



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: 31 October 2025

Language: English

Classification: Public

**Public Redacted Version of Decision on Krasniqi Defence Motion for Admission
of Evidence of Two Witnesses pursuant to Rule 153 and Related Request to
Amend the Revised Exhibit List**

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TRIAL PANEL II ("Panel"), pursuant to Articles 21 and 40(2) and (6)(h) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 119(5), 137, 138(1) and 153 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 1 September 2025, the Defence for Jakup Krasniqi ("Krasniqi Defence" and "Mr Krasniqi", respectively) filed a motion seeking: (i) authorisation to add one document to its revised list of exhibits ("Revised Exhibit List");¹ and (ii) the admission of the evidence of witnesses [REDACTED] and [REDACTED] ("Witnesses") pursuant to Rule 153 ("Motion").²
2. On 11 September 2025, the Specialist Prosecutor's Office ("SPO") responded ("Response").³ The other Parties and participants did not respond.
3. On 16 September 2025, the Krasniqi Defence replied ("Reply").⁴

II. SUBMISSIONS

4. The Krasniqi Defence requests that the Panel admit the statements, together with the associated exhibits, of two Witnesses ("Statements" and "Associated

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

² F03431, Specialist Counsel, *Krasniqi Defence Motion for Admission of Evidence of [REDACTED] and [REDACTED] Pursuant to Rule 153 and Related Request to Amend the Revised Exhibit List*, 1 September 2025, confidential, with Annexes 1-2, confidential.

³ F03464, Specialist Prosecutor, *Prosecution Response to KRASNIQI Defence Motion for Admission of Evidence Pursuant to Rule 153 and to Amend its Exhibit List (F03431)*, 11 September 2025, confidential.

⁴ F03476, Specialist Counsel, *Krasniqi Defence Reply to Prosecution Response to Defence Motion for Admission of Evidence Pursuant to Rule 153 and Related Request to Amend the Revised Exhibit List*, 16 September 2025, confidential.

Exhibits, respectively) into evidence pursuant to Rule 153.⁵ The Krasniqi Defence submits that the Statements and Associated Exhibits (collectively, “Proposed Evidence”)⁶ are authentic, relevant, probative, and their admission would not cause undue prejudice.⁷ Moreover, the Krasniqi Defence avers that the individual features of the Statements constitute factors militating in favour of their admission pursuant to Rule 153.⁸ Therefore, in the Krasniqi Defence’s view, the Proposed Evidence satisfies the requirements of Rules 138 and 153 and is thus suitable for admission *in lieu* of oral evidence.⁹

5. In addition, the Krasniqi Defence seeks leave to add one document, namely an associated exhibit to one of the Statements (“Requested Addition”),¹⁰ to its Revised Exhibit List, which, due to an oversight, had been inadvertently omitted, even though it had formed part of its exhibit list filed on 15 August 2025 (“Original Exhibit List”).¹¹ In this regard, the Krasniqi Defence submits that the request is timely,¹² and that good cause exists to grant the Requested Addition,¹³ which would also be in the interest of justice.¹⁴

6. The SPO opposes the admission of the Proposed Evidence, which, the SPO argues, fails to meet the requirements of Rules 138(1) and 153 as it is irrelevant, duplicative of already admitted evidence, and lacks probative value.¹⁵ The SPO

⁵ Motion, paras 1, 38(ii).

⁶ Annexes 1-2 to the Motion.

⁷ Motion, para. 2.

⁸ Motion, para. 2.

⁹ Motion, para. 9.

¹⁰ SPOE00082353-00082355 and its corresponding English translation DJK01990-DJK01992-ET, *see* Motion, paras 33, 35. *See also* Annex 2 to the Motion.

¹¹ Motion, paras 3, 34 (*referring to* F03358/A02, Specialist Counsel, *Annex 2 to Krasniqi Defence Submission of Witness and Exhibit Lists*, 21 July 2025, confidential, item 898), 38(i).

¹² Motion, para. 36.

¹³ Motion, para. 33.

¹⁴ Motion, para. 35.

