



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:** 1 December 2025

**Language:** English

**Classification:** Public

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**Decision on Krasniqi Defence Second Application for Admission of Material through the Bar Table**

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**TRIAL PANEL II** (“Panel”), pursuant to Articles 21, 37(1), and (3), and 40(6)(h) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 119(2) and (5), 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 21 July 2025, the Defence for Mr Jakup Krasniqi (“Mr Krasniqi” and “Defence”) submitted its exhibit list (“Initial Exhibit List”).<sup>1</sup>
2. On 15 August 2025, the Defence submitted a revised exhibit list (“Revised Exhibit List”).<sup>2</sup>
3. On 3 November 2025, in line with an order from the Panel,<sup>3</sup> the Defence filed a request for admission of documents through the bar table (“Request”).<sup>4</sup>
4. On 10 November 2025, the Specialist Prosecutor’s Office (“SPO”) responded to the Request (“Response”).<sup>5</sup>

## II. SUBMISSIONS

5. The Defence requests that the Panel admit through the bar table one hundred and forty-four (144) items listed in Annex 1 to the Request (“Proposed Exhibits”).<sup>6</sup>

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<sup>1</sup> F03358/A02, Specialist Counsel, *Annex 2 to Krasniqi Defence Submission of Witness and Exhibit List*, 21 July 2025, confidential.

<sup>2</sup> F03403/A01, Specialist Counsel, *Annex 1 to Krasniqi Defence Submission of Revised Exhibit List*, 15 August 2025, confidential.

<sup>3</sup> F03535, Panel, *Order Revising Deadline for the Filing of Bar Table Motions and Providing for Compliance with Paragraph 81 of the Order on the Conduct of Proceedings*, 23 October 2025, para. 26(b).

<sup>4</sup> F03556, Specialist Counsel, *Krasniqi Defence Second Application for Admission of Material Through the Bar Table*, 3 November 2025, confidential, with Annex 1, confidential.

<sup>5</sup> F03573, Specialist Prosecutor, *Prosecution Response to ‘Krasniqi Defence Second Application for Admission of Material Through the Bar Table’ (F03556)*, 10 November 2025, confidential, with Annex 1, confidential.

<sup>6</sup> Request, paras 1-2, 30(i); Annex 1 to the Request.

The Defence submits that the Proposed Exhibits are *prima facie* authentic, relevant, and have probative value that is not outweighed by any prejudice.<sup>7</sup> Additionally, the Defence seeks leave to add four items to the Revised Exhibit List (“Requested Addition”).<sup>8</sup>

6. The SPO responds that the Panel should deny admission of Proposed Exhibits 2, 6, 8, 9, 12, 16, 19, 20, 22, 25, 26, 30-32, 34, 42, 43, 62, 75-77, 80, 83, 85, 97, 108, 109, 111, 112, 114, 122, 124, 133, 134, 136, and 144 as, it submits, they lack relevance, *prima facie* authenticity, and/or their probative value is outweighed by prejudicial effect, or are otherwise inadmissible through the bar table.<sup>9</sup> The SPO does not object to the admission of the remaining Proposed Exhibits.<sup>10</sup> Lastly, the SPO does not object to the Requested Addition to the Revised Exhibit List.<sup>11</sup>

### III. APPLICABLE LAW

7. Pursuant to Rule 119(5), the Panel may permit, upon timely notice and a showing of good cause, the amendment of the lists of witnesses and exhibits filed pursuant to Rule 119(2). The Panel incorporates by reference the applicable law as set out in the Panel’s previous decisions on amending the exhibit list.<sup>12</sup>

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<sup>7</sup> Request, paras 3, 15, 17-27, 29; Annex 1 to the Request.

<sup>8</sup> Request, paras 28, 30(ii).

<sup>9</sup> Response, paras 2, 4-8, 18. *See also* Annex 1 to the Response, column “SPO comments”.

<sup>10</sup> Response, para. 1.

<sup>11</sup> Response, para. 1.

<sup>12</sup> *See* F01995, Panel, *Decision on Prosecution Request to Amend the Exhibit List*, 8 December 2023, confidential, para. 9 (a public redacted version was issued on the same day, F01995/RED); F02167, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F02099)*, 7 March 2024, confidential, para. 10 (a public redacted version was issued on the same day, F02167/RED); F02501, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F02279) and on Thaçi Defence Motion for Exclusion of Materials in Limine*, 22 August 2024, confidential, para. 23 (a public redacted version was issued on 20 December 2024, F02501/RED); F03457, Panel, *Decision on Thaçi Defence Request to Amend the Exhibit List*, 10 September 2025, para. 11.

8. The law regarding the admission of evidence from the bar table is set out, in particular, in Article 40(6)(h) of the Law and Rule 138(1). The Panel incorporates by reference the law regulating the admission of evidence from the bar table set out extensively in the Panel's prior decisions.<sup>13</sup>

#### IV. DISCUSSION

##### A. AMENDMENT OF THE EXHIBIT LIST

9. The Requested Addition to the Revised Exhibit List include the following documents: (i) DJK02032-DJK02037 and DJK02041-DJK02042, which are revised translations of 039322-039326 (Proposed Exhibit 131) and SITF00225925-SITF00225934 (Proposed Exhibit 79) ("Translations");<sup>14</sup> and (ii) DJK01245-TR and DJK02109, which are transcripts of Proposed Exhibits 27 and 30, material previously notified to the SPO ("Transcripts").<sup>15</sup>

10. The SPO does not object to the Requested Addition.<sup>16</sup>

11. With regard to the issue of timely notice, the Panel observes that: (i) the original language versions of the Translations were included on the Initial Exhibit List as of 21 July 2025;<sup>17</sup> (ii) the Translations were disclosed to the Parties and participants on 4 September 2025;<sup>18</sup> and (iii) while the Defence requested the addition of the Translations a month after their disclosure, the first witnesses to testify as part of the Defence case were only expected to start presenting their evidence in November 2025. The Panel notes that the SPO does not object to the

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<sup>13</sup> 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.

<sup>14</sup> See Request, para. 28, footnote 33; Disclosure Package 1764.

<sup>15</sup> Request, para. 28.

<sup>16</sup> Response, para. 1.

<sup>17</sup> Initial Exhibit List, Items 154, 818. See also Revised Exhibit List, Items 122, 699.

<sup>18</sup> Disclosure Package 1764.

addition of the Translation to the Revised Exhibit List.<sup>19</sup> Accordingly, the Panel is satisfied that the Defence has provided timely notice of the Translations.

12. Turning to the Transcripts, the Panel observes that the Defence indicates that they have previously been notified to the SPO and that they will be disclosed in due course.<sup>20</sup> The Panel orders the Defence to disclose the Transcripts without delay and no later than 3 December 2025. Despite the above, the Panel is satisfied that the Defence has provided timely notice of the Transcripts. The Panel is also satisfied that good cause has been shown and that no unfair prejudice arises from the amendment sought.

13. In light of the above, the Panel grants leave to add the Requested Addition to the Revised Exhibit List. The Panel orders the Defence to file an amended Exhibit List no later than Wednesday, 3 December 2025.

#### B. ADMISSION OF THE PROPOSED EXHIBITS

14. The Defence submits that the Proposed Exhibits are relevant,<sup>21</sup> in that they, *inter alia*: (i) are probative of the high prevalence of interpersonal conflicts during the Indictment period rather than attributable to any KLA policy;<sup>22</sup> (ii) support the assertion that crimes took place in circumstances beyond the Accused's ability to exercise effective control;<sup>23</sup> (iii) contradict allegations of targeting of opponents and demonstrate the General Staff's lack of effective control over KLA members;<sup>24</sup> and (iv) impact the credibility of SPO witnesses.<sup>25</sup> The Defence also submits that the Proposed Exhibits and that their admission would cause no prejudice.<sup>26</sup>

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<sup>19</sup> Response, para. 1.

<sup>20</sup> See Request, para. 28.

<sup>21</sup> Request, paras 21-26; Annex 1 to the Request.

<sup>22</sup> Request, para. 21.

<sup>23</sup> Request, para. 22.

<sup>24</sup> Request, para. 24.

<sup>25</sup> Request, para. 25.

<sup>26</sup> Request, in particular, paras 2, 17-19, and 27.

15. Preliminarily, the Panel observes that a considerable number of the Proposed Exhibits go to establishing the commission of crimes by Serbian forces. The Panel repeatedly stated that such crimes are not in dispute and are also not per se relevant to the present proceedings, unless they can be shown to be connected to a fact or circumstance material to this case.<sup>27</sup> Despite those repeated indications, the Defence has continued to seek to offer, or elicit, evidence of such facts. The Panel recalls that the onus of establishing relevance, as with other conditions for admission, is with the tendering party.<sup>28</sup> As discussed further below, the Defence has failed to establish this in relation to many of the Proposed Exhibits which appear on their face only to pertain to undisputed and irrelevant allegations of Serbian crimes. Nevertheless, the Panel has exercised its discretion to admit some of the Proposed Exhibits that contain evidence of such allegations where it could identify relevant information in an otherwise irrelevant item.<sup>29</sup> It is therefore essential that the Parties and participants should clearly identify in their final submissions what material they are relying upon in respect of their case and what probative value and relevance they attach to each such item.

