



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 Guénaël Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Acting Specialist Prosecutor

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Public redacted version of 'Prosecution motion for admission of evidence of Witnesses W03832, W03880, W04769, W03724, W00072, W01504, W02153, W04368, W04566, and W04586 pursuant to Rule 154', KSC-BC-2020-06/F01625, dated 23 June 2023

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I. INTRODUCTION

1. Pursuant to the Decision,¹ Article 37 of the Law,² the Trial Panel's Prior Rule 154 Decisions,³ and Rule 154 of the Rules,⁴ the Specialist Prosecutor's Office ('SPO') hereby submits a Rule 154 motion seeking the admission of the statements,⁵ together with the associated exhibits,⁶ of the following witnesses: W03832,⁷ W03880,⁸ W04769,⁹ W03724,¹⁰ W00072,¹¹ W01504,¹² W02153,¹³ W04368,¹⁴ W04566,¹⁵ and W04586,¹⁶ (collectively, 'Rule 154 Statements').¹⁷ W03832, W03880, W04769, and W03724 are scheduled to provide evidence during the next group of 12 witnesses,¹⁸ whereas

¹ Annex 1 to Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023, para.51 (encouraging 'Parties and participants to consider making effective use of Rules 153, 154 and 155, to the greatest extent possible') ('Decision'). Unless otherwise stated, all references to Kosovo Specialist Chambers ('KSC') filings are to this case.

² 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.

³ Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154, KSC-BC-2020-06/F01380, 16 March 2023 ('First Rule 154 Decision'); Decision on Second Prosecution Motion Pursuant to Rule 154, KSC-BC-2020-06/F01595, 9 June 2023 ('Second Rule 154 Decision').

⁴ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). Unless otherwise indicated, all references to 'Rule(s)' are to the Rules of Procedure and Evidence.

⁵ The account of each witness tendered for admission is the 'Rule 154 Statement'.

⁶ See Annexes 1-10. The Rule 154 Statement and the associated exhibits for each witness are the 'Proposed Evidence'.

⁷ [REDACTED] ('W03832 Rule 154 Statement').

⁸ [REDACTED] ('W03880 Rule 154 Statement').

⁹ [REDACTED] ('W04769 Rule 154 Statement').

¹⁰ [REDACTED] ('W03724 Rule 154 Statement').

¹¹ [REDACTED] ('W00072 Rule 154 Statement').

¹² [REDACTED] ('W01504 Rule 154 Statement').

¹³ 076841-076856; U008-7623-U008-7629; 0106-8151-0106-8166 ('W02153 Rule 154 Statement').

¹⁴ [REDACTED] ('W04368 Rule 154 Statement').

¹⁵ [REDACTED] ('W04566 Rule 154 Statement').

¹⁶ [REDACTED] ('W04586 Rule 154 Statement').

¹⁷ An extension of 6000 words was granted for this filing by oral order. In Court Oral Order, 19 June 2023, p.5104, lines 4-12.

¹⁸ On 24 March 2023, the SPO filed its second motion pursuant to Rule 154 (Prosecution Updated Motion for admission of evidence of Witnesses W03827, W04408, W04577, W04644, W04781, W04255, W01493, and W04448 pursuant to Rule 154, KSC-BC-2020-06/F01396, 24 March 2023 ('Second Rule 154 Motion')). In the Second Rule 154 Motion, the SPO included witnesses who were expected to appear among the next 12 witnesses and indicated that the projection provided was provisional. The SPO noted that any order prepared more than four months in advance may be subject to change due to numerous factors, including witness availability and security concerns and that the SPO would alert the Panel and parties when it had information about any change in the second group of twelve witnesses. See Second Rule

W00072, W01504, W02153, W04368, W04566, and W04586 are reserve witnesses that the SPO can draw upon on shorter notice if the need arises.¹⁹ As W02153 and W04586 are among the reserve witnesses identified for the July 2023 evidentiary block, the SPO requests expedited consideration of the relevant parts of this request in order to maximise the SPO's ability to call a witness in the event of an unexpected disruption to the scheduled witness order.²⁰

2. The Rule 154 Statements and associated exhibits of the witnesses addressed below (collectively, the 'Proposed Evidence') meet the requirements of the Rule, are relevant, authentic and reliable and have probative value, which is not outweighed by any prejudice.²¹ Admission is therefore in the interests of justice.

3. Attached to this motion are ten annexes, one for each Rule 154 witness addressed in this motion. Each annex contains a table identifying the proposed statement(s) that collectively comprise the proposed Rule 154 Statement for that witness. In addition, where applicable, the annexes contain a second table identifying the associated exhibits tendered for admission for each witness.

4. In furtherance of its ongoing efforts to streamline its case, the SPO notes that it is reducing the proposed examination time for W01504 from 2 hours to 1 hour and

154 Motion, KSC-BC-2020-06/F01396, para.5. In light of witness availability and circumstances, the status of the presentation of evidence, and the need to ensure that witnesses fit the sitting schedule, the SPO has changed the composition of the next 12, adding four of the Rule 154 witnesses who are the subject of this Motion. The composition and order of the next group of 12 witnesses will be further detailed in the 30 June 2023 filing ordered by the Panel. *See* In Court Oral Order, 19 June 2023, p.5068, lines 10-21. Four of the witnesses concerned by the Second Rule 154 Motion (W04255, W01493, W04448 and W04644) have been moved to or are being considered for reserve positions, due to their availability, personal circumstances, the status of the presentation of evidence, and scheduling matters. *See also* fns 19-20 below.

¹⁹ All of the witnesses covered by this motion were previously notified as within the first 40 SPO witnesses, or were notified by *inter partes* email. *See* Prosecution submission of provisional list of first 40 witnesses to be called at trial, KSC-BC-2020-06/F01117, 18 November 2022; SPO email of 10 May 2023, 4:08 pm. The SPO notes that the six reserve witnesses indicated herein serve the same purpose as the 'backup witnesses' requested by the Panel in the Oral Order dated 19 June 2023. *See* In Court Oral Order, 19 June 2023, p.5068, lines 10-21. If not called during upcoming evidentiary blocks, all reserves identified will eventually be scheduled witnesses in future sitting periods.

²⁰ *See* SPO email of 21 June 2023, 4:50 pm (also notifying W04644 as a potential reserve – as noted above, the Panel has already ruled on the Rule 154 motion related to W04644).

²¹ Rules, Rules 137-138, 154.

reducing the proposed examination time for W04769 from 4 hours to 2 hours. The SPO is also converting W03832 from *viva voce* to Rule 154, and reducing the examination estimate from 6 hours to 2 hours.

