



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: Acting Specialist Prosecutor

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Prosecution motion for admission of Accused's statements

with public Annex 1

Specialist Prosecutor's Office

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I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law¹ and Rules 137 and 138 of the Rules,² the Specialist Prosecutor's Office ('SPO') requests³ the Panel to admit into evidence the records of interviews and prior testimony of the Accused listed in Annex 1 to this motion ('Records').⁴ The Records include three categories of evidence:⁵

- a. records of the SPO interviews of the Accused ('SPO Interviews');
- b. other records of interviews of the Accused as suspects ('Other Suspect Interviews'); and
- c. records of interviews and testimony of the Accused as witnesses ('Witness Interviews and Testimony').

2. For the reasons detailed below, the Records are relevant, authentic, reliable, and have probative value, which is not outweighed by any prejudice. The interviews and testimony complied with, as applicable, the legal framework of the Kosovo Specialist Chambers ('KSC') and international human right standards. As the admissibility criteria under the Law and Rules are satisfied, it is essential that the Panel has the opportunity to consider the Records, which constitute important evidence of, *inter alia*, the existence of the alleged JCE,⁶ the Accused's participation in and contributions to the JCE, the Accused's effective control over other alleged JCE members and tools, and the Accused's participation in and knowledge of the war crimes and crimes against humanity charged in the Indictment.⁷

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, unless otherwise specified.

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' herein refer to the Rules, unless otherwise specified.

³ The Panel granted the SPO's request for an extension of the word limit to 12,000 words. *See* Decision on Prosecution Request for Extension of Words to File Motion for Admission of Prior Statements of the Accused, KSC-BC-2020-06/F01304, 17 February 2023, para.15(a).

⁴ The Records include each of the items respectively, together with associated exhibits and related procedural information. The complete Records which the SPO seeks to admit are listed in Annex 1.

⁵ For references, *see* Annex 1.

⁶ Joint criminal enterprise ('JCE').

⁷ *See, similarly*, ECtHR, *Ibrahim and Others v. UK* [GC], 50541/08 et al., Judgment ('*Ibrahim Judgment*'), para.252 and the sources cited therein.

II. INTERVIEWS AND PRIOR TESTIMONY

3. The facts relating to the background and general contents of the SPO Interviews, Other Suspect Interviews, and Witness Interviews and Testimony are set out below.

A. SPO INTERVIEWS

4. Between 2019 and 2020, the Accused were interviewed by the SPO. At the time of the SPO Interviews, the Accused were ‘suspects’ and were advised as such.

1. THAÇI January 2020 SPO Interview

5. On 13 and 14 January 2020, the SPO conducted an interview with then-suspect Hashim THAÇI (‘THAÇI January 2020 SPO Interview’). THAÇI was informed that there was a criminal investigation and that there were grounds to believe that he had been involved in the commission of a crime within the jurisdiction of the KSC.⁸

6. He was told that he had the right to remain silent but that if he did make a statement, the questioning was being recorded in its entirety and could be used as evidence.⁹

7. He was further informed that he had the right to the assistance of the interpreter free of charge¹⁰ and to be assisted by an attorney and to have the attorney present during this questioning.¹¹ THAÇI confirmed his understanding of his rights and agreed to answer questions.¹² He intelligently waived his right to silence¹³ and to have an attorney present during questioning.¹⁴

⁸ 071840-TR-ET Part 1, p.2.

⁹ 071840-TR-ET Part 1, pp.2-3.

¹⁰ 071840-TR-ET Part 1, p.3.

¹¹ 071840-TR-ET Part 1, p.3.

¹² 071840-TR-ET Part 1, p.3.

¹³ 071840-TR-ET Part 1, pp. 11, 13; 071840-TR-ET Part 4, pp.4 et seqq.

¹⁴ 071840-TR-ET Part 1, p.3.

8. THAÇI provided evidence about events relevant to the charges including but not limited to: (i) his membership in the KLA;¹⁵ (ii) his involvement in and leadership of the KLA's Political and Information Directorate;¹⁶ (iii) his whereabouts and the whereabouts of other KLA members and leaders;¹⁷ (iv) his relationship with, *inter alia*, Adem DEMAÇI,¹⁸ Jakup KRASNIQI, Rame BUJA, Azem SYLA,¹⁹ Agim ÇEKU,²⁰ Sylejman SELIMI,²¹ Xhavit HALITI, Sokol BASHOTA, Rexhep SELIMI, Lahi BRAHIMAJ, Kadri VESELI,²² Xheladin GASHI, Jashar SALIHU,²³ and Bislim ZYRAPI,²⁴ (v) his membership on the General Staff and its functioning;²⁵ (vi) the transportation of weapons into Kosovo for the KLA;²⁶ (vii) disciplinary measures within the KLA;²⁷ (viii) the KLA's Military Police;²⁸ (ix) the treatment of 'collaborators';²⁹ (x) his knowledge of and involvement in arrests and detentions;³⁰ (xi) the battle of Gllogjan/Glođane on 24 March 1998;³¹ and (xii) the Rambouillet conference.³²

2. THAÇI July 2020 SPO Interview

9. On 13 through 16 July 2020, the SPO conducted a further interview with then-suspect Hashim THAÇI ('THAÇI July 2020 SPO Interview'). He was informed that

¹⁵ 071840-TR-ET Part 4, pp.5-7. The 'KLA' refers to the Kosovo Liberation Army.

¹⁶ 071840-TR-ET Part 4, pp.5-7.

¹⁷ 071840-TR-ET Part 4, pp.8-21, Part 5, pp.3-17.

¹⁸ 071840-TR-ET Part 4, p.8.

¹⁹ 071840-TR-ET Part 4, p.9.

²⁰ 071840-TR-ET Part 4, p.12.

²¹ 071840-TR-ET Part 4, p.13.

²² 071840-TR-ET Part 4, p.14.

²³ 071840-TR-ET Part 4, p.16.

²⁴ 071840-TR-ET Part 5, p.3..

²⁵ 071840-TR-ET Part 4, pp.14-15, 18-21.

²⁶ 071840-TR-ET Part 4, pp.16-18.

²⁷ 071840-TR-ET Part 5, pp.3-4.

²⁸ 071840-TR-ET Part 7, pp.22-23.

²⁹ 071840-TR-ET Part 5, pp.11-16, Part 6, pp.6-15, Part 7, pp.3-4.

³⁰ 071840-TR-ET Part 5, pp.5-6, Part 6, pp.1-3, 21-22, Part 7, pp.23-25, Part 8, pp.12-14.

³¹ 071840-TR-ET Part 4, p.15.

³² 071840-TR-ET Part 4, p.9.

there was a criminal investigation and that there were grounds to believe that he had been involved in the commission of a crime within the jurisdiction of the KSC.³³

10. He was told that he had the right to remain silent but that if he did make a statement, the questioning was being recorded in its entirety and could be used in evidence.³⁴

11. He was further informed that he had the right to the assistance of the interpreter free of charge,³⁵ to be assisted by an attorney and to have the attorney present during questioning.³⁶ THAÇI confirmed his understanding of his rights and agreed to answer questions.³⁷ He intelligently waived his right to silence;³⁸ and his attorney was present during questioning via video-link.³⁹ Further, his attorney was provided a copy of these rights in written form.⁴⁰

12. THAÇI was given the opportunity to clarify, supplement or amend his answers where necessary and he confirmed there had been no threats or force used to pressure him into answering the SPO's questions.⁴¹

13. THAÇI provided evidence about events relevant to the charges including but not limited to: (i) his membership in the KLA;⁴² (ii) his movements within and outside of Kosovo;⁴³ (iii) his leadership of the KLA Information Directorate;⁴⁴ (v) KLA command structures, hierarchy and bases;⁴⁵ (vi) his relationship with, *inter alia*, Bislim ZYRAPI, Rexhep SELIMI, Sabit GECI, Sylejman SELIMI, Kadri VESELI, Agim ÇEKU,

³³ 076563-TR-ET Part 1, p.2.

³⁴ 076563-TR-ET Part 1, pp.2-3.

³⁵ 076563-TR-ET Part 1, p.3.

³⁶ 076563-TR-ET Part 1, p.3.

³⁷ 076563-TR-ET Part 1, p.3.

³⁸ 076563-TR-ET Part 2, pp. 1 et seqq.

³⁹ 076563-TR-ET Part 1, pp.3-4.

⁴⁰ 076563-TR-ET Part 1, p.2.

⁴¹ 076563-TR-ET Part 21, pp.23-24.

⁴² 076563-TR-ET Part 2, pp.9-15; 076563-TR-ET Part 5, p.3; 076563-TR-ET Part 12, pp.3-6.

⁴³ 076563-TR-ET Part 10, p.12; 076563-TR-ET Part 16, pp.10-12.

⁴⁴ 076563-TR-ET Part 5, p.3; 076563-TR-ET Part 8, p.7.