¹⁵ Response, paras 1-2.

further responds that the Requested Addition should be denied,¹⁶ and that the Panel should reject the Motion in its entirety.¹⁷

7. The Krasniqi Defence replies that the Response: (i) misunderstands the applicable law and the standard for admission; and (ii) mischaracterises the Motion and the substance of the Proposed Evidence,¹⁸ which is relevant and admissible pursuant to Rules 138 and 153.¹⁹ In the Krasniqi Defence's view, the Panel should disregard the SPO's wholly unpersuasive arguments²⁰ and grant the Motion.²¹

III. APPLICABLE LAW

8. The Panel incorporates by reference the applicable law as set out in its first Rule 153 decision²² as well as the law applicable to the admission of evidence, generally, as set out in its first Rule 154 decision²³ and first bar table decision.²⁴

9. In addition, with reference to the requirements under Rule 153(1), the Panel notes that evidence of the Accused's *mens rea* would fall within the scope of what is regarded as 'acts and conduct' of the Accused, as charged in the Indictment.²⁵

¹⁶ Response, para. 11.

¹⁷ Response, para. 13.

¹⁸ Reply, para. 1.

¹⁹ Reply, para. 2.

²⁰ Reply, para. 1.

²¹ Reply, para. 16.

²² F01904, Panel, *Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 153*, 3 November 2023, confidential, paras 8-10, 12-13 (a public redacted version was filed on 27 November 2023, F01904/RED)

²³ F01380, Panel, *Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154*, 16 March 2023, confidential, paras 11-25 (a public redacted version was filed on 7 November 2023, F01380/RED).

²⁴ F01409, Panel, *Decision on Specialist Prosecutor's Bar Table Motion*, 31 March 2023, confidential, paras 8-13.

²⁵ See e.g. International Criminal Tribunal for the former Yugoslavia ("ICTY"), *Prosecutor v. Prlić et al.*, IT-04-74-T, [Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts of 14 and 23 June 2006](#), 7 September 2006, para. 25. See also ICTY, *Prosecutor v. Šešelj*, IT-03-67-T, [Decision on Prosecution Motions to Take Judicial Notice of Facts Concerning the Mrkšić Case](#), 8 February 2010, para. 13; *Prosecutor v. Galić*, IT-98-29-AR73.2, [Decision on Interlocutory Appeal Concerning Rule 92bis\(C\)](#), 7 June 2002, para. 11

10. 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).²⁶ As proceedings advance, any further requests to amend the exhibit list will be subject to greater scrutiny.²⁷ When deciding on the amendment of the exhibit list, and as previously stated in relation to the SPO case, the Panel needs to satisfy itself that the proposed item is *prima facie* relevant and of sufficient importance to justify the late addition to the exhibit list and no undue prejudice is caused to the other Parties and participants as a result.²⁸ Accordingly, a decision authorising the addition of an item to a Party's exhibit list is without prejudice to the Panel's subsequent decision on whether that item should be admitted into evidence.²⁹

²⁶ See also F01226/A01, Panel, *Annex 1 to Order on the Conduct of Proceedings* ("Order on the Conduct of the Proceedings"), 25 January 2023, para. 82.

²⁷ See, in particular, F01995, Panel, *Decision on Prosecution Request to Amend the Exhibit List* (F01844), 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).

²⁸ See F01656, Panel, *Decision on Prosecution Request to Add Intercepted Communications to the Exhibit List*, 7 July 2023, confidential, para. 11 (a public redacted version was issued on 14 November 2023, F01656/RED); F01785, Panel, *Decision on Prosecution Requests to Amend the Exhibit List* (F01689 and F01747), 12 September 2023, confidential, paras 15-17 (a public redacted version was issued on 10 November 2023, F01785/RED); F03461, Panel, *Decision on Thaçi Defence Second Request to Amend the Exhibit List*, 11 September 2025, para. 12.

²⁹ See KSC-BC-2020-07, F00321, Trial Panel II, *Decision on Prosecution's Request for Leave to Amend its List of Exhibits*, 23 September 2021, para. 16; ICTY, *Prosecutor v. Karadžić*, IT-95-5/18-T, [Decision on Prosecution's Motion for Leave to Amend its Exhibit List](#), 19 October 2011, para. 10; *Prosecutor v. Hadžić*, IT-04-75-T, [Decision on Fifth Defence Motion for Leave to Amend its Rule 65 ter Exhibit List](#), 19 February 2015, para. 5.

