



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2020-06
Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: Trial Panel II
Judge Charles L. Smith, III, Presiding Judge
Judge Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

Date: 4 December 2023

Language: English

Classification: Public

Public Redacted Version of 'Prosecution motion for admission of evidence of Witnesses W01163, W02144, W02749, W04230, W04445, W04489, W04576, W04739, W04741, and W04820 pursuant to Rule 154 and related request with confidential Annexes 1-10'

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I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law,¹ and Rules 118(2), 137-138 and 154 of the Rules,² the Specialist Prosecutor's Office ('SPO') requests (i) the addition of W01163's statement before the [REDACTED]³ to the Exhibit List,⁴ and (ii) the admission of the statements (collectively, 'Rule 154 Statements'), together with associated exhibits,⁵ of the following witnesses: W01163, W02144, W02749, W04230, W04445, W04489, W04576, W04739, W04741, and W04820 (collectively, 'Witnesses').⁶ These witnesses are among the witnesses the SPO intends to call between January and March 2024.⁷

2. Consistent with Rule 154, the Witnesses are anticipated to: (i) be present in court, (ii) be available for cross-examination and any questioning by the Panel, and (iii) attest that their Rule 154 Statements accurately reflect their declaration and what they would say if examined. As detailed below and in the accompanying annexes for each of the Witnesses, the Proposed Evidence meets the requirements of the Rules, is

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

² 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' or 'Rules' are to the Rules.

³ SITF00314867-SITF00314871-ET RED.

⁴ See paras 11-12 below.

⁵ The Rule 154 Statements and associated exhibits are referred to herein as the 'Proposed Evidence'.

⁶ Attached to this motion are ten annexes. Each annex contains a table identifying the Proposed Evidence for each witness. In the interest of expeditiousness and as also set out below, the SPO: (i) reduced the examination time for W01163 from two hours to 1.5 hours; (ii) reduced the examination time for W04739 from 4 hours to 2.5 hours; (iii) reduced the examination time for W04741 from 4 hours to 2 hours; and (iv) is now seeking to admit W04576's prior statements under Rule 154 (W04576 was previously fully *viva voce*) and, subject to a decision on this request, has reduced the examination estimate for W04576 from 4.5 hours to 1.5 hours.

⁷ See Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order'), para.73. The information required by paragraphs 73-74 of the Conduct of Proceedings Order, including the order of the January-March 2024 witnesses, will be provided separately and by the 14 December 2023 deadline. See Transcript (Oral Order), 16 November 2023, p.10227. A further Rule 154 application for the remaining witnesses to be called between January and March 2024 will be filed in due course.

relevant, authentic and reliable, and has probative value, which is not outweighed by any prejudice. Admission is therefore in the interests of justice.⁸

II. SUBMISSIONS

A. W01163

3. *Relevance.* In the summer of 1999, W01163 was living in Rahovec/Orahovac together with [REDACTED].

4. On or about [REDACTED] 1999, W01163 witnessed the abduction and mistreatment of [REDACTED], by KLA members. Later the same day, W01163 was told that [REDACTED], were taken in the same car by the KLA. She also heard from [REDACTED] that, on the same day, [REDACTED], was abducted, and was taken to the Rahovec/Orahovac police station 'where their army is'. [REDACTED] told W01163 that she had seen the abducted Serbs locked up in the fire house.

5. The night of [REDACTED] 1999, three KLA members, including one who was present during the abduction of [REDACTED], came to W01163's house. They first talked with [REDACTED], and then took him, indicating that they would just have a conversation and would bring him back home. He never returned, and has been missing ever since. [REDACTED] approached KLA [REDACTED] for information about [REDACTED], but to no avail. Of all the abducted Serbs, only [REDACTED].

6. W01163's evidence is thus relevant to the charged crimes in the Indictment.⁹

7. *Authenticity and reliability.* W01163's Proposed Evidence is *prima facie* authentic and reliable. The Rule 154 Statement is comprised of (i) W01163's statement to the

⁸ The applicable law has been set out in previous submissions and decisions in this case. *See e.g.* Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154, KSC-BC-2020-06/F01380, 16 March 2023, Confidential, paras 26-35.

