



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA 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: 2 April 2025

Language: English

Classification: Public

**Public Redacted Version of Decision on Prosecution Seventh Motion for
Admission of Evidence pursuant to Rule 155**

Specialist Prosecutor

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TRIAL PANEL II (“Panel”), pursuant to Articles 19, 21 and 37 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 137, 138(1) and 155 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 21 February 2025, the Specialist Prosecutor’s Office (“SPO”) filed a motion for the admission of the evidence of two witnesses pursuant to Rule 155 (“Motion”).¹

2. On 5 March 2025, the Defence teams for the four Accused (collectively, “Defence”) filed a joint response to the Motion (“Response”).²

3. On 11 March 2025, the SPO filed a reply to the Response (“Reply”).³

II. SUBMISSIONS

4. The SPO seeks admission pursuant to Rule 155 of the witness statements and an exhibit associated therewith (collectively, “Proposed Evidence”) of witnesses W00742 and W04324 (collectively, “Witnesses”).⁴ The SPO submits that: (i) the Witnesses are unavailable;⁵ and (ii) the Proposed Evidence meets the admissibility criteria and its admission is in the interest of justice.⁶

¹ F02952, Specialist Prosecutor, *Prosecution Seventh Motion for Admission of Evidence Pursuant to Rule 155*, 21 February 2025, confidential, with Annexes 1-3, confidential (a public redacted version was filed on 27 February 2025, F02952/RED).

² F02985, Specialist Counsel, *Joint Defence Response to ‘Prosecution Seven Motion for Admission of Evidence Pursuant to Rule 155’*, 5 March 2025, confidential.

³ F03003, Specialist Prosecutor, *Prosecution Reply to Joint Defence Response to Seventh Rule 155 Motion*, 11 March 2025, confidential (a public redacted version was filed on 12 March 2025, F03003/RED).

⁴ Motion, para. 1. *See also* Motion, para. 3, *referring to* Annexes 1-2 to the Motion.

⁵ Motion, para. 2. *See also* Motion, para. 3, *referring to* Annex 3 to the Motion.

⁶ Motion, para. 2.

5. The Defence responds that the principle of orality should remain the general rule to preserve the fairness of the proceedings and reiterates its concerns regarding the volume of the case record and the admission of untested evidence.⁷

6. The SPO replies that the Response raises arguments that disregard the applicable law and the Panel's previous findings, and that the Proposed Evidence satisfies the relevant criteria and should be admitted for a proper determination of the charges in this case.⁸

III. APPLICABLE LAW

7. The Panel incorporates by reference the applicable law as set out in its first Rule 155 Decision.⁹

IV. DISCUSSION

1. W00742

8. The SPO submits that the Proposed Evidence of W00742¹⁰ is relevant,¹¹ authentic and reliable,¹² and that its probative value is not outweighed by any prejudice.¹³

9. The Defence argues that it has been provided with very limited information about the health condition of W00742 to enable it to make an assessment on the

⁷ Response, para. 2.

⁸ Reply, para. 1.

⁹ F01603, Panel, *Decision on Prosecution Motion for Admission of Evidence pursuant to Rule 155* ("First Rule 155 Decision"), 14 June 2023, confidential, paras 10-19 (a public redacted version was filed on 8 September 2023, F01603/RED).

¹⁰ W00742's Proposed Evidence consists of the following statements and associated exhibit, including any translations thereof: (i) 072659-TR-ET Part 1 and its audio-video recording 072659b Part 1 RED, and (ii) SITF00316405-00316409 RED ("W00742's Statements"); and SITF00316399-SITF00316401-ET RED ("W00742's Associated Exhibit"). See Annex 1 to the Motion.

¹¹ Motion, paras 4-6.

¹² Motion, paras 7-8.

