



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 consolidated motion for the admission of evidence pursuant to Rules 153 and 155 and related requests with confidential Annexes 1-5'

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I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law,¹ and Rules 118(2), 137-138, 153, and 155 of the Rules,² the Specialist Prosecutor's Office ('SPO') hereby seeks: (i) authorisation to add [REDACTED] statement used in W04738's SPO interview to the Exhibit List;³ (ii) reclassification of KSC-BC-2020-06/F03034 and KSC-BC-2020-06/F03034/A01 as strictly confidential; and (ii) admission of the statements,⁴ associated exhibits, and/or other written records where applicable (collectively, 'Proposed Evidence')⁵ of two witnesses pursuant to Rule 155 (W04260 and W04738), and one witness pursuant to Rule 153 (W04574).

2. The Proposed Evidence is relevant and *prima facie* reliable, has probative value which is not outweighed by any prejudice, and, as applicable, meets all Rule 153 and 155 conditions. In this respect, W04738 is unavailable to testify within a reasonable time due to [REDACTED] and W04260 can no longer be traced with reasonable diligence and his failure to attend was also materially influenced by improper interference. Admission of the Proposed Evidence is therefore in the interests of justice.⁶

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). All references to 'Article' or 'Articles' are to the Law.

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' are to the Rules.

³ Annex 1 to Prosecution submission of amended exhibit list, KSC-BC-2020-06/F03047/A01, 21 March 2025, Confidential ('Exhibit List'). *See also* paras 21-22 below.

⁴ The accounts of W04260 and W04738 tendered for admission are collectively referred to herein as their 'Rule 155 Statement(s)'. W04574's statements are collectively referred to herein as his 'Rule 153 Statement'.

⁵ *See* Annexes 1-2, 4. As indicated in the Annexes, where an audio-video recording exists, the SPO also tenders it along with the relevant written statement. Certain of the videos are still being processed and will be disclosed as soon as possible. Annex 3 contains documents supporting the unavailability of W04260 and W04738.

⁶ The applicable law has been set out previously. *See e.g.* Decision on Prosecution Motion for Admission of Evidence pursuant to Rule 155, KSC-BC-2020-06/F01603, 14 June 2023, Confidential, paras 10-19; Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 153, KSC-BC-2020-06/F01904, 27 November 2023, Confidential, paras 7-12.

II. SUBMISSIONS

A. W04260 CAN NO LONGER BE TRACED WITH REASONABLE DILIGENCE AND HIS FAILURE TO ATTEND WAS MATERIALLY INFLUENCED BY IMPROPER INTERFERENCE

3. *Unavailability.* Taking into account all relevant circumstances,⁷ the SPO has exhausted reasonable efforts to trace W04260 and secure his appearance. The documentation attached at Annex 3⁸ outlines the SPO's contacts with the witness since [REDACTED]. [REDACTED], the SPO has been unable to trace the witness with reasonable diligence. As outlined in the attached official note, the SPO has made multiple requests to examine available records and databases, observed the witness's [REDACTED] and other locations he was known to frequent, and attempted to reach the witness on all telephone numbers he was previously known to use. [REDACTED], any further measures to trace and locate the witness for purposes of securing his testimony would be unreasonable, unjustified, and objectively unlikely to result in the witness's appearance in a reasonable time.

4. Moreover, W04260's Proposed Evidence is also admissible pursuant to Rule 155(2) since all relevant criteria are fulfilled: (i) W04260 has failed to attend as a witness; (ii) such failure has been materially influenced by improper interference, as evidenced by [REDACTED];⁹ (iii) reasonable efforts have been made to secure W04260's attendance as a witness;¹⁰ (iv) W04260's evidence cannot be otherwise

⁷ Reasonable efforts to secure a witness's testimony, including efforts to trace a witness, must be considered in light of the applicable security situation, the scope and nature of the witness's evidence, and the stage of the proceedings. See e.g. ICC, *Prosecutor v. Yekatom and Ngaïssona*, ICC-01/14-01/18-2127-Red, Public Redacted Version of Third Decision on Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(c) of the Rules, 6 October 2023 ('*Yekatom Decision*'), paras 19, 77, 79.