⁹ *See, inter alia*, Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022, Confidential ('Indictment'), paras [REDACTED]; Lesser Redacted Version of 'Confidential Redacted Version of Corrected Version of Prosecution Pre-Trial Brief', KSC-BC-2020-06/F01594/A03, 9 June 2023, Confidential ('Pre-Trial Brief'), paras [REDACTED].

[REDACTED];¹⁰ (ii) W01163's statement to the [REDACTED];¹¹ (iii) W01163's SITF interview;¹² and (iv) W01163's pre-trial interview before the [REDACTED].¹³ The four statements bear sufficient indicia of reliability.¹⁴

8. All three [REDACTED] statements (statements (i)-(ii) and (iv) above) contain a witness acknowledgement¹⁵ and are signed. During the SITF interview, recorded in verbatim transcripts, W01163 was duly advised of her rights and obligations as a witness,¹⁶ and confirmed the truthfulness and accuracy of the statement.¹⁷

9. *The associated exhibits are admissible.* The associated exhibit forming part of W01163's Proposed Evidence in Annex 1 – consisting of a sketch drawn by the witness – should be admitted as it is an inseparable and indispensable part of W01163's Rule 154 Statement. The associated exhibit was used and discussed therein.

10. *Suitable for Rule 154 admission.* W01163's Proposed Evidence satisfies the requirements and will serve the purposes of Rule 154. The [REDACTED] statements, together, consist of 12 pages, complement the SITF interview, and are relevant to assessing the reliability and credibility of the Proposed Evidence.¹⁸ Rule 154 admission will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W01163 for approximately 1.5 hours¹⁹ on essential matters that highlight, clarify or explain certain aspects of the evidence.

¹⁰ 030668-030669-ET Revised RED.

¹¹ 030655-030659-ET Revised RED.

¹² 009819-TR-ET Parts 1-4.

¹³ SITF00314867-SITF00314871-ET RED.

¹⁴ For an individualised assessment of reliability, *see* Annex 1.

¹⁵ 030668-030669-ET Revised RED, p.2; 030655-030659-ET Revised RED, p.5; SITF00314867-SITF00314871-ET RED, p.5.

¹⁶ 009819-TR-ET Part 1 RED2, pp.1-2.

¹⁷ 009819-TR-ET Part 4 RED2, pp.30-31.

¹⁸ *See e.g.* Decision on Prosecution Motion for Admission of Evidence of W03170, W04043, W04444, W04571, W04765, W04811, and W04870 Pursuant to Rule 154 and Related Request (F01830), KSC-BC-2020-06/F01901, 2 November 2023, Confidential, para.14.

¹⁹ Reduced from the 2 hours indicated in the Witness List. *See* Amended List of Witnesses, KSC-BC-2020-06/F01594/A01, 9 June 2023, Strictly Confidential and *Ex Parte* ('Witness List'), [REDACTED].

11. *Request to amend the Exhibit List.*²⁰ W01163's interview before the [REDACTED]²¹ was previously disclosed under Rule 102(3),²² but was inadvertently not identified as a statement or included on the Exhibit List earlier. It was only identified in the course of preparing for the witness's testimony. Pursuant to Article 40 and Rule 118(2), the SPO now seeks authorisation to add this interview to the Exhibit List. There is good cause and limited, if any, prejudice.

12. In addition to complementing the other interviews forming part of W01163's Rule 154 Statement,²³ resort to the interview may be necessary during testimony, including to refresh the witness's memory. Without the ability to tender and use this interview, the quality, accuracy, and completeness of the witness's evidence and the expeditiousness of the proceedings would be undermined. As to the lack of prejudice, the interview was disclosed under Rule 102(3), complements other statements previously disclosed, and is of limited length. Further, the Defence has long been on notice of the anticipated scope of the witness's evidence through, *inter alia*, the witness's Rule 95 summary and disclosed statements.²⁴

B. W02144

13. *Relevance.* During the Indictment period, W02144 was an [REDACTED] diplomat who served as [REDACTED]. In this capacity, he came to Kosovo in 1998 and 1999, and was involved in the political process, which led him to interact with KLA leaders, including the Accused.

