



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 Guénaël Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

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Public Redacted Version of
Decision on Prosecution Consolidated Motion for Admission of Evidence of
W04290 and W04403 Pursuant to Rule 154 and Related Request Regarding W04745

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TRIAL PANEL II (“Panel”), pursuant to Articles 21, 23(1), 37 and 40 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 118(2), 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 14 January 2025, the Specialist Prosecutor’s Office (“SPO”) filed a motion (“Motion”) seeking: (i) admission pursuant to Rule 154 of prior statements of Witness W04290 (“W04290’s Statements”); (ii) admission pursuant to Rule 154 of prior statements and associated exhibits of Witness W04403 (“W04403’s Statements”, and “W04403’s Associated Exhibits”); and (iii) addition of two documents related to Witness W04745 (“W04745 Documents”) to the Exhibit List.¹
2. On 24 January 2025, the Defence teams for all four Accused (collectively, “Defence”) responded jointly to the Motion (“Response”).²
3. On 3 February 2025, the SPO replied to the Response (“Reply”).³

II. SUBMISSIONS

4. The SPO submits that the proposed evidence meets the requirements of Rules 138(1) and 154, that its admission is not outweighed by any prejudice, and

¹ F02834, Specialist Prosecutor, *Prosecution Consolidated Motion for Admission of Evidence of Witnesses W04290 and W04403 Pursuant to Rule 154 and Request Related to W04745*, 14 January 2025, confidential, with Annexes 1-2, confidential, paras 1, 25 (a public redacted version of the Motion was filed on the same day, F02834/RED). The Panel observes that the SPO does not seek admission pursuant to Rule 154 of the associated exhibits to W04290’s Statements, as listed in Annex 1 to the Motion.

² F02869, Specialist Counsel, *Joint Defence Consolidated Response to F02833 and F02834*, 27 January 2025, confidential, with Annex 1, confidential. A corrected version of Annex 1 was filed on 4 February 2025, F02900, Specialist Counsel, *Submission of Corrected Version of KSC-BC-2020-06/F02869/A01*, 4 February 2025, confidential, with Annex 1, confidential.

³ F02892, Specialist Prosecutor, *Prosecution Reply Relating to Rule 154 Motion F02834*, 3 February 2025, confidential (a public redacted version of the Reply was filed on the same day, F02892/RED).

therefore admission is in the interests of justice.⁴ The SPO adds that the proposed evidence relates to [REDACTED].⁵

5. Regarding the addition of the W04745 Documents to the Exhibit List, the SPO contends there is good cause to amend the Exhibit List and submits that this request, at this stage, concerns solely the amendment of the Exhibit List and not admission of the documents, is limited in scope and would not prejudice the Defence.⁶

6. In its Response, the Defence requests the Panel, *inter alia*, to: (i) take note of the Defence objections; (ii) deny admission of W04290's Statements pursuant to Rule 154;⁷ and (iii) deny the admission of a number of W04403's Associated Exhibits pursuant to Rule 154.⁸ While the Defence for Jakup Krasniqi ("Mr Krasniqi" and "Krasniqi Defence") also requests the Panel to deny admission of W04403's Statements,⁹ the Defence of the other Accused does not object to their admission.¹⁰

7. The Defence does not oppose the addition of the W04745 Documents to the Exhibit List.¹¹

8. The SPO replies that the Response ignores prior findings of the Panel and the established standard for admissibility of statements and associated exhibits in the context of Rule 154, where the witnesses are available for cross-examination.¹²

III. APPLICABLE LAW

9. The Panel incorporates by reference the applicable law as set out in the Panel's

⁴ Motion, paras 1-2, 25.

⁵ Motion, para. 1.

⁶ Motion, paras 21, 23.

⁷ Response, paras 2-8.

⁸ Response, paras 11-15.

⁹ Response, paras 9, 18.

¹⁰ Response, para. 10.

¹¹ Response, para. 16.

