



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: 13 August 2024

Language: English

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**Public Redacted Version of Decision on Prosecution Motion for Admission of
Evidence of Witnesses W03871, W04735, and W04868 Pursuant to Rule 154 and
Related Requests (F02450)**

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TRIAL PANEL II (“Panel”), pursuant to Articles 21 and 37 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 137, 138, 141(1), and 154 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 16 March 2023, 9 June 2023, 10 July 2023, 24 July 2023, 10 October 2023, 2 November 2023, 1 December 2023, 8 January 2024, 12 February 2024, 16 April 2024, 3 May 2024, 22 May 2024, 24 May 2024, and 28 June 2024, the Panel issued decisions on motions of the Specialist Prosecutor’s Office (“SPO”) pursuant to Rule 154 with regard to eighty-one (81) witnesses.¹

¹ F01380, Panel, *Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154* (“First Rule 154 Decision”), 16 March 2023, confidential (a public redacted version was filed on 7 November 2023, F01380/RED); F01593, Panel, *Decision on Urgent Prosecution Updates and Related Requests Concerning Witnesses in the Next Evidentiary Block*, 9 June 2023, confidential (a public redacted version was filed on 31 October 2023, F01593/RED); F01595, Panel, *Decision on Second Prosecution Motion Pursuant to Rule 154*, 9 June 2023, confidential (a corrected version was issued on 10 August 2023, F01595/COR; a public redacted version was filed on 9 November 2023, F01595/COR/RED); F01664, Panel, *Decision on Prosecution Motion for Admission of Evidence of W00072, W02153 and W04586 Pursuant to Rule 154*, 10 July 2023, confidential (a public redacted version was filed on 27 November 2023, F01664/RED); 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 (a public redacted version was filed on 7 November 2023, F01700/RED); F01848, Panel, *Decision on Prosecution Motion for Admission of Evidence of W00208, W02082, W02475, W04147, W04325, W04491 and W04753 Pursuant to Rule 154*, 10 October 2023, confidential (a public redacted version was filed on 14 November 2023, F01848/RED); 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*, 2 November 2023, confidential (a public redacted version was filed on the same day, F01901/RED; a further public redacted version was filed on 30 May 2024, F01901/RED2); F01976, Panel, *Decision on Prosecution Motion for Admission of Evidence of Witnesses W00498, W01140, and W01763 Pursuant to Rule 154*, 1 December 2023, confidential (a public redacted version was filed on the same day, F01976/RED); F02044, Panel, *Decision on Prosecution Motion for Admission of Evidence of Witnesses W01163, W02144, W02749, W04230, W04445, W04489, W04576, W04739, W04741, and W04820 Pursuant to Rule 154 and Related Request*, 8 January 2024, confidential (a public redacted version was filed on the same day, F02044/RED); F02117, Panel, *Decision on Prosecution Motion for Admission of Evidence of W01453, W03878, W04446, W04575, and W04651 Pursuant to Rule 154*, 12 February 2024, confidential (a public redacted version was filed on the same day, F02117/RED); F02245, Panel, *Decision on Prosecution Motion for Admission of Evidence of W01978, W02540, W02677, W02714, W02951, W03865, W03881, W04371, W04710, and W04850 Pursuant to Rule 154 and Amendment of Exhibit List*, 16 April 2024, confidential (a public redacted version was filed

2. On 30 May 2023, 10 and 12 July 2023, 25 August 2023, 19 September 2023, 3 November 2023, 15 December 2023, 15 January 2024, 15 March 2024, and 19 April 2024, upon authorisation from the Panel,² the SPO amended its list of proposed exhibits (“Exhibit List”).³

on the same day, F02245/RED); F02281, Panel, *Decision on Urgent Prosecution Motion for Admission of Evidence of W02486 Pursuant to Rule 154 and Request for Video-Conference Testimony (F02270)*, 3 May 2024, confidential (a public redacted version was filed on the same day, F02281/RED). W02486’s proposed evidence was subsequently admitted under Rule 153, see Transcript of Hearing, 7 May 2024, p. 15468, line 13 to p. 15459, line 19; F02328, Panel, *Decision on Prosecution Motion for Admission of Evidence of Evidence of Witnesses W01511, W04260, W04305, W04410, W04744, W04752, and W04764 Pursuant to Rule 154*, 22 May 2024, confidential (a public redacted version was filed on the same day, F02328/RED); F02339, Panel, *Decision on Prosecution Motion for Admission of Evidence of W00992, W01336, and W04824 Pursuant to Rule 154*, 24 May 2024, confidential (a public redacted version was filed on the same day, F02339/RED); F02415, Panel, *Decision on Prosecution Motion for Admission of Evidence of Witness W04501 pursuant to Rule 154 (F02388)*, 28 June 2024, confidential (a public redacted version was filed on the same day, F02415/RED).

² F01352, Panel, *Decision on Prosecution Request to Amend the Exhibit List and Related Matters*, 8 March 2023, confidential (a public redacted version was issued on 1 November 2023, F01352/RED); F01544, Panel, *Decision on Prosecution Request to Add Five Items Relating to Expert Witness to the Exhibit List*, 23 May 2023; Transcript of Hearing, 12 July 2023, p. 5551, line 9 to p. 5553, line 19; F01656, Panel, *Decision on Prosecution Request to Add Intercepted Communications to the Exhibit List*, 7 July 2023, confidential (a public redacted version was issued on 14 November 2023, F01656/RED); F01739, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F01728)*, 24 August 2023, confidential (a public redacted version was issued on 15 November 2023, F01739/RED); F01785, Panel, *Decision on Prosecution Requests to Amend the Exhibit List (F01689 and F01747)*, 12 September 2023, confidential (a public redacted version was issued on 10 November 2023, F01785/RED); F01902, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F01858)* (“3 November 2023 Decision”), 3 November 2023; F01995, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F01844)*, 8 December 2023, confidential (a public redacted version was issued on the same day, F01995/RED); F02044, Panel, *Decision on Prosecution Motion for Admission of Evidence of Witnesses W01163, W02144, W02749, W04230, W04445, W04489, W04576, W04739, W04741, and W04820 Pursuant to Rule 154 and Related Request*, 8 January 2024, confidential (a public redacted version was issued on the same day, F02044/RED); F02167, Panel, *Decision on Prosecution Request to Amend the Exhibit List (F02099)* (“7 March 2024 Decision”), 7 March 2024, confidential (a public redacted version was filed on the same day, F02167/RED); F02245, Panel, *Decision on Prosecution Motion for Admission of Evidence of W01978, W02540, W02677, W02714, W02951, W03865, W03881, W04371, W04710, and W04850 Pursuant to Rule 154 and Amendment of Exhibit List (F02196)*, 16 April 2024, confidential (a public redacted version was filed on the same day, F02245/RED).