IV. DISCUSSION

A. [REDACTED]

11. The Krasniqi Defence submits that the proposed evidence of [REDACTED], a statement and associated exhibits (“[REDACTED]’s Proposed Evidence”),³⁰ is relevant,³¹ authentic and reliable,³² and suitable for Rule 153 admission.³³

12. In particular, the Krasniqi Defence argues that [REDACTED]’s Proposed Evidence is relevant to: (i) the establishment, nature and role of the local police in Kosovo (“Local Police”); (ii) the crimes, violence and intimidation committed by the Local Police against the Albanian population during the indictment period;³⁴ (iii) the status of Local Police members as active members of the Serbian police forces taking part in hostilities; and, in turn, (iv) the alleged policy of the Kosovo Liberation Army against “collaborators and other opponents”, the alleged unlawful common criminal purpose, and the state of mind of alleged perpetrators, in relation, in particular, to admitted exhibit P00168.³⁵

13. The Krasniqi Defence further avers that the Panel already admitted evidence and allowed testimony on the issue of the establishment and role of the Local Police,³⁶ and that [REDACTED]’s Statement is also relevant corroboration particularly to the evidence of W04401 on the matter.³⁷ As regards suitability for admission pursuant to Rule 153, the Krasniqi Defence submits that [REDACTED]’s Proposed Evidence: (i) does not relate to the acts and conduct of the Accused; (ii) is narrow in scope; (iii) relates to the relevant historical and

³⁰ [REDACTED]’s Proposed Evidence consists of the following items, including any translations thereof: DJK01465-DJK01473-ET (“[REDACTED]’s Statement”) and (i) SPOE00042867-00042867; and (ii) SPOE00042919-00042921 (“[REDACTED]’s Associated Exhibits”). See Annex 1 to the Motion.

³¹ Motion, paras 12-19, 23; Annex 1 to the Motion.

³² Motion, paras 10-11, 23.

³³ Motion, paras 20-23.

³⁴ Motion, para. 16.

³⁵ Motion, paras 16-17.

³⁶ Motion, para. 18.

³⁷ Motion, para. 19.

military background of the case;³⁸ (iv) is cumulative in nature;³⁹ and (v) admission is warranted by requirements of expeditiousness and fairness.⁴⁰ Finally, the Krasniqi Defence submits that [REDACTED]'s Associated Exhibits form an indispensable and inseparable part of [REDACTED]'s Statement.⁴¹

14. The SPO responds that [REDACTED]'s Proposed Evidence is generally irrelevant and not probative of any matter at issue in this case.⁴² The SPO contends that: (i) the Krasniqi Defence fails to meet its burden under Rule 138, considering, *inter alia*, that P00168 predates the incident discussed in [REDACTED]'s Proposed Evidence and there can be no causal connection between the two;⁴³ (ii) the Motion presents an incomplete and misleading contextual picture concerning P00168;⁴⁴ and (iii) [REDACTED]'s Proposed Evidence is duplicative of already admitted evidence.⁴⁵ Therefore, in the SPO's view, [REDACTED]'s Proposed Evidence is irrelevant, has no probative value, and its exclusion would cause no prejudice, and, as such, does not meet the requirements of Rules 138 and 153.⁴⁶

15. The Krasniqi Defence replies that the Response: (i) mischaracterises and ignores relevant parts of [REDACTED]'s Proposed Evidence, which is directly relevant to evidence that the SPO places at the heart of its case;⁴⁷ (ii) ignores previous evidence admitted in the case, which [REDACTED]'s Proposed Evidence corroborates;⁴⁸ and (iii) is premised on a wrong understanding of the requirements of Rule 153, and disregards, in particular, the fact that the cumulative and

³⁸ Motion, para. 20.

³⁹ Motion, para. 21.

⁴⁰ Motion, para. 22.

⁴¹ Motion, para. 23.

⁴² Response, para. 3.

⁴³ Response, para. 4.

⁴⁴ Response, para. 5.

⁴⁵ Response, para. 6.

⁴⁶ Response, para. 7.

⁴⁷ Reply, paras 4-6.

⁴⁸ Reply, paras 4, 6-10.

corroborative nature of the Proposed Evidence are factors militating in favour of admission, as expressly provided for by Rule 153(1)(a).⁴⁹

16. Having reviewed [REDACTED]'s Statement, the Panel is satisfied that it is relevant to issues material to the case, in particular: (i) the role and activities of the Local Police in Kosovo at a particular location in 1999; and (ii) the alleged existence of a policy and/or pattern of targeting alleged collaborators or perceived opponents. The Panel takes note of the SPO's objections to relevance. It also takes note of the Krasniqi Defence's argument that [REDACTED]'s Proposed Evidence could be relevant to evaluating the SPO's case in respect of P00168. The Panel reserves its view on that claim. The question of whether the Krasniqi Defence presents an incomplete and misleading contextual picture concerning P00168 would be for the Panel to decide when assessing the weight to be accorded to [REDACTED]'s Proposed Evidence in light of the totality of the evidence. In respect of parts and aspects of the Proposed Evidence that are irrelevant or only remotely related to the case, these will be treated as such in the Panel's Judgment. Therefore, the Panel is satisfied that [REDACTED]'s Statement (or, at least, a sufficient section of it) is relevant to the charges in the Indictment.⁵⁰