II. APPLICABLE LAW

5. Rule 154 allows a Panel to admit the evidence of a witness—including evidence that relates to the acts and conduct of the accused as charged in the Indictment²²—in the form of a written statement or transcript if the witness is (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) attests that the written statement or transcript accurately reflects that witness's declaration and what they would say if examined.²³

6. Evidence admitted pursuant to Rule 154 must satisfy the standard admissibility criteria provided for in Rules 137 and 138(1).²⁴ This means that the requirements for relevance, authenticity and probative value of the evidence, as well as the condition that any prejudicial effect should not outweigh the probative value of the evidence, must be met.²⁵ In addition to assessments of the authenticity and reliability of written statements, similarly-situated courts have found that transcripts of prior testimony are appropriate for admission in writing as they are inherently authentic and reliable, often video-recorded, verbatim records, which include all questions, answers and clarifications of witnesses, who in addition testified under oath, and were subject to cross-examination.²⁶

²² See Annex 1 to Submission of Confirmed Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022 ('Indictment').

²³ See First Rule 154 Decision, KSC-BC-2020-06/F01380, para.11.

²⁴ See, generally, First Rule 154 Decision, KSC-BC-2020-06/F01380, paras 12(ii), 15, 25, 57.

²⁵ Indicia of reliability and authenticity for statements and transcripts are contained in each annex to this Motion.

²⁶ ICTY, *Prosecutor v. Lukić and Lukić*, IT-98-32/1-A, Appeals Judgment, 4 December 2012, fn.1633; ICTY, *Prosecutor v. Prlić et al*, IT-04-74-T, Decision on the Prosecution Motion for Admission of Evidence Pursuant to Rules 92 bis and quarter of the Rules, 27 October 2006, para.10; The Special Court for Sierra Leone ('SCSL'), *Prosecutor v. Taylor*, SCSL-03-1-T, Decision on Public with Confidential Annexes C to E Prosecution Motion for the Admission of the Prior Trial Transcripts of Witnesses TF1-021 and TF1-083 Pursuant to Rule 92quarter, 5 February 2009, para.17; cf. ICTY, *Prosecutor v. Kordić and Čerkez*, Decision

7. Exhibits used with the respective witnesses in the tendered evidence are appropriate for admission as associated exhibits when they are used or explained by a witness and are an integral part of the statement or testimony.²⁷

8. The use of Rules 153, 154 and 155 is also consistent with the Law, which recognises the admissibility of evidence from other entities that preceded the KSC's establishment and outlines the eligibility requirements.²⁸ The Panel has confirmed the legal requirements for admission under Rule 154 and has held that when a witness's evidence is suitable for Rule 154 admission, the evidence is admitted, subject to fulfilment in court of the conditions in Rule 154(a)-(c).²⁹

III. SUBMISSIONS

9. The Proposed Evidence of each of the witnesses should be admitted as it (i) is relevant to the allegations in the Indictment, (ii) is *prima facie* reliable and contains sufficient indicia of authenticity, (iii) has probative value³⁰ that is not outweighed by its prejudicial effect, and (iv) meets the requirements of Rule 154. The SPO refers to its prior submissions concerning the propriety and utility of Rule 154 procedures.³¹

10. As detailed below, and in the accompanying Annexes, the Proposed Evidence fulfils the requirements of admissibility under Rules 137 and 138(1). In this respect, the associated exhibits are an integral part of the Rule 154 Statements, without which the statements may become less complete or be of diminished probative value. The

on Appeal Regarding Statement of a Deceased Witness, 21 July 2000, paras 26-28; *see also* First Rule 154 Decision, KSC-BC-2020-06/F01380, para.26.

²⁷ *See* First Rule 154 Decision, KSC-BC-2020-06/F01380, paras 24-25.

²⁸ Law, Art. 37. *See also* Law, Art.40(2).

²⁹ First Rule 154 Decision, KSC-BC-2020-06/F01380.

³⁰ Since the interviews are relevant, authentic, and reliable, they also have probative value. The probative value of a document is determined by two primary factors: (i) the *prima facie* reliability of the tendered evidence; and (ii) the measure by which that evidence is likely to influence the determination of a particular issue in dispute in the case. *See 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/F00281RED, 13 December 2021, para.13.

³¹ *See, e.g.*, Second Rule 154 Motion, KSC-BC-2020-06/F01396, para.11.

associated exhibits provide context to the evidence contained in the Rule 154 Statements and corroborate that evidence.

A. W03832

11. *Relevance.* [REDACTED]. On [REDACTED], W03832 was [REDACTED] traveling to [REDACTED]. [REDACTED]. En route, uniformed KLA members questioned [REDACTED] was allowed to proceed [REDACTED]. W03832 and other [REDACTED] were told by a KLA member, [REDACTED], that certain 'KLA structures' wanted to speak with them before [REDACTED] could leave. Armed KLA members blocked the exits and [REDACTED] were prevented from leaving [REDACTED].

12. A group of armed KLA soldiers arrived, including [REDACTED]. [REDACTED] verbally abused [REDACTED], including by threatening them with his weapon and indicating that certain [REDACTED] were related to Serbian collaborators. In particular, W03832 observed [REDACTED] directing insults at LDK leaders [REDACTED]. This verbal abuse continued for a number of hours.

13. Later, Hashim THAÇI arrived dressed in military uniform and [REDACTED]. Following a brief absence from the office, THAÇI returned and instructed [REDACTED]. [REDACTED]. [REDACTED].

14. [REDACTED].

15. [REDACTED].

16. [REDACTED].