⁴⁵ 076563-TR-ET Part 2, pp.9-11; 076563-TR-ET Part 3, pp.1, 12-30; 076563-TR-ET Part 12, p.6.

and Azem SYLA;⁴⁶ (vii) the KLA General Staff;⁴⁷ (viii) the arrest and detention of several persons;⁴⁸ and (ix) his political functions and role in the negotiations and signing of the Rambouillet agreement.⁴⁹

3.SELIMI November 2019 SPO Interview

14. On 12 through 14 November 2019, the SPO conducted an interview with then-suspect Rexhep SELIMI ('SELIMI November 2019 SPO Interview'). He was informed that there was a criminal investigation and that there were grounds to believe that he had been involved in the commission of a crime within the jurisdiction of the KSC.⁵⁰

15. SELIMI was told that he had the right to remain silent but that if he did make a statement, the questioning was being recorded in its entirety and could be used in evidence.⁵¹

16. He was further informed that he had the right to the assistance of the interpreter free of charge⁵² and to be assisted by an attorney and to have the attorney present during this questioning.⁵³ SELIMI confirmed his understanding of his rights and agreed to answer questions.⁵⁴ He voluntarily and intelligently waived his right to silence⁵⁵ and to have an attorney present during questioning.⁵⁶ SELIMI confirmed that he attended the interview and provided information voluntarily.⁵⁷

17. During the November 2019 SPO Interview, SELIMI answered questions and provided evidence about events during the relevant timeframe including but not

⁴⁶ 076563-TR-ET Part 2, p.19; 076563-TR-ET Part 3, pp.3, 12; 076563-TR-ET Part 4, pp.15-18; 076563-TR-ET Part 6, p.8; 076563-TR-ET Part 7, p.7; 076563-TR-ET Part 21, p.14.

⁴⁷ 076563-TR-ET Part 4, p.17; 076563-TR-ET Part 7, pp.11-12; 076563-TR-ET Part 9, p.14; 076563-TR-ET Part 15, p.11.

⁴⁸ 076563-TR-ET Part 13, p.7; 076563-TR-ET Part 16, pp. 9-11; 076563-TR-ET Part 17, pp.2, 5-6.

⁴⁹ 076563-TR-ET Part 12, p.10; 076563-TR-ET Part 13, p.3.

⁵⁰ 068933-TR-ET Part 1, p.2.

⁵¹ 068933-TR-ET Part 1, pp.2-3.

⁵² 068933-TR-ET Part 1, p.3.

⁵³ 068933-TR-ET Part 1, p.3.

⁵⁴ 068933-TR-ET Part 1, p.3.

⁵⁵ 068933-TR-ET Part 1, p.3.

⁵⁶ 071840-TR-ET Part 1, p.3.

⁵⁷ 068933-TR-ET Part 14, pp.29-30.

limited to: (i) his membership in the KLA;⁵⁸ (ii) his involvement in and leadership of the KLA's Operational Department;⁵⁹ (iii) his relationship with, *inter alia*, Sylejman SELIMI,⁶⁰ Azem SYLA,⁶¹ Jakup KRASNIQI,⁶² and Bislim ZYRAPI, (iv) his membership and duties within the KLA General Staff, as well as its functioning;⁶³ (v) the transportation of weapons into Kosovo;⁶⁴ (vi) the management of new KLA recruits;⁶⁵ (vii) communications between the KLA General Staff and KLA members;⁶⁶ (viii) the role of Drenoc/Drenovac as a supply base;⁶⁷ (ix) his duty to set up, structure and organise operational units;⁶⁸ (x) the set-up of operational zones;⁶⁹ (xi) the KLA Military Police;⁷⁰ (xii) the battle of Rahovec/Orahovac;⁷¹ (xiii) his role as minister of public order in the provisional government;⁷² (xiv) the definition and treatment/punitive actions against so-called 'collaborators';⁷³ (xv) the 'special war';⁷⁴ and (xvi) his and the KLA General Staff's knowledge of detention sites.⁷⁵

4. SELIMI February 2020 SPO Interview

18. On 18 and 19 February 2020, the SPO conducted a further interview with then-suspect Rexhep SELIMI ('SELIMI February 2020 SPO Interview'). He was informed

⁵⁸ 068933-TR-ET Part 1, pp.4-6.

⁵⁹ 068933-TR-ET Part 1, p.14.

⁶⁰ 068933-TR-ET Part 1, p.8, Part 2, p.8.

⁶¹ 068933-TR-ET Part 1, pp.13-15.

⁶² 068933-TR-ET Part 6, p.6, Part 10, pp.1-2.

⁶³ 068933-TR-ET Part 1, pp.12, 15, 20, Part 3, pp.1-3, 7-8, 19-20, Part 5, pp.4-15, Part 9, pp.12-15.

⁶⁴ 068933-TR-ET Part 1, pp.12-13.

⁶⁵ 068933-TR-ET Part 1, pp.12, 20, Part 3, p.12.

⁶⁶ 068933-TR-ET Part 1, p.13, Part 10, p.1.

⁶⁷ 068933-TR-ET Part 1, p.19.

⁶⁸ 068933-TR-ET Part 1, p.20.

⁶⁹ 068933-TR-ET Part 3, p. 14, Part 6, pp.5-6.

⁷⁰ 068933-TR-ET Part 3, pp.2-4, 12-13, Part 12, pp.2-3.

⁷¹ 068933-TR-ET Part 1, p.23, Part 9, pp.12-15.

⁷² 068933-TR-ET Part 6, p.17.

⁷³ 068933-TR-ET Part 11, pp.19-22.

⁷⁴ 068933-TR-ET Part 11, pp.17-18, Part 12, pp.9-13.

⁷⁵ 068933-TR-ET Part 14, pp.2 et seqq.

that there was a criminal investigation and that there were grounds to believe that he had been involved in the commission of a crime within the jurisdiction of the KSC.⁷⁶

19. He was told that he had the right to remain silent but that if he did make a statement, the questioning was being recorded in its entirety and could be used in evidence.⁷⁷

20. He was further informed that he had the right to the assistance of the interpreter free of charge⁷⁸ and to be assisted by an attorney and to have the attorney present during questioning.⁷⁹ SELIMI confirmed his understanding of his rights and agreed to answer questions.⁸⁰ He received a written version of his rights and obligations in Albanian to review and sign.⁸¹ He voluntarily and intelligently waived his right to silence⁸² and to have an attorney present during questioning.⁸³

21. During the February 2020 SPO Interview, SELIMI answered questions and provided evidence about events during the relevant timeframe including but not limited to: (i) his membership and role in the KLA;⁸⁴ (ii) the KLA General Staff, its members,⁸⁵ communications, meetings, consultations and decision making processes;⁸⁶ (iii) the appointment of commanders;⁸⁷ (iv) his relation to Sylejman SELIMI⁸⁸ and the relationship between certain KLA General Staff members;⁸⁹ (v) his and other KLA General Staff members' travel within and outside of Kosovo;⁹⁰ (vi)

⁷⁶ 074459-TR-ET Part 1, p.2.

⁷⁷ 074459-TR-ET Part 1, p.2.

⁷⁸ 074459-TR-ET Part 1, p.3.

⁷⁹ 074459-TR-ET Part 1, pp.2-3.

⁸⁰ 074459-TR-ET Part 1, p.3.

⁸¹ 074459-TR-ET Part 1, p.4.

⁸² 074459-TR-ET Part 1, pp.4 et seqq.

⁸³ 074459-TR-ET Part 1, p.3.

⁸⁴ 074459-TR-ET Part 2, pp.2-3.

⁸⁵ 074459-TR-ET Part 3, pp.5-6.

⁸⁶ 074459-TR-ET Part 2, pp.2-5, 10-13, Part. 3, p.5, Part 5, p.10, Part 6, p.13.

⁸⁷ 074459-TR-ET Part 2, pp.4-6.

⁸⁸ 074459-TR-ET Part 1, p.6.

⁸⁹ 074459-TR-ET Part 5, p.1.

⁹⁰ 074459-TR-ET Part 3, pp.1-2, Part 5, pp.1, 7, Part 8, pp.1-4.

'Operation Arrow';⁹¹ (vii) the purchase of arms by KLA members;⁹² (viii) the Rambouillet conference;⁹³ (ix) the transformation of the KLA into the TMK and the formation of the provisional government;⁹⁴ (x) the SHIK⁹⁵ and the ZKZ⁹⁶ (G2);⁹⁷ (xi) the incidents in Qirez/Ćirez and Baicë/Banjica;⁹⁸ and (xii) Likoc/Likovac and other detention sites.⁹⁹

B. OTHER SUSPECT INTERVIEWS

1. THAÇI May 2016 SPRK Interview

22. On 6 May 2016, the SPRK¹⁰⁰ conducted an interview with then-suspect Hashim THAÇI ('THAÇI May 2016 SPRK Interview'). He was informed that there was a criminal case against him and that there were grounds to believe that he had been involved in the commission of war crimes against the civilian population under Articles 142 and 22 of the CCSFRY.¹⁰¹

23. He was provided a formal advisement as required under Articles 125(3), and 152(3), (4) of the Code of Criminal Procedure of Kosovo (CPC).¹⁰² He was informed of his rights, *inter alia*, to silence, counsel, an interpreter, and against self-incrimination, and that any statement he did give would be recorded and could be used as evidence in court. After being told that, if he did not understand these rights, he should ask to consult with an attorney, THAÇI confirmed that he understood his rights.¹⁰³

⁹¹ 074459-TR-ET Part 5, pp.17-18.

⁹² 074459-TR-ET Part 5, p.27.

⁹³ 074459-TR-ET Part 5, pp.10-12.

⁹⁴ 074459-TR-ET Part 5, pp.13-14, Part. 6, p.3.

⁹⁵ *Shërbimi Informativ i Kosovës* ('SHIK').

⁹⁶ *Zbulim Kunderzbulim* ('ZKZ').

⁹⁷ 074459-TR-ET Part 6, pp.4-6.

⁹⁸ 074459-TR-ET Part 7, pp.2-18.

⁹⁹ 074459-TR-ET Part 8, pp.4-12.

¹⁰⁰ Special Prosecution Office of the Republic of Kosovo ('SPRK').

