

INTERNATIONAL COURT OF JUSTICE

**CASE CONCERNING
APPLICATION OF THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION
OF THE FINANCING OF TERRORISM AND OF THE INTERNATIONAL CONVENTION
ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

(UKRAINE V. RUSSIAN FEDERATION)

**VOLUME VII OF THE ANNEXES
TO THE MEMORIAL
SUBMITTED BY UKRAINE**

12 JUNE 2018

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- Annex 271 Signed Declaration of Roman Cheremsky, Witness Interrogation Protocol (undated)
- Annex 272 U.N. General Assembly, 20th Session 1406th Plenary Meeting, Official Records, U.N. Doc. A/PB.1406, para. 135 (21 December 1965)
- Annex 273 U.N. General Assembly Resolution 49/60, U.N. Doc. A/RES/49/60, Declaration on Measures to Eliminate International Terrorism (9 December 1994)

- Annex 274 Rome Statute for the International Criminal Court, art. 30, 17 July 1998, U.N. Doc. A/CONF.183/9
- Annex 275 France, Working Document: Why an International Convention Against the Financing of Terrorism?, later reproduced as U.N. Doc. A/AC.252/L.7/Add.1, (March 11, 1999)
- Annex 276 U.N.G.A. Ad Hoc Comm. established by G.A. Res. 51/210 of 17 Dec. 1996, Rep. on its 3d session, 15-16 March 1999, U.N. Doc. A/54/37 (5 May 1999), Annex III, para. 1, Annex VI
- Annex 277 Annex III, Report of the Working Group on Measures to Eliminate International Terrorism, 54th Session, U.N. Doc. No. A/C.6/54/L.2, at 58 (26 October 1999)

Annex 215

Intentionally omitted

Annex 216

Signed Declaration of Oleksiy Oleksandrovych Demchenko, Victim Interrogation Protocol (30 January 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

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Protocol

of Interrogation of a Witness

The City of Kharkiv
2016

18 December

Interrogation started at 9:00 p.m.

break: [there was no break]

Interrogation ended at 10:15 p.m.

Senior investigator for special cases of the 3rd Section at the 1st Department of Pretrial Investigation, the Main Investigation Department of the Security Service of Ukraine, major of justice Bahovskyi Artem Stanislavovych, in the course of the investigation of the criminal proceeding entered into the Unified Register of Pretrial Investigations under the number of 22016000000000466 on 18 December 2016, in the premises of the USBU in Kharkiv oblast at the address: 2, Myronosytska St., Kharkiv City, in compliance with the requirements of Articles 65, 66, 95, 104, 106, 223, 224 of the Code of Criminal Procedure of Ukraine, has interrogated a witness:

Full name	Oleksiy Andriyenko
Place and date of birth	
Nationality, citizenship:	Ukrainian, Ukrainian
Education:	Advanced education
Marital status:	Single
Place of work, position, telephone number:	Currently unemployed
Criminal record:	No (as stated)
Is he a deputy (which council)	No
Identification:	The person has been identified

[.....]

Upon the questions raised, the witness has made the following statement:

I have known T since around 2008. I got acquainted with him in Kharkiv and, now, I do not remember in what circumstances. We have rather close relationships: we met from time to time, sometimes we consumed alcoholic beverages together, maintained contacts over telephone.

In 2014, I got to know that T left for the temporarily occupied territory of Luhansk oblast, where he has been staying up to now. As far as I know from conversations that I had with him over telephone, T visited the Russian Federation periodically, mostly to the city of Belgorod. Since 2014, T has not visited Kharkiv

because he was afraid of being prosecuted by the law enforcement authorities of Ukraine. I have got to know from conversations with T that he, allegedly, was in contact with the Department of special operations of the Main Intelligence Department of the General Staff of the Armed Forces of the Russian Federation (MID GS AF RF) from which he periodically receives various assignments. I do not know what exactly he was doing for the Russian intelligence but, generally, according to him, these assignments are related to the organization of the intelligence and subversive operations in the territory of Ukraine. At that time, I did not take seriously T's words, because I thought he had said that under the influence of alcohol to show his importance.

In December of this year, as far as I remember it was on 13 December, upon the invitation of T, I left Kharkiv for Belgorod on a shuttle bus – minibus “Kharkiv – Belgorod”. At the railway station of Belgorod, T met me and invited to an apartment that he rented near the station. I spent a night at his place and after that, on 14 December 2016, I came back home to Kharkiv on a shuttle bus - minibus “Belgorod – Kharkiv”.

When I was in Belgorod, during a conversation which we had while consuming alcoholic beverages, T told me that he had got an instruction to organize a murder of Anton Gerashchenko, a People's Deputy of Ukraine, due to his political activities and active pro-Ukrainian position. During our conversation, T did not specify who exactly had instructed him. I listened to him, but I did not take his words seriously because I did not believe that his intention was genuine. In addition, he informed me that some persons would contact me on his behalf to establish connection. He did not specify who exactly.

In the evening of 14 December 2016, when I was in Kharkiv, T called me on my Russian number _____ via “Viber” and informed me that two men from Belgorod would come to me on 15 December 2016, and their visit would be related to the conversation about A.Gerashchenko.

Since I was afraid of T due to his alleged connection with MID GS AF RF, agreed to meet those persons, listen to them, and take a decision only afterwards. For my personal security, I decided to record conversations with those persons on a voice recorder.

On 15 December 2016, a person who introduced himself as “S”, called on my telephone number 7_____, said that he was from T, and offered to meet.

Then, I had a meeting with “S” at the “South station” (Kharkiv). He was with other person who introduced himself as “D”. They asked me to find them an accommodation for several days in the city. I agreed and assisted them to rent an apartment in the area of Tobolska St. (Kharkiv).

On the same day, during a conversation with “S” and “D”, they told me that they came to kill Anton Gerashchenko. I would like to underline that I have recorded this very conversation by a voice recorder and subsequently copied the recording on a computer disc.

After the aforementioned conversation with “S” and “D”, which took place on 15 December 2016, I realized how serious were their common intentions with T to commit a murder of Anton Gerashchenko, a People’s Deputy of Ukraine. Having realized that, I decided to report to the SSU about the crime in order to prevent the murder.

During the recorded conversation with “S” and “D”, they requested to assist them in organizing the murder. So, I had to help them to find an apartment in Kharkiv and Kyiv and get weapons for the murder and vehicles. Together with them, I had to conduct a reconnaissance in Kyiv of the movement of Gerashchenko A. to determine the most convenient time and place for his murder. For my participation in the organization of the murder I was offered \$50,000 (fifty thousand). Understanding that my straightforward refusal to assist in the organization of the murder could have caused quite negative consequences for me, including a lethal one, I agreed to help them. I hope that I have reported the preparation of the crime to the law enforcement authorities in time, so that grave consequences might be prevented.

I have read the protocol of the interrogation. It has recorded my words correctly. I do not have any additions or comments.

Signature of the witness:

The interrogation was carried out
and the protocol was executed by
Senior investigator for special cases
of the MID of SBU

Signed by: A. Bahovskyi

Annex 217

Signed Declaration of Natalya Mutovina, Witness Interrogation Protocol (30 January 2015)

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[...]

In response to the questions asked, the victim N.A. Mutovina has made the following statement: in response to the questions put to me, I would like to clarify that I wish to give testimony in Russian at this interrogation, and I would like it to be typed in Russian for this interrogation record. I would also like to clarify that I am a registered resident at the following address stated on the above form: 48/3-47, Kyivska Street, Ordzhonikidze district, Mariupol. I have lived at this address with my lawful husband, Mr. Anatolij Henrikhovich Mutovin, DOB 09.26.1955, for a long time.

I would also like to say that my husband owned a ZAZ Tavriya Slavuta hatchback car, with a white body, registration number AH6896CP, 2007 issue. As this car was not equipped with an alarm, only my husband drove it. He usually parked this car in a prefab metal garage located in the courtyard of a nine-storey residential block at 48/3 Kyivska Street, Ordzhonikidze district, Mariupol.

On 01.23.2015, my husband arrived in the said car at around 4:00 PM, parked it in the said garage and went home to his place of residence. At about 09:20 AM on 01.24.2015 my husband and I were at home. At that moment we heard many loud explosions outside, and we realized the neighborhood was being shelled with Grad missiles. About an hour later we left home and headed for the garage where my husband kept his car. When we arrived at the garage, we discovered that the whole garage had been burnt, and the car inside it had also been burnt. I should clarify that there was a shell crater next to the garage and many fragments.

Therefore, as a result of the shelling, both my husband's car and garage were damaged, and his total material losses amounted to 60,000 hryvnias. I will state the moral damage in court. I would like to file a lawsuit in this respect. I suspect the separatists to be the perpetrators of this crime. I would like to add to the case file a copy of my passport, my pensioner's ID and the car registration documents in my husband's name. I would also request that a photo of the burnt garage and car be added. As my husband has category II disability and poor mobility, I would like to be recognized as a victim.

I have nothing further to add.

This is a true typed record of my oral statement, which I have read. N.A. Mutovina [signature]

This testimony was recorded on -

(please describe the information storage device if using recording technology)

which is submitted alongside this record.

As a result of using technology to record the statement, requests have/have not (delete as appropriate) been received from participants in the proceedings to add text to the interrogation record.

Participants in the proceedings have been advised on the manner in which they can review the contents of the interrogation record, namely _____
(view a written copy of the record, or view or listen to content recorded on storage devices if recording technology has been used)

Having reviewed the text of the interrogation record, participants in the proceedings _____ requested permission to make any changes, additions or comments.

(Please specify request if received).

Victim: _____ N.A. Mutovina _____ [signature]
(name in full) (signature)

Participants: _____ _____ _____
(name in full) (signature)

_____ _____ _____
(name in full) (signature)

Statement taken by:

Investigator, Ordzhonikidze district investigations department
B.O Nazerov _____ [signature]

I refuse to sign this interrogation record because _____

(investigator, title, name of organization, signature, surname and initials)

Victim: _____ _____
(name in full) (signature)

Participants: _____ _____
(name in full) (signature)

Witnesses (in the absence of the victim's legal representative):

1. _____ / _____ / _____
(name in full, date of birth, place of residence)
(signature)
2. _____ / _____ / _____
(name in full, date of birth, place of residence)
(signature)

Interrogating officer:

Investigator _____

Annex 218

Signed Declaration of Oleksandr Sachava, Suspect Interrogation Protocol (30 January 2015)

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The witness, O.O. Sachava, offered the following testimony in response to the questions asked:

I, Oleksandr Oleksandrovych Sachava, was born on September 19, 1986 in the city of Odesa. I am a citizen of Ukraine with my registered address of residence at 9-A Zooparkova Street, apartment 3, Odesa. I finished Secondary School No. 25 in Odesa in 2003. That same year I enrolled at the Odesa National Academy of Construction and Architecture and dropped out in 2004. I am a member of the Rodina Party.

In late August 2014, I was invited by an acquaintance of mine named "Dmytro" (I don't have his contact details, but I know that he goes by Dmytro Odinov or Dmytro Maydaniuk) to take a security

[Signature]

[Seal: FOR DOCUMENTS No. 5. General Prosecutor's Office of Ukraine * Central Military Prosecutor's Office]

[True to original]

Sheet No. 4

guard training course complete with general physical training. Since I am a forest enthusiast, I agreed and entered the occupied territory of what was the Autonomous Republic of Crimea at the time. I would like to add that I am a sports aficionado. In the past I worked as a security guard during concerts at the Palace of Sports and at other venues. I am a big fan of airsoft and other active sports.

On arriving in Simferopol, I met with Dmytro, who told me that there had been an interesting opening in Feodosiya but it was no longer available as the place was up to capacity. He went on to inform me about "another interesting opening" in the city of Sevastopol. At the time I did not have the slightest suspicion as to what this "interesting opening" entailed but ended up learning about it eventually.

Without fully understanding what was in store for me, I agreed and joined Dmytro on a ride to Sevastopol in his Honda Accord car (I don't remember the number plate), specifically to a military unit in Kozacha Bukhta. Upon arrival, Dmytro accompanied me to the premises of the unit. The unit was guarded by military personnel of the Russian Navy, as evidenced by their uniforms and insignia. They welcomed us and showed us the way to the barracks where some individuals in military uniforms without insignia were staying. Dmytro introduced me as a very nice person and an athlete. The man who welcomed me (I eventually learned that he was an officer of the Federal Security Service) asked me if I was prepared to do whatever the homeland told me to, to which I replied that this would depend on what the homeland would require. At the time, naive as I was, I could not imagine that it was no training camp for security guards. Instead, it was a training camp for militants of the Luhansk and Donetsk People's Republics. While at the camp, I realized that the majority of people there, myself included, had no idea where they ended up, since nobody would tell us anything.

Our training began eventually. During the training we were prohibited from getting to know each other. We communicated only by using our chosen call signs (mine was "Rambo"). I was trained by a coach with the call sign "Stroitel" (I believe he was a native of Russia). I did not remember any other coaches. My unit was headed by individuals with the calls signs "Trener" and "Borets" (in their own words, they were citizens of the Russian Federation, from the Ural region). Also, I have no idea what means of communication or social networks they used. I would like to add that during our stay at the camp we were issued military uniforms without any insignia. During training we also received firearms, specifically AK-74 assault rifles, Makarov's pistols, Dragunov sniper rifles, and Mukha handheld grenade launchers. We used these weapons to destroy dummy targets. After practice at the firing range, we would return the weapons to the armory.

Several days later, in the evening, we were told that the following day a group of individuals, myself included, would be going for an away training for several days. We were not told where

exactly we would be going and why. I later learned that some of the individuals called out refused to go for the away training for reasons unknown to me. I have no idea where they disappeared eventually. The others at the camp had no idea either.

The following day we were issued weapons, specifically AK assault rifles, Makarov's pistols, under-barrel grenade launchers, automatic grenade launchers (without ammo). The weapons were issued based on call signs. We did not sign for them. Under supervision of "Trener" and "Borets", some 30 others and I were ushered into a bus and transported to an unknown location for further training, as they told us.

[Signature]

[Seal: FOR DOCUMENTS No. 5. General Prosecutor's Office of Ukraine * Central Military Prosecutor's Office]

[True to original]

Sheet No. 5

En route I saw we were going in the direction of the city of Kerch. Once we arrived at the ferry crossing in Kerch, they had us board the ferry and told us we were going to Rostov (Russia). I thought it was strange at the time but did not pay proper attention to this fact. We were then ferried to the Russian Federation (Port Kavkaz). A green Kamaz tarpaulin truck was already waiting there for us (I did not see the number plate and did not remember it). We got into the back of the truck and we set off. On our way to Rostov, they did not tell us anything. At around 11 p.m. or maybe even later, we stopped in the woods (a forest belt) where we were ordered to alight the truck and go to sleep. On waking up in the morning, I saw that military vehicles were deployed in this forest belt, specifically: Kamaz trucks, MTLB light-armored multipurpose tracked towing vehicles, KShM command vehicles, and SAU self-propelled guns. At this point, both I and others no longer had any illusions about this being security guard practice. I realized that we were going somewhere completely different. Yet we had no idea where.

Eventually, we boarded an MTLB light-armored multipurpose tracked towing vehicle that took us to the village of Bezimenne, Novoazovsk District, Donetsk Oblast, where they had us set up camp on premises that resembled Soviet-style garages that had been previously used to store and repair trucks. On our way there I realized that I was going to war that was taking place in Donetsk Oblast. With this realization I decided to somehow get out of there. Yet I also realized that this would not be that simple and they would not let me go. I decided not to tell the people escorting us about my decision to abort my involvement. Otherwise, I would be facing a grim fate. That's why I decided to keep quiet and abandon them the first chance I got, and return home to Odesa.

The buildings that served as our barracks also stored different kinds of weapons in crates. Some of the weapons were taken away and others brought in from time to time. The same premises stored food that was also taken away and brought in. I would like to add that I personally saw the weaponry stored there: two GRAD multiple rocket launchers (without any insignia), grenades, ammo, Mukha handheld grenade launchers, and large quantities of GRAD rockets. I also saw a vehicle known as "Jihad Mobil", that is, a modified VAZ 2121 Niva station wagon. To the best of my understanding, it was a weapon storage facility that supplied weapons to illegal paramilitary groups of the Donetsk People's Republic. I stayed at this camp until September 28-29, 2014.

While in this village, I met and recognized Vadym Anatoliyovych Savenko, Odesa Regional Council member, who goes by the call sign "Svat", whom I know as a fellow Rodina Party member and a people's representative at the Odesa Regional Council. After speaking to other people at the camp, I learned that "Svat" commanded one of the illegal paramilitary groups of the Donetsk People's Republic that fought against the regular forces of the Anti-Terrorist Operation in Eastern Ukraine. While at this base camp, I also saw for the first time V.A. Savenko's right-hand man – his deputy who went by the call sign "Giurza". This person repeatedly came to this base camp, either

on his own or accompanied by V.A. Savenko. They came in a car. As for their car, I can report that it was a Mitsubishi L200 (without number plates). V.A. Savenko and "Giurza" received food and weapons at the base camp. During their visits, V.A. Savenko and Giurza wore military uniforms without insignia and carried weapons. I saw pistols on them.

[Signature]

[Seal: FOR DOCUMENTS No. 5. General Prosecutor's Office of Ukraine * Central Military Prosecutor's Office]

[True to original]

Sheet No. 6

I did not personally speak to these individuals. Also, I saw myself and heard from others at the camp that they met with officers of the Federal Security Service of the Russian Federation (so-called "Faces"). I don't know what they talked about. Of the officers of the Federal Security Service of the Russian Federation, I only know a person who went by the call sign "Medved". He was about 30 years old, stockily built, 190 cm tall, and constantly wore a pixelated uniform without insignia. However, the "Faces" had their arms and legs wrapped in painter's masking tape over the uniforms. The "Faces" drove UAZ Patriot cars without number plates, marked with white circles.

I would also like to add that after our arrival at this base camp the 30 of us were split into groups of 10. My group was tasked with guarding the base camp. Others were deployed to field positions to guard SAU self-propelled guns.

After realizing that this was the site of an armed conflict between Donetsk People's Republic representatives and regular forces of the Anti-Terrorist Operation, and not wishing to participate in warfare, I started thinking of a way to dodge my way out of this organization. I could not think of a better solution than to cause myself physical harm. To this end, I used a wooden stick to hit my knee. My knee became swollen after a few days and I developed a limp. With this problem I came to the leadership of the base camp. Subsequently, accompanied by medical personnel of the mobile medical station deployed out in the field near the Novoazovsk border crossing point, I left for the city of Taganrog. There I was examined and referred to the base camp in Bezimenne, Novoazovsk District, Donetsk Oblast.

Eventually, since my knee was swollen, I left for the Autonomous Republic of Crimea to the military unit in Kozacha Bukhta, accompanied by "Trener" and "Borets". There I was examined and referred to the municipal healthcare institution to have an X-ray taken. After being examined, I was diagnosed with a medical condition affecting the meniscus in my knee, at which point I returned to the military unit. Back at the unit, I wanted to get my papers back so I would be able to leave the Autonomous Republic of Crimea and eventually return to Ukraine. To this end, I told them that I wanted to visit a friend in Rostov Oblast and get examined and treated under normal conditions. I don't know why, but they believed me and returned my papers to me. Eventually I returned to Ukraine through Russia and Belarus. On my way I discarded my old SIM cards and erased all numbers of militants from the unit of Dmytro Odinov (Maydaniuk), since I no longer wished to communicate with those people.

I would like to add that I found myself in the territory of the armed conflict in Donetsk Oblast forcibly as I had no other choice. I merely guarded the buildings of the base camp and did not participate in combat missions.

Question: During questioning you said that you saw Vadym Anatoliyovych Savenko (call sign "Svat") born on July 28, 1969. Are you aware of his current whereabouts or his contact details (phone number, social network profiles, other means of communication)? Would you be able to identify V.A. Savenko on seeing him?

[Signature]

[Seal: FOR DOCUMENTS No. 5. General Prosecutor's Office of Ukraine * Central Military Prosecutor's Office]

[True to original]

Sheet No. 7

Answer: I do not know where V.A. Savenko has been since September 2014 until present. Neither do I know what means of communication or social network profiles he uses. If I am contacted by V.A. Savenko in the future, I will immediately notify the pretrial investigation authority. If necessary, I can identify V.A. Savenko based on the shape of his face and his beard.

Question: Are you familiar with Zakhar Oleksandrovykh Bobarykin (call sign "Giurza"), born on November 22, 1985? If so, how long ago did you meet him? What kind of relations do you maintain? When was the last time you saw him? Where is he now? What contact details of his (phone number, social network profiles, other means of communication) can you provide to the pretrial investigation authority? Also, would you be able to identify "Giurza" on seeing him?

Answer: I understand the question. I am not personally familiar with Zakhar Oleksandrovykh Bobarykin. I saw him under the circumstances described earlier. I learned his first name and last name, Zakhar Bobarykin, while reading online publications about an act of terrorism committed on November 2, 2014 near the roadblock of the Anti-Terrorist Operation Forces in the eastern district of Mariupol by the leader of the illegal paramilitary group of the Donetsk People's Republic – "Svat" (V.A. Savenko) and his deputy "Giurza" (Z.O. Bobarykin) with the involvement of one of the unit commanders who goes by the calls sign "Chekhov". I do not know where Z.O. Bobarykin has been since September 2014 until present. Neither do I know what means of communication or social network profiles he uses. If I am contacted by Z.O. Bobarykin in the future, I will immediately notify the pretrial investigation authority. If necessary, I can identify Z.O. Bobarykin based on his characteristic facial features.

Question: Are you familiar with Yuri Leonidovich Bielkin (call sign "Volkodav"), born on September 26, 1978? If so, how long ago did you meet him? What kind of relations do you maintain? When was the last time you saw him? Where is he now? What contact details of his (phone number, social network profiles, other means of communication) can you provide to the pretrial investigation authority? Also, would you be able to identify Yu.L. Bielkin on seeing him?

Answer: I understand the question. I am personally familiar with Yuri Leonidovich Bielkin. I saw the militant who goes by the call sign "Volkodav", a member of V.A. Savenko's group, at the camp in Sevastopol. I do not know where Yu.L. Bielkin has been since September 2014 until present. Neither do I know what means of communication or social network profiles he uses. If I am contacted by Yu.L. Bielkin in the future, I will immediately notify the pretrial investigation authority. If necessary, I can identify Yu.L. Bielkin based on his characteristic facial features, which are very specific.

Question: Are you familiar with the following members of the illegal paramilitary group of the terrorist organization Donetsk People's Republic – the Odesa sabotage and reconnaissance group "SVAT" – whose call signs are "Volkodav", "Chekhov", "Komandir", "Yozhik", "Tanchik", "Tsygan", "Doberman", "Tiomych Shustryi", "Lionya", "Tatarin", "Khabit", "Ivanovich", "Barsa", "Chekhov", "Professor" (Oleksandr), "Tankist" (Oleksiy), "Brodyaga", "Givi", "Maykop", "Tyulen", "Egor", "Koks", "Ural", "Sochi", "Tanchik", "Dobryi", "Sanych" (Oleksandr Oleksandrovykh Pichugin), "Volga", "Dar", "Kham", "Pios", "Latysh", "Dzhigit", "Chekh", "Chechen" (Vitaliy), "Chelya" (Artiom), "Monakh", "Smola", "Ded", "Moskva", "Oper", "Krym", "Nik", "Neft"? If so, under what circumstances did you meet them and what kind of relations do you maintain with them? Would you be able to identify these individuals?

[Signature]

[Seal: FOR DOCUMENTS No. 5. General Prosecutor's Office of Ukraine * Central Military Prosecutor's Office]

[True to original]

Sheet No. 8

Answer: While at the camp near the village of Bezimenne, Novoazovsk District, Donetsk Oblast, I saw individuals who went by the call signs "Tanchik", "Tsygan", "Doberman", "Tiomych Shustryi", "Koks", "Krym", and "Chechen", and I can identify them, if necessary. These individuals came to the base camp regularly. To the best of my knowledge, they were stationed somewhere in the Novoazovsk District of Donetsk Oblast, near Mariupol.

I would also like to add that, according to members of the group of which I was a part in the village of Bezimenne, Novoazovsk District, Donetsk Oblast, base camp personnel regularly traveled to Novoazovsk where they spent their leisure time at a local entertainment center (sauna, bar, hotel).

Witness: O.O. Sachava [Signature]

(Last name, first name, patronymic) (Signature)

I have read the record of questioning. My statements have been written down accurately. I have no comments or additions to make.

Witness: O.O. Sachava [Signature]

(Last name, first name, patronymic) (Signature)

Operative with the Odesa Oblast Directorate

of the Security Service of Ukraine

[Signature]

V. Matsur

Annex 219

Signed Declaration of Oleksandr Chorniy, Witness Interrogation Protocol (12 February 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF VICTIM QUESTIONING**

City of Kramatorsk

February 12, 2015

Questioning started at 9:00 a.m.

Questioning ended at 9:45 a.m.

Colonel of Justice Vitaliy Mykolayovych Panchenko, Head of the Department for Procedural Oversight in Criminal Proceedings of the Investigative Unit at the Directorate for Overseeing the Observance of the Law by United Forces of the Anti-Terrorist Operation of the Central Military Prosecutor's Office of the General Prosecutor's Office of Ukraine, questioned the following individual, as a victim as part of a pre-trial investigation in criminal case No. 4201500000000151 of February 10, 2015, in the offices of the Directorate at 21 Mayakovskoho Street, in keeping with the requirements of Articles 55, 56, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine:

1. First name, patronymic, last name: **Oleksandr Dmytrovych Chorny**

[TRANSLATOR'S NOTE: Paragraphs excluded from the translation scope have been omitted. Refer to the PDF file]

The victim offered the following testimony in response to the questions asked:

Since December 24, 2014, I have been stationed in Kramatorsk, Donetsk Oblast, as part of military duty at the Directorate for Overseeing the Observance of the Law by United Forces of the Anti-Terrorist Operation of the Central Military Prosecutor's Office of the General Prosecutor's Office of Ukraine, where I served as senior prosecutor with the Department for Procedural Oversight in Criminal Proceedings of the Investigative Unit.

On the morning of February 10, 2015, Colonel of Justice Kostiantyn Hennadiyevych Kulyk, who heads the Directorate in question, announced to me Order No. 11-vk of the Prosecutor General of Ukraine dated February 9, 2015, relieving me of my duties as senior prosecutor with the Department for Procedural Oversight in Criminal Proceedings of the Investigative Unit at the Directorate for Overseeing the Observance of the Law by United Forces of the Anti-Terrorist Operation of the Central Military Prosecutor's Office of the General Prosecutor's Office of Ukraine, and ordering me to resume my permanent duties as senior prosecutor with the Department for Procedural Oversight of Pre-trial Investigations and Support of Public Prosecution in Criminal Proceedings at the Investigative Unit of the Military Prosecutor's Office in the Southern Region of Ukraine.

After announcing the order, Colonel of Justice K.H. Kulyk ordered me to proceed to the Anti-Terrorist Operation (ATO) Headquarters stationed on the grounds of the military airfield of Kramatorsk, where I was supposed to hand in the service weapon issued to me for the duration of my service at the Directorate and collect my personal file from the personnel department of the ATO Headquarters. I was then expected to hand in my official documents and depart for Odesa to resume my permanent duties.

Following this order, I put on a bullet-proof vest and helmet, took my service weapon and departed for the ATO Headquarters at around 11:30 a.m. in an UAZ-31514 military vehicle (number plate: 7007 E1) accompanied by Colonel of Justice Serhiy Anatoliyevych Kotsyuba (head of department at the Directorate) and the driver – soldier Anton Mykolayevych Buyakov.

After our arrival at the airfield where the Headquarters were stationed, Colonel of Justice S.A. Kotsyuba went to the Headquarters on official business. I drove to the armory (District 65) where I handed in my service weapon by 12:00 p.m. or thereabouts. At this time, I witnessed a hostile reconnaissance drone get shot down over the airfield.

After handing in my service weapon, I went to the information security department of the ATO Headquarters, where I collected my state secret clearance authorization with appropriate notations made by the head of the personnel department.

Then I returned to the vehicle where the driver – soldier A.M. Buyakov was waiting. Together we waited for Colonel of Justice S.A. Kotsyuba.

At around 12:30 – 12:40 p.m., 3-5 minutes after I returned to the vehicle, I saw servicemen start running out of their tents and box vans and take cover in trench shelters. Then, I heard the sounds of explosions. After telling the driver that the airfield was obviously under attack and we needed to find shelter, I jumped out of the vehicle and ran for cover. Some 10-15 meters away from the vehicle, I felt a powerful impact in the region of my back and neck, which sent me flying to the ground. While on the ground, I heard explosions. I can't say how many exactly. I also heard missile fragments whistling past me. When the noise stopped, I got up and ran to the shelter where servicemen (particularly personnel of the information security department) were taking cover. In the shelter, an officer I didn't know noticed that I had a neck wound and provided first aid by applying bandages to the wounds.

After the shelling, they took me to an ambulance and transported me along with other wounded personnel to the trauma wing of Kramatorsk Municipal Hospital No. 3. Since severely wounded patients had been already brought to the trauma wing before us, and more of them kept arriving, I could no longer wait to receive medical aid as I was bleeding profusely. Because of this I went to the inpatient facility – the ear, nose, throat department, where doctor V.Yu. Chibisov treated my wounds, stitched them up and staunched the bleeding. That same day, February 11, 2015, I was examined by trauma doctors V.M. Uskov and V.V. Hetmanov at the trauma wing. They diagnosed me with a closed craniocerebral injury, shell shock, and a shrapnel wound to the neck on the right side. They recommended inpatient treatment at the hospital's neurology department.

I sustained the above-mentioned injuries and wounds as a result of an enemy attack with multiple rocket launchers that targeted the airfield of Kramatorsk on February 10, 2015, at around 12:30 p.m. while I was on duty and on an official mission.

During the shelling, I sustained wounds despite wearing a bullet-proof vest and helmet, which remained intact. Following a medical examination and X-ray, no foreign objects (fragments) were found in my neck.

I have personally reviewed this record. My testimony has been written down correctly. I have no comments or anything else to add to the record. [Signature] O.D. Chornyi

Questioned by

[Signature]

V.M. Panchenko

Annex 220

Signed Declaration of Oleg Mikulenko, Suspect Interrogation Protocol (22 February 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

The witness offered the following testimony in response to the questions asked:

I presently reside at 133 Newtona Street, apartment 202, Kharkiv. I live with my mother, Elena Nikolaevna Mikulenko, d.o.b. 1968, and my father, Evgeny Vladimirovich Mikulenko, d.o.b. 1966. I am not and was never married and have no children. I am not registered with a drug abuse specialist or psychiatrist. I have no chronic diseases.

I am presently unemployed. I am a 1st year full-time student at Kharkiv National Automobile and Highway University. Previously, in 2012, I enrolled at the Academy of Interior Troops but studied there for only about half a year before dropping out voluntarily.

Afterwards, I spent about 2 months serving in the military as part of the security company of said educational institution, after which I was demobilized due to a health condition.

I have no affiliations with political parties and am not a member of public movements or organizations.

During the events of the so-called “Euro-Maidan” I did not participate in rallies and adopted a neutral stance.

After the events in Rymarska Street in Kharkiv on the night of March 14 to 15, 2015 (a shootout in which one native of Kharkiv was killed and several more wounded), I decided to join an “Anti-Maidan” rally. Nobody invited me to this rally. I read about those events on the Internet and decided to come. A peaceful procession in the memory of those killed took place that day.

I also came to the “Anti-Maidan” rally the following Sunday and also to a rally that preceded the takeover of the Kharkiv Regional Administration in April 2014. I did not participate in the takeover proper. I went home after the activities took over the administration.

I also went to “Anti-Maidan” rallies on May 1, 2014, when a lady named Tatyana burned down the flag of Ukraine in Svobody Square. Afterwards I participated in several more rallies before stopping to attend them.

During my participation in said rallies, I met various activists of the “Anti-Maidan” movement, with whom I communicated from time to time.

At those rallies I met with a man named Sergey Korneyev, who repeatedly invited me to join rallies. However, I tried to distance myself from him.

I also met a man named "Igor Cherkashchenko" (he appears under this name on the VKontakte social network; I don't know his real name).

Continuation of the record of questioning of witness O.Ye. Mikulenko dated February 22, 2015

Sometime in late August he invited me to a meeting to discuss the issue of preventing an UPA march from happening in Kharkiv. This meeting happened in August (I don't recall a more specific date). We met at the "Imeni Maselskoho" metro station before entering a patty shop where the meeting took place.

During this meeting I met with a man named Roman (appears under the name "Gennady Zubov" on the Vkontakte social network). This man teaches history and law at some school (I don't know at which school specifically). Andrey (I don't know his last name) was also present at this meeting. We discussed how many people we would be able to assemble but did not reach any specific agreement.

The following day, this Andrey invited me to a meeting that took place outside the "Caravan" store near the "Ploshchad Vosstaniya" metro station. During this meeting I met a man named Evgeny. I don't know his last name. He went by the code name of "Bars". At this meeting we yet again discussed ways to prevent the march but could not come up with any specifics.

The following meeting happened on the day in September when the ultras tore down the monument to Lenin in Svobody Square. We watched it getting taken down but could not do anything. During these events I met with Anton Filatov. He suggested that I go to Russia or Donbas. He suggested going to Donbas to join combat operations, and to Russia – in order to learn how to carry out specific operations in Kharkiv. He did not give me the specifics. As he put it, I would be paid for those trips. However, I did not take his offer seriously, so I declined.

Afterwards, he and I met when he was operated on at a hospital. The last time I saw him was on October 13, 2014. Then, to the best of my knowledge, he

was detained by Security Service officers from Kyiv, and nobody has seen him since then.

After Filatov's disappearance, things quieted down somewhat. Then, sometime in early November I used the VKontakte social network to reach out to Evgeny "Bars". We began communicating.

During our conversations he suggested that we go to the Belgorod, Russian Federation, to meet what he described as very interesting people. I agreed to this offer. I don't recall the date of my departure. I went alone. "Bars" left me a phone number for containing people who had to meet me in Belgorod.

"Bars" did not tell me who I would be meeting specifically, but said that he has been talking to those people. For this trip, I was supposed to be paid USD 100 and have my trip expenses covered.

I agreed to this proposal and left for Belgorod in a bus from the Kharkiv Railway Station. This happened approximately in December 2014.

I arrived at the railway station in Belgorod, where I was met by 2 people. One introduced himself as Vadim. I had never seen him before. The other one introduced himself as Oleg, who went by the call sign "Batya". I previously saw this man in videos on the Internet, where he was introduced as the leader of "Kharkiv Partisans" by the name of Oleg Sobchenko.

After meeting, we went to the "Vostochny Express" coffee shop right next to the railway station.

Continuation of the record of questioning of witness O.Ye. Mikulenko dated February 22, 2015

Our conversation touched on the situation in Kharkiv and public sentiments. They offered me a job: to examine the "Dafi" entertainment center in Kharkiv to determine whether it would be possible to fire a rocket-propelled flame thrower at it. They justified this mission by the fact that "Dafi" donated 20 percent of their profits to the Anti-Terrorist Operation. If we fired at it, this funding of the fratricidal war would end. Notably, Sobchenko wanted there to be no casualties.

I replied to this offer by telling him that I could not agree without first speaking to “Bars”. They told me they would be waiting to hear from us. We had to stay in touch through “Bars”. They did not explain anything to me.

I returned to Kharkiv that same day and agreed to meet with “Bars”. We met with him in the “Novye Doma” neighborhood. “Bars” came with a man named Vlad whom I met previously (I don’t know his last name). “Bars” introduced him as one more group member. During the meeting I told “Bars” and Vlad that Sobchenko and Vadim wanted to stage an explosion in “Dafi”. We agreed to go and examine the place onsite.

Several days later “Bars” and I went to scout out “Dafi”. Vlad was not with us. We took several photos of this place from several angles and discussed where to shoot. During this conversation I also told “Bars” that we would be given something like “Shmel” or a shoulder-fired RPG grenade launcher for a weapon.

After taking the photos, we headed to Vlad’s place (I don’t know the address and did not remember the way there). The three of us discussed the photos we took, after which “Bars” sent them to Oleg Sobchenko from Vlad’s computer. I don’t know how he sent it exactly. I did not keep in touch with him. All I can say is that he emailed them.

“Bars” also told me that after this he went to scout out “Dafi” with Vlad.

Several days later, Evgeny “Bars” and I came to my place where we checked the area around “Dafi” on Google Maps on my computer. We later sent this map to the Bars’ phone and he also emailed it to what I presume to be Oleg Sobchenko.

In return, Sobchenko had to tell us about the location of the cache with the weapon to be used in the attack. However, he did not reply.

I would also like to add that Evgeny “Bars” and Sobchenko communicated in a special way through email: the one writing the message would save it in the “Drafts” folder, and the recipient would delete it after reading. “Bars” himself shared this scheme with me.

On February 14, 2015, I received a message via the VKontakte social network (my profile is “Oleg Subotin”) from a user named “Anastasiya Zhukova”, in which she asked one of us (I or “Bars”) to urgently come to Sobchenko.

I can say that I met this user exclusively on the social network via Anton Filatov. I later learned from her that she communicated with Oleg Sobchenko.

I later passed this information on to “Bars” via VKontakte (his social network profile is “Ivanenko”; I don’t recall the first name). “Bars” said that he wanted to go to Belgorod on his own. However, “Anastasiya” said that he could not leave and that I had to go.

On February 15 or 16, 2015 (I don’t recall the exact date), I went to Belgorod in a bus. Near the railway station I was met by a young lady who introduced herself as “Nastya”. I realized that this was the same “Anastasiya Zhukova” from VKontakte, since she promised to meet me in Belgorod.

After meeting, we went to the “Vostochny Express” coffee shop and discussed political topics. She asked about the Kharkiv Youth Movement – a pro-Russian movement in Kharkiv.

She later called Oleg Sobchenko. We exited the coffee shop and he drove up to us in a car (I think it was a dark Honda; I don’t recall the number plates). We went to a different coffee shop with him in his car. There he introduced me to a man who went by the name Alexander (from Belarus). He said that he left Ukraine for Belarus after the regional state administration was taken over. He asked me about life in Kharkiv and inquired about the Kharkiv Youth Movement.

Then I asked Sobchenko about the target and the weapons. I explained that “Dafi” was crowded and this could result in casualties.

Sobchenko suggested that we fire at “Dafi” from the back in order to minimize damage. I said that there was at least one security guard in the back. Sobchenko replied that if the security guard is on the ground floor, we should fire at the 3rd floor. I said that people could also be harmed in this situation.

Sobchenko then began talking about the “Zhara” club in the area of the “Moskovsky Prospect” metro station near Turboatom. He said that ultras were gathering there for a charitable concert to collect donations for the Anti-Terrorist Operation. That’s why he suggested shooting at “Zhara”.

I told him that we would target either “Dafi” or “Zhara” at our own option, or that we would not do the “job” at all. The word “job” implied the explosion in

this case. I also inquired about payment. Initially he laughed in response before saying that our payment would be one thousand to seven thousand depending on the scale of the explosion. The mandatory condition was that there had to be no casualties. He did not name the currency of the payment. However, judging by what Filatov said, I thought it would be the US dollar (he told me that the protest movement received payments in dollars). Payment had to come 2 weeks after the event.

Among the examples of completed jobs, he mentioned the “gates of the military conscription office”, for which a fee of 1,000 dollars was paid, the “rail tank car explosion”, for which a fee of 7,000 dollars was paid. To the best of my understanding, the rail tank car explosion was the latest explosion in Kharkiv Oblast when three rail tank cars were damaged.

He also asked whether we liked the show staged by Ekozyants, when he reported false information about the upcoming act of terrorism. Sobchenko also said that this disinformation would be repeated.

Sobchenko also asked to bring several representatives of the Kharkiv Youth Movement to Belgorod to prepare them for the televised debates. We then agreed that we would get in touch via “Bars” about the job.

At the end of the meeting, Sobchenko gave me 4,000 roubles for the trip, after which I got in to a bus and left for Kharkiv.

On arriving in Kharkiv that same day (February 16, 2015), I met with “Bars” and we went to Vlad’s place together. We sat outside his home, discussed the news which I brought from Belgorod. “Bars” wanted to shoot at “Dafi”. Vlad and I insisted on “Zhara”, saying that the park was almost deserted at night, while the club itself is open only on specific days.

Continuation of the record of questioning of witness O.Ye. Mikulenko dated February 22, 2015

Later, on February 19, 2015, “Bars” and I went to scout out the target (“Zhara”). That same day “Bars” said that he received a question about whether we were ready to collect the “tools” (i.e. the grenade launcher or flame thrower) in the evening. He received it through the email account that Sobchenko gave him.

At 10 p.m. on February 20, 2015, he received an email with the text “communications check”. He replied something after this and we waited until midnight, but no reply came. At 11 a.m. on February 21, 2015, I received a message via VKontakte from the above-mentioned lady, Nastya, asking me to check mail.

I immediately called Evgeny “Bars” and told him to check mail. He received a reply about the location of the “tools”. There is an unfinished fence in Rudika Street to the right of the memorial along Belgorodskoe Shosse. The “tools” were hidden behind the last pillar.

Around 4 p.m., “Bars” and I went to the site and inspected it.

There we saw an elongated object wrapped in black packets. We did not touch it, but only examined it and left.

Then we left each on our own business before meeting at 8 p.m. at the “Gagarina” metro station. From there we called Vlad. He said that he had some urgent business and could not come. Evgeny said that we needed a third man, which is why I decided to call my friend Artiom (I don’t know his last name). I asked him to come to us and earn some money.

When he came, “Bars” and I quickly brought him up to speed. “Bars” and I told Artiom that he and I had to “stay on the lookout” while “Bars” shoots at the “Zhara” club. Artiom agreed to do this. In other words, he was aware that he would be helping us to shoot at the “Zhara” building.

Then we got into a metro train and got to the “Geroyev Truda” station, from where we walked on foot to the site of the blind drop. There we picked up the “parcel”, packed it in 2 bags that “Bars” brought along so it would not attract attention.

Then I suggested crossing the forest and calling a cab to the address where I lived before (7 Pervyi Lesoparkovskiy Pereulok, apartment 5). Everybody agreed to this offer. “Bars” called the cab, and a dark “Model 10 LADA” arrived.

We got into this car and put the parcel in the back seat. We asked the driver to take us to the “Rost” store in Plekhanovskaya Street. From there we intended to talk with the parcel to Artioma Park and shoot at “Zhara”.

However, in the parking lot we were arrested by Security Service officers. They discovered and seized from us the above-mentioned object, which turned out to be a rocket-propelled anti-personnel mortar.

I also would like to add that during my second trip Sobchenko instructed me to make sure we all wore gloves and not leave any fingerprints.

[hw:] *I personally read the record of questioning. My testimony has been written down correctly. I have no other comments or additions to make.*

[Signature] Mikulenko

Defense attorney: [Signature] [Illegible]

Procedural activity conducted and record prepared by:
Investigator of High-Profile Cases
with the Investigative Office of the Kharkiv Oblast
Directorate of the Security Service of Ukraine

Captain of Justice

[Signature]

A. Prosnyak

Annex 221

Signed Declaration of S. Bashlykov, Suspect Interrogation Protocol (26 February 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

Transcript of interview of suspect S.O. Bashlykov dated 02/26/2015 (continued)

[...]

[...]

In response to the questions put to him, suspect S.O. Bashlykov gave the following testimony:

Question: Have your constitutional and procedural rights as a suspect been explained to you, and do you understand them?

Answer: Yes, my rights as a suspect have been explained to me, and I fully understand them.

Question: You are suspected of committing a crime under Article 258-3 and Article 263 of the Criminal Code of Ukraine, i.e., of committing a terrorist act by carrying out a bombing with a view to violating public security and intimidating [text cut off], resulting in the deaths of people, as well as being suspected of the unlawful possession of explosives and explosive devices.

Do you understand the nature of the suspicion laid before you? If so, do you admit that you are guilty of the crime of which you are accused, do you wish to give testimony in the course of this interview, and what can you tell us about the suspicion laid before you?

Answer: I fully understand the nature of the suspicions laid before me. I partially confess to the charges against me. I am prepared to give my testimony to the pre-trial investigative authority of my own free will.

I, Sergei Aleksandrovich Bashlykov, was born in the city of [text cut off] on 10/27/1986. I currently reside at Apt. 21, 45 Prospekt Frunze, Kharkiv, together with my grandmother, Antonina Iosifovna Bashlykova, d.o.b. 6/10/1937, and my younger sister, Alina Aleksandrovna Bashlykova, d.o.b. 7/25/1995. I am registered at the following address: Apt. 4, 10 ul. Dostoyevskogo, Kharkiv, where my mother, [text cut off] Sergeyevna Bashlykova, d.o.b. 5/14/1961, and my elder sister, Elena Aleksandrovna Bashlykova, d.o.b. 6/5/1979, reside. My mother is divorced from my father, Aleksandr [text cut off] Bashlykov, d.o.b. 2/21/1958. He resides at 125 ul. Lui Pastera, Kharkiv.

I have done various types of martial arts—judo, [text cut off] boxing, and classical boxing—since I was a kid. I am trying to stay in athletic shape even now. I graduated from High School No. [text cut off] in 2002 and then enrolled in Kharkiv Construction Academy No. 9, from which I graduated in 2005 with a specialization in joinery and machine-tool operation. After the academy, I worked as a [text cut off] for Kharkiv Bus Stations Enterprise as part of a repair team until around 2008. In 2008, I got a job with the State Penitentiary Service, specifically at Temnivka Experimental Maximum Security Correctional Penal Colony No. 100, which is located in the village of Temnivka, Kharkiv Region (outside Vasysheve). I went to work at the colony as a junior inspector in the security and supervision department, eventually rising to the rank of sergeant. I worked there until 2010. Because my salary was small, I decided to leave and join a private security firm. I first got a job with the security agency DK ZAKHIST, located at the EPOKHA Complex at the intersection of Kyrgyzska and Morozova streets), where I worked from

Transcript of interview of suspect S.O. Bashlykov dated 02/26/2015 (continued)

2010 to 2011. I then got a job as a security guard at the Misto Cultural and Entertainment Center at 190-A ul. Klochkovska, where I worked from 2011 until 2/1/2014. I worked at all of these places unofficially.

In late January 2014, when I was still working at Misto, I received a proposal from an old acquaintance of mine by the name of Dmitry (his last name was either [text cut off]roshnik or Miroschnichenko), who said that the “Maidan crowd” has arrived in Kharkiv, and we needed to defend our city against them and the disturbances they might cause. I knew Dmitry as a car mechanic, as he had worked on my Ford Taunus car, which I sold a long time ago. I agreed to his proposal, as I myself have negative sentiments toward European integration and the armed coup that occurred in the country, which is commonly referred to as the “Maidan.”

When I agreed, Dmitry said that in that case I would have to come to the Oplot Martial Arts Club by the race track in Kharkiv, where they had daily gatherings of likeminded volunteers who were unhappy with the current situation in the country. I went to Oplot, where they divided everyone who had gathered there into brigades of about 50 people each. They also told us that some of the people would remain in Kharkiv, while others would have to go to Kyiv to help the Interior Ministry’s special Berkut unit carry out mopping-up operations on the Maidan. They explained that the Berkut would force activists from their positions on the Maidan in order to identify the leaders among them, whom we were then supposed to pick up and load onto buses. This training was conducted at the Oplot Club by a young man by the name of Anton, who looked to be about 30 years old. They assigned me to the group that was supposed to go to Kyiv, as I fit the physical profile, i.e., I had an athletic physique. They promised us the symbolic sum of UAH 200, as well as meals. I and many of the others, however, had assembled there not out of mercenary motives, but because we wanted to make sure that was happening in Kyiv was not repeated in Kharkiv. I went to the Oplot Club about 2–3 times, as we were expecting the arrival of Maidan activists, but since there weren’t any to be seen, a decision was made to send a group of around 150 people to Kyiv.

On the morning of 2/18/2014, we gathered at the Oplot. They loaded us onto buses (MANs and SCANIAS, I believe), and we set off for Kyiv. We arrived on the outskirts of Kyiv around 3:00 p.m., stood idle for an hour or so, and then continued on to the scene of events on the Maidan. When we reached the center of Kyiv, the buses stopped before the barricades, and we were told to get off. After getting off the buses, we lined up in columns of five. At that point Yevgeny Zhilin came up to us and told us to follow him. After walking about 200–300 meters, we ran into a group of Euromaidan activists with shields, helmets, and batons. A fight broke out between us, and we got crushed. Someone bashed me on the head from behind with a bat or truncheon, and I lost consciousness. I came to in the hospital. I do not know who took me there. In the hospital, they told me I had a concussion and a speech defect. I spent two days in the hospital before fleeing. I hitchhiked back to Kharkiv, arriving on the evening of 2/21/2014. I went to my elder sister Elena’s place on ul. Dostoyevskogo. She saw that my head was split open and immediately took me to the emergency room at Hospital No. 4. I told my sister that I had been mugged in Kharkiv. I did not tell her anything about Kyiv.

Transcript of interview of suspect S.O. Bashlykov dated 02/26/2015 (continued)

While I was in the hospital in Kharkiv, I encountered Vladimir Dvornikov, whom I had seen at the Oplot prior to leaving for Kyiv. He told me that he and his acquaintance, Viktor Tetyutsky, had also gone to Kyiv with our group, only on different buses or in cars, and had ended up in the same situation as me. In the hospital I was treated by the neurology department, as I had a head trauma, while they were being treated in surgery, as Vladimir had massive injuries and hemorrhaging, and Viktor had a gunshot wound to the head. They spent about three weeks in the hospital, while I was treated for about four weeks. We exchanged telephone numbers (my numbers were +38068-089-94-88 and +38066-466-06-93) and VKontakte social media handles (my page: username vanzilvool@mail.ru, password **21feb1958**).

After I got out of the hospital, around the end of March 2014, I was recuperating from my injury at home. I corresponded with Viktor and Vladimir over the Internet, through VKontakte, where we discussed everyday issues, the situation in the country, and the war that had started in the Donbas region. We also met downtown about once a month. We also joined the “I remember, I am proud” march devoted to the May Day holidays, where we took photos of people in World War II uniforms and posted them on the Internet. In June 2014, I went to stay with my paternal relatives in St. Petersburg, as I feared prosecution after the events on the Maidan. I spent about two months there. I tried to get a job and a residency permit there but was unable to do so. In late August, I went home to Kharkiv. While in St. Petersburg, I continued communicating with Viktor and Vladimir over the Internet.

When I got back home, my father helped me through an acquaintance to find a job as a security guard at a company called BRIG (its office is located on ul. Khabarova). In this job, which I have held since September 2014, I have been part of a rapid response team. Among the facilities guarded by our firm are the National Hotel and the Kharkiv City Council building, since I believe our firm’s management and G.A. Kernes have some sort of personal arrangement for the guarding of these facilities.

After my return, I met with Viktor and Vladimir fairly often—about once a week—by City Clinical Hospital No. 25 on Prospekt Kosiora. During our meetings, we regularly discussed the Right Sector crowd, the “Maidowns” [Translator’s note: “Maidowns is a pejorative term for supporters of the Maidan movement.], the current authorities and their repressive policies—specifically, how the war in the Donbas region, the dollar exchange rate, unemployment, and other social problems had already gotten out of hand, so something had to be done. We thought of identifying leaders of the pro-Ukrainian movements, beating them up, and intimidating them, but it never went beyond mere talk.

In October 2014, Vladimir suggested that we buy new cell phones and new SIM cards from cell phone operator MTS. Viktor explained to me that this was necessary because people could hack into VKontakte and read our correspondence, but it would take them a long time to trace the new numbers. After that meeting, about a week later, we met again at the usual spot by Hospital No. 25, and Viktor, in Vladimir’s presence, gave me a black Samsung phone with an MTS SIM card. I do not recall the telephone number. After that, we used these telephones to communicate. During this period, we were also tracking pro-Ukrainian activists, whom we were able to single out from the crowd when we saw the relevant stickers on their cars, European Union or Ukrainian flags, etc.

Transcript of interview of suspect S.O. Bashlykov dated 02/26/2015 (continued)

After New Year's, in early January 2015, we agreed to throw these cell phones out. I personally threw out my phone, SIM card, and battery all separately.

[text cut off] 2015, Vladimir invited us via VKontakte to meet in the usual place. At the meeting, Viktor once again gave me the exact same type of cell phone, which once again had a pre-installed MTS SIM card. I do not recall the phone number.

Both times that Viktor gave me these telephone, they already had his and Vladimir's numbers saved as contacts. I no longer remember what their phone numbers were, but they were subscribed under different names. I definitely recall that Vladimir was subscribed under the name "Anton." As for Viktor, I do not recall.

On Thursday, 2/19/2015, I received an SMS on the second phone that Viktor had given me, with a proposal to meet up. We met at the usual spot by Hospital No. 25, next to the Kulinichi kiosk. At that meeting, Vladimir told us that he was planning to place a firecracker on Prospekt Marshala Zhukova by the turn to the garages located near the Palace of Sports and the Kyiv Movie Theater. He said that he had already scoped out the site. Viktor and Vladimir explained to me that this needed to be done in order to send the "Maidowns" a message when they held a march in that area on Sunday, 2/22/2015. The three of us then got into Viktor's dark-blue Opel Omega car (I do not recall the number) and headed over to the site. Once there, we examined a pile of snow lying next to a column to the left of the garage entrance (if you are facing the garage). We also agreed that we needed to plant it as long as possible in advance, so we decided to meet at 1:00 a.m. [text cut off] on 2/22/2015 next to the Kulinichi kiosk by Hospital No. 25. Then we took Vladimir home, and Viktor dropped me off outside my building and took off.

As agreed, we all met by the Kulinichi kiosk next to Hospital No. 25. I was about 10 minutes late, and when I arrived at the spot, they were already there. We had agreed that when we drove up to the drop site at 1:00, I was supposed to be at the trolley stop 200 meters from the turn to the garages, keep an eye on the passing cars, and warn Vladimir if anything was amiss by calling him on his phone, while Viktor was supposed to drive closer to the Palace of Sports for the same purpose. We agreed on the spot that we would meet at Vladimir's apartment at 10:00 a.m. on the morning of 2/22/2015 and head over to the pro-Maidan protest march. Once we had assigned everyone a location, I got in Viktor's car, while Vladimir set off toward his blue Ford [text cut off] (I do not recall the number) and said that we should drive over to the site, and he would take the firecracker. When we arrived at the trolley stop, Viktor stopped the car and dropped me off, then continued on to the Palace of Sports. About 15 minutes later, Vladimir drove up to the designated spot in his car, got out, and planted the device in the agreed-upon spot. During this time, few cars were passing by, so I did not call Vladimir on his cell phone. We waited for Vladimir about 10 minutes. I did not see exactly what he planted. After that, Vladimir drove away from the site toward the middle of Bulvar Yuryeva, while Viktor picked me up, and together we drove away from the trolley stop down Bulvar Yuryeva toward Vladimir's car, where, on

Transcript of interview of suspect S.O. Bashlykov dated 02/26/2015 (continued)

Vladimir's instructions, I got behind the wheel of his car, and he got in the front passenger seat to check whether anyone had noticed where the device was planted. I believe Viktor was driving at that point. We drove from Bulvar Yuryeva toward Prospekt Marshala Zhukova, came out on the later, and drove slowly past the site where the device had been planted. Then I drove home, after which Vladimir got behind the wheel and drove off.

I arrived at Vladimir's place on foot at 10:30 a.m., thirty minutes late. Viktor was already there. Vladimir told me they would give me a ride in Viktor's Opel Omega to Maselskoho metro station, after which I was supposed to take the metro to Marshal Zhukov station. From there I was supposed to walk over to the Kyiv Movie Theater. Once the crowd of protesters set off, I was supposed to text the words "I'm on my way" to Viktor's phone. If the crowd did not go, I was supposed to text "I'm fed up." After this briefing, at around 12:30 p.m., the three of us went out, got in Viktor's car, and headed over to Maselskoho metro station, where they dropped me off. They continued on, while I followed the route we had previously agreed upon. At around 1:00 p.m., I came out of Marshal Zhukov metro station and headed toward the Kyiv Movie Theater, which I reached at around 1:10 p.m. As I approached the ATTIKA cigarette kiosk, which is located about seventy meters from the theater, I saw a crowd of demonstrators setting off, and I immediately sent an SMS from the phone that, as I mentioned earlier, Viktor had given me, with the words "I'm on my way." I then started walking toward the crowd along the sidewalk, while the crowd was coming toward me on the road. After the Kyiv Theater, I turned and headed down the alleyway of Bulvar Yuryeva. As I passed by a white "ShvydkoGroshi" [FastMoney] kiosk, which is located behind the theater building on the right-hand side if you are facing the theater, a deafening blast rang out. I then realized that a blast that strong could not have come from a firecracker. I could not see any victims, because I was behind the theater building, but I assumed there might be some. I stood there for about 15 minutes, then pulled out the aforementioned phone, SIM card, and battery, threw it all into a single trash can, and continued along the alleyway (I do not remember exactly which one). I headed toward the ATB supermarket, where I was supposed to meet up with Vladimir, but he was not there. I decided not to wait for him and headed home along Prospekt Frunze.

I then wrote to Vladimir via VKontakte: "What was that? What sort of frame job was that? Why didn't you show up at the ATB?" He replied that he had simply gotten confused and gone home. He also told me to keep my head down and sit tight. That was the last time I spoke with Vladimir and Viktor.

I would like to add that I did not know a mine would be planted. They told me it would be a small firecracker. I did not want the explosion to cause any fatalities. I am sorry for what happened.

I have read the transcript, and it is an accurate record of my testimony. I have no comments and nothing further to add.

S.O. Bashlykov [signature]

[illegible handwriting] [signature] [signature]

Annex 222

Signed Declaration of Victor Tetyutsky, Suspect Interrogation Protocol (26 February 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

[...]

In response to the questions put to him, the suspect gave the following testimony:

Investigator's question: Do you wish to recuse the investigator?

Suspect's answer: I don't wish to recuse the investigator.

Investigator's question: Have you been briefed on the content of Article 63 of the Constitution of Ukraine, and do you wish to testify at the pre-trial investigation as a suspect?

Suspect's answer: I wish to testify at the pre-trial investigation, and I wish to fully cooperate with the investigation.

Investigator's question: In what language do you choose to testify?

Suspect's response: I choose to give my testimony in Ukrainian for the investigator's record.

Investigator's question: What is your state of health at the moment?

Suspect's answer: I am in good health and able to testify.

Investigator's question: Do you wish to write down your own testimony during the interrogation?
Suspect's answer: No. I wish the investigator to record my oral statement, after which I will read it independently. Should there be any inaccuracies or should I disagree with anything, I will make amendments or additions personally at the bottom of the investigation record.

Investigator's question: What can you say in response to the grounds presented to you for your detention?

Suspect's answer: I will state these details in the course of the interrogation, as part of my testimony.

In the course of the testimony, the suspect stated the following:

On 02.18.2014, I decided to go with the Oplot club to Kyiv where protests and clashes between protesters and security forces were underway at the time. I stayed in Kyiv for 24 hours. Whilst in Kyiv as part of the Oplot club, I was actively involved in the clashes that were taking place in central Kyiv. As a result of these clashes, I sustained injuries: a leg wound inflicted by a non-lethal weapon and a head wound inflicted by a small firearm. On return from Kyiv to Kharkiv, I checked into accident and emergency hospital No. 4 without registering the reasons for being there. As far as I can remember, the hospital's official records stated some domestic accident. I stayed at this hospital for treatment from about 02.21.2014 to 03.01.2014. As far as I can remember, the treatment took place either on the second or third floor, but I don't remember the name of the department.

The following people were there with me during my stay at the above medical establishment:

- 1) Volodymyr Mykolayovych Dvornykov;
- 2) Serhiy Oleksandrovych Bashlykov.

Like me, these persons were staying at Kharkiv's accident and emergency hospital No. 4 as a result of various injuries sustained in the Kyiv clashes. For example, Serhiy Oleksandrovych Bashlykov was receiving treatment in a different department and would sometimes visit the ward where V.M Dvornykov and I were being treated. While staying at the above medical establishment, the three of us—namely, S.O. Bashlykov, V.M. Dvornykov and I—became friends. As we were leaving the hospital, we exchanged contact details and addresses in the V Kontakte (VK) social network and stayed in touch on discharge.

After we completed our treatment and were discharged from the clinic, we started exchanging messages via the V Kontakte social network, talking about things in general, the situation in the country, etc.

After my discharge from the hospital, as far as I can remember I stayed home for another two weeks until full recuperation, after which I started work as a taxi driver. At work I used my own vehicle: a blue Opel Omega reg AX 5266 EH, which I own outright.

Later, in about 2–3 months, I saw Volodymyr Mykolayovych Dvornykov, with whom I didn't have frequent contact, only about twice a month. This person and I discussed general topics, politics, the situation in the country and personal issues. I saw Serhiy Oleksandrovych Bashlykov much less frequently, as this person and I did not have much to discuss and did not have shared interests.

From about November 2014 we acquired three mobile phones to enable secret contact between the three of us. I personally bought a white Samsung phone imei 356561065021041/02 on a basic MTS package with the number +38095-014-14-51. This phone was bought at a shop located in the underpass of the Proletarska subway station. I used this phone only for maintaining secure contact with V.M. Dvornykov and S.O. Bashlykov. All three phones were bought by us at intervals within the same week. For example, V.M. Dvornykov bought a Samsung mobile phone for secret communication using a SIM with the number [+3809]5-014-59-90, which was saved as a contact in my phone under the name "Anton." As far as I can remember, S.O. Bashlykov bought the same Samsung mobile on a basic package with the number +38095-014-61[cut off], which was saved in my phone as "Melkiy [Small]." These nicknames for V.M. Dvornykov and S.O. Bashlykov were not necessitated by security measures, but were invented by me for the sake of convenience, based on my own associations for each of these persons.

The above phones were used exclusively for contact between the three of us. It was V.M. Dvornykov who came up with the idea of buying mobile phones for secure communication between the three of us. The idea of buying these mobile phones was due to the need for a direct means of contact between the three of us, avoiding contact via mobiles used for personal reasons (home or work). After I bought that phone, I used two SIM cards with it. I don't remember the number of the first one, I threw it away, after which I used the SIM with the above number. As far as I can remember, I did not use the number +38095-014-14-51 for making calls. I used this number solely for sending SMS text messages to the above phone numbers used by V.M. Dvornykov and S.O. Bashlykov. I used this number most frequently between 02.20.2015 and 02.22.2015.

At one of my meetings with V.M. Dvornykov, about one week before 02.22.2015—as far as I can remember this was either 02.14.2015 or 02.16.2015—we talked about the situation in the country, while I also found out from the V Kontakte social network about a rally being held in Marshal Zhukov Avenue, where a large number of people were expected to gather and move along Marshal Zhukov Avenue from the Sports Palace to Constitution Square, and, as far as I understood, the march was planned along the route through Marshal Zhukov Avenue and Moskovsky Avenue. I told V.M. Dvornykov about this, adding that the

actions of the people attending the rally had to be somehow channeled appropriately so that these people could get down to business. I also told V.M. Dvornikov that it would be good for someone to show these people that they should never take to the streets and organize similar rallies again. In response to my statement about punishing those who go to these rallies, V.M. Dvornikov said that all options were open and that something could be done to make my wish come true.

Later, at about 9:00 in the morning on 02.20.2015, I stopped at a garage in Morozov Street in Kharkiv (in the direction of traffic from Moskovsky Avenue towards Heroiv Stalingradu Avenue, turning right into the industrial zone before the bridge in Morozov Street). At that time I met S.O. Bashlykov at the garage, at his request. During the meeting we did not discuss anything of substance. I had the impression that S.O. Bashlykov simply had nothing to do. He spent some time with me at the garage, after which he left, and I stayed at the garage until 6:00 or 7:00 p.m. After I finished repairing my car, I texted V.M. Dvornikov as I wanted to see him to talk about the rally planned for 02.22.2015 in Marshal Zhukov Avenue. But we did not meet, as V.M. Dvornikov told me he was out of town. After this I went home to Staryi Saltov and was home by 8:00 p.m. on 02.20.2015. When V.M. Dvornikov and I exchanged text messages, we agreed to meet on 02.21.2015 in the morning. Next day, on 02.21.2015, I left home in the direction of Kharkiv at about 8:00 a.m., stopping en route at the above garage to collect some car parts. Then at 9:35 a.m. I received the following text message from V.M. Dvornikov at the above phone number: "I am out of town, coming soon. How are you? Will you make it today?" In response I said that I could meet him, to which I received the following text from V.M. Dvornikov at about 9:40: "Okay, will text soon as I get there, 'round 12." In response I texted him to ask whether he would be home, to which he said yes.

Around 1:00 or 2:00 p.m. on 02.21.2015, I called at the home of V.M. Dvornikov at 32 vul. 17 Partz'yizdu, Kharkiv. He came out and we went to the Kulinichi kiosk near the above address. We discussed meeting later that evening on 02.21.2015 and the rally planned for 02.22.2015 in Marshal Zhukov Avenue. During our conversation, V.M. Dvornikov told me that he had an explosive device which could be used during the rally in Marshal Zhukov Avenue planned for 05[sic].22.2015. I did not ask him what kind of explosive device this was or what were its characteristics, neither did V.M. Dvornikov tell me what type of device this was. We did not discuss any details about planting this explosive device that V.M. Dvornikov had in his possession. However, we agreed that I and S.O. Bashlykov would

come to the house at the abovementioned address 32 vul. 17 Partz'yizdu at 1:00 a.m. on 05[sic].22.2015 to discuss everything about planting an explosive device in Marshal Zhukov Avenue in Kharkiv. The time of the meeting was chosen for the purpose of secrecy and to prevent our intentions being discovered. We all knew that street lights would be turned off after midnight, there would be a lot fewer cars in the streets than in daytime and there would be almost no people. Our meeting ended around 2:15 p.m. on 02.21.2015, and I went home to Saryi Saltov where I attended to my own household matters. At some point I went to bed. After waking up, I left for Kharkiv around 11:50 p.m. on 05[sic].21.2015 and around 12:45 p.m. on 02.22.2015 I was already near the building at 32 vul.17 Partz'yizdu, Kharkiv. At 1:00 a.m., O.S. Bashlykov came to the building, then V.M. Dvornikov came out from the second or third entrance on the right side of this building and invited us both into his apartment. We spent about 30 minutes at the apartment. The apartment seemed uninhabited. Inside the apartment, we began to discuss the actions we were about to take at Marshal Zhukov Avenue. The chief instigator of everything we were about to do was V.M. Dvornikov. He told me that I was to take S.O. Bashlykov in my car to the market located near the Marshal Zhukov subway station (at Marshal Zhukov Avenue, Kharkiv) and leave him at the market, and then to drive towards the Kyiv movie theatre (at Marshal Zhukov Avenue). He also instructed us that if there was any danger, such as patrol cars or other Ministry of Internal Affairs patrols, we were to phone the number used by V.M. Dvornikov for secure communication. We also agreed on our travel route and vehicle movements (S.O. Bashlykov would go in my car, and V.M. Dvornikov would drive his own car, a grey Ford Sierra), as follows: we left the building at the above address, driving into Kosior Avenue, after this drove onto Heroiv Stalingradu Avenue, at this avenue we stopped at the Avias gas station, then turned into Kharkivskykh Dyviziy Street, from where we turned into Yuryev Boulevard, then into Mezhlauk Street, then drove onto Moskovsky Avenue turning into Marshal Zhukov Avenue. At the start of Marshal Zhukov Avenue, I dropped O.S. Bashlykov off at the trolley-bus stop and drove to the Kyiv movie theatre, parking at the lot opposite next to the taxi rank. Meanwhile, V.M. Dvornikov followed us to Mezhlauk Street and went inside the backyards of this street. After this we stood and waited. As I understood from V.M. Dvornikov, he planned to plant the explosive device between the trolley-bus stop where I dropped off S.O. Bashlykov and the crossing of Yuryev Boulevard/Marshal Zhukov Avenue. I parked my

vehicle with the right side facing the Kyiv movie theatre for a better view and started to watch what was happening outside. I did not see where V.M. Dvornikov planted the explosive device. Some 40 minutes passed while we waited for V.M. Dvornikov to plant the explosive device in Marshal Zhukov Avenue. While watching, I saw V.M. Dvornikov's car drive past from the direction of the Marzhal Zhukov subway station and turn into Yuryev Boulevard. I went to pick up S.O. Bashlykov who was waiting for me at the trolley-bus stop where I left him. After this I drove towards Moskovsky Avenue, turned right, drove into Mezhlauk Street, drove onto Yuryev Boulevard, turned left, drove on another 200 meters, then stopped, saw V.M. Dvornikov's car and dropped off S.O. Bashlykov. After this, the three of us agreed to meet at 11:30 a.m. near V.M. Dvornikov's apartment building, and I went home to Staryi Saltov. Meanwhile, I understood from V.M. Dvornikov's conduct that he had successfully planted the explosive device. Then I went home to Staryi Saltov, where I arrived at about 4:00 a.m. Once at home, I went to bed.

After this, at 10:00 a.m. on 02.22.2015, I left home for Kharkiv, and around 11:00 a.m. I was by V.M. Dvornikov's apartment building at 32 vul. 17 Partz'yizdu, Kharkiv. V.M. Dvornikov came out to get me and we went upstairs to his apartment. O.S. Bashlykov came some time later. As the three of us talked, we agreed on the following: that all three of us would set off together in my car, drop S.O. Bashlykov at the Maselsky subway station, from where he would walk to the Marshal Zhukov subway station to get to the Kyiv movie theatre in Marshal Zhukov Avenue. V.M. Dvornikov and I would turn off Moskovsky Avenue into Mezhlauk Street, from where we would turn into the backyards and go towards the building in Marzhal Zhukov Avenue immediately next to the location of the explosive device. During our conversation I understood that V.M. Dvornikov had been tasked to detonate the device remotely. We agreed that once the device exploded we would leave the scene quietly, with V.M. Dvornikov and me going in my car. S.O. Bashlykov was to send an SMS to my phone saying "I'm coming." This was to signal that the column of protesters had set off and was moving towards Moskovsky Avenue, and once S.O. Bashlykov sent the SMS message, he immediately was to abandon his observation post in the vicinity of the Kyiv movie theatre.

Having discussed the above, the three of us left the apartment, got into my car and drove off to the Maselsky subway station where, as agreed previously, S.O. Bashlykov was dropped off. After this, we drove in the direction of Mezhlauk Street, where I stopped, got out of the car and went to buy cigarettes in a shop near the Marzhal Zhukov subway station. Meanwhile, V.M. Dvornikov waited for me in the car. Once I got back, we turned right from Mezhlauk Street into the backyards of residential buildings and reached the building at 9/1

Marshal Zhukov Avenue, Kharkiv. We drove through the backyard of this building without stopping. I gave my secure communication mobile to V.M. Dvornikov, and he had it from the moment we stopped in Mezhlauk Street. When we were in the backyard of the said building, the phone received a message from S.O. Bashlykov at 1:10 p.m. which said "I'm coming." At this time, he would have been at the agreed spot near the Kyiv movie theatre. This signaled that the column had left the Kyiv movie theatre in the direction of Moskovsky Avenue. Meanwhile, V.M. Dvornikov had another mobile which I understand he used to detonate the explosive device, and so V.M. Dvornikov detonated the explosive device about 30 seconds after receiving the SMS message, maybe slightly later. At the same time, V.M. Dvornikov ordered me to leave the backyard of the above building, and we drove into Mezhlauk Street and then onto Moskovsky Avenue, after which we drove towards Ordzhonikidze Avenue where I dropped V.M. Dvornikov off at the Digma supermarket parking lot. As we drove to this place we were very nervous and agreed not to make contact with each other for a week. He gave me his dark-colored Nokia mobile phone used to detonate the explosive device, ordering me to destroy it. I deactivated said mobile. I threw away the SIM card somewhere along Moskovsky Avenue. I deactivated the mobile and threw it away between the Traktorny Zavod and the Maselsky subway stations.

I wish to add that the car started moving, at V.M. Dvornikov's command, as soon as the mobile received the SMS "I'm coming." I had not been informed about his actions and had no idea that these actions would cause loss of life. I thought this would scare people, nothing more, without harming them.

I have read this interrogation record. It is an accurate record of my oral statement.

[signature] V.V. Tetyutsky

Defense attorney: [signature] I.L. Ustymenko

Interrogated by:

**Special investigator,
investigations department,
Kharkiv Regional directorate of
The Security Service of Ukraine,
Senior Lieutenant**

[signature]

A. Isayev

Annex 223

Signed Declaration of Volodymyr Dvornikov, Suspect Interrogation Protocol (26 February 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

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[...]

In response to the questions that were put to him, the suspect stated the following:

I reside at the above address with my family: my wife, Natalya Vladimirovna Dvornikova, d.o.b. 12/09/1977, and daughter, Svetlana Vladimirovna Dvornikova, d.o.b. 02/06/2009. My wife and daughter are now living in Belgorod, Russian Federation, at Apt. 54, 176 ul. Shchorsa.

I did not serve in the military due to health issues. Upon graduating from high school, I enrolled at the Ukrainian People's Academy, but I dropped out in my first year. I then enrolled in the correspondence program at Kharkiv Polytechnic Institute, but once again dropped out in my first year. I then worked for companies in the rolled metal business.

My current source of income consists of earnings from my business (I am a sole proprietor), providing intermediary services that involve accepting orders for the manufacture of metal structures. I currently drive a Ford Sierra with registration number 970-01AA.

On the night of February 17-18, 2014, I drove in my VAZ-2172 Priora, registration No. AX0565BN, to Kyiv in order to sort out some work issues related to seeking orders for the manufacture of stainless steel railings. At around 12:00 p.m. on 02/18/2014, I reached the Kyiv-Pechersk Lavra area, where, to my surprise, there was a mass disturbance in connection with the protest marches that were occurring during that period in Kyiv. I parked my car in a spot permitted by the traffic police who were present there, and headed toward the Lavra itself. As I was walking down the street toward the Lavra, I saw a crowd of enraged people heading down the street toward me. I did not have time to take cover, and these people from the crowd started beating me and others and smashing the cars that were parked there. I was later told that this crowd was on the move following the destruction of the Party of Regions office in Kyiv.

As a result of these actions, I lost consciousness and was picked up by an ambulance. I received a cerebral contusion. When I came to, I was inside the ambulance, from where I could see my smashed car. I was taken to Kyiv City Hospital No. 9, and from there, at my request, to Kharkiv Urgent Care Hospital No. 4, where I received treatment. While in the hospital, I met Viktor Tetyutsky. He claims to be a former officer of the Interior Ministry's special Berkut unit who now works at a security firm, the name of which I do not know. Viktor had also suffered in February 2014 at the hands of Euromaidan supporters. I do not know the circumstances, but he had bullet wounds.

In March 2014, after finishing my treatment, I met Vitaly Zavgorodny, Dmitry Platov, and Sergei Bashlykov—members of Kharkiv's Dinamo Military and Patriotic Society online (the group is called "VPO Dinamo" on the social network VKontakte), who were doing active community

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work and organizing Airsoft tournaments. It also turned out that Viktor Tetyutsky was a member of Dinamo. I became friends with these people. We got together to play Airsoft and also discussed the formation of the social and political organization “Kharkov ZA!” the goal of which would be to restore the district councils in the city of Kharkiv, and later to fight for seats on those district councils as part of our political party.

In early May 2014, I got to know a user by the name of “Vasily Matkivsky” via the VKontakte social network. We agreed to meet while participating in the so-called “Antimaidan” protests (we agreed via the social network and did not speak by phone). Matkivsky and I met at a café by Universitet metro station during that period (I do not remember the exact date). During our meeting, we discussed the political situation in Ukraine, particularly in Kharkiv. Matkivsky told me that he himself was from Nizhny Novgorod, Russia, and was in Kharkiv on official business. He did not specify what sort of business. During our conversation, Matkivsky also offered to provide “access” to the Russian special services for the purpose of collaboration. In response to Matkivsky’s offer, I said that I would think about it.

From May 6-9, 2014, Vitaly Zavgorodny, Dmitry Platov, Sergei Bashlykov, Viktor Tetyutsky and I held a Victory Day demonstration by the History Museum metro station. We rarely spoke after this event, but we but did correspond a few times via VKontakte.

In early November 2014 (probably on November 6), I once again got in touch with Vasily Matkivsky via VKontakte and told him that I was prepared to work and collaborate with the Russian special services. In response to my message, Matkivsky sent me a telephone number (I do not remember the Russian operator or the number itself) and told me that I needed to be in Belgorod, Russia on Friday (I do not remember the date) and to call that number if I was interested in collaborating with the special services. The following day, I took a mini bus from the Kharkiv railway station to the city of Belgorod, arriving at the railway station there. Upon my arrival, I bought a new cell phone, used my passport to register a Tele2 cellphone operator starter pack, and called the number that had been sent to me. A man I did not know picked up on the other end and said: “Hi, buddy, what’s the plan?” We then agreed on a time and place for our meeting.

While I was waiting for the meeting, I headed over to the Belgorod branch of Sberbank of Russia, where I submitted an application to open a bank card, since I understood that I would be receiving payment for my collaboration with the special services. My wife had also asked me to set up a card with a Russian bank in order to receive payment from customers in Russia for the pieces (plaster figurines) that she made.

An hour later, I met in front of a building site (I do not remember the address) with two men about 40 years old, who asked me to show them my passport. Then we went to a café (I do not recall the name), where the men introduced themselves as Nikolai and Aleksei. It was my understanding that they worked for the Russian special services (I do not know exactly which ones, as I thought it would be stupid to ask clarifying questions of this sort). Nikolai and Aleksei then had a discussion with the waitress, during which they showed her their badges. I did not see the badges themselves, but I drew the conclusion that they were police badges. During our conversation, Nikolai and Aleksei asked me how far I was prepared to go in carrying out subversive and terrorist activity in Kharkiv. I said, “until peace and order prevail.” They liked my response. Then they took my personal data and asked me to email them (I cannot recall the email address) the details of people who were prepared to act with me. During our conversation, Nikolai and Aleksei also said that by way of a test I would have to gather information about the movements of military hardware, as well as the general sentiments in the city. They suggested setting fire to PrivatBank branches belonging to Ihor Kolomoisky. Nikolai and Aleksei then said that they had things to do and left the café after paying for the lunch. I returned to Kharkiv the same day, once again by mini bus.

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The following day (in November 2014), I met with Viktor Tetyutsky and Sergei Bashlykov and proposed that they collaborate with the Russian special services, give me their personal details, and help gather data about military hardware. Viktor and Sergei did not agree to my proposal, as they were wary of giving their personal data to people they did not know. I, for my part, decided to communicate with the members of the special services and send them the information I had about military hardware. I recorded information about hardware movements on a dashcam installed in my Ford automobile, transferred videos from the dashcam to my computer, and put them in a “.rar” archive file. I set up a password for these archives, which changed every time. In the process of communicating via the email account provided to me by Nikolai and Aleksei (I sent them messages from my account, the name of which I can no longer remember, and I am no longer using this account), we agreed that for each video I sent them I would receive a payment in the amount of 30-40 US dollars per video. The money would be transferred to the Sberbank of Russia card that I had opened in Belgorod. By December 31, 2014, I had sent a total of six video recordings of the movement of military hardware through the city of Kharkiv, for which I received funds in the manner specified above.

After the New Year, my wife and I decided to move to Belgorod due to our deteriorating finances. I rented an apartment in Belgorod and moved our things there with my father’s help.

In February 2015, while in Belgorod, I informed the members of the Russian special services via email about my move. They replied that we needed to meet. During my meeting with Nikolai, he said that the information I had provided was trustworthy, but a “more serious measure” needed to be taken. Nikolai also told me that I might be provided with an antipersonnel mine to use, and that I should choose a suitable action. In other words, he seemed to be asking me, “What would you be able to do?” Nikolai also emailed me information about the handling and use of MON-100 mines. Later, after reading these instructions, I deleted them.

After I returned from Belgorod to Kharkiv in February 2015, they emailed me instructions about where I could pick up a “gift”—an explosive device—and how to let them know the target I had selected for the use of this device, as well as the outcome. The explosive device was hidden in a cache located near the village of Zatyshshya, Kharkiv Region. Specifically, a bag containing the mine was hidden in bushes marked with a red ribbon. I could show the location more precisely at the site. The following day, Nikolai informed me that the “gift” was ready for pick-up. I waited until I received an email with photographs showing the location of the cache, then got into my Ford vehicle and, at around 2:30 p.m., headed out to the spot marked on the map. Upon arriving at the site, I found a bush with a red ribbon hanging on it, next to which lay some cardboard boxes, and next to the boxes was a white bag. Inside the bag was a MON-100 mine with a detonator. I put the bag with the mine in the trunk of my car and drove home. At home, I hid the bag containing the mine among the tools in my entrance hall.

On February 14-15, 2015, I saw an announcement on the “Skhidnyi korpus” [“Eastern Corps”] Facebook page about an upcoming march to commemorate the anniversary of events on Independence Square. I decided that this would be an excellent target for a terrorist act—the sort of high-profile event that the members of the Russian special services had been talking about. I took a screenshot of this post and sent the image to Nikolai from my serb-2000@list.ru email account to their email address (I do not recall the exact address). In the email, I also asked, “How much compensation could I receive for my involvement in this?” (meaning how much payment would I receive for carrying out a terrorist act at this event), to which they replied: “About 10. The director will decide. He is stingy,” i.e., the approximate payment for carrying out the terrorist act would be USD 10,000. I was satisfied with this amount of remuneration, taking into account how much I would have to pay for the “work” of the accomplices I planned to enlist.

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Then, on around 02/18/2015, I told Viktor Tetyutsky and Sergei Bashlykov about my plan to carry out a terrorist act at the Euromaidan march on 02/22/2015 using a MON-100 fragmentation mine. I also invited them to help me. Viktor and Sergei agreed. I also told Viktor and Sergei that they would receive cash remuneration in the amount of at least USD 1,000 for this act. We agreed that the casualties from the mine should be people in uniform—members of the volunteer battalions and nationalists.

On February 19, 2015, in the underpass by Proletarskaya metro station, I purchased an MTS-Ukraine SIM card with the number 066-887-45-59 and a Samsung phone. I planned to use these communications devices as a remote detonator for the MON-100 mine. The method of soldering the contacts, connecting them to the explosive device, and activating it I had gleaned from the Internet, including a website called www.rutrecker.org (I might have the name slightly wrong) and other sites.

During that period, I also purchased two starter packages for communication among Sergei, Viktor, and myself, since it was dangerous to communicate on our previous phones, and the law-enforcement agencies might be able to get a fix on us. I gave the purchased starter packages to Viktor Tetyutsky and Sergei Bashlykov.

During the day on February 21, 2015, I drove my Ford along Prospekt Zhukova in order to scope out the area and find the locations with the largest accumulations of snow, where it would be possible to conceal the mine. Later, when I met Sergei Bashlykov in person, I told him that his role would be to observe the Euromaidan protesters and let me know when they formed themselves into columns to march to Freedom Square in the direction of Moskovsky Prospekt, as the march organizers had previously announced. After reconnoitering the area, I drove my car that same day to the store by Proletarskaya metro station where I had previously bought the Samsung phone. There I bought another used Nokia phone, which I would use to call the phone attached to the explosive device, thereby activating the detonator mechanism, and inserted a SIM card into it with a number ending in "...745." With this phone I went for a drive around Kharkiv and checked whether it received any calls from operators or any other unwanted calls. I then turned it on.

That same evening, in the kitchen of my apartment, I prepared the explosive device for use: based on a diagram I had found on a website, I connected the purchased Samsung phone with two additional wires from the vibrating motor to the detonator. When a call was made to this Samsung phone, the impulse would be conveyed through the contacts to the detonator, which in turn would set off the explosive device. I kept the SIM card separate from the phone and the detonators.

On the night of 02/22/2015, at around 3:00 a.m., I met with Sergei Bashlykov and Viktor Tetyutsky next to my building as we had agreed in advance. They arrived in a black Opel Omega of the latest model. I do not remember the number. We had agreed to lay the mine near Prospekt Zhukova. At noon that day, Sergei and Viktor were also supposed to be by the entrance to my building in order to arm the mine. Bashlykov and Tetyutsky then drove ahead in the Opel along ul. Kosiora to do reconnaissance, and I followed behind them. As we drove, I realized that I was running out of gas. I overtook Viktor and Sergei in my Ford and drove to an Avias gas station, where I put 10 liters of gas in my car.

We then continued along ul. Geroyev Stalingrada to the Mercury Complex, then along ul. Kharkovskikh Diviziy to Bulvar Yuryeva, and along the latter to ul. Mezhlauka, where I turned into the courtyard of a building adjacent to Prospekt Zhukova. In the courtyard I prepared the explosive device: I tied the detonator to the cell phone, turned on the cell phone, inserted the SIM card, and used electrical tape to attach the phone to the destructive side of the mine's shell. I got out with the prepared device and a shovel and walked along Prospekt Zhukova to the point where it crosses the exit from the garage cooperative. In that spot, in front of the "Yield" sign, I dug a 25x30 cm hole in the snow bank for the mine. I then screwed the detonator into the mine shell and placed the mine with the destructive

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side facing the street (Prospekt Zhukova) at a 30° angle. I scattered snow over the placed mine and went back to my car. I placed the mine at an angle so that it would hit the people marching in the first ranks—members of the volunteer battalions, Right Sector nationalists, and organizers of the Euromaidan.

While I was placing the mine, Sergei Bashlykov and Viktor Tetyutsky, per my instructions, took up positions to watch the road and were supposed to let me know if any vehicles were approaching.

After placing the mine, I returned with Sergei and Viktor to Bulvar Yuryeva, stopping short of ul. Kharkovskikh Diviziy. There, on my instructions, Sergei got behind the wheel of my Ford, and we drove on to Prospekt Zhukova in order to check the spot where we had placed the mine, which we did. During this time, Viktor stayed behind and waited for us.

Then, after checking the method of placement of the explosive device, Sergei and I drove to the church on ul. Kosiora, where Sergei got out of the car and started walking home. I got behind the wheel and also set off for home. Viktor sent me a message asking where we were and where we had disappeared to. I replied that we had gone home (word for word: “I thought we had already split up”).

At around noon on 02/22/2015, Sergei Bashlykov, Viktor Tetyutsky, and I met by the entrance to my building and went up to my apartment. We decided to wait at my place until the march started, so as not to attract attention to ourselves at the site. We stayed in the apartment for about 30-40 minutes and had some coffee. I assigned roles and showed Sergei and Viktor their locations, as well as explaining what they were supposed to do. Then, at around 12:40 p.m. that same day, Sergei, Viktor, and I set off in the new Opel for the area where the Euromaidan supporters were marching. Along the way, we dropped Sergei off at Maselskoho metro station so that he could take the metro to the Palace of Sports, while we headed to the site of the march. We left Viktor’s car in the courtyard of a building adjacent to Prospekt Zhukova (I do not remember the house number, but I could show it to you at the location). Viktor and I sat in the car and waited. At that point I turned on the Nokia cell phone and got ready to dial the number of the phone attached to the mine.

Then, at around 1:20 p.m. on 02/22/2015, I received a message from Sergei Bashlykov with the words “They’re on their way.” A few seconds later, through the gap between the buildings, I saw people in uniform marching along Prospekt Zhukova, after which I pressed the button to dial the cellphone number 066-887-45-59, thereby setting off the mine that I had planted earlier.

Immediately after the explosion, Viktor and I went out to ul. Mezhlauka and followed it to Moskovsky Prospekt. As we drove along Moskovsky Prospekt, on the section between ul. Kharkovskikh Diviziy and Sovetskoy Armii metro station, I broke the SIM card ending “...745” in half and threw it out the window of the moving car. Viktor dropped me off at the intersection of Prospekt Kosiora and Prospekt Ordzhonikidze, next to the Digma store. I left my Nokia phone on the front seat of Viktor Tetyutsky’s car and told him to throw it out. I waited for Sergei Bashlykov next to the Digma store, but he never showed up, so I bought some things in the store and headed home. Two hours later, Sergei sent me a message via VKontakte saying that he was fine and that our meeting had fallen through because he had mixed up the locations. I wrote to Sergei: “Minus telephones,” which meant that we should throw out the telephones we had used to communicate in the lead-up to and during the commission of the terrorist act.

That same day, I emailed Nikolai, the member of the Russian special services, and told him to watch the news. Later that evening, Nikolai emailed me back “Good, have a rest.” I was planning to get in touch with Nikolai about a week after the terrorist act, and to go stay with my family in Belgorod, Russia, for an extended period in early March 2015.

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Question: Tell us what methods and communication devices you used to communicate with members of the Russian special services and to prepare and carry out the terrorist act. Tell us the logins and passwords for the social media websites and email accounts you used.

Answer: The email account I used to communicate with members of the Russian special services was [illegible]-2000@list.ru. I do not recall the password for it. I have it written down on a piece of paper at home. [illegible] on VKontakte: login – Cool Play 78; I do not recall the password, but I also have this one written down on a piece of paper at home. Facebook: login – Cool Energy, password 19332GFHN.

Question: Did you sign any documents confirming your cooperation with members of the Russian special services. If so, which? Did you give yourself a pseudonym for subversive [illegible] activity? If so, what was it?

Answer: I did not sign any documents regarding cooperation with the Russian special services. Nikolai assigned me the pseudonym I mentioned: “Gor.”

Question: Are you a member of any social or political associations or parties, such as Oplot?

Answer: I have been a member of the non-governmental organization “Anti-corruption [illegible]” since May 2014. I do not have anything to do with Oplot.

Question: Please clarify why you placed the explosive device at a 30° angle as opposed to a horizontal or other position in relation to the roadway.

Answer: I placed the explosive device this way to maximize the impact on the first ranks, where members of the volunteer battalions and Right Sector were marching.

Question: What were you trying to achieve by carrying out the terrorist act? What was your motive in this [illegible]?

Answer: I wanted this bombing to stop the marches that were taking place in Kharkiv, [illegible] to hatred of a certain part of the city’s population with slogans like “String up [illegible],” “Slit the Russkies’ throats,” and so on. These slogans, in my [illegible], offend the vast majority of Kharkiv’s population.

Question: Do you wish to add anything to what you have said?

Answer: I would like to add that I sincerely regret what I did and am prepared to actively help expose the crime that was committed.

My testimony has been recorded accurately and has been read by me. I have no comments and nothing further to add.

Suspect V.N. Dvornikov /[signature]/
(full name) (signature)

[illegible] [illegible] /[signature]/
(full name) (signature)

[illegible] Investigator, Investigations Department, Kharkiv Regional Directorate of the SBU
[illegible] Lieutenant of Justice [signature] A.Yu. Berezhny

[signature]

Annex 224

Signed Declaration of Maxim Pislar, Suspect Interrogation Protocol (4 March 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

The witness offered the following testimony in response to the questions asked:

I, Maxim Alexandrovich Pislar, d.o.b. August 26, 1993, reside at 295 Klochkovskaya Street, apartment 113, with my mother Alisa Semionovna Pislar, d.o.b. March 8, 1967. I am currently officially unemployed. Previously, between June 2011 and August 2012 I worked at the Venbest security firm in the Pomerki District of Kharkiv.

When the events in Kyiv's Independence Square began in October-November 2014, I supported the old regime headed by Ukrainian President Viktor Yanukovich. At the time I was in the city of Kharkiv, following the developments in Kyiv's central square through the mass media. Also, after the Maidan Revolution began I joined the "Anti-Maidan", "Anti-Maidan Kharkiv", "Vezhlivye Ludi", and "Berkut – Oplot Spokoystviya" groups in the VKontakte social network on the Internet.

Between February 2014 and April 2014, I attended many pro-Russian rallies of the so-called "Anti-Maidan" in Freedom Square in Kharkiv.

On or around April 14, 2014, a rally of pro-Russian activists of "Anti-Maidan" took place near Kharkiv City Hall in Constitution Square. During the meeting, I and Alexey Leonidovich Lvov, who goes by the alias "Lev", Valery Makagonov ("Makar"), a man named Ruslan (a.k.a. "Cobra") approached an unknown man in a Cossack uniform (we later found out he was Viacheslav Gubin, who went by the alias "Varfolomey").

We thought he was the main activist of that rally. However, when we spoke to him he said he was simply a participant and a Cossack chief. We then asked him if we could help the meeting being held that day, but he said it would be best if we went home because the police could begin picking up people that day.

We were very interested in the organization of which Viacheslav Gubin was a member, specifically the so-called Cossack Movement. We took his phone number to later call him and, possibly, join the ranks of this organization.

Roughly in mid-April 2014 we agreed to meet with Gubin to get to know him better. The meeting took place in Slatino not far from Kharkiv. Valery Makagonov ("Makar"), a man named Ruslan ("Cobra"), and A.L. Lvov were already there.

**Continuation of the record of questioning of witness M.O. Pislar dated
March 4, 2015**

During our meeting, V. Gubin was accompanied by a man who went by the alias "Vegas" and an unknown thin man with bald patches, about 180 cm tall.

During the conversation we learned that V. Gubin, just like us, had pro-Russian views and supported federalization of Ukraine. "Vegas" and V. Gubin were organizers of the Cossack movement. However, Gubin was an official leader while "Vegas", to my understanding, was an unofficial figure. Sometimes they jointly held airsoft practice sessions. "Vegas" focused more on political propaganda with an obvious pro-Russian slant.

During this meeting they offered us to join the ranks of Cossacks. We accepted their proposal. On May 2, 2014, my friends and I took the oath of Cossacks. Then we took an active part in the activity of this organization and practiced airsoft.

In early August 2014, V. Gubin and "Vegas" offered us to go to Belgorod, Russia, for an airsoft tournament. A.L. Lvov, Vitaliy Bunchikov (a.k.a. "Bunya"), a man named Volodya (a.k.a. "Sam"), Sviatoslav Gubin (a.k.a. "Zhak"), Alexey Polonsky (a.k.a. "Kolchak"), two men who went by "Apteka" and "Boyaryshnik", Oleg Verba (a.k.a. "Lis"), a man named Alexander (a.k.a. "Ross"), a man named Dmitry (a.k.a. "Mitya"), a man named Alexander (a.k.a. "Khan"), a man who went by the nickname "Liotchik", a man named Artiom (a.k.a. "Jose"), a man who went by the nickname "Joker", a man who went by "Yakut", and a man named Zorislav Zorislavovich Kalashnik (a.k.a. "Zorik", "Diesel") were also present there.

All of the above-mentioned individuals agreed and went to the proposed location on a Kharkiv-Naumovka commuter train. In Naumovka, Russia, we switched to another commuter train from Naumovka to Belgorod. The day when V. Gubin suggested that we go to Belgorod, Russia, and when we agreed, he split our team into several groups (I don't recall the exact number). He did not tell us why he did so.

I, A.L. Lvov ("Lev"), Oleg Verba ("Lis"), Alexander ("Ross"), Sviatoslav Gubin ("Zhak"), Dmitry ("Mitya"), Alexey Polonsky ("Kolchak"), and Z.Z. Kalashnik ("Zorik") came to Belgorod, Russia, under the above-mentioned circumstances. I don't know how the other groups reached their destination.

"Vegas" met us in Belgorod. He said that we would be going to the Patriot Hotel to check in. After a 10-minute walk we reached the hotel where we were met by a man whom I saw once in Slatino, Kharkiv Oblast, at a Cossack training (roughly in late July – early August 2014), who introduced himself as Sergey. After communicating with my group members later, I learned that his code name was "Ded".

The following night another group of people joined us at the hotel. It included the people who initially set out together with us. V. Gubin and "Vegas" arrived roughly 10 minutes later. Then they brought us together and "Vegas" began telling that we would be further taken to a camp for recon and sabotage training, with the skills acquired to be subsequently used in Kharkiv. They also told us that they would teach us how to handle explosives, explosive devices, particularly how to detonate TNT, plastic-based explosives, grenades, fire grenade launchers and firearms.

**Continuation of the record of questioning of witness M.O. Pislar dated
March 4, 2015**

He also said that after completing our training we would return to Kharkiv and, as and when necessary, would stage explosions to destabilize the social and political situation in Kharkiv. While "Vegas" was peaking, V. Gubin supported him and expressed his consent with the words he said and ideas he expressed.

Then a bus drove up to our hotel. Our two groups boarded the bus and left in an unknown direction. A separate group of people numbering 16 to 20 members also traveled with us. In this group I remembered a woman named Marina. I paid attention to her because she was the only woman in the group and also because she behaved as the group leader: she told people which seats to take and where. I can describe her as an overweight blonde, looking to be 45 years old, with a round face. I can identify her. I don't know the names of other group members but I can identify them in photos.

After about six hours of travel, I saw a road sign with the name "Tambov". I realized we arrived in the city of Tambov, Russia. 15-20 minutes later the bus stopped in the middle of the road. We were told to go outside. When I went outside I saw an URAL army truck with a green tarpaulin and another bus parked next to our bus. We then boarded this bus and the URAL truck. Our group traveled in the URAL truck. Because the tarpaulin was secured in place, I could not see anything and did not know where we were going.

The group of people with Marina rode the bus. After about 20-30 minutes we arrived at a military camp to which we were escorted by "Ded" and V. Gubin (a.k.a. "Batya"). We were met by a man named Viktor, who explained that we arrived to train for recon and sabotage activities to be conducted in Kharkiv Oblast. He said the camp was surrounded by men with assault rifles and prohibited us from leaving it. Then they took our papers and all electronic devices (phones, flash cards, laptops, etc.). We moved into two tents, each group separately from the other. Marina lived in a separate tent.

That same day we were issued Russian military uniforms. During the next ten days we underwent training in recon and sabotage activities. I personally studied to become an explosives expert. During this training they showed me how to properly use TNT, hang grenades, plastic-based explosives, AK-74 assault rifles, the RPG-7 shoulder-fired grenade launcher, assault rocket grenades. I learned to use all of those explosives, weapons, and firearms by learning how to detonate, fire, and use them.

They explained that the skills we acquired would be needed in the future to conduct recon and sabotage activities and to blow up certain facilities (they did not say which exactly but told us that further updates would be coming over time) in order to destabilize the situation in Kharkiv and cause Kharkiv to split off from Ukraine and create an independent Kharkiv People's Republic that would join the state of Novorossiia.

Marina's group trained under the same program. Sometimes they trained separately from us and sometimes together. Marina herself was a sniper. I would be able to say which group member received which military specialty after seeing their photos.

**Continuation of the record of questioning of witness M.O. Pislar dated
March 4, 2015**

I also recall that Marina went by the code name of "Zed". I don't remember the code names of other group members. I remembered her code name because it seemed "posh".

At the camp I became finally convinced that Marina was the leader of her group because she gave orders to the group members, went to meetings of group leaders, and commanded the highest level of respect from her group.

Also, some time on the 4th or 5th day of training, we, including Marina's group, took a lie detector test that was meant to expose potential undercover officers of the Security Service of Ukraine. "Mitya" failed the test. As we later learned he had been recruited by the Security Service of Ukraine.

All of us, including Marina's group, signed nondisclosure agreements promising to keep secret everything that happened there.

About 10 days later we received our papers and items that had previously taken from us. Other groups left one day before us. V. Gubin left two days before our group. Some of Marina's group members left with Gubin to fight in Donbas for the DNR and LNR, while the rest (with Marina) left with a part of our group who had left sooner.

A bus came to pick up the two other groups, while we got into an UAZ vehicle. Together with our papers we received tickets for the Tambov-Belgorod bus as well as \$200 each. They told us to await further instructions and refrain from disclosing this information to the Security Service of Ukraine because they had information compromising us in the form of our photos taken at the camp. Then we arrived in Tambov where we got onto a bus and left for Belgorod. There we bought tickets for the next commuter train and left for Kharkiv.

After arriving in Kharkiv, I did not report to the Security Service the situation in which I found myself, because they told me about the existence of information compromising me and that this information would surface if I go to the Security Service.

Also, after arriving in Kharkiv I severed all contacts with V. Gubin and stopped engaging in criminal activity. Meanwhile, I maintain friendly relations with A.L. Lvov unrelated to my previous criminal activity. Apart from the above-mentioned trip to the cap under the circumstances I described, I did not commit any criminal activity. I would have never gone there if I had known in advance that this was not going to be an airsoft tournament.

Question: Would you tell us which explosive devices you studied and how your instructors called them?

Answer: We studied TNT in the form of brick, which was called "soap"; plastic-based explosives, which were called "sausage"; detonation wires and detonators; I don't remember what they were called; MON-50 mines, which were called "monki"; OZM mines, which were called "ozymi"; semicircular magnetic mine (I don't recall their official name, but instructors called them "batons").