17. [REDACTED], W03832 observed the tension and divergent views between some LDK members and certain KLA members. [REDACTED]. [REDACTED]. W03832's evidence is thus relevant to the charged crimes in the Indictment.³²

³² See, generally, Indictment, KSC-BC-2020-06/F00999/A01 [REDACTED]. The following paragraphs in the Prosecution submission of updated witness list and confidential lesser redacted version of pre-trial brief with strictly confidential and ex parte Annex 1 and confidential Annexes 2-3, Lesser Redacted Version of 'Confidential Redacted Version of Corrected Version of Prosecution Pre-Trial Brief', KSC-

18. *Authenticity and Reliability.* The Proposed Evidence is *prima facie* authentic and reliable. The Rule 154 Statement is comprised of (i) W03832's testimony in [REDACTED],³³ (ii) W03832's SPO interview dated [REDACTED],³⁴ and (iii) W03832's SPO interview from [REDACTED].³⁵ Each statement bears sufficient indicia of reliability.³⁶

19. W03832's audio-video recorded SPO interviews are verbatim records of recorded interviews; their authenticity and reliability are evident. The interviews were conducted with the assistance of an interpreter in a language understood by the witness.³⁷ [REDACTED].³⁸ The transcripts detail the date, time, and attendees.³⁹ [REDACTED].⁴⁰

20. [REDACTED], in conjunction with a full read-back, W03832 had an opportunity to clarify and correct [REDACTED], also tendered herein as a Rule 154 statement, which was taken with interpretation in a language understood by the witness.⁴¹ W03832 confirmed that the [REDACTED] statement [REDACTED] recognised [REDACTED] signature thereon.⁴² Furthermore, as this statement was discussed [REDACTED], the statement forms an integral part thereof.

21. *Suitable for Rule 154 Admission.* [REDACTED]. The probative value of the Proposed Evidence is not outweighed by any prejudice.

22. Rule 154 admission for W03832's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief

BC-2020-06/F01594/A03, 9 June 2023 ('Pre-Trial Brief') are relevant to W03832's evidence: [REDACTED].

³³ [REDACTED].

³⁴ [REDACTED].

³⁵ [REDACTED].

³⁶ For an individualised assessment of reliability, *see* Annex 1.

³⁷ [REDACTED].

³⁸ [REDACTED].

³⁹ [REDACTED].

⁴⁰ [REDACTED].

⁴¹ *See* Annex 1. [REDACTED].

⁴² [REDACTED].

oral testimony on essential matters, including to highlight, clarify, or explain certain aspects of W03832's evidence for 2 hours.⁴³

B. W03880

23. *Relevance.* W03880 was [REDACTED]. W03880 and W04828 identified themselves as [REDACTED]. The KLA soldiers who detained W03880 and W04828 told them that it was because they did not have appropriate authorisation from [REDACTED] to enter KLA-controlled territory.

24. The KLA first held W03880 and W04828 in a former health clinic in [REDACTED]. Initially, they were kept in separate rooms. During this time, W03880 was told that they were suspected of [REDACTED]. Also during this time, W03880 was assaulted by a KLA member [REDACTED]. W03880 was then interrogated by KLA members. After about 10 days of detention, W03880 was placed in the same room as W04828. A few days later, they were informed that they had been determined [REDACTED]. Although KLA members made reference to a 'military court', W03880 was also never made aware of any trial or other judicial process concerning the purported charges, or of any right to appeal. For the final four days of their detention at [REDACTED].

25. After approximately 20 days in [REDACTED], they were moved by car to be held in the basement of a house in [REDACTED]. Shortly after arriving, and while W03880's hands were tied and he was blindfolded, a guard entered the room where they were held and hit and kicked W03880 and W04828. [REDACTED].

⁴³ As discussed above, the SPO has modified the mode of testimony and examination time for W03832 for purposes of streamlining the presentation of evidence. Cf. Confidential Redacted Version of 'Amended List of Witnesses', KSC-BC-2020-06/F01594/A02 ('Amended List of Witnesses') in Prosecution submission of updated witness list and confidential lesser redacted version of pre-trial brief with strictly confidential and ex parte Annex 1 and confidential Annexes 2-3, KSC-BC-2020-06/F01594, 9 June 2023.

26. After approximately [REDACTED], W03880 and W04828 were then transferred on foot about [REDACTED]. After one or two days in that location, they were transferred [REDACTED].

27. After approximately two days there, W03880 and W04828 were told that they would be released [REDACTED].

28. W03880's evidence is thus relevant to the charged crimes in the Indictment.⁴⁴

29. *Authenticity and Reliability.* W03880's Proposed Evidence is *prima facie* authentic and reliable. The Rule 154 Statement is comprised of (i) W03880's SPO interview,⁴⁵ (ii) W03880's [REDACTED] Statement,⁴⁶ and (iii) W03880's [REDACTED [REDACTED]].⁴⁷ Each statement bears sufficient indicia of reliability.⁴⁸ W03880's audio-video recorded SPO interview, as recorded in verbatim transcripts, is authentic and reliable. The interview was conducted with the assistance of an interpreter in a language understood by the witness.⁴⁹ W03880 was duly advised of his rights as a witness.⁵⁰ The transcript includes details such as the date, time, place and attendees.⁵¹ W03880 confirmed that the contents of his recorded statement are true and accurate, that his statement was given voluntarily without any threats, force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.⁵²

30. During his SPO interview, W03880 had an opportunity to clarify his prior statements, including those tendered herein as Rule 154 Statements, which were taken in a language understood by the witness.⁵³ W03880 confirmed that the written

⁴⁴ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED] and Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED]

⁴⁵ [REDACTED].

⁴⁶ [REDACTED].

⁴⁷ [REDACTED].

⁴⁸ For an individualised assessment of reliability, see Annex 2.

⁴⁹ [REDACTED].

⁵⁰ [REDACTED].

⁵¹ [REDACTED].

⁵² [REDACTED].

⁵³ See Annex 2.

materials were his statements.⁵⁴ W03880 also recognised his signature on his [REDACTED].⁵⁵ He verified that he provided the statements in a truthful manner and to the best of his recollection.⁵⁶ In addition, each statement bears sufficient independent indicia of reliability.⁵⁷ Further, as the contents of these statements were discussed in the SPO interview, these statements form an integral part thereof.

31. *Suitable for Rule 154 Admission.* The Proposed Evidence satisfies the requirements of Rule 154: W03880 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

32. Rule 154 admission for W03880's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W03880's evidence for a maximum of 1.5 hours.⁵⁸ W03880 is also one of a limited number of victims held both in [REDACTED] who is available to testify in person about his experience.

33. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of the Proposed Evidence in Annex 2—consisting of a sketch, video footage, and a KLA communique—should be admitted as an inseparable and indispensable part of W03880's Rule 154 Statement, in that they are used and explained in W03880's evidence. The Associated Exhibits are integral to the Rule 154 Statement as they were discussed and reviewed therein.

⁵⁴ In respect of [REDACTED]. In respect of [REDACTED].

⁵⁵ In respect of [REDACTED].

⁵⁶ In respect of [REDACTED]. In respect of [REDACTED].

⁵⁷ For an individualised assessment of reliability, see Annex 2.

⁵⁸ Amended List of Witnesses, KSC-BC-2020-06/F01594/A02.