¹⁰¹ 051716-051719-ET, p.1. The term 'CCSFRY' refers to the Criminal Code of the Socialist Federal Republic of Yugoslavia ('CCSFRY'), 1 July 1977.

¹⁰² 051716-051719-ET, p.2, *in reference to* Republic of Kosovo Code of Criminal Procedure, Criminal No. 04/L-123, 1 January 2013.

¹⁰³ 051716-051719-ET, p.2.

24. THAÇI stated that he had understood the criminal offences he was accused of, and acknowledged that he had been given the warnings that were read and informed of his rights as an accused under Article 152 of the CPC.¹⁰⁴

25. He stated that he would defend himself and answer the questions put to him, and that he did not want to engage an attorney for his defence at that stage of the criminal proceedings.¹⁰⁵ The questioning was recorded in writing in the absence of technical equipment; THAÇI did not object.¹⁰⁶ The record of the interview was read aloud to him and he signed it.¹⁰⁷

26. During the THAÇI May 2016 SPRK Interview, THAÇI answered questions and provided evidence about events relevant to the charges including but not limited to: (i) his role within the KLA; (ii) the KLA General Staff, (iii) the issuance of KLA communiques; and (iv) his movements within Kosovo.¹⁰⁸

2. KRASNIQI December 2013 SPRK Interview

27. On 20 December 2013, the SPRK conducted an interview with then-suspect Jakup KRASNIQI. Before the beginning of the interview, he was read the warning pursuant to Article 125(3) of the CPC.¹⁰⁹

28. The statement was audio-recorded in accordance with Article 152(5) of the CPC.¹¹⁰ He was provided a formal advisement as required under Articles 125(3), and 152(3), (4) of the Code of Criminal Procedure of Kosovo (CPC).¹¹¹ He was informed of his rights, *inter alia*, to silence, counsel, an interpreter, and against self-incrimination, and that any statement he did give would be recorded and could be used as evidence

¹⁰⁴ 051716-051719-ET, p.3.

¹⁰⁵ 051716-051719-ET, p.3.

¹⁰⁶ 051716-051719-ET, p.2.

¹⁰⁷ 051716-051719-ET, p.4.

¹⁰⁸ 051716-051719-ET, pp.3-4.

¹⁰⁹ SITF00364476-00364497, pp.1-2.

¹¹⁰ SITF00364476-00364497, p.1.

¹¹¹ 051716-051719-ET, p.2, *in reference to* Republic of Kosovo Code of Criminal Procedure, Criminal No. 04/L-123, 1 January 2013.

in court. KRASNIQI confirmed that he understood his rights and obligations,¹¹² the charges against him¹¹³ and made use of his right to have an attorney present.¹¹⁴ He initialled on the bottom of each page of the 'Record of Examination of the Defendant' and signed the last page along with his attorney and the interpreter.¹¹⁵

29. He voluntarily and intelligently waived his right to remain silent and answered questions and provided evidence about events relevant to the charges including but not limited to: (i) his role in the KLA;¹¹⁶ (ii) the KLA's structure;¹¹⁷ (iii) his relationship with other KLA members, such as Sylejman SELIMI;¹¹⁸ (iv) his movements within and outside of Kosovo;¹¹⁹ (v) the Rambouillet negotiations;¹²⁰ and (vi) his knowledge about arrests and detentions, such as in Likoc/Likovac.¹²¹

C. WITNESS INTERVIEWS AND TESTIMONY

1. SPRK Witness Statements

30. Between 2010 and 2018, the Accused Hashim THAÇI, Kadri VESELI, Rexhep SELIMI, and Jakup KRASNIQI were individually called as witnesses in several SPRK investigations.

(a) THAÇI November 2011 SPRK Witness Statement

31. On 8 November 2011, THAÇI was called as a witness in the SPRK investigation against Arben KRASNIQI et al. Prior to questioning, the Public Prosecutor gave him the following advisement:¹²²

¹¹² SITF00364476-00364497, p.2.

¹¹³ SITF00364476-00364497, p.3.

¹¹⁴ SITF00364476-00364497, pp.1, 3.

¹¹⁵ SITF00364476-00364497, pp.1-7.

¹¹⁶ SITF00364476-00364497, p.3.

¹¹⁷ SITF00364476-00364497, p.4.

¹¹⁸ SITF00364476-00364497, pp.4-6.

¹¹⁹ SITF00364476-00364497, pp.3-4.

¹²⁰ SITF00364476-00364497, p.3.

¹²¹ SITF00364476-00364497, pp.3-6.

¹²² SITF00009007-00009016, p.1.

Before we start I have to warn you that you must speak the truth and may not withhold anything and that giving a false testimony is a criminal offence. If you refuse to answer any question you may be fined and imprisoned. You are instructed that you need not answer a particular question if it is likely that you would expose yourself or a close relative to disgrace, considerable material damage or criminal prosecution. Do you understand?

32. THAÇI stated that he understood his rights. He then answered questions, providing information about: (i) his role in the KLA General Staff in 1999;¹²³ and (ii) his movements in Kosovo and Albania in approximately February to April 1999, including information about other KLA members and leaders he met or travelled with (including Xhavit HALITI, Jakup KRASNIQI, Azem SYLA, Agim ÇEKU, Bislim ZYRAPI, Fatmir LIMAJ, Sylejman SELIMI, Kadri VESELI and Rexhep SELIMI).¹²⁴

(b) THAÇI July 2018 SPRK Witness Statement

33. On 3 July 2018, THAÇI was called as a witness in the SPRK criminal case against the suspect 'NN et al.,' in relation to the criminal offence of murder.¹²⁵ Before the start of the interview he was given an advisement pursuant to Articles 125(1) and 129 of the CPC.¹²⁶

34. He was further advised of his rights and obligations under Article 129 of the CPC that 'as a witness he is not obligated to answer specific questions where by so doing he is likely to expose himself or a close relative to serious disgrace, considerable material damage or criminal prosecution.'¹²⁷

35. THAÇI confirmed that he understood his rights, and proceeded to answer questions.¹²⁸

36. THAÇI answered questions about, *inter alia*, his relationship with Ramiz LLADROVCI and Milaim ZEKA, and addressed an allegation that LLADROVCI was

¹²³ See SITF00009007-00009016, p.2 (the Accused Hashim THAÇI uses the term 'General HQ', a term that has been used interchangeably with the term 'General Staff').

¹²⁴ SITF00009007-00009016, p.2 et seq.

¹²⁵ SPOE00213717-SPOE00213719-ET, p.1.

¹²⁶ SPOE00213717-SPOE00213719-ET, p.2.

¹²⁷ SPOE00213717-SPOE00213719-ET, p.2.

¹²⁸ SPOE00213717-SPOE00213719-ET, p.2.

blackmailing him 'in relation to the murder case or the fall of' the victim concerned and denied having any knowledge the victim's whereabouts.¹²⁹

(c) VESELI 2010/2011 SPRK Statement

37. On 13 September 2010 and 3 May 2011, the Accused Kadri VESELI was a witness in the SPRK investigation against Nazim Bllaca. He was informed that he was a witness, that he had to tell the truth and that he was not required to answer questions that would expose him to criminal prosecution.¹³⁰ He confirmed that he understood his rights and obligations.¹³¹

38. VESELI then answered questions and provided evidence relating to, *inter alia*, (i) his positions within the KLA and the PGoK;¹³² (ii) his leadership of the SHIK, its organisation,¹³³ and its role in gathering intelligence about 'the enemy';¹³⁴ and (iii) strategies to uncover 'collaborators'.¹³⁵

(d) VESELI September 2011 SPRK Statement

39. On 26 September 2011, VESELI was a witness in the SPRK investigation case against Arben KRASNIQI et al. He was informed that he was a witness, that he had to tell the truth and that he was not required to answer questions that would expose him to criminal prosecution.¹³⁶ He confirmed that he understood his rights and obligations.¹³⁷

40. VESELI then answered questions and provided evidence about events during the relevant timeframe including but not limited to: (i) his membership within the

¹²⁹ SPOE00213717-SPOE00213719-ET, pp.2-3.

¹³⁰ SITF00398137-SITF00398157, pp.2, 5.

¹³¹ SITF00398137-SITF00398157, p.1. Only the 3 May 2011 statement is signed by him but he confirmed his 13 September 2010 statement by making corrections and amendments.

¹³² SITF00398137-SITF00398157, pp.2-3. 'PGoK' refers to the Provisional Government of Kosovo.

¹³³ SITF00398137-SITF00398157, pp.2-4, 6-9.

¹³⁴ SITF00398137-SITF00398157, pp.8-12.

¹³⁵ SITF00398137-SITF00398157, p.10.

¹³⁶ SITF00009124-00009133, p.1.

¹³⁷ SITF00009124-00009133, p.1.

KLA;¹³⁸ (ii) his position on the KLA General Staff; (iii) his movements within and outside of Kosovo;¹³⁹ (iv) his interactions with other KLA members, such as Fatmir LIMAJ and Bislim ZYRAPI;¹⁴⁰ (v) 'Operation Arrow';¹⁴¹ and (vi) interactions between Fatmir LIMAJ, Azem SYLA, Jakup KRASNIQI, Hashim THAÇI, Xhavit HALITI, Bislim ZYRAPI, Agim ÇEKU, and Rame BUJA.¹⁴²

(e) VESELI 2018 SPRK Interview

41. On 9 July 2018, VESELI was a witness in the SPRK investigation case against 'NN et al.' Before the start of the interview, he was given an advisement pursuant to Article 125(1) of the CPC.¹⁴³

42. He was further advised of his rights and obligations under Article 129 of the CPC that 'as a witness he is not obligated to answer specific questions where by so doing he is likely to expose himself or a close relative to serious disgrace, considerable material damage or criminal prosecution.'¹⁴⁴

43. He confirmed that he had understood these rights and obligations.¹⁴⁵

44. VESELI then answered questions relating to, *inter alia*, his relationship with Fehmi LLADROVCI,¹⁴⁶ whether he knew of Ramiz LLADROVCI attempting to contact the Hashim THAÇI, whether he knew the victim in the case, and him denying of having any knowledge regarding the victim's whereabouts.¹⁴⁷

¹³⁸ SITF00009124-00009133, p.2.