17. As regards authenticity, the Panel notes that [REDACTED]'s Statement contains several indicia of reliability, including the witness's personal details⁵¹ and signature,⁵² and the date, location, and attendees present when the statement was given.⁵³ Moreover, the Panel notes that [REDACTED]: (i) was advised of her rights and duties as a witness; (ii) confirmed that she gave her statement freely and voluntarily and that its contents are true; and (iii) was given the opportunity to

⁴⁹ Reply, paras 4, 10.

⁵⁰ F00999/A01, Specialist Prosecutor, *Annex 1 to Submission of Confirmed Amended Indictment* ("Indictment"), 30 September 2022, confidential (a public lesser redacted version was filed on 27 February 2023, F01323/A01), paras 32, 39.

⁵¹ DJK01465-DJK01473-ET, p. 1.

⁵² DJK01465-DJK01473, p. 9.

⁵³ DJK01465-DJK01473-ET, pp. 1, 9.

make corrections or clarifications thereto.⁵⁴ The Panel is therefore satisfied that [REDACTED]'s Statement is *prima facie* authentic.

18. Turning to [REDACTED]'s Associated Exhibits, the Panel notes that these consist of two reports by the [REDACTED] concerning the alleged murder of [REDACTED].⁵⁵ The Panel further observes that [REDACTED]'s Associated Exhibits are discussed in [REDACTED]'s Statement.⁵⁶ The Panel is therefore satisfied that [REDACTED]'s Associated Exhibits form an inseparable and indispensable part of [REDACTED]'s Statement. The Panel also finds that [REDACTED]'s Associated Exhibits: (i) are relevant, as they corroborate and provide context to [REDACTED]'s Statement; and (ii) bear sufficient indicia of *prima facie* authenticity.⁵⁷

19. As regards probative value, the Panel recalls the Krasniqi Defence's submission that [REDACTED]'s Proposed Evidence is cumulative in nature,⁵⁸ its subject was discussed with other witnesses who were present in court,⁵⁹ and is said to be corroborated by admitted documentary evidence.⁶⁰ The Panel further considers that [REDACTED] provides a detailed first-hand account which, contrary to the SPO's submissions,⁶¹ is not entirely duplicative of evidence already on the record. Having found that [REDACTED]'s Proposed Evidence is relevant⁶² and *prima facie* authentic,⁶³ the Panel is therefore also satisfied that [REDACTED]'s Proposed Evidence has probative value.

⁵⁴ DJK01465-DJK01473-ET, pp. 2, 9.

⁵⁵ See SPOE00042867-00042867; SPOE00042919-00042921. See also Annex 1 to the Motion.

⁵⁶ DJK01465-DJK01473-ET, paras 22, 25.

⁵⁷ E.g. [REDACTED] logo, template, officer's details, case number, and dates. See SPOE00042867-00042867, p. SPOE00042867; SPOE00042919-00042921, p. SPOE00042919.

⁵⁸ Motion, para. 21.

⁵⁹ Motion, para. 21, footnote 33, referring to W04737, W04401, W04752, W04758.

⁶⁰ Motion, para. 21, footnote 34, referring to 4D00081, 4D00100.

⁶¹ Response, para. 6.

⁶² See above para. 16, 18.

⁶³ See above para. 17-18.

20. Regarding prejudicial effect and suitability for admission pursuant to Rule 153, the Panel observes that [REDACTED]'s Proposed Evidence describes the role and activities of individuals whom she regards as members of the Local Police in Kosovo in 1999 who were operating at a particular location and who are said to have been involved in the alleged murder of [REDACTED].⁶⁴ The Proposed Evidence makes no mention of either the Accused or P00168, which, according to the SPO, purports to be an ordinance signed by Mr Krasniqi.⁶⁵ Therefore, the Panel finds that [REDACTED]'s Proposed Evidence goes to proof of matters others than the acts and conduct including the *mens rea*⁶⁶ of the Accused as charged in the Indictment. The Panel further considers that several factors militate in favour of admission of [REDACTED]'s Statement *in lieu* of oral testimony under Rule 153(1)(a) and recalls, in particular, the Krasniqi Defence's submission that [REDACTED]'s Proposed Evidence is cumulative in nature,⁶⁷ its subject was discussed with other witnesses who were present in court,⁶⁸ and is said to be corroborated in part by admitted documentary evidence.⁶⁹ Lastly, the Panel also notes that [REDACTED]'s Proposed Evidence is limited in length and not unduly repetitive. Accordingly, and recalling its finding that [REDACTED]'s Proposed Evidence has probative value,⁷⁰ the Panel is satisfied that any prejudicial effect does not outweigh its probative value within the meaning of Rules 138(1) and 153(1)(b)(i), and that [REDACTED]'s Proposed Evidence is therefore suitable for admission under Rule 153(1). Moreover, the Panel recalls its above findings regarding the *prima facie* authenticity of [REDACTED]'s Proposed Evidence,⁷¹ and

