



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2020-06
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: Dr Fidelma Donlon

Filing Participant: Acting Specialist Prosecutor

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Public Redacted Version of 'Prosecution updated motion for admission of evidence of Witnesses W03827, W04408, W04577, W04644, W04781, W04018, W04255, W01493, and W04448 pursuant to Rule 154 with confidential Annexes 1-9 '

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I. INTRODUCTION

1. Pursuant to the Decision,¹ the Trial Panel's Order,² Article 37 of the Law,³ the Trial Panel's First Rule 154 Decision,⁴ the Trial Panel's oral instructions,⁵ and Rule 154 of the Rules,⁶ the Specialist Prosecutor's Office ('SPO') hereby submits an updated⁷ Rule 154 motion seeking the admission of the statements,⁸ together with the associated exhibits,⁹ of the following witnesses: W03827,¹⁰ W04408,¹¹ W04577,¹² W04644,¹³ W04781,¹⁴ W04018,¹⁵ W04255,¹⁶ W01493,¹⁷ and W04448¹⁸ (collectively, 'Rule 154 Statements').

2. The Rule 154 Statements and associated exhibits of the witnesses addressed below (collectively, the 'Proposed Evidence') meet the requirements of the Rule, are

¹ Annex 1 to Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023, para.51 (encouraging 'Parties and participants to consider making effective use of Rules 153, 154 and 155, to the greatest extent possible') ('Decision'). Unless otherwise stated, all references to Kosovo Specialist Chambers ('KSC') filings are to this case.

² Third Oral Order, 18 January 2023, p.1902 lines 6-19 ('Order').

³ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). All references to 'Article' or 'Articles' are to the Law, unless otherwise specified.

⁴ Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154, KSC-BC-2020-06/F01380, 16 March 2023 ('Rule 154 Decision').

⁵ Transcript (Status Conference), 20 March 2023, p.2122, lines 11-19 ('Oral Instructions').

⁶ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). Unless otherwise indicated, all references to 'Rule(s)' are to the Rules of Procedure and Evidence.

⁷ See Prosecution motion for admission of evidence of Witnesses W03827, W04408, W04577, W04644, W04781, W04018, W04255, W01493, and W04448 pursuant to Rule 154, KSC-BC-2020-06/F01374, 15 March 2023.

⁸ The account of each witness tendered for admission is the 'Rule 154 Statement'.

⁹ See Annexes 1-9. The Rule 154 Statement and the associated exhibits for each witness are the 'Proposed Evidence'.

¹⁰ [REDACTED] ('W03827 Rule 154 Statement').

¹¹ [REDACTED] ('W04408 Rule 154 Statement').

¹² [REDACTED] (collectively, 'W04577 Rule 154 Statement').

¹³ [REDACTED] ('W04644 Rule 154 Statement').

¹⁴ [REDACTED] (collectively, 'W04781 Rule 154 Statement').

¹⁵ (i) [REDACTED] (collectively, 'W04018 2003 Statement'); (ii) [REDACTED] (collectively, [REDACTED]); (iii) [REDACTED] ('W04018 SPO Interview') ((i)-(iii) collectively, 'W04018 Rule 154 Statement').

¹⁶ [REDACTED] (collectively, 'W04255 Rule 154 Statement').

¹⁷ [REDACTED] (collectively, 'W01493 Rule 154 Statement').

¹⁸ [REDACTED] (collectively, 'W04448 Rule 154 Statement').

relevant, authentic and reliable and have probative value, which is not outweighed by any prejudice.¹⁹ Admission is therefore in the interests of justice.

3. Attached to this motion are nine annexes, one for each Rule 154 witness addressed in this motion. Each annex contains a table identifying the proposed statement(s) that collectively comprise the proposed Rule 154 Statement for that witness. In addition, where applicable, the annexes contain a second table identifying the associated exhibits tendered for admission for each witness.

4. The SPO notes that it is reducing the proposed examination time for W04781 from 3 hours to 90 minutes, and for W04408 from 2 hours to 1 hour.

5. The SPO has filed this motion pursuant to the Trial Panel's Order and Oral Instructions. At this stage, the SPO anticipates that these Rule 154 witnesses will be among the second group of 12 witnesses. However, this motion is being filed weeks before testimony commences for the first group of 12 witnesses. Considering the difficulties inherent in witness scheduling, including security concerns and the inability of the witnesses and SPO to project precise availability months in advance, this list is provisional. Any change in the witnesses anticipated to be among the second group of 12 witnesses will be communicated to the parties and Panel at the earliest opportunity and sufficiently in advance of their anticipated testimony.²⁰

II. APPLICABLE LAW

6. Rule 154 allows a Panel to admit the evidence of a witness—including evidence that relates to the acts and conduct of the accused as charged in the Indictment²¹—in the form of a written statement or transcript if the witness is (i) present in court, (ii)

¹⁹ Rules, Rules 137-138, 154.

²⁰ Such notice will be provided at least one month prior to the completion of the testimony of the first 12 witnesses, which is consistent with the Panel's direction for notice of groups of witnesses after the first 40. *See* Decision, KSC-BC-2020-06/F01226/A01, para.73 (providing that, one month prior to the completion of the testimony of the first 40 witnesses, the SPO will provide a list of witnesses it intends to call in the ensuing three month period and to continue this practice every three months).

²¹ *See* Annex 1 to Submission of Confirmed Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022 ('Indictment').

available for cross-examination and any questioning by the Panel, and (iii) attests that the written statement or transcript accurately reflects that witness's declaration and what they would say if examined.