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<sup>27</sup> Transcript of Hearing, 12 May 2023, p. 3746, line 14 to p. 3747, line 16. *See also* F03525, Panel, *Decision on First Krasniqi Defence Application for Admission of Material Through the Bar Table and Related Request* (“Decision on First Krasniqi Defence Bar Table”), 16 October 2025, para. 24.

<sup>28</sup> *See e.g.*, F02951, Panel, *Decision on Prosecution Motion for Admission of Llap Zone Documents and Related Request*, 21 February 2025, para. 21.

<sup>29</sup> *See below* paras 61 and 75.

## 1. Proposed Exhibits 1-41: Items Originating from the Media

16. Regarding Proposed Exhibits 1-41,<sup>30</sup> the Panel notes that they consist of: (i) newspaper articles and reports (“News Articles”);<sup>31</sup> and (ii) video footage from various media outlets (“Video Footage”).<sup>32</sup>

17. The Panel observes that, while the SPO does not object to the admission of Proposed Exhibits 1, 3-5, 7, 10, 11, 13-15, 17, 18, 21, 23, 24, 27-29, 33, and 35-41,<sup>33</sup> it opposes the admission of Proposed Exhibits 2, 6, 8, 9, 12, 16, 19, 20, 22, 25, 26, 30-32, and 34 on the basis of lack of relevance and probative value.<sup>34</sup>

### (a) Relevance

18. Regarding the relevance of Proposed Exhibits 1-41, the Panel notes the Defence’s submissions that they are relevant to, *inter alia*: (i) the credibility of some SPO witnesses;<sup>35</sup> (ii) demonstrate the prevalence of revenge and interpersonal conflicts during the Indictment period;<sup>36</sup> (iii) contradict the existence of a KLA policy against opponents, members of the Democratic League of Kosovo (“LDK”), the (Serbian) civilian population, or minorities;<sup>37</sup> (iv) demonstrate the KLA’s defensive posture;<sup>38</sup> (v) show the KLA’s disorganisation, lack of centralised structure, and its efforts to cooperate during the Paris negotiations and the Rambouillet agreement;<sup>39</sup> (vi) the actions of the Serbian state (*e.g.* arming the

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<sup>30</sup> In relation to Proposed Exhibit 27, the Panel notes that the Defence only tenders minutes 21:22-22:29 and 46:00-47:30.

<sup>31</sup> Annex 1 to the Request, Proposed Exhibits 1-11, 14-22, 24-26, 28, 29, and 31-41.

<sup>32</sup> Annex 1 to the Request, Proposed Exhibits 12-13, 23, 27, and 30.

<sup>33</sup> The Panel notes that the SPO has no objection to: (i) Proposed Exhibit 5 subject to the provision of a complete English translation; and (ii) Proposed Exhibit 13 provided that a corresponding transcript is disclosed.

<sup>34</sup> Response, paras 4-6, 9, 12.

<sup>35</sup> Request, para. 25; Annex 1 to the Request, Proposed Exhibits 1, 18.

<sup>36</sup> Request, para. 21; Annex 1 to the Request, Proposed Exhibits 2, 12, 13, 23, 31, and 34.

<sup>37</sup> Annex 1 to the Request, Proposed Exhibit 3, 7, 10, 11, 21, 22, 27, 29, 32, 33, 35, and 36. *See also* Request, paras 22, 24.

<sup>38</sup> Request, para. 24; Annex 1 to the Request, Proposed Exhibits 4, 15, 16, 21, 27, and 39.

<sup>39</sup> Annex 1 to the Request, Proposed Exhibits 14, 17, 40, and 41.

civilian population and fabricating evidence in its favour);<sup>40</sup> (vii) Bislim Zyrapli's role within the KLA;<sup>41</sup> (viii) demonstrate that the LDK financially supported KLA units in the field;<sup>42</sup> (ix) Mr Krasniqi's roles as Speaker of the Parliament and KLA Spokesperson at Rambouillet;<sup>43</sup> (x) show the common goal of independence of the KLA and the Armed Forces of Kosovo Republic ("FARK").<sup>44</sup>

19. The Panel notes, once again, the SPO's objections regarding Proposed Exhibits 2, 6, 8, 9, 12, 16, 19, 22, 25, 26, 30-32, and 34 based on their alleged lack of relevance.<sup>45</sup>

20. Regarding Proposed Exhibits 1, 3, 5, 7, 10, 11, 14, 15, 17, 18, 21, 23, 24, 27-29, 33, and 35-41, the Panel observes that, as noted above, several of the Proposed Exhibits appears to have very tenuous relevance to this case and the Panel expects that the Defence will clarify their relevance further in their final submissions.<sup>46</sup> This is particularly the case for Proposed Exhibits 1, 3, 7, 10, 11, and 39. However, considering in particular that the SPO does not challenge the relevance of these items, the Panel is prepared to accept that the Defence has established that Proposed Exhibits 1, 3, 5, 7, 10, 11, 14, 15, 17, 18, 21, 23, 24, 27-29, 33, and 35-41 bear some, albeit limited, relevance to allegations, charges and/or modes of liability in the Indictment, as well as to other material facts relevant to the case.<sup>47</sup>

21. With regard to Proposed Exhibit 5, the English translation provided appears incomplete.<sup>48</sup> The Panel directs the Defence to provide a complete English

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<sup>40</sup> Annex 1 to the Request, Proposed Exhibits 5, 6, 8, 9, 26, and 30.

<sup>41</sup> Annex 1 to the Request, Proposed Exhibits 19 and 20.

<sup>42</sup> Annex 1 to the Request, Proposed Exhibit 24.

<sup>43</sup> Annex 1 to the Request, Proposed Exhibits 25 and 37.

<sup>44</sup> Annex 1 to the Request, Proposed Exhibit 28.

<sup>45</sup> Annex 1 to the Response, Proposed Exhibits 2, 6, 8, 9, 12, 16, 19, 22, 25, 26, 30-32, and 34.

<sup>46</sup> *See above* para. 15.

<sup>47</sup> *See e.g.*, Indictment, paras 17, 32-39, 53-55. *See also* Annex 1 to the Request, Proposed Exhibits 1, 3-5, 7, 10, 11, 13-15, 17, 18, 21, 23, 24, 27-29, 33, and 35-41.

<sup>48</sup> Compare DJK01955-DJK01958 with DJK01955-DJK01958-ET. *See also* Annex 1 to the Response, Proposed Exhibit 5.

translation of the item, including the Serbian text, no later than Wednesday, 3 December 2025.

22. Turning to Proposed Exhibits 2, 4, 6, 8, 9, 12, 13, 26, 31, and 34, the Panel notes the Defence's assertion that they purport to be probative of crimes committed by the Serbian state and paramilitary formations, as well as illustrate interpersonal tensions between civilians, the targeting of Albanians by Serbs, and the arming of the civilian population by the Serbian state. Having reviewed these items, the Panel notes they purport to be relevant to showing Serbian crimes and that Serbia was fabricating evidence or tampering investigations. However, the Panel recalls that evidence of alleged crimes committed by Serbian forces is generally irrelevant to the charges against the Accused.<sup>49</sup> The Defence has failed to establish that the incidents described in these items are connected in any other way to any of the charges in the Indictment. Similarly Proposed Exhibit 16, which offers a comparative analysis of the military capacities of the Serb and KLA forces, has no apparent connection to the case. The Panel considers that the Defence has therefore failed to establish the relevance of Proposed Exhibits 2, 6, 8, 9, 12, 13, 16, 26, 31, and 34.

23. Turning to Proposed Exhibit 19, the Panel notes: (i) the Defence's submission that the article is relevant as it is probative of Bislim Zyrapi's role in the KLA;<sup>50</sup> and (ii) the SPO's objection that, *inter alia*, the passing reference to Mr Zyrapi's role primarily concerns events outside of the Indictment period.<sup>51</sup> The Panel observes that the item mentions Mr Zyrapi's role as the KLA Chief of Staff without any further specificity.<sup>52</sup> The Panel notes that Mr Zyrapi's role as Chief of Staff is not a point of contention between the Parties to the proceedings. For this reason, the Panel considers that the Defence failed to establish the relevance of Proposed

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<sup>49</sup> See *above* para. 15.

<sup>50</sup> See Annex 1 to the Request, Proposed Exhibit 19.

<sup>51</sup> See Annex 1 to the Response, Proposed Exhibit 19.

<sup>52</sup> See Proposed Exhibit 19 (DJK00914 and DJK00914-ET).

Exhibit 19. It is also unnecessarily duplicative and, at most, probative of a fact not in dispute.

24. Turning to Proposed Exhibit 20, the Panel notes the Defence's submission that Mr Zyrapi could have expected to have been among the main persons of interest of the SC and, consequently, could have sought to diminish his responsibility and shift accountability to the Accused.<sup>53</sup> The Panel notes that the Defence failed to put this item to Mr Zyrapi during its cross-examination. The Defence only sought to put the item to the witness after the Judges' questions, which the Panel denied on the ground that the content of the item was unrelated to the Judges' questions.<sup>54</sup> In any event, the Panel considers that the Defence's submissions on the purported relevance of this item are speculative at best. The Defence may submit in final arguments that Mr Zyrapi sought to shift responsibility to the Accused, and this item is not necessary to make that argument. Therefore, the Panel is not satisfied that the Defence has established the relevance of Proposed Exhibit 20.

