



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 (F03114)**

Specialist Prosecutor

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

I. PROCEDURAL BACKGROUND

1. On 14 April 2025, the Specialist Prosecutor's Office ("SPO") filed a motion for the admission of documents not already tendered in other motions and a related request ("Motion").¹
2. On 23 April 2025, the Panel extended the deadline for the Defence teams for the four Accused (collectively, "Defence") to file a joint response to the Motion to 5 May 2025.²
3. On 5 May 2025, the Defence filed a joint response to the Motion ("Response").³
4. On 12 May 2025, the SPO filed its reply ("Reply").⁴
5. On 16 May 2025, the SPO disclosed revised English translations of item 62 and certain pages of item 58 tendered in Annex 3 to the Motion.⁵

¹ F03114, Specialist Prosecutor, *Prosecution Motion for Admission of Documents*, 14 April 2025, with Annexes 1-4, confidential.

² Transcript of Hearing, 23 April 2025, p. 26174, lines 16-20, 24-25.

³ F03166, Specialist Counsel, *Joint Defence Response to "Prosecution Motion for Admission of Documents (F03114)"*, 5 May 2025, confidential, with Annexes 1-3, confidential (a public redacted version was filed on 20 May 2025, F03166/RED).

⁴ F03174, Specialist Prosecutor, *Prosecution Reply Relating to Motion for Admission of Documents (F03114)*, 12 May 2025, confidential.

⁵ Disclosure Package 1690.

II. SUBMISSIONS

6. First, the SPO requests the addition of a video⁶ and its corresponding transcripts⁷ (“Video”) to its exhibit list⁸ (“Requested Amendment”).⁹ The SPO contends that the Video is relevant as it supports the *prima facie* authenticity and probative value of another item tendered in the Motion.¹⁰ The SPO argues, in particular, that: (i) good cause exists for the Requested Amendment, within the meaning of Rule 118(2), considering that the Panel will only consider tendered or admitted evidence when assessing admissibility; and (ii) although the Requested Amendment could have been made earlier, its consideration will enable the holistic assessment of the *prima facie* authenticity and probative value of the tendered item.¹¹ The SPO also argues that there is limited, if any, prejudice from the Requested Amendment given that: (i) the Video has been disclosed since March 2023; (ii) the excerpt is approximately nine minutes and the corresponding English and Albanian versions of the transcripts are each three pages; (iii) the Video relates to known aspects of the SPO’s case and evidence already on the Exhibit List; and (iv) the Defence will have the opportunity to respond to this request and, if the Requested Amendment is granted, challenge the evidence during any Defence case(s) and make submissions on its ultimate weight and probative value.¹²

7. Second, the SPO requests the admission of a number of documents that were not previously offered (“Proposed Exhibits”).¹³ The SPO submits that the Proposed

⁶ 065554-01.

⁷ 065554-01-TR; 065554-01-TR-ET.

⁸ F03090/A01, Specialist Prosecutor, *Annex 1 to Prosecution Submission of Amended Exhibit List* (“Exhibit List”), 7 April 2025, confidential.

⁹ Motion, paras 1, 14, *referring to* Annex 1 to the Motion, Proposed Exhibit 84.

¹⁰ Motion, para. 10, *referring to* Annex 1 to the Motion, Proposed Exhibit 83.

¹¹ Motion, para. 11.

¹² Motion, para. 12.

¹³ Motion, paras 1, 14, *referring to* Annex 1 to the Motion, Proposed Exhibits 1-97; Annex 2 to the Motion, Proposed Exhibits 1-18; Annex 3 to the Motion, Proposed Exhibits 1-80.

Exhibits: (i) are *prima facie* authentic and relevant, as they relate to various allegations and charges in the Indictment; (ii) have probative value that is not outweighed by any prejudice; and (iii) corroborate and complement other witness testimony and documentary evidence as well as noticed adjudicated facts.¹⁴

8. The Defence objects to the Requested Amendment and it submits that it is untimely, lacks good cause and is prejudicial to the Defence.¹⁵ The Defence also submits that the Panel should reject the admission of the Proposed Exhibits for the reasons set out in the Response and Annexes 1-3 thereto.¹⁶ In particular, the Defence challenges the relevance and authenticity of the Proposed Exhibits, and submits that their probative value is outweighed by their prejudicial effect.¹⁷ In addition to the individual objections listed in Annexes 1-3 to the Response, the Defence makes the following submissions pertaining to the Motion as a whole or to certain groups of items:

- (a) The fact that the Motion was filed after the testimony of the last SPO witness requires a stricter approach to admissibility and the Panel should consider the accentuated prejudice caused to the Defence when balancing the prejudice with the purported probative value of each item;¹⁸
- (b) Admitting unreliable documents on the basis that the Defence can confront them by calling its own evidence would impermissibly reverse the burden of proof and undermine the presumption of innocence;¹⁹

¹⁴ Motion, paras 1-9. *See also* “Relevance/Probative Value” and “Indicia of authenticity” columns in Annexes 1-3 to the Motion.

¹⁵ Response, paras 51-52.

¹⁶ Response, paras 10, 53.

¹⁷ Response, paras 12-49. *See also* “Defence Response” column in Annex 1 to the Response, Proposed Exhibits 1-97; Annex 2 to the Response, Proposed Exhibits 1-18; Annex 3 to the Response, Proposed Exhibits 1-80.

¹⁸ Response, para 12.

¹⁹ Response, para. 19.

- (c) Absent testimonial verification, the probative value of the media articles, videos and interviews tendered by the SPO, in particular those attributing statements to the Accused, is outweighed by their prejudice;²⁰
- (d) Newspaper articles attributing acts to the Kosovo Liberation Army (“KLA”) which either cite no underlying source or refer to hearsay information from anonymous/unidentified sources have no probative value;²¹
- (e) Newspaper articles presenting the author’s own views are not relevant or probative, considering that the SPO adduces no evidence that the authors were affiliated with the KLA, or that views expressed in those articles are attributable to the KLA or the accused in this case;²²
- (f) The SPO’s assertion that certain newspaper articles about the KLA are relevant to “the KLA’s use of media to disseminate its ideology and propaganda” is unsubstantiated and should be disregarded;²³
- (g) The Defence raises specific objections in relation to the book excerpts tendered by the SPO and, in relation to unpublished and draft manuscripts in particular, argues that in the absence of contextualisation by a witness, the latter do not hold any probative value, in line with the Panel’s previous finding;²⁴
- (h) Documents originating from the Serbian state require a heightened critical assessment to determine their authenticity and reliability, especially given that they were not put to witnesses for authentication

²⁰ Response, paras 13-18.

²¹ Response, para. 20.

²² Response, para. 21.

²³ Response, para. 22. *See also* Response, paras 23-25.

²⁴ Response, paras 26-41.

and contextualisation and the SPO relies on a circular reasoning to establish their authenticity;²⁵ and

- (i) Many of the documents originating from the Serbian state bear little to no relevance or probative value to the charges in this case.²⁶

9. The SPO replies that the Response repeats prior objections to broad categories of evidence, which have already been considered and dismissed by the Panel, and misrepresents and ignores submissions made in the Motion.²⁷ In particular, the SPO submits that Defence submissions concerning hearsay evidence, the alleged propagandist or exaggerated nature of certain Proposed Exhibits, their authorship, and their relevance to purported central issues in the case and/or the acts and conduct of the accused pertain to weight, not admissibility.²⁸ According to the SPO, the Defence has been given the opportunity to respond to bar table motions and use documents with witnesses, and it will also have the opportunity to tender and elicit evidence on the Proposed Exhibits as part of the Defence case(s) and make submissions on their ultimate weight.²⁹ In this respect, the SPO further argues that the Defence's assertions of burden-shifting are baseless and ignore the sequence and phases of the trial, as reflected in, *inter alia*, Rule 127 of the Rules.³⁰ In addition, the SPO replies to specific challenges raised by the Defence regarding discreet Proposed Exhibits.³¹ The SPO therefore requests that the Panel grant the Motion.³² Finally, the SPO: (i) clarifies that the proposed classification for Proposed Exhibits 50 and 54 in Annex 3 to the Motion is public; (ii) corrects the

²⁵ Response, paras 42-46.

²⁶ Response, paras 47-49.

²⁷ Reply, paras 1, 3.

²⁸ Reply, para. 2.

²⁹ Reply, para. 4.

³⁰ Reply, para. 4.

³¹ Reply, para. 5.

³² Reply, para. 8.

ERNs for the translations of Proposed Exhibits 1 and 6 in Annex 2 to the Motion,³³ and Proposed Exhibits 60 and 77 in Annex 3 to the Motion;³⁴ (iii) requests authorisation to correct the Legal WorkFlow metadata for Proposed Exhibit 81 in Annex 1 to the Motion to reflect that this item was seized from Rexhep Selimi (“Mr Selimi”); and (iv) clarifies that, although it does not intend to rely on the previously untranslated Serbian pages and text, it will disclose revised translations of Proposed Exhibits 58 and 62 in Annex 3 to the Motion that will include the Serbian pages and text for the sake of clarity and completeness.³⁵

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.³⁶ 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 Exhibit List. As proceedings advance, any further requests to amend the Exhibit List will be subject to greater

³³ The SPO submits that the correct ERNs for Proposed Exhibits 1 and 6 in Annex 2 to the Motion are U016-2577-U016-2579-ET and SPOE00055341-SPOE00055341-ET Revised, respectively.

³⁴ The SPO submits that the correct ERNs for Proposed Exhibits 60 and 77 in Annex 3 to the Motion are U000-0341-U000-0341-ET Revised 2 and 074964-074968-ET Revised, respectively.

³⁵ Reply, para. 6. *See also* above para. 5.

³⁶ *See e.g.* F01409, Panel, *Decision on Specialist Prosecutor’s Bar Table Motion* (“Decision on Bar Table Motion”), 31 March 2023, confidential, paras 8-13; F01785, Panel, *Decision on Prosecution Requests to Amend the Exhibit List (F01689 and F01747)*, 12 September 2023, confidential, paras 15-17 (a public redacted version was issued on 10 November 2023, F01785/RED).

scrutiny.³⁷ As previously stated,³⁸ the Panel has already permitted the SPO to add items to the Exhibit List several times and the Exhibit List is already, by any standards, voluminous. With this in mind, the Panel will assess whether, at the current stage of proceedings, the SPO has provided timely notice and shown good cause for the amendment of its Exhibit List, and that no undue prejudice is caused to the Defence as a result.³⁹

12. As regards the timeliness of notice, the Panel is of the view that the inclusion of the Video on the Exhibit List could and should have been sought by the SPO at an earlier stage. The Panel notes, in this regard, that the SPO has not advanced any cogent reasons as to why it did not seek the Video's inclusion on the Exhibit List earlier. The Panel, therefore, finds that the SPO has not provided timely notice within the meaning of Rule 118(2). Subsequently, the Panel will not proceed to assess whether good cause for the Requested Amendment exists. In this light, the Panel rejects the SPO's request for leave to add the Video to its Exhibit List. Accordingly, the Panel will not assess the request for the admission of the Video (Proposed Exhibit 84, Annex 1 to the Motion).

B. ADMISSION OF PROPOSED EXHIBITS

13. At the outset, the Panel notes that several Proposed Exhibits lack corresponding Albanian translations. The Panel instructs the SPO to review the Proposed Exhibits and provide the missing translations thereof without delay.

³⁷ See F02167, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F02099)* ("7 March 2024 Decision"), 7 March 2024, confidential, para. 10 (a public redacted version was issued on the same day, F02167/RED); 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).

³⁸ 7 March 2024 Decision, para. 10; 8 December 2023 Decision, para. 9.

³⁹ 7 March 2024 Decision, para. 10; 8 December 2023 Decision, para. 9.

1. General Considerations

14. The Panel first recalls that there is no requirement under the Specialist Chambers' ("SC") legal framework that Proposed Exhibits be authenticated through witnesses.⁴⁰ In particular, the Panel recalls that the right to confrontation is not absolute and 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 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 may attribute to those exhibits at the end of trial.⁴¹ Similarly, the fact that some of the documents were not authenticated, nor corroborated, and in certain instances were contradicted by witnesses who testified, or by other evidence on the record, does not prevent their admission. This, however, may negatively impact the weight that the Panel may attribute to such evidence.⁴²

15. Furthermore, 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.⁴³ 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.⁴⁴ What matters is that the tendering Party satisfies the Panel of the relevance, *prima facie* authenticity and probative value of the tendered items pursuant to Rule 138(1).

⁴⁰ See Decision on Bar Table Motion, para. 12. See also Rule 138(1). *Contra* Response, paras 5, 18, 23-25, 31, 34, 37, 39, 41, 43-44, 49; Annexes 1-3 to the Response, C.3, C.3.1, C.3.2 and C.3.4 Objections.

⁴¹ F03070, Panel, *Decision on Prosecution Motion for Admission of Pashtrik Zone Documents* ("Decision on Pashtrik Zone Bar Table Motion"), 1 April 2025, para. 16.

⁴² Decision on Pashtrik Zone Bar Table Motion, para. 18.

⁴³ F01596, Panel, *Second Decision on Specialist Prosecutor's Bar Table Motion* ("Second Decision on Bar Table Motion"), 9 June 2023, para. 84. *Contra* Response, para. 29; Annexes 1-3 to the Response, R.3 Objections.

⁴⁴ 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, para. 21.

16. This being said, the Panel recalls that bar table motions should not be used to render the principle of orality irrelevant to the proceedings. While the bar table procedure is in the interest of judicial economy and helps expedite the process of admission of evidence, it should not become an alternative to presenting the most important exhibits through witnesses who are in a position to speak to them and to be cross-examined about them.