¹² Reply, para. 1.

first decision regarding the admission of evidence under Rule 154.¹³

10. 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.¹⁴ As previously stated the Panel needs to satisfy itself that the proposed item is *prima facie* relevant and of sufficient importance to justify the late addition and no undue prejudice is caused to the Defence as a result.¹⁵ Lastly, the Panel makes the assessment mindful of the current stage of proceedings and the fact that the Exhibit List is, by any standards, voluminous.¹⁶

IV. DISCUSSION

A. ADMISSION OF EVIDENCE UNDER RULE 154

1. W04290

11. The SPO submits that the proposed evidence of W04290¹⁷ is: (i) relevant;¹⁸ (ii) *prima facie* authentic and reliable;¹⁹ and (iii) suitable for Rule 154 admission.²⁰

12. The Defence responds that W04290's Statements should be denied admission under Rule 154 and his evidence be heard *viva voce* instead, as originally planned,²¹

¹³ F01380, Panel, *Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154*, 16 March 2023, confidential, paras 11-25 (a public redacted version was filed on 7 November 2023, F01380/RED).

¹⁴ See F02883, Panel, *Decision on Prosecution Request to Amend the Exhibit List and Admit Video Following W04410's Testimony*, 31 January 2025 ("F02883 Decision") confidential, para. 8 with further references (a public redacted version was issued on the same day, F02883/RED).

¹⁵ F02883 Decision, para. 8.

¹⁶ F02883 Decision, para. 8.

¹⁷ The proposed evidence of W04290 consists of the following statements, including any translations thereof: (i) SITF00031715-SITF00031718 RED; (ii) [REDACTED]; (iii) [REDACTED], [REDACTED], and [REDACTED]; and (iv) SITF00009431-00009439RED.

¹⁸ Motion, paras 3-7.

¹⁹ Motion, paras 8-12.

²⁰ Motion, para. 13.

²¹ Response, paras 2, 8.

considering, *inter alia*, that: (i) W04290's evidence is critical and given the nearing completion of the SPO's case, there is an opportunity for the key witnesses to be heard live;²² (ii) the centrality of W04290's evidence paired with limited time-savings of less than a court day militate against the admission under Rule 154;²³ (iii) W04290's evidence is all encompassing and unique;²⁴ and (iv) the SPO indicated to seek to challenge the credibility of W04290, affecting reliability of his evidence.²⁵

13. The SPO replies that the reasons offered by the Defence in opposing the Rule 154 application in respect of W04290 are unpersuasive and have previously been rejected for similarly placed witnesses.²⁶ The SPO further replies that the two discrete factual assertions raised by the Defence can be clarified in cross-examination²⁷ and that the Defence submissions regarding the use of a transcript to challenge the credibility of W04290 are inapposite and speculative.²⁸

14. Regarding relevance, the Panel notes that W04290 is alleged to have been the [REDACTED], [REDACTED] and [REDACTED].²⁹ The Panel further observes that W04290's evidence relates to, *inter alia*: (i) the development and organisation of the Kosovo Liberation Army ("KLA") in Drenicë/Drenica, and the structural relationship of those units with the KLA General Staff;³⁰ (ii) [REDACTED];³¹ and (iii) the reporting lines of the KLA, [the witness's] role and that of the Accused and others within the respective operational zones and the General Staff including in [REDACTED].³² The Panel is therefore satisfied that W04290's Statements are

²² Response, para. 3.

²³ Response, para. 3.

²⁴ Response, paras 4-7.

²⁵ Response, para. 8.

²⁶ Reply, para. 2.

²⁷ Reply, para. 2.

²⁸ Reply, para. 3.

²⁹ Request, para. 3.

³⁰ Request, para. 4.

³¹ Request, para. 5.

³² Request, paras 4-6.

relevant to the charges and allegations outlined in the Indictment.³³

15. Regarding *prima facie* authenticity and reliability, the Panel notes that W04290's Statements consist of: (i) the witness's statement with the UNMIK;³⁴ (ii) the transcript of his interview before [REDACTED];³⁵ (iii) [REDACTED];³⁶ and (iv) [REDACTED].³⁷

16. The Panel observes that each statement contains multiple indicia of authenticity and reliability, including: (i) an indication of the date, time and/or place of the respective statement; (ii) the attendees present; (iii) the witness's personal details; (iv) the requisite witness warnings, rights and/or acknowledgments; (v) the verbatim transcript of the audio-video recording; (vi) confirmation by W04290 that the statements are true and accurate; (vii) W04290's signature; and (viii) the use of official templates.³⁸ In light of the above, the Panel is satisfied of the *prima facie* authenticity and reliability of W04290's Statements.

17. Having found W04290's Statements to be relevant and *prima facie* authentic and reliable, the Panel is also satisfied that W04290's Statements have *prima facie* probative value.