7. Evidence admitted pursuant to Rule 154 must satisfy the standard admissibility criteria provided for in Rules 137 and 138(1).²² This means that the requirements for relevance, authenticity and probative value of the evidence, as well as the condition that any prejudicial effect should not outweigh the probative value of the evidence, must be met.²³ In addition to assessments of the authenticity and reliability of written statements, similarly-situated courts have found that transcripts of prior testimony are appropriate for admission in writing as they are inherently authentic and reliable, often video-recorded, verbatim records, which include all questions, answers and clarifications of witnesses, who in addition testified under oath, and were subject to cross-examination.²⁴

²² See, similarly International Residual Mechanism for Criminal Tribunals ('IRMCT'), Trial Chamber *Prosecutor v. Stanišić and Simatović*, MICT-15-96-PT, Decision on Prosecution Motion for Admission of Evidence of John Wilson pursuant to Rule 111, 1 June 2017 ('*Stanišić Wilson Decision*') para.8 (the evidence sought to be admitted must fulfill the general requirements of admissibility under Rule 105(C) of the Rules- it must be relevant and have probative value. A trial chamber may, however, exclude evidence if its probative value is substantially outweighed by the need to ensure a fair trial); See also International Criminal Tribunal for the former Yugoslavia ('ICTY'), *Prosecutor v. Hadžić*, IT-04-75-PT, Decision on Prosecution Motion for Admission of Evidence of GH-102, GH-075, and GH-093 Pursuant to Rule 92ter, 26 September 2012 (*Hadžić Decision 26 September 2012*'), para.8 (the evidence sought to be admitted pursuant to Rule 92ter, whether a statement or a transcript of oral testimony, must fulfill the general requirements of admissibility of Rule 89(c): the proposed evidence must be relevant and have probative value.).

²³ Indicia of reliability and authenticity for statements and transcripts are contained in each annex to this Motion.

²⁴ ICTY, *Prosecutor v. Lukić and Lukić*, IT-98-32/1-A, Appeals Judgment, 4 December 2012, fn.1633; ICTY, *Prosecutor v. Prlić et al*, IT-04-74-T, Decision on the Prosecution Motion for Admission of Evidence Pursuant to Rules 92 bis and quarter of the Rules, 27 October 2006, para.10; The Special Court for Sierra Leone ('SCSL'), *Prosecutor v. Taylor*, SCSL-03-1-T, Decision on Public with Confidential Annexes C to E Prosecution Motion for the Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92quarter, 5 February 2009, para.17; cf. ICTY, *Prosecutor v. Kordić and Čerkez*, Decision on Appeal Regarding Statement of a Deceased Witness, 21 July 2000, paras 26-28.

8. Exhibits used with the respective witnesses in the tendered evidence are appropriate for admission as associated exhibits when they are used or explained by a witness and are an integral part of the statement or testimony.²⁵

9. The use of Rules 153, 154 and 155 is also consistent with the Law, which recognises the admissibility of evidence from other entities that preceded the KSC's establishment and outlines the eligibility requirements.²⁶ The Panel has confirmed the legal requirements for admission under Rule 154 and has held that when a witness's evidence is suitable for Rule 154 admission, the evidence is admitted, subject to fulfilment in court of the conditions in Rule 154(a)-(c).²⁷

III. SUBMISSIONS

10. The Proposed Evidence of each of the witnesses should be admitted as it (i) is relevant to the allegations in the Indictment, (ii) is *prima facie* reliable and contains sufficient indicia of authenticity, (iii) has probative value²⁸ that is not outweighed by its prejudicial effect, and (iv) meets the requirements of Rule 154.

²⁵ See Rule 154 Decision, KSC-BC-2020-06/F01380, paras. 24-25; *Prosecutor v. Mustafa*, Decision on the submission and the admissibility of evidence, KSC-BC-2020-05/F00169, 25 August 2021 ('*Mustafa* Decision on the admissibility of evidence'), para.29, fn.27 ('the term "written statement" and "transcript" also includes annexes or other documents associated with the written statement/transcript, which are used or explained by the witness and which, as such, are an integral part of the testimony itself'), referring to the International Criminal Court ('ICC'), Trial Chamber IX, *Prosecutor v. Ongwen*, ICC-02/04-01/15-596-Red, Public Redacted Decision on the Prosecution's Applications for Introduction of Prior Recorded Testimony under Rule 68(2)(b) of the Rules, 18 November 2016 ('*Ongwen* Decision'), para.10.

²⁶ Law, Art. 37. See also Law, Art.40(2).

²⁷ Rule 154 Decision, KSC-BC-2020-06/F01380.

²⁸ Since the interviews are relevant, authentic, and reliable, they also have probative value. The probative value of a document is determined by two primary factors: (i) the *prima facie* reliability of the tendered evidence; and (ii) the measure by which that evidence is likely to influence the determination of a particular issue in dispute in the case. See *Prosecutor v. Mustafa*, Public Redacted Version of Decision on the admission of evidence collected prior to the establishment of the Specialist Chambers and other material, KSC-BC-2020-05/F00281RED, 13 December 2021, para.13.

11. Rule 154, which derives from the statutory scheme of similarly situated courts,²⁹ allows a party to present its case ‘as efficiently as possible.’³⁰ It is not intended to replace oral testimony, but rather to complement it.³¹ Admission pursuant to this Rule functions to expedite and streamline the presentation of the calling party’s evidence³² and will reduce the expenditure of court time on conducting the examination-in-chief (and potentially any cross-examination and/or examination by other parties or participants), thereby reducing the length of the trial.³³ This serves an essential purpose—ensuring an effective and expeditious trial in accordance with the rights of the Accused.³⁴ Admission pursuant to the Rule is not unduly prejudicial as the

²⁹ See ICTY Rules, Rule 92ter, Special Tribunal for Lebanon (‘STL’) Rules, Rule 156, SCSL Rules, Rule 92ter, IRMCT Rules, Rule 111 and ICC Rules, Rule 68(3).

³⁰ ICTY, *Prosecutor v. Sainović*, IT-05-87-A, Appeal Judgement, 23 January 2014 (‘*Sainović* Appeal Judgement’), para.135.

³¹ ICC, Trial Chamber V, *Prosecutor v. Yekatom and Ngaïssona*, ICC-01/14-01/18-685-907-Red, Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1962, P-0925, P-2193, P-02926, P-1577 and P-0287, and the Ngaïssona Defence Motion to Limit the Scope of P-2926’s Evidence, 1 April 2021, para.14.

³² See *Mustafa* Decision on the admissibility of evidence, KSC-BC-2020-05/F00169, para.29 (noting that Rules 153-155 are ‘tools to expedite and streamline the proceedings’); ICC, Trial Chamber V, *Prosecutor v. Yekatom and Ngaïssona*, ICC-01/14-01/18-685, Decision on the Prosecution Extension Request and Guidance on Rule 68 of the Rules, 16 October 2020 (‘*Yekatom and Ngaïssona* Decision’), para.26 (noting that ‘Rule 68 of the Rules is widely acknowledged as a useful tool to expedite and streamline the proceedings’); see also Decision, KSC-BC-2020-06/F01226/A01, para.51.