17. Regarding the Defence's submissions that the SPO failed to provide sufficient information as to the chain of custody of the tendered items,⁴⁵ the Panel recalls its prior finding that proof or record of chain of custody is not a condition for the admission of evidence.⁴⁶ Furthermore, the fact that certain Proposed Exhibits originate from Serbian authorities does not constitute, in itself, a bar to their admission.⁴⁷ For the purpose of admission, the question is whether or not the relevant documents meet the requirements of Rule 138(1).

18. Regarding the Defence's argument that the admission of items, which were tendered after the testimony of the last SPO witness, would be prejudicial to the Accused, and would irreparably compromise the fairness of the trial,⁴⁸ the Panel notes that the requirements of Rule 138(1) applies evenly to materials tendered by a Party before, during and after the presentation of its witness evidence. The Panel also notes that, while the SPO bears the burden of proof, the Proposed Exhibits have been in possession of both Parties for some time, and that, if they considered it necessary, they could have made use of them. The Panel also notes that the Defence has not identified any witness to whom it would have wished to put such material, and not sought any witness to be recalled. Furthermore, the Panel observes that the SPO provided in the Motion detailed contextualization and listed several indicia of *prima facie* authenticity and probative value in respect to the

⁴⁵ Annexes 1-3 to the Response, A.3, A.3.2, A.3.3 and A.3.3.1 Objections.

⁴⁶ Second Decision on Bar Table Motion, para. 109.

⁴⁷ *Contra* Response, paras 42-46.

⁴⁸ Response, para. 12. *See also* Response, para. 13.

majority of the Proposed Exhibits. Additionally, the Panel notes that, in some instances, the SPO identified in Annexes 1-3 to the Motion limited parts, or sections of longer items tendered, on which it seeks to rely for the purpose of its case. The Panel also 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.

19. Lastly, in relation to the Defence's objections to the Proposed Exhibits seized from the houses of Mr Selimi and Jakup Krasniqi ("Mr Krasniqi"),⁴⁹ the Panel recalls its finding in the Second Decision on Bar Table Motion as to the lawfulness of the search and seizure operations, which was upheld by the Court of Appeals Panel.⁵⁰ The Defence has not sought to establish, nor has it established, the conditions for reconsideration of the Second Decision on Bar Table Motion.

20. The Panel will now turn to assess whether the Proposed Exhibits are admissible pursuant to Rule 138. In doing so, the Panel will refer to the Proposed Exhibits as numbered in Annexes 1-3 to the Motion and Annexes 1-3 to the Response.

2. Annex 1 to the Motion, Proposed Exhibits 1-76: Media Articles

(a) Relevance

21. Regarding the relevance of Proposed Exhibits 1-76, the Panel notes the SPO's submissions that they relate to: (i) the role and authority of the Accused within

⁴⁹ See e.g. Annex 1 to the Response, Proposed Exhibits 1, 3, 6, 16, 26, 33-35, 37, 38, 71-73; Annex 3 to the Response, Proposed Exhibits 54, 66.

⁵⁰ Second Decision on Bar Table Motion, paras 101-120; IA029/F00005, Court of Appeals Panel, *Decision on Veseli and Krasniqi Appeal against Second Decision on Specialist Prosecutor's Bar Table Motion*, 23 August 2023, confidential and *ex parte*, paras 32, 36-38 (a public redacted version was issued on the same day, IA029/F00005/RED).

the KLA and/or the Provisional Government of Kosovo (“PGoK”);⁵¹ (ii) the structure and organisation of the KLA;⁵² (iii) certain crimes charged in the Indictment;⁵³ (iv) the establishment and functioning of the KLA General Staff (“GS”);⁵⁴ (v) the establishment and functioning of the PGoK;⁵⁵ and (vi) the existence of an armed conflict and relevant KLA military operations.⁵⁶ More specifically, the Panel notes that: (i) Proposed Exhibits 4-7, 10, 12-15,⁵⁷ 25, 31, 33,⁵⁸ 34, 37, 39, 40, 43-48, 53, 62, 63,⁵⁹ 66-69, and 76 consist of media articles from various broadcast and other media services containing interviews with the Accused, discussing their authority, roles, and positions within the PGoK or the KLA GS, or reporting on the public statements made by them on contemporaneous diplomatic or political matters; (ii) Proposed Exhibits 1-3,⁶⁰ 8, 9, 21, 23,⁶¹ 35, 38, 49, 56, 70, 73, and 74 consist of media articles reporting on various aspects of the KLA, including its establishment, structure, system of preparing communiques, and certain military operations; (iii) Proposed Exhibits 17, 22, 24, 39, and 50-52 contain media articles reporting on certain crimes allegedly committed by KLA members, including kidnappings and targeting of perceived opponents; (iv) Proposed

⁵¹ Annex 1 to the Motion, Proposed Exhibits 4-7, 10, 12-15, 25, 31, 33, 34, 37, 39, 40, 43-48, 53, 62, 63, 66-69, 76.

⁵² Annex 1 to the Motion, Proposed Exhibits 1-3, 8, 9, 21, 23, 35, 38, 49, 56, 70, 73, 74.

⁵³ Annex 1 to the Motion, Proposed Exhibits 17, 22, 24, 39, 50-52.

⁵⁴ Annex 1 to the Motion, Proposed Exhibits 19, 26-28, 30, 32, 65, 71, 72, 75.

⁵⁵ Annex 1 to the Motion, Proposed Exhibits 42, 54, 55, 57, 58, 60, 64.

⁵⁶ Annex 1 to the Motion, Proposed Exhibits 11, 16, 18, 20, 29, 36, 41, 59, 61.

⁵⁷ Regarding Proposed Exhibit 15, the Panel notes that the SPO seeks to tender this item as the Albanian language original of SPOE00199392-00199394, which was admitted as P00290_ET, for the completeness of the record and to further the authenticity of the admitted item. *See* Annex 1 to the Motion, p. 17.

⁵⁸ Regarding Proposed Exhibit 33, the Panel notes that the SPO only seeks to tender the article titled “*Local Police or a Variation of Collaborationism*” dated 18 February 1999, and does not seek to tender the other article featured on the same page. *See* Annex 1 to the Motion, p. 38.

⁵⁹ Regarding Proposed Exhibit 63, the Panel notes that the SPO only tenders pp. 102289-102291. *See* Annex 1 to the Motion, p. 64.

⁶⁰ Regarding Proposed Exhibit 2, the Panel notes that the SPO is only tendering the following pages: SPOE00131752-SPOE00131753 (pp. 1-2), SPOE00131755-SPOE00131758 (pp. 17-20), SPOE00131764-SPOE00131769 (pp. 26-31), SPOE00131771-SPOE00131823 (pp. 33-85). *See* Annex 1 to the Motion, p. 3.

⁶¹ Regarding Proposed Exhibit 23, the Panel notes that the SPO only seeks to tender p. U008-1635. *See* Annex 1 to the Motion, p. 24.

Exhibits 19, 26-28, 30, 32, 65, 71, 72, and 75 consist of media articles containing interviews of the KLA GS members, commenting on various aspects of the KLA GS as well as on the pronouncements of its members or their public appearances; (v) Proposed Exhibits 42, 54, 55,⁶² 57, 58, 60, and 64 consist of media articles reporting on the work of the PGoK or containing interviews with its members, including some of the Accused; and (vi) Proposed Exhibits 11, 16, 18, 20, 29, 36, 41, 59,⁶³ and 61⁶⁴ consist of media articles reporting on the Serbian offensives or fighting involving the KLA, or discussing the KLA military structure.

22. The Panel further notes that the SPO relies on these Proposed Exhibits to demonstrate, *inter alia*, that: (i) the Accused and the KLA GS oversaw and directed the activities of the KLA GS directorates, PGoK ministries, and subordinate structures;⁶⁵ (ii) the Accused and the KLA GS controlled communication of KLA commanders with the media;⁶⁶ (iii) the Accused and the KLA GS targeted perceived opponents;⁶⁷ and (iv) there was an armed conflict throughout the Indictment period, particularly with regard to the periods contested by the Defence, namely from at least March to October 1998 and 10 June to September 1999.⁶⁸ Additionally, the SPO states that some of these Proposed Exhibits corroborate and complement witness and documentary evidence as well

⁶² Regarding Proposed Exhibit 55, the Panel notes that the SPO only seeks to tender three articles titled: “*Thaçi Receives Ashdown*”; “*Agim Çeku and Mike Jackson Visit Irzniq*”; and “*With Speculative Building, Citizens are Making Worthless Investments*.” See Annex 1 to the Motion, pp. 56-57.

⁶³ Regarding Proposed Exhibit 59, the Panel notes that the SPO only seeks to tender the last article of the page, titled “*The Serbs are Putting Weapons in Kosovo*.” See Annex 1 to the Motion, p. 60.

⁶⁴ Regarding Proposed Exhibit 61, the Panel notes that the SPO only seeks to tender one article of the page, titled “*News: The Government of Kosovo in Political Action to Solve the Trepça ‘knot’ - Kosumi: The KLA Will Liberate Mitrovica*.” See Annex 1 to the Motion, p. 62.

⁶⁵ Motion, paras 4, 5.

⁶⁶ Motion, para. 4.

⁶⁷ Motion, paras 4-6.

⁶⁸ Motion, para. 6(ii).

as adjudicated facts,⁶⁹ and that some of the Proposed Exhibits are relevant to the authenticity and probative value of other admitted and tendered evidence.⁷⁰

23. As regards the Defence's objection regarding Proposed Exhibits 6, 8-10, 14, 16, 21, and 24 that the SPO relies on them to show that the KLA used media to disseminate its ideology and propaganda, without presenting any other evidence thereto,⁷¹ the Panel considers that, in relevant parts of Annex 1 to the Motion, the SPO refers to corroborating evidence in relation to the KLA's use of media, the role of Mr Krasniqi, or the allegation that the KLA used media to disseminate propaganda or its ideology.⁷² Moreover, the SPO has previously presented other evidence in relation to these matters.⁷³ Therefore, the Panel considers the Defence's argument in relation to these Proposed Exhibits to be without merit.

24. Turning to the Defence's objection regarding Proposed Exhibits 65-69,⁷⁴ which consist of five parts of an interview with Mr Selimi, the Panel recalls that it previously found portions of this interview to be relevant and *prima facie* authentic, but denied their admission without prejudice, subject to further contextualisation by the SPO.⁷⁵ The Panel observes in this regard that: (i) Proposed Exhibits 65 and 66 discuss the early establishment of the KLA, contemporaneous events between 1992 and 1998, including battles between the KLA and Serb forces, as well as the organisation of the Llap Operational Zone; (ii) Proposed Exhibit 67 discusses, *inter alia*, the KLA's involvement in the Qirez/Ćirez and Likoshan/Likošane battles; and (iii) Proposed Exhibits 68 and 69 discuss the KLA's involvement in the Rahovec/Orahovac battle, as well as contemporaneous events

⁶⁹ Motion, para. 2.

⁷⁰ Motion, para. 6.

⁷¹ Response, para. 22.

⁷² See e.g. Annex 1 to the Motion, pp. 1, 22, 32, 107.

⁷³ See P00841, p. 2; P01066, para. 2; W04408, Transcript of Hearing, 7 September 2023, p. 7576, line 23 to p. 7577, line 1.

⁷⁴ Response, para. 25.

⁷⁵ See Second Decision on Bar Table Motion, para. 35.

in late 1998 which are relevant to the Indictment. In this respect, the Panel considers that other similar interviews with Mr Selimi covering similar or the same topics were admitted by the Panel, which assist in contextualising Proposed Exhibits 65-69.⁷⁶ The Panel further notes that the Panel has received extensive evidence about the topics addressed by Mr Selimi in his interview, including through witnesses which the Parties were able to question. The Panel is satisfied that the article is now properly contextualised by other admitted evidence. The Panel therefore dismisses the Defence's objection.

25. Having carefully reviewed Proposed Exhibits 1-76, and in light of the foregoing, the Panel is satisfied that they are relevant to allegations and charges in the Indictment.⁷⁷

(b) Authenticity

26. Regarding authenticity, the Panel recalls that admissibility of press reports, newspaper articles and interviews from the bar table generally requires that the item on its face provides sufficient indicia of its origin and *prima facie* authenticity and the moving party has explained the probative value (including reliability) of the item.⁷⁸ The fact that the author of a document cannot be identified does not render it inadmissible.⁷⁹ Similarly, the fact that information contained therein might not be sourced does not necessarily disqualify it for admission.⁸⁰ However, if admitted, those considerations call for caution when assessing what weight, if any, should be given to it.⁸¹

⁷⁶ See e.g. P01883; P01949.

⁷⁷ See e.g. F00999/A01, Specialist Prosecutor, *Annex 1 to Submission of Confirmed Amended Indictment* ("Indictment"), 30 September 2022, confidential, paras 13-15, 18-55, 64, 71, 146. *Contra* Annex 1 to the Response, R.1 and R.2 Objections.

⁷⁸ Second Decision on Bar Table Motion, para. 30.

⁷⁹ Second Decision on Bar Table Motion, para. 30.

⁸⁰ Second Decision on Bar Table Motion, para. 30.

⁸¹ Second Decision on Bar Table Motion, para. 30.