¹³ Motion, para. 9.

witness's unavailability.¹⁴ The Defence does not object to the admission of her evidence, provided that her unavailability is established by the Panel to the requisite standard.¹⁵ However, the Defence argues that the weight and probative value of W00742's Proposed Evidence should be limited due to: (i) the centrality and untested nature of W00742's evidence in relation to the alleged detention, mistreatment and disappearance of the witness's relative;¹⁶ and (ii) W00742's Proposed Evidence includes hearsay, inaccuracies and inconsistencies that have never been subject to challenge in cross-examination.¹⁷

10. The SPO replies that: (i) the Defence does not object to the admission of W00742's Proposed Evidence, if the Panel finds that the Rule 155(1) requirements are met;¹⁸ (ii) the remaining submissions in the Response go to the weight of the evidence and not to its admissibility;¹⁹ (iii) W00742's Proposed Evidence is *prima facie* reliable and the minor discrepancies raised in the Response do not invalidate the core of her evidence and are understandable in light of the witness's vulnerability, the stress and trauma she suffered;²⁰ (iv) the Defence's observations regarding hearsay have been rejected by the Panel in previous decisions,²¹ and W00742's hearsay evidence is first-hand and corroborated by the witness's relative following release from KLA custody;²² and (v) while the existence of corroboration is not a condition under Rule 155, W00742's Proposed Evidence is corroborated by the admitted evidence of [REDACTED] and by other evidence supporting patterns

¹⁴ Response, para. 4.

¹⁵ Response, para. 5.

¹⁶ Response, paras 5-7.

¹⁷ Response, paras 5, 8. *See also* Response, paras 9-10.

¹⁸ Reply, para. 2.

¹⁹ Reply, para. 2.

²⁰ Reply, para. 4.

²¹ Reply, para. 5 referring to F01716, Panel, *Fourth Decision on Specialist Prosecutor's Bar Table Motion*, 8 August 2023, para. 32; F01603, Panel, *Decision on Prosecution Motion for Admission of Evidence pursuant to Rule 155*, 14 June 2023, confidential, paras 179, 217 (a public redacted version was filed on 8 September 2023, F01603/RED).

²² Reply, para. 5.

of conduct consistent with the *modus operandi* of the perpetrators in the case of the witness's relative.²³

11. *W00742's Statements*. The Panel notes that the SPO has submitted W00742's medical documentation.²⁴ The Panel also takes note of the [REDACTED] regarding W00742's fitness to testify.²⁵ In particular, the Panel notes that, [REDACTED].²⁶ The Panel is satisfied that, based on the evidence before it, W00742's [REDACTED] condition would prevent the witness from testifying effectively, meaningfully and with dignity, should she be required to appear before the Panel. The Panel is further satisfied that cross-examination of the witness would not provide an effective means of testing the witness's evidence [REDACTED]. In those circumstances, the Panel finds that the witness is unable to testify within the meaning of Rule 155(1)(a).

12. Regarding *prima facie* reliability, the Panel notes that W00742's Statements consist of: (i) transcripts and audio-video recordings of W00742's interview with the SPO ("W00742's SPO Interview");²⁷ and (ii) W00742's interview with the European Union Rule of Law Mission in Kosovo ("EULEX Interview").²⁸ Each statement contains indicia of reliability, including: (i) the verbatim transcripts of both W00742's EULEX Interview and his audio-video recorded SPO Interview;²⁹ (ii) indication of the date and time of the Statements;³⁰ (iii) names of the attendees present;³¹ (iv) the witness's personal details;³² (v) the requisite witness warnings, rights and acknowledgments during the interviews;³³ (vi) confirmation by W00742

²³ Reply, para. 6.

²⁴ Annex 3 to the Motion.

²⁵ [REDACTED]. See also CRSPD 765.

²⁶ [REDACTED]. See also Motion, para. 10.

²⁷ 072659-TR-ET Part 1; 072659b Part 1 RED.

²⁸ SITF00316405-00316409 RED.

²⁹ 072659-TR-ET Part 1, pp. 1-38; SITF00316405-00316409 RED, pp. SITF00316406-SITF00316409.

³⁰ 072659-TR-ET Part 1, p. 1; SITF00316405-00316409 RED, p. SITF00316405.

³¹ 072659-TR-ET Part 1, p. 1; SITF00316405-00316409 RED, p. SITF00316405.