¹³⁹ SITF00009124-00009133, pp.2-5.

¹⁴⁰ SITF00009124-00009133, pp.3-5.

¹⁴¹ SITF00009124-00009133, p.4.

¹⁴² SITF00009124-00009133, pp.3-5.

¹⁴³ SPOE00213660-SPOE00213662-et, p.2.

¹⁴⁴ SPOE00213660-SPOE00213662-et, p.2.

¹⁴⁵ SPOE00213660-SPOE00213662-et, pp.1-2.

¹⁴⁶ SPOE00213660-SPOE00213662-et, pp.2-3.

¹⁴⁷ SPOE00213660-SPOE00213662-et, pp.2-3.

(f) SELIMI September 2011 SPRK Statement

45. On 27 September 2011, SELIMI was a witness in the SPRK investigation case against Arben KRASNIQI et al. Prior to questioning, the Public Prosecutor provided the following advisement:¹⁴⁸

Before we start I have to warn you that you must speak the truth and may not withhold anything and that giving a false testimony is a criminal offence. If you refuse to answer any question you may be fined and imprisoned. You are instructed that you need not answer a particular question if it is likely that you would expose yourself or a close relative to disgrace, considerable material damage or criminal prosecution. Do you understand?

46. He confirmed that he understood his rights and obligations.¹⁴⁹

47. SELIMI then answered questions and provided evidence about events relevant to the charges including but not limited to: (i) the KLA's structure;¹⁵⁰ (ii) his role and the roles of others in the KLA;¹⁵¹ (iii) his radio call sign '10';¹⁵² (iv) the KLA's operational zones and bases;¹⁵³ (v) his relation to Sylejman SELIMI and Agim ÇEKU;¹⁵⁴ and (vi) his whereabouts and the whereabouts of other KLA leaders.¹⁵⁵

(g) SELIMI June 2013 SPRK Statement

48. On 3 June 2013, SELIMI was a witness in the SPRK investigation against Sabit GEÇI et al. He was given a formal warning pursuant to Article 125(1) of the CPC.¹⁵⁶

49. He confirmed that he understood his rights and obligations and stressed that he did not wish to avail himself of the exemption from the duty to testify due to his familial relation to one of the Accused.¹⁵⁷

¹⁴⁸ SITF00009289-00009298, p.1.

¹⁴⁹ SITF00009289-00009298, p.1.

¹⁵⁰ SITF00009289-00009298, pp.2-3.

¹⁵¹ SITF00009289-00009298, pp.2-3.

¹⁵² SITF00009289-00009298, p.1.

¹⁵³ SITF00009289-00009298, p.1.

¹⁵⁴ SITF00009289-00009298, pp.3-4.

¹⁵⁵ SITF00009289-00009298, pp.2-5.

¹⁵⁶ SITF00371392-00371396, p.2.

¹⁵⁷ SITF00371392-00371396, p.2. One of the Accused was Rexhep SELIMI's relative, Sylejman SELIMI.

50. SELIMI then answered questions and provided evidence about events relevant to the charges including but not limited to: (i) his roles and activities in the KLA;¹⁵⁸ (ii) his movements within Kosovo;¹⁵⁹ (iii) the Military Police;¹⁶⁰ (iv) 'Operation Arrow';¹⁶¹ (v) his relation to Sylejman SELIMI¹⁶² and Sabit GEÇI;¹⁶³ and (vi) the KLA's operational zones.¹⁶⁴

(h) SELIMI October 2016 SPRK Statement

51. On 13 October 2016, SELIMI was a witness in an SPRK investigation case regarding war crimes against a civilian population. He was given a formal warning pursuant to Articles 125(1) and 129 of the CPC.¹⁶⁵

52. He was further advised of his rights and obligations under Article 129 of the CPC that 'as a witness he is not obligated to answer specific questions where by so doing he is likely to expose himself or a close relative to serious disgrace, considerable material damage or criminal prosecution.'¹⁶⁶ He stated that he understood the rights and obligations as a witness.¹⁶⁷

53. SELIMI then answered questions and provided evidence about events relevant to the charges including but not limited to: (i) the KLA's structure and its operational zones;¹⁶⁸ (ii) his roles and duties within the KLA,¹⁶⁹ including as Chief of the Operational Directorate;¹⁷⁰ (iii) the KLA General Staff and its military court;¹⁷¹ (iv) the

¹⁵⁸ SITF00371392-00371396, p.2.

¹⁵⁹ SITF00371392-00371396, pp.2-5.

¹⁶⁰ SITF00371392-00371396, p.3.

¹⁶¹ SITF00009289-00009298, p.4.

¹⁶² SITF00371392-00371396, pp.3-5.

¹⁶³ SITF00371392-00371396, p.4.

¹⁶⁴ SITF00371392-00371396, pp.2-5.

¹⁶⁵ SPOE00067168-SPOE00067174-ET, p.2.

¹⁶⁶ SPOE00067168-SPOE00067174-ET, p.2.

¹⁶⁷ SPOE00067168-SPOE00067174-ET, p.2.

¹⁶⁸ SPOE00067168-SPOE00067174-ET, pp.3-4.

¹⁶⁹ SPOE00067168-SPOE00067174-ET, pp.2-7.

¹⁷⁰ SPOE00067168-SPOE00067174-ET, pp.2-3.

¹⁷¹ SPOE00067168-SPOE00067174-ET, pp.3-6.

roles of other KLA leaders;¹⁷² (v) his relationship with Fatmir LIMAJ¹⁷³ and Bislim ZYRAPI;¹⁷⁴ and (vi) his knowledge of the murders of Ramiz HOXHA and Selman BINISHI.¹⁷⁵

(i) SELIMI May 2018 SPRK Statement

54. On 22 May 2018, SELIMI was a witness in the SPRK investigation case against 'NN et al.' Before the start of the interview, he was given an advisement pursuant to Articles 125(1) and 129 of the CPC.¹⁷⁶

55. He was further advised of his rights and obligations under Article 129 of the CPC that 'as a witness he is not obligated to answer specific questions where by so doing he is likely to expose himself or a close relative to serious disgrace, considerable material damage or criminal prosecution.'¹⁷⁷

56. He confirmed that he understood his rights and obligations, and signed the record after each of the warnings.¹⁷⁸ After the interview records were read back to him, he signed them without adding any remarks.¹⁷⁹

57. SELIMI then answered questions and provided evidence about events relevant to the charges including but not limited to: (i) his relationship with Ramiz LLADROVCI;¹⁸⁰ (ii) whether he knew of letters LLADROVCI sent to the Accused Hashim THAÇI;¹⁸¹ (iii) his friendship with Fehmi LLADROVCI until his death in

¹⁷² SPOE00067168-SPOE00067174-ET, pp.3-7.

¹⁷³ SPOE00067168-SPOE00067174-ET, p.4.

¹⁷⁴ SPOE00067168-SPOE00067174-ET, pp.4-5.

¹⁷⁵ SPOE00067168-SPOE00067174-ET, pp.5-6.

¹⁷⁶ SPOE00213583-SPOE00213586, p.2.

¹⁷⁷ SPOE00213583-SPOE00213586, p.2.

¹⁷⁸ SPOE00213583-SPOE00213586, p.2.

¹⁷⁹ SPOE00213583-SPOE00213586, p.4.

¹⁸⁰ SPOE00213583-SPOE00213586, pp.3-4.

¹⁸¹ SPOE00213583-SPOE00213586, p.3.

September 1998;¹⁸² (iv) whether he knew the victim in the case;¹⁸³ and (v) him denying of having any knowledge regarding the victim's whereabouts.¹⁸⁴

(j) KRASNIQI June 2018 SPRK Statement

58. On 13 June 2018, KRASNIQI was a witness in the SPRK investigation case against 'NN et al.' Before the start of the interview, he was given an advisement pursuant to Articles 125(1) and 129 of the CPC.¹⁸⁵

59. He was further advised of his rights and obligations under Article 129 of the CPC that 'as a witness he is not obligated to answer specific questions where by so doing he is likely to expose himself or a close relative to serious disgrace, considerable material damage or criminal prosecution.'¹⁸⁶

60. He confirmed that he understood these rights and obligations, and signed the record after each of the warnings.¹⁸⁷ After the interview records were read back to him, he signed them without adding any remarks.¹⁸⁸

61. KRASNIQI then answered questions and provided evidence about events relevant to the charges including but not limited to: (i) his position within the KLA;¹⁸⁹ (ii) the KLA General Staff;¹⁹⁰ (iii) whether he knew the whereabouts of the victim in that case;¹⁹¹ (iv) him denying of having any knowledge regarding the victim's whereabouts;¹⁹² and (v) his knowledge of Ramiz LLADROVCI's request for a meeting with the Accused Hashim THAÇI.¹⁹³

¹⁸² SPOE00213583-SPOE00213586, p.3.

¹⁸³ SPOE00213583-SPOE00213586, pp.2-3.

¹⁸⁴ SPOE00213583-SPOE00213586, pp.2-3.