⁸ See Annex 3, item 7: 126701-126709 RED. Similar documentation has previously been accepted as proof of unavailability. See e.g. *Yekatom Decision*, paras 71-72.

⁹ See Annex 3, item 7: 126701-126709 RED. See also Annex 1, item 1: 054071-TR-ET Part 4_Corr Interp, pp.12-21.

¹⁰ See Annex 3, item 7: 126701-126709 RED.

obtained; and (v) admission of W04260's Proposed Evidence is in the interests of justice.

5. As outlined below, W04260's evidence is suitable for admission in writing.

6. *Relevance, Authenticity, and Reliability.* The Panel has already found that W04260's Rule 155 Statement¹¹ as tendered herein is relevant, *prima facie* authentic,¹² and probative.¹³ The Panel also found that the associated exhibits¹⁴ formed an inseparable and indispensable part of W04260's evidence.¹⁵ Notably, during contacts with the SPO in 2024, W04260 repeated that the information in his SPO statement is correct and true and that he was ready to confirm it.¹⁶

7. *Suitability for Rule 155 Admission.* The prejudicial effect of the admission of W04260's Proposed Evidence does not outweigh its probative value. Indeed this evidence: (i) does not go to proof of the acts and conduct of the Accused; (ii) may not be relied upon to a sole or decisive extent in reaching a conviction; (iii) was recorded in a manner – including having been given at different times and to different authorities – that enables the Parties and Panel to assess the witness's demeanour and credibility; (iv) is consistent with and largely corroborated by other evidence concerning the detention site in [REDACTED], encompassing other witness evidence,¹⁷ including those who have been available for cross-examination by the

¹¹ W04260's Rule 155 Statement is identical to what was tendered pursuant to Rule 154 (with the addition of the audio-video recordings of the witness's SPO and UNMIK interviews) and consists of: the witness's SPO interview (054071-TR-ET Parts 1-5, Annex 1, item 1); [REDACTED], Annex 1, items 3 and 4); and three UNMIK statements (SITF00184859-00184870 RED2, SITF00184871-00184883 RED2, and [REDACTED], Annex 1, items 5-7).

¹² For an individual assessment of reliability, *see* Annex 1.

¹³ Decision on Prosecution Motion for Admission of Evidence of Witnesses W01511, W04260, W04305, W04410, W04744, W04752, and W04764 Pursuant to Rule 154 (F02204), KSC-BC-2020-06/F02328, 22 May 2024, Confidential ('Rule 154 Decision'), paras 23-25.

¹⁴ SITF00184871-00184883 RED2, pp.SITF00184876, SITF00184883; [REDACTED].

¹⁵ Rule 154 Decision, KSC-BC-2020-06/F02328, para.28.

¹⁶ *See* 121110-121110 RED; 122161-122161 RED.

¹⁷ For example, [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. *See also* [REDACTED].

Defence,¹⁸ as well as documentary evidence;¹⁹ and (v) complements certain adjudicated facts.²⁰

8. W04260's Proposed Evidence should therefore be considered together with all cumulative, complementary, and corroborating evidence concerning the background, abduction, detention, and mistreatment of victims at [REDACTED], and the events in [REDACTED].

B. W04738 IS UNAVAILABLE DUE TO [REDACTED]

9. *Unavailability.* W04738 is unavailable because [REDACTED] prevents him from testifying orally within a reasonable time.²¹ Noting that strictly confidential and *ex parte* filing F03034 and its annex (F03034/A01) are relied upon for this purpose, the SPO requests their reclassification as strictly confidential, consistent with the submissions of the filing participant, which does not object.²² W04738's unavailability, including [REDACTED], is also supported by documents attached at Annex 3.²³

10. *Relevance.* W04738, a former KLA member in [REDACTED], provided evidence about the KLA command structure and operations in [REDACTED], including early KLA formations, such as [REDACTED],²⁴ the structure of [REDACTED]²⁵ and [REDACTED]²⁶ and their affiliation,²⁷ as well as about General Staff members, their

¹⁸ See e.g. [REDACTED]. See also fn.17 above.