18. Regarding suitability for admission pursuant to Rule 154, the Panel notes that W04290's Statements are 213 pages in length (in English) and that the SPO reduced

³³ F00999/A01, Specialist Prosecutor, Annex 1 to *Submission of Confirmed Amended Indictment* ("Indictment"), 30 September 2022, confidential (a public lesser redacted version was filed on 27 February 2023, F01323/A01), paras [REDACTED]; *see also* F01594/A03, Specialist Prosecutor, Annex 3 to *Prosecution Submission of Updated Witness List and Confidential Lesser Redacted Version of the Pre-Trial Brief* ("SPO Pre-Trial Brief"), 9 June 2023, confidential (a public redacted version was filed on 3 April 2023, F01415/A01), paras [REDACTED].

³⁴ SITF00031715-SITF00031718 RED.

³⁵ [REDACTED].

³⁶ [REDACTED]; [REDACTED]; [REDACTED].

³⁷ SITF00009431-00009439 RED.

³⁸ *See* SITF00031715-SITF00031718 RED; [REDACTED]; [REDACTED]; SITF00009431-00009439 RED, pp. SITF00009431, SITF00009432, SITF00009434.

its estimate for W04290's direct examination from nine hours to five hours.³⁹ The Panel is therefore satisfied that the admission of W04290's Statements under Rule 154 would contribute to the expeditiousness of the proceedings.

19. The Panel notes the Defence submissions as to the "critical" importance and centrality of W04290's evidence to the SPO's case.⁴⁰ The Panel recalls that the critical importance and centrality of a witness's proposed evidence is not, in and of itself, a ground which compels the Panel to refuse admission.⁴¹ Instead, the nature and importance of the evidence is merely one of the factors that the Panel takes into consideration when deciding whether to exercise its discretion to admit evidence under Rule 154.⁴²

20. The Panel further takes note of the Defence submission regarding the SPO's purported intention to challenge the credibility of W04290.⁴³ The Panel considers that, as pointed out by the SPO,⁴⁴ in the present Motion, the SPO merely seeks admission of W04290's prior statements and that W04290 is yet to testify. The Panel will not seek to guess what the SPO's intentions might be. Any discussion of W04290's credibility is also premature. Regarding the Defence concerns as to the alleged factual inconsistencies in W04290's evidence,⁴⁵ the Panel considers that these matters can be adequately addressed during cross-examination.

21. Lastly, the Panel is satisfied that the admission of W04290's Statements would not cause unfair prejudice to the Defence, as the Defence will also have an opportunity to cross-examine the witness on all issues considered relevant. The Panel therefore finds that the *prima facie* probative value of W04290's Statements

³⁹ Motion, fn. 4, and para. 13.

⁴⁰ Response, paras 3-7.

⁴¹ F02720, Panel, *Decision on Prosecution Motion for Admission of Evidence of Witnesses W02586, W03873, W04264, W04393, W04401, W04679, and W04747 pursuant to Rule 154* ("Decision F02720"), 14 November 2024, confidential, paras 8-10, 35 (a public redacted version was filed on the same day, F02720/RED).

⁴² Decision F02720, para. 35.

⁴³ Response, para. 8.

⁴⁴ Reply, para. 3.

⁴⁵ Response, para. 5.

is not outweighed by any prejudicial effect.

22. In light of the above, the Panel finds that W04290's Statements are relevant, *prima facie* authentic, and have *prima facie* probative value which is not outweighed by any prejudicial effect, and are therefore appropriate for admission pursuant to Rules 138(1) and 154.

2. W04403

23. The SPO submits that the proposed evidence of W04403⁴⁶ is: (i) relevant;⁴⁷ (ii) *prima facie* authentic and reliable;⁴⁸ and (iii) suitable for Rule 154 admission.⁴⁹ It also submits that W04403's Associated Exhibits are admissible.⁵⁰

24. The Krasniqi Defence responds that W04403's evidence should be heard live, considering that: (i) the centrality of W04403's evidence militates against admission pursuant to Rule 154; (ii) W04403's evidence pertains to issues which are central to the SPO's case; and (iii) W04403 gives evidence directly relevant to the alleged acts and conduct of the Accused.⁵¹

25. Separately, the Defence responds that, should the Panel deem W04403's Statements admissible under Rule 154, it objects to the admission of W04403's Associated Exhibits due to legibility and authenticity issues.⁵²