³ F01562, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 30 May 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01662, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 10 July 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01669, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 12 July 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01744, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 25 August 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F01802, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 19 September 2023, with Annex 1, strictly confidential and *ex parte*,

3. On 16 July 2024, the SPO filed a Rule 154 motion in relation to nine (9) witnesses (“Motion”).⁴
4. On 29 July 2024, having been granted an extension of time by the Panel to do so,⁵ the Defence teams for Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi (collectively, “Defence”) responded to the Motion in relation to three of the nine witnesses, namely W03871, W04735, and W04868 (“Response”).⁶
5. On 2 August 2024, the SPO replied to the Response (“Reply”).⁷

II. SUBMISSIONS

6. The SPO requests: (i) the addition of one prior statement and one associated exhibit to the Exhibit List; and (ii) the admission of the statements, together with associated exhibits (respectively, “Statements” and “Associated Exhibits”; collectively, “Proposed Evidence”) of witnesses W02135, W03871, W04295, W04372, W04590, W04600, W04735, W04737, and W04868.⁸ The SPO submits that the Proposed Evidence meets the requirements of Rules 138(1) and 154 and its

and Annex 2, confidential; F01906, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 3 November 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02014, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 15 December 2023, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02061, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 15 January 2024, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02184, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 15 March 2024, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential; F02254, Specialist Prosecutor, *Prosecution Submission of Amended Exhibit List*, 19 April 2024, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential.

⁴ F02450, Specialist Prosecutor, *Prosecution Motion for Admission of Evidence of Witnesses W02135, W03871, W04295, W04372, W04590, W04600, W04735, W04737, and W04868 Pursuant to Rule 154 and Related Requests*, 16 July 2024, confidential, with Annexes 1-9, confidential (a public redacted version was filed on 17 July 2024, F02450/RED).

⁵ See Transcript of Hearing, 17 July 2024, confidential, p. 18381, lines 8-18

⁶ F02477, Specialist Counsel, *Joint Defence Consolidated Response to F02450 and F02451*, 29 July 2024, confidential, with Annexes 1-3, confidential (a public redacted version was filed on 1 August 2024, F02477/RED).

⁷ F02483, Specialist Prosecutor, *Prosecutor Reply Relating to Response F02477*, 2 August 2024, confidential (a public redacted version was filed on the same day, F02483/RED).

⁸ Motion, paras 1, 74.

admission is not outweighed by any prejudice and is therefore in the interests of justice.⁹

7. The Defence responds that admission of material pursuant to Rule 154 should be appropriately time-saving and devoid of repetition.¹⁰ The Defence requests the Panel to place reasonable limits on the admission of evidence onto the case record that is not pleaded in the SPO's indictment ("Indictment")¹¹ and that is unsupported by tangible evidence.¹² The Defence notifies that it will file separate motions to limit the scope of W04735's and W04868's *viva voce* testimony.¹³ The Defence requests the Panel to: (i) take notice of its objections; (ii) deny the admission of W03871's and W04735's evidence through Rule 154 and order the SPO to elicit their evidence *viva voce*; (iii) deny the admission of the portions of W04868's evidence related to a specific allegation; and (iv) deny the admission of some of the proposed associated exhibits.¹⁴

8. The SPO replies that the Response ignores prior findings of the Panel and the established standard for admissibility of statements and associated exhibits, particularly in the context of Rule 154 where the witnesses will be available for cross-examination.¹⁵ The SPO reiterates that the Motion should be granted.¹⁶

⁹ Motion, para. 2.

¹⁰ Response, para. 7.

¹¹ F00999/A01, Specialist Prosecutor, *Annex 1 to Submission of Confirmed Amended Indictment*, 30 September 2022, confidential (a public lesser redacted version was filed on 27 February 2023, F01323/A01).

¹² Response, para. 7.

¹³ Response, para. 7.

¹⁴ Response, para. 30.

¹⁵ Reply, para. 1.

¹⁶ Reply, para. 12.

III. APPLICABLE LAW

9. The Panel incorporates by reference the applicable law as set out in its First Rule 154 Decision.¹⁷

IV. DISCUSSION

10. At the outset, the Panel notes that the present decision will only deal with three of the nine witnesses concerned by the Motion, namely: W03871, W04735, and W04868. The remainder of the Motion will be dealt with in another decision to be issued in due course.¹⁸

A. W03871

11. The SPO submits that the proposed evidence of W03871¹⁹ is: (i) relevant;²⁰ (ii) *prima facie* authentic and reliable;²¹ and (iii) suitable for admission under Rule 154.²²

12. The Defence does not object to W03871's Statements being tendered under Rule 154.²³ The Defence submits, however, that the estimate of three hours of additional examination-in-chief appears excessive and would jeopardise the time-

¹⁷ First Rule 154 Decision, paras 11-35.

¹⁸ The Panel recalls that it granted the Defence an extension of time until 23 August 2024 to respond to the Motion in relation to witnesses scheduled to appear after 5 September 2024. *See* Transcript of Hearing, 17 July 2024, confidential, p. 18381, lines 8-18.

¹⁹ The proposed evidence of W03871 ("W03871's Proposed Evidence") consists of the following statements and associated exhibits, including any translation thereof: (i) SITF00451709-SITF00451717 RED2, (ii) 077605-TR-ET Part 1 RED2, 077605-TR-ET Parts 2-4, 077605-TR-ET Part 5 RED2, and (iii) 087626-TR-ET Part 2 RED2 (collectively, "W03871's Statements"); and (i) U000-7104-U000-7105-ET, (ii) U003-1450-U003-1530-ET, p. U003-1515, and (iii) U000-7274-U000-7286-ET (collectively "W03871's Associated Exhibits"). *See* Annex 2 to the Motion.

