



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: Specialist Prosecutor's Office

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Public Redacted Version of 'Prosecution motion for admission of evidence of Witnesses W01978, W02540, W02677, W02714, W02951, W03865, W03881, W04371, W04710, and W04850 pursuant to Rule 154 and related requests with confidential Annexes 1-10'

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I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law,¹ and Rules 118(2), 137-138 and 154 of the Rules,² the Specialist Prosecutor's Office ('SPO') requests (i) the addition of three items to the Exhibit List,³ and (ii) the admission of the statements (collectively, 'Rule 154 Statements'), together with associated exhibits,⁴ of the following witnesses: W01978, W02540, W02677, W02714, W02951, W03865, W03881, W04371, W04710, and W04850 (collectively, 'Witnesses').⁵ These witnesses are among the witnesses the SPO intends to call between April and July 2024.⁶

2. Consistent with Rule 154, the Witnesses are anticipated to: (i) be present in court, (ii) be available for cross-examination and any questioning by the Panel, and (iii) attest that their Rule 154 Statements accurately reflect their declaration and what they would say if examined. As detailed below and in the accompanying annexes for each of the Witnesses, the Proposed Evidence meets the requirements of the Rules, is relevant, authentic and reliable, and has probative value, which – considering, in particular, that the witnesses will be available for cross-examination – is not outweighed by any prejudice. Admission is therefore in the interests of justice.⁷

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

² 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' or 'Rules' are to the Rules.

³ See paras 11-12 and 21-25 below. See also Annex 1 to Prosecution submission of amended exhibit list, KSC-BC-2020-06/F02184/A01 ('Exhibit List').

⁴ The Rule 154 Statements and associated exhibits are referred to herein as the 'Proposed Evidence'.

⁵ Attached to this motion are ten annexes. Each annex contains a table identifying the Proposed Evidence for each witness. In the interest of expeditiousness and as also set out below, the SPO: (i) reduced the examination time for W02540 from 2.5 hours to 2 hours; and (ii) reduced the examination time for W03865 from 3 to 2 hours.

⁶ See Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order'), para.73. The information required by paragraphs 73-74 of the Conduct of Proceedings Order has been provided separately. This request includes the relevant Rule 154 witnesses tentatively listed in the first half of witnesses to be called from 22 April 2024, as well as two of the identified reserve witnesses. A further Rule 154 application for the remaining witnesses to be called between April and July 2024 and the remaining reserve witness will be filed in due course.

⁷ The applicable law has been set out in previous submissions and decisions in this case. See e.g. Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154, KSC-BC-2020-06/F01380, 16 March 2023, Confidential, paras 26-35.

II. SUBMISSIONS

A. W01978

3. *Relevance.* [REDACTED], W01978 was arrested and detained by the KLA [REDACTED]. After KLA soldiers interrogated and beat him a first time on [REDACTED], they arrested him [REDACTED], and took him to [REDACTED] KLA detention sites in [REDACTED].

4. [REDACTED], the witness identified several KLA soldiers (including [REDACTED]), some of whom questioned and beat him. From W01978's interrogations, he understood that he was accused of not having left his place of employment, having a weapon, and [REDACTED]. W01978 was also [REDACTED]. W01978 also recognised other detainees [REDACTED]. W01978 will also testify about the conditions of detention [REDACTED], the work detainees had to perform, and the interrogations and beatings he suffered.

5. W01978 was transferred to [REDACTED], where they were detained first [REDACTED], and then in [REDACTED]. There, W01978 was detained together with others of Serb and Roma ethnicity. A few days later, all prisoners were released.

6. W01978's evidence is thus relevant to the charged crimes in the Indictment.⁸

7. *Authenticity and reliability.* W01978's Rule 154 Statement is comprised of: (i) W01978's SPO interview;⁹ (ii) an SPRK witness hearing record;¹⁰ and (iii) a record of a

⁸ See, *inter alia*, Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022, Confidential ('Indictment'), paras [REDACTED]; Lesser Redacted Version of 'Confidential Redacted Version of Corrected Version of Prosecution Pre-Trial Brief', KSC-BC-2020-06/F01594/A03, 9 June 2023, Confidential ('Pre-Trial Brief'), paras [REDACTED].

⁹ 060650-TR-ET Parts 1-4 RED3.

