



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:** 27 November 2023

**Language:** English

**Classification:** Public

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**Decision on Admission of Documents Shown to W04769**

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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 137-139 and 153-155 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 11-12 and 16-17 October 2023, W04769 testified in these proceedings.<sup>1</sup>
2. On 19 October 2023, the Defence for Kadri Veseli (“Veseli Defence”) filed a request for the admission of three items used during W04769’s testimony (“Veseli Request”).<sup>2</sup>
3. On 27 October 2023, the Specialist Prosecutor’s Office (“SPO”) filed submissions (“SPO Submissions”)<sup>3</sup> wherein it: (i) requested the admission of four items used during W04769’s testimony (“SPO Request”),<sup>4</sup> which had previously been marked for identification;<sup>5</sup> and (ii) responded to the Veseli Request (“SPO Response”).<sup>6</sup>
4. On 3 November 2023, pursuant to a request by the Veseli Defence,<sup>7</sup> the Panel extended the time limit for the Veseli Defence’s reply to the SPO Response to 8 November 2023.<sup>8</sup>

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<sup>1</sup> Transcripts of Hearing, 11-12 and 16-17 October 2023, pp. 8679-9095.

<sup>2</sup> F01871, Specialist Counsel, *Veseli Defence Request for Admission of Items Used During the Cross-Examination of W04769*, 19 October 2023, confidential, with Annexes 1-3, confidential. *See also* Transcript of Hearing, 16 October 2023 (“16 October 2023 Transcript”), confidential, p. 8935, line 18 to p. 8936, line 8.

<sup>3</sup> F01892, Specialist Prosecutor, *Prosecution Submissions on Admissibility of Items Following W04769’s Testimony*, 27 October 2023, confidential.

<sup>4</sup> SPO Submissions, paras 1-2, 3-20, 27. *See also* Transcript of Hearing, 17 October 2023 (“17 October 2023 Transcript”), p. 9038, lines 7-10, and p. 9067, lines 15-19.

<sup>5</sup> 17 October 2023 Transcript, p. 9035, line 25 to p. 9038, line 10.

<sup>6</sup> SPO Submissions, paras 1-2, 21-25, 27.

<sup>7</sup> CRSPD351, *Email from CMU to the Trial Panel on Veseli Defence Urgent Request for an Extension of Time to Reply to F01982*, 3 November 2023, confidential.

<sup>8</sup> F01905, Panel, *Decision on Veseli Defence Request for an Extension of Time for Reply to F01892*, 3 November 2023, paras 6-7.

5. On 8 November 2023, the Defence for all four Accused (“Defence”) filed joint submissions (“Defence Submissions”),<sup>9</sup> wherein: (i) the Defence responded jointly to the SPO Request (“Defence Response”);<sup>10</sup> and (ii) the Veseli Defence replied to the SPO Response.<sup>11</sup>
6. On the same date, the Defence for Hashim Thaçi (“Thaçi Defence”) filed further submissions in response to the SPO Request (“Thaçi Response”).<sup>12</sup>
7. The SPO did not reply to the Defence Response or the Thaçi Response.
8. On 22 November 2023, pursuant to the Panel’s instruction, the Veseli Defence submitted an English translation of one of the exhibits it tendered for admission in the Veseli Request.<sup>13</sup>

## II. SUBMISSIONS

### A. VESELI REQUEST

9. The Veseli Defence submits that the three documents it tenders for admission<sup>14</sup> are relevant,<sup>15</sup> authentic<sup>16</sup> and have probative value which is not outweighed by any prejudicial effect.<sup>17</sup> In particular, it submits that these documents constitute an inseparable and indispensable part of W04769’s cross-

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<sup>9</sup> F01911, Specialist Counsel, *Joint Defence Response to Prosecution Submissions on Admissibility of Items Following W04769’s Testimony*, 8 November 2023, confidential, with Annexes 1-3, confidential.

<sup>10</sup> Defence Submissions, paras 1-2, 6-38, 46(i)-(ii).