C. W04769

34. *Relevance.* In June 1998, after having travelled to Albania to collect weapons and briefly stay in [REDACTED], W04769 returned to Kosovo and began working for [REDACTED], specifically monitoring the positions of Serb forces around [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

35. Between [REDACTED], W04769 was present in [REDACTED]. He received training in [REDACTED], and met senior KLA members in [REDACTED], including Kadri VESELI. W04769 heard that Kadri VESELI was head of the G2 in the General Staff, the unit responsible for collaborators. Xhevat BERISHA, Elbasan SHOSHAJ and Ismael KRYEZIU were among the KLA personnel who collected intelligence for the G2. [REDACTED].

36. [REDACTED]. At one such meeting near [REDACTED], W04769 met with Hashim THAÇI and Kadri VESELI. W04769 understood Hashim THAÇI to be the political representative of the KLA. W04769 also met Kadri VESELI on another occasion in 1998, in [REDACTED], and again in 1999. W04769 similarly met Deputy Commander Jakup KRASNIQI, during a meeting of the General Staff in 1999. Bislim ZYRAPI, who W04769 had seen in [REDACTED] in 1998, was the Chief of General Staff. W04769 observed that, within the General Staff, there were those who reported to Rexhep SELIMI and others under Kadri VESELI.

37. [REDACTED], W04769 observed the command structure of units in the [REDACTED] zone, including in respect of brigades commanded by [REDACTED]. He also observed the presence of KLA Military Police. Within the [REDACTED] zone, headquartered for a time in [REDACTED], responsibility for prisons resided with the Military Police, under the umbrella of the Ministry of Interior. Each Brigade had their own Military Police, who reported to the Brigade Commander. [REDACTED] was in charge of the Military Police in [REDACTED].

38. W04769 witnessed the effect of actions by members of the General Staff on [REDACTED]. [REDACTED]. [REDACTED].

39. W04769 further observed the tensions between [REDACTED]. [REDACTED]. [REDACTED].

40. [REDACTED]. [REDACTED]. [REDACTED].

41. In June 1999, W04769 [REDACTED] entered Prizren. There, W04769 saw KLA commanders and units basing themselves in various locations, with [REDACTED], with others at other facilities including the Prizren School for the Mute and Deaf, the Prizren University dormitory, the Našec/Nashec holiday camp, the League of Prizren building and the Prizren MUP building. [REDACTED]. Fatmir LIMAJ and Tahir SINANI were also present in Prizren, while Ruzhdi SARAMATI was based in Našec/Nashec at the time.

42. Members of the Eye of the Eagle unit, under the command of Nezir KREYZIU, were present at the MUP Building in Prizren. Nexhmedin KRASNIQI was also there. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

43. According to W04769, [REDACTED]. W04769's evidence is thus relevant to the charged crimes in the Indictment.⁵⁹

44. *Authenticity and Reliability.* The Proposed Evidence is *prima facie* authentic and reliable. The Rule 154 Statement is comprised of W04769's SPO interview.⁶⁰ W04769's audio-video recorded SPO interview, as recorded in verbatim transcripts, is authentic as it includes details such as the date, time, and attendees.⁶¹ These materials are inherently reliable as they are video-recorded verbatim records including all questions and answers. The interview was conducted with the assistance of an interpreter in a language understood by the witness.⁶² W04769 was duly advised of his rights as a witness.⁶³ W04769 confirmed that the contents of his recorded statement are true and accurate, that his statement was given voluntarily without any threats, force, or

⁵⁹ See, generally Indictment, KSC-BC-2020-06/F00999/A01, [REDACTED] and Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁶⁰ [REDACTED].

⁶¹ [REDACTED]. For additional information on reliability, see Annex 3.

⁶² [REDACTED].

⁶³ [REDACTED].

guarantees, and that he had no objections to the manner or process by which the statement was taken.⁶⁴

45. *Suitable for Rule 154 Admission.* W04769's Proposed Evidence satisfies the requirements of Rule 154: W04769 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

46. Rule 154 admission for W04769's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify, or explain certain aspects of W04769's evidence for 2 hours.⁶⁵

47. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of the Proposed Evidence in Annex 3 — namely KLA documents and audio/video material documenting the events in Prizren in June 1999 during the time the witness was present—should be admitted as they are an inseparable and indispensable part of W04769's Rule 154 Statement, in that they are used and explained in W04769's evidence. The witness identifies KLA members, recognises locations where he was present and comments on documents related to his fellow soldiers, [REDACTED]. The Associated Exhibits are integral to the Rule 154 Statement as they were discussed and reviewed therein.

D. W03724

48. *Relevance.* W03724 was a [REDACTED] who deployed as a member of the [REDACTED]. During his time in Kosovo in 1998-1999, W03724 served at [REDACTED] based in Rahovec/Orahovac, reporting to [REDACTED] in Prizren. Based on his [REDACTED] and interactions with the KLA, W03724 was able to

⁶⁴ [REDACTED].

⁶⁵ Cf. Amended List of Witnesses, KSC-BC-2020-06/F01594/A02.

observe and assess the KLA's structure and command and control systems during this period, from the KLA General Headquarters, through Operational Zones, to Brigade Command and below. He observed that KLA commanders carried radios and were quick to respond to incidents. The KLA had defined territories and chains of command.

49. During the course of his work with the [REDACTED], W03724 sought information from the KLA about individuals who were understood to have disappeared or to have been detained. W03724 believes it possible that he may once have met the SAVELIĆ brothers who were later abducted by the KLA. W03724 was [REDACTED] following their abduction.

50. W03724 sent a statement [REDACTED] concerning the abduction of Ymer XHAFIQI, including W03724's attempts to intervene. On [REDACTED], W03724, along with W02153, [REDACTED]. [REDACTED] learned of XHAFIQI's abduction. W03724 went to Randobravë/Randubrava where he encountered KLA Brigade Commander 'Skender', who initially denied prior knowledge of the abduction but then revealed that he did know about it. Then, KLA Commander Ekrem REXHA *a.k.a.* 'Commander Drini', arrived in Randobravë/Randubrava with OSCE Head of Mission Michel MAISONNEUVE, and REXHA and MAISONNEUVE had a discussion concerning XHAFIQI's abduction. W03724 went to Terpeze/Trpeza to seek information about XHAFIQI's abduction. There, W03724 met a man that his colleague recognized as 'Ten', who said that XHAFIQI was safe and would be brought to Terpeze/Trpeza at midnight. W03724 returned to Rahovec/Orahovac and then went back to Terpeze/Trpeza expecting to see XHAFIQI, but [REDACTED].