¹⁰ SPOE00184749-00184842 RED2.

witness hearing in a SPRK preliminary investigation.¹¹ Each statement bears sufficient indicia of reliability.¹²

8. W01978's SPO interview transcripts are verbatim records. He confirmed that the contents are true and accurate, that his statement was given voluntarily, and that he had no objections to the manner or process by which the statement was taken.¹³ During his SPO interview, W01978 had an opportunity to review, confirm, and clarify excerpts of his prior statements, including those tendered herein as part of the Rule 154 Statement.

9. *The associated exhibits are admissible.* The associated exhibits forming part of W01978's Proposed Evidence in Annex 1 – namely, two SPRK photoboard identifications shown to the witness and sketches drawn by the witness during his SPO interview – should be admitted as they are used and explained in, and therefore form an inseparable and indispensable part of, W01978's Rule 154 Statement.

10. *Suitable for Rule 154 admission.* W01978's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission for W01978's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W01978 for approximately two hours on essential matters that highlight, clarify, or explain certain aspects of his evidence.

11. *Request to amend the Exhibit List.* Pursuant to Article 40 and Rule 118(2), the SPO seeks addition of one of the proposed associated exhibits – namely, the photoboard identification¹⁴ shown to W01978 during his [REDACTED] SPRK¹⁵ statement – to the

¹¹ SITF00014548-00014554 RED.

¹² For an individualised assessment of reliability, see Annex 1.

¹³ 060650-TR-ET Part 4, pp.47-48. See also 060650-TR-ET Part 1, pp.10-11.

¹⁴ SITF00014555-00014563.

¹⁵ SITF00014548-00014554 RED.

Exhibit List. This item was previously disclosed,¹⁶ but was only identified as an associated exhibit in the course of preparing for the witness's testimony. While this request could have been made earlier, there is good cause for the requested amendment and limited, if any, prejudice.

12. Without the ability to tender the photoboard identification, the quality, accuracy, and completeness of the witness's evidence would be undermined, considering it is an inseparable and indispensable part of his Rule 154 Statement. As to lack of prejudice, the associated exhibit has been available to the Defence since 2022, is associated with and discussed in a statement on the Exhibit List, and is of limited length and scope.

B. W02540

13. *Relevance.* W02540 served in the [REDACTED] in June 1999. In mid-June 1999, he deployed as the [REDACTED] within the KFOR contingent in the Prizren area.

14. On 18 June 1999, W02540 observed a KLA flag and KLA members at the Prizren MUP building. [REDACTED]. [REDACTED] KLA commanders, who conveyed opposition to KFOR being allowed in the building. [REDACTED]. [REDACTED].

15. [REDACTED]. [REDACTED].

16. [REDACTED]. [REDACTED]. [REDACTED].

17. W02540's evidence is thus relevant to the charged crimes in the Indictment.¹⁷

¹⁶ Disclosures 503, 512, 534 and 571 (Rule 102(3)); 1143 (Rule 102(1)(b)).

¹⁷ Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

18. *Authenticity and reliability.* W02540's Rule 154 Statement is comprised of: (i) W02540's ICTY witness statement;¹⁸ and (ii) his SPO interview.¹⁹ Each statement bears sufficient indicia of reliability.²⁰ When interviewed by ICTY investigators, he was advised of his rights as a witness²¹ and he affirmed his willingness to testify. W02540's SPO interview transcripts are verbatim records. In both his ICTY and SPO statements, W02540 was advised about his rights, and affirmed his willingness to voluntarily provide a statement.²²

19. *The associated exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 2 – photographs, a KFOR report, and contemporaneous video footage – should be admitted as they are an inseparable and indispensable part of W02540's Rule 154 Statement in that they are used and explained therein.

20. *Suitable for Rule 154 admission.* W02540's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission will reduce the time required for direct examination, which the SPO intends to further limit to two hours.²³ The SPO plans to elicit brief oral testimony from W02540 on essential matters, including to highlight, clarify, or explain certain aspects of his evidence pertaining to video footage and images in video excerpts, still images, and photographs – thereby providing adequate context to this evidence.²⁴

¹⁸ [REDACTED]. The SPO has disclosed a separate English and Albanian translation ([REDACTED]) of W02540's [REDACTED]. The English was signed months after the witness signed the [REDACTED] original. The [REDACTED] original and the English and Albanian translations of the [REDACTED] statement are tendered pursuant to Rule 154.