<sup>11</sup> Defence Submissions, paras 1, 39-44, 46(iii).

<sup>12</sup> F01915, Specialist Counsel, *Thaçi Defence Further Submissions in Response to the Prosecution Submissions on Admissibility of Items Following W04769’s Testimony*, 8 November 2023, confidential. The Panel notes that according to information available in Legal Workflow, the filing was initially submitted on 8 November but was returned due to a clerical error, whereupon it was resubmitted on 9 November 2023.

<sup>13</sup> DKV0801-0802-ET (Evidence List Veseli Request F01871). *See also* CRSPD372, *English Translation of DKV0801-0802*, 22 November 2023, confidential.

<sup>14</sup> *See* Veseli Request, paras 1, 15: pp. 1-4 of 077601-TR-ET Part 4 RED (Annex 1 to the Veseli Request); pp. 28-30 of 077596-TR-ET Part 4 RED (Annex 2 to the Veseli Request); DKV0801-0802 (Annex 3 to the Veseli Request).

<sup>15</sup> Veseli Request, paras 2, 7-13. *See also* Veseli Request, paras 3-5.

<sup>16</sup> Veseli Request, paras 2, 6.

<sup>17</sup> Veseli Request, paras 2, 7-13.

examination and are crucial to properly assessing the authenticity, reliability, and probative value of previously admitted exhibits P499 and P507.<sup>18</sup>

10. The SPO responds that: (i) it does not oppose the admission of DKV0801-0802, though the Veseli Defence should prepare an English translation of this document before it can be admitted;<sup>19</sup> and (ii) the two remaining items should not be admitted, particularly as they constitute statements falling under Rules 153-155.<sup>20</sup> Furthermore, the SPO takes issue with what it describes as ‘baseless claims’ by the Veseli Defence that the SPO was ‘knowingly tendering a forged document for admission’.<sup>21</sup>

11. The Veseli Defence replies that its Request should be granted, contending that the offered items fulfil the requirements for admission.<sup>22</sup> It also replies that a number of factors support the Defence’s contention that the relevant signature and the entirety of exhibits P499 and P507 is forged.<sup>23</sup>

#### B. SPO REQUEST

12. The SPO submits that the four documents it seeks to tender (“SPO Items”)<sup>24</sup> all meet the requirements for admissibility.<sup>25</sup> It also submits that there is no prohibition for a Party to tender items for admission used during judges’ questioning of a witness and that the SPO has been clear in its intent to rely upon these items.<sup>26</sup>

13. In the Defence Response, the Defence requests that the Panel defer its decision on the admission of P650 MFI until after the testimony of either W04765 or

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<sup>18</sup> Veseli Request, paras 2, 3-5.

<sup>19</sup> SPO Submissions, para. 22.

<sup>20</sup> SPO Submissions, paras 2, 23-24, 27.

<sup>21</sup> SPO Submissions, paras 2, 25, *referring to* Veseli Request, para. 13.

<sup>22</sup> Defence Submissions, paras 44, 46(iii).

<sup>23</sup> *See, in particular*, Defence Submissions, paras 40, 42-43.

<sup>24</sup> P649-P652 MFI. *See below*, fns 41, 47, 50, 63.

<sup>25</sup> SPO Submissions, paras 2-3.

<sup>26</sup> SPO Submissions, para. 4.

W03873, arguing that: (i) W04769 was, in essence, unable to provide information on this item and was highly sceptical of this item's authenticity and reliability; and (ii) W04765 and W03873 would be far more appropriate witnesses through which to tender this item.<sup>27</sup> The Defence also requests that the Panel deny admission of P651 MFI on the basis that there are real and grave doubts over this item's authenticity and reliability.<sup>28</sup> It submits in this regard that: (i) the nature and substance of P651 MFI is inherently suspect<sup>29</sup> and its chain of custody severely compromised;<sup>30</sup> and (ii) the authenticity and reliability of the documents relied upon by the SPO for the corroboration of this item are equally doubtful so that P651 MFI is not strengthened by these documents and vice versa.<sup>31</sup> The Defence further avers that the admission of P650-P651 MFI would invariably prejudice the rights of the Accused to a fair trial.<sup>32</sup>

14. In the *Thaçi* Response, the *Thaçi* Defence argues that W04769 is not the proper witness through whom to tender P649 MFI, contending that he was unable to confirm whether this item accurately reflects W04564's position. The *Thaçi* Defence therefore requests that the Panel defer its decision on the admission of P649 MFI until W04564's testimony.<sup>33</sup>

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<sup>27</sup> Defence Submissions, paras 2, 6-7, 44, 46(i).