I also can report that after arriving in Kharkiv, I looked up Google Maps and found the place where the camp was located. I can show it on the Google website.

**Continuation of the record of questioning of witness M.O. Pislar dated
March 4, 2015**

After this the Google Chrome browser was opened on the investigator's office computer, and the maps.google.com website was opened. The witness then independently located a place with the coordinates 52°40'49.2"N and 41°34'20.1"E on the map and reported that the camp where the above-mentioned events took place was located there.

The image of this location was then printed on the office computer. The witness then personally marked the checkpoint, shower, canteen, and tents on this image.

I would also like to add that I currently fear for my life because Russians and friends of "Vegas" can exact revenge on me. Therefore, if possible, I plan to leave the city and, possibly, the country.

I have personally read the record of questioning. My testimony has been written down correctly. I have no comments or additions to make.

M.O. Pislar [Signature]

**Procedural activity conducted and record prepared by:
Investigator of High-Profile Cases
at the Investigative Department of the Kharkiv Oblast
Directorate of the Security Service of Ukraine**

Captain of Justice

[Signature]

A. Proshnyak

Annex 225

Signed Declaration of Olexi Lvov, Suspect Interrogation Protocol (4 March 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

The witness offered the following testimony in response to the questions asked:

I was born in Kharkiv on February 13, 1989. My mother is Elena Alexeyevna Lvova, born on May 6, 1959. My father is Leonid Vladimirovich Lvov, born on June 17, 1958. He died in 2008. I also have a brother, Evgeny Leonidovich Lvov, born on April 3, 1981. I permanently reside at the above-mentioned address. I am currently unemployed. My most recent job was a cutter at a shoe factory.

Last year, I – much like other natives of Kharkiv – came to the square in front of the Monument to Lenin from time to time. Pro-Russian citizens were holding their rallies there. I repeatedly saw some people in military uniforms and *papakha* hats among the participants. I later realized that those were Cossacks of the Slatino Cossack Chapter.

In the same square I met Ruslan, a.k.a. "Cobra", Maxim Pislar, and Valery Makagonov. We met in the square from time to time, where we saw the Cossack leader who introduced himself as Viacheslav Alexeyevich Gubin. He was accompanied by his son Sviatoslav, who looked to be 23 years old. Zoreslav Kalashnik and Alexey Polonsky were also next to Gubin at all times. They struck up a conversation, and they offered us to join the Cossack movement. We accepted their offer.

We assembled in the village of Slatino, Dergachev District, Kharkiv Oblast. Our meetings took place in the street, on school premises, or near the monument. We also periodically gathered in abandoned cow sheds and played airsoft there. Gubin and Polonsky would bring the gear. Also a man who went by the alias of "Vegas" came to our practice several times. He fully supported V.A. Gubin. They were both what seemed like organizers of the Cossack movement, but Gubin was the official leader while "Vegas" remained "in the shadow".

Roughly in early August 2014, Gubin and "Vegas" suggested that we go to an airsoft tournament in Belgorod Oblast, Russian Federation. Gubin said he gave us time to think and that we had to tell him at the next meeting who would be going.

He selected the people himself, specifically those who came to meetings regularly. We did not know when we would be going and agreed that Gubin would call and tell us. I don't remember the date. We boarded an electric commuter train and left Kharkiv at around 4 p.m. The electric train was headed to Belgorod. The following people left Kharkiv: I, Pislar (a.k.a. "Rumyn"), Igor "Khalyava" (who left home from Belgorod the following day), Polonsky, and men who went by "Ros" and "Mitya". At the railway station of Slatino, "Lis" (Oleg Verba), Zoreslav Kalashnik, and Sviatoslav Gubin boarded the same train.

We arrived in Belgorod, where "Vegas" met us. He checked us in at the Patriot Hotel. It was my understanding that a man who went by "Ded Sergey" paid for our accommodation.

**Continuation of the record of questioning of witness O.L. Lvov dated March 4,
2015**

He looked about 60 years old, short, crewcut, light or gray hair, overweight. We spent the night, and at around 9 p.m. the following day a large foreign-made bus arrived to pick us up.

I would also like to report that another group of people whom I had not met previously boarded the same bus with us. This group had a woman as its leader. I later learned her name to be Marina. She looked 40 years old, light hair, overweight. I can identify her.

We weren't told anything about where we were going. We thought we would be going somewhere in Belgorod Oblast. Before departure, "Vegas" approached Gubin and me, saying that we would be going to practice sabotage activities. This was necessary to subsequently defend Kharkiv by staging sabotage operations there. Gubin confirmed his words. According to "Vegas", these actions were meant to intimidate citizens and the government, which could require staging several explosions, and they would be teaching us how to do just that. These events scared me, as I realized that I had been fooled, and understood the true intentions of those people.

We then got onto the bus and I no longer saw "Vegas". We rode on a highway. It was dark and I did not see any population centers. We rode for a long time, at which point I realized that we were no longer in Belgorod Oblast. What's more, it became colder.

At around 5-6 a.m. the following day, we switched over to a tarpaulin army truck and were taken to a military proving ground guarded by soldiers. All of them wore Russian military uniforms. We were prohibited from speaking to them, since they operated under an oath. They were also prohibited from speaking to us. Large army tents were set up in the field. There were bunk beds inside of them. We moved into those tents.

We later met with a man named Viktor. He explained that we had been brought to a camp to practice shooting weapons and learn recon and sabotage tactics. We had 2 instructors: one was named Alexander, and I don't remember the second one. It seems to me that their names were made up, since Victor once addressed Alexander by calling him Dmitry. They said they fought in a special operation in the Caucasus as part of the landing troops. The second group that got onto the bus with us stayed separately. They stayed in a different tent. The woman who came with them stayed in a separate tent.

They did not let us leave this camp and took our phones and other electronic devices.

We spent a total of 2 weeks there. On day 4 or 5 we were forced to take a lie detector test. Almost everyone except Mitya passed the lie detector test. Gubin said that he failed. They began interrogating him immediately before taking him somewhere else. I never saw him again.

During this time they taught us to fire sniper rifles, assault rifles, grenade launchers of different kinds, the "Shmel" rocket-propelled flamethrower, and throw grenades. I learned to fire the Dragunov sniper rifle only because they appointed me as a sniper.

I can also say that the above-mentioned woman name Marina was also a sniper. I know this because her group practiced after me, and they took the rifles from us. Her group included one more sniper. He was short. I don't know his name or alias.

I was also able to conclude that Marina was the leader of that group, because she spoke on behalf of the group, expressing the group's wishes and asking questions on behalf of them.

Continuation of the record of questioning of witness O.L. Lvov dated March 4, 2015

She participated in meetings of group leaders. She also often spoke to Gubin, who was also a group leader.

We also received medical training. Explosives specialists practiced using explosives.

Roughly 4 days before the end of training, they told us that the courses were over and those who wanted to could leave, although everybody understood that they would not let us go just like that. It was also then that they offered us to go to Donbas and fight for the DNR and LNR. "Yakut" said that he needed to leave, so he was given a ticket home. A few days later they also gave us tickets and \$200 each. Then we left for Kharkiv. I no longer saw the members of Marina's group. To the best of my knowledge, some of her group members agreed to go to DNR.

Question: How many members were there in Marina's group? Do you know their names, aliases, and military specialties?

Answer: There were 15 men in Marina's group. I don't recall exactly. I can't describe them all accurately. However, I can identify them in photos. I did not meet this group too often. I mostly knew them visually. One of their code names was "Zed", which belong to above-mentioned Marina. I don't know any other aliases. I don't know the specialties of the members of that group. I only remember Marina's specialty because she shared the same specialty with me and was the only woman.

Question: Did you sign any papers or make any commitments during that training?

Answer: Yes. During the training we signed a nondisclosure agreement that bound us to secrecy about what was happening at the time. We also passed a lie detector test, during which they asked us if we were officers of the Security Service of Ukraine.

Marina's group also signed NDA and passed the lie detector test, since we all took turns doing so.

Question: Did that Marina tell you anything about herself?

Answer: I did not communicate with her and her group personally. However, I can report that still on our way there I heard her conversation with my group. It was obvious from what she was saying that she hated everything associated with Ukraine. She said she was born in Russia and wanted Kharkiv to become a part of Russia, to which end she was going to train. It was my understanding that even back then she knew we were going to receive recon and sabotage training.

During the trip she also acted as a propaganda officer and demonstrated oratorical skills. When somebody jokingly mentioned that to her, she answered that she had completed specialist training in Belgorod.

I would also like to add that I fear for my life, since Russians can exact revenge on me for what I have said about them. That's why, on account that I am unemployed and if I am not sentenced to a term in prison, I intend to go to Poland to work as a migrant worker. I have friends there.

[hw:] *I have read the record of questioning. My testimony has been written down correctly. I have comments or additions to make.*

O.L. Lvov [Signature]

Procedural activity conducted and record prepared by:

Investigator of High-Profile Cases

at the Investigative Office of the Kharkiv Oblast

Directorate of the Security Service of Ukraine

Captain of Justice

[Signature]

A. Proshnyak

Annex 226

Signed Declaration of Vasily Bunchkov, Suspect Interrogation Protocol (4 March 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

Transcript of interview of witness V.Yu. Bunchikov dated 3/4/2015

[...]

Regarding the questions asked the witness gave the following testimony:

I currently reside in Kharkov at 201 Nemyshlinskaya Str. together with my common-law wife Olga Nikolayevna Grinenko and her mother Lyubov Vasilyevna Karas. Olga's daughter Irina Aleksandrovna Grinenko also lives with us.

I am officially unemployed at the moment and do odd jobs as a load handler at 1st Kilometer Wholesale Market. Sometimes I go to Belgorod for work because I have relatives there.

Approximately in May–June 2014, I met Alexei Lvov who lives in my neighborhood. At our meetings, we discussed the political situation in the country and expressed our opinion on what was happening.

Once Alexei suggested that I join the ranks of the Cossacks. He said that he was already a member. He also told me that the Cossacks engage in Airsoft and they periodically go on field trips and hold competitions. In addition, Alexei told me that if I wanted to join the Cossacks, they would give me a Cossack identity card, and I would be a full member of the Cossack organization called the Terek Cossacks. After a while, I agreed to this proposal.

Some time later, Alexei invited me to play Airsoft and I agreed. Later on, we went to the same place several times where we practiced shooting from a sniper rifle (small-caliber).

I also want to say that at that time two new people appeared who were always with the Ataman. As it later turned out, they were Sergey whom we later nicknamed Granddad, and Vegas. After Sergey left, the Ataman called us and with Vegas present told us that there was an opportunity to travel to Belgorod for shootings.

In follow-up of our conversation, the Ataman told me that when he needed Alexei and me for the trip to Belgorod, he would call Alexei and tell him the code words "Let us pray"; this would mean that we had to go from Kharkov to Slatino and then head for Belgorod. After this conversation, Alexei and I went in Fox's car to the railway station, boarded a local train and went home.

About three days later in August, while I was home, Alexei called me on his mobile phone and said that the Ataman called him and said the code word "Let us pray," which meant that we had to get ready.

Then the Ataman took us to the railway station, where we boarded a train and set off for Belgorod. Besides us, Sam, Hawthorn and this brother were traveling in the last car of this train.

In the territory of the Russian Federation, we made a connection to another local train and proceeded to Belgorod. Upon arrival at the railway station, we went to the monument opposite the main entrance. When leaving the station, we saw the Ataman and Vegas. We approached them and greeted them.

Vegas said that we are going deep into Russia to train us as a reconnaissance and sabotage group that would operate in Ukrainian territory to support the pro-Russian forces. After a while, we were approached by three more men—Alexei, Fox and Holy. After that they took us to a hotel near the station. While at the hotel, we were fed, and the Ataman ordered us to go downstairs as a bus came to pick us up and we had to go.

Transcript of interview of witness V.Yu. Bunchikov dated 3/4/2015

We all went downstairs (about 18 people) and I saw a second group of 12 people, where I saw the only woman. As it turned out later, her call sign was “Zed”; she was a large woman of about 40 years old.

The Ataman ordered us to line up and board the bus. I did not know where they were taking us and was afraid at first because I thought that they could take me to fight in Donetsk. We rode the bus for about 7 hours. During one of the stops, one of ours said that he saw us passing the Tambov sign. On arrival at about 4:30 a.m., we saw an Ural truck and one bus. The Ataman ordered everyone to get off the bus and board the Ural and the other bus.

Then we proceeded in an unknown direction. After 30 minutes on the road, we drove into some site. After we went outside, I noticed that it was a military base, since there were old guns and obstacle courses at the site. After that, the Ataman ordered us to line up. There was another man with him who introduced himself as Victor. Standing in front of the ranks, he ordered everyone to hand over their mobile phones and passports, otherwise, there would be problems.

Victor gave us a tour of the territory, which once again convinced me that this was an active military unit. At the same time, I noticed that there were people walking around in Russian military uniform but without insignia. Then Victor lined everybody up and addressed the formation, “...Men, you are now part of history, Russians do not abandon their own, we will help what we can...” Then he ordered us to receive uniforms. After receiving the uniforms, my group was ordered to stay in one tent, and the second group in the second tent. The mentioned woman, Zed, lived in a separate tent. Later I learned that her name was Marina.

The next day we were woken up by the Ataman and forced to do exercises. After exercising, we had breakfast and waited for the instructors who were supposed to train us. After a while, two instructors approached us and introduced themselves as Maxim and Alexander. Maxim and Alexander were about 30 years old. As I understand it, these were career military men because it was evident from their speech. After two days of teaching us firearms theory, we went to the shooting range in two military Ural trucks and fired various weapons. For myself, I chose an assault rifle and belt-fed machine gun. At the same time, I want to note that each member of our groups had the opportunity to choose the type of weapon that he liked best, whether it was a sniper rifle, a machine gun or an assault rifle.

We were fed three times a day, in the morning, afternoon and evening. Meals were provided in the neighboring tent with a field kitchen nearby.

After the firearms lectures were completed, on the third day, a man of about 40 came and began lecturing on explosives. On the next day, we were again taken to the range and practical lessons were held in demolition techniques. Those who liked explosives were trained separately and even received homework, which consisted of designing explosives, correct connection of power wires to the detonator.

In addition, separate classes were also held for those who mastered RPGs. Separate classes were held for those who wanted to shoot a sniper rifle.

I can say that the mentioned Marina was also a sniper. I remember because she was a woman. I do not know what the other members of her group specialized in—our groups were mostly trained separately.

Transcript of interview of witness V.Yu. Bunchikov dated 3/4/2015

Two training sessions were held with us in land navigation with a compass. These classes were held in the forest, both in the daytime and in nighttime. Later, another man visited us and gave us a lecture about first aid in combat conditions.

During our stay at the said camp, Victor summoned us separately to another tent and asked about our progress in training, what weapons we liked best. When Victor called me, he asked these questions and told me that these skills would be necessary for us during military operations in the territory of Ukraine. Moreover, he noted that these would include sabotage and demolition of various infrastructure facilities, railway tracks, as well as open fighting, if necessary.

After talking with Victor, we were questioned using a lie detector. This questioning was held in one of the tents. The questioning was conducted by a man in civilian clothes. After entering the tent, I sat in a chair; wiring was connected to my fingers and feet, and the mentioned man started the questioning. He asked me different questions; I still remember some of them. The questions were of the following nature:

- State your last name, first name and patronymic.
- State your year of birth.
- Did you take part in the Maidan in Kiev?
- Can you kill a man?
- Did you take part in beating up the Berkut?
- Do you have any acquaintances in the Security Service of Ukraine?
- Are there any animosities in the team?
- Is there anyone who separates himself from the team?

After the questioning, the Ataman told me that I had the best results compared to other members of the groups.

On the last day, the Ataman ordered us to line up and said that we are a reconnaissance and sabotage group and that we would not "sit in trenches." Then Victor came and said that there was an offer to remain in Russia in Belgorod in order to carry out subsequent terrorist actions on the territory of Ukraine, Kharkov Region. In addition, the Ataman with Victor present offered those interested to go to the east and fight on the side of the militia. Then Victor handed out 200 dollars and 5 thousand rubles to everyone explaining that this was supposedly a "compensation" for the time we were away from home.

Half of the people who were in the second group (Marina's group) agreed. Then in the evening a bus picked them up and they left in an unknown direction.

After this conversation, I approached the Ataman and said that I was not ready for such a scenario and he replied that I was not exposed in any way and could go back to Kharkov.

About a day later, together with Romanian, Khan, Kolchak and Holy, I was taken to the bus station and put on a bus heading for Belgorod. In Belgorod we boarded a local train and arrived in Kharkov. After this trip I was scared, I remained silent and did not tell anyone about this trip. I lied to my relatives and said that I just went to work. I did not participate in any terrorist actions in the city of Kharkov and the region.

I did not see Marina's group after leaving the camp. The part of it that did not go to the DNR (including Marina) left the camp for Kharkov about a day before us.

Transcript of interview of witness V.Yu. Bunchikov dated 3/4/2015

*I have read the interview record personally.
The testimony is recorded correctly from my words.
I have no remarks and additions.*

Investigative actions performed, record drawn up:

[signature] *Bunchikov*

Investigator for Major Cases of the

Investigative Department of the SBU Directorate in Kharkov Region

Captain of Justice

[signature]

A. Prosnyak

Annex 227

Signed Declaration of Maksim Mykolaichyk, Suspect Interrogation Protocol (15 April 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

The witness offered the following testimony in response to the questions asked:

In March 2014, I met with a lady named Natalya on social networks (a dating website). I actively corresponded with her for a short period of time, and she ended up suggesting that we meet at my place at 24 Myru Street, apartment 49, Kharkiv. Afterwards we kept meeting for 2-3 weeks at my place at the address stated above. During this time I learned that Natalya worked in the law enforcement (she was on a maternity leave). After another meeting Natalya offered me a chance to earn some money on the side. The specific task was to send a text message to a mobile phone number of a good friend of mine (I don't recall the mobile phone number at this time). The phone belonged to Ye.V. Zhylin.

In this text message I said that I fully supported his activity aimed at protecting underprivileged social groups (World War II veterans, retirees of the Ministry of Internal Affairs, and soldiers-internationalists).

A month and a half later, Ye.V. Zhylin replied to me from a Russian phone number (he was in the Russian Federation at the time) and asked me about the number of like-minded individuals like myself and what the nature of their occupations was.

I showed this text message to my friend named Oleh, who advised me to mention in my next reply some 50-60 people from among his associates, who supported the activities of Ye. Zhylin, and request financial assistance for their support and development, although in reality I knew only 3 individuals who supported the Anti-Maidan rally in Kharkiv. I followed his advice.

After some time, Ye. Zhylin suggested that we meet in the city of Belgorod (Russia) and discuss our further cooperation.

In August 2014, Oleh (whom I met in early summer 2014 through my Privatbank colleague Serhiy Slitenko; Oleh and I helped the police detect provocateurs during Anti-Maidan rallies), Anton (a friend of Oleh's) and I arrived in the city of Belgorod after crossing the Hoptivka border crossing point. The trip was funded with money from Ye. Zhylin (UAH 10,000) that was handed to me by a person I don't know.

Ye. Zhylin met us in Belgorod and suggested we speak in a local hotel facility (I don't recall the name). During the meeting, he suggested that we support the idea to create the so-called self-proclaimed "Kharkiv People's Republic" in Kharkiv Oblast (by finding like-minded individuals, arranging Anti-Maidan rallies, and so forth). In exchange for our support, he promised us all a monetary reward in the amount of UAH 2,000 per week. We also agreed that I would be transporting the funds required for these activities to Ukraine. Also, as we were returning to Ukraine, Ye. Zhylin asked whether we had any

friends working for Ukrtelecom. Oleh replied by telling about his friend named Olexander, who worked at the Kharkiv office of Ukrtelecom. Immediately after a phone conversation between Oleh and Olexander, the latter agreed to come to the Hoptivka border crossing point one hour later.

I later learned what Ye. Zhylin and Olexander talked about. Ye. Zhylin asked if it would be possible to disable the Internet and communications in Kharkiv and Kharkiv Oblast.

One day after our trip to Russia, I received a Viber message from Ye. Zhylin, who said that I needed to recruit people who would agree to receive military training at Russian military units. Volunteers were guaranteed a monetary reward of UAH 7,000. I told Oleh about this message. According to Oleh, his close friends responded to this offer, specifically: Vasya [Vasyl], Sasha [Olexander], and Volodymyr (I don't know their last names). That same day Oleh and I purchased 10 mobile phones that supported Viber (they cost approximately UAH 20,000). In addition, the above-mentioned individuals were issued UAH 21,000 for the trip to Russia.

The following day they left on a Kharkiv-Belgorod bus for the Russian Federation for 2 weeks.

As soon as the above-mentioned individuals left for the Russian Federation, I had no contact with Oleh for 3 days. I later learned that Oleh spent those days in the Russian Federation on an invitation from a Cossack organization unknown to me. Its representatives arranged for him to meet with officers of the Central Intelligence Directorate of the Russian Federation.

After Olexander, Volodymyr, and Vasyl left the Russian training camps, I was urgently summoned by Ye. Zhylin to Belgorod, where he asked me about the behavior of the latter individuals after their return to Ukraine. He ordered me to come to him with them the following day.

When we arrived in Belgorod the following day, Vasyl, Volodymyr, and I were met by Ye. Zhylin and people unknown to me. I later learned that they were officers of the Federal Security Service of Russia. In the past, one of them organized a channel for illegal smuggling of weapons and explosives into Ukraine while bypassing customs control personally through Olexander, Volodymyr, Serhiy, and Vasyl. Those weapons and explosives were later used to commit acts of terrorism in Kharkiv. All of the weapons smuggled from Russia were hidden in a dugout whose location is known to Serhiy Slitenko.

After speaking with Mykolay (an employee of the gas service), I am aware that Oleh Doroshenko, Vasyl (a former employee of the Berkut special forces unit of the Kharkiv Oblast Directorate of the Ministry of Internal Affairs), and a contraband runner nicknamed "Romashka" owned weapons (pistols), ammo, and explosives.

After speaking to Serhiy Slitenko, I know that the building of the military conscription office in the Ordzhonikidze and Frunze districts of Kharkiv (7 Sokolova Street) and the Privatbank office (2a Malomyasnytska Street) were fired at from grenade launchers by Vasyl, Olexander (a former employee of the Berkut special forces unit of the Kharkiv Oblast Directorate of the Ministry of Internal Affairs), and Serhiy Slitenko.

Also after speaking with Mykolay, I know about a planned act of terrorism that will take place in the immediate future outside the office of a company unknown to me in the city center. Also two transformer substations will be blown up in the Oleksivka residential community of Kharkiv.

I also know that Oleh, Vasyl, Mykolay, and a contraband runner nicknamed "Romashka" underwent special sabotage training in Kursk, Russian Federation, in December 2014. According to Mykolay, during this training all of the above-mentioned individuals signed papers saying they will cooperate with the Central Intelligence Directorate of the Russian Ministry of Defense and will not disclose information that will come to their attention during this cooperation.

I also know that Ye. Zhylin planned – under the guise of selling diesel fuel – to smuggle weapons, ammo, and explosives from Russia to Ukraine inside tanker trucks. To this end, Anton (an employee of an insurance company) looked for an oil depot to subsequently rent it and use as a weapons storage facility. Considering that it cost too much to rent the oil depot, Ye. Zhylin gave up this plan.

After speaking with Oleh, I also know that there is a group of taxi drivers in Kharkiv who keep track of the movements of military units of the Armed Forces of Ukraine and relay this information to Ye. Zhylin.

I would also like to note that in January 2015 I handed over a flash drive to Oxana, a confidante of Ye. Zhylin's, which contained the coordinates of military units in Kharkiv. I received this flash drive from Olexander, a former employee of the Berkut special forces unit of the Kharkiv Oblast Directorate of the Ministry of Internal Affairs.

I have nothing else to add in response to the questions asked.

[hw:] My testimony has been written down correctly. I have read it and have no comments or additions to make.

M.S. Mykolaychuk [Signature]

Questioned by: M.S. Bryliov [Signature]

Annex 228

Signed Declaration of Oleg Doroshenko, Suspect Interrogation Protocol (21 April 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

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[...]

In response to the questions put to him, suspect O.V. Doroshenko gave the following testimony:

Question: Have your constitutional and procedural rights as a suspect been explained to you, and do you understand them?

Answer: Yes, my rights as a suspect have been explained to me, and I fully understand them.

Question: You are suspected of committing a crime under Article 263(1) of the Criminal Code of Ukraine.

Do you understand the nature of the suspicion laid before you? If so, do you admit that you are guilty of the crime of which you are accused, do you wish to give testimony in the course of this interview, and what can you tell us about the suspicion laid before you?

Answer: I fully understand the nature of the suspicions laid before me. I partially confess to the charges against me, as I never used the pistol that I kept in my home during the period from December 2014 until April 10, 2015, and I actually planned to turn it in to the police on April 10, 2015, but was unable to do so as I was arrested that day, and the silenced pistol was seized during a search of my home.

I, Oleg Valentinovich Doroshenko, born on 12/06/1976, currently reside in the city of Kharkiv at 28 Saltovskoye Shosse. I live with my wife, Elena Leonidovna Doroshenko (Karatsyuba), born on 03/02/1979, and my three children: my eldest son, Valentin Olegovich Doroshenko, born on 12/09/1995; my middle son, Vladislav Olegovich Doroshenko; and my youngest son, Nikita Olegovich Doroshenko, born on 07/05/2008.

In February 2013, I became a member of the community organization Ivan Sirko Slobozhansky Regiment of Kharkiv, which was headed by Ataman Igor Borisovich Chernov Ivanov. This organization engaged in social activity: educational assistance for young people, supporting churches, helping the poor, etc. During these activities, on Cossack Hill, which is located in the Kharkov Region out by Zmiyiv, in approximately June-July 2013, I got to know the Cossack Mikhail Reznikov, ataman of the Terek Cossacks, who looked to be about 45 years old, dark-skinned, dark hair with streaks of grey, average height (around 1.78 meters), and skinny. I would recognize him if I met him. I only met him at Cossack events.

Out of idle curiosity, I attended a rally of pro-Ukrainian activists in front of the T.G. Shevchenko monument in April 2014. About two weeks later, I decided to attend a rally of pro-Russian activists, which, as usual, was taking place by the V.I. Lenin monument on Freedom Square in Kharkiv. Attending this rally for the first time, I stood by the police substation located in the “green zone” on Freedom Square outside Kulinichi, where I remained for about 20-30 minutes before bumping into an acquaintance of mine by the name of Sergei (last name either Slitenko or Sitenko), whom I had first met about a year ago. I do not remember how we met, but I can tell you that he works as a security guard or cash courier at Privatbank. Sergei looks to be about 40-45 years old, with a solid build, fair skin, and closely cropped hair, which I believe is grey. He is not tall—about 1.75 meters. I would recognize him if I met him. At this meeting on the square, we asked each other how things were going. He jokingly said that he had come to have a look at the thugs. At that point, I received a job request (to clean a boiler), so I left the square.

Since I was curious how a country as great as the Soviet Union had collapsed, and how Ukraine was also now starting to fall apart, I began attending a number of these rallies on both sides during the period April-May 2014. I would like to add, however, that I was not an active participant. Once in a while, as I was passing by on work-related errands, specifically by Universitet metro station on the way to the State Industry Building, I would just stop by and listen to the ideas that people were airing at these rallies. At one of these rallies, I once again met Sergei, who, in the course of our communication, introduced me to Maksim Mikolaichuk, whom he introduced as a work colleague. About a week later, he also introduced me to Vasily, whom he introduced as an acquaintance of his. Maksim was about 30 years old, with fair, shortly cropped hair, fair skin, about 1.8 meters tall, medium build. I would recognize him if I met him. Vasily was About 30-35 years old, skinny, about 1.8 meters tall, fair hair, short haircut, and fair skin. I would recognize him if I met him.

After meeting these people, I remained in contact with Sergei, as he lived not far from me and would sometimes stop as he passed by in his dark-colored Audi, and we would talk about various things. During this period, specifically the warmer months of summer—early fall 2014, I did not have any contact with Vasily. I saw Maksim two or three times by the mini bus No. 231 and No. 11 stops at the intersection of Prospekt Gagarina and Ulitsa Malomyasnitskaya, where he and Sergei worked in the Privatbank building. During one of these encounters, Maksim asked me if I could help him find a reasonably priced rental apartment, as the apartment he was renting by the Kharkiv Tractor Factory was too expensive for him. I promised to see what I could find out for him, and we exchanged cellphone numbers. I saved him in my contacts as “Maks privat.” I do not remember his telephone number. My numbers were 095-815-39-59 and 096-543-72-85. After that, we mostly called each other. We met in person maybe once or twice.

Around the end of September 2014, Maksim called me and said he had connected with Zhilin or some acquaintances of his (I don't recall the exact phrase he used) through social media, and that Zhilin wanted to meet with him. He therefore invited me to go with him to this meeting. I refused, as I disliked Zhilin's personality on account of his melodramatic behavior in every respect. Literally a day or two later, Maksim called me back and asked me to go with him to Belgorod, Russian Federation, for a meeting with Zhilin. I told him I could not afford the ticket, to which he replied that Zhilin would give us money for the trip through his people.

Around the beginning of October 2014, Maksim and I met at South Station around 10:00 in the morning. Maksim already had the money for the trip. I do not know exactly how much. We got on the Kharkov-Belgorod mini bus and traveled to the Hoptivka crossing on the Ukrainian-Russian border, where we got off the bus and, on Maksim's instructions, continued on foot across the border through the Ukrainian and Russian crossing points. After crossing the border, we immediately boarded a passing mini bus that took us to the meeting place—specifically, a hotel complex, the name of which I cannot recall, which is located next to the main road leading to Belgorod, but before you reach the city itself. Maksim and I, on his instructions, walked over to a café, where we sat and waited for about 20-30 minutes. Zhilin then entered the café. I recognized him on sight, as I had previously seen him on TV. He came up to us and sat down at our table. I got the feeling that he had been watching us from the side the whole time we were waiting. I can describe him as follows: 1.85 meters tall, medium build, short haircut, fair hair, roundish face, slightly hooked nose, fair skin, looks to be about 40 years old. I would recognize him if I met him.

He invited us to have lunch and said that he would pay for the meal. He started talking about what was happening in the Donbas, saying that he had a good relationship with Aleksandr Zakharchenko, that combat operations were now under way there, but that the time would come when the situation in Kharkiv would also change completely, and the people who supported the idea of creating Novorossiia would later get leadership positions and posts, to which I replied: "You can't share a bearskin if the bear is still alive." I asked him what exactly he could offer us. He said a lot of people were needed to build checkpoints, defend Kharkiv, and everything of that sort, but I did not react to this in any way and said that this was an unrealistic proposal. He then told me he had an interesting business proposal concerning deliveries of fuel (gasoline and automotive gas oil) to Kharkiv. He said the deliveries themselves did not concern us; our task would be to find a terminal where the fuel could be offloaded from the tankers, and people who could quickly sell large shipments of this fuel. I asked what my interest would be, to which he replied that I could collect a surcharge on the initial price. In other words, if the fuel came in at a certain price, then my profit would consist of a reasonable surcharge per liter, which would depend directly on the sales volume. I was interested in this proposal and said that I would make some inquiries about this matter in Kharkiv. We agreed to stay in touch via the Internet through Maksim, as I do not use computers. Zhilin then gave us a ride in his dark-colored SUV (I do not know the model or plate number) to the Russian-Ukrainian border, where we once again crossed the border on foot. Once we reached Ukrainian territory, immediately after Hoptivka, we got on a mini bus that took us to Kharkiv.

Maksim started actively developing the fuel idea through his own channels but did not particularly keep me in the loop. We generally started talking to each other less frequently after that meeting. I put out feelers to several people I knew regarding the fuel idea but did not get a clear answer from any of them. I therefore told Maksim that I had done everything I could in this regard and could do nothing more to help. This communication took place about 5-7 days after the meeting with Zhilin, and Maksim told me at that point that Zhilin had offered to pay him and me UAH 2,000 a week each, i.e., would take us on as employees until the fuel business took off. Naturally, I accepted this offer, as I needed the additional income, and the specific scope of my duties had not been explained. Literally a couple of days later, however, Maksim called me again and said that the amount of payments had been reduced, even though I had not yet received anything at all, and they were now going to pay us not 2,000 but 500 hryvnias a week, as Zhilin was having some money issues. I agreed to this, too. After that, Maksim really did call me every week, and between Tuesday and Thursday he would bring me UAH 500 each time at various locations where we had agreed to meet. This went on for about three months (to the best of my recollection, I received about UAH 6,000 in total). At the same time, I was not doing anything other than my actual job servicing heating boilers.

Over the course of these payments, Maksim told me when handing over the money that Zhilin was displeased that we were not taking any active steps and had not yet settled the fuel business, to which I replied that Zhilin was not making any specific proposals either in terms of when the tankers would head out, how much they would be carrying, etc. Maksim also told me that Zhilin was asking for information about military units in the city of Kharkiv, whether any military hardware was entering the city, how much, where it was heading, and where it might be located. During this period, Maksim got a dark blue VAZ-21099 car, which he bought with the money he had received from Zhilin. He also told me he was now the latter's representative in Kharkiv.

In late November 2014, Maksim called me and proposed that we meet. We met in the evening. I do not remember where. He gave me UAH 500 but said that Zhilin was extremely unhappy with me personally for my failure to act, not only in relation to the fuel business, but also because I had not provided any information about military units and military hardware in the city of Kharkiv. I told Maksim that I was not going to do anything of that sort, after which we went our separate ways. Literally the following day, or maybe two days after that meeting, an unknown man called me on my 096-543-72-85 number. He introduced himself as one of Zhilin's people and said that we needed to meet and talk. He told me to meet him in the park on ulitsa Shevchenko across the street from the restaurant Navruz. That afternoon, I drove to the designated spot, where I was approached by a man who looked to be about 55 years old, tall (about 1.85 meters), with grey hair of medium length, a grey mustache, a raspy voice, fair skin, a somewhat long face, and light-colored eyes. I would recognize him if I met him. The man greeted me and said that he was the one who had called me. He immediately started saying that Zhilin sent his regards and that if I continued to take no action, they would be forced to take radical steps against me. When I asked him what he meant, the man uttered the names of my three children, my wife and my home address. I was stunned. He told me to wait for his call and walked away.

There was a break in the interview pursuant to Article 224(2) of the Criminal Procedure Code of Ukraine.

I would also like to point out that when I returned after the aforementioned meeting with Zhilin in Belgorod, while I was looking into the fuel business, I contacted one of my work colleagues, Nikolai Bondarenko. I think his patronymic was Aleksandrovich. He is 45-47 years old, not very tall (about 1.7 meters), bald, with a short dark beard that has streaks of grey, and fair skin. I know that he converted to Islam many years ago. I could easily identify him, since I know him well. In response to my question about the fuel, he said that he had an acquaintance, another Muslim, who owned a gas station, so he could find out through him about terminals for offloading the fuel. I also know that Maksim and Nikolai Bondarenko knew each other, since Nikolai practiced non-traditional medicine and helped me reduce the pain in my neck vertebrae and back, after which I recommended him to Maksim, since the latter had complained to me about back and leg pain. I do not remember exactly when they met. I know for sure that Nikolai received some payments from Maksim, just like me, in the amount of UAH 500 a week, but I do not know for how long.

About a week after the aforementioned meeting with the grey-haired man who represented Zhilin, he called me on my phone, only from a different number this time, and told me to pack my things, as I would have to go to Russia to do some work. He said he would let us know the time and place later. About a day or two after this call—to the best of my recollection, it was also in late November—I met with Maksim by the French Boulevard shopping and entertainment center, and he told me that the next day we would have to take the first bus from South Station to Belgorod, but to get off the bus before reaching the city itself, after the traffic police checkpoint located a few kilometers before the approach to the city, and wait for them to pick us up. When I asked what he meant by “we,” he replied that Nikolai Bondarenko and Vasily, whom I had not seen, as I mentioned earlier, since the days of the rallies on Freedom Square, would be traveling with me. He also told me that I did not particularly need to take anything with me, but to bring my passport for the border crossing and money for a one-way trip. At the same time, he said that all of our expenses would be reimbursed. He also mentioned in passing that we would probably have to go

to the military firing range in Kursk. In the wake of that conversation with Zhilin's representative, I understood that I did not really have a choice, so I did not ask Maksim any more questions and went home to pack after the meeting.

The following day, as agreed, I arrived first thing in the morning at South Station, where I met Nikolai Bondarenko by the bus terminals. Vasily arrive a bit later. We talked about the spot after the traffic police checkpoint where we were supposed to get off. We had all received matching information from Maksim. We then got on the bus for Belgorod, which took us across the border via the Hoptivka border crossing and on to the aforementioned traffic police checkpoint. We asked the bus driver to let us off at the bus stop located 200 meters down the road toward Belgorod. After getting off the bus, we waited about 15 minutes before a dark-colored Volkswagen van drove up to the stop. In addition to the driver, there was also a man in the front passenger seat, who told us to get in. We gave him our cell phones and passports, then drove, it seemed to me, along the ring road past Belgorod. We were on the road about 3-4 hours. I then saw a road sign that said "Kursk." About half an hour after entering the city, late in the evening, we arrived at what appeared to be a nine-story apartment building located in a residential suburb. They told us to get out. The driver remained in the vehicle, but the other man went up in the elevator with us to the sixth floor, I believe, where he led us to a two-room apartment, telling us we would have to stay there awhile, to keep quiet and not make noise, and that there was food and water in the fridge. Then he left.

Two days after putting us up in this apartment, the same man brought us military fatigues, some sort of poor-quality army boots, a metal spoon, fork, plate, and mug, and a synthetic sleeping bag. He left it all and said that we would be leaving the following day—where exactly, he did not say. Then he left again.

At around 7:00 the next morning, the same man came and told us to go outside and get in the same vehicle that had brought us from the traffic police checkpoint. Thus, we spent about two and a half days in that apartment. We drove in the van for a very long time. After nightfall, I saw a sign that said "Krasnodar." We turned off the highway onto a dirt road, then came out on some sort of crushed asphalt road that was some distance away from the city, as the city lights remained in the distance. We drove along this road for a short while, and I soon saw in front of us a barrier bar with a soldier in uniform standing next to it. Because it was dark, I could not see exactly what uniform he was wearing or what kind of insignia it had. After passing the barrier, we drove a little further to a tent camp, which consisted of one small tent, in which they put the three of us—Nikolai Bondarenko, Vasily, and me; inside the tent was a camp stove for heating—as well as six large tents, including a kitchen and medicine tent, as well as tents where some soldiers were living. At first we were forbidden to speak with the soldiers. We were also categorically forbidden to leave the tent camp.

The day after our arrival, the man who had escorted us in the van came into our tent and said that we would not receive any training until we did a polygraph test. We then waited another two or three days. This was already the beginning of December. The man then came into our tent again and told us that the polygraph had arrived, and we would be taking the test that same day. I was the first to go and take the test. I went into the medical tent. A young man in civilian clothes was sitting at a computer inside. He told me to sit down in the chair, attached some wires to my head, arms, and legs, asked me my full name, date of birth, place of residence, and sex, and how I felt about pornographic movies, i.e., whether or not I liked them, to which I replied that I did not. He then asked me to take out of his hand one of the objects he was holding—a pencil, a pen, or an eraser. I took the eraser. He told me to keep listening carefully to his questions, and when he got to the question about what I had taken from his hand, I was supposed to reply, "No" to the question,

which was something along the lines of “Did you take the eraser?” During the polygraph test, I was asked the following questions:

- Do you have any ties to the SBU?
- Do you work with the SBU?
- Have you given any kind of lists to employees of the SBU?
- Do you do drugs, drink alcohol, or smoke?

The rest of the questions were of a general nature with no particular emphasis, but there was a particular focus on questions about the SBU. When I returned to the tent after the polygraph test, Nikolai Bondarenko and Vasily asked me how it had gone, to which I replied that they should just tell the truth.

The morning after the polygraph test, an instructor in camouflage fatigues arrived, did not introduce himself, and told us to have some breakfast, after which we would go the firing range. After breakfast, a KAMAZ covered military truck arrived at the tent camp. The instructor ordered us to get in, and we drove along a dirt road between some fields to a training range, where we got out of the vehicle. The firing range consisted of an open field with a small forest and a small hill nearby. A little later they brought some targets, which they set up 150 meters from the road, where we were standing. The three of us were then issued AK-74 assault rifles. The instructor opened a box of cartridges for us. We loaded two magazines of 30 cartridges each, and on the instructor’s command we started firing single shots from different positions—lying, kneeling, and standing. That is how we spent our first day of rifle training.

We had a total of four training days on the firing range. On the second day, they taught us to fire silenced pistols. On the third day, we were trained in explosives, where the instructor showed us various types of mines, TNT sticks, plastic explosives, and other explosives (I no longer remember which). He also taught us about different types of detonators. The instructor then detonated some mines to show us how they worked. He then asked if any of us would like to try blowing something up under his supervision, and Nikolai stepped forward. We then went into a concrete structure that had been specially made for this firing range, where Nikolai used an electric coil, which I recognized from the movies, turned the handle on it a few times, and pressed the button, resulting in an explosion. On the fourth day they brought us an RPG-7 grenade launcher and let each of us fire it a few times into a pile of tires. Everyone except me was able to hit it more or less.

On the afternoon of the last day of training, immediately after lunch, we were summoned one at a time to a guy who drove us out to the range and told us that we had to write a pledge not to disclose the location where we had been or what we had done. He also reminded us that they had all of our passport details. I wrote the pledge as follows:

“Oleg Valentinovich Doroshenko,
d.o.b. 12/06/1976,
residing in the city of Kharkiv

I hereby pledge not to disclose to anyone what I learned or where I was within the Russian Federation from 11/__/2014 to 12/__/2014 (I cannot provide a more specific date).

date signature”
Vasily and Nikolai Bondarenko wrote the same pledges.

That same day, late in the evening, they took us to the baths. We turned in the ammunition they had issued us, and we all left the tent camp in the same van. Then we drove just as long as we had the first time on the way there. By around midday, we apparently arrived in Belgorod, according to our escort, where they dropped off Vasily, so that we did not all return home together. They drove Nikolai and me to Kursk, where they dropped us off at a similar apartment building, but a different one this time, and put us up in a one-room apartment, where we spent the night. The following morning, they took us in the same vehicle to the bus station in Kursk, where the same escort handed us RUB 1,200 each and bought us tickets for the Kursk-Belgorod bus. He also gave us back our cell phones and passports. When we arrived at the bus station in Belgorod around midday, we transferred onto the Belgorod-Kharkiv bus, after which we arrived home.

We spent a total of seven days at the training camp, four of which were spent in actual training.

A couple of days later—this was already the middle of December 2014—Maksim contacted me by phone and said we needed to meet. We met by the French Boulevard shopping and entertainment center. During our meeting, he said that we had done well, but now we had to think—that we needed to bring some weapons from Russia to Ukraine, specifically to receive them somewhere near the border. These weapons were not meant for us, however; instead, they were to be passed on to someone else. I replied that I would have nothing to do with this, after which we went our separate ways.

Closer to New Year’s, in late December, that same representative of Zhilin’s who had threatened me before, called me and said that our mutual acquaintance sent his regards, and that I should meet with Maksim so that the latter could tell me all the details of what I had to do. The following day, I do not remember exactly where, I met with Maksim, who told me that by around 9:00 a.m. the following day I had to go to the border to pick up the weapons that were to be sent from Russia. He also said that the people who were supposed to pick me up by the Chateau Ledo knew where we needed to go.

The day after the meeting, I was there at the appointed time. A bright colored Hyundai Tucson drove up to me. In the front passenger seat sat Vasily, who introduced the driver to me as Vladimir, a man of around 42 years, tall, skinny, dark brown hair, normal haircut. I would recognize him if I met him. We then drove to the village of Lyptsi, drove through it, and came out onto a dirt road, which went through a field. We followed this road to a tree line, then drove along it for perhaps a little more than one kilometer and stopped. Literally a minute later, beyond the no-man’s-land, from behind a knoll on the Russian side, there appeared a young man, who came closer to the border and threw a sack from Russian territory into Ukraine. I got out of the car, picked it up, and put it on the back seat. We then returned to Lyptsi, where we stopped in front of some buildings and looked inside the sack. I saw that it contained five silenced pistols, boxes of cartridges for the pistols, holsters, and a bright object in a green case that looked like Play-Doh. I took a plastic bag, which contained about ten packs of cartridges, and placed one pistol with a holster in the same bag. The rest of the weapons remained in the sack, and when Vladimir and Vasily gave me a ride back to my neighborhood, the sack with the remaining objects remained in the vehicle, so I do not know where the rest of the weapons are.

I placed the bag with the pistol and cartridges in my garage, hiding it from my whole family. Only I had a key to the garage.

After the holidays, on around 01/10/2015, Zhilin's grey-haired representative once again called me on my cell phone and, in a very unpleasant manner, which once again reminded me of the conversation where he threatened my family, said that some material had already come in, so it was time to go to work, or else others would go to work, and in that case my family and I would have problems.

Over the next three days, I could only wonder what it was that I was supposed to do. I then called Vasily and proposed that we meet. We met by the Barabashovo market, where I briefly explained the situation to him. He responded by saying that he needed to think about it. We met again a couple of days later—I believe it was the end of January—once again by the Barabashovo market. I got another call from the “grey-haired man” asking about some actions, to which I replied that he should wait. At my second meeting with Vasily, I told him that I remembered from somewhere that there was a three-story building on ulitsa Okatara Yarosha, one of the floors of which housed voluntary assistance for Anti-Terrorist Operation troops, so it might be a suitable target to placate Zhilin and his subordinates. I also clarified with Vasily whether the thing in the green case that looked like plasticine, which they had given us at the border, might be used for a bombing at that location, to which he replied that it might do. I also told him we would have to scope out the area in order to place the explosive in such a manner to ensure that no one was injured. We went straight from our meeting place in the metro over to the proposed bombing site. We arrived at Botanichesky Sad metro station, after which I told him the address—18 ul. Oktara Yarosha—as I had often been in this neighborhood for work and visually remembered this spot. I stayed by the metro, while Vasily proceeded to the address I had indicated. I advised him to inspect the entrance with the steps leading down to the basement of the building. In about 10 minutes, he came back and said that there was indeed an entrance to the basement, and there was a door. He said this was a suitable spot and if the explosives were placed there late at night, no one should be injured. We then drove to Barabashovo, after which he set off on his own, and I went home. During our meeting, we also agreed that the explosives should be placed within the next day or two, so we decided to keep in touch.

[illegible]

During the day on 02/08/2015, I called Vasily and told him we needed to work that evening. He said “Ok,” and we agreed to meet not far from the aforementioned spot. That same day, I took the metro from Barabashovo to Universitet station and walked down to the intersection of Passianarii spusk and ul. Klochkovskoy, where I met Vasily at the traffic light. We then hailed a dark-colored mini bus (I do not recall the make and color), which we took from there to ul. O. Yarosha, where we got out of the vehicle and went up the street, stopping in the courtyard of a dormitory, where Vasily unwrapped a plastic bag, in which he showed me a small rectangular piece of explosive that looked like Play-Doh. Vasily then used a stick to make an opening in the explosive and inserted a shiny metal pin, which I understood to be a detonator. He then told me to head over to the location where we were going to plant the explosives on ul. O. Yarosha, while he himself headed off via the courtyards. About 500 meters from the spot where we were going to plant the explosives, I stopped to wait for Vasily. About 10 minutes later, I heard an explosion coming from the spot where Vasily was supposed to plant the explosives. Two minutes after the explosion, Vasily appeared from around the corner. He was walking quickly 10 meters away from me. I followed him. He then headed out through the courtyards towards the Soldier's monument. I followed behind and tried to call out to him, but he did not react to me at all. After a short while, he turned toward me and saw me, but I do not think he realized that it was me, and out of fear he

quickly fled. After that, I hailed a passing VAZ-2106 or 2103 car (it was dark in color; I do not recall the plate number), in which I rode to the intersection of 50 Let VLKSM and 50 Let SSSR. From there, I walked home.

There was a break in the interview pursuant to Article 224(2) of the Criminal Procedure Code of Ukraine.

In addition to my confessional testimony, I would like to assist the pre-trial investigative authority in possibly solving a crime, specifically the bombing of power substations by the Zeleny Kolodets railway station located outside Chuhiyiv. Regarding this incident, I know the following:

In January 2015, as I was coming out of the Barabashovo metro station, I was approached by a young man, who introduced himself as “Slavik.” He looked to be about 30 years old, 1.8 meters tall, skinny, with light brown hair, light brown stubble, medium-length hair, a round face, and light-colored skin. He was wearing a single-colored uniform. I would be able to identify him if we met. He told me that he was aware of the whole movement that Zhilin was organizing and how he wanted to blow up the power substations by the Zelenyy Kolodets railway station, but his group did not have enough manpower to carry out such acts, so he asked if our group could help them. At the same time, he did not name the people who belonged to his group. I turned him down, and we went our separate ways.

About four days later, when I was once again walking home after my shift, that young guy, still wearing the solid green uniform, once again came up to me by Barabashova metro station. He made the same proposal again, to which I responded with a categorical refusal and asked him not to bother me anymore, after which we went our separate ways.

Some time later, I found out from the media that some bombings had been carried out at the power substations by Zelenyy Kolodets railway station. Thus, I have reason to believe that the man I mentioned above by the name of “Slavik” may have been involved in these bombings. I also know that because he always wears the same green uniform, his nickname is “Zelenyy” [“Green”].

I would also like to add that I am truly sorry for the crimes that were committed. I understand the social danger they pose and the consequences they might have. I vow not to break any more laws of Ukraine.

The transcript has been read by me and is an accurate record of my testimony. I have no comments and nothing further to add. [signature]

Interview conducted and transcript prepared by:

**Senior Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the SBU**

Major of Justice

[signature]

O.S. Zagumenny

Annex 229

Signed Declaration of Vadim Chekhovsky, Suspect Interrogation Protocol (9 May 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

[...]

In response to the questions asked, the suspect gave the following testimony:

I, Vadim Nikolayevich Chekhovsky, born on 01.02.1967, currently live with my common-law wife, Oksana Aleksandrovna Panarina, born on 05.02.1969, at Apartment 36, Building 44A, 50-ti letiya VLKSM Prospekt, Kharkov. I am not in official employment and do not work anywhere, I get sent money by my mother – Yevgeniya Ivanovna Chekhovskaya, born on 06.25.1937, who currently lives at Apartment 44, Building 4, 60-ti let SSSR St., Severobaykalsk, Republic of Buryatia. My father, Nikolay Andreyevich Chekhovsky, died in 2006. My family also includes: my former wife, Larisa Vladimirovna Chekhovskaya (maiden name – Garbuzova), born on 06.15.1966, and our child – Stanislav Vadimovich Chekhovsky, born on 02.06.1986, and my second wife (whom I also divorced) – Oksana Grigoryevna Chekhovskaya (maiden name – Danilets), born on 07.09.1970 and our child – Oleg Vadimovich Chekhovsky, born on 05.25.1993. At present I only keep in touch with O.G. Chekhovskaya and O.V. Chekhovsky, and what is more, they are registered at my place of residence: Apartment 36, Building 44A, 50-ti letiya VLKSM Prospekt, Kharkov, but I don't know where they actually live. As far as I know, my first wife, L.V. Chekhovskaya, and our child, S.V. Chekhovsky, are registered at Apartment 40, Building 68, Geroyev Truda St., Kharkov, but I don't know where they actually live.

Continued: Interrogation record of suspect V.M. Chekhovsky of May 09, 2015

From May 2014 onwards I became interested in the “Anti-Maidan” movement, as I wasn’t happy with the actions of the “Euro-Maidan” activities, and in addition I was outraged by the anti-constitutional shift in power which had taken place in the country and I was not at all happy with the political decisions being taken at that time at the level of the government. I did not hide my point of view from anyone, and was continually talking about it to my acquaintances and friends, a precise list of which I cannot provide at the moment.

In talking to my friends, I found like-minded people: Viktor Pavlovich Topchayev, born on 05.17.1961, whom I met in 2002 when I was the director of the Association of Users of Aquatic Living Resources of the Krasnooskolsky Reservoir, and he would come along to this body of water to go fishing from time to time; Sergey Aleksandrovich Mikheyenko (who is roughly 9 years younger than me and whose birthday is March 15, although I can’t remember the year of his birth), whom I have known since 1997 from my sailing lessons.

V.P. Topchayev and S.A. Mikheyenko did not know one another, I introduced them. We went on numerous occasions to rallies on Freedom Square in Kharkov, and talked to activists from the pro-Russian movements.

Insofar as it was customary on the square to devise code names for talking to people, we also followed this example and chose code names for ourselves: I chose “Akula” [Shark] for myself, which I subsequently changed to “Vzhik” [Zing], as I thought my first code name too showy, whilst S.A. Mikheyenko had the code name “Prorab” [Foreman], later on people started to call him “Lysy” [Bald], whilst V.P. Topchayev had the code name “Ded” [Grandpa].

S.A. Mikheyenko played a fairly active part in all the pro-Russian movements – he collected humanitarian aid for the Donbass, went to Russia and talked to people who were fighting on the side of so-called “Novorossiya.” I did not share this level of activeness with him and only went out onto the square from time to time.

On July 19, 2014 (I have a good memory for dates), S.A. Mikheyenko (who at that time was using the mobile phone number 067-577-53-24) contacted me (my mobile phone numbers are 066-106-90-69 and 097-549-23-83) and V.P. Topchayev (his mobile phone number is 067-911-10-07) on our mobile phones and told us that he might “get something” that day and asked for help with it. From his intonation and from what he was saying, I understood that it was probably weapons. Insofar as I had served in the military, I was interested and I decided to have a look at it.

After that, S.A. Mikheyenko and V.P. Topchayev came to my house in V.P. Topchayev’s car – a dark blue Geely passenger car, the MK model (state registration plate 5551CA, I can’t remember the first two letters of the registration plate), where they got into my white VAZ 21214 car, state registration plate AK8548XA (which isn’t registered in my name, I drive it under a “general” power of attorney).

S.A. Mikheyenko said that we needed to go to the Kievskaya metro station in Kharkov. Upon arriving at this metro station, S.A. Mikheyenko and V.P. Topchayev went off somewhere, and I remained in my car, waiting for them. They were gone for around an hour and didn’t pick up their phones. This made me start to worry and I even re-packed my car. About an hour after they had gone, V.P. Topchayev phoned my mobile phone and said that everything was fine and that they already had everything, and told me to go

Continued: Interrogation record of suspect V.M. Chekhovsky of May 09, 2015

to his workshop which was located at Building 8, 12-go Aprelya St., Kharkov.

Upon arriving at this workshop, S.A. Mikheyenko and V.P. Topchayev told me that they had received the weapons. They said that these weapons included: three AK-74 assault rifles, one GP-25 grenade launcher, 10 VOG-25 grenades, two RGD-5 grenades, three cartridge pouches with four magazine cases in each, and what is more, they were fitted with cartridges of a 5.45 x 39 mm caliber, and there were 100 cartridges of this same caliber in the boxes.

In response to the question of why they had been gone for such a long time, they told me that they had been met at the Kievskaya metro station by a person in a car who had told them to get into his car (they didn't tell me what sort of a car it was) and he took them to the entrance to my apartment building, where V.P. Topchayev got into his car and they drove, in the two cars, to the Kharkov Tank Factory district, to V.P. Topchayev's garage, where this person had transferred the weapons from his car into V.P. Topchayev's garage (which is at the end of 17go Partsyezda St., I don't remember the name of the cooperative or the number of the garage).

Two days later, in V.P. Topchayev's garage, I saw part of the weapons they had received. I brought V.P. Topchayev a cover for fishing rods into which V.P. Topchayev put the AK-74 and the GP-25, and V.P. Topchayev also altered one of the cartridge pouches for the VOG-25 which he showed me. S.A. Mikheyenko left the rest of these weapons in his garage.

After getting the weapons, S.A. Mikheyenko told V.P. Topchayev and me to sit tight and not do anything.

On September 19, 2014, S.A. Mikheyenko and V.P. Topchayev came to see me and proposed that we go to the Russian Federation. They didn't explain why we needed to go, but said that the trip would be paid for and that we might be able to earn something.

After that, we met on September 21, 2014 at V.P. Topchayev's workshop. In addition to V.P. Topchayev and me, S.A. Mikheyenko and some girl who they introduced to me as "Nastya" were also there.

In the morning of September 22, 2014 (I don't remember the exact time), V.P. Topchayev left for Belgorod in the RF from the so-called new terminal of the Southern Station on a scheduled bus going from Kharkov to Belgorod, and on that same day, at around 9 in the morning, S.A. Mikheyenko and I set out on a private fixed-route bus from the square near to the Southern Station, also for Belgorod in the RF. We crossed the state border between Ukraine and the Russian Federation at the international road transport checkpoint of Goptovka. That same day, upon arriving in Belgorod in the RF, S.A. Mikheyenko and I took a fixed-route bus from the railway station to Michurina St. Upon arriving at this street, we went to Building No. 61, where we went into an apartment on the ground floor (I don't remember the number of the apartment). We were let into the apartment by some woman who, as I subsequently learnt, was the wife of Oleg Sobchenko (whom I met subsequently).

V.P. Topchayev was already in the apartment, along with the following people: Gena and Vadik (whose nickname was "Baty" [Gaffer]). We stayed there until the evening, and then a man called Sergey (who, as I understood it, was some local resident) picked up V.P. Topchayev and me in his Hyundai. Also in the car were a man who introduced himself as Valentin Vitalyevich Pulyayev, with his wife and child. "Sergey" took us to a private residence located in some

Continued: Interrogation record of suspect V.M. Chekhovsky of May 09, 2015

village, but as the house had neither running water nor a toilet, Valik and his wife and child refused to stay there and went off to look for an apartment, whilst V.P. Topchayev went off somewhere that first night, as he said – to consume alcoholic beverages.

In all, I stayed in this house until around October 14, 2014, throughout this time I didn't do anything in particular: I went mushroom-picking, fishing, and chopped firewood for the stove. Over this time the following people came and stayed at this house for a time: Marina "Zed," Vasya "Lesnik" [Forester], Sergey Shekhovtsov, Valery Shekhovtsov, "Leshy" and "Said" (I can't remember their names). None of them stayed for very long and soon went off somewhere. Also, there were S.A. Mikheyenko and V.P. Topchayev. I've remembered the Shekhovtsovs' surname as they had criminal case files which I read.

It was explained to us that we had to be there because there would soon be work [for us] and we would go and work.

As regards Marina "Zed," I can say that she came to this house for one day – sometime around September 24, 2014. She stayed in the next room, and talked about herself in a concise way – she gave her code name and said that she was taking a sniper course at the intelligence school in Tambov. She also said that she had some explosives but nothing to detonate them with. During our conversation, she and I exchanged phone numbers, she wrote down my phone numbers (066-106-91-69, 097-549-23-83, 093-070-36-10) in her notebook. I entered her numbers in my phone.

On October 15, 2014, a balding man aged around 50 (who I later learnt was Oleg Sobchenko) drove up to this house in his Toyota and took me back to Belgorod, to some private residence, but I don't know where exactly it was located, I could show you where it was but I can't remember the name of the street.

The building comprised ten apartments, with around 3–4 people living in each apartment. Out of those people I knew and had met previously, the following were living in this house: V.P. Topchayev, S.A. Mikheyenko, Sergey Shekhovtsev, Valery Shekhovtsev, "Nastya" (the girl I had met in Kharkov), "Leshy," and V.V. Pulyayev. I also became acquainted there with Anton, Vitya "Pulya" [Bullet] (he lived in the town of Lozovaya in the Kharkov Region), Sasha, Vadik, Oleg, and Lesha (from Dnepropetrovsk). I remained in this house until around October 23. I wasn't actually doing anything there, but just lived at leisure, although I used to earn some money on a building site from time to time. Sobchenko looked for this work. A man called "Konstantin" would take me to the building site.

In the evening of October 23, 2014, S.A. Mikheyenko arrived at the house. He immediately went to Vadik and told him that Anton had been killed in an exchange of fire, and proposed that we drink to his memory. As I understood, he was talking about the Anton who had been living with us in the room opposite. S.A. Mikheyenko also said that Mikhail Shesterikov, whom I knew, who had been with them, had been arrested.

On around October 24, 2014, Oleg Sobchenko proposed that V.P. Topchayev, V.V. Pulyayev, "Nastya" and I go shooting and on a training exercise. I asked whether this was legal and whether we wouldn't be detained for shooting in another state, to which Sobchenko responded that these courses were along the lines of Russian Army, Air Force, and Navy Volunteer Society courses and that they were being organized officially by the RF authorities.

A few days later, the aforementioned persons and I were taken in a minibus to some military unit located in the Rostov Region.

Continued: Interrogation record of suspect V.M. Chekhovsky of May 09, 2015

In this unit, we were given a military uniform without any insignia, and we were trained by instructors who introduced themselves using some sort of nicknames. Also in this unit were soldiers dressed in the uniform of the RF Armed Forces, but none of them had any insignia on their uniforms.

At this unit, we underwent general military training, with an emphasis on explosives. Likewise, each of us was offered to choose a "military area of expertise": V.P. Topchayev handled the Dragunov sniper rifle, V.V. Pulyayev handled the Kalashnikov hand-held machine gun, I mastered the "Plamya" [Flame] AGS-17, Nastya was trained in mines and explosives, and S.A. Mikheyenko was in the role of our commanding officer and studied all the types of weapons.

We were also shown in this training center how, using a radio set, to make an explosive detonate – you had to connect a detonator to the wires going into the radio speaker system.

In total, our training lasted for around two weeks, after which we were taken in a minibus to Belgorod where an apartment had already been rented for us (I don't remember the address).

We stayed about two days in this apartment. After this, we went, separately, to Kharkov and, as far as I know, V.V. Pulyayev crossed the border between Ukraine and the Russian Federation illegally (he said that he was on the wanted list in Ukraine).

I went to Kharkov in a fixed-route bus, I crossed the border at the Goptovka international automobile border crossing point and arrived in the city on November 10. Before our departure, the aforementioned persons and I had agreed to meet in Kharkov and buy new phones (as S.A. Mikheyenko had told us to do).

On November 11, 2014, adhering to this arrangement, all of us met at Radio Rynok in Kharkov, near the Geroyev Truda station. There, we bought ourselves second-hand mobile phones and new SIM cards.

On November 14, 2014, I received a call on my mobile phone (I can't remember from whom, but I think it was Vadik "Batya") and was told that S.A. Mikheyenko and I needed to go to the 17th cemetery at 8 in the morning of the following day and collect something. This was said in a covert manner, something along the lines of "I'm burying my friend tomorrow, come along with Sergey to the 17th cemetery at 8 in the morning," but I can't remember exactly. As I understood it, this conversation was again alluding to the receipt of weapons.

The next day, S.A. Mikheyenko and I went to this location to pick up the weapons, but no one came to meet us, after which we returned to Kharkov, but this same day, Vadik phoned me, apologized and said that we had to go again the next day.

On November 16, 2014, S.A. Mikheyenko and I arrived, in my car, at Cemetery No. 17 and at around 7:45 a.m., Vadik "Batya" called me on my mobile phone and asked whether we were ready, to which I responded in the affirmative, after which a passenger estate car drove up. At the wheel of the car were people I didn't know, and V.V. Pulyayev got out of the back seat and handed over to us bags containing weapons, after which the car containing the unknown people immediately drove off, and S.A. Mikheyenko, V.V. Pulyayev and I quickly put the bags on the back seat of my car and drove off towards the village of Bobrovka.

Continued: Interrogation record of suspect V.M. Chekhovsky of May 09, 2015

In the village of Bobrovka, we went to the body of water, where S.A. Mikheyenko took out of these bags the two PB automatic handguns and 160 cartridges for them, after which we went to my house in Kharkov, where V.V. Pulyayev and I hid the bags containing the weapons. S.A. Mikheyenko went somewhere in his car with the automatic handguns. As V.V. Pulyayev told me, these bags contained: the aforementioned PB automatic handguns with the cartridges, two SPM [medium-sized sticky] mines, F-1 grenades, electro-detonators, two radio communications sets, and 7 kilograms of plastic-based explosives.

Sometime around the middle of November, I saw on the Internet a video about the arrest of a woman involved in the explosion on the Stena rock pub. The video showed the weapons that had been confiscated from her, and from their appearance I realized that these were the same weapons that S.A. Mikheyenko, V.P. Topchayev and I had acquired in the summer under the aforementioned circumstances (I identified this from the appearance of the assault rifles, and from one of the cartridge pouches that was lying there – the same cartridge pouch that V.P. Topchayev had altered for himself).

I asked S.A. Mikheyenko who had been detained and whether these were our weapons. He responded that these were our weapons and that in October, he had handed them over to the aforementioned Marina “Zed.” Insofar as Marina had my contact details (we had exchanged phone numbers when we saw one another in the RF, she had written it down in her notebook), I was scared that she might “turn me in” and decided to go into hiding temporarily.

For this purpose, V.V. Pulyayev and I rented an apartment, as we didn’t want to spend the night at home. We rented this apartment on a per day basis on Timurovtsev St.

On November 21, 2014, I took V.V. Pulyayev and “Nastya” to the hostel located at 27 Timurovtsev St., Kharkov, after which they went into this building and rented a room in it.

Immediately after this, I picked up V.V. Pulyayev and “Nastya” and we went to the intersection of Geroyev Stalingrada St. and 50-ti let SSSR St., and upon arrival I met S.A. Mikheyenko, who handed over to me a home-made explosive device (a distributed charge of plastic-based explosives, which I handed over on a voluntary basis) and I handed over to him the 4 F-1 grenades and 96 cartridges that I had been keeping at my house. Afterwards, V.V. Pulyayev and I went back to the apartment we were renting, and “Nastya” went somewhere with S.A. Mikheyenko in his car.

At around 6.30pm on November 22, 2014, V.V. Pulyayev and I returned the apartment to its landlady and drove, in my car, in the direction of the intersection between 50-let SSSR and Geroyev Stalingrada Streets, where we met S.A. Mikheyenko and “Nastya,” who arrived in S.A. Mikheyenko’s car. After our meeting, V.V. Pulyayev took the home-made explosive device from my car and got into S.A. Mikheyenko’s car, after which they drove off, I don’t know where to. As S.A. Mikheyenko told me – either jokingly or in earnest – I was too fat and too slow at running.

That same day we met up again a few hours later and took a taxi to the Southern Station in Kharkov. We were there at around 9.30pm, but by that time no buses were going to Belgorod, so we ordered a taxi from the 30-40 service. A black Chevrolet Lacetti came to pick us up, in which we drove to the Zhuravlevka checkpoint between the state border of Ukraine and the Russian Federation. I crossed this checkpoint without any drama, but they didn’t let V.V. Pulyayev through insofar as he was a resident of the Dnepropetrovsk Region, so he was forced to go to another checkpoint.

Continued: Interrogation record of suspect V.M. Chekhovsky of May 09, 2015

We decided to leave because we'd run out of money and we decided to go and earn some at the building site in Belgorod.

At the aforementioned checkpoint, on the territory of the Russian Federation, by chance I met S.A. Mikheyenko and "Nastya," and we set off together for the village of Zhuravlevka, where Vadik "Batya" met us in a minibus. After that, Vadik "Batya" took us back to the hostel I referred to above, and in the morning of the next day, V.V. Pulyayev also came along to the aforementioned hostel.

At this hostel, I met up with the aforementioned Vasily "Lesnik" and also a guy by the name of Dmitry. One of those present told me that it was Dmitry that had been responsible for the explosion at the Stena rock pub. I asked him whether this was true, to which he was responded that indeed it was.

He had bought some accessories with the Ukrainian symbol, and had gone into this establishment a few times so that people wouldn't pay any attention to him. On the day of the explosion, he had been given an already live explosive device and told that he had half an hour. He took this device into the premises, bought a coffee, put down the bag containing the explosive device and left.

In response to my question about who had given him this device and whether those people had been detained by the Security Service of Ukraine, Dmitry said that the device had been handed over by the woman who had been detained by the Security Service of Ukraine and about whom it had been reported on the TV that the weapons had been found at her house.

Dmitry also said that he had blown up the water supply system near the Britannia club. He said that he had had little time, that he had one bomb remaining and nowhere to put it, so he had decided to blow it up there. He did not say anything else.

I stayed in Belgorod in the Russian Federation until December 7, 2014.

On December 7, 2014, I returned to Kharkov, and crossed the state border between Ukraine and the Russian Federation at the Zhuravlevka checkpoint.

On December 13, 2014, I rented a garage, No. 388, located in the Porshen cooperative, at Komandarma Uborevicha St., Kharkov, and immediately hid in this garage the weapons that I had previously been hiding at my house. I also learnt subsequently from S.A. Mikheyenko that he had obtained a new consignment of weapons which had been given to him by Vadik "Batya" and Oleg Sobchenko, although I don't know where he hid it.

On December 23, 2014, V.V. Pulyayev and I rented an apartment located at Apartment 142, 38a Komandarma Uborevicha St. We rented this apartment so that law-enforcement officers would not be able to find us, as we were afraid that the aforementioned Marina would turn us in.

That same day, I met up with S.A. Mikheyenko in the courtyard of the building located at 53, 50-ti let VLKSM Prospekt, Kharkov. During our meeting I handed over to him two SPM mines, and he gave me an RPG-7 to look after, two rounds for it and two pieces of plastic-based explosives. S.A. Mikheyenko had been the initiator of the meeting, as he told me that on December 24, 2014, he, "Nastya" and V.V. Pulyayev were planning to go to the RF to be trained in how to work with equipment which listens in to information transmitted by mobile phones. Straight after my meeting with S.A. Mikheyenko, I went to the garage I was renting, where I hid the weapons that had been given to me.

Continued: Interrogation record of suspect V.M. Chekhovsky of May 09, 2015

At around 6pm on December 24, 2014, as agreed with S.A. Mikheyenko, I took V.V. Pulyayev to the SunSity [sic] shopping center on Moskovsky Prospekt in Kharkov, where he was met by S.A. Mikheyenko, and the two of them went somewhere together. I returned to the apartment we had rented, but that evening V.V. Pulyayev also returned to the apartment and said that he hadn't been able to cross the border as there hadn't been a "corridor," and that therefore his departure was planned for December 25th.

On December 25, 2014, I took V.V. Pulyayev in my car to the 1st kilometer market, located on the Kharkov ring road, where S.A. Mikheyenko and "Nastya" were waiting for him. I then said goodbye to them and went back to the apartment I was renting, and after this I never met up with them again but maintained contact by e-mail (address: gpupkin21@gmail.com, password: 806f8545).

I also want to add that in December, I read a report on the Internet that V.P. Topchayev had been tortured and killed by officers of the Security Service of Ukraine. I was interested in verifying this information and ultimately, I found out that he had died in November 2014. Prior to his death, he had been drinking for around a week and was on a drinking spree. Because of his alcoholism, he had had an epileptic fit, due to which he had fallen from a staircase into the snow, where he lay for some time until he was found and an ambulance was called. Ultimately, he fell ill with pneumonia and died in hospital.

I have nothing more to say regarding the questions put to me.

[handwritten:] *I have read the protocol, it was correctly recorded from my words, I do not have any comments or amendments to make to the protocol.*

[illegible] *Chekhovsky* [signature]

Procedural action taken, record compiled by:

**Senior special investigator, section 1 investigations department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice**

[signature] **A. Prosnyak**

[stamp:]

THIS IS A TRUE COPY
Senior special investigator, section 1
investigations department,
Kharkiv Regional Directorate
of the Security Service of Ukraine
Senior Lieutenant
[signature] A. Prosnyak

[seal:]

Kharkiv Regional Directorate
of the Security Service of Ukraine
For packages

Annex 230

Signed Declaration of Dmytro Kononenko, Suspect Interrogation Protocol (13 May 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
of witness interrogation**

Kharkiv

May 13, 2015

Interrogation started at 18:40
Interrogation finished at 19:30

The senior investigator of the investigations department at the Kharkiv Regional Directorate of the Security Service of Ukraine, Senior Lieutenant of Justice A.Y. Berezhny, in the office of the investigations department at the Kharkiv Regional Directorate of the Security Service of Ukraine, in connection with a pre-trial investigation in the criminal proceedings entered in the Unified Register of Pre-trial Investigations on 05.13.2015 at No. 2201522000000203, and pursuant to articles 65, 66, 95, 104, 106, 223 and 224 of the Criminal Procedure Code of Ukraine, interrogated the witness

1. Full name: **Dmytro Ivanovych Kononenko**
2. Date of birth: **10.22.1987**

PERSONAL DATA AMENDED ON THE BASIS OF INVESTIGATOR'S RESOLUTION

[...]

[...]

In response to the questions asked, the witness gave the following testimony:

A few days ago, my long-standing acquaintance, Vadim Viktorovich Monastyrev contacted me through Skype. During our conversation, Vadim proposed that we carry out an act directed against the Armed Forces of Ukraine. For the sake of conversation, I agreed to Monastyrev's proposal. Vadim then said that he would tell me where and when he would hand over the weapons required, via a "dead drop." In addition, Monastyrev told me that I should myself select the object of the attack, and that the media should learn about it. I had no intention of performing any unlawful actions, and thought that Vadim would forget about our conversation.

The next day following this conversation, V.V. Monastyrev phoned me again via Skype and said that a Ukrainian military vehicle would need to be damaged during the period from May 13 to 15 of this year, so that the media would report on the activities of the "Kharkov Partisans" who were fighting the current authorities of Ukraine. In addition, Vadim said that he wasn't able to hand over the weapons and that I had to find explosives myself by contacting the overseers of the "Kharkov Partisans" via the Vkontakte social networking site. Vadim also said during our conversation that this act was being monitored by representatives of the Russian special services who could assist me if necessary. Following this conversation, I realized that Monastyrev was determined to commit an act of terrorism in Kharkov against the Ukrainian military, and regarded me as

[initials]

the main perpetrator of this crime. As I was scared, I deleted my Skype account.

However, I decided to report my conversation with and the plans of V.V. Monastyrev to the Kharkov Region Department of the Security Service of Ukraine, for corresponding measures to be taken aimed at preventing the commission of the crime.

Question: Please clarify your relationship with V.V. Monastyrev?

Response: I met Vadim several years ago, I can't remember under which circumstances. Since then we have had a normal, friendly relationship. Since the summer – fall of 2014, Vadim has disappeared and we haven't been in contact.

Question: Why did V.V. Monastyrev decided to phone you specifically for assistance in blowing up the Ukrainian military vehicle?

Response: I don't know. Vadim and I had similar political views, but I don't support the activities of the "Kharkov Partisans" and similar organizations, as I believe that Ukraine should be a united country.

Question: Did V.V. Monastyrev tell you why he needed to blow up the Ukrainian military vehicle?

Response: According to Vadim, this act would attract public attention to the activities of the "Kharkov Partisans."

Question: Did V.V. Monastyrev tell you about any specific representatives of the "Kharkov Partisans" from whom you should get the weapons?

Response: No, he didn't. Vadim said that I needed to contact the "Kharkov overseer" via the Vkontakte social networking site, who would help with this.

Question: Is there anything you want to add?

Response: I want to say that I'm prepared to take part on a voluntary basis in the suppression by the law-enforcement agencies of V.V. Monastyrev's unlawful actions.

Participants in the proceedings have been advised on the manner in which they can review the contents of the interrogation record, namely **view a written copy of the record.**

Having reviewed the text of the interrogation record, the participants in the proceedings **did not** request any changes, additions or comments.

Witness:

_____ ([signature]) (D.I. Kononenko)
(signature) (name in full)

Interrogated by, record compiled by:

**Senior investigator, section 3,
investigations department, Kharkiv Regional Directorate
of the Security Service of Ukraine
Senior Lieutenant of Justice**

[signature]

A.Y. Berezhny

Annex 231

Signed Declaration of Igor Koval, Suspect Interrogation Testimony (9 June 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF WITNESS QUESTIONING**

City [Illegible]

Date 9 June 2015

Questioning commenced at 10:00 a.m.

Questioning ended at 11:32 a.m.

Lieutenant Colonel of the Police [illegible] questioned the following individual as a witness in keeping with the requirements of Articles 65, 66, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine in connection with the investigation of Criminal Case No. 4201400000000457 of May 31, 2014 involving alleged crimes falling under Part 3 of Article 258, Part 5 of Article 260, Part 1 of Article 437, and Part 1 of Article 447 of the Criminal Code of Ukraine, in his office at the Donetsk Oblast Directorate of the Security Service of Ukraine in Mariupol:

1. First name, patronymic, last name: Ihor Vadymovych Koval
2. Date and place of birth: September 21, 1990, Vuhledar, Donetsk Oblast
3. Ethnicity: Ukrainian
4. Citizenship: Ukrainian
5. Education: secondary
6. Place of employment (or education), occupation and position: unemployed
7. Marital status: single
8. Address of residence (registration): 30 Shakhtarska Street, apartment 46, Vuhledar
9. Prior record of criminal convictions: in 2014, sentenced by the Vuhledar Municipal Court of Donetsk Oblast under Part 2 of Article 185 of the Criminal Code of Ukraine to 2 years of imprisonment with a 1-year probation term
10. People's representative (Y/N): N
11. Details of the passport or other identity document: identity verified

The requirements of Part 3 of Article 66 of the Criminal Procedure Code of Ukraine regarding the obligation of the witness to refrain from disclosing information about the completed procedural activity have been explained to the witness.

[Signature]
(Signature)

It was explained to the witness that he was summoned to testify in connection with criminal case No. 4201400000000457 of May 31, 2014, involving the alleged crimes falling under Part 3 of Article 258, Part 5 of Article 260, Part 1 of Article 437, and Part 1 of Article 447 of the Criminal Code of Ukraine.

[Signature]
(Signature)

The witness acknowledges having been explained the meaning of Article 63 of the Constitution of Ukraine to the effect that an individual may not be held accountable for refusing to offer testimony or explanations regarding himself, his family members or next of kin per the list defined by law.

[Signature]
(Signature)

The witness acknowledges having been explained the meaning of Article 18 of the Criminal Procedure Code of Ukraine about freedom from self-incrimination and the right not to testify against family members and next of kin.

[Signature]
(Signature)

The witness acknowledges having been explained the questioning procedure, his rights available under Article 66 of the Criminal Procedure Code of Ukraine, according to which:

1. The witness has the right to:

1) know in connection with what and as part of what criminal proceedings he or she is being questioned;

2) while testifying or participating in other procedural activities, use the legal assistance of an attorney, whose authorization must be proven according to the provisions of Article 50 of the Criminal Procedure Code of Ukraine (*specifically: 1) a certificate proving the attorney's right to engage in legal practice; 2) an order, an agreement with the defense attorney or an authorization issued by an agency (institution) that is authorized by law to provide free legal assistance*);

3) refuse to offer testimony about himself, his next of kin or family members, if such testimony can give rise to suspicion or accusation against him or his next of kin or family members of having committed a criminal offense, as well as testimony that is not subject to disclosure under Article 65 of this Code (*specifically – the following individuals may not be questioned as witnesses: 1) the defense attorney, the representative of the aggrieved party or plaintiff in a civil lawsuit, defendant in a civil lawsuit, the legal representative of the aggrieved party or plaintiff in a criminal lawsuit – about circumstances that have come to their knowledge as a result of performing their duties as a representative or defense attorney; 2) lawyers – about information protected by attorney-client privilege; 3) notaries – about information protected by notary-client privilege; 4) medical workers and other persons who have learned about a disease, medical checkup, examination or their results, an intimate or familial aspect of the person's life as a result of performing their professional or official duties – about information protected by doctor-patient privilege; 5) clergymen – about information they received during confession of believers; 6) journalists – about confidential information of a professional nature disclosed to them on condition of nondisclosure of authorship or the source of information; 7) professional judges, lay judges or jurors – about the circumstances of conference room discussions of issues that arose in the context of passing a judicial ruling, except in the instances of criminal proceedings against judges that knowingly issued unlawful verdicts or rulings; 8) persons involved in drafting and enforcing an amicable settlement agreement in criminal proceedings – about circumstances that have come to their knowledge by virtue of their participation in the drafting and enforcement of the amicable settlement agreement; 9) individuals who received witness protection – about the actual details of their identities; 10) individuals who possess information about the actual identity of persons who received witness protection – information about their identity. Individuals enjoying diplomatic immunity and employees of diplomatic missions may not be questioned as witnesses (and may refuse to testify) without the consent of a representative of the diplomatic mission*);

4) testify in his native language or another language of which he has fluent command, and use the services of an interpreter;

5) consult notes and documents when testifying in cases when the testimony concerns calculations or other information that is difficult to memorize;

6) be reimbursed for the costs associated with the summons to testify;

7) review the record of questioning and request for it to be amended, supplemented or updated with comments, and also write such additions or comments by hand;

8) request protection in the instances prescribed by the law;

9) request another interpreter.

2. The witness must:

1) when summoned, appear before an investigator, prosecutor, investigating judge, or court;

2) offer truthful testimony during a pretrial investigation or court proceedings;

3) refrain from disclosing information directly pertaining to the criminal investigation and proceedings being conducted (or previously conducted) as part of this investigation, which he or she learned in connection with his duties, unless authorized to do so by the investigator, prosecutor, or court.

3. A person involved in procedural activities as part of a pretrial investigation in the capacity of an attesting witness or a person who has witnessed such activities must not disclose information about such procedural activities when specifically asked by an investigator or prosecutor to refrain from such disclosure.

In addition, according to Part 7 of Article 224 of the Criminal Procedure Code of Ukraine, the person being questioned may write down his or her testimony by hand if he or she so wishes. The person being questioned may be asked additional questions based on his or her written testimony.

[Signature]

(Signature)

Pursuant to Article 67, the witness has been warned about criminal liability under Article 384 of the Criminal Code of Ukraine (*for giving knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*for refusal by the witness to testify*).

[Signature]

(Signature)

After being informed of his rights, the victim stated that he would like to testify in the Ukrainian language and present the testimony by having it written down.

The witness does not require the services of an interpreter.

The witness does not wish to use the services of an attorney while giving testimony.

[Signature]

(Signature)

When asked to testify about the circumstances of relevance to the criminal proceedings, the witness offered the following testimony:

Question: [paragraph is mostly illegible]

Answer: [paragraph is mostly illegible]

Question: When, where, under what circumstances, and by whom were you arrested in Ukrainian territory? What was the reason for your arrest?

Answer: On March 19, 2015, I was arrested by police officers at my address of residence. The reason for my arrest was my service in the Army of the Donetsk People's Republic ("DNR").

Question: What is your attitude to the anti-terrorist operation being conducted in Donetsk and Luhansk Oblasts?

Answer: I am categorically opposed to the anti-terrorist operation being conducted in Donetsk and Luhansk Oblast. I support a peaceful resolution of the conflict that has arisen. I realize that my service in the DNR Army was a mistake. I made that decision without thinking it through.

Question: What do you know about combat operations in the territory of Donetsk and Luhansk Oblasts? Did you participate in combat operations? If so, when and under what circumstances did you participate in combat operations? What was your reason for discharging firearms?

Answer: I understand the question. I was not directly involved in combat operations.

On October 8, 2014, my friend from Vuhledar, Evgeny Zinevich, called me on my mobile phone and asked if I was going to Donetsk, which was under the control of the DNR at the time. He suggested that we both join paramilitary groups of the DNR. I said yes.

Then, on October 9, 2014, I brought my passport and personal belongings, and Evgeny Zinevich and I arrived at the Zviozdochka Cinema in Donetsk. There is a DNR military unit behind the cinema. We went there. When we got there, an armed young man met us at the checkpoint. We asked him if we could join the ranks of the DNR Army. He said we could, and called his superior. He took us to an office on the second floor of that building. In the office he asked us why we decided to join the ranks of the DNR armed forces. We said that we wanted to serve in the DNR Army to help preserve the peace. We were then referred to another DNR serviceman who went by the code name "Zolotoy". He took us to the third floor where our accommodation (room) awaited us. There were already six people living in the room where he brought us. The first man – Sergey, who went by the code name "Bugay" – came from St. Petersburg. The second man – Roma, a.k.a "Rem" – came from Belarus. The third one – Sergey, a.k.a. "Satana" – came from Dnipropetrovsk. The fourth man – Victor, a.k.a. "Zeliony" – came from Donetsk. The fifth man was named Sergey; I don't know his code name or where he came from. The sixth man went by the code name "Sosna"; I don't recall his exact name; it could have been Sergey or Vladimir.

[Two illegible paragraphs]

After that, at around [illegible] to Rostov-on-Don, Russia for military training. I boarded that bus and we set off in the direction of Russia. We arrived in Rostov-on-Don at around 6:30 a.m. the following day. We were then sent to some military unit of the Russian Federation, which is located somewhere in the Volgograd area. To the best of my understanding, it was an anti-aircraft defense unit because it had the appropriate weapons. We were prohibited from speaking to the local military personnel. According to "Zolotoy", the local servicemen were not supposed to know where we came from and for what purpose, although they could see everything. We lived in the barracks on the premises of that unit. We had our meals in a canteen that was also located on the premises of the military unit. The following day we began our training in a field located some 5 minutes' walk from our barracks, on the grounds of the military unit. We trained from 8 a.m. to 5 p.m. on a daily basis except Saturdays and Sundays, as part of a battalion that was roughly 70 to 80-strong. In this field we were coached by Russian military personnel. One of them was named Valera, the other – Sergey. They both wore military uniforms without insignia. Our battalion was split up into two groups. One of the groups was taught by Sergey how to use shoulder-fired surface-to-air missiles in battle. The second group was taught by Valera how to use Strela-10 – a tracked missile system. I was part of the group that learned how to use the shoulder-fired surface-to-air missiles. We trained like that for about 10 days. We spent all this time on the grounds of the military unit in Volgograd, Russian Federation.

After completing our training, in November 2014 we returned to Komsomolsk, Starobeshevsk District, Donetsk Oblast. On arriving, we yet again moved into the same dormitory where we had stayed before our trip to the Russian Federation. We had two days off. Afterwards, each one of us was issued an AK-74 assault rifle and 4 magazines with live cartridges. We also received camo uniforms, army boots, and bayonet knives. Roughly at the same time we were issued military service cards of the DNR Army. The military service cards bore the corresponding inscriptions. According to the document issued, I was a private serving in the anti-aircraft forces of the DNR Army as part of Unit ZDN No. 00881. Ours was a 15-member unit commanded by Sergey Starichenko ("Zolotoy"). After receiving our weapons, we began military duty at the "Bashnya" and "Otval" emplacements in belts of forest about 5 km from Komsomolsk in the direction of Snezhnoe, Donetsk Oblast. Our main mission was to destroy aircraft of the Ukrainian Armed Forces. We also had two combat posts in the barracks where we stayed. One of them was located on the building roof and the other one directly next to the barracks. We kept watch on a 24-hours-on/24-hours-off schedule.

[Mostly illegible paragraph – the witness seems to describe the weapons they had with them when on duty: AK-74 assault rifles with 4 magazines of live cartridges. They wore camo uniforms. In addition, they had one shoulder-fired surface-to-air missile at the “Bashnya” and “Otval” emplacements to shoot down airborne targets. They were not allowed to use mobile phones. They underwent training once a week.]

One time, on orders from the command, “Moisey”, I, [illegible] Alexey, and Dobrynia Alexander set off in the direction of Debaltsevo, Donetsk Oblast. We left Komsomolsk on a Strela-10 tracked missile system. We were also accompanied by an URAL truck loaded with 20 surface-to-air missiles for the Strela-10 system. Roughly in 24 hours we arrived in some population center whose name I don’t know, a short distance from Debaltsevo. In this population center, we handed over the missiles from the URAL truck to representatives of the “Oplot” unit of the DNR Army. At the time there were close to 1,000 DNR servicemen. After handing over the missiles, we returned to Komsomolsk 24 hours later.

About two days later, I, Alexey Kravtsov, and some 30 more DNR servicemen were sent onboard an URAL truck to Ilovaysk. The order came from “Moisey”. We were tasked with unloading missiles for the GRAD multiple rocket launcher that arrived in freight cars. I presume that they arrived from the Russian Federation. On arriving at the railway station of Ilovaysk, our group of about 30 people unloaded 4 freight cars with crates containing missiles for the GRAD multiple rocket launcher. We were loading them into URAL trucks that were eventually sent to Donetsk and Komsomolsk to be used by the DNR army. We unloaded the freight cars in the space of one day. We then returned back to Komsomolsk.

Also, I, Alexey Kravtsov from Komsomolsk and Alexander Dobrynia (who was appointed as the group leader by “Moisey”) were sent to the village of Lukovo (near the village of Shirokino), Telmanovka District, Donetsk Oblast. We were transported to our destination in an URAL truck, which also carried dry rations for DNR servicemen who manned combat positions there. In Lukovo, we set up our position in a residential building with two shoulder-fired surface-to-air missiles, which we had to use, if necessary, to destroy airborne targets of the Ukrainian Army. We had to report to “Moisey” about any potential appearance of an enemy, who would decide what to do next. In Lukovo, our group kept sentry for [illegible] days. Afterwards, we were again recalled to our unit in Komsomolsk.

Eventually I stayed in Komsomolsk until March 15, 2015. [Illegible] I approached Alexander Dobrynia and asked him for a leave to visit my mother in Donetsk. I lied that she was there. In reality, my mother was in Vuhledar at the time.

[Illegible paragraph]

Question: Did you witness any casualties or wounded people among military personnel or civilians, any instances of bodily injuries, attacks on military or high-security facilities (units, command posts, border crossing points on the state border of Ukraine), instances in which firearms, military or special-purpose equipment were seized? If so, where, when, and under what circumstances did this occur?

Answer: I did not witness the above-mentioned events.

Question: Are you aware of any instances where military personnel of the Russian Armed Forces or Russian citizens used weapons in Ukrainian territory? If so, where, when, under what circumstances, and how often did they use such weapons? What kind of weapons were those exactly?

Answer: I understand the question, but I have no such information.

Question: Are you aware of any instances where weapons were fired from the territory of the Russian Federation? If so, where, when, and under what circumstances were weapons fired from the territory of the Russian Federation? How often were weapons fired from the Russian Federation? Which weapons exactly?

Answer: I understand the question, but I am not aware of any such facts.

Question: Are you aware of any instances where servicemen or civilians were killed or wounded, sustained bodily injuries, etc. as a result of attacks coming from the Russian Federation? If so, when and under what circumstances did you learn about this? About what specific facts of the use of weapons from the territory of the Russian Federation can you testify, stating the time, place and type of weapons used?

Answer: I am not aware of any such facts.

Question: What do you know about instances of illegal crossing of the state border of Ukraine by citizens of the Russian Federation, who attempted to join the ranks of the terrorist organization known as the Luhansk People's Republic?

Answer: I know nothing about such instances. However, as I testified earlier, a man named Sergey who went by the code name of "Bugay" served with me in the DNR Army. He came from St. Petersburg; another man – Roma, who went by the code name of "Rem", came from Belarus. I am not aware how they crossed the state border of Ukraine.

Question: Are you aware of any instances of illegal crossing of the state border of Ukraine by military vehicles from the Russian Federation? If so, when and under what circumstances did the witness learn about this? What specific facts can the witness testify about, stating the time, place, type and number of vehicles, or the people escorting (meeting) them?

Answer: I have no knowledge of specific instances in which military vehicles or weapons illegally crossed the state border into Ukraine. Like I said earlier, I participated in the unloading of 4 freight cars with crates containing missiles for GRAD multiple rocket launchers. [illegible]

[Two illegible paragraphs]

Question: Are you aware of any instances of operations in Luhansk Oblast by illegal paramilitary groups and units of the regular Russian Army or other military groups formed with the assistance and funding of the Russian Federation? If so, which exactly? Can you testify about specific facts involving operations by illegal paramilitary groups and units of the regular Russian Army, indicating the time, place, number of attackers, types of weapons and vehicles used, and their purpose?

Answer: During the time that I served in the DNR Army, I haven't seen a single career officer of the regular army of the Russian Federation.

Question: Do you know the individuals or structures that organize, control, and carry out the illegal crossing of the state border of Ukraine from the Russian Federation of military vehicles, material resources, and mercenaries to participate in the armed conflict in Donetsk and/or Luhansk Oblast?

Answer: I understand the question, but I know nothing about this.

Question: Do you know any identities of the people (Russian citizens, representatives of the Russian intelligence services or the Russian Army) who directly command the illegal paramilitary groups of the Luhansk People's Republic and have been directing all or some of the military operations since April 2014 until present?

Answer: I do not know their identities.

Question: What do you know about the organization of the set of military organization, material and technical measures designed to ensure readiness for combat operations, specifically redeployments of forces of the regular Russian army, illegal paramilitary groups, construction of fortifications, scaling up of production and/or movement of weapons and military vehicles at military units and divisions of the regular Russian army in Donetsk and/or Luhansk Oblast during the period from April 2014 until present?

Answer: I understand the question but I know nothing about this.

Question: Are you aware of any facts involving murders, torture, battery, crippling, collective punishment, major suffering, or other cruel treatment, or instances of military personnel of the Ukrainian Armed Forces, National Guard of Ukraine, officers of the Security Service of Ukraine, Ministry of Internal Affairs, the State Border Guard Service of Ukraine, or volunteer battalions of Ukraine being forced to serve in units of the terrorist organizations known as the Donetsk People's Republic and the Luhansk People's Republic on the part of military personnel of the Russian Army?

Answer: I know nothing about such facts.

Question: Do you know any citizens or military personnel of the Russian Army involved in organizing mobilization (recruitment) in Donetsk and Luhansk Oblasts between April 2014 and the present time?

Answer: I do not know any such persons.

Question: Do you have any information about the training of personnel at special-purpose training centers in the territory of the Donetsk People's Republic, Luhansk People's Republic, and Russia (locations of such centers, number of trainees, senior officers and commanders, training periods, procedure of allocation, sizes of groups, code names, aliases, etc.)?

Answer: I personally underwent training in the Russian Federation. I testified about this earlier.

Question: What do you know about the circumstances of the funding and planning by representatives of intelligence services and/or other authorities of the Russian Federation of combat operations in general and/or specific combat missions in Donetsk or Luhansk Oblast between April 2014 and the present time?

Answer: I know nothing about this.

Question: What do you know about the circumstances under which military personnel of the Russian Army in Donetsk and Luhansk Oblast committed theft of highly valuable property (major industrial facilities, raw materials, food, transportation facilities, residential properties, cultural landmarks, etc.) and repurposed industrial enterprises of Ukraine to manufacture products, raw materials, etc. and uncontrollably transport (smuggle) them into Russian territory between April 2014 and the present time?

Answer: I know nothing about any theft committed by Russian military personnel in Donetsk and Luhansk Oblasts.

Question: Are you aware of any instances in which the DNR or LNR conducted any informational provocations, specifically instances of dissemination of leaflets, calls for Ukrainian servicemen to lay down their weapons, switch over to the DNR or LNR, the Russian Federation, refrain from resisting the separatists and other illegal paramilitary groups operating in Donetsk and Luhansk Oblasts?

Answer: I understand the question, but I heard nothing about such instances. I am unable to offer any more testimony in response to the questions asked.

The witness was informed about the way in which he can review the contents of the record – specifically by receiving the written record to be read by the witness.

Witness: [Signature]

Questioned and record prepared by:

Senior Investigator with the Operative Unit

of the Investigative Department of the Donetsk Oblast

Directorate of the Security Service of Ukraine

Lieutenant Colonel of Justice

[Signature]

O.V. [Illegible]

Annex 232

Signed Declaration of Igor Panchyshyn, Witness Interrogation Protocol (18 June 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

[...]

[...]

[...]

[...]

In response to a request to give his testimony regarding what he knows about the criminal proceedings, the witness stated the following:

I reside at the above address with my wife, Oksana Vasilyevna Panchishina, d.o.b. 04/22/1968, and my son, Ostap Igorevich Panchishin, d.o.b. 03/09/1994. My daughter, Zoryana Igorevna Panchishina, d.o.b. 05/23/1997, is also registered at the same address and lived with us until recently, when she got married. She now lives in the neighborhood.

On August 18, 2014, I was called up to the Armed Forces of Ukraine, specifically to National Guard Unit 3202, to serve as a cook. On September 1, 2014, I was redeployed to the city of Debaltseve, Donetsk Region, to engage in combat operations with the enemy, illegal armed formations of the DPR [Donetsk People's Republic].

On the morning of February 18, 2015, after yet another round of shelling, and after our base was destroyed, Nikolai Valebny and I came out of the bomb shelter, which was located in the canteen, and saw that there was nobody left at the base. Nikolai Valebny contacted unit commander Aleksei (call sign "Cap") by cell phone. From their telephone conversation we learned that our forces had withdrawn and received the order to move to the town of Lohvynove. We also learned that the area had been occupied by illegal armed formations of the DPR. Nikolai and I left the base, taking our Kalashnikov assault rifles and ammunition with us. We were wearing military uniforms, as we had no other clothes. On the road to Lohvynove, we came under fire. After that, we noticed two enemy tanks shelling the road. I think the tank drivers noticed us and ordered the soldiers covering the tanks to open mortar fire. We waited out the mortar fire and made our way to Lohvynove. Nikolai then contacted "Cap," who adjusted our course over the phone and told us to hide in the wreckage of some hardware and await further instructions. A short time later, we heard someone calling out to us from behind. Turning around, we saw that we were surrounded by a group of about 10 people in military fatigues with white arm bands. It was a DNR volunteer unit. They disarmed us and took us to a building in the town of Lohvynove. Next to one building they showed us three dead Ukrainian Armed Forces soldiers and told us to bury them. Nikolai and I laid the dead bodies in a ditch, covered them with a blanket, and then covered them with stones. A member of the illegal armed formation of the DPR then inspected our documents and found out that we were from Lviv, after which they started beating us up and threatening to shoot us. After a while, a man in military uniform came out of the building next to the courtyard where they were beating us up and told them to stop. They stopped beating us. A moment later, the area came under mortar fire. They hid us in a basement and gave us a cell phone so that we could call our loved ones. I called my daughter and told her that I had been taken prisoner. Nikolai called his mother or fiancée and told them the same thing. After the shelling stopped, they drove us to their Donetsk headquarters, which is located at 23a ul. Shchorsa, Donetsk. We were met by a soldier with the call sign "Czech," who ordered his subordinates to change us into different clothes. They then led us into a room (a medical isolation ward) and posted an armed guard there. That same day, "Czech" came into the room and had a chat with us. During this chat, he found out

who we were, where we were from, how we had been captured, and what functions we performed in our military unit. We stayed in that room under armed guard for four days. During our chat with “Czech,” I learned that most of the prisoners who had been captured in Debaltseve were being held at the former SBU building in Donetsk. They later started using us for domestic chores and for loading and unloading various weapons, under the supervision of a guard. We worked at both the Headquarters and the former SBU building.

After three months in captivity, they told us on May 18, 2015, that they were sending us home. As I had previously been able to get in touch with my loved ones back home, I had found out that the DPR members were going to hand us over, and that the volunteers in charge of the exchange process, whom my daughter had contacted, would meet us and take us home. I learned it had been agreed that we would be handed over near the city of Artemivsk, Donetsk Region, and that we would be driven out to the “zero” DPR checkpoint, and the volunteers would meet us at our outermost checkpoint. When we arrived at the checkpoint, the duty officers there came out to meet us and forbade us to drive any further, as exchanges were prohibited at that time, and we were not being sent home through official channels. “Gagarin,” Rinat, and “Semerka” immediately drove up to the checkpoint and tried to resolve the matter of our passage through the checkpoint. After that, we were taken back to headquarters. The following day, they tried to take us again, and this time everything went smoothly. Upon parting, Rinat pointed out that my daughter, whom I had called while in captivity, had his phone number. “Gagarin” dictated his cellphone number to me, just in case, and I wrote it down in a notebook that I had with me. “Bonya” then walked over to say good-bye and wrote her cellphone number in my notebook with her own hand. They then handed us over to the Ukrainian volunteers.

The day after I got home, I got in touch with Rinat, told him that I was already home, and thanked him for sending me home. Since then, I have not been in touch with any members of the DPR.

Question: Which members of the DPR do you know, and whom did you see while you were a prisoner?

Answer: During my three months as a prisoner with “Czech’s” reconnaissance unit (their emblem was a black bat), I got to know the following members of the unit:

- Aleksei Litvinenko, call sign “Gagarin,” commander of a special ops platoon. From my conversations with him, I learned that he is a Russian citizen, born and residing in the city of Samara, Russia, and that he is a commissioned Russian officer from the Airborne Forces. He always walked around in a light-blue beret. His special ops unit contained 15 well-equipped soldiers. I also know that he was married and has a daughter (who lives in Russia). He looks to be about 28–30 years old. I had a bad relationship with “Gagarin” in the beginning. He had strong nationalistic views and also did drugs. Appearance-wise, he has a skinny build but gives the impression of having had good physical training.