²⁰ Annex 1 to Prosecution submission of amended exhibit list, KSC-BC-2020-06/F01906/A01, 3 November 2023, Strictly Confidential and *Ex Parte* ('Exhibit List').

²¹ SITF00314867-SITF00314871-ET RED.

²² Disclosures 139, 147, 149.

²³ See para.10 above.

²⁴ Underlining the lack of prejudice, chambers at other courts have not required a witness's prior statements to be on a party's exhibit list for admission, let alone for use to refresh a witness's memory during testimony, considering, *inter alia*, that the Defence has notice of the witness's expected evidence through their summaries and disclosed statements. See e.g. ICTY, *Prosecutor v. Perišić*, IT-04-81-T, Trial Chamber's Ruling on Defence Motion to Clarify Whether the Prosecution Must Request Leave to Amend Its Rule 65 ter Exhibit List, 17 November 2008, para.14; STL, *Prosecutor v. Ayyash et al.*, STL-11-01/T/TC, Decision on Prosecution Motion to Admit Statements of Witnesses PRH575 and PRH703, 21 October 2015, paras 17-19.

14. In June 1998, W02144 interacted with the KLA as part of an effort initiated by the [REDACTED] to involve the KLA in the Kosovo political process. W02144 was tasked to identify the political leaders of the KLA and attended several meetings with KLA leaders. For example, on or about [REDACTED], W02144 met with KLA leaders in [REDACTED], including Kadri VESELI and Gani KRASNIQI.

15. On [REDACTED], W02144 met with Hashim THAÇI and Kadri VESELI in [REDACTED] and raised the issue of ‘allegations of detentions and abductions’ and the obligation to comply with the Geneva Conventions. Hashim THAÇI insisted that the KLA would respect the Geneva Conventions because they were a regular army.

16. Following the [REDACTED] meeting, W02144 and Hashim THAÇI regularly interacted, having meetings in [REDACTED] or contact by phone throughout 1998. During this time, W02144’s understanding was that Hashim THAÇI was the most important person in relation to the political process.

17. On [REDACTED], W02144 met with Jakup KRASNIQI, Rame BUJA, and Fatmir LIMAJ somewhere near Kleckë/Klečka.

18. In [REDACTED], W02144 was involved in meetings with the KLA – including with Jakup KRASNIQI – to discuss the release of Serbian soldiers.

19. In addition, W02144 observed the negotiations during and after the Rambouillet conference, and interacted with the KLA leadership including Hashim THAÇI. On [REDACTED], W02144 attended a meeting with diplomats and KLA leaders, including Rexhep SELIMI, during which the Rambouillet agreement was discussed.

20. In his capacity as a diplomat and later as a [REDACTED], W02144 drafted and reviewed reports describing the situation in Kosovo, including commenting on the KLA leadership and the situation of minorities.

21. W02144’s evidence is thus relevant to the charged crimes in the Indictment.²⁵

²⁵ Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

22. *Authenticity and reliability.* W02144's Proposed Evidence is *prima facie* authentic and reliable. W02144's Rule 154 Statement is comprised of: (i) the transcript of W02144's [REDACTED];²⁶ and (ii) his SPO statement.²⁷ Each statement bears sufficient indicia of reliability.²⁸ In particular, the [REDACTED].²⁹ The signed SPO statement includes a declaration by W02144 that the contents of his statement are true and accurate.³⁰ W02144 was duly advised of his rights and obligations as a witness.³¹

23. *The associated exhibits are admissible.* The associated exhibits forming part of W02144's Proposed Evidence in Annex 2 – namely, diplomatic reports contemporaneously documenting relevant meetings, UNMIK memoranda, and two videos, including of a meeting held on [REDACTED] – should be admitted as they are an inseparable and indispensable part of W02144's Rule 154 Statement. The associated exhibits were discussed and reviewed therein.