²⁰ Motion, paras 12-15.

²¹ Motion, para. 16.

²² Motion, para. 18.

²³ Response, para. 8.

saving purpose of Rule 154 admission.²⁴ The Defence argues that W03871's Associated Exhibits do not constitute an inseparable and indispensable part of W03871's Statements.²⁵ At the same time, the Defence also requests that the Panel deny the admission of W03871's Proposed Evidence through Rule 154.²⁶

13. The SPO replies that its three-hour estimate for the duration of supplemental examination of W03871 is justified by the nature and volume of items which it intends to use with this witness.²⁷ The SPO notes that it will use only the time necessary and that it will notify any changes to the estimate should the need arises.²⁸ The SPO reiterates that W03871's Associated Exhibits meet the relevant requirements for admission.²⁹

14. *W03871's Statements*. Regarding relevance, W03871 is said to have joined the Kosovo Liberation Army ("KLA") around March 1998, trained KLA members and acted as a unit commander.³⁰ W03871's Statements contain information, *inter alia*, regarding: (i) the formation, structure, tasks, and reporting of the KLA units that W03871 was in and of other KLA units he has knowledge of; (ii) meetings W03871 attended with other KLA members; and (iii) the alleged detention of an individual whom KLA members accused of being a spy.³¹ The Panel is satisfied that W03871's Statements are relevant to the charges in the Indictment.³²

15. Regarding *prima facie* authenticity and reliability, the Panel notes that W03871's Statements consist of: (i) W03871's United Nations Mission in Kosovo

²⁴ Response, para. 8.

²⁵ Response, paras 8, 30.

²⁶ Response, para. 30.

²⁷ Reply, para. 2.

²⁸ Reply, para. 2.

²⁹ Reply, para. 3.

³⁰ Motion, para. 12.

³¹ Motion, paras 12-14; F00709/A01, Specialist Prosecutor, *Annex 1 to Prosecution Submission of Corrected Pre-Trial Brief and Related Request* ("SPO Pre-Trial Brief"), 24 February 2022, strictly confidential and *ex parte*, paras [REDACTED] (a public redacted version was filed on 3 April 2023, F01415/A01; a confidential lesser redacted version was filed on 9 June 2023, F01594/A03).

³² See Indictment, paras [REDACTED] (a public lesser redacted version was filed on 27 February 2023, F01323/A01).

(“UNMIK”) statement; and (ii) W03871’s SPO interviews.³³ W03871’s Statements contain multiple indicia of authenticity and reliability, including: (i) the verbatim transcripts of the audio-video recorded SPO interviews; (ii) a statement of the witness warnings, rights and acknowledgment during the UNMIK interview; (iii) the witness’s signature on the UNMIK statement; (iv) an indication of the date, time and place of the interview and statement; and (v) the details of the witness and the staff.³⁴ In light of the above, the Panel is satisfied of the *prima facie* authenticity and reliability of W03871’s Statements.

16. The Panel is satisfied that W03871’s Statements also bear *prima facie* probative value, which is not being disputed by the Defence.

17. Regarding suitability for admission pursuant to Rule 154, the Panel notes that W03871’s Statements are 132 pages in length (in English) and the Defence does not object to their admission. With regard to the three-hour time estimate for direct examination, the Panel notes the SPO’s explanation that: (i) this time is justified by the nature and volume of items that the SPO intends to use with W03871; (ii) it will only use the time necessary for completion of the supplemental examination; and (iii) notify the Panel, the Parties and participants should this estimate change.³⁵ The Panel will not direct the SPO at this stage to reduce its time estimate for direct examination. However, the Panel encourages the SPO to use any additional time it needs judiciously. In light of the above, the Panel is satisfied that the admission of W03871’s Statements under Rule 154: (i) would contribute to the expeditiousness of the proceedings as it would reduce the amount of direct examination required for this witness to a *maximum* of three hours;³⁶ and

³³ SITF00451709-SITF00451717 RED2; 077605-TR-ET Parts 1 and RED2, 077605-TR-ET Parts 2-4; 087626-TR-ET Part 2 RED2.

³⁴ See e.g. 077605-TR-ET Part 1 RED2, p. 1; SITF00451709-SITF00451717 RED2, pp. SITF00451709, SITF00451717; 077605-TR-ET Part 5 RED2, pp. 4-5; 087626-TR-ET Part 2 RED2, pp. 47-48; 077605-TR-ET Part 2, pp. 6-7. See also Motion, para. 16; Annex 2 to the Motion, pp. 1-2.

³⁵ See Reply, para. 2.

³⁶ Motion, para. 18.

(ii) insofar as the Defence will have an opportunity to cross-examine W03871 and conduct further investigations if it wishes so, would not cause unfair prejudice to the Defence. The Panel finds that the *prima facie* probative value of W03871's Statements is not outweighed by any prejudicial effect, and that W03871's Statements are suitable for admission pursuant to Rule 154.

18. *W03871's Associated Exhibits*. The Panel observes that W03871's Associated Exhibits comprise: (i) a list of KLA members;³⁷ (ii) a collection of documents of the KLA General Staff;³⁸ and (iii) travel authorisations.³⁹ The Panel notes that the Defence opposes the admission of W03871's Associated Exhibits as, it submits, W03871 fails to authenticate them and they are said not to form an inseparable or indispensable part of W03871's Statements.⁴⁰ The Panel observes that W03871's Associated Exhibits were discussed in some detail in W03871's Statements.⁴¹ The Panel considers that, without them, the relevant parts of W03871's Statements would become incomprehensible or of lesser probative value. The Panel rejects the Defence's submissions to the contrary. The Panel is also satisfied that W03871's Associated Exhibits are relevant.⁴² The Panel is further satisfied of the *prima facie* authenticity and probative value of W03871's Associated Exhibits. The concerns raised by the Defence with respect to W03871's Associated Exhibits can be adequately addressed during cross-examination. Insofar as the Defence has a meaningful opportunity to cross-examine this witness, the Panel is satisfied that the *prima facie* probative value of W03871's Associated Exhibits is not outweighed by its prejudicial effect. Accordingly, the Panel finds that W03871's Associated Exhibits are appropriate for admission under Rules 138(1) and 154.