25. Turning to Proposed Exhibit 22, the Panel notes the Defence's submission that the article is relevant, *inter alia*, to what it claims is the prominent role of Fehmi Agani within the LDK.<sup>55</sup> Having reviewed Proposed Exhibit 22, the Panel notes that the article mentions neither the LDK, nor Mr Agani's role within the LDK. Instead, the article primarily concerns Serbian crimes which, as reiterated several times,<sup>56</sup> are irrelevant unless otherwise connected to the charges against the Accused. The return of Mr Agani's body to its family has no demonstrable connection to the charges in the present proceedings. In the Panel's view, the only relevant part in the Defence's submissions pertains to the letter of respect sent by Mr Krasniqi to Mr Agani's family, which has already been admitted into

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<sup>53</sup> See Annex 1 to the Request, Proposed Exhibit 20.

<sup>54</sup> See Transcript of Hearing, 18 July 2024, p. 18552, line 16 to p. 18554, line 2. See also F01226, Panel, Annex 1 Order on the Conduct of Proceedings, 25 January 2023, para. 112.

<sup>55</sup> See Annex 1 to the Request, Proposed Exhibit 22. See *contra* See Annex 1 to the Response, Proposed Exhibit 22.

<sup>56</sup> See *above* para. 15.

evidence.<sup>57</sup> It is therefore unnecessarily duplicative of a fact not in dispute and without demonstrable connection to the case. Accordingly, the Panel finds that the Defence has failed to establish the relevance of Proposed Exhibit 22.

26. Regarding Proposed Exhibit 25, the Panel notes the Defence's submission that it is relevant to showing the practice of the speaker of Parliament, to stop speeches of parliamentarians on topics which are not on the agenda, and hence to contextualising admitted exhibit P00942.<sup>58</sup> The Panel observes that the parliamentary session depicted in the item has no connection to the case. The role and responsibilities of Mr Krasniqi as speaker of Parliament is not a fact material to this case. The point which the Defence seeks to make also appears to be uncontested. The Panel considers that the Defence has failed to establish the relevance of Proposed Exhibit 25.

27. Regarding Proposed Exhibit 30, the Panel notes the Defence's submissions that the item is probative of the Serbian police arming civilians.<sup>59</sup> To the extent that the item could be relevant to the question of the status of individual sought out and arrested, the Panel is prepared to consider Proposed Exhibit 30 as relevant.<sup>60</sup>

28. Regarding Proposed Exhibit 32, the Panel notes the Defence's submissions that the item is probative of Mr Krasniqi's support for the integration of all ethnic groups within Kosovo.<sup>61</sup> The Panel observes that the item relates to a declaration of 2013, which is well after the Indictment period. This will be accounted for when assessing the weight, if any, to be assigned to this item. For the purpose of admission, the Panel is prepared, in the exercise of its discretion, to consider Proposed Exhibit 32 as relevant.<sup>62</sup>

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<sup>57</sup> See Annex 1 to the Request, Proposed Exhibit 22. See also 4D00037.

<sup>58</sup> See Annex 1 to the Request, Proposed Exhibit 25.

<sup>59</sup> See Annex 1 to the Request, Proposed Exhibit 32.

<sup>60</sup> See e.g. Indictment, paras 16-18, and 32.

<sup>61</sup> See Annex 1 to the Request, Proposed Exhibit 32.

<sup>62</sup> See e.g. Indictment, paras 16-18, and 32.

29. In light of the above, the Panel is satisfied that Proposed Exhibits 1, 3-5, 7, 10, 11, 14, 15, 17, 18, 21, 23, 24, 27-30, 32, 33, and 35-41 are relevant to allegations, charges and modes of liability in the Indictment, as well as to other material facts relevant to the case.<sup>63</sup> The Panel does not find Proposed Exhibits 2, 6, 8, 9, 12, 13, 16, 19, 20, 22, 25, 26, 31, and 34 relevant.

(b) Authenticity

30. Regarding the authenticity of the items which the Panel found to be relevant, namely Proposed Exhibits 1, 3-5, 7, 10, 11, 14, 15, 17, 18, 21, 23, 24, 27-30, 32, 33, and 35-41, the Panel notes that they bear several indicia of authenticity, specifically: (i) the News Articles contain the name of the media outlet,<sup>64</sup> the name of the author,<sup>65</sup> the date of publication,<sup>66</sup> and, where relevant, the web address of the website is provided;<sup>67</sup> and (ii) the Video Footage contain interviews, broadcasted on Kosovo television, and are available in the public domain or posted on YouTube.<sup>68</sup>

31. However, the Panel observes that, while the Defence provided a transcript of Proposed Exhibit 23 and a translation thereof,<sup>69</sup> it failed to do so in relation to Proposed Exhibits 27 and 30. The Panel orders the Defence to provide a transcript for Proposed Exhibits 27 and 30 no later than Wednesday, 3 December 2025.

32. In light of the above, the Panel finds that the Defence has established that Proposed Exhibits 1, 3-5, 7, 10, 11, 14, 15, 17, 18, 21, 23, 24, 27-30, 32, 33, and 35-41 are *prima facie* authentic.

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<sup>63</sup> See *above* paras 20, and 27-29.

<sup>64</sup> Annex 1 to the Request, Proposed Exhibits 1, 3-5, 7, 10, 11, 14, 15, 17, 18, 21, 28, 29, 32, 33, and 35-41.

<sup>65</sup> Annex 1 to the Request, Proposed Exhibits 1, 3, 10 (initials only), 17, 18, 21, 24, 28, 33, and 36.

<sup>66</sup> Annex 1 to the Request, Proposed Exhibits 1, 3, 4, 7, 10, 11, 14, 15, 17, 18, 28, 29, 32, 33, and 36-41.

<sup>67</sup> Annex 1 to the Request, Proposed Exhibits 5, 7, 17, 18, 21, 24, 32, and 33.

<sup>68</sup> See Proposed Exhibits 23, 27, and 30.

<sup>69</sup> Annex 1 to the Request, Proposed Exhibit 23 (DJK00768-DJK00768-TR). See *above* para. 9; Request, para. 28.

(c) Probative value not outweighed by prejudicial effect

33. Having found Proposed Exhibits 1, 3-5, 7, 10, 11, 14, 15, 17, 18, 21, 23, 24, 27-30, 32, 33, and 35-41 to be relevant and *prima facie* authentic,<sup>70</sup> the Panel is also satisfied that these items also bear probative value regarding facts and circumstances relevant to this case as outlined above at paragraphs 18, 20, and 27-29.<sup>71</sup>

34. The Panel further considers that the SPO, the other Defence teams and Victims' Counsel will have an opportunity to make submissions in respect of the weight and probative value of these items and may, if they so choose, challenge the content of any of these items. The Panel is therefore satisfied that the probative value of Proposed Exhibits 1, 3-5, 7, 10, 11, 14, 15, 17, 18, 21, 23, 24, 27-30, 32, 33, and 35-41 is not outweighed by any prejudicial effect.

(d) Conclusion

35. In light of the above, the Panel is satisfied that Proposed Exhibits 1, 3-5, 7, 10, 11, 14, 15, 17, 18, 21, 23, 24, 27-30, 32, 33, and 35-41 should be admitted pursuant to Rule 138(1). The Panel denies, without prejudice, admission of Proposed Exhibits 2, 6, 8, 9, 12, 13, 16, 19, 20, 22, 25, 26, 31, and 34.

## 2. Proposed Exhibits 42-96: International Reports

36. Regarding Proposed Exhibits 42-96,<sup>72</sup> the Panel notes that they consist of:  
(i) reports, memoranda, assessments, letters or cables originating from

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<sup>70</sup> See *above*, paras 29, 32. See also Request, paras 21-25; Annex 1 to the Request, Proposed Exhibits 1, 3-5, 7, 10, 11, 13-15, 17-21, 23-25, 27-29, 32, 33, and 35-41.

<sup>71</sup> See also Request, paras 21-25; Annex 1 to the Request, Proposed Exhibits 1, 3-5, 7, 10, 11, 13-15, 17-21, 23-25, 27-29, 32, 33, and 35-41.