24. *Suitable for Rule 154 admission.* W02144's Proposed Evidence satisfies the requirements and will serve the purposes of Rule 154. Rule 154 admission for W02144's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W02144 for approximately 2 hours on essential matters that highlight, clarify or explain certain aspects of his evidence.

C. W02749

25. *Relevance.* W02749, [REDACTED], was living in [REDACTED] when armed KLA soldiers came to his home on [REDACTED]. After holding the witness and [REDACTED] at gunpoint during a search of the house, the soldiers ordered W02749 to come with them for an interview. W02749 was then forcefully taken to a KLA headquarters, where he was detained in a [REDACTED]. He discovered two men,

²⁶ [REDACTED].

²⁷ 075993-076009.

²⁸ For an individualised assessment of reliability, *see* Annex 2.

²⁹ [REDACTED].

³⁰ 075993-076009, pp.076008-076009.

³¹ 075993-076009, p.075993.

desperate for water, being held in [REDACTED]. KLA members later entered the [REDACTED] and physically and psychologically abused the three detainees.

26. W02749 was also taken to a building with an 'interview' room where he saw wooden chairs, a concrete block, traces of blood on the wall, and a table holding a baseball bat and other weapons. W02749 saw [REDACTED] and observed that he was injured. In the 'interview' room, KLA soldiers interrogated, beat, and verbally abused W02749 until a man entered and told W02749 he could go. When the witness left the property, he recognised the nearby [REDACTED] and realised he was in [REDACTED]. The next day, the witness and [REDACTED] and then fled Kosovo.

27. W02749's evidence is thus relevant to crimes charged in the Indictment.³²

28. *Authenticity and reliability.* W02749's Rule 154 Statement is *prima facie* authentic and reliable. It is comprised of (i) his 2003 statement to the [REDACTED];³³ (ii) a SITF investigator's report dated [REDACTED];³⁴ (iii) W02749's first SPO interview, dated [REDACTED];³⁵ and (iv) W02749's second SPO interview, dated [REDACTED].³⁶ Each statement bears sufficient indicia of reliability.³⁷

29. W02749 was shown his 2003 statement during both the SITF and SPO interviews, and each time confirmed his signature, made clarifications, and attested to the truth and accuracy of the statement's contents.³⁸ In his first SPO interview, the witness also reviewed his [REDACTED] statement to the SITF and made corrections.³⁹ The SPO interviews were recorded in verbatim transcripts.⁴⁰ In both, the witness was advised of his rights and obligations, and confirmed that his answers were true and accurate.⁴¹

³² Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

³³ SITF00255061-SITF00255068-ET Revised.

³⁴ 030943-030946 RED2.

³⁵ 070990-TR-ET Parts 2-3.

³⁶ 072709-TR-ET Parts 1-2 RED2.

³⁷ For an individualised assessment of reliability, see Annex 3.

³⁸ See 030943-03946 RED2, paras 2.2-3.10; 070990-TR-ET Part 2, pp.11-12.

³⁹ 070990-TR-ET Part 2, pp.12-16, 19-23.

⁴⁰ See e.g. 070990-TR-ET Part 2, p.2.

⁴¹ 070990-TR-ET Part 3, pp.22-23; 072709-TR-ET Part 2 RED2, p.6.

30. *The associated exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 3 – namely, photos, maps, and sketches that W02749 marked or drew to explain details of his arrest and detention – should be admitted, as they are an inseparable and indispensable part of W02749’s Rule 154 Statement in that they are used and explained therein.

31. *Suitable for Rule 154 admission.* W02749’s Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. While the four statements overlap in certain respects, they each discuss unique aspects not found in the other accounts. The 2003 statement was closest in time to the events, the SITF investigator’s report clarifies that account, and the SPO interviews offer further clarifications, as well as introduce exhibits that aid in visualising the events. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify, or explain certain aspects of W02749’s evidence for 1.5 hours.