<sup>28</sup> Defence Submissions, paras 2, 8-38, 44, 46(ii). The Panel notes that while paragraph 2 of the Defence Submissions also mentions P649 MFI, this item is not addressed any further in the Defence Submissions and, in particular, not included in the concluding paragraph (*see* Defence Submissions, para. 46; *see also* *Thaçi* Response, fn. 3).

<sup>29</sup> Defence Submissions, paras 10, 12-19.

<sup>30</sup> Defence Submissions, paras 10, 20-30.

<sup>31</sup> Defence Submissions, paras 10, 31-38.

<sup>32</sup> Defence Submissions, para. 2.

<sup>33</sup> *Thaçi* Response, paras 1-4.

### III. DISCUSSION

#### A. VESELI REQUEST

##### 1. Witness Statements

15. The Panel observes that pages 1-4 of 077601-TR-ET Part 4 RED and pages 28-30 of 077596-TR-ET Part 4 RED (collectively, “Witness Statements”) are parts of SPO witness interview transcripts. While the concerned individuals are not on the SPO’s witness list,<sup>34</sup> the Panel considers that the Witness Statements constitute statements given by a witness in the context of, or in connection with, legal proceedings and, as such, constitute written statements within the meaning of Rules 153-155.<sup>35</sup> Their admission is therefore subject to the conditions of Rules 153-155, which are not met at this stage.

16. With respect to the Defence’s submission that the Panel recently admitted extracts of W04746’s prior statement pursuant to Rule 138(1) and that the same reasoning ought to apply here,<sup>36</sup> the Panel recalls that in the relevant decision, the Panel was confronted with a situation of prior potentially inconsistent statements by the witness in question, pursuant to Rule 143(2)(c).<sup>37</sup> The present instance is fundamentally different insofar as the Veseli Defence seeks the admission of statements of individuals other than W04769, pursuant to Rule 138(1). The Panel

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<sup>34</sup> F01594/A01, Specialist Prosecutor, *Annex 1 to Prosecution Submission of Updated Witness List and Confidential Lesser Redacted Version of Pre-Trial Brief*, 9 June 2023, strictly confidential and *ex parte* (a confidential redacted version was filed on the same day, F01594/A02).

<sup>35</sup> Regarding the definition of what constitutes a ‘statement’ for the purpose of deciding admission of evidence, see e.g. F01852, Panel, *Decision on Krasniqi Defence Request to Admit Additional Document Related to W02153*, 11 October 2023, para. 8, referring to F01380, Panel, *Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154*, 16 March 2023, confidential, paras 12, 26 (a public redacted version was issued on 7 November 2023, F01380/RED). See also F01700, Panel, *Decision on Prosecution Motion for Admission of Evidence of W03724, W03832, W03880, W04368, W04566, and W04769 Pursuant to Rule 154*, 24 July 2023, confidential, para. 68 (a public redacted version was issued on 7 November 2023, F01700/RED); KSC-BC-2020-07, F00334, Panel, *Decision on the Prosecution Request for Admission of Items Through the Bar Table*, 29 September 2021, paras 84-87.

<sup>36</sup> Defence Submissions, para. 41, referring to F01903, Panel, *Decision on Prosecution Request for Admission of Items Used During the Examination of W04746* (“3 November 2023 Decision”), 3 November 2023, paras 22-26.

<sup>37</sup> See 3 November 2023 Decision, paras 22-26.

further notes that admission is objected to here so that admission cannot be based on the Parties' agreement to admission. The Panel therefore considers that the parallel drawn by the Veseli Defence is misguided.