³³ See similarly ICC, Trial Chamber V, *Prosecutor v. Yekatom and Ngaïssona*, ICC-01/14-01/18-1186-Red, Public redacted version of Eighth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1193, P-0876, and P-0475’, 17 June 2022, (‘*Yekatom and Ngaïssona* Eighth Decision’), paras.13, 27, 33 (testimony pursuant to Rule 68(3) would cut time for the Prosecution’s examination of the witness, thereby promoting the expeditiousness of the proceedings). See also *Specialist Prosecutor v. Mustafa*, Public redacted version of Decision on the Prosecution application pursuant to Rule 153 of the Rules, KSC-BC-2020-05/F00286/RED, 17 December 2021, para.27 (the admission of the evidence in written form, under Rule 153, would, *inter alia*, save court time).

³⁴ ICTY, Trial Chamber, *Prosecutor v. Hadžić*, IT-04-75-T, Decision on Renewed Defence Motion for Admission of Evidence Pursuant to Rule 92ter (DGH-113), 4 February 2015 (‘*Hadžić* Decision 4 February 2015’), para.7; ICTY, Trial Chamber II, *Prosecutor v. Ramush Haradinaj et al.*, IT-04-84bis-T, Decision on Prosecution Motion to Admit Evidence from the Bar Table, Revise its 65ter Witness and Exhibit Lists an Admit Evidence Pursuant to Rule 92ter, 26 January 2012 (‘*Haradinaj* Decision to Admit Evidence’), para.21; *Stanišić Wilson* Decision, para.8; ICC, Trial Chamber X, ICC-01/12-01/18-2233, *Prosecutor v. Al Hassan*, Decision on the introduction of D-0272’s prior recorded testimony pursuant to Rules 68(3) of the Rules, 27 May 2022 (‘*Al Hassan* Decision’), para.13; ICC, Trial Chamber I, ICC-02/05-01/20-699-Red, *Prosecutor v. Ali Kushayb*, Public redacted version of the Decision on the Prosecution’s eleventh

Defence is aware of the identity of the witnesses, may investigate the witnesses, including motives and credibility, and may cross-examine the witnesses on the entirety of the Proposed Evidence.³⁵

12. As detailed below, and in the accompanying Annexes, the Proposed Evidence fulfils the requirements of admissibility under Rules 137 and 138(1). In this respect, the associated exhibits are an integral part of the Rule 154 Statements, without which the statements may become less complete or be of diminished probative value. The associated exhibits provide context to the evidence contained in the Rule 154 Statements and corroborate that evidence.

A. W03827

13. *Relevance.* In September 1998, KLA members arrested and detained W03827, [REDACTED]. Among those involved in the initial detention [REDACTED], W03827 identifies Sabit GECI, Rexhep SELIMI and Hashim THAÇI, who described himself to the detainees as the political director of the KLA. W03827's evidence includes detailed descriptions of the acts and conduct of Hashim THAÇI and Rexhep SELIMI during W03827's detention.

14. After releasing women and certain others, the KLA forces continued to detain W03827 and others. The KLA transported W03827 and other detainees to a [REDACTED] which was surrounded by KLA forces. Inside, uniformed masked soldiers beat [REDACTED], including W03827. During the detention, the KLA accused [REDACTED], who they referred to as a 'traitor,' [REDACTED].

application to introduce prior recorded testimonies under Rule 68(3), 3 June 2022, para.24; Decision, KSC-BC-2020-06/F01226/A01, para.51.

³⁵ Decision, KSC-BC-2020-06/F01226/A01, para.106 ('Cross-examination will be limited to matters set out in Rule 143(3), i.e.: (i) the subject-matter of the direct examination and/or (ii) matters affecting the credibility of the witness. Where the witness is able to give evidence relevant to the case of the cross-examining Party, he or she may be examined on the subject-matter of that case, provided that the cross-examining Party puts to that witness the nature of that case.');

Mustafa Decision on the admissibility of evidence, KSC-BC-2020-05/F00169, para. 31 ('the non-calling party has the opportunity to test the entirety of the witness's testimony, both in relation to the in-court testimony and the written statement/transcript').

15. After the beatings, Sahit JASHARI came to the room where W03827 and others were detained and introduced himself. Later, the KLA brought the detainees one-by-one to a separate room [REDACTED].

16. After two days of detention, the KLA told W03827 and the other detainees that they had to leave because of a nearby Serbian offensive. Before they were released, Rexhep SELIMI returned the detainees' IDs to them. The KLA brought W03827 and the other detainees to a house[REDACTED], where Hashim THAÇI and Sabit GECI told them they were free to go. Prior to the detainees' release, Rexhep SELIMI told several of the men that they were still under investigation.

17. W03827's evidence is thus relevant to the charged crimes in the Indictment.³⁶

18. *Authenticity and Reliability.* W03827's Proposed Evidence is *prima facie* authentic and reliable. The W03827 Rule 154 Statement is comprised of [REDACTED].³⁷ The statement bears sufficient indicia of reliability.³⁸ W03827's [REDACTED], as recorded in a verbatim transcript, is authentic and reliable. The transcript includes details such as the date, time and attendees.³⁹ The examination was conducted with the assistance of an interpreter in a language understood by the witness.⁴⁰ W03827 was duly advised of his rights as a witness.⁴¹ W03827 acknowledged the [REDACTED] to be his and signed the record without any objection and initialled each page of the record.⁴²

³⁶ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Annex 1 to Prosecution submissions pursuant to Decision F01229, KSC-BC-2020-06/F01296/A01, 15 February 2023 ('Pre-Trial Brief'), paras [REDACTED].

³⁷ [REDACTED].

³⁸ For an individualised assessment of reliability, see Annex 1.

³⁹ [REDACTED].

⁴⁰ [REDACTED].

⁴¹ [REDACTED].

⁴² [REDACTED]. During a subsequent SPO interview ([REDACTED]), W03827 reviewed the entirety of his [REDACTED], confirmed that it is his [REDACTED] and confirmed his signature and initials on all pages ([REDACTED]). He verified the accuracy of his [REDACTED] and provided minor corrections, before confirming that his [REDACTED], with the minor corrections and clarifications provided, was true and accurate ([REDACTED]). The minor clarifications made are not integral to the witness's account and can be clarified during the live portion of his examination. To avoid redundancy, W03827's SPO interview is not tendered for admission pursuant to Rule 154. While the SPO has determined that it not necessary to tender his SPO interview, the SPO has no objection to its admission.