Question: Would you be able to recognize “Gagarin”?

Answer: I would be able to recognize Gagarin if he were presented to me in person or from photographs, both by his general facial features and by certain aspects of his constitution and outward appearance.

- Next, there was “Mik,” skinny with dark brown hair and glasses, about 175 cm tall. He comes across as an insecure person – a rank-and-file rebel soldier, in my opinion. He put psychological pressure on us and subjected us to systematic mockery (he forced us to learn the song “Rise up, Donetsk!”). I often saw him high on drugs and inebriated. One time he gave Nikolai and me a cell phone so that we could call our loved ones.

- Rinat – Slavic appearance, looked to be about 40–45 years old, 178 cm tall, solid build, stiff, sinewy, thin face, unkempt and scruffy, nondescript facial features, dark brown hair with streaks of gray. From speaking with Rinat, I also learned that he is a Russian citizen, born and residing in the city of Samara, Russia, and a career military man, which is also apparent from the way he acts and talks. Rinat did not tell me exactly where in Russia he served, but from our conversations it seemed that he had ties to some special service or intelligence agency. Rinat also told me that he was involved in combat operations in the Chechen Republic and Afghanistan. I met him in late February, when he and “Gagarin” came into the room where Nikolai and I were being held. I often saw Rinat with a sniper rifle. People also said that he was an excellent sniper and a good shot. It was clear from his demeanor that Rinat was a commanding officer, not a regular foot soldier. He is also a drug user.

Question: Would you be able to identify Rinat? If so, based on what features?

Answer: I would be able to recognize Rinat if he were presented to me in person or from photographs, both by his general facial features and by certain aspects of his constitution and outward appearance.

- Next, I know “Bonya,” a woman who looks to be over 30 years old, blonde, hair slightly more than shoulder-length, pretty, a scar on her right temporal lobe and cheek, limps on her right leg, walks with a cane, wears a military uniform, carries a pistol in a holster on her hip. I think she is “Czech’s” second-in-command.

- “Semerka” [“Seven”], “Czech’s” wife, wears a uniform, looks to be about 35–40 years old, brown hair, shoulder-length hair, friends with Bonya, 165–170 cm tall, pleasant appearance.

- “Demon,” driver for the officers (drives a Mitsubishi), short, plump, about 50 years old, corpulent face, crooked nose, double chin, short brown hair, lives in Donetsk, has relatives in western Ukraine. Has clear sadistic tendencies.

- “Yezhik” [“Hedgehog”], I believe her name is Oksana, commandant, dark red hair, “Demon’s” wife, wears a military uniform and a pistol on her hip, looks to be about 45 years old, average complexion.

- “Leshiy” looks to be about 25–30 years old, short, fair hair.

- “Doc” looks to be about 30 years old, skinny, light brown hair.

Question: Was there any weaponry at the bases where they held you prisoner?

Answer: Yes, I personally saw the following weapons and equipment there: 6 mortars, 120 mortar shells, firearms, SNGs, RPGs, AKSes, Uteses, RNKs, automatic grenade launchers, and 4 KAMAZ trucks. Most of it was new and Russian-made.

Question: What can you add to what you have already said?

Answer: While we were being held prisoner, Nikolai developed a friendly relationship with the soldiers. “Demon” often invited

him over to his place, where he and Rinat would try to persuade him to switch over to their side and move his family to Donetsk. They plied him with alcoholic drinks and drugs and often allowed him to call his wife. Rinat and “Demon” actually spoke with Nikolai’s wife, Olesya, and tried to talk her into coming, but she refused.

Moreover, in the course of our joint service in the Armed Forces of Ukraine, I noticed about Nikolai that, because of his spinelessness, he would snitch on his comrades to the officers and, vice versa, discuss the conduct and actions of the officers with the rest of the troops.

The witness was advised how he could review the content of the transcript – specifically, by personally reading the written transcript.

Witness _____ / _____ /

Interviewed by:

**Investigator, Investigations Department of the Donetsk
Regional Directorate of the Security Service of Ukraine
Senior Lieutenant of Justice [signature] S.S. Fesenko**

[illegible stamp]

Annex 233

Signed Declaration of Kostiantyn Nuzhnenkoenko, Suspect Interrogation Protocol (16 July 2015),

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

I, Kostiantyn Anatoliyovych Nuzhnenko, served in the military under contract from 2005 to 2011 at the Border Guard Service of Ukraine. I held positions as Category 2 inspector and radiation safety officer with the military rank of warrant officer. I served at Military Unit 9951 (Kharkiv, Kharkiv Border Guard Detachment) at the border crossing points of Hoptivka, Kozacha Lopan, and Kharkiv Zaliznychnyi. My functional duties included checking the papers of individuals crossing the state border of Ukraine and performing other border control tasks. In 2011, I was discharged from the Border Guard Service of Ukraine following a complaint and an ensuing internal investigation. The complaint alleged that I demanded a bribe from a woman who was a national of Uzbekistan. Although I did not commit this offense, I was dismissed anyway. I appealed my dismissal in court, but to no avail.

I reside in the town of Trostyanets with my father Anatoliy Mykolayovych Nuzhnenko (d.o.b. September 25, 1941) in a private residence at the above-mentioned address. This building is my private property.

Since 1997, I have been married to Olena Mykolayivna Honcharenko (d.o.b. February 26, 1969) and have daughter Nastya born to this marriage. My wife resides in Kharkiv at 81 Shyronentsiv Street, apartment 39. I stopped living with my family in 2011 over conflicts with my mother-in-law. I constantly communicate with my daughter and stay in touch with my wife. I visit them regularly and support them financially.

After my dismissal from the Border Guard Service of Ukraine, I became a migrant worker in Moscow where I worked as a masseur, driver, and sauna operator. I was not employed officially.

In the spring of 2014, I left Moscow in the direction of Ukraine. At the railway station in Belgorod (Russian Federation), I bought a newspaper with job classifieds and called a number for a job as a helper (which paid 700 roubles a day). My call was answered by an individual named Serhiy, who informed me that the job involved helping with the construction of a building in the village of Severny (on the outskirts of Belgorod). I agreed and began working there. I resided in a private residence of my employer.

After some time (in early summer), I met a young lady named Nastya Terechiva (born around 1986), who also specialized in construction and landscaping. We both were coworkers and had a personal relationship. I also helped her with her work.

Belgorod is home of the “Officers of Russia” Public Chamber at Bogdana Khmelnytskogo Street, Belgorod (I do not recall the building number), managed by Andrey Viktorovich Svishchev. This organization provides humanitarian aid to Ukrainian refugees (displaced persons) from Donbas. They provide housing, employment, and financial aid.

Roughly one week after meeting Nastya, I was looking for people to work at her sites and went to A.V. Svishchev to recruit appropriate workers. Nastya and I were not personally acquainted with A.V. Svishchev. However, it is common knowledge that his organization has people looking for work. After going there, I met A.V. Svishchev and exchanged phone numbers with him. He gave me the number +79103607033, while I gave him my own number (the operator was Megafon; I don't recall the actual number).

For 1 or 2 months, I visited A.V. Svishchev from time to time and recruited workers. Sometimes I helped transport humanitarian cargo to the office of this organization. I performed minor requests they gave me. Sometime in late summer, I visited A.V. Svishchev's office again where I met Vadim Viktorovych Monastyriov who was together with A.V. Svishchev. V.V. Monastyriov informed me that he came from Kharkiv. Sometimes he and I discussed the situation in Ukraine, shared thoughts on the spread of Nazism in the country and the threat of the Right Sector.

After meeting V.V. Monastyriov, I started communicating with him to discuss work and sometimes also personal issues (once I had a few beers with him). During such meetings he told me that we had to fight Nazism in Ukraine; that the war would soon spread from Donbas to Kharkiv and Sumy. When this happens, we would have to answer to the militias for the position we had taken. I agreed with him, since I partly shared his views.

Sometime ahead of the New Year in December 2014, V.V. Monastyriov offered me to recruit a group in Ukraine that would engage in sabotage and destabilize the situation in the country. I agreed. After some time, I received a call from a man who suggested we meet in Belgorod in the street. When I arrived, I was approached by a man about 35 years old, tall, looking official, who presented an ID of a Federal Security Service officer. He was aware of my ties with Monastyriov and Svishchev. He inquired about the situation in Ukraine, mobilization, and the social situation. He also asked when I would be going to Ukraine. I said that I visit my mother regularly, about once a month. He did not tell me anything else and did not give me any tasks.

Afterwards, several days later, V.V. Monastyriov arranged a meeting at the “Potapych” coffee shop in Belgorod with four people (I had not seen them before; they did not give their names). These people introduced themselves as representatives of a news service, inquired about mobilization in Ukraine, how it was progressing, the social situation in Sumy and Kharkiv. Then they inquired if I could recruit people for rallies in Ukraine. I said I didn’t know but could ask around.

Then I went to Sumy and met with a former fellow serviceman – Valeriy Tytarenko (I don’t remember his patronymic; he resides in Sumy and is close to 36 years old). He uses a phone with the number 095-152-17-12. I met with him in the winter of 2014 (I don’t recall the date) in a coffee shop next to the Agrarian University (in Sumy). During my conversation with V. Tytarenko, I told him that I needed people to hold rallies and protests in Sumy. Valeriy said he was not interested on account of being a patriot of Ukraine. However, he knew Shasha, who could be suitable for such tasks. That same day, Shasha arrived at the same coffee shop (I have no other identity information of his; he looked 45, short, gray hair, worked as a security guard at the Lavyna mall, former police officer), and I also told him about the need to hold protest rallies in Sumy. Sasha agreed and we exchanged phone numbers. He gave me the phone numbers 099-398-27-22 and 050-307-17-07. We said our goodbyes after this.

In early 2015, I went to Russia again, where I notified V.V. Monastyriov that I had handpicked a man who was willing to meet with him and carry out the tasks on hand. Monastyriov responded by asking me to tell him to come to Belgorod soon. I called Sasha and told him to cover over. Sasha said this wasn’t a problem but that he could only do so on weekends. In late January 2015, Sasha came to Belgorod where we met again at the “Potapych” coffee shop with the same people I met with the first time. We engaged in a bit of small talk. Then we went to the outskirts where they asked me to step out of the car, while Sasha stayed inside. I was standing in the street. After getting back in the car later, I heard him telling about himself that he used to study in St. Petersburg and that he was a former police major.

During this conversation I also heard that Sasha was tasked with choosing targets such as the railway station or a volunteer office to commit sabotage and thereby earn their trust. Those events had to create a stir in the mass media. Meanwhile, there had to be no human casualties, according to them. During such events, we were required to take photographs, albeit with a

camera and not a phone. Since we did not have a camera, they promised to issue one, but never did.

Then we went to the coffee shop together and had a meal. At the end of the meeting we were given 5,000 roubles each. Sasha asked about the money, after which they paid us. One of those people said that Sasha would be the group leader responsible for our activities. They also told us that when the new (pro-Russian) forces come to power in Sumy and Kharkiv, we would receive good high-paid jobs.

We were also instructed to keep quiet about the fact that these meetings happened and the nature of our conversations.

After this meeting, Sasha and I went to Ukraine. I traveled between Ukraine and Russia and back through various border crossing points (Hoptivka, V. Pysarivka) in a car. After returning to Ukraine, I met with Sasha a few times in Sumy. Sasha and I discussed the events happening around us. Sasha had some doubts about the seriousness of the intentions of the people who met with us in Russia. I said that, according to Monastyriov, they were serious people and everything would be fine.

During the above-mentioned meeting, Sasha and I received a flash card for using email, which we used to contact said people. They told Sasha that this email account had to be used covertly. Specifically, communication happened through the "Drafts" folder of the email account. Two users had access to this account at the same time. That's why actual emails were not sent, and all communication happened through the "Drafts" folder only. The flash card stored the login name and password credentials for accessing the email account. However, back in Sumy we tried logging into this email account on Sasha's office computer, but to no avail.

Toward the end of winter, I returned to Belgorod where I met with Monastyriov and informed him that we could not log into the email account and returned the flash card to him. Then he showed me a photo on the phone showing a certain location. As he put it, a package would be left for us at the location, containing items that he knows nothing about. I recognized this place in the photo: it was a stele monument of Sumy at the entrance to the city from the direction of the Sumy border guard detachment (Bilopillia direction). I remember this location and can recognize it again. However, Monastyriov said that I didn't need to go there right away, but about a week later. During this conversation Monastyriov also told me about an opportunity to go to a

special training camp for saboteurs, where they could teach us how to operate, specifically how to handle weapons and explosives. I refused to go to such camps, while Sasha said on the phone that he didn't mind going to a camp like that.

About a week later I came to Sumy where I called Sasha and told him about the need to collect items left for us by the people whom we met with in Russia. Sasha arranged for his friend to take us there in his car. The car was light-colored (fawn-colored, to the best of my recollection), a foreign-made model (possibly Opel or Toyota). I had not seen the driver before. It was a friend of Sasha's. To the best of my recollection, his name was Vitalik. After arriving at said location, we came over and saw a heap of garbage, with a black PVC bag in the middle of it. When we approached it and picked it up, we saw grenades inside. I don't know the model and never saw it before. They appeared to be cylindrical, green, with disconnected fuses lying separate from the grenades. We were a little surprised to find grenades there. I had not previously seen grenades and did not know how to use them or their purpose. Sasha picked up these grenades and put them inside his jacket pocket. The driver was in the car during this time and did not see it. For that matter, I do not recall discussing receiving the grenades in Vitalik's presence. That's why I don't know whether he knows or not about the weapons received by us.

Then we went to the bus station of Sumy and had beers there, discussing the problem of using these grenades. Sasha was concerned about the way we were going to use them. He said that it was possible that we would not make it a safe distance away after throwing them. We did not discuss any specific plans. I have no idea where Sasha is storing those grenades. He did not tell me anything about this.

Sometime in March 2015, I went to Belgorod where I met with Monastyriov again and informed him that we had received the grenades. He said that the items in the bag were also unexpected for him. Several days later he arranged a meeting with the same people as before. They asked me why we were sitting on our hands and not doing anything. They said we needed to "distinguish" ourselves at least somehow. I replied by asking: How could we do anything when we don't know how to do anything? This conversation happened in a negative manner. These people expressed dissatisfaction and said that we were not serious. They said there was no point contacting us. I agreed with this, and they left, leaving us with Monastyriov alone. After this,

Monastyriov was displeased with their behavior and told me to keep in touch with him only from then on, and decided to say goodbye to me.

My last meeting with Monastyriov happened in May 2015, when he asked me to discuss with Sasha his potential involvement in the activity we had discussed with him previously. He also asked if it would be possible to arrange for him to illegally cross the state border of Ukraine outside the border crossing points near Kharkiv. I said that I could not tell him for sure but would inquire about this possibility.

Monastyriov also gave me a task to recruit people in Ukraine to undergo training at Russian training camps and subsequently stage sabotage operations in Ukraine. I said I would pass this information on to Sasha.

After this, I spoke to Sasha on the phone. During this conversation he told me he agreed to continue destabilizing the situation in Ukraine and expressed a wish to go to the training camp. Somewhat later in a phone call, he also told me that he recruited 5-6 people who could go to Russian training camps for saboteurs with him.

I have not yet informed Monastyriov about Sasha's agreement to continue said activities and recruit people. For the most part, I maintain communication with him through personal meetings. However, when I can't come to Russia for a long time, I can call him on the mobile or send a text message.

[hw:] My testimony has been written down correctly. I have read it and have no complaints about the text and have nothing to add.

[Signature]

Questioned by: Colonel Yu.D. Oparenko [Signature]
Deputy Chief of the Central Counterintelligence Directorate of the Sumy Oblast Directorate of the Security Service of Ukraine

Annex 234

Signed Declaration of Vladimir Starkov, Suspect Interrogation Protocol (27 July 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

STENOGRAM

of interview of suspect V.O. Starkov dated 07/27/15

Person off screen (hereinafter “I”): So, today is July 27, 2015. We are recording an investigative action, the interrogation of the suspect Vladimir Aleksandrovich Starkov, born in 1978. The recording is being made in the offices of the Donetsk Region Department of the Security Service of Ukraine, in the city of Mariupol.

Vladimir Aleksandrovich, please tell us about yourself. Tell us who you are ... what you are ... Let's start with your personal details. In full, where you were born, where you've lived, what sort of education you've completed, where you work—about this ...

V.O. Starkov (hereinafter “S”): I, Vladimir Aleksandrovich Starkov, was born on April 28, 1978. I was born in the town of Zuyevka in the Kirov Region. I'm an ethnic Russian and currently an active officer in the Russian army, in the rank of major.

I: In other words, you're a citizen of the Russian Federation.

S: Yes, sir.

I: I see. What's your education?

S: So ... I graduated in ninety-nine from the Kirov Military Aviation Technical College, as a technician for MI-8 MT helicopters and TV3-117MTV engines.

I: Where are you living now? Well ... where are you currently officially registered?

S: I'm officially registered at Apartment 12, 3 Karbysheva St., Tyysin village, Tambovsky District, Khabarovsk Territory.

I: Are you married?

S: Yes, I'm married.

I: Tell us your spouse's surname, first name and patronymic, please.

S: Larisa Vladimirovna Starkova.

I: Do you have children?

S: Yes, two children.

[...]

I: Do they live with you?

S: Yes, they live with me, they're also registered at Apartment 12, 3 Karbysheva St., Tyysin village, Tambovsky District, Khabarovsk Territory.

I: I see. Vladimir Aleksandrovich, show us, please, about ... You've said that you're an active officer of the Russian Federation. Please tell us where you've served, or are serving. In full, if you can, your postings, starting from when you graduated from the aviation college.

S: So, in ninety-nine, I graduated from the Kirov Military Aviation Technical College, on March 31, ninety-nine. I was then sent ... posted to the Chief Missile and Munitions Department and sent to Serdobsok in the Penza Region for retraining ... advanced training. After I'd finished that, I was posted to the Nizhny Novgorod Region, to Linda station, Military Unit 83272. I served there until March 2003. From March 2003 onwards I was transferred ... um ... I served in the position of head of the energy mechanical division. I was then transferred in

March 2003 to the Khabarovsk Territory, the Tyysin settlement, Military Unit 55487. I arrived there in the position of engineer of the technical control department, and spent two years in this position. In 2005 I was appointed to the position of officer for mobilization work. I served in this position in this same unit for two years. I was subsequently appointed head of the personnel department of Military Unit 55487. I served in this position until December 2009. Due to the staffing measures that were carried out in 2009, this position was cut and I was placed at the disposal of the commanding officer of this unit. I was at his disposal for around ... as you were, not at his disposal, but was appointed to the position of assistant head of the organizational planning department. I served in this position for around a year. The position was also cut due to staffing measures. Then, from 2011 up to 2013, I was at his disposal. And from March ... from March 2013 onwards, I was appointed to the position of head of the organizational planning department of Military Unit 59313-6 at the base for the integrated storage of missiles and ammunition. In that same populated settlement, the name of the military unit was simply changed in connection with the staffing measures. I served in this position until March 2015. In early March 2015, I was appointed to the position of head of the Missile and Munitions service (inaudible) ... 3rd department of the 12th Command of the reserve motorized rifle troops of Military Unit 89462, in Novocherkassk. Upon arriving there, on March 3, 2015 ... so ... on March 4 we were gathered together in the conference room, briefed and told that we would be serving in the Republic of Ukraine, in Lugansk.

I: Vladimir Aleksandrovich, we'll come back to this in a minute. Tell me please, you say that on March 3, 2015 you arrived in the city of Novocherkassk to continue your service?

S: Yes.

I: Right, but why was your transfer from Unit 593136 to the city of Novocherkassk arranged?

S: Well, due to the fact that I'd already served in one place for a long time, 12 years.

I: But it works out that you served in different units there?

S: Well, in the same place, without being moved.

I: Oh, so it was due to some ...

S: Organizational staffing measures.

I: So it wasn't on purpose that you were re-dispatched to Novocherkassk?

S: It wasn't on purpose.

I: So it was just these scheduled ...

S: An order simply came to the unit. They phoned and said: we need to find someone for the position of head of the Missile and Munitions service, Novocherkassk. I said: why go looking, I'll do it. Because, well ... however many times I tried to find ... other options ... I wasn't able to get away from there, from that place.

I: In other words, in principle you supported this move, because you wanted to get away from that place?

S: Yes, sir, I simply wanted to get away from there, because my children were already growing up and I had to, sort of, have them get a normal education ...

I: I understand you. But another question: you say [you served] in the position of head of the Missile and Munitions service. You were trained as an aviation ...

S: ... technician.

I: Technician. To what extent did the education you'd had ... let's say, pertain to this position to which you were supposed to be appointed?

S: Well, for this post, after I'd graduated from college I underwent retraining.

I: You retrained?

S: Yes. And it works out that I did my entire service at bases of the arsenal ... of missiles and ammunition.

I: I see. Vladimir Aleksandrovich, a question: what actually do the duties of the head of the Missile and Munitions service comprise? Which duties are assigned to this position, to this person?

S: The following duties are assigned to the head of the Missile and Munitions service: the introduction of an inventory by numbers of all the small arms held within the unit and the brigade, the procedure for the recording, storage, writing-off, issue ...

I: Well, the main [duty], as I understand it, is the recording and ...

S: Recording and reporting ... filing reports for the services on a timely basis.

I: And here it's linked to some particular types of weapons, these same missile and munitions, or it's entirely recording, reporting?

S: It's entirely recording, reporting for the brigade. Which weapons are held by the staff in the unit ...

I: Whether or not it's missiles and munitions, yes?

S: Yes.

I: I see ... look.

S: Everything that goes along with the service ...

I: You went to Novochoerkassk to serve and on that same day everyone was gathered together? Or did you spend some time in Novochoerkassk?

S: We got there in the evening of the third of March. On March 4 we were gathered together and everyone was sat down in the conference room.

I: Let's be specific, [when you say] "all of us", who was that?

S: Everyone who had gone there to continue serving, it was around 73 people.

I: Had they all come from one unit or had they come from different units?

S: Not at all, they'd all come from different units and hardly anyone knew one another.

I: So hardly anyone knew one another. I see. And from the unit that you'd come from, did anyone come along with you or not?

S: No, there was no one with me at that time.

I: I see. So you say that you were all gathered together in the auditorium.

S: Yes.

I: And for what purpose were you gathered together and who gathered you together?

S: The command of Military Unit 89462, with the aim of briefing us and telling us where we would actually be going and what we would be doing there. And we found out there that we would be serving not in Novochoerkassk but that we would be going either to the "Donetsk People's Republic" or to the "Lugansk People's Republic", where we would be serving in the positions to which we'd been appointed, but in different units and brigades.

I: So it works out that they had selected on purpose those ... the positions that were already required for serving in the "DPR" and the "LPR"?

S: Yes, sir.

I: So, as far as I understand from what you are saying, there was no requirement for a head of the Missile and Munitions service in the military unit of Novocherkassk?

S: None at all.

I: But [a head of the Missile and Munitions service] was required to be sent to the “DPR” and the “LPR”. I understand. But tell me, Vladimir Aleksandrovich, you say that you were gathered together by the command of this unit. Did they introduce themselves as the command of this military unit, or did you simply draw that conclusion?

S: They introduced themselves as representatives of the military unit, they gave their positions and ranks, they did not say their surnames.

I: They didn’t say their surnames. I see, so in other words it works out that you don’t know who was it that was talking to you?

S: Well, they introduced themselves by their positions. The first person to talk to us was the head of the personnel department of the 12th Command, a lieutenant colonel by rank. Then the head of the ZDT service, a lieutenant colonel and his assistant gave us forms which had been drawn up in advance on the non-disclosure of state secrets, which we signed ... they made us sign them.

I: In what connection ... regarding the non-disclosure of state secrets, so how did they explain all this, why was it necessary to sign a document on the non-disclosure of state secrets?

S: They explained that we were going to the territory of an occupied country where we weren’t supposed to be, and that any disclosure of what we would see or hear there shouldn’t go anywhere outside [our ranks]. [That we shouldn’t] tell it to anyone.

I: So you’ve just said that you were going to the territory of an occupied country. But what do you mean by occupied, occupied by whom?

S: Well, we ...

I: How did you yourself understand that?

S: Well, I understood it that we were going there, that poor miners were fighting for justice, freedom, independence.

I: But fighting against whom?

S: Against the occupiers ... these Nazi Ukrainians who are being supported by America.

I: In other words, citizens of Ukraine had occupied citizens of Ukraine. Is that how you understood it?

S: That’s how it works out.

I: I see. But tell me, on what basis did you draw that conclusion? That events are unfolding in Ukraine in such a way that citizens of Ukraine had occupied citizens of Ukraine?

S: Well, because that’s how it was all reported to us, they’d prepared it all systematically in their narrative, in the briefings. That everyone was kind of talking garbage on the TV. That in actual fact what was happening there was completely different. So ...

I: On the TV ... had you had the opportunity to watch TV, what was being portrayed regarding this on the TV, in the news?

S: On the TV channels they were broadcasting that yes, battles were underway, the rebels were fighting for some kind of independence for their country, defending their territories and so on.

I: If I’ve understood correctly, this was portrayed to you as a struggle for ... a liberation struggle for independence.

S: Yes, sir.

I: ... (inaudible) ... against the occupiers. Tell me, was it proposed to you or were you ... how can I say it? ... informed that you were going to the territory of Ukraine?

S: We were informed ... we were confronted with a fait accompli.

I: So did you ... have the opportunity to refuse to go on this trip, or not?

S: We could have refused to go on this trip, but ... but the special forces would have immediately dealt with you and ... an officer would have been virtually immediately dismissed.

I: Had there already been such precedents? Do you know anything about this?

S: There were such precedents ... well, I personally didn't see anything.

I: ... don't pay any attention to the camera ...

S: My comrades told me.

I: I see. And how could such a refusal have ended up? Why did you still choose to go and not refuse? How could such a refusal have ended up?

S: Well ... if I'd have been dismissed at that time, then 18 and a bit years of service would simply have all have gone up in smoke. I'd have been dismissed for failing to comply with the terms of my contract, as I hadn't fulfilled an order from the senior command, in other words I'd have violated the terms of my contract. And therefore ... I wouldn't have got the housing that you get upon completion of service.

I: And you'd concluded a contract for what period of time?

S: My contract had been concluded for 5 years.

I: For 5 years ... so when did you conclude it?

S: I'd concluded it there, in Novochoerkassk, in March, for 5 years.

I: So when you arrived to ... to continue serving in Novochoerkassk, you concluded a contract?

S: Yes.

I: So in that same 2015?

S: Yes.

I: And prior to that you'd also ... been [serving] under a contract...

S: Yes.

I: And when had the term of your contract expired?

S: The contract expired on March 31, 2015.

I: So it works out ... could you have waited for the term of the contract to expire, or could you not have waited for it to expire? Why was it necessary to conclude a new contract?

S: Without concluding a contract ... how could you go on serving?

I: Serving ... well ... if you're saying that your terms had come to an end. Or did you have to serve out a certain period in order to get housing?

S: Of course I had to.

I: For what period?

S: At least twenty calendar years.

I: Mm-hm, I see. And by that point how long had you served?

S: 18 [years] and 5 months, I think it was.

I: 18 [years] and 5 months. Tell me, after you got the offer ... the instruction that you would be serving in the territory of the "DPR", the "LPR". Out of these people who had gathered together in the auditorium, were there people who refused to go?

S: Yes, there were three people who refused to go.

I: And what reasons did they give for refusing?

S: Well, they'd also thought that they would be serving in Novochoerkassk.

I: So what was ... let's say ... the attitude of the senior officers who had gathered you together towards those people who refused? At the point when they refused?

S: They spoke to them in a rude, obscene manner. Along the lines of “Why the hell did you study in a military college if you can’t fulfil an order,” and things like that. Well ... I don’t know, they treated them very badly.

I: What did you think the order itself comprised? As far as I ... well, as far as you understood it? What did the order comprise?

S: Well, we had to fulfil the order, go there and train the local senior officers, who ... well, in other words, we were going there as advisors to the local senior officers, to train them in how to take charge of a particular service correctly.

I: In other words, your objective in Ukraine was not to fight?

S: Not at all.

I: If I’ve understood it right.

S: We were immediately assured that we wouldn’t be fighting there, that we wouldn’t be participating in combat operations, and that we would only be involved in training.

I: But on the territory of another country?

S: Yes.

I: Tell me, when you concluded the contract, did this contract say anything about the fact that orders would have to be fulfilled and operations carried out, let’s say ... well ... let’s say combat missions ... not combat missions, that you would be serving on the territory of another country? Was there anything written in the contract about this?

S: No. The contract was the standard one, that the serviceperson, in the person of ... such-and-such is concluding a contract with the Ministry of Defense represented by, let’s say, the commanding officer of this Unit 89462 ... (inaudible).

I: To what extent ... it’s just that the contract sets forth the rights and obligations of the two parties. If you’re obligated to fulfil orders, there should probably be something stated about which obligations are imposed on the second party. In other words what you can and what you can’t [do]. So, do you know anything about that? Was there anything written down?

S: No.

I: There wasn’t. I see. The others, you say three people left ... Do you know anything about what happened to them after that?

S: I don’t know anything about what happened to them after that.

I: You don’t know. I see. Did you have any opportunity to see them?

S: No, I didn’t have the opportunity to see them or meet up with them. Because that evening, after all the briefings, we were put in buses and taken in the direction of Rostov, whilst these people remained there.

I: I see. But tell me, please, which other ... what did the briefing comprise that was held with you after you were told that you were going to serve in the “DPR”, the “LPR”? You said that you’d signed forms on the non-disclosure of state secrets. Was it stated there what specifically you weren’t supposed to disclose or was it a standard form?

S: It was a standard form that had been prepared in advance.

I: So, the same one like you’d had when serving in the army of the Russian Federation or was it different in some way?

S: It wasn’t different in any way.

I: It wasn’t different in any way.

S: Well, it was immediately said that upon arrival we were to quickly blend in with the local population ... with the rebels, that we weren't to wear any Russian insignia or [show] our affiliation to the Russian armed forces, i.e., collar insignia, stars. In order to resemble the locals. Then [we were told] that we shouldn't be in close contact with them, that we shouldn't say anything about ourselves or open up, that we should be vigilant. That we shouldn't go anywhere alone ...

I: But how could you have blended in with the local population ... if, in essence, you weren't allowed to talk to them or had to keep away from them? Didn't they tell you that?

S: No, they didn't.

I: Tell me, your military documents, your ID card, your passport—did you take all that with you or not?

S: No. All the documents, passports, ID cards, service numbers, driving licenses—any ID documents were gathered together there. They only let us take our payroll cards with us.

I: Who gathered them together?

S: The personnel department.

I: In other words, the command of the unit?

S: The command of the unit, yes.

I: Mm-hm. As you understood it, what was the purpose of doing that?

S: Well, the purpose ... that we weren't there and we weren't anybody.

I: So as not to give away where you were actually from.

S: So as not to give away our actual surnames, first names and patronymics.

I: So with which documents were you actually sent to the territory of Ukraine? Did you have any documents that you'd been given in the Russian Federation [saying] that you were going to Ukraine?

S: No. We weren't given any documents in Russia. We were given them there.

I: Were you warned that they'd be handing out ... supplying [you] with documentation there?

S: We were told that the documents would be given out there.

I: And how were you briefed about what to tell your relatives, what ... as it were. No, this is the first issue, firstly: how were you briefed about the period of time you were going for?

S: In terms of time, we were told that we were going for one year.

I: For one year.

S: Also until March 2016.

I: And what about your relatives?

S: Well, about our relatives, we were told that we should ... shouldn't tell anyone where we were, that no one should know about this. [They told us] to say that we were at a field camp in the fields of Novochoerkassk or in the vicinity, at training grounds and so on.

I: So you're at training grounds for a whole year? Well, in principle, did it ever happen over the course of your service that you were at training grounds for a year, let's say, not contacting, not talking to your relatives?

S: No, that never happened. We would usually go away for training exercises for a maximum of 3-4 days.

I: 3-4 days. Tell me what you told your relatives about this.

S: Well, I told my wife that I was at a training ground ... near Novochoerkassk, that we were doing training exercises and that we were training personnel, the young generation.

I: Yes ...

S: I might not always be contactable, because there's no signal, that I'd contact her when I could.

I: I see, so it works out that none of your relatives are aware that you're in Ukraine?

S: They weren't aware.

I: They weren't aware, right? I see, tell me please, you're about to be sent to the territory of the "DPR", the "LPR" for military service, [will there be] any additional ... benefits, and in general, how should you be paid for all this? You say that you were only allowed to take with you your payroll cards, does that mean that your salary continued to be paid?

S: Yes, but ... we were promised that they'd pay us triple our salaries, and a percentage-based increment on a monthly basis, based on Order No. 1010 of the Ministry of Defense of the Russian Federation.

I: And with what is ... this increment linked?

S: Well, this increment is payable for special conditions, when you perform your duties well.

I: So it's not associated with combat conditions, it's simply for special conditions?

S: It's simply for special conditions of service ...

I: I see. Tell me, prior to this, what had your salary been, that is, as a serviceman of the Russian army?

S: As a serviceman of the Russian army, at my last deployment, I received 85,000 rubles.

I: 85,000 rubles. Is that per month?

S: Yes.

I: And so you were promised triple your salary, so that's over two hundred thousand?

S: Yes.

I: And how was this money supposed to be paid to you?

S: So they said that part of the money would be official ... part of the money would go onto our payroll cards, and we'd get the additional payments possibly in cash, or possibly it would go to our cards. In other words, the procedure hadn't been determined and the issue of financing hadn't been finally resolved by the time we set off.

I: I see, so again, were you able to track the movement of your funds on your payroll card if the money was paid onto your card?

S: Yes.

I: And tell me, over the period that you were in Ukraine, were you paid triple your salary?

S: No, we weren't paid triple our salary.

I: Not even once?

S: Not once.

I: Not onto your card and not in cash, not at all?

S: Only one single additional [month's] salary was paid to the card.

I: What do you mean by additional?

S: Well, in other words we were paid our official salary and one more [month's] salary.

I: So it works out that you weren't paid double or triple your salary?

S: No, on the contrary ...

- I:** Oh ... not triple, but double ... yes. And on average, how much did you get per month?
- S:** On average we got ... everyone got different amounts, because payments were made in different ways to everyone. No one knew ...
- I:** Well, let's not speak for everyone. Let's say you directly. You specifically.
- S:** Me ... I ...
- I:** March, April, May, June.
- S:** In March we didn't get anything for this. We got ... we probably only started getting [money] from April onwards.
- I:** So, you mean you didn't get your salary at all? Or you got ...
- S:** No, we got ...
- I:** The usual.
- S:** Like usual.
- I:** The usual [salary] is around 80,000?
- S:** No, it was the new one already. Because here there's no ... my new position isn't in a Northern region ... there's no 50 percent increment or locality pay factor. So here the amount, based on this position, was 47,000 rubles.
- I:** So it works out that at your previous place of work, there, where you say ... you served in the Khabarovsk Territory.
- S:** Yes.
- I:** That you got a salary, if you're saying around 80,000 ... it was twice as much as you were getting in Novocherkassk?
- S:** Yes, sir.
- I:** There you go.
- S:** The additional payments, plus that one that came in for the last month, over the last two months, was one hundred ... in total it was one hundred and nine thousand rubles.
- I:** So as I understand it, not much more than you were getting prior to that in the Khabarovsk Territory, in a word?
- S:** Yes.
- I:** I see. And tell me, how were you getting this salary? In cash or was it transferred to your card account?
- S:** It was transferred to my card account.
- I:** So you weren't paid in cash?
- S:** No.
- I:** For the period that you were in Ukraine. Which bank is your card account with?
- S:** Sberbank of Russia.
- I:** Sberbank of Russia, and in the territory of Ukraine, where you were, were you able to take money out of this card account?
- S:** No, I wasn't.
- I:** But how did you live, then, if you weren't able to take your salary out?
- S:** Well, there are various ways ... well, there's a lane that goes through the border, a military lane, through which the motor transport of the Ministry of Defense of the "DPR" goes

to replenish some types of foodstuffs to the Rostov ... or the Novocherkassk Region. Well, we handed over these cards to our senior acquaintances, they got cash out using them in the Russian Federation and then came back. You could also hire someone who could go through the border, we also handed over the cards to him, he took them and brought them back in the evening.

I: So there were options?

S: Yes.

I: Well, did you ask anyone questions about you having been promised triple ... triple your salary, whereas in actual fact it worked out as double your salary?

S: Yes, we asked.

I: Plus, as I understand it, you weren't paid compensation for the month of March, right?

S: No. These questions were asked on numerous occasions and the officers even simply didn't go out to work, saying that promises had been made but the conditions weren't being met. But the command continually reassured ... the senior [command] [that] "there's only a short time left to the next pay packet, you'll get it next month, you'll get a reassessment and all that, don't despair, hold on, you'll get through" ... in that spirit.

I: And were you able to somehow track the payment of your salary?

S: Only through the serviceman's user account.

I: What is this user account? Explain that to me, please.

S: Well, the serviceman's user account is a website where for each serviceman ... you can see which amounts are being credited to his account. What's being paid for, how much is being paid.

I: How's that, can it be freely accessed? Can anyone go in and have a look?

S: No, not anyone.

I: But how is it done?

S: It ... you go in, create your own personal page and a password is set up or [you can do it] without a password but without registering, but knowing ... you have to know your service number.

I: And your ... service number, as I understand it, is the number of your ID tag?

S: Yes, sir.

I: Your ID tag. What's your service number?

S: My service number is F549345.

I: ... 345. And in your user account, how [do you go in]—through a password and a login or through your service number?

S: Mine is through my service number.

I: Through your service number. in other words, you didn't register on the Ministry of Defense's website?

S: No, I didn't register.

I: I see. And is it stated there, if you're saying you enter through your service number, does it set out any information about whose ... to whom it's been paid? That is, your surname, first name and patronymic?

S: Yes, it will have all my data. And all the payments that have been made to this account over this month will be set out, spelled out. And it also sets out the taxes, deductions and all the rest.

I: I see. Tell me please, how did you end up in the territory of Ukraine, in actual fact? After you were told that you were going there to serve and up to the point when you arrived

at ... how did you get there?

S: On March 4, 2015, in the evening, we were loaded onto buses with our personal belongings, and the convoy set off towards Rostov on Don.

I: But tell me, Novochoerkassk ... is that the Rostov Region?

S: I think so.

I: So you didn't go far?

S: No, it's 27 kilometers from Rostov to Novochoerkassk.

I: I see. You say you had your personal belongings. What did you have, were there any instructions about which of your personal belongings to take?

S: Well, there were mandatory instructions to take our sports kit, the old-type "flora" military uniform, without insignia, well, and our field bags.

I: So you weren't supposed to have any insignia that would have allowed you to be identified as being affiliated with the Russian army, do I understand correctly?

S: Yes, correct.

I: And the old-type "flora" military uniform, what sort of uniform is that, what type of camouflage is it?

S: It's camouflage, straight-cut trousers, an overcoat with pockets, with flaps and this kind of ... (inaudible) tricolor coloring. Which is now already ... well, I think it was in the Russian Federation up to 2009.

I: I see. You say that you were loaded into buses, were these special buses, well, I mean ... Were you traveling together with civilians or were you transported separately, as military personnel?

S: We were transported separately, as military personnel. The buses were from the military unit.

I: From the military unit. Did they have the corresponding plates?

S: Yes, the corresponding military plates.

I: What sort of buses? Well, can you name the make, the model?

S: No.

I: No. You say you were taken in the direction of Rostov. And then what? So you were in Rostov itself or ... ?

S: No, [we drove] along the highway in the direction of Rostov, then we turned off the highway to somewhere. We were traveling for a fairly long time, an hour, probably, an hour and a half, or even two. We were taken to the customs-house, as we were told. When we got out, we saw that yes, it was indeed a checkpoint, the customs-house, control barriers, fences. Everything had kind of been done right.

I: And which specific customs was it? Do you know or not?

S: No, there was no name displayed at the customs point ... After that they made us get out of the buses and line up. There were around three customs officials there. One of them inspected the bus to check there was nothing on it except our belongings, and counted the personnel. We got back onto the bus and drove on ... The person in charge accompanying us showed him a piece of paper where we were all listed, the number of people.

I: Apart from the list, did it say anything else about where you were going ... Were you asked any questions? [About] where you were going? Why you were going?

S: No, no questions were asked, they didn't ask for any documents.

I: So no passports, nothing was asked for from you?

S: No.

I: Were you informed that you were crossing the Ukrainian border?

S: Yes.

I: There, at the customs-house. Someone, who told you? The customs officers or the person accompanying you?

S: The accompanying person in charge.

I: And can you say which department those people accompanying you were from?

S: There was just one, also a lieutenant colonel, in my rank. He didn't introduce himself, but judging by the fact that he was taking us, he was responsible for us ... we thought ... sort of ... decided that he was a representative of the 12th Command.

I: I see, so you don't know for sure, therefore you drew a conclusion about him. Good, after you crossed the border, that is, went through customs, were there any border or customs controls services on the Ukrainian side or not?

S: We got there, to the next side, where there was also ... a booth, control barriers. There were a few people there too. As we understood it, these were Ukrainian customs officers already. We got our things out of the buses ...

I: Did they also look at who was on the bus?

S: No one looked, no one counted. When we got out, they counted us and that was it.

I: So you say that you got the things out of the bus, but why did you need to get the things out of the bus?

S: Because we'd got out, that was it already. We'd crossed over, that is, we'd already crossed over this point. The command was given to go to the exit with our things. Everyone got out. We were told, so we went there. We went through this ... control barrier.

I: So it works out that they only took you to the border in these buses?

S: Yes.

I: The buses didn't go any further?

S: The buses didn't go any further.

I: Mm-hm. Were there any signs, where the control barrier was? Names of the checkpoint?

S: I think they were in Ukrainian.

I: But you can't remember what they were?

S: No, I can't remember. Well, there were people ... with weapons.

I: But from the outside, when you drove up, the name of some populated settlement or the name of the customs checkpoint?

S: No, I can't remember, because it was dark. And actually ... some people were half asleep, others were ...

I: Another question ...

S: ... I can't say.

I: So this customs point that you're talking about, that you crossed. Did it have any signs of destruction regarding ... from shellfire?

S: No.

I: Weren't you paying attention?

S: No, there wasn't anything. Everything was normal.

I: Good, so then, being already on the territory of another state, what did you do? After that.

S: We crossed over the control barrier, and the cordon—there. They also counted us up on this side, other buses were waiting for us on the Ukrainian side.

I: So they met you, they were waiting for you?

S: Yes.

I: And the person who accompanied you from the base, whom you thought was a representative of the 12th Command, did he also accompany you on the territory of the other state, on the territory of Ukraine, or did he only take you to the control barrier?

S: He only took us to the control barrier.

I: Did anyone meet you on that side?

S: Yes, a bus driver met us and he had with him a security guard.

I: A bus driver with a security guard?

S: Yes.

I: Had you been warned that you would be met ... did anyone say, well ... how should I put it ...

S: No, he put us in the buses ...

I: Did he know for sure that it was you? That you were the people he was meeting?

S: The person accompanying us got out, went up to the buses, they were talking about something, the buses turned around, drove up ...

I: Which documents did they ask for from you after you crossed into the territory of Ukraine?

S: No, no one asked for anything.

I: I see. But tell me, those people, those who were on the territory after the control barrier, so on the territory of Ukraine, were they in uniform? Did you see any insignia on this uniform that would allow you to identify them?

S: At the border?

I: ... as belonging to some department?

S: We thought that they were border guards. They were dressed in (inaudible) Gorkas¹ ... outfits. They didn't have any insignia.

I: After you got into the buses, what did you do then, that is, where did you go?

S: Well, we were told that we'd drive for around a kilometer, and that then the road would get bad. That we'd drive for around three to four hours, and that we'd then get there. We drove, we passed some small populated settlements, farmsteads, little villages. Some of the houses had been damaged, there were signs of shots having been fired on the fences, the gates.

I: You don't remember the name of the populated settlements you passed through?

S: No, unfortunately. No.

I: What was the destination you were going to?

S: We were going to the destination of the city of Donetsk.

I: The city of Donetsk. So that's the Donetsk Region. It's just that you explained that you would be posted to serve in the "DPR" and the "LPR". And so you were driving to the territory of the Donetsk Region?

S: Yes.

I: And tell me, all the people who were traveling with you ... who, let's say, had been assigned to serve on the territory of Ukraine, were traveling in this direction with you. Or did you split up somewhere?

¹ Translator's note: Special clothing originally designed for geologists and other people traveling to remote areas.

S: To this ... I mean, these 73 people ... we all arrived in the city of Donetsk.

I: So please tell me in more detail about your arrival in the city of Donetsk, what happened then and how, who met you? Where were you taken? How did your service placement continue?

S: At about 5 in the morning on March 5, 2015, we arrived in the city of Donetsk at ... as we were told, at the first army corps, at the headquarters of the Ministry of Defense ... there ... the Ministry of Defense.

I: And do you know where it is?

S: I know, although I don't know the city of Donetsk well. I can't now recall the street or say now where it is.

I: Some kind of reference point, what's nearby or in which building this facility is located. Do you know or not?

S: I think the local people said that is was the former ... the former premises of some organization.

I: So, you don't know which one. But can you show on a map, let's say, where these headquarters were?

S: Yes, I can.

I: On a map, I mean ... a Yandex map, a Google map ... (inaudible).

S: Yes.

I: Good, if then when we complete the interrogation, that is ... return to this issue, so that you can show us. You arrived at the headquarters, you don't know the address. What happened at the headquarters?

S: We were met in a very unfriendly way. The bus doors had only just opened. Some rebel commander came up. He said, well, on the double ... all kinds of ... we grabbed our cases and ran into the premises.

I: So why do you think ... what had brought about this hostility?

S: I don't know, they were probably extremely rude people. Well, these ... of limited intelligence, education and so on.

I: I see. So, you were taken into the premises.

S: We were sat down in the conference room with our things, they told us not to go anywhere and that someone would come for us. We sat there ... after about 4 or 5 hours, representatives of (inaudible) brigades started arriving. Well, they came in, called out our positions ... and took us out.

I: They called out the positions themselves, right?

S: Yes.

I: And which specific positions did they call out, so, well ... as I understand it ... which positions did they call out?

S: Well ... the head of the Missile and Munitions service, let's say.

I: So, each of you heard your positions, stood up, and were taken away. Is that what you mean?

S: Yes.

I: I see. So, they called out the positions of the people who'd arrived for the people appointed to these positions to go with them. Like that.

S: They didn't call out our surnames.

I: Only the positions?

S: ... the positions, first names and patronymics.

I: Oh, they'd found out this information already, that is ...

S: They had a list.

I: They had a list. So, when they got you up, how were you introduced, what did they say?

S: They said, “the Missile and Munitions [specialist] to the 5th brigade”. We got up, a few Missile and Munitions [specialists]. “Who is Vladimir Aleksandrovich?” I said, “it’s me” ... “that’s it, come with me”. All the rest sat down to wait for the next one.

I: I see. And where did they take you?

S: They took us into the yard where there was a vehicle ... A covered Kamaz. We got in it with our things. There were 8 of us going into this brigade, into Unit 08805.

I: They called out, I’ll stop you for a minute, when they called out, Missile and Munitions [specialist], Vladimir Aleksandrovich, where are you going to be posted? To which unit, so to speak, or didn’t they say?

S: No, he came up immediately [and] introduced himself, [said] that he was a representative of some military unit.

I: So, he said [which], it works out. You were put in a covered Kamaz and driven off.

S: Yes.

I: Did they take you to the territory of the unit or somewhere else?

S: No, they took me to the territory of the unit straight away.

I: 7 people, it works out, right? Together with you?

S: Yes ... 7 or 8 ...

I: Tell me again the name of the unit you ended up in?

S: I ended up in the 5th separate local rifle brigade, Military Unit 08805, city of Donetsk, located at 1 (inaudible) Kuprina St.

I: Did this unit belong to some specific division, no?

S: It used to belong to the “Oplot” [Bulwark] division.

I: Right, I see. And upon arriving at the unit, what happened next?

S: Upon arriving at the unit, they lined us up at the entrance to the headquarters. The Chief of Staff came out, Lieutenant Colonel (inaudible) Anika ... and ... introduced himself and said: welcome ... so, you’ve arrived, let’s serve, your representatives will now come for you. We waited ... each of us was taken off and taken around the services. They determined where each of us would stay, where we would spend the night, where we would work. They gave us some time to deal with our own matters. At the evening line-up, they got us all together, introduced us to the command, [they were] our Russian officers, who were already there, [said] that the replacements had arrived. They gave us forms that we had to fill in, where we had to think up a false surname, first name and patronymic and ... code name.

I: So ... forms ... which forms?

S: Slips of paper.

I: Just slips of paper that you had to write in?

S: Yes.

I: So why did you have to think up a false surname?

S: Well, because ostensibly there aren’t any Russian officers in Ukraine. And different documents had been issued for different surnames. Officers of the “DPR”.

I: Is that so that you couldn’t have been compared to Russian military personnel, right?

S: Yes. So that we didn’t stand out in any way from them.

I: Which surname did you choose for yourself?

S: I chose the surname Ovsyannikov.

I: And why that particular surname?

S: Well, I can remember it. My wife's maiden name was Ovsyannikova.

I: Oh, so it's also the maiden name of your spouse?

S: Yes.

I: I see. But tell me, did you also have to change your first name and patronymic and other personal details or not?

S: Well, whoever wanted to could change it, but for the most part everyone left their old first names and patronymics, because if people have been calling you "Vova" for 30 years, if you change your name, you're not going to immediately start answering to "Vanya". That might arouse suspicion.

I: I see. So, you didn't change any of your personal details apart from your surname?

S: I didn't, and I took the code name "Taimen".

I: And this code name, can you ... why "Taimen"?

S: Well, why "Taimen", because I served for many years in the Far East, I like fishing, and the taimen is a very strong fish that is found in mountain streams.

I: I see. How quickly did they provide you with documents?

S: They produced passes for us within a month. And they gave out ID cards if they were available.

[...]

I: (...) So, did they give you the passes for the period during which you didn't have ID cards?

S: Yes.

I: But what sort of passes? For your invented surname, or for your actual surname?

S: For my invented surname.

I: With your photograph?

S: Yes, with our photographs.

I: So tell me, they took away your pass during the inspection ... not your inspection, but during the inspection of the vehicle. Is it that same pass that they'd given you at the outset?

S: Yes.

I: I see. And tell me, how ... long was it ... how much time elapsed before you were given the documents? Well, this ID card.

S: Well, they probably gave us the ID cards a month ... after our ...

I: You were in the "DPR" for a month with only a pass to hand?

S: Yes.

I: Did you have any disagreements about that, any conflicts with the representatives?

S: No.

I: Did you leave the unit lines over this time at all?

S: I did. For ... because I went ... they called me out to the corps. I was even stopped by a patrol, had my documents checked, I only had the pass with me ...

I: Was the pass sufficient?

S: It turned out that the pass was sufficient. The main thing was to be sober.

I: I see. During that time when you hadn't got your ID ... card. Which tasks were you set? Which tasks did you perform? To whom were you directly subordinate?

S: I, as the head of the Missile and Munitions service, was directly subordinate to the deputy commanding officer of the weapons brigade.

I: And does the deputy commanding officer of the weapons brigade have a surname, first name, patronymic, or some code name?

S: At that time, I can't remember already who it was, but he was replaced by Colonel Dmitry Vladimirovich Okhta, code name "Okhta," to whom I'm now subordinate.

I: I see. And which tasks did you say you performed?

S: Well, my first task was to make records of the weapons, to do an inventory by numbers. Also to determine the procedure ... teach [them] how to write off ammunition, determine the procedure at the depot, how the property was to be stored, how it should be recorded, how the labels were to be written out ... in general to arrange and to establish order within the service.

I: Was this task given to you in the city of Donetsk or back in Novochoerkassk?

S: This task had been set back in Novochoerkassk. That we were to go there as advisors, to establish order within the service. Well, although they assured us that it had all been established, you just need to ...

I: Take charge ...

S: Take charge and finish up. Well, upon arriving there we were shocked by everything. Nothing had been done, basically there was nothing. We started everything from scratch. And literally ... 9 days later a Moscow commission arrived and started inspecting us.

I: So they came to inspect the results of your actual work?

S: The results of those that had gone before us and our results.

I: But had there been someone in this position before you?

S: There had been but he ... in short, the one that had been [before me], he'd left earlier due to family circumstances, his wife was giving birth. Well, there was someone who'd been sort of overseeing this service. I saw him ... literally for two hours. I got there and went in with my things. He came running over ... oh, my replacement has arrived. He gathered together his things ... I told him to wait, to at least tell me what's what. "You'll work it out. The main thing is, they'll come along—don't give them anything." And that was it (inaudible).

I: I see. Tell me, when you took up your duties, what actually, what specifically were you doing? Which actions did you start taking after you took up your duties?

S: After I took up my duties, first of all we set up Form 10 registers within the services and [I] made the subordinates in the structural units set up Form 8 registers. I also made them hand them over to me, write records of who the weapons had been assigned to by numbers, which allowed us to find out what quantity and in which units the weapons were now. Then conduct inspections of these weapons. That is, if they showed me 30 weapons, they should have had 30 weapons in the arms room. Well, if there were 25, then 5 should have been out on issue. Correspondingly, if they're out on issue, show me the weapons issue book ... set up a weapons issue book, set up a weapons inspection register in the arms room. Set up a Form 31 register—that's a first sergeant's workbook, that is, the property that's been issued for temporary use. Things like gas masks, bullet-proof body armor, helmets, the things you can hand out. The broom in the unit... it gets given to someone, then they forget who they've given it to ... you can hand out property under this book for no more than a month ... from one unit to another unit.

I: So it works out that nothing had been done before you got there?

S: It hadn't. Also ... no inventory by numbers (inaudible) had been set up ...

I: Of the different weapons?

S: Yes. Likewise, no book had been set up for lost or missing weapons, cards for lost weapons. Also, the weapons that had been lost during combat operations hadn't been written off, because no one knew the procedure for writing them off, how it was done.

I: But tell me ...

S: Likewise, captured weapons weren't being recorded.

I: At that point, when you started dealing with all these weapons inventories, did you manage to put together a complete picture of the weapons for your—as you say—brigade?

S: Oh no. That hasn't been yet.

I: It hasn't been done yet.

S: Because a large amount of weapons have already been handed out, a large amount of captured weapons that are now being passed from hand to hand.

I: Captured weapons ... what sort do you mean? That have been seized during combat operations?

S: Seized, found, passed on from one unit to another ... that, too. That wasn't previously written down and wasn't recorded.

I: Well, how would you personally evaluate it, if we take it as a percentage. To what extent did you manage to carry out an inventory of weapons?

S: Well, I think about 70 percent.

I: About 70 percent. And this information ... do you remember at all about what sort of weapons these were?

S: No, well, I can of course name the modifications of the weapons ... which ones they were.

I: And amongst those documents that were identified when you were detained in the vehicle, do they contain information about this?

S: Yes, they do.

I: About this 70 percent that you systematized?

S: Well, yes, yes.

I: I see. Tell me, after you were given the ID ... the ID card from the "DPR" Ministry of Defense, did anything change as regards your duties or not?

S: Nothing changed as regards my duties.

I: According to this ID Card, you're the head of the Missile and Munitions service of Military Unit 08805 of the Ministry of Defense of the "DPR," correct?

S: Correct.

I: Did you actually hold this position?

S: In actual fact ... I held the position of advisor, I was performing the duties of an advisor, but I did sort of hold this position. But there was also one of the local officers who duplicated this position.

I: [One] of the local [officers]. Can you tell me his surname? Surname, first name, patronymic.

S: Yes, I can. Lieutenant Yury Mikhailovich Dunaytsev.

I: And where was he from?

S: He's from Donetsk.

I: Dunaytsev—is that an invented surname or his real one?

S: No, that's his real surname. His code name is "Slon" [elephant].

I: And do you know, before all these events, did Dunaytsev have anything to do with the army? Well, with the army, with some other structures?

S: He did ... his compulsory military service for 2 years in Russia.

I: In Russia. So he's not a citizen of Ukraine?

S: No, he's ... I don't even know. No, he has a Ukrainian passport.

I: Mm-hm, so if he has a Ukrainian passport—that means he's a citizen of Ukraine. He just served ... he's a young ...

S: Yes, he was young back then. It was sometime in the 1980s.

I: I see. Tell me which other duties during that time when you were there ... were you sent anywhere ... well, to take part in combat [operations], to take up positions anywhere? That is, what were you actually doing?

S: In addition to the inventory of what had been brought in, I was also involved in calculating ammunition needs for the entire brigade, how many supplies were required, how they were to be stored, how many calculations had to be done ... to carry out shooting practice for each of the units, which, in accordance with the training timetable, is part of the exercises. I also calculated the ammunition required for the training exercises that were taking place there ... the battalion tactical training exercises and the command staff training. Accordingly, maps were drawn up at the command post training exercises, various orders were written out.

I: On what basis did you do these calculations? That is, which data did you use? Who provided you with these data?

S: The data were provided by the first army corps. It was on their basis that I did the general calculation.

I: And these calculations, is this part of the duties of the head of the Missile and Munitions service?

S: Yes.

I: So you had the expertise required to do these calculations?

S: Yes. We weren't sent to participate in the combat operations. We only went to the demonstration exercises. The demonstration exercises and the training exercises. To the Torez training ground.

I: To the Torez training ground?

S: Yes.

[...]

[...]

I: So we'll take a break for 15 minutes, after which the recording will continue ... The interrogation is continuing of the suspect, Vladimir Aleksandrovich Starkov. So, Vladimir Aleksandrovich, you ... during the inspection on July 26, 2015, a green notebook containing handwritten entries was confiscated from you. Tell me, what do you know about this notebook?

S: The notebook with green entries—that's my work notebook in which I did all kinds of calculations, wrote down tasks, wrote down contact details and so on.

I: Look, this notebook is being presented to you. What can you say about the entries contained in it? ... If we take ... well, yes. Starting from the first page, what are these entries, what are these numbers, phone numbers?

S: Well, the first one—that's the phone number of Colonel Aleksey Sergeyeovich Antonov. When we were leaving Novocherkassk, we were given these phone numbers so that, upon arrival, we were supposed to contact them and introduce ourselves to them. Antonov is the head of the Missile and Munitions service of the 12th Command, Dmitry Vladimirovich Zykov at that time was the head of the Missile and Munitions service of the corps.

I: Go on then.

S: Written down after that are the telephone numbers of my comrades-in-arms ... their code names ...

I: Are these citizens of Russia or citizens of Ukraine?

S: There are both citizens of Russia and citizens of Ukraine here.

I: Set forth here are all the people that you named, who are in your phone book, or are there some who aren't there?

S: Yes, that's it.

I: So everything matches the entries in your phone book that we've looked at before?

S: Yes.

[...]

I: Let's go on.

S: Well, written down here are the numbers of the pistols that were given to my comrades-in-arms, to the Russians. Their code names and the numbers of the pistols ... Entered here are the numbers of the assault rifles that were missing from the first motorized rifle battalion at the time of the inspection ... Here's an entry on what needs to be additionally received at the Missile and Munitions service (inaudible) ... Also written down are the phone numbers of some, who was performing which duties in the units ... There's also ... there's an entry on the quantity of weapons that needed to be ordered at the corps, that the staff were missing. Correspondingly, a calculation of weapons for the staff, how much, where and which ones, what was missing. Here ... is entered the task to calculate for ... simulated combat, like demonstration [combat], how much had to be done, [how much] ammunition had to be ordered ... Here's a task from the commanding officer, when to carry out the cross-check with the units, from which date to which ... To write out a request for the repair of 2 C1 ... It states here by which date the report had to be prepared, the problem issues.

I: I see, in principle the notebook contains the main calculations, your reports.

S: Yes, tasks, reports.

[...]

[...]

I: [...] So if we take this list of weapons, by looking at it, can you say which of these weapons comprise exclusively the weaponry of the Russian army?

S: All the weapons comprise the weaponry of the Russian army.

I: No, I mean only the weaponry of the Russian army that, let's say, other countries don't have. That aren't deployed by other countries. Well, I mean perhaps some new modifications.

S: Well, there aren't any modifications, these are all the old modifications. All the old, standard modifications.

[...]

[...]

I: [...] Here's a list of people with surnames, first names, and patronymics, with phone numbers and code names. Can you say anything about this list, what sort of list is it?

S: This is a list of the Russian advisors that came to Military Unit 08805 to continue serving. Their phone numbers, code names, surnames, first names, and patronymics.

I: But tell me, the surnames, first names, and patronymics set forth in this list, are these the real surnames, first names, and patronymics of these people or, like in your case, are they invented?

S: They're invented surnames.

I: Is your surname there?

S: Yes, sir.

I: How is it written down?

S: Number 11, Major Vladimir Aleksandrovich Ovsyannikov.

I: And an identical list, only more complete ...

S: Well, it's more complete because it was drawn up recently ...

I: Yes, explain what the difference is between ...

S: ... later.

I: ... the first list and the second list. Why are they different in terms of volume?

S: The first list was drawn up ... when the military personnel were being rotated, that is, not everyone had arrived yet. And this list is complete, upon the completion of the rotation, when all the replacements had already arrived.

I: Let's look at these documents. Tell me, do you personally know the people named in this list? All of them, or not all of them.

S: I know ... virtually all of them by their code names and by sight.

I: So out of this list, can you name those serving in Unit 08805 ...

S: Yes, they're all serving.

I: So they're all from your unit?

S: They're all from our unit. They're all advisors to the services and units.

[...]

I: [...] Tell me, this pass for Military Unit 08805. Is it your photo that's on it?

S: It's my photo on it. My photo, this pass was made out for the surname that I chose.

I: So for your invented surname?

S: For my invented surname.

I: Pass 11, Major V.A. Ovsyannikov. You've already testified about this pass, so we won't be going back to it. The ID card issued by the Ministry of Defense of the "DPR". Is it you depicted on that too?

S: Yes.

I: ... on the photo.

S: It's me there too, and also with my invented surname.

I: I see. And another question. A Sberbank card was confiscated on which is printed "Vladimir Starkov" and which contains a signature. What can you say about this card and this signature?

S: This card is mine, it's my Sberbank of Russia card on which I received my monetary allowance.

I: In other words, you were paid your salary onto this card?

S: Well, for military people it's a monetary allowance.

[...]

Annex 235

Signed Declaration of Sergey Stlitenko, Suspect Interrogation Protocol (10 August 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
of suspect interrogation**

Kharkiv

August 10, 2015

Interrogation started at "15:35"
Interrogation finished at "____"

Major of Justice O.V. Petryuchenko, special investigator in section 1 of the investigations department at the Kharkiv Regional Directorate of the Security Service of Ukraine, having reviewed the files of the pre-trial investigation entered in the Unified Register of Pre-trial Investigations on July 28, 2014 at No. 2201422000000184, among others, on the suspicion that citizen S.A. Slitenko committed a crime provided for in Article 263 Pt 1 of the Criminal Code of Ukraine, in the presence of defense attorney Iryna Mykolayivna Krutko and pursuant to articles 42, 95, 104, 106, 223 and 224 of the Criminal Procedure Code of Ukraine, interrogated the suspect

1. Name	Slitenko
2. Name	Sergiy
3. Patronymic	Arkadiyovych
4. Date of birth	05.21.1969
5. Place of birth	Kharkiv
6. Ethnicity	Russian
7. Nationality	Ukraine
8. Education	University degree
9. Occupation (place of study), profession and role	Encashment driver and guard
10. Place of residence (registration)	Apartment 47, 122-A Prospekt Traktorobudivnykiv, Kharkiv
11. Previous convictions	None reported
12. Is he a member of an elected body (which Council)	No
13. Identity document	Ukrainian citizen's passport MK 085594 issued on 12.19.1995 at Ordzhonikidze district department of the Kharkiv City directorates of the Ministry of Internal Affairs of Ukraine Directorate in Kharkiv Region

The suspect was advised that that he had been summoned to give testimony in criminal proceedings **No. 2201422000000184** in connection with committing a criminal offence provided for by Article 263 Pt 1 of the Criminal Code of Ukraine.

Suspect **S.A. Slitenko** was advised of the content of Article 63 of the Constitution of Ukraine, which provides that a person may not be held liable for refusing to give testimony or explanations concerning himself, members of his family or close relatives, as defined by law.

Suspect **S.A. Slitenko** was also advised of the content of Article 18 of the Criminal Procedure Code of Ukraine concerning freedom from self-incrimination and the right not to testify against close relatives or family members, as well as Article 20 of the Criminal Procedure Code of Ukraine on the right to a defense.

Continued: Interrogation record of suspect S.A. Slitenko of 08.10.1015

In addition, suspect **S.A. Slitenko** was advised of the interrogation procedures and his rights and obligations under Article 42 of the Criminal Procedure Code of Ukraine and was given a booklet on the procedural rights and obligations.

(signature)

Having been advised of his rights, the suspect said he agrees to testify and to respond to testimony. During interrogation he expressed a wish to refuse the services of a defense attorney. The refusal is not caused by a shortage of money.

In addition, S.A. Slitenko said he understood Ukrainian, in which the procedural action is conducted, but wishes to testify in Russian and for the investigator to record his oral testimony. Interpreting is not required.

(signature)

In response to the questions asked, suspect S.A. Slitenko gave the following testimony:

Question: Do you require the services of a defense lawyer in performing this investigative action?

Response: In performing this investigative action, I want my rights to be defended by my lawyer, Elena Grigoryevna Naydenova.

Question: How are you feeling, are you able to testify?

Response: I feel fine, I am able to testify.

Question: Were you subjected to any physical or psychological pressure during the conduct of the pre-trial investigation?

Response: No, during the pre-trial investigation, I was not subjected to any physical or psychological pressure.

Question: You are suspected of committing offences under Part 2 of Article 258 and Part 1 of Article 263 of the Criminal Code of Ukraine, do you admit your guilt in the commission of the offences with which you are charged?

Response: Yes, I fully admit my guilt in committing these offences.

Question: Do you acknowledge the testimony you gave previously during the pre-trial investigation?

Response: Yes, I uphold all the testimony I gave during the pre-trial investigation.

Question: What can you say about the act you committed?

Response: I, Mikhail Viktorovich Reznikov, am currently the ataman of the public organization Kharkov Governorate Cossack Community of the Terek Cossack Host. I set up this organization in 2009. Since then, I have been the ataman of the organization, i.e., its leader. 15 people are currently members of the organization.

At around the end of February 2014–beginning of March 2014, on the day when the Kharkov Regional Public Administration was stormed, I was on Freedom Square (Kharkov). I went there to support those supporting the Anti-Maidan. I learnt that an Anti-Maidan rally would be taking place on the square from online reports. I was opposed to the current Ukrainian authorities, and was also in disagreement with the general political agenda being pursued by the government, and specifically was opposed to Ukraine joining the

European Union. I wanted [Ukraine] to develop a closer relationship with Russia.

At around the end of April 2014, Aleksandr Nikolayevich Prasol (the chief of staff of the Kharkov Governorate Cossack Community of the Terek Cossack Host), my deputy, and I went to the Russian Federation, where we held a meeting with S.A. Klimenko. During our conversation, we expressed our wish to relocate our families to the RF for temporary residence due to the events taking place in Ukraine. We were afraid for their lives, and what is more, we did not want to be under the control of the incumbent Ukrainian authorities. Having listened to us, S.A. Klimenko promised to help to resolve our problems in some way. He said that he would contact us later by phone. Following our conversation, A.N. Prosol and I returned to Kharkov.

In around mid-May 2014, S.A. Klimenko phoned me and proposed that A.N. Prosol and I go to Rostov-on-Don (RF) for a meeting regarding our issues with some acquaintance of his who would most likely be able to help us. We agreed, and S.A. Klimenko named the date, location and time of our arrival in Rostov-on-Don and said that we would be met there.

In around mid-May 2014, A.N. Prosol and I went to Rostov-on-Don, via the Shebekino (RF) – Pletenevka (Ukraine) checkpoint, in A.N. Prosol's Daewoo car. We were met there by two people. One introduced himself as Dmitry, but I can't remember the second man's name. At the end of our conversation, they took my and A.N. Prosol's details: our mobile phone numbers and our e-mail addresses. Dmitry gave me 25,000 Russian rubles as compensation for our travel expenses, and then said that they would be in touch. We then returned to Kharkov by the same route as we had travelled to Rostov-on-Don.

Around two weeks later, Dima contacted A.N. Prosol via the Internet and proposed that the two of us meet him in Belgorod, and named the location of the meeting and the date and time when we would need to go there.

Thus, in around the start of June 2014, A.N. Prosol and I left Kharkov for Belgorod via Shebekino (RF) – Pletenevka (Ukraine), in A.N. Prosol's Daewoo.

This time, only Dmitry was present at the meeting from the Russian side. At this meeting, Dmitry proposed that we carry out a stunt in the town of Volchansk in the Kharkov Region. I also requested that Dmitry assign small arms to me and my group. In response to this, Dmitry said that this would not present any difficulties. I had to tell him in advance the time and location on the RF border for this. A.N. Prosol and I therefore found a convenient location on the border with the Russian Federation around 30 kilometers from the town of Volchansk. This location had been marked by a Ukrainian border marker, No. 1226. I sent Dmitry the coordinates of the location via the Internet, and he told me in response when I would be able to collect the weapons there.

Finally, in around mid-June 2014, I got the weapons Dmitry had promised at the aforementioned location, having first agreed on it with Dmitry.

The weapons were in the area of Ukrainian border marker No. 1226 on the territory of the RF, around five meters from it into RF territory. Dmitry was waiting for me at this location. The weapons were in bags next to him. Insofar as, having assessed the weight of the weapons we'd received, I realized that we wouldn't manage without a car, Vladimir Chizh drove up to the border in his Hyundai Tucson.

This is how I obtained the AK-74 weapons (assault rifles), grenade-launcher attachments to them, flame throwers and ammunition. I moved these weapons into Ukraine with my comrades: Vladimir Chizh, Aleksandr Bliznichenko, Dmitry Mironenko and Yury Pavlovsky, whom I had told in advance what these weapons were to be used for. Also taking part in this operation were Andrey "Lambada", Vasily Pushkarev and Andrey Zakaznov, who was keeping watch over the area, acting as a so-called look-out.

All these people fully shared my political views, and the desire to have the Kharkov territories join the RF. The weapons received were first kept at Vladimir Chizh's dacha and were then moved to my garage, which is where they were seized by the investigation agencies.

Some time in early July 2014, upon a summons from Dmitry via the Internet, A.N. Prasol and I travelled from Kharkov to Belgorod in his Daewoo. At our meeting, Dmitry proposed that we arrange high-profile explosions in Kharkov using the flame throwers he had sent us. He proposed military enlistment offices or branches of Privatbank as the options. We agreed to his proposal and ultimately, I developed plans for the organization of shots to be fired from flame throwers at the building of the regional military enlistment office in Kharkov and the central branch of Privatbank in the city.

After around one or two days, Vasily Pushkarev and I set off for the head office of Privatbank in Kharkov, on Plekhanovskaya St., to inspect the area, Vasily Pushkarev's route to the building itself and back. Vasily and I did not discuss the location from which the shooting would take place, I think Vasily himself chose the location. During our inspection of the area, we said that Vasily would get to the location from which the shots were to be fired on his bicycle and would also leave on his bicycle, but as far as I can remember now, Vasily Pushkarev's bicycle broke down when he was leaving the location after the shots were fired, and he threw it away. In addition, to confirm that the explosion had taken place, we had decided to make a video recording, and Vladimir Chizh had volunteered to make this recording, but due to some unclear train of events he failed to do so, insofar as, whilst in his Hyundai Tucson, he had seen a patrol and inspection service and, being at a loss as to what to do, had thrown away the memory stick from his own camera.

Around five days prior to these events, Vasily Pushkarev, Sergey Pologov, Aleksandr Prasol, Andrey Zakaznov and I had got together in my garage where, having disguised our appearances, we made a short video, depicting the two flame throwers which contained the slogans: "For Odessa" and "For the Donbass", which I had written on them in white chalk.

On the night of July 28, 2014, I placed the "For Odessa" flame thrower in a camouflage cover for fishing rods and handed it over to Vasily Pushkarev via Aleksandr Prasol and Sergey Pologov, who were supposed to take the flame thrower to a location previously agreed upon with Vasily Pushkarev who, in turn, was awaiting the flame thrower on his bicycle.

That same night, around an hour after the flame thrower was handed over, Vasily Pushkarev, on his birthday, fired shots at the central branch of Privatbank from the flame thrower.

During the preparations for the shots to be fired at the building of the regional military enlistment office, I had gone out around 7 or 8 times in my car to this location and

had inspected the area, in addition, a couple of days prior [to the shooting], my friends and I had also gone to the location to inspect the area and the ability to get away following the explosion.

When discussing the shooting, an option was proposed—at this point I can't remember who by—that, in order to get away after firing at the military enlistment office, someone else's car was needed. It was decided to call out a taxi from one of Kharkov's services, to put the driver – without any bruising or scratches—in the trunk of the car and, in this car, to flee the scene of the explosion, i.e., Katsarskaya St. Vasily Pushkarev, Yury Pavlovsky and Sergey Slitenko were responsible for supplying the car. As agreed, the car was supposed to be located between Katsarskaya St. and Karl Marx St. Aleksey "Boroda" [Beard], Dmitry Mironenko, Andrey Zakaznov and I arrived at the agreed location and got into a dark-colored VAZ 21099 taxi. The driver of the car was in the trunk of the car.

Upon arriving at Katsarskaya St. in this car, with Aleksey "Boroda" at the wheel, we came to a halt, without our lights on, on the street, but with the engine running, and opened all the car doors. I got out of the car, the car was to my right in the direction of the regional military enlistment office, in the direction of the traffic, and, from the center of the street, fired shots at the building from a flame thrower which had the slogan "For the Donbass". Having fired the shots, I got into the back seat of the car and we drove stealthily towards the military enlistment office. Dmitry Mironenko fired shots at the building from an AK-74 assault rifle from the front passenger seat.

After that, we drove in the car towards Kotlov St., where we left the car at a dead-end and released the taxi driver. We all walked through the private sector towards Leningradskaya St., where Yury Pavlovsky was waiting for us in his grey Mercedes.

Question: What can you say about the arsenal of weapons and explosives that was found at your house?

Response: I got these weapons and explosives from Dmitry, as I stated above, near the Ukrainian border marker, No. 1226, after which I stored them in my garage.

Question: Are you on the register of any psycho-neurological or drug abuse clinics?

Response: No, I am not on the register of any clinics.

Question: Has any physical or psychological pressure been put on you?

Response: No, I have not been subjected to any measures of physical or psychological pressure.

Question: Do you have anything to add to what you have said?

Response: I sincerely repent of my act, this was the first time in my life that I had committed an offense, I had not previously committed any crimes, I beg for mercy, from this moment on I undertake not to perform any unlawful actions, I am willing to cooperate with the pre-trial investigation agencies, I undertake upon their first request to appear before the investigative agencies, the prosecutor's office and the court for the performance of procedural actions. I have nothing further to add to what I have said.

Suspect _____ / _____/.

Defense attorney _____ / _____/.

Interrogated by:

**Special investigator, section 1
investigations department, Kharkiv Regional Directorate
of the Security Service of Ukraine
Major of Justice**

O. Petryuchenko

Annex 236

Signed Declaration of Myckhaylo Reznikov, Suspect Interrogation Protocol (13 August 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

RECORD
Of the Interrogation of a Suspect

Kharkiv

August 13, 2015

Interrogation began at 2:40 pm
Interrogation ended at 5:45 pm

The major crimes investigator of Section 1 of the Investigations Department of the Directorate of the Security Service of Ukraine for Kharkiv Region, Major of Justice O.V. Petryuchenko, having reviewed the materials of a pre-trial investigation entered into the Unified Register of Pre-trial Investigations under No. 22014220000000184 dated 28 July 2014, [conducted] on suspicion of citizen M.V. Reznikov of crimes under Article 258(2) and Article 263(1) of the Criminal Code of Ukraine, in the presence of defender S.V. Yarmak, in accordance with the requirements of Articles 42, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine, interrogated a suspect [as follows]:

1. Family name	Reznikov
2. First name	Mykhaylo
3. Patronymic	Viktorovych
4. Date of birth	09.17.1971
5. Place of birth	Kharkiv
6. Ethnicity	Russian
7. Citizenship	Ukraine
8. Education	Higher (Kharkiv National University "Kharkiv Polytechnic Institute," 2009)
9. Place of employment (studies), occupation and position	Temporarily unemployed
10. Place of residence (registration)	Kharkiv, 10 Kolontay Lane, Tel. 067-802-27-27
11. [Criminal] convictions	Convicted under Article 286(1) of Ukraine's Criminal Code on 5.12.2003; [sentenced to] 2 years of imprisonment
12. Deputy? (If yes, of which Council)	No
13. Passport or another personal identification document	Ukrainian passport MM 783235, issued on 01.12.2000 by Leninsky District Department of Kharkiv City Directorate of the Ministry of Internal Affairs of Ukraine in Kharkiv Region

It was explained to the suspect that he was summoned to give testimony in criminal case No. 22014220000000184 in connection with him committing a criminal offence under Article 258(2) and Article 263(1) of Ukraine's Criminal Code.

Suspect **M.V. Reznikov** was advised of the content of Article 63 of Ukraine's Constitution, providing that a person shall not be liable for refusing to testify or give clarifications against self, family members, or close relatives, as defined in the law.

Suspect **M.V. Reznikov** was advised of the content of Article 18 of Ukraine's Criminal Procedure Code on the right not to incriminate oneself or testify against close relatives or family members, as well as of Article 20 of Ukraine's Criminal Procedure Code on the right to counsel.

Additionally, suspect **M.V. Reznikov** was advised of the manner in which the interrogation would be conducted and of his rights and obligations under Article 42 of Ukraine's Criminal Procedure Code, as well as given a brochure on his procedural rights and obligations.

I have been advised of and understand my rights and the manner in which the investigation will be conducted.

(signature)

Having familiarized himself with his rights, the suspect stated that he was prepared to give and respond to testimony. He expressed his desire to have counsel S.V. Yarmak present during the interrogation to protect his interests.

Additionally, M.V. **Reznikov** stated that he understands the Ukrainian language in which this investigation is conducted, yet it is his wish to give testimony in Russian, to be recorded by the investigator from his words. He did not require any interpreter services.

(signature)

On the subject matter of the questions asked, suspect **M.V. Reznikov** testified as follows:

Question: How are you feeling? Can you give testimony?

Answer: I feel fine, I can give testimony.

Question: Is it your wish that attorney S.V. Yarmak defend your interests in the course of this investigative action?

Answer: Yes, it is indeed my wish that Sergey Valeryevich Yarmak defend my rights during this investigative action.

Question: Were you subjected to any physical or psychological pressure during the pre-trial investigation?

Answer: No, I was not subjected to any measures of physical or psychological pressure during the pre-trial investigation.

Question: You are suspected of having committed a crime under Article 258(1) and Article 263(1) of Ukraine's Criminal Code. Do you plead guilty to the crime you are accused of?

Answer: Yes, I plead guilty as charged, in full.

Question: Do you confirm all your testimony given earlier at the pre-trial investigations stage?

Answer: Yes, I confirm all the testimony I have given at the pre-trial investigations stage.

Question: What can you tell on the issue of the act you have committed?

Answer: I, Mikhail Viktorovich Reznikov, [was] born in Kharkov on 9.17.1971. [I] live in Kharkov, at 10 Kollontay Lane. My father Viktor Ivanovich Reznikov, b. 1941, and my spouse Irina Viktorovna Reznikova, b. 1976, live at this address together with me. I also have a son, Denis Mikhaylovich Reznikov, b. 1994, who lives separately.

In 1987, I graduated from a 10-year high school. After school, I was admitted to the Kharkov Polytechnic Institute and graduated in 1999 with a degree in "information and measurement equipment". In 1991, I was drafted and sent to serve in the USSR's Navy as a radiotelegraph operator. In 1993, I received a discharge from the army.

I have not worked officially or been employed since 1993. I have made my living fixing cars, operating from home.

In 2009, I founded a civil organization—Kharkov Governorate Cossack Community of the Terek Cossack Host. Since that time, I have been the organization's ataman, or leader. At the moment, the organization comprises some 15 people. Said organization pursues the objective of military and patriotic education of the young.

From December 2013 or thereabouts through February 2014, I had followed the events developing in Kiev through the media and on the Internet. I disagreed with the general policies of the "New Government of Ukraine" and was, in particular, against Ukraine joining the European Union. I would rather see it develop closer relations with Russia. I was in opposition to new Ukrainian authorities.

I learned on the Internet that an anti-Maidan rally was to be held at the Freedom Square in Kharkov. It was sometime in late February 2014 or early March 2014. On the day [the building of the] Kharkov Regional State Administration (HOGA) was stormed, I was at the square. In that regard, I wondered if there was a nationalist threat present in the territory of the city of Kharkov and Kharkov Region, [and whether] the region's residents that did not support the nationalist movement [were at risk]. After that, I left the square.

In early 2014, I had a call on my mobile phone from an old acquaintance of mine, Aleksandr Bliznichenko, whom I have known from my school days because we were in the same class, albeit in different sections. I knew that Sasha Bliznichenko used to serve in the Ministry of Interior Affairs' special operations group Berkut, and so we agreed to meet to discuss the events transpiring in Ukraine. We agreed to meet on Poltavsky Shlyakh Street, near the Officers' House. During that meeting, we discussed what was going on in the country and the [popular] discontent about the hostilities in Donbass. During the conversation, Aleksandr said that he knew a few guys who would not be opposed to participating in some kind of action against the hostilities in the territory of Ukraine. A few weeks after that meeting with Sasha Bliznichenko, we agreed to meet again in our old place near the Officers' House. Aleksandr Bliznichenko came to that meeting bringing along a few people he knew: Sergey Slitenko, Vladimir Chizh, Vassily Pushkaryov, Andrey Zakaznov and Aleksey "Boroda" (Beard) Anadsky. Additionally, the meeting was attended by Yuri Pavlovsky, Andrey Kozakov, Dmitry Mironenko, Aleksandr Prasol and myself. During that rendezvous, we met each other, shared our [respective] visions of what was going on in the country and agreed to participate in some kind of action to draw the public's attention to what was transpiring in Ukraine. During that time, the military draft began, and the setting on fire of the Trade Union Building in Odessa occurred, which left us all reeling. At the meeting, we exchanged contact information and went our separate ways.

Since we believed the country was descending into chaos, we made the decision to protect ourselves in one way or another, which implied getting our hands on some kind of weapons. After that, Aleksandr Nikolayevich Prasol (Chief of Staff of the Kharkov Governorate Cossack Community of the Terek Cossack Host) and myself, accompanied by my deputy, went to the Russian Federation where we met with S.A. Klimenko (ataman of the Terek Cossack Host). During that conversation, we voiced our desire to send our families to live temporarily in the territory of the Russian Federation in view of what was transpiring in Ukraine. We feared for their lives, and besides, we did not want to remain subject to the [whims of] the then Ukrainian authorities. We also asked for assistance

obtaining weapons for self-defense. After hearing us out, S.A. Klimenko promised to help us solve our problems, one way or another. He said he would get in touch with us by phone at a later date. After that conversation, A.N. Prosol [sic] and I and I returned to Kharkov.

Sometime in mid-June 2014, I had a call from S.A. Klimenko who suggested that A.N. Prosol and I go to the city of Rostov-on-Don in the Russian Federation to meet an acquaintance of his who would be likely in a position to help our plight. We agreed, and S.A. Klimenko gave us the date, place, and time for the visit to Rostov-on-Don where we would be met.

Sometime in late June or early July of 2014, A.N. Prosol and I drove his Deo [sic] to Rostov-on-Don across the border crossings of Shebekino (RF) and Pletenyovka (Ukraine). When there, we were met by two men. One of them introduced himself as Dmitry, and the name of the second one now escapes my memory. At the end of the conversation, they took mine and A.N. Prosol's contact information, such as mobile phone numbers and email addresses. Dmitry gave me 25,000 in Russian rubles to cover our travel expenses and said they would contact us themselves. We then returned to Kharkov the same way we traveled to Rostov-on-Don.

Some two days later, Dima contacted A.N. Prosol online and suggested the two of us meet him in Belgorod, giving us the place, date, and time of the meeting we were to come for.

That way, sometime in July 2014, A.N. Prosol and I left Kharkov for Belgorod in his Deo automobile via Shebekino (RF) and Pletenyovka (Ukraine).

That time, only Dmitry came to the meeting from the Russian party. At that meeting, Dmitry suggested we take action on the territory of the town of Volchansk in Kharkov Region. The action would include indiscriminate firing of automatic weapons in downtown Volchansk, after which we were to wait for reinforcements from the Terek Cossack Host to arrive from the Russian Federation to make noise and [thus] draw the public's attention. I thought it a stupid idea and refused to participate. Additionally, I asked Dmitry for small arms for my group and myself. Dmitry said there would be no problem with that. All I had to do was give him the time and place on the RF border in advance. In this regard, A.N. Prosol and I found a convenient location on the border with the Russian Federation, within 30 kilometers of the town of Volchansk. The location was the place of Ukrainian border marker No. 1244. Aleksandr Nikolayevich Prasol gave Dmitry the coordinates of the place online, and he replied [letting us know] when we could pick up our weapons there. Additionally, during that meeting, I made arrangements with Dmitry for firearms training for my group (target practice). Dmitry gave a positive response to that, and the group would have to report to Belgorod in the Russian Federation for practice at the range. After that, Aleksandr Prasol and I once again went [back] to Kharkov via the Pletenyovka crossing.

The interrogation was paused for a break as per Article 224(2) of Ukraine's Criminal Procedure Code.

On arriving in Kharkov, I called my group members and suggested we go to Belgorod for some target practice at the range, and everybody agreed. Before leaving for Russia, we met by the Officers' House on Poltavsky Shlyakh Street and discussed our trip to Russia. During the meeting,

we discussed how everyone was going to get to Belgorod, and who will go by train, car, or bus. The meeting place in Russia was to be the Belgorod train station, in the morning.

On July 12, 2014, we left for Belgorod to do some target practice at the range. The following [individuals] arrived at the train station in Belgorod: myself, Aleksandr Nikolayevich Prasol, Dmitry Mironenko, Vladimir Chizh, Vassily Pushkaryov, Aleksandr Bliznichenko, Andrey Zakaznov, Aleksey “Boroda” Anadsky, Yuri Pavlovsky and Andrey Kozakov. In Belgorod, we were met by Dmitry who took us to a place where a green ZIL-131 truck was waiting. I do not remember the license plate number. Additionally, we left our personal effects in our own transport, including documents and mobile phones, because we did not think we should take them. We all got into the truck’s box body with no windows, and it took us an hour to reach the training grounds. I do not know where the grounds are located, and I have never been there before. Nor did Dmitry tell us where the grounds were located. At the grounds, we were met by an instructor who was going to teach target practice. We split into fives and got started. I was the one who asked the group to take their clothes off and leave them behind [sic]. At the grounds, we shot Kalashnikov assault rifles, Makarov pistols and under-barrel grenade launchers. Once done, we got our things and went back home. The same truck took us to the train station in Belgorod, and from there we went back to Kharkov. While at the training grounds, Dmitry and I also discussed weapons delivery, and I showed him on the map where I could pick them up. We also agreed on the quantity of weapons we were to receive: 10 Kalashnikov rifles with a can of ammunition, an SVD sniper rifle and ammunition for it, 5 Makarov pistols, 20 RGD-5 hand grenades, PG under-barrel grenade launchers and 10 VOG-25 rounds for them.

Eventually, sometime in mid-July 2014 (I can’t recall the date more precisely; [it was] about a week after the events at the training grounds described above), having coordinated [everything] beforehand with Dmitry, I received the weapons he promised us at the abovementioned location.

The weapons were located in the vicinity of Ukrainian border marker No. 1236, some 5 meters deep into the RF territory, in a windbreak hedge. Dmitry was waiting for me. I did not see his vehicle. The weapons were in bags by his side. I arrived at that spot to pick up the weapons along with Aleksandr Bliznichenko, Dmitry Mironenko and Aleksey “Boroda” Anadsky. Realizing that the weapons we received were heavy and we needed a vehicle, I sent Aleksandr Bliznichenko to bring Vladimir Chizh over. Since we had no mobile phones, I [simply] knew where Vladimir Chizh would be waiting for us; it was near the buildings of a [nearby] farm. Vladimir Chizh drove up to the border in his Hyundai Tucson, along with Aleksandr Bliznichenko. That way, I received the weapons: 5 AK-74 rifles, one SVD rifle, one can of 5.45. mm ammunition, 20 RGD-5 grenades, one MRO-A and one RPO [apparently referring to the Shmel flamethrower rocket, an earlier version of the MRO-A—Tr. Note]. We loaded said weapons into Vladimir Chizh’ Hyundai Tucson. Aleksandr Bliznichenko got on the bike that was in the vehicle and rode towards the levee of the [nearby] reservoir. The rest of us drove in Vladimir Chizh’ vehicle to his dacha near the town of Liptsy (I do not remember the exact address). At the dacha, we unloaded the weapons and stored them in his cellar. In the cellar, we counted the weapons again and packed them our own way. The following day, early in the morning,

we took said weapons to Kharkov and hid them in my garage at home, at 10 Kollontay Lane in Kharkov.

Question: Could you identify the location on the territory of the Russian Federation where you received the weapons from Dmitry?

Answer: Yes, I know that place, it was me who selected it, and thus I can show it on location and show how [exactly] I picked up the weapons.

Question: What else could you tell?

Answer: In or around July 2014, when I was in the Russian Federation meeting Dmitry, he suggested we blow up some high-profile targets in Kharkov using the flamethrowers we received. He suggested military commissariats or Privatbank branches as possible targets. We agreed with his proposal and in the end, I developed a plan to shoot flamethrowers at the buildings of the regional military commissariat in Kharkov and Privatbank's Central Branch in that city.

On or around July 24-26, 2014, about a day or two before the shooting on 7.28.2014, Vassily Pushkaryov and I went to Privatbank's main office in Kharkov, on Plekhanovskaya Street, to study the location and possible ingress and egress routes to and from the building Vassily Pushkaryov could use.

I gave a detailed account of these circumstances during the reenactment of the crime I took part in, and I have nothing else to add.

Some five days before the events I am describing, while in my garage, I used white chalk to write "For Odessa" and "For Donbass" on the two flamethrowers.

On the night of July 28, 2014, I put the "For Odessa" flamethrower into a camouflage-colored fishing rod case and passed it along to Vassily Pushkaryov via Aleksandr Prasol and Sergey Pologov who had to take the flamethrower to a location they agreed upon with Vassily Pushkaryov who would be waiting for it there on his bicycle.

On the same night, about an hour after the delivery of the flamethrower, Vassily Pushkaryov used it to firebomb Privatbank's Central Branch. It was [also] the man's birthday.

When preparing to shoot at the building of the regional military commissariat, I went to the vicinity thereof some 7 or 8 times in my car to study the location. Additionally, a few days before [the act], my guys and I went to that place to study the location and possible egress routes after the explosion.

I also gave a detailed account of these circumstances during the reenactment of the crime I took part in, and I have nothing else to add.

After the events described, Dmitry contacted us again and said we could come pick up the second batch of weapons at the abovementioned location near the township of Lipty, using a similar arrangement. The second time, we received 5 AK-74s, under-barrel launchers, 10 VOG-25 rounds and 5 Makarov pistols. The persons present at the second weapons handoff were myself, Aleksey "Boroda" Anadsky, Dmitry Mironenko and Aleksandr Bliznichenko. Carrying said weapons from the border, we walked some 5 kilometers across the fields to reach the windbreak hedge near the water reservoir in the vicinity of Lipty. In that hedge, Yuri Pavlovsky was waiting for us in his GAZelle vehicle, which he used to take the weapons to Kharkov and left them in my garage at 10 Kollontay Lane in Kharkov.

The interrogation was paused for a break as per Article 224(2) of Ukraine's Criminal Procedure Code.

Question: Were your relatives aware of the weapons in your garage that you received from the Russian Federation?

Answer: No, I hid those weapons in the garage and covered them up, and I never told anyone about them.

Question: During the interrogation, you were shown photos from the place of the incidents of 7.28.2014 and 8.4.2014 showing flamethrower tubes with white signage “For Odessa” and “For Donbass” on them. Do you recognize these tubes and signs?

Answer: Yes, I recognize those tubes; I wrote “For Odessa” and “For Donbass” on them myself, in my garage, using white chalk.

Question: Do you have anything else to add?

Answer: No, I have nothing to add to what I have already said.

Suspect _____ / _____ /.

Defender _____ / _____ /.

Interrogated by:

**Major crimes investigator of Section 1 of the Investigations Department of the Directorate of the Security Service of Ukraine for Kharkiv Region,
Major of Justice** **O.V. Petryuchenko**

Annex 237

Signed Declaration of Vitaliy Hrynychuk, Witness Interrogation Protocol (19 August 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF VICTIM QUESTIONING**

August 19, 2015

City of Kherson

Questioning started at 2:40 p.m.

Questioning ended at 4:10 p.m.

Lieutenant of Justice Mykhaylo Valeriyovych Savvateyev, investigator with the Military Prosecutor's Office of the Kherson Garrison of the Southern Region of Ukraine, having examined the files of a pre-trial investigation in a criminal case registered in the Uniform Register of Pre-trial Investigations under No. 42014160690000073 of November 13, 2014, questioned the following individual as a victim in his office at the Military Prosecutor's Office of the Kherson Garrison of the Southern Region of Ukraine in keeping with the requirements of Articles 55, 56, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine:

1. First name, patronymic, last name: **Vitaliy Mykolayovych Hrynychuk**

[TRANSLATOR'S NOTE: Paragraphs excluded from the translation scope have been omitted. Refer to the PDF file]

The victim, **V.M. Hrynychuk**, offered the following testimony in response to the questions asked:

I can offer the following explanations in response to the questions asked:

I, V.M. Hrynychuk, was born on August 24, 1976 in the village of Veselivka, Kremenets Raion, Ternopil Oblast.

I was drafted by the Brody Raion Military Commissariat of Lviv Oblast in June 1993.

I have been serving in the military since June 1993. Between 1996 and 1998 I served at Military Unit A9893 (Municipality of Raukhovka, Odesa Oblast) as an onboard technician. Since 1998 till present I have been serving at Field Post Office Military Unit V4063 (Kherson) as an onboard technician.

On January 15, 2015, I was sent on a combat mission to the Anti-Terrorist Operation Zone, specifically to the city of Kramatorsk, Donetsk Oblast, as part of the crew of an MI-8 military transport helicopter. That same day I arrived at the ATO Headquarters at the Sarmat Field Camp in the city of Kramatorsk, Donetsk Oblast.

Question: Would you describe the events leading up to the shelling and the events that unfolded during the shelling on February 10, 2015?

Answer: I understand the question. I can testify that at around 12:30 p.m. on February 10, 2015, I was preparing the MI-8 military transport helicopter for a combat mission. Specifically, I was refueling the helicopter, running a maintenance inspection, and loading the weapons of this helicopter with ammunition. I can testify that at around 12:35 p.m. I heard sounds resembling those of shots fired from multiple rocket launchers. I can testify that the sounds were coming from the direction of the city of Horlivka, Donetsk Oblast. Some 2 minutes after I heard these shots, cluster bombs started hitting the Sarmat base camp. They were probably fired from Uragan multiple rocket launchers. As soon as the first missiles started hitting the camp, I ran in the direction of the trench shelter. However, I never made it to the trench shelter because a shell fragment wounded my leg, causing me to fall to the ground.

I can testify that the trench shelter was approximately 5 meters away, which is why I called for help and my colleagues dragged me into the trench.

I can testify that the shelling of the Sarmat field camp lasted for about 10 minutes, after which I received first aid and was sent to a civilian hospital in Kramatorsk.

Question: Can you specify the direction from which the attack came? How were you able to determine this direction? Do you know which forces or units had been stationed in the area from which the attack came?

Answer: I understand the question. I can testify that, in my opinion, the attack came from the direction of the city of Horlivka, Donetsk Oblast. I reached this conclusion based on the location of this population center relative to the Sarmat field camp. I don't know which forces or units were stationed in the direction from which the attack came.

Question: Can you say what weapons were used in the attack? If so, based on what information did you reach that conclusion?

Answer: I understand the question. I can testify that, in my opinion, the attack came from Uragan multiple rocket launchers. I reached this conclusion because the bombs hitting the Sarmat field camp were cluster-based, which is characteristic of Uragan multiple rocket launchers only.

Question: Do you know who exactly (which unit) attacked the Sarmat field camp? If so, based on what information did you reach that conclusion?

Answer: I understand the question. I can testify that I do not know who exactly (which unit) attacked the Sarmat field camp.

Question: Was the shelling preceded by the appearance of any hostile objects (drones or other aircraft) in the airspace over the Sarmat field camp? If so, were you able to identify the specific object and its manufacturer? DO you know which specific unit launched such aircraft?

Answer: I understand the question. I can testify that roughly one hour before the attack a drone started flying over the Sarmat field camp, after which (I don't recall when exactly) this drone was shut down by servicemen of Military Unit A3546, but I don't recall how they did it.

I have no further information on this account.

Question: How were you wounded during the shelling? Where and for how long did you receive treatment for your wounds? What was your diagnosis?

Answer: I understand the question. I can testify that I sustained shrapnel wounds to the left arm and the left leg. I can also testify that between February 11 and March 11, 2015 I received treatment at the Kharkiv Military Hospital where I was diagnosed with "shrapnel wounds to soft tissues of the left arm and the left leg".

Question: Are you aware of the negative consequences of the shelling?

Answer: I understand the question. I can testify that the attack killed several servicemen and wounded many servicemen. It also damaged military vehicles.

I have read the record. My testimony has been written down accurately. I have no comments or anything else to add. [Signature] V.M. Hrynychuk

Questioning conducted, and record prepared by:

**Investigator with the Military Prosecutor's Office
of the Kherson Garrison of the Southern Region of Ukraine
Lieutenant of Justice**

[Signature]

M. Savvateyev

Annex 238

Signed Declaration of Denys Goiko, Witness Interrogation Protocol (20 August 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF VICTIM QUESTIONING**

City of Kyiv

August 20, 2015

Questioning started at 4:15 p.m.

Questioning ended at 5:10 p.m.

Lieutenant of Justice Oleksandr Oleksandrovykh Zubko, investigator with the Military Prosecutor's Office of the Kyiv Garrison, acting on instructions from O.S. Bannyk, senior investigator with the Investigative Department of the Directorate for Overseeing the Observance of the Law by United Forces of the Anti-Terrorist Operation, as part of proceedings in criminal case No. 42014160690000073 of November 13, 2014, questioned the following individual as a victim in his office No. 8 at the Military Prosecutor's Office of the Kyiv Garrison in keeping with the requirements of Articles 55, 56, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine:

1. First name, patronymic, last name: **Denys Olehovych Hoyko**

[TRANSLATOR'S NOTE: Paragraphs excluded from the translation scope have been omitted. Refer to the PDF file]

The witness offered the following testimony in response to the questions asked:

I, Denys Olehovych Hoyko, have been serving in the Armed Forces of Ukraine since July 2008. On February 10, 2015, while I was on a special mission in Kramatorsk, Donetsk Oblast, the base camp of our unit came under attack from Smerch multiple rocket launchers at around 12:30 p.m. I was wounded in this attack.

Question: When were you drafted/mobilized and by what district military commissariat?

Answer: I was drafted by the Novohrad-Volynsk Chervonoarmiysk District Military Commissariat in 2008.

Question: Since when have you been serving in the military and in what military unit? What is your position? What is the full name of your division and your military rank? Where is your military unit deployed? What is the number of the mobile phone that you use?

Answer: In 2008-2013: Military Institute of Taras Shevchenko National University of Kyiv. Since 2013 until present: special correspondent with the Central Television and Radio Studio of the Ukrainian Ministry of Defense (educational films department), 81 Melnyka Street, Kyiv. Mobile phone: (063) 683-96-18.

Question: Did you serve in the military prior to that? If so, where, during what period, and in what position?

Answer: I studied as a cadet since 2008.

Question: When, on whose orders, on what mission, and to what population center in the Anti-Terrorist Operation zone were you deployed?

Answer: On February 3, 2015, I was deployed on a special mission to the town of Kramatorsk, Donetsk Oblast, on a special order from the Ukrainian Minister of Defense.

Question: Would you describe the events leading up to the shelling and the events that unfolded during the shelling on February 10, 2015?

Answer: Forty minutes before the shelling, I heard a discharge of the Buk anti-aircraft system. One of the servicemen told me that the missile shot down a drone.