17. The Panel finds that the Witness Statements are not admissible pursuant to Rule 138(1).

## 2. University of Prizren Document

18. DKV0801-0802<sup>38</sup> consists of a document of the Law Faculty of the University of Prizren ("University of Prizren Document"). As regards relevance, the Panel considers that this document is potentially relevant to assessing the authenticity and probative value assigned to admitted SPO exhibits P499 and P507.<sup>39</sup> The Panel recalls that the SPO does not object to the admission of this item.<sup>40</sup>

19. With respect to authenticity, probative value and prejudice, the Panel notes that the document is signed and dated, and bears stamps, a reference number and contact details. However, the signature on the document has thus far not been authenticated by any witness so that its probative value is limited to establishing the fact that it appears on a document purportedly signed by the individual concerned. Nevertheless, the Panel is satisfied that the University of Prizren Document is *prima facie* authentic and probative and that its *prima facie* probative value is not outweighed by its prejudicial effect.

20. The Panel therefore admits DKV0801-0802 pursuant to Rule 138(1).

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<sup>38</sup> With English translation DKV0801-0802-ET.

<sup>39</sup> See also Transcript of Hearing, 12 October 2023 ("12 October 2023 Transcript"), pp. 8812-8814.

<sup>40</sup> See above, para. 10; SPO Submissions, para. 22.

## B. SPO REQUEST

### 1. P649 MFI<sup>41</sup>

21. Regarding relevance, the Panel considers that the information contained in exhibit P649 MFI, which consists of an interview with W04564 published in a book, is clearly relevant to a variety of issues in the case, including: (i) the degree of sophistication and organisation of the Kosovo Liberation Army (“KLA”); (ii) the process of crystallisation of KLA structures; (iii) the functioning of the KLA chain of command and associated personnel; and (iv) the role of the KLA General Staff. Furthermore, the Panel notes that the Veseli Defence does not appear to contest the relevance of the item. In light of the above, the Panel is satisfied that P649 MFI is relevant.

22. Regarding authenticity, the Panel observes that the book wherein P649 MFI was published contains information on the location, date, persons and entities involved in the publication. The Panel is satisfied that P649 MFI is *prima facie* authentic.

23. Regarding probative value and prejudice, the Panel notes that while W04769 suggested that there were elements of self-aggrandising regarding the interviewee’s own role, W04769 adopted the substance of the account given by the interviewee in relation to events and circumstances of which he had knowledge.<sup>42</sup> Furthermore, the Defence was able to cross-examine W04769 on those passages. Moreover, the Panel notes that: (i) the Defence relied upon and asked questions of W04769 about another document authored by the interviewee (P506);<sup>43</sup> and (ii) the interviewee is an SPO witness (W04564) whom the Defence would be able to ask

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<sup>41</sup> SITF00245547-SITF00245555-ET (and corresponding pages in the Albanian original SITF00245505-00245703) and SITF00245555-SITF00245562-ET (and corresponding pages in the Albanian original SITF00245505-00245703). The Panel notes that the SPO does not tender, at this time, the remaining pages of P649 MFI beyond the indicated range, *see* SPO Submissions, heading before para. 5, and fn. 5.

<sup>42</sup> 17 October 2023 Transcript, pp. 8997-9003, 9083-9084.

<sup>43</sup> 16 October 2023 Transcript, *e.g.* pp. 8848-8852, 8868-8869, 8951-8952.



questions if he is called. Lastly, with respect to the Thaçi Defence's argument that it had no notice that this item was going to be discussed with W04769,<sup>44</sup> the Panel does not have to give notice of documents which it may use with a witness. The Panel further notes that the document has long been disclosed to the Defence,<sup>45</sup> appeared on the SPO's list of prospective exhibits to be presented and used at trial<sup>46</sup> and was clearly related to both the substance of the witness's account and his area of responsibility. In light of the above, the Panel is satisfied that P649 MFI has *prima facie* probative value which is not outweighed by its prejudicial effect.