51. [REDACTED] Ambassador William WALKER visited Malishevë/Mališevo and made a public statement against intimidation of LDK leader Milaim MAZREKU. [REDACTED].

52. W03724 observed that in Malishevë/Mališevo, the KLA used intimidation to prevent the town from revitalising after Serbian occupation so that its condition would attract international sympathy and support.

53. W03724's evidence is thus relevant to the charged crimes in the Indictment.⁶⁶

54. *Authenticity and Reliability.* W03724's Proposed Evidence is *prima facie* authentic and reliable. The W03724 Rule 154 Statement is comprised of W03724's signed SPO statement.⁶⁷ The statement bears sufficient indicia of reliability.⁶⁸ During his SPO statement, W03724 was duly advised of his rights as a witness.⁶⁹ The SPO statement includes details such as the date, time, place, and attendees.⁷⁰ W03724 confirmed that the contents of his recorded statement are true and accurate, that his statement was given voluntarily without any threats, force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.⁷¹

55. *Suitable for Rule 154 Admission.* W03724's Proposed Evidence satisfies the requirements of Rule 154: W03724 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statements accurately reflect his evidence and are an accurate reflection of what he would say, if examined. The probative value of W03724's Proposed Evidence is not outweighed by any prejudice.

56. Rule 154 admission for W03724's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W03724's evidence for 2 hours.⁷²

57. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of the Proposed Evidence in Annex 4 – including a hand-drawn map, a statement submitted to [REDACTED], [REDACTED], [REDACTED], a photo of Ambassador William Walker, diary entries of W03724, a press release, and an email from W03724

⁶⁶ See, generally Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED] and Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁶⁷ [REDACTED].

⁶⁸ For an individualised assessment of reliability, see Annex 4.

⁶⁹ [REDACTED], p.1.

⁷⁰ [REDACTED], p.1.

⁷¹ [REDACTED], p.38.

⁷² Amended List of Witnesses, KSC-BC-2020-06/F01594/A02.

to [REDACTED] – should be admitted as they are an inseparable and indispensable part of W03724’s Rule 154 Statement. The Associated Exhibits are integral to W03724’s Rule 154 Statement as they were discussed and reviewed therein.

E. W00072

58. *Relevance.* On the night from 17 to 18 July 1998, W00072, a Serbian woman, her husband, son, and other members of the Serbian community of her village, were attacked in her home. W00072 and the other women took refuge in the basement where they kept the cattle. Shooting lasted the whole night, until KLA soldiers forced them to surrender and gather in the yard. W00072 recognized some of her neighbours amongst the KLA soldiers. W00072 and the others held with her were taken to a house in a nearby village. Women and men were separated, and W00072 could hear the men being beaten by soldiers [REDACTED]. W00072 herself was questioned by a KLA soldier about [REDACTED]. W00072 only saw her husband once, and he had bruises on his face. [REDACTED]. The women were later taken to a monastery where they stayed for two days, until fighting resumed and they were taken to a school in Semestishtë/Semetište, where they were interrogated. They were eventually rescued by the ICRC. W00072 never saw [REDACTED] again.

59. W00072’s evidence is thus relevant to the charged crimes in the Indictment.⁷³

60. *Authenticity and Reliability.* W00072’s Proposed Evidence is *prima facie* authentic and reliable. The Rule 154 Statement is comprised of (i) W00072’s SPO interview, [REDACTED],⁷⁴ (ii) W00072’s SITF interview, [REDACTED],⁷⁵ (iii) W00072’s [REDACTED] statement, [REDACTED],⁷⁶ and (iv) W00072’s [REDACTED] statement, [REDACTED].⁷⁷ All bear sufficient indicia of reliability and details such as the date,

⁷³ See, generally, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED] and Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁷⁴ [REDACTED].

⁷⁵ [REDACTED].

⁷⁶ [REDACTED].

⁷⁷ [REDACTED].

time and attendees.⁷⁸ The examinations were conducted with the assistance of an interpreter in a language understood by the witness,⁷⁹ and the witness was duly advised of her rights.⁸⁰ W00072 acknowledged the testimony to be hers.⁸¹

61. *Suitable for Rule 154 Admission.* W00072's Proposed Evidence satisfies the requirements of Rule 154: W00072 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects her evidence and that it is an accurate reflection of what she would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

62. Rule 154 admission for W00072's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W00072 for approximately 2 hours⁸² on essential matters that highlight, clarify, or explain certain aspects of her evidence.

63. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of W00072's Proposed Evidence in Annex 5— namely [REDACTED], the photo line-up shown to her and the two [REDACTED] concerning the identification of suspects and of locations related to her [REDACTED] — should be admitted as they are an inseparable and indispensable part of W00072's Rule 154 Statement, in that they are used and explained in W00072's evidence, or describe the process by which the exhibits were presented to and identified by the witness. The Associated Exhibits are integral to the Rule 154 Statement as they were discussed and reviewed therein, as detailed in Annex 5.

⁷⁸ [REDACTED].

⁷⁹ [REDACTED].

⁸⁰ [REDACTED].

⁸¹ [REDACTED].

⁸² [REDACTED].

F. W01504

64. *Relevance.* W01504 is a [REDACTED], who lived in [REDACTED], and worked as a [REDACTED]. During the night of [REDACTED] 1998, W01504 [REDACTED] were abducted from their house by KLA members and taken to a village where they were forced into the cellar of a small building. The following morning, KLA soldiers brought them to the [REDACTED] detention centre. W01504 [REDACTED] were held [REDACTED], together with other people, including [REDACTED].

65. W01504 described how prisoners were chained and the poor conditions [REDACTED]. In the course of his detention, W01504 was beaten every day and night, at least twice. W01504 also personally witnessed the beatings of other prisoners, including [REDACTED]. When they received food, prisoners could often not eat because of the blood and injuries.

66. W01504 identified several KLA members, including [REDACTED]. He also saw Fatmir LIMAJ, always accompanied by Tahir SINANI, on several occasions in [REDACTED].

