

**ANNEX 1 to**

**Krasniqi Defence Appeal Against Decision on Motions Challenging the  
Jurisdiction of the Specialist Chambers**

Public

## List of Authorities

### A. ICC

<i>Lubanga</i> Confirmation of Charges	ICC, <i>Prosecutor v. Lubanga</i> , ICC-01/04-01/06-803-tEN, Pre-Trial Chamber I, <a href="#"><u>Decision on the Confirmation of Charges</u></a> , 29 January 2007.
<i>Katanga</i> Confirmation of Charges	ICC, <i>Prosecutor v. Katanga et al.</i> , ICC-01/04-01/07-717, Pre-Trial Chamber I, <a href="#"><u>Decision on the Confirmation of Charges</u></a> , 30 September 2008.
Concurring Opinion of Judge Wynngaert	ICC, <i>Prosecutor v. Ngudjolo</i> , ICC-01/04-02/12-4, Trial Chamber II, <a href="#"><u>Judgment Pursuant to Article 74 of the Statute, Concurring Opinion of Judge Christine Van den Wynngaert</u></a> , 18 December 2012.

### B. ICTY

<i>Tadić</i> Appeal Judgment	ICTY, <i>Prosecutor v. Tadić</i> , IT-94-1-A, Appeals Chamber, <a href="#"><u>Judgment</u></a> , 15 July 1999.
<i>Krajišnik</i> Appeal Judgment	ICTY, <i>Prosecutor v. Krajišnik</i> , IT-00-39-A, Appeals Chamber, <a href="#"><u>Judgment</u></a> , 17 March 2009.
<i>Prlić</i> Appeal Judgment	ICTY, <i>Prosecutor v. Prlić et al.</i> , IT-04-74-A, Appeals Chamber, <a href="#"><u>Judgment</u></a> , 29 November 2017.
<i>Milutinović</i> Decision	ICTY, <i>Prosecutor v. Milutinović et al.</i> , IT-99-37-AR72, Appeals Chamber, <a href="#"><u>Decision on Dragoljub Ojdanić's Motion Challenging Jurisdiction – Joint Criminal Enterprise</u></a> , 21 May 2003.
<i>Furundžija</i> Trial Judgment	ICTY, <i>Prosecutor v. Anto Furundžija</i> , IT-95-17/1-T, Trial Chamber, <a href="#"><u>Judgment</u></a> , 10 December 1998.
<i>Limaj</i> Trial Judgment	ICTY, <i>Prosecutor v. Limaj et al.</i> , IT-03-66-T, Trial Chamber II, <a href="#"><u>Judgment</u></a> , 30 November 2005.

Separate and Partially Dissenting Opinion Judge Antonetti	ICTY, <i>Prosecutor v. Prlić et al.</i> , IT-04-74-T, Trial Chamber III, <a href="#"><u>Judgment, Separate and Partially Dissenting Opinion of Presiding Judge Jean-Claude Antonetti</u></a> , 29 May 2013.
<i>Krnojelac</i> Trial Judgment	ICTY, <i>Prosecutor v. Krnojelac</i> , IT-97-25-T, Trial Chamber II, <a href="#"><u>Judgment</u></a> , 15 March 2002.
<i>Brđanin et al.</i> Decision	ICTY, <i>Prosecutor v. Brđanin et al.</i> , IT-99-36, Trial Chamber II, <a href="#"><u>Decision on Motion by Momir Talić for Provisional Release</u></a> , 28 March 2001.

### C. ECtHR

<i>Fomin</i> Judgment	ECtHR, <i>Fomin v. Moldova</i> , no. 36755/06, <a href="#"><u>Judgment (Merits and Just Satisfaction)</u></a> , 11 January 2012.
<i>Kokkinakis</i> Judgment	ECtHR, <i>Kokkinakis v. Greece</i> , no. 14307/88, <a href="#"><u>Judgment (Merits and Just Satisfaction)</u></a> , 25 May 1993.
<i>Kononov</i> Judgment	ECtHR, <i>Kononov v. Latvia</i> , no. 36376/04, <a href="#"><u>Judgment (Merits and Just Satisfaction)</u></a> , 17 May 2010.
<i>Korbely</i> Judgment	ECtHR, <i>Korbely v. Hungary</i> , no. 9174/02, <a href="#"><u>Judgment (Merits and Just Satisfaction)</u></a> , 19 September 2008.
<i>Žaja</i> Judgment	ECtHR, <i>Žaja v. Croatia</i> , no. 37462/09, <a href="#"><u>Judgment (Merits and Just Satisfaction)</u></a> , 4 January 2017.
<i>Vasiliauskas</i> Judgment	ECtHR, <i>Vasiliauskas v. Lithuania</i> , no. 35343/05, <a href="#"><u>Judgment (Merits and Just Satisfaction)</u></a> , 20 October 2015.
<i>Fruni</i> Judgment	ECtHR, <i>Fruni v. Slovakia</i> , no. 8014/07, <a href="#"><u>Judgment (Merits and Just Satisfaction)</u></a> , 21 September 2011.
<i>Iorga</i> Judgment	ECtHR, <i>Iorga v. Moldova</i> , no. 12219/05, <a href="#"><u>Judgment (Merits and Just Satisfaction)</u></a> , 23 June 2010.