¹⁸⁵ SPOE00213595-SPOE00213597, p.2.

¹⁸⁶ SPOE00213595-SPOE00213597, p.2.

¹⁸⁷ SPOE00213595-SPOE00213597, p.2.

¹⁸⁸ SPOE00213595-SPOE00213597, p.3.

¹⁸⁹ SPOE00213595-SPOE00213597, p.2.

¹⁹⁰ SPOE00213595-SPOE00213597, pp.2-3.

¹⁹¹ SPOE00213595-SPOE00213597, pp.2-3.

¹⁹² SPOE00213595-SPOE00213597, pp.2-3.

¹⁹³ SPOE00213595-SPOE00213597, pp.2-3.

2. Kosovo Court Testimony

(a) VESELI 2012 EULEX Trial Testimony

62. On 20 June 2012, VESELI was a witness in the trial against Sadik ABAZI et al.

Before the start of his testimony, he was given the following warning:

You are obliged to tell the truth and may not withhold anything. I remind you that the giving of false testimony constitutes a criminal offence. However, you are not obliged to answer individual questions by which you would be likely to expose yourself or a close relative to serious disgrace, considerable material damage or criminal prosecution.¹⁹⁴

63. He took the oath,¹⁹⁵ and proceeded to answer questions and provide evidence about events relevant to the charges including but not limited to: (i) his positions and duties within the KLA;¹⁹⁶ (ii) his leadership of the G2/ZKZ and the SHIK, as well as the SHIK's degree of organisation, and the recruitment of members;¹⁹⁷ and (iii) the command structures within the KLA.¹⁹⁸

(b) SELIMI January 2018 SPRK Trial Testimony

64. On 15 January 2018, SELIMI was a witness in the SPRK trial against Fatmir LIMAJ, conducted in Gjakova Basic Court. The court noted that due to missing recording equipment, the proceedings would be registered in transcription form, and the parties did not object.¹⁹⁹ The written transcript contains the entirety of SELIMI's testimony as a witness in the trial.²⁰⁰

65. Before the start of his testimony, SELIMI was 'informed by the Court that he has an obligation to tell the truth and that giving false testimony constitutes a criminal

¹⁹⁴ SITF00398181-00398290, p.3.

¹⁹⁵ SITF00398181-00398290, p.3.

¹⁹⁶ SITF00398181-00398290, p.6.

¹⁹⁷ SITF00398181-00398290, pp.3-12, 28-31.

¹⁹⁸ SITF00398181-00398290, p.9.

¹⁹⁹ SPOE00068075-SPOE00068087-ET, p.1.

²⁰⁰ SPOE00068075-SPOE00068087-ET, p.1.

offense, that he can refuse to answer any question that would subject himself or close relative to disgrace or serious material or other harm.’²⁰¹

66. SELIMI then answered questions and provided evidence about events relevant to the charges including but not limited to: (i) his role and duties within the KLA,²⁰² specifically as the head of the Operational Directorate;²⁰³ (ii) the KLA’s operational zones;²⁰⁴ (iii) the structuring and reorganisation of KLA units;²⁰⁵ (iv) the role of other KLA members and leaders;²⁰⁶ (v) KLA General Staff functions;²⁰⁷ (vi) the KLA Military Police;²⁰⁸ (vii) his knowledge of the killings of Selman BINISHI and Ramiz HOXHA;²⁰⁹ and (viii) the arrest of two LDK members.²¹⁰

(c) KRASNIQI February 2018 SPRK Trial Testimony

67. On 2 February 2018, KRASNIQI was a witness in the SPRK trial against Fatmir LIMAJ, conducted in Gjakova Basic Court. The court noted that due to missing recording equipment, the proceedings would be registered in transcription form, and the parties did not object.²¹¹ The written transcript contains the entirety of KRASNIQI’s testimony as a witness in the trial.²¹²

68. Before the start of his testimony, KRASNIQI was ‘informed by the Court that he has an obligation to tell the truth and that giving false testimony constitutes a criminal offense, that he can refuse to answer any question that would subject himself or close relative to disgrace or serious material or other harm.’²¹³

²⁰¹ SPOE00068075-SPOE00068087-ET, p.2

²⁰² SPOE00068075-SPOE00068087-ET, p.2.

²⁰³ SPOE00068075-SPOE00068087-ET, p.2.

²⁰⁴ SPOE00068075-SPOE00068087-ET, p.2.

²⁰⁵ SPOE00068075-SPOE00068087-ET, pp.2-3.

²⁰⁶ SPOE00068075-SPOE00068087-ET, pp.6, 9.

²⁰⁷ SPOE00068075-SPOE00068087-ET, pp.2, 5.

²⁰⁸ SPOE00068075-SPOE00068087-ET, p.12.

²⁰⁹ SPOE00068075-SPOE00068087-ET, p.7.

²¹⁰ SPOE00068075-SPOE00068087-ET, pp.2-7, 11.

²¹¹ SPOE00068088-SPOE00068094-ET, p.1.

²¹² SPOE00068088-SPOE00068094-ET, p.1.

²¹³ SPOE00068088-SPOE00068094-ET, p.2.

69. KRASNIQI then answered questions and provided evidence about events relevant to the charges including but not limited to: (i) his role and duties within the KLA;²¹⁴ (ii) the role of other KLA members and leaders;²¹⁵ (iii) KLA General Staff functions;²¹⁶ (iv) his relationship to Fatmir LIMAJ;²¹⁷ (v) his knowledge of the killings of Ramiz HOXHA and Selman BINISHI;²¹⁸ and (vi) the arrest of two LDK members.²¹⁹

3. ICTY Witness Statements

(a) THAÇI May 2004 ICTY Statement

70. On 5 May 2004, THAÇI gave a statement to the ICTY OTP (THAÇI May 2004 ICTY Statement).²²⁰ He was informed that he was a witness and that the statement would be recorded.²²¹ He confirmed his understanding and consented to it.²²²

71. During THAÇI's 2004 ICTY interview, due to a technical failure, there was no audio record of the statement and only investigator's notes remaining.²²³ THAÇI later confirmed that he had had the opportunity to review those notes and was asked whether he would like to clarify or comment on anything, and he did so in a written response.²²⁴ He freely objected when he did not agree with the notes²²⁵ and provided further clarifications and explanations.²²⁶ His comments were added to the record in

²¹⁴ SPOE00068088-SPOE00068094-ET, pp.2-7.

²¹⁵ SPOE00068088-SPOE00068094-ET, pp.2-7.

²¹⁶ SPOE00068088-SPOE00068094-ET, pp.2, 6.

²¹⁷ SPOE00068088-SPOE00068094-ET, p.6.

²¹⁸ SPOE00068088-SPOE00068094-ET, p.3.

²¹⁹ SPOE00068088-SPOE00068094-ET, pp.2-7.

²²⁰ Office of the Prosecutor ('OTP') of the International Criminal Tribunal for the former Yugoslavia ('ICTY').

²²¹ U008-1957-U008-1967, p.2.

²²² U008-1957-U008-1967, p.2.

²²³ U008-1957-U008-1967, p.1.

²²⁴ U008-1957-U008-1967, pp.10-11.

²²⁵ See for example U008-1957-U008-1967, p.4, para.42.

²²⁶ U008-1957-U008-1967, pp.1-11.

italics.²²⁷ He was then asked whether he supported the text of his statement, which he did.²²⁸

72. THAÇI also confirmed that he attended the interview on request of the ICTY OTP and that no pressure, promises, or incentives were offered to him for responding to the questions.²²⁹

73. He further confirmed that he was advised that his statement may be provided to other law enforcement agencies and/or judicial authorities, and agreed to his statement being provided to those authorities at the discretion of the ICTY OTP.²³⁰

74. In the THAÇI January 2020 SPO Interview, THAÇI confirmed that he gave and 'accepted' the THAÇI May 2004 ICTY Statement.²³¹

75. During the THAÇI May 2004 ICTY Statement, THAÇI answered questions and provided evidence about events relevant to the charges including but not limited to: (i) his membership in the KLA since its founding in 1992;²³² (ii) his relationships with Jakup KRASNIQI, Fatmir LIMAJ, Ismet JASHARI, Sahit JASHARI, Fehmi LLADROVCI, Jakup LLADROVCI, Haxhi SHALA, Shukri BUJA and Bislim ZYRAPI;²³³ (iii) the General Staff and its communication, command structure and bases;²³⁴ (iv) his operational responsibility when traveling to Kosovo;²³⁵ (v) the KLA Military Police;²³⁶ (vi) the treatment of 'collaborators';²³⁷ (vii) his knowledge of and involvement in arrests and detentions;²³⁸ and (viii) the battle of Glogjan/Glođane on 24 March 1998.²³⁹

²²⁷ U008-1957-U008-1967, pp.10-11.

²²⁸ U008-1957-U008-1967, p.11.

²²⁹ U008-1957-U008-1967, p.10.

²³⁰ U008-1957-U008-1967, p.11.

²³¹ See, for example, 071840-TR-ET Part 6, pp.8-9; 071840-TR-ET Part 7, p.2.

²³² U008-1957-U008-1967, pp.2-10.

²³³ U008-1957-U008-1967, pp.2, 7-8.

²³⁴ U008-1957-U008-1967, pp.2-3, 6.

²³⁵ U008-1957-U008-1967, p.2.

²³⁶ U008-1957-U008-1967, p.4.

²³⁷ U008-1957-U008-1967, p.7.

²³⁸ U008-1957-U008-1967, pp.4-5, 7.

²³⁹ U008-1957-U008-1967, p.8.