27. Regarding Proposed Exhibits 4-7, 10, 12-15, 25, 31, 33, 34, 37, 39, 40, 43-48, 53, 62, 63, 66-69, and 76, the Panel notes that most of these Proposed Exhibits are dated, include the name of the author,⁸² and constitute official press releases or were published by media outlets, such as *Associated Press*, *BBC*, *Zëri i Kosovës*, or *Shekulli*.⁸³ Regarding Proposed Exhibit 6, the Panel notes that, while it is not dated, it refers to questions put by *KosovaPress* to the spokesperson of the PGoK and was seized from the residence of Mr Krasniqi.⁸⁴ In relation to Proposed Exhibit 7, the Panel notes that it is dated and refers to known contemporaneous events from March 1998.⁸⁵ Proposed Exhibit 12 provides an indication of a media outlet, it is dated, it refers to known KLA points of interest, and its content is corroborated by other evidence on the record.⁸⁶ Proposed Exhibit 14 is typewritten, but it contains a date, refers to the KLA and Mr Krasniqi in particular, and was seized from the residence of Mr Krasniqi.⁸⁷

28. Regarding Proposed Exhibits 1-3, 8, 9, 21, 23, 35, 38, 49, 56, 70, 73, and 74, the Panel notes that most of these Proposed Exhibits are dated, clearly provide an indication of the publishing media outlet, and include a name of the author.⁸⁸ In relation to Proposed Exhibit 1, the Panel notes that it is not dated and the author of this item is not provided. Nevertheless, the Panel considers that: (i) it is an interview with a KLA commander whose identity and role is corroborated by other evidence on the record;⁸⁹ (ii) the content of the interview is similarly corroborated by other evidence on the record;⁹⁰ and (iii) the item was seized from

⁸² Proposed Exhibits 4, 5, 10, 12-15, 25, 31, 33, 34, 39, 40, 43-48, 53, 62, 63, 66-69, 76.

⁸³ Proposed Exhibits 4, 5, 10, 13, 15, 25, 31, 33, 34, 39, 40, 43-48, 53, 62, 63, 66-69, 76.

⁸⁴ See Annex 1 to the Motion, Proposed Exhibit 6.

⁸⁵ See Annex 1 to the Motion, Proposed Exhibit 7. The Panel notes that the date 1989 on the document appears to be a clerical error.

⁸⁶ See Annex 1 to the Motion, Proposed Exhibit 12.

⁸⁷ See Annex 1 to the Motion, Proposed Exhibit 14.

⁸⁸ Proposed Exhibits 8, 9, 21, 23, 35, 38, 49, 56, 70, 73, 74.

⁸⁹ See Annex 1 to the Motion, Proposed Exhibit 1.

⁹⁰ See Annex 1 to the Motion, Proposed Exhibit 1.

the residence of Mr Krasniqi.⁹¹ Regarding Proposed Exhibit 2, the Panel notes that it is an interview with a known KLA member and other evidence on the record corroborates its content.⁹² Concerning Proposed Exhibit 3, the Panel notes that it does not provide any date or information on its author or origin. However, the Panel notes that it was seized from the residence of Mr Krasniqi, and that its content is corroborated by other evidence on the record.⁹³

29. Regarding Proposed Exhibits 17, 22, 24, 39, and 50-52, the Panel notes that all of these Proposed Exhibits are dated, clearly provide an indication of the publishing media outlet, and include a name of the author. Similarly, in relation to Proposed Exhibits 19, 26-28, 30, 32, 65, 71, 72, and 75, the Panel notes that all these Proposed Exhibits are dated, clearly provide an indication of the publishing media outlet, and include a name of the author. The Panel is also satisfied that Proposed Exhibits 42, 54, 55, 57, 58, 60, and 64 are dated, clearly provide an indication of the publishing media outlet, and include a name of the author. Finally, Proposed Exhibits 11, 16, 18, 20, 29, 36, 41, 59, and 61 are also dated, clearly provide an indication of the publishing media outlet, and include a name of the author.

30. For these reasons, the Panel is satisfied that Proposed Exhibits 1-76 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

31. Having found Proposed Exhibits 1-76 to be relevant and *prima facie* authentic, the Panel is also satisfied that these items also bear probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 25.⁹⁴

⁹¹ See Annex 1 to the Motion, Proposed Exhibit 1.

⁹² See Annex 1 to the Motion, Proposed Exhibit 2.

⁹³ See Annex 1 to the Motion, Proposed Exhibit 3.

⁹⁴ *Contra* Annex 1 to the Response, PV.1 Objections.

32. The Panel has taken into account, for the purposes of assessing any prejudicial effect, the fact that the SPO has not called the authors of the media articles to testify as to the accuracy of the information contained in them, and that the Defence has been unable to cross-examine those authors to explore the accuracy of the assertions contained in the media articles. The Panel will also take this into consideration when assessing the weight to be given to the media articles at the conclusion of trial, in accordance with Rule 139(2). The Panel finds, for the purposes of admission, that the probative value of Proposed Exhibits 1-76 is not outweighed by prejudicial effect, considering in particular 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

33. In light of the above, the Panel is satisfied that Proposed Exhibits 1-76 are admissible pursuant to Rule 138(1).

3. Annex 1 to the Motion, Proposed Exhibits 77-83, 85-97: Videos

34. At the outset, the Panel authorises the SPO to make corrections to the metadata of Proposed Exhibit 81 in Annex 1 to the Motion.⁹⁵

35. The Panel also recalls that it rejected the SPO's request to add Proposed Exhibit 84 to its Exhibit List and declared moot the request for its admission.⁹⁶

(a) Relevance

36. Regarding the relevance of Proposed Exhibits 77-83, 85-97, the Panel notes the SPO's submissions that they relate to: (i) the role and authority of the Accused

⁹⁵ See Reply, para. 6.

⁹⁶ See above para. 12.

within the KLA or PGoK;⁹⁷ (ii) the PGoK's command and control of the KLA;⁹⁸ (iii) certain alleged crimes, including crimes charged in the Indictment;⁹⁹ and (iv) the KLA's structure, organisation, and hierarchy as well as its purported policy against perceived collaborators.¹⁰⁰ More specifically, the Panel notes that: (i) Proposed Exhibits 77-79, 82, 85, 86, and 89-94 consist of video clips directly featuring the Accused and airing their public statements or videos discussing their role and authority within the KLA or PGoK, including between 1998 and 1999; (ii) Proposed Exhibits 80, 88, and 95 consist of an article and video clips concerning certain crimes allegedly committed by members of the KLA in April 1998, March 1999, and June 1999; and (iii) Proposed Exhibits 81, 83, 87,¹⁰¹ 96, and 97 consist of an article and video clips containing interviews of purported members of the KLA and news reports related to the hierarchy, structure and organization of the KLA.

37. The Panel further notes that the SPO relies on these Proposed Exhibits to demonstrate, *inter alia*, that: (i) the Accused and the KLA GS oversaw and directed the activities of the KLA GS directorates, PGoK ministries, and subordinate structures;¹⁰² (ii) the Accused and the KLA GS controlled communication of KLA commanders with the media;¹⁰³ (iii) the Accused and the KLA GS targeted perceived opponents;¹⁰⁴ and (iv) there was an armed conflict throughout the Indictment period, particularly with regard to the periods contested by the Defence, namely from at least March to October 1998 and 10 June to

⁹⁷ Annex 1 to the Motion, Proposed Exhibits 77-79, 82, 85, 86, 89-94.

⁹⁸ Annex 1 to the Motion, Proposed Exhibit 77.

⁹⁹ Annex 1 to the Motion, Proposed Exhibits 80, 88, 95.

¹⁰⁰ Annex 1 to the Motion, Proposed Exhibits 81, 87, 96, 97.

¹⁰¹ The Panel observes that Proposed Exhibit 87 is an article related to a video of news report and contains a transcript of the corresponding video, which was admitted as P01273. *See* Annex 1 to the Motion, Proposed Exhibit 87.

¹⁰² Motion, paras 4, 5.

¹⁰³ Motion, para. 4.

¹⁰⁴ Motion, paras 4, 5, 6.

September 1999.¹⁰⁵ Additionally, the SPO states that some of these Proposed Exhibits corroborate and complement witness and documentary evidence as well as adjudicated facts¹⁰⁶ and that some of the Proposed Exhibits are relevant to the authenticity and probative value of other admitted and tendered evidence.¹⁰⁷

38. Having carefully reviewed Proposed Exhibits 77-79, 82, 85, 86, and 89-94, the Panel is satisfied that these video clips are relevant, in particular, to the formation and contemporaneous events leading up to the establishment of the PGoK,¹⁰⁸ and the role of Hashim Thaçi (“Mr Thaçi”), Kadri Veseli (“Mr Veseli”), and Mr Krasniqi within the PGoK.¹⁰⁹ It is also relevant to the alleged existence of a non-international armed conflict and the required element of organisation implied by this notion. While it is questionable whether Proposed Exhibit 77 relates to the PGoK’s command over the KLA,¹¹⁰ the Panel finds this video relevant to the same facts outlined above. What probative value attaches to it will be determined in light of all relevant evidence. Regarding Proposed Exhibit 78, the Panel considers that the Defence’s argument challenging the Intelligence Service Agency’s (“SHIK”) functioning in the summer of 1999¹¹¹ is an issue in the case in relation to which both Parties have elicited evidence. The remainder of the Defence’s arguments on this item go to the weight and probative value of the evidence which the Panel will assess at the relevant time of the proceedings. As regards Proposed Exhibit 79, the Panel notes the Defence’s objection regarding the formation of SHIK as early as 1992.¹¹² The Panel notes that the timing of the creation of the intelligence service of the KLA is an issue in this case, in particular whether it

¹⁰⁵ Motion, para. 6(ii).

¹⁰⁶ Motion, para. 2.

¹⁰⁷ Motion, para. 6.

¹⁰⁸ See e.g., Proposed Exhibits 77.

¹⁰⁹ See e.g., Proposed Exhibits 77, 78, 79, 85, 89, 90, 93, 94.

¹¹⁰ See Annex 1 to the Response, Proposed Exhibit 77.

¹¹¹ See Annex 1 to the Response, Proposed Exhibit 78.

¹¹² See Annex 1 to the Response, Proposed Exhibit 79.

existed at all relevant times during the period relevant to the charges. It is also an issue in the case when and by whom this entity was created and whether any of the Accused had a role therein. As such, the Defence objection is without merit. The Panel also notes that much of the Proposed Exhibit relates to the functioning of SHIK in 1999. Concerning Proposed Exhibit 82, the Panel notes the Defence's objections as to the opinion and testimonial nature of this evidence.¹¹³ The Panel observes that the video clip is a compilation of information regarding the profile of Mr. Thaçi prior to and during the material time to the Indictment. The Panel also observes that the SPO tenders this Proposed Exhibit mainly for context. The Panel agrees with the Defence that elements of this item are of limited probative value. However, probative value is not such as to warrant exclusion. Considerations of the sort made by the Defence in respect of this item will be relevant to assessing the weight and probative value of this material in light of all evidence admitted by the Panel.

39. Turning to Proposed Exhibits 80 and 95, the Panel is satisfied that these Proposed Exhibits are relevant to crimes allegedly committed by the KLA against two individuals in Kleçkë/Klečka and in Prizren.¹¹⁴ Concerning Proposed Exhibit 88, the Panel observes that the purported relevance of this Proposed Exhibit pertains to the recorded kidnapping of an identified individual and public knowledge of this incident.¹¹⁵ In this context, the Panel considers that the abduction of that individual is not a fact pleaded in the Indictment. The Panel recalls that it previously allowed the SPO to question Witness W01129 in relation to this incident. In so deciding, the Panel notes that the evidence of uncharged acts and conduct of the accused may be admissible for other valid purposes, including

¹¹³ Response, paras 23, 24.

¹¹⁴ Indictment, paras 78, 79, 115, 116, 126.

¹¹⁵ See Annex 1 to the Motion, Proposed Exhibit 88.

to clarify a given context or to demonstrate a deliberate pattern of conduct.¹¹⁶ In the present circumstances, the Panel considers that Proposed Exhibit 88 provides context for the pattern of alleged abductions by the KLA and is relevant to showing the widespread and systematic attack directed against Opponents.¹¹⁷

40. The Panel is also satisfied that Proposed Exhibits 83, 87, 96, and 97 provide context for the contemporaneous events concerning the KLA and the KLA GS in 1998 and 1999. Concerning Proposed Exhibit 81, the Panel is satisfied that much of the Proposed Exhibit is relevant to contemporaneous events concerning the KLA and the Accused, including involvement of the KLA in combat operations.¹¹⁸

41. Having carefully reviewed Proposed Exhibits 77-83 and 85-97, the Panel is satisfied that they are relevant to allegations and charges in the Indictment.¹¹⁹

(b) Authenticity

42. The Panel notes that the Defence objects to the videos tendered in Annex 1 to the Motion on the basis that some of the tendered interviews attribute statements to the Accused which go to the core of live issues in the case,¹²⁰ and because there is no information that any of the attributed statements were verified.¹²¹ According to the Defence, tendering the interviews as if they were formal and reliable records is misleading and prejudicial to the Accused.¹²² The Defence also challenges, generally, any media tendered in Annex 1 to the Motion on the basis that other evidence on the record demonstrates that interviews were tempered with, as a form of propaganda, which calls for caution when assessing their authenticity.¹²³

¹¹⁶ Transcript of Hearing, 18 September 2024, confidential, p. 19981, line 11 to p. 19983, line 3.

¹¹⁷ See Indictment, paras 16, 17.

¹¹⁸ *Contra* See also Annex 1 to the Response, pp. 204-205.

¹¹⁹ Indictment, paras 13-15, 18-55, 78, 79, 115, 116, 126. *Contra* Annex 1 to the Response, R.1 and R.2 Objections.

¹²⁰ Response, para. 13. See also Annex 1 to the Response, Proposed Exhibits 77, 79, 82.

¹²¹ Response, para. 14. See also Annex 1 to the Response, Proposed Exhibits 78, 79, 83, 91, 96.

¹²² Response, para. 14.

¹²³ Response, para. 15.

43. With regards to the Defence's argument regarding videos that attribute statements to the KLA and/or to any of the Accused,¹²⁴ the Panel recalls that the hearsay nature of such items and any limitations that might bear upon the Defence's ability to challenge or dispute the contents of these documents will be accounted for when assessing the weight of this evidence.¹²⁵

44. The Panel also recalls that the fact that some of the videos might not have been authenticated, nor corroborated, and in certain instances might have even been contradicted by witnesses who testified, or by other evidence on the record, does not prevent their admission.¹²⁶ Similarly, 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.¹²⁷ The claim that some of the proposed videos are or might be doctored is unsubstantiated.