¹⁹ See e.g. [REDACTED].

²⁰ See e.g. Annex 1 to Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, KSC-BC-2020-06/F01534/A01, 17 May 2023, Confidential ('Adjudicated Facts'), Facts [REDACTED].

²¹ See [REDACTED].

²² [REDACTED].

²³ See Annex 3, items 1-6. See also Annex 2, item 1: 082883-TR-ET Part 25 Revised 2 RED, pp.50-53.

²⁴ 082883-TR-ET Part 2 Revised 2 RED, pp.8-10.

²⁵ 082883-TR-ET Part 2 Revised 2 RED, pp.9-10; 082883-TR-ET Part 4 Revised 2 RED, pp.7-9, 11-13; 082883-TR-ET Part 25 Revised 2 RED, pp.58-59.

²⁶ See e.g. 082883-TR-ET Part 2 Revised 2 RED, pp.3-4, 24-26; 082883-TR-ET Part 4 Revised 2 RED, pp.22-25.

²⁷ 082883-TR-ET Part 4 Revised 2 RED, pp.9-15.

roles, whereabouts, and [REDACTED].²⁸ W04738 described how [REDACTED] bypassed normal KLA command channels.²⁹ W04738 also provides information about General Staff members' visits to [REDACTED].³⁰ W04738 indicated that the military police unit in [REDACTED] detained Albanians and killed alleged collaborators or spies,³¹ and General Staff members were aware.³² W04738 also discussed [REDACTED] detention after [REDACTED].³³ [REDACTED].³⁴

11. W04738 also described the KLA's restructuring in October 1998, the arrival of military officers,³⁵ and the role, duties, and reporting lines of [REDACTED].³⁶ W04738 provided evidence about the military police structure in [REDACTED].³⁷

12. According to W04738, KLA soldiers committed crimes against civilians, with KLA commanders either encouraging these acts or failing to stop them, and that crimes against minorities and collaborators continued until governmental structures were restored.³⁸ W04738 described that Rexhep SELIMI became Minister for Public

²⁸ See e.g. 082883-TR-ET Part 6 Revised 1 RED, pp.25-30; 082883-TR-ET Part 8 Revised 2 RED, pp.24-25, 30-35; 082883-TR-ET Part 11 Revised 2 RED, pp.5-9; 082883-TR-ET Part 4 Revised 2 RED, pp.6-7, 16-17; 082883-TR-ET Part 5 Revised 1 RED, pp.6-10; 082883-TR-ET Part 17 Revised 2 RED, pp.2-10.

²⁹ 082883-TR-ET Part 2 Revised 2 RED, pp.8-9; 082883-TR-ET Part 3 Revised 2 RED, pp.24-28; 082883-TR-ET Part 4 Revised 2 RED, pp.1-7.

³⁰ 082883-TR-ET Part 3 Revised 2 RED, pp.21-24; 082883-TR-ET Part 7 Revised 2 RED, pp.20-21; 082883-TR-ET Part 8 Revised 2 RED, pp.3-4.

³¹ 082883-TR-ET Part 21 Revised 2 RED, pp.25-26; 082883-TR-ET Part 5 Revised 1 RED, pp.18-23; 082883-TR-ET Part 6 Revised 1 RED, pp.1-21.

³² 082883-TR-ET Part 6 Revised 1 RED, pp.8-10.

³³ 082883-TR-ET Part 1 Revised 2 RED, pp.17-18, 20-24.

³⁴ 082883-TR-ET Part 13 Revised 1 RED, pp.37-40.

³⁵ 082883-TR-ET Part 2 Revised 2 RED, pp.11-12, 17-18; 082883-TR-ET Part 5 Revised 1 RED, pp.7-9, 11; 082883-TR-ET Part 28 Revised 1 RED, p.3.

³⁶ See e.g. 082883-TR-ET Part 2 Revised 2 RED, pp.26-27; 082883-TR-ET Part 4 Revised 2 RED, pp.23-24; 082883-TR-ET Part 5 Revised 1 RED, pp.2-7; 082883-TR-ET Part 7 Revised 2 RED, pp.4-14; 082883-TR-ET Part 20 Revised 2 RED, pp.3-4.