(b) SELIMI April 2004 ICTY Statement

76. On 2 April 2004, SELIMI gave a statement to the ICTY OTP ('SELIMI April 2004 ICTY Statement'). He was informed that he was a witness.²⁴⁰ SELIMI had his legal representative present.²⁴¹ At the end of the interview, he was asked if he wanted to add anything to his statement, which he declined and stated that he was satisfied with the treatment by the ICTY OTP.²⁴² During his ICTY testimony,²⁴³ SELIMI later confirmed that he was asked to attend as a witness and it was in that capacity that he was interviewed in the context of the April 2004 interview.²⁴⁴

77. During the SELIMI April 2004 ICTY Statement, SELIMI answered questions and provided evidence about events relevant to the charges including but not limited to: (i) events related to the Kosovo conflict;²⁴⁵ (ii) his role in the KLA;²⁴⁶ (iii) his recruitment of other KLA members;²⁴⁷ (iv) the KLA's structure,²⁴⁸ communications,²⁴⁹ and its operational zones;²⁵⁰ (v) the KLA General Staff;²⁵¹ (vi) the roles of Hashim THAÇI, Kadri VESELI, Jakup KRASNIQI, Bislim ZYRAPI, Lahi BRAHIMAJ, Rame BUJA, Azem SYLA, Agim ÇEKU, Sylejman SELIMI,²⁵² Fatmir LIMAJ, Shukri BUJA, and Haxhi SHALA;²⁵³ (vii) KLA detention sites;²⁵⁴ and (viii) his travel within Kosovo.²⁵⁵

²⁴⁰ T000-2344-T000-2345, pp.1, 3.

²⁴¹ T000-2344-T000-2345, pp.1-2.

²⁴² T000-2344-T000-2345, pp.98-99.

²⁴³ See Section II. 4. a. below.

²⁴⁴ IT-03-66 T6583-T6589, p.7.

²⁴⁵ T000-2344-T000-2345, pp.2-8.

²⁴⁶ T000-2344-T000-2345, pp.2-, 30-31, 36.

²⁴⁷ T000-2344-T000-2345, pp.12, 24.

²⁴⁸ T000-2344-T000-2345, pp.14-15, 35.

²⁴⁹ T000-2344-T000-2345, p.14.

²⁵⁰ T000-2344-T000-2345, pp.5, 17-22, 26, 38-43.

²⁵¹ T000-2344-T000-2345, pp.49-53.

²⁵² T000-2344-T000-2345, pp.50-53.

²⁵³ T000-2344-T000-2345, pp.52, 86-96.

²⁵⁴ T000-2344-T000-2345, pp.81-86.

²⁵⁵ T000-2344-T000-2345, pp.27.

(c) KRASNIQI 23 and 24 May 2007 ICTY Statement

78. On 23 and 24 May 2007, KRASNIQI gave a witness statement to the ICTY ('KRASNIQI 23 and 24 May 2007 ICTY Statement').²⁵⁶ He confirmed that he came to the ICTY voluntarily, and was not forced or threatened to do so.²⁵⁷ He further confirmed that he had told the truth during his testimony in the ICTY trial against Fatmir LIMAJ et al.,²⁵⁸ and would give the same answers if questioned on the same topics again.²⁵⁹

79. He also acknowledged:

I have read this statement and it is true to the best of my knowledge and recollection I have given this Statement voluntarily and I am aware that it may be used in legal proceedings before the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Law Committed in the Territory of the Former Yugoslavia since 1991 and that I may be called to give evidence before the Tribunal.²⁶⁰

80. At the start of his 2007 ICTY testimony, KRASNIQI confirmed that he gave the KRASNIQI 23 and 24 May 2007 ICTY Statement, read and signed it afterwards. He also confirmed the accuracy and truthfulness of the statement.²⁶¹

81. During the KRASNIQI 23 and 24 May 2007 ICTY Statement, KRASNIQI answered questions and provided evidence about events relevant to the charges including but not limited to: (i) events related to the Kosovo conflict, such as the January 1998 attack on the Jashari compound;²⁶² (ii) his role in the KLA;²⁶³ (iii) the

²⁵⁶ IT-04-84 P00328, p.2.

²⁵⁷ IT-04-84 P00328, p.2.

²⁵⁸ See Section II. C. 4. b. below.

²⁵⁹ IT-04-84 P00328, p.4.

²⁶⁰ IT-04-84 P00328, p.8.

²⁶¹ IT-04-84bis P00064, p.2. See also Section II. C. 4. c. below.

²⁶² IT-04-84 P00328, p.3.

²⁶³ IT-04-84 P00328, p.2.

KLA's structure, organisation of members, its operational zones,²⁶⁴ weapons, recruitments²⁶⁵ and funds;²⁶⁶ and (vi) the KLA General Staff.²⁶⁷

4. ICTY Witness Testimony

(a) SELIMI May 2005 ICTY Trial Testimony

82. On 27 through 31 May 2005, SELIMI testified as a witness for the Defence in the ICTY trial against Fatmir LIMAJ et al.²⁶⁸ He was asked to read aloud the affirmation printed on the card handed to him, after which he solemnly declared that he would 'speak the truth, the whole truth, and nothing but the truth.'²⁶⁹

83. In his testimony, SELIMI answered questions and provided evidence about events during the relevant timeframe including but not limited to: (i) events related to the Kosovo conflict;²⁷⁰ (ii) his role and duties within the KLA;²⁷¹ (iii) the KLA's structure and its operational zones,²⁷² particularly the Drenica operational zone²⁷³ and the formation of brigades;²⁷⁴ (iv) the KLA General Staff;²⁷⁵ (v) his relationship with Fatmir LIMAJ,²⁷⁶ Sylejman SELIMI²⁷⁷ and Xhavit HALITI;²⁷⁸ and (vi) detentions.²⁷⁹

²⁶⁴ IT-04-84 P00328, pp.3-4.

²⁶⁵ IT-04-84 P00328, p.4.

²⁶⁶ IT-04-84 P00328, p.3.

²⁶⁷ IT-04-84 P00328, pp.2-7.

²⁶⁸ As a witness, he had the right to object to making any statement which might tend to incriminate him. *See* ICTY Rule 90(E), which was in force at the time of the SELIMI May 2005 ICTY Trial Testimony, as well as the KRASNIQI ICTY testimonies discussed below.

²⁶⁹ IT-03-66 T6583-T6589, p.1.

²⁷⁰ IT-03-66 T6590-T6679, pp.2-6, 42.

²⁷¹ IT-03-66 T6583-T6589, p.3; IT-03-66 T6590-T6679, pp.6-7.

²⁷² IT-03-66 T6590-T6679, pp.2, 6, 12-13.

²⁷³ IT-03-66 T6590-T6679, pp.2-3, 60-64; IT-03-66 T6680-T6699, pp.8-9, 12.

²⁷⁴ IT-03-66 T6590-T6679, pp.84-86

²⁷⁵ IT-03-66 T6583-T6589, pp.2, 6; IT-03-66 T6590-T6679, p.7; IT-03-66 T6680-T6699, p. 9.

²⁷⁶ IT-03-66 T6583-T6589, pp.2, 4; IT-03-66 T6590-T6679, p.2; IT-03-66 T6680-T6699, pp.14-16.

²⁷⁷ IT-03-66 T6680-T6699, pp.2-3.

²⁷⁸ IT-03-66 T6680-T6699, p.3.

²⁷⁹ IT-03-66 T6590-T6679, p.43.

(b) KRASNIQI February 2005 ICTY Testimony

84. On 10 through 15 February 2005, KRASNIQI testified as a witness in the ICTY trial against Fatmir LIMAJ et al.²⁸⁰ He was asked to read aloud the affirmation printed on the card handed to him, after which he solemnly declared that he would 'speak the truth, the whole truth, and nothing but the truth.'²⁸¹

85. KRASNIQI then then answered questions and provided evidence about events relevant to the charges including but not limited to: (i) events related to the Kosovo conflict;²⁸² (ii) the formation of the KLA;²⁸³ (iii) his role in the KLA and the role of other KLA members and leaders;²⁸⁴ (iv) the issuance of KLA communiques²⁸⁵ and interviews he gave as KLA spokesperson;²⁸⁶ (v) the KLA's structure and operational zones, and the members of the General Staff;²⁸⁷ (vi) arrests and detentions;²⁸⁸ (vii) the 'Special war';²⁸⁹ and (viii) the Rambouillet conference.²⁹⁰

(c) KRASNIQI May 2007 ICTY Testimony

86. On 29 through 31 May 2007, KRASNIQI testified as a witness in the ICTY trial against Ramush HARADINAJ et al.²⁹¹ He was asked to repeat the solemn declaration that he would 'speak the truth, the whole truth, and nothing but the truth,' which he did.²⁹²

87. KRASNIQI then answered questions and provided evidence about events relevant to the charges including but not limited to: (i) events related to the Kosovo

²⁸⁰ IT-03-66 T3285-T3365, p.1; IT-03-66 T3448-T3540, p.1.

²⁸¹ IT-03-66 T3285-T3365, p.2.

²⁸² IT-03-66 T3285-T3365, p.15; IT-03-66 T3366-T3447, pp.3, 15.

²⁸³ IT-03-66 T3285-3365, pp.9-10.

²⁸⁴ IT-03-66 T3285-3365, pp.29 et seqq., 61.

²⁸⁵ IT-03-66 T3285-3365, pp.29-33, 40, 52, 61-62.

²⁸⁶ IT-03-66 T3285-3365, pp.75 et seqq.; IT-03-66 T3366-T3447, pp.28, 58 both et seqq.