19. In light of the above, the Panel finds that W03871's Proposed Evidence is

³⁷ U000-7104-U000-7105-ET and corresponding translation; Annex 2 to the Motion, p. 3.

³⁸ U003-1450-U003-1530-ET, p. U003-1515 and corresponding translation; Annex 2 to the Motion, p. 3.

³⁹ U000-7274-U000-7286-ET and corresponding translation; Annex 2 to the Motion, p. 4.

⁴⁰ See Response, para. 8.

⁴¹ See e.g. 077605-TR-ET Part 3, pp. 13-15, 17-21.

⁴² See also above, para. 14.

relevant, *prima facie* authentic, and has *prima facie* probative value which is not outweighed by any prejudicial effect, and is therefore appropriate for admission pursuant to Rules 138(1) and 154.

B. W04735

20. The SPO submits that the proposed evidence of W04735⁴³ is: (i) relevant;⁴⁴ (ii) *prima facie* authentic and reliable;⁴⁵ and (iii) suitable for admission under Rule 154.⁴⁶

21. The Defence objects to the admission of W04735's Proposed Evidence pursuant to Rule 154 and requests the Panel to order the SPO to elicit W04735's evidence *viva voce*.⁴⁷ The Defence argues that W04735's Proposed Evidence is inconsistent, unreliable and speculative, including on issues which, the Defence submits, are central to the SPO's case.⁴⁸ In the Defence's view, admission of such evidence would shift the burden onto the Defence to challenge allegations for which no foundation has been established.⁴⁹ The Defence avers that a portion of W04735's Proposed Evidence proffers allegations that do not form part of the charges and submits that the probative value of such part of the evidence is outweighed by its prejudicial effect.⁵⁰ Should the evidence be deemed admissible, the Defence requests that only the pages containing the witness' substantive

⁴³ The proposed evidence of W04735 ("W04735's Proposed Evidence") consists of the following statements and associated exhibit, including any translation thereof: (i) SITF00013369-00013477 RED3, pp. SITF00013369-SITF00013403; (ii) SITF00016611-SITF00016704 RED3, (iii) SITF00016493-00016533 RED3, and (iv) SPOE00014585-00014639 RED3 (collectively, "W04735's Statements"); and SITF00431126-00431161 RED, pp. SITF00431126-SITF00431140 ("W04735's Associated Exhibit"). See Annex 7 to the Motion.

⁴⁴ Motion, paras 49-52.

⁴⁵ Motion, para. 53.

⁴⁶ Motion, para. 55.

⁴⁷ Response, paras 9, 13, 30.

⁴⁸ Response, paras 10-12.

⁴⁹ Response, para. 11.

⁵⁰ Response, paras 14-18.

evidence be admitted, and that the SPO be ordered to produce a pseudonym sheet for the protected witnesses in the proceedings concerned.⁵¹

22. The SPO reiterates that W04735's Statements are reliable and probative.⁵² In the SPO's view, the alleged uncertainties or inconsistencies can be cross-examined and, to the extent relevant, considered when weighing the evidence.⁵³ The SPO submits that the alleged "concessions" made by the witness in his Statements do not affect the reliability of W04735's Proposed Evidence.⁵⁴ The SPO replies that the scope of W04735's Proposed Evidence has been laid out in the Motion.⁵⁵ The SPO submits that the parts of W04735's Statements concerning other deaths should not be excluded as, in the view of the SPO, these parts are relevant to W04735's arrest and mistreatment and the alleged targeting of his family.⁵⁶ Regarding the procedural discussion in two of W04735's Statements, the SPO avers that it is unnecessary to exclude them as they do not overburden the record.⁵⁷

23. *W04735's Statements.* Regarding relevance, W04735 is a Kosovo Albanian who was allegedly abducted, detained and mistreated by KLA members.⁵⁸ According to the SPO, W04735's Statements are relevant as they concern, *inter alia*, allegations of: (i) the witness's detention and mistreatment in two distinct locations by the KLA; (ii) the poor conditions of detention of the witness and his co-detainees; (iii) the Serb and Roma ethnicity of some of W04735's co-detainees; (iv) the identification of certain KLA soldiers at one of the detention location; and (v) the release of W04735 and his co-detainees under threats by the KLA of being killed if they told anyone that they had been held.⁵⁹ The Panel is satisfied that W04735's

⁵¹ Response, paras 19-20.

⁵² Reply, para. 4.

⁵³ Reply, para. 4.

⁵⁴ Reply, para. 5.

⁵⁵ Reply, para. 6.

⁵⁶ Reply, para. 6.

⁵⁷ Reply, para. 7.

⁵⁸ Motion, para. 49.

⁵⁹ Motion, paras 49-51.

Statements are relevant to the charges in the Indictment.⁶⁰

24. Regarding *prima facie* authenticity and reliability, the Panel notes that W04735's Statements consist of: (i) W04735's SPO statement; and (ii) W04735's testimony before other jurisdictions.⁶¹ W04735's Statements contain multiple indicia of authenticity and reliability, including: (i) witness warnings, rights and acknowledgment for all statements;⁶² (ii) the witness's signature;⁶³ (iii) an indication of the date, time and place of the interview and testimony;⁶⁴ and (iv) the details of the witness and attendees.⁶⁵ In light of the above, the Panel is satisfied of the *prima facie* authenticity and reliability of W04735's Statements. The Panel rejects the Defence's submissions to the contrary.

25. The Panel is satisfied that W04735's Statements also bear *prima facie* probative value.

26. Regarding suitability for admission pursuant to Rule 154, the Panel notes that W04735's Statements are 184 pages in length (in English). The Panel is satisfied that the admission of W04735's Statements under Rule 154: (i) would contribute to the expeditiousness of the proceedings as it would reduce the amount of direct examination required for this witness from 4.5 hours to a maximum of 1.5 hours;⁶⁶ and (ii) insofar as the Defence will have an opportunity to cross-examine the witness and conduct further investigations, would not cause unfair prejudice to the Defence. More specifically, the Panel is satisfied that the Defence will be able to explore the alleged "concessions", speculations, inconsistencies and "added new details" during cross-examination. With regard to the allegations which the

⁶⁰ Indictment, paras [REDACTED]. See also Pre-Trial Brief, paras [REDACTED].