45. The Panel further recalls that admissibility of videos generally requires information regarding their origin and integrity.¹²⁸ The Panel notes in this regard that Proposed Exhibits 77-79, 82, 85, 86, and 89-94 were either: (i) downloaded from YouTube by the SITF¹²⁹ or the SPO;¹³⁰ (ii) obtained by the SPO from respective TV broadcasters¹³¹ or archives of the broadcasters;¹³² or (iii) obtained by the SPO from the International Criminal Tribunal for the Former Yugoslavia ("ICTY").¹³³ Furthermore, some of the Proposed Exhibits contain a logo of the broadcaster, or the watermark bearing the name of the broadcaster is superimposed on the

¹²⁴ Response, para. 13. *See also* Annex 1 to the Response, Proposed Exhibits 77, 79, 82.

¹²⁵ *See* F01983, Panel, *Sixth Decision on Specialist Prosecutor's Bar Table Motion*, 5 December 2023, para. 40.

¹²⁶ *See above* para. 18.

¹²⁷ *See above* para. 15.

¹²⁸ Decision on Bar Table Motion, para. 26.

¹²⁹ Proposed Exhibit 77.

¹³⁰ Proposed Exhibits 78, 79, 82.

¹³¹ Proposed Exhibits 85, 90-94.

¹³² Proposed Exhibit 89.

¹³³ Proposed Exhibit 86.

video.¹³⁴ Regarding Proposed Exhibits 85, 86, and 90-94, the Panel also observes that the contemporaneous events referred to in the videos are corroborated by other evidence on the record.¹³⁵ Additionally, where the Proposed Exhibits refer to past events, date of the events are displayed on the screen or directly referred to in the video clip.¹³⁶

46. Concerning Proposed Exhibits 80, 88 and 95, the Panel notes that they were downloaded by the SPO from the broadcaster's archives.¹³⁷ Additionally, these Proposed Exhibits also contain a logo of the broadcaster.¹³⁸ Regarding Proposed Exhibits 81, 83, 87, 96 and 97, the Panel notes that they were: (i) seized from the residence of Mr. Selimi;¹³⁹ or (ii) downloaded from YouTube or another broadcaster by the SPO.¹⁴⁰ Furthermore, some of the Proposed Exhibits contain a logo of the broadcaster,¹⁴¹ and Proposed Exhibit 96 also depicts a KLA flag.¹⁴² Regarding Proposed Exhibit 87, the Panel notes that it consists of an *Associated Press* article which corresponds to an already admitted video, namely P01273.¹⁴³ The Panel also notes that the Defence does not object to its admission.¹⁴⁴

47. The Panel further notes that the SPO has provided verbatim transcripts for all aforementioned Proposed Exhibits.

48. For these reasons, the Panel is satisfied that Proposed Exhibits 77-83, 85-97 are *prima facie* authentic.

¹³⁴ Proposed Exhibits 77-79, 82, 89.

¹³⁵ See Annex 1 to the Motion, pp. 101-103, 105, 107-109 and references contained therein. For Proposed Exhibit 92, see in particular P00812, P00814.

¹³⁶ Proposed Exhibits 78, 79, 82

¹³⁷ Proposed Exhibits 80, 88, 95.

¹³⁸ Proposed Exhibits 80.

¹³⁹ Proposed Exhibit 81.

¹⁴⁰ Proposed Exhibits 83, 97.

¹⁴¹ Proposed Exhibits 81, 83, 97.

¹⁴² Proposed Exhibit 96.

¹⁴³ See Annex 1 to the Motion, Proposed Exhibit 87.

¹⁴⁴ See Annex 1 to the Response, Proposed Exhibit 87.

(c) Probative value not outweighed by prejudicial effect

49. Having found Proposed Exhibits 77-83, 85-97 to be relevant and *prima facie* authentic, the Panel is also satisfied that these items also bear probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 41.¹⁴⁵

50. The Panel further finds that the probative value of Proposed Exhibits 77-83, 85-97 is not outweighed by any prejudicial effect, considering in particular 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

51. In light of the above, the Panel is satisfied that Proposed Exhibits 77-83, 85-97 are admissible pursuant to Rule 138(1).

4. Annex 2 to the Motion, Proposed Exhibits 1-18

52. Regarding the Defence's objections to Proposed Exhibits 8-11, which were seized from Mr Krasniqi,¹⁴⁶ the Panel recalls its finding in the Second Decision on Bar Table Motion as to the lawfulness of the search and seizure operations, which was upheld by the Court of Appeals Panel.¹⁴⁷ The Panel also recalls that the Defence has neither sought nor established the conditions for reconsideration of the Second Decision on Bar Table Motion in respect of this matter.¹⁴⁸ The Panel notes that the Defence raises one additional claim, namely that it had not been on

¹⁴⁵ *Contra* Annex 1 to the Response, PV.1 Objections.

¹⁴⁶ Annex 2 to the Motion, pp. 42-57.

¹⁴⁷ Second Decision on Bar Table Motion, paras 101-120; IA029/F00005, Court of Appeals Panel, *Decision on Veseli and Krasniqi Appeal against Second Decision on Specialist Prosecutor's Bar Table Motion*, 23 August 2023, confidential and *ex parte*, paras 32, 36-38 (a public redacted version was issued on the same day, IA029/F00005/RED). *See above* para. 189.

¹⁴⁸ Decision on Llap Zone Bar Table Motion, para. 26. *See above* para. 189.

notice of the exact origin of certain seized items (*i.e.*, the fact that they had been seized from a USB stick found in a wallet in the possession of Mr Krasniqi).¹⁴⁹ However, the Panel has already found that the fact that a USB stick was found in Mr Krasniqi's wallet is recorded in the SPO search report and it is also apparent from pictures of the evidence bag.¹⁵⁰ This objection to admission to the extent that it was raised as an objection is, therefore, dismissed.

53. The Panel also notes the Defence's objections that the request to admit Proposed Exhibits 8 and 12 is a request for reconsideration which does not meet the necessary threshold.¹⁵¹ In relation to Proposed Exhibit 8, the Panel recalls that it denied the admission of the item without prejudice as it was not satisfied with the probative value and reliability of the item without further contextualization. The Panel also noted that identification of those parts or sections of the item which the SPO sought to rely upon might have enabled the Panel to make a more specific assessment of those parts' probative value and reliability.¹⁵² The Panel notes that, in the Motion, the SPO identifies the pages of the item it seeks to tender and rely upon,¹⁵³ and contextualizes them through the admitted evidence, including documentary and testimonial evidence.¹⁵⁴ The Panel therefore finds that since the item was previously found inadmissible "without prejudice", the SPO's request to admit portions of the item in the Motion is not a request for reconsideration. It

¹⁴⁹ See Annex 2 to the Motion, pp. 42-57.

¹⁵⁰ F03191, Panel, *Decision on Prosecution Motion for Admission of General Staff and Provisional Government of Kosovo Documents*, 20 May 2025, confidential, para. 15. See also F00125/A03, Specialist Prosecutor, *Report on Search of Persons, Premises and/or Property*, 8 December 2020, strictly confidential and *ex parte* (available to the Krasniqi Defence), p. 13, item 13. The SPO does not object to reclassification for access by the other Defence teams in F03167, Specialist Prosecutor, *Prosecution Reply Relating to Motion for Admission of General Staff and Provisional Government of Kosovo Documents*, 5 May 2025, confidential, para. 4 (and footnotes 16-18) (a public redacted version was filed on the same day, F03167/RED). See also SPOE00223972-00223972.

¹⁵¹ Response, para. 38, referring to Second Decision on Bar Table Motion, para. 130.

¹⁵² Second Decision on Bar Table Motion, para. 180(d). See also Second Decision on Bar Table Motion, para. 130.

¹⁵³ See Annex 2 to the Motion, pp. 44.

¹⁵⁴ See Annex 2 to the Motion, pp. 43-45.

renews its request for admission in light of further contextualisation of the items concerned. In relation to Proposed Exhibit 12, the Panels recalls its previous finding that “origin of the information contained in that book is unclear and the author will not be called as a witness, making it difficult for the Defence to test that evidence and for the Panel to assess its reliability”.¹⁵⁵ The Panel recalls that it accordingly denied, without prejudice, admission of the item.¹⁵⁶ The Panel further notes that two pages of this item were tendered in the course of a witness testimony, and the Panel again denied, without prejudice, their admission, finding that the witness “does not know who authored the document and was not able to comment on the specific meeting mentioned in the document.”¹⁵⁷ The Panel notes that the SPO in the Motion provides additional context and corroboration.¹⁵⁸ The Panel therefore finds that since the item was previously found inadmissible “without prejudice”,¹⁵⁹ the SPO’s request to admit this item in the Motion is not a request for reconsideration. The Panel will assess the admissibility of Proposed Exhibits 8 and 12 under Rule 138(1) in light of all relevant information and submissions placed before the Panel.

54. In relation to the Defence argument that Proposed Exhibit 12 contains pages that concern the acts and conduct of Mr Thaçi, Mr Veseli and Mr Selimi as well as issues of central importance to the SPO case,¹⁶⁰ the Panel recalls its previous finding that there is no bar to the admission through the bar table of proposed exhibits due to their alleged importance to the Prosecution case.¹⁶¹ The same conditions and requirements for admission, as set out in particular in Rule 138(1),

¹⁵⁵ Second Decision on Bar Table Motion, para. 22.

¹⁵⁶ Second Decision on Bar Table Motion, para. 180(d).

¹⁵⁷ Transcript of Hearing, 11 February 2025, p. 25000.

¹⁵⁸ See Annex 2 to the Motion, pp. 61-65. See also below para. 59.

¹⁵⁹ Second Decision on Bar Table Motion, para. 180(d); Transcript of Hearing, 11 February 2025, p. 25000.

¹⁶⁰ Response, paras 29-32.

¹⁶¹ Decision on Llap Zone Bar Table Motion, para. 21; Second Decision on Bar Table Motion, para. 84. See above para. 15.

apply to all categories of proposed exhibits, regardless of their (real or perceived) importance to a Party's case.¹⁶²

55. Lastly, in relation to the Defence's argument that Proposed Exhibit 13 should be denied admission in accordance with paragraph 50 of the Order on the Conduct of Proceedings,¹⁶³ the Panel notes that the SPO, while tendering the entire item, identifies in the Motion selected pages it intends to rely on.¹⁶⁴ As such, the Panel finds that the SPO acted in accordance with paragraph 50 of the Order on the Conduct of Proceedings.

(a) Relevance

56. Regarding the relevance of Proposed Exhibits 1-18 contained in Annex 2 to the Motion, the Panel notes that: (i) Proposed Exhibit 1 is a book titled "*The Kosovo Liberation Army - Documents and articles*";¹⁶⁵ (ii) Proposed Exhibit 2 is a book published by Radio Free Kosovo, in Prishtinë in 2009, containing among others an interview with Fatmir Limaj ("Mr Limaj");¹⁶⁶ (iii) Proposed Exhibits 3-6 are documents published by *KosovaPress*, in Prishtinë in 2016, entitled "The War Archive" and including the first (4 January-28 February 1999), second (1 March-10 April 1999), third (11 April-15 May 1999), and forth volume (16 May-19 June 1999);¹⁶⁷ (iv) Proposed Exhibit 7 is a manuscript authored by Mr Krasniqi, titled

¹⁶² Decision on Llap Zone Bar Table Motion, para. 21; Sixth Decision on Bar Table Motion, para. 92. *See above* para. 15.

¹⁶³ Response, para. 40.

¹⁶⁴ *See* Annex 2 to the Motion, p. 67.

¹⁶⁵ *See* Annex 2, pp. 2-5. The Panel notes that: (i) the SPO tenders only following pages: U016-2577-U016-2579, U016-2590, U016-2603-U016-2608, U016-2624, U016-2653, U016-2669-U016-2674, U016-2741, U016-2809-U016-2810, and U016-2811-U016-2816 (*see* Annex 2 to the Motion, p. 2); (ii) several (partial) pages of this book were already admitted as P00269; and (iii) the SPO clarified the correct ERN for the translation of the Proposed Exhibit 1 - U016-2577-U016-2579-ET (*see* Reply, para. 6).

¹⁶⁶ *See* Annex 2, pp. 6-7. The Panel notes that the SPO tenders only the following pages: pp. 008067-008071, 007789-008966/008067-008071-ET; 008713-008715, 007789-008966/008713-008715-ET; pp. 008879-008881, 007789-008966/008879-008887-ET (*see* Annex 2 to the Motion, p. 6).