²⁸⁷ IT-03-66 T3285-T3365, pp.26-29, 40; IT-03-66 T3366-3447, pp.49-51; IT-03-66 T3448-T3540, pp.19-21.

²⁸⁸ IT-03-66 T3448-T3540, pp.2-3.

²⁸⁹ IT-03-66 T3366-T3447, pp.32-22.

²⁹⁰ IT-03-66 T3285-3365, pp.30 et seqq.

²⁹¹ IT-04-84bis P00064, p.1.

²⁹² IT-04-84bis P00064, p.1.

conflict;²⁹³ (ii) his role in the KLA and contacts with other members of the KLA;²⁹⁴ (iii) KLA military operations;²⁹⁵ (iv) the treatment of so-called 'collaborators';²⁹⁶ and (v) KLA General Staff communiques and the activities described therein.²⁹⁷

5. UNMIK Witness Statement

88. On 18 November 2003, VESELI gave a witness statement to the UNMIK²⁹⁸ Police, Mitrovica Regional Investigation Unit.²⁹⁹ At the outset, he was advised that he was 'obliged to provide [his] details correctly and to the best of [his] knowledge,' and that '[t]his statement is going to be obtained under no pressure. You are free to say nothing, and anything you say can and will be used as evidence.'³⁰⁰ VESELI answered, 'Yes I agree.'³⁰¹ He signed at the end of every page of the record³⁰² and confirmed at the end of the interview that he had nothing to add to his statement.³⁰³

89. VESELI answered questions and provided evidence about events relevant to the charges including but not limited to: (i) events related to the Kosovo conflict;³⁰⁴ (ii) his role and duties within the KLA;³⁰⁵ (iii) his movements within and outside of Kosovo;³⁰⁶ and (iv) his relationship with Sabit GECI.³⁰⁷

²⁹³ IT-04-84bis P00064, pp. 6 et seqq.

²⁹⁴ IT-04-84bis P00064, pp. 6, 13-14, 33-34, 73-74, 115, 210.

²⁹⁵ IT-04-84bis P00064, pp. 16-18, 27 et seqq.

²⁹⁶ IT-04-84bis P00064, pp. 32, 77-80, 100-101, 120-130, 163-174.

²⁹⁷ IT-04-84bis P00064, pp.2, 6, 8 et seqq.

²⁹⁸ United National Mission in Kosovo ('UNMIK').

²⁹⁹ SITF00253817-00253819, p.1.

³⁰⁰ SITF00253817-00253819, p.1.

³⁰¹ SITF00253817-00253819, p.1.

³⁰² SITF00253817-00253819, pp.1-3.

³⁰³ SITF00253817-00253819, p.3.

³⁰⁴ SITF00253817-00253819, pp.1-3.

³⁰⁵ SITF00253817-00253819, pp.1-2.

³⁰⁶ SITF00253817-00253819, pp.1-2.

³⁰⁷ SITF00253817-00253819, pp.2-3.

III. SUBMISSIONS

90. As there is no specific provision governing the admissibility of an accused's statement, the general admissibility provisions apply.³⁰⁸ The Records satisfy all admissibility criteria. They are relevant, authentic, reliable, have probative value, and such probative value is not outweighed by any prejudicial effect.³⁰⁹ The Records were obtained in accordance with the applicable legal framework and international human rights standards.³¹⁰ In this respect, the interviews and testimony – many of which have been re-affirmed in the context of other statements by the same Accused – were provided voluntarily and without coercion. Further, they constitute important evidence of and are being tendered in proceedings concerning grave international crimes. There is strong public interest in the prosecution and punishment of such crimes.³¹¹

91. The ability of an accused to test the evidence against him is an important aspect of a fair trial. If some or all of the Accused elect to testify in this case, the remaining co-Accused will be able to directly examine the person who provided the prior statement. If, on the other hand, some or all of the Accused elect not to testify, as is their right, the remaining co-accused will be unable to examine the person who provided the prior statement. They will, nevertheless, be able to effectively challenge

³⁰⁸ See Articles 37, 40; Rules 137-138. See also *Specialist Prosecutor v. Mustafa*, Public Redacted Version of Decision on the admission of evidence collected prior to the establishment of the Specialist Chambers and other material, KSC-BC-2020-05/F00281/RED, 13 December 2021 ('*Mustafa* Decision'), paras 16, 20-23; ICTY, *Prosecutor v. Prlić et al.*, IT-04-74-AR73.6, Decision on Appeals against Decision Admitting Transcript of Jadranko Prlić's Questioning into Evidence, 23 November 2007 ('*Prlić* Appeal Decision'), paras 40, 46. In this respect, Article 123(5) of the CPC was not expressly incorporated in the Law or Rules and therefore does not apply. See Article 3(4).

³⁰⁹ Rule 138(1). Those Records collected in criminal proceedings or investigations within the court's subject-matter jurisdiction prior to its establishment by national and international law enforcement authorities are admissible pursuant to Article 37. The applicable law pertaining to the admissibility criteria under Article 37 and Rules 137-138 has been set out in previous decisions of this court. See, for example, *Specialist Prosecutor v. Gucati and Haradinaj*, Decision on the Prosecution Request for Admission of Items Though the Bar Table, KSC-BC-2020-07/F00334, 29 September 2021, paras 10-15; *Mustafa* Decision, KSC-BC-2020-05/F00281/RED, paras 10-14.

³¹⁰ Rule 138(2).

³¹¹ See, similarly, *Ibrahim* Judgment, para.252 and the sources cited therein; ECtHR, *Marguš v. Croatia* [GC], 4455/10, Judgment, 25 May 2014, paras 124-127.

the evidence by, for example, using other evidence and having the opportunity to present their own version of events and challenge credibility.³¹² Further, the SPO will present corroborative testimonial and documentary evidence on the same matters addressed in the Records, which the Defence will also have the opportunity to confront and challenge, including through cross-examination of live witnesses.³¹³ The Panel will also be able observe the relevant Accused's demeanour under questioning, even if they do not choose to testify, insofar as many of the Records – which often confirmed or discussed other written statements by the Accused – were audio and/or video recorded.³¹⁴ These considerable safeguards and counterbalancing factors permit a fair and proper assessment of the reliability of the Records.³¹⁵

92. The Panel, composed of professional judges, will be able to – with appropriate caution³¹⁶ – assess the entirety of the evidence presented and assign the Records the appropriate weight.³¹⁷ In this respect, Rule 140(4)(a) envisions that where the Defence has 'no opportunity to examine' a witness against him, '[a] conviction may not be based solely or to a decisive extent' on such evidence.³¹⁸

93. In the above circumstances, there are no grounds to doubt the fairness of the proceedings³¹⁹ and the Records should be admitted.

³¹² ECtHR, *Schatschatschwili v. Germany*, 9154/10, Judgment [GC], 15 December 2015 ('*Schatschatschwili* Judgment'), para.131. See, similarly, *Prlić* Appeal Decision, para.39.

³¹³ *Schatschatschwili* Judgment, para.128.

³¹⁴ *Schatschatschwili* Judgment, para.127. To the extent any parts of the Records are uncorroborated at the end of the trial, the Panel will be able to take that into account in its final assessment. See para.92 below.

³¹⁵ *Schatschatschwili* Judgment, para.125.

³¹⁶ *Schatschatschwili* Judgment, para.126.

³¹⁷ Rules 139-140. See also *Prlić* Appeal Decision, para.46.

³¹⁸ See Rule 140(4)(a). See also ECtHR, *Vidgen v. the Netherlands*, 29353/06, Judgment, 10 July 2012, paras 38-47; ECtHR, *Al-Khawaja and Tahery v. UK*, 26766/05 and 22228/06, Judgment, 15 December 2011, paras 126-128; ECtHR, *Lucà v. Italy*, 33354/96, Judgment, 27 February 2001, paras 40-41.

³¹⁹ See, generally, ECtHR, *Šarkiene v. Lithuania*, 51760/10, Decision, 27 June 2017, paras 35-38; ECtHR, *Sklyar v. Russia*, 45498/11, Judgment, 18 July 2017, paras 22-26.

A. SPO INTERVIEWS

94. The SPO Interviews listed in Annex 1 consist of evidence collected by the SPO in the course of its investigation pursuant to the Law and Rules.³²⁰

1. The SPO Interviews are relevant

95. The SPO Interviews are relevant. They concern, *inter alia*, the Accused's whereabouts during relevant times, and their roles as leaders within the KLA, including their involvement in the organisation's structure and decision-making. Further, the SPO Interviews contain the Accused's statements about their knowledge of and involvement in arrests, detentions, and mistreatment.³²¹ In addition, the associated exhibits³²² were used in and form an integral part of the SPO Interviews.³²³ Likewise, related procedural documents,³²⁴ including summonses and rights notifications, are necessary for a full assessment of the SPO Interviews and the circumstances in which they were made.³²⁵

2. The SPO Interviews are authentic and reliable

96. At the time of the interviews, the Accused were 'suspects' and were advised as such. Specifically, at the outset of each interview, pursuant to Article 38 and Rules 42-44, the SPO provided clear and comprehensive rights advisements including informing each Accused that (1) there were grounds to believe they had committed a crime within the jurisdiction of the Specialist Chambers; (2) they had a right to remain silent and that such silence would not be considered in the determination of guilt or innocence; (3) any statement they made would be recorded and may be used as evidence; (4) they had a right to be assisted by Specialist Counsel of their own

³²⁰ See Annex 1.

³²¹ See Section II. A. above.

³²² See Annex 1. The SPO does not seek to admit all exhibits referenced in the Records; rather, it tenders only those clearly identified and used during questioning directly relevant to the charges in this case.