⁶¹ SITF00013369-00013477 RED3, pp. SITF00013369-SITF00013403; SITF00016611-SITF00016704 RED3; SITF00016493-00016533 RED3; SPOE00014585-00014639 RED3.

⁶² SITF00013369-00013477 RED3, p. SITF00013369; SITF00016611-SITF00016704 RED3, pp. SITF00016619-SITF00016620; SPOE00014585-00014639 RED3, p. SPOE00014587.

⁶³ SITF00013369-00013477 RED3, pp. SITF00013403, SITF00013477.

⁶⁴ Motion, para. 53; Annex 7 to the Motion, pp. 1-3

⁶⁵ Motion, para. 53; Annex 7 to the Motion, pp. 1-3.

⁶⁶ Motion, para. 55.

Defence submits relate to uncharged incidents, the Panel is of the view that although these incidents occurred outside of the Indictment period, they could be relevant to, *inter alia*, explaining the reasons for W04735's alleged arrest and mistreatment. The Panel therefore finds that the *prima facie* probative value of W04735's Statements is not outweighed by any prejudicial effect, and that W04735's Statements are suitable for admission pursuant to Rule 154.

27. Regarding the Defence's request to admit only the pages containing the witness's "substantive evidence", the Panel observes that the procedural parts of W04735's Statements are very limited in scope. The Panel is therefore not convinced that admitting these limited procedural parts would unnecessarily bloat the record. The Panel rejects the Defence's request and finds that the entirety of W04735's Statements is admissible pursuant to Rule 154.

28. Regarding the Defence's request for a pseudonym sheet to ascertain the identity of the individuals referred to in W04735's Statements, the Panel notes that the SPO has already disclosed several documents enabling the Panel and the Parties and participants to ascertain the identity of the individuals protected by pseudonyms.⁶⁷ The Panel is therefore not convinced that a pseudonym sheet is necessary at this stage. Should the Defence wish to clarify the identity of an individual referred to in W04735's Statements, it will have the opportunity to question the witness during cross-examination and, if necessary, can submit its own pseudonym sheet for that purpose. The Panel therefore rejects the Defence's request to this effect.

29. *W04735's Associated Exhibit*. The Panel observes that W04735's Associated Exhibit is a report of a photo board identification.⁶⁸ The Panel notes that the Defence does not specifically oppose its admission.⁶⁹ The Panel observes that

⁶⁷ See Reply, para. 7, footnote 20.

⁶⁸ SITF00431126-00431161 RED, pp. SITF00431126-SITF00431140.

⁶⁹ See Response, para. 21.

W04735's Associated Exhibit was discussed in some detail in one of W04735's Statements,⁷⁰ and considers that, without it, the relevant parts of W04735's Statements would become incomprehensible or of lesser probative value. The Panel is also satisfied that W04735's Associated Exhibit is relevant.⁷¹ The Panel is further satisfied of the *prima facie* authenticity and probative value of W04735's Associated Exhibit. Accordingly, the Panel finds that W04735's Associated Exhibit is appropriate for admission under Rules 138(1) and 154.

30. In light of the above, the Panel finds that W04735's Proposed Evidence is relevant, *prima facie* authentic, and has *prima facie* probative value which is not outweighed by any prejudicial effect, and is therefore appropriate for admission pursuant to Rules 138(1) and 154.

C. W04868

1. Request to Amend the Exhibit List

31. The SPO seeks authorisation to amend the Exhibit List by adding W04868's 2022 SPO interview ("Second Interview") to it.⁷² The SPO submits that there is good cause and limited prejudice to the Defence, if any.⁷³ The SPO argues that the Second Interview was not added to the Exhibit List because the witness was expected to testify live.⁷⁴ The SPO avers that permitting the tender and admission of the Second Interview under Rule 154 would streamline W04868's evidence.⁷⁵

32. While the Defence raised objections in relation to the Second Interview, the Panel notes that it did not oppose its addition to the Exhibit List.⁷⁶

⁷⁰ See e.g. SITF00013369-00013477 RED3, pp. SITF00013400-SITF00013401.

⁷¹ See also above, para. 23.

⁷² Motion, para. 72 referring to 106349-TR-ET Parts 1-2.

⁷³ Motion, para. 72.

⁷⁴ Motion, para. 72.

⁷⁵ Motion, para. 72.

⁷⁶ Response, paras 22-27.

33. Pursuant to Rule 118(2), the Panel may permit, upon timely notice and a showing of good cause, the amendment of the lists of witnesses and exhibits filed pursuant to Rule 95(4)(b) and (c). As proceedings advance, any further requests to amend the Exhibit List will be subject to greater scrutiny.⁷⁷ As previously stated,⁷⁸ the Panel has already permitted the SPO to add items to the Exhibit List several times and the Exhibit List is already, by any standards, voluminous. With this in mind, the Panel will assess whether, at the current stage of proceedings, the SPO has provided timely notice and shown good cause for the amendment of its Exhibit List, and that no undue prejudice is caused to the Defence as a result.⁷⁹

34. As regards the timeliness of notice, the Panel notes the SPO's submission that the Second Interview was not previously added to the Exhibit List because W04868 was expected to testify live.⁸⁰ The Panel further notes that the Second Interview was previously disclosed to the Defence under Rule 102(1)(b) on 15 March 2023.⁸¹ Bearing in mind that a certain degree of flexibility must be maintained in the context of a complex multi-accused trial,⁸² and considering that the addition of the Second Interview is prompted by the conversion of the witness's mode of testimony from live to Rule 154, which itself is prompted by efforts to streamline the proceedings, the Panel finds the notice provided by the SPO to be timely.

35. As regards good cause and the question of the relevance and importance of the Second Interview, the Panel understands that the relevance and importance of

⁷⁷ See 7 March 2024 Decision, para. 10. See also Transcript of Hearing, 15 February 2023, pp. 2017-2018.