<i>Assenov et al.</i> Judgment	ECtHR, <i>Assenov et al. v. Bulgaria</i> , no. 90/1997/874/1086, <a href="#"><u>Judgment (Merits and Just Satisfaction)</u></a> , 28 October 1998.
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**D. ECCC**

ECCC SC Judgment	ECCC, <i>Co-Prosecutors v. Nuon Chea et al.</i> , 002/19-09-2007-ECCC/SC, Supreme Court Chamber, <a href="#"><u>Appeal Judgment</u></a> , 23 November 2016.
ECCC PTC Decision	ECCC, <i>Co-Prosecutors v. Ieng Sary et al.</i> , 002/19-09-2007-ECCC/OCIJ (PTC38), Pre-Trial Chamber, <a href="#"><u>Decision on the Appeals Against the Co-Investigative Judges Order on Joint Criminal Enterprise (JCE)</u></a> , 20 May 2010.
ECCC TC Decision	ECCC, <i>Co-Prosecutors v. Ieng Sary et al.</i> , 002/19-09-2007/ECCC/TC, Trial Chamber, <a href="#"><u>Decision on the Applicability of Joint Criminal Enterprise</u></a> , 12 September 2011.

**E. ICJ**

North Sea Continental Shelf Cases	ICJ, <i>North Sea Continental Shelf Cases (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)</i> , <a href="#"><u>Judgment of 20 February 1969</u></a> .
Military and Paramilitary Activities in and Against Nicaragua	ICJ, <i>Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America)</i> , Merits, <a href="#"><u>Judgment of 27 June 1986</u></a> .
Asylum Case	ICJ, <i>Asylum Case (Colombia/Peru)</i> , <a href="#"><u>Judgment of 20 November 1950</u></a> .

**F. Post WWII Cases & Material**

<i>Essen Lynching</i> Case	British Military Court for the Trial of War Criminals, <i>Erich Heyer et al.</i> , Case No. 8, <a href="#"><u>Trial of Erich Heyer and Six Others</u></a> , 18-
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	19 and 21-22 December 1945, UNWCC, Law Reports of Trials of War Criminals, Vol. I at 88-92.
<i>Borkum Island Case</i>	United States Army War Crimes Trials, <i>United States v. Kurt Goebell et al.</i> , Case No. 12-489, <a href="#">Review and Recommendations</a> , 1 August 1947.
Report of the Deputy Judge Advocate for War Crimes	European Command, ' <a href="#">Report of the Deputy Judge Advocate for War Crimes</a> ', June 1944 to July 1948.
<i>D'Ottavio et al. Case</i>	Italian Court of Cassation, <i>D'Ottavio et al.</i> , No. 270, Criminal Section I, <a href="#">Judgment</a> , 12 March 1947, published in <i>Journal of International Criminal Justice</i> 5 (2007), pp. 232-234.
<i>Aratano et al. Case</i>	Italian Court of Cassation, <i>Aratano et al.</i> , No. 102, Criminal Section II, <a href="#">Judgment</a> , 21 February 1949, published in <i>Journal of International Criminal Justice</i> 5 (2007), pp. 241-242.
<i>RuSHA Case</i>	United States Military Tribunal I, <i>United States of America v. Greifelt et al.</i> , Case No. 8, <a href="#">Opinion and Judgment</a> , 20 October 1947-10 March 1948, Trials of War Criminals before the Nuernberg Military Tribunals, Vol. V at 88-167.
<i>Dachau Concentration Camp Case</i>	General Military Government Court of the United States Zone, <i>Martin Gottfried Weiss et al.</i> , Case No. 60, <a href="#">Trial of Martin Gottfried Weiss and Thirty-Nine Others</a> , 15 November-13 December 1945, UNWCC, Law Reports of Trials of War Criminals, Vol. XI at 5-17.
<i>Ulrich and Merkle Case</i>	General Military Government Court of the United States Zone, <i>United States v. Ulrich and Merkle</i> , Case No. 000-50-2-17, <a href="#">Review and Recommendations</a> , 12 June 1947.
<i>Wuelfert Case</i>	General Military Government Court of the United States Zone, <i>United States v. Hans Wuelfert et al.</i> , Case No. 000-50-2-72, <a href="#">Review and Recommendations</a> , 19 September 1947.
<i>Toranosuke Case</i>	Hong Kong Military Court for the Trial of War Criminals No. 5, <i>Tashiro Toranosuke et al.</i> , Case No. WO235/905, <a href="#">Judge</a>