³² 072659-TR-ET Part 1, pp. 4-5; SITF00316405-00316409 RED, pp. SITF00316405-SITF00316406.

³³ 072659-TR-ET Part 1, pp. 3-4; SITF00316405-00316409 RED, p. SITF00316406.

that the EULEX Interview is true and accurate;³⁴ and (vii) use of an official template on the EULEX Interview.³⁵

13. With regard to the Defence's observations that the weight and probative value of W00742's evidence should be limited,³⁶ the Panel will take into account the extent of corroboration of W00742's evidence when assessing the weight to be given to that evidence at the end of trial, in light of the totality of the evidence and taking into consideration that the Defence was unable to cross-examine this witness.³⁷ Any discrepancies in successive accounts will also be considered in that context.³⁸ The hearsay nature of W00742's Proposed Evidence does not, *per se*, render it inadmissible.³⁹ This is, again, relevant to assessing its weight at the end of the case, in light of the totality of the evidence.⁴⁰ In light of the above, the Panel is satisfied that W00742's Proposed Evidence is *prima facie* reliable within the meaning of Rule 155(1)(b).

14. Turning to the requirement set out in Rule 155(5), the Panel is satisfied that, upon review, the evidence contained in W00742's Statements does not go to proof of the acts and conduct of the Accused as charged in the Indictment. The Defence did not suggest otherwise.

³⁴ SITF00316405-00316409 RED, p. SITF00316409.

³⁵ SITF00316405-00316409 RED, pp. SITF00316405-SITF00316409.

³⁶ Response, paras 5-10.

³⁷ F01864, Panel, *Decision on Prosecution Second Motion for Admission of Evidence pursuant to Rule 155* ("Second Rule 155 Decision"), 17 October 2023, confidential, para. 59 (a public redacted version was filed on 12 December 2023, F01864/RED).

³⁸ First Rule 155 Decision, para. 50.

³⁹ F02283, Panel, *Decision on Prosecution Fourth Motion for Admission of Evidence pursuant to Rule 155* ("Fourth Rule 155 Decision"), 3 May 2024, confidential, para. 67 (a public redacted version was filed on the same day, F02283/RED); First Rule 155 Decision, paras 179, 195. *See also, inter alia*, ICTY, *Prosecutor v. Aleksovski*, IT-95-14/1-AR73, [Decision on Prosecutor's Appeal on Admissibility of Evidence](#), 16 February 1999, para. 15; *Prosecutor v. Tadić*, [Decision on the Defence Motion of Hearsay](#), IT-94-1-T, 5 August 1996, paras 15-19; *see similarly* F02421, Panel, *Decision on Prosecution Motion for the Admission of the Evidence of Witnesses W00996, W02257, W02303, W04352, W04367, W04420, W04569, W04645, W04677, and W04732 Pursuant to Rule 153* ("Fifth Rule 153 Decision"), 2 July 2024, confidential, para. 27 (with further references) (a public redacted version was filed on 3 July 2024, F02421/RED).

⁴⁰ Fourth Rule 155 Decision, para. 52; First Rule 155 Decision, paras 158, 179. *See similarly* Fifth Rule 153 Decision, para. 27 (with further references).

15. With regard to the Rule 138(1) requirements, the Panel notes that W00742 belongs to an ethnic minority in Kosovo, and the witness's close relative was allegedly repeatedly arrested by the Kosovo Liberation Army ("KLA") in June 1999 at a certain location relevant to these proceedings and taken to another place, where he was mistreated and disappeared.⁴¹ The Panel is satisfied that W00742's Statements are relevant to the charges in the Indictment.⁴²

16. In light of the above findings of *prima facie* reliability⁴³ and relevance,⁴⁴ the Panel is also satisfied that W00742's Statements are *prima facie* authentic and of probative value. The Panel further notes that W00742's Statements do not go to proof of the acts and conduct of the Accused, and the Defence does not object to its admission.⁴⁵ In addition, the Panel notes the SPO's submission that W00742's Statements appear to be consistent with, and/or corroborated by, *inter alia*, the admitted statements, documentary evidence and testimony of other witnesses in the case.⁴⁶ The Panel therefore finds that the probative value of W00742's Statements is not outweighed by any prejudicial effect.