24. The Panel therefore admits P649 MFI pursuant to Rule 138(1).

## 2. P650 MFI<sup>47</sup>

25. The Panel notes that the SPO only tendered pages U003-1744 to U003-1746 of P650 MFI.<sup>48</sup> These pages have in the meantime been admitted through W04765 pursuant to Rules 138(1) and 154.<sup>49</sup>

26. Therefore, the Panel finds that the part of the SPO Request pertaining to P650 MFI is moot.

## 3. P651 MFI<sup>50</sup>

27. As regards relevance of exhibit P651 MFI, the Panel considers that the information contained in this document, which consists of a notebook with hand-

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<sup>44</sup> Thaçi Response, para. 2 and fn. 5.

<sup>45</sup> See e.g. Disclosure Packages 36, 64, 364.

<sup>46</sup> See e.g. already F00896/A02, Specialist Prosecutor, *Annex 2 to Prosecution Submission of Amended Exhibit List and Related Submissions*, 25 July 2022, confidential (items 7783, 18064, 18067).

<sup>47</sup> Pages U003-1744-U003-1746 of U003-1741-U003-1749 and of U003-1744-U003-1748-ET. See also para. 25 and fn. 48 of the present decision.

<sup>48</sup> SPO Submissions, heading before para. 9, and fn. 10.

<sup>49</sup> See Transcript of Hearing, 13 November 2023, p. 9889, line 25 to p. 9890, line 4 (*referring, inter alia, to pp. 116827-116829 of 116820-116829 [see item 7 on p. 116828] and p. 9893, lines 3-24. See also F01901, Panel, Decision on Prosecution Motion for Admission of Evidence of W03170, W04043, W04444, W04571, W04765, W04811, and W04870 Pursuant to Rule 154 and Related Request (F01830)*, 2 November 2023, confidential, para. 68 and fn. 150 (a public redacted version was issued on the same day, F01901/RED).

<sup>50</sup> U000-6550-U000-6598; U000-6550-U000-6598-ET.

written entries covering July 1998 in the wider Prizren area, is relevant, *inter alia*, to: (i) the existence, structure and function of the KLA chain of command in the relevant area, in particular as regards the collection of information regarding suspected collaborators; (ii) the degree of sophistication of that structure and personnel involved; (iii) functioning, activities and responsibilities of the intelligence service; (iv) attitude of the KLA towards suspected 'collaborators' and resources invested in this matter; (v) role and involvement of members of the KLA General Staff in the area; (vi) circumstances leading up to the arrest and detention of W04571; (vii) nature of measures and steps taken by the intelligence service; and (viii) the identity of certain suspected collaborators and basis of recorded suspicion. Furthermore, the Panel notes that the Defence does not appear to contest the relevance of this item. In light of the above, the Panel is satisfied that P651 MFI is relevant.

28. As regards authenticity, the Panel reiterates, at the outset, that there is no basis to suggest that documents originating from or provided by Serbian authorities are *prima facie* suspicious.<sup>51</sup> The Panel recalls in this regard that the Taçi Defence has tendered several documents originating from Serbian authorities for the truth of their content.<sup>52</sup>

29. The Panel considers that the *prima facie* authenticity of the document is apparent from a number of factors: (i) the factual details provided in this notebook, including in respect of contemporaneous incidents, circumstances, locations and individuals; (ii) the dates of various such incidents; (iii) the names of certain individuals (whose role and function as members of the ZKZ/intelligence has been corroborated);<sup>53</sup> and (iv) the fact that W04769 was able to comment on the substance of various elements contained in this document and

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<sup>51</sup> F01664, Panel, *Decision on Prosecution Motion for Admission of Evidence of W00072, W02153 and W04586 Pursuant to Rule 154*, 10 July 2023, confidential, para. 35.

<sup>52</sup> 17 October 2023 Transcript, pp. 8988-8990 (oral order in respect of exhibits 1D59-1D61).