⁶⁴ See DJK01465-DJK01473-ET. See also SPOE00042867-00042867; SPOE00042919-00042921.

⁶⁵ See P00168_ET.

⁶⁶ See *above* para. 9, with further references.

⁶⁷ Motion, para. 21.

⁶⁸ Motion, para. 21, footnote 33, referring to W04737, W04401, W04752, W04758.

⁶⁹ Motion, para. 21, footnote 34, referring to 4D00081, 4D00100.

⁷⁰ See *above* para. 19.

⁷¹ See *above* paras 17-18.

is satisfied that [REDACTED]'s Proposed Evidence meets the requirements under Rule 153(2).

21. For these reasons, the Panel finds that [REDACTED]'s Proposed Evidence is admissible pursuant to Rules 138(1) and 153 without cross-examination.

B. [REDACTED]

1. Request to Amend the Revised Exhibit List

22. The Panel recalls that the primary purpose of an exhibit list is to give notice to the SPO and the other Parties and participants of the documents the Krasniqi Defence intends to use during its case.⁷²

23. With regard to the timeliness of this request, the Panel notes the Krasniqi Defence's submission that the associated exhibit concerned had been included in the Original Exhibit List, but was inadvertently omitted in the Revised Exhibit List, and that the Motion was drafted and filed shortly after the omission was identified following *inter partes* correspondence with the SPO.⁷³ Accordingly, the Panel finds the notice to be timely.

24. Regarding good cause and the question of the *prima facie* relevance and sufficient importance of the Requested Addition, the Panel notes that the document is an associated exhibit to [REDACTED]'s Statement, which is also being tendered in the present Motion.⁷⁴ The Panel further notes that the Requested Addition, consisting of official minutes of a meeting of the [REDACTED] chaired by Mr Krasniqi and attended, among others, [REDACTED], is discussed in the tendered statement of [REDACTED], which would otherwise be less

⁷² F03457, Panel, *Decision on Thaçi Defence Request to Amend the Exhibit List*, 10 September 2025, para. 12, with further references.

⁷³ Motion, para. 36.

⁷⁴ Motion, para. 35.

comprehensible or have lesser probative value.⁷⁵ Additionally, the Panel notes that the document is known to the Parties and the Panel from the Original Exhibit List, but was omitted to be included in the Revised Exhibit List by mistake. The Panel also considers it important to have a comprehensive view of the proposed evidence of [REDACTED], should his statement be ultimately admitted. In light of the above, the Panel finds that there is good cause for the Requested Addition to the Revised Exhibit List.

25. Furthermore, with regard to prejudice, the Panel considers that: (i) through the Original Exhibit List, the other Parties and participants had already been on notice of the Krasniqi Defence's intention to use the Requested Addition in its case, which is the primary purpose of an exhibit list;⁷⁶ (ii) as the topic of Mr Krasniqi's role and attitude when chairing meetings of the [REDACTED] is discussed in the related statement, the other Parties and participants are not being presented with a new aspect of the Krasniqi Defence's case; and (iii) the Requested Addition, consisting of three pages, is limited in length and narrow in scope. Therefore, the Panel finds that no prejudice is caused to the other Parties and participants by amending the Revised Exhibit List.

26. Under these circumstances, the Panel grants the Krasniqi Defence leave to add the Requested Addition to the Revised Exhibit List.

27. The Panel orders the Krasniqi Defence to file its amended Revised Exhibit List by **Friday, 7 November 2025**.

⁷⁵ Motion, para. 32.

⁷⁶ See above para. 22.