¹⁶⁷ *See* Annex 2, pp. 8-15 (Proposed Exhibit 3), pp. 15-19 (Proposed Exhibit 4), pp. 19-21 (Proposed Exhibit 5), and pp. 21-23 (Proposed Exhibit 6). In relation to Proposed Exhibit 3, the Panel notes that: (i) the SPO only tenders the following pages: SPOE00053560-SPOE00053561, SPOE00053504-00054088/

SPOE00053560-SPOE00053561-ET; SPOE00053628-SPOE00053629, SPOE00053504-00054088/
 SPOE00053628-SPOE00053629-ET; SPOE00053634-SPOE00053636, SPOE00053504-00054088/
 SPOE00053634-SPOE00053636-ET; SPOE00053638-SPOE00053639, SPOE00053504-00054088/
 SPOE00053638-SPOE00053639-ET; SPOE00053639-SPOE00053641, SPOE00053504-00054088/
 SPOE00053639-SPOE00053641-ET; SPOE00053647-SPOE00053648, SPOE00053504-00054088/
 SPOE00053647-SPOE00053648-ET; SPOE00053658-SPOE00053659, SPOE00053504-00054088/
 SPOE00053658-SPOE00053659-ET; SPOE00053666, SPOE00053504-00054088/SPOE00053666-
 SPOE00053666-ET; SPOE00053696-SPOE00053697, SPOE00053504-00054088/SPOE00053696-
 SPOE00053697-ET; SPOE00053720, SPOE00053504-00054088/SPOE00053720-SPOE00053720-ET;
 SPOE00053740, SPOE00053504-00054088/SPOE00053740-SPOE00053740-ET; SPOE00053760,
 SPOE00053504-00054088/SPOE00053760-SPOE00053760-ET; SPOE00053769-SPOE00053770,
 SPOE00053504-00054088, SPOE00053769-SPOE00053770-ET; SPOE00053778, SPOE00053504-
 00054088/SPOE00053778-SPOE00053778-ET; SPOE00053788, SPOE00053504-00054088/SPOE00053788-
 SPOE00053788-ET; SPOE00053802, SPOE00053504-00054088/SPOE00053802-SPOE00053802-ET;
 SPOE00053809-SPOE00053812, SPOE00053504-00054088/SPOE00053809-SPOE00053812-ET;
 SPOE00053821-SPOE00053822, SPOE00053504-00054088/SPOE00053821-SPOE00053822-ET;
 SPOE00053912, SPOE00053504-00054088/SPOE00053912-SPOE00053912-ET; SPOE00053921-
 SPOE00053922, SPOE00053504-00054088/SPOE00053921-SPOE00053922-ET; SPOE00053950,
 SPOE00053504-00054088/SPOE00053950-SPOE00053950-ET; SPOE00053952, SPOE00053504-
 00054088/SPOE00053952-SPOE00053952-ET; SPOE00053965, SPOE00053504-00054088/SPOE00053965-
 SPOE00053965-ET; SPOE00053970, SPOE00053504-00054088/SPOE00053970-SPOE00053970-ET; and
 SPOE00053978-SPOE00053979, SPOE00053504-00054088/SPOE00053978-SPOE00053979-ET (see
 Annex 2 to the Motion, pp. 9-11); and (ii) certain pages of this item have already been admitted as
 P00811. In relation to Proposed Exhibit 4, the Panel notes that: (i) the SPO only tenders the following
 pages: SPOE00054133-SPOE00054135, SPOE00054089-00054655/SPOE00054133-SPOE00054135-ET;
 SPOE00054193-SPOE00054194, SPOE00054089-00054655/SPOE00054193-SPOE00054194-ET;
 SPOE00054195, SPOE00054089-00054655/SPOE00054195-SPOE00054195-ET; SPOE00054199,
 SPOE00054089-00054655/SPOE00054199-SPOE00054199-ET; SPOE00054237-SPOE00054238,
 SPOE00054089-00054655/SPOE00054237-SPOE00054238-ET; SPOE00054248-SPOE00054249,
 SPOE00054089-00054655/SPOE00054248-SPOE00054249-ET; SPOE00054271, SPOE00054089-
 00054655/SPOE00054271-SPOE00054271-ET; SPOE00054274, SPOE00054089-00054655/SPOE00054274-
 SPOE00054274-ET; SPOE00054285-SPOE00054286, SPOE00054089-00054655/SPOE00054285-
 SPOE00054286-ET; SPOE00054307, SPOE00054089-00054655/SPOE00054307-SPOE00054307-ET;
 SPOE00054311, SPOE00054089-00054655/SPOE00054311-SPOE00054311-ET; SPOE00054312,
 SPOE00054089-00054655/SPOE00054312-SPOE00054312-ET; SPOE00054321, SPOE00054089-
 00054655/SPOE00054321-SPOE00054321-ET; SPOE00054323, SPOE00054089-00054655/SPOE00054323-
 SPOE00054323-ET; SPOE00054325, SPOE00054089-00054655/SPOE00054325-SPOE00054325-ET;
 SPOE00054394-SPOE00054395, SPOE00054089-00054655/SPOE00054394-SPOE00054395-ET;
 SPOE00054400, SPOE00054089-00054655/SPOE00054400-SPOE00054400-ET; and SPOE00054584-
 SPOE00054585, SPOE00054089-00054655/SPOE00054584-SPOE00054585-ET (see Annex 2 to the Motion,
 pp. 16-17); and (ii) certain pages of this item have already been admitted as P00812. In relation to
 Proposed Exhibit 5, the Panel notes that: (i) the SPO only tenders the following pages: SPOE00054704-
 SPOE00054709, SPOE00054656-00055197/SPOE00054704-SPOE00054709-ET; SPOE00055032,
 SPOE00054656-00055197/SPOE00055032-SPOE00055032-ET; SPOE00055046, SPOE00054656-
 00055197/SPOE00055046-SPOE00055046-ET; SPOE00055047, SPOE00054656-00055197/SPOE00055047-
 SPOE00055047-ET; SPOE00055056, SPOE00054656-00055197/SPOE00055056-SPOE00055056-ET; and
 SPOE00055058, SPOE00054656-00055197/SPOE00055058-SPOE00055058-ET (see Annex 2 to the Motion,
 p. 20); and (ii) certain pages of this item have already been admitted as P00813. In relation to Proposed
 Exhibit 6, the Panel notes that: (i) the SPO only tenders the following pages: SPOE00055272-

“The Great Turning Point/The Big Turn”;¹⁶⁸ (v) Proposed Exhibit 8 is a manuscript in preparation by Mr Krasniqi, titled *“The KLA at the Rambouillet International Conference on Kosovo and the NATO bombings”*;¹⁶⁹ (vi) Proposed Exhibit 9 is an extract from unpublished book manuscript, titled *“Testimony on the KLA war”*;¹⁷⁰ (vii) Proposed Exhibit 10 is a manuscript authored by Mr Krasniqi, titled *“Without freedom there is no independence”*;¹⁷¹ (viii) Proposed Exhibit 11 is a part of a manuscript by Mr Krasniqi, titled *“For a sovereign state. There is no sovereignty without integrity”*;¹⁷² (ix) Proposed Exhibit 12 is an excerpt of the book authored by Pal Refsdal titled *“The Guerrilla Reporter”*, including parts titled *“Wounded With the*

SPOE00055273, SPOE00055198-00055677/SPOE00055272-SPOE00055273-ET; SPOE00055341, SPOE00055198-00055677/SPOE00055341-SPOE00055341-ET; SPOE00055425-SPOE00055426, SPOE00055198-00055677/SPOE00055425-SPOE00055426-ET; SPOE00055475, SPOE00055198-00055677/SPOE00055475-SPOE00055475-ET; SPOE00055506, SPOE00055198-00055677/SPOE00055506-SPOE00055506-ET; SPOE00055570, SPOE00055198-00055677/SPOE00055570-SPOE00055570-ET; and SPOE00055596, SPOE00055198-00055677/SPOE00055596-SPOE00055596-ET (see Annex 2 to the Motion, p. 22); (ii) certain pages of this item have already been admitted as P00814; and (iii) the correct ERN for the English translations is SPOE00055341-SPOE00055341-ET Revised (see Reply, para. 6)

¹⁶⁸ See Annex 2, pp. 23-32. The Panel notes that: (i) the SPO only tenders the following pages: [from U015-8743-U015-9047/U015-8743-U015-8935-ET Revised 2] pp. U015-8752-U015-8756, U015-8760-U015-8767, U015-8770-U015-8781, U015-8783-U015-8798, U015-8800-U015-8813, U015-8815, U015-8824-U015-8827, U015-8844-U015-8845, U015-8848, U015-8854-U015-8858, U015-8865-U015-8868, U015-8877, U015-8881-U015-8883, U015-8887-U015-8898, U015-8900-U015-8906, U015-8909-U015-8914, U015-8917-U015-8935; [from U015-8743-U015-9047/U015-8936-U015-8974-ET] pp. U015-8936-U015-8938, U015-8943 (partial, from second paragraph), U015-8944, U015-8946-U015-8958, U015-8960-U015-8972; [from U015-8743-U015-9047/U015-8980-U015-8991-ET] pp. U015-8980-U015-8991; [from U015-8743-U015-9047/U015-8992-U015-9002-ET] pp. U015-8992-U015-9002; [from U015-8743-U015-9047 / U015-9004-U015-9041-ET] pp. U015-9004, U015-9006, U015-9009-U015-9010, U015-9016-U015-9018, U015-9020-U015-9041; [from U015-8743-U015-9047/U015-9042-U015-9045-ET] p. U015-9045; and from [U015-8743-U015-9047/U015-9047-U015-9047-ET] p. U015-9047 (see Annex 2, p. 24); and (ii) 48 out of 305 pages of the item have been admitted as P00189.

¹⁶⁹ See Annex 2, pp. 32-33. The Panel notes that: (i) the SPO only tenders the following pages: SPOE00231039-SPOE00231040, SPOE00231043, SPOE00231114-SPOE00231116 (from the original SPOE00231037-SPOE00231128) and corresponding pages from the English translation (SPOE00231037-SPOE00231128-ET), namely, pages SPOE00231039-SPOE00231040, SPOE00231043, SPOE00231115-SPOE00231118 (see Annex 2, p. 32); and (ii) certain pages of the item were already admitted as P01091.

¹⁷⁰ See Annex 2, p. 34. The Panel notes that the SPO only tenders the following pages: SPOE00231140-SPOE00231141/SPOE00231140-SPOE00231140-ET, SPOE00231141-SPOE00231141-ET (see Annex 2, p. 34).

¹⁷¹ See Annex 2, pp. 34-36. The Panel notes that the SPO only tenders the following pages: pp. SPOE00245716, SPOE00245745-SPOE00245748 (see Annex 2, p. 35).

¹⁷² See Annex 2, pp. 36-37.

KLA, Kosovo 1998” and *“Victory With the KLA, Kosovo 1999”*;¹⁷³ (x) Proposed Exhibit 13 contains Mr Veseli’s interview with Baton Haxhiu;¹⁷⁴ (xi) Proposed Exhibit 14 is a book titled *“War for Kosovo (Commander Remi speaks)”*;¹⁷⁵ (xii) Proposed Exhibit 15 contains *“Eagle’s Eye Memoir”* by Ilaz Kadolli;¹⁷⁶ (xiii) Proposed Exhibit 16 is a booklet titled *“How we won the war”*;¹⁷⁷ (xiv) Proposed Exhibit 17 is a book titled *“The Crisis in Kosovo: 1989-1999”*;¹⁷⁸ and (xv) Proposed Exhibit 18 is a book titled *“The KLA – Llap Operational Zone”*.¹⁷⁹

57. The Panel notes that Proposed Exhibits 1-18 relate, amongst other, to: (i) the KLA organisation, structure and activities and roles and responsibilities of certain

¹⁷³ See Annex 2, pp. 37-41. The Panel notes that: (i) the SPO only tenders the following pages: SPOE00209434-SPOE00209450, SPOE00209452-SPOE00209461, SPOE00209463-SPOE00209471, and SPOE00209473-SPOE00209512 (see Annex 2, p. 37); and (ii) three pages of the item have been admitted as P01449_ET.

¹⁷⁴ See Annex 2, pp. 41-44. The Panel notes that: (i) the SPO tenders the item in full with the exception of already admitted pages SPOE00052989, SPOE00053010-SPOE00053011 (see Annex 2, p. 42); and (ii) three pages of the item have been admitted as P01859_ET: pp. pp.SPOE00052989 (only in Albanian), and SPOE00053010-SPOE00053011. The Panel also notes the SPO’s request to: (i) add translation of the cover page at SPOE00052989-SPOE00052989-ET to be added to the existing P01859_ET; and (ii) the descriptions of P01859 are revised for accuracy to “Book by Baton Haxhiu titled ‘Kadri Veseli: Perballe Baton Haxhiut (me parathenie nga Albatros Rexhaj)/‘Kadri Veseli in front of Baton Haxhiu (Introduction by Albatros REXHAJ)’, Filozofia Urbane, 2013, with the transcript of Baton Haxhiu’s interview of Kadri Veseli (Klan Kosovo, ‘Debate Zone’, December 2009)”. In the absence of Defence’s objection regarding the SPO’s request, the Panel instructs the CMU to add the translation and revised the description of the item as requested by the SPO.

¹⁷⁵ See Annex 2, pp. 44-45. The Panel notes that: (i) the SPO only tenders the following pages: SPOE00053268-SPOE00053269, SPOE00053293-SPOE00053295, and SPOE00053340 (and corresponding Albanian pages SPOE00330202-SPOE00330203, SPOE00330243-SPOE00330246, and SPOE00330329-SPOE00330330; see Annex 2, p. 45); and (ii) portions of the item were already admitted as P00188.

¹⁷⁶ See Annex 2, pp. 45-46. The Panel notes that: (i) the SPO only tenders page 058012 (see Annex 2, p. 46); and (ii) and other pages of this item were already admitted as P00012.

¹⁷⁷ See Annex 2, pp. 46-47. The Panel notes that the SPO only tenders the following pages: SPOE00229708-SPOE00229709, SPOE00229727-SPOE00229728, SPOE00229732-SPOE00229735 (see Annex 2, p. 47).

¹⁷⁸ See Annex 2, pp. 47-67. The Panel notes that: (i) the SPO only tenders the following pages: 1D00-0350-1D00-0351, 1D00-0374-1D00-0375, 1D00-0396, 1D00-0399-1D00-0400, 1D00-0402-1D00-0403, 1D00-0408, 1D00-0410-1D00-0411, 1D00-0414-1D00-0437, 1D00-0441-1D00-0442, 1D00-0448-1D00-0450, 1D00-0452-1D00-0456, 1D00-0462, 1D00-0479-1D00-0483, 1D00-0511, 1D00-0521-1D00-0538, 1D00-0542-1D00-0547, 1D00-0549-1D00-0552, 1D00-0554-1D00-0565, 1D00-0575-1D00-0579, 1D00-0591-1D00-0594, and 1D00-0698-1D00-0709 (see Annex 2, p. 47); and (ii) one page of this item was already admitted as 3D00024.