17. *W00742's Associated Exhibit.* The Panel notes that W00742's Associated Exhibit consists of the EULEX photo line-up ("EULEX Photo Line-up") shown to and commented by the witness during the EULEX Interview.⁴⁷ The Panel considers that the EULEX Photo Line-up constitutes an indispensable and inseparable part of W00742's EULEX Interview, as without it, the relevant portions of the statement

⁴¹ Motion, paras 4-6; Reply, para. 3.

⁴² F00999/A01, Specialist Prosecutor, *Annex 1 to Submission of Confirmed Amended Indictment* ("Indictment"), 30 September 2022, confidential, paras 59-61, 96-98, 136-138, 173 (a public lesser redacted version was filed on 27 February 2023, F01323/A01); *see also* F00709/A01, Specialist Prosecutor, *Annex 1 to Prosecution Submission of Corrected Pre-Trial Brief and Related Request* ("SPO Pre-Trial Brief"), 24 February 2022, confidential, paras 658-659 (a public redacted version was filed on 3 April 2023, F01415/A01).

⁴³ *See above* paras. 12-13.

⁴⁴ *See above* para. 15.

⁴⁵ Response, para. 5.

⁴⁶ *See* Motion, para. 9, *referring to* [REDACTED].

⁴⁷ SITF00316405-00316409 RED, p. SITF00316408 *referring to* SITF00316399-SITF00316401-ET RED.

would become incomprehensible or of lesser probative value. The Panel further observes that the EULEX Photo Line-up is dated and signed by the witness.⁴⁸ The Panel is therefore satisfied that W00742's Associated Exhibit is relevant and *prima facie* authentic, and has probative value which is not outweighed by any prejudicial effect.

18. Accordingly, the Panel finds that W00742's Proposed Evidence is admissible pursuant to Rules 138(1) and 155.

2. W04324

19. The SPO submits that the Proposed Evidence of W04324⁴⁹ is relevant;⁵⁰ authentic and reliable;⁵¹ and that its probative value is not outweighed by any prejudice.⁵²

20. The Defence objects to the admission of W04324's Proposed Evidence on the basis that it is unreliable and lacks corroboration.⁵³ The Defence argues that: (i) the admission of W04324's Proposed Evidence prejudices the Defence by denying it the opportunity to cross-examine the only witness who may testify [REDACTED], whose evidence was admitted pursuant to Rule 155;⁵⁴ (ii) the SPO failed to establish that it had exercised reasonable diligence in its effort to secure W04324's testimony or tender his Proposed Evidence in writing at a much earlier stage of the trial;⁵⁵ (iii) W04324's Proposed Evidence is inconsistent and unreliable, as it

⁴⁸ SITF00316399-SITF00316401-ET RED, p. SITF00316401.

⁴⁹ W04324's Proposed Evidence consists of the following statements, including any translations thereof: (i) SITF00176851-SITF00176855 RED; (ii) SITF00370952-SITF00370963 RED2; (iii) SITF00369389-SITF00369438 RED; (iv) SITF00369491-SITF00369522 RED; (v) SITF00369558-SITF00369606 RED; and (vi) SITF00369659-SITF00369676 RED ("W04324's Statements"). See Annex 2 to the Motion.

⁵⁰ Motion, paras 11-13.

⁵¹ Motion, paras 14-15.

⁵² Motion, para. 16.

⁵³ Response, para. 11.

⁵⁴ Response, para. 12.