2. Rule 153 Request

28. The Krasniqi Defence submits that the proposed evidence of [REDACTED], a statement and associated exhibit (“[REDACTED]’s Proposed Evidence”),⁷⁷ is relevant,⁷⁸ authentic and reliable,⁷⁹ and suitable for admission pursuant to Rule 153.⁸⁰ In particular, the Krasniqi Defence argues that [REDACTED]’s Statement is relevant to Mr Krasniqi’s mindset, attitude and character towards minorities in Kosovo after the war, which, in the Krasniqi Defence’s view, goes directly to Mr Krasniqi’s pleaded *mens rea*.⁸¹ As regards suitability for admission pursuant to Rule 153, the Krasniqi Defence submits that [REDACTED]’s Statement: (i) is limited in scope and size; (ii) relates solely to Mr Krasniqi’s character; (iii) concerns matters falling outside of the indictment period; and (iv) admission responds to demands of expeditiousness.⁸² Lastly, the Krasniqi Defence submits that [REDACTED]’s Associated Exhibit forms an indispensable and inseparable part of [REDACTED]’s Statement.⁸³

29. The SPO responds that evidence going to the Accused’s state of mind is inadmissible under Rule 153(1).⁸⁴ The SPO further avers that, in any event, [REDACTED]’s Proposed Evidence is generally inadmissible as: (i) it has no probative value, considering also its limited nature and scope;⁸⁵ and (ii) it is being tendered as character evidence for an invalid purpose.⁸⁶ Lastly, the SPO also objects to the admission of [REDACTED]’s Associated Exhibit as it is irrelevant

⁷⁷ [REDACTED]’s Proposed Evidence consists of the following items, including any translations thereof: DJK01474-DJK01478-ET (“[REDACTED]’s Statement”) and DJK01990-DJK01992-ET (“[REDACTED]’s Associated Exhibit”). See Annex 2 to the Motion.

⁷⁸ Motion, paras 24, 26-29; Annex 2 to the Motion.

⁷⁹ Motion, paras 24-25, 32.

⁸⁰ Motion, paras 24, 30, 32.

⁸¹ Motion, para. 29.

⁸² Motion, para. 30.

⁸³ Motion, para. 32.

⁸⁴ Response, para. 9. See also Response, footnote 19, with further references.

⁸⁵ Response, paras 9-10. See also Response, footnote 21.

⁸⁶ Response, para. 9. See also Response, footnote 20, with further references.

and does not form an inseparable and indispensable part of [REDACTED]'s Statement.⁸⁷

30. The Krasniqi Defence replies that, contrary to the Response, [REDACTED]'s Proposed Evidence is admissible, as: (i) the SPO's submissions in this regard are relevant to weight, rather than admissibility;⁸⁸ (ii) character evidence, including outside of the indictment period, is generally admissible, and is a factor militating in favour of admission under Rule 153(1)(a);⁸⁹ (iii) [REDACTED]'s Proposed Evidence does not concern Mr Krasniqi's acts and conduct as charged in the Indictment;⁹⁰ and (iv) [REDACTED]'s Associated Exhibit satisfies all the requirements of Rules 138 and 153, considering, *inter alia*, that it is intrinsically connected with and corroborative of [REDACTED]'s Statement.⁹¹

31. Having reviewed [REDACTED]'s Statement, the Panel is satisfied that it is relevant to issues material to the case, namely Mr Krasniqi's attitude and state of mind towards minorities in Kosovo during the war. As regards the SPO's argument that the statement exclusively concerns events outside the indictment period,⁹² the Panel recalls that evidence dated outside of the temporal scope of the Indictment may nonetheless be relevant to events within the indictment period, and does not consider this to prevent admission *per se*.⁹³ Noting that, in the Indictment, Mr Krasniqi is charged as a member of a JCE, sharing a common criminal purpose to gain and exercise control over all of Kosovo by means including unlawfully intimidating, mistreating, committing violence against, and removing those deemed to be opponents, such as of Serb, Roma, and other

⁸⁷ Response, para. 11.

⁸⁸ Reply, para. 11.

⁸⁹ Reply, para. 12, with further references.

⁹⁰ Reply, para. 13.

⁹¹ Reply, paras 14-15.

⁹² Response, para. 9.