19. *Suitable for Rule 154 Admission.* W03827's Proposed Evidence satisfies the requirements of Rule 154: W03827 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

20. Rule 154 admission for W03827's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W03827 for approximately 2 hours⁴³ on essential matters that highlight, clarify or explain certain aspects of his evidence, including acts and conduct of the Accused and other JCE members.

B. W04408

21. *Relevance.* W04408, an [REDACTED], provides evidence about his [REDACTED]in Kosovo in 1998-1999 and, more generally, on [REDACTED]. He provides an overview of the recent historical background and events in Kosovo during 1992-1999, and the rise of the KLA and its organisational structure.

22. W04408 conducted [REDACTED]in Kosovo in [REDACTED]1998 and participated in other missions in [REDACTED]1998. On [REDACTED]1998, W04408 had [REDACTED]during which [REDACTED] raised the matter of the[REDACTED]

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23. Prior to that [REDACTED]W04408 had received verification from [REDACTED]that the KLA was detaining them. [REDACTED]

24. On [REDACTED] 1998, W04408 sent a letter to [REDACTED].

25. W04408 conducted [REDACTED]in Kosovo and provides evidence of crimes committed by members of the KLA during the Indictment period—including detentions and extrajudicial executions—against Serbs, Roma, and other non-

⁴³ Annex 2 to Prosecution Submission in advance of Specialist Prosecutor's preparation conference, KSC-BC-2020-06/F01291/A02, 14 February 2023 ('Amended List of Witnesses').

Albanians, as well as ethnic Albanian political rivals and people accused of collaboration. In [REDACTED]1999, he personally hand-delivered a [REDACTED].

26. Accordingly, W04408's evidence is relevant to charged crimes in the Indictment, the contextual elements of the crimes, to a policy against opponents and collaborators and to the knowledge and contributions of JCE members, including the Accused.⁴⁴

27. *Authenticity and Reliability.* W04408's Proposed Evidence is *prima facie* authentic and reliable. The Rule 154 Statement consists of W04408's SPO witness statement.⁴⁵ The statement bears sufficient indicia of reliability.⁴⁶ During W04408's SPO interview, W04408 was duly advised of his rights as a witness.⁴⁷ The statement includes details such as the date, place and attendees of the interview.⁴⁸ W04408 confirmed that the contents of his statement are true and accurate, that his statement was given voluntarily without any threats, force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.⁴⁹

28. *Suitable for Rule 154 Admission.* W04408's Proposed Evidence satisfies the requirements of Rule 154: W04408 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

29. Rule 154 admission for W04408's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief

⁴⁴ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01296/A01, paras [REDACTED].

⁴⁵ [REDACTED].

⁴⁶ For the assessment of reliability, see Annex 2.

⁴⁷ [REDACTED].

⁴⁸ [REDACTED].

⁴⁹ [REDACTED].

oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04408's evidence for 1 hour.⁵⁰

30. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of W04408's Proposed Evidence in Annex 2—namely [REDACTED], a HRW press release and [REDACTED]Letter—should be admitted as they are an inseparable and indispensable part of W04408's Rule 154 Statement, in that they are used and explained in W04408's evidence. The Associated Exhibits are integral to the Rule 154 Statement as they were discussed and reviewed therein, as detailed in Annex 2.

C. W04577

31. *Relevance.* W04577 is a Kosovo Albanian born in [REDACTED]. He served as a KLA soldier from April 1998 to September 1999, including in [REDACTED]. W04577 participated in the battle for Rahovec/Orahovac in July 1998, and [REDACTED]. [REDACTED].

32. W04577 also has knowledge of persons detained by the KLA at a house in [REDACTED], and saw KLA detainees at [REDACTED]. [REDACTED]. [REDACTED]. While stationed in [REDACTED], W04577 saw approximately 30 detainees, [REDACTED], at a house [REDACTED] that the KLA used.

33. W04577 also addresses suffering of his family members at the hands of the KLA, including the detention and mistreatment of his relative, [REDACTED]. Further, W04577 provides information about his sightings of, and/or interactions with, senior KLA members, including Rexhep SELIMI, Kadri VESELI and Hashim THAÇI, and his knowledge of the KLA's command structure and communication methods.

34. W04577's evidence is thus relevant to the charged crimes in the Indictment.⁵¹

⁵⁰ The SPO has reduced the examination time for W04408. Cf. Amended List of Witnesses, KSC-BC-2020-06/F01291/A02.

⁵¹ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01296/A01, paras [REDACTED].

35. *Authenticity and Reliability.* W04577's Proposed Evidence is *prima facie* authentic and reliable. The W04577 Rule 154 Statement is comprised of (i) W04577's SPO interviews;⁵² (ii) a record of witness hearing in [REDACTED];⁵³ (iii) an [REDACTED] witness statement dated [REDACTED];⁵⁴ and (iv) an [REDACTED] witness statement dated [REDACTED].⁵⁵ Each statement bears sufficient indicia of reliability.⁵⁶

36. W04577's audio-video recorded SPO interviews are verbatim records of the corresponding audio-video recordings; their authenticity and reliability can therefore be easily verified. The interviews were conducted with the assistance of an interpreter in a language understood by the witness.⁵⁷ W04577 was duly advised of his rights as a witness.⁵⁸ The transcripts include details such as the date, time, and attendees.⁵⁹ W04577 confirmed that the contents of his recorded statement are true and accurate, that his statement was given voluntarily without any threats, force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.⁶⁰

37. During his SPO interviews, W04577 had an opportunity to clarify excerpts of his prior statements, including those tendered herein as Rule 154 Statements, which were taken in a language understood by the witness.⁶¹ W04577 confirmed that the relevant written materials from [REDACTED], and, [REDACTED], were his statements, and recognised his signature in his [REDACTED] statement.⁶² For each statement he was given an opportunity to clarify or make corrections and/or confirmed the accuracy thereof.⁶³ In addition, each statement bears sufficient

⁵² [REDACTED].

⁵³ [REDACTED].

⁵⁴ [REDACTED].

⁵⁵ [REDACTED]. *See also* [REDACTED].

⁵⁶ For an individualised assessment of reliability, *see* Annex 3.