⁵⁵ Response, paras 13, 25-30.

relies entirely on hearsay and [REDACTED], and therefore lacks corroboration;⁵⁶ (iv) W04324's Proposed Evidence is not sufficiently corroborated by other documentary evidence;⁵⁷ and (v) the Defence is deprived of its right of cross-examination, contrary to the Panel's previous decision and to the guarantees of fairness provided therein.⁵⁸

21. The SPO replies that: (i) the Response ignores the Panel's previous findings, including that admissibility does not require proof of reliability in relation to each and every fact or circumstance in relation to which the witness gives evidence as the weight will be accounted for when assessing the evidence at the end of the trial;⁵⁹ (ii) W04324's evidence is corroborated by several witnesses the Defence had an opportunity to cross-examine;⁶⁰ (iii) the minor discrepancies between two Statements have been clarified by W04324,⁶¹ and in any case such submissions do not render the evidence inadmissible and may be considered at the conclusion of the trial during the Panel's holistic assessment of the evidence;⁶² and (iv) the Defence's argument that the SPO failed to exercise reasonable diligence to secure the witness's appearance is unavailing as, prior to the Motion, the SPO exhausted reasonable efforts by first engaging with the witness on multiple occasions, before requesting the assistance of the relevant authorities and examining the prospect of compelling the witness, as a last resort.⁶³

22. The Panel preliminarily notes that the SPO has distributed a document supporting W04324's unavailability to the Panel, Parties and participants.⁶⁴ The Panel notes the Defence's argument that the SPO failed to establish that it had

⁵⁶ Response, paras 15-20.

⁵⁷ Response, para. 21. *See also* Response, para. 22.

⁵⁸ Response, paras 23-24, *referring to* Second Rule 155 Decision, para. 10.

⁵⁹ Reply, para. 7 *referring to* First Rule 155 Decision, para. 64; Second Rule 155 Decision, para. 58.

⁶⁰ Reply, paras 8, 10-13.

⁶¹ Reply, para. 8 *referring to* SITF00176851-SITF00176855 RED, p. SITF00176853.

⁶² Reply, para. 8.

⁶³ Reply, para. 14 *referring to* Motion, para. 19.

⁶⁴ Motion, para. 3, footnote 11, *referring to* the supporting material for W04324's unavailability (7009926-7009927), which [REDACTED].

exercised reasonable diligence in its effort to secure W04324's testimony.⁶⁵ However, the Panel is persuaded by the SPO's submissions that it has exercised reasonable diligence in its effort to secure W04324's testimony by: (i) engaging with the witness on multiple occasions; (ii) requesting the assistance of the relevant authorities; and (iii) examining the prospect of compelling the witness.⁶⁶ In this regard, the Panel notes that, as mentioned by the SPO,⁶⁷ the relevant authorities have confirmed that the witness refuses to testify, as he is not subject to any requirement to cooperate with [REDACTED] or Kosovo authorities for purposes of testimony, the representatives of the host country have no authority to compel him to testify. The Panel therefore finds that the witness is unavailable within the meaning of Rule 155(1)(a).

23. The Panel further notes the Defence's objection that the SPO has failed to exercise reasonable diligence to tender W04324's Proposed Evidence at a much earlier stage of the trial.⁶⁸ The Panel is satisfied that the SPO has exhausted all reasonable efforts to secure the witness's testimony,⁶⁹ and that the filing of the Motion followed suit.⁷⁰

24. Regarding *prima facie* reliability, the Panel observes that W04324's Statements consist of: (i) transcripts of [REDACTED] statements given by W04324 to the Special Prosecution Office of the Republic of Kosovo ("W04324's SPRK Statements");⁷¹ and (ii) [REDACTED] EULEX records of the [REDACTED] ("W04324's EULEX Statements").⁷² Each statement contains multiple indicia of reliability, including, *inter alia*: (i) official verbatim transcripts of W04324's

⁶⁵ Response, para. 13.

⁶⁶ Motion, para. 19. *See also* Reply, para. 14.

⁶⁷ Motion, para. 19 *referring to* 7009926-7009927.

⁶⁸ Response, paras 13, 25-30.

⁶⁹ *See above* para. 22.

⁷⁰ *See* 7009926-7009927. *See also* Motion, para. 19, footnote 65.

⁷¹ SITF00176851-SITF00176855 RED; SITF00370952-SITF00370963 RED2.

⁷² SITF00369389-SITF00369438 RED; SITF00369491-SITF00369522 RED; SITF00369558-SITF00369606 RED; SITF00369659-SITF00369676 RED.