³²³ See *Mustafa* Decision, KSC-BC-2020-05/F00281/RED, fn.35.

³²⁴ See Annex 1.

³²⁵ See *Mustafa* Decision, KSC-BC-2020-05/F00281/RED, fn.35.

choosing and to be questioned in the presence of that counsel, including the right to have free legal assistance provided by the Specialist Chambers where they do not have sufficient means to pay for it; and (5) they had the right to free assistance of an interpreter if they could not understand or speak the language used for questioning.³²⁶

97. The SPO provided an interpreter and confirmed at the beginning of every interview that the Accused understood the Albanian being spoken by the interpreter.³²⁷

98. In accordance with Rule 44, the SPO interviews were video-recorded. Further, as required, during each break, the SPO recorded the fact of the recess, as well as the time it began and the time the SPO interview resumed. In addition, the SPO confirmed on the record at the beginning of every session after a break that there was no discussion of any issue pertaining to the investigation or the position of the suspect.³²⁸

99. Pursuant to Rule 44, at the end of each interview, the Accused were provided the opportunity to clarify, supplement or amend anything they said, and the concluding time of the interview was noted.³²⁹

3. The SPO Interviews have probative value, which is not outweighed by any prejudice

100. As the interviews are relevant, authentic, and reliable, for the reasons set out above, they also have probative value, which is not outweighed by any prejudicial effect.

101. The statements were given by the Accused following knowing and intelligent waivers of, as applicable,³³⁰ their rights to counsel and to remain silent.³³¹ The Defence will have the opportunity to challenge this evidence and the Panel, composed of

³²⁶ See Section II. A. above.

³²⁷ See Section II. A. above.

³²⁸ See Section II. A. above.

³²⁹ See Section II. A. above.

³³⁰ THAÇI was represented by counsel during his July 2020 interview.

³³¹ See Section II. A. above.

professional judges, will be able to appropriately assess the entirety of the evidence presented at the conclusion of the trial and assign, *inter alia*, the SPO Interviews appropriate weight.³³²

B. OTHER SUSPECT INTERVIEWS

102. The Other Suspect Interviews listed in Annex 1 consist of evidence collected in Kosovo criminal proceedings and investigations before and after the establishment of the KSC.³³³

1. The Other Suspect Interviews are relevant

103. The Other Suspect Interviews are relevant. They concern, *inter alia*, the Accused's positions and involvement in the KLA, the organisation's structure, the Accused's whereabouts during the times relevant to the Indictment, and the Accused's knowledge of the arrest and detention of civilians.³³⁴

2. The Other Suspect Interviews are authentic and reliable

104. At the time of the interviews, the Accused were 'suspects' and were advised as such. Specifically, at the outset of each interview, pursuant to Article 125(3) of the CPC, the SPRK provided clear and comprehensive rights advisements including informing each Accused that: (1) there were grounds to believe they had committed a crime pursuant to Articles 142 and 22 CCSRFY; (2) they had a right to remain silent; (3) any statement they made would be recorded (either in writing or audio-recorded) and may be used as evidence; (4) they had a right to be assisted by counsel of their own choosing and to be questioned in the presence of that counsel; and (5) they had the right to free assistance of an interpreter if they could not understand or speak the

³³² See paras 90-93 above.

³³³ See Annex 1. To the extent these Records were collected before the establishment of the KSC, they fall under Article 37.

³³⁴ See Section II. B. above.

language used for questioning. The Accused both confirmed they understood their rights and obligations; they intelligently waived their right to remain silent.³³⁵

105. KRASNIQI's suspect interview was audio-recorded and he made use of his right to have an attorney present. He initialled on the bottom of each page of the 'Record of Examination of the Defendant' and signed the last page along with his attorney and the interpreter.³³⁶

106. THAÇI stated that he would defend himself and answer the questions put to him, and that he did not want to engage an attorney for his defence at that stage of the criminal proceedings. The record of the interview was read aloud to him and he signed it. In absence of the technical equipment for audio-video recording, THAÇI's interview was recorded in writing. He did not object to this procedure.³³⁷

3. The Other Suspect Interviews have probative value, which is not outweighed by any prejudice

107. As the Other Suspect Interviews are relevant, authentic, and reliable, for the reasons set out above, they also have probative value, which is not outweighed by any prejudicial effect.

108. As set out above, the statements were given by the Accused following knowing and intelligent waivers of their rights and in KRASNIQI's case, with counsel present. The Defence will have the opportunity to challenge this evidence and the Panel, composed of professional judges, will be able to appropriately assess the entirety of the evidence presented at the conclusion of the trial and assign, *inter alia*, the Other Suspect Interviews appropriate weight.³³⁸

³³⁵ See Section II. B. above.

³³⁶ See Section II. B. 2. above.

³³⁷ See Section II. B. 1. above.

³³⁸ See paras 90-93 above.

C. WITNESS STATEMENTS AND TESTIMONY

109. The Witness Statements and Testimony listed in Annex 1 consist of evidence collected in criminal proceedings and investigations both before and after the establishment of the KSC.³³⁹

1. The Witness Statements and Testimony are relevant

110. The Witness Statements and Testimony are relevant. They concern, *inter alia*, the Accused's positions and involvement in the KLA, the organisation's structure, the Accused's whereabouts during the times relevant to the Indictment, the KLA's policy regarding the treatment of 'collaborators,' and the Accused's knowledge of and involvement in arrests, detentions, and mistreatment.³⁴⁰ In addition, the associated exhibits³⁴¹ were used in and form an integral part of the relevant Witness Statements and Testimony.

2. The Witness Statements and Testimony are authentic and reliable

111. The Witness Statements and Testimony were voluntary, free of coercion and improper compulsion,³⁴² and taken in a manner consistent with international human rights standards. The Accused, who were witnesses in the relevant investigations and duly advised as such, confirmed that they made such statements freely and understood that they were being recorded and could be used as evidence. They had the opportunity during the relevant interviews – as well as during subsequent suspect and witness interviews and testimony³⁴³ – to correct, retract, or revise. The relevant

³³⁹ See Annex 1.

³⁴⁰ See Section II. C. above. To the extent these Records were collected before the establishment of the KSC, they are admissible under Article 37.

³⁴¹ See Annex 1. The SPO does not seek to admit all exhibits referenced in the Records; rather, it tenders only those clearly identified and used during questioning directly relevant to the charges in this case.

³⁴² *Ibrahim* Judgment, para.266. See also para.270 (noting examples from previous case law, including that during interviews of a witness – as opposed to a suspect – suspect rights do not apply, even if that person later becomes a suspect (see ECtHR, *Schmid-Laffer v. Switzerland*, 41269/08, Judgment, 16 June 2015, paras 29, 39)).

³⁴³ Compliance with fair trial requirements must be examined in each case having regard to the development of the proceedings as a whole and not on the basis of an isolated consideration of one

Accused confirmed each of the Witness Statements and Testimony, sometimes on multiple occasions.³⁴⁴

112. During THAÇI's 2004 ICTY interview, due to a technical failure, there was no audio record of the statement, only investigator's notes. THAÇI confirmed that he had the opportunity to review the notes, was asked whether he wanted to clarify or comment on anything, and he did so in a written response. His comments were added to the record in italics. He was then asked whether he supported the text of his statement, which he did, a fact he later confirmed during his January 2020 suspect interview with the SPO.³⁴⁵

113. During the 2004 ICTY interview, THAÇI also confirmed that he attended the interview on request of the ICTY OTP and that there was no pressure, promises, or incentives offered to him for responding to the questions presented to him. He further confirmed that he was advised that his statement may be provided to other law enforcement agencies and/or judicial authorities, and agreed to his statement being provided to those authorities at the discretion of the ICTY OTP.³⁴⁶

114. Given the steps taken to allow THAÇI to review and correct and comment on the written record of his 2004 ICTY interview, combined with the fact that he made corrections, which were then included in the record, the technical failure of the audio recording does not undermine the reliability of the THAÇI May 2004 ICTY Statement.

3. The Witness Statements and Testimony have probative value, which is not outweighed by any prejudice

115. As the interviews are relevant, authentic, and reliable, for the reasons set out above, they also have probative value, which is not outweighed by any prejudicial effect.

particular aspect or one particular incident. See ECtHR, *Doyle v. Ireland*, 51979/17, Judgment, 23 August 2019, paras 70-72.

³⁴⁴ See Section II. C. above.

³⁴⁵ See Section II. C. 3. a. above.

³⁴⁶ See Section II. C. 3. a. above.

116. As set out above, the Witness Statements and Testimony were voluntary, free of coercion and improper compulsion, and taken in a manner consistent with international human rights standards. The Defence will have the opportunity to challenge this evidence and the Panel, composed of professional judges, will be able to appropriately assess the entirety of the evidence presented at the conclusion of the trial and assign, *inter alia*, the Witness Statements and Testimony appropriate weight.³⁴⁷

IV. CLASSIFICATION

117. This filing and Annex 1 are public. Certain of the Records are confidential, due provider-applied restrictions and because they relate to confidential investigations and contain personal information of witnesses, victims, and the Accused. Following a decision on this request, the SPO will, as appropriate, submit public versions of any confidential Records, which have been admitted.

V. RELIEF REQUESTED

118. In the interests of justice and a proper determination of the charges in this case, the Panel should admit the Records listed in Annex 1 into evidence.

Word count: 9933



Alex Whiting

Acting Specialist Prosecutor

Wednesday, 8 March 2023

At The Hague, the Netherlands.

³⁴⁷ See paras 90-93 above.