¹⁹ 069539-TR-ET Part 1 Revised 1 RED; 069539-TR-ET Part 2 Revised 1; 069539-TR-ET Part 3 Revised 1; 069539-TR-ET Part 4 Revised 1.

²⁰ For an individualised assessment of reliability, see Annex 2.

²¹ [REDACTED].

²² 069539-TR-ET Part 1 Revised 1 RED, p.2; [REDACTED].

²³ Reduced from the 2.5 hours indicated in the Witness List. See Amended List of Witnesses, KSC-BC-2020-06/F01594/A01 ('Witness List'), p.[REDACTED].

²⁴ Some of the footage and images are played or shown in his SPO interview. However, use in court will enable the record to be precise and allow the witness to provide adequate context to understand his comments and identifications of persons and places shown during his prior interview.

21. *Request to Amend the Exhibit List.* The SPO requests leave to amend the Exhibit List to include an official note of a recent contact with the witness and three photographs.²⁵ The SPO does not intend to tender the official note or photographs under Rule 154, but intends to use the photographs and may use the official note during the witness's testimony. Without the ability to use this record and related photographs with the witness, the quality, accuracy and completeness of W02540's evidence and prior statement and related events could be obscured, thus requiring additional use of court time to elicit the same information.

22. The official note memorialises a conversation between the SPO and W02540 on 30 January 2024 and describes and appends a photograph provided by W02540, which was previously referred to by him in his SPO interview.²⁶ The official note and the photograph were disclosed without undue delay pursuant to Rule 102(1)(b) on 13 February 2024. The other two photographs were provided by the witness to the ICTY on [REDACTED], but were not part of his ICTY witness statement and are not associated exhibits. These photographs, which were discussed with W02540 in the official note, were previously disclosed pursuant to Rule 102(3).²⁷

23. There is good cause for the requested amendment. The photographs were all provided by W02540 and the official note explains their significance and provides detailed information on the circumstances at the time that they were taken. In particular, the photograph referenced by W02540 during an earlier interview, recently

²⁵ 119101-119105 RED; [REDACTED].

²⁶ 119101-119105 RED (119105). See 069539 TR-ET Part 1 Revised 1 RED, pp.22, 29-30, 65; Part 3 Revised 1, pp.8-9.

²⁷ The photographs have ERN [REDACTED] and were disclosed under Rule 102(3) to all Defence teams apart from THAÇI. Following the filing of this motion, the SPO will disclose [REDACTED] to the THAÇI as well. [REDACTED], SITF00033875-SITF00033875 RED, is not part of the request for leave to amend the exhibit list, but relates to [REDACTED]. The SPO has no objection if the Panel or parties wish for it to be added. It was disclosed on 29 January 2024 pursuant to Rule 102(3). The entire substantive content of SITF00033875-SITF00033875 RED was read to W02540 [REDACTED] on 30 January 2024 and is reproduced in footnote 1 of the official note (119101-119105 RED).

provided by him, depicts the scene at the MUP building during the time that he was present.²⁸ The photograph is of particular relevance as it depicts [REDACTED].

24. The two other photographs²⁹ were taken at W02540's instruction shortly after the MUP building raid and are also explained in the official note. They exist because, [REDACTED].

25. The addition of the official note and the photographs will cause no prejudice since the subject matter of the official note and the photographs – including the witness's knowledge of victims and KLA members at the MUP Building and their disarmament – has been noticed to the Defence through his disclosed statements, associated exhibits, and Rule 95 summary. In addition, the very limited scope of the evidence allows more than ample time for the Defence to review the note and the photographs, and to timely and effectively conduct preparations.

C. W02677

26. *Relevance.* W02677 is an ethnic Serb who lived in Prizren until 14 June 1999. Whereas the witness left when the Serb forces withdrew, [REDACTED] decided to stay. Within a few days, [REDACTED], were arrested, detained, and maltreated by the KLA at [REDACTED] in Prizren.

27. [REDACTED]. Neither was allowed to move from his location, not even to eat or urinate. [REDACTED] and told the witness that horrible things had happened there.

28. [REDACTED]. [REDACTED].