⁷⁸ 7 March 2024 Decision, para. 10; 8 December 2023 Decision, para. 9; 3 November 2023 Decision, para. 7; 12 September 2023 Decision, para. 16.

⁷⁹ 7 March 2024 Decision, para. 10; 8 December 2023 Decision, para. 9; 3 November 2023 Decision, para. 7; 12 September 2023 Decision, para. 16. Similarly 23 May 2023 Decision, para. 8; Intercepts Decision, para. 10.

⁸⁰ Motion, para. 72.

⁸¹ See Disclosure Package 717.

⁸² See e.g. F01785, Panel, *Decision on Prosecution Requests to Amend the Exhibit List (F01689 and F01747)*, 12 September 2023, confidential, paras 32, 38, 65, 71, 77, 88 (a public redacted version was filed on 10 November 2023, F01785/RED); IA019/F00006, Court of Appeals Panel, *Decision on Thaçi's Appeal against Decision on Specialist Prosecutor's Request to Amend its Exhibit List and to Authorise Related Protective Measures*, 12 July 2022, para. 21

this item and/or the need to use it with W04868 became apparent to the SPO upon deciding to change the witness's mode of testimony from fully live to Rule 154. Further, the Panel observes that the Second Interview clarifies and elaborates on the content of the first interview of the witness and other items already on the Exhibit List.⁸³ In light of the above, the Panel is satisfied that the Second Interview is *prima facie* relevant and of sufficient importance and that there is good cause for its late addition to the Exhibit List.

36. As regards prejudice, the Panel observes that the Second Interview contains 102 pages and has been disclosed to all Defence teams since 15 March 2023 pursuant to Rule 102(1)(b).⁸⁴ The Panel also notes that the Defence does not object to the late addition of this document to the SPO's Exhibit List. The Panel is therefore satisfied that the Defence has sufficient time to adequately prepare before the witness's testimony and that the effectiveness of the rights of the Accused is being preserved. The Panel is further satisfied that no undue prejudice is caused by the addition of the Second Interview to the Exhibit List.

37. The Panel therefore grants leave to the SPO to add 106349-TR-ET Parts 1-2 to the Exhibit List and directs the SPO to file its amended Exhibit List by Friday, 16 August 2024.

⁸³ See e.g. 105816-106095.

⁸⁴ Disclosure Package 717.

2. Rule 154 Request

38. The SPO submits that the proposed evidence of W04868⁸⁵ is: (i) relevant;⁸⁶ (ii) *prima facie* authentic and reliable;⁸⁷ and (iii) suitable for admission under Rule 154.⁸⁸

39. The Defence objects to the admission pursuant to Rule 154 of the parts of W04868's Proposed Evidence relating to a speech given by Hashim Thaçi in early October 1999 that allegedly contained remarks against a multi-ethnic society which included Serbs ("Allegation").⁸⁹

40. The Defence responds that the Panel should not permit that the Allegation form part of W04868's evidence-in-chief because the Allegation: (i) as secondary hearsay is unreliable and would interfere disproportionately with the Accused's right to challenge evidence against him; (ii) is contradicted by other SPO evidence; (iii) is not pleaded in the Indictment and concerns an event outside of the temporal scope of the Indictment; and (iv) the Defence did not receive sufficient notice of it.⁹⁰ The Defence objects to a number of W04868's Associated Exhibits on the grounds that they do not form an inseparable and indispensable part of W04868's

⁸⁵ The proposed evidence of W04868 ("W04868's Proposed Evidence") consists of the following, including any translation thereof: (i) 103757-TR-ET Parts 1-3 RED; and (ii) 106349-TR-ET Parts 1-2 (collectively, "W04868's Statements"); and (i) R091-3823-R091-3824; (ii) 103600-103601; (iii) SPOE00215496-SPOE00215496; (iv) SPOE00215203-SPOE00215209; (v) 088038-088045; (vi) 103567-103567; (vii) 105816-106095, pp. 105924-105951; (viii) 105816-106095, pp. 105825-105876; (ix) 105816-106095, pp. 106094-106095; (x) 105816-106095, pp. 106093-106093; (xi) 105816-106095, pp. 105995-106016; (xii) 105816-106095, pp. 106035-106036; (xiii) 105816-106095, pp. 106059-106060; (xiv) 105816-106095, pp. 105952-105968; (xv) 105816-106095, pp. 106043-106043; (xvi) 105816-106095, pp. 106034-106034; (xvii) 105816-106095, pp. 106017-106026; (xviii) 105816-106095, pp. 105974-105978; (xix) 105816-106095, pp. 106061-106061; (xx) 105816-106095, pp. 106071-106081 (collectively "W04868's Associated Exhibits"). See Annex 9 to the Motion.

⁸⁶ Motion, paras 65-68.

⁸⁷ Motion, para. 69.

⁸⁸ Motion, para. 71.

⁸⁹ Response, para. 22, footnote 48, referring to "106349-TR-ET Part 1, p. 14, line 20 to p. 29 line 20; 106349-TR-ET Part 2, p. 35, lines 1-5 and "3 oct 1999" entry (identified at 106349-TR-ET Part 1, p. 14, lines 20-24), at ERN p. 105939 of Item no. 9 of Annex 9 to the Motion". The Panel notes that the SPO does not seek to tender page 105939, which is not part of proposed associated exhibit no. 9.

⁹⁰ Response, paras 22-26.