67. W01504 will explain that he [REDACTED] were released on or around [REDACTED] 1998. Before his release, W01504 was asked to sign a declaration that he would not divulge what he had seen or heard in [REDACTED]. The declaration was prepared and signed by Fatmir LIMAJ. W01504's evidence is thus relevant to the charged crimes in the Indictment.⁸³

68. *Authenticity and Reliability.* The Proposed Evidence is *prima facie* authentic and reliable. The Rule 154 Statement is comprised of (i) W01504's SPO interview,⁸⁴ (ii) W01504's [REDACTED],⁸⁵ and (iii) W01504's [REDACTED].⁸⁶ Each statement bears sufficient indicia of reliability.⁸⁷ W01504's audio-video recorded SPO interview, as

⁸³ See, generally, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED] and Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁸⁴ [REDACTED], [REDACTED], [REDACTED], [REDACTED].

⁸⁵ [REDACTED].

⁸⁶ [REDACTED].

⁸⁷ For an individualised assessment of reliability, see Annex 6.

recorded in verbatim transcripts, is authentic as it includes details such as the date, time, place and attendees.⁸⁸ The interview was conducted with the assistance of an interpreter in a language understood by the witness.⁸⁹ W01504 was duly advised of his rights as a witness.⁹⁰ W01504 confirmed that the contents of his recorded statement are true and accurate, that his statement was given voluntarily without any threats, force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.⁹¹

69. Further, during the SPO interview, W01504 had an opportunity to review his prior statements, including those tendered herein as his Rule 154 Statement, which were taken in a language understood by the witness.⁹² W01504 confirmed that the written materials were his statements and, where applicable, recognised his signature.⁹³ He confirmed that he provided the statements in a truthful manner and that there are no mistakes in his statement.⁹⁴ For each statement, he was given an opportunity to clarify or make corrections.⁹⁵ Further, as the contents of the statements were discussed in the SPO interview, these statements form an integral part thereof.

70. *Suitable for Rule 154 Admission.* The Proposed Evidence satisfies the requirements of Rule 154: W01504 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and is an accurate reflection of what he would say again, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice. Rule 154 admission for W01504's Proposed Evidence will reduce the number of hours required for direct examination. The SPO intends to

⁸⁸ [REDACTED]; [REDACTED]; [REDACTED].

⁸⁹ [REDACTED].

⁹⁰ [REDACTED].

⁹¹ [REDACTED].

⁹² See Annex 6. W01504's prior statements were taken in [REDACTED].

⁹³ In respect of [REDACTED], see [REDACTED]. In respect of [REDACTED], see [REDACTED].

⁹⁴ In respect of [REDACTED], see [REDACTED].

⁹⁵ In respect of [REDACTED], see [REDACTED] and also in [REDACTED]. In respect of [REDACTED], see [REDACTED]; [REDACTED] and in [REDACTED].

elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W01504's evidence for 1 hour.⁹⁶

71. *The Associated Exhibits are admissible.* The Associated Exhibits in Annex 6 – [REDACTED] – both attached to his Rule 154 Statement, should be admitted, as they are an inseparable and indispensable part of W01504's evidence. The Rule 154 Statement would be less comprehensible or have lesser probative value without the admission of the associated exhibits. Furthermore, the Associated Exhibits provide context to the evidence contained in the Rule 154 Statement, and corroborate that evidence.

G. W02153

72. *Relevance.* W02153 was a British Army officer who served with UK KDOM and the OSCE's Kosovo Verification Mission (KVM) in Kosovo from November 1998 to March 1999, and again from July 1999.

73. W02153 investigated cases of persons who were detained by the KLA and/or went missing in Rahovec/Orahovac and surrounding areas, including those abducted on or about 17 July 1998. He conducted interviews with persons relating to these events, including with former detainees and family members of victims. One witness told W02153 that Jakup KRASNIQI was the commander of the detention facility in Malishevë/Mališevo and several others told W02153 that Jakup KRASNIQI was present there.

74. W02153 was briefly detained by Serb forces after the SAVELIĆ brothers disappeared on 27 February 1999, where he witnessed the volatile situation associated with this incident. In March 1999, W02153 received information about the abduction of Nexhmi KRASNIQI, a school principal, and Elmi KRASNIQI, a journalist for Radio Pristina. It was W02153's understanding that the two detainees had been taken for questioning because they were not supporters of the KLA. W02153 [REDACTED]

⁹⁶ The SPO has reduced the estimated time for direct examination of this witness from 2 hours to 1 hour. Cf Amended List of Witnesses, KSC-BC-2020-06/F01594/A02.

attempted to locate Ymer XHAFIQI (alternative spelling DJAFIQI/GJAFIQI) following his arrest by the KLA on 9 March 1999.

75. On several occasions, W02153 discussed the issue of missing persons with Sabahajdin CENA, who told W02153 after the conflict that he had been the head of the KLA's military police in the area surrounding Rahovec/Orahovac. W02153 also personally interacted with, or otherwise obtained knowledge about, certain KLA members, including Fatmir LIMAJ (aka CELIK), Jakup HOTI, Jakup KRASNIQI, Nisimi MULABAZI, Ismet TARA, and Sabahajdin CENA.

76. W02153 observed ethnic tensions and conflicts following the entry of KFOR into Kosovo, including the general atmosphere of hostility towards Serbs, and other minorities such as Roma, present in Prizren and Rahovec/Orahovac. W02153 investigated the abduction of at least five Serbs by armed and uniformed KLA in Rahovec/Orahovac around 16 June 1999. In or around November 1999, Hashim THAÇI gave a speech to a gathering of several hundred people in Rahovec/Orahovac in which he declared that the time for speaking Serbian in Rahovec/Orahovac was over.

77. W02153's evidence is thus relevant to the charged crimes in the Indictment.⁹⁷

78. *Authenticity and Reliability.* W02153's Proposed Evidence is *prima facie* authentic and reliable. The Rule 154 Statement is comprised of: (i) an SPO statement dated 28 May 2020;⁹⁸ (ii) an ICTY witness statement dated 11 March 2005;⁹⁹ and (iii) an ICTY witness statement dated 10 November 2000.¹⁰⁰ Each statement bears sufficient indicia of reliability.¹⁰¹

⁹⁷ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras 44, 61, 65, 67, 78, 102-103, 115, 153-154, 161-165, 169-171 and Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras 16-17, 69, 357-383, 504, 506-508, 634-646.

⁹⁸ 076841-076856.

⁹⁹ U008-7623-U008-7629.

¹⁰⁰ 0106-8151-0106-8166.

¹⁰¹ For an individualised assessment of reliability, see Annex 7.