⁵⁷ [REDACTED]

⁵⁸ [REDACTED].

⁵⁹ [REDACTED].

⁶⁰ [REDACTED].

⁶¹ *See* Annex 3. W04577's prior statements were taken in the Albanian language.

⁶² *See* [REDACTED]

⁶³ *See* [REDACTED].

independent indicia of reliability.⁶⁴ Further, as excerpts of these statements were discussed in the SPO interview, these statements form an integral part thereof.

38. *Suitable for Rule 154 Admission.* W04577's Proposed Evidence satisfies the requirements of Rule 154: W04577 will be: (i) present in court; (ii) available for cross-examination and any questioning by the Panel; and (iii) able to attest that the W04577 Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

39. Rule 154 admission for W04577's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04577's evidence for a maximum of 4 hours.⁶⁵

40. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of the Proposed Evidence in Annex 3—consisting of [REDACTED]—should be admitted as they are an inseparable and indispensable part of W04577's Rule 154 Statement, in that they are used and explained in W04577's evidence. The Associated Exhibits are integral to the Rule 154 Statement as they were discussed and reviewed therein.

D. W04644

41. *Relevance.* W04644 provides a first-hand victim account of the KLA's forced abduction, detention and beating of several individuals, including W04644 and several of his family members. [REDACTED].

42. W04644 and his family were [REDACTED]. On an evening in early [REDACTED] 1998, KLA soldiers forcibly abducted and transported W04644, [REDACTED] to several locations, including [REDACTED]. During their detention that night, KLA soldiers severely beat W04644 and his family members and repeatedly accused them of being 'traitors' and 'spies'. W04644 recognized some of the KLA

⁶⁴ For an individualised assessment of reliability, see Annex 3.

⁶⁵ Amended List of Witnesses, KSC-BC-2020-06/F01291/A02.

personnel implicated in the abduction, transport and mistreatment and has identified several of them in the Proposed Evidence. Eventually, the KLA soldiers released W04644 and [REDACTED], but continued to detain other victims in [REDACTED]. In the days after his release, W04644 tried to find his missing relatives. W04644's efforts to find his missing relatives included confronting [REDACTED] one of the KLA commanders W04644 identified as present during and involved in W04644's detention at [REDACTED]. After first denying any knowledge of W04644's relatives' whereabouts or their detention, [REDACTED] told W04644 that [REDACTED]. [REDACTED] also warned W04644 not to mention [REDACTED]'s name and warned W04644 to go [REDACTED]. The next day, [REDACTED] went to [REDACTED] and spoke with [REDACTED] about the missing men, and [REDACTED] told them the men were being questioned.

43. Several days after the abduction, [REDACTED] were found, shot to death, near [REDACTED]. W04644 subsequently identified the bodies of [REDACTED], and also saw [REDACTED].

44. [REDACTED].

45. W04644's evidence is thus relevant to the charged crimes in the Indictment.⁶⁶

46. *Authenticity and Reliability.* The Proposed Evidence is *prima facie* authentic and reliable.⁶⁷ The Rule 154 Statement is comprised of W04644's SPO interview.⁶⁸

47. W04644's audio-video recorded SPO interview, as recorded in verbatim transcripts, is authentic and reliable, and was conducted with the assistance of an interpreter in a language which W04644 fully understood.⁶⁹ W04644 was duly advised of his rights as a witness.⁷⁰ The transcripts include details such as the date, time, place

⁶⁶ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01296/A01, paras. [REDACTED].

⁶⁷ For an individualised assessment of reliability, see Annex 4.

⁶⁸ [REDACTED].

⁶⁹ [REDACTED].

⁷⁰ [REDACTED].

and attendees.⁷¹ W04644 confirmed that the contents of his recorded statement are true and accurate, that his statement was given voluntarily without any threats, force, or guarantees,⁷² and that he had no objections to the manner or process by which the statement was taken.⁷³

48. *Suitable for Rule 154 Admission.* W04644's Proposed Evidence satisfies the requirements of Rule 154: W04644 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

49. Rule 154 admission for W04644's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04644's evidence for 2 hours.⁷⁴

50. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of W04644's Proposed Evidence in Annex 4—consisting of [REDACTED]—should be admitted as they were handed over by W04644 during his interview. They form an inseparable and indispensable part of W04644's Rule 154 Statement in that they are used and explained in W04644's evidence. The Associated Exhibits are therefore integral to the Rule 154 Statement.

E. W04781

51. *Relevance.* W04781 provides a first-hand victim account of the KLA's forced abduction, detention and beating of multiple individuals, including W04781 and several of his family members. In [REDACTED] 1998, KLA soldiers abducted W04781 [REDACTED] from their family home in [REDACTED]. W04781 and his family

⁷¹ [REDACTED].

⁷² [REDACTED].

⁷³ [REDACTED].

⁷⁴ Amended List of Witnesses, KSC-BC-2020-06/F01291/A02.

members were taken to several different locations throughout [REDACTED]. At these locations, which included [REDACTED], W04781 witnessed KLA soldiers beating multiple individuals, including his family members. Eventually the KLA released [REDACTED] several other detainees from detention, but continued to detain several others, including [REDACTED]. Approximately [REDACTED] days after the abduction, with the assistance of a relative, W04781 visited an older man in what W04781 believed was a KLA-related building [REDACTED] in effort to find out about [REDACTED]. While in the building, where he observed guns on the floor, W04781 heard on the news about the recovery of [REDACTED] bodies from [REDACTED]. The dead included [REDACTED], who appeared to have been beaten in addition to being shot.

52. Shortly after the [REDACTED] to learn why [REDACTED] [REDACTED].

53. W04781's evidence is thus relevant to the charged crimes in the Indictment.⁷⁵

54. *Authenticity and Reliability.* W04781's Rule 154 Statement is *prima facie* authentic and reliable. It is comprised of (i) W04781's SPO interview⁷⁶ and (ii) a [REDACTED] Statement of W04781.⁷⁷ Each statement bears sufficient indicia of reliability.⁷⁸ W04781's audio-video recorded SPO interview, as recorded in verbatim transcripts, is authentic and reliable. The interview was conducted with the assistance of an interpreter in a language understood by the witness.⁷⁹ W04781 was duly advised of his rights as a witness.⁸⁰ The transcripts include details such as the date, time, and attendees.⁸¹ W04781 confirmed that the contents of his recorded statement are true and accurate, that his statement was given voluntarily without any threats, force, or

⁷⁵ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01296/A01, paras. [REDACTED].