<sup>72</sup> In relation to Proposed Exhibit 45, the Panel notes that the Defence only tenders SPOE00158334-00158339, p. SPOE00158334. In relation to Proposed Exhibit 50, the Panel notes that the Defence only tenders SPOE00214863-00214864, p. SPOE00214863. In relation to Proposed Exhibit 52, the Panel notes that the Defence only tenders SPOE00304213-00304217, pp. SPOE00304213, SPOE00304216. In relation to Proposed Exhibit 54, the Panel notes that the Defence only tenders SPOE00304236-00304241,

international institutions, non-governmental organisations, or government bodies (“International Documents”);<sup>73</sup> (ii) reports, notes or transcripts emanating from various sources;<sup>74</sup> (iii) a press article;<sup>75</sup> and (iv) exhibits from proceedings before the International Criminal Tribunal for the former Yugoslavia.<sup>76</sup>

37. While the SPO does not object to the admission of Proposed Exhibits 44-61, 63-74, 78, 79, 81, 82, 84, and 86-96,<sup>77</sup> the SPO opposes the admission of Proposed Exhibits 42, 43, 62, 75, 76, 80, 83, and 85 on the basis of lack of relevance and probative value.<sup>78</sup> The SPO also objects to the admission of Proposed Exhibit 77 on the ground that it is duplicative of an already admitted exhibit.<sup>79</sup>

(a) Relevance

38. Regarding the relevance of Proposed Exhibits 42-96, the Panel notes the Defence’s submissions that they are said to be relevant to, *inter alia*: (i) showing the existence of blood feuds in Kosovo, interpersonal conflicts, revenge crimes and rogue elements within the KLA, thereby contradicting allegations that such crimes are related to a KLA policy;<sup>80</sup> (ii) the deployment of Serbian forces and such forces shelling villages, impeding investigations and fabricating evidence;<sup>81</sup> (iii) the KLA’s lack of responsibility and knowledge regarding alleged crimes and lack of

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pp. SPOE00304236, SPOE00304238-SPOE00304239. In relation to Proposed Exhibit 57, the Panel notes that the Defence only tenders SPOE00304393-00304395, pp. SPOE00304393-00304394. In relation to Proposed Exhibit 58, the Panel notes that the Defence only tenders SPOE00304414-00304416, pp. SPOE00304414-SPOE00304415. In relation to Proposed Exhibit 63, the Panel notes that the Defence only tenders SPOE00304884-00304886, p. SPOE00304884. In relation to Proposed Exhibit 70, the Panel notes that the Defence only tenders SPOE00305409-00305411, pp. SPOE00305409-SPOE00305410.

<sup>73</sup> Annex 1 to the Request, Proposed Exhibits 42-72, 77-92, and 96.

<sup>74</sup> Annex 1 to the Request, Proposed Exhibits 73, and 93-95.

<sup>75</sup> Annex 1 to the Request, Proposed Exhibit 74.

<sup>76</sup> Annex 1 to the Request, Proposed Exhibits 75 and 76.

<sup>77</sup> The Panel notes that while the SPO does not object to the admission of the referenced Proposed Exhibits, it expressed some caveats in Annex 1 to the Response.

<sup>78</sup> Response, paras 4-5, 7, 9.

<sup>79</sup> Response, para. 16.

<sup>80</sup> Request, para. 21; Annex 1 to the Request, Proposed Exhibits 42, 46, 49, 50, 69, 70, 75, 83, and 94.

<sup>81</sup> Annex 1 to the Request, Proposed Exhibits 43, 64, 68, 73, 75, 76, and 85.

capacity to investigate crimes;<sup>82</sup> (iv) demonstrating the lack of capacity of the KLA to protect Kosovar Albanians;<sup>83</sup> (v) showing the presence of armed groups operating in the general area of Lipjan and surrounding areas;<sup>84</sup> (vi) demonstrating the KLA's lack of a unified structure in the second half of 1998, its fragmentation and divergences, and lack of central authority and effective control despite its efforts to project an impression of strength and organisational capacity;<sup>85</sup> (vii) the humanitarian and political consequences of the Serb offensive in the summer of 1998, including on the KLA command structure;<sup>86</sup> (viii) Mr Krasniqi's role as a member and spokesperson of the Provisional Government of Kosovo ("PGoK") and his whereabouts during the war;<sup>87</sup> (ix) allegations of a KLA policy targeting minorities and members of the LDK;<sup>88</sup> (x) showing the spirit of cooperation between Messrs. Thaçi, Rugova and Qosia after the conflict;<sup>89</sup> (xi) the KLA's compliance with the undertakings and concerns for civilian safety;<sup>90</sup> (xii) the end of the armed conflict;<sup>91</sup> and (xiii) the situation in Malishevë/Mališevo in July 1998.<sup>92</sup>

39. Regarding Proposed Exhibits 44-47, 49-61, 63-74, 78, 79, 81, 82, 84, and 86-96, the Panel notes that the SPO does not object to their admission. Having reviewed the proposed items, the Panel observes that several of these documents appear to be marginally relevant. As noted above, should the Defence elect to rely on these items as part of its final submissions, the Panel would expect the Defence to explain further their relevance to the case being put forward on behalf of Mr Krasniqi.<sup>93</sup> This is particularly the case for Proposed Exhibits 50, 56, 68, 73, and

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<sup>82</sup> Annex 1 to the Request, Proposed Exhibits 44 and 45.

<sup>83</sup> Annex 1 to the Request, Proposed Exhibit 47.

<sup>84</sup> Annex 1 to the Request, Proposed Exhibit 48.

<sup>85</sup> Annex 1 to the Request, Proposed Exhibits 51, 52, 54, 56-58, 60, 65-67, 71, 72, 79, 82, 84, and 95.

<sup>86</sup> Annex 1 to the Request, Proposed Exhibits 53, 55.

<sup>87</sup> Annex 1 to the Request, Proposed Exhibits 59, and 86-91.

<sup>88</sup> Annex 1 to the Request, Proposed Exhibits 61-63, 74, 75, 78, and 80.

<sup>89</sup> Annex 1 to the Request, Proposed Exhibit 77.

<sup>90</sup> Annex 1 to the Request, Proposed Exhibits 78 and 93.

<sup>91</sup> Annex 1 to the Request, Proposed Exhibit 81.

<sup>92</sup> Annex 1 to the Request, Proposed Exhibit 96.

<sup>93</sup> See *above* para. 15.

96. However, considering the absence of objection from the SPO,<sup>94</sup> and in light of the marginal relevance of those items, the Panel is satisfied, in the exercise of its discretion, that the Defence has established the relevance of Proposed Exhibits 44-47, 49-61, 63-74, 78, 79, 81, 82, 84, and 86-96.<sup>95</sup>

40. Regarding Proposed Exhibit 48, the Panel notes that the SPO does not object. However, the Panel fails to see how the presence of armed groups operating in a given area and attempts by the internationals to secure major roads, have any relevance to the facts and charges in this case. The Defence failed to explain this. Therefore, the Panel finds that the Defence has failed to establish the relevance of Proposed Exhibit 48.

41. Regarding Proposed Exhibits 42, 43, 62, 75-77, 80, 83, and 85, to which the SPO objects on the ground of lack of relevance, the Panel will assess them in turn.

42. Regarding Proposed Exhibit 42, the Panel notes that, according to the Defence, the first report is probative of blood feuds, and the second report illustrates the composition of the KLA, which contradicts a well-structured organisation.<sup>96</sup> Having reviewed the two reports, the Panel is not persuaded of their relevance. The Defence has failed to establish how: (i) the incident described in the first report, namely a shooting in November 1999 in Gjakovë/Đakovica, is connected to any of the charges or facts in the Indictment; and (ii) the information contained in the second report, regarding predominantly young, demilitarised army members being in need of further education and opportunities, relates to or is probative of the KLA's organisation or structure during the Indictment period or is relevant to the charges. A general claim of the existence 'blood feuds' during the relevant timeframe in Kosovo does not render items relevant to this case. The

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<sup>94</sup> Annex 1 to the Response, Proposed Exhibits 44-61, 63-68, 70-74, 78, 79, 81, 82, 84, and 86-96.

<sup>95</sup> See *e.g.* Indictment, paras 17, 23-30, 32-40, 44, 53, and 55-57.

<sup>96</sup> Annex 1 to the Request, Proposed Exhibit 42.

Panel therefore finds that the Defence has failed to establish the relevance of Proposed Exhibit 42.

43. Regarding Proposed Exhibits 43 and 75-76, the Panel notes the Defence's submissions that these items are relevant to: (i) attribute the commission of crimes to Serbian forces; (ii) contradict any alleged KLA policy of targeting Serbian civilians; and (iii) demonstrate the defensive or protective nature of the KLA.<sup>97</sup> The Panel recalls that evidence of alleged crimes committed by Serbian forces is generally irrelevant to the charges against the Accused.<sup>98</sup> The Defence has failed to establish that the incidents described in these items are connected to any of the charges, facts or circumstances relevant to this case, or that they are probative of any fact or circumstance relevant to the charges. Accordingly, the Panel considers that the Defence has failed to establish the relevance of Proposed Exhibits 43 and 75-76.

44. Regarding Proposed Exhibit 62, the Panel notes that, according to the Defence, it is relevant to the assessment of organisational policy and motive.<sup>99</sup> The SPO challenges this assessment.<sup>100</sup> Having reviewed the item, the Panel notes that Proposed Exhibit 62 refers to the mistreatment of Roma individuals who departed Klina in September-October 1999.<sup>101</sup> Considering that these events do not relate to any of the charged crimes, the Panel finds that the Defence has failed to establish the relevance of Proposed Exhibit 62.

45. Regarding Proposed Exhibit 77, the Panel notes the Defence's submission that the item is probative of the spirit of cooperation post-conflict and corroborates 1DW-004's evidence.<sup>102</sup> The Panel observes, as noted by the SPO,<sup>103</sup> that the

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<sup>97</sup> Annex 1 to the Request, Proposed Exhibits 43 and 75-76.

<sup>98</sup> *See above* para. 15.

<sup>99</sup> Annex 1 to the Request, Proposed Exhibit 62.

<sup>100</sup> Annex 1 to the Response, Proposed Exhibit 62.