Question: Can you specify the direction from which the attack came? How were you able to determine this direction? Do you know which forces or units had been stationed in the area from which the attack came? (The witness was shown an area map during the questioning).

Answer: No, I cannot. Some time after the shelling, it was said that the attack came from the town of Horlivka, Donetsk Oblast.

Question: Can you say what weapons were used in the attack? If so, based on what information did you reach that conclusion?

Answer: According to other servicemen, Smerch multiple rocket launchers were used in the attack.

Question: Do you know who exactly (which unit) attacked the Sarmat field camp? If so, based on what information did you reach that conclusion?

Answer: The terrorists.

Question: Was the shelling preceded by the appearance of any hostile objects (drones or other aircraft) in the airspace over the Sarmat field camp? If so, were you able to identify the specific object and its manufacturer? Do you know which specific unit launched such aircraft?

Answer: Based on what I heard from other servicemen, I know that roughly 30 minutes before the shelling a drone of an unknown model by an unknown manufacturer flew over our camp. I am not aware of the specific unit.

Question: How were you wounded during the shelling? Where and for how long did you receive treatment for your wounds? What was your diagnosis?

Answer: Multiple projectile and shrapnel wounds to the soft tissues: left shoulder, lumbar region, groin, scrotum, both thighs, and left shin. Retroperitoneal hematoma. Projectile-induced multi-fragmentary fracture of the left elbow bone with fragment displacement. Fragmentary fracture of the right ilium. Severe post-hemorrhagic anemia, traumatic shock of the second degree.

On February 10, 2015, I was brought to Kramatorsk Municipal Hospital No. 1. On February 11, 2015, I was transferred to the military medicine clinical center of the southern region in Kharkiv. On February 13, I was transferred to the Main Military Clinical Hospital in Kyiv. On March 3, I was transferred to the Irpin Military Hospital. On March 20, I was transferred to a hospital in Germany. On July 16, I was transferred to the Main Military Clinical Hospital in Kyiv.

Question: Are you aware of the negative consequences of the shelling?

Answer: To the best of my knowledge, 4 servicemen and 12 Kramatorsk residents were killed. I am not aware of any damage to vehicles.

My testimony has been written down accurately and has been read by me. I have no comments or anything else to add.

August 20, 2015

[Signature]

D.O. Hoyko

Annex 239

Signed Declaration of Denys Hoyko, Victim Interrogation Protocol (20 August 2015)

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**RECORD
OF VICTIM QUESTIONING**

City of Kyiv

August 20, 2015

Questioning started at 4:15 p.m.

Questioning ended at 5:10 p.m.

Lieutenant of Justice Oleksandr Oleksandrovych Zubko, investigator with the Military Prosecutor's Office of the Kyiv Garrison, acting on instructions from O.S. Bannyk, senior investigator with the Investigative Department of the Directorate for Overseeing the Observance of the Law by United Forces of the Anti-Terrorist Operation, as part of proceedings in criminal case No. 42014160690000073 of November 13, 2014, questioned the following individual as a victim in his office No. 8 at the Military Prosecutor's Office of the Kyiv Garrison in keeping with the requirements of Articles 55, 56, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine:

1. First name, patronymic, last name: **Denys Olehovych Hoyko**

[TRANSLATOR'S NOTE: Paragraphs excluded from the translation scope have been omitted. Refer to the PDF file]

The witness offered the following testimony in response to the questions asked:

I, Denys Olehovych Hoyko, have been serving in the Armed Forces of Ukraine since July 2008. On February 10, 2015, while I was on a special mission in Kramatorsk, Donetsk Oblast, the base camp of our unit came under attack from Smerch multiple rocket launchers at around 12:30 p.m. I was wounded in this attack.

Question: When were you drafted/mobilized and by what district military commissariat?

Answer: I was drafted by the Novohrad-Volynsk Chervonoarmiysk District Military Commissariat in 2008.

Question: Since when have you been serving in the military and in what military unit? What is your position? What is the full name of your division and your military rank? Where is your military unit deployed? What is the number of the mobile phone that you use?

Answer: In 2008-2013: Military Institute of Taras Shevchenko National University of Kyiv. Since 2013 until present: special correspondent with the Central Television and Radio Studio of the Ukrainian Ministry of Defense (educational films department), 81 Melnyka Street, Kyiv. Mobile phone: (063) 683-96-18.

Question: Did you serve in the military prior to that? If so, where, during what period, and in what position?

Answer: I studied as a cadet since 2008.

Question: When, on whose orders, on what mission, and to what population center in the Anti-Terrorist Operation zone were you deployed?

Answer: On February 3, 2015, I was deployed on a special mission to the town of Kramatorsk, Donetsk Oblast, on a special order from the Ukrainian Minister of Defense.

Question: Would you describe the events leading up to the shelling and the events that unfolded during the shelling on February 10, 2015?

Answer: Forty minutes before the shelling, I heard a discharge of the Buk anti-aircraft system. One of the servicemen told me that the missile shot down a drone.

Question: Can you specify the direction from which the attack came? How were you able to determine this direction? Do you know which forces or units had been stationed in the area from which the attack came? (The witness was shown an area map during the questioning).

Answer: No, I cannot. Some time after the shelling, it was said that the attack came from the town of Horlivka, Donetsk Oblast.

Question: Can you say what weapons were used in the attack? If so, based on what information did you reach that conclusion?

Answer: According to other servicemen, Smerch multiple rocket launchers were used in the attack.

Question: Do you know who exactly (which unit) attacked the Sarmat field camp? If so, based on what information did you reach that conclusion?

Answer: The terrorists.

Question: Was the shelling preceded by the appearance of any hostile objects (drones or other aircraft) in the airspace over the Sarmat field camp? If so, were you able to identify the specific object and its manufacturer? Do you know which specific unit launched such aircraft?

Answer: Based on what I heard from other servicemen, I know that roughly 30 minutes before the shelling a drone of an unknown model by an unknown manufacturer flew over our camp. I am not aware of the specific unit.

Question: How were you wounded during the shelling? Where and for how long did you receive treatment for your wounds? What was your diagnosis?

Answer: Multiple projectile and shrapnel wounds to the soft tissues: left shoulder, lumbar region, groin, scrotum, both thighs, and left shin. Retroperitoneal hematoma. Projectile-induced multi-fragmentary fracture of the left elbow bone with fragment displacement. Fragmentary fracture of the right ilium. Severe post-hemorrhagic anemia, traumatic shock of the second degree.

On February 10, 2015, I was brought to Kramatorsk Municipal Hospital No. 1. On February 11, 2015, I was transferred to the military medicine clinical center of the southern region in Kharkiv. On February 13, I was transferred to the Main Military Clinical Hospital in Kyiv. On March 3, I was transferred to the Irpin Military Hospital. On March 20, I was transferred to a hospital in Germany. On July 16, I was transferred to the Main Military Clinical Hospital in Kyiv.

Question: Are you aware of the negative consequences of the shelling?

Answer: To the best of my knowledge, 4 servicemen and 12 Kramatorsk residents were killed. I am not aware of any damage to vehicles.

My testimony has been written down accurately and has been read by me. I have no comments or anything else to add.

August 20, 2015

[Signature]

D.O. Hoyko

Annex 240

Signed Declaration of Oleksandr Bondaruk, Victim Interrogation Protocol (20 August 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF VICTIM QUESTIONING**

City of Volodymyr-Volynsky

August 20, 2015

Questioning started at 3:20 p.m.

Questioning ended at 4:20 p.m.

O.I. Balakunets, investigator with the Military Prosecutor's Office of the Lutsk Garrison,

(Investigator, position, agency, initials, last name)

having examined the files of a pre-trial investigation registered in the Uniform Register of Pre-trial Investigations under No. 42014160690000073 on November 13, 2014, on the premises of Military Unit A2099 in the presence of individuals who were informed about the requirements of Clause 3 of Article 66 of the Criminal Procedure Code of Ukraine regarding their obligation to refrain from disclosing information about the completed procedural activity: [blank]

(Their last names, first names, patronymics, dates of birth, addresses of residence and signatures)

who were notified in advance about the use of recording equipment, the conditions and procedure for using it: [blank]

(Specifications of recording equipment and data media used in the context of this procedural activity, signatures of individuals)

in keeping with the requirements of Articles 55, 56, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine, questioned the following individual as a victim:

1. First name, patronymic, last name: **Oleksandr Leontiyovych Bondaruk**

[TRANSLATOR'S NOTE: Paragraphs excluded from the translation scope have been omitted. Refer to the PDF file]

The victim, O.L. Bondaruk, offered the following testimony in response to the questions asked:

I have been serving in the military under contract at Military Unit A2099 in the city of Volodymyr-Volynsky, Volyn Oblast, since 1996, in various positions. I currently serve as head of maintenance at the radar department. My military rank is warrant officer. I have been using the following mobile phone number for about 5-6 years: 095-216-926-6.

Based on Detached Service Order No. 29 issued on February 3, 2015 by the commander of Military Unit A1573, I along with other servicemen of Military Unit A2099 departed for the Anti-Terrorist Operation Headquarters – the Sarmat field camp in Kramatorsk, Donetsk Oblast, on February 3, 2015. I left on a mission involving participation in the anti-terrorist operation by serving on combat alert duty and protecting the state border of Ukraine in the airspace.

We arrived for duty in Kramatorsk, Donetsk Oblast, on February 4, 2015 pursuant to Order No. 35 of the First Deputy Commander of the Anti-Terrorist Operation Center at the Security Service of Ukraine dated February 4, 2015. I stayed there until February 10, 2015.

At around 12:00 p.m. to 12:20 p.m. on February 10, 2015, I was next to the radar station located not far from the runway of the military airfield in Kramatorsk, Donetsk Oblast. I was together with other servicemen some of whom were outdoors and others in a tent set up next to the radar station. When I entered the tent, I heard a noise that resembled the sound made by a jet engine. I went outside and heard 10 or more popping sounds. I did not pay attention to where those sounds were coming from. I only saw fog in the skies around the airfield. Five to ten seconds later I heard popping sounds followed by whistling sounds on the ground around us. It was then that I and other servicemen ran to the trenches for cover. As I was jumping into the trench, I felt pain on my chin. I waited in the trench until things quieted down. We then had a roll call and determined that M.M. Ilyashchuk was missing. He was running behind me. When we exited the trench, we saw Senior Sergeant M.M. Ilyashchuk lying on the ground between the tent and the trench. He appeared to be dead.

Then an ambulance arrived and transported the wounded servicemen (T.P. Lupenko, V.V. Kukay, and I.V. Smolov) to a hospital in Kramatorsk.

Some 30 minutes later, Captain Dmytro Volodymyrovych Daryin took me to the medical center of the Anti-Terrorist Operation Headquarters, from where an ambulance transported me and Senior Lieutenant A.H. Leshchenko to the Military Medical Clinical Center of Kharkiv. Once there I was diagnosed with: a closed craniocerebral injury, concussion, gunshot / shrapnel wound to the lower jaw. I received treatment in Kharkiv from February 11 to February 16-17, 2015. Then, from February 18-19, 2015 to February 26-27, 2015, I received treatment at the Lutsk Military Hospital.

I would like to note that after the shelling I and other servicemen inspected the territory of our position and discovered shell holes in the ground (approximately 14 shell holes): 20 cm deep and across. We also discovered a metal plate with a bent end measuring approximately 3-4 cm. I am unaware what kind of weapon leaves such traces.

As for the other questions, I am unable to specify the direction from which the attack came on February 10, 2015 or the forces or units that were stationed in the area from which the attack came.

I am also unaware what kind of weapons were used in the attack.

I am unaware who exactly (which unit) fired at the Sarmat field camp on February 10, 2015.

Prior to the attack on February 10, 2015, I did not see any objects (aircraft) in the airspace above the Sarmat field camp.

However, according to my fellow servicemen, radar station operator Kozachuk said that he detected drones flying in the vicinity of Debaltseve on February 10, 2015.

As to the consequences of this attack, I can say that the attack killed one servicemen of Military Unit A2099 – M.M. Ilyashuk, and wounded 5 more: me (O.L. Bondaruk), I.V. Smoliev, A.H. Leshchenko, T.P. Lupenko, and V.V. Kukay. V.M. Kozachuk was also injured. The attack also damaged the radar station, vehicles (tanks, tires, etc.), a diesel generator, and administrative property of Military Unit A2099.

This is all I can say in response to the questions asked.

The participants of the procedural activity were informed about the way in which they can review the record, specifically by making the written record available for review.

(Making the written record available for review, viewing or listening to data media if recording equipment is used)

After reviewing the text of the record of questioning, the participants of the procedural activity *did not request* to make any changes, additions or add comments to the record.

(Did not request; if requested, specify what exactly)

Victim O.L. Bondaruk [Signature]

Participants [Blank] [Blank]

Questioned by:

Investigator with the Military Prosecutor's Office

of the Lutsk Garrison

[Signature]

O. Balakunets

Annex 241

Signed Declaration of Yaroslav Zamko, Suspect Interrogation Protocol (26 August 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

Transcript of interview of witness Ya.S. Zamko dated 8/26/2015

[...]

Regarding the questions asked, the witness gave the following testimony:

I, Yaroslav Serhiyovych Zamko, born on 11.23.1990 in Komyshnia, Mirgorod District, Poltava Region, a Ukrainian, citizen of Ukraine, residing at 85 Lenina St., Komyshnia, Mirgorod District, Poltava Region, registered at 42 Plekhanivska St., Kharkiv but not residing there at the moment because I live where I work. I am currently officially unemployed and take odd jobs at construction sites.

In 2009 I met Oleh Vasylyovych Sobchenko in Kharkiv (I later saw his ID document so I know his details). We worked together at construction sites; I was an odd-jobs man; we had working relations. In the summer of 2014, Oleh Sobchenko offered me work in Russia, in Belgorod. Eventually, he put together a construction team consisting of myself, Andriy Tishchenko, whom I met before leaving for work in Russia, a man named Oleksandr (lean, tall, short dark hair, moustache) nicknamed "Doc," a man named Vitya nicknamed "Bullet" (short, light hair, about 30) whose sister was married to Doc.

At about the end of July 2014, the mentioned people and I arrived in Belgorod by local train from Kharkiv. In Belgorod, we met a man named Serhiy, our boss. He explained that we would be doing "plastering" work, installing tiles in apartments in one of the districts of the city. Two weeks later, two more men came: Slavik Monastiryov and Amona, nicknamed "Sa'id," who had a phalanx missing on his ring finger. Oleh Vasylyovych Sobchenko also came, together with Vadik Monastiryov (Slavik's father) who did not work with us at the construction site but simply periodically supervised us. We worked for another two weeks. During my month of work at the construction site, I earned approximately 800 dollars.

Subsequently, O.V. Sobchenko and Vadik Monastiryov (senior) offered the six of us to go to a military training camp in case of unrest in Kharkiv. They did not promise to pay, but fearing for my life, I agreed (since there was an understanding that if we did not agree, there would be problems).

After that, Sobchenko took us (me, Andriy Tishchenko, Alexander Doc, Vitya Bullet, Slavik Monastiryov, Andriy Sa'id) to a cafe outside Belgorod where we met with a previously unfamiliar lean man of medium height with long dark hair wearing glasses whom we nicknamed "Goggles." He handed out documents and we signed them one by one, to the effect that we would not disclose what was going to happen next.

Transcript of interview of witness Ya.S. Zamko dated 8/26/2015

In late August 2014, at about 7:00 PM, we arrived at the mentioned camp in an Ural truck with military plates—Russian plates with black background. There were eight of us: me (Ya.S. Zamko), Andriy Tishchenko, Oleksandr Doc, Vitya Bullet (short, light hair, about 30), Slavik Monastiryov, Vadik Monastiryov (senior), the truck driver (I do not know his name and cannot describe him), Slavik (our future instructor at the camp, who spoke only Russian, was dressed in BDUs, was about 1.90 m tall, shaved bald, about 30 years old), and the man whom we nicknamed “Goggles” who, as we understood, was associated with the FSB. As I noticed later when unloading the Ural truck, it also carried plastic and wooden boxes with arms, ATR (anti-tank rifle), and cardboard boxes with MREs.

This camp was probably located in Rostov Region or along the Belgorod-Rostov route (along the road I saw Rostov signposts) in an abandoned quarry. We slept in an army tent. Together with us, there were our so-called instructors: “San Sanych,” a service member who fought for the RF in Chechnya and other countries who taught us to shoot firearms, Oleh, a sapper who taught us explosives, and a man who was the camp chief—I do not remember his name. Vadik Monastiryov (senior) was our “supervisor.” Everybody in the camp wore BDUs without insignia. Upon arrival, we were also issued BDUs and weapons, namely Kalashnikov assault rifles and PM handguns, which were kept in boxes near our instructors.

Later on, they began military training—aiming, shooting AKs and PMs, weapons stripping, assembly, and cleaning; they brought an SVD sniper rifle and trained us in shooting it. Those who were better with this were left for further training.

The best were Slavik Monastiryov and Andriy Tishchenko who studied the weapons in depth and fired them more often. Andriy Tishchenko was appointed the group leader.

The camp had the following daily routine. Breakfast in the morning; then we went to the range—trained, shot, and stayed there until lunch; then we had medical training in the camp where a doctor taught us the basics of medical aid in emergencies, injuries.

Then we had dinner and rested. In the evening, we went to the range again and practiced. The sapper taught us the basics of demolition, explosives, and anti-personnel and magnetic mine designs. Sasha Doc was singled out as the best with mines and studied explosives in depth.

On the last day of my stay in the camp, they brought us operational under-the-barrel grenade launchers and blank projectiles for them, which we used to learn how to shoot them. They also brought grenade launchers (training weapons with tracer projectiles). They did not issue combat weapons to us. We also fired an ATR anti-tank rifle.

They fed us military MREs from the cardboard package marked “Voentorg (post exchange). MRE” in Russian. They included several dishes, tea, coffee, an energy drink, canned meat, chocolate, jam, cured pork fat, and hard biscuits.

Transcript of interview of witness Ya.S. Zamko dated 8/26/2015

Our camp instructors who were most likely career RF service members told us that we were the first group of people that they taught warfare. They planned to recruit other groups for training in the camp. The training course at the camp was five days long. After that, we returned to Belgorod to an apartment where O.V. Sobchenko was waiting for us. There we stayed for another 10 days, resting and drinking.

Around early September 2014, in the office of an organization called Retired Officers of Russia in Belgorod, we recorded a video message—the first message of the Kharkov Partisans. The text of this message was prepared by an unknown Russian citizen. O.V. Sobchenko read this message and the following people were in the picture: O.V. Sobchenko, Slavik Monastiryov (junior), Andriy Tishchenko, Andriy Sa'id, Vitya Bullet, Sasha Doc, and I. Later on, I saw several online messages of the Kharkov Partisans, but I have not seen the message with me in the picture.

At the time, I did not know what the partisans were all about and what they did. When I heard the text of the message, I was scared, as I understood that they were not peaceful people and decided to leave them. However, I could not do this at the time as I was in Russia. Therefore, I decided to agree to supposedly work with them to return to Ukraine and then leave them as soon as I could.

After recording the address, we started leaving for home. The first to leave were Slavik Monastiryov (junior) and Andriy Tishchenko, then I, then Sasha Doc and Andriy Sa'id. As far as I know, Vadik Monastiryov (senior) remained in Russia and did not return to Ukraine although he remained in close contact with O.V. Sobchenko.

We agreed to meet in Kharkiv in late September 2014 by the Zirka movie theater. We all came (except Sasha Doc), exchanged phone numbers and set up an email account (I do not remember the login and password at this point). Communication through the email account was supposed to go through Drafts, i.e. the message was not sent but saved in the Drafts folder, where the recipient read and deleted it. We met several more times at Sasha Doc's place located in the area of the Shevchenko Plant near the church.

I was there during discussions of a sabotage plan, which consisted of blowing up a fuel tank near the village of Zhikhar. To do so, they studied satellite photos of the area provided by Andriy Tishchenko. I also learned that Slavik Monastiryov and Vitya Bullet visited this place. As they said during the discussions, O.V. Sobchenko told them that explosives and weapons for this sabotage attack and other subversive actions in Kharkiv Region would be provided from the Russian territory by Monastiryov senior who stayed there.

I do not know if they succeeded with the action planned as I did not take part in it and did not participate in further discussions.

Several days later, together with Slavik Monastiryov, I met with three of his neighbors from Shevchenko Street near the Nowruz café. One of the men was 24-25 years old, the other was his father, and the third one was short, stout, with dark hair.

During the conversation, they said that they were previously engaged in smuggling weapons and have been bringing weapons from Russia for several years. Monastiryov junior wanted to make arrangements with them to deliver weapons for further sabotage and subversive actions in Kharkiv Region.

Transcript of interview of witness Ya.S. Zamko dated 8/26/2015

As became clear during the conversation, they had several grenades and a handgun with a silencer and ammunition kept by the third man (not the son or the father). They expressed their readiness to use it to destabilize the situation in Kharkiv.

After this conversation, I understood that all this was very serious and decided to leave them and not engage in criminal actions. Therefore, I went home to Poltava Region so as not to communicate with them again. We talked on the phone several times but eventually our communications stopped.

In addition, I can testify that I know two of O.V. Sobchenko's acquaintances nicknamed "Avatars" (for their height)—Maxim Kakareka (born in Mariupol) and Artem Voznesenskiy (I know their last names because we were friends on the VKontakte social network). When I was in Belgorod, O.V. Sobchenko told me that Artem visited him once.

[signature]

I have read the interview record personally.

The testimony is recorded correctly from my words.

I have no remarks or additions.

/ Signature / Zamko

Investigative actions performed, and the record drawn up by:**Senior Investigator for Major Cases of the****Investigative Department of the SBU Directorate in Kharkov Region****Captain of Justice [signature] A. Prosnjak**

Annex 242

Signed Declaration of Vasily Pushkarev, Suspect Interrogation Protocol (31 August 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

[...]

I, Vasily Vitalyevich Pushkarev, born in Kharkiv on 07/28/1977, am registered at Apt. 133, 179 ul. Krasnodarskaya, Kharkiv, and actually reside at Apt. 21, 3-a ul. Matyushenko, Kharkiv. I live together with my wife, Yuliya Pavlovna Pushkareva, born on 11/23/1982, and my son, Yevgeny Vasilyevich Pushkarev, born on 03/10/2004.

I completed 11th grade at Kharkiv City High School No. 101 in 1994 and started doing odd jobs, wherever I could find work, such as working at a parking lot, an open-air market, etc.

In 1995 I was called up to Armed Forces of Ukraine, where I served until 1997. I served in the National Guard of Ukraine in the town of Bashkyrivka, Chuhuyev District, Kharkiv Region, as a car mechanic and driver.

From 1997 to 2002-2003 (I cannot recall the exact date), I worked as a security guard for various security firms. In 2001 I also enrolled in the correspondence program at Kharkiv Polytechnic Institute National Technical University of Kharkiv, graduating in 2007 with a degree in chemical engineering.

[signature]

V.V. Pushkarev

[initials]

[...]

**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

In 2009 (I do not remember the exact date), I got a job with the police, where I started out as a sergeant with the Patrol and Checkpoint Service of the Kyiv District of Kharkiv. Around the end of 2009, I transferred to the Berkut Special Unit of the Main Directorate of the Ministry of Internal Affairs of Ukraine for the Kharkiv Region, where I worked as a driver for two years from 2010 to 2011. I then returned to the Patrol and Checkpoint Service of the Kyiv District of Kharkiv due to a change of leadership at the Berkut Special Unit. In 2011, I was fired from the Ministry of Internal Affairs of Ukraine for getting into a fight with employees of the Prosecutor's Office.

I have not been officially employed since 2011. I make money on the side as a taxi driver, using my personal vehicle for this purpose. In 2014, I had an Audi A4 (I do not remember the registration number), which was confiscated from me by the Organized Crime Unit, as the car had not cleared Ukrainian customs. After that, in October 2014, I acquired a silver VAZ 2109, registration number AX 1040 MI.

In the winter of 2014 (I cannot remember the exact day, but it was approximately in January-February 2014), due to the deteriorating situation with the Lyubimaya Taxi Service (which provides drivers with information services associated with receiving customer orders), I decided to find myself additional sources of income over the Internet. I learned online that I could receive a monetary reward in the amount of UAH 400 a day to participate in various rallies in support of the Party of Regions, but only in the city of Kyiv. I therefore attended several such rallies in front of the Lenin monument on Freedom Square in Kharkiv. These rallies were aimed at protecting the Lenin monument from those who advocated tearing it down. The people at the rally did not have any weapons or means of attack, nor did they have any protective gear (helmets, bullet-proof vests, etc.). I also went to Kyiv three times with groups of men and women on buses that picked us up from the Lenin monument. In Kyiv itself, I participated in rallies in Mariyinsky Park organized by the Party of Regions. I understood this to be the case because of all the Party of Regions flags in the park. During these trips, I only received the monetary reward of UAH 400 one time. The other two times I received smaller amounts. When I was in Kyiv the last time, in February 2014, shots were fired in the center of Kyiv that very day, so one of the older members of the group told the rest of us we should leave the park as quickly as possible, after which we left Mariyinsky Park on foot and made our way to the road, where I and another young man by the name of Sergei (I never saw this young man again) got in a taxi and drove to the railroad station, where we got on a train and went home to Kharkiv. Because of these events, I developed certain political views, which consisted in the idea that everything in the country should remain the same as before, and any change of power should take place by legal means.

Later, in March 2014, I started occasionally going to Freedom Square in Kharkiv to participate in various mass protests,

[signature]

V.V. Pushkarev

[initials]

**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

Aleksandr “Ded” [“Grandpa”], Sergei “Ded” [“Grandpa”], Vladimir Chizh, Yury Pavlovsky and his friend Andrei “Lambada,” and Aleksandr Bliznichenko, as well as Aleksei and Dmitry, whose last names and patronymics I do not know—I met them through Mikhail Reznikov. It was always Mikhail who gathered everyone together, calling us all on the phone. In any case, he would call me on the phone. We got together in various places—sometimes at Cemetery No. 17 (the so-called “German cemetery”), which is located beyond the ring road; sometimes by the officers’ club on ul. Poltavsky Shlyakh. Mikhail would choose the meeting place. During these meetings, we would discuss the dire situation in the country, and at one meeting Mikhail Reznikov suggested that we travel to the city of Belgorod in the Russian Federation to get firearms training, which we all agreed to. In early or mid-June, Andrei “Lambada” and Yury Pavlovsky picked me up in Yury’s grey Mercedes, and we headed off to Belgorod, arriving at the railway station there, where we met up with the rest of the group. We were approached by two men, both of whom were about 40 years old and of medium build. I believe one introduced himself as Dima. I no longer remember the other one. After that, we got in a GAZ-66 with a cab, where we sat, and they took us in an unknown direction. When we arrived at our destination, I got out of the vehicle and saw that they had brought us to an outdoor shooting range, as there were a bunch of targets set up. They then gave us AK-74 assault rifles and placed a “container” (1,000 5.45 mm cartridges) next to us, and we loaded the magazines of the rifles, after which we started shooting from various positions: standing, lying down, etc. Before we started shooting, Mikhail Reznikov told us to take our clothes off. We were standing there in nothing but our underwear. Then they gave us the assault rifles. This all took about three hours, after which they took us back in the same truck to the railway station. From there I set off for home in Yury Pavlovsky’s car, together with him and Andrey “Lambada.”

At one of our meetings in approximately July 2014, Mikhail also told us that he had an opportunity to get some weapons and explosives, which we could use for self-defense and to protect our families in the event that the situation in Kharkiv escalated, as in the Donbas. Everyone in the group thought this was a good idea. Mikhail said that we would have to pick up the weapons near the village of Lyptsi in the Kharkiv District of the Kharkiv Region.

Also in July 2014 or thereabouts, Mikhail Reznikov organized us all for the trip to Lyptsi to pick up the weapons. I no longer remember all the details and particulars—which cars we took, and who rode with whom—but everyone from Reznikov’s group participated, including myself. Vladimir Chizh went in his own silver Hyundai Tucson (I do not remember the plate number). We drove through Lyptsi and continued out to an area with a bunch of fields, where we stopped by an abandoned gas station. I can show you the spot. I remember clearly that I stopped next to the gas station, while all the others drove on. But Mikhail Reznikov told me to hide in the sunflowers and keep watch on the area, and if anything happened I was supposed to call him on his cellphone.

[signature]

V.V. Pushkarev

[initials]

**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

About 30-40 minutes later, Aleksandr and Sergei, the “Grandpas,” drove up to me in their VAZ-21112 and picked me up. After that, we drove to Vladimir Chizh’s dacha (I do not recall the exact location or address, but I visually recall that it was a one-story cottage, probably built out of red brick). At his place, we started pulling the weapons out of construction sacks—about 4-5 of them in all—and counting them. I do not recall the exact quantity of everything, but I do remember there were AK-74 assault rifles, one Dragunov sniper rifle, a container of 5.45 cartridges, under-barrel mounted grenade launchers, cartridges for the Dragunov sniper rifle, and two plastic barrels, and either grenade launchers or flamethrowers. We repacked the weapons (I do not remember how exactly) and left them at Vladimir Chizh’s dacha. I do not know where exactly the weapons were transferred to later.

A few days after we received the weapons, Mikhail Reznikov called me and suggested that we meet. I think we met at his place. I recall visually where it was. During our meeting, he told me that he had a Shmel flamethrower, as he called it, and that we needed to fire it at the head office of Privatbank, which is located on ul. Plekhanovskoy by Prospekt Gagarina. I agreed to this proposal, and he told me that I should prepare the operation—specifically, analyze the potential approaches and escape routes from the proposed site of our action. He showed me how to use the flamethrower and wrote in chalk the words “For Odessa” on one and “For Donbas” on the other. He said he would send me the “For Odessa” flamethrower through the “Grandpas.” He then pulled out of a case on the strap of one of the flamethrowers a small plastic bag containing hearing protectors (ear plugs) and had me try them on. I inserted them into my ears, then handed them back to him, and he put everything away again.

Around July 24-26, 2014, Maksim Reznikov and I headed over to Privatbank’s head office on ul. Plekhanovskoy to scope out the location. I told Reznikov that I would ride my bicycle to the site.

On the night of July 28, 2014, I was by the gas station next to Kyivska metro station, not far from the river, according to the previously agreed-upon plan. Aleksandr and Sergei, the “Grandpas,” were supposed to bring the flamethrower and leave it at the designated spot (I showed it in detail during the investigative reenactment) at around 1:00 a.m., and I was supposed to pick it up later. When I arrived at the designated spot, I saw a camouflaged case for fishing rods, which contained the “For Odessa” flamethrower. I picked it up and continued on my bicycle to Privatbank’s offices, arriving there shortly after 2:00 a.m. Because there were a lot of passing cars, however, I had to wait for a suitable moment to open fire. When circumstances allowed me to act, I pulled the flamethrower out of the camouflaged case. I was wearing a ski mask, which I had put on as I approached Privatbank, as I understand that I might fall within view of the video surveillance cameras, as well as cloth gloves, like the ones you use for doing housework. I lowered

[signature]

V.V. Pushkarev

[initials]

**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

the handle of the flamethrower so that I could hold onto it, raised the sight, pulled out the safety pin, which consists of a metal ring, aimed, and pulled the trigger, which was followed by a very loud bang. I was deafened by it, as I was not wearing the hearing protectors. I did not see where the shell went. I got on my bicycle and rode very quickly toward the river through Rudnev Square, then headed toward the Water Park and continued back to my place.

I clearly remember the date of the attack on Privatbank as 07/28/2014, because it was my birthday—that is, the attack was on the night of July 27-28, 2014, because on the 28th our whole group met in the Water Park to celebrate my birthday.

There was a break in the interview pursuant to Article 224(2) of the Criminal Procedure Code of Ukraine.

In late July or early August 2014 (I do not remember the exact time), Mikhail Reznikov called me on my cell phone and said we needed to meet at his place. As I said earlier, I do not remember his exact address, but I recall where it was visually. I would take the metro to Kholodnaya Gora, then take the trolley from the metro to the last stop, which is located on ul. Yelizarova. Then I had to walk about 10-15 minutes through a residential area. The day he called me, I followed this route to his place. He told me we were going fishing by Lyptsi in the Kharkiv District of the Kharkiv Region. He asked if I had any fishing poles, to which I replied that I did. He also told me that we would have to go the following day, and Yury Pavlovsky would pick me up in a GAZEL vehicle next to Studencheskaya metro station in the afternoon.

The following day, I met Yury Pavlovsky at the designated spot next to Studencheskaya metro station. He picked me up in his green, solid-metal GAZEL (I do not remember the registration number), and we drove to the reservoir in Lyptsi. We stopped about 300-400 meters from the dam, got out of the vehicle, and started fishing. As evening fell, Andrei “Lambada” called Yury Pavlovsky, and we walked over to the dam to meet him. The three of us then returned to the spot where the car was parked and continued fishing. We spent the night there, sleeping in the GAZEL. The following morning, someone (I do not know exactly who) called Pavlovsky or “Lambada,” and we drove across the dam and up the mountain, turning into a wooded area located on the mountain. Pavlovsky, who was driving, stopped the car. Literally 10-25 minutes later, Mikhail Reznikov, Aleksandr Bliznichenko, Dmitry, and Aleksei walked up to us. They were carrying several construction sacks. I do not know exactly what was in them, but I guessed they might contain weapons, as the circumstances surrounding our group’s presence in Lyptsi were similar to when we picked up the weapons and left them at Vladimir Chizh’s dacha. Incidentally, Chizh was not involved this time. We loaded the sacks into the GAZEL, and Pavlovsky and

[signature]

V.V. Pushkarev

[initials]

**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

“Lambada” drove off toward Kharkiv, while I and someone else (I no longer remember who exactly) got into the VAZ-21011, which was driven by one of the “Grandpas.” They dropped me off at Geroyev Truda metro station, and I took the metro home, getting off at Kyivska metro station.

Around the beginning of August 2014, during one of our group’s regular meetings (I seem to recall it was at the 17th Cemetery in Kharkiv), we discussed our plans for carrying out acts in Kharkiv, specifically firing the Shmel flamethrower at the regional military enlistment office in Kharkiv. The initiator of these actions was Mikhail Reznikov.

According to the role assigned to me, I, along with Yury Pavlovsky and Sergei, whom I had also previously met on Freedom Square in front of the Lenin monument, like the other members of the group (I also know that he previously worked as a cash courier at Privatbank), was responsible for providing the transportation on which the other members of our group would get to the regional military enlistment office in order to fire the flamethrower at it.

During the meeting, we decided that the members of our group would get to the military enlistment office in a taxi, which Sergei the “cash courier” and I would call. We also decided that when the taxi arrived, we would overcome the driver, take possession of the car and drive it to ul. Karla Marksa, where someone from our group would take it from us.

Later that night, roughly after 1:00 a.m. (I do not remember the exact day, but it was in early August), Yury Pavlovsky gave me and Sergei the “cash courier” a ride in his own Mercedes (I do not remember the registration number) to a residential area by Kharkiv’s South Railway Station, next to ul. Ryleyeva. I do not remember the exact street name. This spot had been chosen deliberately, as it was remote and quiet, i.e., a convenient place to attack someone. After Yury Pavlovsky dropped us off there, he called a taxi and drove off—I do not know where to, nor do I know which taxi service he called.

About 10 minutes after our call, a dark VAZ-21099 pulled up. It was the taxi. I do not recall the name of the taxi company. As the car pulled up, we saw it, put on our ski masks, and approached the taxi. Sergei the “cash courier” pulled out a revolver (I believe it was non-lethal) and asked the taxi driver to get out of the car and climb in the trunk. We did not cause him any bodily injury. We tied him up and told him that if he did not resist, nothing would happen to him or his car. Once we had taken possession of the car, we drove along the one-way ul. Karla Marksa and pulled into a courtyard located behind the theater on the left-hand side coming from the

[signature]

V.V. Pushkarev

[initials]

**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

direction of South Railway Station. When we arrived, we handed over the car we had stolen to one of the members of our group. I do not know to whom exactly, as it was very dark, and the person we handed the car over to was wearing a mask. But I assume it was Aleksei, Mikhail Reznikov's acquaintance, because it looked like him, judging by his complexion. After handing over the car, Sergei and I, in accordance with the plan we had agreed upon in advance, got in Yury Pavlovsky's car, which was waiting for us on ul. Karla Marksa not far from the theater.

Yury then drove me and Sergei to the trolley circle by the church on ul. Kotlova, where, according to our plan, we were supposed to wait for the other members of our group, who were supposed to drive over to us immediately after shooting up the military enlistment office. Yury Pavlovsky then drove off again.

We waited there for about half an hour, but no one showed up, so we called Yury and were instructed to continue on to ul. Klochkovskaya, where it intersected ul. Kosmicheskaya, and he would pick us up there in his car. I would like to add that during this whole time we did not hear any shooting or explosions.

When we reached ul. Klochkovskaya, we got into Yury Pavlovsky's car, which was already waiting there, and he took us both home. After we got in his car, Yury Pavlovsky said that everything had gone well.

I would like to point out that I do not know what roles the other members of our group played in carrying out this act, but I assume that Mikhail Reznikov is the one who actually shot up the military enlistment office, as he initiated the whole thing and was decisive by nature. I also found out from one of the members of our group the following day that Mikhail Reznikov had fired at the enlistment office with the flamethrower, while Dmitry, Mikhail's friend, had fired a Kalashnikov assault rifle.

After that, we got together a few more times during the month of August 2014, but not always the whole group, just to talk about current issues associated with the situation in the country. Vladimir Chizh, Aleksandr Bliznichenko, and I had some disagreements with Mikhail Reznikov on this score, and we therefore left the group. After that, we stopped calling each other and meeting up.

In September 2014, I received a call on my cellphone, number 093-487-24-34 or 096-087-38-76 (I do not remember exactly which one), from Maksim, whom I had met on Freedom Square during one of the rallies. He said that we needed to meet by the exit from Kyivska metro station. I then went and met him there. At that meeting, he said there was a way to get a weekly salary of UAH 1,000 from Yevgeny Zhilin. The main condition for this was that we had to go to the city of Rostov-na-Donu in Russia, where we would undergo military training for about 1-2 weeks. After that meeting, at Maksim's request that I find another person to go on this trip, I conveyed Maksim's

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[initials]

**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

invitation to Vladimir Chizh and Aleksandr Bliznichenko. They accepted. About 2-3 days after that meeting, I met with Maksim again, and he gave me RUB 45,000 for the three of us, including Vladimir Chizh and Aleksandr Bliznichenko, so that we could get to Rostov-na-Donu, Russia. He also gave me a cell phone (I do not remember the brand) without a SIM card, as well as the telephone number of a man who was supposed to pick us up in Rostov (I no longer remember the number). He said that we should make our way to Rostov when we were ready, so we should call the man whose number he gave me as soon as we got there. He did not tell me the man's name, however. We were not supposed to let Maksim know when we left.

About 2-3 days after my meeting with Maksim, I headed out with Vladimir Chizh and Aleksandr Bliznichenko on a mini bus from the bus depot located at Kharkiv's South Railway Station. We reached the Hoptivka crossing on the Ukrainian-Russian border, where we took a taxi and drove to the railway station in Belgorod, Russia. Upon arriving at the railway station in Belgorod, we purchased a new SIM card (I do not remember which operator) so that we could use the cell phone that Maksim had given me. From the railway station in Belgorod, the three of us took another taxi to Rostov, Russia. Upon arriving in Rostov, Vladimir Chizh or Aleksandr Bliznichenko (I no longer recall which of them exactly) called the telephone number that Maksim had given me. About two hours after that call, the man arrived in a dark VAZ-21099 automobile (I do not remember the registration number). He got out, walked over to us, and introduced himself by the nickname "Zima" ["Winter"]. He was about 185-190 cm tall, medium build, short blond hair, about 30-35 years old, with a scar above his upper lip on the left-hand or right-hand side (I do not remember exactly). "Zima" then drove us to a firing range that was located outside the city. To get there, we drove through some fields, then turned off the main road somewhere and drove up to a field next to a small forest of deciduous trees. When we arrived at the firing range, I saw that there were about six large, green tents set up there. About 30 people were staying in two of them (about 15 people in each). Among those present at the firing range, I saw some people dressed in military uniform (camouflage) with "Vostok" insignia and St. George's ribbons. I knew from the Internet that this was a subdivision of the Donetsk People's Republic (DPR). We did military training for about a week. Each day we fired AK-74s, RPG-7s and "Mukhas," as well as PM pistols, right there on the firing range. They also taught us explosives, specifically: how to lay an anti-tank mine, and how to use TNT and plastic explosives with a detonator. During my stay at the firing range, there were no political, propagandistic, or activist-type discussions.

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V.V. Pushkarev

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**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

During our training at the firing range, we had a total of three instructors, including “Zima” himself, who showed us how to fire a pistol.

After one week, around the middle of October 2014, “Zima” picked us up in a dark VAZ-21099 automobile. He drove us to the bus station in Rostov, Russia, where we got tickets for the Rostov-Kharkiv bus. After we arrived in Kharkiv, I called Maksim to arrange a meeting so that I could tell him what we had done at the firing range and what we were going to do next. At our meeting, I told him what we had learned at the firing range in Rostov. He then told me to await further instructions, which would company from Yevgeny Zhilin via Maksim.

About 2-3 days after that meeting with Maksim, still in the middle of October 2014, Maksim called me and told me to go to the Zolochiv and Vovchansk district of the Kharkiv Region to check whether there were any checkpoints or military hardware there. The following day or the day after that (I do not remember exactly), Aleksandr Bliznichenko and I traveled to the Zolochiv District of the Kharkiv Region, and the day after that, Aleksandr Bliznichenko, Maksim, and I traveled to the Vovchansk District of the Kharkiv Region for the aforementioned purpose. After we got back from the Zolochiv District of the Kharkiv Region, I called Maksim and told him there was nothing of interest in the Zolochiv Region.

After these trips, around October 14, 2014, Maksim and I crossed the border at the Hoptivka crossing, where Yevgeny Zhilin picked us up in a Toyota Land Cruiser with Kharkiv registration plates on the territory of the Belgorod Region of the Russian Federation, just after the border crossing on the Russian side. We drove from the border to a café in a suburb of Belgorod, located some distance outside the city on the border side. At the café, we discussed our plans for the future, and where we might look for something (as we had in the Zolochiv and Vovchansk districts of the Kharkiv Region). Zhilin did not say anything specific, but he told us he would send further instructions via Maksim. Zhilin then drove us to the border in Hoptivka, where we crossed the border into Ukraine on foot.

Around October 27, 2014, Maksim and I crossed the border at Hoptivka, where Yevgeny Zhilin picked us up on the Russian side in the same Toyota Land Cruiser. We then spoke with Zhilin in the same café about the same topic as the first time. We also talked about what we might be able to do if we had some weapons or explosives. We talked about what we might blow up or mine, but no specifics were discussed. The three of us then headed toward the Ukrainian border. On our way out of Belgorod, we stopped by a superstore and bought me a netbook so that we could communicate via the Internet, specifically via Skype, as we understood that our telephones might be bugged. Zhilin then dropped us off at the border, and we crossed into Ukraine on foot.

Around November 30, 2014, Oleg Doroshenko, whom I had met on Freedom Square, sent me a message on my Viber, which Maksim had installed on my phone—the same phone that he

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V.V. Pushkarev

[initials]

**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

had given me before the trip to Belgorod—in which he said that he was now in the city of Kursk, Russia, and could I go there right away, to which I replied that I could. I immediately packed my things and headed to the bus station, from which I took a mini bus to the railway station in Belgorod, and from there I took a bus to Kursk. That same day, I arrived in Kursk, where Oleg met me and drove me to an apartment, where, besides him, there were three other people by the names of Kolya, Dima, and Roman, whom I had never met before. After we arrived at the apartment (I do not know where it was located), he started telling me how we needed to go to a firing range (where exactly he did not say) to get military training, to which I agreed. The following morning, Oleg, Kolya, Dima, Roma, and I got into a dark van, in which two guys by the names of Yura and Denis had come to pick us up, and headed off in an unknown direction. They did not tell us anything. About 12 hours later, we arrived in Krasnodar Territory, which I learned from a road sign that we passed, after which we arrived at a military camp located in some fields, where 3-4 large tents had been set up. They brought us to the camp at night. Yura and Denis got out first and spoke with someone, then came up to us and told us to go sit in or near one of the tents, not to ask any superfluous questions, and not to step away from the tent without permission.

We did military training at the camp for about 10 days. Throughout the training, I did not see anyone at the camp except for us. They trained us to fire assault rifles and pistols and taught us to detonate TNT and plastic explosives using electric detonators.

After 10 days, in early December 2014, they drove us in a van to the city of Belgorod, where we got on a bus and returned to Kharkiv.

There was a break in the interview pursuant to Article 224(2) of the Criminal Procedure Code of Ukraine.

After I returned from Krasnodar Territory, Russia, in late December 2014, Oleg Doroshenko sent a message to my Viber, saying that we needed to meet. The following day, Vladimir Chizh and I met with Oleg. At this meeting, Oleg said that an order had been received from Maksim, that we needed to go to the village of Lyptsi in the Kharkiv District of the Kharkiv Region to pick up some weapons there. About 1-3 days later, we headed to Lyptsi. I drove in my own grey VAZ 2109 with plate number AX 1040 MI, while Vladimir Chizh and Oleg Doroshenko went in a Tavriya pickup that belonged to Vladimir. I stayed about 6-8 kilometers from the Russian border so that I could keep watch and warn Vladimir Chizh and Oleg Doroshenko if any Ukrainian border guards appeared. About 30-40 minutes later, Vladimir and Oleg returned with the weapons, which were packed inside three gym bags and two plastic bags. We then drove to Vladimir

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V.V. Pushkarev

[initials]

**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

Chizh's dacha, which is located in Lyptsi, and examined what we had picked up. There were some grenades (RGD-5s and F-1s), 5 silenced pistols (PBs), grenade launchers in the form of plastic tubes, mines (OZM-72s and SPMs), plastic explosives in "sausage" form (a total of three packs, around 12 kg), electric detonators, and regular detonators. After examining it all, we put all the weapons back in the bags and drove them in the Tavriya pickup to Vladimir Chizh's garage next to his house on ul. Staroshshkovskaya in Kharkiv. Vladimir was opposed to storing the weapons in the garage, so I found another garage, which I was renting near the "mausoleum" on Saltivka on ul. Gvardeytsev Shironintsev, to which Vladimir Chizh and I later transferred the weapons.

Around the beginning of January 2015, I connected with Vyacheslav, nickname "Zeleny" ["Green"], via the Internet—specifically, on the social network VKontakte. We agreed to meet next to Barabashovo metro station. At that meeting, we talked about what was happening in the country. I told him that I had explosives (specifically, plastic explosives), after which he asked me for 6 kg. He also offered me several timer mechanisms that he had made himself and that could be used to set off explosions. After that meeting, we agreed via the Internet to meet again by Akademika Pavlova metro station, That was around the middle of January 2015. I gave him 6 kg of plastic explosives, which I had picked up from the aforementioned garage the night before, and he gave me several timer mechanisms, which consisted of electric wires, batteries, and an alarm clock made in China. We also explained how to use it—i.e., he said you had to connect the wires to the electric detonator according to a male/female layout, and then set the time on the alarm clock, so that the contacts would touch and set off the detonator.

Around the beginning of February 2015 (I cannot remember the exact date), I met with Oleg Doroshenko on the platform of Kyivska metro station. He said he had received information from Maksim that a volunteer office providing assistance to Anti-Terrorist Operation (ATO) troops, was located on ul. Otakara Yarosha. He said there was no need to blow up the office itself; we only needed to plant the explosives next to it, so as to scare the volunteers. We then went to Botanichesky Sad metro station to see where exactly the office was located. Upon arriving there, we looked at the building from a distance of about 300 meters and decided that we were going to blow it up—specifically, the entrance to the basement of the building.

Several days later, I went in my car to have another look at the spot where we were going to plant the bomb. It was the entrance to the basement of building No. 18 on the alleyway of Otakara Yarosha in the city of Kharkiv.

One evening in early February 2015 (I do not remember the exact date), I met with Oleg Doroshenko at the intersection of ul. Klochkovskaya and Spusk Passionarii in the city of Kharkiv

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V.V. Pushkarev

[initials]

**Transcript of interview of suspect V.V. Pushkarev
dated 08/31/2015 (continued)**

to go and plant the explosive device. Oleg Doroshenko stopped by the aforementioned leased garage to pick up the timer mechanism, which I had left in the garage after my meeting with Vyacheslav “Zelyeny,” and I brought 300 grams of plastic explosives with me from home. From that intersection, we caught a passing taxi and drove to the intersection of ul. Otakara Yarosha and ul. Klochkovskaya. There we got out of the taxi and stepped into the courtyard of building No. 12 on ul. Otakara Yarosha, where I assembled the explosive device and placed it in a plastic bag that I had with me. Meanwhile, Oleg stood and watched how I did it. Oleg then headed down ul. Otakara Yarosha in the direction of Prospekt Lenina toward Botanichesky Sad metro station. He did not tell me exactly where he was going or why. I set off through the courtyards along the alleyway of Otakara Yarosha toward building No. 18 on the same alleyway. When I reached the building, I placed the explosive device on the basement steps, but thinking that the device was lying too high on the steps and might injure some passers-by if it went off, I decided to move the explosive device a couple of steps lower. When it fell down a couple of steps, however, there was a strong explosion. After the explosion, without realizing what had happened, I went running through the courtyards along ul. Otakara Yarosha toward Prospekt Lenina, after which I went home to Apt. 21, 3-A ul. Matyushenko. As a result of the explosion, I had burns and wounds on my face, a contusion, and partial loss of hearing and sight. I did not go to the hospital but treated myself at home. I tried to avoid crowds. After these events, I hardly left my apartment for about a month while the wounds on my face were healing.

On April 11, 2015, I was arrested by SBU officers at my place of residence.

I sincerely regret the things I did, understanding all the danger they posed to the public, and am prepared to assist the pre-trial investigation in solving these crimes.

I have read the transcript, and it is an accurate record of my testimony. I have no comments and nothing further to add.

[signature] *V.V. Pushkarev*

Defense counsel [signature] [signature] *Yu.B. Boldyr*

Interview conducted and transcript prepared by:
Senior Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the SBU
Major of Justice

[signature]

O.S. Zahumennyi

Annex 243

Signed Declaration of Volodymyr Vodyratskyi, Suspect Interrogation Protocol (11 September 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

[...]

In response to the questions put to him, witness V.V. Vodyratsky has given the following testimony:

I, Volodymyr Valentynovych Vodyratsky, came to Luhansk on June 13, 2014 from Zhytomyr at the invitation of my acquaintance Serhiy Taran. I had a prior agreement with S. Taran who, being on friendly terms with the owner of a gravel pit, promised to arrange a job for me as director of the said enterprise which is located in the village of Mykhaylivka, Perevalsk District, Luhansk Region. However, by the time I arrived the owner of the enterprise had left Luhansk Region, and my friend could not help me get a job.

Around June 20, 2014 S. Taran and I were in the grounds of the Luhansk city central market, where I got caught in a mortar attack and suffered a shrapnel wound to my trunk. Subsequently I was treated at the Luhansk regional hospital, where I got to meet wounded fighters from the Zarya battalion of the Luhansk People's Republic terrorist organization. They invited me to join their illegal paramilitary formation as a rank-and-file soldier. I accepted their invitation and filed an application to join the Zarya battalion. At that time, the commanding officer of this illegal paramilitary formation was Igor Venediktovich Plotnitsky. I was admitted to the Zarya battalion as a rank-and-file soldier sometime in early July 2014. The leadership and fighters of the Zarya battalion were headquartered in the offices of the Luhansk military commissariat. My immediate duties included working with the logistics personnel. During my service in the Zarya battalion, I happened to meet a citizen of Ukraine, Oleksandr Fedorovych Babychev, a resident of the Rovenki town of Luhansk Region, who at the time was staffing the artillery units of the LPR terrorist organization. He personally invited me to join the new unit, to which I agreed. Our friendly relationship meant that O.F. Babychev promoted me to the military rank of Lieutenant-Colonel and appointed me as commander of a rocket artillery battalion. My immediate duties were to lead this military unit and recruit military personnel, who were in short supply. The military unit under my command had 6 BM-21 Grad rocket launchers and 15 men. As the rocket artillery battalion was still at the formative stage, I was not involved in military action. My battalion was based in the village of Lotikovo in Slovianoserbsk District, Luhansk Region. From August 3, 2014 to September 2014, the rocket artillery battalion was permanently based in Lotikovo, repairing combat vehicles.

Sometime in September 2014 our unit joined an illegal paramilitary formation, People's Militia, of the LPR terrorist organization. Thus, the battalion under my command became part of the 10th artillery brigade of the 2nd Army Corps of the LPR People's Militia. Our military unit was assigned the number 23213. After this reorganization I took the post of 1st deputy [commander] of the rocket artillery battalion, 10th artillery brigade, 2nd AC of the LPR People's Militia. Oleksandr Fedorovych Babychev, call sign "Zeus," military rank Colonel, was appointed commanding officer of the 10th artillery brigade, 2nd AC; Illya Ivanovych whose surname is either Gromov or Grigoryev – I don't know exactly – a Ukrainian citizen, call sign "Raduga (Rainbow)," was appointed commander of the 1st battalion of the artillery brigade; deputy commander in charge of training was Roman Anatoliyevich, a deputy colonel of the Russian Armed Forces, call sign "Zampolit" [deputy commander for political affairs]; the commander of the brigade headquarters was a citizen of

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Ukraine, Serhiy Volodymyrovych – I don't know his surname – call sign "Major," a resident of Rovenki, Luhansk Region; deputy commander for procurement was a citizen of Ukraine, Serhiy Oleksandrovych Zhurba, a resident of Rovenki, Luhansk Region, call sign "Zhurba"; deputy commander of the artillery brigade in charge of logistics was a citizen of Ukraine called Valera – I don't know his other personal details – a resident of Luhansk, call sign "Barman." From September 3, 2014 to March 2015 the rocket artillery battalion of the 10th artillery brigade was stationed in the village of Lotikovo, Slovianoserbsk District, after which it was moved to the Novopavlovsky training ground where it is now. In total, my unit has 18 BM-21 Grad rocket launchers, 24 Ural combat vehicles and 1 command staff vehicle which is a GAZ-66 car. At the moment there are about 260 Grad rockets remaining at my battalion's former location in the village of Lotikovo, Slovianoserbsk District. All other ammunition totaling 2,880 rockets has been moved on instructions from Russian advisers to the Novopavlovsky training ground, where all of the artillery brigade's equipment is now located. The headquarters of the 10th artillery brigade of the 2nd army corps of the LPR People's Militia is based in the city of Luhansk in the grounds of the Transpele motor transport company. Also based there is the headquarters platoon and the support platoon.

I also know that the 10th artillery brigade of the 2nd army corps includes two more battalions: the howitzer battalion and the self-propelled artillery mount battalion. The commanding officer of the self-propelled artillery mount battalion is a citizen of Ukraine with the call sign "Cyrano," I don't know his other personal details. I don't know who leads the howitzer battalion.

I wish to say that our brigade has advisers from among senior officer ranks of the Armed Forces of the Russian Federation, who perform the actual leadership of the 10th artillery brigade of the 2nd army corps. For example, the de-facto leader of the artillery brigade is a serviceman of the Armed Forces of the Russian Federation, Sergei Sergeyevich Solodyan (call sign "Uzgen"), the adviser responsible for the brigade's logistics is a serviceman of the Armed Forces of the Russian Federation, Captain Fedyunin, whose name and patronymic

I don't know. The artillery chief of the 2nd army corps is a serviceman of the Armed Forces of the Russian Federation, Andrei Vasilyevich whose surname I don't know, call sign "Vikhr (Whirlwind)," and his deputy is a citizen of Ukraine called Yevhen – I don't know his other personal details – call sign "Bison."

Reconnaissance in the 10th artillery brigade of the 2nd army corps is led by a citizen of Kazakhstan – I don't know this person's name and surname or his call sign.

This interrogation record, which I have read, is a true record of my oral statement. I have no comments or additions.

V.Voderatsky [signature]

[signature]

This record was taken by:

*Senior Detective,
Central Office of Criminal Investigations,
Luhansk Regional Directorate of the Security Service of Ukraine
Senior Lieutenant [signature] I.M. Yushpovych*

09.11.2015

[signature]

Annex 244

Signed Declaration of Anton Fadeev, Witness Interrogation Protocol (16 December 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
of witness interrogation**

City of Mariupol

December 16, 201 [sic]

Interrogation commenced at 04:45 PM

Interrogation ended at 06:00 PM

Lieutenant-Colonel of Justice O.V. Martynyuk, a senior special investigator with the Investigations Department of the Donetsk Regional Directorate of the Security Service of Ukraine, having reviewed the files of the criminal proceeding entered into the Unified Register of Pretrial Investigations as No. 2201505000000021 dated 01/13/2015, on the premises of the Mariupol Central Office of the Donetsk Regional Directorate of the Security Service of Ukraine, pursuant to the requirements of Articles 65, 66, 95, 104, 106, 223 and 224 of the Criminal Procedure Code of Ukraine, questioned as a witness:

1. Full name: **Anton Yuriyovych Fadeev**
2. Date and place of birth: 03/23/1984, Horlivka, Donetsk Region
3. Ethnicity: Ukrainian
4. Citizenship: Ukraine
5. Education: higher
6. Place of employment (service): Kyiv-2 Special-Purpose Militia Battalion, platoon commander
8. Marital status: single
9. Place of residence (registration): 10 vul. 40-richchya Peremohy, Borova, Fastiv District, Kyiv Region, tel. 0966911707
10. Criminal convictions: none
11. Is he/she a member of parliament (if so, which one)? no
12. Details of passport or other identity document: identification series UKM No. 500224, issued on 07/01/14 by the Staffing Department of the Main Kyiv Directorate of the Ministry of Internal Affairs of Ukraine.

The witness was advised that he has been summoned to give testimony in a criminal proceeding entered into the Unified Register of Pretrial Investigations as No. 2201505000000021 concerning elements of a crime provided for by Article 258(3) of the Criminal Code of Ukraine.

The witness was advised of the content of Article 63 of the Constitution of Ukraine, which provides that a person may not be held liable for refusing to give testimony or explanations concerning himself, members of his family or close relatives, as defined by law.

[signature]

The witness was advised of the content of Article 18 of the Criminal Procedure Code of Ukraine concerning freedom from self-incrimination and the right not to testify against close relatives or family members.

[signature]

The witness was advised of the interrogation procedures and his rights and obligations under Article 66 of the Criminal Procedure Code of Ukraine, according to which:

[signature]

1. A witness shall be entitled:

1) to know what he is being questioned about, and in which criminal proceedings;
2) in the course of giving testimony and participating in other procedural actions, to use the legal assistance of an attorney, whose powers shall be confirmed in accordance with the provisions of Article 50 of the Criminal Procedure Code of Ukraine (specifically: 1) by a license to practice law; 2) by an engagement letter or agreement with the defense attorney or a mandate provided by a body (institution) authorized by law to provide free legal assistance);

3) to refuse to give testimony concerning himself, his close relatives or members of his family that may incriminate him, his close relatives or members of his family, as well as testimony concerning information that is not subject to disclosure according to the provisions of Article 65 of the said Code (specifically, the following persons may not be questioned as witnesses: 1) a defense attorney, counsel for a victim, civil claimant, or civil respondent, or legal representative of a victim or civil claimant in criminal proceedings, regarding facts of which they became aware in connection with performing the functions of a representative or defense attorney; 2) lawyers, regarding information protected by lawyer-client privilege; 3) notaries, regarding information protected by notary-client confidentiality; 4) medical workers and other persons who, through the performance of their professional or official duties, become aware of an illness, a medical examination and the results thereof, or intimate and marital aspects of a person's life, regarding information protected by doctor-patient confidentiality; 5) clergymen, regarding information received by them through confession; 6) journalists, regarding confidential information provided on the condition of non-disclosure of the authorship or source of the information; 7) professional judges, people's assessors, and jury members, regarding the circumstances surrounding the discussion of matters in the deliberation room that arose at the time of issuing of the court decision, except in the case of criminal proceedings concerning a knowingly unlawful verdict or ruling issued by a judge (or judges); 8) persons who were involved in entered into and performing a settlement agreement in criminal proceedings, regarding the facts of which they became aware by virtue of their involvement in entering into and performing the settlement agreement; 9) persons against whom interim measures have been imposed, regarding current information about their identity; 10) persons who possess information concerning the current details of persons against whom interim measures have been imposed, regarding such details. Persons with diplomatic immunity may not be questioned as witnesses without their consent (and may refuse to give testimony), nor may employees of diplomatic missions without the consent of a representative of the diplomatic mission);

4) to give testimony in his native language or in another language that he speaks fluently, and to use the services of an interpreter;

5) to use notes and documents when giving testimony in cases where the testimony involves any calculations or other information that is hard to keep in memory;

6) to be reimbursed for expenses associated with being summoned to give testimony.

7) to review the record of the interrogation and submit requests to make changes, additions or comments to it, as well as to make such changes and comments by his own hand;

8) to request that provision be made for his personal security in cases provided for by law;

9) to request that the interpreter be replaced.

2. A witness must:

1) appear when summoned before an investigator, prosecutor, investigating judge, or judge;

2) give true testimony during a pretrial investigation or trial;

3) not disclose without the permission of the investigator, prosecutor or judge any information that directly pertains to the merits of the criminal proceedings or any procedural actions taken in the course of the proceedings, of which the witness became aware in connection with the performance of his duties.

[signature]

3. A person involved in procedural actions during a pretrial investigation in the capacity of an attesting witness or who has witnessed such actions shall not, at the request of the investigator or prosecutor, disclose any information about the procedural action that was performed.

In addition, pursuant to Article 224(7) of the Criminal Procedure Code of Ukraine, a questioned person may, if he so wishes, set forth his testimony by his own hand. Additional questions may be posed to the person regarding his written testimony.

[signature]

Pursuant to Article 67, the witness was advised of the criminal liability provided for by Article 384 of the Criminal Code of Ukraine (*Knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*A witness's refusal to testify*).

[signature]

Having been familiarized with his rights, the witness stated that he wishes to give his testimony in *Russian* and to set it forth *in Russian for the record*.

He speaks Russian and Ukrainian well and does not wish to use the services of an interpreter.

He *does not wish* to use the legal assistance of an attorney when giving testimony.

[signature]

Regarding the questions that were put to him, the witness gave the following testimony:

I have been serving in the Kyiv-2 Special-Purpose Militia Battalion since May 2014. I currently hold the position of platoon commander. Since the end of January 6, 2015, my place of deployment has been the Buhas checkpoint, which is located on the site of fixed post No. 5 of the State Traffic Inspectorate [STI] on the road leading out of Volnovakha toward the village of Buhas, Donetsk Region, forming part of the N-20 highway (Mariupol-Donetsk). My call sign is "Baton".

At 9:00 AM on January 13, 2015, I went on combat alert duty at the said checkpoint together with soldiers with the call signs "Volk", "Gek", "Ustym", and "Kruk", and a volunteer with the call sign "Chudo" (I cannot tell you their actual names). Our duties included checking the vehicles and people passing through the checkpoint. "Volk", "Gek" and I took up positions on the lane leading from Mariupol toward Donetsk. By lunchtime there was already a line of about 20 vehicles at the checkpoint heading in the same direction, as all the drivers of the vehicles were speaking with us at length, asking about the impending introduction of access passes.

At around 2:22 PM, "Gek" was checking a blue Yutong passenger bus (I do not recall its route or destination) on our side of the checkpoint. Behind it in line, awaiting inspection, was a yellow I-Van bus traveling on the Zlatoustivka-Donetsk route. This bus was not opening its doors. About three minutes later, when I was about 10 meters from the rear of the yellow I-Van bus, our checkpoint and the surrounding area came under artillery fire from Grad multiple rocket launch systems. Prior to January 6, I had served near the city of Debaltsevo, where my deployment site had repeatedly come under artillery fire by DPR [Donetsk People's Republic] supporters using Grad

[signature]

multiple rocket launchers, so I was aware that Grad shells make absolutely no sound in flight. That was precisely the case during the events I am describing. Shells started "falling" about 1 kilometer to the north of the checkpoint along the road, in the field adjacent to the road and along the road itself, continuing up to our checkpoint. Some of them even landed to the left behind the checkpoint (as viewed from the road, facing Donetsk). I heard about 10-15 explosions over the course of about 15 seconds, and I saw bursts of black smoke, mixed with earth, approaching me. In the first seconds after the explosions began, I rushed toward a bright turquoise-colored Mercedes-Sprinter van standing by the blocks, behind the yellow I-Van bus I mentioned above, and took cover behind the rear right corner of the van, turning away from the explosions. About 10 meters behind me in the tree line next to the road, yet another shell exploded right next to the aforementioned yellow I-Van bus that was travelling from Zlatoustivka to Donetsk. The windows of this bus, as well as the windows of the blue Yutong bus in front of it, were blown out by the blast. I could hear the screams of the passengers on the buses. In a state of shock, I ran toward the blindage to the left of the buses and heard the moaning of a wounded soldier with the call sign "Volk". He had received a shrapnel wound to the abdomen (as it later turned out). I grabbed "Volk" and dragged him into the blindage. When I returned to the yellow I-Van bus, the right side of which had taken the brunt of the exploding shell from the tree line, I saw a stout woman walking through the bus with the lower part of her face missing. Nearly all the passengers on the right side of the bus remained sitting in their seats. As I learned afterwards, 10 people died instantly. It was clear to me that they were dead. The doors of the bus were jammed. Immediately after the shelling, we brought a ladder up to the bus and started evacuating the wounded from the left side through the shattered windows. There were streams of blood on the floor by the rear door of the bus.

I immediately got on the radio and reported the incident to the duty officer at the guardhouse. An ambulance was summoned, and they started taking the wounded to Volnovakha Central District Hospital.

Question: As a witness of the events you have described, can you say which direction the shells that caused the casualties on the passenger bus came from?

Reply: I can say with certainty that the Grad shells we are talking about in this interrogation came from the north. This was obvious from the way the explosions "fell" on the field along the road – they were approaching the checkpoint from the north. In addition, when I was behind the bright turquoise Mercedes-Sprinter van during the shelling, standing with my back to the field behind the checkpoint (to the southwest), I saw how one shell flew over our checkpoint from the northeast and hit the ground at an angle of about 60-65 degrees to the northeast.

[signature]

Question: Tell us about the intervals of the explosions, as you described them above. Did the explosion that damaged the yellow I-Van bus look special in any way, or was it consistent with the general picture in terms of the sounds of the explosions (the cannonade from the explosions)?

Reply: The explosions fell at virtually identical intervals. It all looked, roughly speaking, like slow-motion machine-gun fire. I believe the explosion next to the bus was one of the last, and it did not stand out as a separate explosion from the general cannonade. It was followed at the same interval by another shell – the one that I personally saw land in the field – and by several more after that.

I have read the record. My words are accurately recorded. I have no comments or objections.

Witness: [signature] / A.Yu. Fadeev /

Interrogated by:

Lieutenant-Colonel of Justice O.V. Martynyuk

[signature]

Senior Special Investigator with the Investigations Department of the Donetsk Regional Directorate of the Security Service of Ukraine

Annex 245

Signed Declaration of Andrii Tishenko, Suspect Interrogation Protocol (26 December 2015)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

[...]

In response to the questions put to him, the suspect gave the following testimony:

I have worked in various positions at the Kharkiv City Council since 2011, including my current position since January 2013. I have a degree in engineering (graduated from Kharkiv Polytechnic Institute).

About three years ago, one of my acquaintances (I do not remember exactly who) offered me a chance to make some money on the side by digging wells, to which I agreed. I had to do the actual digging work. While doing this work, I met Kharkiv resident and Ukrainian citizen Oleg Vasilyevich Sobchenko (I learned his surname later; at that point I only knew him as Oleg Vasilyevich). He was the foreman of the crew that was digging the wells. I worked on the wells for several days in all, digging several of them.

I saw him a couple more times after that. Knowing that I worked on the City Council, he asked me how to prepare certain land documents (as I recall, he needed legal advice). We became friendly after that. I saw him about once every six months.

During the events of late February 2014, when people gathered on Freedom Square to tear down the Lenin monument, I came to the square for ideological reasons and stood by the barrier that was put up by defenders of the monument, whom I supported. I went to the square several times in all.

During one of my visits to Freedom Square, I met Mr. Sobchenko. He was going and talking to people. He also supported the defenders of the monument. He and I spoke about the situation in the country.

The last time I visited the square was during the events of March 1, 2014 (the storming of the regional administration), but I did not take part in these events. I stood off to the side.

Somewhere around the spring of 2014, Mr. Sobchenko called me and asked if I could give him a ride on my motorcycle. He explained that his car was in the repair shop. I gave him a ride several times to a garage on the other side of the airport, where they were repairing his car (a black Toyota Corolla). I also

Transcript of interview of suspect A.M. Tyshchenko dated 12/26/2015 (continued)

gave him a ride a couple of times to a metal depot by the railroad bridge on pr. Gagarina. The owner there was a man by the name of Gennady, 45 years old, with a mustache. I would be able to identify him. During all of these trips, he paid for my gas.

Somewhere around early summer 2014, Mr. Sobchenko asked me if I would like to make some money over the summer, to which I agreed. He explained that the job was supposed to be in Belgorod, Russia, as a general laborer at a construction site, for which I would need to take some time off work.

In early July 2014, Mr. Sobchenko told me to take some time off work, which I did around July 20-24, and immediately headed to Belgorod.

Three other people also traveled with me: Yaroslav, Aleksandr Bondarenko (I learned his surname later when we got to know each other), and Viktor. I do not know the other men's last names. I had never met them before, although I had seen Yaroslav once before when we were digging wells. We traveled to our destination by commuter train from South Station. Mr. Sobchenko did not travel with us but paid for our tickets.

When we arrived, Mr. Sobchenko picked us up (I do not recall the make or number of the car; it may have been a taxi) and took us to the site, which was located in an area of Belgorod that the locals called "Kreida" or "Vostochny" [Eastern]. There we lived in a trailer and worked at the construction site, which was located right next to the trailer.

About a week later, Mr. Sobchenko told me to return to Kharkiv and take his motorcycle to Belgorod, which I did.

We worked at the site for around three weeks. During that time, they brought us another two people—Vyacheslav and Andrei, both from Kharkiv. The six of us worked for a few more days after that, and then Mr. Sobchenko told us to collect our things and that we would be taken to another site.

He came to pick us up in a car, which was accompanied by another car. They took us to some building, where a green, covered Ural truck was waiting outside. He took our passports and telephones, explaining that we would not need them. We were going to a site for about 4-5 days, where we would shoot and train. This set off some alarm bells for me, but there was no way back.

They put us on the Ural truck, and off we went. Sobchenko did not travel with us. I did not see the driver. One man whom I did not know sat with us in the back. He did not speak on the way. It took us about four hours to get to the site. I did not see the road, since the canopy was closed. Vadim Monastyrev (I found out his surname later) also traveled with us in the back. He turned out to be the father of Vyacheslav, who had been at the construction site. I believe Vyacheslav's last name was also Monastyrev.

Our destination was a "tent city" in some sort of camp. There were three tents there (one for instructors, one for us, and one for the kitchen). There were people at the site in military uniform without insignias—about 4-5 of them in all. They came and went, replacing each other. These people did not tell us their names and avoided using them when conversing among themselves.

They issued us military fatigues without insignia, and then the training began, during which they taught us to shoot a Makarov pistol, a Kalashnikov assault rifle, a Dragunov sniper rifle, and a WWII antitank gun.

They also showed us some hand grenades, the names of which I do not know, as well as TNT sticks and detonators. They told us how to use these things, but there was no practical training. One time they set

Transcript of interview of suspect A.M. Tyshchenko dated 12/26/2015 (continued)

off a detonator without a charge in our presence. They also showed us pictures of magnetic mines, or, as they called them, “stickers” and “baguettes.”

Vadim Monastyrev did not participate in the training. He only observed and explained that this training was necessary in order to wage the struggle within Ukrainian territory. It seemed to me that this was also his first time in the camp.

Four days later, they loaded us onto the same Ural truck (it had remained at the camp during the training) and took us back to Belgorod, where we were met by Sobchenko.

Sobchenko then drove us to an apartment in Belgorod (I do not know the address and can only show it to you visually; it was on the outskirts of the city, next to the City Mall shopping center), gave us back our telephones and documents, and started telling us that we were now a partisan group that had to carry out subversive acts within Ukraine in order to destabilize the situation and draw attention to pro-Russian views.

While we were staying at that apartment, Mr. Sobchenko came for us one day and took me, Vyacheslav Monastyrev, Andrei, Viktor, and Aleksandr to an office in Belgorod on ul. Bohdana Khmel'nitskoho. There were several people there. They gave us military uniforms and balaclavas and told us to get changed because we were going to shoot a video. Mr. Sobchenko was also supposed to participate in the shoot.

The six of us got up in front of the camera, and Mr. Sobchenko then read out an address of some sort. I later saw this recording on YouTube under the title “Manifesto of the Kharkiv Partisans.”

The investigator then asked A.M. Tyshchenko to locate the aforementioned video on the Internet, after which the latter independently located the video entitled “Novorossiia. Manifesto of the Kharkiv Partisans” at <https://www.youtube.com/watch?v=iBJs9pLtQFQ>. A screenshot was taken from the video, from which Mr. Tyshchenko identified each person in the recording. The screenshot is appended to this transcript.

We stayed at the aforementioned apartment for about two weeks, until the beginning of September, after which Sobchenko told us to return to Kharkiv. He also gave us half of the amount we had earned at the construction site and promised to give us the rest later.

Sobchenko also explained how we should get in touch—they had set up an email address, jnhzlgfhnbpfp@mail.ru (the phrase “partisanunit” on an English keyboard), on the Mail.ru email service. He gave us all the password “vsgj,tlbv2345789” (“weshallprevail” on an English keyboard). We were supposed to communicate by writing emails and saving them as drafts. In order to understand who was writing to whom, we were assigned numbers: 1 for Vadim Monastyrev; 2 for Viktor; 3 for me, I think (or possibly 7); 4 for Aleksandr; 5 for Andrei; 8 for Yaroslav; and 7 for Vyacheslav Monastyrev (or for myself—I do remember exactly).

I returned to Kharkiv with Vyacheslav. I do not know how the others returned. I returned to Kharkiv at the beginning of September. Upon my return, I immediately bought myself a new telephone and SIM card (Sobchenko had told us all to do so).

The day after we returned, all six of us (Yaroslav, Aleksandr, Viktor, Vyacheslav, Andrei, and I) met in Kharkiv at a trolley circle (I do not remember the route number—somewhere by the bridge opposite

Transcript of interview of suspect A.M. Tyshchenko dated 12/26/2015 (continued)

the circus). We had agreed on this meeting in advance back in Belgorod. During the meeting, we exchanged the new telephone numbers we had all acquired upon our return. We did not discuss any specific matters.

Upon our departure from Belgorod, Sobchenko had told us to scope out the railway line around Osnova Station for a possible bombing—specifically, the placement of a magnetic mine on a passing train. I understood that there were several mines in Kharkiv that could be used for this purpose.

Prior to my departure, Mr. Sobchenko had explained to me the location of one secret cache: in the forest on the Kharkiv ring road by the 496th kilometer marker, walk 150 meters toward Feldman Ecopark, then left around 50 meters into the forest. Some junk—an old television box—will be lying on the ground there, and beneath it you will find the cache. The cache includes a medium sticky mine that is intended for you. Mr. Sobchenko said not to touch any of the other things in the cache.

He explained that he had buried the cache back when he was in Kharkiv but had not had time to distribute its contents to different locations. Therefore, we needed to take only what was ours so that the rest of the contents could be used by other groups. Mr. Sobchenko made me memorize the directions for finding the cache.

The day after our meeting, Vyacheslav and Viktor headed over to Osnova Station to scope out the area. They walked over a large part of the area and came to the conclusion that it would not be possible to implement the plan, as a military installation was located in the immediate vicinity and there was a constant stream of passers-by.

I also told the guys that if we used a magnetic mine, there was no way to tell when it would go off. It could happen in a populated area, which was unacceptable for us. I wrote about all of this to Sobchenko via the designated email account, after which I came under criticism for demoralizing the group.

At around that time, Vyacheslav traveled to Belgorod, returning the next day. He gave me UAH 5,000, which I was supposed to pass on to “Tol”—a man by the name of Anatoly, whom I had not met before. He gave me Anatoly’s telephone number so that we could get in touch and said that I could trust him.

Vyacheslav stopped talking to me after that. I do not know exactly why—perhaps Sobchenko had told him not to. Before he disappeared, Vyacheslav told us that he had four grenades and a pistol with a silencer.

Yaroslav then left to stay with his parents in the Poltava Region, and Viktor went home to Lozova in the Kharkiv Region. There were four of us left.

After that, we started receiving constant messages from Sobchenko, asking why were sitting idle, to which we replied that it was not possible to do anything in the city.

Because of this criticism, I decided to go to Belgorod to speak with Sobchenko, as I wanted to explain that I did not want any part in this. I got there by motorcycle. I met with Sobchenko by the railway station in Belgorod. During our conversation, he tried to calm me down. He also gave me several pamphlets with titles like “The Kharkiv Partisans” and some sort of insignia, for me to pass on to “Tol.”

When I returned to Kharkiv, I called “Tol” and met with him by the metro station at Kholodnaya Gora. I gave him the pamphlets, and we talked about how Sobchenko was giving commands from Belgorod

Transcript of interview of suspect A.M. Tyshchenko dated 12/26/2015 (continued)

and did not understand that they could not be implemented. I said that he was demanding we carry out a bombing at Osnova. Sobchenko had also promised to help with money and to get our families out but had not done anything. "Tol" said that he was in the same situation. I also gave him the pamphlets. I did not know at the time what sort of pamphlets they were or what they were for.

Some time later, Andrei told me he needed to go away, and headed off to some unknown destination. He soon returned and said that he was planning to use two grenades to blow up a humanitarian aid distribution center around ul. Romena Rolana. From this I gathered that Andrei had gone to see Sobchenko in Belgorod, where he had received instructions from the latter.

According to Andrei, he then went to the distribution center for reconnaissance and realized it was not possible, as it was located in the center of the city and there were always lots of people around. Andrei put this in an email.

I would also like to add that we emailed from Aleksandr's computer, which was at his house in the Moskalevki District. I do not recall the street name, but I remember it visually.

We received a reply by email that we better get at least something done if we wanted to live. After that response, I told Andrei, Aleksandr and Viktor that I did not want to work anymore at all, to which they replied that they also wanted nothing more to do with it.

Nevertheless, one of them proposed that we bomb the military enlistment office in Lozova and then cease our activity. Andrei said that he could find Vyacheslav and get the grenades from him. I rejected this proposal. After that, somewhere around mid-September, Andrei and Viktor left for Lozova.

Three days later, I heard in the news that there had been a bombing at the military enlistment office in Lozova. Andrei came back to Kharkiv three days after his departure and told me that the bombing had been carried out by him and Vitya.

After that, in October 2014, we received an email message saying that the SBU was onto us and we needed to disappear at once.

After reading this message, I left for the village of Ovlashi, Romny District, Sumy Region. My stepfather's mother lives there. I did not stay with her, however, but rather with some acquaintances nearby, so that no one would know where I was. I stayed there until this month before finally deciding to come to Kharkiv and turn myself in. I explained to the people I was staying with that some people were looking for me because of debts, so that they would not have any suspicions.

I decided to come back because I was fed up with everything, and I had heard that for people who voluntarily returned, this could be taken into account as a mitigating circumstance.

I do not know where the others have gone. I did not stay in touch with them after that. I can also tell you that I saw on television shortly after my departure that one of the "Partisans" had been shot and killed during his apprehension in Kharkiv.

Question: What can you tell us about the identities, personal details, and physical appearances of Yaroslav, Aleksandr, Viktor, Vyacheslav, Andrei, and "Tol"?

Answer: I do not know Yaroslav's last name. He is from the Poltava Region. In Kharkiv he was studying at some institute or technical college, as well as working. He looks like he is about 22-24 years old, around 1.78 meters tall, with a stocky build, dark hair, and a round face. I do not know where he lived in Kharkiv.

Aleksandr's last name is Bondarenko. I described earlier the place where he lived. He is a veterinarian, and for that reason we called him "Doctor." He appears to be around 35 years old, 1.85 meters tall, skinny, with dark hair and a thin face.

Transcript of interview of suspect A.M. Tyshchenko dated 12/26/2015 (continued)

I do not know Viktor's last name. He lives in Lozova (I do not know the exact location). He is a construction worker. He appears to be about 35 years old, 1.7 meters tall, with a medium build and fair hair.

Vyacheslav is the son of Vadim Monastirev. He lives, or lived, in the Zhykhar area of Kharkiv. I do not know the exact address. He appears to be around 30 years old, with a stocky build, around 1.78 meters tall (the same as me), with fair hair and a round face.

I do not know Andrei's last name. He drove a taxi for Zello (or possibly for 30-40). He lives by the railroad station. I know by sight where his building is. He appears to be around 28-30 years old, approximately 1.75 meters tall, with a medium build, a round face, and a bald head.

I do not know Tol's (Anatoly's) last name, where he lives, or what he does for a living. He appears to be around 45-50 years old, approximately 1.75 meters tall, with a stocky build, a round face, and grey hair.

Question: In the course of this case, have you come under any psychological pressure or physical duress?

Answer: No, they did not put any pressure on me. But I can tell you that when we were in Belgorod, Mr. Sobchenko instructed us, in the event that we were caught by the SBU, to say that we had been kidnapped, beaten, and tortured. He even said that if possible we should give ourselves bruises and other injuries and then claim that this was the handiwork of SBU officers. He explained that this would help cause a stir and facilitate our release.

Mr. Sobchenko also showed us the plans for several floors of the Kharkov SBU. I do not know where he got them, but he always said that he had connections in all the law-enforcement agencies. He explained that we needed to memorize these plans so that we could later describe the layout of the building during our trial to make our stories about how they tortured us sound more convincing. He also showed us photographs of several SBU officers (about five people) and told us their first and last names (I no longer remember them, but I could recognize them in photos). We were supposed to "identify" these people and claim that they had abducted and beaten us.

He also gave us the business cards of some defense attorneys we should call in the event of our capture. According to him, they had been fully briefed and would help support the fiction that we had been beaten. I do not remember who these defense attorneys were. I can only tell you that the name of their firm consisted of three last names and the words "and partners," or something like that.

Mr. Sobchenko also said that if we were captured, we should remain silent, and he would see to it that we were exchanged for captured Ukrainian soldiers. Mr. Sobchenko also said that he had people everywhere, and he himself had FSB handlers, so he could solve any issues and, if necessary, could even get to us in Ukraine.

I would also like to add that only after I returned to Kharkiv did I learn—from Vyacheslav, I believe (but I could be mistaken)—that our group was called the "Kharkiv Partisans." I had also guessed this after seeing the aforementioned video in which we had appeared.

Question: Do you know the man with the call sign "Prorab" ["Foreman"]? If so, then where, when, and under what circumstances did you meet him, and what is your relationship to him?

Answer: Somewhere around October 2014, I received a message in the aforementioned email account that said I should meet with a man in the Oleksiyivska District (it included a contact telephone

Transcript of interview of suspect A.M. Tyshchenko dated 12/26/2015 (continued)

number, which I cannot recall), pick up a package from him, and deliver it to “Foreman.” I did not have the contact details for this foreman. The message only contained a description of how he would be waiting for me in a Lanos car on the approach to the village of Shestakove on the way to Stary Saltiv.

I immediately called the number, a man answered, and I agreed to meet by the metro station in Oleksiyivka. I immediately headed over there. There was a man waiting for me, about 40 years old—I would be able to identify him. I said I needed to pick up a delivery. He called someone for verification, then walked away toward a nearby building for a while and came back several minutes later with a package. The package was tightly wrapped. I did not look at what was inside, but judging by the weight it was something heavy, possibly made of metal.

I put it in my backpack and headed off toward Shestakove, where “Foreman” was supposed to be waiting for me. On the approach to the town, I saw a silver Lanos. I do not remember the number. Next to it stood a man about 35 years old. I believe he was bald. I would be able to identify him. Andrei was with him, so I immediately knew this was the person I was looking for. I handed over the package and immediately left. I never saw this person again.

I have read the transcript, and it is an accurate record of my testimony. I have no comments and nothing further to add.

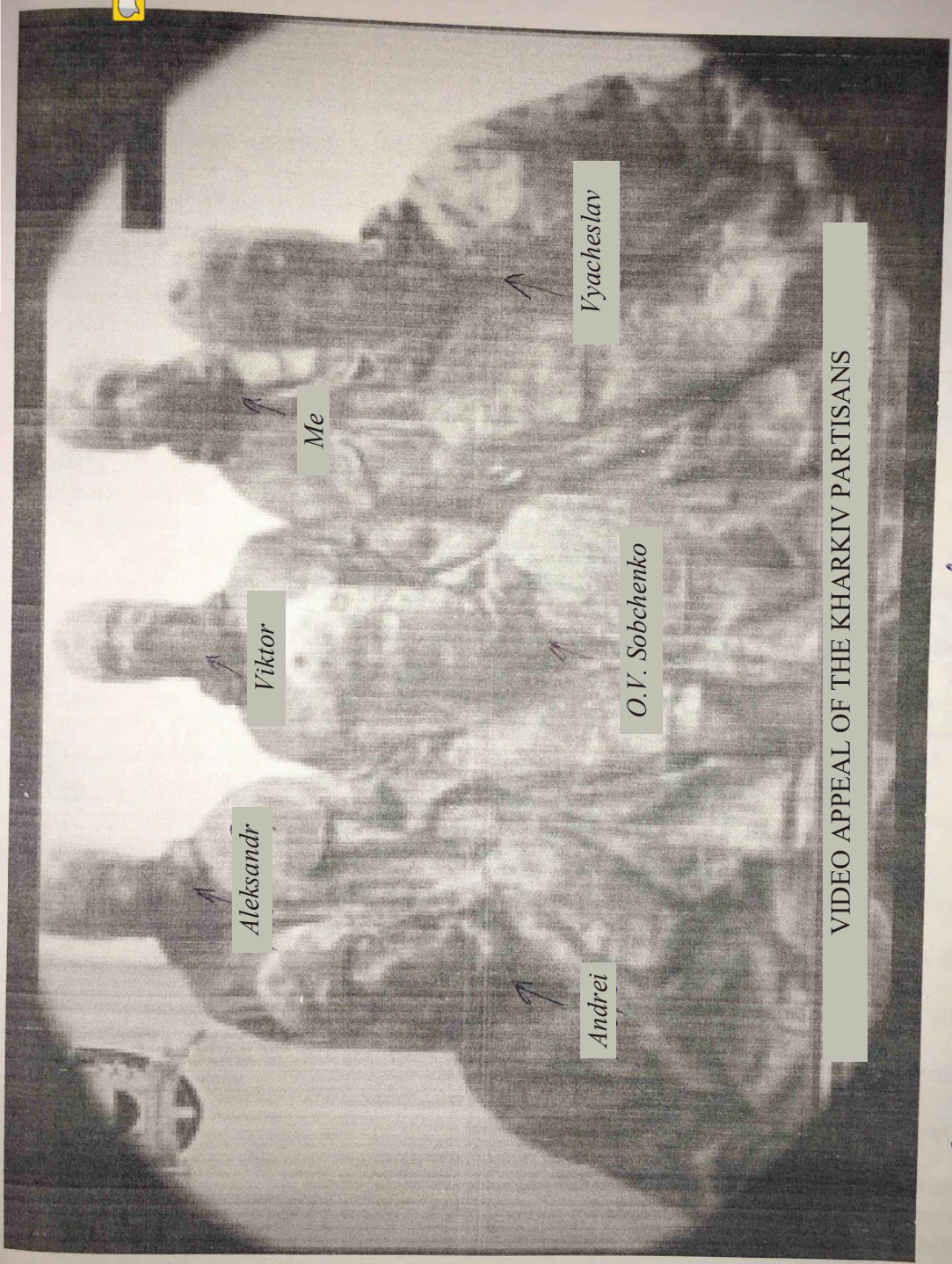
[signature] A.N. Tyshchenko

Defense counsel [signature] [illegible]

**Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice**

[signature]

A. Prosnyak



Aleksandr

Viktor

Me

Vyacheslav

O.V. Sobchenko

Andrei

VIDEO APPEAL OF THE KHARKIV PARTISANS

[signature] A.M. Tyschenko

**Record
of the presentation of a person for identification based on photographs**

Kharkiv

January 25, 2016

Started at 4:05 p.m.

Ended at 5:30 p.m.

Captain of Justice A.O. Proshnyak, Senior Special Investigator with the 1st Investigations Department of the Kharkiv Regional Directorate of the SBU (2 vul. Myronosytska, Kharkiv), in connection with criminal proceeding No. 2201522000000446, in the presence of the following witnesses:

1. Vladyslav Serhiyovych Popov, d.o.b. 12/03/1995, resides at Apt. No. 322, 44-a vul. Artema (dorm.), Kharkiv

2. Andriy Mykolayovych Verbenytskyi, d.o.b. 02/01/1996, resides at Apt. No. 232, 44-A vul. Artema, Kharkiv

with the participation of suspect Andriy Mykolayovych Tyshchenko, d.o.b. 11/20/1985, who resides at Apt. No. 12, 14 vul. Yelizarova, Kharkiv, in the presence defense counsel V.O. Yevhlevskyi, pursuant to the requirements of Articles 103-105, 107, 223, 228, and 231 of the Criminal Procedure Code of Ukraine, presented for identification the exhibits to this report, consisting of 11 tables of photographs containing black and white copies of photographs of male individuals, numbered 1-4.

Before the procedural action was commenced, the aforementioned persons were advised of their right to make statements for inclusion in the report on a mandatory basis and to be present for all of the investigator's actions.

The aforementioned individuals, by virtue of Article 66(3) of the Criminal Procedure Code of Ukraine, were advised of their obligations not to disclose information regarding the completed procedural action, as well as their potential criminal liability for disclosing details of the pre-trial investigation (Article 387 of the Criminal Code of Ukraine). The victim, suspect, defense counsel, legal representative, and specialist were advised of their rights and duties under Articles 42, 44, 46, 47, 56-59, and 71-72 of the Criminal Procedure Code of Ukraine.

Before the procedural action commenced, A.M. Tyshchenko was asked whether he could identify the following person, about whom he had previously given testimony:

- Gennady, to whom, according to his interview, he drove Sobchenko for a meeting at the metal depot;
- Andriy, with whom he took military training courses outside the city of Belgorod and who said that he had carried out the bombing of the military enlistment office in Lozova;
- Oleksandr Bondarenko, with whom he took military training courses outside the city of Belgorod, Russian Federation;
- the person who have him the package by Oleksiyivska metro station, which he subsequently gave to "Foreman";
- Yaroslav, with whom he took military training courses outside the city of Belgorod;
- "Tol," to whom he gave funds on Sobchenko's instructions;
- Viktor, with whom he took military training courses outside the city of Belgorod and who said that he had carried out the bombing of the military enlistment office in Lozova;
- Vyacheslav Monastyrev, with whom he took military training courses outside the city of Belgorod and who said that he had four grenades and a pistol with a silencer;
- Vadym Monastyrev, who arranged his military training courses outside the city of Belgorod;

[illegible] [signature]

[illegible] [signature]

[illegible] [signature]

- Oleg Sobchenko, who arranged his military training courses outside the city of Belgorod;
 - “Foreman,” to whom he gave the package that he received from an unknown person by Oleksiyivska metro station.

The suspect responded that he is able to identify these people by a combination of external features:

- Gennady – a man aged about 55-60 years with gray hair and a moustache;
- Andriy – a man aged about 25 years with an oval face and a short haircut;
- Oleksandr Bondarenko – a man aged about 35 years with a slight build and dark hair;
- the person who gave him the package by Oleksiyivska metro station – a man aged about 35-40 years with a slight build, fair hair, and a short haircut;
- Yaroslav – a man aged about 23-25 years with a stocky build, an oval face, dark hair, and a short haircut;
- “Tol” – a man aged about 55 years, bald;
- Viktor – a man aged about 30 years with a medium build and fair hair;
- Vyacheslav Monastyrev – a man aged about 25 years with a stocky build and fair hair;
- Vadym Monastyrev – a man aged about 40-45 years with a stocky build, dark hair, and a short haircut;
- Oleg Sobchenko – a man aged about 45-47 years, stout, with an oval face, bald;
- “Foreman” – a man aged about 30 years with a slight build, red hair, and a short haircut.

After examining the tables of photographs presented to him, the suspect stated that he recognized the following people:

- in table of photographs No. 1, photo No. 4 – he recognizes Gennady, to whom he drove Oleg Sobchenko for a meeting at the metal depot located on Prospekt Gagarina in the city of Kharkiv;
- in table of photographs No. 2, photo No. 4 – he recognizes Andriy, with whom he did military training in the city of Belgorod, Russian Federation, and who, by his own admission, participated in the bombing of the military enlistment office located in Lozova, Kharkiv Region. He also saw this person together with “Foreman” during the handover of the package to the latter near the Oleksiyivska metro station;
- in table of photographs No. 3, photo No. 2 – he recognizes Oleksandr Bondarenko, with whom he did military training in the city of Belgorod, Russian Federation. During said military courses in the Russian Federation, Oleksandr Bondarenko learned the specialization of “demolitions expert”;
- in table of photographs No. 4, photo No. 3 – he recognizes the person who gave him the package by Oleksiyivska metro station, which he subsequently gave to “Foreman”;
- in table of photographs No. 5, photo No. 1 – he recognizes Yaroslav, with whom he underwent special training in the Russian Federation in the principles of conducting subversive demolitions activity;

[illegible] [signature]

[illegible] [signature]

[illegible] [signature]

- in table of photographs No. 6, photo No. 1 – he recognizes “Tol,” to whom he gave the funds he had received from Oleg Sobchenko;

- in table of photographs No. 7, photo No. 3 – he recognizes Viktor, with whom he underwent military training in the Russian Federation. Viktor also said that he participated in the bombing of the military enlistment office located in Lozova, Kharkiv Region;

- in table of photographs No. 8, photo No. 3 – he recognizes Vyacheslav Monastyrev, with whom he participated in military training courses in the Russian Federation. Vyacheslav also said that he had four grenades and a pistol in Kharkiv;

- in table of photographs No. 9, photo No. 2 – he recognizes Vadym Monastyrev, who was with him during the military training in the city of Belgorod, Russian Federation. This person was responsible for arranging the aforementioned military training;

- in table of photographs No. 10, photo No. 1 – he recognizes Oleg Sobchenko, who arranged the aforementioned military training courses in the Russian Federation;

- in table of photographs No. 11, photo No. 1 – he recognizes “Foreman,” i.e., the person to whom he gave the package near Oleksiyivska metro station. At the time when said package was handed over to “Foreman,” the latter was with Andriy, information about whom is provided above.

The procedural action was carried out during the day, under mixed lighting. The persons listed in this report reviewed its contents by personally reading it. Upon reviewing it, they did not have any comments or anything further to add.

Suspect:

_____ [signature] _____ (*A.M. Tyshchenko*)
(signature) (initials and last name)

Defense counsel:

_____ [signature] _____ (*V.A. [illegible]*)
(signature) (initials and last name)

Witnesses:

_____ [signature] _____ (*A.M. Verbenytskyi*)
(signature) (initials and last name)

_____ [signature] _____ (*V.S. Popov*)
(signature) (initials and last name)

Procedural action conducted and report prepared by:

Special Investigator, Investigations Department,

Kharkiv Regional Directorate of the Security Service of Ukraine

Captain of Justice [signature]

A. Prosnyak

**TABLE OF PHOTOGRAPHS No. 1
to the report on presentation for identification No. 1**

Kharkiv

January 25, 2016



Photo No. 1



Photo No. 2



Photo No. 3



Photo No.

Gennady Onishchenko
A.M. Tyshchenko [signature]

A.M. Tyshchenko ([signature])

Witnesses:

- 1) [signature] (A.M. Verbenytskyi)
- 2) V.S. Popov ([signature])

Identification conducted and table of photographs prepared by:
Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[signature]
[signature]

[illegible]
A. Proshnyak

**TABLE OF PHOTOGRAPHS No. 2
to the report on presentation for identification No. 1**

Kharkiv

January 25, 2016



Photo No. 1



Photo No. 2



Photo No. 3



Photo No.