D. W04230

32. *Relevance.* W04230, an LDK member, worked for the [REDACTED], including in 1999. [REDACTED]. In [REDACTED] 1999, KLA members arrested W04230 and took him to [REDACTED] where he was detained [REDACTED]. W04230 was beaten and threatened. With his two co-detainees, W04230 was transferred to [REDACTED] where they were detained [REDACTED]. [REDACTED]. W04230 was released with [REDACTED].

33. W04230’s evidence is thus relevant to the charged crimes in the Indictment.⁴²

34. *Authenticity and reliability.* W04230’s Rule 154 Statement, consisting of his SPO interview, is *prima facie* authentic and reliable, bearing sufficient indicia of reliability.⁴³ During W04230’s SPO interview, recorded in verbatim transcripts, W04230 was

⁴² Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁴³ For an individualised assessment of reliability, *see* Annex 4.

informed of his rights and obligations,⁴⁴ and confirmed the truth and accuracy of his statement.⁴⁵

35. *The associated exhibits are admissible.* The associated exhibit forming part of the Proposed Evidence in Annex 4 – consisting of an excerpt from W04230's notebook – should be admitted as it is an inseparable and indispensable part of W04230's Rule 154 Statement. The associated exhibit was discussed and reviewed therein.

36. *Suitable for Rule 154 admission.* W04230's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission for W04230's Proposed Evidence will significantly reduce the number of hours required for direct examination to a maximum of 2 hours. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04230's evidence.

E. W04445

37. *Relevance.* W04445 and his brother worked as [REDACTED] and supported the LDK. In [REDACTED] 1998, KLA members abducted W04445's brother and took him to KLA headquarters in [REDACTED]. In [REDACTED] 1998, W04445's brother's body was found in [REDACTED]. When W04445 went to recover the body, he saw that his brother had been shot in his shin, chest, and head.

38. One evening near the end of [REDACTED], three KLA members took W04445 from his home and brought him to [REDACTED], telling him that they had been ordered by their headquarters to question him. W04445 was held overnight in a room with no bed and no food. The next day, W04445 was beaten on two occasions, threatened, and mistreated. After the second beating, a KLA member related to W04445's brother came to see W04445 and apologised, saying W04445 was a good person and they had made a mistake. The man told the other KLA soldiers that they

⁴⁴ See, e.g., 052919-TR-ET Part 1 RED2, pp.2-3.

⁴⁵ See, e.g., 052919-TR-ET Part 4 RED2, pp.21-22.

had killed W04445's brother and if they were to kill W04445 as well, it would be too much.

39. KLA members then put a sack on W04445's head, put him in the trunk of a car, and drove him to his village, where they released him. It took weeks for W04445 to recover from his injuries, but the psychological trauma lasted much longer.

40. Sometime after his release, W04445 was told that KLA soldiers from [REDACTED] were looking for him in order to kill him; he managed to hide and later escaped with his family to [REDACTED].

41. W04445's evidence is thus relevant to crimes charged in the Indictment.⁴⁶

42. *Authenticity and reliability.* W04445's Rule 154 Statement is *prima facie* authentic and reliable,⁴⁷ as it is the verbatim transcript of his SPO interview.⁴⁸ The witness was advised of his rights and obligations, and confirmed that his answers were true and accurate.

43. *Suitable for Rule 154 admission.* W04445's Rule 154 Statement satisfies the requirements and serves the purposes of Rule 154, as it will reduce the time required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify, or explain certain aspects of W04445's evidence for 1 hour.

F. W04489

44. *Relevance.* W04489 is [REDACTED], a murder and enforced disappearance victim identified in the Indictment. W04489 last saw [REDACTED] before he went to Drenoc/Drenovac.

45. Following [REDACTED] disappearance, W04489's family and friends made extensive inquiries of former KLA members at both Drenoc/Drenovac and

⁴⁶ Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁴⁷ For an individualised assessment of reliability, see Annex 5.

⁴⁸ 066665-TR-ET Parts 1-3 RED2.

[REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. W04489 still does not know what happened to [REDACTED] and his body has never been found.