Statements, are prejudicial, or irrelevant.⁹¹

41. The SPO replies that the Allegation is relevant to proving pleaded allegations in the Indictment.⁹² The SPO indicates that the 3 October 1999 speech is not a material fact which must be pleaded.⁹³ The SPO submits that there is no reason to assume that W04868's evidence in relation to the Allegation does not meet the *prima facie* standard for admissibility.⁹⁴ Regarding W04868's Associated Exhibits, the SPO argues that the Defence is misguided in that it overstates the meaning of inseparable and indispensable.⁹⁵

42. *W04868's Statements*. Regarding relevance, W04868 was based near one of the locations relevant to the charges in the Indictment during the Indictment period.⁹⁶ According to the SPO, W04868's Statements are relevant in relation to: (i) allegations of crimes committed at relevant locations during the summer of 1999; (ii) incidents in buildings under the control of the KLA in relevant locations, including a detention site; (iii) the KLA organisation and structure; and (iv) the witness's interactions with, knowledge and observations of KLA members during the Indictment period and in the weeks after.⁹⁷ The Panel is satisfied that W04868's Statements, including the Allegation, are relevant to the charges in the Indictment.⁹⁸

43. Regarding *prima facie* authenticity and reliability, the Panel notes that W04868's Statements consist of two verbatim transcripts of audio-video recorded interviews of the witness by the SPO.⁹⁹ They contain multiple indicia of authenticity and reliability, including: (i) an indication of the date and time of the

⁹¹ Response, para. 28.

⁹² Reply, para. 8.

⁹³ Reply, para. 8.

⁹⁴ Reply, para. 9.

⁹⁵ Reply, para. 10.

⁹⁶ See Motion, paras 65-66.

⁹⁷ Motion, paras 65-68.

⁹⁸ Indictment, paras [REDACTED]. See also Pre-Trial Brief, paras [REDACTED].

⁹⁹ 103757-TR-ET Parts 1-3 RED; 106349-TR-ET Parts 1-2.

interviews; (ii) warnings, rights and acknowledgment of the witnesses for both statements; (iii) the details of the witness; and (iv) the witness's confirmation that the contents of the statements are true, accurate and were given voluntarily.¹⁰⁰ In light of the above, the Panel is satisfied of the *prima facie* authenticity and reliability of W04868's Statements.

44. The Panel is satisfied that W04868's Statements also bear *prima facie* probative value.

45. Regarding suitability for admission pursuant to Rule 154, the Panel notes that W04868's Statements are 178 pages in length (in English). Regarding the Defence's argument that the Allegation is unreliable as secondary hearsay, the Panel reiterates that hearsay evidence is admissible in principle, including pursuant to Rule 154, as long as its admission does not interfere disproportionately with the rights of the Accused or where its probative value is considered insufficient for admission.¹⁰¹ The Panel does not find that the Allegation would disproportionately affect the rights of the Accused, as the Defence will have the opportunity to cross-examine W04868 and the issue of hearsay will go to the weight to be given to the evidence, if any. Regarding the Defence's argument that the Allegation should be excluded as it concerns an event outside the temporal scope of the Indictment,¹⁰² the Panel recalls that evidence of events outside the temporal scope of the indictment can be admitted if it is relevant to establishing facts and circumstances validly pleaded in the indictment, has probative value in respect of any such fact or circumstance, and there is no compelling reason to exclude it.¹⁰³ Such evidence may be validly admitted, and relied on, *inter alia* to: (i) clarify a given context; (ii) establish elements of the charged conduct occurring within the temporal scope

¹⁰⁰ See 103757-TR-ET Part 1 RED, p. 3; 103757-TR-ET Part 3 RED, p. 3; 106349-TR-ET Part 1, pp. 3-4; 106349-TR-ET Part 2, p. 55. See also Motion, para. 69; Annex 9 to the Motion, p. 1.

¹⁰¹ First Rule 154 Decision, paras 21, 47.

¹⁰² Response, para. 26.

¹⁰³ F02393, Panel, *Decision on Selimi Defence Motion to Exclude Evidence of W04846*, 19 June 2024, confidential, para. 17 (a public redacted version was filed on the same day, F02393/RED).

of the Indictment; (iii) demonstrate a deliberate pattern of conduct, also referred to as “similar fact evidence”; (iv) establish a pleaded state of mind; or (v) establish a contextual element of the offence.¹⁰⁴ The Panel further recalls that where objection is taken to the admission of evidence on the basis of lack of relevance to the charges as pleaded in the Indictment, it will, amongst other things, assess: (i) the adequacy of any notice given; (ii) the relevance and probative value of the evidence in respect of facts and circumstances validly pleaded in the Indictment; and (iii) the prejudice, if any, to the Accused should the evidence be admitted.¹⁰⁵ The Panel observes that the alleged speech took place less than a month after the Indictment period. As noted by the SPO, this does not constitute a separate material fact which should have been pleaded in the Indictment, but is evidence of facts and circumstances alleged therein. In particular, the Panel is satisfied that the Allegation could be relevant to establishing Mr Thaçi’s alleged state of mind and patterns of statements and conduct by KLA leaders relevant to establishing their knowledge and/or tolerance of conducts charged in the Indictment.¹⁰⁶ The Panel therefore rejects the Defence’s request to redact the part concerning the Allegation from W04868’s Statements.

46. Further, the Panel is satisfied that W04868’s Statements are not repetitive, in that each of the SPO interview has a different focus.¹⁰⁷ The Panel is also satisfied that the admission of W04868’s Statements under Rule 154: (i) would contribute to

¹⁰⁴ ICTR, *Nahimana et al. v Prosecutor*, ICTR 97-27-AR72 & ICTR 96-11-AR72, Appeals Chamber, [Decision on the Interlocutory Appeals \(Separate Opinion of Judge Shahabuddeen\)](#), 5 September 2000, paras 18-26; *Prosecutor v. Théoneste Bagosora et al.*, ICTR-98-41-T, Trial Chamber, [Decision on Admissibility of Proposed Testimony of Witness DBY](#), 18 September 2003, paras 5-39; ICTY, *Prosecutor v. Pavle Strugar*, IT-01-42-T, Trial Chamber, [Decision on the Defence Objection to the Prosecution’s Opening Statement Concerning Admissibility of Evidence](#), 22 January 2004, pp. 1-4; *Prosecutor v. Dragoljub Kunarac et al.*, IT-96-23-T & IT-96-23/1-T, Trial Chamber, [Judgment](#), 22 February 2001, paras 570-592; *Prosecutor v. Prlić et al.*, IT-04-74-T, Trial Chamber, [Decision on Slobodan Praljak’s Motion for Clarification of the Time Frame of the Alleged Joint Criminal Enterprise](#), 15 January 2009, p. 9; ICTY, *Prosecutor v. Zoran Kupreškić et al.*, IT-95-16-A, Appeals Chamber, [Judgment](#), 23 October 2001, para. 321.