⁷⁶ [REDACTED].

⁷⁷ [REDACTED]. [REDACTED].

⁷⁸ For an individualised assessment of reliability, see Annex 5.

⁷⁹ [REDACTED].

⁸⁰ [REDACTED]. See also [REDACTED].

⁸¹ [REDACTED]; [REDACTED].

guarantees, and that he had no objections to the manner or process by which the statement was taken.⁸²

55. During his SPO interview, W04781 had an opportunity to review his prior statements, including the [REDACTED] Statement tendered herein as part of his Rule 154 Statement, which were taken in a language understood by the witness.⁸³ W04781 confirmed that the written materials were his statements and recognised his signature on each statement.⁸⁴ He verified that he provided the statements in a truthful manner and to the best of his recollection.⁸⁵ For each statement he was given an opportunity to clarify or make corrections.⁸⁶ Further, as the contents of the [REDACTED] Statement were discussed in the SPO interview, the statement forms an integral part thereof.

56. *Suitable for Rule 154 Admission.* W04781's Proposed Evidence satisfies the requirements of Rule 154: W04781 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

57. Rule 154 admission for W04781's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04781's evidence for ninety minutes.⁸⁷

⁸² [REDACTED].

⁸³ See Annex 5. W04781's prior statements were taken in the [REDACTED] language.

⁸⁴ [REDACTED].

⁸⁵ [REDACTED].

⁸⁶ [REDACTED].

⁸⁷ The SPO has reduced the examination time for W04781. Cf. Amended List of Witnesses, KSC-BC-2020-06/F01291/A02.

F. W04018

58. *Relevance.* W04018 is a Kosovar Albanian who was abducted by KLA members [REDACTED] from his house in [REDACTED] and subsequently detained in locations in [REDACTED]. Before his abduction, W04018 sold wood for a living, including to Serb policemen. He supported the LDK and did not join the KLA.

59. W04018, together with three other detainees, namely [REDACTED], was first taken to [REDACTED]. W04018 and his fellow detainees were severely beaten by KLA members. He and the other three detainees were not provided adequate food or water, nor were they told the reasons for their detention. W04018 was questioned, with a list containing the names of several Albanians the KLA intended to abduct being read out to him.

60. From [REDACTED], the four detainees were transferred, on foot and in handcuffs, to [REDACTED] where they were detained with several others in a room in a house. They slept on the floor and were only fed with bread.

61. On or about [REDACTED], the detainees were taken to [REDACTED]. W04018, together with [REDACTED], were then transferred by foot overnight to [REDACTED]. There, all detainees were kept tied up in or near a courtyard. For three days, W04018 was forced to sleep outdoors in freezing temperatures.

62. W04018 and the other four detainees were then transferred by foot, overnight, to [REDACTED] where they were held without adequate food or water, and severely beaten multiple times. In particular, [REDACTED]. W04018 was questioned about his contact with a Serbian he had been seen speaking to prior to his detention. On the last night of their detention, the detainees were individually beaten. W04018 [REDACTED] was able to escape [REDACTED]. The physical and psychological abuses W04018 suffered during his detention by KLA members has left him with enduring injuries and caused him to fear for his safety.

63. W04018's evidence is thus relevant to the charged crimes in the Indictment.⁸⁸

⁸⁸ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01296/A01, paras [REDACTED].

64. *Authenticity and Reliability.* W04018's Rule 154 Statement is *prima facie* authentic and reliable. The Rule 154 Statement is comprised of (i) written records of W04018's hearing [REDACTED];⁸⁹ (ii) minutes of W04018's testimony given in [REDACTED];⁹⁰ and (iii) W04018's SPO interview [REDACTED].⁹¹ Each statement bears sufficient indicia of reliability.⁹²

65. In particular, W04018's audio-video recorded SPO interview, as recorded in verbatim transcripts, is authentic and contains details such as the date, time, and attendees.⁹³ It includes all questions, answers and clarifications. The interviews were conducted with the assistance of an interpreter in a language understood by the witness.⁹⁴ W04018 was duly advised of his rights and obligations as a witness.⁹⁵ W04018 confirmed that the content of his statement was true and accurate, given voluntarily without any threats, force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.⁹⁶

66. In relation to the written records of W04018's hearing before the [REDACTED], W04018 confirmed, during his SPO interview, that the written materials were his statements and recognised his signature where present.⁹⁷ Lastly, during his SPO interview, W04018 stated that the testimony he gave [REDACTED] was voluntary and provided in a truthful manner and to the best of his recollection.⁹⁸ W04018 was given an opportunity to clarify or make corrections to certain statements.⁹⁹ Further, as the

⁸⁹ [REDACTED].

⁹⁰ [REDACTED].

⁹¹ [REDACTED].

⁹² For an individualised assessment of reliability, *see* Annex 6.

⁹³ [REDACTED].

⁹⁴ [REDACTED].

⁹⁵ [REDACTED].

⁹⁶ [REDACTED].

⁹⁷ In respect of [REDACTED], *see* [REDACTED]. In respect [REDACTED]. In respect of [REDACTED], *see* [REDACTED]. In respect of [REDACTED], *see* [REDACTED]. In respect of [REDACTED], *see* [REDACTED].

⁹⁸ In respect of [REDACTED], and [REDACTED], *see* [REDACTED].

⁹⁹ In respect of [REDACTED], *see* [REDACTED]. In respect of [REDACTED], *see* [REDACTED]. In respect of [REDACTED], *see* [REDACTED]. In respect of [REDACTED], *see* [REDACTED].

contents of these statements were discussed in the SPO interview, these statements form an integral part thereof.

67. *Suitable for Rule 154 Admission.* W04018's Proposed Evidence satisfies the requirements of Rule 154: W04018 will be: (i) present in court; (ii) available for cross-examination and any questioning by the Panel; and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

68. Rule 154 admission for W04018's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04018's evidence for a maximum of 3 hours.¹⁰⁰

69. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of W04018's Proposed Evidence in Annex 6—comprised of [REDACTED], and other items—should be admitted as they are an inseparable and indispensable part of W04018's Rule 154 Statement, in that they are used and explained in W04018's evidence. The Associated Exhibits are integral to the Rule 154 Statements as they were discussed and reviewed therein.¹⁰¹

G. W04255

70. *Relevance.* In 1998 and 1999, W04255, a Kosovar Albanian, was a member of the LDK as well as of the KLA [REDACTED], including as KLA commander for a certain period of time. He co-operated with [REDACTED].