46. W04489's evidence is thus relevant to charged crimes in the Indictment.⁴⁹

47. *Authenticity and reliability.* W04489's Proposed Evidence is *prima facie* authentic and reliable. W04489's Rule 154 Statement is comprised of W04489's SPO interview,⁵⁰ which bears sufficient indicia of reliability.⁵¹ The interview was recorded in verbatim transcripts. W04489 was duly advised of [REDACTED] rights and obligations as a witness,⁵² and confirmed that [REDACTED] statement was true and accurate.⁵³

48. *The associated exhibits are admissible.* The associated exhibits forming part of W04489's Proposed Evidence in Annex 6 – namely, [REDACTED] – should be admitted as they are used and explained in W04489's evidence. The associated exhibits are therefore integral to the Rule 154 Statement.

49. *Suitable for Rule 154 admission.* W04489's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission for W04489's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04489's evidence for 1 hour.

G. W04576

50. *Relevance.* W04576 joined the KLA in June 1998. In August and September 1998, he served as [REDACTED] within Brigade 162, [REDACTED]. [REDACTED]. W04576's evidence describes his roles and tasks within the KLA and the areas of responsibility and structures of, *inter alia*, Brigade 162 and the Nerodime Zone, including the presence and roles of certain KLA members in Bob, Ivajë/Ivaja, and

⁴⁹ Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁵⁰ 068739-TR-ET Parts 1-6 RED2.

⁵¹ For an individualised assessment of reliability, see Annex 6.

⁵² 068739-TR-ET Part 1 RED2, pp.2-3.

⁵³ 068739-TR-ET Part 6 RED2, pp.7-8.

Bicec/Bičevac (several whom allegedly participated in charged crimes in these locations).

51. W04576 has knowledge of the KLA General Staff's role and authority, in particular in relation to the Nerodime Zone. [REDACTED].

52. W04576's evidence is thus relevant to the charged crimes in the Indictment.⁵⁴

53. *Authenticity and reliability.* W04576's Rule 154 Statement, comprised of his SPO interview, is *prima facie* authentic and reliable, bearing sufficient indicia of reliability.⁵⁵ The interview was recorded in verbatim transcripts.⁵⁶ W04576 was made aware of his rights and obligations as a witness⁵⁷ and confirmed that the content of his recorded statement was true and accurate.⁵⁸

54. *The associated exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 7 – consisting of media interviews, [REDACTED], and photographs of charged detention sites – should be admitted as they are an inseparable and indispensable part of the Rule 154 Statement, in that they are used and explained in W04576's evidence.

55. *Suitable for Rule 154 admission.* W04576's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. The SPO originally indicated it would call this witness to testify live with 4.5 hours of direct examination.⁵⁹ Rule 154 admission for W04576's Proposed Evidence will significantly reduce the number of hours required for direct examination to a maximum of 1.5 hours. The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04576's evidence.

⁵⁴ Indictment, KSC-BC-2020-06/F00999/A01, [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁵⁵ For an individualised assessment of reliability, see Annex 7.

⁵⁶ See, e.g., 074301-TR-ET Part 1 RED, p.1.

⁵⁷ See 074301-TR-ET Part 1 RED, pp.2-3.

⁵⁸ See 074301-TR-ET Part 10 RED, pp.36-37.

⁵⁹ Witness List, KSC-BC-2020-06/F01594/A01, [REDACTED].

H. W04739

56. *Relevance.* W04739 [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

57. W04739 has detailed knowledge about KLA locations, structure, staff and reporting lines through different levels and units in the KLA, including the General Staff. Besides regular reporting based on official rank and hierarchy, the General Staff required a 'parallel reporting line' from certain KLA members, such as [REDACTED] who reported directly to [REDACTED].

58. W04739 has knowledge of a meeting in [REDACTED] was discussed. W04739 also attended other meetings with the General Staff, [REDACTED]. In such meetings, the General Staff appointed KLA officers following proposals by zone commands. [REDACTED].

