version or request the reclassification of the Response by no later than **Thursday, 5 June 2025**; and
- (i) **DIRECTS** the Registry to reclassify the Reply as public.



Judge Charles L. Smith, III
Presiding Judge

Dated this Thursday, 29 May 2025

At The Hague, the Netherlands.

¹⁷² See also para. 39, footnote 79, and para. 76 above.