71. In [REDACTED], W04255 attended a meeting at which Hashim THAÇI introduced himself as being from the General Staff; [REDACTED] also attended this meeting. During a second meeting in [REDACTED]. [REDACTED], W04255 attended

¹⁰⁰ Amended List of Witnesses, KSC-BC-2020-06/F01291/A02.

¹⁰¹ See Annex 6.

a meeting with [REDACTED] where THAÇI was referred to as their chief. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

72. W04255's evidence is thus relevant to the charged crimes in the Indictment.¹⁰²

73. *Authenticity and Reliability.* W04255's Rule 154 Statement is *prima facie* authentic and reliable. The SPO interview bears sufficient indicia of reliability.¹⁰³ W04255's audio-video recorded SPO interview, as recorded in verbatim transcripts, is authentic, including details such as the date, time, and attendees.¹⁰⁴ During the SPO interview, W04255 was made aware of his rights as a witness.¹⁰⁵ W04255 confirmed that the content of his recorded statement is true and accurate, that his statement was given voluntarily without any threats or force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.¹⁰⁶

74. *Suitable for Rule 154 Admission.* W04255's Proposed Evidence satisfies the requirements of Rule 154. W04255 will be: (i) present in court; (ii) available for cross-examination and any questioning by the Panel; and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

75. Rule 154 admission for W04255's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04255's evidence for a maximum of 2 hours.¹⁰⁷

76. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of the Proposed Evidence in Annex 7 – namely a KLA Political Declaration, a document

¹⁰² See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01296/A01, paras [REDACTED].

¹⁰³ For an individualised assessment of reliability, see Annex 7.

¹⁰⁴ [REDACTED].

¹⁰⁵ [REDACTED].

¹⁰⁶ [REDACTED].

¹⁰⁷ Amended List of Witnesses, KSC-BC-2020-06/F01291/A02.

titled [REDACTED], a book extract, as well as a report from [REDACTED]¹⁰⁸ – should be admitted as as they are an inseparable and indispensable part of W04255's Rule 154 Statement, in that they are used and explained in W04255's evidence. The Associated Exhibits are integral to the Rule 154 Statement as they were discussed and reviewed therein.¹⁰⁹

H. W01493

77. *Relevance.* During the Indictment period, W01493, [REDACTED], was based in various locations in Albania and [REDACTED] in Kosovo.

78. On multiple occasions throughout this period, he directly interacted with and observed joint criminal enterprise ('JCE') members who include the Accused Rexhep SELIMI and Hashim THAÇI. Around late August and early September 1998, [REDACTED] where the Accused SELIMI and THAÇI and other General Staff members took steps to intimidate and assert dominance over, *inter alia*, FARK units. [REDACTED] KLA members including Hashim THAÇI made threats against officials of the Kosovo government in exile and FARK members.

79. On different occasions around [REDACTED] 1998, THAÇI, SELIMI, and other General Staff members had meetings [REDACTED], asserting the authority of the KLA General Staff. At a meeting around 2 September 1998, Rexhep SELIMI informed the FARK members present that the KLA General Staff concluded that Ramush HARADINAJ would be the KLA commander of the Dukagjini Zone. FARK officers disagreed with this decision. Rexhep SELIMI issued appointment orders, [REDACTED]. [REDACTED]. [REDACTED].

80. [REDACTED]. The document asserted the exclusive authority of the KLA General Staff and denied the authority of the government-in-exile.

81. During summer 1998 and spring 1999, W01493 witnessed the mistreatment of and threats, including death threats, against certain perceived opponents, including

¹⁰⁸ See Annex 7.

¹⁰⁹ See Annex 7.

FARK members (including [REDACTED]) and alleged collaborators, in [REDACTED] and locations in Albania.

82. W01493's evidence is thus relevant to the charged crimes in the Indictment.¹¹⁰

83. *Authenticity and Reliability.* The Proposed Evidence is *prima facie* authentic and reliable. In this respect, a number of these materials, including statements and associated exhibits, [REDACTED]. The Rule 154 Statement is comprised of (i) W01493's [REDACTED] SPO interview,¹¹¹ (ii) [REDACTED],¹¹² (iii) [REDACTED],¹¹³ (iv) [REDACTED]¹¹⁴ and (v) [REDACTED].¹¹⁵ Each statement bears sufficient indicia of reliability.¹¹⁶

84. W01493's audio-video recorded SPO interview, as recorded in verbatim transcripts,¹¹⁷ is authentic and reliable. The interview was conducted with the assistance of an interpreter in a language understood by the witness.¹¹⁸ W01493 was duly advised of his rights as a witness.¹¹⁹ The transcripts include details such as the date, time, place and attendees.¹²⁰ W01493 confirmed that the contents of his recorded statement are true and accurate, that his statement was given voluntarily without any threats, force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.¹²¹

85. During his SPO interview, W01493 had an opportunity to review his prior statements, including those tendered herein as Rule 154 Statements, which were taken

¹¹⁰ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]. See also Pre-Trial Brief, KSC-BC-2020-06/F01296/A01, *inter alia*, paras [REDACTED].

¹¹¹ [REDACTED].

¹¹² [REDACTED].

¹¹³ [REDACTED].

¹¹⁴ [REDACTED].

¹¹⁵ [REDACTED].

¹¹⁶ For an individualised assessment of reliability, see Annex 8.

¹¹⁷ [REDACTED].

¹¹⁸ [REDACTED].

¹¹⁹ [REDACTED].

¹²⁰ [REDACTED].

¹²¹ [REDACTED].

in a language understood by the witness.¹²² W01493 confirmed that the written materials were his statements and recognised his signature on each.¹²³ He verified that he provided the statements in a truthful manner and to the best of his recollection.¹²⁴ Further, as the contents of these statements were discussed in the SPO interview, these statements form an integral part thereof. Finally, on their face, the [REDACTED] statements also bear mutually reinforcing indicia of reliability, as set out in Annex 8. [REDACTED].¹²⁵ He was also given an opportunity to clarify or make corrections to his [REDACTED] statements.¹²⁶

86. *Suitable for Rule 154 Admission.* W01493's Proposed Evidence satisfies the requirements of Rule 154: W01493 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

87. Rule 154 admission for W01493's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W01493's evidence for 4 hours.¹²⁷

88. In this respect, each statement comprising the Rule 154 Statement had a different focus or purpose;¹²⁸ admission of the complete Rule 154 Statement is

¹²² See Annex 8. W01493's prior statements were taken in the [REDACTED] language.