³⁷ 082883-TR-ET Part 10 Revised 2 RED, pp.10-16; 082883-TR-ET Part 27 Revised 1 RED, pp.4-6; 082883-TR-ET Part 28 Revised 1 RED, pp.1-6.

³⁸ 082883-TR-ET Part 11 Revised 2 RED, pp.22-33; 082883-TR-ET Part 12 Revised 1 RED, pp.1-2, 9-13; 082883-TR-ET Part 14 Revised 1 RED, pp.7-11, 28. See also 082883-TR-ET Part 17 Revised 2 RED, p.42; 082883-TR-ET Part 18 Revised 3 RED, pp.16-26, 46; 082883-TR-ET Part 20 Revised 2 RED, pp.19-30; 082883-TR-ET Part 21 Revised 2 RED; pp.16-17; 082883-TR-ET Part 22 Revised 1 RED, pp.6-18.

Order, [REDACTED].³⁹ He also outlined the movements of, and buildings occupied by, [REDACTED].⁴⁰

13. W04738's Proposed Evidence is therefore relevant to charges in the Indictment.⁴¹

14. *Authenticity and Reliability.* The Proposed Evidence for W04738, with individualised explanations of circumstances supporting its *prima facie* reliability, is listed in Annex 2. In particular, W04738's interview transcripts are audio-video recorded, drafted on an official template, dated, and record those present.⁴² During his SPO interview, W04738 also discussed and commented on [REDACTED] statement, rendering it an integral part of the SPO interview. [REDACTED].⁴³ [REDACTED].⁴⁴ The SPO therefore requests the addition of only this paragraph to the Exhibit List⁴⁵

³⁹ 082883-TR-ET Part 14 Revised 1 RED, pp.12-15, 20-23; 082883-TR-ET Part 15 Revised 2 RED, pp.7-12, 17, 19-20, 32-33; 082883-TR-ET Part 16 Revised 1 RED, pp.16-17; 082883-TR-ET Part 17 Revised 2 RED, pp.8-10, 30; 082883-TR-ET Part 18 Revised 3 RED, pp.9-11; 082883-TR-ET Part 19 Revised 1 RED, p.3; 082883-TR-ET Part 21 Revised 2 RED, pp.14-16.

⁴⁰ 082883-TR-ET Part 12 Revised 1 RED, pp.6-7; 082883-TR-ET Part 17 Revised 2 RED, pp.25-27; 082883-TR-ET Part 26 Revised 1 RED, pp.3-4.

⁴¹ See ANNEX 1 to Submission of confirmed 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].

⁴² 082883-TR-ET Part 1 Revised 2 RED, pp.1-2; 082883-TR-ET Part 2 Revised 2 RED, p.1; 082883-TR-ET Part 3 Revised 2 RED, p.1; 082883-TR-ET Part 4 Revised 2 RED, p.1; 082883-TR-ET Part 5 Revised 1 RED, p.1; 082883-TR-ET Part 6 Revised 1 RED, p.1; 082883-TR-ET Part 7 Revised 2 RED, p.1; 082883-TR-ET Part 8 Revised 2 RED, p.1; 082883-TR-ET Part 9 Revised 2 RED, p.1; 082883-TR-ET Part 10 Revised 2 RED, p.1; 082883-TR-ET Part 11 Revised 2 RED, p.1; 082883-TR-ET Part 12 Revised 1 RED, p.1; 082883-TR-ET Part 13 Revised 1 RED, p.1; 082883-TR-ET Part 14 Revised 1 RED, p.1; 082883-TR-ET Part 15 Revised 2 RED, p.1; 082883-TR-ET Part 16 Revised 1 RED, p.1; 082883-TR-ET Part 17 Revised 2 RED, p.1; 082883-TR-ET Part 18 Revised 3 RED, p.1; 082883-TR-ET Part 19 Revised 1 RED, p.1; 082883-TR-ET Part 20 Revised 2 RED, p.1; 082883-TR-ET Part 21 Revised 2 RED, p.1; 082883-TR-ET Part 22 Revised 1 RED, p.1; 082883-TR-ET Part 23 Revised 1 RED, p.1; 082883-TR-ET Part 24 Revised 1 RED, p.1; 082883-TR-ET Part 25 Revised 2 RED, p.1; 082883-TR-ET Part 26 Revised 1 RED, p.1; 082883-TR-ET Part 27 Revised 1 RED, p.1; 082883-TR-ET Part 28 Revised 1 RED, pp.1, 20-23.