*Andrei
A.M. Tyshchenko [signature]*

A.M. Tyshchenko [signature]

Witnesses:

- 1) *[signature] (A.M. Verbenyskyi)*
- 2) *V.S. Popov [signature]*

Identification conducted and table of photographs prepared by:
Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[signature]
[signature]

[illegible]
A. Proshnyak

**TABLE OF PHOTOGRAPHS No. 3
to the report on presentation for identification No. 1**

Kharkiv

January 25, 2016



Photo No. 1



Photo No. 2

*Aleksandr
A.M. Tyshchenko [signature]*



Photo No. 3



Photo No. 4

A.M. Tyshchenko [signature]

Witnesses:

- 1) *[signature] (A.M. Verbenytskyi)*
- 2) *V.S. Popov [signature]*

Identification conducted and table of photographs prepared by:
Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[signature]
[signature]

[illegible]
A. Proshnyak

**TABLE OF PHOTOGRAPHS No. 4
to the report on presentation for identification No. 1**

Kharkiv

January 25, 2016



Photo No. 1



Photo No. 2



Photo No. 3

Person who handed off the package by
Oleksiyivska metro station
A.M. Tyshchenko [signature]

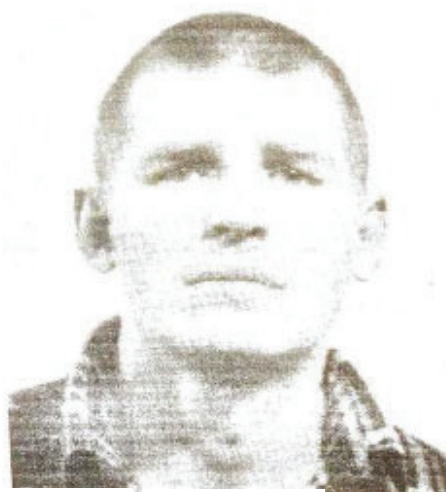


Photo No. 4

A.M. Tyshchenko ([signature])

Witnesses:

- 1) [signature] (A.M. Verbenyskyi)
- 2) V.S. Popov ([signature])

Identification conducted and table of photographs prepared by:
Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[signature]
[signature]

[illegible]
A. Proshnyak

**TABLE OF PHOTOGRAPHS No. 5
to the report on presentation for identification No. 1**

Kharkiv

January 25, 2016



Photo No. 1

Yaroslava
A.M. Tyshchenko [signature]



Photo No. 2



Photo No. 3



Photo No. 4

A.M. Tyshchenko ([signature])

Witnesses:

- 1) [signature] (*A.M. Verbenytskyi*)
- 2) *V.S. Popov* ([signature])

Identification conducted and table of photographs prepared by:

Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[signature]
 [signature]

[illegible]
A. Proshnyak

TABLE OF PHOTOGRAPHS No. 6
to the report on presentation for identification No. 1

Kharkiv

January 25, 2016



Photo No. 1 "Tol"
A.M. Tyshchenko [signature]



Photo No. 2



Photo No. 3

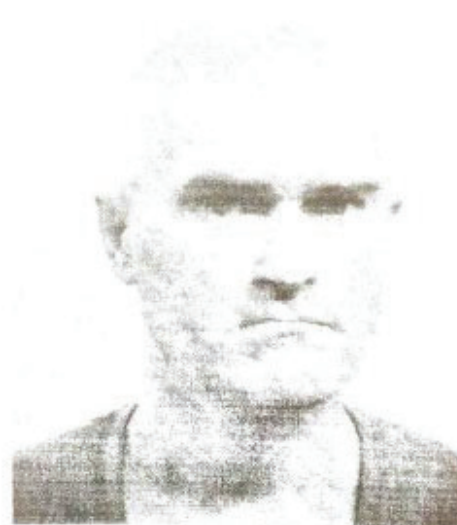


Photo No. 4

A.M. Tyshchenko ([signature])

Witnesses:

- 1) [signature] (A.M. Verbenytskyi)
- 2) V.S. Popov ([signature])

Identification conducted and table of photographs prepared by:
Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[illegible]

[signature]
[signature]

[illegible]
A. Proshnyak

**TABLE OF PHOTOGRAPHS No. 7
to the report on presentation for identification No. 1**

Kharkiv

January 25, 2016



Photo No. 1

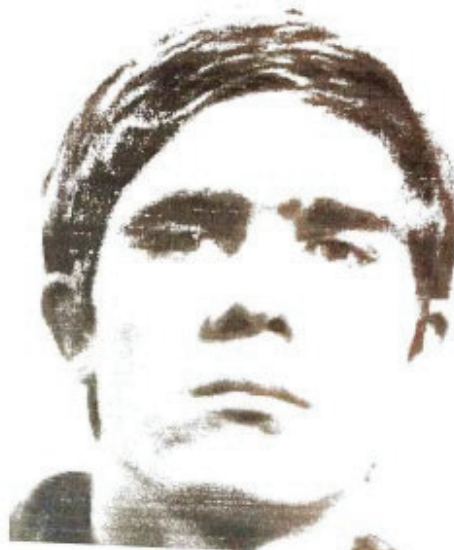


Photo No. 2



Photo No. 3

Viktor
A.M. Tyshchenko [signature]



Photo No. 4

A.M. Tyshchenko ([signature])

Witnesses:

- 1) [signature] (A.M. Verbenytskyi)
- 2) V.S. Popov ([signature])

Identification conducted and table of photographs prepared by:

Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[signature]
[signature]

[illegible]
A. Proshnyak

**TABLE OF PHOTOGRAPHS No. 8
to the report on presentation for identification No. 1**

Kharkiv

January 25, 2016



Photo No. 1



Photo No. 2



Photo No. 3

*Vyacheslav
A.M. Tyshchenko [signature]*



Photo No. 4

A.M. Tyshchenko ([signature])

Witnesses:

- 1) [signature] (*A.M. Verbenytskyi*)
- 2) *V.S. Popov* ([signature])

Identification conducted and table of photographs prepared by:
Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[illegible]

[signature]
[signature]

[illegible]
A. Prosnyak

**TABLE OF PHOTOGRAPHS No. 2
to the report on presentation for identification No. 1**

Kharkiv

January 25, 2016



Photo No. 1



Photo No. 2

*Vadim
A.M. Tyshchenko* [signature]



Photo No. 3



Photo No. 4

A.M. Tyshchenko ([signature])

Witnesses:

- 1) [signature] (*A.M. Verbenytskyi*)
- 2) *V.S. Popov* ([signature])

Identification conducted and table of photographs prepared by:

Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[signature]
[signature]

[illegible]
A. Prosyak

TABLE OF PHOTOGRAPHS No. 10
to the report on presentation for identification No. 1

Kharkiv

January 25, 2016



Photo No. 1

Oleg Vasilyevich Sobchenko
A.M. Tyshchenko [signature]



Photo No. 2



Photo No. 3



Photo No. 4

A.M. Tyshchenko ([signature])

Witnesses:

- 1) [signature] (A.M. Verbenytskyi)
- 2) V.S. Popov ([signature])

Identification conducted and table of photographs prepared by:
Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[signature]
 [signature]

[illegible]
 A. Proshnyak

**TABLE OF PHOTOGRAPHS No. 11
to the report on presentation for identification No. 1**

Kharkiv

January 25, 2016



Photo No. 1 "Foreman"
A.M. Tyshchenko [signature]



Photo No. 2



Photo No. 3

A.M. Tyshchenko ([signature])



Photo No. 4

Witnesses:

- 1) [signature] (A.M. Verbenytskyi) 2) V.S. Popov ([signature])

Identification conducted and table of photographs prepared by:

Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice

[signature]

[illegible]

[signature]

A. Proshnyak

MEMORANDUM
to the report on the presentation of a person for identification
based on photographs dated 01/25/2016

The following persons are shown in the tables of photographs to the report on presentation for identification dated 01/25/2016 in criminal proceeding No. 2201522000000446:

- table of photographs No. 1, photo No. 4 – Gennady Volodymyrovych Anishchenko, d.o.b. 01/22/1961;
- table of photographs No. 2, photo No. 4 – Andriy Volodymyrovych Baranenko, d.o.b. 08/01/1988;
- table of photographs No. 3, photo No. 2 – Oleksandr Serhiyovych Bondarenko, d.o.b. 07/05/1978;
- table of photographs No. 4, photo No. 3 – Serhiy Pavlovych Horbunov, d.o.b. 12/04/1972;
- table of photographs No. 5, photo No. 1 – Yaroslav Serhiyovych Zamko, d.o.b. 11/23/1990;
- table of photographs No. 6, photo No. 1 – Anatoliy Illich Klyuyenkov, d.o.b. 12/01/1960;
- table of photographs No. 7, photo No. 3 – Viktor Oleksiyovych Larikov, d.o.b. 09/08/1981;
- table of photographs No. 8, photo No. 3 – Vyacheslav Vadymovych Monastyrev, d.o.b. 03/10/1992;
- table of photographs No. 9, photo No. 2 – Vadym Viktorovych Monastyrev, d.o.b. 06/29/1970;
- table of photographs No. 10, photo No. 1 – Oleg Vasylyovych Sobchenko, d.o.b. 06/23/1966;
- table of photographs No. 11, photo No. 1 – Sergiy Oleksandrovych Mykheyenko, d.o.b. 03/15/1976.

The persons shown in the other photographs have nothing to do with these criminal proceedings.

Special Investigator, Investigations Department,
Kharkiv Regional Directorate of the Security Service of Ukraine
Captain of Justice [signature]

A. Prosnyak

Annex 246

Signed Declaration of Dmytro Kononenko, Suspect Interrogation Protocol (22 February 2016)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
of witness interrogation**

Kharkiv

February 22 2016

Interrogation started at 14:55
Interrogation finished at 15:30

The senior detective of the main department for the protection of national statehood at the Kharkiv Regional Directorate of the Security Service of Ukraine, Captain A.Y.Kalyuzhny, acting on an instruction from the investigator in the criminal proceedings entered in the Unified Register of Pre-trial Investigations on 05.13.2015 at No 22015220000000203, in the office of the Kharkiv Regional Directorate of the Security Service of Ukraine and pursuant to articles 65, 66, 95, 104, 106, 223 and 224 of the Criminal Procedure Code of Ukraine, interrogated the witness

1. Full name: **Dmytro Ivanovych Kononenko**
2. Date of birth: **10.22.1987**

**PERSONAL DATA AMENDED ON THE BASIS OF INVESTIGATOR'S
RESOLUTION**

[...]

[...]

Having been advised of his rights, the witness said he would like to testify in **Russian** and to have his testimony **recorded**.

Interpreting is **not required**.

The witness **does not wish** to avail himself of the legal services of an attorney.

In response to the questions asked, the witness gave the following testimony:

As part of the performance of the special assignment, I wish to report the information that became known to me in connection with these circumstances.

As I reported previously, I received information from V.V. Monastyrev regarding the hiding place containing the weapons located in the Krasnokutsky District of the Kharkov Region. In addition, this hiding place containing weapons was intended for the performance of a “new mission” from V.V. Monastyrev, namely for a new detonation of the fuel storage containers intended for the Anti-Terrorist Operation forces. This “act” was supposed to take place in early November 2015, and prior to carrying it out, I was supposed to get confirmation from Vadim in the form of a message via the Telegram app, in which my account is tied to the number +79051720465. However, I did not receive any such confirmation.

Due to this, on around November 20, 2015, I went to see V.V. Monastyrev in Belgorod in the RF to clarify the “mission.” In Belgorod, I arrived at the offices of the “Officers’ Union,” where I met Vadim.

During my conversation with V.V. Monastyrev, he told me that the financing from the RF special services for subversive activity and other actions aimed at supporting the activities of the “Kharkov Partisans” on the territory of Ukraine had been suspended, and that the handover of weapons through “hideouts” had also been suspended. Due to this state of affairs, V.V. Monastyrev said that “there was no point for the time being” carrying out

[initials]

acts of sabotage and other “mass events.” I asked Vadim what I was to do with the weapons that he had passed on to me, to which I received the response, “keep them until people contact you on my behalf.” What is more, the code phrase from the person representing Vadim was supposed to be “I’m from Tanya Monastyreva”. From the nature of my contact with Vadim and his lack of interest in carrying out subversive activities in Ukraine, I understood that the representatives of the RF special services had stopped communicating with V.V. Monastyrev.

Following my trip to Belgorod I returned to Ukraine. During the period from November 2015 up to February 2016, no one contacted me on behalf of V.V. Monastyrev, and I am not aware of any information on V.V. Monastyrev’s activities.

Participants in the proceedings have been advised on the manner in which they can review the contents of the interrogation record, namely **view a written copy of the record.**

Having reviewed the text of the interrogation record, the participants in the proceedings **did not** request any changes, additions or comments.

Witness: _____ [signature]
(signature)

_____ **D.I. Kononenko**
(name in full)

Interrogated, record compiled by:

Senior detective,

**main department for the protection of national statehood,
Kharkiv Regional Directorate
of the Security Service of Ukraine**

Captain [signature]

A.Y.Kalyuzhny

Annex 247

Signed Declaration of Konstantin Kutikov, Suspect Interrogation Protocol (16 March 2016)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF SUSPECT QUESTIONING**

City of Odesa

March 16, 2016

Questioning began at 4:00 p.m.

Questioning ended at 5:10 p.m.

Captain of Justice Serhiy Oleksandrovych Didorchuk, Senior Investigator with the Investigative Department of the Odesa Oblast Directorate of the Security Service of Ukraine, having reviewed the files of the pretrial investigation registered on September 17, 2015 in the Unified Register of Pretrial Investigations under No. 2201516000000252, questioned the following individual as a suspect in Office No. 202 of the Investigative Department of the Odesa Oblast Directorate of the Security Service of Ukraine at 43 Yevreyska Street, Odesa, in the presence of defense attorney Anastasiya Ravilyivna Kochurka (Ukrainian attorney's ID No. 2165 of February 28, 2012), in keeping with the requirements of Articles 42, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine:

1. First name, patronymic, last name: **Konstantine Volodymyrovych Kutikov**
2. Date and place of birth: **September 25, 1976, Kryvyi Rih, Dnipro Oblast**
3. Ethnicity: **Ukrainian**
4. Citizenship: **Ukrainian**
5. Education: **higher**
6. Marital status: **married**
6. Place of employment (or education): **temporarily unemployed**
7. Address of residence (registration): **31/3 Yasnohorska Street, vil. Mizykevycha, Chornomorka residential community, Ovidiopol District, Odesa Oblast**
8. Prior record of criminal convictions: **no prior convictions, according to suspect**
9. People's representative (at what council) (Y/N): **N**
10. Details of the passport or other identity document: **passport of a Ukrainian citizen, Series KM No. 050361 issued by the Ovidiopol District Office of the Odesa Oblast Directorate of the Ministry of Internal Affairs of Ukraine on July 6, 2002**

Suspect: K.V. Kutikov [Signature]

(Initials, last name, and signature of the suspect)

It was explained to the suspect, K.V. Kutikov, that he was summoned to testify in connection with proceedings in criminal case No. 2201516000000252 of September 17, 2015, since he is suspected of having committed a criminal offense falling under Part 1 of Article 258-3 of the Criminal Code of Ukraine.

The meaning of Article 63 of the Constitution of Ukraine was explained to the suspect, K.V. Kutikov, specifically that a person cannot be held liable for refusing to give testimony or offer explanations regarding himself, his family members or next of kin per the list prescribed by the law.

Suspect: *K.V. Kutikov* [Signature]

(Initials, last name, and signature of the suspect)

The meaning of Article 18 of the Criminal Procedure Code of Ukraine was explained to the suspect, K.V. Kutikov, superficially his freedom from self-incrimination and the right not to testify against his next of kin or family members, as well as the meaning of Article 20 of the Criminal Procedure Code of Ukraine regarding this right to defense.

Suspect: *K.V. Kutikov* [Signature]

(Initials, last name, and signature of the suspect)

The questioning procedure along with the suspect's rights and obligations under Article 42 of the Criminal Procedure Code of Ukraine have been explained to the suspect, K.V. Kutikov. He also received a pamphlet detailing his procedural rights and obligations.

Suspect: *K.V. Kutikov* [Signature]

(Initials, last name, and signature of the suspect)

My rights and obligations, as well as the questioning procedure, have been explained to me and I understand them. The pamphlet detailing the rights and obligations of the suspect was presented to me on March 16, 2016.

Suspect: *K.V. Kutikov* [Signature]

(Initials, last name, and signature of the suspect)

Aware of his rights, the suspect, K.V. Kutikov, said that he agreed to testify and answer questions.

K.V. Kutikov also requested that his defense attorney Anastasiya Ravilyivna Kochurka (Ukrainian attorney's ID No. 2165 of February 28, 2012) be present during the questioning.

In addition, K.V. Kutikov stated that he wished to testify in the Ukrainian language and have his testimony written down by the investigator. He did not require the services of an interpreter.

Suspect: *K.V. Kutikov* [Signature]

(Initials, last name, and signature of the suspect)

When offered an opportunity to testify regarding the suspicions against him, K.V. Kutikov offered the following testimony:

In connection with the announcement on March 16, 2016 of suspicions that I committed a criminal offense falling under Part 1 of Article 258-3 of the Criminal Code of Ukraine, I would like to explain that I fully affirm my statements in the September 17, 2015 report on my involvement in terrorist activities and my participation in paramilitary groups of the terrorist organization known as the Donetsk People's Republic. I also affirm the explanations given by me during the pretrial investigation. I would like to stress once again that I have given my explanations out of my own free will and was not subjected to any physical or psychological duress in doing so.

[initials]

I admit my guilt and sincerely repent of the crime I committed. During the pretrial investigation, I disclosed all of the information in my possession about paramilitary groups of the terrorist organization Donetsk People's Republic and members of this organization. I also handed over a hard drive with electronic files describing the operations, numbers, and material resources of said paramilitary groups. I am willing to assist the investigators with solving this crime and, should my information help the investigation, also with exposing and solving other criminal offenses.

I would also like to make it known that my underage children from my second marriage depend on me and require my assistance. They reside with their mother, Hanna Ivanivna Kutikova. Specifically: Kira-Mirra Kostiantynivna Kutikova, born on March 6, 2014; Lev Kostinantynovych Kutikov, born on April 9, 2009; Anastasiya Kostiantynivna Kutikova, born on October 26, 2005. I request that you enclose with this record the photocopies of their birth certificates on a total of 3 pages.

In addition, I and my wife Varvara Volodymyrivna Pershyna, d.o.b. January 30, 1982, are expecting the birth of our child in late March 2016. I also request that you enclose with this record the photocopies of documents issued by the maternity welfare clinic where V.V. Pershyna is under observation, as well as results of examinations on a total of 11 pages. Due to her pregnancy, V.V. Pershyna is currently an unemployed housewife and depends on me for her livelihood. While in the territory of the Russian Federation, I worked in construction. The money I made was sufficient to support the family.

As for the circumstances of the criminal offense committed by me, I would like to offer the following explanations. Like I said before, during the so-called Orange Revolution that happened in 2004, I was a supporter and proponent of the ideas of the revolution. As such, I participated in the protests in Kyiv's Independence Square from the very beginning until the end. I was an active participant of the Orange Revolution, for which I was rewarded with the Revolution Guard memorial badge in 2005-2006. I enclosed a copy of the diploma that accompanied the memorial badge with my previous explanations. Since then and until present, I have not been a member of any political parties, public or other associations.

When the country rebelled against the regime of President V.F. Yanukovich, whom I openly disrespected as a person and a political figure and against whom (and against D.M. Kuchma) I and other people fought during the Orange Revolution, this filled me with pride and respect for the Ukrainian people. I sympathized with the people who gathered in Independence Square and stood up for the Ukrainians' right to have a better future. This was until the actions of the protesters turned aggressive and unlawful from the perspective of the law. I saw countless crimes committed against police officers in Independence Square, which involved battery with crippling injuries. In other words, I supported the protesters as long as their protest was peaceful. When the revolution turned radical and the protesters armed themselves with firearms and Molotov cocktails and proceeded to use them against police officers, I understood that this would not have a happy ending.

[initials]

Eventually I saw how certain people tried to come to power in Ukraine. Having taken advantage of the revolution, they are now in power. Those people stood at the cradle of the Party of the Regions. Like I said before, I developed a negative attitude toward them way back during the Orange Revolution.

The events that unfolded during and after the revolution were very interesting to me as a creative person and a poet at heart. I started thinking about writing my own book. In an attempt to gather objective data and prepare material for my future book, I began interacting personally with both proponents and opponents of the revolution, watched news coverage by various TV channels, read printed and online publications. To collect the material I needed, I attended meetings of proponents of both Maidan and Anti-Maidan. Analyzing everything I heard and saw, I drew my own conclusions about what was happening in Ukraine and how rank-and-file Ukrainian citizens responded to these events.

I would like to add that at these meetings I never heard people demand the separation of specific territories from Ukraine. I am personally for a powerful, independent, and indivisible Ukraine, albeit without radical manifestations of nationalism and neo-Nazism that are present in Ukraine.

Like I said previously, I spent most of my time in 2014 in the village of Pokrivka, Ochakiv District, Mykolayiv Oblast, where my relatives own a house. It was there that I learned in November 2014 about the death of a nice person, painter, and a friend of mine – Volodymyr Sposalomsky. To this day I am convinced that the old man's death should be blamed on so-called "black realtors", who shortly before his death acquired title to V. Sposalomsky's house under mysterious circumstances.

Since V. Sposalomsky and I were friends and since I did not know about any other relatives of his except for his daughter Kateryna Sposalomska, who resided in Moscow, Russian Federation, I decided to go to Moscow with the intention of handing over his personal belongings to his daughter and informing her about the actual circumstances that I believe led to the death of V. Sposalomsky. It was also an opportunity for me to visit my former wife, Natalia Viacheslavivna Maslova, d.o.b. August 19, 1976, with whom I also have a child, Mariya Kostinantynivna Maslova, born on August 21, 2000. Like I said earlier, at the time I was using a SAMSUNG mobile phone with the number +380674871877. In addition, I also brought along SIM cards of the following mobile operators: MTS – number +380994778396; Life – number +380935331280; and several more SIM cards of Russian mobile operators and the above-mentioned Ukrainian operators; I do not remember the numbers at this time.

[initials]

In early November 2014, I bought a ticket for the Mykolayiv-Moscow train and left Mykolayiv for Moscow, Russian Federation. While in Moscow, I spent several days trying to contact and track down Kateryna Sposalomska to hand over her father's final belonging to her. However, I was unable to locate her. I would like to add that my former wife V.V. Pershyna subsequently handed over these belongings to K. Sposalomska.

During my stay in Moscow, I met with N.V. Maslova, who at the time worked at the Investigative Committee of the Russian Federation. To the best of my knowledge, her rank is Colonel of Justice and she serves as a chief of department. I don't remember N.V. Maslova's phone number or other contact details. To the best of my knowledge, she is handling the case involving the Malaysian Boeing downed over Donetsk Oblast. She informed me that investigators had evidence that the Boeing was shot down by the Armed Forces of Ukraine. N.V. Maslova did not tell me how they could prove this.

Like I said before, my conversation with N.V. Maslova escalated into a dispute over the situation unfolding in Donetsk and Luhansk Oblasts of Ukraine. My views drastically differed from hers, for which she called me a "Banderovite". In addition, she said that I was in no position to say what exactly was happening in those territories of Ukraine, since I wasn't there. She went on to say that I could do with seeing everything with my own eyes and assessing all this personally. This conversation with N.V. Maslova struck a deep personal chord in me, and I realized that I had no right to have a dispute with anybody about this situation until I see everything for myself.

With hindsight, I realize that this very conversation became a catalyst for my decision to go to Donetsk Oblast. After this meeting, I decided for myself to see everything that was happening in person, which would enable me to form a clear idea as to what exactly was happening. I was curious to learn whether or not Russians and Russian mercenaries were actually fighting against the Ukrainian military. I was interested in hearing the thoughts of the civilian population of Donetsk Oblast and the people fighting there. I wanted to hear and compare them with the pictures painted by the Russian and Ukrainian mass media. Back then I did not trust the mass media; neither do I trust them now.

I also felt that by plunging headfirst into the heart of those events and experiencing everything firsthand I would be able to collect plenty of interesting material which I would later use in writing the book.

I would like to emphasize again that my involvement with paramilitary groups of the terrorist organization Donetsk People's Republic, for which I received a notice of suspicion, was due to a confluence of circumstances. While in Moscow I originally did not intend to join any paramilitary groups. Like I said before, I intended to work my way into the propaganda department of the Donetsk People's Republic, where I would be able to learn about what was actually happening in the territory of the Donetsk People's Republic and later confirm the facts with the locals and the military. At the time I knew from the mass media that the Donetsk People's Republic was considered a terrorist organization, since I heard this repeatedly in news coverage and speeches by Ukrainian and international politicians. I also knew that the Donetsk People's Republic and the Luhansk People's Republic controlled parts of Donetsk and Luhansk Oblasts of Ukraine and intended to break off from Ukraine or become separate republics within Ukraine.

[initials]

It was with these goals and motives that I decided to go to the occupied part of Ukraine. For this very reason on November 15, 2014 I boarded a Moscow-Rostov-on-Don bus and arrived in Rostov at around 0:30 a.m. on November 16, 2014. While I waited at the bus station for the departure of the Rostov-Donetsk (Ukraine) bus, which was leaving the same day at 5:15 a.m., I met a person who went by the code name of "Zevs". This man was headed to Donetsk in Ukraine with the intention of fighting for the Armed Forces of the Donetsk People's Republic. After learning about the purpose of my trip to Donetsk Oblast, this man suggested that I go with him and join a battalion of a field commander who went by the code name "Givi". At the time, all information I had about "Givi" came from the mass media and online publications that described him as a "militia man of the Donetsk People's Republic". I understood that paramilitary groups of the Donetsk People's Republic, "militias" were fighting against the Armed Forces of Ukraine. Since my main goal was to see and experience everything firsthand, I decided that this would be the fastest way to achieve my goal, which is why I took "Zevs" up on his offer.

I currently do not remember the exact route that the bus followed to the Russian-Ukrainian border, as I was not paying attention. We crossed the border at the Uspenka border crossing point. Since I was a habitual traveler, I did not notice anything unusual about our crossing of the border or the checks performed. Already in Ukrainian territory, we entered Makiyivka, after which we proceeded to Donetsk where we arrived at 12:10 p.m. on November 16, 2014. While at the bus station in Donetsk, I noticed people wearing Russian military uniforms. I later learned that those people were recruiters of the "Vostok", "Don Cossack Army" and other battalions whose names I no longer remember. They helped all local volunteers and guests of Donbas to join units of the Armed Forces of the Donetsk People's Republic. They could not help me and "Zevs" and instead suggested that we approach the military personnel stationed in the building of the former Donetsk Oblast Directorate of the Security Service of Ukraine.

On arriving at the Security Service Building, we saw a person wearing a Russian uniform identical to those we saw at the bus station. We approached this man, saying that we wanted to join a unit that was commanded at the time (and maybe still is commanded) by a man who went by the code name "Givi". To the best of my understanding, this person announced our arrival to one of the leaders and proceeded to ask us about the purpose of our arrival in Donetsk in an attempt to get an idea of who we really were and make sure that we were not spies or saboteurs planted by the Ukrainian side. While we were having a conversation with this military man, a VAZ-2105 passenger car drove up to the Security Service building.

[initials]

After speaking to the driver of this car, I learned that he was the leader of a reconnaissance training center of the 1st Separate Slavic Motorized Infantry Brigade of the Armed Forces of the Ministry of Defense of the Donetsk People's Republic, who went by the code name "Tomash". I do not know this person's real name or other personal details, since both he and most people training at the center did not share this information with me. In general, during my time in Donetsk Oblast, the majority of Donetsk People's Republic military personnel used code names in conversations and when addressing one another, since they did not wish anybody to know that they fought for the Donetsk People's Republic. I believe they feared possible persecution against themselves and their families and therefore they did not say much about their personal lives prior to those events.

I also learned that this training center in Makiyivka, Donetsk Oblast, occupied the premises that used to belong to a special forces unit of the Ukrainian Ministry of Internal Affairs. That same day, November 16, 2014, I and a man who went by the code name "Zeus" were transported to the center while being escorted by the chief of the reconnaissance training center.

While at the training center in Makiyivka, I received a complete medical checkup, completed a questionnaire, and sat for an interview. This was followed by training at the center and away training on proving grounds in Komsomolske, Starobeshivsk District, Donetsk Oblast (on the premises of the Rodnichok health resort), and in the village of Vasylivka, Shakhtarsk District, Donetsk Oblast. During this training, we practiced handling mines and explosives, shooting at targets, learned combat tactics, and acquired other military skills that could be useful in the future. During this training I received the following code names: "Kirsan", "Kira", "Kir".

I would like to note that other individuals, citizens of both Ukraine and Russia, completed training at this center alongside me. In my opinion, the Russian citizens at the camp were most probably mercenaries by the way they behaved and communicated. I would like to stress again that, in my opinion, they had no prior military experience.

One week into active training, the training center was visited by a man who went by the code name "Kavkaz", First Deputy Commander of the 1st Separate Slavic Motorized Infantry Brigade of the Armed Forces of the Ministry of Defense of the Donetsk People's Republic. I learned about this during a personal interview with him. I don't know his last name or other personal details. After this interview, "Kavkaz" offered me to join Military Unit 08801 of the Armed Forces of the Donetsk People's Republic and serve at the existing radio interference unit. Realizing that this would enable me to form a more detailed and objective impression as well as collect the information I need, in addition to the fact that this would accelerate the accomplishment of my goal in visiting the occupied territory of Ukraine, I took him up on his offer. Being an adult, I understood that the unit I was offered to join would be carrying out the command's orders to intercept conversations of military personnel and other individuals in the Anti-Terrorist Operation Zone, as well as block communications between these people.

[initials]

I was then transferred to Military Unit 08801 stationed in Komsomolske, Starobeshivsk District, Donetsk Oblast, on the premises of the Rodnichok health resort. Other trainees agreed to join this unit with me, specifically people with the following code names: "Nemoy", "Polyak" (Serhiy Polyakov), and "Sova". I provided detailed information about them in my previous explanations as well as during crime scene examinations.

While at this military unit, on November 22, 2014 I signed an application to join the Armed Forces of the Donetsk People's Republic. At the military unit I met a supervisor, who turned out to be an officer of the Central Investigative Directorate of the Russian Ministry of Defense, who went by the name of Oleg. I do not know any other personal details of this man other than the code name he used: "Shmel"/"Shershen". I would also like to note that the chief of staff at Military Unit 08801 of the Donetsk People's Republic was a man with the last name Shamberin, who went by the code name "Poet".

The radio interference unit was finally formed on January 2, 2015 and included the following military personnel of the Donetsk People's Republic in addition to me: "Nemoy", "Polyak", "Bulbash" (Serhiy), "Amigo", "Vorobey" (Oleksiy Svyryda), "Gvozd", "Kurd" (Serhiy Sotnikov), "Gesha", "Puzo", "Mechta" (Oleksiy Belya), "Sonik" (last name Tkachenko), "Pioner", "Zhyla" (Oleksandr Zhylyakov). Afterwards, on January 14 or 15, 2015, I and the above-mentioned people were dispatched to Military Unit 00100; we redeployed and were stationed on the premises of the Topaz plant (Donetsk). In addition to our unit, eight more radio interference units were at this plant.

Subsequently, on January 15 or 16, 2015, I as well as "Vorobey", "Gesha", "Kurd", and "Gvozd" as well as militants from other radio interference units, following command orders, went to the Russian Federation for training. We crossed the border in a convoy across a border section near the population center of Ruska (Russkaya when transliterated from Russian), Donetsk Oblast. No passport or customs checks were performed as we crossed the border between Ukraine and Russia, since it was not your ordinary border crossing point. We did not present any papers while crossing the border, and none were checked. After crossing the border, already in Russian territory, our convoy proceeded to the village of Svitanok (Rassvet when transliterated from Russian) in Rostov Oblast. As I learned upon arriving onsite, this village was home to a training center on the premises of a military unit. It specialized in training radioelectronic warfare professionals and radioelectronic reconnaissance experts from among servicemen of the Luhansk and Donetsk People's Republics.

I spent roughly two or three weeks at this training center, where we were taught how to operate radio interference stations and how to launch and operate drones and related equipment. As I learned during training, training at this center was provided by Russian citizens, specialists who train radioelectronic warfare forces of the Russian Armed Forces (stationed in Tambov) as well as specialists of the Mozhaysky Academy (Russian Federation).

[initials]

While at this training center, we also received the following military equipment that had to travel with us to Ukrainian territory to the site where the radio interference unit was stationed (Topaz plant, Donetsk):

- Two R934BMV automated stations on KamAZ-5350 chassis;
- A "Rtut" station mounted on an MTLB light-armored multipurpose tracked towing vehicle;
- A "SvetKu" comprehensive technical control station;
- Two R330Zh stations;
- An R316 station.

It stands to mention that all military equipment received bore the markings of the Russian Ministry of Defense, Russian Armed Forces, and holograms of the Federal Security Service of Russia. On orders of a representatives of the Russian Ministry of Defense, we had to tear away, unscrew, or obliterate any markings, holograms (service plates, inscriptions, etc.), which showed the origin and ownership of equipment as that of the Russian Federation and its special services. I also learned during conversations with servicemen of a reconnaissance battalion of the Russian Armed Forces that some of that equipment had been previously used in the Caucasus. I realized that the equipment I received would be used against the Armed Forces of Ukraine by intercepting and blocking their communications, which would in turn assist the operations of the Donetsk People's Republic.

After completing the above-mentioned training course, personnel formed a convoy with the equipment received from the Russian military and headed back to Donetsk, Ukraine. We crossed the Ukrainian border at the same location and in the same way as we did on entering the Russian Federation. We arrived in Donetsk at around January 25-26, 2015 and spent a long time on the premises of the Topaz plant without ever leaving.

On February 1, 2015 (this is the exact date because I remember that day very well), a separate radioelectronic warfare and radioelectronic reconnaissance company of the Armed Forces of the Donetsk People's Republic was finally formed. It received the designation 08821 (stationed at the Topaz plant). This company included my unit. The main tasks of the very high frequency (VHF) unit involved radioelectronic reconnaissance and radioelectronic warfare against drones of the Armed Forces of Ukraine, short wave (HF) and ultra-short wave (VHF) radio transmission systems, as well as Inmarsat and Iridium radio transmission systems.

Like I said previously, beginning in February 2015 I began thinking of how to abandon the paramilitary group where I served and the territory controlled by the Donetsk People's Republic and return to Ukrainian territory. The reason for this wish was that after seeing through my own eyes the situation from the perspective of the Donetsk People's Republic I realized that the struggle in the Donetsk People's Republic is managed and controlled not by local chieftains but by officers of the Russian Ministry of Defense. The same officers also make final decisions in all matters. Most militants of the Donetsk People's Republic have no understanding what they are fighting for, are demoralized, and wish to leave the Anti-Terrorist Operation zone at the first opportunity. I realized that this choice of occupation did not suit me and that I no longer wanted to be a part of it, so I decided to wait for a fitting opportunity.

[initials]

Subsequently, as I already told the investigators, acting on orders from Donetsk People's Republic leadership, I along with other servicemen of the radio interference unit of the separate radioelectronic warfare and radioelectronic reconnaissance company of the Armed Forces of the Donetsk People's Republic, Military Unit 08821, went on a number of combat missions. Specifically: From February 11 to 18, 2015 in the area of Debaltseve, Donetsk Oblast; On March 6, 2015 in the area of Olenivka, Volnovakha District, Donetsk Oblast; From April 1, 2015 to April 5, 2015 in the area of Olenivka, Molodizhne, Dokuchaevsk, Yasne, Volnovakha District, Donetsk Oblast; From April 13, 2015 to April 15, 2015 in the area of Olenivka, Molodizhne, Dokuchaevsk, Volnovakha District, Donetsk Oblast; From April 20, 2015 to April 23, 2015 in the area of Michurine, Telanove, Pervomayske, Telmanove District, Donetsk Oblast. During these missions, I and other servicemen used the "Leyer" drone control station, "Orlan-10" drones, "R934BMV" stations and the "SvetKu" station to carry out combat missions that involved spying on the VHF range used by the Ukrainian military. In addition, during these combat missions we conducted reconnaissance using the "Orlan-10" drone, which helped us detect GSM terminals and their activity in these areas, which in turn enabled us to locate Ukrainian Armed Forces in the territory covered by the combat mission. During these missions, we used the same equipment and followed the same reconnaissance protocol every time. I am now aware how the information we obtained was used subsequently.

I would like to stress again that I was not directly involved in armed combat against the Ukrainian Armed Forces. I am also aware that the acts I committed constitute a crime under the existing Criminal Code of Ukraine. Considering the circumstances that exist in Ukrainian territory, my actions qualify as involvement in the terrorist organization Donetsk People's Republic and facilitation of its operations.

When the right opportunity came, I had the unit leadership grant me a leave. On April 27, 2015 I left the territory of the Donetsk People's Republic and went to Moscow, Russian Federation, from where I left of Albania with a realization that I would never be going back. While in Moscow, I made my decision known to the leadership of Military Unit 08821. I had some rest in Albania and thought about my future. Realizing that the fact of my involvement in the terrorist organization would be revealed one way or another, I decided to report my crime to the law enforcement after returning to Ukraine. On September 17, 2015, I voluntarily filed a relevant statement with the Odesa Oblast Directorate of the Security Service of Ukraine.

[initials]

During the investigation, I helped the investigators in every way possible, disclosed the information in my possession about Military Units 08801 and 08821 of the Donetsk People's Republic, which are part of the terrorist organizations, and about their operations, about training centers for militants of the Donetsk People's Republic both in the occupied territory of Ukraine and in the Russian Federation, about channels through which special-purpose military equipment made it into Ukrainian territory and the origin radioelectronic interference and reconnaissance equipment used by the Donetsk People's Republic. In addition, I handed over a hard disk drive from my laptop which stores a number of electronic documents, photos, and video recording that prove the existence of paramilitary groups within the Donetsk People's Republic and their operations. I also offered exhaustive testimony as a witness in the criminal case being investigated by the Military Prosecutor General's Office in connection with an aggressive war unleashed and conducted by the Russian Federation against Ukraine. My hope is that this testimony will help the investigation.

I have read the record of questioning. It has been written down accurately.

I have no additional statements, requests, or complaints /A.R. Kochurka, defense attorney of Kutikov/ [Signature]

Suspect	<i>K.V. Kutikov</i>	[Signature]
	(First name, patronymic, last name)	(Signature)

Defense attorney	<i>A.R. Kochurka</i>	[Signature]
	(First name, patronymic, last name)	(Signature)

Questioned by:

Senior Investigator with the Investigative Department
of the Odesa Oblast Directorate of the Security Service of Ukraine
Captain of Justice

[Signature]

S.O. Didorchuk

Annex 248

Signed Declaration of Oleksandr Chekorsky, Witness Interrogation Protocol (5 April 2016)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD of
Witness Interrogation**

Kyiv

April 5, 2016

Interrogation started at 11:10 a.m.

Interrogation ended at 2:10 p.m.

Senior Special Investigator of the Military Prosecutor's Office of Ukraine of the General Prosecutor's Office of Ukraine S.M. Onikeyenko, having reviewed the materials of the criminal proceeding, entered into the Unified Register of Pre-trial Investigations under No. 2201505000000021 dated January 13, 2015 on the grounds of commission of criminal offenses as stipulated by part 3, article 258 of the Criminal Code (CC) of Ukraine, at the offices of the Main Military Prosecutor's Office of the General Prosecutor's Office of Ukraine located at the address: 36/1 Klovsyky uzviz St., Kyiv, in Office No. 316, in compliance with the requirements of articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedural Code (CPC) of Ukraine, interrogated the following as a witness:

1. Last name, first name and patronymic: **Oleksandr Volodymyrovych Chekorskyi**
2. Date and place of birth: **April 28, 1982, Chuguyevka, Chuguyevskyy district, Primorsky district, "Far East"**
3. Nationality: **Ukrainian**
4. Citizenship: **Ukraine**
5. Education: **higher**
6. Work (education) place: **Main Department of the National Police of Kyiv, Patrol Police Regiment of Special Designation "Kyiv"**
7. Type of occupation and title: **police corporal**
8. Place of residence (registration): **Apt. 52, 29 Zhukova St., Kyiv**
9. Convictions: **according to the witness, no previous convictions**
10. Is he a deputy (of which Rada): **he is not a deputy**
11. Information on passport or other identification document: **employment certificate UKM No. 501107 issued on December 11, 2014 by the chief of the Staffing Department of the Main Kyiv Directorate of the Ministry of Internal Affairs of Ukraine**

It was explained to the witness that he has been summoned to give testimony in criminal proceeding No. 2201505000000021 dated January 13, 2015 according to part 3 of article 258 of the CC of Ukraine.

(specify why and in what proceeding he is being interrogated)

Witness O.V. Chekorskyi was explained the content of article 63 of the Constitution of Ukraine
(full name)

about the fact that a person does not bear responsibility for refusing to give testimony or explanations about him/herself, family members or close relatives, the circle of which is defined by law [signature]

(signature)

Witness O.V. Chekorskyi was explained the content of article 18 of the CPC of Ukraine on the
(full name)

freedom from self-incrimination and the right not to testify against close relatives or family members.

[signature]

(signature)

The witness O.V. Chekorskyi was explained the procedure for conducting the interrogation and
(full name)

his rights and obligations as stipulated by article 66 of the CPC of Ukraine, according to which:

1. The witness has the right:

1) to know in what connection and in which criminal proceedings he is being interrogated;

2) while giving testimony and participating in the conduct of these procedural actions to have legal assistance of a defender whose authority is confirmed according to the provisions of article 50 of the Criminal Procedural Code of Ukraine (*namely: 1) by a certificate on the right to practice law; 2) an order, agreement with the defender or order of the agency (institution) authorized by law to provide fee legal assistance*);

3) to refuse to give testimony about him/herself, close relatives and family members, which may become the basis for the suspicion of accusation of the commission by him/her, close relatives or family members of a criminal offense, as well as testimony about information, which according to the provisions of article 65 of this Code are not subject to disclosure (*namely – may not be interrogated as witnesses: 1) defender, representative of a victim, civil plaintiff, civil defendant, legal representative of a victim, civil plaintiff in criminal proceeding – on circumstances which he/she became aware of when performing the functions of a representative or defender; 2) lawyers – on information that is lawyer-client privilege; 3) notaries – on information that is notarial secrecy; 4) medical employees and other person who due to performance of their professional or work obligations become aware of about a disease, medical examination, examination and their results, the intimate and family life a person – about information that is a medical secret; 5) the clergy – information they receive during confession by believers; 6) journalists – about information that contains confidential information of a professional nature, provided under condition of the non-disclosure of the other or source of the information; 7) professional judges, people's assessors and jurors – about circumstances of matters deliberated in private that arose during adjudication, except for cases of criminal proceedings on a judge(s) knowingly issuing an unjust verdict, ruling; 8) persons who participated in concluding or executing an agreement on reconciliation in criminal proceedings, – about circumstances what became known in connection with participation in the conclusion and execution of an agreement on reconciliation; 9) persons to whom security measures are applied, - on valid data about their persons; 10) persons, who have information on valid data about persons to whom security measures are applied, – on their data. Persons cannot be interrogated as witnesses without their consent (and have the right to refuse to give testimony) who have the right to diplomatic immunity as well as employees of diplomatic representative offices – without consent of the representative of the diplomatic institution*);

4) to give testimony in his/her native or other language which he/she is fluent in, and use the assistance of a translator;

5) to use notes and documents to give testimony in those cases when the testimony concerns any calculations and other information which it is difficult for him/her to memorize;

6) to compensation of expenses related to being summoned to give testimony;

7) to read the record of the interrogation and to petition for changes to be made to it, additions and comments as well as by his/her own hand to make these additions and comments;

8) to apply for security in cases as stipulated by law;

9) to declare the withdrawal of a translator.

2. The witness is obligated:

1) to appear when summoned to the investigator, prosecutor, investigating judge or court;

[signature]

2) to give truthful testimony during the pre-trial investigation and trial;

3) not to disclose without the permission of the investigator, prosecutor or judge information which directly concerns the essence of the criminal proceedings and procedural actions that are taken (were taken) during it and which became known to the witness in connection with the performance of his/her obligations.

3. A person who is recruited to perform procedural actions during a pre-trial investigation as a witness or who became a witness of these actions, is obligated at the request of the investigator, prosecutor not to disclose information on the performance of the procedural action.

In addition, according to part 7 of article 224 of the Criminal Procedural Code of Ukraine at the request of the person being interrogated, he/she has the right to write down his/her testimony. With written testimony additional questions may be asked of the person.

_____ [signature]

(signature)

The witness O.V. Chekorskyi, in accordance with article 67, was warned about criminal liability
(full name)
as stipulated by article 384 of the CC Ukraine (*Knowingly false testimony*) and article 385 of the CC of Ukraine (*Refusal of a witness to testify*)

_____ [signature]

(signature)

Having read these rights, the witness declared that he wants to testify in Russian and have it recorded have it recorded.
(recorded or write it himself)

The services of a translator are not required.
(required, not required)

While testifying he does not request to use his right to the assistance of a defender.
(requests, does not request)

In fact, the witness Aleksandr Vladimirovich Chekorskiy gave the following testimony in answer to the questions asked: on December 5, 2014 he was accepted into the service of the internal affairs agencies, namely the Patrol Service Battalion of the Police of Special Designation “Kiev-2” to serve in the area for conducting anti-terrorist operations (hereinafter – ATO) in the position of police officer.

Because I had experience providing first aid, I was assigned as a paramedic, i.e. I provided medical care to our own employees and to the public.

My first training base and home base was Sukholuche, which was near Kiev where the military and medical training was conducted.

I arrived with a group of approximately 7–9 persons in the ATO area on January 6, 2015. We were immediately sent to serve at a traffic police stationary checkpoint in the Donetsk region on highway N-20 Donetsk-Mariupol, which is located not far from the town of Volnovakha.

At the checkpoint we were charged with enhancing the performance of the local police subdivisions, guarding bridges, organizing and supporting access control through the checkpoint at the specified section of the highway.

Our battalion was armed with small arms, namely “Kalashnikov” submachine guns, “PM” pistols, and a “DShK” machine gun.

[signature]

In addition to us, border guards, local police and a representative of the military commander's office and the SBU served at the checkpoint and had small arms. None of the people who served at the checkpoint had mortars or heavy weapons.

On the question of the intensity of traffic through the checkpoint at this section of the road—highway “Donetsk – Mariupol,” I would like to clarify that the intensity of public traffic, including public transport, in both directions, was variable at about 1–2 cars a minute.

At the checkpoint documents of people passing through the checkpoint were inspected as well as others without documents and those belonging to illegal armed formations for the presence of weapons and explosives and other contraband. Approximately 5 minutes was spent on inspecting one car and with any suspicions the car would be examined more carefully. The inspection of documents on public transport took about 15–30 minutes.

During the period of my service at the checkpoint, members of our battalion were not issued combat mines and none were installed or deployed on the territory near the checkpoint. I would like to add that exclusively signal mines were installing in the forest belt near the checkpoint. Warning signs “Danger mines” were posted, in my opinion, exclusive to prevent chaotic movements of the public in the area of the checkpoint.

When questioned about the presence of subdivisions of the Armed Forces of Ukraine near the checkpoint which might be armed with rocket launchers, I don't have any reliable information.

The territory of the checkpoint, on both sides, was equipped with temporary concrete barricades, which we called CP No. 1 and CP No. 2. CP No. 1 was located in the traffic lane of Donetsk-Mariupol, and CP No. 2 on the opposite site in the traffic lane of Mariupol-Donetsk.

On January 13, 2015 I came on duty at CP No. 1 on the side of the city Donetsk. Located there with me were soldiers of our battalion with the call signs “Ustim,” “Kruk” and others. Shots and explosions of artillery shells were heard since the morning, primarily in the area of Donetsk.

Around 2:00 p.m. on January 13, 2015 I headed in the direction of the administrative building on the territory of the checkpoint where our battalion when to eat meals.

While in the building, I heard and felt explosions right next to the checkpoint. From the characteristic sound and compactness of the fall I understood that these were shells of the “Grad” multiple rocket launch system.

Having put on my uniform, I grabbed my paramedic bag and headed for the checkpoint.

There was an announcement on our radio station that as a result of the firing a bus with civilian passengers has been hit and a soldier of the “Kiev-2” battalion with the call sign “Volk” had been wounded.

[signature]

Having run to the yellow public bus, with the help of other soldiers from our battalion we began to pull wounded passengers from the bus and give them first aid.

Subsequently, people began to come out of the trenches and dugouts located around the perimeter of the checkpoint and evacuate their homes.

Within approximately 15 minutes after the firing, we heard shots from an MLRS “Grad” from the norther side of Volnovakha to towards the town of Dokuchaevsk. Having heard the characteristics sound, all the people at the checkpoint tried to take cover. Later it became clear that the artillery of the Armed Forces of Ukraine was firing in response and we continued our rescue operation.

Within approximately 20–30 minutes after the firing, ambulances began to arrive from Volnovakha and Mariupol which evacuated the wounded to treatment facilities.

Over time employees of expert medical services arrived to transport the bodies of the dead as well as members of the mass media and Armed Forces of Ukraine.

I did not personally participate in the evacuation of the victims.

We subsequently examined the craters formed after the firing and understood that shells of the MLRS “Grad” were launched from the territory around the city of Donetsk, which was controlled by illegal armed formations.

According to unofficial information of military intelligence, we became aware that firing from the MLRS “Grad” was conducted from the side of Dokuchaevsk, which was also at that time controlled by illegal armed formations.

I would like to add that while serving t the checkpoint several civilians, the last and first names of which I don’t know (approximately 2–3 persons) who crossed the territory of the checkpoint informed us that on the eve of the firing on that day they say military vehicles equipped with the MLRS “Grad” on them which travelled across Elenovka toward Dokuchaevsk. These persons were taken by us to the duty officer at the checkpoint with the call sign “Kleshch” (Denis Dudnik, cell phone 067-441-59-33). However, these persons refused to leave their personal data due to their fear that the information would get out and there would be retaliation from the militants.

Question: Did you set up video surveillance cameras on the territory of the checkpoint? If yes, where? If no, then do you know who set them up?

Answer: I didn’t personally set them up. Most likely, the surveillance camera was set up by a soldier in our battalion with the call sign “Zig.”

Question: Could the damage to the bus and the victims been the result of a mine explosion from outside or from one place insider the bus earlier?

[signature]

Answer: Given the nature of the damage to the bus and the wounds of the victims I would rule out the use of regular mines.

Question: Could you tell us or characterize the direction from which the firing of the MLRS “Grad” was conducted?

Answer: In my opinion, the shells from the MLSR “Grad” were fired from the town of Dokuchaevsk, which at that time was not controlled by the Armed Forces of Ukraine.

Question: Could you characterize the shells that exploded on the territory of the checkpoint?

Answer: I would like to clarify that the shells were of an explosive-fragmentation type constructed to detonate on contact

Question: Can you add anything to the fact of a criminal proceeding?

Answer: *I have nothing* to add to the fact of a criminal proceeding.

The testimony is recorded on information carriers not recorded
my words were printed accurately as read by me

(specify the characteristics of the information carriers in the case of use of technical means of recording)

which are enclosed with this record.

According to the results of recording of the interrogation by technical means of participants in the procedural actions, a petition to enter the text of the testimony in the record of the interrogation was not found.

(was found, not found)

Participants in the procedural action were informed of a method for reading the content of the record, namely to provide the written record.

(provide the written record review or listen to the information carriers in the case of use of technical means of recording)

Having read the text of the interrogation report of participants in the procedural action a petition to make changes, additions and comments to it was not found.

(not found, if found, specify)

Witness O.V. Chekorsky

(last name, first name, patronymic)

/ [signature] /

(signature)

Interrogated:

**Senior Special Investigator of the
Main Military Prosecutor’s Office
of the General Prosecutor’s Office of Ukraine**

[signature]

S. Onikeyenko

Annex 249

Signed Declaration of Paylak Mikhaelian, Suspect Interrogation Protocol (10 October 2016)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

[...]

[...]

The suspect, Paylak Babkenovich Mikaelyan, gave the following testimony in response to the questions put to him.

I uphold the testimony I gave previously in full. I gave this testimony on a voluntary basis, without any compulsion.

I wish to testify in Russian, which I understand and speak fluently.

I ended my testimony on 10.07.2016 with my explanation about how I am in possession of the information I set out in the record of interrogation from that date.

[signature] [signature]

[illegible stamp]

As regards the person with the code name Botsman, he is a man of around 40, of medium height, around 1.70 m., of a normal, average build, with thick dark hair, who slouched a lot when he walked, with a round face and a dimple on his chin, I did not see any visible scars or moles.

Botsman was directly subordinate to Denis Kudrin (code name: Hooligan), he held the post of squadron commander, he had no rank, or at least he went around without any shoulder straps, I don't know his name or surname, he didn't say what it was, he hid it, everyone called him Botsman, he'd been born in the Republic of Crimea. As far as I remember he was from the motorized rifle company which had fought, as far as I know, in the populated settlements of Chernukhino and Debaltsevo.

The person with the code name Yustats, I don't remember his name, he was from Orenburg, he was a Kazakh, he'd served in Afghanistan, he had an order of the red star, an order of the red banner, as far as I remember, I know all that because I talked to him in person several times. He looked to be about 55–57, he was roughly 1.75m. tall, a bit plump, or rather thickset, with grey hair of average length, a round face, he had the rank of colonel and he'd come to Ukraine, to the Lugansk Region, from Russia in this rank, he was a career officer from the Armed Forces of the Russian Federation, within the so-called Lugansk People's Republic he effectively led all the combat [operations] in the Lugansk Region, and then became the deputy head of the General Staff of the Lugansk People's Republic, I'll try to remember his name and surname later. If I'm not mistaken, the head of the General Staff of the Lugansk People's Republic was Colonel Kuznetsov, a Russian, an officer of the Armed Forces of the Russian Federation, I don't know whether he was a reservist or an active officer.

QUESTION: When you arrived at the checkpoint of the Armed Forces of Ukraine, in the region of the populated settlement of Stanitsa Luganskaya, you were found to have the reports and statements of terrorists from the Lugansk People's Republic illegal armed formation. What were these reports and statements, and who wrote them?

P.B. Mikaelyan's RESPONSE: They were the reports (statements) of fighters from the Lugansk People's Republic, who hadn't been paid any money, and they had decided to complain to the leadership of the Russian Federation, including directly to President Vladimir Vladimirovich Putin. These reports were given to me by Sergey Bondarenko, he didn't have a code name, who served with me in the squadron, he gave them to me to read, and I took copies of them, the other three also previously served with me in 2014, I only know them by sight.

QUESTION: Which other of the fighters from the Lugansk People's Republic and military personnel from the Armed Forces of the Russian Federation do you remember, their full names, positions, ranks, code names?

P.B. Mikaelyan's RESPONSE: Who I do remember is someone with the code name Kryl, he was a sniper and was part of the division of Denis Kudrin (code name: Hooligan), he was the commander of the sniper division and himself was a very good sniper, Kudrin praised

[signature] [signature]

[illegible stamp]

him, he had around 5 snipers in his division. He was from Belarus, from Gomel, he was of average height, around 1.65m., he had fair, straight hair that was combed forward, a straight, long face, he was a bit thin, he had no visible scars or moles. He didn't have a beard but he used to go around unshaven, with stubble.

There was also someone with the code name Aksakal, he was an ethnic Azerbaijani, his name was Alik, he'd been living in Lugansk for a long time, he was a fighter from the Lugansk People's Republic terrorist organization, he'd been fighting in Chernukhino, Debaltsevo, he now serves in the military unit based in Lugansk, in the tank unit. Aksakal was aged around 35, he was small, around 1.60m., he had a small scar on the right above his lip, he had black thick hair, was of Caucasian appearance and had few teeth. He was continually smoking hashish (marijuana).

There was someone with the code name Kurd, an Armenian Kurd, a fighter from the Lugansk People's Republic illegal armed formation, he was from Armenia but had been living in Krasnodon in the Lugansk Region for a long time and is currently serving in Krasny Luch in the Cossack regiment, the so-called Don Cossacks are in charge in Krasny Luch. He was around 1.55m. tall, thickset, with a paunch, he was around 50, of Caucasian appearance, with short, black, receding hair. He didn't have a beard.

There was someone with the code name John, around 1.60m. tall, with a round face, a broken nose which was a little flat, with short dark hair, he was from Bryanka in the Lugansk Region, he had no rank, he was a fighter from the Lugansk People's Republic illegal armed formation, he had a fiery temper, he drank a lot, he served in Kudrin's division. I talked to him in person, he's currently serving under the leader of the Donetsk People's Republic terrorist organization.

I also remember someone with the code name Volga, I don't know any other details about him, he was from Orenburg in the Russian Federation, he served in Kudrin's (Hooligan's) division, he had no rank, he was continually smoking drugs, he was missing three fingers on his right hand, the little finger and the two next to it, to the bone (half), he only had his thumb and his index finger, he was of average height, with fair hair, blue eyes, he was quite thin and had a small beard.

I will also explain that on the copies of the photographs on the A4 sheet presented to me, I recognize the following persons: on the first row from the top, the fifth photograph from the left is the Azerbaijani, I don't know his code name or name, I saw him in the populated settlement of Chernukhino, near the filling station, where I talked to him, he was filling up (his Ural vehicle), I was with the person I talked about above with the code name Aksakal, who told me that this was the deputy commander of the unit stationed in Lugansk whom I have spoken about during the interrogation; in the second row from the top on the seventh photograph from the left is the face of someone who served in Kudrin's (Hooligan's) division, I saw him in the military unit where Kudrin was in command, in the populated settlement of Khorosheye; in the second row from the top on the eighth photograph from the left is the face of the person with the code name John, I talked about him above; in the third row from the top

[signature] [signature]

[illegible stamp]

on the third photograph from the left is the face of someone who was John's friend, who served in Kudrin's (Hooligan's) division, I only know him by sight.

QUESTION: Can you point out on the map the places where you crossed the border between Ukraine and Russia, where you went in the temporarily occupied territory of Ukraine, namely in the Lugansk Region, whilst you were part of the illegal armed formations of the Lugansk People's Republic terrorist organization, and also point out the locations where combat operations were carried out, where the military camps (units) of the illegal armed formations of the Lugansk People's Republic terrorist organization were located, the locations of military equipment, including that belonging to the Armed Forces of the Russian Federation, its movement from Russia to the temporarily occupied territory of the Lugansk Region, its movements there, and the location where you were detained by military personnel of the Armed Forces of Ukraine on 07.30.2016?

P.B. Mikaelyan's RESPONSE: Yes, I can, as I'm knowledgeable about maps, and I can show all of the above on the map, at the same time I'd ask that you provide me with a map and a ruler.

QUESTION: Has any pressure—physical, psychological or other pressure—been put on you by the law-enforcement authorities or by anyone else?

P.B. Mikaelyan's RESPONSE: During the interrogation no measures of physical or psychological coercion have been applied to me, I have given all the testimony on a voluntary basis, in the presence of a lawyer.

QUESTION: Can you specify in detail the dates of the events you have described during the interrogation?

P.B. Mikaelyan's RESPONSE: Yes, I can specify the dates (time) that I can remember. I will start from the fact that I ended up in Krasnodon in the Lugansk Region for the first time on around April 27, 2014. I was at the base in Khorosheye in the Lugansk Region from the end of April-start of May 2014. I was at Metallist (a region of the Lugansk Region, near Lugansk) on around June 14–15, 2014. I was in the region of the populated settlements of Debaltsevo, Chernukhino, Kruglik in around February–March 2015. I went to Donetsk in the Rostov Region for military equipment in mid-May 2014. I was in Sverdlovsk in the Lugansk Region twice in November – December 2015, and in the summer of 2016. Both the first and the second times, everything I identified in the record, the military equipment on railroad tracks [illegible] the Armed Forces of the Russian Federation.

Following his perusal of the text of the record of interrogation, the following petitions were received from those participating in the procedural action, seeking the introduction to the record of amendments and addenda I have no statements or petitions.

[signature] [signature]

[illegible stamp]

(not received, if received, specify which)

Suspect *P.B. Mikaelyan* / [signature] /
(full name) (signature)

Defense lawyer *K.A. Shurkhno* / [signature] /
(full name) (signature)

Interrogated by:

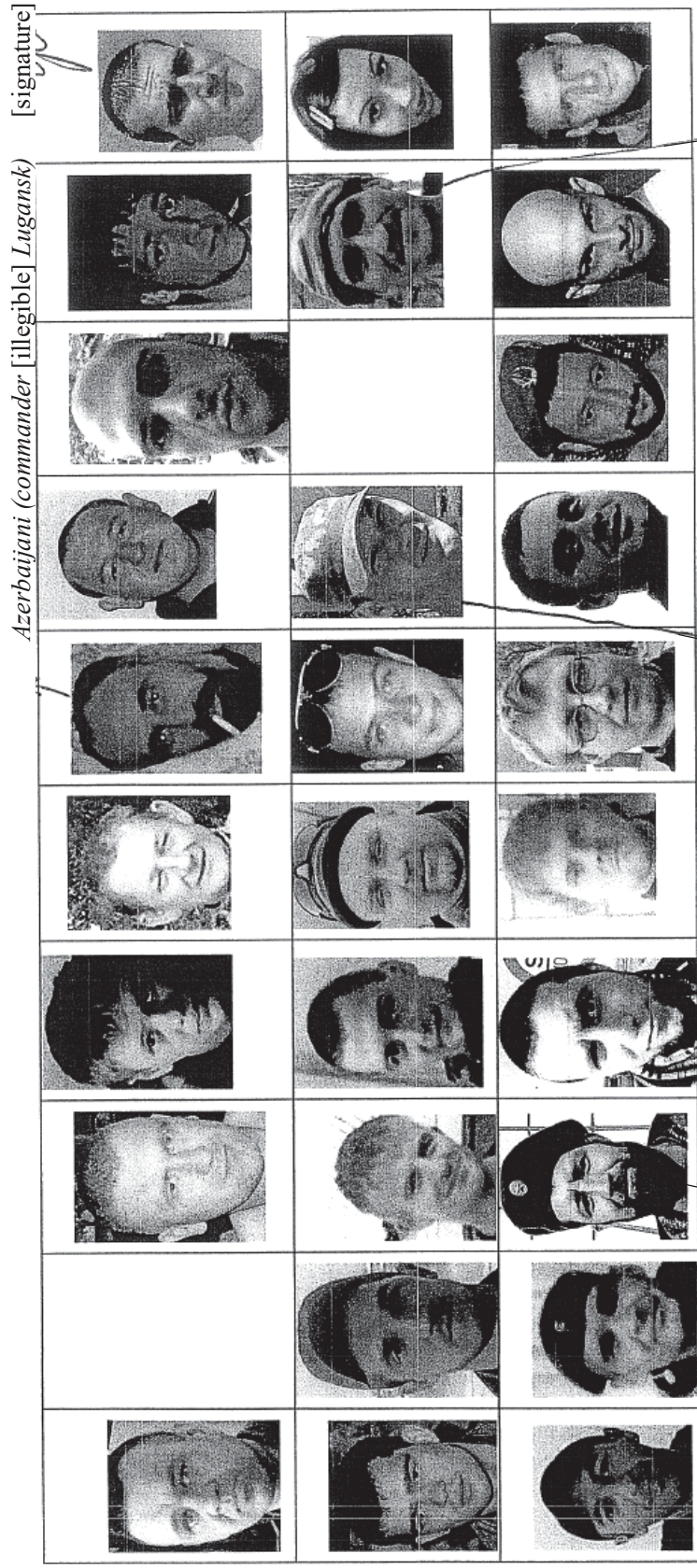
[illegible stamp]

**Senior Investigator for Special Cases
of the Chief Military Prosecutor's Office
of the Prosecutor General's Office of Ukraine
Colonel of Justice**

[signature]

V.A. Astashev

Interrogation of the suspect dated 10.10.16



[signature]

John, serving in Donetsk since 2016 [signature]

Served under Kudrin (Hooligan), saw him in Khorosheye [signature]

[illegible] by me personally, correct [signature]

[illegible] friend of John, served under Hooligan, Kudrin [signature]

Senior Investigator for Special Cases
of the Chief Military Prosecutor's Office
of the Prosecutor General's Office of Ukraine
[signature] V.A. Astashey

Annex 250

Signed Declaration of Artem Kharko, Victim Interrogation Protocol (1 November 2016)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

VICTIM
Interrogation Record

City of Kyiv

01.11.2016

Interrogation commenced at 10:30 a.m.

Interrogation completed at 11:45 a.m.

Senior Investigator for major cases of the Investigative Division of the Department for investigation of crimes against the bases of national security of Ukraine, peace, human security and international law and order of the Main Military Prosecutor's Office of the Prosecutor General's Office of Ukraine Egorov D. A., having examined the materials of pre-trial investigation registered in the Unified Register of Pre-Trial Investigations under No. 12014060020003033 dated 13.06.2014, in the premises of the Department for investigation of crimes against the bases of national security of Ukraine, peace, human security and international law and order of the Main Military Prosecutor's Office of the Prosecutor General's Office of Ukraine, office No. 126, at the address: 8 Moskovska Str., Kyiv, in compliance with articles 55, 56, 95, 104, 106, 223, 224 of the Criminal Procedure Code of Ukraine, has interrogated as a victim

1. Last, first, middle name: Kharko Artem Vitalievich
2. Date and place of birth:
3. Nationality: Ukrainian
4. Citizenship: of Ukraine
5. Education: completed higher education
6. Place of employment (place of study)
7. Occupation and position:
8. Place of residence (registration):
9. Convictions:
10. Are you a member of the Parliament:

I was born there before the war. I worked in the area of social education. I was a lieutenant, worked directly with inmates (so-called “special contingent”).

At the beginning, first checkpoints emerged in the city – just men with bludgeons. Oplot and Vostok were the first battalions which entered the city in an organized manner, approximately on June 1. The Orthodox Army and the Cossacks (from Kuban). The Orthodox Army settled in the base in Makeyevka. We knew it, many employees had a job there. At the same time the prison facility kept on operating. No one was released. However, there were rumors that weapons could be seized from the prisons (and that happened later, as I was told).

At first, they seized my car. Chevrolet Cruze hatchback (license plate AE 8022), silver color. On June 21, 2014 I was driving to my job place along Makeyevka bypass road. I saw two cars behind my back but kept on driving without any suspicion. One car started to overtake me and the other car started to approach me very closely. I slowed down, the first car started driving even slowly than my car, and the second car approached so closely that I had to halt. Armed men in camouflage came out of the cars. At first I wanted to take the traumatic weapon which I kept under the seat but I saw that they held tommy guns. They forced me out of the car and said they would seize my car “for the needs of the Donetsk People's Republic (DNR)”. Frustrated and angry, I went home on my foot.

I was at home when I heard the entrance bell ring – there were four men behind it. One of them was the man who seized my car – his name was Kubok Oleg (later I found him in social networks, on a photo of the oath ceremony on Lenin Square). I had not seen other three men before that moment.

They “invited” me to come with them to UBOP (Department for Combating Organized Crime), which served as their base. It turned out that they were representatives of Kharkov’s Oplot. They said they needed “to make announcements”. They had weapons and I preferred not to argue with them.

I was delivered there by car and escorted to a room. On our way there they said that I was finished, I was in trouble and etc. When they brought me to the room, they immediately started beating me without any explanations. Right on the threshold of the room, I was hit with the gun-butt on the neck. I received those hits from Oleg aka Kruglyi and the one aka Salat, I can identify them by a photo. They apparently hoped that I would black out, but I did not and so they kept on beating me. Finally, they broke my rib on the left and I had bruises all over my body.

Later, in about 20 minutes, a well-groomed man entered the room, most probably he was an investigator. He did not beat me. He only asked questions. He showed things from my car and asked whether these were mine.

I said it was mine. There were documents related to my job, and also a map and the party membership card of Batkivshchyna Party in it. Apparently, that was the turning point.

They beat me again, then a militant from Vostok battalion (Senya) came; they had a talk about something and I was thrown into the room. They went to Lenin Square to take the oath of loyalty to DNR. When they came back, there was a feast, Senya also came, he congratulated them on taking the oath. The room in which I was kept was on the ground floor and they had their celebration on the first floor.

Another guy, Sasha, was thrown into my room. Later on, about 15 persons came down to the room. I was backed up into the corner. Then Salat came (Oplot's leader in Makeyevka). He took a TT gun and started shooting into the wall next to me. He shot that guy three times in the leg, so that his leg almost came off. Then they focused on me, they seated me at the table, fixed my arms, threatened to gouge out my eyes, insulted me. Kubok used me to practice some hits on the neck. Senya took a Makarov gun, started asking me how much my life cost and said that since the car was not enough for them what else did I have? He put the gun to my right leg and threatened to shoot me. And he did shoot and the bullet went through my thigh.

I wasn't expecting a shot, I thought he was just scaring me. So, when they put a gun to my head, I said that I had saved UAH 60,000 and that the money was kept at my parents' house.

Later, after a certain amount of beating, we went to my parents. The parents got very scared, the mercenaries [*opolchentsi*] directed tommy guns at them. They seized the money.

We went back to UBOP and they said I would be released in two days. I just had some time to say goodbye to mother and I said it was the end, I did not feel like I would ever return.

They decided to take us with Sasha to Gorlovka. I had already heard that in Gorlovka they execute by shooting, so I thought that we were taken to be executed.

Around 10-11 p.m. they drove us to Gorlovka in my car. I sat in the back seat, Senya was driving. Near me was an unknown man, I heard from him that it was not his first war and that he was fed up with us all.

Over all that time, we received no medical care. No bandages, no disinfectant, I managed to take a bandage from my home, and Sasha was just given a package - to wrap around his leg so as not to stain the seat with blood.

At first we were delivered not to Gorlovka, but to their base. They stopped right near a pit, Sasha was taken out of the car, stripped naked and thrown into the pit. I was left in the car and brought to Gorlovka, to Bezler in Gorlovka UBOP.

They dragged me out of the car and escorted me through the fortified sector. In front of the UBOP entrance there were boxes with sand located in the form of a snake. There were a lot of mercenaries around, I saw them although they forced me to keep my head down.

I was brought to Bezler and forced on my knees, with guns put to my head (there were almost ten guns, although one gun would be quite enough) and they beat me with gun-butts.

I was asked who I was, I told that I was an employee of the penitentiary service of Ukraine. After the word "Ukraine" I received hits on my head and they asked me the same question again. Bezler said, "take him to the basement, let's say goodbye". We descended into the basement, it was a room with the size 6 by 3 meters. At that time there were already four persons there, huddled together in one corner. Closer to the opposite corner there were two more dead persons (with hands tied behind the back, and some body parts severed).

I was forced to take off my clothes. Then they put me in the corner and told to wait saying that if I moved, they would kill me. The persons in the corner sat still and did not even stir.

In 20 minutes, 7 persons came back, among them a woman with a long knife. They asked questions and beat us, the woman cut my arm but not very deeply, leaving only one scar. She was angry that she was not allowed to handle me more cruelly (cut off my nipples, etc.).

They brought Sasha and thrown to our room. He had a pain shock, his leg was in a terrible condition, he lost much blood. Bezler decided that Sasha was a goner, so he ordered to shoot him dead. Everyone who came with Bezler excitedly asked for the favor to do it, it seemed like each of them wanted to win Bezler's good attitude. Finally, his assistant made the shot (he was not tall, over forty, with moustache and a Kalashnikov gun with a silencer). Sasha begged not to kill him, but he was shot in the heart. The body remained in the place where he died.

Then another man entered – his gait, habits and manner of speech showed that he was a profi, a tough guy. His face was hidden under the hood. He had some very serious weapon - something like a sniper rifle, but very powerful and sawed-off. Bezler crept around him like some boot-licker, he almost bowed. The man listened to him, nodded, took Bezler some distance away, told him a couple of words and left. As I understood, the man was from the special military forces of the Russian Federation, he had some specific weapon which I never saw, but I'll try to draw it (the picture is attached to the Record).

Everybody followed them leaving the room. Senya came back, he took me and a guy, one of those four who were in the room. He said we were lucky. We were taken up to the ground floor and forced into a car. The guy was a young boy, about 23 years of age, about 180 cm tall. As it turned out, he was a staff member of the DNR press office. Actually, there were many DNR representatives, for example, deputies, Strelkov's minions etc. Some internal squabbles.

We were driven out and locked in a garage. Except for the two of us, there were three more persons, DNR's deputies. Later I was taken away again, and that time I was told I was no so lucky. I was beaten again, my hands were tied with caprone rope, then I was beaten again and squeezed into a Citroen. As I was too large to fit between the seats in the passenger compartment, they forced me into the trunk. Someone threw a gun cassette into my head which hit me right on the back of the neck. Everything blurred in front of my eyes. A mercenary sat on me, at first he sat quiet, but then something made him nervous and he put a Makarov gun to my knee and cried that if I moved he would shoot. I lay without the slightest opportunity to move but I was afraid if I unintentionally stirred, he would surely shoot. Then the mercenary felt it was still not enough, he pushed the gun into my wound up to the trigger and started twirling it inside and hit me on the wound, there was much blood.

I hardly uttered a sound because I was almost senseless. And he got angry because he wanted me to groan or cry. My slightest groan pleased him.

I was brought back to UBOP, to Bezler into his room. There I saw Senya and Bezler drinking tea. I understood that Senya exchanged me for weapons, actually sold me to Bezler. Gorlovka UBOP's commandant was a militant known as Pogranichnik.

So, I was brought back into UBOP's basement; from all the persons whom I saw at the beginning, there was only one man left – pastor Sergey Pavlovskiy. And three dead bodies remained there. The pastor from Dnepr city came to gather donations. He was kept there before I came, those dead persons were killed in front of him. We started talking but he was afraid to unbind my hands. He was even ready to help me piss, but not to unbind my hands.

At about 07:00 p.m. a group of 3-4 persons was brought to us. they were together with a woman. Boiko Irina is also with us in the project. She was not afraid to unite my .

hands. I had cigarettes with me (three packs fell behind the lining of my jacket when it was torn, and that's why they were not seized). All other things which they found – my belt, a memory stick, a lighter – everything was seized.

We smoked and during that time Irina could tell that they spent a week at the Cossacks' place, and that they were volunteers from Poltava, they brought food and took back injured persons.

Then we heard a kick on the door again – and the command "face the wall!" – mercenaries came in and took away the "new ones".

Sergey was given polyethylene and tape and ordered to pack the corpses. He wasn't very good at that, and one of the mercenaries (codename "Melkiy", he supervised the removal of corpses) ordered to untie my hands so that I could make the packing, too. I helped Sergey to pack them, they were my first three dead men. Then they carried the bodies away.

After that, we were without food and water for four days. Approximately on June 24 Roma Kalinskiy was brought to us. He was the chief of Druzhkovka's investigative department. He was detained because he was gathering information, names and codenames of the mercenaries. He was surrendered by someone from those close to him. He was shot personally by Bezler. We heard the shot, then Roma was brought into our room, his leg was bleeding. We tore the bandage apart, tore away the trouser leg, somehow managed to stop the bleeding and bound the wound.

Then they threw us a bottle with rusty rotten water. Two or three days there were three of us, then Sima Goldman was thrown into our room, he was beaten, too. He was detained because he was on Maidan, and wrote music for Maidan. Three computers with photos on barricades were seized in his home. He was associated with Svoboda Party. They didn't shoot him, but beat him more fiercely.

Bezler told both of us (who were connected with the Ukrainian party) that he had a special plan for us: if the Ukrainians approached too fast, they would stuff us with explosives and sent to the Ukrainian checkpoints.

In four days we ran out of water and we had to filter our urine. We pissed into a bucket. We used cobweb as tampons for wounds and earwax as iodine. We remembered everything we knew about chemistry, physics, about survival, and so on. It lasted 3-4 days.

Then an old man was thrown to us, Ivan Vasilevich (or Viktorovich, I don't remember exactly). The old man was so important that we even were given some hot food. The first and the second course, a small piece of bread for each of us.

The old man was one of the "founding fathers" of DNR, the one who planned it in the very beginning. He was detained by Bezler's men because he had arrested Bezler in Gorlovka. But when arrested Bezler was transported to Strelok (Strelkov), he made a deal with the person who transported him and ran away – ultimately that person became his deputy, and the old man - his enemy.

The old man was not disturbed much because it turned out that he had powerful connections in Russia. He knew much and told us.

After that they gave us food once in three days, we got 100 grams of food and 100 grams of water per each person. The old man was fed separately from us and he was taken for interrogations every day. He even had some medicines (he suffered from a heart disease), and his wife sent him parcels.

I was not taken for interrogations but they beat me regularly. Just in case, when the opportunity presented itself. When they brought us food – they beat me, when they brought someone in or away - they beat me.

Approximately in 20 days my leg started to rot. I bandaged my leg but the rotten smell was already perceptible. At that time a guy was thrown to us – he was detained at a checkpoint when he was on the way to his mom. He turned to be a graduate of a medical college and he had an alcohol wipe in his pocket. He punched the purulent bursa on my leg and squeeze out the pus,

or otherwise I would have a gangrene. He showed what he did to our Sima. Later he was our "doctor".

During our incarceration in the basement of Gorlovka UBOP, many various persons were kept together with me, including Bezler's mercenaries. In particular, Apostol, Maliar, and also the former mayor of Enakievo (he was mayor when the town was controlled by Ukraine, but when DNR took power, he was incarcerated) because he stayed in the town for too long waiting for orders from "the superiors".

Different persons came and were taken away, but we were the "favorites", we were kept there for a long time and we had no hope of surviving. For me, the conclusive evidence of my "guilt" was a video recorded on Lenin Square, dated March 2014, when I attended a rally of Svoboda and Batkivshchyna parties, side by side with the leadership of Batkivshchyna's Makeyevka party cell.

We were beaten regularly for no specific purposes, they just enjoyed it. For example, they wanted Sima to confess that he was a combatant in Chechnya, although at that time he was just 15 years old. They tried to force me to confess that I was a pillager or that I collected information about the mercenaries. It was easier to acknowledge everything they charged us with, because in such a case they beat us less fiercely and we could avoid "the full pack of it".

Tortures were diverse. For example, they went to Sima's home where his wife lived, put a grenade into his kid's cradle, the four of them raped his wife; they recorded everything on a video and showed him. Of course, he went into hysterics, we tried to bring him back to senses for three days. Four days later, the other four mercenaries did the same thing, and they recorded the video again and showed him.

Approximately in early August they got an explosion machine (this is a dynamo machine, it spins to generate voltage and then discharges the electric shock; it is used to detonate dynamite in mines). In our situation, it was used for tortures.

Until that time, tortures were of a standard nature. They beat us, put on a gas mask on us and beat again, hung us on handcuffs; once they fed Roma and me with pepper – they poured a whole glass of red and black pepper into the mouth.

There was also a woman called Marina, from Kharkov, she managed the kitchen and also tortured women. She was known for her skills in torturing women with a blow torch by burning women's genitals.

In a few months I "got a job" in the corpse removal team. Melkiy came in, pointed his hand towards me and said that from that moment I would remove corpses. I.e., I was allowed to enter other cells, there I packed corpses and they were taken away. They removed the corpses at night so that the other mercenaries could not see what was going on there. Those persons got killed in a different manner. They were beaten to death, shot, some lacked some body parts.

In late August we were separated. I, Sima, the old man and the majority of Strelkov's mercenaries were driven away to Artemugol. Initially, they were driven there to unload ammunition (at that time it was taken away from UBOP because the new base was arranged for Bezler at Artemugol). He was sent there and left there. There was a commandant, with the codename Kos, a former retired system administrator of the penitentiary service (his rank was warrant officer). His assistant's and deputy's name was Pukh. There was also an investigator of NKVD (People's Commissariat for Internal Affairs) called Yarik (warrant officer), and Fara – the man who was kept in the basement with us, Strelkov's authorized person for Slaviansk. He was kept in the basement but eventually some deal was made with him and he went to Bezler.

There was also Apostol, Vosmoy, Balu, he was wounded and he stayed in the premises where we were kept.

At Artemugol we were also kept in the basement. But the basement had large windows (three windows) and they were not shut. We could see the mercenaries and hear their conversations (there were benches where they rest). Only in a week they understood it, painted over the windows and fitted grilles on the windows.

It was impossible to escape – there were trip wires, patrols, local residents were evicted and the mercenaries lived everywhere. There I also saw Marina.

There I met Gerda, he drove a white Sobol (Gazelle), he was in charge of construction works in Gorlovka - dugouts, trenches, fortifications, checkpoints in Gorlovka and the surrounding area. He was very precious for Bezler and Bezler guarded him. I was assigned to the team, and for some time I built checkpoints, underground shelters, bunkers, fortified emplacements, trenches, and also blocked roads.

One morning I was taken to assist with garbage disposal. This means that I had to drive a garbage disposal car to every garbage container and collect the garbage. And take it to a landfill. We drove to the Internat district, loaded the garbage, and after that it turned out that there was not enough place for me in the car. So one person was left in the car to unload it, and I was left in the Internat district.

In such a way I got to the Chechens and there I understood that everything I experienced before was just a Sunday-school picnic.

The Internat district is located at the far end of Gorlovka, it is a wooded area with a gully, there is special care facility for troubled teenagers or disabled persons (something like that). It is also enclosed with a high fence like other restricted access facilities. When I came there, I saw about 20 confiscated cars, very cool, BMW, Mercedes – the Chechens prefer only the best stuff.

There I was put into the basement again. When I entered the basement, I was shocked – the floor was covered with blood almost ankle-deep. There were other people, very scared, their faces were distorted with fear. I tried to communicate with them, but they avoided any contact, so I didn't understand what was happening. But I understood it at night.

Chechens came in, five persons. They ordered all of us to stand with faces against the wall and started playing a kind of a counting-out game - one-two-three-four-five, the fifth person was shot. During one evening 9-15 could be murdered like that. Those who stayed alive were given a handsaw and packages, and should dismember and package the bodies. Other persons did that and I did that, too.

Some inmates were hung upside down and skinned, and the rest of us should watch that, if you took your eyes away - you were in the victim's place. The victim cried and screamed and begged, but finally he lost consciousness, they stopped, brought him back to his senses and continued. We had to dismember his remains, too.

Furthermore, they brought us around 5-7 km off the road, about 100 persons, lined us up. We thought we would be shot, but they told us to turn around and walk. And we walked. At first we did not understand what it meant until the first 3-4 persons stepped on mines. When I realized what was happening, I sat down, took a stick, remembered what I knew about combat engineering, and every two steps I checked the ground with a stick whether there was anything solid in the bumps. If the stick stumbled across something, I avoided that place. It was forbidden to stand still, those who stopped were killed. On the first day, a little more than 20 persons out of more than a hundred came back from that field.

On the second day I was lucky, I got a wide site with anti-tank mines which just did not explode under my weight.

On the 9th day someone from Artemugol came to take me away. Because everyone transferred from UBOP were registered, each of us was assigned to a job – to carry debris, dig trenches and so on. And we were someone's responsibility. Since I was missing 9 days, a mercenary came to take me back. The one who brought me there and forgot to take me back was shot dead. We were sentenced to death personally by Bezler, in fact, we had to die from his hands, and not for any other reason and in any other place. In a sense, I was a person of value.

I was brought back to Artemugol and allowed to rest for one day, I was not given any work to do. They teased me and asked where did I have a nine-day vacation. I couldn't say a word to answer. Then Gerda came and said, "Oh, you're here again", and ordered me to work again.

When we worked for Gerda, we were given food after work every day. Once he took us out to the pond and gave a soap bar. Though it was cold, we could wash ourselves.

On one of those days, 20 boxes with Russian labels were delivered to Bezler, they were new, not of the old Soviet model. The boxes contained experimental explosives but no one knew how to handle that stuff; from the words of the mercenaries I understood that Bezler was waiting for a man from a Russian military plant, who should teach them how to use the explosives.

Besides, 2 times I unloaded the cars "KAMAZ" with Russian license plates and with white tents - as I understand it was the "humanitarian convoy" from Russia. There I saw boxes with mortar shells, heavy machine guns, lots of boxes with cartridges of 5.45 caliber, there were also boxes with multiple launch rockets "Grad".

I was ransomed by my family. They conducted negotiations for a long time, via Russia, via FSB (Federal Security Service), and on several occasions they were offered to transfer money and promised that I would be released, but my family didn't. My mother said that she would transfer money as soon as she had her son back. At the time of ransom, Bezler was away from Gorlovka, and I think this was also the factor that helped us.

It was difficult to ransom us, in Ukraine no one cares for us. Bezler himself told us that "what can I get for you, if you were some SBU (State Security Service) men, for them I was given three KAMAZ cars full of weapons." By the way, my mother called the SBU hotline and she was told to go to Kyiv and write a statement, but for obvious reasons it was impossible for her.

In October, the Russians were already in Gorlovka, everyone knew about that because on their left and right sleeves they wore white bandages, without any chevrons and ribbons. They were militants of some special-purpose organizations, Interior Ministry, special task forces.

About October 5 Gerda came to us in uniform, he took the four of us to clean the base (in UBOP facilities), then he said "now let's go wash the floors in my office". From the conversation it became clear that Gerda became a Colonel of the Russian troops (with appropriate rank insignia). There was a curator from Russia in UBOP's premises. UBOP had changed, it was clean, all mercenaries were moved to live in the barracks.

A general arrived from Russia, I understood that from conversations of terrorists. He talked to people finding out their skills and their strong points – and he assigned positions and salaries in rubles. Gerda got Colonel's rank and the salary of 50000 rubles (as he himself said). Lieutenants received up to 30 thousand rubles, warrant officers – up to 20 thds. I saw that on a sheet of paper in the trash bin when I cleaned the premises.

Gerda was put in charge of the training school of the saboteurs/bombers. Gerda selected a place where the school would be located, and also determined the equipment and other things needed, all that should be brought from Russia. They had lists of all the shot-firers who worked in mines and at factories over the last five years.

That is all I managed to hear.

Sever and Alaska – instructors of the school, they worked with Gerda and were assigned to him as his instructors. Alaska is retired captain. Gerda and Alaska are Russians and until that time they served in the Russian army.

In the morning of October 8 I was taken away from Artemugol, my hands were tied with a plastic strip, and I was put in the trunk of a car. I was not told where I was taken to.

I expected anything, expected the worst. I was brought to Makeyevka. Right on the street, near the railway station, they exchanged me. I saw my mother, she put me into a taxi car immediately. The mercenaries said that I should not linger - a day or two and I should go to Russia. Well, I did not linger, went to Russia, stayed there for 10 days, got a medical examination done at a private clinic and made all of the tests.

I took my wife, via Kharkov we went to Kyiv and from there to Kremenets. There we lived for a year, I restored my driving license, filed an application regarding my car and a report, and explained the situation. I was treated at the inpatient neurology department, they issued doctors' opinion for me. Then I was sent to a rehabilitation center for Adventists, but it specializes in alcoholics and drug addicts, and at that time nobody knew what to do with the post-traumatic stress disorder.

I was prescribed psychotropic drugs. To cope with my condition, I kind of drove myself into a state of trance. I needed to break myself and then to get out of that state. For half a year I was in a mess, I had dreams, trauma, etc. But I did not fall down, I did not start drinking, I did nothing of the kind.

Then I went to Konstantinovka. Natasha called me (she is my current therapist and psychologist), she asked if I needed any help. I planned to cope with all that myself but I could not get rid of the smell of blood on my hands and I became very aggressive, especially towards persons from the Caucasus. I went to Kyiv, to the neurological hospital, they prescribed me Hydazepam (despite that at the same time I took Fenazepam) and nothing else. In short, this is how I got into in the Pavlov Psychiatric Hospital in Kyiv, there the doctor said I surely was their client and I was admitted to the hospital's in-patient department.

I contacted the State Penitentiary Service, but they did not find me any job. Finally, I quit. Now I do some odd jobs, just by myself, I have no official employment anywhere.

I work regularly with a psychologist and take courses of IVS treatment at Pavlov Hospital. My treatment will last three more years, at best (if I am able to take regular IVS treatment).

Moreover, I would like to add that I can identify by a photo the following individuals: Kubok Oleg, Senya from Vostok, Salat from Oplot, Bezler, Pogranichnik, UBOP's commandant in Gorlovka. Melkiy, who was Bezler's bodyguard and was responsible for removal of corpses from UBOP's building in Gorlovka, Apostol, a terrorist from Enakievo, Maliar and Grek, terrorists from Enakievo, Kos, commandant of Artemugol's building in Gorlovka, Pukh, Kos's assistant, Apostol, a terrorist from Donetsk, Balu, a terrorist from Gorlovka, Vosmoy, a terrorist from Gorlovka, Max, chief of NKVD in Gorlovka, Yarik, Temnyi, members of NKVD in Gorlovka, Fara, a terrorist from Gorlovka, who was particularly respected by the terrorists because he fought in Slaviansk, Gerda, Sever, Alaska, Bezler's minions, as I understood they were militants of the Russian army, Virtuoz, Bezler's minion, Lisa, a female terrorist and sniper from Gorlovka, Shisha, a terrorist from Gorlovka, Slon, a terrorist from Gorlovka who was responsible for air safety, i.e. he downed aircrafts.

Victim Kharko Artem Vitalievich
(last, first, middle name)

(signature)

Senior Investigator for major cases
of the Main Military Prosecutor's Office
of the Prosecutor General's Office on Ukraine

(signed) D. Egorov

Annex 251

Transcript of Conversation between Andrienko and Tyhonov (12 December 2016).

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

Record of Examination

City of Kyiv

May 15, 2017

Start time: 9:30 a.m.

Finish time: 6:15 p.m.

Lt. Col. of Justice O.V. Stukovenkov, Senior Investigating Officer of Unit 1, Department of Pretrial Investigations of the Main Investigation Directorate of the Security Service of Ukraine, in connection with criminal proceedings No. 2201600000000466 of December 18, 2016 with the elements of crime under paragraph 2 of Article 28 Article 112, paragraph 2 of Article 28 paragraph 1 of Article 263 of the Criminal Code of Ukraine, in order to identify and record information relevant to the criminal proceedings, in compliance with the requirements of Articles 104, 106, 223, 237 of the Criminal Procedure Code of Ukraine, has examined a file named "2016 December 12 18-55.wav" containing audio recordings of conversations between A.V. Techno and O.M. Andriyenko and placed on a flash drive surrendered voluntarily by witness O.M. Andriyenko.

The examination was performed in Office No. 312 of the Main Investigation Directorate of the Security Service of Ukraine located at the following address: number 4 Irynynska Street, Kyiv, using a personal computer with speakers.

The examination has shown the following:

Upon examination of the flash drive surrendered voluntarily by witness O.M. Andriyenko, it was found that the drive contained, among others, an audio file named "2016 December 12 18-55.wav."

In the process of listening to the file named "2016 December 12 18-55.wav," which lasted 3 hours 20 minutes and 25 seconds, it was found that it contained an audio recording of a conversation between A.V. Tikhonov and O.M. Andriyenko. The content of the conversation is set forth below in Russian as the original language.

The content of the said conversation is set forth below:

Everyday matters are discussed until 13 hours 40 seconds.

A.V. Tikhonov: Lyokha. Well, let's do it, brother. Here's to our getting together. Here's to our lame idleness coming to an end ... Here's to us not only forging victory but also to our forging it for money.

Slavka will be here tomorrow.

O.M. Andriyenko: Slavon?

A.V. Tikhonov: Yes. Well, the thing is that in the role of the perpetrator – the one who will be shooting, you need a reliable person, you know. And someone who'll be able to kill them off [by shooting] ..., who won't start jerking off ...

O.M. Andriyenko: I get it.

A.V. Tikhonov: Do you have someone like that?

O.M. Andriyenko: Mmm ...

A.V. Tikhonov: That's what I think, that you don't. That's why I offered this work to Slavka. Ruslan is still ... enlisted, so we still haven't decided anything about bringing [him] in and out with documents ... This matter isn't getting resolved, for fuck's sake. Of course, I'll tell you honestly, I'd be much calmer if Ruslan had gone. I know for sure that he won't

get butterflies in his stomach, won't start stuttering, won't start jerking off ... but the main thing will be to shoot far and to shoot right. I don't know what Slava's like as a sharpshooter. About all the rest, [I know] that he won't get butterflies in his stomach. Well, if [it's at] point blank range, you don't need a shitload of brains. Am I right?

O.M. Andriyenko: Right.

A.V. Tikhonov: So, what's with the munitions package with the cartridges?

O.M. Andriyenko: Well, it just needs touching up, that's all. It's a useless instrument, of course ...

A.V. Tikhonov: Well, however useless it is, the fact is that the Makar ... That scumbag ran it into the ground, of course. The Makar is ... trustworthy ... You clean it, not a fucking thing will go wrong with it.

O.M. Andriyenko: So what, did they make this bullshit a priority?

A.V. Tikhonov: Eh?

O.M. Andriyenko: Are they making this first business a priority?

A.V. Tikhonov: Yes.

O.M. Andriyenko: What about the one who was dealing with this?

A.V. Tikhonov: To put it bluntly, no one was dealing with this. Money was taken for operating costs and for some unknown reasons ...

But the most interesting thing, it's totally fucking unclear ... because I know who took the money. It was Hooligan Denis. It was him.

O.M. Andriyenko: Is he Russian?

A.V. Tikhonov: Yes, he himself is Russian. He's been fighting with us all this time. To say that he's a fucking fool ..., he's like a reserve officer, get it. He served in Irkutsk. Or he's a warrant officer.

O.M. Andriyenko: Well then, a warrant officer ...

A.V. Tikhonov: Well, maybe because ...

[If only I could] take on at some point the mission that ... the Main Intelligence Directorate is chasing you and not ... The Chief Directorate fucking ...

O.M. Andriyenko: Well yes.

A.V. Tikhonov: And the bitch will simply make himself comfortable. As I was leaving now, my boss says to me: Andrey, everything's so ... it's tense right now. I think you know ... because he trusted this fucking moron. This fucking moron disappeared, no one knows where to.

On the one hand, it's good. If not him, then maybe ... And if they hadn't contacted us, we wouldn't have started this normal movement. But on the other hand, what kind of a fucking moron do you have to be to ...

The fact is that I don't know how he is.

Who if not him, if he had [inaudible] something to do with the military stores, who if not him should have known that in the night military stores ...

That in the night military stores it's not fucking welcome ... even the Federal Security Service or ... judicial proceedings ..., investigators ... For one simple reason, that ...

O.M. Andriyenko: But what about the other objects?

A.V. Tikhonov: Most of the operations are being carried out illegally. That's why matters are being settled illegally too.

A report is being written to the senior command with a request that the one who's guilty be ensnared, to reduce him to nothing ... That's it.

The fucknut Hooligan will be shot somewhere like a dog ... by his own.

Fuck knows.

With which object, Lyosha? Which one are you talking about?

O.M. Andriyenko: Well, the one with those same stores.

A.V. Tikhonov: With the stores. Everything's fine with the stores, but, but ...

I'm very, very, very interested in how to approach them right, so that [I] can beat the crap out of them.

The subsequent conversation makes reference to no information on facts or circumstances that might be relevant to the criminal proceedings.

A.V. Tikhonov: Slavka is coming with a passenger.

O.M. Andriyenko: Who?

A.V. Tikhonov: Slavka. It's his godfather, a Moldovan. As I understood it, it's the godfather who'll be doing it. Slavka will [inaudible]. Max's and your mission, the main one, is to remove it nicely and take it away.

About the financing. It's not going to be five, it's going to be three. Get it?

(Tikhonov talks on the telephone.)

A.V. Tikhonov: Word for word. A thousand each for the car.

O.M. Andriyenko: How much?

A.V. Tikhonov: A thousand each. And a thousand for operating costs.

O.M. Andriyenko: For a thousand, a car, of course [inaudible]. Possibly take something.

A.V. Tikhonov: I'm here. Well, Lyokha. Right now, it's for you to judge the current situation. Get it?

It's for you to judge. But I was thinking, thinking. Weighing everything up for and against. I remembered how you and I [inaudible]. Fuck the sharing thing ... the sharing thing isn't different in any way.

O.M. Andriyenko: [inaudible].

A.V. Tikhonov: If I, if I were in your place. Well, this is what I'm thinking. I'd put Max's car ... somewhere. In any case it's already a pure garbage heap. It needs to be put somewhere, definitely have a look to check there aren't any cameras anywhere. You need to look through everything. A pure garbage heap.

But one way or another it's already ... the second thing.

And for this sharing thing ... I'd take something along the lines of 500–700 dollars, up to a thousand, what only gets around. The main thing is that you know ... even if it eats oil, emits smoke ... there's no fifth gear. The main thing is to fuck off away from there fast. Even if it's with some kind of screw-up. Because holding onto it ... And simply not burn excess funds.

I'm here on duty ... it's kind of fucked ... even ... knows him ... well, I'll be the back-up. Well, as I understand it, they're not going to give us any more money for movements for operations ...

What's more. The only thing that, the only thing that they said: if we do it – it's another one hundred percent bonus.

That is, if twenty-five was allocated to him just now, then we'll get fifty.

Let's go on. See if everything is done right. That's very important. Very important, very important. Leap down [inaudible] right. You and I [inaudible] even managed to sit down in that snow drift. Do you remember?

But, in terms of cleanliness ... it was worked out to the last detail ... [We] also need to get in in a beautiful way and leave in a beautiful way. Get rid of the car and – most importantly – keep it off the cameras. [We] need to be further from the phones.

How much do the cheapest Samsung balalaika phones cost?

O.M. Andriyenko: They're not expensive.

A.V. Tikhonov: Four phones, three ... one for each. The main thing is that the batteries should be inserted and taken out only on the street. Not near our own phones, not near our own phones. Otherwise they hook on ...

And that's it. Let's go on, let's go on, there's only hours left. As soon as you ... chuck them out [on the road to] Kharkov, let them go straight away. To [inaudible] and get away cleanly. As soon as they get onto the perpetrators, it's already ... you'll hang it on someone.

O.M. Andriyenko: Yes, that's clear.

A.V. Tikhonov: Fuck ... you. Even if somewhere, something ...

So ...

If I understand everything right, [inaudible] in Moscow [inaudible], then we'll definitely be holding the victory parade in Kiev.

The subsequent conversation makes reference to no information on facts or circumstances that might be relevant to the criminal proceedings.

A.V. Tikhonov: So that you understand. I'm now coming into Alushta, there's been some attention ... towards Sanya ..., towards Nastya ... in the school, starting with the director ... That their dad is an active service officer in the LPR. But it's going to get more interesting. These aren't going to be pass or fail exams for you or for me. What have we got to do with it, we'll sit ... we'll be gnawing on our old bones on the *zavalinka* [Translator's note: *zavalinka* refers to the mound of earth around a peasant's house]. But they've got to grow up, and this is already such a recommendation, a good recommendation. And later it'll be, it'll be like after World War II. There will be glorification of the people, because they've fucked it all up ... in a flash ... Uncle Vova is now levelling it all out and the education of the young will be a very serious race ... And that's why I'm telling you it will be ... Well, so that you understand, fuck knows how your madam will grow up.

My son is finishing 11th grade. I showed you [a picture of] him in his uniform. Shit ... he's 178 cm tall. So why am I telling you this? He's finishing 11th grade and to me from now Commanding Officer Dobreyev [sic]. He says, Andrey Valentinovich, Sanya's now finishing 11th grade, bring him to Moscow for an interview. He's being seen by the psychologist, those teachers there for an interview at the Main Intelligence Directorate. And [inaudible] the grown-up guys [inaudible].

If they say yes, he's suitable, they'll say to him: Aleksandr, choose yourself a military academy in the Russian Federation. Just choose an academy. It doesn't matter which, the Ryazan paratroopers or some combined infantry [academy] or the Navy Academy, it doesn't matter which [inaudible].

In other words, there'll be a notice in the archives of the academy that he was sent by the Main Intelligence Directorate for training and that upon completion, he won't be

sent off to Sakhalin as a platoon commander, but he'll again be invited to Moscow and he'll be appointed again to the Main Intelligence Directorate.

Do you see, from this ... this is a chance ... To get in there, well, you yourself know, it's the elite.

He's a young guy ... Well, obviously, it's work for men, it's dangerous. He rocked up in a jeep ..., got an apartment in *Piter* [St. Petersburg]. ... wherever he wanted it, that's where he got it. He got a second apartment in Moscow, because they're all Petersburgers. Incidentally, our boss – the commanding officer of the division, he's a first-rank captain, well, the navy, and they're all Petersburgers. This is purely Vova's team ... Get it?

In other words, here, Lyokha, it's right to contain oneself right now. We've got very big [inaudible]. Get it? Even such things like I was saying. He and I are in official negotiations. Out of habit, he either calls me Valentinovich, or simply Andrey, and I call him Eduard. We have an arrangement – after our first positive operation, we'll start calling one another “ty” [Translator's note: “ty” is the informal word for “you.”]. Well ... the head of the 15th division ... in the Chief Directorate. Who am I ... I say: listen, Eduard, what I don't understand is that this is a third-rate person. He says, there's no reason for you to be talking like that. We value your past deeds and respect you for the standing that you've acquired there. And we got all the reviews for you, and don't think about anything.

The subsequent conversation makes reference to no information on facts or circumstances that might be relevant to the criminal proceedings.

A.V. Tikhonov: This is the second part of the freak show. We, I, those who are with me are moving now into a radical targeted vector. As of today, well, as of yesterday, we belong to the division for special operations. These are subversive activities behind enemy lines. And in principle, we don't give a fuck about any of them. From the first successful operation, we'll get such assets, in the form of a forged or stolen document at the very least. That you're going to be coming here isn't being explained to anyone. If any cop comes up to you, you throw the forged or stolen document in his face and carry on roaming ... I'm obligated to render every kind of assistance. Those ... they can't wave either an ear or a snout. Why are Pasha Bochka ... Zhenya Kisyat and others worn out to shit now? They all want to harmoniously switch to the special operations division. I say: ok, guys, in what capacity do I see you here? You're drinking vodka, stuffing your faces, roaming around somewhere. We're careering around, working, taking risks, we're not seeing you ...

I only have Ruslan. He's like a personal aide, he runs around the place 10 times more than me. He's ready any time.

The subsequent conversation makes reference to no information on facts or circumstances that might be relevant to the criminal proceedings.

A.V. Tikhonov talks on the phone with an unidentified person named Vitaliy.

A.V. Tikhonov: That's the head of intelligence of the corps. That's if we achieve normal results now, complete our time. He and I are being given the right to manage the special operations division for the former Soviet Republics. Lekha, for the next, well, I think for a couple of years, we'll be busy, we'll be in the know, but the most important thing is that we'll be financed properly. Whatever happens, at least our girls won't have headaches about where to spend 100 dollars.

Well, as the senior one in your operations group [inaudible].

O.M. Andriyenko: Mm, yes.

A.V. Tikhonov: There's 3,000 US dollars here.

O.M. Andriyenko: Printed in Russia.

A.V. Tikhonov: Well, you saw ... [I've got] the impression that they're drawing them themselves. You see, they're zilch, fuck it. I'm even scared sometimes to have [inaudible]. They've got old dollars. I'm wearing them to shreds, they're kind of thin, you see. I haven't had normal money in my hands for a long time, and when I take it in my hands ...

There is a rustle of bills being counted on the audio recording.

A.V. Tikhonov: Do you see, they're thinner by half ... normal dollars. My ... hand is slipping when I'm counting them, fuck.

O.M. Andriyenko: Look.

A.V. Tikhonov: Lyokh, if God is giving us everything right now. Now everything will depend on Slava and the Moldovan. If they meet the deadline before the New Year, they'll give us 5 packs of these. This fluff. That would be nice.

O.M. Andriyenko: Well, yes.

A.V. Tikhonov: And fuck the debts ... distribute everything and leave it for myself. I've been thinking, thinking, thinking, Lyokh. If we ... it might be better somewhere, if even we close it all off. I think we should get you a good jeep, Lyokha. For you.

You don't need an A6. Either get some kind of new Chirka, well, so that it's a real jeep.

The subsequent conversation makes reference to no information on facts or circumstances that might be relevant to the criminal proceedings.

A.V. Tikhonov: And also I want, I want. Maybe it would be just the right moment for you and Maxik and ... [inaudible] Slava. I want to recommend you for a decoration officially through the LPR.

O.M. Andriyenko: For what?

A.V. Tikhonov: For the performance of an operation.

O.M. Andriyenko: I haven't done anything yet.

A.V. Tikhonov: No, well, for the performance of any operation, so that there are medals for such and such a line.

O.M. Andriyenko: I haven't done anything yet, Andryukha.

A.V. Tikhonov: That's not what's at stake now, well, that's clear, we're now working along these lines.

But you'll get through in one way or another. But Slava is still scared that he'll simply be classed amongst the killers over the cordon.

I tell [him], Slava, things are different here. Here they are convicting [inaudible] wishes.