59. W04739 has knowledge of [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

60. On a separate occasion, W04739 saw [REDACTED] being held in a private house in [REDACTED]. According to information from the local ZKZ unit, they were accused of [REDACTED]. The house was managed by ZKZ and guarded by the KLA military police. [REDACTED]. W04739 subsequently reported the detention to [REDACTED]. [REDACTED].

61. W04739 was in [REDACTED] 1999, and has knowledge of KLA staff and structures at [REDACTED]. W04739 saw [REDACTED], heard that a detention centre existed there, and [REDACTED].

62. W04739 [REDACTED] and has knowledge of the KLA structures and facilities, and the detention and interrogation of suspected collaborators. [REDACTED].

63. [REDACTED]. [REDACTED].

64. W04739's evidence is thus relevant to the charged crimes in the Indictment.⁶⁰

⁶⁰ Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

65. *Authenticity and reliability.* W04739's Rule 154 Statement, comprised of his SPO interview, is *prima facie* authentic and reliable, bearing sufficient indicia of reliability.⁶¹

During the SPO interview, recorded in verbatim transcripts, W04739 was informed of his rights and obligations,⁶² and confirmed that his statement was true and accurate.⁶³

66. *The associated exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 8 – including [REDACTED] and a map containing markings of [REDACTED] – should be admitted as they are an inseparable and indispensable part of W04739's Rule 154 Statement, in that they are used and explained in W04739's evidence.

67. *Suitable for Rule 154 admission.* W04739's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission will significantly reduce the number of hours required for direct examination. The SPO intends to elicit oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04739's evidence for 2.5 hours.⁶⁴

I. W04741

68. *Relevance.* W04741 entered Kosovo in March 1998. He arrived in [REDACTED] a KLA presence there.

69. On 9 May 1998, W04741 participated in the battle for the Llapushnik/Lapušnik gorge. After the KLA gained control of the gorge, Fatmir LIMAJ assigned commanders to different areas of responsibility. [REDACTED].

70. [REDACTED]. Fatmir LIMAJ also reported to the KLA General Staff and received orders from them.

⁶¹ For an individualised assessment of reliability, see Annex 8.

⁶² See e.g. 083640-TR-ET Part 1 RED2, pp.2-3.

⁶³ See e.g. 083640-TR-ET Part 11 RED2, pp.10-11.

⁶⁴ Reduced from the four hours previously indicated. See Witness List, KSC-BC-2020-06/F01594/A01, [REDACTED].

71. At the end of July 1998, [REDACTED] ordered the retreat of the troops. [REDACTED]. [REDACTED]. [REDACTED], W04741 received a written appointment, [REDACTED].

72. W04741 also has knowledge of the internal rules of the KLA, which were circulated to the soldiers by each commander. Finally, W04741 has knowledge of the role of the military police.

73. W04741's evidence is thus relevant to the charged crimes in the Indictment.⁶⁵

74. *Authenticity and reliability.* The Rule 154 Statement consists of (i) [REDACTED];⁶⁶ and (ii) W04741's SPO interview.⁶⁷ W04741's Rule 154 Statement is *prima facie* authentic and reliable, bearing sufficient indicia of reliability.⁶⁸ [REDACTED].⁶⁹ During the SPO interview, also recorded in verbatim transcripts, W04741 was informed of his rights and obligations,⁷⁰ and confirmed that the content of his statement was true and accurate.⁷¹

75. *The associated exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 9 – namely, KLA documents, pictures, maps, lists, and certain handwritten documents – should be admitted as they are integral to the Rule 154 Statement. They were discussed and reviewed therein.

76. *Suitable for Rule 154 admission.* W04741's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154.

77. The statements comprising the Rule 154 Statement are not unduly repetitive, as each had a different focus or purpose.⁷² Further, admission of the complete Rule 154

⁶⁵ Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

⁶⁶ [REDACTED].

⁶⁷ 083272-TR-ET Parts 1-10 RED.

⁶⁸ For an individualized assessment of reliability, *see* Annex 9.

⁶⁹ [REDACTED].

⁷⁰ *See* 083272-TR-ET Part 1 RED, pp.2-6.