<sup>101</sup> *See* SPOE00304785-00304786.

<sup>102</sup> Annex 1 to the Request, Proposed Exhibit 77.

<sup>103</sup> Annex 1 to the Response, Proposed Exhibit 77.

agreement attached to the report is a duplicate of admitted exhibit 1D00400.<sup>104</sup> The Panel is of the view that all the relevant information contained in Proposed Exhibit 77 is already part of the evidentiary record through 1D00400. The Defence has not explained why, with 1D00400 already admitted, it should also admit the proposed item. In the absence of submissions from the Defence on the purported relevance of the first two pages of Proposed Exhibit 77, which are the only ones differing from 1D00400, the Panel considers Proposed Exhibit 77 to be entirely duplicative of 1D00400 and, therefore, not relevant.

46. Regarding Proposed Exhibit 80, the Panel notes the Defence's submission that it purports to show Hashim Thaçi and Albanian representatives calling for a democratic and multi-ethnic Kosovo.<sup>105</sup> The Panel observes that the declaration is general in nature, does not record a public statement specifically attributable to Hashim Thaçi, and is dated 23 July 2000 and therefore falls outside of the Indictment period. The Panel further notes that items of a similar sort have already been admitted and that the Defence did not explain what additional element it adds to those. However, in the exercise of its discretion, the Panel is prepared to accept that the Defence has shown that the item could have some relevance to the case.<sup>106</sup>

47. Regarding Proposed Exhibit 83, the Panel notes that, according to the Defence, it purports to show the situation of chaos after the return of refugees into Kosovo in June and July 1999.<sup>107</sup> The Panel also notes that the Defence, in general, seeks to tender Proposed Exhibits to show the commission of crimes by civilians for revenge or to resolve personal disputes.<sup>108</sup> The Panel observes that the report pertains to the situation in northern Albania in July 1999, which is unrelated to the

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<sup>104</sup> Compare 1D00400 and SPOE00061583-00061590.

<sup>105</sup> Annex 1 to the Request, Proposed Exhibit 80.

<sup>106</sup> See *e.g.* Indictment, para. 53.

<sup>107</sup> Annex 1 to the Request, Proposed Exhibit 83.

<sup>108</sup> Request, paras 21-22. See *e.g.* Annex 1 to the Request, Proposed Exhibit 83.

charges in the case. The Defence has failed to establish that the incidents described in this item are connected to any of the charges or facts in the Indictment, or that they relate to or are probative of the KLA's organisation or activity relevant to the charges. The Panel therefore considers that the Defence has failed to establish the relevance of Proposed Exhibit 83.

48. Turning to Proposed Exhibit 85, the Panel notes the Defence's submission that it is relevant to the alleged fabrication of evidence by Serbia.<sup>109</sup> As previously indicated,<sup>110</sup> the Panel considers the general claim that Serbia may have fabricated evidence to be very tenuously relevant. The Panel also notes that the other incidents, mostly involving Serbian forces, described within the document bear no, or very limited, connection to the case. However, in the exercise of its discretion, the Panel is prepared to admit Proposed Exhibit 85 so as to enable the Defence to put its case forward in respect of the authenticity and probative value of certain material.

49. Having reviewed Proposed Exhibits 42-96, the Panel is satisfied that Proposed Exhibits 44-47, 49-61, 63-74, 78-82, and 84-96 are relevant to allegations, charges and modes of liability in the Indictment, as well as to other material facts relevant to the case.<sup>111</sup> The Panel does not find Proposed Exhibits 42, 43, 48, 62, 75-77, and 83 to be relevant.

(b) Authenticity

50. Regarding the authenticity of the items which the Panel found to be relevant, namely Proposed Exhibits 44-47, 49-61, 63-74, 78-82, and 84-96, the Panel notes that they bear sufficient indicia of authenticity, such as: (i) the letterhead, seal, logo, caption of the relevant institution or media outlet, or

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<sup>109</sup> Annex 1 to the Request, Proposed Exhibit 85.

<sup>110</sup> Transcript of Hearing, 29 May 2024, pp. 16261-16262.

<sup>111</sup> See *e.g.*, Indictment, paras 16-19, 22-23, 28, 31-39, 44, 50-55.

signature;<sup>112</sup> (ii) the date of creation or the period covered by the subject matter discussed therein;<sup>113</sup> (iii) the names of the sender and recipient or parties involved;<sup>114</sup> (iv) the relevant case or file numbers;<sup>115</sup> or (v) the source.<sup>116</sup>

51. In light of the above, the Panel finds that the Defence has established that Proposed Exhibits 44-47, 49-61, 63-74, 78-82, and 84-96 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

52. Having found Proposed Exhibits 44-47, 49-61, 63-74, 78-82, and 84-96 to be relevant and *prima facie* authentic,<sup>117</sup> the Panel is satisfied that these items also bear probative value regarding facts and circumstances relevant to this case as outlined above at paragraphs 38-39, 46, and 51.<sup>118</sup>

53. The Panel further considers that the SPO, the other Defence teams and Victims' Counsel will have an opportunity to make submissions in respect of the weight and probative value of these items and may, if they so choose, challenge the content of any of these items in their final submissions. The Panel is therefore satisfied that the probative value of Proposed Exhibits 44-47, 49-61, 63-74, 78-82, and 84-96 is not outweighed by any prejudicial effect.

(d) Conclusion

54. In light of the above, the Panel is satisfied that Proposed Exhibits 44-47, 49-61, 63-74, 78-82, and 84-96 should be admitted pursuant to Rule 138(1). The Panel denies, without prejudice, admission of Proposed Exhibits 42, 43, 48, 62, 75-77, and 83.

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<sup>112</sup> Annex 1 to the Request, Proposed Exhibits 44-46, 74, 81, 82, 84-90, 92, and 94.

<sup>113</sup> Annex 1 to the Request, Proposed Exhibits 44-47, 50-74, 80-82, 84-86, 91, 93, 94, and 96.

<sup>114</sup> Annex 1 to the Request, Proposed Exhibits 44, 46, 47, 49-61, 63-72, 80-82, 89, 91, 92, and 96.

<sup>115</sup> Annex 1 to the Request, Proposed Exhibits 46, 90-93, and 96.

<sup>116</sup> Annex 1 to the Request, Proposed Exhibits 73, 78-82, 85, 86, and 96.

<sup>117</sup> See above, paras 49, 51.

<sup>118</sup> See also Request, para. 27.

### 3. Proposed Exhibits 97-106: KLA Documents

55. Regarding Proposed Exhibits 97-106, the Panel notes that they consist of KLA: (i) orders;<sup>119</sup> (ii) statements and letters;<sup>120</sup> (iii) internal communications and communiqués;<sup>121</sup> and (iv) documents relating to seized items.<sup>122</sup>

56. The Panel observes that, while the SPO opposes the admission of Proposed Exhibit 97 on the ground that it is a duplicate of an already admitted exhibit, the SPO does not object to the admission of Proposed Exhibits 98-106.<sup>123</sup>

#### (a) Relevance

57. Regarding the relevance of Proposed Exhibits 97-106, the Panel notes the Defence's submissions that they are relevant to, *inter alia*: (i) showing the disorganisation of the KLA, its fragmented authority in summer 1998, and contradicting allegations of any organised structure before the end of 1998;<sup>124</sup> (ii) contradicting allegations of any KLA policy targeting civilians, in particular of other minorities;<sup>125</sup> (iii) assessing the reliability of attribution of the material seized at Mr Krasniqi's residence;<sup>126</sup> (iv) showing the KLA's determination to support post-conflict stability and a multi-ethnic and democratic Kosovo;<sup>127</sup> (v) showing that, in the summer of 1999, rogue individuals, acting outside the Accused's control, committed crimes, which the KLA condemned.<sup>128</sup> The Panel will assess the relevance of these items in turn.

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<sup>119</sup> Annex 1 to the Request, Proposed Exhibits 97 and 98.

<sup>120</sup> Annex 1 to the Request, Proposed Exhibits 99, 100, and 105.

<sup>121</sup> Annex 1 to the Request, Proposed Exhibits 101, 102, and 106.

<sup>122</sup> Annex 1 to the Request, Proposed Exhibits 103 and 104.

<sup>123</sup> Response, para. 16; Annex 1 to the Response, Proposed Exhibits 97-106.

<sup>124</sup> Annex 1 to the Request, Proposed Exhibits 97, 98, and 100.

<sup>125</sup> Annex 1 to the Request, Proposed Exhibits 99, 102, and 105.

<sup>126</sup> Annex 1 to the Request, Proposed Exhibits 103 and 104.

<sup>127</sup> Annex 1 to the Request, Proposed Exhibit 105.

<sup>128</sup> Annex 1 to the Response, Proposed Exhibit 97.

58. Regarding Proposed Exhibit 97, the Panel notes that the SPO opposes admission on the grounds that it is a duplicate of an already admitted exhibit.<sup>129</sup> Having reviewed Proposed Exhibit 97, and having compared it to admitted exhibit P03096, the Panel considers that Proposed Exhibit 77 is entirely duplicative of P03096. The Defence did not explain what information relevant to these proceedings is contained in this item that is not already apparent from admitted exhibit P03096. Therefore, without adequate submissions on why the tendered version should be admitted while P03096 is already part of the evidentiary record, the Panel considers that the Defence has failed to establish the relevance of Proposed Exhibit 97.