²⁸ 119101-119105, p.119105.

²⁹ [REDACTED].

29. W02677's evidence is thus relevant to the crimes charged in the Indictment.³⁰

30. *Authenticity and Reliability.* W02677's Proposed Evidence is *prima facie* authentic and reliable. His Rule 154 Statement is comprised of W02677's SPO interview,³¹ which bears sufficient indicia of reliability.³² The interview is recorded in verbatim transcripts. W02677 was duly advised of his rights and obligations as a witness, and confirmed that his statement was true, accurate, and given voluntarily.³³

31. *Suitable for Rule 154 Admission.* W02677's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission for W02677's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W02677 for approximately one hour on essential matters that highlight, clarify or explain certain aspects of his evidence.

D. W02714

32. *Relevance.* On [REDACTED] 1999, W02714, [REDACTED] was abducted by three armed and masked Albanian men wearing uniforms with KLA insignia. W02714 was taken to [REDACTED], and placed in a detention cell. His documents and valuables were seized. At one point during W02714's detention, an Albanian man came and introduced himself as 'commander [REDACTED]'.

33. During his [REDACTED] detention in the [REDACTED], W02714 was questioned about his [REDACTED] and alleged crimes against Albanians. Displeased with his answers, the KLA members beat him all over his body with rifle butts, batons, and boots. On [REDACTED], W02714 was taken to [REDACTED]. He continued to be

³⁰ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

³¹ 076247-TR-ET Parts 1-2 RED. Revised translations and the Serbian versions are being prepared and will be disclosed, with lesser redactions, as soon as they are completed.

³² For an individualised assessment of reliability, see Annex 3.

³³ 076247-TR-ET Part 2 RED, pp.2, 4.

interrogated and was threatened he would be killed if he did not confess, including by placing the barrel of a pistol in his mouth.

34. After [REDACTED], W02714 was driven back to [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

35. W02714's evidence is thus relevant to crimes charged in the Indictment.³⁴

36. *Authenticity and reliability.* W02714's Rule 154 Statement is comprised of W02714's SITF Interview,³⁵ and his statement to the Serbian MUP.³⁶ Both statements bear sufficient indicia of authenticity and reliability.³⁷

37. W02714's SITF interview consists of verbatim transcripts. W02714 confirmed that the content of this statement is true and accurate, and his statement was given voluntarily.³⁸ During his SITF interview, W02714's MUP statement was read back to him, and he confirmed and commented on its content and its accuracy.³⁹

38. *Suitable for Rule 154 admission.* W02714's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission for W02714's Proposed Evidence will significantly reduce the length of direct examination. The SPO intends to elicit brief oral testimony from W02714 for approximately 1.5 hours on essential matters that highlight, clarify or explain aspects of his evidence.

³⁴ Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

³⁵ 025450 TR-ET Part 1 RED2; 025450 TR-ET Part 2.

³⁶ 025447-025449-ET RED2.

³⁷ For an individualised assessment of reliability, see Annex 4.

³⁸ 025450-TR-ET RED2 Part 2, pp.6-7.

³⁹ 025450-TR-ET Part 1 RED2, pp.7-16.

E. W02951

39. *Relevance.* In [REDACTED], W02951, [REDACTED], was living in a [REDACTED]. About [REDACTED], four KLA soldiers stopped him on the street, checked his identity, and told W02951 to report to the [REDACTED].

40. [REDACTED], the same KLA soldiers who had arrested W02951 took him to a room and severely mistreated him and interrogated him about people who had allegedly betrayed the KLA. W02951 saw another detainee [REDACTED] that day. After the beating, W02951 was ordered to [REDACTED]. W02951 could see from [REDACTED] injuries that he was beaten up as well. They were released at the same time and W02951 was ordered to return home and report back [REDACTED]. The next day, while he was going to [REDACTED], he found out that [REDACTED].

41. W02951's evidence is thus relevant to the charged crimes in the Indictment.⁴⁰

42. *Authenticity and reliability.* W02951's Rule 154 Statement consists of verbatim transcripts of his audio-video recorded SPO interview.⁴¹ It bears sufficient indicia of authenticity and reliability.⁴² W02951 was duly advised of his rights and obligations as a witness,⁴³ and confirmed that the contents of the statement are true and accurate, and his statement was given voluntarily.⁴⁴

43. *The associated exhibits are admissible.* The associated exhibit – a handwritten note – forming part of the Proposed Evidence in Annex 5 was discussed during his SPO interview and should therefore be admitted as an inseparable and indispensable part of the Rule 154 Statement.