Statements;⁷³ (ii) indication of the date and place of the statements;⁷⁴ (iii) indication of the attendees present, including a duly qualified interpreter,⁷⁵ and their signatures in the W04324's SPRK Statements;⁷⁶ (iv) the witness's personal details and signature in the W04324's SPRK Statements;⁷⁷ (v) the witness warnings, acknowledgments or solemn declaration;⁷⁸ and (vi) the confirmation by W04324 that his SPRK Statements are true, accurate and given voluntarily.⁷⁹

25. With regard to the Defence's objection that W04324's Proposed Evidence is inconsistent and unreliable as it relies on hearsay, lacks corroboration and reliability and is not corroborated by other evidence,⁸⁰ the Panel is of the view that the hearsay nature of W04324's Proposed Evidence does not, *per se*, render it inadmissible.⁸¹ This would, rather, be relevant to assessing its weight at the end of the case, in light of the totality of the evidence.⁸² The Panel has also examined the alleged inconsistencies in W04324's Proposed Evidence and finds that they do not affect the *prima facie* reliability or admissibility of such evidence. The Panel will consider any such inconsistency when deciding the probative value and weight, if

⁷³ SITF00176851-SITF00176855 RED; SITF00370952-SITF00370963 RED2; SITF00369389-SITF00369438 RED; SITF00369491-SITF00369522 RED; SITF00369558-SITF00369606 RED; SITF00369659-SITF00369676 RED.

⁷⁴ SITF00176851-SITF00176855 RED, p. SITF00176851; SITF00370952-SITF00370963 RED2, p. SITF00370952; SITF00369389-SITF00369438 RED, p. SITF00369389; SITF00369491-SITF00369522 RED, p. SITF00369491; SITF00369558-SITF00369606 RED, p. SITF00369558; SITF00369659-SITF00369676 RED, p. SITF00369659.

⁷⁵ SITF00176851-SITF00176855 RED, p. SITF00176851; SITF00370952-SITF00370963 RED2, p. SITF00370952; SITF00369389-SITF00369438 RED, p. SITF00369389; SITF00369491-SITF00369522 RED, p. SITF00369491; SITF00369558-SITF00369606 RED, p. SITF00369558; SITF00369659-SITF00369676 RED, p. SITF00369659.

⁷⁶ SITF00176851-SITF00176855 RED, p. SITF00176851; SITF00370952-SITF00370963 RED2, p. SITF00370952.

⁷⁷ SITF00370952-SITF00370963 RED2, pp. SITF00370952-SITF00370953; SITF00176851-SITF00176855 RED, p. SITF00176851.

⁷⁸ SITF00176851-SITF00176855 RED, p. SITF00176851; SITF00370952-SITF00370963 RED2, p. SITF00370952; SITF00369389-SITF00369438 RED, pp. SITF00369393-SITF00369394.

⁷⁹ SITF00176851-SITF00176855 RED, p. SITF00176855; SITF00370952-SITF00370963 RED2, p. SITF00370957.

⁸⁰ Response, paras 15-22.

⁸¹ See above footnote 39.

⁸² See above footnote 40.

any, to be given to that evidence.⁸³ The Panel further notes the SPO's submission that multiple witnesses who have been cross-examined by the Defence gave evidence about the circumstances to which W04324's Proposed Evidence pertains.⁸⁴ The Panel reiterates that the admission of evidence pursuant to Rule 155 is not conditioned on the existence of corroborating evidence.⁸⁵ The lack of corroboration in respect of a statement or a portion thereof does not render it inadmissible.⁸⁶ The considerations highlighted by the Defence, including the absence of an opportunity to cross-examine the witness, will be accounted for by the Panel when assessing the weight to be given to this witness's evidence. For these reasons, the Panel finds that W04324's Statements are *prima facie* reliable within the meaning of Rule 155(1)(b).

26. Turning to the requirement set out in Rule 155(5), the Panel notes that W04324's Statements do not go to proof of the acts and conduct of the Accused as charged in the Indictment. The Defence did not suggest otherwise.