⁹³ See F01705, Panel, *Third Decision on Specialist Prosecutor's Bar Table Motion*, 27 July 2023, para. 18, with further references.

ethnicities,⁹⁴ the Panel is satisfied that [REDACTED]'s Statement is relevant to the charges in the Indictment. Although it relates exclusively to events outside the temporal scope of the Indictment, it could be relevant to certain conclusions – pertaining to Mr Krasniqi's state of mind during the indictment period.⁹⁵ Whether the Panel is prepared to draw such conclusions and whether and how much weight it would attach to the witness's Proposed Evidence is not a question of admission, but one that will be answered at the end of the trial in light of the entire body of evidence admitted before it at trial.⁹⁶

32. As regards authenticity, the Panel notes that [REDACTED]'s Statement contains several indicia of reliability, including the witness's personal details⁹⁷ and signature,⁹⁸ and the date, location, and attendees present when the statement was given.⁹⁹ Moreover, the Panel notes that: (i) [REDACTED] was advised of his rights and duties as a witness; (ii) confirmed that he gave his statement freely and voluntarily and that its contents are true; and (iii) he was given the opportunity to make corrections or clarifications thereto.¹⁰⁰ The Panel is therefore satisfied that [REDACTED]'s Statement is *prima facie* authentic.

33. Turning to [REDACTED]'s Associated Exhibit, the Panel recalls that it consists of official minutes of a meeting of the [REDACTED] chaired by Mr Krasniqi and attended, among others, [REDACTED].¹⁰¹ The Panel further observes that [REDACTED]'s Associated Exhibit is discussed in [REDACTED]'s Statement.¹⁰² The Panel is therefore satisfied that [REDACTED]'s Associated Exhibit forms an inseparable and indispensable part of [REDACTED]'s Statement.

⁹⁴ Indictment, para. 32.

⁹⁵ Indictment, para. 32.

⁹⁶ See Rule 139(2).

⁹⁷ DJK01474-DJK01478-ET, p. 1.

⁹⁸ DJK01474-DJK01478, p. 4.

⁹⁹ DJK01474-DJK01478-ET, pp. 1, 4.

¹⁰⁰ DJK01474-DJK01478-ET, pp. 2, 4.

¹⁰¹ See above para. 24, referring to Motion, para. 32.

¹⁰² DJK01474-DJK01478-ET, para. 12.

The Panel also finds that [REDACTED]'s Associated Exhibit: (i) is relevant, as it provides corroboration to [REDACTED]'s Statement;¹⁰³ and (ii) bears sufficient indicia of *prima facie* authenticity.¹⁰⁴

34. As regards probative value, the Panel recognises that [REDACTED]'s Proposed Evidence is limited in scope and arguably details Mr Krasniqi's attitude and state of mind *after* the indictment period.¹⁰⁵ The Panel is of the view that, despite the post-indictment temporal scope of the Proposed Evidence, this does not completely deprive it of any probative value with regard to Mr Krasniqi's alleged state of mind *during* the indictment period, in light of the specific features of the charged mode of liability as set forth above.¹⁰⁶ Having found that [REDACTED]'s Proposed Evidence is relevant¹⁰⁷ and *prima facie* authentic,¹⁰⁸ the Panel is also satisfied that [REDACTED]'s Proposed Evidence has probative value.

35. Regarding suitability for admission pursuant to Rule 153, the Panel observes that, while the Krasniqi Defence alleges [REDACTED]'s Proposed Evidence to be "relevant to [Mr Krasniqi]'s mindset, attitude and character towards minorities in Kosovo, [...] which goes directly to [Mr Krasniqi]'s pleaded *mens rea*",¹⁰⁹ it also submits that such character evidence is admissible as it does not go to the acts and conduct of the Accused.¹¹⁰

36. The Panel recalls that in the Indictment Mr Krasniqi is charged as a member of a JCE, sharing a common criminal purpose to gain and exercise control over all of Kosovo by means including unlawfully intimidating, mistreating, committing violence against, and removing those deemed to be opponents, including persons

¹⁰³ See also above para. 10.

¹⁰⁴ E.g. date, location, official logo, and attendees present. See e.g. DJK01990-DJK01992-ET, p. DJK01990.

¹⁰⁵ See Response, paras 9-10.

¹⁰⁶ See above para. 31.

¹⁰⁷ See above para. 31, 33.

¹⁰⁸ See above para. 32-33.

¹⁰⁹ Motion, para. 29.