⁴⁰ Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁴¹ 041337-TR-AT Parts 1-4 Revised-ET RED.

⁴² For an individualised assessment of reliability, see Annex 5.

⁴³ 041337-TR-AT Part 1 Revised-ET RED, pp.2-3.

⁴⁴ 041337-TR-AT Part 4 Revised-ET RED, pp.35-37.

44. *Suitable for Rule 154 admission.* The Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission for W02951's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W02951 for approximately one hour on essential matters that highlight, clarify, or explain certain aspects of his evidence.

F. W03865

45. *Relevance.* W03865 was a member of a KLA Battalion in [REDACTED], later serving [REDACTED] in the Pashtrik Zone. W03865 provides information on the structure and activities of the KLA, in particular in [REDACTED], the Pashtrik Zone, and Prizren. W03865 also provides information concerning, and the composition, role, and authority of, the KLA General Staff and members thereof.

46. W03865 questioned [REDACTED], who were arrested [REDACTED], during their detention in [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

47. W03865 also provides information relevant to the detention of, *inter alia*, [REDACTED], and the detention of [REDACTED], whom he questioned [REDACTED].

48. W03865's evidence is thus relevant to the charged crimes in the Indictment.⁴⁵

49. *Authenticity and reliability.* W03865's Rule 154 Statement – comprised of his SPO interview and an UNMIK statement – is *prima facie* authentic and reliable, bearing sufficient indicia of reliability.⁴⁶ W03865's SPO interview is recorded in verbatim transcripts. W03865 confirmed that the content is true and accurate, and given

⁴⁵ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁴⁶ For an individualised assessment of reliability, see Annex 6.

voluntarily.⁴⁷ During his SPO interview, W03865 confirmed that he provided his UNMIK statement voluntarily, was aiming to be truthful when he provided it, and that he had a better recollection of the events addressed at the time of that interview.⁴⁸

50. *The associated exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 6 – consisting of photograph line-ups in which W03865 identified relevant individuals, and a list of KLA members forming part of the [REDACTED] battalion – should be admitted as they are an inseparable and indispensable part of W03865's Rule 154 Statement, in that they are used and explained in W03865's evidence.

51. *Suitable for Rule 154 admission.* W03865's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission for W03865's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO has reduced its estimate for the direct examination of this witness from three⁴⁹ to two hours. The SPO would elicit brief oral testimony on essential matters, including to clarify or explain certain aspects of W03865's evidence, and address relevant issues not covered in W03865's Proposed Evidence.

G. W03881

52. *Relevance.* W03881 was deployed to Kosovo from 14 June to 3 August 1999 [REDACTED], within the KFOR contingent. His tasks included [REDACTED] at the orders of the KFOR military police.

53. W03881 was present on 18 June 1999 when KFOR raided the former MUP building in Prizren, occupied at that time by KLA soldiers, and freed several injured detainees. W03881 saw the body of a detainee, who had allegedly died in the course

⁴⁷ 078562-TR-ET Part 4 RED, p.21.

⁴⁸ See, e.g., 078562-TR-ET Part 1 RED, pp.11-12; Part 4 RED, pp.20-21.

⁴⁹ Reduced from the 3 hours indicated in the Witness List. See Witness List, KSC-BC-2020-06/F01594/A01, p.[REDACTED].

of interrogation. W03881 confirmed that KFOR treated the detainees' injuries. [REDACTED]. W03881 also witnessed and [REDACTED] violence against Serbs and Roma. W03881 kept a handwritten diary [REDACTED].

54. W03881's evidence is thus relevant to crimes charged in the Indictment.⁵⁰

55. *Authenticity and reliability.* W03881's Proposed Evidence is *prima facie* authentic and reliable.⁵¹ W03881's Rule 154 Statement is comprised of his SPO interview,⁵² which is recorded in verbatim transcripts. W03881 was duly advised of his rights and obligations as a witness.⁵³

56. *The associated exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 7 – videos discussed by W03881 and W03881's handwritten diary – should be admitted as they are an inseparable and indispensable part of W03881's Rule 154 Statement, in that they are used and explained therein.