27. With regard to the Rule 138(1) requirements, the Panel notes that W04324, a Democratic League of Kosovo ("LDK") member who joined the KLA, went to a relevant location on several occasions in the following months and saw at a KLA headquarter two rooms with Serbs and LDK supporters held captive.⁸⁷ W04324's Proposed Evidence also relates to the alleged detention and mistreatment of individuals who were detained at [REDACTED] and to the alleged killing of

⁸³ First Rule 155 Decision, para. 50.

⁸⁴ See Motion, para. 16; Reply, paras 8, 10-13.

⁸⁵ F01671, Panel, *Decision on Thaçi, Veseli & Krasniqi Defence Request for Certification to Appeal the Decision on Prosecution Motion for Admission of Evidence pursuant to Rule 155*, 13 July 2023, para. 11 (with further references).

⁸⁶ ICTY, *Prosecutor v. Popović et al.*, IT-05-88-T, Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 92 *quater*, 19 February 2009, para. 47.

⁸⁷ Motion, paras 11-12.

[REDACTED] suspected of being Serbian ‘collaborators’.⁸⁸ The Panel is satisfied that W04324’s Statements are relevant to the charges in the Indictment.⁸⁹

28. In light of the above findings of *prima facie* reliability⁹⁰ and relevance,⁹¹ the Panel is also satisfied that W04324’s Statements are *prima facie* authentic and of probative value. The Panel further notes that W04324’s Statements do not go to proof of the acts and conduct of the Accused. In addition, the Panel notes the SPO’s submission that W04324’s Proposed Evidence appears to be consistent with, or corroborated in material respects by, *inter alia*, statements of other witnesses in the case,⁹² including witnesses whom the Defence had the opportunity to cross-examine.⁹³ The Panel therefore finds that the probative value of W04324’s Statements is not outweighed by any prejudicial effect. Accordingly, the Panel finds that W04324’s Statements are admissible pursuant to Rules 138(1) and 155.

V. CLASSIFICATION

29. The Panel notes that the Response was filed confidentially and therefore orders the Defence to request the reclassification or submit a public redacted version of the Response by no later than Tuesday, 8 April 2025.

30. Furthermore, the Panel also orders the SPO to file any application seeking to maintain the confidential nature of any of the admitted material by no later than Friday, 4 April 2025. Any response thereto shall be filed no later than Friday, 11 April 2025. No reply will be entertained.

⁸⁸ Motion, paras 12-13.

⁸⁹ Indictment, paras [REDACTED]; SPO Pre-Trial Brief, paras 273-277.

⁹⁰ See *above* paras 24-25.

⁹¹ See *above* para. 27.

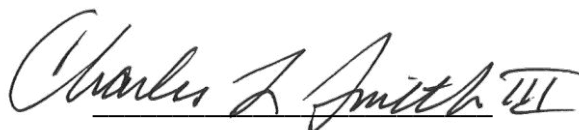
⁹² See Motion, para. 16, referring to W04491; W04694; W04782; W04239; W04445; W04290.

⁹³ See Motion, para. 16, referring to W04491; W04445; W04444; W04290.

VI. DISPOSITION

31. For the foregoing reasons, the Panel hereby:

- a) **GRANTS** the Motion;
- b) **ADMITS** into evidence the following items, including any translations:
 - (i) W00742's Proposed Evidence;⁹⁴ and (ii) W04324's Proposed Evidence;⁹⁵
- c) **ORDERS** the Defence to request the reclassification or submit a public redacted version of the Response by no later than Tuesday, 8 April 2025; and
- d) **ORDERS** the SPO to file any application seeking to maintain the confidential nature of any of the admitted material by no later than Friday, 4 April 2025. Any response thereto shall be filed no later than Friday, 11 April 2025. No reply will be entertained.



Judge Charles L. Smith, III

Presiding Judge

Dated this Wednesday, 2 April 2025

At The Hague, the Netherlands.

⁹⁴ See above footnote 10.

⁹⁵ See above footnote 49.