	<a href="#"><i>Advocate's Summing Up and Recommendation to Commander in Forces in Hong Kong</i></a> , 28 October 1946.
Rüsselsheim Deputy Theater Judge Advocate	United States Army War Crimes Trials, <i>United States v. Josef Hartgen et al.</i> , Case No. 12-1497, <a href="#"><i>Review and Recommendations of the Deputy Theater Judge Advocate</i></a> , 29 September 1945.
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1946 US Manual for Trial of War Crimes	Deputy Theater Judge Advocate's Office War Crimes Group, <i>Manual for Trial of War Crimes and Related Cases</i> , 15 July 1946.
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Ishiyama and Yasusaka	Australian Military Court, <i>Ishiyama et al.</i> , AWC No. 2225 and AWC No. 2229, <a href="#"><i>Trial of Japanese War Criminals</i></a> , 8-9 April 1946.
<i>United States v. Tashiro et al.</i>	United States Military Commission Yokohama, <i>United States v. Tashiro et al.</i> , Case No. 78, <a href="#"><i>Review of the Staff Judge Advocate</i></a> , 7 January 1949.
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American Memorandum	International Conference on Military Trials: London, 1945, <a href="#"><i>American Memorandum Presented at San Francisco</i></a> , 30 April 1945.
Yalta Memorandum	International Conference on Military Trials: London, 1945, <a href="#"><i>Memorandum to President Roosevelt from the Secretaries of State and War and the Attorney General</i></a> , 22 January 1945.

## G. EULEX

D.N. Case	EULEX, <i>People v. D.N.</i> , Ap-Kž-67/2011, Supreme Court of Kosovo, <a href="#">Judgment</a> , 29 May 2012.
Xh. K. Case	EULEX, <i>People v. Xh. K.</i> , PAKR Nr 648/16, Court of Appeals, <a href="#">Judgment</a> , 22 June 2017.
J.D. et al. Case	EULEX, <i>People v. J.D. et al.</i> , PAKR Nr 455/15, Court of Appeals, <a href="#">Judgment</a> , 15 September 2016.

## H. STL

Ayyash Decision	STL, <i>Prosecutor v. Ayyash et al.</i> , STL-11-01/I, Appeals Chamber, <a href="#">Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative Charging</a> , 16 February 2011.
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## I. UK

Newbury Case	United Kingdom, <i>DPP v. Newbury and Jones</i> , [1977] AC 500, House of Lords, <a href="#">Judgment</a> , 12 May 1976.
Jogee Case	United Kingdom, <i>R v. Jogee</i> , [2016] UKSC 8, Supreme Court, <a href="#">Judgment</a> , 18 February 2016.

## J. Other

On Being Concerned in a Crime	Jørgensen, N.H.B., "On Being 'Concerned' in a Crime: Embryonic Joint Criminal Enterprise?", in Linton, S. (ed), <i>Hong Kong's War Crimes Trials</i> , Oxford University Press 2013.
Elgar Companion to the ECCC	Jørgensen, N.H.B., <i>The Elgar Companion to the Extraordinary Chambers in the Courts of Cambodia</i> , Edward Elgar Publishing Limited 2018.
Clarke Return to Borkum Island	Clarke, R. C., " <a href="#">Return to Borkum Island Extended Joint Criminal Enterprise Responsibility in the Wake of World War II</a> ", <i>Journal of International Criminal Justice</i> 9 (2011).

Max Planck Institute for Foreign and International Criminal Law	Sieber, U., Koch, H. G., and Simon, J. M., Office of the Prosecutor Project Coordination, Participation in Crime: Criminal Liability of Leaders of Criminal Groups and Networks, Expert Opinion, Commissioned by the United Nations – ICTY, 2006.
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