57. W03881's diary should be admitted in its entirety. The diary is a contemporaneous memorialisation of the events, which W03881 recorded on a daily basis, and includes photographs, newspaper articles, and other relevant documents. The entire diary is relevant to all issues discussed by W03881 during his interview, including the events of 18 June 1999 and the targeting of minorities, and [REDACTED]. Throughout his SPO interview, W03881 constantly referred to his diary when answering questions.⁵⁴

58. *Suitable for Rule 154 admission.* W03881's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission will

⁵⁰ Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁵¹ For an individualised assessment of reliability, *see* Annex 7.

⁵² 071136-TR-ET Parts 1-5 Revised 1.

⁵³ 071136-TR-ET Part 1 Revised RED, pp.1-2, 4.

⁵⁴ *See, e.g.*, 071136-TR-ET Part 1 Revised RED, pp.6, 8; 071136-TR-ET Part 2 Revised, pp.17-18, 25-27, 36, 42, 46; 071136-TR-ET Part 3 Revised 1 RED, pp.1, 20; 071136-TR-ET Part 4 Revised, pp.3, 5, 9, 11, 21, 23; 071136-TR-ET Part 5 Revised, pp.2-3, 4-5, 9, 12, 15-17.

significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W03881 for approximately 1.5 hours on matters that highlight, clarify or explain certain aspects of the evidence.

H. W04371

59. *Relevance.* W04371 is the [REDACTED], a murder and enforced disappearance victim identified in the Indictment. In [REDACTED] 1998, W04371's [REDACTED] was stopped by the KLA at a checkpoint and [REDACTED], where he was questioned by KLA member [REDACTED]. On [REDACTED], W04371 went with his [REDACTED] to the KLA headquarters in [REDACTED] to find out why his [REDACTED] had been questioned and to determine whether [REDACTED]. When W04371 arrived at the headquarters in [REDACTED], he was arrested. While in KLA detention, W04371 was questioned about his [REDACTED]. The next day, on [REDACTED] told W04371 to leave [REDACTED] and that if he saw him again, he would kill him. [REDACTED].

60. Throughout June 1998, W04371, his brother, and his grandfather went to [REDACTED] multiple times to inquire about W04371's [REDACTED] detention. [REDACTED]. [REDACTED].

61. Following that last meeting in July 1998, W04371 and his family made multiple inquiries of former KLA members to determine his [REDACTED] fate. [REDACTED].

62. W04371's evidence is thus relevant to charged crimes in the Indictment.⁵⁵

63. *Authenticity and reliability.* W04371's Proposed Evidence is *prima facie* authentic and reliable.⁵⁶ The W04371 Rule 154 Statement is comprised of: (i) W04371's SPO

⁵⁵ See, generally Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁵⁶ For an individualised assessment of reliability, see Annex 8.

interview;⁵⁷ and (ii) an UNMIK statement.⁵⁸ The SPO interview transcripts are verbatim records. W04371 was duly advised of his rights as a witness⁵⁹ and confirmed that the contents of his statements are true and accurate.⁶⁰

64. *The associated exhibits are admissible.* The associated exhibits forming part of W04371's Proposed Evidence in Annex 8 – namely letters, photographs, a map, and a forensic report – should be admitted as they are used and explained in W04371's evidence, and therefore form an indispensable part thereof.

65. *Suitable for Rule 154 admission.* W04371's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission 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 W04371's evidence, for one hour.

I. W04710

66. *Relevance.* W04710 is the [REDACTED], a murder and enforced disappearance victim identified in the Indictment. W04710 was involved in the LPK [REDACTED]. Following his [REDACTED] disappearance, W04710's family and friends made extensive inquiries of former KLA members at [REDACTED]. W04710 and the rest of the family, ultimately learned of [REDACTED]. W04710 still does not know what happened to his [REDACTED] and his body has never been found.

67. W04710's evidence is thus relevant to charged crimes in the Indictment.⁶¹

⁵⁷ 060207-TR-ET Part 1 Revised RED2; 060207-TR-ET Part 2 Revised RED2; 060207-TR-ET Part 3 Revised RED2; 060207-TR-ET Part 4 Revised RED2; 060207-TR-ET Part 5 Revised RED2; 060207-TR-ET Part 6 Revised RED2; 060207-TR-ET Part 7 Revised RED2.