¹²³ In respect of [REDACTED], see [REDACTED]. In respect of [REDACTED], see [REDACTED]. In respect of [REDACTED], see [REDACTED]. In respect of [REDACTED], see [REDACTED].

¹²⁴ In respect of [REDACTED], see [REDACTED]. In respect of [REDACTED], see [REDACTED]. In respect of [REDACTED], see [REDACTED].

¹²⁵ [REDACTED].

¹²⁶ See [REDACTED]. He was given further opportunities to correct his statements during his SPO interview. In respect of [REDACTED], see [REDACTED]. In respect of [REDACTED], see [REDACTED]. In respect of [REDACTED], see [REDACTED]. In respect of [REDACTED], see [REDACTED].

¹²⁷ Amended List of Witnesses, KSC-BC-2020-06/F01291/A02.

¹²⁸ For example, [REDACTED] – which is the first statement the witness gave – provides an overview of the witness's relevant evidence throughout and after the Indictment period. In it, he discusses and authenticates a number of exhibits which he provided to the [REDACTED] (in some cases, he also

therefore not unduly repetitive or unnecessary. Further, admission of the complete Rule 154 Statement, notwithstanding its length, will advance the expeditiousness of the proceedings in the circumstances of this witness, whose evidence, *inter alia*, covers relevant events during a large part of the Indictment period at locations in both Albania and Kosovo, concerns numerous direct interactions with the Accused and other senior KLA members, and discusses and authenticates numerous documents, including contemporaneous records, that are highly probative of the charges. Admission of the Rule 154 Statement in full will permit the SPO, as also indicated above, to focus its direct examination on clarifications and aspects of W01493's evidence that, in particular, concern events involving these Accused personally.

89. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of the Proposed Evidence in Annex 8—namely [REDACTED]—should be admitted as as they are an inseparable and indispensable part of W01493's Rule 154 Statement. They are integral to the W01493 Rule 154 Statement as they were discussed and reviewed therein, as detailed in Annex 8.

I. W04448

90. *Relevance.* W04448, a Kosovar Albanian, went to [REDACTED] to join the KLA in [REDACTED] 1998. About [REDACTED] after his arrival, [REDACTED], who was the most senior commander in [REDACTED], took W04448 to the barracks, situated in a compound at the end of the village, where he was accepted into the KLA. Before accepting members, the KLA at [REDACTED] checked the background of recruits and whether they were 'collaborators' with the enemy. Around [REDACTED] 1998, W04448 joined [REDACTED].

provided duplicates of these documents to the SPO). [REDACTED]. [REDACTED]. [REDACTED]. Finally, the SPO Interview ([REDACTED]) clarifies the relevant parts of the witness's prior [REDACTED] statements and elicits additional evidence in light of the charges in this case. Accordingly, each part of the Rule 154 Statement has important, independent value.

91. In spring and summer 1998, W04448 saw a number of persons – including persons of Roma ethnicity and alleged spies and collaborators – detained and mistreated at the [REDACTED] barracks, including [REDACTED].¹²⁹

92. Around late July 1998, W04448's unit went to [REDACTED]. [REDACTED]. [REDACTED].

93. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].¹³⁰

94. [REDACTED]. [REDACTED].

95. W04448's evidence is thus relevant to the charged crimes in the Indictment.¹³¹

96. *Authenticity and Reliability.* W04448's Proposed Evidence is *prima facie* authentic and reliable. As set out in Annex 9, W04448's [REDACTED] was audio-video recorded and transcribed verbatim. There is an indication of the date, time, and case number, and the participants are identified. [REDACTED].¹³²

97. *Suitable for Rule 154 Admission.* W04448's Proposed Evidence satisfies the requirements of Rule 154: W04448 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

98. Rule 154 admission for W04448's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04448's evidence for 3 hours.¹³³ In this respect, W04448's Rule 154 Statement primarily concerns matters relevant to the [REDACTED] and the

¹²⁹ See Indictment, KSC-BC-2020-06/F00999/A01, [REDACTED].

¹³⁰ This part of the witness's evidence is contained in his SPO Interview ([REDACTED]), which is not tendered herein (see Annex 9 for his Proposed Evidence). The SPO intends to elicit, *inter alia*, the witness's evidence on this point during his testimony in the courtroom.

¹³¹ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]. See also, Prosecution Pre-Trial Brief, KSC-BC-2020-06/F01296/A01, paras [REDACTED].

¹³² [REDACTED] (p.5).

¹³³ Amended List of Witnesses, KSC-BC-2020-06/F01291/A02.

[REDACTED]detention site. The SPO does not intend to elicit such evidence again, save for limited clarifications and additions and as needed to further contextualise questions. The witness's in-court evidence will primarily concern events not discussed in his Rule 154 Statement.¹³⁴

99. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of the Proposed Evidence in Annex 9 – namely, annotated maps – should be admitted as they form an inseparable and indispensable part of W04448's Rule 154 Statement. The Associated Exhibits are integral to the Rule 154 Statement as they were discussed and reviewed therein.¹³⁵

IV. CLASSIFICATION

100. This submission is filed as confidential as it contains information concerning witnesses with protective measures. The Annexes are confidential in order to give effect to protective measures and applicable contact restrictions, and considering that the identities of these witnesses are not public at this time. If admitted, and following the relevant witness's testimonies, the SPO will submit public redacted versions of those exhibits proposed for admission under seal, seek reclassification, and/or provide related justifications, where no redactions would adequately give effect to the witness's protective measures.

V. RELIEF REQUESTED

101. For the foregoing reasons, the SPO respectfully requests that the Trial Panel admit the Proposed Evidence, subject to fulfilment of the Rule 154 conditions by the relevant witnesses during their appearances in court.

Word Count: 8276

¹³⁴ See fn.130 above.

¹³⁵ See Annex 9.



Alex Whiting

Acting Specialist Prosecutor

Friday, 23 June 2023

At The Hague, the Netherlands.