59. Turning to Proposed Exhibits 98 and 100, the Panel notes the Defence's submission that these documents purport to show that appointments made by a local commander were not notified to any higher KLA structure and that the KLA had no established structure and organisation until at least January 1999.<sup>130</sup> The Panel finds that these items bear some relevance to this case, in particular, in respect of the level of organisation of the KLA and is prepared to admit those on that basis.<sup>131</sup>

60. Turning to Proposed Exhibits 99, 101, 102, and 105, the Panel notes that, in the Defence's submissions, they are relevant to countering allegations that the KLA targeted civilians or that the KLA was against a multi-ethnic society.<sup>132</sup> Having reviewed each of these items, the Panel is satisfied that Proposed Exhibits 99, 101, 102, and 105 are relevant to certain inferences which the Panel has been invited to draw by the SPO in respect of the KLA's alleged policy to target

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<sup>129</sup> See Response, para. 16; Annex 1 to the Response, Proposed Exhibits 97-106.

<sup>130</sup> Annex 1 to the Request, Proposed Exhibits 98 and 100.

<sup>131</sup> See *e.g.* Indictment, paras 32-44, 49, 53, and 55-57.

<sup>132</sup> Annex 1 to the Request, Proposed Exhibits 99, 101, 102, and 105.

certain categories of individuals (including civilians) and attributability of such conduct to the Accused or those allegedly associated with them.<sup>133</sup>

61. Regarding Proposed Exhibits 103 and 104, the Panel notes the Defence's submissions that these templates contradict the allegation that materials seized from Mr Krasniqi's residence were authored or prepared by him.<sup>134</sup> Considering that they could be relevant to assessing authorship, and the weight to be accorded to items seized at Mr Krasniqi's residence, the Panel considers that the Defence has established that Proposed Exhibits 103 and 104 are relevant. The Panel expects the Defence to more clearly articulate its claim in this regard in its final submissions were it to rely on those items for that purpose.<sup>135</sup>

62. Lastly, regarding Proposed Exhibit 106, the Panel notes the Defence's contention that the item is relevant to showing the emergence of criminal elements identifying themselves as KLA members and the KLA's condemnation of such conducts.<sup>136</sup> The Panel is satisfied that the Defence established the relevance of Proposed Exhibit 106.<sup>137</sup>

63. Having reviewed the items, the Panel is satisfied that Proposed Exhibits 98-106 are relevant to allegations, charges and modes of liability in the Indictment, as well as to other material facts relevant to the case.<sup>138</sup> The Defence has failed to establish the relevance of Proposed Exhibit 97.

(b) Authenticity

64. Regarding the authenticity of the KLA documents which it found relevant, namely Proposed Exhibits 98-106,<sup>139</sup> the Panel observes that they each bear several

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<sup>133</sup> See *e.g.* Indictment, paras 16-19, 22, 23, 32, 36, 37-39, and 55-57.

<sup>134</sup> Annex 1 to the Request, Proposed Exhibit 103.

<sup>135</sup> See *also* paras 15, 75.

<sup>136</sup> Annex 1 to the Request, Proposed Exhibit 106.

<sup>137</sup> See *e.g.* Indictment, paras 32-44, 49, and 53.

<sup>138</sup> See *e.g.* Indictment, paras 16-19, 22-23, 28, 31-39, 44, and 50-55.

<sup>139</sup> The Panel recalls it did not find Proposed Exhibit 97 to be relevant. The Panel will therefore only assess the authenticity of Proposed Exhibits 98-106.

indicia of authenticity, such as: (i) the date;<sup>140</sup> (ii) the name or signature of the author;<sup>141</sup> (iii) the fact that they were seized by the SPO from Mr Krasniqi's residence;<sup>142</sup> (iv) an indication of their provenance, which can be derived from their titles and/or contents;<sup>143</sup> or (v) URLs, stamps or logos.<sup>144</sup>

65. In light of the above, the Panel finds that Proposed Exhibits 98-106 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

66. Having found Proposed Exhibits 98-106 to be relevant and *prima facie* authentic,<sup>145</sup> the Panel is satisfied that these items also bear probative value regarding facts and circumstances relevant to this case as outlined above at paragraphs 58, 60-63.<sup>146</sup>

67. The Panel further considers that the SPO, other Defence teams and Victims' Counsel will have an opportunity to make submissions in respect of the weight and probative value of these items and may, if they so choose, challenge the content of any of these items in their final submissions. The Panel is therefore satisfied that the probative value of Proposed Exhibits 98-106 is not outweighed by any prejudicial effect.

(d) Conclusion

68. In light of the above, the Panel is satisfied that Proposed Exhibits 98-106 should be admitted pursuant to Rule 138(1). The Panel denies admission of Proposed Exhibit 97.

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<sup>140</sup> Annex 1 to the Request, Proposed Exhibits 98-101 and 103-105.

<sup>141</sup> Annex 1 to the Request, Proposed Exhibits 98-101 and 105.

<sup>142</sup> Annex 1 to the Request, Proposed Exhibits 103 and 104.

<sup>143</sup> Annex 1 to the Request, Proposed Exhibits 102 and 106.

<sup>144</sup> Annex 1 to the Request, Proposed Exhibits 102 and 105.

<sup>145</sup> See above, paras 63 and 65.

<sup>146</sup> See also Request, para. 27; Annex 1 to the Request, Proposed Exhibits 98-106.

#### 4. Proposed Exhibits 107-144: Residual Items

69. At the outset, the Panel notes that Proposed Exhibit 129 was admitted as 4D00143 during the testimony of 1DW-009.<sup>147</sup> The Panel therefore finds the Request in relation to Proposed Exhibit 129 moot.

70. Regarding Proposed Exhibits 107-128 and 130-144,<sup>148</sup> the Panel notes that they consist of: (i) governmental documents;<sup>149</sup> (ii) memoranda and reports from international institutions (“International Institutions Documents”);<sup>150</sup> (iii) open-source material;<sup>151</sup> (iv) investigative and judicial documents (“Court Documents”);<sup>152</sup> (v) books;<sup>153</sup> (vi) *inter-partes* communications;<sup>154</sup> (vii) letters;<sup>155</sup> (viii) forensic reports and summaries;<sup>156</sup> (ix) a media article;<sup>157</sup> (x) SPO contact notes (“Contact Notes”);<sup>158</sup> and (xi) material seized from Mr Krasniqi’s residence and phone.<sup>159</sup>

71. The Panel observes that the SPO does not object to Proposed Exhibits 107, 110, 113, 115-121, 123, 125-128, 130-132, 135, and 137-143, but opposes admission of Proposed Exhibits 108, 109, 111, 112, 114, 122, 124, 133, 134, 136, and 144: (i) on the

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<sup>147</sup> See Transcript of Hearing, 13 November 2025, p. 28027.

<sup>148</sup> In relation to Proposed Exhibit 108, the Panel notes that the Defence only tenders SITF40001685-40001688, p. SITF40001686. In relation to Proposed Exhibit 110, the Panel notes that the Defence only tenders SITF00360270-00360343, pp. SITF00360290-SITF00360291. In relation to Proposed Exhibit 114, the Panel notes that the Defence only tenders SITF00077620-00077822, p. SITF00077816. In relation to Proposed Exhibit 132, the Panel notes that the Defence only tenders 039351-039354, pp. 039351-039352. In relation to Proposed Exhibit 133, the Panel notes that the Defence only tenders 050281-050285RED, pp. 050281-050282. In relation to Proposed Exhibit 138, the Panel notes that the Defence only tenders SPOE00225525-00225913, p. SPOE00225624.

<sup>149</sup> Annex 1 to the Request, Proposed Exhibits 107 and 118.

<sup>150</sup> Annex 1 to the Request, Proposed Exhibits 108, 109, 126-128, 131, and 132.

<sup>151</sup> Annex 1 to the Request, Proposed Exhibits 110 and 144.

<sup>152</sup> Annex 1 to the Request, Proposed Exhibits 111-113, 125, 135, and 137.

<sup>153</sup> Annex 1 to the Request, Proposed Exhibits 114, 117, and 122.

<sup>154</sup> Annex 1 to the Request, Proposed Exhibits 115 and 116.

<sup>155</sup> Annex 1 to the Request, Proposed Exhibits 119-121.

<sup>156</sup> Annex 1 to the Request, Proposed Exhibits 123 and 124.

<sup>157</sup> Annex 1 to the Request, Proposed Exhibit 130.

<sup>158</sup> Annex 1 to the Request, Proposed Exhibits 133, 134, and 136.