¹⁷⁹ See Annex 2, pp. 68-69. The Panel notes that: (i) the SPO only tenders pages SPOE00055972-SPOE00055973 (see Annex 2, p. 68); and (ii) other pages of this item were admitted as P00187.

individuals within that structure;¹⁸⁰ (ii) the existence of an armed conflict, historical background and context of the conflict and of the KLA;¹⁸¹ (iii) the alleged widespread and/or systematic attack against those perceived as opponents;¹⁸² (iv) notice of crimes within the KLA leadership and obligations of the KLA as a party to an armed conflict under international humanitarian law;¹⁸³ (v) the KLA GS's role and authority, including the GS's strategies in ongoing negotiations;¹⁸⁴ and (vi) the role, authority, presence and knowledge of the Accused at a specific time within the Indictment Period.¹⁸⁵

58. Having carefully reviewed Proposed Exhibits 1-18, the Panel is satisfied that they are relevant to allegations and charges in the Indictment.¹⁸⁶

(b) Authenticity

59. Regarding authenticity, the Panel notes that: (i) Proposed Exhibits 1-7 and 12-18 contain all relevant information concerning their authorship and publication; and (ii) Proposed Exhibits 8-11 are dated and refer to Mr Krasniqi as an author. The Panel also notes that: (i) Proposed Exhibits 1 and 17 were provided to the SPO by the ICTY/International Residual Mechanism for Criminal Tribunals; (ii) Proposed Exhibits 3-6 and 12 were purchased by the SPO;¹⁸⁷ (iii) Proposed Exhibits 8-11 and 16 were seized from Mr Krasniqi; and (iv) Proposed Exhibit 13 was downloaded from the website of publisher "Filozofia Urbane". In relation to Proposed Exhibits 7 and 12, the Panel also recalls its previous findings about the items' *prima facie* authenticity.¹⁸⁸ In addition, in respect to Proposed Exhibit 12, the

¹⁸⁰ Proposed Exhibits 1-18.

¹⁸¹ Proposed Exhibits 1-7, 10, 12-14, 17.

¹⁸² Proposed Exhibits 1, 7, 15, 17, 18.

¹⁸³ Proposed Exhibit 17.

¹⁸⁴ Proposed Exhibits 3, 8, 13, 17.

¹⁸⁵ Proposed Exhibits 2, 9, 10, 13, 14, 16.

¹⁸⁶ Indictment, paras 16-17, 18-31, 32-54, 55, 70, 106, 155 71-73, 107-108. *Contra* Annex 2 to the Response, R.1 and R.2 Objections.

¹⁸⁷ See Annex 2 to the Motion, pp. 9, 16, 20, 22, and 37.

¹⁸⁸ Second Decision on Bar Table Motion, para. 21.

Panel notes that, in the Motion as opposed to the previous tender through the bar table,¹⁸⁹ the SPO has made specific submissions on the indicia of the item's authenticity and reliability, including details as to the item's corroboration by already admitted evidence.¹⁹⁰

60. For these reasons, the Panel is satisfied that Proposed Exhibits 1-18 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

61. The Panel will now deal with the Defence's argument that unpublished and draft manuscripts lack probative value. The Defence argues, by referring to previous Panel's findings, that unpublished and draft manuscripts (specifically Proposed Exhibits 8 and 9) do not hold any probative value in the absence of contextualisation by a witness of the pages and passages tendered.¹⁹¹ The Panel made no such finding or general proposition. Like any other item offered in evidence, its admission is subject to the applicable requirements. In relation to Proposed Exhibit 8, the Panel recalls that its previous finding was partly based on the SPO's failure to identify parts or sections of the manuscript on which the SPO seeks to rely. The Panel found that the SPO identifying the parts or sections of the item which it sought to rely upon "might have enabled the Panel to make a more specific assessment of those parts' *prima facie* probative value and reliability".¹⁹² The Panel also recalls that it denied the admission of the item without prejudice,¹⁹³

¹⁸⁹ F1268, Specialist Prosecutor, *Prosecution Application for Admission of Material through the Bar Table* ("Second Bar Table Motion"), 8 February 2023, with Annexes 1-4, 6, 7, confidential, and with Annexes 5, 8.

¹⁹⁰ Compare Annex 2 to the Motion, pp. 57-65 with Annex 6 to the Second Bar Table Motion, p. 87. See Transcript of Hearing, 4 June 2024, pp. 16699-16700; P01264/P01264_ET, p. SPOE00128606; P01295, time frame 00:16-00:28; Transcript of Hearing, 5 June 2024, pp. 16751-16754. See also Proposed Exhibit 12, pp. SPOE00209508-SPOE00209509; Proposed Exhibit 2, pp. 008879-008881.

¹⁹¹ Response, paras 38-39, referring to Second Decision on Bar Table Motion, para. 130.

¹⁹² Second Decision on Bar Table Motion, para. 130.

¹⁹³ Second Decision on Bar Table Motion, para. 180(d). See also Second Decision on Bar Table Motion, para. 130.

and later admitted three pages of the item through a witness testimony.¹⁹⁴ The Panel notes that the SPO in the Motion identifies six pages of the item it seeks to tender and rely upon.¹⁹⁵ The Panel is satisfied that the SPO sufficiently contextualized the item through the admitted evidence, including documentary and testimonial evidence.¹⁹⁶ In relation to Proposed Exhibit 9, the Panel finds that the SPO sufficiently contextualized the two pages of the item it seeks to tender and rely upon,¹⁹⁷ consisting of the cover and first page of Mr Krasniqi unpublished manuscript, containing author and title of the manuscript and the header “I shall tell the truth about the KLA”.¹⁹⁸ The Panel further notes that the item was seized from Mr Krasniqi. In light of the above, and having considered their content, the Panel is satisfied that Proposed Exhibits 8 and 9 have probative value.

62. In relation to Proposed Exhibits 7, 10, and 11, the Defence argues that: (i) the admission of these excerpts through the bar table is prejudicial; (ii) the SPO should have tendered the passages from Mr Krasniqi’s books through witnesses who could confirm or dispute the accuracy of their content; and (iii) Mr Krasniqi’s books, just like any other book about the KLA written after the war, are inherently susceptible to exaggerations, inaccuracies or selective recollection, and often the basis or sources upon which they rely is not stated or not clear.¹⁹⁹ Additionally, the Defence argues that book excerpts have limited probative value. The Defence also highlights the absence of any verification by a witness and evidence indicating that some other books are replete with exaggerations and inaccuracies. As a result, as argued by the Defence, the probative value of book excerpts tendered in the

¹⁹⁴ The Panel notes that pp. SPOE00231037, SPOE00231057-SPOE00231066, SPOE00231107 were admitted as P01091/P01091_ET.

¹⁹⁵ See Annex 2 to the Motion, pp. 32.

¹⁹⁶ See Annex 2 to the Motion, pp. 32-33. See also above para. 53.

¹⁹⁷ See Annex 2 to the Motion, p. 34.

¹⁹⁸ See Annex 2 to the Motion, p. 34.

¹⁹⁹ Response, paras 33-37.

Motion is outweighed by the prejudice.²⁰⁰ In addition, in relation to Proposed Exhibit 7, the Defence points to the fact that some witnesses have contradicted some of the information provided therein.²⁰¹ First, the Panel recalls that the fact that some of the Proposed Exhibits were not authenticated through a witness, nor corroborated, does not prevent their admission if the requirements of Rule 138 are otherwise met.²⁰² This, however, may negatively impact the weight that the Panel might be prepared to attribute to such evidence.²⁰³ Similarly, if a witness provided information that contradicts, or cast a doubt on the content of the Proposed Exhibits (*e.g.* allegations of exaggerations and discrepancies in materials written about the KLA), this will be considered when assessing the weight and probative value of the Proposed Exhibits.²⁰⁴ The existence of (real or potential) contradictions between tendered items of evidence or not put to a witness does not preclude their admission. And none of those identified would be such as to preclude admission. The Panel also recalls that the admission stage is not the place to make definite findings on probative value or in respect of the credibility of a witness who denied an item's content. The Panel also notes that the probative value of such items will depend, to a large extent, on the extent to which claims and information they contain is corroborated (or contradicted) by other evidence. The Panel will assess each piece of evidence in light of the entire body of evidence admitted before it at trial, as Rule 139(2) provides, at the end of the case. Lastly, the Panel once again recalls that there is no requirement under the SC's legal framework that Proposed Exhibits must be authenticated through witnesses.²⁰⁵ Having found Proposed Exhibits 1-18 to be relevant and *prima facie* authentic, the Panel is also satisfied that

²⁰⁰ Response, paras 26-28.

²⁰¹ See Annex 2 to the Response, p. 32.

²⁰² See *above* para. 14.

²⁰³ Pashtrik Bar Table Decision, para. 18. *Contra* Response, para 18; Annex 1 to the Response, Proposed Exhibits 16, 27, 32, 40, 69-70, 76, 98, 100. See *above* para. 14.

²⁰⁴ See *above* para. 14.

²⁰⁵ Decision on Llap Zone Bar Table Motion, para. 21; First Decision on Bar Table Motion, para. 12. See also Rule 138(1). *Contra* Annex 2 to the Response, R.3 Objections.

these items also bear probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 57.

The Panel further finds that the probative value of Proposed Exhibits 1-18 is not outweighed by any prejudicial effect, considering in particular 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

63. In light of the above, the Panel is satisfied that Proposed Exhibits 1-18 are admissible pursuant to Rule 138(1).²⁰⁶

5. Annex 3 to the Motion, Proposed Exhibits 1-80

64. At the outset, the Panel notes that, for the purpose of its assessment under Rule 138, it has considered: (i) U001-7483-U001-7483-ET and U001-7490-U001-7490-ET, which constitute revised translations of certain pages of Proposed Exhibit 58;²⁰⁷ and (ii) U002-2369-U002-2370-ET, which constitutes a revised translation of Proposed Exhibit 62.²⁰⁸

65. The Panel notes the Defence's argument that Proposed Exhibit 79 constitutes expert evidence and, as such, it needs to be contextualized and corroborated by an expert witness.²⁰⁹ In this respect, the Panel considers that the report or parts thereof of

²⁰⁶ The Panel directs the Registry to integrate the following Proposed Exhibits, and corresponding translations, into the following already admitted exhibits (i) Proposed Exhibit 1 into P00269; (ii) Proposed Exhibit 2 into P00515; (iii) Proposed Exhibit 3 into P00811; (iv) Proposed Exhibit 4 into P00812; (v) Proposed Exhibit 5 into P00813; (vi) Proposed Exhibit 6 into P00814; (vii) Proposed Exhibit 7 into P00189; (viii) Proposed Exhibit 8 into P01091; (ix) Proposed Exhibit 12 into P01449_ET; (x) Proposed Exhibit 13 into P01859; (xi) Proposed Exhibit 14 into P00188; (xii) Proposed Exhibit 15 into P00012; and (xiii) Proposed Exhibit 18 into P00187.

²⁰⁷ See Disclosure Package 1690. The Panel notes that it will not consider U001-7562-U001-7572-ET contained in Disclosure Package 1690 as it constitutes a translation of those pages of Proposed Exhibit 58 that are not tendered by the SPO. See Annex 3 to the Motion, Proposed Exhibit 58.

²⁰⁸ See Disclosure Package 1690.

²⁰⁹ See Annex 3 to the Response, Proposed Exhibit 79.

any expert witness to be called by a Party cannot be admitted through the bar table under Rule 138.²¹⁰ 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”. The Panel further notes that Rule 149 does not address the admission of any evidence other than the “report” of an expert witness, or parts thereof, nor does it refer to any category of witnesses other than an “expert witness to be called by a Party”.²¹¹ 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”.²¹²

66. In the present case, the Panel notes that Proposed Exhibit 79 does not constitute a report of an expert witness to be called by any Party. Rather, it is tendered by the SPO as an exhibit under Rule 138, and is, therefore, not being offered nor does it qualify as expert evidence within the meaning of Rule 149. However, when determining the weight, if any, to be attributed to this item, the Panel will consider the fact that the author has not been called to testify and that her/his qualifications have not been established.²¹³ In light of the above, the Panel rejects the Defence’s submissions that Proposed Exhibit 79 constitutes expert evidence that needs to be contextualized and corroborated by an expert witness.

(a) Relevance

67. Regarding the relevance of Proposed Exhibits 1-80 contained in Annex 3 to the Motion, the Panel notes that: (i) Proposed Exhibits 1-14 consist of reports

²¹⁰ F03211, Panel, *Decision on Prosecution Motion for Admission of Documents concerning Murder Victims and Related Request* (“F03211 Decision”), 29 May 2025, confidential, para. 17.

²¹¹ F03211 Decision, para. 17.

²¹² F03211 Decision, para. 18.

²¹³ F03211 Decision, para. 18.

prepared by international organisations (“International Reports”);²¹⁴ (ii) Proposed Exhibits 16, 19, 22, 27,²¹⁵ 31, 37, 38, 42, and 50 consist of a decision and several orders originating from the Serbian authorities (“Decision and Orders”); (iii) Proposed Exhibits 17, 18, 20, 23, 24, 26, 28-30, 33-36, 39-41, 43-45, 48, 49, and 51 consist of reports originating from the Serbian authorities (“Serbian Reports”); (iv) Proposed Exhibits 15,²¹⁶ 21, 25, 32, 46, 47,²¹⁷ and 64 consist of various documents originating from the Serbian authorities (“Various Serbian Documents”); and (v) Proposed Exhibits 52-63²¹⁸ and 65-80²¹⁹ consist of various documents, including, *inter alia*, an ICRC booklet, maps, an identification card,

²¹⁴ Regarding Proposed Exhibits 11, 13, 14, the Panel notes that it has assessed only the pages tendered by the SPO, namely: (i) pp. SITF00439625, SITF00439633, SITF00439655-SITF00439656, SITF00439680 of Proposed Exhibit 11; (ii) pp. K046-3790-K046-3791, K046-3933, K046-3939 of Proposed Exhibit 13; and (iii) p. SPOE00210227 (p. 15) of Proposed Exhibit 14. *See* Annex 3 to the Motion, Proposed Exhibits 11, 13, 14.