⁴³ See 082883-TR-ET Part 1 Revised 2 RED, pp.2-4; 082883-TR-ET Part 11 Revised 2 RED, pp.1-2.

⁴⁴ [REDACTED].

⁴⁵ See paras 21-22 below.

and, if that request is granted, tenders only this limited part of [REDACTED] statement.

15. W04738's Rule 155 Statement should be admitted in its entirety as each portion corroborates and complements the other, enabling a proper and holistic assessment of W04738's evidence.

16. *Associated Exhibits.* The associated exhibits, part of the Proposed Evidence in Annex 2⁴⁶ – including maps marked by W04738, notes, drawings and sketches made by W04738, photos and screenshots, W04738's identification documents, [REDACTED]⁴⁷ – should be admitted as they are used and discussed in W04738's evidence. The associated exhibits are integral to the Rule 155 Statement, enhancing its comprehensibility and probative value.

17. *Suitability for Rule 155 Admission.* The probative value of the Proposed Evidence is not outweighed by any prejudice. This evidence: (i) may not be relied upon to a sole or decisive extent in reaching a conviction; (ii) was recorded in a manner – including by different law enforcement bodies and at different times – that enables the Parties and Panel to assess the witness's credibility; and (iii) as set out below, is corroborated by and complementary to adjudicated facts and a significant amount of evidence,⁴⁸ including of witnesses that have been available for cross-examination.

18. W04738's evidence concerning acts and conduct of the Accused does not bar admission under Rule 155.⁴⁹ Further, the (in)ability to cross-examine a witness on

⁴⁶ See Annex 2, items 4-22.

⁴⁷ [REDACTED].

⁴⁸ See e.g. [REDACTED]. See below for non-exhaustive examples. W04738's Rule 155 Statement also complements certain adjudicated facts. See e.g. Adjudicated Facts, KSC-BC-2020-06/F01534/A01, Facts [REDACTED].

⁴⁹ See e.g. Decision on Prosecution Fourth Motion for Admission of Evidence pursuant to Rule 155, KSC-BC-2020-06/F02283, 3 May 2024, Confidential ('Fourth Decision'), paras 14, 66; Decision on Prosecution Sixth Motion for Admission of Evidence pursuant to Rule 155, KSC-BC-2020-06/F03012, 23 March 2025, Confidential ('Sixth Decision'), para.57.

certain matters can be adequately addressed in the Panel's final, holistic assessment of the evidence.⁵⁰ The Defence has also had ample opportunity to question other witnesses on many of the same topics, including the same and similar matters related to the Accused's acts and conduct.

19. Moreover, W04738's evidence is extensively corroborated, including by witness and documentary evidence. For instance, W04738's evidence concerning Hashim THAÇI's visit to [REDACTED].⁵¹ [REDACTED] corroborates W04738's evidence on [REDACTED],⁵² as well as his evidence regarding the KLA policy on targeting suspected collaborators.⁵³ W04738's evidence on [REDACTED] is supported by, *inter alia*, [REDACTED]⁵⁴ and [REDACTED].⁵⁵ W04738's evidence regarding the General Staff knowing about detentions in [REDACTED] aligns with [REDACTED] evidence.⁵⁶ W04738's evidence on the appointment of [REDACTED] is supported by the evidence of, *inter alia*, [REDACTED].⁵⁷ W04738's description of Rexhep SELIMI's role as minister for public order is, *inter alia*, supported by [REDACTED] and Rexhep SELIMI's own evidence.⁵⁸ [REDACTED].⁵⁹ While the evidence of certain witnesses who were available for cross-examination has been highlighted above, W04738's evidence on these and other matters is also corroborated by and complementary to witness evidence admitted under Rules 153 and 155,⁶⁰ and documentary evidence.⁶¹

⁵⁰ See e.g. Fourth Decision, KSC-BC-2020-06/F02283, para.51; Sixth Decision, KSC-BC-2020-06/F03012, para.57.