79. Before signing his SPO statement, W02153 was duly advised of his rights as a witness.¹⁰² The statement includes details such as the dates and location of interviews, as well as persons present.¹⁰³ W02153 confirmed by his written signature that the contents of his statement are true and accurate, that his statement was given voluntarily without any threats, force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.¹⁰⁴

80. During his SPO interview, W02153 had an opportunity to clarify or correct his prior ICTY statements and accompanying attachments, also tendered herein as Rule 154 Statements. W02153 confirmed that the respective ICTY statements were his statements to the ICTY and were true and accurate, with the clarifications provided.¹⁰⁵ In addition, both ICTY statements bear sufficient independent indicia of reliability, including dates, persons present, and witness acknowledgements.

81. *Suitable for Rule 154 Admission.* W02153's Proposed Evidence satisfies the requirements of Rule 154: W02153 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

82. Rule 154 admission for W02153's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W02153 for approximately 2 hours¹⁰⁶ on essential matters that highlight, clarify, or explain certain aspects of his evidence.

83. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of W02153's Proposed Evidence in Annex 7 – consisting of OSCE/KVM documentation

¹⁰² 076841-076856, p.076841.

¹⁰³ 076841-076856, p.076841.

¹⁰⁴ 076841-076856, pp.076841, 076855-076856.

¹⁰⁵ See 076841-076856, pp.076842-076843.

¹⁰⁶ Amended List of Witnesses, KSC-BC-2020-06/F01594/A02.

relating to kidnapped or missing persons in and around Rahovec/Orahovac in mid-1998 – should be admitted as they are an inseparable and indispensable part of W02153’s Rule 154 Statement, in that they are used and explained in W02153’s evidence.¹⁰⁷ The Associated Exhibits are integral to the Rule 154 Statement as they were discussed and reviewed therein, as detailed in Annex 7.

H. W04368

84. *Relevance.* In 1998, W04368 lived with his family in [REDACTED]. One afternoon, several KLA soldiers, including [REDACTED], came to his family’s home. [REDACTED], who had been falsely alleged to be a spy, was told to come with the soldiers for questioning.

85. W04368 went to [REDACTED] several times to search for [REDACTED], as he believed that was where he had been taken. The KLA headquarters there was at the [REDACTED]. In the course of his search, W04368 inquired after [REDACTED] with KLA soldiers that included [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. None of these persons gave W04368 any information about what had happened to [REDACTED] aside from [REDACTED], who confirmed that [REDACTED]. During these inquiries, W04368 learned about others who had been detained at [REDACTED]. W04368’s evidence is thus directly relevant to charged crimes in the Indictment.¹⁰⁸

86. *Authenticity and Reliability.* The Proposed Evidence is *prima facie* authentic and reliable. W04368’s Rule 154 Statement consists of his (i) SPO interview, dated

¹⁰⁷ The document referred to as ‘FAL-7’ in W02153’s 10 November 2000 ICTY statement is not in the SPO’s possession. An extract of W02153’s handwritten diary (SPOE00130803-00130867) is not on the Exhibit List, but has been disclosed under Rule 102(3): Disclosure 608, 2 December 2022. It is not tendered for admission. Relevant portions are reproduced in W02153’s SPO statement.

¹⁰⁸ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras 59-61, [REDACTED], 96-98, [REDACTED], 136-138, [REDACTED], 175 and Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

[REDACTED],¹⁰⁹ and (ii) statement to [REDACTED].¹¹⁰ Both statements bear sufficient indicia of reliability.¹¹¹

87. W04368's SPO interview was audio-video recorded, the verbatim transcripts correspond to those recordings, and the interview was conducted with the assistance of an interpreter in a language which the witness fully understood.¹¹² The transcripts include verifiable details such as the date, time, and attendees of the interview,¹¹³ and reflect that W04368 was duly advised of his rights as a witness.¹¹⁴ Further, W04368 confirmed that the contents of the statement were true, accurate, and given voluntarily without any threats, force, or guarantees; he had no objections to the manner or process by which the statement was taken.¹¹⁵

88. During his SPO interview, W04368 recalled that he had given a statement to [REDACTED].¹¹⁶ When he was shown the [REDACTED],¹¹⁷ he recognised it as his statement and verified that each page held his signature.¹¹⁸ He further confirmed that he had given the [REDACTED] statement in a voluntary and truthful manner, in his own language, at [REDACTED].¹¹⁹ Finally, W04368 indicated whenever the prior statement comported with his recollection of events and when it did not, clarifying and making corrections where necessary.¹²⁰ As the contents of his [REDACTED] statement were extensively discussed and clarified during his SPO interview, it forms an integral part thereof.

¹⁰⁹ [REDACTED].

¹¹⁰ [REDACTED].

¹¹¹ For an individualised assessment of reliability, *see* Annex 8.

¹¹² [REDACTED].

¹¹³ *See e.g.* [REDACTED].

¹¹⁴ [REDACTED].

¹¹⁵ [REDACTED].

¹¹⁶ [REDACTED].

¹¹⁷ [REDACTED].

¹¹⁸ *See* [REDACTED]. Note that the ERN referenced on p.8 is [REDACTED]. The additional pages in the statement being tendered under Rule 154 are a typed version (in both English and Albanian) of the handwritten statement that was shown to and recognised by W04368.

¹¹⁹ [REDACTED].

¹²⁰ *See e.g.* [REDACTED].

89. *Suitable for Rule 154 Admission.* W04368's Proposed Evidence satisfies the requirements of Rule 154: the witness will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that his Rule 154 Statement accurately reflects his evidence and what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

90. Rule 154 admission for W04368's Proposed Evidence will significantly reduce the number of hours required for direct examination. If granted, the SPO intends to elicit oral testimony from W04368 for 1 hour on essential matters that highlight, clarify, or explain aspects of his evidence.¹²¹

91. *The Associated Exhibits are admissible.* The photographs forming part of the Proposed Evidence in Annex 8 should be admitted, as they were shown to, discussed and (in one instance) marked by W04368 during his SPO interview.¹²² As such, they are an inseparable and indispensable part of his Rule 154 Statement.

I. W04566

92. *Relevance.* [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

93. [REDACTED]. [REDACTED].

94. [REDACTED]. [REDACTED]. [REDACTED].

95. W04566's evidence is thus relevant to the charged crimes in the Indictment.¹²³

96. *Authenticity and Reliability.* W04566's Proposed Evidence is *prima facie* authentic and reliable. The Rule 154 Statement is comprised of (i) W04566's statement to the SPO;¹²⁴ and (ii) W04566's [REDACTED].¹²⁵ Both bear sufficient indicia of reliability and include details such as the date, time, and attendees.¹²⁶ The examinations were

¹²¹ Amended List of Witnesses, KSC-BC-2020-06/F01594/A02.