⁷¹ *See* 083272-TR-ET Part 10 RED, pp.9-10.

⁷² For example, the [REDACTED] focuses mainly on evidence relevant to the [REDACTED]. In it, the witness discusses and authenticates a number of exhibits, some of which he provided to [REDACTED]. [REDACTED] only briefly discusses meetings involving the Accused and does not concern the

Statement will advance the expeditiousness of the proceedings in the circumstances of this witness, whose evidence covers relevant events during a large part of the Indictment period at locations in both Albania and Kosovo, concerns numerous direct interactions with the Accused and other senior KLA members, and discusses and authenticates numerous documents. Considered in this context, the Rule 154 Statement's size is manageable and would not unduly burden the record.

78. Rule 154 admission for W04741's Proposed Evidence will significantly reduce the number of hours required for direct examination to a maximum of 2 hours.⁷³ The SPO intends to elicit brief oral testimony on essential matters, including to highlight, clarify or explain certain aspects of W04741's evidence, and to discuss certain documents.

J. W04820

79. *Relevance.* W04820 was a KLA soldier in [REDACTED], and by May 1998, his unit had become part [REDACTED].

80. Towards the end of [REDACTED] 1998, W04820 [REDACTED]. [REDACTED], sought to clear his name with the KLA [REDACTED]. [REDACTED].

81. Following the handover of [REDACTED] to the KLA, W04820 was told by a KLA soldier to leave, as [REDACTED] would be interrogated for a long time. The soldier also stated that someone [REDACTED] units should join the interrogation. W04820 left and never saw [REDACTED] again.

82. W04820's evidence is thus relevant to the charged crimes in the Indictment.⁷⁴

witness's evidence about events in Albania in 1999. The SPO interview clarifies relevant parts of the witness's prior [REDACTED] statements and elicits additional evidence in light of the charges in this case.

⁷³ Reduced from the four hours indicated in the Witness List. See Witness List, KSC-BC-2020-06/F01594/A01, [REDACTED].

⁷⁴ Indictment, KSC-BC-2020-06/F00999/A01, paras [REDACTED]; Pre-Trial Brief, KSC-BC-2020-06/F01594/A03, paras [REDACTED].

83. *Authenticity and reliability.* The Proposed Evidence is *prima facie* authentic and reliable, bearing sufficient indicia of reliability.⁷⁵ The Rule 154 Statement consists of W04820's audio-video recorded SPO interview,⁷⁶ recorded in a verbatim transcript. W04820 was advised of his rights and obligations,⁷⁷ and confirmed that his statement was true and accurate.⁷⁸

84. *Suitable for Rule 154 admission.* W04820's Proposed Evidence satisfies the requirements and serves the purposes of Rule 154. Rule 154 admission will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony from W04820 for approximately 1 hour on essential matters that highlight, clarify or explain certain aspects of his evidence.

III. CLASSIFICATION

85. This submission and its Annexes are confidential pursuant to Rule 82(4) and because they contain information concerning protected witnesses.

IV. RELIEF REQUESTED

86. For the foregoing reasons, the Trial Panel should: (i) authorise the addition of W01163's statement before the [REDACTED] to the Exhibit List; and (ii) admit the Proposed Evidence, subject to fulfilment of the Rule 154 conditions by the relevant witnesses during their appearances in court.

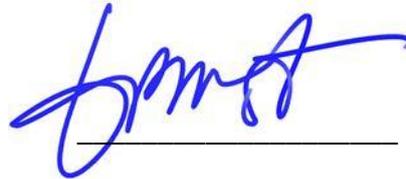
⁷⁵ For an individualised assessment of reliability, *see* Annex 10.

⁷⁶ 094542-TR-ET Part 1 RED2 and 2 RED3.

⁷⁷ 094542-TR-ET Part 1 RED2, pp.2-3.

⁷⁸ 094542-TR-ET Part 2 RED3, pp.30-32.

Word Count: 5,961



Kimberly P. West

Specialist Prosecutor

Monday, 4 December 2023

At The Hague, the Netherlands.