¹¹⁰ Reply, paras 12-13.

of Serb, Roma, and other ethnicities.¹¹¹ The Krasniqi Defence has offered this evidence as proof, *inter alia*, of Mr Krasniqi's *mens rea*. The Panel recalls that evidence relevant to the Accused's *mens rea* falls within the scope of what is regarded as 'acts and conduct' of the Accused, as charged in the Indictment.¹¹² The fact that evidence of such a fact *also* goes to another fact or issue (including, character) does not render it admissible.¹¹³ Therefore, the Panel is of the view that the Proposed Evidence of [REDACTED] does not solely constitute character evidence, but, as it may allow conclusions to be drawn about Mr Krasniqi's state of mind during the indictment period, goes to proof of the acts and conduct of the Accused as charged in the Indictment. This is all the more true when considering that the Krasniqi Defence expressly acknowledges that [REDACTED]'s Proposed Evidence, even as character evidence, should be admitted in respect also of the determination of the guilt or innocence of the Accused.¹¹⁴

37. Therefore, the Panel finds that [REDACTED]'s Proposed Evidence cannot be admitted *in lieu* of oral testimony under Rule 153(1). The Panel also considers that, for the same reasons, the probative value of [REDACTED]'s Proposed Evidence would be outweighed by its prejudicial effect, should it be admitted without cross-examination.

38. For these reasons, the Panel finds that [REDACTED]'s Proposed Evidence is not admissible pursuant to Rule 153. This is without prejudice to any Rule 154 application in relation to [REDACTED] or the Krasniqi Defence calling the witness to testify *viva voce*. In order to ensure the fair and expeditious conduct of these proceedings, should the Krasniqi Defence consider calling this witness *viva voce* or

¹¹¹ Indictment, para. 32.

¹¹² See *above* para. 9, with further references.

¹¹³ See International Criminal Court, *Prosecutor v. Al Hassan*, ICC-01/12-01/18, [Decision on the Introduction into Evidence of the Prior Recorded Testimony of D-0544, D-0611, D-0093 and D-0240 pursuant to Rule 68\(2\)\(b\) and \(3\) of the Rules](#), 22 July 2022, para. 9, and references therein. See similarly ICTY, *Prosecutor v. Hadžić*, IT-04-75-T, [Decision on Defence Omnibus Motion for Admission of Evidence Pursuant to Rule 92 bis](#), 4 February 2015, paras 17-20.

¹¹⁴ Reply, para. 12.

through Rule 154, it shall make an application to that effect without delay and inform the Panel, no later than **Thursday, 6 November 2025**, whether it is going to so request. If the evidence of this witness is to be offered pursuant to Rule 154, any application to that effect should be done within the same timeframe.

V. CLASSIFICATION

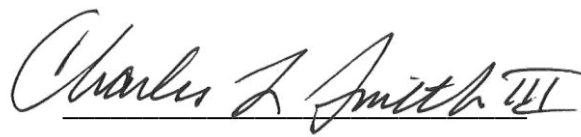
39. The Panel notes that the Motion, Response, and Reply were filed confidentially. The Panel therefore orders: (i) the Krasniqi Defence to file public redacted versions of the Motion and the Reply, or request reclassification thereof, by **Friday, 7 November 2025**; and (ii) the SPO to file a public redacted version of the Response, or request reclassification thereof, by **Friday, 7 November 2025**.

VI. DISPOSITION

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

- a) **GRANTS** the Motion, in part;
- b) **ADMITS** into evidence without cross-examination the Proposed Evidence of witness [REDACTED], including any translations thereof;
- c) **GRANTS** the Krasniqi Defence leave to add the Requested Addition to the Revised Exhibit List;
- d) **DENIES** the admission of the Proposed Evidence of witness [REDACTED] pursuant to Rule 153, without prejudice to any Rule 154 application in relation to this witness or the Krasniqi Defence calling the witness to testify *viva voce*;
- e) **ORDERS** the Krasniqi Defence to, no later than **Thursday, 6 November 2025**: (i) inform the Panel of its intention to file any Rule 154 application in relation to [REDACTED] or to call the witness to testify

- viva voce*; and, if applicable, (ii) file any Rule 154 application in relation to the witness;
- f) **DIRECTS** the Registrar to assign exhibit numbers to the Proposed Evidence of witness [REDACTED], linking the Associated Exhibits with the relevant Statement as indicated in footnote 30;
 - g) **ORDERS** the Krasniqi Defence to file its amended Revised Exhibit List by **Friday, 7 November 2025**;
 - h) **ORDERS** the Krasniqi Defence to file public redacted versions of the Motion and the Reply, or request reclassification thereof, by **Friday, 7 November 2025**; and
 - i) **ORDERS** the SPO to file a public redacted version of the Response, or request reclassification thereof, by **Friday, 7 November 2025**.



Judge Charles L. Smith, III
Presiding Judge

Dated this Friday, 31 October 2025

At The Hague, the Netherlands.