¹²² See [REDACTED].

¹²³ See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED] and Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

¹²⁴ [REDACTED].

¹²⁵ [REDACTED].

¹²⁶ For an individualised assessment of reliability, see Annex 9.

conducted with the assistance of an interpreter in a language understood by the witness,¹²⁷ [REDACTED].¹²⁸ [REDACTED].¹²⁹

97. *Suitable for Rule 154 Admission.* [REDACTED]. The probative value of the Proposed Evidence is not outweighed by any prejudice, noting that [REDACTED].¹³⁰

98. Rule 154 admission for W04566's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W04566 for approximately 1 hour¹³¹ [REDACTED].

99. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of W04566's Proposed Evidence in Annex 9—[REDACTED]—should be admitted as they are an inseparable and indispensable part of W04566's Proposed Evidence, in that they are used and explained in W04566's evidence.

J. W04586

100. *Relevance.* W04586 provides a first-hand account of the abduction of [REDACTED], carried out by KLA soldiers. W04586 and his family supported the LDK, although they were not active in politics.

101. W04586 and his family were stopped at a checkpoint near [REDACTED]. At the checkpoint, KLA member [REDACTED] and two other KLA soldiers requested that the men hand over their ID cards, and asked that [REDACTED] identify himself. The entire family was permitted to proceed. However, on their return journey, the family was stopped again at the checkpoint by armed KLA members, including [REDACTED]. KLA soldiers told W04586 and [REDACTED] that they belonged to a family of spies and that, because it was a time of war, they could be liquidated. KLA soldiers insulted W04586 and [REDACTED]. [REDACTED] was then taken away in a car by KLA soldiers.

¹²⁷ [REDACTED].

¹²⁸ [REDACTED].

¹²⁹ [REDACTED].

¹³⁰ [REDACTED].

¹³¹ Amended List of Witnesses, KSC-BC-2020-06/F01594/A02.

102. A week after the abduction, a man named [REDACTED] visited W04586 and said he had been detained together with [REDACTED]. [REDACTED] told W04586 that [REDACTED] wanted to convey to W04586 that he should not attempt to visit [REDACTED], as the KLA were also looking for W04586. The next day, four family members went to [REDACTED] in order to seek the release of [REDACTED], but KLA members told them that W04586 himself had to personally go to [REDACTED] to request [REDACTED] release. The remains of [REDACTED] were later recovered and identified in 2005.

103. W04586 and his family were also accused of being spies by KLA soldiers a few months after [REDACTED] disappearance, when they moved to [REDACTED] to escape the conflict. On another occasion, KLA soldiers broke into [REDACTED] house at night. W04586 believes that [REDACTED], was also kidnapped and liquidated by the KLA as he had worked for [REDACTED] and was accused of being a collaborator. W04586's evidence is thus relevant to the charged crimes in the Indictment.¹³²

104. *Authenticity and Reliability.* W04586's Rule 154 Statement is *prima facie* authentic and reliable. It is comprised of: (i) W04586's SPO interview;¹³³ (ii) the minutes of W04586's testimony in [REDACTED];¹³⁴ and (iii) the minutes of W04586's testimony before [REDACTED].¹³⁵ Each statement bears sufficient indicia of reliability.¹³⁶ W04586's audio/video recorded SPO interview, as recorded in verbatim transcripts, is authentic and reliable. The interview was conducted with the assistance of an interpreter in a language understood by the witness.¹³⁷ W04586 was duly advised of his rights as a witness.¹³⁸ The transcripts include details such as the date, time, and

¹³² See, *inter alia*, Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED] and Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

¹³³ [REDACTED].

¹³⁴ [REDACTED].

¹³⁵ [REDACTED].

¹³⁶ For an individualised assessment of reliability, see Annex 10.

¹³⁷ [REDACTED].

¹³⁸ [REDACTED].

attendees.¹³⁹ W04586 confirmed that the contents of his recorded statement are true and accurate, that his statement was given voluntarily without any threats, force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.¹⁴⁰

105. During his SPO interview, W04586 had an opportunity to review his prior statements, including statements tendered herein as part of his Rule 154 Statement, which were taken in a language understood by the witness.¹⁴¹ However, he could not verify his signature due to [REDACTED].¹⁴² Nevertheless, during witness preparation, the witness will have a further opportunity to review and confirm his statements, admission of which ultimately depends on the witness's confirmation thereof.¹⁴³

106. *Suitable for Rule 154 Admission.* W04586's Proposed Evidence satisfies the requirements of Rule 154: W04586 will be (i) present in court, (ii) available for cross-examination and any questioning by the Panel, and (iii) able to attest that the Rule 154 Statement accurately reflects his evidence and that it is an accurate reflection of what he would say, if examined. The probative value of the Proposed Evidence is not outweighed by any prejudice.

107. Rule 154 admission for W04586's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04586's evidence for 1 hour.¹⁴⁴

108. *The Associated Exhibits are admissible.* The Associated Exhibits forming part of W04586's Proposed Evidence in Annex 10—comprised of [REDACTED]—should be admitted as they are an inseparable and indispensable part of W04586's Rule 154 Statement, in that they are used and explained in W04586's evidence. The Associated

¹³⁹ [REDACTED].

¹⁴⁰ [REDACTED].

¹⁴¹ See Annex 10. W04586's prior statements were taken in the Albanian language.

¹⁴² [REDACTED].

¹⁴³ Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, paras 96-97; Rule 154.

¹⁴⁴ Amended List of Witnesses, KSC-BC-2020-06/F01594/A02.

Exhibits are integral to the Rule 154 Statement as they were discussed and reviewed therein.¹⁴⁵

IV. CLASSIFICATION

109. This submission is filed as confidential as it contains information concerning witnesses with protective measures. The annexes are confidential in order to give effect to protective measures and applicable contact restrictions, and considering that the identities of these witnesses are not public at this time.

V. RELIEF REQUESTED

110. For the foregoing reasons, the SPO respectfully requests that the Trial Panel admit the Proposed Evidence, subject to fulfilment of the Rule 154 conditions by the relevant witnesses during their appearances in court. As W02153 and W04586 are among the reserve witnesses identified for the July 2023 evidentiary block, the SPO requests expedited consideration of the relevant parts of this request.

Word Count: 8413



Alex Whiting

Acting Specialist Prosecutor

Friday, 21 June 2023

At The Hague, the Netherlands.

¹⁴⁵ See Annex 10.