<sup>159</sup> Annex 1 to the Request, Proposed Exhibits 138-143.

basis of lack of relevance, *prima facie* authenticity and probative value;<sup>160</sup> and (ii) on the grounds that they are not admissible from the bar table as their admission is regulated by specific provisions, namely Rules 149 or 153-155.<sup>161</sup>

72. First, the Panel will address the procedural objection raised by the SPO against the items which, it submits, are not admissible from the bar table.<sup>162</sup> The Panel notes that Proposed Exhibits 123 and 124 are reports on the examination of the forensic image of the workstation seized from Mr Krasniqi.<sup>163</sup> Insofar as these reports were created upon request of the SPO, and prepared for the purposes of these proceedings, the Panel considers that, while relevant, the admission of Proposed Exhibits 123 and 124 is normally regulated by Rule 149, as *lex specialis*. The Defence could have sought to call the author of these reports as experts but elected not to do so. As such, these items cannot be admitted as ‘expert’ reports within the meaning of Rule 149 and will not be given the weight that might attach to such evidence. Also, and considering that the Defence did not call the authors of these items to testify, the other Parties were not able to question the authors on the basis of their findings. Finally, the Panel notes that the Defence has provided a very limited explanation regarding the relevance of those items, which the Panel understands to go to the question of authenticity of certain items found on a computer at Mr Krasniqi’s home. However, in the exercise of its discretion, and in light of its earlier decisions,<sup>164</sup> the Panel is prepared to admit the items insofar as it understands them to be relevant. For this reason, the Panel considers that Proposed Exhibits 123 and 124 can be admitted through the bar table pursuant to Rule 138. The Panel does, however, expect the Defence to clearly articulate what

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<sup>160</sup> See Response, paras 7-11, 13; Annex 1 to the Response, Proposed Exhibits 108, 109, 111, 112, 114, 122, and 144.

<sup>161</sup> See Response, paras 14-15; Annex 1 to the Response, Proposed Exhibits 133, 134, and 136.

<sup>162</sup> See Response, paras 14-15; Annex 1 to the Response, Proposed Exhibits 133, 134, and 136.

<sup>163</sup> Annex 1 to the Request, Proposed Exhibits 123 and 124.

<sup>164</sup> See e.g. F03211, Panel, *Decision on Prosecution Motion for Admission of Documents Concerning Murder Victims*, 29 May 2025, paras 17-18.

its case is in respect of these documents and how they relate to matters already decided by this Panel or other Panels of this court. Also, the considerations noted above will be accounted for by the Panel when deciding what weight, if any, may be attributed to those items.

73. Regarding Proposed Exhibits 133, 134, and 136, the Panel notes that they are SPO notes of contact with individuals.<sup>165</sup> These summaries of contacts were recorded and prepared in the context of criminal investigations. The Panel recalls that notes which, in essence, assist in planning future investigations or reproduce information provided by a witness in the course of a formal investigation constitute witness statements whose admission is subject to Rules 153-155.<sup>166</sup> The Panel considers that Proposed Exhibits 133, 134, and 136 fall in this category and that their admission is therefore subject to Rules 153-155. For this reason, the Panel considers that Proposed Exhibits 133, 134, and 136 cannot be admitted through the bar table pursuant to Rule 138.

(a) Relevance

74. Regarding the relevance of Proposed Exhibits 107-144, the Panel notes the Defence's submissions that they are relevant to, *inter alia*: (i) countering the allegation that the KLA had a structured chain of command and showing the disorganisation of the KLA as well as the ability of individuals to falsely pretend to be KLA members;<sup>167</sup> (ii) the temporal scope of the armed conflict;<sup>168</sup> (iii) the credibility of witnesses;<sup>169</sup> (iv) manipulations from the Serbian authorities of

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<sup>165</sup> Annex 1 to the Request, Proposed Exhibits 133, 134, and 136.

<sup>166</sup> KSC-2020-07, Trial Panel II, F00334, *Decision on the Prosecution Request for Admission of Items Through the Bar Table*, 29 September 2021, paras 84-87. *See also* Decision on First Krasniqi Defence Bar Table, para. 65; F02580, Panel, *Reasons for Admission of W03780's Statement and Related Order*, 17 September 2025, confidential, para. 10 (a public redacted version of the filing was filed on the same day, F02580/RED).

<sup>167</sup> Annex 1 to the Request, Proposed Exhibits 107, 109, 127, 132, and 133.

<sup>168</sup> Annex 1 to the Request, Proposed Exhibits 111 and 112.

<sup>169</sup> Annex 1 to the Request, Proposed Exhibits 113, 118-120, and 125.

P00507 admitted into evidence;<sup>170</sup> (v) the provenance and contents of items seized at Mr Krasniqi's residence and workstation;<sup>171</sup> (vi) Mr Krasniqi's roles, background, actions, and character;<sup>172</sup> (vii) showing that Kosovar political leaders had little authority over the population and were not able to prevent criminal acts;<sup>173</sup> (viii) demonstrating the KLA's compliance with the demilitarisation agreement;<sup>174</sup> (ix) showing the KLA's support for a multi-ethnic Kosovo;<sup>175</sup> (x) showing that crimes were the result of vengeance, blood feuds, and the chaos created by returning refugee populations;<sup>176</sup> (xi) alleged contacts between certain individuals and Mr Krasniqi;<sup>177</sup> and (xii) showing the Serbian state's willingness to sacrifice the civilian population to protect territory.<sup>178</sup>

75. Regarding Proposed Exhibits 107, 110, 113, 115-121, 123-128, 130-132, 135, and 137-143, after having reviewed each of these items in light of the Defence's submissions on relevance, the Panel would welcome further clarifications in the Parties' final submissions regarding the relevance of some these items, such as Proposed Exhibits 110 and 121. This is also the case with regard to Proposed Exhibits 115, 116, 123, and 124 as it is not clear to the Panel what the Defence's arguments in relation to the inferences that may, or not, be drawn from the material seized from Mr Krasniqi's residence and workstation are. However, noting the absence of an objection by the SPO,<sup>179</sup> the Panel is satisfied that the

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<sup>170</sup> Annex 1 to the Request, Proposed Exhibits 114 and 126.

<sup>171</sup> Annex 1 to the Request, Proposed Exhibits 115, 116, 123, and 124.

<sup>172</sup> Annex 1 to the Request, Proposed Exhibits 110, 117, 121, 122, and 138-144.

<sup>173</sup> Annex 1 to the Request, Proposed Exhibit 128.

<sup>174</sup> Annex 1 to the Request, Proposed Exhibit 128.

<sup>175</sup> Annex 1 to the Request, Proposed Exhibit 129.

<sup>176</sup> Annex 1 to the Request, Proposed Exhibits 130, 131, 135, and 136.

<sup>177</sup> Annex 1 to the Request, Proposed Exhibit 134.

<sup>178</sup> Annex 1 to the Request, Proposed Exhibit 137.

<sup>179</sup> Annex 1 to the Response, Proposed Exhibits 107, 110, 113, 115-121, 125-128, 130-132, 135, and 137-143.

Defence has established that Proposed Exhibits 107, 110, 113, 115-121, 123-128, 130-132, 135, and 137-143 are, at least marginally, relevant.<sup>180</sup>

76. Regarding Proposed Exhibits 108 and 109, the Panel notes the Defence's submission that these items are probative of the lack of command structure within the KLA and the attributability of crimes as well as the SPO's objection on the basis of relevance.<sup>181</sup> Having reviewed Proposed Exhibits 108 and 109, the Panel observes that the allegations reported in these items occurred after the Indictment period and have no demonstrable connection to the charges or facts in this case. The Panel considers that the Defence has failed to establish the relevance of Proposed Exhibits 108 and 109.

77. Regarding Proposed Exhibits 111 and 112, the Panel observes that they are correspondence from the Special Prosecution Office of the Republic of Kosovo relating to the transfer of case files in relation to acts committed in July and August 1999 and therefore during the Indictment period. As previously ruled,<sup>182</sup> the Panel will not consider the findings of other authorities in relation to matters within their own competence unless judicially noticed. These items go to an ultimate issue which will have to be decided by the Panel. The Panel does not consider Proposed Exhibits 111 and 112 to meet the requisite standard of relevance.

78. Turning to Proposed Exhibit 114, the Panel observes that it is a page of a book which, in the Defence's submission, contains what is currently in evidence as P00507, but is also relevant to the Defence's case that P00507 has been manipulated by the Serbian authorities.<sup>183</sup> The Panel observes that the fact that P00507 was

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<sup>180</sup> See *e.g.* Indictment, paras 16-19, 22-23, 28, 31-39, 44, and 50-55.

<sup>181</sup> Annex 1 to the Request, Proposed Exhibits 108-109; Annex 1 to the Response, Proposed Exhibits 108 and 109.

<sup>182</sup> See *similarly* Transcript of Hearing, 5 September 2023, p. 7269, lines 9-14.

<sup>183</sup> Annex 1 to the Request, Proposed Exhibit 114.

seized by Serbia is already on the record.<sup>184</sup> However, to the extent that it could be relevant to assessing the weight, if any, to attribute to exhibit P00507, the Panel considers that the Defence has established the relevance of Proposed Exhibit 114.

79. Turning to Proposed Exhibit 122, the Panel notes that this item contains a handwritten inscription from a former official of the Organisation for Security and Cooperation in Europe Mission in Kosovo. It is said to show the good opinion that an individual had of Mr Krasniqi. It has no demonstrable relevance to this case and nothing about the circumstances in which the note was purportedly made is known, nor how the individual concerned would have formed such an opinion. The Defence has failed to establish the *prima facie* relevance of this item.