<sup>53</sup> See, e.g., pp. U000-6567 and U000-6580.

corroborated several pieces of information contained therein.<sup>54</sup> The Panel also notes that the already admitted exhibits P499/P507 and P74, which have been found to be *prima facie* authentic, come from the same notebook.<sup>55</sup> These, like P651 MFI, contain no indication of being forgeries and are, instead, *prima facie* authentic. Furthermore, the Panel is of the view that there is no indication that any of the information contained in these documents was available to anyone outside of the KLA. The claim to the contrary seemingly advanced by the Defence has no basis on the record. Moreover, there is no indication that any of the information contained therein is false. Instead, as noted above, W04769 was able to provide further factual details in respect of this item and to confirm the accuracy of some of the information contained therein.<sup>56</sup>

30. In light of the above, the Panel is satisfied that the proposed item is *prima facie* authentic. In particular, the Panel considers that the arguably different handwriting and vocabulary in certain (limited) parts of the item do not as such negate the *prima facie* authenticity of the entire item. The inferences drawn by the Defence as to how the ‘incriminating pages’ found their way into this document<sup>57</sup> are purely speculative. Nor is there any basis for the claim<sup>58</sup> that information has been added or planted by a third party into these documents. Furthermore, the Panel considers that the Defence has not demonstrated how the misalignment of the electronic record numbers (“ERNs”) in the original and its translation would undermine the item’s authenticity. Rather, the above-mentioned arguments by the Defence would go to the weight, if any, to be assigned to the item and/or the impugned parts. Similarly, the Panel considers that the Defence’s assertions with respect to the allegedly faulty chain of custody do not constitute grounds to refuse

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<sup>54</sup> 17 October 2023 Transcript, pp. 9010-9018, 9068-9076.

<sup>55</sup> See SPO Submissions, paras 16-18 and associated references.

<sup>56</sup> 17 October 2023 Transcript, pp. 9010-9018, 9068-9076.

<sup>57</sup> Defence Submissions, para. 18.

<sup>58</sup> See also submissions by Veseli Defence in Transcript of Hearing, 30 October 2023, confidential, pp. 9124-9126.

admission though this could affect the weight, if any, that the Panel might be prepared to give to that document.<sup>59</sup>

31. Regarding probative value and prejudice, the Panel recalls that W04769 was able to comment on several aspects of this document.<sup>60</sup> For the same reasons as set out in paragraphs 28-30 above with respect to authenticity, the Panel is not persuaded that the Defence's challenges in this regard would negate the *prima facie* probative value of this document.<sup>61</sup> The Panel is satisfied of the *prima facie* probative value of this document in respect of the issues outlined in paragraph 27 above with respect to relevance. Furthermore, the Defence had the opportunity to ask questions of W04769 in relation to this document,<sup>62</sup> and was or will be able to ask questions of other SPO witnesses who give evidence regarding the KLA's structure and functioning in this area, including W04571 and W04765. The Defence was also able to make submissions regarding the admissibility of, and to ask questions in relation to, associated documents, in particular exhibits P499/P507 and P74. The Panel is thus satisfied that P651 MFI has *prima facie* probative value which is not outweighed by its prejudicial effect.

32. In light of the above, the Panel therefore admits P651 MFI pursuant to Rule 138(1).

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<sup>59</sup> See also e.g. F01596, Panel, *Second Decision on Specialist Prosecutor's Bar Table Motion*, 9 June 2023, para. 109; KSC-BC-2020-07, F00611/RED, Panel, *Public Redacted Version of the Trial Judgment*, 18 May 2022, para. 28.

<sup>60</sup> 17 October 2023 Transcript, pp. 9010-9018.

<sup>61</sup> See Defence Submissions, paras 10-38.

<sup>62</sup> 17 October 2023 Transcript, pp. 9068-9076.

#### 4. P652 MFI<sup>63</sup>

33. The Panel observes that this item consists of a 2 November 1998 decision in relation to the new structures of the KLA General Staff. The Defence does not appear to oppose its admission.