²¹⁵ The Panel notes that it has not assessed pp. 7-9 of the English translation of Proposed Exhibit 27 as they are not being tendered by the SPO. *See* Annex 3 to the Motion, Proposed Exhibit 27.

²¹⁶ The Panel notes that it has assessed only pp. K0228232-K0228235 and K022-8398-K022-8405 (pp. 03081349-03081352 and 03081498-03081505 of the English translation) of Proposed Exhibit 15, as tendered by the SPO. *See* Annex 3 to the Motion, Proposed Exhibit 15.

²¹⁷ The Panel notes that it has assessed only the pages tendered by the SPO, namely pp. 03085476, 03085485-03085513, 03085559-03085561, 03085564-03085565, 03085568-03085569, 03085572-03085575, 03085583-03085585, 03085588-03085589 of Proposed Exhibit 47. *See* Annex 3 to the Motion, Proposed Exhibit 47.

²¹⁸ Regarding Proposed Exhibits 55-58 and 62, the Panel notes that it has assessed only the pages tendered by the SPO, and related translations, namely: (i) pp. U001-8259-U001-8262 of Proposed Exhibit 55; (ii) pp. U008-2529- U008-2530 of Proposed Exhibit 56; (iii) pp. 058048-058056, 058100-058101 of Proposed Exhibit 57; (iv) pp U001-7478-U001-7561 of Proposed Exhibit 58; and (v) p. U002-2369 of Proposed Exhibit 62. *See* Annex 3 to the Motion, Proposed Exhibits 55-58, 62. The Panel further notes that the correct ERN of the English translation of Proposed Exhibit 61 is SPOE00366643-SPOE00366643-ET (instead of SPOE00366643-00366643-ET as mentioned in Annex 3 to the Motion).

²¹⁹ Regarding Proposed Exhibits 67, 69, 71, 72, 75, and 76, the Panel notes that it has assessed only the pages tendered by the SPO, and related translations, namely: (i) pp. 5, 7, 9, 12, and 13 of Proposed Exhibit 67; (ii) pp. SITF00243172-SITF00243174, SITF00243177-SITF00243179, SITF00243182-SITF00243193, SITF00243195-SITF00243212, SITF00243215-SITF00243217, SITF00243219-SITF00243220, SITF00243244, SITF00243250-SITF00243251, SITF00243255-SITF00243256, SITF00243263, SITF00243266-SITF00243267, SITF00243270, SITF00243273, SITF00243275-SITF00243276, and SITF00243279-SITF00243280 of Proposed Exhibit 69; (iii) pp. SITF00025097-SITF00025100 of Proposed Exhibit 71; (iv) pp. SITF00016397-SITF00016401 of Proposed Exhibit 72; (v) p. 0189-0884 of Proposed Exhibit 75; and (vi) p. 0188-3937 of Proposed Exhibit 76. *See* Annex 3 to the Motion, Proposed Exhibits 67, 69, 71, 72, 75, and 76.

reports, a register, templates, notes/notebooks, letters, statements and one certificate ("Other Documents").

68. The Panel notes that Proposed Exhibits 1-80 relate, *inter alia*, to: (i) the ongoing armed hostilities between the KLA and Serbian forces;²²⁰ (ii) the activities, structure and organisation of the KLA and individuals within that structure;²²¹ (iii) the alleged existence of a common criminal purpose and policy of interrogating and detaining perceived opponents;²²² (iv) charged crimes including in Prizren, Kleckë/Klečka, Gjilan/Gnjilane, Cahan, Llapushnik/Lapušnik, Zllash/Zlaš, Drenoc/Drenovac, Retimlje/Reti, Rahovec/Orahovac, Kukës and Budakovë/Budakovo;²²³ (v) the alleged role and authority of Mr Krasniqi and Mr Veseli within the KLA and PGoK;²²⁴ and (vi) the activities of the Kosovo Force ("KFOR") relating to the KLA's undertakings.²²⁵ Moreover, the SPO tenders certain Proposed Exhibits in support of the authenticity of other previously tendered and admitted items.²²⁶

69. As regards the Defence's submissions that Proposed Exhibits 16-18 and 20 pertain to events falling outside the Indictment period, and, therefore, are not relevant to the charges,²²⁷ the Panel observes that the items in question refer indeed to events taking place during the months preceding the Indictment period, namely during January-February 1998. Nevertheless, the Panel notes that the SPO tenders Proposed Exhibits 16-18 and 20 to demonstrate the existence of an armed conflict between the KLA and Serbian forces as well as the organisation of the KLA. The

²²⁰ See Annex 3 to the Motion, Proposed Exhibits 1, 3, 5, 6, 10, 15, 16, 18-24, 26-45, 47-50.

²²¹ See Annex 3 to the Motion, Proposed Exhibits 1-3, 5-12, 14, 16-18, 20, 23, 24, 26-30, 32-41, 44, 45, 47, 48, 50, 51, 53, 55, 57, 58, 60-63, 65-69, 72.

²²² See Annex 3 to the Motion, Proposed Exhibits 25, 54, 56, 60, 75, 78.

²²³ See Annex 3 to the Motion, Proposed Exhibits 4, 7, 13, 46, 49, 56, 59, 70, 71, 73, 74, 76, 77, 79, 80.

²²⁴ See Annex 3 to the Motion, Proposed Exhibits 5, 54.

²²⁵ See Annex 3 to the Motion, Proposed Exhibits 4, 6, 7-12.

²²⁶ See Annex 3 to the Motion, Proposed Exhibits 51-53, 64.

²²⁷ Response, para. 47; Annex 3 to the Response, Proposed Exhibits 16-18, 20.

Panel further notes that the existence of an armed conflict from at least March to October 1998 is contested by the Defence.²²⁸ In this light, the Panel finds that Proposed Exhibits 16-18 and 20 are relevant, *inter alia*, to the Panel's assessment of the existence of an armed conflict between the KLA and Serbian forces from at least March 1998 through September 1999, as pleaded in the Indictment, and to associated issues of structure and military opposition. In the same vein, the Panel finds that Proposed Exhibit 61 is relevant to its assessment of the organisation and activities of the KLA, despite the fact that said item refers to events falling outside the Indictment period.²²⁹

70. The Defence further submits that the majority of the documents originating from the Serbian authorities do not mention the KLA nor do they contain evidence that any of the individuals mentioned therein were in any way affiliated with the KLA or were acting pursuant to any alleged policy.²³⁰ The Panel notes, in this respect, that whether the incidents and individuals mentioned in the concerned documents were linked to the KLA will be determined by the Panel at the end of the trial, having regard to the entire body of evidence admitted, in accordance with Rule 139(2).

71. As regards the relevance of Proposed Exhibit 52,²³¹ the Panel notes the SPO's submissions that this document is being tendered primarily in support of the authenticity of Proposed Exhibit 51, which, in turn, is being tendered for further authentication of other previously tendered and admitted items.²³² The Panel finds that the connection of Proposed Exhibit 52 to the facts and circumstances of this

²²⁸ The Panel recalls that the SPO and the Defence have agreed that "[a]n armed conflict not of an international character existed in Kosovo between 30 November 1998 and 9 June 1999". See F02573/A01, Specialist Prosecutor, *ANNEX 1 to Prosecution updated report concerning agreed facts*, 13 September 2024, with Annex 1, confidential, and Annex 2, public, Agreed Fact JD1.

²²⁹ *Contra* Annex 3 to the Response, Proposed Exhibit 61.

²³⁰ Response, paras 47-49; Annex 3 to the Response, Proposed Exhibits 18-22, 25-29, 31-44, 46, 48, 49.

²³¹ Response, para. 4; Annex 3 to the Response, Proposed Exhibit 52.

²³² Annex 3 to the Motion, Proposed Exhibits 51, 52. See also Reply, para. 3, footnote 8.

case, as argued by the SPO, is tenuous and that said exhibit is not sufficiently linked to the elements of the crimes and modes of liability pleaded in the Indictment or other facts or circumstances material to the SPO's case. Therefore, the Panel denies the admission of Proposed Exhibit 52.

72. Having carefully reviewed Proposed Exhibits 1-51 and 53-80, the Panel is satisfied that they are relevant to allegations and charges in the Indictment.²³³

(b) Authenticity

73. Regarding the authenticity of the International Reports, the Panel notes that Proposed Exhibits 1-10 and 12 are dated, include details about the sender and recipient(s) of the documents contained therein, and identify the international organisation that issued them. In addition, some of these Proposed Exhibits: (i) are stamped;²³⁴ (ii) bear the header of the relevant organisation;²³⁵ (iii) indicate a reference and/or file number;²³⁶ (iv) include the signatures of the documents' recipients;²³⁷ and (v) have similar formatting.²³⁸ The Panel further notes that: (i) the entries in Proposed Exhibit 11 are dated and numbered, and identify the log keeper and the relevant unit; (ii) Proposed Exhibit 13 identifies the International Committee of the Red Cross ("ICRC") as the issuing authority and indicates a date of issuance. As regards Proposed Exhibit 14, the Panel notes that the document: (i) provides details about two meetings involving KFOR, the KLA and UNMIK,²³⁹ (ii) indicates the date and place of said meetings, and (iii) identifies some of the participants. The Panel notes, in this regard, the SPO's submissions that the

²³³ Indictment, paras 16-55, 62, 64, 75, 78, 79, 83, 86-90, 92, 99, 101, 109, 115, 116, 121, 124-128, 133, 141, 145, 146, 160-165, 168, 172. *Contra* Annex 3 to the Response, R.1 and R.2 Objections.

²³⁴ See Annex 3 to the Motion, Proposed Exhibits 4-7, 9, 10.

²³⁵ See Annex 3 to the Motion, Proposed Exhibits 3, 8, 12.

²³⁶ See Annex 3 to the Motion, Proposed Exhibits 3-10, 12.

²³⁷ See Annex 3 to the Motion, Proposed Exhibits 4-7, 9, 10.

²³⁸ See Annex 3 to the Motion, Proposed Exhibits 1 and 2; Proposed Exhibits 4-7, 9, 10; and Proposed Exhibits 8 and 12.

²³⁹ The Panel notes that "UNMIK" refers to the United Nations Interim Administration Mission in Kosovo.

information recorded in Proposed Exhibit 14 overlaps, in part, with information contained in Proposed Exhibit 8.²⁴⁰ For these reasons, the Panel is satisfied that the International Reports are *prima facie* authentic.

74. In relation to the Decision and Orders, the Panel notes that, with the exception of Proposed Exhibit 50, they are all dated, signed and indicate the documents' classification, whereas the majority of them are also stamped²⁴¹ and bear a reference number.²⁴² As for Proposed Exhibit 50, the Panel notes that it is dated, stamped, bears a reference number, and indicates its classification. For these reasons, the Panel is satisfied that the Decision and Orders are *prima facie* authentic.

75. As regards the Serbian Reports, the Panel notes that Proposed Exhibits 17, 18, 20, 23, 24, 26, 28-30, 33-36, 40-41, 48, and 49 are dated, stamped, bear a header and a protocol or reference number, and indicate their classification. Moreover, they are either signed²⁴³ or identify the relevant issuing authority.²⁴⁴ The Panel further notes that Proposed Exhibit 39 is dated and bears a "State Security Department" header. The Panel also notes the SPO's submissions that the content of Proposed Exhibit 39 overlaps, in part, with information contained in other evidence on record.²⁴⁵ Furthermore, Proposed Exhibits 43-45 are dated, indicate the documents' classification and bear a header as well as a protocol number. In addition, Proposed Exhibit 45 is signed. In relation to Proposed Exhibit 51, the Panel notes that it consists of [REDACTED]. For these reasons, the Panel is satisfied that the Serbian Reports are *prima facie* authentic.

²⁴⁰ See Annex 3 to the Motion, Proposed Exhibits 8 and 14.

²⁴¹ See Annex 3 to the Motion, Proposed Exhibits 19, 22, 31, 37, 38, 42.

²⁴² See Annex 3 to the Motion, Proposed Exhibits 16, 19, 22, 31, 37, 38, 42.

²⁴³ See Annex 3 to the Motion, Proposed Exhibits 18, 20, 23, 24, 33-35, 40.

²⁴⁴ See Annex 3 to the Motion, Proposed Exhibits 17, 26, 28-30, 36, 41, 48, 49.

²⁴⁵ See Annex 3 to the Motion, Proposed Exhibit 39, *referring to* P01209_ET, p. 686 and Adjudicated Fact 66.

76. Turning to the Various Serbian Documents, the Panel notes that Proposed Exhibits 21, 25, 32, and 64 are dated, bear a reference number and a header from the Serbian Ministry of Interior, and identify their respective issuing authorities. Proposed Exhibit 32 is also stamped and bears the signatures of the individuals that received the document. In addition, Proposed Exhibit 46 bears a header from the Serbian Ministry of Interior and indicates a date and place of issuance. As regards Proposed Exhibit 15, the Panel notes that: (i) pages K0228232-K0228233 contain the cover pages of an operations/war log; (ii) pages K0228234-K0228235 contain two lists providing the names of army officers and code signs used for reports; and (iii) pages K022-8398-K022-8405 are dated and signed. Furthermore, with respect to Proposed Exhibit 47, the Panel notes that: (i) pages 03085485-03085513, 03085559-03085561, 03085564-03085565, 03085568-03085569, 03085572-03085575, 03085583-03085585, and 03085588-03085589 contain notebook entries with notes on meetings of the Kosovo and Metohija Joint Command which include the dates the relevant meetings took place as well as the names of some of the participants to these meetings; and (ii) page 03085476 contains the cover page of the notebook. For these reasons, the Panel is satisfied that the Various Serbian Documents are *prima facie* authentic.