80. Lastly, turning to Proposed Exhibit 144, the Panel notes that the item is, in the Defence's view, relevant to Mr Krasniqi's character and attitude towards minorities in Kosovo and his post-war efforts to include representatives of minorities in the work of the Kosovo Assembly.<sup>185</sup> It dates from 2012, has no demonstrable connection to the relevant time period and/or the substance of what is alleged in the charges, and there is no indication that Mr Krasniqi had any role in the composition (ethnic or otherwise) of the group concerned. The Defence has therefore failed to establish this item's relevance to the case.

81. In light of the above, the Panel finds that Proposed Exhibits 107, 110, 113-121, 123-128, 130-132, 135, and 137-143 are relevant. The Panel does not find Proposed Exhibits 108, 109, 111, 112, 122, and 144 to be relevant.

(b) Authenticity

82. Regarding authenticity of the residual items, the Panel observes that it will only assess the Proposed Exhibits which it found to be relevant, namely Proposed Exhibits 107, 110, 113-121, 123-128, 130-132, 135, and 137-143.

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<sup>184</sup> Transcript of Hearing, 16 October 2023, confidential, p. 8965, line 9 to p. 8966, line 23. *See also* P01634.

<sup>185</sup> Annex 1 to the Request, Proposed Exhibit 144.

83. Having reviewed these items, the Panel observes that they bear several indicia of authenticity, such as: (i) their source;<sup>186</sup> (ii) their date or relevant period;<sup>187</sup> (iii) the name of the author, publisher, sender, addressee or participant;<sup>188</sup> (iv) a header;<sup>189</sup> (v) reference or protocol numbers;<sup>190</sup> or (vi) a signature.<sup>191</sup>

84. With respect to Proposed Exhibit 113, the Panel notes that the SPO does not object to the admission of the item, provided that the English translation of the first page is also tendered.<sup>192</sup> The Panel notes that the Defence failed to tender the full English translation of Proposed Exhibit 113. The Panel further notes that there exists a partial English translation (DJK01103-DJK01103-ET). Accordingly, the Panel directs the Defence to provide: (i) DJK01103-DJK01103-ET; and (ii) a full English translation thereof by supplementing the existing partial English translation of Proposed Exhibit 113 no later than Wednesday, 3 December 2025.

85. Concerning Proposed Exhibit 117, the Panel notes the SPO's request that the original (DJK01964-DJK01968), and the complete English translation thereof, also be provided.<sup>193</sup> Having reviewed Proposed Exhibit 117 and the version suggested by the SPO (DJK01964-DJK01968), the Panel finds that the latter constitutes a more complete version of Proposed Exhibit 117 as it contains the front pages of the book, thereby indicating its source. The Panel therefore directs the Defence to tender, in relation to Proposed Exhibit 117, DJK01964-DJK01968 as well as a full English translation thereof, no later than Wednesday, 3 December 2025.

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<sup>186</sup> See *e.g.* Annex 1 to the Request, Proposed Exhibits 107, 110, 113, 123, 124, 126, 130-132, 135, and 137.

<sup>187</sup> See *e.g.* Annex 1 to the Request, Proposed Exhibits 107, 110, 113, 115, 116, 118-121, 123, 124, 127, 130, 135, and 137-143.

<sup>188</sup> See *e.g.* Annex 1 to the Request, Proposed Exhibits 107, 113-121, 123, 124, 127, 132, and 135.

<sup>189</sup> See *e.g.* Annex 1 to the Request, Proposed Exhibits 110, 115, 116, 118-121, 127, and 138-143.

<sup>190</sup> See *e.g.* Annex 1 to the Request, Proposed Exhibits 110, 113, 123-125, 137, 139, 140, and 142.

<sup>191</sup> See *e.g.* Annex 1 to the Request, Proposed Exhibits 122 and 125.

<sup>192</sup> Annex 1 to the Response, Proposed Exhibit 113.

<sup>193</sup> See Annex 1 to the Response, Proposed Exhibit 116.

86. Concerning Proposed Exhibit 135, the Panel notes the SPO's submission that the corresponding excerpt of the underlying document (SITF00372696-00372704 RED2) from which the information was extracted should, instead, be admitted as it provides the most accurate record of the relevant information.<sup>194</sup> Having reviewed Proposed Exhibit 135, in light of the corresponding excerpt, the Panel notes that the latter provides a more complete and accurate record of relevant information. For this reason, the Panel invites the Defence to provide SITF00372696-00372704 RED2 for Proposed Exhibit 135 in lieu of 103552-103552. The Panel also directs the Defence to add the English translation of the first page (SITF00198356) no later than Wednesday, 3 December 2025.

87. In light of the above, the Panel finds that the Defence has established that Proposed Exhibits 107, 110, 113-121, 123-128, 130-132, 135, and 137-143 are *prima facie* authentic.

(c) Probative value not outweighed by prejudicial effect

88. Having found Proposed Exhibits 107, 110, 113-121, 123-128, 130-132, 135, and 137-143 to be relevant and *prima facie* authentic,<sup>195</sup> the Panel is satisfied that these items also bear probative value regarding facts and circumstances relevant to this case as outlined above at paragraphs 74-75, 78, and 81.<sup>196</sup>

89. Regarding Proposed Exhibit 143, the Panel observes that there is no indication before it that Mr Krasniqi ever gave the recorded speech. While this will ultimately be taken into consideration as to the weight and probative value, if any, to be assigned to this item, the Panel is still satisfied of its probative value for the purposes of admission.

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<sup>194</sup> See Response, para. 3; Annex 1 to the Response, Proposed Exhibit 135.

<sup>195</sup> See *above*, paras 81 and 87.

<sup>196</sup> See *also* Request, paras 20-25; Annex 1 to the Request, Proposed Exhibits 107, 110, 113, 115-123, 125-128, 130-132, 135, and 137-143.

90. The Panel further considers that the SPO, the other Defence teams and Victims' Counsel will have an opportunity to make submissions in respect of the weight and probative value of these items and may, if they so choose, challenge the content of any of these items in their final submissions. The Panel is therefore satisfied that the probative value of Proposed Exhibits 107, 110, 113-121, 123-128, 130-132, 135, and 137-143 is not outweighed by any prejudicial effect.

(d) Conclusion

91. In light of the above, the Panel is satisfied that Proposed Exhibits 107, 110, 113-121, 123-128, 130-132, 135, and 137-143 should be admitted pursuant to Rule 138(1). The Panel denies admission of Proposed Exhibits 108, 109, 111, 112, 122, 133, 134, 136, and 144. The Panel declares the Request in relation to Proposed Exhibit 129 moot.

## V. CLASSIFICATION

92. The Panel notes that the Request is classified as confidential and that the Defence indicates that it will file a public redacted version in due course.<sup>197</sup> The Panel therefore orders the Defence to file a public redacted version of the Request by Wednesday, 3 December 2025.

93. The Panel also notes that the Response is confidential but that the SPO has no objection to its reclassification as public.<sup>198</sup> The Panel therefore directs the Registry to reclassify the Response (F03573) as public.

94. The Panel considers that Annex 1 to the Request and Annex 1 to the Response may remain classified as confidential.

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<sup>197</sup> Request, para. 4.

<sup>198</sup> Response, para. 17.

## VI. DISPOSITION

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

- a) **GRANTS** the Request, in part;
- b) **GRANTS** the Defence leave to make the Requested Addition to the Revised Exhibit List;
- c) **ORDERS** the Defence to file its amended Exhibit List no later than **Wednesday, 3 December 2025**;
- d) **DECLARES** moot the Request in relation to Proposed Exhibit 129;
- e) **ADMITS** into evidence Proposed Exhibits 1, 3-5, 7, 10, 11, 14, 15, 17, 18, 21, 23, 24, 27-30, 32, 33, 35-41, 44-47, 49-61, 63-74, 78-82, 84-96, 98-107, 110, 113-121, 123-128, 130-132, 135, and 137-143;
- f) **DENIES**, without prejudice, admission of Proposed Exhibits 2, 6, 8, 9, 12, 13, 16, 19, 20, 22, 25, 26, 31, 34, 42, 43, 48, 62, 75-77, 83, 97, 108, 109, 111, 112, 122, 133, 134, 136, and 144;
- g) **DIRECTS** the Registry to:
  - i. assign to the admitted items: (i) exhibit numbers; and (ii) the classification indicated in Annex 1 to the Request; and
  - ii. reclassify the Response (F03573) as public;
- h) **ORDERS** no later than **Wednesday, 3 December 2025**:
  - i. the Defence to produce an English translation of the Transcripts, a complete English translation of Proposed Exhibits 5, 113, and 117, and an English translation of the first page of Proposed Exhibit 135 (SITF00198356);
  - ii. the Defence to provide a transcript for Proposed Exhibits 27 and 30, and the Registry to assign to the transcripts the same exhibit

- numbers to be assigned to Proposed Exhibits 27 and 30 with the addition of “\_ET”;
- iii. the Defence to provide DJK01964-DJK01968 in lieu of Proposed Exhibit 117;
- iv. the Defence to file a public redacted version of the Request or seek reclassification thereof; and
- i) **INVITES** the Defence to provide SITF00372696-00372704 RED2 in lieu of 103552-103552 for Proposed Exhibit 135.



**Judge Charles L. Smith, III**

**Presiding Judge**

Dated this Monday, 1 December 2025

At The Hague, the Netherlands.