¹⁰⁵ F01623, Panel, *Decision on Thaçi Defence’s Motion to Strike Part of W02652’s Testimony*, 23 June 2023, confidential, paras 20-24 (a public redacted version was filed on 24 July 2023, F01623/RED).

¹⁰⁶ See Indictment, para. 50(d).

¹⁰⁷ See Motion, para. 71, footnote 79.

the expeditiousness of the proceedings as it would reduce the amount of direct examination required for this witness from 3 hours to a maximum of 1.5 hours;¹⁰⁸ and (ii) as the Defence will have an opportunity to cross-examine the witness and conduct further investigations into the Allegation, would not cause unfair prejudice to the Defence. The Panel therefore finds that the *prima facie* probative value of W04868's Statements is not outweighed by any prejudicial effect, and that W04868's Statements are suitable for admission pursuant to Rule 154.

47. *W04868's Associated Exhibits*. The Panel observes that W04868's Associated Exhibits consist of, *inter alia*, reports, media reports, pictures and other documents.¹⁰⁹ The Panel notes that, while not objecting to all of them,¹¹⁰ the Defence opposes the admission of some of W04868's Associated Exhibits, by challenging the suggestion that they form an inseparable and indispensable part of W04868's Statements, or on the basis that they are irrelevant.¹¹¹ The Panel observes that W04868's Associated Exhibits were discussed in some detail in one of W04868's Statements¹¹² and considers that without those associated exhibits, the relevant parts of W04868's Statements would be incomprehensible or of lesser

¹⁰⁸ Motion, para. 71, footnote 80.

¹⁰⁹ (i) R091-3823-R091-3824; (ii) 103600-103601; (iii) SPOE00215496-SPOE00215496; (iv) SPOE00215203-SPOE00215209; (v) 088038-088045; (vi) 103567-103567; (vii) 105816-106095, pp. 105924-105951; (viii) 105816-106095, pp. 105825-105876; (ix) 105816-106095, pp. 106094-106095; (x) 105816-106095, pp. 106093-106093; (xi) 105816-106095, pp. 105995-106016; (xii) 105816-106095, pp. 106035-106036; (xiii) 105816-106095, pp. 106059-106060; (xiv) 105816-106095, pp. 105952-105968; (xv) 105816-106095, pp. 106043-106043; (xvi) 105816-106095, pp. 106034-106034; (xvii) 105816-106095, pp. 106017-106026; (xviii) 105816-106095, pp. 105974-105978; (xix) 105816-106095, pp. 106061-106061; (xx) 105816-106095, pp. 106071-106081.

¹¹⁰ The Defence does not object to the admission of: (i) SPOE00215496-SPOE00215496; (ii) 05816-106095, pp. 106059-106060; (iii) 105816-106095, pp. 105952-105968; (iv) 105816-106095, pp. 106017-106026; (v) 105816-106095, pp. 106061-106061; and (vi) 105816-106095, pp. 106071-106081. However, the Defence objects to the admission of: (i) R091-3823-R091-3824; (ii) 103600-103601; (iii) SPOE00215203-SPOE00215209; (iv) 088038-088045; (v) 103567-103567; (vi) 105816-106095, pp. 105924-105951; (vii) 105816-106095, pp. 105825-105876; (viii) 105816-106095, pp. 106094-106095; (ix) 105816-106095, pp. 106093-106093; (x) 105816-106095, pp. 105995-106016; (xi) 105816-106095, pp. 106035-106036; (xii) 105816-106095, pp. 106043-106043; (xiii) 105816-106095, pp. 106034-106034; and (xiv) 105816-106095, pp. 105974-105978.

¹¹¹ See Response, para. 28.

¹¹² See e.g. 103757-TR-ET Part 2, pp. 27-32, 36-41, 43-48, 51-53; 106349-TR-ET Part 1, pp. 4-16, 19, 31-32, 42-43; 106349-TR-ET Part 2, pp. 5, 12-16, 22-24, 27-30, 49-53.

probative value. The Panel is also satisfied that W04868's Associated Exhibits are relevant.¹¹³ The Panel is satisfied of the *prima facie* authenticity and probative value of W04868's Associated Exhibits. The concerns raised by the Defence with respect to the limited probative value or lack of relevance can be adequately addressed during cross-examination. As the Defence has a meaningful opportunity to cross-examine this witness, the Panel is satisfied that the *prima facie* probative value of W04868's Associated Exhibits is not outweighed by their prejudicial effect. Accordingly, the Panel finds that W04868's Associated Exhibits are appropriate for admission under Rules 138(1) and 154.

48. In light of the above, the Panel finds that W04868's Proposed Evidence is relevant, *prima facie* authentic, and has *prima facie* probative value which is not outweighed by any prejudicial effect, and is therefore appropriate for admission pursuant to Rules 138(1) and 154.

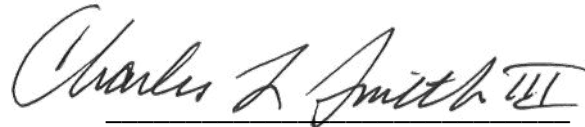
V. DISPOSITION

49. Based on the above, the Panel hereby:

- a) **GRANTS** the SPO leave to add 106349-TR-ET Parts 1-2 to the Exhibit List;
- b) **DIRECTS** the SPO to file an amended version of the Exhibit List by **Friday, 16 August 2024**;
- c) **GRANTS** the Motion with respect to W03871, W04735 and W04868;
- d) **FINDS** the Statements and Associated Exhibits of W03871, W04735 and W04868 as set out in paragraphs 11, 20, 38 and respective footnotes appropriate for admission once the requirements of Rule 154(a)-(c) are met in respect of each witness and their statements and associated

¹¹³ See also above, para. 42.

- exhibits; and
- e) **INFORMS** the Parties and participants that it will adjudicate the remainder of the Motion in due course.

A handwritten signature in black ink, reading "Charles L. Smith, III". The signature is written in a cursive style and is positioned above a horizontal line.

Judge Charles L. Smith, III
Presiding Judge

Dated this Tuesday, 13 August 2024

At The Hague, the Netherlands.