⁵⁸ SITF00299810-SITF00299818 RED2.

⁵⁹ 060207-TR-ET Part 1 Revised RED2, p.2-4.

⁶⁰ 060207-TR-ET Part 1 Revised RED2, pp.6-8; 060207-TR-ET Part 7 Revised RED2, p.7-8.

⁶¹ See, generally Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

68. *Authenticity and Reliability.* The W04710 Rule 154 Statement is comprised of W04710's SPO interview.⁶² The statement, which is recorded in verbatim transcripts, bears sufficient indicia of reliability.⁶³ W04710 was duly advised of his rights as a witness.⁶⁴ W04710 confirmed that the contents of his recorded statement are true and accurate, and that his statement was given voluntarily.⁶⁵

69. *The Associated Exhibits are admissible.* The associated exhibit forming part of W04710's Proposed Evidence in Annex 9 – namely, a letter – should be admitted as it is used and explained in W04710's evidence, and therefore forms an indispensable part thereof.

70. *Suitable for Rule 154 Admission.* W04710's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission for W04710'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 W04710's evidence, for one hour.

J. W04850

71. *Relevance and Authenticity.* The Panel has already found that W04850's Proposed Evidence⁶⁶ is *prima facie* relevant, authentic,⁶⁷ and probative.⁶⁸

72. *Suitable for Rule 154 Admission.* In the Rule 153 Decision, the Panel found that, because W04850's Proposed Evidence on the circumstances of the arrest and detention

⁶² 091696-TR-ET Parts 1-3 RED2.

⁶³ For an individualised assessment of reliability, *see* Annex 9.

⁶⁴ 091696-TR-ET Part 1 RED2, p.4.

⁶⁵ 091696-TR-ET Part 3 RED2, pp.22-23.

⁶⁶ The Rule 154 Statement consists of: (i) SPOE00089545-00089570 RED and (ii) SPOE00092352-00092379 RED, pp.SPOE00092355-0092379 RED.

⁶⁷ For an individualised assessment of reliability, *see* Annex 10.

⁶⁸ Decision on Prosecution Motion for the Admission of the Evidence of Witnesses W04016, W04019, W04044, W04305, W04361, W04722, W04816, W04850, W04851, and W04852 pursuant to Rule 153, KSC-BC-2020-06/F02111, 8 February 2024, Confidential ('Rule 153 Decision'), paras 72-74.

of [REDACTED] and another victim overlaps with the evidence of other witnesses admitted under Rule 153, the prejudicial effect of the admission of W04850's evidence under Rule 153 outweighs its probative value at this stage.⁶⁹ This finding was without prejudice to, *inter alia*, any Rule 154 application in relation to W04850.⁷⁰

73. The Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission for W04850'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 W04850's evidence, for one hour.

III. CLASSIFICATION

74. This submission and its Annexes are confidential pursuant to Rule 82(4) and to give effect to existing protective measures. In the public redacted version of this filing, specific ERNs have been redacted for the protection of an upcoming witness. Following the testimony of the witness concerned, the ERNs can be made public, as the witness is anticipated to testify without protective measures.⁷¹

IV. RELIEF REQUESTED

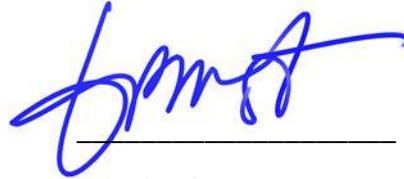
75. For the foregoing reasons, the Trial Panel should: (i) authorise the addition of the three documents identified above to the Exhibit List; and (ii) admit the Proposed Evidence, subject to fulfilment of the Rule 154 conditions by the relevant witnesses during their appearances in court.

⁶⁹ Rule 153 Decision, KSC-BC-2020-06/F02111, para.75.

⁷⁰ Rule 153 Decision, KSC-BC-2020-06/F02111, paras 75, 93(c).

⁷¹ See footnotes 18, 21-22, 25, 27, 29.

Word Count: 5,816



Kimberly P. West

Specialist Prosecutor

Friday, 22 March 2024

At The Hague, the Netherlands.