26. The SPO replies that the Krasniqi Defence's objections to the admission of W04403's Statements should be dismissed in line with the Panel's previous

⁴⁶ The proposed evidence of W04403 consists of the following statements, including any translations thereof: (i) [REDACTED], and [REDACTED], and [REDACTED]; (ii) SPOE00070682-SPOE00070698; (iii) SPOE00067215-SPOE00067221-ET Revised RED; (iv) 064883-064886-ET RED, and 064887-TR-ET Part 1, and 064887-TR-ET Part 2, and 064887-TR-ET Part 3, and 064888-TR-ET Part 1, and 064888-TR-ET Part 2 RED, and 064888-TR-ET Part 3. Further, the proposed associated exhibits to W04403's Statements consists of the following exhibits: (i) SPOE00070682-SPOE00070698, pp. SPOE00070686-95; and (ii) [REDACTED].

⁴⁷ Motion, paras 14-17.

⁴⁸ Motion, para. 18.

⁴⁹ Motion, para. 20.

⁵⁰ Motion, para. 19; Annex 2 to Motion, p. 5, rows 1-2 from top.

⁵¹ Response, para. 9.

⁵² Response, paras 11-14.

rulings.⁵³

(a) W04403's Statements

27. Regarding relevance, the Panel notes that W04403 is said to have been a member of the KLA, and that W04403 occupied various roles within the KLA in various locations, including Dukagjini and Albania, and was part of [REDACTED].⁵⁴ The Panel further observes that W04403's evidence relates to, *inter alia*: (i) the structure and organisation of KLA units, including in Dukagjini and Albania, and of [REDACTED];⁵⁵ (ii) W04403's roles and responsibilities in the KLA, roles and authority of other KLA members as well as the Accused;⁵⁶ and (iii) W04403's [REDACTED].⁵⁷ The Panel is therefore satisfied that W04403's Statements are relevant to the charges in the Indictment.⁵⁸

28. Regarding *prima facie* authenticity and reliability, the Panel notes that W04403's Statements consist of: (i) a transcript of his interview before the [REDACTED];⁵⁹ (ii) a record of his interview before the [REDACTED];⁶⁰ (iii) [REDACTED] record of a hearing during an investigation;⁶¹ and (iv) an interview with the SPO.⁶²

29. The Panel observes that each statement contains multiple indicia of authenticity and reliability, including: (i) an indication of the date, time and/or place of the respective statements; (ii) the attendees present; (iii) the witness's personal details; (iv) the requisite witness warnings, rights and/or acknowledgments; (v) the verbatim transcript of the audio-video recording

⁵³ Reply, para. 4.

⁵⁴ Motion, para. 14.

⁵⁵ Motion, para. 15.

⁵⁶ Motion, paras 15-16.

⁵⁷ Motion, para. 16.

⁵⁸ Indictment, paras [REDACTED]; *see also* SPO Pre-Trial Brief, paras [REDACTED].

⁵⁹ [REDACTED]; [REDACTED].

⁶⁰ SPOE00067215-SPOE00067221-ET Revised RED.

⁶¹ SPOE00070682-SPOE00070698.

⁶² 064883-064886-ET RED; 064887-TR-ET Parts 1-3; 064888-TR-ET Parts 1, 3; 064888-TR-ET Part 2 RED.

(vi) confirmation by W04403 that the statements are true and accurate; and (vii) W04403's signature.⁶³ In light of the above, the Panel is satisfied of the *prima facie* authenticity and reliability of W04403's Statements.

30. Having found W04403's Statements to be relevant and *prima facie* authentic and reliable, the Panel is also satisfied that W04403's Statements have *prima facie* probative value.

31. Regarding suitability for admission pursuant to Rule 154, the Panel notes that W04403's Statements are 177 pages in length (in English) and that the SPO intends to elicit oral testimony on essential matters for two hours.⁶⁴ The Panel is therefore satisfied that the admission of W04403's Statements under Rule 154 would contribute to the expeditiousness of the proceedings, albeit in a limited fashion.