77. Turning to the Other Documents, the Panel notes that Proposed Exhibits 73 and 74 consist of two maps of Kosovo which identify their year of issuance as well as their respective publishers. Proposed Exhibit 75 consists of an identification card which is signed, bears a serial number, identifies its date of issuance, and contains the personal details of its holder, including his signature. The Panel further notes that: (i) Proposed Exhibits 70 and 76 are dated, signed and stamped, while Proposed Exhibit 70 indicates, in addition, a place of issuance and bears a protocol number; (ii) Proposed Exhibit 77 is signed, stamped and identifies the [REDACTED] as the issuing authority; (iii) Proposed Exhibits 62, 63, and 78 are signed and indicate a place and date of issuance, while Proposed Exhibits 62 and

63 bear, in addition, a KLA header and a reference number respectively; (iv) Proposed Exhibit 79 is dated, signed and bears a protocol number as well as the logo of the International Commission on Missing Persons; (v) Proposed Exhibit 80 is dated and bears the logo and header of UNMIK as well as a reference number; (vi) Proposed Exhibit 66 indicates a place and date of issuance, identifies the Information Service of the Government of Kosovo as the issuing authority and was seized from the residence of Mr Krasniqi; (vii) Proposed Exhibit 68 is signed, stamped and bears a KLA header; (viii) Proposed Exhibit 71 bears a “Republic of Kosovo, KLA Main Headquarters” header, identifies 1999 as its year of issuance and contains the personal details of the individuals concerned, such as their military rank and date and place of birth; (ix) Proposed Exhibit 72 is stamped and identifies Azem Sylja as its author; (x) Proposed Exhibit 53 is an ICRC booklet which bears the logo and header of the organisation; (xi) Proposed Exhibit 54 was seized from the residence of Mr Krasniqi and its *prima facie* authenticity is bolstered by other documentary evidence admitted in these proceedings;²⁴⁶ and (xii) 'Proposed Exhibit 58 is a notebook bearing the handwritten title “KLA – Toger, The Black Eagle Special Unit, Arton BERISHA” and contains dated reports, notes on the activities and meetings of the Black Eagle, Special Unit, as well as notes and information on its members, including their personal details and signatures. The Panel is satisfied that these Proposed Exhibits are *prima facie* authentic.

78. As regards Proposed Exhibit 69, the Panel notes that: (i) this notebook was seized by UNMIK from the residence of KLA member Naim Kadriu; and (ii) the entries tendered by the SPO refer to the date and place they were drafted and provide details about KLA activities and members during the relevant dates. In relation to Proposed Exhibit 57, the Panel notes that: (i) pages 058048-058055 are signed by [REDACTED] and stamped, while pages 058048 and 058054-058055 also

²⁴⁶ See Annex 3 to the Motion, Proposed Exhibit 54.

include the header [REDACTED]; (ii) page 058056 bears the KLA logo and is signed by [REDACTED]; and (iii) pages 058100-058101 are stamped and signed by [REDACTED], and bear the header [REDACTED]. The Panel further notes that Proposed Exhibit 57 was provided to the SPO by [REDACTED].²⁴⁷ The Panel is satisfied that these Proposed Exhibits are *prima facie* authentic.

79. As regards Proposed Exhibit 61, the Panel notes that the article and the communique contained therein were published in issue 18 of *Zëri i Kosovës*, dated 1 April 1996-1 May 1996 and they both report on the same contemporaneous events taking place in April 1996. In addition, the Panel notes that communique no. 19 contained in Proposed Exhibit 61: (i) indicates a date and place of issuance; (ii) identifies the “Central Staff of the Kosovo Liberation Army” as the issuing authority; and (iii) is accompanied by a note from the editorial office of *Zëri i Kosovës* clarifying that the communique was received by fax. For these reasons, the Panel is satisfied that Proposed Exhibit 61 is *prima facie* authentic.

80. As regards Proposed Exhibit 67, the Panel notes that pages 5 and 12 are signed by the same KLA commander, while page 13 identifies said commander as the issuing authority. In addition, pages 5 and 13 bear a handwritten and typewritten header referring to a Drenica Operational Zone as well as Battalion 1 and Company 4. For these reasons, the Panel is satisfied that pages 5, 12, and 13 of Proposed Exhibit 67 are *prima facie* authentic. On the contrary, the Panel notes that pages 7 and 9 of Proposed Exhibit 67 are undated, unsigned and bear no KLA stamp or header. Furthermore, they are not attributed to any entity or person. The Panel therefore denies their admission.

81. As regards Proposed Exhibit 60, the Panel notes that it previously denied admission of this item on the basis that: (i) there is no indication that the document was published, as other communiqués were; (ii) there is no indication as to who

²⁴⁷ See Annex 3 to the Motion, Proposed Exhibit 57.

made the handwritten note on the document; and (iii) the document does not bear other indicia that would enable the Panel to verify its *prima facie* authenticity.²⁴⁸ Although the SPO provides additional corroboration and contextualization in support of the item's authenticity, the Panel, having reviewed the SPO's submissions and associated information, finds that they do not address the Panel's previous concerns. In particular, there is still no indication that the document was published, as other communiques were, nor did the SPO provide any information as to who made the handwritten note on the document. The Panel, therefore, finds that the SPO has failed to establish the *prima facie* authenticity of Proposed Exhibit 60 and, therefore, denies its admission.

82. As regards Proposed Exhibit 55, the Panel notes that it is undated, unsigned, bears no KLA stamp or header, and it is not attributed to any entity or person. The fact that aspects of this exhibit overlap with aspects of other documents in evidence or tendered in the Motion is not, in itself, sufficient to establish its *prima facie* authenticity.²⁴⁹ In relation to Proposed Exhibit 56, the Panel recalls that it has denied in the past the admission of the item without prejudice.²⁵⁰ The Panel notes that the SPO provides no additional context or corroboration regarding the document's authenticity in the Motion.²⁵¹ In relation to Proposed Exhibit 59, the Panel notes that, although it identifies its author by name, it bears no other indicia of authenticity. In particular, it is not clear to whom the document is addressed, when it was prepared and for what purpose. Similarly, the Panel notes that, although Proposed Exhibit 65 bears the signature of a named individual, it is not clear if he is the author and what his position is within the KLA. Moreover, it is

²⁴⁸ F01705, Panel, *Third Decision on Specialist Prosecutor's Bar Table Motion*, 27 July 2023, para. 42.

²⁴⁹ *Contra* Annex 3 to the Motion, Proposed Exhibit 55.

²⁵⁰ F01603, Panel, *Decision on Prosecution Motion for Admission of Evidence pursuant to Rule 155*, 14 June 2023, confidential, para. 194 (a public redacted version was issued on 8 September 2023, F01603/RED).

²⁵¹ *See* Annex 3 to the Motion, Proposed Exhibit 56.

not clear when the notebook was compiled and for what purpose. In light of the foregoing, the Panel denies the admission of Proposed Exhibits 55, 56, 59, and 65.

83. For these reasons, the Panel is satisfied that, except for Proposed Exhibits 55, 56, 59, 60, 65 and pages 7 and 9 of Proposed Exhibit 67, the Other Documents are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

84. Having found Proposed Exhibits 1-51, 53, 54, 57, 58, 61-64, and 66-80²⁵² to be relevant and *prima facie* authentic, the Panel is also satisfied that these items also bear probative value regarding facts and circumstances relevant to this case as outlined above at paragraph 72.²⁵³

85. The Panel further finds that the probative value of Proposed Exhibits 1-51, 53, 54, 57, 58, 61-64, and 66-80 is not outweighed by any prejudicial effect, considering in particular 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

86. In light of the above, the Panel is satisfied that Proposed Exhibits 1-51, 53, 54, 57, 58, 61-64, 66, 67 (pages 5, 12 and 13), and 68-80 are admissible pursuant to Rule 138(1).²⁵⁴ The Panel denies admission of Proposed Exhibits 52, 55, 56, 59, 60, 65 and pages 7 and 9 of Proposed Exhibit 67.

²⁵² The Panel notes that it has found relevant and *prima facie* authentic only pp. 5, 12, 13 of Proposed Exhibit 67. See *above* para. 78.

²⁵³ *Contra* Annex 1 to the Response, PV.1 Objections.

²⁵⁴ Regarding Proposed Exhibits 11, 13-15, 27, 47, 57, 58, 62, 69, 71, 72, 75, 76 contained in Annex 3 to the Motion, the Panel notes that it admits only: (i) pp. SITF00439625, SITF00439633, SITF00439655-SITF00439656, SITF00439680 of Proposed Exhibit 11; (ii) pp. K046-3790-K046-3791, K046-3933, K046-3939 of Proposed Exhibit 13; (iii) p. SPOE00210227 (p. 15) of Proposed Exhibit 14; (iv) pp. K0228232-K0228235, K022-8398-K022-8405 (pp. 03081349-03081352, 03081498-03081505 of the

V. CLASSIFICATION

87. Noting that the Reply was filed confidentially pursuant to Rule 82(4) and the SPO requests its reclassification as public,²⁵⁵ the Panel instructs the Registry to reclassify the Reply as public.

88. Further, the Panel directs the Registry to assign to the admitted items the classification indicated in Annexes 1-3 to the Motion.

VI. DISPOSITION

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

(a) **REJECTS** the SPO leave to add the Video (Proposed Exhibit 84) to the

English translation) of Proposed Exhibit 15; (v) pp. 1-6 of the English translation of Proposed Exhibit 27; (vi) pp. 03085476, 03085485-03085513, 03085559-03085561, 03085564-03085565, 03085568-03085569, 03085572-03085575, 03085583-03085585, 03085588-03085589 and related translation of Proposed Exhibit 47; (vii) pp. 058048-058056, 058100-058101 of Proposed Exhibit 57; (viii) pp U001-7478-U001-7561 of Proposed Exhibit 58; (ix) p. U002-2369 of Proposed Exhibit 62; (x) pp. SITF00243172-SITF00243174, SITF00243177-SITF00243179, SITF00243182-SITF00243193, SITF00243195-SITF00243212, SITF00243215-SITF00243217, SITF00243219-SITF00243220, SITF00243244, SITF00243250-SITF00243251, SITF00243255-SITF00243256, SITF00243263, SITF00243266-SITF00243267, SITF00243270, SITF00243273, SITF00243275-SITF00243276, and SITF00243279-SITF00243280 of Proposed Exhibit 69; (xi) pp. SITF00025097-SITF00025100 of Proposed Exhibit 71; (xii) pp. SITF00016397-SITF00016401 of Proposed Exhibit 72; (xiii) p. U002-2369 of Proposed Exhibit 62; (xiv) p. 0189-0884 and related translation of Proposed Exhibit 75; and (xv) p. 0188-3937 and related translation of Proposed Exhibit 76 (*See above* footnotes 214-219). In addition, the Panel recalls that it also admits the revised translations of certain pages of Proposed Exhibits 58, and 62 in Annex 3 to the Motion contained in Disclosure Package 1690, as specified in para. 64. The Registry shall integrate the revised translations of certain pages of Proposed Exhibit 58, namely U001-7483-U001-7483-ET and U001-7490-U001-7490-ET, into the relevant parts of the English translation of Proposed Exhibit 58 included originally in Annex 3 to the Motion (Proposed Exhibit 58). Lastly, the Panel recalls that the correct ERNs for the English translations of Proposed Exhibits 60, 61 and 77 in Annex 3 to the Motion are U000-0341-U000-0341-ET Revised 2, SPOE00366643-SPOE00366643-ET and 074964-074968-ET Revised, respectively (*See above* footnote 218 and Reply, para. 6).

²⁵⁵ Reply, para. 7.

Exhibit List;

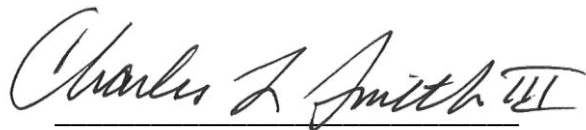
- (b) **GRANTS**, in part, the Motion;
- (c) **ADMITS** into evidence the following Proposed Exhibits, or identified portions thereof, and any related translations thereof:
 - i. Annex 1 to the Motion: Proposed Exhibits 1-83 and 85-97;
 - ii. Annex 2 to the Motion: Proposed Exhibits 1-18;²⁵⁶
 - iii. Annex 3 to the Motion: Proposed Exhibits 1-51, 53, 54, 57, 58, 61-64, 66, 67 (pages 5, 12 and 13), and 68-80;²⁵⁷
- (d) **DENIES** the admission of the following Proposed Exhibits, or identified portions thereof:
 - i. Annex 3 to the Motion: Proposed Exhibits 52, 55, 56, 59, 60, 65 and pages 7 and 9 of Proposed Exhibit 67;
- (e) **AUTHORISES** the SPO to make corrections to the metadata of Proposed Exhibit 81 in Annex 1 to the Motion;
- (f) **ORDERS** the SPO to provide any missing Albanian translations of the Proposed Exhibits without delay, in line with the Panel's instructions in paragraph 13;
- (g) **DIRECTS** the Registry to assign to the admitted items: (i) exhibit numbers; and (ii) the classification indicated in Annexes 1-3 to the

²⁵⁶ See above footnotes 165, 174, 167, and 206.

²⁵⁷ See above footnotes 214-219, 254.

Motion;²⁵⁸ and

(h) **DIRECTS** the Registry to reclassify the Reply as public.

A handwritten signature in black ink, reading "Charles L. Smith III", written over a horizontal line.

Judge Charles L. Smith, III

Presiding Judge

Dated this Thursday, 29 May 2025

At The Hague, the Netherlands.

²⁵⁸ The Panel recalls the SPO's submissions that the proposed classification for Proposed Exhibits 50 and 54 in Annex 3 to the Motion is public. *See* Reply, para. 6