I he's [sic] been dreaming all his life of getting a license to shoot fools. The bitch, my fantasies didn't get that far that I'd live to see such things, that my own state would decorate me for shooting these fools.

These faggots ..., Kolyma bitch, consummate scum ...

O.M. Andriyenko: Yes, of course they've turned the country into a complete fuck-up

...

A.V. Tikhonov: Right, and for what? From where ... and we can be ... Well, to lay out such scum ...

I sat down to have a look on the Internet, well, at who I'm dealing with, get it?

I ... [inaudible] ... they talk about him, it's just fucked-up ... Bitch, consummate scum, he says he's handed over the Ferris wheel for scrap, he was hanging around everywhere with prostitutes, drunk.

O.M. Andriyenko: These are the people that caught hold of the wave ...

A.V. Tikhonov: Lyosh, they didn't catch hold of the wave. You know, how can I say it, the first onslaught of the plague, for fuck's sake.

Well, if you [inaudible]. I'm not saying that I'm good or that you're good. I'm bad or you're bad.

O.M. Andriyenko: Well, there should be some kind of humanity.

A.V. Tikhonov: There should be some kind of humanity. You siphoned off [inaudible] if your notions ... Let it not be about honor, but about humanity. Right? Who fucking gave birth to you ... who brought you up.

So, fuck knows. Their mamas and papas are supposedly our contemporaries. All these ... I don't understand, honest to fuck, I don't understand, brother.

When they start from the conversation [sic]. With us, the way of arguing, of raising a scandal with the Russians start [inaudible]. I say, be more careful ... we're still Ukrainians. I say, I'm Ukrainian. I was born in Irkutsk ... but grew up in Kharkov. And Kharkov is just as dear to me as Irkutsk. And I'm Ukrainian.

And I say, shall I tell you how many Russians there were in the Aydar battalion [inaudible]. I say, so are they your brothers? No, that's scum. I [inaudible] we're talking about scum. Yes, I say, they've fucked it all up in a flash, so it's not us that fucked it up. It's the government, and what's more, it's not our government, but the Russian government that fucked it up, that fucked us over, we did indeed lie down to sleep, like Uncle Vova told us, in one state, and woke up in another. They sold us ... and betrayed us. Sold and betrayed. And the first people to go to war, that risked their lives, was again us ... It was us on the front lines again [inaudible]. What the fuck are you driving around Moscow in Lexuses for [inaudible]? And you're shooting your mouth off, who to help and who not to help. And we're fighting ... surviving ... And you're ... everyone indiscriminately – Ukies ... No, I'm not saying this right. There are, I say, whores, scumbags ... just enemies of mankind ... They're Russians, and Ukrainians, and Americans ... Whoring and decency have no nationality.

More and more, I'm starting to freak out, they're starting to talk this way. I'm getting steamed up, for fuck's sake. I say, who the fuck are you ... I say, for fuck's sake, was in these artillery attacks, under the raids ...

O.M. Andriyenko: There were so many whores in the army, they were called hoses. Muscovite.

A.V. Tikhonov: With us, “Moscow” was the most offensive expression. “Moscow” is a consummate faggot, a shit, and whores...

O.M. Andriyenko: That’s what I’m saying: hose, Moscow, Muscovites are all hoses.

A.V. Tikhonov: Moscow is subhuman, it’s hose, the clap ...

The subsequent conversation makes reference to no information on facts or circumstances that might be relevant to the criminal proceedings.

O.M. Andriyenko: When is Slavon coming?

A.V. Tikhonov: On the twenty-third.

O.M. Andriyenko: Here?

A.V. Tikhonov: From here. He needs to be met, so that he can get through and leave. He’s got certificates of release, all that crap, that these convicts [inaudible]. That it’s the convicts coming.

O.M. Andriyenko: [inaudible]

A.V. Tikhonov: So that you ... meet them, if need be. Pick [them] up, do you see, and drown yourself in work. When you are in Kiev, do you see, somewhere there step out for a bit. They say, we’ll go in, well, 5 days, I’ll come back. I just ... I just ... 5 days, I’ll come back, I’ll be phoning all the time.

Eduard forbid me from entering in the most strenuous way. After all, I want to go ..., I want to... knock down the balalaikas. And he says, for now he says, you, Andrey Valentinovich, he says [sic]. God forbid you should sabotage the operation with your entrance, he says, you’ll regret being born ... on this earth ...

Lyokh, listen, is Max skidding?

O.M. Andriyenko: Well, it’s fine.

A.V. Tikhonov: Lyokh, this is yours, you’re the commanding officer of the group. It’s up to you now to decide who these are with.

The subsequent conversation makes reference to no information on facts or circumstances that might be relevant to the criminal proceedings.

A.V. Tikhonov: Lyokha, I’d ... I’ll tell you straight up, I’d really like to go in and do all this myself. And you know which. We just know what, where, what for, how much, you know. It’s also because I can’t take part [inaudible], I’ve been fighting for a year [inaudible], don’t fuck with me.

O.M. Andriyenko: [inaudible].

A.V. Tikhonov: That’s right, well, how to get him. How about I climb in through the hillock? In short, you won’t climb in, you’ll sabotage the operation, for fuck’s sake. You’re fucking laughing ...

If I could, I’d go myself. Do you fucking believe ... I’d go myself with pleasure, just to see and to monitor, Lyosh.

O.M. Andriyenko: When I was talking to my guys, the thing is that there’s covert surveillance of all these faggots [inaudible].

Andryukha, I’ve got one head [inaudible]

A.V. Tikhonov: Of course. And you can watch over this while you’re at it. That’s what’s important, what’s important, Lyosh.

He ... shot him and while he's running, he needs to throw his jacket and trousers into a trash can and his phone. That's important. The first car that takes him, it's in ruins in 2, in 3 days ... appear ... You understand. And until such time when we need to move, that's very important. It should be a landing, not a landing ... not a town. Where the car will be, where, let there be 500, 1000 meters to it, but no cameras, guaranteed. So, we leave it ... and go. Where there are no cameras, and leave cleanly. But before that you'll ... to a greater or lesser degree, you'll be on the cameras. You, personally, with your face at the wheel, maybe you won't be on them, because you'll be sitting in the car the whole time. But they'll be on them. That's the trick. When you throw over ... where there are no cameras, throw them over, you. You bring them to Kharkov, throw them out, with a kick in the backside ... The main thing is that they go to that side. When they go to that side, that's it.

O.M. Andriyenko: Well, that's clear.

But something else, when I was talking to Valera, the deserter [inaudible], we can come to an agreement with the cops, but the people from the Security Service of Ukraine have covert surveillance ... over the objects ... Well, they're financing [it] in their matters.

A.V. Tikhonov: What's more, you don't know the most important thing, I haven't told you.

He's changed his place of residence.

O.M. Andriyenko: Who? [inaudible]

A.V. Tikhonov: So, he changed it. [He'll] have to work on the right bank of the Dnieper. The Pechora district.

O.M. Andriyenko: Do you have the address?

A.V. Tikhonov: Yes. But here, the main thing is to park the car in such a way that there's a minimum number of these lights.

O.M. Andriyenko: Well, for that, we need [inaudible] this place ...

A.V. Tikhonov: Two days, Lyosha, you're going away. Lyosh, Lyosh, get a foothold, take up residence, don't be in a hurry. Don't be in a hurry, Lyosh, look, brother.

O.M. Andriyenko: Well, do you have the address of this fucker?

A.V. Tikhonov: Yes, Konovaltsa 32V. But I think you should also write down the old one, because they'll ... we might get lucky, it'll go to the old address [inaudible], [he] fucked off and left.

O.M. Andriyenko: So there's no sniper equipment, right?

A.V. Tikhonov: If it's needed, well ... it's hard to get it there.

O.M. Andriyenko: That would be ideal.

A.V. Tikhonov: What ... we thrust in. Brush it up, clean it, the only thing that might ... try to bring along new cartridges, because this is all crap.

O.M. Andriyenko: I can [inaudible] cartridges, well, those that ...

A.V. Tikhonov: Lyokh, clean the barrel, it won't let you down. The Makar won't let you down, the Makar is for two rounds of ammunition and that's it, throw it away. Let him throw the Makar away. Let him throw the Makarov away ... even if he doesn't have gloves.

Let it work for the time being, let him throw it around for now. For 3–4 days, they won't shoot it off ... And if you bring him out right, over the first few days he'll go [inaudible].

And if he comes out to us, I'll meet him here. That's all.

Whatever, whatever he might say there, you there ... they didn't freak out ...

O.M. Andriyenko: If there were optics, that would be fucking awesome. That's the best option.

A.V. Tikhonov: We won't drag them in now [inaudible]. We ... don't have a capable volunteer military service, nothing ...

O.M. Andriyenko: [inaudible] Twat.

A.V. Tikhonov: Gerashchenko? That's Uncle Vova [inaudible]. That's Putin's personal wish, for him to quiet down. Putin's personal wish.

O.M. Andriyenko: There's a second one too – Shkiryak, the fuckwit, the same.

A.V. Tikhonov: I've got the possibility [inaudible]. But right now we need to finish off this beast.

O.M. Andriyenko: Pasha's Lenka, well.

A.V. Tikhonov: I get it.

O.M. Andriyenko: She's with this one.

A.V. Tikhonov: Shkiryak?

O.M. Andriyenko: No, the first one.

A.V. Tikhonov: Gerashchenko.

O.M. Andriyenko: She's near Krasnograd, she's got her own stuff going on there, she talked to him there, all that stuff. Well, little faggot, what else can you say.

A.V. Tikhonov: Consummate piece of shit.

O.M. Andriyenko: Well, well, fucking ... And the second one, Shkiryak, is also a cunt.

Public figures - whores, consummate whores.

This examination is complete.

Record executed by

[signature]

Lt. Col. of Justice O. V. Stukovenkov,
Senior Investigating Officer of Unit 1,
Department of Pretrial Investigations of the
Main Investigation Directorate of the
Security Service of Ukraine

Annex 252

Signed Declaration of Oleksiy Andriyenko, Suspect Interrogation Protocol (18 December 2016)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

Protocol

of Interrogation of a Witness

The City of Kharkiv
2016

18 December

Interrogation started at 9:00 p.m.

break: [there was no break]

Interrogation ended at 10:15 p.m.

Senior investigator for special cases of the 3rd Section at the 1st Department of Pretrial Investigation, the Main Investigation Department of the Security Service of Ukraine, major of justice Bahovskyi Artem Stanislavovych, in the course of the investigation of the criminal proceeding entered into the Unified Register of Pretrial Investigations under the number of 2201600000000466 on 18 December 2016, in the premises of the USBU in Kharkiv oblast at the address: 2, Myronosytska St., Kharkiv City, in compliance with the requirements of Articles 65, 66, 95, 104, 106, 223, 224 of the Code of Criminal Procedure of Ukraine, has interrogated a witness:

Full name	Oleksiy Andriyenko
Place and date of birth	
Nationality, citizenship:	Ukrainian, Ukrainian
Education:	Advanced education
Marital status:	Single
Place of work, position, telephone number:	Currently unemployed
Criminal record:	No (as stated)
Is he a deputy (which council)	No
Identification:	The person has been identified

[.....]

Upon the questions raised, the witness has made the following statement:

I have known T since around 2008. I got acquainted with him in Kharkiv and, now, I do not remember in what circumstances. We have rather close relationships: we met from time to time, sometimes we consumed alcoholic beverages together, maintained contacts over telephone.

In 2014, I got to know that T left for the temporarily occupied territory of Luhansk oblast, where he has been staying up to now. As far as I know from conversations that I had with him over telephone, T visited the Russian Federation periodically, mostly to the city of Belgorod. Since 2014, T has not visited Kharkiv

because he was afraid of being prosecuted by the law enforcement authorities of Ukraine. I have got to know from conversations with T that he, allegedly, was in contact with the Department of special operations of the Main Intelligence Department of the General Staff of the Armed Forces of the Russian Federation (MID GS AF RF) from which he periodically receives various assignments. I do not know what exactly he was doing for the Russian intelligence but, generally, according to him, these assignments are related to the organization of the intelligence and subversive operations in the territory of Ukraine. At that time, I did not take seriously T's words, because I thought he had said that under the influence of alcohol to show his importance.

In December of this year, as far as I remember it was on 13 December, upon the invitation of T, I left Kharkiv for Belgorod on a shuttle bus – minibus “Kharkiv – Belgorod”. At the railway station of Belgorod, T met me and invited to an apartment that he rented near the station. I spent a night at his place and after that, on 14 December 2016, I came back home to Kharkiv on a shuttle bus - minibus “Belgorod – Kharkiv”.

When I was in Belgorod, during a conversation which we had while consuming alcoholic beverages, T told me that he had got an instruction to organize a murder of Anton Gerashchenko, a People's Deputy of Ukraine, due to his political activities and active pro-Ukrainian position. During our conversation, T did not specify who exactly had instructed him. I listened to him, but I did not take his words seriously because I did not believe that his intention was genuine. In addition, he informed me that some persons would contact me on his behalf to establish connection. He did not specify who exactly.

In the evening of 14 December 2016, when I was in Kharkiv, T called me on my Russian number _____ via “Viber” and informed me that two men from Belgorod would come to me on 15 December 2016, and their visit would be related to the conversation about A.Gerashchenko.

Since I was afraid of T due to his alleged connection with MID GS AF RF, agreed to meet those persons, listen to them, and take a decision only afterwards. For my personal security, I decided to record conversations with those persons on a voice recorder.

On 15 December 2016, a person who introduced himself as “S”, called on my telephone number 7_____, said that he was from T, and offered to meet.

Then, I had a meeting with “S” at the “South station” (Kharkiv). He was with other person who introduced himself as “D”. They asked me to find them an accommodation for several days in the city. I agreed and assisted them to rent an apartment in the area of Tobolska St. (Kharkiv).

On the same day, during a conversation with “S” and “D”, they told me that they came to kill Anton Gerashchenko. I would like to underline that I have recorded this very conversation by a voice recorder and subsequently copied the recording on a computer disc.

After the aforementioned conversation with “S” and “D”, which took place on 15 December 2016, I realized how serious were their common intentions with T to commit a murder of Anton Gerashchenko, a People’s Deputy of Ukraine. Having realized that, I decided to report to the SSU about the crime in order to prevent the murder.

During the recorded conversation with “S” and “D”, they requested to assist them in organizing the murder. So, I had to help them to find an apartment in Kharkiv and Kyiv and get weapons for the murder and vehicles. Together with them, I had to conduct a reconnaissance in Kyiv of the movement of Gerashchenko A. to determine the most convenient time and place for his murder. For my participation in the organization of the murder I was offered \$50,000 (fifty thousand). Understanding that my straightforward refusal to assist in the organization of the murder could have caused quite negative consequences for me, including a lethal one, I agreed to help them. I hope that I have reported the preparation of the crime to the law enforcement authorities in time, so that grave consequences might be prevented.

I have read the protocol of the interrogation. It has recorded my words correctly. I do not have any additions or comments.

Signature of the witness:

The interrogation was carried out
and the protocol was executed by
Senior investigator for special cases
of the MID of SBU

Signed by: A. Bahovskyi

Annex 253

Signed Declaration of Haide Rizayeva, Witness Interrogation Protocol (14 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
of witness interview**

City of Kyiv

February 14, 2017

Interview commenced at 11:40 AM

Interview ended at 1:25 PM

Police Major A.S. Bakhovskiy, a senior special investigator with Section 3, 1st Pre-Trial Investigations Department of the Main Investigations Department of the Security Service of Ukraine, in the course of conducting a pre-trial investigation entered into the Unified Register of Pre-Trial Investigations under No. 22016000000000466 on 12/17/16, at the offices of the Main Investigations Department of the Security Service of Ukraine located at 33 vul. Volodymyrska, Kyiv, pursuant to the requirements of Articles 65, 66, 95, 104, 106, 223 and 224 of the Criminal Procedure Code of Ukraine, questioned as a witness:

1. Full name:	Haide Alylivna Rizayeva
2. Date and place of birth:	12/28/1979, Samarkand, Republic of Uzbekistan
3. Ethnicity:	Crimean Tatar
4. Citizenship:	Ukraine
5. Education:	Higher
6. Place of employment (study) and position:	Temporarily unemployed
7. Place of residence (registration):	Apt. 2, 19 vul. I. Franka, Novi Petrivtsi, Vyshhorod District, Kyiv Region
8. Marital status:	Single
9. Criminal convictions:	None
10. Is he/she an elected representative (if so, in what body)?	No
11. Details of passport or other identity document	Ukrainian passport 000252204, issuing authority 3228

[...]

[...]

[...]

Regarding the substance of the criminal proceedings, the witness testified as follows:

I am a volunteer specializing in the release of prisoners. On 07/22/2014, three other volunteers (Valentin Serovetskyi (deceased), Serhiy Zakharov, and Yury Lilyavskyi) and I were delivering humanitarian aid from Kyiv to the city of Starobilsk. On the way, we took a wrong turn and accidentally ended up on the outskirts of Artemivsk, where we ran into a checkpoint set up by militants from the so-called DPR [Donetsk People's Republic] and LPR [Luhansk People's Republic], who took us prisoner.

That same day, we were taken to the city of Artemivsk, which at that time was controlled by the militants, where we were held for about 20 days. The person in command there was Kozitsyn (I do not recall his first name). He was a militant from the so-called LPR, specifically a Cossack group that called itself the "Great Don Army". During our time with Kozitsyn, we were repeatedly interrogated and tortured.

After that, on around 08/10/14, the militants moved us, on Kozitsyn's orders, to the city of Luhansk, specifically to the premises of the Luhansk Regional State Administration, where the so-called "Luhansk Military Command" was headquartered. Kozitsyn told me we were being moved so that they could decide what to do with us (shoot us, continue to hold us prisoner, or swap us).

When we arrived at the premises of the Luhansk Regional State Administration, we were placed in separate rooms in the basement of the building. That same day, we

[initials]

were interrogated by their investigator about who we were, what we were doing on temporarily occupied territory, and how we came to be taken prisoner. We told them that we were volunteers delivering humanitarian aid.

That same day, the so-called commander of the “Luhansk Military Command”, Serhiy Viktorovych Hrachov (call sign “Hrach”, tel. 063-417-54-75, 050-912-31-53 (old number)), came to see us and told us that we would continue to be held prisoner until they swapped us. We sat in those basement rooms for two months. We were not allowed to go outside. I sat alone for about 10 days in a room that was used as a female cell. The men were held separately. After about ten days they started putting other unknown captives in the cell with me. While we were held prisoner, they often beat us. They did so for no reason, just because of our pro-Ukrainian positions.

After about two months, they started to take me and the other captives out of our basement cells to do work. I personally worked in the canteen and cleaned the rooms of the so-called commander and his deputies.

For this purpose, I was taken at 8 o'clock every morning to the offices of the so-called command leadership, consisting of a reception area and the offices of the leader, S.V. Hrachov, and his deputies, Dmytro Pysar (call sign “Pysar”) and Andriy Tykhonov (call sign “Ilim”, “Batya” and “Tikhon”). Pysar’s deputy, a man with the call sign “Shrek”, also sat in the same office.

My duties included cleaning the rooms and preparing drinks, which I did every morning from around 8:00 to 10:00.

It should be pointed out that each morning during this period S.V. Hrachov held meetings with D. Pysar, “Shrek”, and A. Tykhonov. Once a week there was a general meeting for the entire command center staff in the great room.

On a number of occasions, while I was doing my work in the offices of the so-called command leadership, I witnessed the meetings that Hrachov held with his deputies. During these meetings, Hrachov discussed with Pysar, “Shrek”, and Tykhonov the situation that was unfolding on the temporarily occupied territory of the Luhansk Region. In particular, they talked about the status of combat operations and the losses suffered by the militants and the Ukrainian armed forces, as well as the number of people taken prisoner and their subsequent fate.

Regarding A. Tykhonov, I can say that he appeared to be about 50 years old, of solid build, overweight, with a round face and grey hair. While present at Hrachov’s meetings, I gathered from their conversations that during that period Tykhonov was directly involved in combat operations on the side of the LPR militants as head of a combat unit or one of its leaders. I can assume that he was one of the leaders of the so-called Zorya battalion. On a number of occasions, Tykhonov also personally informed Hrachov about the fate of prisoners. During one meeting, for instance, Tykhonov informed Hrachov that they had captured a Ukrainian serviceman who had been shot on the battlefield, as a result

[initials]

of which he had been wounded, and the militants did not want to provide him with medical treatment. In short, Tykhonov reported on the progress of the military campaign and the situation with captured prisoners.

Tykhonov very often reported on the progress of combat operations in the presence of militants who had been directly involved in military clashes. Tykhonov brought these people to the meeting himself.

It should be noted that I repeatedly saw the militants beat prisoners on Tykhonov's orders and in his presence. Specifically, Tykhonov and the militants repeatedly beat Serhiy Zakharov, Valentin Serovetskyi, Ihor Butenko, Oleksandr Makarov, and others in my presence.

It should be noted that every evening at 11:00 PM all of the prisoners were taken out for an evening inspection and rollcall. During the rollcall itself, prisoners were beaten and mentally abused. People were also beaten directly in their cells.

During one conversation with Tykhonov, which took place while I was cleaning the offices, he told me that he and another militant with the call sign "Kep" (I think I would be able to recognize him; he appeared to be about 35 years old, thin, with an oval face) had personally taken a pilot prisoner. I subsequently realized that they were talking about Nadia Savchenko.

On 10/28/2014 I was released from captivity as part of a swap.

I have already been questioned about the circumstances of my capture a number of times by officers of the Security Service of Ukraine and Military Prosecutor's Office, where I was recognized as a victim.

The testimony is reflected in the record of the interview. No technical recording devices were used.

The participant in the procedural action was advised of the procedures for reviewing the content of the record, specifically how to obtain access to the record.

I have read the record, and it is accurate. I have no objections

Witness _____ [signature] _____

_____ *H.A. Rizayeva* _____

Senior Special Investigator with Section 3,

1st Pre-Trial Investigations Department

Main Investigations Department of the Security Service of Ukraine

Police Major

[signature]

A.S. Bakhovskyi

Annex 254

Signed Declaration of Hanna Mykolayva Fadeeva, Witness Interrogation Protocol (15 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

Testimony of Hanna Mykolayvna Fandeeva

1. I am Hanna Mykolayvna Fadeeva, born on July 23, 1941. I am a resident of Avdiivka, a town in the East of Ukraine located close to the northern borders of Donetsk. I have been living in Avdiivka for 51 years since 1965. I am 76 years of age. I worked for the railway and on top of that for an agricultural enterprise trying to make enough money to build my own home. Now I am retired. My pension is approximately UAH 1300.00 per month.
2. I live in my own house located at the following address: 86 Kolosova (formerly Kirova), Avdiivka. I live alone.
3. Several days before January 30, 2017, the shelling began in Avdiivka. Starting from the evening of January 30, 2017, the shelling intensified; I could hear it. It was very scary.
4. During the night between the 30th and 31st of January, 2017, I was at home asleep. Closer to 4 am I heard the sound of glass breaking and [walls] collapsing. I woke up and realized that there had been an explosion and I had to hide. I ran into another room. After the explosion subsided I saw that I was trapped in my own house and could not get out. The shelling continued and I was very scared when I realized that at that time I could not get out of the building and was trapped. Because it was the rear part of the building that collapsed it took my neighbors some time to realize what had happened to me.
5. After the explosion I spent nearly 2 hours in the part of the building that remained intact. The outside temperature at the time was close to minus 17 degrees centigrade. My neighbors helped to rescue me; they partially removed the debris and helped me out of the building, they pulled me out. After the attack I was left without a roof over my head. My warm house in which I had everything I needed to live had been destroyed. As a result of the shelling there was a hole in the outer wall of the house, everything inside the building that I needed for my everyday life had been destroyed: the toilet, the bathroom, the gas boiler that I used to heat up the house, my dishes. As a result of the attack I was forced to stay with my neighbors for three days. Also the roof of the summer kitchen was entirely destroyed and the doors and windows were broken.
6. During the same night I saw that the shelling also damaged a number of other houses of my neighbors who lived in the same street.
7. After the explosion destroyed my house my blood pressure shot up and I have been suffering from constant headaches. For several days I was

**Strictly
Confidential**

treated in a local hospital and took a sedative; they gave me shots. I suffer from memory loss, I am constantly shaking, my hands are trembling, [and] I started forgetting words and letters when I write. During the night from the 14th to 15th of February 2017 when I heard the sound of shelling again I had to take sedative and plug my ears so that I would not hear the shooting.

8. When my house was destroyed the police came to inspect the scene. Since it had happened during the night I do not know which kind of weapons were used to damage my house, who was shooting, and from which direction. A part of the shell that was pulled out of the house is still lying next to my damaged home.

The photos of the damage, which were made on February 15, 2017, have been enclosed with this testimony.

The above is an accurate account of my statement.

15 February 2017

Signature _____ [signature] _____

Avdiiivka

Fandeeva Anna Nikolaevna

Annex 255

Signed Declaration of Oleksandr Oleksehuk, Suspect Interrogation Protocol (16 February 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

[...]

Question: Do you confirm the testimony you gave as a suspect during previous interrogations?

Answer: Yes, I confirm everything I said at previous interrogations.

Question: What do you know about illegal border crossing into Ukraine by citizens of the Russian Federation trying to join the terrorist organizations “Donetsk People’s Republic”?

Answer: I know that there are Russian citizens serving in the 11th Detached Motor-Rifle Regiment of the 1st Army Corps of the “DPR”. They entered the territory of “DPR” through sections of the border which are not currently controlled by the Ukrainian authorities, but are under the control of the DPR military. As I said before, the leadership of the 11th Detached Motor-Rifle Regiment of the 1st Army Corps of the “DPR” mostly consists of Russian Federation citizens, whose names I don’t know as they tend to use call signs. The regiment’s commanding officer is “Altayets”, the deputy commander is “Bereza”. Battalion commanders are local, but they all have shadow battalion commanders, Russian Federation servicemen who don’t advertize themselves. I also saw private soldiers from the Russian Federation in the regiment, they can be recognized by their distinct Russian accent. I don’t know their call signs.

Question: Do you know any facts of arms being used by servicemen or citizens of the Russian Federation? If yes, please say what specific weapons were used where, when, under what circumstances and how often.

Answer: All the Russian Federation servicemen in the 11th Detached Motor-Rifle Regiment are armed with automatic rifles and other kinds of weapons—grenades, pistols and rifles—which they use in combat against servicemen of the Armed Forces of Ukraine at their positions near the town of Avdiyivka in Donetsk Region and near Donetsk Airport. In addition, servicemen of the 11th Detached Motor-Rifle Regiment use artillery, armored vehicles and sniper rifles in military action against the Armed Forces of Ukraine.

Question: Do you know any facts of illegal shipment across the Ukrainian state border of military equipment from the Russian Federation? If yes, when and under what circumstances did you come to know about it? What specific facts can you testify to, specifying the time, place, type and amount of equipment shipped, and any escorting (receiving) persons?

Answer: I cannot cite specific facts specifying the time, place, type and amount of equipment shipped. But there is talk among the regiment’s men that the military equipment, ammunition and arms supplied to us is made in the Russian Federation.

Question: What do you know about the involvement of mercenaries in the armed conflict since April 2014 in the territory of Donetsk Region? What specific facts can you testify to, specifying the time, place, number of mercenaries, their arms, funding sources, subordination and structure?

Answer: I can say that my knowledge about the involvement of Russian Federation citizens in the armed conflict since April 2014 in the territory of Donetsk Region comes from the fact that they serve in my regiment. The entire regiment is paid in Russian roubles.

Question: Do you know any facts of illegal armed formations and regular army units from the Russian Federation active in the territory of Donetsk Region? If yes, which ones? What specific facts of active illegal armed formations and regular army units from the Russian Federation can you testify to, specifying the time, place, number of attackers, type of arms and equipment used and their objectives?

Answer: All the military in the command staff of the 11th Detached Motor-Rifle Regiment are professional servicemen from the Russian Federation.

Question: Do you know any persons or entities that organize, oversee and perform illegal shipment of military equipment and mercenaries from the Russian Federation across the state border of Ukraine for use in the armed conflict in the territory of Donetsk and/or Luhansk Regions?

Answer: The border between Ukraine and the Russian Federation in the territory of Donetsk Region is controlled by “DPR” armed units from the Donetsk Region side. I don’t know any more than that.

Question: Do you know the individuals (from among citizens of the Russian Federation, members of the Russian Federation security services and the Armed Forces of the Russian Federation) who are the actual leaders of the 11th DMRR of the “DPR” 1st AC and have been conducting either general combat or specific military operations since April 2014?

Answer: I don’t know anything about the Russian citizens apart from their call signs which I have already mentioned. I never spoke to them, as I was never part of the regiment’s command staff. When on duty at the regiment headquarters, I knew that the regiment was visited by inspectors from the Russian Federation, namely from Rostov-on-Don, but they only talked to the regiment’s leadership.

Question: Do you know any facts whereby servicemen of the Armed Forces of Ukraine and the National Guard of Ukraine or employees of the Security Service of Ukraine, the Interior Ministry of Ukraine, the State Border Service of Ukraine and Ukrainian volunteer battalions have been murdered, tortured, maimed, collectively executed, caused grave suffering or forced to serve in the units of the “DPR” and “LPR” terrorist organizations by servicemen of the Armed Forces of the Russian Federation?

Answer: I don’t know anything about these facts.

Question: Do you know any persons from among citizens and servicemen of the Russian Federation who have been engaging in mobilization activities in the territory of Donetsk Region since April 2014?

Answer: I do not know such persons.

Question: Do you have any information about personnel training at special training centers in the territory of “DPR”, “LPR” and the Russian Federation (the location of such centers, their numerical strength, leadership and command, training schedules, placement process, group sizes, call signs, nom-de-guerres and so on?)

Answer: Our regiment’s training centers, or training grounds, are located in the city of Torez and in Snizhne, Donetsk Region. I have only ever been to the Torez training ground. I don’t know anything about training at any training centers in the territory of the Russian Federation.

Question: What do you know about the circumstances of funding and planning by members of the security services and/or other state authorities of the Russian Federation of general combat or specific military operations in the territory of Donetsk and/or Luhansk Regions since April 2014?

Answer: As I have already said, all the servicemen of the 11th Detached Motor-Rifle Regiment are paid their wages in Russian roubles. I believe that the uniform, ammunition and some types of arms also come from Russia.

Question: What do you know about the circumstances of looting by servicemen of the Armed Forces of the Russian Federation in the territory of Donetsk Region, stealing assets of considerable value (important industrial installations, raw materials, food, transport, housing, art, etc), and switching Ukraine’s industrial enterprises to the output and uncontrolled supply (export) to the Russian Federation of products, raw material, etc since April 2014?

Answer: I don’t know anything about this.

Question: What do you know about who and with what weapons shot down the Malaysia Airlines Boeing 777 plane on 17 July 2014 debris from which fell near the city of Torez, Donetsk Region?

Answer: As I started my service in the “DPR”’s Vostok military battalion led by Aleksandr Sergeyeovich Khodakovskiy in August 2014, that is, before this tragedy, I don’t know anything about this. I did not hear any talk about the downed Boeing-777 in our unit.

Question: What do you know about Buk surface-to-air missiles operated by “DPR”’s military units?

Answer: I don’t know anything about that. The 11th Detached Motor-Rifle Regiment was not equipped with Buk missiles.

Question: Do you know a serviceman from the “DPR” terrorist organization whose call sign is “Bibliotekar [Librarian]”?

Answer: I don’t know a serviceman with the call sign “Bibliotekar”.

Question: What mobile number did you use when serving at the “DPR”’s Vostok battalion from August 2014 to February 2015 and in the anti-tank guided missile platoon of the

11th Detached Motor-Rifle Regiment, 1st Army Corps of the “DPR” from August 2016 to January 2017?

Answer: During my service at the “DPR”’s Vostok battalion from August 2014 to February 2015 and in the anti-tank guided missile platoon of the 11th Detached Motor-Rifle Regiment, 1st Army Corps of the “DPR” from August 2016 to January 2017 I used an MTS mobile, number 0950779565.

I have read this interrogation record. It is a true record of my oral statement. I have no additions or comments to make.

Suspect: _____ [signature] _____ (O.M. Oleksechuk)

Defense attorney: [signature] _____ (T.S. Dutka)

Senior special investigator, investigations department,
Chernivtsi Regional directorate of The Security Service of Ukraine,
Lieutenant-Colonel of Justice

[signature]

G.Gryzunov

Annex 256

Signed Declaration of Amonenko Oleksiyovich, Witness Interrogation Protocol (23 April 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF WITNESS QUESTIONING**

Township of *Stanytsia Luhanska*

April 23, 2017

Questioning commenced at *1:47 p.m.*

Questioning ended at *2:29 p.m.*

Captain A.S. Zahorulko, Senior Operative of the 3rd Sector of the Central Counterintelligence Office of the Luhansk Oblast Directorate of the Security Service of Ukraine, questioned the following individual as a witness in keeping with the requirements of Articles 65, 66, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine in connection with the investigation of a criminal case registered in the Uniform Register of Pretrial Investigations under ***No. 2201413000000080*** on *July 4, 2014*, in *the office building of the Stanytsia Luhanska Border Checkpoint*.

1. First name, patronymic, last name: ***Amonenko Valeriy Oleksiyovych***
2. Date and place of birth: ***December 19, 1953, Krasnodon***
3. Ethnicity: ***Ukrainian***
4. Citizenship: ***Ukrainian***
5. Education: ***higher***
6. Place of employment (or education): ***retiree***
7. Occupation and job title: -
8. Address of residence (registration): ***23 Leninhgradska Street, Krasnodon***
9. Prior record of criminal convictions: -
10. People's representative (at what council) (Y/N): -
11. Details of the passport or other identity document: ***EH 736637, cell phone: 066 987 05 68***

It was explained to the witness that he was summoned to testify in connection with criminal case ***No. 2201413000000080*** involving the alleged crimes falling under ***Part 2 of Article 201, Part 1 of Article 258-3, and Part 3 of Article 332*** of the Criminal Code of Ukraine.

The witness acknowledges having been explained the meaning of Article 63 of the Constitution of Ukraine to the effect that an individual may not be held accountable for refusing to offer testimony or explanations regarding himself, his family members or next of kin per the list defined by law.

[Signature]

(signature)

The witness acknowledges having been explained the meaning of Article 18 of the Criminal Procedure Code of Ukraine about freedom from self-incrimination and the right not to testify against family members and next of kin.

[Signature]

(signature)

The witness acknowledges having been explained the questioning procedure, his rights available under Article 66 of the Criminal Procedure Code of Ukraine, according to which:

1. The witness has the right to:
 - 1) know in connection with what and as part of what criminal proceedings he or she is being questioned;
 - 2) while testifying or participating in other procedural activities, use the legal assistance of an attorney, whose authorization must be proven according to the provisions of Article 50 of the Criminal Procedure Code of Ukraine (*specifically: 1) a certificate proving the attorney's right to engage in legal practice; 2) an order, an agreement with the defense attorney or an authorization issued by an agency (institution) that is authorized by law to provide free legal assistance*);
 - 3) refuse to offer testimony about himself, his next of kin or family members, if such testimony can give rise to suspicion or accusation against him or his next of kin or family members of having committed a criminal offense,

as well as testimony that is not subject to disclosure under Article 65 of this Code (*specifically – the following individuals may not be questioned at witnesses: 1) the defense attorney, the representative of the aggrieved party or plaintiff in a civil lawsuit, defendant in a civil lawsuit, the legal representative of the aggrieved party or plaintiff in a criminal lawsuit – about circumstances that have come to their knowledge as a result of performing their duties as a representative or defense attorney; 2) lawyers – about information protected by attorney-client privilege; 3) notaries – about information protected by notary-client privilege; 4) medical workers and other persons who have learned about a disease, medical checkup, examination or their results, an intimate or familial aspect of the person’s life as a result of performing their professional or official duties – about information protected by doctor-patient privilege; 5) clergymen – about information they received during confession of believers; 6) journalists – about confidential information of a professional nature disclosed to them on condition of nondisclosure of authorship or the source of information; 7) professional judges, lay judges or jurors – about the circumstances of conference room discussions of issues that arose in the context of passing a judicial ruling, except in the instances of criminal proceedings against judges that knowingly issued unlawful verdicts or rulings; 8) persons involved in drafting and enforcing an amicable settlement agreement in criminal proceedings – about circumstances that have come to their knowledge by virtue of their participation in the drafting and enforcement of the amicable settlement agreement; 9) individuals who received witness protection – about the actual details of their identities; 10) individuals who possess information about the actual identity of persons who received witness protection – information about their identity. Individuals enjoying diplomatic immunity and employees of diplomatic missions may not be questioned as witnesses (and may refuse to testify) without the consent of a representative of the diplomatic mission);*

4) testify in his native language or another language of which he has fluent command, and use the services of an interpreter;

5) consult notes and documents when testifying in cases when the testimony concerns calculations or other information that is difficult to memorize;

6) be reimbursed for the costs associated with the summons to testify;

7) review the record of questioning and request for it to be amended, supplemented or updated with comments, and also write such additions or comments by hand;

8) request protection in the instances prescribed by the law;

9) request another interpreter.

2. The witness must:

1) when summoned, appear before an investigator, prosecutor, investigating judge, or court;

2) offer truthful testimony during a pretrial investigation or court proceedings;

3) refrain from disclosing information directly pertaining to the criminal investigation and proceedings being conducted (or previously conducted) as part of this investigation, which he or she learned in connection with his duties, unless authorized to do so by the investigator, prosecutor, or court.

3. A person involved in procedural activities as part of a pretrial investigation in the capacity of an attesting witness or a person who has witnessed such activities must not disclose information about such procedural activities when specifically asked by an investigator or prosecutor to refrain from such disclosure.

In addition, according to Part 7 of Article 224 of the Criminal Procedure Code of Ukraine, the person being questioned may write down his or her testimony by hand if he or she so wishes. The person being questioned may be asked additional questions based on his or her written testimony.

[Signature]

(Signature)

Pursuant to Article 67, the witness has been warned about criminal liability under Article 384 of the Criminal Code of Ukraine (*for giving knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*for refusal by the witness to testify*).

[Signature]

(Signature)

After being informed of his rights, the victim stated that he would like to testify in the **Ukrainian** language and present the testimony by _____.

The witness **does not require** the services of an interpreter.

The witness does not wish to use the services of an attorney while giving testimony.

[Signature]

Witness V.O. Amonenko

I would like to make it known that an armed conflict has been underway since June 2014 between the Ukrainian military and paramilitary formations of the so-called LNR [Luhansk People's Republic] in the Krasnodon District, which began with combat operations first in the village of Izvarino and later near the Sukhodilska-Skhidna Mine (located between Izvarino and Sukhodilsk) and in the area of Ural-Kavkaz as well as other population centers.

Subsequently, beginning in July 2014 various military vehicles moved along the motorway from Izvarino through Krasnodon in the direction of Luhansk. I am unable to say exactly which military vehicles those were.

The movement of these vehicles started to decline in September 2014.

I would like to note that these vehicles moved during the nighttime when the curfew was in effect.

Subsequently, in the summer of 2015 the same military vehicles moved in the opposite direction towards Izvarino, and also during curfew hours.

I haven't witness any movement of military vehicles since the fall of 2015.

I have this information because I live next to the Izvarino – Krasnodon – Luhansk motorway.

My testimony has been written down correctly. I have no other comments or additions to make.

[Signature] Valeriy Oleksiyovych Amonenko

Record prepared by:

Senior Operative of the 3rd Sector of the Central Counterintelligence Office
of the Luhansk Oblast Directorate of the Security Service of Ukraine

Captain

[Signature]

A.S. Zahorulko

April 23, 2017

Annex 257

Signed Declaration of Oleksandr Voytov, Witness Interrogation Protocol (24 April 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF WITNESS QUESTIONING**

Township of *Stanytsia Luhanska*

April 24, 2017

Questioning commenced at *3:17* p.m.

Questioning ended at *4:03* p.m.

Captain A.S. Zahorulko, Senior Operative of the 3rd Sector of the Central Counterintelligence Office of the Luhansk Oblast Directorate of the Security Service of Ukraine, questioned the following individual as a witness in keeping with the requirements of Articles 65, 66, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine in connection with the investigation of a criminal case registered in the Uniform Register of Pretrial Investigations under ***No. 2201413000000080*** on *July 4, 2014*, in the office building of *the Stanytsia Luhanska Border Checkpoint*:

1. First name, patronymic, last name: ***Oleksandr Petrovych Voytov***
2. Date and place of birth: ***October 30, 1982, vil. Chmyrivka, Starobilsk District***
3. Ethnicity: ***Ukrainian***
4. Citizenship: ***Ukrainian***
5. Education: ***secondary***
6. Place of employment (or education): ***Samonivska-Zakhidna Coal Mine***
7. Occupation and job title: ***mine worker***
8. Address of residence (registration): ***16 Molodohvardiyska Street, Sukhodilsk***
9. Prior record of criminal convictions: ***yes***
10. People's representative (at what council) (Y/N): -
11. Details of the passport or other identity document: ***CT 212273, cell phone: 095 528 13 54***

It was explained to the witness that he was summoned to testify in connection with criminal case ***No. 2201413000000080*** involving the alleged crimes falling under ***Part 2 of Article 201, Part 1 of Article 258-3, and Part 3 of Article 332*** of the Criminal Code of Ukraine.

The witness acknowledges having been explained the meaning of Article 63 of the Constitution of Ukraine to the effect that an individual may not be held accountable for refusing to offer testimony or explanations regarding himself, his family members or next of kin per the list defined by law.

[Signature]

(signature)

The witness acknowledges having been explained the meaning of Article 18 of the Criminal Procedure Code of Ukraine about freedom from self-incrimination and the right not to testify against family members and next of kin.

[Signature]

(signature)

The witness acknowledges having been explained the questioning procedure, his rights available under Article 66 of the Criminal Procedure Code of Ukraine, according to which:

1. The witness has the right to:
 - 1) know in connection with what and as part of what criminal proceedings he or she is being questioned;
 - 2) while testifying or participating in other procedural activities, use the legal assistance of an attorney, whose authorization must be proven according to the provisions of Article 50 of the Criminal Procedure Code of Ukraine (*specifically: 1) a certificate proving the attorney's right to engage in legal practice; 2) an order, an agreement with the defense attorney or an authorization issued by an agency (institution) that is authorized by law to provide free legal assistance*);
 - 3) refuse to offer testimony about himself, his next of kin or family members, if such testimony can give rise to suspicion or accusation against him or his next of kin or family members of having committed a criminal offense, as well as

testimony that is not subject to disclosure under Article 65 of this Code (*specifically – the following individuals may not be questioned at witnesses: 1)*

the defense attorney, the representative of the aggrieved party or plaintiff in a civil lawsuit, defendant in a civil lawsuit, the legal representative of the aggrieved party or plaintiff in a criminal lawsuit – about circumstances that have come to their knowledge as a result of performing their duties as a representative or defense attorney; 2) lawyers – about information protected by attorney-client privilege; 3) notaries – about information protected by notary-client privilege; 4) medical workers and other persons who have learned about a disease, medical checkup, examination or their results, an intimate or familial aspect of the person's life as a result of performing their professional or official duties – about information protected by doctor-patient privilege; 5) clergymen – about information they received during confession of believers; 6) journalists – about confidential information of a professional nature disclosed to them on condition of nondisclosure of authorship or the source of information; 7) professional judges, lay judges or jurors – about the circumstances of conference room discussions of issues that arose in the context of passing a judicial ruling, except in the instances of criminal proceedings against judges that knowingly issued unlawful verdicts or rulings; 8) persons involved in drafting and enforcing an amicable settlement agreement in criminal proceedings – about circumstances that have come to their knowledge by virtue of their participation in the drafting and enforcement of the amicable settlement agreement; 9) individuals who received witness protection – about the actual details of their identities; 10) individuals who possess information about the actual identity of persons who received witness protection – information about their identity. Individuals enjoying diplomatic immunity and employees of diplomatic missions may not be questioned as witnesses (and may refuse to testify) without the consent of a representative of the diplomatic mission);

4) testify in his native language or another language of which he has fluent command, and use the services of an interpreter;

5) consult notes and documents when testifying in cases when the testimony concerns calculations or other information that is difficult to memorize;

6) be reimbursed for the costs associated with the summons to testify;

7) review the record of questioning and request for it to be amended, supplemented or updated with comments, and also write such additions or comments by hand;

8) request protection in the instances prescribed by the law;

9) request another interpreter.

2. The witness must:

1) when summoned, appear before an investigator, prosecutor, investigating judge, or court;

2) offer truthful testimony during a pretrial investigation or court proceedings;

3) refrain from disclosing information directly pertaining to the criminal investigation and proceedings being conducted (or previously conducted) as part of this investigation, which he or she learned in connection with his duties, unless authorized to do so by the investigator, prosecutor, or court.

3. A person involved in procedural activities as part of a pretrial investigation in the capacity of an attesting witness or a person who has witnessed such activities must not disclose information about such procedural activities when specifically asked by an investigator or prosecutor to refrain from such disclosure.

In addition, according to Part 7 of Article 224 of the Criminal Procedure Code of Ukraine, the person being questioned may write down his or her testimony by hand if he or she so wishes. The person being questioned may be asked additional questions based on his or her written testimony.

[Signature]

(Signature)

Pursuant to Article 67, the witness has been warned about criminal liability under Article 384 of the Criminal Code of Ukraine (*for giving knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*for refusal by the witness to testify*).

[Signature]

(Signature)

After being informed of his rights, the victim stated that he would like to testify in the **Ukrainian** language and present the testimony by _____.

The witness **does not require** the services of an interpreter.

The witness does not wish to use the services of an attorney while giving testimony.

[Signature]

Witness O.P. Voytov

I would like to make it known that an armed conflict began on August 6, 2014 in the town of Sukhodilsk, where I reside, between the Ukrainian military and paramilitary formations of the so-called LNR [Luhansk People's Republic] with the use of ground and airborne military vehicles, which resulted in projectiles landing in my area.

Due to the beginning of the armed conflict, I temporarily left my town to stay in the village of Severny, Krasnodon District, between August 23, 2014 and September 2, 2014.

I would also like to report that between June 2014 and September 2014, at around 4 a.m. on a daily basis, I witnessed the movement of military vehicles, specifically several tanks (the number varied every day but never exceeded 7 units) coming from the direction from the Russian border, specifically the population centers of Popovka, Severny, and Velykyi Sukhodil in the direction of Luhansk and Krasnodon through Sukhodilsk.

Also, during the period in question, I saw several large-caliber cannon aimed in the direction of Luhansk, which were stationed in the village of Prydorozhne, Krasnodon District, near the cemetery and the Samsonivska-Zakhidna Mine.

My testimony has been written down correctly. I have no other comments or additions to make.

[Signature] O.P. Voytov

Record prepared by:

Senior Operative of the 3rd Sector of the Central Counterintelligence Office
of the Luhansk Oblast Directorate of the Security Service of Ukraine

Captain [Signature] A.S. Zahorulko

April 24, 2017

Annex 258

Signed Declaration of Yuri Martynovsky, Witness Interrogation Protocol (26 April 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF WITNESS QUESTIONING**

Township of *Stanytsia Luhanska*

April 26, 2017

Questioning commenced at 5:39 p.m.

Questioning ended at 6:52 p.m.

Captain A.S. Zahorulko, Senior Operative of the 3rd Sector of the Central Counterintelligence Office of the Luhansk Oblast Directorate of the Security Service of Ukraine, questioned the following individual as a witness in keeping with the requirements of Articles 65, 66, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine in connection with the investigation of a criminal case registered in the Uniform Register of Pretrial Investigations under **No. 2201413000000080** on *July 4, 2014*, in the office building of *the Stanytsia Luhanska Border Checkpoint*:

1. First name, patronymic, last name: ***Yuriy Petrovych Martynovsky***
2. Date and place of birth: ***March 24, 1971, Makiyivka, Donetsk Oblast***
3. Ethnicity: **Ukrainian**
4. Citizenship: **Ukrainian**
5. Education: **secondary**
6. Place of employment (or education): ***Molodohvardiyske Mine Administration (Molodohvardiysk)***
7. Occupation and job title: ***mine technician***
8. Address of residence (registration): ***24 Myru Street, vil. Velykyi Sukhodil, Luhansk Oblast***
Actual address of residence: ***8/9 Koshovoho Street, apartment 67, Molodohvardiysk***
9. Prior record of criminal convictions: **none**
10. People's representative (at what council) (Y/N): **N**
11. Details of the passport or other identity document: ***EK324841 (passport), cell phone: 099 428 26 19***

It was explained to the witness that he was summoned to testify in connection with criminal case **No. 2201413000000080** involving the alleged crimes falling under **Part 2 of Article 201, Part 1 of Article 258-3, and Part 3 of Article 332** of the Criminal Code of Ukraine.

The witness acknowledges having been explained the meaning of Article 63 of the Constitution of Ukraine to the effect that an individual may not be held accountable for refusing to offer testimony or explanations regarding himself, his family members or next of kin per the list defined by law.

[Signature]

(signature)

The witness acknowledges having been explained the meaning of Article 18 of the Criminal Procedure Code of Ukraine about freedom from self-incrimination and the right not to testify against family members and next of kin.

[Signature]

(signature)

The witness acknowledges having been explained the questioning procedure, his rights available under Article 66 of the Criminal Procedure Code of Ukraine, according to which:

1. The witness has the right to:

- 1) know in connection with what and as part of what criminal proceedings he or she is being questioned;
- 2) while testifying or participating in other procedural activities, use the legal assistance of an attorney, whose authorization must be proven according to the provisions of Article 50 of the Criminal Procedure Code of Ukraine (*specifically: 1) a certificate proving the attorney's right to engage in legal practice; 2) an order, an agreement with the defense attorney or an authorization issued by an agency (institution) that is authorized by law to provide free legal assistance*);
- 3) refuse to offer testimony about himself, his next of kin or family members, if such testimony can give rise to suspicion or accusation against him or his next of kin or family members of having committed a criminal offense, as well as testimony that is not subject to disclosure under Article 65 of this Code (*specifically – the following individuals may not be questioned at witnesses: 1)*

the defense attorney, the representative of the aggrieved party or plaintiff in a civil lawsuit, defendant in a civil lawsuit, the legal representative of the aggrieved party or plaintiff in a criminal lawsuit – about circumstances that have come to their knowledge as a result of performing their duties as a representative or defense attorney; 2) lawyers – about information protected by attorney-client privilege; 3) notaries – about information protected by notary-client privilege; 4) medical workers and other persons who have learned about a disease, medical checkup, examination or their results, an intimate or familial aspect of the person's life as a result of performing their professional or official duties – about information protected by doctor-patient privilege; 5) clergymen – about information they received during confession of believers; 6) journalists – about confidential information of a professional nature disclosed to them on condition of nondisclosure of authorship or the source of information; 7) professional judges, lay judges or jurors – about the circumstances of conference room discussions of issues that arose in the context of passing a judicial ruling, except in the instances of criminal proceedings against judges that knowingly issued unlawful verdicts or rulings; 8) persons involved in drafting and enforcing an amicable settlement agreement in criminal proceedings – about circumstances that have come to their knowledge by virtue of their participation in the drafting and enforcement of the amicable settlement agreement; 9) individuals who received witness protection – about the actual details of their identities; 10) individuals who possess information about the actual identity of persons who received witness protection – information about their identity. Individuals enjoying diplomatic immunity and employees of diplomatic missions may not be questioned as witnesses (and may refuse to testify) without the consent of a representative of the diplomatic mission);

- 4) testify in his native language or another language of which he has fluent command, and use the services of an interpreter;
- 5) consult notes and documents when testifying in cases when the testimony concerns calculations or other information that is difficult to memorize;
- 6) be reimbursed for the costs associated with the summons to testify;
- 7) review the record of questioning and request for it to be amended, supplemented or updated with comments, and also write such additions or comments by hand;
- 8) request protection in the instances prescribed by the law;
- 9) request another interpreter.

2. The witness must:

- 1) when summoned, appear before an investigator, prosecutor, investigating judge, or court;
- 2) offer truthful testimony during a pretrial investigation or court proceedings;
- 3) refrain from disclosing information directly pertaining to the criminal investigation and proceedings being conducted (or previously conducted) as part of this investigation, which he or she learned in connection with his duties, unless authorized to do so by the investigator, prosecutor, or court.

3. A person involved in procedural activities as part of a pretrial investigation in the capacity of an attesting witness or a person who has witnessed such activities must not disclose information about such procedural activities when specifically asked by an investigator or prosecutor to refrain from such disclosure.

In addition, according to Part 7 of Article 224 of the Criminal Procedure Code of Ukraine, the person being questioned may write down his or her testimony by hand if he or she so wishes. The person being questioned may be asked additional questions based on his or her written testimony.

[Signature]

(Signature)

Pursuant to Article 67, the witness has been warned about criminal liability under Article 384 of the Criminal Code of Ukraine (*for giving knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*for refusal by the witness to testify*).

[Signature]

(Signature)

After being informed of his rights, the victim stated that he would like to testify in the **Ukrainian** language and present the testimony by _____.

The witness **does not require** the services of an interpreter.

The witness does not wish to use the services of an attorney while giving testimony.

[Signature]

Witness Yu. P. Martynovsky

I would like to make it known that I have been residing in the town of Molodohvardiysk since 2014 until present.

Combat operations in my area began in early June 2014, as evidenced by telltale explosions of projectiles fired from large-caliber weapons. In addition, in June-July 2014 I saw convoys of military vehicles proceeding in the direction of Luhansk from Izvarino along the Izvarino – Krasnodon – Samsonovka – Luhansk motorway.

Shots were fired from the mountain in the village of Samsonovka. No return fire came from the Ukrainian side. Those firing from Samsonovka aimed for Khryashchevate and Konstantynivka.

Since August 2014, the movement of military vehicles in the direction of Krasnodon and Luhansk has been declining. However, military vehicles are still moving through the outskirts (streets) of my town in small quantities.

[Signature] Martynovsky

I would like to add that since combat operations began and until present, military vehicles are stationed on the premises of the Avtoagregat plant where they get repaired (village of Krasnodon, Krasnodon District). Also, in 2014-2015, military vehicles of illegal paramilitary formations of the so-called LNR [Luhansk People's Republic] were stationed on the premises of the Molodohvardiyske Mine at the site of air purification facilities.

My testimony has been written down correctly. I have no other comments or additions to make.

[Signature] Martynovsky

Record prepared by:
Senior Operative of the 3rd Sector of the Central Counterintelligence Office
of the Luhansk Oblast Directorate of the Security Service of Ukraine

Captain [Signature] A.S. Zahorulko

April 26, 2017

Annex 259

Signed Declaration of Andriy Yanushevsky, Witness Interrogation Protocol (27 April 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF WITNESS QUESTIONING**

Township of *Stanytsia Luhanska*

April 27, 2017

Questioning commenced at 6:21 p.m.

Questioning ended at 7:25 p.m.

Captain A.S. Zahorulko, Senior Operative of the 3rd Sector of the Central Counterintelligence Office of the Luhansk Oblast Directorate of the Security Service of Ukraine, questioned the following individual as a witness in keeping with the requirements of Articles 65, 66, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine in connection with the investigation of a criminal case registered in the Uniform Register of Pretrial Investigations under ***No. 2201413000000080*** on *July 4, 2014*, in the office building of *the Stanytsia Luhanska Border Checkpoint*.

1. First name, patronymic, last name: ***Andriy Romanovych Yanushevsky***
2. Date and place of birth: ***September 1, 1968, township of Leninske, Sverdlovsk District***
3. Ethnicity: **Ukrainian**
4. Citizenship: **Ukrainian**
5. Education: **secondary**
6. Place of employment (or education): ***Kharkivska Coal Mine***
7. Occupation and job title: ***electrical fitter***
8. Address of residence (registration): ***26 Artema Street, apartment 1, Sverdlovsk***
Actual address of residence: ***26 Artema Street, apartment 1, Sverdlovsk***
9. Prior record of criminal convictions: **none**
10. People's representative (at what council) (Y/N): **N**
11. Details of the passport or other identity document: ***EH946602 (passport), cell phone: 095 494 52 17***

It was explained to the witness that he was summoned to testify in connection with criminal case ***No. 2201413000000080*** involving the alleged crimes falling under ***Part 2 of Article 201, Part 1 of Article 258-3, and Part 3 of Article 332*** of the Criminal Code of Ukraine.

[Signature]

The witness acknowledges having been explained the meaning of Article 63 of the Constitution of Ukraine to the effect that an individual may not be held accountable for refusing to offer testimony or explanations regarding himself, his family members or next of kin per the list defined by law.

[Signature]

The witness acknowledges having been explained the meaning of Article 18 of the Criminal Procedure Code of Ukraine about freedom from self-incrimination and the right not to testify against family members and next of kin.

[Signature]

The witness acknowledges having been explained the questioning procedure, his rights available under Article 66 of the Criminal Procedure Code of Ukraine, according to which:

1. The witness has the right to:
 - 1) know in connection with what and as part of what criminal proceedings he or she is being questioned;
 - 2) while testifying or participating in other procedural activities, use the legal assistance of an attorney, whose authorization must be proven according to the provisions of Article 50 of the Criminal Procedure Code of Ukraine (*specifically: 1) a certificate proving the attorney's right to engage in legal practice; 2) an order, an agreement with the defense attorney or an authorization issued by an agency (institution) that is authorized by law to provide free legal assistance*);
 - 3) refuse to offer testimony about himself, his next of kin or family members, if such testimony can give rise to suspicion or accusation against him or his next of kin or family members of having committed a criminal offense, as well as

testimony that is not subject to disclosure under Article 65 of this Code (*specifically – the following individuals may not be questioned as witnesses: 1) the defense attorney, the representative of the aggrieved party or plaintiff in a civil lawsuit, defendant in a civil lawsuit, the legal representative of the aggrieved party or plaintiff in a criminal lawsuit – about circumstances that have come to their knowledge as a result of performing their duties as a representative or defense attorney; 2) lawyers – about information protected by attorney-client privilege; 3) notaries – about information protected by notary-client privilege; 4) medical workers and other persons who have learned about a disease, medical checkup, examination or their results, an intimate or familial aspect of the person’s life as a result of performing their professional or official duties – about information protected by doctor-patient privilege; 5) clergymen – about information they received during confession of believers; 6) journalists – about confidential information of a professional nature disclosed to them on condition of nondisclosure of authorship or the source of information; 7) professional judges, lay judges or jurors – about the circumstances of conference room discussions of issues that arose in the context of passing a judicial ruling, except in the instances of criminal proceedings against judges that knowingly issued unlawful verdicts or rulings; 8) persons involved in drafting and enforcing an amicable settlement agreement in criminal proceedings – about circumstances that have come to their knowledge by virtue of their participation in the drafting and enforcement of the amicable settlement agreement; 9) individuals who received witness protection – about the actual details of their identities; 10) individuals who possess information about the actual identity of persons who received witness protection – information about their identity. Individuals enjoying diplomatic immunity and employees of diplomatic missions may not be questioned as witnesses (and may refuse to testify) without the consent of a representative of the diplomatic mission);*

4) testify in his native language or another language of which he has fluent command, and use the services of an interpreter;

5) consult notes and documents when testifying in cases when the testimony concerns calculations or other information that is difficult to memorize;

6) be reimbursed for the costs associated with the summons to testify;

7) review the record of questioning and request for it to be amended, supplemented or updated with comments, and also write such additions or comments by hand;

8) request protection in the instances prescribed by the law;

9) request another interpreter.

2. The witness must:

1) when summoned, appear before an investigator, prosecutor, investigating judge, or court;

2) offer truthful testimony during a pretrial investigation or court proceedings;

3) refrain from disclosing information directly pertaining to the criminal investigation and proceedings being conducted (or previously conducted) as part of this investigation, which he or she learned in connection with his duties, unless authorized to do so by the investigator, prosecutor, or court.

3. A person involved in procedural activities as part of a pretrial investigation in the capacity of an attesting witness or a person who has witnessed such activities must not disclose information about such procedural activities when specifically asked by an investigator or prosecutor to refrain from such disclosure.

In addition, according to Part 7 of Article 224 of the Criminal Procedure Code of Ukraine, the person being questioned may write down his or her testimony by hand if he or she so wishes. The person being questioned may be asked additional questions based on his or her written testimony.

[Signature]

(Signature)

Pursuant to Article 67, the witness has been warned about criminal liability under Article 384 of the Criminal Code of Ukraine (*for giving knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*for refusal by the witness to testify*).

[Signature]

(Signature)

After being informed of his rights, the victim stated that he would like to testify in the **Ukrainian** language and present the testimony by _____.

The witness **does not require** the services of an interpreter.

The witness does not wish to use the services of an attorney while giving testimony.

[Signature]

Witness A.R. Yanushevsky

I would like to make it known that I have constantly resided in the town of Sverdlovsk (now Dovzhansk) at 26 Artema Street, apartment 1, since 2014 until present.

During the time that I have lived here, I have witnessed an armed conflict between Ukraine and radical paramilitary formations that opposed the constitutional system and territorial integrity of Ukraine.

In particular, between June-July 2014 and early September 2014 I witnessed active movement of military vehicles through the town of Sverdlovsk (now Dovzhansk) in the direction of the towns of Krasnodon and Debaltsevo and also in the direction of the border with the Russian Federation. In addition, during this period weapons of different calibers (from 9 mm to 120 mm and greater) were fired. According to people versed in military matters, they even fired BUK, GRAD, and other similar systems.

After the border with the so-called LNR [Luhansk People's Republic] was established, the movement of military personnel and heavy artillery became less active.

There is currently no movement of military vehicles through the town of Sverdlovsk (now Dovzhansk).

My testimony has been written down correctly. I have no other comments or additions to make. I have not been subjected to any physical or psychological influence.

[Signature] A.R. Yanushevsky

Record prepared by:

Senior Operative of the 3rd Sector of the Central Counterintelligence Office
of the Luhansk Oblast Directorate of the Security Service of Ukraine

Captain [Signature] A.S. Zahorulko

April 27, 2017

Annex 260

Signed Declaration of Roman Melnykov, Witness Interrogation Protocol (27 April 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF WITNESS QUESTIONING**

Township of *Stanytsia Luhanska*

April 27, 2017

Questioning commenced at *11:05* a.m.

Questioning ended at *11:48* a.m.

Captain A.S. Zahorulko, Senior Operative of the 3rd Sector of the Central Counterintelligence Office of the Luhansk Oblast Directorate of the Security Service of Ukraine, questioned the following individual as a witness in keeping with the requirements of Articles 65, 66, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine in connection with the investigation of a criminal case registered in the Uniform Register of Pretrial Investigations under **No. 2201413000000080** on *July 4, 2014*, in the office building of *the Stanytsia Luhanska Border Checkpoint*:

1. First name, patronymic, last name: ***Roman Mykolayovych Melnykov***
2. Date and place of birth: ***April 9, 1980, vil. Huselshchykove, Donetsk Oblast***
3. Ethnicity: **Ukrainian**
4. Citizenship: **Ukrainian**
5. Education: ***higher***
6. Place of employment (or education): ***Kharkivska Coal Mine (Sverdlovsk)***
7. Occupation and job title: ***mine worker***
8. Address of residence (registration): ***25 Shistdesyat Rokiv SSSR, apartment 104, Sverdlovsk***
Actual address of residence: ***25 Shistdesyat Rokiv SSSR, apartment 104, Sverdlovsk***
9. Prior record of criminal convictions: **none**
10. People's representative (at what council) (Y/N): **N**
11. Details of the passport or other identity document: ***EK322883 (passport), cell phone: 050 580 12 95***

It was explained to the witness that he was summoned to testify in connection with criminal case **No. 2201413000000080** involving the alleged crimes falling under **Part 2 of Article 201, Part 1 of Article 258-3, and Part 3 of Article 332** of the Criminal Code of Ukraine.

[Signature]

(signature)

The witness acknowledges having been explained the meaning of Article 63 of the Constitution of Ukraine to the effect that an individual may not be held accountable for refusing to offer testimony or explanations regarding himself, his family members or next of kin per the list defined by law.

[Signature]

(signature)

The witness acknowledges having been explained the meaning of Article 18 of the Criminal Procedure Code of Ukraine about freedom from self-incrimination and the right not to testify against family members and next of kin.

[Signature]

The witness acknowledges having been explained the questioning procedure, his rights available under Article 66 of the Criminal Procedure Code of Ukraine, according to which:

1. The witness has the right to:
 - 1) know in connection with what and as part of what criminal proceedings he or she is being questioned;
 - 2) while testifying or participating in other procedural activities, use the legal assistance of an attorney, whose authorization must be proven according to the provisions of Article 50 of the Criminal Procedure Code of Ukraine (*specifically: 1) a certificate proving the attorney's right to engage in legal practice; 2) an order, an agreement with the defense attorney or an authorization issued by an agency (institution) that is authorized by law to provide free legal assistance*);
 - 3) refuse to offer testimony about himself, his next of kin or family members, if such testimony can give rise to suspicion or accusation against him or his next of kin or family members of having committed a criminal offense, as well as testimony that is not subject to disclosure under Article 65 of this Code (*specifically – the following individuals may not be questioned at witnesses: 1)*

the defense attorney, the representative of the aggrieved party or plaintiff in a civil lawsuit, defendant in a civil lawsuit, the legal representative of the aggrieved party or plaintiff in a criminal lawsuit – about circumstances that have come to their knowledge as a result of performing their duties as a representative or defense attorney; 2) lawyers – about information protected by attorney-client privilege; 3) notaries – about information protected by notary-client privilege; 4) medical workers and other persons who have learned about a disease, medical checkup, examination or their results, an intimate or familial aspect of the person's life as a result of performing their professional or official duties – about information protected by doctor-patient privilege; 5) clergymen – about information they received during confession of believers; 6) journalists – about confidential information of a professional nature disclosed to them on condition of nondisclosure of authorship or the source of information; 7) professional judges, lay judges or jurors – about the circumstances of conference room discussions of issues that arose in the context of passing a judicial ruling, except in the instances of criminal proceedings against judges that knowingly issued unlawful verdicts or rulings; 8) persons involved in drafting and enforcing an amicable settlement agreement in criminal proceedings – about circumstances that have come to their knowledge by virtue of their participation in the drafting and enforcement of the amicable settlement agreement; 9) individuals who received witness protection – about the actual details of their identities; 10) individuals who possess information about the actual identity of persons who received witness protection – information about their identity. Individuals enjoying diplomatic immunity and employees of diplomatic missions may not be questioned as witnesses (and may refuse to testify) without the consent of a representative of the diplomatic mission);

- 4) testify in his native language or another language of which he has fluent command, and use the services of an interpreter;
- 5) consult notes and documents when testifying in cases when the testimony concerns calculations or other information that is difficult to memorize;
- 6) be reimbursed for the costs associated with the summons to testify;
- 7) review the record of questioning and request for it to be amended, supplemented or updated with comments, and also write such additions or comments by hand;
- 8) request protection in the instances prescribed by the law;
- 9) request another interpreter.

2. The witness must:

- 1) when summoned, appear before an investigator, prosecutor, investigating judge, or court;
- 2) offer truthful testimony during a pretrial investigation or court proceedings;
- 3) refrain from disclosing information directly pertaining to the criminal investigation and proceedings being conducted (or previously conducted) as part of this investigation, which he or she learned in connection with his duties, unless authorized to do so by the investigator, prosecutor, or court.

3. A person involved in procedural activities as part of a pretrial investigation in the capacity of an attesting witness or a person who has witnessed such activities must not disclose information about such procedural activities when specifically asked by an investigator or prosecutor to refrain from such disclosure.

In addition, according to Part 7 of Article 224 of the Criminal Procedure Code of Ukraine, the person being questioned may write down his or her testimony by hand if he or she so wishes. The person being questioned may be asked additional questions based on his or her written testimony.

[Signature]

(Signature)

Pursuant to Article 67, the witness has been warned about criminal liability under Article 384 of the Criminal Code of Ukraine (*for giving knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*for refusal by the witness to testify*).

[Signature]

(Signature)

After being informed of his rights, the victim stated that he would like to testify in the **Ukrainian** language and present the testimony by _____.

The witness **does not require** the services of an interpreter.

The witness does not wish to use the services of an attorney while giving testimony.

[Signature]

Witness R.M. Melnykov

I would like to make it known that military vehicles have been arriving from the Russian Federation since June 2014 until present through Izvarino as well as through the Border Checkpoint in Dovzhansk (formerly Sverdlovsk) on their way to areas of combat operations.

I would like to report that in June 2014 the military of the Russian Federation stationed in the vicinity of the Border Checkpoint in Dovzhansk fired at Ukrainian military personnel from Russian territory under the guise of military exercises.

Since late June 2014 the line of demarcation between Ukraine and the Russian Federation has shifted to where it is now, and the so-called LNR (Luhansk People's Republic) has been formed in the part of Luhansk Oblast that is not controlled by the Ukrainian authorities.

My testimony has been written down correctly. I have no other comments or additions to make.

[Signature] Melnykov

Record prepared by:
Senior Operative of the 3rd Sector of the Central Counterintelligence Office
of the Luhansk Oblast Directorate of the Security Service of Ukraine

Captain [Signature] A.S. Zahorulko

April 27, 2017

Annex 261

Transcript of Oleksiy Andriyenko Court Testimony (28 April 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

Protocol

of Interrogation of a Witness

The City of Kharkiv
2016

18 December

Interrogation started at 9:00 p.m.

break: [there was no break]

Interrogation ended at 10:15 p.m.

Senior investigator for special cases of the 3rd Section at the 1st Department of Pretrial Investigation, the Main Investigation Department of the Security Service of Ukraine, major of justice Bahovskyi Artem Stanislavovych, in the course of the investigation of the criminal proceeding entered into the Unified Register of Pretrial Investigations under the number of 2201600000000466 on 18 December 2016, in the premises of the USBU in Kharkiv oblast at the address: 2, Myronosytska St., Kharkiv City, in compliance with the requirements of Articles 65, 66, 95, 104, 106, 223, 224 of the Code of Criminal Procedure of Ukraine, has interrogated a witness:

Full name	Oleksiy Andriyenko
Place and date of birth	
Nationality, citizenship:	Ukrainian, Ukrainian
Education:	Advanced education
Marital status:	Single
Place of work, position, telephone number:	Currently unemployed
Criminal record:	No (as stated)
Is he a deputy (which council)	No
Identification:	The person has been identified

[.....]

Upon the questions raised, the witness has made the following statement:

I have known T since around 2008. I got acquainted with him in Kharkiv and, now, I do not remember in what circumstances. We have rather close relationships: we met from time to time, sometimes we consumed alcoholic beverages together, maintained contacts over telephone.

In 2014, I got to know that T left for the temporarily occupied territory of Luhansk oblast, where he has been staying up to now. As far as I know from conversations that I had with him over telephone, T visited the Russian Federation periodically, mostly to the city of Belgorod. Since 2014, T has not visited Kharkiv

because he was afraid of being prosecuted by the law enforcement authorities of Ukraine. I have got to know from conversations with T that he, allegedly, was in contact with the Department of special operations of the Main Intelligence Department of the General Staff of the Armed Forces of the Russian Federation (MID GS AF RF) from which he periodically receives various assignments. I do not know what exactly he was doing for the Russian intelligence but, generally, according to him, these assignments are related to the organization of the intelligence and subversive operations in the territory of Ukraine. At that time, I did not take seriously T's words, because I thought he had said that under the influence of alcohol to show his importance.

In December of this year, as far as I remember it was on 13 December, upon the invitation of T, I left Kharkiv for Belgorod on a shuttle bus – minibus “Kharkiv – Belgorod”. At the railway station of Belgorod, T met me and invited to an apartment that he rented near the station. I spent a night at his place and after that, on 14 December 2016, I came back home to Kharkiv on a shuttle bus - minibus “Belgorod – Kharkiv”.

When I was in Belgorod, during a conversation which we had while consuming alcoholic beverages, T told me that he had got an instruction to organize a murder of Anton Gerashchenko, a People's Deputy of Ukraine, due to his political activities and active pro-Ukrainian position. During our conversation, T did not specify who exactly had instructed him. I listened to him, but I did not take his words seriously because I did not believe that his intention was genuine. In addition, he informed me that some persons would contact me on his behalf to establish connection. He did not specify who exactly.

In the evening of 14 December 2016, when I was in Kharkiv, T called me on my Russian number _____ via “Viber” and informed me that two men from Belgorod would come to me on 15 December 2016, and their visit would be related to the conversation about A.Gerashchenko.

Since I was afraid of T due to his alleged connection with MID GS AF RF, agreed to meet those persons, listen to them, and take a decision only afterwards. For my personal security, I decided to record conversations with those persons on a voice recorder.

On 15 December 2016, a person who introduced himself as “S”, called on my telephone number 7_____, said that he was from T, and offered to meet.

Then, I had a meeting with “S” at the “South station” (Kharkiv). He was with other person who introduced himself as “D”. They asked me to find them an accommodation for several days in the city. I agreed and assisted them to rent an apartment in the area of Tobolska St. (Kharkiv).

On the same day, during a conversation with “S” and “D”, they told me that they came to kill Anton Gerashchenko. I would like to underline that I have recorded this very conversation by a voice recorder and subsequently copied the recording on a computer disc.

After the aforementioned conversation with “S” and “D”, which took place on 15 December 2016, I realized how serious were their common intentions with T to commit a murder of Anton Gerashchenko, a People’s Deputy of Ukraine. Having realized that, I decided to report to the SSU about the crime in order to prevent the murder.

During the recorded conversation with “S” and “D”, they requested to assist them in organizing the murder. So, I had to help them to find an apartment in Kharkiv and Kyiv and get weapons for the murder and vehicles. Together with them, I had to conduct a reconnaissance in Kyiv of the movement of Gerashchenko A. to determine the most convenient time and place for his murder. For my participation in the organization of the murder I was offered \$50,000 (fifty thousand). Understanding that my straightforward refusal to assist in the organization of the murder could have caused quite negative consequences for me, including a lethal one, I agreed to help them. I hope that I have reported the preparation of the crime to the law enforcement authorities in time, so that grave consequences might be prevented.

I have read the protocol of the interrogation. It has recorded my words correctly. I do not have any additions or comments.

Signature of the witness:

The interrogation was carried out
and the protocol was executed by
Senior investigator for special cases
of the MID of SBU

Signed by: A. Bahovskyi

Annex 262

Signed Declaration of Denys Skibin, Witness Interrogation Protocol (21 May 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF WITNESS QUESTIONING**

Township of Stanytsia Luhanska

May 21, 2017

Questioning commenced at *1:40 p.m.*

Questioning ended at *2:25 p.m.*

Captain Ya.Yu. Veselsky, Senior Operative with the 2nd department of the Central Counterintelligence Office of the Luhansk Oblast Directorate of the Security Service of Ukraine, having examined the files of a pretrial investigation registered in the Uniform Register of Pretrial Investigations under ***No. 220143000000080*** involving the alleged crimes falling under ***Part 2 of Article 201, Part 3 of Article 332, and Part 1 of Article 258-3*** of the Criminal Code of Ukraine questioned the following individual as a witness in keeping with the requirements of Articles 65, 66, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine in order to identify individuals implicated in activities of illegal paramilitary formations of the Luhansk People's Republic, in the offices of _____:

1. First name, patronymic, last name: ***Denys Andriyovych Skibin***
2. Date and place of birth: ***February 7, 1999, born in the village of Malokhatka, Starobilsk District***
3. Ethnicity: ***Ukrainian***
4. Citizenship: ***Ukrainian***
5. Education: ***complete secondary***
6. Place of employment (or education): ***temporarily unemployed***
7. Occupation and job title:
8. Address of residence (registration): ***actual address of residence: 4/98 Chkalova Street, Krasnodon***
9. Prior record of criminal convictions: ***no prior convictions***
10. People's representative (at what council) (Y/N): ***N***
11. Details of the passport or other identity document: ***passport No. 000197516, issuing authority: 4458, date of issuance: November 21, 2016***

It was explained to the witness that he was summoned to testify in connection with criminal case ***No. 220143000000080*** involving the alleged crimes falling under ***Part 2 of Article 201, Part 1 of Article 258-3, and Part 3 of Article 332*** of the Criminal Code of Ukraine.

The witness acknowledges having been explained the meaning of Article 63 of the Constitution of Ukraine to the effect that an individual may not be held accountable for refusing to offer testimony or explanations regarding himself, his family members or next of kin per the list defined by law.

[Signature]

[Signature]

(signature)

The witness acknowledges having been explained the meaning of Article 18 of the Criminal Procedure Code of Ukraine about freedom from self-incrimination and the right not to testify against family members and next of kin.

[Signature]

(signature)

The witness acknowledges having been explained the questioning procedure, his rights available under Article 66 of the Criminal Procedure Code of Ukraine, according to which:

1. The witness has the right to:

- 1) know in connection with what and as part of what criminal proceedings he or she is being questioned;
- 2) while testifying or participating in other procedural activities, use the legal assistance of an attorney, whose authorization must be proven according to the provisions of Article 50 of the Criminal Procedure Code of Ukraine (*specifically: 1) a certificate proving the attorney's right to engage in legal practice; 2) an order, an agreement with the defense attorney or an authorization issued by an agency (institution) that is authorized by law to provide free legal assistance*);
- 3) refuse to offer testimony about himself, his next of kin or family members, if such testimony can give rise to suspicion or accusation against him or his next of kin or family members of having committed a criminal offense, as well as testimony that is not subject to disclosure under Article 65 of this Code (*specifically – the following individuals may not be questioned as witnesses: 1) the defense attorney, the representative of the aggrieved party or plaintiff in a civil lawsuit, defendant in a civil lawsuit, the legal representative of the aggrieved party or plaintiff in a criminal lawsuit – about circumstances that have come to their knowledge as a result of performing their duties as a representative or defense attorney; 2) lawyers – about information protected by attorney-client privilege; 3) notaries – about information protected by notary-client privilege; 4) medical workers and other persons who have learned about a disease, medical checkup, examination or their results, an intimate or familial aspect of the person's life as a result of performing their professional or official duties – about information protected by doctor-patient privilege; 5) clergymen – about information they received during confession of believers; 6) journalists – about confidential information of a professional nature disclosed to them on condition of nondisclosure of authorship or the source of information; 7) professional judges, lay judges or jurors – about the circumstances of conference room discussions of issues that arose in the context of passing a judicial ruling, except in the instances of criminal proceedings against judges that knowingly issued unlawful verdicts or rulings; 8) persons involved in drafting and enforcing an amicable settlement agreement in criminal proceedings – about circumstances that have come to their knowledge by virtue of their participation in the drafting and enforcement of the amicable settlement agreement; 9) individuals who received witness protection – about the actual details of their identities; 10) individuals who possess information about the actual identity of persons who received witness protection – information about their identity. Individuals enjoying diplomatic immunity and employees of diplomatic missions may not be questioned as witnesses (and may refuse to testify) without the consent of a representative of the diplomatic mission*);
- 4) testify in his native language or another language of which he has fluent command, and use the services of an interpreter;
- 5) consult notes and documents when testifying in cases when the testimony concerns calculations or other information that is difficult to memorize;
- 6) be reimbursed for the costs associated with the summons to testify;
- 7) review the record of questioning and request for it to be amended, supplemented or updated with comments, and also write such additions or comments by hand;
- 8) request protection in the instances prescribed by the law;
- 9) request another interpreter.

2. The witness must:

- 1) when summoned, appear before an investigator, prosecutor, investigating judge, or court;
- 2) offer truthful testimony during a pretrial investigation or court proceedings;
- 3) refrain from disclosing information directly pertaining to the criminal investigation and proceedings being conducted (or previously conducted) as part of this investigation, which he or she learned in connection with his duties, unless authorized to do so by the investigator, prosecutor, or court.

3. A person involved in procedural activities as part of a pretrial investigation in the capacity of an attesting witness or a person who has witnessed such activities must not disclose information about such procedural activities when specifically asked by an investigator or prosecutor to refrain from such disclosure.

In addition, according to Part 7 of Article 224 of the Criminal Procedure Code of Ukraine, the person being questioned may write down his or her testimony by hand if he or she so wishes. The person being questioned may be asked additional questions based on his or her written testimony.

[Signature]

(Signature)

Pursuant to Article 67, the witness has been warned about criminal liability under Article 384 of the Criminal Code of Ukraine (*for giving knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*for refusal by the witness to testify*).

[Signature]

(Signature)

After being informed of his rights, the victim stated that he would like to testify in the **Ukrainian** language and present the testimony by having it written down. The witness **does not require** the services of an interpreter.

[Signature]

(Signature)

The witness does not wish to use the services of an attorney while giving testimony.

[Signature]

(signature)

The witness, **D.A. Skibin**, offered the following testimony in response to the questions asked:

I reside at the above-mentioned address with my parents and underage brother.

When the armed conflict broke out, my family and I left for the village of Malokhatka, Starobilsk District, Luhansk Oblast, where I stayed for approximately three months. In September 2014, I returned to the town of Krasnodon.

While in town, I repeatedly witnessed the movement of military vehicles arriving from the direction of the Russian Federation and returning back to Russia. Military vehicles arrived in 2014 very often. In 2015 and 2016, they arrived less often. Tanks, armored personnel carriers, and trucks arrived from the Russian Federation. Many military vehicles bore images of the flag of the Russian Federation (especially in 2014).

Military personnel arrived together with the military vehicles. They differed from the local population in the way they spoke. Their uniforms were also different from those of the Ukrainian military personnel.

I don't know the subsequent destination of the arriving military vehicles. They mostly headed deep into the occupied territory of Luhansk Oblast.

Question: Do you wish to add anything to your testimony?

Answer: No, I have nothing else to add.

I have read the record. My testimony has been written down correctly. I have no other comments or additions to make.

D.A. Skibin [Signature]

Record prepared by:

Senior Operative with the 2nd Department of the Central Counterintelligence Office
of the Luhansk Oblast Directorate of the Security Service of Ukraine

Captain

[Signature]

Ya.Yu. Veselsky

Annex 263

Signed Declaration of Tornike Dzhincharadze, Suspect Interrogation Protocol (21 May 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

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[...]

In response to the questions put to him, suspect T.D. Dzhincharadze gave the following testimony:

I am currently in good health, and there is nothing to prevent me from testifying in this case.

Investigator's question: Do you understand the previously served amended notice of suspicion dated May 25, 2017?

Suspect's response: The said suspicion has been explained to me and is understood.

Investigator's question: Do you confess to the alleged crime?

Suspect's response: Yes, I fully confess to the crime I committed. I regret taking part in an illegal armed formation of the DPR from August 2014 to March 2017. I would also like to repeat that I have not been involved in any way in military action against Ukraine.

I fully confirm the testimony given by me in the course of this investigation, I insist it is true, and I will be able in future to confirm it in court.

Investigator's question: What do you know about illegal crossing of the Ukrainian state border by citizens of the Russian Federation trying to join the terrorist organization "Donetsk People's Republic" (LPR) [sic]?

Suspect's response: Yes, I do know that the majority of Russian Federation citizens who wanted to join the terrorist organization "Donetsk People's Republic" (LPR) crossed the Ukrainian border illegally. I don't know specific facts of illegal crossing of the Ukrainian state border by Russian Federation citizens, but Russian citizens used to arrive from different regions of the Russian Federation.

Investigator's question: Do you know any facts of arms being used by servicemen or citizens of the Russian Federation? If yes, please say what specific weapons were used and where, when, under what circumstances and how often.

Suspect's response: I don't recall specific instances of servicemen or citizens of the Russian Federation using arms. But I can say that around December 2014 – January 2015, I saw a Russian column of military vehicles, namely 15 2S19 "MSTA-S" self-propelled howitzers, command vehicles and auxiliary equipment, 20 vehicles in total. The above vehicles were moving from the territory of the Russian Federation in the direction of the town of Debaltseve, through Krasnyy Luch in Luhansk Region. The above vehicles, which arrived from the territory of the Russian Federation, were received by a Russian adviser ("shadow") who had the call sign "Tsygan [Gypsy]" and the nickname "Tsygankov". This man looked about 190 cm tall, swarthy, black-haired – rather like a Roma, but not a Roma. I don't think he was an ethnic Russian. I would be able recognize this man.

Also in the summer to fall of 2014 I saw about 15 KAMAZ-mounted rocket launchers, that is, 1 battalion. This kind of equipment was only used in the Russian army. I also saw, more than once, armored tactical groups moving towards Donetsk. I have nothing further to add on this.

Investigator's question: What do you know about the involvement of mercenaries in the armed conflict since April 2014 in the territory of Donetsk (Luhansk) Regions? What specific facts can you testify to, specifying the time, place, number of mercenaries, their arms, funding sources, subordination and structure?

Suspect's response: As far as I know, a large number of Russian Federation citizens came to fight on behalf of "DPR" during the period from August 2014 to February 2017, but they were not mercenaries. They were driven either by ideological motives or by a desire to rob the local population and to indulge in looting. Overall about 10-15 percent of "DPR" fighters were Russian citizens, the rest were local residents, inhabitants of Donetsk and Luhansk regions. Those driven by ideas, as a rule, would soon return to the Russian Federation because they saw what was really taking place.

I wish to add that one day, when I was already in Donetsk, on August 6, 2014, in the morning, a green Etalon coach arrived in the grounds of a former institute, with two militia men inside. We were all taken outside and lined up in front of the barracks. The two militia men approached and started selecting people. They selected about 20 men from the line-up, including me and Oleksandr Yurchenko, and put us on the coach without explanation or discussion. One of those selected started yelling on board the coach that he had just returned from Grad fire and that we were being taken back to feed the mincer. Everyone became visibly nervous. After this we were taken to former military unit No 3004 of the interior troops of Ukraine located at 116 vul. Shchorsa, Donetsk and accommodated in one of the barracks. There were already some people staying in that barracks, all male.

We were questioned again in turns: who we were, whether we had done any previous service and in which troops, any specialization, etc. After that we were lined up again in front of the barracks, and a man in military uniform invited us to volunteer to go to Russia and learn how to use Grad multiple rocket launchers. Most of those lined up said they would like to go, but I told my friend O.Yurchenko, with whom I had come to Donetsk on August 5, 2014, from Odessa, that we should decline. Later that day we were approached by Innokentiy Krasilnikov, whose call sign was “Rakhmet”, and who previously served under contract in the Russian Federation (in the rank of sergeant) and invited us to join his military equipment and personnel escort group led by Mikhail Moskvina whose call sign was “Mikho”. Later I learned that “Mikho” was instructed to set up this group by the deputy commander of the “Kalmius” battalion, Oleksandr Serhiyovych Nemohay. O.Y. Yurchenko and I accepted this offer.

Since my service in the Ukrainian armed forces, I had the call sign “Dzhin” which I decided to use in their unit. O.Y. Yurchenko used the call sign “Voron [Raven]” because of the raven tattoo on his upper arm. Mikhail Moskvina created the name for our group: “Smersh”. This group included Russian citizens: a resident of the town of Samara called Renat, call sign “Tatarin [Tartar]”, a resident of Samara called Sergei, call sign “Baikal” and three men from Donetsk with the call signs “Grom [Thunder]”, “Syoma” and “Mukha [Fly]”. There were eight men in this group in total. Soon everyone in the barracks was issued automatic weapons: I got an RPG and the others AK-74s.

On August 7, 2014, in the afternoon, five of our group (“Mikho”, “Svetlyi”, “Rakhmet” and O. Yurchenko the “Voron”) were lined up, armed, in front of a white GAZelle minivan driven by a man whose call sign was “Belyi [White]”. They were told that our group had to escort the car of O.S. Nemohay, deputy commander of the Kalmius battalion. This was my first combat assignment. Several days later our group was issued military uniforms.

I continued to serve in this military group codenamed Smersh for about 4 months. My duties included escorting military vehicles at the rear of a column, ensuring their unimpeded progress along the route and preventing pursuit. During the said 4-month period I had no occasion to use weapons or get involved in an exchange of fire. Occasionally I would fire in the air if a vehicle were to fall behind the column. As I found out later, at first our group would leave through the outskirts of Donetsk, namely towards Khartsyzk and Snizhny in the direction of the Russian border. Later, during the truce of 09.05.2014 we were not sent anywhere, and from November 2014 I began to be involved in O.S. Nemohay’s personal security (his call sign was “Alex”), and later, to drive a “confiscated” Acura car, in which I drove Russian advisers and shadows.

Overall, I served in this unit until August–September 2016 when O.S. Nemohay died of a stroke at the age of about 58. My duties included escorting O.S. Nemohay wherever he went. As a rule I would take the passenger seat of the car used by O.S. Nemohay. This would usually be either a Toyota Highlander or a Toyota Landcruiser Prado. The driver was a resident of Donetsk, Stanislav Stavtsev (call sign “Stas”). Oleksandr Svitlychny, call sign “Svetlyi”, would also ride in these cars. Sometimes I would cover for Svitlychny when he wasn’t around. Apart from O.S. Nemohay, I sometimes escorted his advisers whose names I don’t know, but I remember their call signs: “Tsygan

[Gypsy]”, “Amur” and “Dubrava”. While part of O.S.Nemohay’s security detail I was never involved in direct combat action or clashes. We would usually drive around Donetsk and rarely outside the city or to combat positions. We were armed with automatic weapons. Around spring 2015, O.S. Nemohay awarded me the medal “For Battle Merit”, and at the beginning of summer 2016 I was awarded the military rank of lieutenant. After I was made lieutenant, I began to get a monthly cash allowance of 31,500 Russian roubles. Prior to becoming lieutenant my monthly allowance was 21,500. My service in the Kalmius brigade was under a contract which was reviewed annually.

In May 2016 O.S. Nemohay appointed me as the reconnaissance chief at the cannon artillery battalion of the Kalmius brigade. But I wish to note that after the Minsk agreements in January 2015, the above unit was renamed as the Kolchuga operational and tactical guards group. Although my duty was to organize target reconnaissance in the Ukraine-controlled part of Donetsk Region, in fact I did not perform my duties in this position because I have no knowledge in this area. In practical terms, I did nothing, attending to personal matters and small tasks. This went on until the end of January 2017, after which I resigned from this position. In order to resign I wrote a letter of resignation on 01.24.2017 to E.P. Repin, commanding officer of the cannon artillery battalion of the 1st artillery brigade “Kalmius” of the 1st Donetsk Army Corps of the DPR. At first I was refused, but soon, in March 2017, my resignation was accepted on the grounds of unsuitability to the contract. It is very difficult to resign, but I succeeded. After my resignation I returned my weapons and uniform to the said unit. I also received full payment in cash for my service. Payment was issued at the cashier’s office in Russian Federation rouble cash.

Investigator’s question: Do you know any facts of illegal armed formations and regular army units from the Russian Federation active in the territory of Donetsk Region? If yes, which ones? What specific facts of active illegal armed formations and regular army units from the Russian Federation can you testify to, specifying the time, place, number of attackers, type of arms and equipment used and their objectives?

Suspect’s response: I have set out above everything I know about this matter. I cannot provide the names of specific regular army units of the Russian Federation involved in the conflict on the DPR side because I don’t know them. These names and their permanent locations were not advertized. I can only say that there were artillery units from the Russian Federation fighting against the forces of the Anti-Terrorist Operation.

Investigator’s question: What was the involvement of the 1st special-purpose artillery brigade “Kalmius” in combat operations?

Suspect’s response: This unit was involved in all the combat operations along the entire Donetsk Region frontline. After the Minsk-2 agreements of January 2015 our unit was mainly engaged in counter-battery fire. I know that in less than five days during the battle for Debaltseve in January-February 2015, around 12,000-14,000 pieces of cannon artillery ammunition and 7,000 rocket shells were fired by the militia in the direction of the Ukrainian army. All these arms and ammunition were supplied to our unit from Russia.

Investigator’s question: Do you know any persons or entities that organize, oversee and perform illegal shipment of military equipment and mercenaries from the Russian Federation across the state border of Ukraine for use in the armed conflict in the territory of Donetsk and/or Luhansk Regions?

Suspect’s response: I know that the entire command of the “Donetsk Corps” was from the Russian Federation. I don’t have their names. I also know that all the top commanding officers in all the brigades, battalions and other units were citizens of the Russian Federation operating undercover. I have nothing further to say on this matter.

Investigator’s question: Do you know the individuals (from among citizens of the Russian Federation, members of the Russian Federation security services and the Armed Forces of the Russian

Federation) who are the actual leaders of illegal DPR (LPR) armed formations and have been conducting either general combat or specific military operations since April 2014?

Suspect's response: I know the following Russian Federation citizens who led illegal armed formations in the DPR: call sign "Barkas", 1st brigade commander, 170 cm tall, heavily built, looks 45-50, short hair with bald patches at the front; call sign "Zarya", commander of the 7th regiment that captured Debaltseve, who was blown up in his car near the town of Khartsyzk, he looked about 45, fair hair combed back, heavily built; call sign "Brest", commander of the 9th regiment stationed near Novoazovsk, this man is not tall, about 170 cm, with black hair and moustache, this unit had its headquarters at the Oleksandria resort in the village of Bezimenne; the commanding officer of the 3rd motor rifle brigade based in the town of Horlivka, I don't remember this man's call sign, he looked about 50, 185-190 cm tall, balding at the front. I don't know these men's real names. I would be able to recognize all of them. I have nothing further to say on this matter.

Investigator's question: Do you know any facts whereby servicemen of the Armed Forces of Ukraine and the National Guard of Ukraine or employees of the Security Service of Ukraine, the Interior Ministry of Ukraine, the State Border Service of Ukraine and Ukrainian volunteer battalions have been murdered, tortured, maimed, collectively executed, caused grave suffering or forced to serve in the units of the DPR and LPR terrorist organizations by servicemen of the Armed Forces of the Russian Federation?

Suspect's response: No, I don't know of any such facts.

Investigator's question: Do you know any persons from among citizens and servicemen of the Russian Federation who have been engaging in mobilization activities in the territory of Donetsk Region since April 2014?

Suspect's response: All those whom I have known to organize mobilization in Donetsk Region since April 2014 are citizens of Ukraine – residents of Donetsk and Luhansk Regions. Russian Federation citizens commanded military units.

Investigator's question: Do you have any information about personnel training at special training centers in the territory of "DPR", "LPR" and the Russian Federation (the location of such centers, their numerical strength, leadership and command, training schedules, placement process, group sizes, call signs, nom-de-guerres and so on?)

Suspect's response: As I have explained above, around August 6, 2014, I and other people who were part of the former military unit No. 3004 of the interior troops were invited to volunteer to go to Russia and learn to use the Grad multiple rocket launcher, but I declined at the time. Others – about 30 people – agreed and went to Rostov Region in the Russian Federation, where they were trained to use Grad multiple rocket launchers. I know the exact training venue in Rostov Region. Later these persons returned from the Russian Federation to Donetsk around October 2014 and served as forward observers, fire direction officers and commanders on Grad multiple rocket launchers used by the Kalmius brigade against the forces of the Anti-Terrorist Operation. I don't know of any other visits to training camps in the territory of the Russian Federation. Sometime after Minsk-2, from the middle of 2015 when equipment had arrived from the Russian Federation, all permanent training venues began to be based in Donetsk and Luhansk Regions and nobody was travelling to the Russian Federation for training any more. I have nothing further to say on this matter.

Investigator's question: What do you know about the circumstances of funding and planning general combat or specific military operations in the territory of Donetsk and/or Luhansk Regions by

members of the security services and/or other state authorities of the Russian Federation since April 2014?

Suspect's response: I personally witnessed the fact that from around spring 2015 to March 2017 all the military who belonged to the Donetsk (1st) Corps and the Luhansk (2nd) Corps received cash payments in Russian Federation roubles brought from Russia. I do not know anything specific about members of the security services and other state authorities of the Russian Federation planning general combat or specific military operations in the area since April 2014. But I can say in this connection, that the entire leadership of the Donetsk (1st) Corps and the Luhansk (2nd) Corps and the leadership of all the military units were citizens of the Russian Federation, therefore it is obvious that they planned all significant military operations in the territory of Luhansk and Donetsk Regions, however I wish to note that I don't know anything about it in detail.

Investigator's question: What do you know about the circumstances of looting by servicemen of the Armed Forces of the Russian Federation in the territory of Donetsk and Luhansk Regions, stealing assets of considerable value (important industrial installations, raw materials, food, transport, housing, art, etc), and switching Ukraine's industrial enterprises to the output and uncontrolled supply (export) to the Russian Federation of products, raw material, etc. since April 2014?

Suspect's response: Nothing. I don't know anything about such facts. As far as I know it was mainly local residents who engaged in looting and taking scrap metal out of factories.

Investigator's question: What do you know about the shelling of civilians, who engaged in such shelling and who gave commands, etc?

Suspect's response: Nothing. I don't know anything about such facts. I was never in any way connected with such incidents.

I have read this interrogation record.

This is an accurate record of my oral statement. I have no comments or additions.

Suspect:

[signature]

T.D. Dzhincharadze

Defense attorney:

[signature]

O.M. Kovalyova

Participant:

**Deputy head of department – head of unit 2,
investigations department, Sumy Regional
Directorate of the Security Service of Ukraine
Lieutenant-Colonel of Justice**

[signature]

O.Ye. Sukhanov

Interrogated by, record compiled by:

**Senior special investigator,
investigations department, Sumy Regional
Directorate of the Security Service of Ukraine
Lieutenant-Colonel of Justice**

[signature]

Yu.M. Nehreba

Annex 264

Signed Declaration of Oleksandr Mohilevsky, Witness Interrogation Protocol (22 May 2017)

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**RECORD
OF WITNESS QUESTIONING**

Township of *Stanytsia Luhanska*

May 22, 2017

Questioning commenced at ____.

Questioning ended at ____.

Captain Ya.Yu. Veselsky, Senior Operative with the 2nd department of the Central Counterintelligence Office of the Luhansk Oblast Directorate of the Security Service of Ukraine, questioned the following individual as a witness in keeping with the requirements of Articles 65, 66, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine in connection with the investigation of a criminal case registered in the Uniform Register of Pretrial Investigations under **No. 220143000000080** on ____ 201_, in the office building of *the Stanytsia Luhanska-2 Border Checkpoint*:

1. First name, patronymic, last name: ***Oleksandr Hryhorovych Mohilevsky***
2. Date and place of birth: ***September 13, 1976, born in the village of Porichchia, Krasnodon District***
3. Ethnicity: ***Ukrainian***
4. Citizenship: ***Ukrainian***
5. Education: ***higher***
6. Place of employment (or education): ***temporarily unemployed***
7. Occupation and job title:
8. Address of residence (registration): ***1/136 Sovietsky, Krasnodon, cell phone: 095 356 87 15***
9. Prior record of criminal convictions: ***no prior convictions***
10. People's representative (at what council) (Y/N): ***N***
11. Details of the passport or other identity document: ***passport EH 846619 issued by the Krasnodon Municipal Department of the Luhansk Oblast Directorate of the Ukrainian Ministry of Internal Affairs on November 24, 2011***

It was explained to the witness that he was summoned to testify in connection with criminal case **No. 220143000000080** involving the alleged crimes falling under **Part 2 of Article 201, Part 1 of Article 258-3, and Part 3 of Article 332** of the Criminal Code of Ukraine.

The witness acknowledges having been explained the meaning of Article 63 of the Constitution of Ukraine to the effect that an individual may not be held accountable for refusing to offer testimony or explanations regarding himself, his family members or next of kin per the list defined by law.

[Signature]

(signature)

The witness acknowledges having been explained the meaning of Article 18 of the Criminal Procedure Code of Ukraine about freedom from self-incrimination and the right not to testify against family members and next of kin.