32. The Panel further notes the Krasniqi Defence submissions as to the claimed centrality of W04403's evidence to the SPO's case and its relevance to the alleged acts and conduct of the Accused.⁶⁵ The Panel recalls that the centrality of a witness's proposed evidence is not, in and of itself, a ground which compels the Panel to refuse its admission.⁶⁶ Instead, the nature and importance of the evidence is merely one of the factors that the Panel takes into consideration when deciding whether to exercise its discretion to admit evidence under Rule 154.⁶⁷ Likewise, the Panel recalls that evidence of the Accused's acts and conduct as charged in the Indictment can in principle be admitted pursuant to Rule 154.⁶⁸

33. The Panel is furthermore satisfied that the admission of W04403's Statements would not cause unfair prejudice to the Defence, as the Defence will also have an

⁶³ See [REDACTED]; SPOE00070682-00070698, pp. SPOE00070682, SPOE00070685; SPOE00067215-SPOE00067221-ET Revised RED, pp. SPOE00067216, SPOE00067221; 064883-064886-ET RED; 064887-TR-ET Part 1, p. 1; 064883-064886-ET RED; 064888-TR-ET Part 3, pp. 1-2.

⁶⁴ Motion, para. 20.

⁶⁵ Response, para. 9.

⁶⁶ Decision F02720, para. 35.

⁶⁷ Decision F02720, para. 35.

⁶⁸ Decision F02720, paras 9, 58.

opportunity to cross-examine the witness. The Panel therefore finds that the *prima facie* probative value of W04403's Statements is not outweighed by any prejudicial effect.

(b) W04403's Associated Exhibits

34. The Panel observes that the proposed evidence consists of: (i) [REDACTED] SPOE00070682-SPOE00070698, pp. SPOE00070686-SPOE00070695 ("Associated Exhibit 1");⁶⁹ and (ii) [REDACTED] ("Associated Exhibit 2").⁷⁰

i. Associated Exhibit 1

35. The SPO submits that Associated Exhibit 1 should be admitted given that it forms an inseparable and indispensable part of W04403's Statements.⁷¹ The Defence objects to the admission of Associated Exhibit 1 on the basis that the [REDACTED] are of poor quality.

36. The Panel observes that this item was shown to W04403, who commented extensively upon it.⁷² The Panel therefore considers that Associated Exhibit 1 an indispensable and inseparable part of W04403's Statements, as without it the relevant portions of W04403's Statements would become incomprehensible or of lesser probative value. Regarding relevance, the Panel observes that the SPO submits that Associated Exhibit 1 is relevant, in particular, to [REDACTED], [REDACTED].⁷³ The Defence does not object to its relevance. The Panel is therefore satisfied that Associated Exhibit 1 is relevant. Further, the Panel is satisfied that Associated Exhibit 1 is *prima facie* authentic. Although parts of this item are of lesser quality,⁷⁴ the Panel is satisfied that, especially when read in conjunction with

⁶⁹ SPOE00070682-SPOE00070698, pp. SPOE00070686-SPOE00070695.

⁷⁰ [REDACTED], [REDACTED].

⁷¹ Motion, para. 19.

⁷² SPOE00070684-SPOE00070685.

⁷³ Annex 2 to the Motion, p. 5, item 1. *See also* Motion, para. 19.

⁷⁴ Response, para. 12.

W04403's Statements,⁷⁵ it has *prima facie* probative value. Lastly, given that the Defence will have an opportunity to cross-examine W04403 on it, the Panel is satisfied that the *prima facie* probative value of Associated Exhibit 1 is not outweighed by any prejudicial effect. Accordingly, the Panel finds that Associated Exhibit 1 is appropriate for admission under Rules 138(1) and 154.

ii. Associated Exhibit 2

37. The SPO submits that Associated Exhibit 2 forms an indispensable part of W04403's evidence and is suitable for admission.⁷⁶ The Defence opposes its admission due to serious questions about its authenticity, authorship, and the fact that W04403 repeatedly states that he has never seen this item before and disputes its contents. Moreover, the Defence submits that this Panel has previously rejected its admission through W01456's Rule 155 prior statements.⁷⁷ The SPO replies that this item is discussed in W04403's proposed Rule 154 Statements, and that in any event, the Defence's challenges to the authorship can be dealt with during cross-examination.⁷⁸

38. The Panel notes that Associated Exhibit 2 allegedly contains [REDACTED].⁷⁹ The Panel notes the SPO's contention that this item is relevant to show the alleged common criminal purpose.⁸⁰ The Panel observes that this item, which appears to be attached to an email or a fax, does not appear to be stamped, W04403 appears to not have seen the item before, and W04403 could not provide information as to its origin.⁸¹ While the SPO avers that W04403 discusses the item in the proposed statements, the Panel notes that W04403 merely [REDACTED], but is unable to

⁷⁵ SPOE00070684-SPOE00070685.