⁵¹ [REDACTED].

⁵² [REDACTED]. See also [REDACTED].

⁵³ See e.g. [REDACTED].

⁵⁴ See, e.g. [REDACTED].

⁵⁵ [REDACTED]. See also [REDACTED].

⁵⁶ [REDACTED]. [REDACTED]. See also [REDACTED].

⁵⁷ [REDACTED]. See also [REDACTED].

⁵⁸ [REDACTED].

⁵⁹ See [REDACTED].

⁶⁰ See e.g. [REDACTED].

⁶¹ See e.g. [REDACTED].

20. W04738's Proposed Evidence is thus complementary to and should be considered together with all cumulative and corroborating evidence.

21. *Request to Amend the Exhibit List.* Pursuant to Article 40 and Rule 118(2), the SPO requests leave to amend the Exhibit List to include [REDACTED] statement (082849-082881-ET). As set out above,⁶² this paragraph concerns relevant material and there is a good cause for its addition to the Exhibit List. While the [REDACTED] statement was not included on the Exhibit List [REDACTED], rendering the relevant portion of the transcript incomprehensible without it.

22. No prejudice to the Defence will result from the addition of this item to the Exhibit List. The item was disclosed to the Defence under Rule 102(1)(b)(i) on 13 March 2023.⁶³ Moreover, the very limited scope and length of the requested amendment allows for timely and effective Defence preparation.

C. W04754'S PROPOSED EVIDENCE SHOULD BE ADMITTED PURSUANT TO RULE 153

23. W04754, [REDACTED], has refused to testify due to his health condition; however, the SPO has been unable to obtain sufficient medical documentation to support his unavailability and, taking into account the scope and nature of his evidence and the stage of the proceedings, is submitting his Proposed Evidence pursuant to Rule 153. As outlined below and with the proposed redactions to limited parts of his evidence pertaining to the acts and conduct of the Accused, W04754's evidence is suitable for admission in writing in lieu of testimony.

24. *Relevance.* From [REDACTED], W04754 was involved in supporting the KLA together with other military officers based abroad, liaising with prominent KLA members, and in [REDACTED], joined the KLA.

⁶² See para.14.

⁶³ Disclosure 714.

25. [REDACTED], where the plan for [REDACTED] was presented, responsibilities assigned, and commanders appointed, [REDACTED].

26. W04754 provides evidence on the KLA command structure (including [REDACTED]), its headquarters (including [REDACTED]), and the different brigades, battalions, and KLA bases. Around the end of May 1999, Fatmir LIMAJ replaced Bislim ZYRAPI as the Operation Arrow Commander. [REDACTED].

27. [REDACTED], W04754 also provides evidence concerning [REDACTED].

28. W04754 himself was based at [REDACTED], which was also used and/or visited by, *inter alia*, [REDACTED]. [REDACTED] was stationed close by. W04754 also met [REDACTED]. W04754 provides detailed information about [REDACTED] layout, including [REDACTED].

29. W04754 describes [REDACTED]. [REDACTED] and W04754 provides evidence concerning the structure and composition of this unit, [REDACTED].

30. Finally, W04754 describes the merger of Operation Arrow units with the KLA units based in Kosovo and [REDACTED].

31. W04754's evidence is therefore relevant to the charges in the Indictment.⁶⁴

32. *Authenticity and reliability.* W04754's Rule 153 Statement consists of his audio-visually recorded SPO interview which was documented in a verbatim transcript.⁶⁵ He was advised of his rights and obligations as a witness and confirmed his statement to be truthful, accurate, and voluntary.⁶⁶

⁶⁴ See e.g. Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁶⁵ 083524-TR-ET Part 1 RED; 083524-TR-ET Part 2 RED; 083524-TR-ET Part 3 RED; 083524-TR-ET Part 4 RED; 083524-TR-ET Part 5 RED; 083524-TR-ET Part 6 RED; 083524-TR-ET Part 7 RED2; 083524-TR-ET Part 8 RED; 083524-TR-ET Part 9 RED.