[Signature]

(signature)

The witness acknowledges having been explained the questioning procedure, his rights available under Article 66 of the Criminal Procedure Code of Ukraine, according to which:

1. The witness has the right to:
 - 1) know in connection with what and as part of what criminal proceedings he or she is being questioned;
 - 2) while testifying or participating in other procedural activities, use the legal assistance of an attorney, whose authorization must be proven according to the provisions of Article 50 of the Criminal Procedure Code of Ukraine (*specifically: 1) a certificate proving the attorney's right to engage in legal practice; 2) an order, an agreement with the defense attorney or an authorization issued by an agency (institution) that is authorized by law to provide free legal assistance*);
 - 3) refuse to offer testimony about himself, his next of kin or family members, if such testimony can give rise to suspicion or accusation against him or his next of kin or family members of having committed a criminal offense,

as well as testimony that is not subject to disclosure under Article 65 of this Code (*specifically – the following individuals may not be questioned as witnesses: 1) the defense attorney, the representative of the aggrieved party or plaintiff in a civil lawsuit, defendant in a civil lawsuit, the legal representative of the aggrieved party or plaintiff in a criminal lawsuit – about circumstances that have come to their knowledge as a result of performing their duties as a representative or defense attorney; 2) lawyers – about information protected by attorney-client privilege; 3) notaries – about information protected by notary-client privilege; 4) medical workers and other persons who have learned about a disease, medical checkup, examination or their results, an intimate or familial aspect of the person’s life as a result of performing their professional or official duties – about information protected by doctor-patient privilege; 5) clergymen – about information they received during confession of believers; 6) journalists – about confidential information of a professional nature disclosed to them on condition of nondisclosure of authorship or the source of information; 7) professional judges, lay judges or jurors – about the circumstances of conference room discussions of issues that arose in the context of passing a judicial ruling, except in the instances of criminal proceedings against judges that knowingly issued unlawful verdicts or rulings; 8) persons involved in drafting and enforcing an amicable settlement agreement in criminal proceedings – about circumstances that have come to their knowledge by virtue of their participation in the drafting and enforcement of the amicable settlement agreement; 9) individuals who received witness protection – about the actual details of their identities; 10) individuals who possess information about the actual identity of persons who received witness protection – information about their identity. Individuals enjoying diplomatic immunity and employees of diplomatic missions may not be questioned as witnesses (and may refuse to testify) without the consent of a representative of the diplomatic mission);*

- 4) testify in his native language or another language of which he has fluent command, and use the services of an interpreter;
- 5) consult notes and documents when testifying in cases when the testimony concerns calculations or other information that is difficult to memorize;
- 6) be reimbursed for the costs associated with the summons to testify;
- 7) review the record of questioning and request for it to be amended, supplemented or updated with comments, and also write such additions or comments by hand;
- 8) request protection in the instances prescribed by the law;
- 9) request another interpreter.

2. The witness must:

- 1) when summoned, appear before an investigator, prosecutor, investigating judge, or court;
- 2) offer truthful testimony during a pretrial investigation or court proceedings;
- 3) refrain from disclosing information directly pertaining to the criminal investigation and proceedings being conducted (or previously conducted) as part of this investigation, which he or she learned in connection with his duties, unless authorized to do so by the investigator, prosecutor, or court.

3. A person involved in procedural activities as part of a pretrial investigation in the capacity of an attesting witness or a person who has witnessed such activities must not disclose information about such procedural activities when specifically asked by an investigator or prosecutor to refrain from such disclosure.

In addition, according to Part 7 of Article 224 of the Criminal Procedure Code of Ukraine, the person being questioned may write down his or her testimony by hand if he or she so wishes. The person being questioned may be asked additional questions based on his or her written testimony.

[Signature]

(Signature)

Pursuant to Article 67, the witness has been warned about criminal liability under Article 384 of the Criminal Code of Ukraine (*for giving knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*for refusal by the witness to testify*).

[Signature]

(Signature)

After being informed of his rights, the victim stated that he would like to testify in the **Ukrainian** language and present the testimony by **having it written down**.

The witness **does not require** the services of an interpreter.

The witness does not wish to use the services of an attorney while giving testimony.

[Signature]

Testimony of witness O.H. Mohilevsky:

I currently reside at the above-mentioned address alone because my wife, Yulia Viktorivna Mohilevska, and my son, Denys Oleksandrovych Mohilevsky, have been residing in the town of Lysychansk since the armed conflict broke out.

In 2014-2015, I resided in the town of Krasnodon almost constantly. After the armed conflict broke out, I saw a convoy of tanks arriving in groups of 15-20 tanks at a time. Other military vehicles arrived with them (such as GRAD multiple rocket launchers, etc.). All military vehicles bore the insignia of the Russian Federation. The military vehicles arrived from the direction of the Izvarino border crossing checkpoint and also from other directions from the border between Ukraine and the Russian Federation. They then proceeded in the direction of Luhansk.

After the first Minsk accords, some of the military vehicles returned to Russian territory. During this "pullout" I saw different kinds of armaments: tanks, trucks, and even BUK systems. After some time, however, the military vehicles started to return from Russia to Ukraine in small groups.

From the very beginning, all operations to establish control over the local authorities were carried out by people brandishing the Russian flag. I witnessed how they captured the local office of the Security Service of Ukraine. Prior to that, weapons were handed out from two minivans. The Russian flag was then hoisted over the building.

The military vehicles were accompanied by military personnel – citizens of the Russian Federation. While not all of them looked like enlisted servicemen, there was no doubt that they were citizens of the Russian Federation.

In 2017, movement of military vehicles and personnel of the Russian Armed Forces almost stopped and happens seldom. Nonetheless, I have seen the military vehicles arriving in a perfect technical condition, while the military personnel carry weapons that are different from commonly used weapons. They also no longer move as openly as before.

Question: Do you know any local residents who are or were involved in the armed conflict on the side of illegal paramilitary formations of the LNR [Luhansk People's Republic]?

Answer: No, there are no such people among my acquaintances.

Question: Do you wish to add anything to your testimony?

Answer: No, I have nothing else to add.

I have read the record. My testimony has been written down correctly. I have no other comments or additions to make.

O.H. Mohilevsky [Signature]

Record prepared by:

Senior Operative with the 2nd Department of the Central Counterintelligence Office
of the Luhansk Oblast Directorate of the Security Service of Ukraine

Captain

[Signature]

Ya.Yu. Veselsky

Annex 265

Signed Declaration of Oleksandr Kvartyn, Witness Interrogation Protocol (23 May 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
OF WITNESS QUESTIONING**

Township of *Stanytsia Luhanska*

May 23, 2017

Questioning commenced at 9:35 a.m.

Questioning ended at 10:20 a.m.

Captain Ya.Yu. Veselsky, Senior Operative with the 2nd department of the Central Counterintelligence Office of the Luhansk Oblast Directorate of the Security Service of Ukraine, questioned the following individual as a witness in keeping with the requirements of Articles 65, 66, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine in connection with the investigation of a criminal case registered in the Uniform Register of Pretrial Investigations under ***No. 220143000000080*** on ____ 201_, in the office building of *the Stanytsia Luhanska-2 Border Checkpoint*.

1. First name, patronymic, last name: ***Oleksandr Serhiyovych Kvartnyn***
2. Date and place of birth: ***February 6, 1982, Krasnodon, Luhansk Oblast***
3. Ethnicity: ***Ukrainian***
4. Citizenship: ***Ukrainian***
5. Education: ***higher***
6. Place of employment (or education): ***Ukrenerho National Energy Company State Enterprise***
7. Occupation and job title: ***Lead Engineer with the Quality Control Service***
8. Address of residence (registration): ***address of registration: 22 Molodizhna Street, Krasnodon***
Actual address of residence: 4a Molodizhna Street, apartment [blank], Krasnodon
9. Prior record of criminal convictions: ***no prior convictions***
10. People's representative (at what council) (Y/N): ***N***
11. Details of the passport or other identity document: ***passport EM 073597 issued by the Krasnodon Municipal Department of the Luhansk Oblast Directorate of the Ukrainian Ministry of Internal Affairs on January 23, 1999***

It was explained to the witness that he was summoned to testify in connection with criminal case ***No. 220143000000080*** involving the alleged crimes falling under ***Part 2 of Article 201, Part 1 of Article 258-3, and Part 3 of Article 332*** of the Criminal Code of Ukraine.

The witness acknowledges having been explained the meaning of Article 63 of the Constitution of Ukraine to the effect that an individual may not be held accountable for refusing to offer testimony or explanations regarding himself, his family members or next of kin per the list defined by law.

[Signature]

(signature)

The witness acknowledges having been explained the meaning of Article 18 of the Criminal Procedure Code of Ukraine about freedom from self-incrimination and the right not to testify against family members and next of kin.

[Signature]

(signature)

The witness acknowledges having been explained the questioning procedure, his rights available under Article 66 of the Criminal Procedure Code of Ukraine, according to which:

1. The witness has the right to:

- 1) know in connection with what and as part of what criminal proceedings he or she is being questioned;
- 2) while testifying or participating in other procedural activities, use the legal assistance of an attorney, whose authorization must be proven according to the provisions of Article 50 of the Criminal Procedure Code of Ukraine (*specifically: 1) a certificate proving the attorney's right to engage in legal practice; 2) an order, an agreement with the defense attorney or an authorization issued by an agency (institution) that is authorized by law to provide free legal assistance*);
- 3) refuse to offer testimony about himself, his next of kin or family members, if such testimony can give rise to suspicion or accusation against him or his next of kin or family members of having committed a criminal offense,

as well as testimony that is not subject to disclosure under Article 65 of this Code (*specifically – the following individuals may not be questioned as witnesses: 1) the defense attorney, the representative of the aggrieved party or plaintiff in a civil lawsuit, defendant in a civil lawsuit, the legal representative of the aggrieved party or plaintiff in a criminal lawsuit – about circumstances that have come to their knowledge as a result of performing their duties as a representative or defense attorney; 2) lawyers – about information protected by attorney-client privilege; 3) notaries – about information protected by notary-client privilege; 4) medical workers and other persons who have learned about a disease, medical checkup, examination or their results, an intimate or familial aspect of the person’s life as a result of performing their professional or official duties – about information protected by doctor-patient privilege; 5) clergymen – about information they received during confession of believers; 6) journalists – about confidential information of a professional nature disclosed to them on condition of nondisclosure of authorship or the source of information; 7) professional judges, lay judges or jurors – about the circumstances of conference room discussions of issues that arose in the context of passing a judicial ruling, except in the instances of criminal proceedings against judges that knowingly issued unlawful verdicts or rulings; 8) persons involved in drafting and enforcing an amicable settlement agreement in criminal proceedings – about circumstances that have come to their knowledge by virtue of their participation in the drafting and enforcement of the amicable settlement agreement; 9) individuals who received witness protection – about the actual details of their identities; 10) individuals who possess information about the actual identity of persons who received witness protection – information about their identity. Individuals enjoying diplomatic immunity and employees of diplomatic missions may not be questioned as witnesses (and may refuse to testify) without the consent of a representative of the diplomatic mission);*

- 4) testify in his native language or another language of which he has fluent command, and use the services of an interpreter;
- 5) consult notes and documents when testifying in cases when the testimony concerns calculations or other information that is difficult to memorize;
- 6) be reimbursed for the costs associated with the summons to testify;
- 7) review the record of questioning and request for it to be amended, supplemented or updated with comments, and also write such additions or comments by hand;
- 8) request protection in the instances prescribed by the law;
- 9) request another interpreter.

2. The witness must:

- 1) when summoned, appear before an investigator, prosecutor, investigating judge, or court;
- 2) offer truthful testimony during a pretrial investigation or court proceedings;
- 3) refrain from disclosing information directly pertaining to the criminal investigation and proceedings being conducted (or previously conducted) as part of this investigation, which he or she learned in connection with his duties, unless authorized to do so by the investigator, prosecutor, or court.

3. A person involved in procedural activities as part of a pretrial investigation in the capacity of an attesting witness or a person who has witnessed such activities must not disclose information about such procedural activities when specifically asked by an investigator or prosecutor to refrain from such disclosure.

In addition, according to Part 7 of Article 224 of the Criminal Procedure Code of Ukraine, the person being questioned may write down his or her testimony by hand if he or she so wishes. The person being questioned may be asked additional questions based on his or her written testimony.

[Signature]

(Signature)

Pursuant to Article 67, the witness has been warned about criminal liability under Article 384 of the Criminal Code of Ukraine (*for giving knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*for refusal by the witness to testify*).

[Signature]

(Signature)

After being informed of his rights, the victim stated that he would like to testify in the **Ukrainian** language and present the testimony by **having it written down**.

The witness **does not require** the services of an interpreter.

The witness does not wish to use the services of an attorney while giving testimony.

[Signature]

Testimony of witness O.S. Kvartnyn:

I reside at the above-mentioned address with my wife, Tetyana Yevhenivna Kvartnyn, and my daughter Viktoria Oleksandrivna Kvartnyn.

When the armed conflict broke out, my family and I went to the town of Anapa, Russian Federation, where we stayed until September 2014. After returning, I constantly stayed in the town of Krasnodon.

While in my workplace, I heard military vehicles move through the town. In conversations with my work colleagues and local residents whom I know, I learned that those were military vehicles moving from the direction of the border between Ukraine and the Russian Federation. Some of those vehicles even bore insignia of the Russian Federation. I am not aware about the direction in which those vehicles proceeded further. I only learned that they were headed deeper into the territory of the region.

There are also some military personnel in the town. I did not see the locations where they are stationed permanently. However, military personnel constantly move through the town in small groups. Their uniforms are different from the uniforms of the Armed Forces of Ukraine. The way they look and communicate, they do not resemble local residents. In other words, they arrived from other places. Some of them speak Russian. However, I am unable to say whether they are enlisted servicemen or simply citizens of the Russian Federation. There are no insignia whatsoever on their uniforms.

I do not know any one of the local residents who went to fight against the Armed Forces of Ukraine. Nobody invited me personally to join illegal paramilitary formations of the so-called LNR [Luhansk People's Republic].

Question: Do you wish to add anything to your testimony?

Answer: I can only add that I have a negative attitude toward the armed conflict taking place at this time and wish for it to end soon.

I have read the record. My testimony has been written down correctly. I have no other comments or additions to make.

O.S. Kvartnyn [Signature]

Record prepared by:

Senior Operative with the 2nd Department of the Central Counterintelligence Office
of the Luhansk Oblast Directorate of the Security Service of Ukraine

Captain [Signature]

Ya.Yu. Veselsky

Annex 266

Signed Declaration of Yevhen Bokhanevych, Suspect Interrogation Protocol (26 May 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

RECORD OF SUSPECT QUESTIONING

City of Khmelnytsky

May 26, 2017

Questioning began at 3:35 p.m.

Questioning ended at 5:30 p.m.

Lieutenant Colonel of Justice O.V. Kyrychok, Senior Investigator with the Investigative Department of the Khmelnytsky Oblast Directorate of the Security Service of Ukraine, having reviewed the files of pretrial investigation No.2201724000000010, questioned the following individual as a suspect in Office No. 125 of the Investigative Department of the Khmelnytsky Oblast Directorate of the Security Service of Ukraine, in the presence of defense attorney S.M. Demyanov, in keeping with the requirements of Articles 42, 95, 104, 106, 223, and 224 of the Criminal Procedure Code of Ukraine:

1. First name, patronymic, last name: Yevhen Serhiyovych BOKHANEVYCH
2. Date and place of birth: April 15, 1983, Luhansk
3. Ethnicity: Ukrainian
4. Citizenship: Ukrainian
5. Education: secondary vocational
6. Place of employment (or education): temporarily unemployed
7. Address of residence (registration): 88 Platona Street, Luhansk. Resides at 6 Instytutska Street, apartment 25, Khmelnytsky
8. Marital status: Single
9. Prior record of criminal convictions: no prior convictions
10. People's representative (at what council) (Y/N): N
10. Details of the passport or other identity document: Passport Series EM No. 618109 issued on April 19, 2000 by the Artemivsk District Office of the Luhansk Municipal Department of the Luhansk Oblast Directorate of the Ministry of Internal Affairs

It was explained to the suspect that he was summoned to testify in connection with proceedings in criminal case No. 2201724000000010 since he is suspected of having committed a criminal offense falling under Part 1 of Article 258-3 of the Criminal Code of Ukraine.

The meaning of Article 63 of the Constitution of Ukraine was explained to the suspect, Ye.S. Bokhanevych, specifically that a person cannot be held liable for refusing to give testimony or offer explanations regarding himself, his family members or next of kin per the list prescribed by the law.

Suspect: Ye.S. Bokhanevych [Signature]

The meaning of Article 18 of the Criminal Procedure Code of Ukraine was explained to the suspect, Ye.S. Bokhanevych, superficially his freedom from self-incrimination and the right not to testify against his next of kin or family members, as well as the meaning of Article 20 of the Criminal Procedure Code of Ukraine regarding this right to defense.

Suspect: Ye.S. Bokhanevych [Signature]

The questioning procedure along with the suspect's rights and obligations under Article 42 of the Criminal Procedure Code of Ukraine have been explained to the suspect, Ye.S. Bokhanevych. He also received a pamphlet detailing his procedural rights and obligations.

Suspect: Ye.S. Bokhanevych [Signature]

After being apprised of his right to defense, the suspect, Ye.S. Bokhanevych, declared that he wished to have attorney S.M. Demyanov defend his rights during the questioning.

Suspect: Ye.S. Bokhanevych [Signature]

The suspect wishes to testify in Ukrainian and does not require the services of an interpreter. The suspect understands the Ukrainian language and can read and write in it.

Suspect: Ye.S. Bokhanevych [Signature]

QUESTION: What do you know about instances of illegal crossing of the state border of Ukraine by citizens of the Russian Federation, who attempted to join the ranks of the terrorist organization known as the Luhansk People's Republic?

ANSWER: Regarding the instances of illegal crossing of the state border of Ukraine by citizens of the Russian Federation, who attempted to join the ranks of the terrorist organization known as the Luhansk People's Republic and the ranks of illegal paramilitary groups of this terrorist organizations as well as to facilitate their formation and to support their operations, I can testify that in the early months since its creation by I.V. Plotnytsky the "Zorya" battalion included a Russian citizen who used the code name "Mangust". At the unit he went by the name of Sasha. He looked about 40 years old (stocky build, athletic, medium height, dark blonde hair, a quite big bald spot). I don't recall any other distinctive features. He presumably had a family – a wife and children. Presumably he was an officer of the Russian Ministry of Defense. I heard from him personally that he fought in two Chechen wars. "Mangust" shared next to no information about himself.

In May 2014, when I joined the "Zorya" battalion, "Mangust" was involved in the combat training of "new recruits, volunteers" of this unit. Specifically, he gave lectures and practical classes on combat tactics and strategy with the use of infantry weapons under the conditions of a population center, field, or forest.

I have no information about the circumstances under which "Mangust" crossed the state border of Ukraine, but I am sure that he entered Luhansk Oblast through a border section that at the time was no longer controlled by the Ukrainian authorities (customs officials, border guards).

To answer the question, I can also testify that in July-September 2014 the "Zorya" battalion included a fairly large number of Russian citizens who joined the ranks of this unit as "volunteers".

Subsequently, and more specifically sometime in October-November 2014, the structural unit of the terrorist organization – the "Zorya" battalion was reorganized by Order No. 15 of October 7, 2014 of the so-called Luhansk People's Republic leader I.V. Plotnytsky into the 1st Mechanized Infantry Battalion of the 2nd Separate Mechanized Infantry Brigade of the 2nd Army Corps of the People's Police of the Luhansk People's Republic, in which connection we were required to sign the so-called service contract.

[Signature]

Russian citizens refused to sign such contracts en masse because, under Russian law, citizens serving in military units of other countries face criminal liability for being mercenaries.

I personally did not witness the crossing of the state border of Ukraine by Russian citizens intending to join the "Zorya" battalion.

Meanwhile, I have learned from other people that such individuals crossed the state border of Ukraine from Russia in the area of border crossing points that were no longer controlled by the State Border Guard Service of Ukraine.

QUESTION: Are you aware of any instances where military personnel of the Russian Armed Forces or Russian citizens used weapons in Ukrainian territory? If so, where, when, under what circumstances, and how often did they use such weapons? What kind of weapons were those exactly?

ANSWER: In November-December 2014, I witnessed how military personnel of the Russian Armed Forces launched unmanned aircraft (drones).

This happened on the Luhansk-Shchastia highway in the area of a T-shaped intersection, where military personnel of the Russian Armed Forces trained personnel of units of the 2nd Army Corps of the People's Police of the Luhansk People's Republic that specialized in military reconnaissance using unmanned aircraft. I do not know the members of the military personnel of the Russian Army who conducted the training.

To answer the question, I can also report the stationing of units of the Russian military in Luhansk. One of such units included representatives of the Ingush ethnicity, who came from the northern regions of the Russian Federation. Personnel of this unit of the Russian Army were temporarily stationed on the premises of the Higher Aviation College of Flight Navigators (known by its abbreviation "VAUSH"), which also served as the home base for the personnel of the "Zorya" battalion and later the 1st attack platoon of the 2nd Separate Mechanized Infantry Brigade. I would also like to indicate that personnel periodically left in an unknown direction. After returning, they cleaned their firearms. I am now aware about specific facts, circumstances, and purpose of the use of weapons by personnel of the above-mentioned unit of the Russian Army, but I am certain that they participated in combat missions against the Armed Forces of Ukraine.

In addition, during conversations with representatives of this military unit I learned about wounded personnel. Nobody said anything about any casualties among the personnel of this military unit.

I have no information about the permanent home base, military unit number, branch of the army, and commanders of this unit.

I personally did not witness any other instances in which military personnel of the Russian Army or Russian citizens used weapons in Ukrainian territory, although I learned from other militants that Russian citizens fought against the Armed Forces of Ukraine and that Ukrainian soldiers and civilians died during these combat missions.

[Signature]

QUESTION: Are you aware of any instances of illegal crossing of the state border of Ukraine by military vehicles, personnel, or other material resources from the Russian Federation to be used in the armed conflict? If so, when and under what circumstances did you learn about this? What specific facts can you testify about, stating the time, place, type and quantity of vehicles, personnel, material resources, people escorting (or meeting) them, etc.?

ANSWER: Since my appointment as Deputy Commander of the 2nd Separate Mechanized Infantry Brigade, i.e. between November 2014 and May 2015, I was present at meetings conducted by the commander of this unit.

During said meetings I repeatedly received orders to allocate personnel, tanker trucks, and vehicles for transporting personnel to leave the country and receive military vehicles.

While performing these orders, I learned about personnel of the 2nd Separate Mechanized Infantry Brigade (mostly drivers of vehicles, infantry fighting vehicles, armored personnel carriers, tanks, and self-propelled guns) leaving Ukraine to receive the relevant vehicles in the Russian Federation and drive them to the sites where units of the 2nd Separate Mechanized Infantry Brigade were stationed in Luhansk Oblast.

As far as I know based on conversations without members of the 2nd Separate Mechanized Infantry Brigade, particularly the chief of the fuel and lubricant service who personally travelled to Russia, the above-mentioned vehicles were received on the Novocherkassk military proving grounds, specifically the vehicles registered to the logistics service of the 2nd Separate Mechanized Infantry Brigade.

The 2nd Separate Mechanized Infantry Brigade consisted of a total of three mechanized infantry battalions. Each battalion received 27 infantry fighting vehicles and about 40 URAL trucks.

The tank company of the 2nd Separate Mechanized Infantry Brigade received 12 tanks, mostly T-64, some 25 URAL trucks as well as KRAZ trucks.

The self-propelled howitzer division received 12 military vehicles (122-mm self-propelled guns on BMP chassis) and some 40 URAL trucks.

The howitzer division received close to 25 D-30 howitzers. A single URAL truck came with each howitzer, and five more URAL trucks were provided additionally.

The air defense division received five Strila systems, close to 20 URAL trucks, and three MTLB multi-purpose fully amphibious auxiliary armored tracked vehicles.

The reconnaissance company of the 2nd Separate Mechanized Infantry Brigade received two BTR-80 and one BTR-70 armored personnel carriers and close to 10 URAL trucks.

The anti-tank battalion received nine Rapira guns and some 20 URAL trucks.

The rocket missile division received twelve BM-21 GRAD multiple rocket launchers on URAL chassis.

All other units of the 2nd Separate Mechanized Infantry Brigade (communications company, repairs company, unmanned aircraft regiment, engineer company, and inventory company) received a total of 100 URAL trucks.

In addition, the logistics service received 12 tanker trucks (on KamAZ, ZIL, KRAZ, URAL, and GAZ chassis) of different capacity intended for various purposes.

[Signature]

The 2nd Separate Mechanized Infantry Brigade also received several units of engineering vehicles in the form of excavators on KRAZ chassis.

The medical company of the 2nd Separate Mechanized Infantry Brigade received 12 MTLB multi-purpose fully amphibious auxiliary armored tracked vehicles and UAZ vehicles.

All of the vehicles received were delivered to the 2nd Separate Mechanized Infantry Brigade of the 2nd Army Corps of the People's Police of the Luhansk People's Republic between November 2014 and April 2015. All of the above-mentioned vehicles were registered during the same period.

The vehicles were transported under their own power, using rigid hitches, and also towed on gun mounts. Most of these vehicles were not new and required repairs.

I would also like to indicate that all military vehicles brought from Russia into Ukrainian territory, specifically into Luhansk Oblast for the 2nd Separate Mechanized Infantry Brigade, was unmarked and did not have number plates or insignia.

Moreover, after combat missions in the vicinity of Debaltsevo with the involvement of units and personnel of the 2nd Separate Mechanized Infantry Brigade, a significant number of the vehicles were written off as lost. Other military vehicles were brought from the Russian Federation to replace them.

I can also testify that during the same period and later on, trains with diesel fuel and other fuel and lubricants arrived from Russian to Ukraine, specifically at the railway station of Luhansk. This fuel was intended for the 2nd Army Corps of the People's Police of the Luhansk People's Republic and was distributed among its units.

In particular, I needed to use 25 tons of diesel fuel per day for one mechanized infantry battalion comprising additional units (tank unit, self-propelled gun unit, self-propelled howitzer artillery division and other units and motor vehicles).

As for supplies of ammunition for both infantry weapons and artillery vehicles, I learned from other members of the 2nd Separate Mechanized Infantry Brigade that they were also being supplied from Russian territory, specifically from the Novochoerkassk military proving ground. They were supplied mostly by rail to the railway stations of Krasnodon.

I did not witness any instances of these vehicles being used. Meanwhile, I can testify that the first and second mechanized artillery battalions of the 2nd Separate Mechanized Infantry Brigade were involved in combat operations in December 2014 – January 2015 outside Debaltsevo and Vuhlehirsk.

During these events I was supplying military vehicles of the 2nd Separate Mechanized Infantry Brigade with fuel and lubricants, provided personnel with food and accommodation.

Orders to receive military vehicles, ammunition and fuel from Russian territory were given by the commander of the 2nd Army Corps. This position was filled by an onsite representative of the Russian Army.

QUESTION: What do you know about the involvement of mercenaries in the armed conflict since April 2014 and until present in the territory of Luhansk Oblast?

[Signature]

What specific facts can you testify about, indicating the place, time, number of mercenaries, their involvement and roles, weapons, sources of funding, subordination, and structure?

ANSWER: I am aware of the involvement of mercenaries in the armed conflict since April 2014 until present in the territory of Luhansk Oblast because I witnessed the presence of citizen of other countries, particularly Serbs, Russians, and Armenians in Luhansk, who served in different military units of the Luhansk People's Republic.

Yet I did not directly witness the involvement of these individuals in combat operations.

QUESTION: Are you aware of any instances of operations in Luhansk Oblast by illegal paramilitary groups and units of the regular Russian Army or other military groups formed with the assistance and funding of the Russian Federation?

If so, which exactly? Can you testify about specific facts involving operations by illegal paramilitary groups and units of the regular Russian Army, indicating the time, place, number of attackers, types of weapons and vehicles used, and their purpose?

ANSWER: I testified about the facts involving operations by illegal paramilitary groups and units of the regular Russian Army in Luhansk Oblast previously. I have no further information.

QUESTION: Do you know the individuals or structures that organize, control, and carry out the illegal crossing of the state border of Ukraine from the Russian Federation of military vehicles, material resources, and mercenaries to participate in the armed conflict in Donetsk and/or Luhansk Oblast?

ANSWER: I do not know the specific the individuals or structures that organize, control, and carry out the illegal crossing of the state border of Ukraine from the Russian Federation of military vehicles, material resources, and mercenaries to participate in the armed conflict in Donetsk and/or Luhansk Oblast.

As I testified earlier, I received commands to receive military vehicles and material resources from commanders of the 2nd Separate Mechanized Infantry Brigade, who were representatives of the Russian Armed Forces.

As of these individuals, I can testify that during the period from November 2014 to May 2015 the 2nd Separate Mechanized Infantry Brigade was commanded by career military officers with the code names of "Bereza", a.k.a. Oleg Musovich Turnov (possibly the commander of the 200th brigade of the Russian Northern Navy), who commanded the creation of the 2nd Separate Mechanized Infantry Brigade between the early and late November 2014; "Arena" (he may have been wounded in battle in January 2015 in the vicinity of Debaltsevo – he was in a car that overturned); "Levsha" – he still commanded the brigade after my dismissal.

I have no further information about these individuals.

[Signature]

QUESTION: Do you know any identities of the people (Russian citizens, representatives of the Russian intelligence services or the Russian Army) who directly command the illegal paramilitary groups of the Luhansk People's Republic and have been directing all or some of the military operations since April 2014 until present?

ANSWER: The logistics service was directly commanded by a Russian career officer by the name of Oganeg Albertovich Otoposhyan, who went by the code name of "Skala". In my opinion, this last name, first name and patronymic were made up. This man was of Armenian ethnicity, 45 to 50 years old, tall, regular build, dark hair, olive skin. He often spoke Armenian on the phone. He did not reveal any of his personal details.

He commanded the logistics service of the 2nd Separate Mechanized Infantry Brigade. He was my direct supervisor, i.e. told me how to organize my work processes in the position of the deputy commander of the 2nd Separate Mechanized Infantry Brigade in charge of logistics. I have no other information about this person.

I would also like to indicate that all positions of senior officers both at the 2nd Separate Mechanized Infantry Brigade and in the 2nd Army Corps as well as lower-ranking positions of commanding officers of the units of the 2nd Army Corps of the People's Police of the Luhansk People's Republic were filled by career officers of the Russian Armed Forces.

Officers of the Russian Army held positions at units of the 2nd Army Corps of the People's Police of the Luhansk People's Republic for a period of six months to one year depending on whether or not they wished to continue serving there.

All officers of the Russian Army came up with a legend for their role at the 2nd Army Corps of the People's Police of the Luhansk People's Republic and used fake names, addresses of residence in Russia, service in the Russian Armed Forces and other information.

I also learned from officers that these individuals received three times their usual salary for their positions with the Russian Army.

I can also testify that officers of the Russian Army directly commanded units of the 2nd Army Corps of the People's Police of the Luhansk People's Republic, including during combat encounters with Anti-Terrorist Operation forces (units of the Ukrainian Army, National Guard, National Police, volunteer battalions, etc.).

I did not directly witness these events. However, I can draw this conclusion with confidence by virtue of my official duties as the deputy commander of the 2nd Separate Mechanized Infantry Brigade in charge of logistics.

QUESTION: Are you aware of any facts involving murders, torture, battery, crippling, collective punishment, major suffering, or other cruel treatment, or instances of military personnel of the Ukrainian Armed Forces, National Guard of Ukraine, officers of the Security Service of Ukraine, Ministry of Internal Affairs, the State Border Guard Service of Ukraine, or volunteer battalions of Ukraine being forced to serve in units of the terrorist organizations known as the Donetsk People's Republic and the Luhansk People's Republic on the part of military personnel of the Russian Army?

ANSWER: I know nothing about such circumstances.

QUESTION: Do you know any citizens or military personnel of the Russian Army involved in organizing mobilization (recruitment) in Donetsk and Luhansk Oblasts between April 2014 and the present time?

[Signature]

ANSWER: I know nothing about such individuals or circumstances.

QUESTION: Do you have any information about the training of personnel at special-purpose training centers in the territory of the Donetsk People's Republic, Luhansk People's Republic, and Russia (locations of such centers, number of trainees, senior officers and commanders, training periods, procedure of allocation, sizes of groups, code names, aliases, etc.)?

ANSWER: I can offer the following testimony about the circumstances of my training at the Novocherkassk military proving grounds.

All people, including myself, who were categorized as so-called "volunteers" or "militias" at the site of the "Zorya" battalion were gathered by the command of this unit to go for military training and practice at the military proving grounds in the Russian Federation where we would receive military training and acquire a military specialty.

In early June 2014 I found myself at this military camp, where I met I.V. Yevtiushyn and other members of the "Zorya" battalion, with whom I received military training for about two weeks.

I.V. Plotnytsky and other commanders of the "Zorya" battalion briefed us before departure for the training on our route, the procedure for crossing the state border of Ukraine and Russia, the muster point in the Russian Federation, the need to leave Ukraine without mobile phones, etc.

Before leaving, I and other members of the "Zorya" battalion turned off their mobile phones and handed them over to one of the unit commanders for storage.

Then I and other "volunteers" took a bus to the town of Krasnodon, Luhansk Oblast, in order to cross the state border of Ukraine. At the bus station of this town, I and the others boarded a minivan that took us to the Izvaryne border crossing point. I and other "volunteers" crossed the Ukrainian-Russian border in groups of two or three at this border crossing point.

At the time, the Izvaryne border crossing point of the State Border Guard Service of Ukraine was still operational. During passport control, I and other "volunteers" presented our own passports of Ukrainian citizens to border guards of the State Border Guard Service of Ukraine and stated the reason for crossing the border. The most common reason was a visit to relatives or search for employment.

We followed the same procedure during border control by Russian border guards.

Then I and other "volunteers" gathered at a muster point some 300-500 meters from the Russian border crossing point where KamAZ trucks of the Russian Army waited for us.

Twenty to thirty "volunteers" boarded each KamAZ truck and left in the direction of Novocherkassk, Russian Federation.

[Signature]

We spent more than 3 hours on the road before arriving at the military proving grounds in Russian territory where a field military camp was set up.

This field camp had a tent town and military vehicles – armored personnel carriers, KamAZ, Ural trucks, Grad multiple rocket launchers, air defense systems, and other weaponry. A large weapons depot was also located next to this field camp. I later learned that this depot stored ammunition for both infantry and artillery weapons.

Training at this military camp was provided by rank-and-file military personnel, sergeants and officers who had contracts with the Russian Army. Training involved a general familiarization with different kinds of infantry weapons, the rules for using them, general procedures to be followed during combat operations, combat procedures under various conditions, as well as acquisition of certain military specialties such as sniper, automatic grenade launcher operator, air defense system operator, shoulder-fired surface-to-air missile operator, mounted grenade launcher operator, etc.

I would like to indicate that infantry weapons were issued after we passed a so-called “lie detector test” administered by plain-clothed civilians, who may have been representatives of the Federal Security Service of Russia.

I can also testify that natives of Donetsk Oblast were also receiving military training at this camp as “volunteers” or so-called “militias”.

After a two-week training course, I and other “volunteers” were issued military uniforms, infantry weapons (mostly AK45 assault rifles), specific weapons (sniper rifles, etc.). I personally received an assault rifle with an under-barrel grenade launcher.

I and other “volunteers” were transported from the field camp in military KamAZ trucks all the way to the state border of Ukraine. I am not sure about the exact location. After crossing the Russian-Ukrainian border away from a border crossing point, all “volunteers” got into civilian vehicles that transported them to the regional military enlistment office in Luhansk, where I and other “volunteers” handed in our weapons at the armory.

I do not know any officers or military personnel of the Russian Army.

I have no information about the locations of other such centers, the number of trainees, senior officers and commanders, training periods, procedure of allocation, sizes of groups, code names, aliases, etc.

QUESTION: What do you know about the circumstances of the funding and planning by representatives of intelligence services and/or other authorities of the Russian Federation of combat operations in general and/or specific combat missions in Donetsk or Luhansk Oblast between April 2014 and the present time?

ANSWER: I know nothing about the circumstances mentioned in the question.

QUESTION: What do you know about the circumstances under which military personnel of the Russian Army in Donetsk and Luhansk Oblast committed theft of highly valuable property (major industrial facilities, raw materials, food, transportation facilities, residential properties, cultural landmarks, etc.) and repurposed industrial enterprises of Ukraine to manufacture products, raw materials, etc. and uncontrollably transport (smuggle) them into Russian territory between April 2014 and the present time?

[Signature]

ANSWER: I know nothing about the circumstances under which military personnel of the Russian Army in Donetsk and Luhansk Oblast committed theft of highly valuable property (major industrial facilities, raw materials, food, transportation facilities, residential properties, cultural landmarks, etc.) and repurposed industrial enterprises of Ukraine to manufacture products, raw materials, etc. and uncontrollably transport (smuggle) them into Russian territory between April 2014 and the present time.

To answer your question, I can testify that all state institutions of Ukraine are being used with permission from the illegitimate authorities of the so-called Luhansk People's Republic by institutions of this organization and by illegal paramilitary groups.

QUESTION: What do you know about attacks targeting the civilian population and critical infrastructure facilities? Who launched these attacks, ordered them, etc.?

ANSWER: I have no reliable information about these circumstances.

QUESTION: Do you know any Russian citizens or military personnel involved in recruitment of civilians, personnel of the Ukrainian Armed Forces, National Guard of Ukraine, officers of the Security Service of Ukraine, Ministry of Internal Affairs, the State Border Guard Service of Ukraine, or volunteer battalions of Ukraine in order to create a ramified network of informers, sabotage and recon groups, provocateurs, etc.?

ANSWER: I know no such people.

QUESTION: Do you know any Russian citizens or military personnel involved in sabotaging the fundamentals of national security of Ukraine, its defense capability and economy, etc.?

ANSWER: I know no such people.

QUESTION: Do you have anything to add to the record of questioning?

ANSWER: I am willing to continue assisting the pretrial investigation authority and the court with solving this crime.

I have nothing else to add.

I have read the record. It has been written down accurately. I have no additions or changes to make.

Suspect: Ye.S. Bokhanevych [Signature]

Attorney: S. Demyanov [Signature]

Questioning conducted and record prepared by:

Senior Investigator with the Investigative Department

of the Khmelnytsky Oblast Directorate of the Security Service of Ukraine

Lieutenant Colonel of Justice

[Signature]

O.V. Kyrychok

Annex 267

Signed Declaration of Serhiy Semchenko, Suspect Interrogation Protocol (10 July 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

I, Serhiy Mykolayovych Semenchenko, served in the military as first assistant to the chief of the missile and artillery armaments service of the 2nd Separate Guard Motorized Infantry Brigade of the 2nd Army Corps of the People's Militia of the Luhansk People's Republic.

Question: What do you know about facts of illegal crossing of the state border of Ukraine by Russian citizens who attempted to join the ranks of the terrorist organizations of the Donetsk People's Republic or Luhansk People's Republic and their illegal paramilitary groups and to help form them and support their operations?

Answer: To the best of my knowledge, all Russian citizens coming to the territory of the Luhansk People's Republic, including with the intention of serving in illegal paramilitary groups of the Luhansk People's Republic, cross the border at the Novocherkassk border crossing point.

The border crossing points of Tukovo, Izvaryne, and Sverdlovsk are also used to exit the Luhansk People's Republic into Russia.

Personally, I have not personally accompanied Russian citizens entering or leaving the Luhansk People's Republic.

Yet I am able to report that border security guards of the Luhansk People's Republic man the border crossing points and check papers on the side of the Luhansk People's Republic. Border security guards of the Russian Federation check papers on the Russian side. Ukrainian citizens enter and leave the territory after presenting a passport of a Ukrainian citizen. Russian citizens cross the border after presenting Russian papers.

I can report that on June 27, 2017, I left the city of Luhansk for Russia through the Izvaryne border crossing point. Upon leaving the Luhansk People's Republic and entering Russia, I showed my passport of a Ukrainian citizen at the border crossing point. I can also report that a passport of a Luhansk People's Republic citizen can serve as grounds for leaving the Luhansk People's Republic and entering Russia. I personally saw a man cross the border from the Luhansk People's Republic to Russia after presenting a passport of a Luhansk People's Republic citizen at the Izvaryne border crossing point.

Subsequently, on the night of June 27 to 28, I entered Ukrainian territory through the Mshove border crossing point.

I would like to explain that I did not enter Ukraine through border crossing points between the Luhansk People's Republic and Ukraine because I did not have an appropriate pass for crossing the line of separation.

Question: What can you say about facts of the use of weapons by Russian army personnel or Russian citizens in Ukrainian territory? If you are aware of such facts, where, when, under what circumstances, and how often did they use such weapons?

Answer: I personally did not witness the use of weapons by Russian army personnel in Ukrainian territory.

Since I served as first assistant to the chief of the missile and artillery armaments service of the 2nd Separate Guard Motorized Infantry Brigade of the 2nd Army Corps, I knew more about those Russian citizens who were in the Brigade staff and occupied leadership positions. As a general rule, such leaders never go to the frontline.

[initials]

Question: Are you aware of any facts of military vehicles, personnel, or other munitions getting illegally smuggled across the state border of Ukraine from the Russian Federation for purposes of being used in the armed conflict? If so, when and under what circumstances did you learn about this? What specific facts can the witness (suspect) testify about, while stating the time, place, type and quantity of military vehicles, personnel, munitions, the people escorting (meeting) them, and so forth?

Answer: I can offer the following testimony regarding the smuggling of military vehicles, ammo, and other munitions into Ukrainian territory controlled by the Luhansk People's Republic:

I personally was never involved in taking delivery of vehicles or ammunition arriving to the Luhansk People's Republic from Russia.

By virtue of the position I held, I am aware that a train arrived in Krasnodon roughly once every two months, carrying ammunition from Russia.

I can report that the deliveries included all kinds of ammunition: ranging from 5.45 mm Kalashnikov assault rifle cartridges to 122-125 mm howitzer ammo.

The Army Corps sent orders to the staff of the 2nd Brigade to provide personnel for unloading the train. As a rule, 20 to 30 people from various Brigade units were dispatched to Krasnodon to unload the train.

In this case, the ammo arrived and was registered by the staff of the Army Corps before getting distributed from the Army Corps to units, including the 2nd Brigade units.

As a rule, E.S. Bondarenko, 2nd assistant to the chief of the Army Corps, or the warehouse superintendent left to supervise the unloading process. I personally never left to supervise the unloading of trains.

Question: What do you know about the involvement of mercenaries in the armed conflict between April 2014 and the present time in the territory of Donetsk and/or Luhansk Oblasts? Which specific facts can you report (stating the time, place, number of mercenaries, their involvement and roles, weapons, sources of funding, subordination, and structure)?

Answer: I am unable to identify specific foreign nationals who served as mercenaries in illegal paramilitary groups of the Luhansk People's Republic. On account of my position, I did not communicate with rank-and-file personnel of units. I mostly communicated with commanders to discuss supply issues.

As I already explained, I served as first assistant to the chief of the missile and artillery armaments service of the 2nd Separate Guard Motorized Infantry Brigade of the 2nd Army Corps, I knew more about those Russian citizens who were in the Brigade staff and occupied leadership positions.

Question: Are you aware of any facts of illegal paramilitary groups and regular units of the Russian Army or other military groups formed with the support and funding of Russia operating in Donetsk and Luhansk Oblasts? If so, which exactly?

Answer: I am unaware of any specific instances in which units of the regular Russian Army were present in Ukrainian territory controlled by the Luhansk People's Republic.

As for the personnel of the 2nd Separate Guard Motorized Infantry Brigade, I can report that the personnel consisted mostly of Luhansk Oblast residents recruited through military conscription offices, while leadership positions were filled by military personnel who were Russian citizens.

Question: Are you aware of individuals or structures that organized, controlled, or carried out the smuggling across the state border of Ukraine from Russia of military vehicles, munitions, and mercenaries to participate in the armed conflict in Donetsk and/or Luhansk Oblast?

Answer: I am unaware of the methods used to approve the requisite quantity and arrange the delivery of weapons and military vehicles from the Russian Federation.

I can explain that the quantity of ammunition required by the 2nd Brigade was written down in a relevant request that was sent directly to the missile and artillery armaments service of the Army Corps.

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The missile and artillery armaments service of the 2nd Brigade received the relevant quantity of ammunition and weapons from the Corps warehouses according to the request.

In addition to what I described earlier, I can report no other facts involving the allocation of Brigade personnel for the unloading of trains with ammunition.

Question: Are you familiar with individuals (Russian citizens, representatives of Russian intelligence services, Russian Army) who directly lead the illegal paramilitary groups of the Donetsk People's Republic (Luhansk People's Republic) and have been commanding combat operations in general or specific military operations between April 2014 and the present time?

Answer: On account of my position as first assistant to the chief of the missile and artillery armaments service of the 2nd Separate Guard Motorized Infantry Brigade, I know Brigade leaders and leaders of organizational units of the Brigade, who are Russian citizens.

In particular, I have the following information:

The commander of the 2nd Separate Guard Motorized Infantry Brigade (until December 2015) was a Russian citizen, Colonel Nefyodov (code name "Nevsky");

The commander of the 2nd Separate Guard Motorized Infantry Brigade (from December 2015 to January 2017) was a Russian citizen, Colonel E. Morev (code name "Nevsky");

The commander of the 2nd Separate Guard Motorized Infantry Brigade (from January 2017 until my dismissal in February 2017) was a Russian citizen, Colonel Khromykin (code name "Baku");

The chief of staff of the 2nd Separate Guard Motorized Infantry Brigade (until November 2016) was a Russian citizen, Colonel Alexander Alexandrovich Marchenko (he died in November 2016; I don't know who was appointed to replace him): since November 2016, his duties were performed by Chief of Intelligence S.G. Demidov.

The 1st Deputy Commander of the 2nd Separate Guard Motorized Infantry Brigade (roughly between September 2016 and at the time of my dismissal in February 2017) was a Russian citizen, Colonel A.V. Tarasov;

The chief of intelligence of the 2nd Separate Guard Motorized Infantry Brigade (throughout the term of my service from November 2015 to February 2017) was a Russian citizen, Lieutenant Colonel S.G. Demidov;

The Deputy Commander of the 2nd Separate Guard Motorized Infantry Brigade in charge of armaments (from May 2016 to December 2016) was a Russian citizen, Colonel Alexander Knysh;

The Deputy Commander of the 2nd Separate Guard Motorized Infantry Brigade in charge of armaments (from December 2016 until my dismissal in November 2017) was a Russian citizen, Colonel Potapov;

The Deputy Commander of the 2nd Separate Guard Motorized Infantry Brigade (from December 2015 to December 2016) was a Russian citizen, Colonel Nikitin;

The Deputy Commander of the 2nd Separate Guard Motorized Infantry Brigade (from December 2016 until my dismissal in November 2017) was a Russian citizen, Lieutenant Colonel Vasyl Ivanovych Savyekin;

The Deputy Commander of the 2nd Separate Guard Motorized Infantry Brigade in charge of firepower (during the period of my service from November 2015 to February 2017) was a Russian citizen, Lieutenant Colonel Fyodor Viktorov (F.E. Viktorov). To the best of my knowledge, he also went by the last name Oryeshkin;

The chief of the motor pool of the 2nd Separate Guard Motorized Infantry Brigade (at the start of my service in November 2015 and until December 2016) was a Russian citizen, Major Igor Kirin (who also went by the last name of Petrenko since 2016);

The chief of the motor pool of the 2nd Separate Guard Motorized Infantry Brigade (from December 2016 and until my dismissal in February 2017) was a Russian citizen, Captain V.V. Glukhov (code name "Garage");

The chief of the armored fighting vehicles service of the 2nd Separate Guard Motorized Infantry Brigade (from December 2016 and until my dismissal in February 2017) was a Russian citizen, Major A. Kuzmenko;

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The chief of communications of the 2nd Separate Guard Motorized Infantry Brigade (until February 2017) was a Russian citizen, Major Gromov;

The chief of communications of the 2nd Separate Guard Motorized Infantry Brigade (since February 2017) was a Russian citizen, Major V. Andreyev;

The chief of the missile and artillery armaments service of the 2nd Separate Guard Motorized Infantry Brigade (during the period from the beginning of my service in November 2015 until January 2016) was a Russian citizen, Senior Lieutenant Evgeny Klochkov;

The chief of the missile and artillery armaments service of the 2nd Separate Guard Motorized Infantry Brigade (during the period from February 2016 to June 2016) was a Russian citizen, Captain Denis Vladimirovich Ivanov;

The chief of the missile and artillery armaments service of the 2nd Separate Guard Motorized Infantry Brigade (since December 2016) was a Russian citizen, Major Ivan Vladimirovich Statsenko;

The chief of the fuel service of the 2nd Separate Guard Motorized Infantry Brigade (from December 2016 and until my dismissal in February 2017) was a Russian citizen, Captain Lebedev (code name "Nishchiy");

The chief of the food service of the 2nd Separate Guard Motorized Infantry Brigade (throughout the term of my service from November 2015 to February 2017) was a Russian citizen, Captain P.V. Zabolotskiy;

The chief of the material service of the 2nd Separate Guard Motorized Infantry Brigade (from December 2016 and until my dismissal in February 2017) was a Russian citizen, Captain R.A. Mazin;

The chief of the state secret protection service of the 2nd Separate Guard Motorized Infantry Brigade (from December 2016 and until my dismissal in February 2017) was a Russian citizen, Captain Evgeny Kvantikhin;

The chief of anti-aircraft defense of the 2nd Separate Guard Motorized Infantry Brigade (approximately from November - December 2016 and until my dismissal in February 2017) was a Russian citizen, Lieutenant Colonel S.F. Ignatov;

The chief of the medical service of the 2nd Separate Guard Motorized Infantry Brigade (approximately from November - December 2016 and until my dismissal in February 2017) was a Russian citizen, Captain E.E. Boroev;

The chief of the financial service of the 2nd Separate Guard Motorized Infantry Brigade (at the beginning of my service in November 2015 and until my dismissal in February 2017) was a Russian citizen, Major Andrey Foks;

The chief of the staffing department of the 2nd Separate Guard Motorized Infantry Brigade (at the beginning of my service in November 2015 and until my dismissal in February 2017) was a Russian citizen, Alexey A. Kalavrat;

The chief of the unmanned aircraft (drone) service of the 2nd Separate Guard Motorized Infantry Brigade (from November-December 2016 and until my dismissal in February 2017) was a Russian citizen, Major Norbekov;

The chief of the command post (front office) of the 2nd Separate Guard Motorized Infantry Brigade (at the beginning of my service in November 2015 and until my dismissal in February 2017) was a Russian citizen, Major Evgeny Zhelada;

The chief of the command post (front office) of the 2nd Separate Guard Motorized Infantry Brigade (from November-December 2016 and until my dismissal in February 2017) was a Russian citizen, Major Evgeny F. Velichko;

The chief of the operations unit of the 2nd Separate Guard Motorized Infantry Brigade (until December 2015) was a Russian citizen, Lieutenant Colonel A.P. Stashkov;

The chief of the operations unit of the 2nd Separate Guard Motorized Infantry Brigade (approximately since June 2015) was a Russian citizen, Lieutenant Colonel A.P. Stashkov;

The aide to the operations unit (at the time of my service) was a Russian citizen, Captain Kokh;

The commander of the 3rd Motorized Infantry Battalion was a Russian citizen, Captain Maxim Sergeevich Grachov (code name "Glamurny").

[initials]

As for the appointments of Russian citizens and Luhansk Oblast residents to positions of leadership, I would also like to report that Russian citizens were normally appointed as battalion commanders, while locals were appointed as their deputies. It was as if they had two commanders: one Russian and one local.

I am currently unable to recall any other last names of Russian citizens holding leadership positions at the 2nd Separate Guard Motorized Infantry Brigade.

As for military personnel who are Russian citizens and hold leadership positions at the 2nd Army Corps, I can name the leaders of the missile and artillery armaments service:

The chief of the missile and artillery armaments service of the 2nd Army Corps (until December 2016) was a Russian citizen, Colonel Kalashnikov;

The chief of the missile and artillery armaments service of the 2nd Army Corps was a Russian citizen, Major Sergey Kulikov.

I would like to note that I have given the approximate times when these individuals held the above-mentioned positions from memory.

Question: Are you aware of any facts involving murders, torture, battery, crippling, collective punishment, major suffering, or other cruel treatment, or instances of military personnel of the Ukrainian Armed Forces, National Guard of Ukraine, officers of the Security Service of Ukraine, Ministry of Internal Affairs, the State Border Guard Service of Ukraine, or volunteer battalions of Ukraine being forced to serve in units of the terrorist organizations known as the Donetsk People's Republic and the Luhansk People's Republic on the part of military personnel of the Russian Army?

Answer: I am not aware of any facts involving murders, torture, battery, crippling, collective punishment, major suffering, or other cruel treatment, or instances of military personnel of the Ukrainian Armed Forces, National Guard of Ukraine, officers of the Security Service of Ukraine, Ministry of Internal Affairs, the State Border Guard Service of Ukraine, or volunteer battalions of Ukraine being forced to serve in units of the terrorist organizations known as the Donetsk People's Republic and the Luhansk People's Republic on the part of military personnel of the Russian Army.

Question: Do you know any citizens or military personnel of the Russian Army involved in organizing mobilization (recruitment) in Donetsk and Luhansk Oblasts between April 2014 and the present time?

Answer: Personnel are mobilized to serve in illegal paramilitary groups of the Luhansk People's Republic by military conscription offices. I never dealt with them and know nothing about their procedures and "supervisors".

Question: Do you have any information about the training of personnel at special-purpose training centers in the territory of the Donetsk People's Republic, Luhansk People's Republic, and Russia (locations of such centers, number of trainees, senior officers and commanders, training periods, procedure of allocation, sizes of groups, code names, aliases, etc.)?

Answer: I know nothing about special-purpose training centers.

I know that units of the 2nd Separate Guard Motorized Infantry Brigade receive training at the Uspenskiy proving grounds located outside the population center of Uspenka, Lutuhino District, Luhansk Oblast.

There is also the Novopavlovka proving grounds located between the towns of Antratsit and Krasnyi Luch. The Rocket Artillery Division undergoes training in Novopavlovka.

There are proving grounds in the area of the Bilorechenska mine, but I know nothing about those proving grounds. If my memory serves me right, the 4th Brigade undergoes training there.

Question: What do you know about the circumstances of the funding and planning by representatives of intelligence services and/or other authorities of the Russian Federation of combat operations in general and/or specific combat missions in Donetsk or Luhansk Oblast between April 2014 and the present time?

Answer: I know nothing about the circumstances of the funding and planning by intelligence services and/or other authorities of the Russian Federation of combat operations in general and/or specific combat missions in Donetsk or Luhansk Oblast between April 2014 and the present time.

As for the funding, I can report that servicemen of the 2nd Brigade received salaries in roubles, in

[initials]

cash, on a monthly basis. However, I know nothing about the origin of those funds, i.e. when and how they were delivered to Luhansk and from where.

As assistant to the chief of the missile and artillery armaments service of the 2nd Separate Guard Motorized Infantry Brigade, I personally received my salary in cash on a monthly basis in the amount of 35,000 roubles.

Question: What do you know about the circumstances under which military personnel of the Russian Army in Donetsk and Luhansk Oblast committed theft of highly valuable property (major industrial facilities, raw materials, food, transportation facilities, residential properties, cultural landmarks, etc.) and repurposed industrial enterprises of Ukraine to manufacture products, raw materials, etc. and uncontrollably transport (smuggle) them into Russian territory between April 2014 and the present time?

Answer: I know nothing about facts of Russian military personnel stealing highly valuable property in Donetsk and Luhansk Oblasts.

As for industrial enterprises, I can report that the Marshal plant, the Luhansk Electromechanical Plant, and the Mechanical Casting Plant continue operating in Luhansk. These plants supply their products to Russia, but I don't know the particulars.

Question: What do you know about attacks targeting the civilian population and critical infrastructure facilities? Who launched these attacks, ordered them, etc.?

Answer: In my capacity as assistant to the chief of the missile and artillery armaments service of the 2nd Separate Guard Motorized Infantry Brigade, I was not directly involved in combat and attacks.

For this reason, I do not know who gave specific orders to launch attacks on Donetsk and Luhansk Oblast territories controlled by Ukraine.

Question: Do you know any Russian citizens or military personnel involved in recruitment of civilians, personnel of the Ukrainian Armed Forces, National Guard of Ukraine, officers of the Security Service of Ukraine, Ministry of Internal Affairs, the State Border Guard Service of Ukraine, or volunteer battalions of Ukraine in order to create a ramified network of informers, sabotage and recon groups, provocateurs, etc.?

Answer: I do not know specific individuals who are Russian citizens or military personnel involved in recruitment activities.

As for the 2nd Separate Guard Motorized Infantry Brigade, I can presume that such issues are addressed and handled by Lieutenant Colonel S.A. Demidov, chief of intelligence of the 2nd Brigade.

Question: Do you know any Russian citizens or military personnel involved in sabotaging the fundamentals of national security of Ukraine, its defense capability and economy, etc.?

Answer: I know nothing else apart from the Russian citizens whom I mentioned above and who serve in illegal paramilitary groups of the Luhansk People's Republic.

I can add the following information to my testimony. There is a unit that we have been referring to as "Kupola" [Russian for "Cupolas"]. To the best of my understanding, this unit consists of Russian citizens, officers Russian intelligence services who coordinate the operations of illegal paramilitary groups of the Luhansk People's Republic and monitor their activities. I did not personally see their papers. However, everybody is intimidated by them, and the word is that they are Russian intelligence services. Officers of this unit interact only with the Russian commanders. They do not speak to locals. I do not know the names of those people. They never introduce themselves.

I have read the record and listened to the recording of my questioning on the disk. I have no statements, comments, or complaints to make.

Suspect [S.M. Semenchenko]

The defense attorney, R.A. Bentsaruk, has made no statements, comments, or complaints.

Defense attorney: [Signature] R.A. Bentsaruk

Questioning conducted and record prepared by:
Senior Investigator with the Operative Unit of the Investigative Department
of the Lviv Oblast Directorate of the Security Service of Ukraine

Lieutenant Colonel of Justice

[Signature]

Yu.S. Orlov

Annex 268

Signed Declaration of Myroslav Melnik, Suspect Interrogation Protocol (9 August 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

RECORD
of suspect interrogation

Odessa

August 9, 2017

Interrogation started at 11:10 a.m.
Interrogation finished at 12:30 p.m.

Captain of Justice Volodymyr Arsenovych Andreyev, special investigator of the investigations department at the Odessa Regional Directorate of the Security Service of Ukraine, having reviewed the files of the pre-trial investigation entered in the Unified Register of Pre-trial Investigations on 07/24/2017 at No 12017160500004222 based on the characteristics of a crime provided for by Article 258 Part 2 of the Criminal Code of Ukraine, in office No 289/02 at 43 vul. Yevreyska, Primorsky district, Odessa and pursuant to Article 42 (*“Suspect, Accused”*), Article 95 (*“Testimony”*), Article 104 (*“Record”*), Article 106 (*“Preparing an Interrogation Record and Appendix”*), Article 223 (*“Procedural (detective) action requirements”*) and Article 224 (*“Interrogation”*) of the Criminal Procedure Code of Ukraine, in the presence of defense attorney Tetyana Yevhenivna Babkova who has been advised of the requirements of Article 66 Part 3 of the Criminal Procedure Code of Ukraine and the obligation not to disclose the data of this procedural action, interrogated the following in the capacity of a suspect:

1. *Full name: MYROSLAV VALERIYOVYCH MELNYK*
2. *Date and place of birth: 12/20/1993, Kirovske, Donetsk Region;*
3. *Ethnicity: Ukrainian;*
4. *Nationality: Ukraine;*
5. *Education: higher education, unfinished (completed four years at Priazovsky State University of Technology specializing in Finance and Credit);*
6. *Family status: married to Ukrainian citizen Kateryna Volodymyrivna Myronenko, DOB 02/01/1995, has a young child, son Matviy DOB 10/07/2016;*
7. *Occupation (place of study): not in formal employment;*
8. *Profession and role: driver;*
9. *Place of registration and actual residence: 31 vul. Mendeleeva, Donetsk, Ukraine;*
10. *Contact phone number: doesn't remember;*
11. *Previous convictions: none reported;*
12. *Is he a member of an elected body (which Council)?: does not hold elected office;*
13. *Information about a passport or any other identity document: identity established.*

I confirm the accuracy of these data:

Suspect:	_____	_____
	[signature]	(M.V. Melnyk)
	<small>signature</small>	<small>surname and initials</small>

The suspect M.V MELNYK was advised that he has been summoned to give testimony in the criminal proceedings entered into the Unified Register of Pre-trial Investigations as No. 12017160500004222 dated 07.24.2017 concerning elements of a crime provided for by Article 258 Part 2 of the Criminal Code of Ukraine.

Prior to the interrogation, the suspect **M.V. MELNYK** was advised of the requirements posed by Article 29, “*The language of criminal proceedings*” of the Criminal Procedure Code of Ukraine, after which the suspect **M.V. MELNYK** said he understands the Ukrainian language fully and without limitation, and that he can read, write and speak.

Suspect: _____ [signature] _____ (M.V. Melnyk)
signature surname and initials

The suspect **M.V. MELNYK** was advised of his rights under Article 63 of the Constitution of Ukraine, which provides that a person may not be held liable for refusing to give testimony or explanations concerning himself, members of his family or close relatives, as defined by law.

Suspect: _____ [signature] _____ (M.V. Melnyk)
signature surname and initials

The suspect **M.V. MELNYK** was advised of the content of Article 18 of the Criminal Procedure Code of Ukraine concerning freedom from self-incrimination and the right not to testify against close relatives or family members, well as of Article 20 of the Criminal Procedure Code of Ukraine on the right to a defense.

Suspect: _____ [signature] _____ (M.V. Melnyk)
signature surname and initials

The suspect **M.V. MELNYK** was advised of the interrogation procedures and his rights and obligations under Article 42 of the Criminal Procedure Code of Ukraine and on 07/26/2017 he was given a booklet on the procedural rights and obligations.

Suspect: _____ [signature] _____ (M.V. Melnyk)
signature surname and initials

Having been advised of his rights and responsibilities, the suspect **Myroslav Valeriyovych Melnyk, DOB 12/20/1993**, said: I understand my rights as a suspect, and would like my attorney T.Y. Babkova, who is defending me in these criminal proceedings, to be present in any procedural action that involves me.

I would like to testify in Ukrainian and to have my testimony recorded.

No interpretation is required.

Suspect: _____ [signature] _____ (M.V. Melnyk)
signature surname and initials

***In response to the questions put to him, the suspect
Myroslav Valeriyovych Melnyk, DOB 12/20/1993,
gave the following testimony:***

Question: How do you feel, do you have any complaints about your well-being? Do you wish to testify in the criminal proceedings?

Answer: I have no complaints about my well-being, I feel fine. I wish to give truthful testimony in the said criminal proceedings and to facilitate the swift and full investigation of all the circumstances of the offence that I committed.

Question: Tell us what you know about illegal border crossing into Ukraine by citizens of the Russian Federation in a bid to join the terrorist organizations “DPR” or “LPR” and their illegal formations, as well as about them facilitating their creation and supporting their activities?

Answer: Yes, I know about the illegal crossing of the state border of Ukraine by citizens of the Russian Federation in order to join the ranks of the “DPR” terrorist organization (and its illegal formations), as well as helping carry out their activities.

In particular, I wish to inform the investigation about the following persons.

Aleksandr, call sign “Morpekh [Marine],” is a citizen of the Russian Federation. Aleksandr, call sign “Morpekh,” (listed in my phone address book as “Don’t know”), has the following appearance - of Jewish appearance, swarthy complexion, black hair, about 35 years old, 175 cm tall, 85 kg in weight, athletic build. Travels in a Toyota Land Cruiser 200. Officially he is the attached to the Prosecutor General’s Office of the Donetsk People’s Republic. I was employed by him as a driver. I can say of him that he has a wife, and a child close to one year old called Miroslav. He is from Smolensk in the Russian Federation. He is the military commander of the DPR’s BARS unit. He arrived in Donetsk city on assignment. Morpekh is a very important man in Donetsk. He arrived on assignment in the city at the start of combat actions in Donetsk. He was seen in looted banking institutions. In Donetsk he is respected and feared, as he is very close to Oleksandr [Russian: Aleksandr] Zakharchenko [President of the Donetsk People’s Republic]. I used to drive Morpekh in a metallic Mitsubishi Pajero with Russian number plates. In 2015 Morpekh bought a black Toyota Land Cruiser 200 with Russian number plates. He once drove into Donetsk in that car. He once gave an interview to a Russian TV channel. You can find the video on the link “Video: Donbass - Ukrainian Armed Forces attack Maryinka with tanks. Russian film crew comes under fire from Ukrainian Armed Forces by Maryinka - VIDEO.” In addition I’d like to say that on June 3, 2015 at four in the morning “Morph’s” unit went on the attack in Mariynka, but was defeated. I transported a very large number of bodies of dead military servicemen of the DPR in “Morph’s” car. It is mainly Russian citizens who served in “Morph’s” unit. At that time, BARS was one of the best DPR units. Its emblem was a dark blue cross on a white background in the form of the St Andrew’s Flag [of the Russian Navy]. I also know that Morpekh had taken part in combat actions in the Chechen Republic of the Russian Federation, and served in the naval infantry. Officially Morpekh works in the Prosecutor General’s Office of the Donetsk People’s Republic, but in what capacity I don’t know. The Office is located near Building No 1 of the Donetsk Polytechnical Institute on Artema Street in Donetsk. “Morph’s” birthday is in the fall, and he is younger than 40. In the video that I gave you the link to, Morpekh himself is filmed. I mainly drive Morpekh about Donetsk. Morpekh lived in an office block on Artema Street in Donetsk. On “Morph’s” orders I traveled to Donetsk morgue on several occasions and checked the surnames of dead DPR military servicemen. Morpekh is a Russian, and his permanent place of residence is the Smolensk Region of the Russian Federation. He was in Donetsk very often. Morpekh has a building business in the Russian Federation. Morpekh arrived in the Donbass to help the inhabitants. Morpekh has a tattoo on his back in the form of some sort of inscription. He has a previous conviction (and spent time in prison). In Donetsk he often wore military orders (in the form of crosses) and carried an AK assault rifle and a TT semi-automatic pistol. We visited various organizations in the city, in particular the DPR Prosecutor General’s Office, and often met with other military servicemen of the

DPR, in particular from the Pyatnashka unit. “Morph’s surname begins with a “T”; I saw this on his ID card. In 2015 he left Donetsk in confusing circumstances. As far as I know, he is now a wanted man in the DPR. I would also like to say that if any kind of problems arose in Donetsk, Morpekh would immediately call unknown persons in the Russian Federation and all the problems were sorted out. In that manner, Morpekh rose through the ranks of the DPR leadership through the Russian Federation. On the telephone Morpekh always spoke in a commanding, military tone. I also drove him up to the front a few times.

I also know that in addition the state border of Ukraine was crossed illegally by a man called Maxim Romanov, call sign “Ded,” a paratrooper (his profile on the VKontakte social media site is id 187438621), a man nicknamed Dubina (his name is Oleg Aleksandrovich Dubinin), and information about him is found on the Mirotvorets site). “Ded” went on to take over “Morph’s position, and in a very short space of time got drunk and crashed “Morph’s car, the Pajero, which he’d given him, and no one saw him again in Donetsk. They replaced him with the man with the call sign “Dubina.” I continued working for him as a driver. I then began to have problems with my pay. I was practically not paid at all. “Dubina” had problems, too. He behaved inappropriately, carried a pistol in his office and set up booby-traps. Consequently the aforementioned “Dubina” also left Donetsk in September-October 2015. “Dubina” and “Ded” were both military commanders.

Question: What can you say about instances of arms being used by servicemen of the Russian Armed Forces or citizens of the Russian Federation in the territory of Ukraine? If you can, please say what specific weapons were used where, when, under what circumstances and how often.

Answer: I have closely studied the question and can confirm that I know of such instances. I have reported on the arms that “Morpekh” carried. In addition, in general all the DPR fighters who were citizens of the Russian Federation went around with Kalashnikov assault rifles and various pistols, in particular Macaroons, Stickpins, and TTs among others. I did not directly witness any combat action myself.

Question: Do you know any facts of illegal shipment across the Ukrainian state border of military equipment, personnel or other materiel from the Russian Federation for the purpose of conducting an armed conflict? If yes, when and under what circumstances did you come to know about it? What specific facts can you testify to, specifying the time, place, type and amount of equipment, personnel or materiel shipped, any escorting (receiving) persons, etc.?

Answer: I have closely studied the question and can confirm that I do not know of any such instances. But everyone in Donetsk is sure that military hardware and Russian troops arrive with the humanitarian aid that comes to Donetsk.

Question: What do you know about the involvement of mercenaries in the armed conflict since April 2014 in the territory of Donetsk and/or Luhansk Regions? What specific facts can you talk about (specifying the time, place, number of mercenaries, their arms, funding sources, subordination and structure)?

Answer: I know that the men with the call signs “Morpekh,” “Ded” and “Dubina” took part in armed conflict in Donetsk Region from April 2014. I have no more detailed information. I also know that the relatives of servicemen and citizens of the Russian Federation killed here arrived in Donetsk Region in order to return the bodies to the Russian Federation. As for the aforementioned persons, I gave details above. I also recounted above about “Morph’s unsuccessful attack on the town of Maryinka in June 2015. My role was to visit the morgue and check the surnames of the DPR servicemen who had been killed.

Question: Do you know any facts of illegal armed formations and regular army units from the Russian Federation active in the territory of Donetsk Region? If yes, which ones? What specific facts of active illegal armed formations and regular army units from the Russian Federation can you testify to, specifying the time, place, number of attackers, type of arms and equipment used and their objectives?

Answer: I know that at there is a unit of the regular Russian army based at positions near the town of Azovsk. I don’t know which unit it is. I heard about it from a Donetsk driver. These servicemen wear military uniform with Russian insignia. Moreover, I know that it is impossible to get to the positions of this Russian unit on your own, as the security there is very serious.

Question: Do you know any persons or entities that organize, oversee and perform illegal shipment of military equipment and mercenaries from the Russian Federation across the state border of Ukraine for use in the armed conflict in the territory of Donetsk and/or Luhansk Regions?

Answer: I have closely studied the question and can confirm that I do not know of any such instances.

Question: Do you know the individuals (from among citizens of the Russian Federation, members of the Russian Federation security services and the Armed Forces of the Russian Federation) who are the actual leaders of illegal DPR (LPR) armed formations and have been conducting either general combat or specific military operations since April 2014?

Answer: I have closely studied the question and can confirm that I only know about the man with the call sign “Morpekh,” who is a representative of the Russian special services—of which one, I don’t know. I also know that there are a large number of commanders and fighters from Abkhazia in the Pyatnashka unit.

Question: Do you know any facts whereby servicemen of the Armed Forces of Ukraine and the National Guard of Ukraine or employees of the Security Service of Ukraine, the Interior Ministry of Ukraine, the State Border Service of Ukraine and Ukrainian volunteer battalions have been murdered, tortured, maimed, collectively executed, caused grave suffering or forced to serve in the units of the DPR and LPR terrorist organizations by servicemen of the Armed Forces of the Russian Federation?

Answer: I have closely studied the question and can confirm that during the fighting for the town of

Maryinka in Donetsk Region, the fighters of “Morph’s unit captured a soldier of the National Guard of Ukraine. They later exchanged him for the corpses of DPR servicemen.

Question: Do you know any persons from among citizens and servicemen of the Russian Federation who have been engaging in mobilization activities (recruitment of mercenaries) in the territory of Donetsk Region since April 2014?

Answer: I have closely studied the question and can confirm that I know of such instances. In May 2017 the civic organization Donbass Volunteer [Russian: *Dobrovolets Donbassa*] announced a selection for people to undergo military training in the Russian Federation. The proposition interested me, as I was aware that fighters and militiamen earn quite well. But first I needed to undergo military training. I found out the details from the militiaman Aleksandr who used the call sign “Morpekh” (and travelled in a Toyota Land Cruiser 200), and whose unit trained constantly at a camp in the Russian Federation. Later on I was in Donetsk city centre (I don’t remember the date), and everyone who wanted to go on to receive military training were put on a bus and driven off to a settlement in the Rostov Region of the Russian Federation. I don’t know the name of the settlement. The bus was packed solid with people. My old acquaintance Semen Boytsov traveled with me for military training (he was at school with my wife). We didn’t go through any border control. The Russian border guards let us through immediately. On arrival at the camp we were given military uniform of the Russian type and housed 30 to the tent. This camp was divided into companies, platoons and units. I got into the 3rd unit. They gave me the call sign “Melya.” Semen Boytsov got the nickname “Boyets.” I also know people underwent military training with us who had the nicknames “Amur,” “Atlant,” “Dym” [Smoke], “Palach” [Executioner], and others. I can supply more detailed information about them later. I also want to say that my commander in the camp was the fighter called “Atlant,” who was from Donetsk and whose name was Stas. Aleksandr Romanov (call sign “Dobryi” [Kind]) was the usual shooter on the training course. In the course of the training I was given the rank of gunner and got a PK machine-gun with a snail-drum magazine. Semen Boytsov got an AK-74 and was awarded the military profession “shooter.” The training took about 2 weeks. We were trained by Russian instructors who were dressed in military uniform that looked Russian in style, however they wore it without insignia. There was talk at the camp that the Russian officers served in a reconnaissance company. During the training we were taught urban combat, moving in “twos” and “threes,” capturing buildings etc. Basically, we were being trained for future use as sabotage and reconnaissance groups.

The leader of the Donbass Volunteer is a person whose surname is Borodai, and when I was in the camp, Borodai visited us. There are many Russians in the leadership of the Donbass Volunteer organization, they are the so-called veterans of the Donbass war.

I also know that when battles began in Donbass, there were posters all over the city calling on people to join the so-called “Militia.”

Question: Do you have any information about individuals being trained at special training centers in the territory of “DPR,” “LPR” and the Russian Federation (the location of such centers, their numerical strength, leadership and command, training schedules, placement process, group sizes, call signs, nom-de-guerres and so on?)

Answer: I have given those details above.

Question: What do you know about the circumstances of funding and planning general combat or specific military operations in the territory of Donetsk and/or Luhansk Regions by members of the security services and/or other state authorities of the Russian Federation since April 2014?

Answer: I don’t know about this.

Question: What do you know about the circumstances of looting by servicemen of the Armed Forces of the Russian Federation in the territory of Donetsk and Luhansk Regions, stealing assets of considerable value (important industrial installations, raw materials, food, transport, housing, art, etc.), and switching Ukraine’s industrial enterprises to the output and uncontrolled supply (export) to the Russian Federation of products, raw material, etc since April 2014?

Answer: As I said before, “Morpekhh” was seen looting in Donetsk banks, doing which he made quite a bit of profit. I don’t know which bank this was exactly. But it was definitely a Ukrainian one. I don’ have any other information.

Question: What do you know about the shelling of civilians and critical infrastructure sites, who engaged in such shelling and who gave commands, etc.?

Answer: I have studied this question closely, and I can say that I know of such instances. For example, life in Donetsk is peaceful now, without shelling. That’s why “DPR” servicemen are shelling the outskirts of the city to sow panic among the local population so they “don’t relax.” People must always be in a state of panic, and they also must be resentful of Ukrainian servicemen. These acts of shelling are in the news in Donetsk every day, as if it is Ukrainian servicemen who are shelling peaceful citizens in Donbass. But locals know well by now that the shells arrive from “DPR” positions.

Question: Do you know any persons from among citizens and servicemen of the Russian Federation engaged in organizing recruitment among civilians, servicemen of the Armed Forces of Ukraine and the National Guard of Ukraine, employees of the Security Service of Ukraine, the Interior Ministry, the State Border Service and volunteer battalions of Ukraine with the aim of creating a wide network of informants, sabotage and scout groups, provocateurs, etc.?

Answer: I have studied this question carefully, and I can say that I do not know of such facts.

Question: Do you know any persons from among citizens and servicemen of the Russian Federation engaged in organizing subversion of the fundamental national security of Ukraine, its defense capability, economy, etc.?

Answer: I have provided this information above.

In addition, I would like to say that I fully support my testimony which I provided to the investigation during earlier interrogations. I want to add that when Semen and I arrived in Odessa, at Aleksandr's ("Morph's") instructions we bought a basic Vodaphone package from the Tavria supermarket near the Yunost park (mobile no 0667868281) and another basic Vodaphone package (mobile no 0667868302). Having inserted the SIM with the number 0667868281 into Semen Boytsov's mobile, we installed a Telegram app, and using this app contacted Aleksandr Romanov on his mobile number 0953884891. So basically we installed a Telegram app on this SIM. Later, acting on "Morph's" instructions, we inserted the SIM with the number 0667868302 in Semen Boytsov's phone and installed the Telegram app. Later we received a service code (password) to confirm registration. Acting on "Morph's" instructions we later used the app to contact Aleksandr Romantsov from our number (I gave his name as Romanov before, but his real name is Romantsov), and he gave the password to "Morpekh." So in fact, "Morpekh" gave us instructions via the Vodaphone SIM 066786302 which we bought in Odessa. I don't know why "Morpekh" wouldn't contact us from his own phone. I don't know why "Morpekh" made such complicated communication arrangements. But those were his clear instructions, and "Boyets" and I acted on them. We threw away the SIM cards somewhere in Odessa (I don't remember exactly where in Odessa).

I wish to add that several days before the terrorist act, Semen Boytsov and I told "Morpekh" that it would be very dangerous to stage an explosion in the center of Odessa because it is always crowded. But "Morpekh" clearly told us to plant the bomb regardless of the presence or absence of people, otherwise he threatened that Semen Boytsov and I would turn out to be useless and that no-one would give us assignments, and we may not even be able to return to Donetsk. "Morpekh" made no bones about the fact that there could be casualties. He was interested in destabilizing the situation in Odessa, assassinate Mark Gordiyenko and create a public scandal. On the day of the terrorist act, "Boyets" and I decided to activate the explosive device only when there are no people around, and also to park the car further away from the office of Mark Gordiyenko's Civic Security Council. I placed the mine under the rear left passenger seat, closer to the road and away from the sidewalk. We planned to report to "Morpekh" that the assignment had been completed and that it wasn't our fault Mark Gordiyenko wasn't hurt.

I also wish to say that Semen Boytsov's father (I don't know his surname and have never seen him in person) is involved in combat action in Donbass as part of "DPR"'s Kalmius battalion as one of its leaders. I also know that Semen Boytsov often was together with his father, in particular during the capture of Debaltseve and during the battles for Donetsk airport.

In addition, I wish to say that I never used any so-called "contacts" in Odessa. We received all our instructions from "Morpekh" through the Telegram app.

I don't know anything about O.O. Minaeva's involvement in Semen Boytsov's and my criminal activities. She is S.Y.Boytsov's girlfriend. I did not tell O.O. Minaeva about the true purpose of our visit to Odessa.

At the moment I have nothing further to say about the circumstances of the criminal proceedings.

I have given my testimony voluntarily, I am fully cooperating with the investigation, yes, I confess to my part in committing the terrorist act with S.Y. Boytsov.

_____ [signature] _____ (*M.V. Melnyk*)

The participants in the procedural action were informed about the manner in which they can review the interrogation record, namely view the written record.

Having reviewed the text of the interrogation record, the participants in the procedural action did not request to make any amendments, additions or comments.

I have read the interrogation record, it is a true record of my oral statement, I have no further statements, additions or comments.

Suspect: _____ [signature] _____ (*M.V. Melnyk*)
signature surname and initials

Defense attorney: G.Y. Babkova [signature]

Interrogated by, record compiled by:

**Special investigator,
 investigations department,
 Odessa Regional Directorate
 of the Security Service of Ukraine**

Captain of Justice

[signature]

V. Andreyev

Annex 269

Signed Declaration of Semen Boitsov, Suspect Interrogation Protocol (9 August 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

**RECORD
of suspect interrogation**

Odessa

August 09, 2017

*Interrogation started at 15:00**Interrogation finished at 17:00*

Captain of Justice Volodymyr Arsenovych Andreyev, special investigator of the investigations department at the Odessa Regional Directorate of the Security Service of Ukraine, having reviewed the files of the pre-trial investigation entered in the Unified Register of Pre-trial Investigations on 07.24.2017 at No 12017160500004222, in office No 201/01 at 43 vul. Yevreyska, Odessa and pursuant to Article 42 (“*Suspect, Accused*”), Article 95 (“*Testimony*”), Article 104 (“*Record*”), Article 10 (“*Preparing an Interrogation Record and Appendix*”), Article 223 (“*Procedural (detective) action requirements*”) and Article 224 (“*Interrogation*”) of the Criminal Procedure Code of Ukraine, in the presence of defense attorney Ivan Yuriyovych Muntyan (who has been advised of the requirements of Article 66 Part 3 of the Criminal Procedure Code of Ukraine and the obligation not to disclose the data of this procedural action), interrogated the following in the capacity of a suspect:

1. *Full name*: Semen Yuriyovych Boytsov
2. *Date and place of birth*: 12.31.1996, Donetsk;
3. *Ethnicity*: Ukrainian;
4. *Nationality*: Ukraine;
5. *Education*: 4th year student at Donetsk National University (law school);
6. *Family status*: single;
7. *Occupation (place of study)*: not in employment;
8. *Profession and role*: handyman;
9. *Place of residence (registration)*: Apartment 6, 25a Bulvar Shakhtobudivelnykiv, Donetsk.
10. *Previous convictions*: none reported
11. *Is he a member of an elected body (which Council)?*: is not
12. *Information about a passport or any other identity document*: Ukrainian citizen passport No VN995450 issued by Kalininsky district, Donetsk main directorate of the Ministry of Internal Affairs department in Donetsk Region.

I confirm the accuracy of these data:

Suspect: [signature]

The suspect was advised that he has been summoned to give testimony in the criminal proceedings entered into the Unified Register of Pre-trial Investigations as No. 12017160500004222 dated 07.24.2017 concerning elements of a crime provided for by Article 258 Part 2 of the Criminal Code of Ukraine.

Suspect: [signature]

Prior to the interrogation the suspect was advised of the requirements posed by Article 29, “*The language of criminal proceedings*” of the Criminal Procedure Code of Ukraine, after which the suspect said he understands the Ukrainian language and that he can read it easily.

[signature]

The suspect was advised of the content of Article 63 of the Constitution of Ukraine, which provides that a person may not be held liable for refusing to give testimony or explanations concerning himself, members of his family or close relatives, as defined by law.

Suspect: [signature]

The suspect was advised of the content of Article 18 of the Criminal Procedure Code of Ukraine concerning freedom from self-incrimination and the right not to testify against close relatives or family members, as well as of Article 20 of the Criminal Procedure Code of Ukraine on the right to a defense.

Suspect: [signature]

The suspect was advised of the interrogation procedures and his rights and obligations under Article 42 of the Criminal Procedure Code of Ukraine and was given a booklet on the procedural rights and obligations.

Suspect: [signature]

I have been advised of and understand my rights and responsibilities, as well as the interrogation procedure.

I received a booklet on a suspect's procedural rights and obligations on July 26, 2017.

Suspect: [signature]

Having reviewed his rights, the suspect said that he understands the rights of a suspect, and that he would like his attorney I.Y. Muntyan, who is defending him in these criminal proceedings, to be present in any procedural action that involves him.

He wishes to testify in Russian and to set forth his testimony by his own hand (he understands Ukrainian, but uses Russian in everyday life, therefore he would like to testify in Russian).

No interpretation is required.

Suspect: [signature]

In response to the questions put to him, the suspect gave the following testimony:

Question: How do you feel, do you have any complaints about your well-being? Do you wish to testify in the criminal proceedings?

Answer: I feel fine. I am willing to give testimony that would have significance for the pre-trial investigating authority and for the sake of establishing the truth in these criminal proceedings. I would like to cooperate with and to facilitate the investigation in full.

[signature]

[Handwritten:]

I, Semen Yuriyovych Boytsov, worked in 2015 in the special operations directorate in the DPR prosecutor-general's office as an employee. In summer 2015 I was involved in prisoner exchange and escorted a Ukrainian prisoner of war in a Mitsubishi Panjero car. This was after the battle of Maryinka. I wore insignia which said "Prosecutor-General's Office, special operations directorate." My pay was 10,000 roubles, I was on a two-days-on, two-days-off schedule. My boss was called Aleksandr "Morpekh", his deputies were Oleg "Dubina" and Max "Ded." On May 9, employees in active combat companies took part in a military parade. Our company was tasked with guarding a building in Artema Street. Around the end of October – beginning of November 2015 our unit was disbanded. Aleksandr "Morpekh" left Donetsk after that. Oleg "Dubina" and Max "Ded" stayed in Donetsk for another three months. Other staff had call signs Dima "Chernyy [Black]" and Aleksandr Romanov "Dobryy [Kind]." All the commanding officers were citizens of the Russian Federation. Our other task was to guard arrested DPR military. Staff from the Ministry of State Security worked together with us. They went with us to exchange prisoners. After the disbandment Myroslav Valeriyovych Melnyk got a job with the Ministry of Industry. I didn't work for a while, but we both kept in touch with Aleksandr "Morpekh". He offered me trips to Ukraine many times, but kept postponing. He explained there would be work, but wouldn't say what kind.

In the beginning of 2017 he invited Myroslav Valeriyovych Melnyk to go to Rostov Region in the Russian Federation for training. Melnyk invited me, saying we would be paid for this, including travel expenses. We went in May 2017 and spent about two weeks there. We had firearms training. Aleksandr "Morpekh" was there too, but he wasn't taking part in the training. We were told we were being trained for battle in the direction of Maryinka.

At the end of the training, Aleksandr "Morpekh" took me, Melnyk and Romanov to see two men who were giving us travel money. He said we were his guys and they could talk to us about work. But they took Aleksandr "Morpekh" aside and they discussed something for 10 minutes. After this "Morpekh" came up to us and said he would explain everything when we were back in Donetsk. A week after we got back to Donetsk "Morpekh" got in touch with us and said there was a job in Odessa. He said he would rent an apartment for us and would give us

money. In a while he got back in touch and said we would need to visit him in the town of Safonovo in Smolensk Region. We went to see him in early June, meeting in a café on the Smolensk-Minsk road. He explained that a man had to be assassinated in a bomb explosion, he said he would name him via Telegram. He said there would be people there who would help us. He also said that the security services would know that we would be there. Ukrainian security services! Then he gave us 20,000 roubles for the return journey. We went back to Donetsk and waited for “Morpekh” to phone and tell us when it was time to go to Odessa. My girlfriend Olga knew that I worked under “Morpekh” but didn’t know who he was. She played no part in this. She knew that he would go on training trips to Rostov Region, but she didn’t know what kind of training it was. In the middle of May, that is [illegible] Olga and I went to Odessa to collect the body of her ex-husband.

Around June 18 “Morpekh” called and said it was time to go to Odessa. We left for Odessa on June 21. On arrival in Odessa we went to see my grandmother in Williams Street and spent about an hour there. After that we bought a Vodaphone card and downloaded Telegram. Melnyk contacted Aleksandr Romanov – “Dobryy” – so he could give “Morpekh” the number, so he too could join us on Telegram. “Morpekh” said there was some [illegible, possibly “web”] in Odessa, that we can’t use a Russian number, that is, his number.

We inserted the card into my phone to activate it and to receive the Telegram passcode. After that we contacted “Morpekh” and he told us where the key to the apartment would be. We collected the apartment key, and there was a note with the address attached. The note also contained the apartment owner’s cover story: My name is Vasya, we studied together in Mykolayiv or in Zhytomyr, can’t remember where, and you asked me to rent a holiday apartment for you, until July 17. Then we went to the Dobrovolsky apartment and reported back to “Morpekh”. The next day we went to Filatova [street], where we found 1500 dollars, about 5 phones, a Vodaphone card, a bottle of vodka, gasoline for lighters and a bag with bedding and explosives. We took the money and the telephones and went back to Dobrovolsky Street to report back to “Morpekh”. Later “Morpekh” sent us a message with the names of the people who

had to be assassinated, it was Gordiyenko and another name. Melnyk took care of communications. Sometimes “Morpekh” wouldn’t get in touch, and Melnyk sent questions via “Dobryy.” “Morpekh” also messaged us where to find these people. He said there were people who were watching the ones who had to be assassinated. But only one needed to be assassinated. The explosive device was a mine. It had six charges. We inserted a wire into one of the charges. There was also a phone which had wires but they were not connected. When I went to Odessa I told Olga that I was going on a job, that there was a chance to make money. I said it was nothing criminal. She said she would go to Odessa too, to sell her car after an accident. She asked me to come and collect her. Melnyk asked him to also collect his wife Katya on the way. They knew nothing about our work. A week later Katya went back home, while Olga and I moved to a house she rented. I stayed with her in order not to attract attention, so we wouldn’t be seen together with Melnyk, to create an alibi. I went with her to Ivanovka to collect her car. I observed the streets Melnyk told me about, he went with me there too. He was also trying to buy a car. We couldn’t locate those people for a long time, and Melnyk contacted “Morpekh”, then “Morpekh” would contact Vasya. Later he became worried and said those people were definitely in town, and that we should find them soon. He said they would get us in Odessa if we didn’t do it. Later Melnyk said we have to set up an explosion one way or another, but to make sure nobody dies. He said he would choose a spot in Zhukovskogo because it was part of Gordiyenko’s route. He collected the explosive device and put it under the back seat of the car. On July 21 he parked the car in Zhukovskogo Street and gave me a phone with a number to dial. But there were too many people there on July 21, both in the morning and in the evening. I waited almost a whole day. Afterwards I phoned Melnyk and told him to collect the car, which he did. He said we must arrange an explosion so we could report back. But he knew they would find out if we didn’t complete the task. On July 24 Melnyk brought the car again to Zhukovskogo and said he would go home. He asked me to phone when the blast goes off and he would report [the job done].

Vasya's job was to rent our apartments, get everything arranged and to provide a communication channel to "Morpekh" if we needed help.

The explosion took place by means of a call from one phone to another. The operator cards were at the apartment in Filatova. My phone call enabled the explosion. I was in Zhukovskogo Street at the time, between Katerynynska and Richelieu streets. The explosion occurred when there were no people near the car.

Later I was detained by Security Service operatives. I confess to the crime. I repent.

The DPR Prosecutor-General's Office and the military prosecutor's office were in Artema Street. Staff from the Ministry of State Security worked with us and accompanied us during prisoner exchanges. We also acted as bodyguards for VIPs.

I have written this testimony by my own hand, in the presence of my defense attorney and without pressure.

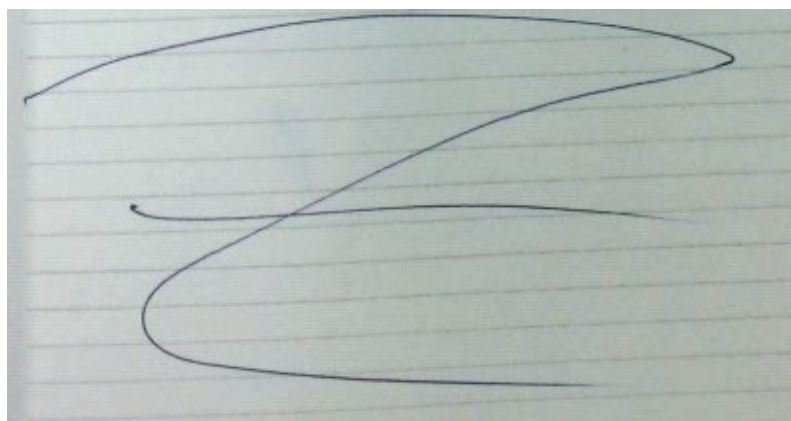
I made corrections by my own hand.

I have no additions or comments at this time.

[illegible] S.Y. Boytsov

[signature]

08.09.2017

A photograph of a handwritten signature in dark ink on a piece of lined paper. The signature is highly stylized and cursive, consisting of several large, sweeping loops and curves. It is positioned in the center of the page, below the text labels.

The participants in the investigation (procedural) action were informed about the manner in which they can review the interrogation record, namely view the written record.

Having reviewed the text of the interrogation record, the participants in the procedural action did not request to make any amendments, additions or comments.

I have read the interrogation record. I have no further comments.

Suspect: ___S.Y. Boytsov__ ([signature])

Defense attorney: I.Y. Muntyan ([signature])

Interrogated by, record compiled by:

Special investigator,

investigations department

[signature]

V. Andreyev

Annex 270

Signed Declaration of Marko Gordiyenko, Witness Interrogation Protocol (14 September 2017)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

RECORD
of witness interrogation

Odessa

September 14, 2017

Interrogation started at 14:17

Interrogation finished at 15:00

Captain of Justice Volodymyr Arsenovych Andreyev, special investigator of the investigations department at the Odessa Regional Directorate of the Security Service of Ukraine, having reviewed the files of the pre-trial investigation entered in the Unified Register of Pre-trial Investigations on 07.24.2017 at No 12017160500004222, in Room No 201/01 of the investigations department at the Odessa Regional Directorate of the Security Service of Ukraine located at 43 vul. Yevreyska, Odessa, and pursuant to Article 65 (“*Witness*”), Article 66 (“*Witness Rights and Responsibilities*”), Article 95 (“*Testimony*”), Article 104 (“*Record*”), Article 106 (“*Preparing an Interrogation Record and Appendix*”), Article 223 (“*Procedural (detective) action requirements*”) and Article 224 (“*Interrogation*”) of the Criminal Procedure Code of Ukraine, questioned the following in the capacity of a witness:

1. Full name: Mark Vasylyovych Gordiyenko
2. Date and place of birth: 06.07.1968, Verkhnyaya Solda, Sverdlovsk Region, Russian Federation.
3. Ethnicity: Ukrainian
4. Nationality: Ukraine
5. Education: higher education (graduated in 1989 from the Kiev Naval College)
6. Occupation (place of study): private entrepreneur
7. Profession and role: private entrepreneur
8. Place of residence (registration): Apartment 8, 35 vul. Katerynenska, Odessa, registered at Apartment 6, 5 vul. Yevropeyska, Rozdilna, Odessa Region.
9. Previous convictions: none reported
10. Is he a member of an elected body (which Council)?: No
11. Information about a passport or any other identity document: driver’s license VAE 496772.
12. Telephone: 0957218572
13. Family status: not married.

I confirm the accuracy of these personal data:

M.V. Gordiyenko

[signature]

Prior to the interrogation the witness was advised of the requirements posed by Article 29, “*The language of criminal proceedings*” of the Criminal Procedure Code of Ukraine, after which the witness said he wished to testify in Ukrainian in which he is fluent. No interpretation is required.

The witness was advised that he had been summoned to give testimony in the criminal proceedings entered into the Unified Register of Pretrial Investigations as No 12017160500004222 concerning the circumstances of a crime provided for by Article 258 Part 2 of the Criminal Code of Ukraine.

The witness was advised of his rights under Article 63 of the Constitution of Ukraine, which provides that a person may not be held liable for refusing to give testimony or explanations concerning himself, members of his family or close relatives, as defined by law.

The witness was advised of the content of Article 18 of the Criminal Procedure Code of Ukraine concerning freedom from self-incrimination and the right not to testify against close relatives or family members.

[signature]

The witness was advised of the interrogation procedures and his rights and obligations under Article 66 of the Criminal Procedure Code of Ukraine “*Witness Rights and Responsibilities*”, according to which:

1. A witness shall be entitled:

1) to know what he is being questioned about, and in which criminal proceedings;

2) in the course of giving testimony and participating in other procedural actions, to use the legal assistance of an attorney, whose powers shall be confirmed in accordance with the provisions of Article 50 of the Criminal Procedure Code of Ukraine (specifically: 1) by a license to practice law; 2) by an engagement letter or agreement with the defense attorney or a mandate provided by a body (institution) authorized by law to provide free legal assistance);

3) to refuse to give testimony concerning himself, his close relatives or members of his family that may incriminate him, his close relatives or members of his family, as well as testimony concerning information that is not subject to disclosure according to the provisions of Article 65 of the said Code (specifically, the following persons may not be questioned as witnesses: 1) a defense attorney, counsel for a victim, civil claimant, or civil respondent, or legal representative of a victim or civil claimant in criminal proceedings, regarding facts of which they became aware in connection with performing the functions of a representative or defense attorney; 2) lawyers, regarding information protected by lawyer-client privilege; 3) notaries, regarding information protected by notary-client confidentiality; 4) medical workers and other persons who, through the performance of their professional or official duties, become aware of an illness, a medical examination and the results thereof, or intimate and marital aspects of a person’s life, regarding information protected by doctor-patient confidentiality; 5) clergymen, regarding information received by them through confession; 6) journalists, regarding confidential information provided on the condition of non-disclosure of the authorship or source of the information; 7) professional judges, people’s assessors, and jury members, regarding the circumstances surrounding the discussion of matters in the deliberation room that arose at the time of issuing of the court decision, except in the case of criminal proceedings concerning a knowingly unlawful verdict or ruling issued by a judge (or judges); 8) persons who were involved in entering into and performing a settlement agreement in criminal proceedings, regarding the facts of which they became aware by virtue of their involvement in entering into and performing the settlement agreement; 9) persons against whom interim measures have been imposed, regarding current information about their identity; 10) persons who possess information concerning the current details of persons against whom interim measures have been imposed, regarding such details. Persons with diplomatic immunity may not be questioned as witnesses without their consent (and may refuse to give testimony), nor may employees of diplomatic missions without the consent of a representative of the diplomatic mission);

4) to give testimony in his native language or in another language that he speaks fluently, and to use the services of an interpreter;

5) to use notes and documents when giving testimony in cases where the testimony involves any calculations or other information that is hard to keep in memory;

6) to be reimbursed for expenses associated with being summoned to give testimony.

7) to review the record of the interrogation and submit requests to make changes, additions or comments to it, as well as to make such changes and comments by his own hand;

8) to request that provision be made for his personal security in cases provided for by law;

9) to request that the interpreter be replaced.

2. A witness must:

1) appear when summoned before an investigator, prosecutor, investigating judge, or judge;

2) give true testimony during a pretrial investigation or trial;

3) not disclose without the permission of the investigator, prosecutor or judge any information that directly pertains to the merits of the criminal proceedings or any procedural actions taken in the course of the proceedings, of which the witness became aware in connection with the performance of his duties.

3. A person involved in procedural actions during a pretrial investigation in the capacity of an attesting witness or who has witnessed such actions shall not, at the request of the investigator or prosecutor, disclose any information about the procedural action that was performed.

In addition, pursuant to Article 224 Part 7 of the Criminal Procedure Code of Ukraine, a questioned person may, if he so wishes, set forth his testimony by his own hand. Additional questions may be posed to the person regarding his written testimony.

Pursuant to Article 67 “*Witness Liability*” of the Criminal Procedure Code of Ukraine, the witness was advised of the criminal liability provided for by Article 384 of the Criminal Code of Ukraine (*Knowingly false testimony*) and Article 385 of the Criminal Code of Ukraine (*A witness’s refusal to testify*). The witness was also advised that repeated avoidance of appearing before the investigator, prosecutor, investigating judge or in court will incur liability as determined by law.

The witness was advised of his rights provided for by Article 59 of the Constitution of Ukraine, according to which each individual is entitled to legal assistance. In certain instances provided for by law, such assistance is provided free of charge. Each individual is free to choose their legal representative.

Having been advised of his rights and responsibilities, the witness said he fully understood them. He wishes to testify in Russian and to have his testimony recorded. He also understands Ukrainian in which he can read and write, but his everyday language tends to be Russian in which he is more comfortable. During testimony he does not wish to avail himself of the services of a lawyer.

[signature]

In response to questions posed, the witness gave the following testimony:

In respect of the circumstances of the criminal proceedings, I wish to inform you that I have been for a long time a civic activist and head of the “Council for Civic Security” civic organization, which has its office at No 36 vul. Zhukovskogo, Odessa. I and the members of my civic organization are patriotically-oriented people.

At about 10:18 on the morning of July 24, 2017, I left my home at Flat 8, No. 35 vul. Katerynenska, Odessa (on the corner of Zhukovskogo Street). At about 10:23 I was proceeding along Zhukovskogo Street from Katerynenska Street towards the office of the Council for Civic Security at No 36 vul. Zhukovskogo, Odessa. As I walked past a white VAZ-2101 car parked at the side of the road opposite No 30 vul. Zhukovskogo, Odessa, the said vehicle exploded, although neither I, nor as far as I know other people, were injured. The commission of this criminal offence did not harm me in any way. I know neither the identity of the person who committed this criminal offence, nor its aim. Furthermore, I wish to note that the site of the criminal offence was very well chosen, as the car was parked at a narrow spot, so that the shock wave from the explosion could hit and cause injury to the life and health of people, as well as damage property. However, I wish to inform you that about a month before the offence was committed, my comrades from the Council for Civic Security civic organization told me they had information that a group of people were planning an attempt on my life. At the time I did not take the information seriously.

In addition, I would like to inform you that I do not know anyone called Melnyk Myroslav Valeriyovych or Boytsov Semen Yuriyovych.

I know nothing else about the circumstances of this criminal offence.

Witness [signature] **M.V. Gordiyenko**

I have read this record. It is an accurate record. I have no further comments.

Witness [signature] **M.V. Gordiyenko**

Interrogated by, record compiled by:

Special investigator,
investigations department, Odessa Regional Directorate
of the Security Service of Ukraine
Captain of Justice

[signature]

V. Andreyev

Annex 271

Signed Declaration of Roman Cheremsky, Witness Interrogation Protocol (undated)

This document has been translated from its original language into English, an official language of the Court, pursuant to Rules of the Court, Article 51.