⁷⁶ Motion, para. 19. *See also* Reply, para. 5.

⁷⁷ Response, paras 13-15.

⁷⁸ Reply, paras 5-6.

⁷⁹ Motion, para. 19.

⁸⁰ Annex 2, p. 5, item 2.

⁸¹ 064887-TR-ET Part 3, pp. 8-10; [REDACTED].

comment on its relevance.⁸² The Panel therefore does not find Associated Exhibit 2 suitable for admission under Rule 154. Having said that, the non-admission of Associated Exhibit 2 does not prevent the SPO from seeking to put the material to W04403 or other witnesses, should it wish to tender the document through a witness.

(c) Conclusion

39. In light of the above, the Panel finds that W04403's Statements and Associated Exhibit 1 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. Furthermore, the Panel finds that the Associated Exhibit 2 is not appropriate for admission, for the reasons set out above.

B. AMENDMENT OF THE EXHIBIT LIST

40. The SPO submits that the two documents related to W04745's upcoming testimony that it seeks to add to the Exhibit List, namely: (i) [REDACTED] UNMIK summary of a statement taken during a meeting with W04745 and assessment of W04745;⁸³ and (ii) notes of a face-to-face contact between UNMIK representatives and W04745 in [REDACTED],⁸⁴ concern relevant material and there is a good cause for their addition to the Exhibit List. The SPO also avers that its request to add the W04745 Documents to the Exhibit List is limited in scope, corroborates other evidence on the Exhibit List, and that their addition would not prejudice the Defence.⁸⁵

41. The Defence does not oppose the addition of the W04745 Documents to the

⁸² [REDACTED]; 064887-TR-ET Part 3, pp. 8, 12.

⁸³ SPOE00144629-00144630.

⁸⁴ SPOE00144634-00144634 RED2.

⁸⁵ Motion, paras 21-23.

Exhibit List.⁸⁶

42. As regards the issue of timeliness, the Panel notes the SPO submission that the W04745 Documents were already disclosed to the Defence in 2021 and 2022.⁸⁷ Bearing in mind that a certain degree of flexibility must be maintained in the context of a complex multi-accused trial, and that the SPO reassessed the documents in the context of W04745's testimony, the Panel is satisfied that the SPO Request for the amendment of the Exhibit List is timely.

43. As regards the showing of good cause, the Panel notes the SPO submission that W04745 denies having been interviewed by UNMIK representatives on [REDACTED] and that the W04745 Documents corroborate that the interview indeed took place.⁸⁸ In the view of the Panel, these documents are therefore relevant and important to contextualise the evidence of W04745 and assessment of his credibility.

44. Noting that the W04745 Documents were previously disclosed to the Defence, their addition is only for a limited purpose, and the Defence did not object to their addition to the Exhibit List,⁸⁹ the Panel finds that no prejudice is caused to the Defence by amending the Exhibit List.

45. In light of the above, the Panel finds that there is a good cause and grants leave to add W04745 Documents (SPOE00144629-00144630 and SPOE00144634-00144634 RED2) to the Exhibit List.

⁸⁶ Response, para. 16.

⁸⁷ Motion, para. 23.

⁸⁸ Motion, para. 22. *See also* SPOE00144629-00144630; SPOE00144634-00144634 RED2.

⁸⁹ Response, para. 16.

V. DISPOSITION

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

- a) **GRANTS** the Motion, in part;
- b) **FINDS** W04290's Statements appropriate for admission under Rule 154;
- c) **FINDS** W04403's Statements and W04403's Associated Exhibit 1 (SPOE00070682-SPOE00070698, pp. SPOE00070686-SPOE00070695) appropriate for admission under Rule 154;
- d) **FINDS** W04403's Associated Exhibit 2 ([REDACTED]) to be inappropriate for admission pursuant to Rule 154;
- e) **GRANTS** the SPO leave to add W04745 Documents (SPOE00144629-00144630 and SPOE00144634-00144634 RED2) to the Exhibit List;
- f) **ORDERS** the SPO to file its amended Exhibit List within a week from notification of this decision;
- g) **INSTRUCTS** the Defence to file a public redacted version of the Response within a week from the notification of this decision.



Judge Charles L. Smith, III

Presiding Judge

Dated this Friday, 07 February 2025

At The Hague, the Netherlands.