34. As regards relevance, the Panel considers that this document is relevant, *inter alia*, with respect to: (i) the role and powers of certain members of the KLA General Staff at a certain point in time; (ii) the relationship between the KLA, on the one hand, and the Democratic League of Kosovo ("LDK") and the Armed Forces of the Republic of Kosovo ("FARK"), on the other hand; (iii) the structure of the KLA at certain points in time; and (iv) the role, powers and responsibility of Adem Demaçi. In light of the above, the Panel is satisfied that P652 MFI is relevant.

35. With respect to authenticity, the Panel observes that there are various markings indicating the origin of the document. Furthermore, it is dated, signed by the individuals concerned, and bears the stamps of both the KLA and the Kosovo government in exile. The Panel is satisfied that P652 MFI is *prima facie* authentic.

36. With respect to probative value and prejudice, the Panel considers that this document has probative value in respect of the issues outlined above, and recalls that W04769 was able to provide some further context in relation to this document.<sup>64</sup> Furthermore, the Defence was in a position to ask questions about it<sup>65</sup> and at least one Defence team has already relied upon this document.<sup>66</sup> The Panel

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<sup>63</sup> 061168-061168-ET and corresponding page in the Albanian original 061167-061171. The Panel notes that the SPO does at this time not tender the remaining pages of P652 MFI beyond this one page, *see* SPO Submissions, heading before para. 13, and fn. 12. Should the SPO seek to tender p. 061170 (*see* SPO Submissions, fn. 12), it would have to tender this page separately and provide the necessary translation of that document prior to doing so.

<sup>64</sup> 17 October 2023 Transcript, pp. 9025-9028.

<sup>65</sup> 17 October 2023 Transcript, pp. 9041-9045.

<sup>66</sup> *See* F01052/COR, Specialist Counsel, *Corrected Version of the Pre-Trial Brief on Behalf of Kadri Veseli*, 25 October 2022, confidential, para. 54, with Annexes 1-5, confidential (a public redacted version was

is therefore satisfied that P652 MFI has *prima facie* probative value which is not outweighed by its prejudicial effect.

37. The Panel thus admits P652 MFI pursuant to Rule 138(1).

#### IV. CLASSIFICATION

38. The Panel notes that the Veseli Request, the SPO Submissions and the Defence Submissions were filed confidentially and that no public redacted versions thereof have been filed thus far. The Panel therefore orders the Parties to submit public redacted versions of their above-mentioned filings, or request reclassification thereof, by **Tuesday, 5 December 2023**.

#### V. DISPOSITION

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

- a) **GRANTS** the Veseli Request as it relates to DKV0801-0802;
- b) **REJECTS** the Veseli Request as it relates to 077601-TR-ET Part 4 RED and 077596-TR-ET Part 4 RED;
- c) **GRANTS** the SPO Request as it relates to P649 MFI, P651 MFI and P652 MFI;
- d) **DECLARES MOOT** the SPO Request as it relates to P650 MFI;
- e) **ADMITS** into evidence pursuant to Rule 138(1) the following items:  
(i) DKV0801-0802; and (ii) the page ranges of P649 MFI, P651 MFI and P652 MFI defined in footnotes 41, 50 and 63 of the present decision;
- f) **DIRECTS** the Registry to: (i) assign an exhibit number to DKV0801-0802, including its English translation; (ii) change to 'admitted' the evidence

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filed on 13 March 2023, F01052/COR/RED); Transcript of Hearing, 4 April 2023, pp. 2361-2362; Transcript of Hearing, 12 September 2023, pp. 7862-7870.

- status of the page ranges defined in footnotes 41, 47, 50 and 63 of the present decision, and assign exhibit numbers P649, P650, P651 and P652, respectively, to these page ranges; and
- g) **ORDERS** the Parties to file public redacted versions of the Veseli Request, the SPO Submissions and the Defence Submissions, or request reclassification thereof, by **Tuesday, 5 December 2023**.



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**Judge Charles L. Smith, III**  
**Presiding Judge**

Dated this Monday, 27 November 2023

At The Hague, the Netherlands.