⁶⁶ 083524-TR-ET Part 1 RED, pp.2-3; 083524-TR-ET Part 6 RED, p.2; 083524-TR-ET Part 9 RED, pp.23-26. For an individual assessment of reliability, see Annex 4.

33. *Associated Exhibits.* W04754's sketch of [REDACTED], and photographs of [REDACTED], W04754, and other KLA soldiers were discussed with W04754 during his Rule 153 Statement to the extent they form an inseparable and indispensable part of his evidence and should therefore be admitted.

34. *Suitability for Rule 153 Admission.* W04754's evidence meets the requirements and serves the purposes of Rule 153, including by expediting proceedings and sparing the witness the burden of testifying. W04754's evidence is cumulative with and corroborated by the evidence of other witnesses,⁶⁷ including those whom the Accused have had an opportunity to confront through cross-examination,⁶⁸ and complements adjudicated facts.⁶⁹

35. Finally, in certain parts of his Rule 153 Statement, W04754 discusses [REDACTED]. Insofar as such excerpts go to the acts and conduct of the Accused, the SPO proposes to redact them.⁷⁰ A version of the Rule 153 Statement, with proposed redactions marked, is attached at Annex 5.⁷¹

36. With the redactions proposed, W04754's Proposed Evidence is suitable for Rule 153 admission and should be available to the Panel in its final assessment of all corroborative and complementary evidence.

III. CLASSIFICATION

37. This motion and Annexes 1-5 are confidential as they concern witnesses with protective measures and whose identities are not public at this time. The Proposed

⁶⁷ See e.g. [REDACTED]. Further corroborative evidence on, for example, [REDACTED].

⁶⁸ See e.g. [REDACTED].

⁶⁹ See e.g. Adjudicated Facts, KSC-BC-2020-06/F01534/A01, Facts [REDACTED].

⁷⁰ 083524-TR-ET Part 2 RED: p.4, lines 14-15; p.4, line 19 – p.5, line 23; p.6 lines 13-14; p.7 lines 1-8; p.8 lines 2, 5-10; p.9, lines 15-16; p.10, line 1; p.15, lines 18-25; p.16, lines 1, 23-24; p.17, lines 2-4. 083524-TR-ET Part 3 RED: p.3, line 5; p.4, lines 10-12; p.5 lines 4-5, 10-12; p.7 lines 8-10; p.9, lines 1-4, 6, 8. 083524-TR-ET Part 5 RED: p.17, lines 15-25; p.18, lines 1-3, 15-16. 083524-TR-ET Part 9 RED: p.15, lines 13, 19; p.16, line 14 - p.18, line 6.

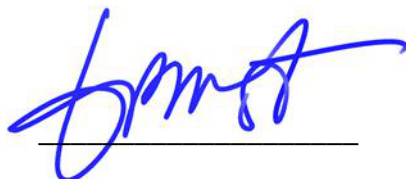
⁷¹ Only the parts of the Rule 153 Statement which contain proposed redactions have been included.

Evidence of W04260 and W04738 is classified as confidential for the same reasons. The proposed classification for each part of W04754's evidence is given in Annex 4.

IV. RELIEF REQUESTED

38. For the foregoing reasons, the Panel should: (i) authorise the SPO to add [REDACTED] statement (082849-082881-ET) to the Exhibit List; (ii) reclassify filing F03034 and its annex (F03034/A01) as strictly confidential; and (iii) admit the Proposed Evidence of W04260 and W04738 pursuant to Rule 155 and of W04754 pursuant to Rule 153.

Word Count: 5,090



Kimberly P. West

Specialist Prosecutor

Monday, 24 March 2025

At The Hague, the Netherlands.