Pursuant to Rules of the Court Article 51(3), Ukraine has translated only an extract of the original document constituting this Annex. In further compliance with this Rule, Ukraine has provided two certified copies of the full original-language document with its submission. The translated passages are highlighted in the original-language document. Ukraine has omitted from translation those portions of the document that are not materially relied upon in its Memorial, but stands ready to provide additional translations should the Court so require.

ON BEING HELD PRISONER BY THE SEPARATISTS

On August 16, 2014, we cleared the last Ukrainian army checkpoint on the edge of the town of Lutugino. They just checked our documents and let us through without any warning of possible detention on the other side.

Several kilometers later we were detained at the very first LPR [Luhansk People's Republic] checkpoint in the village of Volnukhino. This is how the detention happened. The checkpoint had two parts. In the first part, several men in military uniform armed with automatic rifles and machine guns simply checked our documents, asked who we were going to see and let us through, adding that there would be another inspection a bit further on. Part two of the checkpoint was about 150 meters further. They stopped us, took our passports and forced us out of the car. When asked where we were going, we told them we were journalists. Valeriy gave them the call sign we had been provided with by the Krasnodon commandant's office for unimpeded passage through the demarcation line and checkpoints. But they took everything we had in our pockets (phones, documents, keys). By the way, we never got back what they took from me and Valeriy, including the documents and the minivan. We were taken to a cellar in the grounds of the Volnukhino quarry management office.

As we were being detained, I saw several old cars passing, probably local residents, but they were treated rudely at the checkpoint, and one car had an automatic rifle fired into the road in front of it.

This cellar had bars on the door and was used as a temporary prison. There were three of us: the girl journalist from Channel 112 who was travelling with us was held somewhere else in the grounds of the quarry management office.

A young armed man, who I later found out was 25 years old and had the call sign "Beshenyi [Mad]," started bragging that he and the others had killed many "Ukrops," that we would be either shot dead or shot in the leg. He also bragged that he had been in combat in Russia, in Chechnya, and that he was Russian and a GRU employee. As I noticed later in Rovenki, he did indeed have wider "special oversight" powers over the other militants, even though they were above the rank of private. As I found out later, he lives in Russia near Yessentuki-Mineralnye Vody. His accent, too, was of someone who lives in Russia.

While we were being held, they searched the car, took out our phones and looked through the photos and videos on them. They also found a small blue-and-yellow flag hidden inside the car (we had a Mercedes Vito minivan) which we displayed in areas under Ukrainian army control. They brought it to us screaming and swearing and told us to relieve ourselves onto it. We just kept silent, then they threw it to the ground and kept stamping their feet and spitting on it for some time.

A few hours later we were put inside the cabin of a lorry and taken away. There were about two dozen armed men inside the vehicle. They were coming back to the town of Rovenki from combat alert duty in the village of Volnukhino.

We were brought to the area where an LPR military unit was based. There was a tall flagpole at the base flying the Russian tricolor. There was no LPR flag there. As I later found out, those were the grounds of the DOSAAF [Volunteer Society for Cooperation with the Army, Aviation, and Navy] in Shchors Street, opposite No 49. At the base I personally saw one tank, several APCs, 120 mm caliber

mortars, military and cargo vehicles Ural, Kamaz, BM Grad (three Grads), as well as cars.

Our names were entered into a notebook and we were led into a cell. The walls, ceiling and floor of the cell were of reinforced concrete, and it used to be a workshop. Several people were held there. The girl journalist was taken to another room at the same DOSAAF base.

The prisoners were taken outside to work. This is how it happened: the doors would open, and someone in military uniform would enter, usually carrying an automatic rifle, and say: “You, you and you – let’s go.” They would fetch and carry and clean.

In front of the entrance to the headquarters a Ukrainian flag was used as a doormat. The militants would wipe their feet on it.

Valeriy was taken for interrogation. We were told to move some desks to make room. The rooms had mattresses on the floor, on which the militants slept.

Then we started moving engine stands, and one deputy battalion commander said we should not be taken outside to work to prevent us “loitering” in the grounds, probably worried that we journalists would see more than we were supposed to. Thanks to this we managed to avoid working in Rovenki.

But there were 7-15 prisoners on average in the cell at any one time. They were taken outside to work, and we spoke to them to stay abreast of what was happening around.

This was the St. George battalion. Also, Cossacks from the “Almighty Don Host” were here. Many carried St. George battalion insignia, as well as the insignia of “Novorossiya” and “LPR” and the insignia of the Armed Forces of the Russian Federation and “South Ossetia” insignia bearing the Russian tricolor.

I want to note that this base took regular deliveries of arms brought in Ural and Kamaz trucks, as well as in long-haul trucks. Over the wall from us there were hundreds of boxes with mortar shells, rounds for 5.45 mm and 7.62 mm automatic rifles, including armor-piercing caps for automatic rifles. Another room served as an armory. The arms came from Russia, from Krasnodon, they said. Our cellmates, who were constantly sent to load and unload arms, that in Krasnodon itself there was an enormous arms depot where they collected hundreds of crates with new automatic rifles, caps, mortar shells, etc. Also vehicles would come carrying ammunition for tanks and rockets for BM Grad launchers. Overall it was no secret that the arms came from Russia. Later, when the militants unblocked the semi-surrounded Luhansk, arms were moved from the Luhansk depots to the frontline. Also, arms were sent from the Rovenki base to the frontline, first to Volnukhino, and after LPR captured Lutugino and other areas – to the frontline in Zimogorye.

According to some accounts, during the capture of Lutugino 18 full salvos were fired from BM Grad launchers (over 700 rockets). The casting roll factory was completely destroyed. More than 70 Ukrainian armored vehicles were destroyed (cabin in one place, turret in another). Three weeks prior to these events I heard in my cell about some 100 Ukrainian combat vehicles concentrated in the grounds of the casting roll factory and what an easy target they were.

From Lutugino the militants took away new “trophy” Urals, BM Grad launchers, 1200 liters of gasoline, five Ural vehicles fully loaded with ammunition, dry rations and volunteer donations to the

Ukrainian army (medicines, preserves, etc.) That's just what my cellmates loaded at this base. But in Rovenki there was also a Cossack base and the commandant's office (which also held prisoners "in the basement") and two more bases with "militia" units.

When the first Minsk agreements were signed, Ural truckloads of 120 mm mortar shells were shipped from Luhansk to Zimogorye (they didn't have 82 mm caliber mortars in Zimogorye then).

I and the others held in the cell were often invited to join "the militia." They would say, if you don't want to fight on the frontline, you can be in the rear, there is plenty of work in the rear. "Militia" wages in the late summer–early fall of 2014 were USD 400 for a private. "Cossack" wages were 20,000 Russian roubles.

But there were also many occasions when wages for some months were not paid, under the pretext of wrongly filed forms. There were also several months' delays in paying wages to a military unit.

During my captivity in Rovenki (49 days), someone new would come into the cell almost every day. These were local residents. They were held as suspected saboteurs or informants, for violating curfew, for drinking, or just for "having the wrong face." Detainees could be freed quickly if they knew someone in the battalion, or they could be held for a long time, beaten, left with broken ribs or threatened with a firing squad. It made a big difference if someone (relatives, friends, etc.) tried to "get them out."

There were "educational" beatings not only on suspicion of collaboration with the Ukrainian army, but also for drinking. "Misbehaving" (usually meaning drunk) "militia" were also thrown into the cell. They were severely beaten too, but freed several days later and sent to the frontline (they were keen to go there anyway).

I witnessed an incident when a prisoner was killed. He was brought to the cell apparently because his wife had called to report him for hitting her while drunk. A man of about 40 entered the cell, looking normal, but then the doors opened and we could see through the open door that a "militia" woman (fair-haired, about 25, I think her name was Nina) dealt him several heavy blows. He was fading fast. We carried him inside the cell, but it was clear that he needed help, that he was dying. The "militia" took him to hospital, but he died on the way. Nobody was punished for it. I saw this pretty "militia" lady many times later, always happy and lively.

I witnessed how the "militia" confiscated en masse cars and other property from local residents, who were thrown into our cell afterwards. During my captivity, they "confiscated" 6 Volvo trucks and 2 forklift trucks from the quarry and moved them to Russia (my cellmate was at the wheel). Other people in the cell would be former owners from whom they took a Bychok [nickname for the Zil truck], a Volga car – latest model, exclusive issue, – a motorcycle, two Lada 99 cars, a Chevrolet, a Kopeyka [nickname for the Zhiguli car]. People were too afraid to protest and some managed to buy their cars back.

I was interrogated about five times. The interrogators were professional military from Russia. This was immediately apparent, and they made no secret of it. They spoke with the accent of someone who lives in Russia. The interrogation was conducted with military knowledge and skill. For example, the same question was repeated several times in different wording, or the same thing was asked over and over again very quickly while they watched my eye movement. They also used force (hit me in the neck and ribs during two interrogations). The interrogations were led by Yura from Moscow whom the militants called "the minder." There was another Yura present during interrogation, whose call

sign was “Maloy [The Kid].” I think he acted for a while as the chief of staff for the St. George battalion. He is local and had family in the area under Ukrainian army control. He was short, about 160 cm, and thin. I think they made him captain. He drove a “confiscated” car with the personalized license plate “Maloy.” The commanding officer of the battalion was also called Yura, a Russian from Moscow. His wife Marina (call sign “Bagira”) was 25, a Russian from Moscow, she had studied in Moscow. She later became chief of staff. She was dark-haired, short and pretty, wore glasses. She too drove a confiscated car, with the personalized license plate “Bagira”. She had two bodyguards: one was a former local miner, call sign “Boxer,” and the other was from Moldova.

My ribs were broken a couple of times for refusing to cooperate.

There were several dozen Chechens in the battalion – they were easy to spot from their appearance – and up to 10 Ossetians. There were also “militiamen” from Siberia and Krasnodar Territory (they said so themselves).

I also know that some prisoners were taken to Rostov-on-Don for interrogation, but only if they faced serious charges. I was going to be taken there too, on the third day after my detention, but they only got as far as Krasnodon and turned back. I think that’s because they realized we had no useful information.

During interrogation they were mainly interested about the location of our military checkpoints, what equipment they used, etc. They also wanted me to draw it. I had nothing to say on that, as I didn’t know any such thing. They brought local residents to hear these interrogations about Ukrainian military positions. This is how the “militia” got their idea about the Ukrainian army. But after they captured Lutugino, the interrogations almost stopped. The attitude towards us varied. Sometimes it was harsh (only among a minority of the militants). But we were treated better than some of the locals.

On the 49th day of my captivity I was taken to Luhansk. At first, I was brought for interrogation, I think it was to their ministry of defense. There I was interrogated again. Some of the interrogators’ insignia said “polite people,” some depicted a bat. During the interrogation I was shown various photos and told that “the fascists are killing people in Donbass” and that we had entered a foreign state, LPR, illegally. But they also hinted that we would be exchanged. Then we were moved to Luhansk, where the St. George battalion also had a base, again, on ex-DOSAAF premises. We were in the basement there together with Valeriy, then he was taken to hospital, and I was held alone. The treatment there was better than in Rovenki. In Luhansk I was taken outside to work: help in the kitchen, clean the grounds and the rooms. The military leadership from Russia, from Kuban, used to visit. When the military switched to winter uniform in the middle of the fall, their winter jackets which arrived from Russia bore the insignia “Armed Forces of Russia” with the tricolor. There was an arms depot here too, but a much smaller one than in Rovenki. It was mainly firearms, caps, magazines for assault rifles, mortars and mortar shells. This was also over the wall in the basement where I was held.

Likewise, Ukrainian flags were used as doormats at every entrance.

During my stay in Luhansk the militants formed 3 BM Grad “rocket batteries,” a tank company (I saw them receive five tanks from Krasnodon) and a military reconnaissance unit. The number of militants fluctuated from 20 at the start to 200, then almost all of them were moved to a new base in Krasnyy

Luch. They also set up a training center there. The militants trained all the time throughout my stay at this base in Luhansk. They said they were being trained by specialists from Russia. Here, too, I was invited more than once to join “the militia.” They told me I’d be “soon exchanged.”

Both in Rovenki and in Luhansk I witnessed humanitarian aid brought from Russia to the military units: different things, medicine – for the militants.

At the end of November, I was put in a car and told that I was being taken to be exchanged, but first they brought me to the commandant’s office and then, straight away, to the Domino hotel. There was a “militia” base there. But there were only Russians (20-30 people) at the Domino hotel, and only a few locals who cooked and cleaned. It looked something like special squads. I saw through the window how they were trained: groups of 9-11 men practiced combat tactics, seizure of property, etc.

The treatment here was largely humane. But I was also forced to clean and do other work, though not too much.

I spent about a month at the Domino. Servicemen above the rank of private visited from Russia. This was clear from their appearance and from the way they talked. For example, in one room before New Year’s, Russian servicemen talked about their “office” paying for their flights home. Also, they had Russian army officers’ dry rations.

Food was good throughout my captivity. Often, I had to eat in the canteen at the same table as the militants. Absolutely all the food was made in Russia.

I was freed on December 26. I was put in a car and taken out. I was not given any details of how I was exchanged and for what. But I was so happy, I didn’t ask too many questions.

Roman Petrovych Cheremsky

This text was composed and typed by me personally from memory.

[signature]

Annex 272

U.N. General Assembly, 20th Session 1406th Plenary Meeting, Official Records, U.N. Doc. A/PB.1406, para. 135 (21 December 1965).



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President: Mr. Amintore FANFANI (Italy).

AGENDA ITEM 58

Draft International Convention on the Elimination of All Forms of Racial Discrimination

REPORT OF THE THIRD COMMITTEE (A/6181)

Mr. Macdonald (Canada), Rapporteur of the Third Committee, presented the report of that Committee and then spoke as follows.

1. Mr. MACDONALD (Canada), Rapporteur of the Third Committee: As the Assembly is aware, in resolution 1906 (XVIII), entitled "Preparation of a draft international convention on the elimination of all forms of racial discrimination", the General Assembly requested the Economic and Social Council to invite the Commission on Human Rights to give absolute priority to the preparation of a draft international convention on the elimination of all forms of racial discrimination.

2. On the basis of a preliminary draft prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights prepared in 1964 seven substantive articles which the Economic and Social Council transmitted to the General Assembly in resolution 1015 B (XXXVII) of 30 July 1964.

3. At the present session of the General Assembly the Third Committee considered in great detail, at forty-three meetings, and adopted unanimously a draft convention comprising a preamble and twenty-four articles. These twenty-four articles are divided into three parts. Part I consists of the substantive articles; part II, of articles on implementation; part III contains the final clauses.

4. I wish to draw to the Assembly's attention the fact that the Third Committee decided not to include a territorial application clause, a federal clause or a reservations clause in the draft convention. On the reservations clause the Assembly has before it an amendment submitted by thirty-three Powers [A/L.479]. There is also an amendment to article 4 by five Latin American Powers [A/L.480].

5. I would also draw the Assembly's attention to the two draft resolutions which appear in paragraph 212

of the Third Committee's report [A/6181] and on which the Assembly is requested to take action.

6. Lastly, I would draw the attention of the Assembly to the report of the Fifth Committee [A/6182], which deals with the financial implications that arise in connexion with part II of the draft Convention, on measures of implementation.

7. Mr. LAMPTEY (Ghana): I should like to introduce the amendment contained in document A/L.479. We have submitted this amendment because, to many delegations gathered here, the absence of a reservations clause from the draft Convention is a major flaw that could conceivably nullify the effect of the Convention *ab initio*. That the reservations clause was deleted in the Third Committee, by a vote of 25 to 19 with 34 abstentions [see A/6181, para. 194], was itself a tragic circumstance and could have happened only because we were all tired and the effect of this action was not obvious to many. We believe that, on second thought, most delegations now realize the necessity of a reservations clause: the number of co-sponsors of the amendment bespeaks that fact.

8. The three-paragraph clause that we promise is simple enough and is a restatement in positive terms of a formulation which enjoys wide support with respect to reservations to multilateral conventions. Before dealing specifically with this text and with reservations generally, however, I should like to comment briefly on the articles of the Convention which purportedly would be subject to significant reservations.

9. First, there is article 4, the first paragraph of which has given concern to some delegations. It should be recalled that that paragraph was the outcome of a difficult compromise after hours, and even days, of discussion, drafting and redrafting. In that process, most of us yielded from fixed positions, and no argument has since been brought forth to show that this article would be in derogation of the fundamental right of freedom of speech.

10. We listened very carefully to the recent intervention of Mr. Goldberg, in which he touched upon this subject, and we can suggest only that a reservation would not be the proper mode of dealing with this matter. It was the consensus in the Committee that this article should not be in derogation of "the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention". Thus, a unilateral declaratory statement as to this consensual interpretation is what is necessary, and not a reservation, for a reservation, *ipso facto*, amounts to a

modification and in this case, a modification of a difficult compromise.

11. What can be reiterated also is the correlative consensus of the Committee that these fundamental freedoms should not be employed to violate the purposes and objectives of this Convention. It is for this reason that we cannot accept a new formulation of article 4.

12. Articles 14 and 15 have also created some concern among certain delegations. As for article 14, its very optional nature makes it necessary to comment thereon. In our view, a juridical position that denies that a State, in exercise of its own sovereign will, can grant to individuals within its borders a right of petition to an international forum is tenuous, to say the least. Article 15, however, is another matter.

13. My delegation took an active part in objecting to the original article 13 bis and to the reformulation of the present article 15. We objected to article 13 bis because we believed that it was legally dubious to extend mandatorily a right denied the citizens of a metropolitan State to the colonial subjects of the State through an instrument of this type. It is, however, different when a procedural link between bodies of the United Nations and a body established through a multilateral convention and charged with the common task of achieving the purposes of the Charter is contended to be in violation of law. Such a contention is based on political expediency and is legally spurious.

14. In the first place, the Members of the United Nations have undertaken certain obligations in respect of human rights. We are aware that there is a divergence of viewpoints among the authorities concerning the legal effect of Articles 55 and 56—the so-called human rights Articles of the Charter. While Hudson, Kelsen and Drost, among others, claim that these Articles are not constitutive of enforceable legal norms, they agree that

"The Members"—of the United Nations—"have undertaken to act in conformity with the Purposes of the Organization. They have legally committed themselves to a legislative program, national and international, in respect of human rights." ^{1/}

15. Even the Legal Adviser of the United States Department of State in his famous memorandum to the Attorney-General in connexion with the McGhee and Shelley cases did admit that the Articles

"appear to place Member States under the obligation to co-operate with the United Nations in the carrying out of its function, which is stated here and elsewhere in the Charter as being the promotion of universal respect for and observance of human rights and fundamental freedoms". ^{2/}

But for the failure of the conference at San Francisco twenty years ago to adopt the proposal of the representative of Panama for a positive declaration that one of the purposes of the United Nations would be

"to see to it that the essential liberties of all are respected without distinction of race, language and creed", there would have been no doubt about the legal effect of the human rights provisions. We for our part agree with Sir H. Lauterpacht that the cumulative legal result of the various human rights pronouncements of the Charter cannot be ignored and that the legal character of these obligations of the Charter would remain even if the Charter were to contain no provisions of any kind for their implementation. As that distinguished English jurist has said:

"Any construction of the Charter according to which Members of the United Nations are, in law, entitled to disregard—and to violate—human rights and fundamental freedoms is destructive of both the legal and moral authority of the Charter as a whole...[and] runs counter to a cardinal principle of construction according to which treaties must be interpreted in good faith." ^{3/}

16. If the principle pacta sunt servanda is accepted, then all the Members of this Organization are under legal obligation to accept the right of petition expressly granted to the peoples of the colonial territories under the provisions of the Charter and extended by the establishment of constituent United Nations Committees of permanent and ad hoc nature.

17. If we cannot, arguendo, deny the legality of the bodies to which these petitions lie, we cannot question the legal validity of a procedural link between the Committee established under this Convention, a convention adopted under the aegis of the United Nations with the aim of achieving a pre-emptory purpose of the Charter—the elimination of all forms of racial discrimination, which is an essential requisite in the realization of the dignity and worth of man—and the established bodies of the United Nations to which its counsel would be highly useful. That is all that Article 15 attempts to do.

18. Article 71 of the Charter authorizes the Economic and Social Council to consult and co-operate with other international, national and non-governmental organizations handling matters which fall within its purview, and such co-operation has significantly helped that Council to achieve its goals.

19. The Constitution of the International Refugee Organization provides that it may establish

"Such effective relationships as may be desirable with other international organizations"

and that it is

"to consult and co-operate with public and private organizations whenever it is deemed advisable, in so far as such organizations share the purpose of the Organization and observe the principles of the United Nations".

20. The Constitution of the International Civil Aviation Organization, the ILO and many others have similar provisions, and, as Sir H. Lauterpacht says, while these

"provisions add little to the formal status and procedural capacity of the individual... in the inter-

^{3/} Ibid., p. 149.

^{1/} Pieter N. Drost, Human Rights as Legal Rights (Leiden, A.W. Sijthoff, 1951), p. 29.

^{2/} H. Lauterpacht, International Law and Human Rights (London, Stevens and Sons, 1950), p. 149, foot-note.

national sphere, ... they illustrate both the inadequacy of the hitherto predominant doctrine and the manner in which international practice may soften and eventually discard a rigid rule no longer in keeping with modern needs".^{4/}

21. The various specialized agencies in special relationship with the United Nations are all beings of separate and distinct international treaties: their memberships are different in instances from that of the United Nations. Thus there are several precedents for the procedural link envisaged between the Committee and other United Nations bodies. The *raison d'être* for this co-operation is that these bodies are all dedicated to the achievement of Charter objectives.

22. The Committee established under this Convention may, within a relatively short period, achieve expertise in problems of racial discrimination. In such case would its advisory role to a United Nations body like the Committee of Twenty-Four not far outweigh in results the slim possibility of political propaganda for which its comments and recommendations could be used? Those who would oppose this procedural link could base their opposition only on political considerations and not on legal or constitutional factors.

23. Let me now turn to the question of reservations generally. It is true that the subject of reservations is a complex one, but let us not exaggerate this complexity.

24. The practice followed by the League of Nations with respect to multilateral conventions was that, to be valid, a reservation must be accepted by all contracting parties. Substantially the same practice was followed by the Secretary-General of the United Nations until the decision of the International Court of Justice^{5/} on the Genocide Convention. The rule adhered to by the Secretary-General then was formulated by the International Law Commission in 1951 as follows:

"A State may make a reservation when signing, ratifying or acceding to a convention, prior to its entry into force, only with the consent of all States which have ratified or acceded thereto up to the date of entry into force; and may do so after the date of entry into force only with the consent of all States which have theretofore ratified or acceded."^{6/}

25. The difficulty that has arisen in recent years with respect to reservations has come about mainly because of the sharp multiplicity and varied nature of multilateral conventions since the Second World War and the attainment of nationhood by many colonial peoples that were not party to the development of the traditional concepts of international law; but there is sufficient evidence both of the old and of the new concepts to guide us. Restricting ourselves, then, to the type of humanitarian convention before us, let us hear what some of the experts have to say.

^{4/} *Ibid.*, p. 29.

^{5/} Reservations to the Convention on Genocide, Advisory Opinion: I.C.J. Reports 1951, pp. 29 and 30.

^{6/} Official Records of the General Assembly, Sixth Session, Supplement No. 9 (A/1858), para. 19.

26. According to Lord McNair,

"The law leaves the negotiating parties completely free to create their own rules governing the question of reservations to the particular treaty in the negotiation with which they are concerned. They are at liberty to insert in the treaty a clause dealing with reservations, and it is in this way that they can comply in advance with the principle of unanimous consent, which is the basis of treaty obligations. Fidelity to this principle forms no obstacle to the desire to create greater flexibility in the matter of reservations in order to encourage and facilitate the universality of obligations, on the one hand, without destroying on the other hand the essential degree, though not necessarily the complete degree, of uniformity of obligation."

And he adds:

"What is vitally necessary is to draw the attention of groups of States engaged in negotiating a treaty to the imperative necessity of facing up to the question of reservations and inserting in each treaty the clause appropriate to it in that particular case, whether the clause forbids reservations or permits them. In the case of treaties negotiated under the auspices of the United Nations it is the practice of the Secretariat to do this, and it was expressly done when the Genocide Convention was being negotiated, but without result; for that Convention contained no article dealing with reservations."^{7/}

I want to repeat: "for that Convention contained no article dealing with reservations".

27. Sir Hersch Lauterpacht, commenting on the projected International Bill of the Rights of Man, the idea from which this Convention emanated, stated:

"The dignity and effectiveness alike of the Bill demand that there should be no room in it for reservations of any kind or description. The Bill of Rights is a Bill of the fundamental rights of man. The idea of any reservations to them is, *prima facie*, objectionable... if reservations were to be appended in large numbers they would lend substance to the charge that governments hope to contrive to become parties to a basic international enactment without undue sacrifice."^{8/}

28. It is not only the publicists who speak in this vein. In the drafting both of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, and of the UNESCO Convention against Discrimination in Education of 1960, the discussions now going on here took place. In these instances the reservations clause finally adopted was similar to that proposed by Chile and Uruguay to the draft covenants which state in essence: "Reservations to this Convention shall not be permitted."

29. It would perhaps be useful for our understanding of the problem if we listened to some of the arguments

^{7/} Lord McNair, *The Law of Treaties* (Oxford, Clarendon Press, 1961), pp. 169, 170.

^{8/} H. Lauterpacht, *op. cit.*, p. 390.

that finally won the day during consideration of the Slavery Convention.^{2/}

30. The Argentine representative, Mr. Beltramino, had suggested the deletion of the reservations clause. To this Miss Lunsingh-Meijer of the Netherlands demurred, arguing that the absence of a reservations article would raise serious difficulties and complicated legal questions. Mr. Jafri of Pakistan, in a penetrating analysis, stated that if reservations were to be allowed there would be little justification for all the efforts which had been made to secure a generally acceptable text, and added that whatever might be said about the sovereign rights of States, reservations detracted from the efficacy and advantages of any multilateral convention, whatever its object. Reservations were necessary only in cases where highly controversial articles had been forced through by the pressure of "brute majority" voting.

31. In the view of the French representative, Mr. Giraud, the main point to bear in mind was that conventions most commonly rested on compromises and, in those circumstances, reservations enabling States to accept what they liked and reject what they did not like would upset the balance of the convention and certain States would feel that they had been unfairly thwarted. The Turkish representative, Mr. Tuncel, objecting to the Argentinian proposal, said he had the impression that some delegations had the draft covenants on human rights particularly in mind and that they would not like any precedent to be created which would affect possible reservations to the covenants. This of course should not be a fear.

32. But perhaps the most articulate representation against deletion was that of the United Kingdom representative, Mr. Scott-Fox. He said that the opponents of the reservations article had based their objections on the principle that the inclusion of a non-reservations clause was incompatible with the sovereign rights of States. He disagreed. If, on becoming a party to the Convention, a State agreed that no reservations to it should be allowed, it would not be doing anything incompatible with its sovereign rights. Each case would of course have to be considered on its merits, but there were a certain number of conventions, including the present one, reservations to which would open the door to modifications that would destroy the fundamental value of the convention. It was in the interests of all States intending to become parties to the Convention that they should agree beforehand to allow no reservations. The International Court's advisory opinion in connexion with the Genocide Convention had not, in the opinion of many international lawyers, resolved the difficulties with respect to reservations. It was for that reason that, by its resolution 598 (VI), the General Assembly had recommended that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to

the effect to be attributed to them. It was in accordance with that resolution and to avoid the many difficulties that reservations would create that the article on reservations had been included in the draft.

33. We have quoted the summary of Mr. Scott-Fox's statement extensively because it is cogent and apt and applies with full force to the present case; for, in our view, slavery is the mother of racial discrimination and we cannot understand a change of attitude with respect to the anti-discrimination Convention before us. Furthermore, none of the articles of the draft Convention of the elimination of all forms of racial discrimination has been adopted by "brute majority" voting, to use Mr. Jafri's words. Each has been the result of a deliberate and fine compromise and has been adopted almost overwhelmingly.

34. With respect to the UNESCO Convention on Discrimination in Education, it is pertinent to quote the report of the Special Committee of Governmental Experts, which met in Paris from 13 to 29 June 1960, on this question:

"The authors of the draft Convention, while mindful of the necessity of preparing a text capable of ratification by the largest possible number of States, felt that that consideration should not have the effect of detracting from the creative value of the text prepared or of weakening the principles and rules enunciated. The draft Convention accordingly precludes the possibility of States making reservations to it."

35. Most of the co-sponsors of the amendment before us share the viewpoints so ably stated by the publicists, governmental experts and governmental delegates, and we would have liked to introduce the Chilean-Uruguayan proposal that precludes reservations completely. However, in a spirit of compromise and to avoid a long debate in plenary, we are proposing this three-paragraph reservations article. One thing that all who are conversant with this subject are agreed upon is that the question of reservations must be squarely faced by the conference that adopts a multilateral convention. This is what the Secretary-General as depositary would want us to do; this is what we insist must be done.

36. First, recognizing the fact that all the Members of the United Nations have been afforded the opportunity to participate in the negotiation and adoption of the Convention, and that as a human rights instrument its reach must be universal, we have proposed in paragraph 1 that the Secretary-General, as the depositary of the Convention, should circulate any reservation among the signatory States indicated in article 17 of the Convention for their consideration. This is no innovation, for it has been applied by several conventions among which is the Convention on the Political Rights of Women. And as reasoned by the International Law Commission in its Yearbook of 1951, at the time a reservation is tendered, "a signatory State may be actively engaged in the study of the convention, or it may be in the process of completing the procedures necessary for its ratification, or for some reason, such as the assembling of its parliament, it may have been com-

^{2/} United Nations Conference of Plenipotentiaries on a Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery, Geneva, 13 August-4 September 1956.

pelled to delay its ratification." ^{10/} We share the opinion of the International Law Commission that the objection of such a State should have no legal effect but serve as indication of the State's attitude with respect to the reservation. Upon the ratification or accession of the State, however, its objection will become legally effective unless the objection is withdrawn. Thus States will have the opportunity to assess the eventual fate and effect of proposed reservations.

37. In paragraph 2 we have adopted the formulation of the International Court of Justice as to compatibility in its decision on the Genocide Convention in the first part of the first sentence, *a fortiori* applied to the second part of the sentence. In the second sentence we have provided that the objection of two thirds of the States Parties is tantamount to non-acceptance of the reservation. This is a departure from the traditional concept of unanimity and is one that was widely shared during the consideration of the question by the International Law Commission in 1962. It is similar to but even weaker than the proposal of the United Kingdom to the draft Convention which would deem a reservation to be accepted "if not less than two-thirds of the States to whom copies have been circulated in accordance with this article accept or do not object to it within a period of three months following the date of circulation". It is no innovation but it is a clause which this Assembly as master of its house can adopt to save the Convention from destruction and a great number of law suits over interpretation.

38. A suggestion that the International Court of Justice replace the States in this matter is untenable, for it is the States that have negotiated and will adopt this Convention. It is their intent which is vital to any judicial construction as to interpretation and it is they who must have the primary responsibility of guaranteeing the integrity of the Convention. Their actions, even if political, will be based on their understanding of the consensus achieved in adopting the Convention and as to the purpose and object they mutually had in mind when inserting the various articles. Of course, in the case of a dispute, the Convention, by article 21, will have given ultimate jurisdiction to the International Court of Justice.

39. The third paragraph is self-explanatory and needs no comment. Repetitious as it may sound, let me quote the advice of the International Law Commission on this question:

"It is always within the power of negotiating States to provide in the text of the convention itself for the limits within which, if at all, reservations are to be admissible and for the effect that is to be given to objections taken to them, and it is usually when a convention contains no such provisions that difficulties arise. It is much to be desired, therefore, that the problem of reservations to multilateral conventions should be squarely faced by the draftsmen of a convention text at the

time it is being drawn up; in the view of the Commission, this is likely to produce the greatest satisfaction in the long run." ^{11/}

40. Finally, let me emphasize that this Convention is the result of a remarkable compromise between gentlemen. We cannot therefore conceive of a State wishing to frustrate its object and purpose, an object and purpose that is already bound by the Charter, and most likely by its own Constitution, to realize. But if a State wishes to do this, then other like-minded States interested in the Convention are in duty bound to ensure the integrity of the Convention and to prevent it from becoming a variety of conventions.

41. Many of us were not here—in fact we were not independent—when the General Assembly unanimously adopted the resolution Mr. Scott-Fox referred to, but we are now loyal Members of the United Nations, and the Assembly's wishes are our commands. It is in this spirit that we propose our amendment. It is in this spirit that we expect it will receive unanimous approval.

42. Mr. BELTRAMINO (Argentina) (translated from Spanish): First of all, I should like to thank my friend the representative of Ghana for referring to the statement I made at the Conference on Slavery in 1956, which shows that our position in regard to the reservations clause is not of recent date. From the very first mention of the idea of introducing at this late hour in the General Assembly, when we are almost at the end of our labours, a new draft article concerning the reservations clause, we were opposed to it for the following basic reasons: in the first place, because the question of the submission of reservations is a very serious one, since it touches very closely on the question of the sovereignty of States, and because in the past, even in the United Nations, it has been handled in a great variety of ways according to the particular Convention involved, so that we cannot speak of uniform practice. Secondly, because the fact that the text was submitted so late made it impossible for delegations to have the proper consultations with their Governments.

43. We understand perfectly well the desire to ensure that reservations do not in any way undermine the Convention itself, which was drawn up with such labour and patience by the Third Committee. This seemed to us only common sense, and therefore we feel that oratorical displays indulged in for the purpose of attacking or defending the attitude of this or that country in the past are superfluous, simply because they are unnecessary. This is not the subject under discussion here. The question is whether a provision adopted in haste can serve the purposes of the Convention, the vigorous and unequivocal implementation of its clauses, and encourage its adoption by all States Members of the United Nations.

44. This twofold purpose was borne in mind constantly by my delegation and the other Latin American delegations while the Convention was being drawn up. Some will argue that the new article on reser-

^{10/} Yearbook of the International Law Commission 1951, Vol. II (United Nations publication, Sales No.: 57.V.6), document A/1858, para. 29.

^{11/} Official Records of the General Assembly, Sixth Session, Supplement No. 9 (A/1858), para. 27.

vations in document A/L.479 is too weak; others will find it acceptable. But there is no doubt about it—this is not just one further article in the Convention; the principles involved are of importance, as I feel sure my co-sponsors would agree.

45. We do feel that it is desirable to have a reservation clause in this Convention; but rather than incorporate in the text a clause which has not been fully weighed, a clause on which Governments have not been properly consulted, it would be better from every point of view not to have any clause on reservations whatever. This is a special kind of Convention with a peculiar system of implementation, and it deals, moreover, with a problem whose solution will be under constant supervision by a special committee and by the General Assembly. Hence we do not feel that reservations appropriate to earlier conventions can be adapted to suit it, at least not without thorough study.

46. Our attitude is one of principle, although we agree that even if there is no reservation clause, reservations must not inhibit the aims and purposes of the Convention, the noble humanitarian and practical ends it is designed to subserve. If they did, we should regard it as a calamity. We do not feel it is acceptable, merely because it has not been possible to produce a better formula or out of a desire to restrict the reservations that a particular State may make, simply and solely to decide that reservations shall be subject to the approval of two thirds of the States Parties to the Convention. Even without any such proviso, there is nothing to prevent the Committee provided for in the Convention from entering into negotiations with the State or States concerned with a view to inducing them to reconsider their attitude—a point which is not covered by the thirty-three-Power amendment [A/L.479], and even with a view to making suggestions to the General Assembly regarding the reports which the State involved has to submit. This way might be less spectacular than requiring sanction by a two-thirds majority, but it might also be more effective in practice. My delegation will therefore be unable to vote for the draft article in its present form.

47. I would now like briefly to introduce the amendment appearing in document A/L.480. It refers to article IV (a) of the Convention and is very simple. Its purpose is to remove an inconsistency in the text as it stands. We decided to submit this text in the light of other amendments to the Convention already submitted. We should like to make it emphatically clear at the outset that we resolutely support the provisions of article IV in so far as they provide for penalties to be imposed by law on organizations practising racial discrimination, propaganda activities, acts of violence and the incitement or promotion of discrimination. Here again, our position is not new. As is well known, in 1963, when the Declaration on the Elimination of All Forms of Racial Discrimination was considered, it was the Argentine delegation that proposed—and the proposal was subsequently adopted by the General Assembly [resolution 1904 (XVIII)]—that consideration should be given to the question of both the promotion of and incitement to racial discrimination. In fact, we went even further

here than article IV (b). It is also a well-known fact that the Argentine penal code lays down a number of penalties for such discrimination with a view to preventing any discrimination that may arise in the future. Our position is thus clear and unequivocal in the matter.

48. Secondly, at the very outset, when the Committee considered an amendment to article IV (a) condemning the mere oral or written expression of the notion of superiority of one race over another, my delegation and others as well were flatly opposed to this. Our attitude is thus one of principle and is consistent. What we are anxious to condemn and proscribe as categorically as possible is not the fact that, for example, a scientist may publish a document pointing out differences between individuals of different races, as has occurred in the past and as still happens today, nor public discussions on such subjects between two or more persons. What we condemn is any incitement to racial discrimination as a result of such publications or discussions. In this event the State must take vigorous action at all times to nip in the bud incitement to racial discrimination by such means.

49. This, then, is the limit of freedom of speech as we understand it. The mere expression of ideas is not in itself punishable if it is not accompanied by incitement to discrimination or racial hatred. This is the aim of those who genuinely want the Convention. There are, admittedly, certain qualifications in the introductory part of article IV, but we are most concerned that this Convention—as we have desired and urged from the outset—shall be as perfect as possible, avoiding provisions of any kind likely to lead to abuse or misinterpretation which it might be difficult to remedy. This is why we state quite unequivocally in our amendment that all incitement to racial discrimination, no matter what form it may take, shall be punishable by law. We have particularly added, in order to preserve the original idea of the text, the question of discrimination based on racial superiority or hatred, on which we are entirely in agreement. We consider that in this way article IV (a) is satisfactorily rounded off and the purposes of the Convention are duly fulfilled.

50. Finally, I should like to reply to the point raised by the representative of Ghana in order to set the record straight. Contrary to what he said, there has never, I repeat never, been any compromise with the members of the Latin American group nor with certain other delegations regarding the drafting of this article. A compromise requires action on the part of all the parties to the negotiations.

51. Mrs. CABRERA (Mexico) (translated from Spanish): The Mexican delegation regards the draft international Convention on the Elimination of All Forms of Racial Discrimination as a document of singular importance in the effort to put into practice the lofty principles set forth in the Declaration of Human Rights. For this reason, it bears in its train important innovations which must be examined in absolute freedom by the various Parliaments or Houses of Representatives which make it possible for the Governments of Member States to ratify the Convention.

52. The delegation of Mexico collaborated in an honest and unwavering manner with the majority of the members of the Third Committee to adopt a text which would receive unanimous support. Unanimity was achieved as a result of concessions on all sides based on mutual understanding and goodwill. To introduce amendments which, in one way or another, have already been rejected by the Third Committee would upset the balance achieved and force delegations to reconsider their position in the matter.

53. We believe that the Mexican legislature should be left absolutely free to consider the various implications of the Convention. Majority acceptance of an article such as that envisaged in document A/L.479 severely restricts this freedom and prejudices the action which the Mexican legislature may take.

54. For this reason, and despite the fact that in its domestic and international policies alike, the Mexican Government has championed in the past and will continue to champion the concept of racial non-discrimination, my delegation feels obliged to vote against this amendment; and if it is adopted, we shall have to abstain from voting on the draft Convention as a whole.

55. The PRESIDENT (translated from French): We shall now proceed to vote, beginning with the thirty-three-Power amendment [A/L.479] to part III of the annex to draft resolution A [A/6181, para. 212]. The amendment calls for the insertion of a new article 20 in the draft Convention. A separate vote has been requested on the second sentence of paragraph 2 of the article, which reads as follows:

"A reservation shall be considered incompatible or inhibitive if at least two thirds of the States parties to the Convention object to it."

I now put this sentence to the vote. A vote by roll-call has been requested.

The vote was taken by roll-call.

Mali, having been drawn by lot by the President, was called upon to vote first.

In favour: Mali, Mauritania, Mongolia, Morocco, Nepal, Nigeria, Pakistan, Philippines, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Syria, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Upper Volta, Uruguay, Yemen, Yugoslavia, Zambia, Afghanistan, Algeria, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Chad, Congo (Brazzaville), Cuba, Cyprus, Czechoslovakia, Dahomey, Ethiopia, Gabon, Ghana, Guinea, Hungary, India, Iran, Iraq, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Liberia, Libya, Madagascar, Malawi.

Against: Mexico, Panama, Paraguay, Peru, Spain, United States of America, Venezuela, Argentina, Australia, Belgium, Bolivia, Colombia, Costa Rica, Dominican Republic, El Salvador, France, Guatemala, Honduras.

Abstaining: Netherlands, New Zealand, Norway, Portugal, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, Austria, Brazil, Burma, Canada, Ceylon, Chile, China, Congo (Democratic Republic of), Denmark, Finland, Greece, Haiti, Iceland, Ireland, Israel, Italy, Luxembourg, Malaysia, Maldives Islands.

The sentence was adopted by 62 votes to 18, with 27 abstentions.

56. The PRESIDENT (translated from French): I now put paragraph 2 to the vote.

Paragraph 2 was adopted by 76 votes to 13, with 15 abstentions.

57. I now put the amendment as a whole to the vote.

The amendment as a whole was adopted by 82 votes to 4, with 21 abstentions.

58. The PRESIDENT (translated from French): I invite the Assembly to vote on the five Power amendment [A/L.480] to part I of the annex to draft resolution A. It refers to article 4 (a) of the draft Convention.

The amendment was rejected by 54 votes to 25, with 23 abstentions.

59. The PRESIDENT (translated from French): I would remind representatives that the Fifth Committee has submitted a report [A/6182] on the financial implications of adoption of the draft Convention. The report refers in particular to part II of the annex to the draft resolution, i.e., part II of the draft Convention.

60. I now put to the vote draft resolution A, as amended. A roll-call vote has been requested.

The vote was taken by roll-call.

The Philippines, having been drawn by lot by the President, was called upon to vote first.

In favour: Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia, Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malaysia, Maldives Islands, Mali, Mauritania, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru.

Against: None.

*Abstaining: Mexico.**

Draft resolution A, as amended, was adopted by 106 votes to none, with 1 abstention.

61. The PRESIDENT (translated from French): I now put to the vote draft resolution B [A/6181, para. 212].

Draft resolution B was adopted by 98 votes to none, with 7 abstentions.

62. The PRESIDENT (translated from French): With regard to the resolution just adopted, I am informed that it will take some time to prepare copies of the Convention for signature. As soon as the copies are ready, the date for signature will be announced in the *United Nations Journal*. This will enable Governments wishing to sign the Convention to grant the appropriate full powers to their plenipotentiaries.

63. I shall now call on each of the representatives in turn who wish to explain their votes.

64. Mr. OSPINA (Colombia) (translated from Spanish): I asked permission to speak before the vote, and it seems to me that this raises a point of order, because one reason why I wanted to speak was to ask for a separate vote on certain sentences or phrases in article 4. With this in mind—and I hope that the Assembly will take due note of it—I shall say what I would have said prior to the voting.

65. The Third Committee approved the draft International Convention on the Elimination of All Forms of Racial Discrimination in a text which appears in document A/6181 of 18 December 1965. If this draft is adopted by a majority vote, it will go from the Assembly to the States which are parties to the Convention for ratification in accordance with the terms set forth in the Convention.

66. My delegation has worked with tremendous zeal in order to give this humanitarian draft such force that it could become an international covenant with which States Members of the United Nations would comply. To achieve this, it would have to be in keeping with the spirit and the letter of the universal principles of law as well as with the constitutional principles of Member States; and this has proved extremely difficult in spite of the fact that the sponsors in the Committee itself made concessions towards extending the bounds of international positive law and eliminating errors in the text.

67. Nevertheless, certain articles of the Convention still embody extremist clauses which are unacceptable because they are at variance with the political constitutions of particular countries, and this will mean that reservations will be made when the draft is voted upon and at the time of ratification once it is converted into a covenant.

68. As far as the political constitution of Colombia is concerned, the enshrinement of the liberties in it is based on the recognition of the rights of the human person, and these rights are safeguarded up to the point where the rights of others or the rights of the

community begin. However, if the law or international treaties attempt to restrict these freedoms in the interest of the community or of mankind, this can only extend to the point at which the principle of freedom remains intact—in other words, personal freedom can be regulated but not encroached upon.

69. The Colombian constitution is based on the principles of Rousseau, adjusted in the light of the advances made in the social field; and individualism has had to and still has to make concessions in the interests of the community, without stamping out the individual, without encroaching upon his freedom, respecting his right to think and to express his deliberate decisions in actions or words.

70. Freedom of thought has been violently curtailed by tyrants throughout the course of history, by the Inquisition and by those who in the name of royal powers opposed the independence of the Americas. These are facts which show clearly that to penalize ideas, whatever their nature, is to pave the way for tyranny, for the abuse of power; and even in the most favourable circumstances it will merely lead to a sorry situation where interpretation is left to judges and law officers. As far as we are concerned, as far as our democracy is concerned, ideas are fought with ideas and reasons; theories are refuted with arguments and not by resort to the scaffold, prison, exile, confiscation or fines.

71. For these reasons we ask for a separate vote on the phrase "based on ideas or theories" in the second line of the first paragraph of article 4, and "of ideas based on superiority or hatred" in the first line of article 4 (a). If these phrases are not rejected, my delegation would like to enter reservations on them here and now.

72. Moreover, we believe that penal law can never presume to impose penalties for subjective offences. This barbarous practice is merely the expression of fanaticism such as is found among uncivilized people and is hence proscribed by universal law. Here, therefore, is one voice that will not remain silent while the representatives of the most advanced nations in the world vote without seriously pondering on the dangers involved in authorizing penalties under criminal law for ideological offences. The interpretation of article 4 to which I referred not only stipulates punishment for individuals but for organizations as well. It is known that juridical persons, let alone juridical persons associated for political purposes, are not subject to penal sanctions or the passive object of criminal law. Article 4, in the terms in which it is drafted, is legally unsound, in addition to having the constitutional defects I have pointed out.

73. The Colombian Parliament will not authorize ratification of a covenant at variance with the political constitution of the country and with the tenets of public law. Colombia practises freedom of ideas and will not depart from the principles underlying its civilization.

74. My delegation is eager for this convention to be adopted. There are no racial problems in Colombia. There is crossing of blood; men are valued for their

*The Mexican delegation subsequently informed the Secretariat that it would like Mexico to be included in the list of delegations voting in favour of draft resolution A.

virtues as citizens; coloured persons occupy and have always occupied the highest public offices side by side with whites; races live in harmony and merge without more ado, because it is a commonplace occurrence. There, in the crucible of Latin America, the blood and the races of the future meet and mingle; and since there is no discrimination of any kind in Colombia, my delegation felt that it could freely and frankly analyse article 4. And we find that in its present wording it is a retrograde measure instead of being a step forward on mankind's road towards the future.

75. In conclusion, may I—again in explanation of my vote—point out certain faults we have found with article 15 of the Convention. This provision establishes a special situation in respect of the territories referred to in General Assembly resolution 1514 (XV) of 14 December 1960. This exceptional treatment provided for in article 15 in regard to the right of petition, converting it into something resembling a new right which might be described as a right of direct petition since it does not involve intervention by the State concerned, the Committee being informed through the competent bodies of the United Nations, arouses misgivings on the part of my delegation precisely because of its exceptional nature.

76. At first sight it would seem that a political problem is being injected into the Convention, whereas my delegation is conscious of the fact that the aim of the Convention is eminently humanitarian. Thus problems are created in the United Nations itself, issues being transferred from one committee to another without any apparent authorization to do so. Administering Powers might feel that there was some derogation from their sovereignty and that they are exposed to the danger of violation for want of clarity in the rules applied.

77. My delegation believes that since the colonial status of certain Territories constitutes a temporary legal situation, this provision too should be temporary and not permanent. My delegation will abstain from the voting on this article, with the exception of paragraph 1, for which we intend to vote.

78. I shall not refer to the amendment to article 20 [A/L.479], since I am entirely in agreement with the views expressed by the representatives of Argentina and Mexico. A few days ago the United States representative, speaking in the Third Committee [1373rd meeting], said that this Convention was more than a mere restatement of laudable principles. That is true: the Convention is a resounding victory, which must not be demeaned by political issues.

79. Mr. VERRET (Haiti) (translated from French): The delegation of Haiti, in spite of the reservations it expressed in the Third Committee concerning certain paragraphs of the various articles of the draft International Convention on the Elimination of All Forms of Racial Discrimination, voted for the draft Convention as a whole, even though it still has some misgivings concerning the full effectiveness of the measures of implementation. It also approved the report of the Third Committee on this subject as an absolute imperative of the present time, when

human passions are revealed as more deadly than the most modern weapons.

80. Now, heaven be praised, we have produced a document of which the least that can be said is that it is reasonably reassuring. We applaud it, and we join in the chorus of authoritative voices of the nations assembled in this Hall to intone in all solemnity the hymn of reconciliation among the races which fantastic theories tend to divide, vaunting the supremacy of some peoples over others regarded as inferior and hence despised and held in servitude, if not indeed destined for utter annihilation. That was the judgement of Gobineau and his disciples with their theory of the inequality of human races; of the German philosopher Nietzsche, the champion of force, in his famous book *Thus Spake Zarathustra*; and a whole series of sorcerers' apprentices who came after them. They ignored the fact that in the beginning, when men dwelt in caves, no matter where they were such ideas had not yet occurred to them, and they formed groups and mingled together all on the same footing in their fierce struggle against the wild beasts and the elements they had not yet subdued.

81. We have no desire to dwell on the controversial writings of specialists in anthropology or genetics. We in the Republic of Haiti, ever since the days when our African ancestors freed themselves from the diabolical colonial yoke, have always practised tolerance towards all races, in accordance with our laws and customs, in spite of the tortures of every kind inflicted on our forefathers and the ostracism suffered by our country because of our ethnic origins. We have practised tolerance in the belief that all races are on a par and that the barriers set up between them have been erected through the ages merely as a sequel to struggle and conquest, where the victorious side subjugated the other and regarded the race of the vanquished as inferior to its own. That was the way with the civilizations that have died out, and it is the same with the new civilizations.

82. There is no need to cite the ancient empires, whose doleful fate the history books recount, except to recall that the instinct to dominate has ever been one of the characteristics of the human species, and that men today, in spite of the new gospels preached by the wise men of every part of the world, still confront each other in antagonistic ideologies whose baleful shadows cast gloom over the places where they fall. History is like the sea, ever beginning anew, and men have not changed over the ages. Confronted with its prey, the beast shows its claws.

83. Thus, to safeguard the higher interests of an epoch, the colonial Powers regarded Haiti as fair game throughout the last century, following the proclamation of its independence, because for them it set a dangerous example.

84. Libelled by racist writers and theorists who claimed that in Haiti's first steps as a sovereign nation they detected a congenital inferiority inherent in the black race; isolated by the Powers which made no move to recognize it; and excluded, only recently still, from international gatherings, Haiti neverthe-

less fulfilled its destiny. This island, the home of a free people, proud of its origins, pursuing its onward and upward march, slowly but surely, despite the obstacles of every kind deliberately placed in its path, towards progress and modern civilization, in peace and dignity at all times, under the enlightened leadership of a just and learned Chief of State, H.E. Dr. François Duvalier, Life President of the Republic. And because though our forefathers were oppressed we still believe in a better future, we share the distaste felt by the majority of the peoples of the world for all forms of racial discrimination, no matter by what means they are called: anti-semitism, colonialism, nazism, apartheid and all such, past and present. They are all of them as degrading as the minds that conceived them.

85. It is most gratifying that after centuries during which the war-lords have caused the destruction of so much life and property, the nations represented here have approved this international Convention on the Elimination of All Forms of Racial Discrimination, for the purpose of promoting greater understanding among peoples and building a new world where, in an atmosphere of more brotherly, more just and more human feelings, the smoke from the pipe of peace will bring with it progress and happiness to nations sincerely reunited.

86. The peoples of the world will be grateful to us Member States if we are able to respect this Convention. Let us at least wish it long life, so that the peace so dear to the hearts of men may reign on earth.

87. In conclusion, the delegation of Haiti pays homage to the members of the Third Committee and the General Assembly for this meritorious effort, which represents a new landmark on the path to social progress.

88. Mr. LAMPTEY (Ghana): A generation ago, a young African student landed on the shores of these United States in pursuit of higher learning. He slept on the subways of New York City and rubbed shoulders with the workers in the shipyards of Pennsylvania. Alone in a strange country, he came face to face with racial discrimination.

89. A decade later he left for the United Kingdom, and there again, in the lower-class restaurants of Camden Town and Tottenham Court Road in London, he was to experience the subtlety of racial discrimination.

90. He did not become a bitter man in consequence of those experiences: he became a better man. For he became convinced that if an honest and enduring relationship between men of different races and ethnic origins must come, it must be preceded by the elimination of all forms of racial discrimination.

91. Osagyefo Kwame Nkrumah, the man of whom I speak, has with determination and consistency employed the influence and power that destiny has bestowed upon him to ensure the total eradication of this cancerous tumour from the face of the earth. It is for this reason that he can never, and his people will never, consider the struggle of the Americans of African descent for equality as an

isolated struggle peculiar to them; nor can he and his people remain immune from the privations suffered by millions of black men in the southern part of Africa.

92. It is in the name of this leader, and the nation of which he is the architect, that my delegation has been proud to vote for the adoption of this International Convention on the Elimination of All Forms of Racial Discrimination.

93. In explaining our vote, let us state that we are not completely satisfied with the Convention just adopted, for we would have hoped that, seven centuries after the Magna Carta declared "...to no one will we refuse or delay right or justice"; more than a century and a half after the American Declaration of Independence asserted that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness"; 172 years after the French Declaration of the Rights of Man and Citizen proclaimed that "forgetfulness and contempt of the natural rights of men are the sole causes of the miseries of the world"; almost half a century after Lenin proclaimed the brotherhood of man; twenty years after the great Charter of the United Nations reaffirmed "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women...", and seventeen years after we, through the Universal Declaration of Human Rights, declared that "all are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination", the representatives of Governments here gathered would have adopted a strong Convention able to insure the speedy disappearance of racial discrimination, that dogma and practice which is a travesty of the very essence of justice. But, alas, realism dictated that we take an infant step. Let me therefore register the hope of my Government and people that the Convention just adopted will, in a few years, be subject to revision, and a more effective instrument adopted.

94. "...That the great and terrible war which has now ended was a war made possible by the denial of the democratic principles of the dignity, equality and mutual respect of men, and by the propagation, in their place, through ignorance and prejudice, of the doctrine of the inequality of men and races." These are the words of the preamble to the Constitution of UNESCO. It was Santayana who remarked that he who does not know the past is doomed to repeat it. In taking this first step in providing the nations of the world with a multilateral treaty for the elimination of all forms of racial discrimination, a treaty capable of enforcement, we have demonstrated our capacity not to forget. Let us then hope that the nations of the world will demonstrate their commitment to this purpose by faithfully adopting and executing the principles enshrined in this Convention. Then the day may yet come when it can truly be said, as it was said by Confucius twenty-five centuries ago, that: "Within the Four Seas all are Brothers."

95. My delegation has been proud and honoured to participate in the drafting and adoption of this Convention, and we thank those who joined us in this collective task. If in the process we have seemed impatient, we beg forgiveness, for we meant no offence to anybody—but we were dedicated to the conclusion of this task.

96. We leave this rostrum convinced that, because of what you have done today; when the story of the twentieth session of the General Assembly comes to be told, it can well be said, as it was once said by a great war leader: This was its finest hour.

97. Miss WILLIS (United States of America): It is a source of deep satisfaction to the United States delegation that the Committee, under the skilful and patient leadership of its able Chairman, successfully persisted in the arduous task of drafting the International Convention on the Elimination of All Forms of Racial Discrimination. The adoption of this Convention will certainly be one of the main achievements of this session. All delegations which worked hard to achieve this result are to be congratulated.

98. The United States voted for the Convention as a whole because we agree with its constructive humanitarian objectives. It is more than a statement of lofty ideals. It provides machinery for implementation which goes well beyond any previous human rights instrument negotiated in the United Nations. It is inevitably a complex document and will require careful study not only by my Government but also, I am sure, by many other Governments.

99. It is not appropriate here to recapitulate even the substance of statements made by the United States representative in the Third Committee on various articles. For the record, however, here in this Assembly, I wish to state that the United States understands article 4 of the Convention as imposing no obligation on any party to take measures which are not fully consistent with its constitutional guarantees of freedom, including freedom of speech and association. This interpretation is entirely consistent with the opening paragraph of article 4 of the Convention itself, which provides that, in carrying out certain obligations of the Convention, States Parties shall have "due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention". Article 5, in turn, lists, among the rights to be guaranteed without distinction as to race, colour, or national or ethnic origin, the right to freedom of opinion and expression.

100. Let me now turn very briefly to the question of the reservations article. My delegation believes that it would have been better for this Convention not to contain an article on reservations. The absence of such an article need not have impaired the effectiveness of the Convention. The omission of an article on reservations would, however, have made possible the acceptance of the Convention by a greater number of States, thereby contributing to the eradication of racial discrimination over a wider area.

101. We think it would have been preferable in this Convention, if there had to be an article on reser-

vations, for it to provide for a judicial decision on the question of whether a reservation made by a State was or was not compatible with the object and purpose of the Convention.

102. What I have said explains why we abstained from voting on the article contained in document A/L.479. Notwithstanding our difficulties with some aspects of the text, we welcome the adoption of this Convention by the General Assembly. We hope that it will help in bringing to an end the evils of racial discrimination, for racial discrimination has no place in the world we, the peoples of the United Nations, are seeking to build.

103. Mr. COMBAL (France) (translated from French): The French delegation would have liked to be able to rejoice unreservedly in the adoption by the General Assembly of a draft international Convention on the Elimination of All Forms of Racial Discrimination. For that reason we regret that we felt obliged this morning to oppose the adoption of the amendment [A/L.479] to insert a new article 20 in the text of the draft Convention.

104. While paragraph 3 of this document merely reiterates generally recognized international principles, paragraphs 1 and 2 introduce new ideas which my delegation cannot endorse.

105. In the first place, paragraph 1, because of ambiguous or perhaps merely inept drafting, would be likely to extend beyond the sphere of the States parties to the Convention the procedure for examining reservations and make it possible for States that are not and never will be parties to the Convention to be seized of reservations submitted by others which had decided to accede to the Convention.

106. The French delegation likewise felt obliged to vote against paragraph 2. The admissibility of ratifications or accessions subject to reservations should be decided upon normally by each Contracting State on the basis of legal considerations; but the procedure envisaged—the submission of such decisions for approval by a two-thirds majority of the Contracting States—does not respect that rule; it introduces into the draft Convention not only a principle foreign to the spirit of a contractual instrument, but also an element of a political nature calculated to distort the purpose and scope of the instrument.

107. The French delegation was nevertheless able to vote in favour of the draft international Convention as a whole. To be sure, several of its provisions, in addition to the new article 20 just added by the General Assembly, evoked criticism and reservations. Moreover, there are still too many places where the text transmitted by the Third Committee has shortcomings attributable to the *ad hoc* nature of the wording used and the undue haste with which the Committee frequently had to take decisions. However, the lofty moral and humanitarian aims of this instrument, combined with the need to provide the international community with a text, even though an imperfect one, which should at any rate help it to remove this blot on human society—racial discrimination—seemed to my delegation reasons enough for waiving our difficulties and joining with

those who have supported the Convention on the Elimination of All Forms of Racial Discrimination.

108. Mr. BOSCO (Italy) (translated from French): The Italian delegation has given its enthusiastic approval to the draft International Convention on the Elimination of All Forms of Racial Discrimination, which was discussed at great length by the Third Committee and carefully drawn up by eminent jurists.

109. We are convinced that today's date will constitute a landmark in the history of the United Nations. The document submitted to us for approval is not merely the outcome of heavy labours and close co-operation within the Organization; it is first and foremost a solemn affirmation of the will of the peoples of those nations to do away once and for all with abominable doctrines and practices which for too many centuries, and until the present day, have been the cause of suffering and manifold distress. No one can fail to remember the millions of victims that racial hatred and anti-semitism have made in our generation. No one can fail to be conscience-stricken and revolted by the policy of racial segregation which, alas, is still rife today. It is hardly necessary to recall here how many times the voice of the United Nations has been raised, affirming that all forms of racial discrimination are an offence to the dignity of the human person and that therefore they cannot be justified de jure, let alone tolerated de facto in any shape or form.

110. The Universal Declaration of Human Rights has pointed the way for us. The draft Convention just adopted is the means, the tool forged by the United Nations for attaining the ends of the Declaration. It is now for our countries, our Parliaments and Governments, to become parties to the Convention and adopt the measures they deem most appropriate for implementing it.

111. In conclusion, I am happy to declare here on behalf of my delegation that the affirmative vote we have cast is the solemn expression of our full moral support for the principles and obligations of this Convention, which the law and policies of the Italian Republic has always supported.

112. Mr. MOROZOV (Union of Soviet Socialist Republics) (translated from Russian): The Soviet delegation voted in favour of the adoption of the Convention on the Elimination of all Forms of Discrimination. We believe that the Convention just adopted will be warmly welcomed by world public opinion and that its adoption will be regarded by all progressive people as an event of great international importance.

113. Racism and racial discrimination are such shameful and odious products of imperialism and colonialism that all peoples and all decent human beings are resolutely demanding that they be ended.

114. Even now the policy of racism and racial discrimination is still causing millions of people mental and physical suffering and constituting a source of hostility and conflict not only in relations between individuals and peoples but also between States, thereby creating an immediate threat to international peace and security.

115. We all know—and there is no need to dwell on the subject at this time—that there is abundant and irrefutable evidence that racist ideas and policies still prevail in a number of countries in the fields of administration, the economy, education, public health, social security, family relations and the like.

116. Hence the adoption of the Convention on the Elimination of All Forms of Racial Discrimination is a logical development of the historic United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples, and of the Declaration on the Elimination of All Forms of Racial Discrimination, adopted earlier by the General Assembly [1904 (XVIII)].

117. Today, at its twentieth session, and on the twentieth anniversary of the founding of the United Nations, the General Assembly has added a memorable page to the annals of the Organization.

118. The delegation of the Soviet Union, representing the peoples of the Soviet State, who feel the deepest sympathy and understanding for peoples who have to endure apartheid, segregation and other manifestations of racism, has made every effort to help to formulate a meaningful convention on the elimination of all forms of racial discrimination. The drafting of the Convention revealed that, despite the fact that racism has been branded as a most grievous crime against mankind, and despite the adoption of a special declaration resolutely condemning racism and all forms of racial discrimination, there is still a tendency on the part of certain States to hinder the implementation of these United Nations decisions, to emasculate them, to interpret these documents in such a way as to reduce to nothing or belittle their practical significance. Interpretations of this kind have been put forward in the Third Committee also and reflected in the statements of some speakers at the present session of the General Assembly. It is also a regrettable fact that they are advanced precisely by delegations of countries which, like the United States for example, have so far obstinately refused to ratify agreements and conventions previously prepared by the United Nations and designed to promote the fulfilment of one of the tasks laid down in the United Nations Charter—the task of promoting universal respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion.

119. It should also be pointed out that there are various other conventions, adopted earlier by the United Nations, which are still awaiting the signature of the countries whose delegations have spoken in the Third Committee, at this session of the General Assembly, also, of restricting in one way or another the Convention which we have just adopted. Suffice it to mention such instruments as the Convention against Discrimination in Education^{12/} and even such an important convention as the Convention on the Prevention and Punishment of the Crime of Genocide.^{13/}

^{12/} Convention against Discrimination in Education, adopted by the General Conference of UNESCO at its eleventh session (Paris, 14 December 1960).

^{13/} Convention of 9 December 1948 on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 (III), annex).

120. As regards the Soviet people, we are convinced that the General Assembly's decision to adopt the Convention will be fully appreciated by all the peoples of our multinational State.

121. In 1917 the Soviet people were the first in the history of mankind to put an end to discrimination and all other manifestations of the imperialist system of exploitation. More than 110 nationalities, drawn together by bonds of indissoluble friendship, go to make up the 230-million-strong people of the Soviet Union. To our people all questions connected with the elimination of racism and other forms of discrimination are a thing of the past—they are history. Soviet law strictly prohibits all forms of racial discrimination. We need only recall that the Constitution of the Soviet Union, as well as the Constitutions of all fifteen Union Republics and of all thirty Soviet Autonomous Republics, clearly establish the equality of all citizens, regardless of their race or national origin, in all fields—economic, political and social—as an immutable law. Any direct or indirect limitation of rights whatsoever or, conversely, the establishment of any direct or indirect privileges for citizens on account of their race or national origin, is punishable by law, as is any advocacy of racial or national exclusiveness or hatred and contempt.

122. We should like, in conclusion, to emphasize that it is the duty of the United Nations to ensure that the provisions of the Convention are implemented in the very near future and are strictly observed everywhere.

123. Lady GAITSKELL (United Kingdom): We did, of course, vote in favour of the Convention as a whole because we strongly support the general objectives and purposes of that Convention. We also voted for article 20 as a whole because, as the representative of Ghana pointed out, we have already on previous occasions made clear our opposition in principle to the placing of reservations on articles of implementation. We were glad to see that some of our colleagues shared this view.

124. We still, however, maintain our objections to article 15. These objections were explained in detail in Committee and there is no need for me to repeat them. Nothing has been said to refute them. The Ghanaian representative's arguments seem to turn on the assertion that the right to petition has already been granted by the Charter. This is, of course, not the case except to inhabitants of Trust Territories.

125. I shall confine myself to reiterating the general criticism of article 15 already expressed in the Third Committee by an able and distinguished colleague: it represents bad politics and worse law.

126. Mrs. MANTZOULINOS (Greece): My delegation voted for the deletion of the reservations clause when the vote was taken in the Third Committee [1368th meeting] because, in view of the amendments proposed to the draft, we thought that deletion was a better solution, taking into consideration the fact that a number of United Nations and specialized agencies conventions had not included a reservations clause. The reservations formula would permit any reservation by any State party to the Con-

vention or to any article of the Convention and, according to United Nations procedure, communication through the Secretary-General of such reservations to all States parties to the Convention, for their acceptance or disagreement.

127. In the absence of a reservations clause in a given convention, under United Nations practices and in conformity with the principles of international law no reservation could be entered into by a State if it were incompatible with the object and purposes of the convention.

128. The amendment submitted to the Assembly today [A/L.479], interpreting these principles of international law, seemed acceptable to my delegation and we voted in favour of it.

129. However, the last phrase of paragraph 2, providing that it is up to the States parties to decide, by a two-thirds majority, what is incompatible or inhibitive with regard to the object of reservations, seemed to us not a familiar clause in the proceedings of international conventions. We would have preferred to have this matter decided upon by a juridical body, rather, such as the Legal Section of the United Nations Secretariat, which would accordingly give its competent opinion on reservations entered into by States at a time of ratification or accession. This stage was provided for by the Convention.

130. Under the circumstances, however, we abstained on the last phrase of paragraph 2, but voted in favour of paragraph 2 as adopted, with the retention of its last phrase.

131. In explaining its vote in favour of resolutions A and B respectively preceding and following the text of the Convention [A/6181, para. 212] the delegation of Greece whole-heartedly welcomes the adoption of the Convention by the General Assembly. Despite some imperfections in the text, my delegation considers it an outstanding United Nations instrument, an achievement in international life. We are confident that it will effectively meet its purposes and objectives: namely, to combat racial discrimination in all its forms, and thus serve the great cause of human rights and human dignity.

132. Mr. BAROODY (Saudi Arabia): Racial discrimination should have been an anachronism a long time ago. Unfortunately, there are still certain countries and societies which practice racial discrimination, despite the fact that their national Constitutions forbid it. It is our fervent hope that the Convention we have just approved will reaffirm the right of all peoples, regardless of the colour of their skin.

133. I am happy to note that reservations have no place in such a Convention. We trust that it will not be too long before all the vestiges of racial discrimination will have disappeared from the face of this earth. The Convention has reaffirmed the fact that the United Nations, in its totality, believes that we all belong to the same human family.

134. Finally, it is indeed auspicious that the Convention has been adopted during the session which has been presided over by a scholarly, gentle and noble son of Italy—Italy, which has played a historic role in humanism, in art and in culture.

135. The PRESIDENT (translated from French): I call on the Secretary-General.

136. The SECRETARY-GENERAL: It is with great pleasure that I welcome the adoption by the General Assembly, at this twentieth session, of the International Convention on the Elimination of All Forms of Racial Discrimination.

137. I am convinced that the Convention will constitute a most valuable instrument by which the United Nations may carry forward its efforts to eradicate the vestiges of racial discrimination wherever they may persist throughout the world.

138. In the Charter, the peoples of the United Nations proclaimed their determination to reaffirm faith in fundamental human rights and in the dignity and worth of the human person. The Convention which the General Assembly has just adopted represents a significant step towards the achievement of that goal. Not only does it call for an end to racial discrimination in all its forms; it goes on to the next, and very necessary, step of establishing the international machinery which is essential to achieve that aim.

139. Since the Universal Declaration of Human Rights was adopted and proclaimed on 10 December 1948, the world has anxiously awaited the completion of other parts of what was then envisaged as an International Bill of Human Rights, consisting of the Declaration, one or more international conventions, and measures of implementation. That is why the adoption of this Convention, with its measures of implementation set out in part II, represents a most significant step towards the realization of one of the Organization's long-term goals.

140. I am most happy that this step has been taken at this time, at the culmination of the observance of the International Co-operation Year, and I am gratified that the Convention has been adopted by so decisive a vote.

141. I note that the Secretary-General has been assigned an important role in providing the Secretariat and otherwise assisting the Committee on the Elimination of Racial Discrimination which will be established when the Convention comes into effect, and the Conciliation Commission which will be appointed as required. For my part, I am pleased to say that I accept these obligations.

142. The preparation of the Convention was a co-operative effort in which many organs of the United Nations participated, including the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights, and the Economic and Social Council, and this General Assembly. In particular, it was the great initiative and drive displayed by the Third Committee which gave the Convention its full form and substance. I should like to commend them for this achievement, which is in keeping with the high hopes and expectations of the peoples of the world.

143. It is now the duty of all of us to see to it that the Convention comes into effect as soon as possible and that its terms are carried out precisely and in a spirit of mutual respect and understanding between peoples and nations, in accordance with the great humanitarian objectives of the Charter and the principles laid down in the Universal Declaration of Human Rights.

144. The PRESIDENT (translated from French): I thank the Secretary-General for his statement. Ten days or so ago, in this same Assembly Hall, we celebrated the anniversary of the Universal Declaration of Human Rights. It is a great pleasure for me, as your President, to say that there is no better way of celebrating the anniversary of the Universal Declaration than by the vote we have cast this morning at the twentieth session.

The meeting rose at 1.40 p.m.

Annex 273

U.N. General Assembly Resolution 49/60, U.N. Doc. A/RES/49/60, Declaration on Measures to Eliminate International Terrorism (9 December 1994)

General Assembly

 un.org/documents/ga/res/49/a49r060.htm

United Nations **A/RES/49/60**

Distr. GENERAL

9 December 1994

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A/RES/49/60
84th plenary meeting
9 December 1994

49/60. Measures to eliminate international terrorism

The General Assembly,

Recalling its resolution 46/51 of 9 December 1991 and its decision 48/411 of 9 December 1993,

Taking note of the report of the Secretary-General,

Having considered in depth the question of measures to eliminate international terrorism,

Convinced that the adoption of the declaration on measures to eliminate international terrorism should contribute to the enhancement of the struggle against international terrorism,

1. Approves the Declaration on Measures to Eliminate International Terrorism, the text of which is annexed to the present resolution;
2. Invites the Secretary-General to inform all States, the Security Council, the International Court of Justice and the relevant specialized agencies, organizations and organisms of the adoption of the Declaration;
3. Urges that every effort be made in order that the Declaration becomes generally known and is observed and implemented in full;
4. Urges States, in accordance with the provisions of the Declaration, to take all appropriate measures at the national and international levels to eliminate terrorism;
5. Invites the Secretary-General to follow up closely the implementation of the present resolution and the Declaration, and to submit to the General Assembly at its fiftieth session a report thereon, relating, in particular, to the modalities of implementation of paragraph 10 of the

Declaration;

6. Decides to include in the provisional agenda of its fiftieth session the item entitled "Measures to eliminate international terrorism", in order to examine the report of the Secretary-General requested in paragraph 5 above, without prejudice to the annual or biennial consideration of the item.

ANNEX

Declaration on Measures to Eliminate International Terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the Declaration on the Strengthening of International Security, the Definition of Aggression, the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms and manifestations, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and may jeopardize the security of States,

Deeply concerned by the increase, in many regions of the world, of acts of terrorism based on intolerance or extremism,

Concerned at the growing and dangerous links between terrorist groups and drug traffickers and their paramilitary gangs, which have resorted to all types of violence, thus endangering the constitutional order of States and violating basic human rights,

Convinced of the desirability for closer coordination and cooperation among States in combating crimes closely connected with terrorism, including drug trafficking, unlawful arms trade, money laundering and smuggling of nuclear and other potentially deadly materials, and bearing in mind the role that could be played by both the United Nations and regional organizations in this respect,

Firmly determined to eliminate international terrorism in all its forms and manifestations,

Convinced also that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is an essential element for the maintenance of international peace and security,

Convinced further that those responsible for acts of international terrorism must be brought to justice,

Stressing the imperative need to further strengthen international cooperation between States in order to take and adopt practical and effective measures to prevent, combat and eliminate all forms of terrorism that affect the international community as a whole,

Conscious of the important role that might be played by the United Nations, the relevant specialized agencies and States in fostering widespread cooperation in preventing and combating international terrorism, inter alia, by increasing public awareness of the problem,

Recalling the existing international treaties relating to various aspects of the problem of international terrorism, inter alia, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on 14 December 1973, the International Convention against the Taking of Hostages, adopted in New York on 17 December 1979, the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991,

Welcoming the conclusion of regional agreements and mutually agreed declarations to combat and eliminate terrorism in all its forms and manifestations,

Convinced of the desirability of keeping under review the scope of existing international legal provisions to combat terrorism in all its forms and manifestations, with the aim of ensuring a comprehensive legal framework for the prevention and elimination of terrorism,

Solemnly declares the following:

I

1. The States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism, as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States;

2. Acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic bases of society;

3. Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them;

II

4. States, guided by the purposes and principles of the Charter of the United Nations and other relevant rules of international law, must refrain from organizing, instigating, assisting or participating in terrorist acts in territories of other States, or from acquiescing in or encouraging activities within their territories directed towards the commission of such acts;

5. States must also fulfil their obligations under the Charter of the United Nations and other provisions of international law with respect to combating international terrorism and are urged to take effective and resolute measures in accordance with the relevant provisions of international law and international standards of human rights for the speedy and final elimination of international terrorism, in particular:

(a) To refrain from organizing, instigating, facilitating, financing, encouraging or tolerating terrorist activities and to take appropriate practical measures to ensure that their respective territories are not used for terrorist installations or training camps, or for the preparation or organization of terrorist acts intended to be committed against other States or their citizens;

(b) To ensure the apprehension and prosecution or extradition of perpetrators of terrorist acts, in accordance with the relevant provisions of their national law;

(c) To endeavour to conclude special agreements to that effect on a bilateral, regional and multilateral basis, and to prepare, to that effect, model agreements on cooperation;

(d) To cooperate with one another in exchanging relevant information concerning the prevention and combating of terrorism;

(e) To take promptly all steps necessary to implement the existing international conventions on this subject to which they are parties, including the harmonization of their domestic legislation with those conventions;

(f) To take appropriate measures, before granting asylum, for the purpose of ensuring that the asylum seeker has not engaged in terrorist activities and, after granting asylum, for the purpose of ensuring that the refugee status is not used in a manner contrary to the provisions set out in subparagraph (a) above;

6. In order to combat effectively the increase in, and the growing international character and effects of, acts of terrorism, States should enhance their cooperation in this area through, in particular, systematizing the exchange of information concerning the prevention and combating of terrorism, as well as by effective implementation of the relevant international conventions and conclusion of mutual judicial assistance and extradition agreements on a bilateral, regional and multilateral basis;

7. In this context, States are encouraged to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter;

8. Furthermore States that have not yet done so are urged to consider, as a matter of priority, becoming parties to the international conventions and protocols relating to various aspects of international terrorism referred to in the preamble to the present Declaration;

III

9. The United Nations, the relevant specialized agencies and intergovernmental organizations and other relevant bodies must make every effort with a view to promoting measures to combat and eliminate acts of terrorism and to strengthening their role in this field;

10. The Secretary-General should assist in the implementation of the present Declaration by taking, within existing resources, the following practical measures to enhance international cooperation:

(a) A collection of data on the status and implementation of existing multilateral, regional and bilateral agreements relating to international terrorism, including information on incidents caused by international terrorism and criminal prosecutions and sentencing, based on information received from the depositaries of those agreements and from Member States;

(b) A compendium of national laws and regulations regarding the prevention and suppression of international terrorism in all its forms and manifestations, based on information received from Member States;

(c) An analytical review of existing international legal instruments relating to international terrorism, in order to assist States in identifying aspects of this matter that have not been covered by such instruments and could be addressed to develop further a comprehensive legal framework of conventions dealing with international terrorism;

(d) A review of existing possibilities within the United Nations system for assisting States in organizing workshops and training courses on combating crimes connected with international terrorism;

IV

11. All States are urged to promote and implement in good faith and effectively the provisions of the present Declaration in all its aspects;

12. Emphasis is placed on the need to pursue efforts aiming at eliminating definitively all acts of terrorism by the strengthening of international cooperation and progressive development of international law and its codification, as well as by enhancement of coordination between, and increase of the efficiency of, the United Nations and the relevant specialized agencies, organizations and bodies.

Annex 274

Rome Statute for the International Criminal Court, art. 30, 17 July 1998, U.N. Doc.
A/CONF.183/9

Article 28

Responsibility of commanders and other superiors

In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court:

- (a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where:
 - (i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and
 - (ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
- (b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:
 - (i) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;
 - (ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and
 - (iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

Article 29

Non-applicability of statute of limitations

The crimes within the jurisdiction of the Court shall not be subject to any statute of limitations.

Article 30

Mental element

1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge.

2. For the purposes of this article, a person has intent where:
 - (a) In relation to conduct, that person means to engage in the conduct;
 - (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.
3. For the purposes of this article, 'knowledge' means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. 'Know' and 'knowingly' shall be construed accordingly.

Article 31

Grounds for excluding criminal responsibility

1. In addition to other grounds for excluding criminal responsibility provided for in this Statute, a person shall not be criminally responsible if, at the time of that person's conduct:
 - (a) The person suffers from a mental disease or defect that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law;
 - (b) The person is in a state of intoxication that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law, unless the person has become voluntarily intoxicated under such circumstances that the person knew, or disregarded the risk, that, as a result of the intoxication, he or she was likely to engage in conduct constituting a crime within the jurisdiction of the Court;
 - (c) The person acts reasonably to defend himself or herself or another person or, in the case of war crimes, property which is essential for the survival of the person or another person or property which is essential for accomplishing a military mission, against an imminent and unlawful use of force in a manner proportionate to the degree of danger to the person or the other person or property protected. The fact that the person was involved in a defensive operation conducted by forces shall not in itself constitute a ground for excluding criminal responsibility under this subparagraph;
 - (d) The conduct which is alleged to constitute a crime within the jurisdiction of the Court has been caused by duress resulting from a threat of imminent death or of continuing or imminent serious bodily harm against that person or another person, and the person acts necessarily and reasonably to avoid this threat, provided that the person does not intend to cause a greater harm than the one sought to be avoided. Such a threat may either be:
 - (i) Made by other persons; or
 - (ii) Constituted by other circumstances beyond that person's control.

Annex 275

France, Working Document: Why an International Convention Against the Financing of Terrorism?, later reproduced as U.N. Doc. A/AC.252/L.7/Add.1, (March 11, 1999)



General Assembly

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Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996

Third session

15–26 March 1999

Draft international convention for the suppression of the financing of terrorism

Working document submitted by France

Why an international convention against the financing of terrorism?

1. Combating the financing of terrorism, whether from “lawful” activities (relating to trade, industry or charity) or “unlawful” ones (relating to racketeering, drug trafficking, procuring, armed robbery and so on), constitutes a priority objective for agencies that are actively engaged in anti-terrorist operations. A terrorist group’s ability to strike, acquire a powerful arsenal, make itself known, and recruit and train its members depends on its sources of funding.
2. Much remains to be done before the structure of international law will be complete. In particular, one major area has not been dealt with: there is as yet no international convention aimed at combating the financing of terrorism. The 11 existing international conventions do not provide investigators with adequate means of proceeding effectively against those who supply funds and those who sponsor terrorist attacks.
3. For that reason, at France’s initiative, the General Assembly decided in December 1998 to undertake negotiations aimed at the conclusion of a new convention for the suppression of the financing of terrorism. France submitted an initial draft version of this convention on 3 November 1998 (document A/C.6/53/9). At the same time, we invited all our partners to engage in very broadly-based consultations on the text with a view to making improvements to it. Thanks to that concerted effort, France has recently submitted a second version (A/AC.252/L.7), replacing the original version submitted on 3 November 1998.

The main features of the draft convention

4. *What is the meaning of “financing” under this convention (arts. 1 and 2)?* The definition of financing has been drafted so that it can be broadly interpreted: all means of financing are included within the scope of this convention, including both “unlawful” means (such as racketeering) and “lawful” means (such as private financing, public or semi-public financing, or financing provided by associations). At the same time, however, the convention is concerned only with the financing of actions of the most serious kind.

5. *Who are the persons at whom the convention is aimed (arts. 1, 2, 3, 5 and 7)?* This convention is aimed both at “those who give orders”, who are aware of the use of the funds, and contributors, who are aware of the terrorist nature of the aims and objectives of the whole or part of the association which they support with their donations in cash or in kind; it is not aimed primarily at ordinary individuals. In any case, the moral aspect of the offence (*mens rea*) affords a means of excluding from the scope of the convention persons who make donations in good faith, such as those who respond to public appeals for funds. This convention provides for a regime of liability for legal entities based on:

- Establishment of the principle of the liability of legal entities as such,
- A flexible approach to that liability, which may be criminal, civil or administrative in nature, depending on the circumstances.

6. *What is the significance of the definition of an offence (art. 2)?* The definition of an offence has been drafted with a twofold aim: Article 2.1(a) is concerned expressly with the financing of acts within the scope of existing conventions. Clearly, since not all States are parties to all anti-terrorist conventions, this paragraph provides that the convention shall apply, for a State Party, only to offences within the scope of conventions that have been ratified by that State. Article 2.1(b) is concerned with the financing of murder, defined as an act designed to cause death or serious bodily injury. Acts of this kind are not covered by existing convention (except bombings, under the recent International Convention for the Suppression of Terrorist Bombings), yet they account for approximately 30 per cent of all acts of international terrorism.

7. *The “prosecute or extradite” principle for alleged offenders under the convention (arts. 10, 13 and 14).* Criminal proceedings must be initiated under the “prosecute or extradite” principle, which is the cornerstone of this convention. Supplementing this principle, the convention includes a preventive provision that has become standard and is designed to obviate requests for extradition or mutual assistance made for the purpose of punishing the person who is the subject of the request on account of that person’s race, religion, ethnic origin and the like.

8. *The sanctions regime (arts. 4, 5 and 8).* The sanctions regime is designed to have a powerful deterrent effect: persons committing terrorist acts are subject to severe penalties. Furthermore, this draft convention also provides for the possibility of the seizure or freezing of property or assets used in committing the offence.

9. *An important measure for mutual legal assistance: the lifting of banking secrecy (art.12).* Although this convention is primarily concerned with prosecution, it gives a prominent place to mutual legal assistance. Important provisions are included: banking secrecy may not be claimed as grounds for denying assistance to investigators, and no offence may be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence.

10. *Preventive measures based on generally accepted principles followed in combating money-laundering (art. 17).* All magistrates and police investigators who were consulted

prior to and during the drafting of this convention emphasized one point in particular: it is very difficult to find evidence in financial cases. Consequently, this convention includes a number of provisions which are directly based on generally accepted principles followed in combating money-laundering, and which are designed to encourage States to adopt domestic measures to require financial institutions to improve the identification of their usual or occasional customers, notably by prohibiting the opening of anonymous accounts, formally identifying account holders, and preserving for at least five years the necessary documents in connection with the transactions carried out.

Annex 276

U.N.G.A. Ad Hoc Comm. established by G.A. Res. 51/210 of 17 Dec. 1996, Rep. on its 3d session, 15-16 March 1999, U.N. Doc. A/54/37 (5 May 1999), Annex III, para. 1, Annex VI

General Assembly

 un.org/documents/ga/res/51/a51r210.htm

United Nations **A/RES/51/210**

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A/RES/51/210
88th plenary meeting
17 December 1996

51/210. Measures to eliminate international terrorism

The General Assembly,

Recalling its resolution 49/60 of 9 December 1994, by which it adopted the Declaration on Measures to Eliminate International Terrorism, and its resolution 50/53 of 11 December 1995,

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,

Guided by the purposes and principles of the Charter of the United Nations,

Deeply disturbed by the persistence of terrorist acts, which have taken place worldwide,

Stressing the need further to strengthen international cooperation between States and between international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism,

Noting, in this context, all regional and international efforts to combat international terrorism, including those of the Organization of African Unity, the Organization of American States, the Organization of the Islamic Conference, the South Asian Association for Regional Cooperation, the European Union, the Council of Europe, the Movement of Non-Aligned Countries and the countries of the group of seven major industrialized countries and the Russian Federation,

Taking note of the report of the Director-General of the United Nations Educational, Scientific and Cultural Organization on educational activities under the project entitled "Towards a culture of peace",

Recalling that in the Declaration on Measures to Eliminate International Terrorism the General Assembly encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there was a comprehensive legal framework covering all aspects of the matter,

Bearing in mind the possibility of considering in the future the elaboration of a comprehensive convention on international terrorism,

Noting that terrorist attacks by means of bombs, explosives or other incendiary or lethal devices have become increasingly widespread, and stressing the need to supplement the existing legal instruments in order to address specifically the problem of terrorist attacks carried out by such means,

Recognizing the need to enhance international cooperation to prevent the use of nuclear materials for terrorist purposes and to develop an appropriate legal instrument,

Recognizing also the need to strengthen international cooperation to prevent the use of chemical and biological materials for terrorist purposes,

Convinced of the need to implement effectively and supplement the provisions of the Declaration on Measures to Eliminate International Terrorism,

Having examined the report of the Secretary-General,

I

1. Strongly condemns all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed;

2. Reiterates that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

3. Calls upon all States to adopt further measures in accordance with the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider the adoption of measures such as those contained in the official document adopted by the group of seven major industrialized countries and the Russian Federation at the Ministerial Conference on Terrorism, held in Paris on 30 July 1996, and the plan of action adopted by the Inter-American Specialized Conference on Terrorism, held at Lima from 23 to 26 April 1996 under the auspices of the Organization of American States, and in particular calls upon all States:

(a) To recommend that relevant security officials undertake consultations to improve the capability of Governments to prevent, investigate and respond to terrorist attacks on public facilities, in particular means of public transport, and to cooperate with other Governments in this respect;

(b) To accelerate research and development regarding methods of detection of explosives and other harmful substances that can cause death or injury, undertake consultations on the development of standards for marking explosives in order to identify their origin in post-blast investigations, and promote cooperation and transfer of technology, equipment and related materials, where appropriate;

(c) To note the risk of terrorists using electronic or wire communications systems and networks to carry out criminal acts and the need to find means, consistent with national law, to prevent such criminality and to promote cooperation where appropriate;

(d) To investigate, when sufficient justification exists according to national laws, and acting within their jurisdiction and through appropriate channels of international cooperation, the abuse of organizations, groups or associations, including those with charitable, social or cultural goals, by terrorists who use them as a cover for their own activities;

(e) To develop, if necessary, especially by entering into bilateral and multilateral agreements and arrangements, mutual legal assistance procedures aimed at facilitating and speeding investigations and collecting evidence, as well as cooperation between law enforcement agencies in order to detect and prevent terrorist acts;

(f) To take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds;

4. Also calls upon all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

5. Reiterates its call upon States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

6. Urges all States that have not yet done so to consider, as a matter of priority, becoming parties to the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September

1971, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on 14 December 1973, the International Convention against the Taking of Hostages, adopted in New York on 17 December 1979, the Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988, and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991, and calls upon all States to enact, as appropriate, domestic legislation necessary to implement the provisions of those Conventions and Protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts and to provide support and assistance to other Governments for those purposes;

II

7. Reaffirms the Declaration on Measures to Eliminate International Terrorism contained in the annex to resolution 49/60;

8. Approves the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, the text of which is annexed to the present resolution;

III

9. Decides to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, to elaborate an international convention for the suppression of terrorist bombings and, subsequently, an international convention for the suppression of acts of nuclear terrorism, to supplement related existing international instruments, and thereafter to address means of further developing a comprehensive legal framework of conventions dealing with international terrorism;

10. Decides also that the Ad Hoc Committee will meet from 24 February to 7 March 1997 to prepare the text of a draft international convention for the suppression of terrorist bombings, and recommends that work continue during the fifty-second session of the General Assembly from 22 September to 3 October 1997 in the framework of a working group of the Sixth Committee;

11. Requests the Secretary-General to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

12. Requests the Ad Hoc Committee to report to the General Assembly at its fifty-second session on progress made towards the elaboration of the draft convention;

13. Recommends that the Ad Hoc Committee be convened in 1998 to continue its work as referred to in paragraph 9 above;

IV

14. Decides to include in the provisional agenda of its fifty-second session the item entitled "Measures to eliminate international terrorism".

ANNEX

Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Declaration on Measures to Eliminate International Terrorism adopted by the General Assembly by its resolution 49/60 of 9 December 1994,

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,

Deeply disturbed by the worldwide persistence of acts of international terrorism in all its forms and manifestations, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and may jeopardize the security of States,

Underlining the importance of States developing extradition agreements or arrangements as necessary in order to ensure that those responsible for terrorist acts are brought to justice,

Noting that the Convention relating to the Status of Refugees, done at Geneva on 28 July 1951, does not provide a basis for the protection of perpetrators of terrorist acts, noting also in this context articles 1, 2, 32 and 33 of the Convention, and emphasizing in this regard the need for States parties to ensure the proper application of the Convention,

Stressing the importance of full compliance by States with their obligations under the provisions of the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, including the principle of non-refoulement of refugees to places where their life or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group or political opinion, and affirming that the present Declaration does not affect the protection afforded under the terms of the Convention and Protocol and other provisions of international law,

Recalling article 4 of the Declaration on Territorial Asylum adopted by the General Assembly by its resolution 2312 (XXII) of 14 December 1967,

Stressing the need further to strengthen international cooperation between States in order to prevent, combat and eliminate terrorism in all its forms and manifestations,

Solemnly declares the following:

1. The States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed, including those which jeopardize friendly relations among States and peoples and threaten the territorial integrity and security of States;
2. The States Members of the United Nations reaffirm that acts, methods and practices of terrorism are contrary to the purposes and principles of the United Nations; they declare that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;
3. The States Members of the United Nations reaffirm that States should take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not participated in terrorist acts, considering in this regard relevant information as to whether the asylum-seeker is subject to investigation for or is charged with or has been convicted of offences connected with terrorism and, after granting refugee status, for the purpose of ensuring that that status is not used for the purpose of preparing or organizing terrorist acts intended to be committed against other States or their citizens;
4. The States Members of the United Nations emphasize that asylum-seekers who are awaiting the processing of their asylum applications may not thereby avoid prosecution for terrorist acts;
5. The States Members of the United Nations reaffirm the importance of ensuring effective cooperation between Member States so that those who have participated in terrorist acts, including their financing, planning or incitement, are brought to justice; they stress their commitment, in conformity with the relevant provisions of international law, including international standards of human rights, to work together to prevent, combat and eliminate terrorism and to take all appropriate steps under their domestic laws either to extradite terrorists or to submit the cases to their competent authorities for the purpose of prosecution;
6. In this context, and while recognizing the sovereign rights of States in extradition matters, States are encouraged, when concluding or applying extradition agreements, not to regard as political offences excluded from the scope of those agreements offences connected with terrorism which endanger or represent a physical threat to the safety and security of persons, whatever the motives which may be invoked to justify them;
7. States are also encouraged, even in the absence of a treaty, to consider facilitating the extradition of persons suspected of having committed terrorist acts, insofar as their national laws permit;
8. The States Members of the United Nations emphasize the importance of taking steps to share expertise and information about terrorists, their movements, their support and their weapons and to share information regarding the investigation and prosecution of terrorist acts.

Annex 277

Annex III, Report of the Working Group on Measures to Eliminate International Terrorism,
54th Session, U.N. Doc. No. A/C.6/54/L.2, at 58 (26 October 1999)



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Measures to eliminate international terrorism

Measures to eliminate international terrorism

Report of the Working Group

Chairman: Mr. Philippe **Kirsch** (Canada)

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I. Introduction

1. The General Assembly, in its resolution 53/108 of 8 December 1998, *inter alia*, decided that the Ad Hoc Committee established pursuant to resolution 51/210 of 17 December 1996 should hold its third session from 15 to 26 March 1999, devoting appropriate time to the consideration of the outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism, and should initiate the elaboration of a draft international convention for the suppression of terrorist financing. It further recommended that the work should continue during the fifty-fourth session of the General Assembly, from 27 September to 8 October 1999, within the framework of a working group of the Sixth Committee.

2. Accordingly, the Sixth Committee, at its 2nd meeting, on 27 September 1999, established such a Working Group and elected Mr. Philippe Kirsch (Canada) as its Chairman.

3. The Sixth Committee also decided, at its 2nd meeting, to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency (IAEA). At its 1st meeting, on 27 September 1999, the Working Group decided to invite the representatives of IAEA, as well as representatives of the International Committee of the Red Cross (ICRC) and the International Criminal Police Organization (Interpol) to participate in its discussions. At its 5th meeting, on 29 September 1999, the Working Group decided to allow the Asian-African Legal Consultative Committee (AALCC) to participate as an observer in the work of the Working Group.

4. The Working Group held 11 meetings, from 27 September to 8 October 1999.

5. The Working Group had before it the report of the Working Group of the Sixth Committee (A/C.6/53/L.4), wherein a revised text of the draft convention on the suppression of acts of nuclear terrorism prepared by the Friends of the Chairman was presented (annex I), as well as the report of the Ad Hoc Committee on the work of its third session,¹ containing, *inter alia*, a discussion paper submitted by the Bureau of the Ad Hoc Committee on articles 3 to 25² and a working paper prepared by France on articles 1 and 2 of the draft international convention for the suppression of the financing of terrorism.³

6. The Working Group also had before it oral and written proposals submitted during its meetings. The texts

of the written proposals are contained in annex II to the present report.

7. A request was made to circulate the comments by the United Nations High Commissioner for Refugees in relation to article 2 of the draft convention,⁴ for the information of delegations.

8. The Working Group paid tribute to its Chairman, Mr. Philippe Kirsch (Canada), for his contribution to the codification and progressive development of international law in the area of suppression of international terrorism, as well as in other important fields.

II. Proceedings of the Working Group

A. Elaboration of the draft international convention for the suppression of acts of nuclear terrorism

9. At its 1st meeting, on 27 September 1999, the Chairman of the Working Group stated that while some consultations had been held on the draft convention for the suppression of acts of nuclear terrorism prior to the Working Group, broader consultations were required to find an acceptable solution to the remaining issues concerning the scope of the Convention. He indicated that he would give as much time as necessary to those consultations during the session of the Working Group.

10. At its 11th meeting, on 8 October 1999, the Chairman informed the Working Group that a number of delegates had held discussions, on an individual basis, on the question of the draft convention during the session. While there appeared to be a willingness among delegations to continue work on the convention, it was determined that the time was not opportune for the convening of informal consultations during the Working Group.

11. The Chairman indicated that he remained convinced, as did the Friends of the Chairman, that a solution to the question of the convention for the suppression of acts of nuclear terrorism could be found if the political will existed. To that end, he appointed Ms. Cate Steains (Australia) to act as coordinator on the issue, with a view to organizing open-ended informal consultations at the appropriate time to develop such a solution. The Chairman further stated that, since the Working Group's session was concluding, he intended to consult with the Chairman of the Sixth Committee and would recommend that Ms.

Steains report to the Chairman of the Sixth Committee on the outcome of her efforts.

12. The coordinator for the draft convention noted that a number of informal discussions had taken place in the period following the last session of the Sixth Committee in an attempt to move the process forward, including efforts by a small group of delegates to prepare an informal discussion paper containing two new proposals, which had been made available to the delegations at the 11th meeting of the Working Group. It was observed that, while the paper had no higher status than other proposals on the topic, it was built on the earlier proposals and could make a valuable contribution to the work on the draft convention. The coordinator invited the delegations to provide her with their comments as soon as possible, preferably by the end of October 1999, and to submit any other proposals which would help delegations reach an acceptable compromise.

13. In terms of process, the coordinator believed it useful, initially, to conduct bilateral consultations on as wide a basis as possible with interested delegations. She indicated that she would be at the disposal of any delegations to discuss the issue either individually or in small groups. Following those bilateral consultations, the coordinator would propose to convene open-ended informal consultations as soon as possible during the current session of the Sixth Committee, and to report to the Chairman of the Sixth Committee on their outcome. She acknowledged that there was an enormous task ahead to resolve the outstanding issue of the draft convention, but felt confident that if delegations were to intensify their efforts and worked together constructively towards that end, they would be in a position to adopt a text that would be acceptable to all delegations.

B. Elaboration of the draft international convention for the suppression of the financing of terrorism

14. Discussions were held both in the Working Group and in informal consultations. On the basis of those discussions as well as written or oral proposals and amendments submitted to the Working Group, a new discussion paper on articles 5, 7, 8, 12 and 17 was prepared by the Friends of the Chairman for consideration by the Working Group (A/C.6/54/WG.1/CRP.15), which was further revised by the Friends of the Chairman during the session of the Working Group (A/C.6/54/WG.1/CRP.15/Rev.1, 2 and 3). A revised text of article 1 was also submitted by the coordinator of the

informal consultations (A/C.6/54/WG.1/CRP.32). A revised text of article 2 was orally introduced by the coordinator of the informal consultations at the 10th meeting of the Working Group. A discussion paper on the preamble (A/C.6/54/WG.1/CRP.30) and its revision (A/C.6/54/WG.1/CRP.30/Rev.1) were submitted by the delegation of France.

15. Following the discussions of those revised texts of draft articles, and taking into account the comments by delegations on those texts, the Friends of the Chairman prepared a revised text of the draft convention (A/C.6/54/WG.1/CRP.35 and CRP.35/Rev.1) (see annex I to the present report). The text contained in document A/C.6/54/WG.1/CRP.35/Rev.1 was orally amended at the 11th meeting of the Working Group in respect of article 7, paragraph 6 (see annex III, para. 205).

16. At the 11th meeting of the Working Group, the Chairman made a statement regarding the term "armed conflict" contained in article 2, paragraph 1 (b), of the draft convention (*ibid.*, para. 109).

17. Annex III to the present report contains an informal summary of the discussions in the Working Group prepared by the Chairman for reference purposes only and not as a record of the discussions.

III. Recommendations of the Working Group

18. At its 11th meeting, the Working Group decided to submit the draft international convention for the suppression of the financing of terrorism, contained in annex I to the present report, to the Sixth Committee for discussion and consideration. The Sixth Committee may wish to subsequently submit the draft convention to the General Assembly with a view to its adoption.

19. Also at its 11th meeting, the Working Group decided to recommend that the coordinator for the draft international convention for the suppression of acts of nuclear terrorism consult with the Chairman and Bureau of the Sixth Committee on the organization of consultations on the draft convention and report to the Chairman of the Sixth Committee on the outcome of those consultations.

Notes

¹ *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 37 (A/54/37).*

² *Ibid.*, annex I.A.

³ *Ibid.*, annex I.B.

Annex I

Revised text prepared by the Friends of the Chairman

Preamble

The States Parties to this Convention,

Bearing in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, contained in General Assembly resolution 50/6 of 24 October 1995,

Recalling also all the relevant General Assembly resolutions on the matter, including resolution 49/60 of 9 December 1994 and its annex on the Declaration on Measures to Eliminate International Terrorism, in which the States Members of the United Nations solemnly reaffirmed their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States,

Noting that the Declaration on Measures to Eliminate International Terrorism also encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Recalling General Assembly resolution 51/210 of 17 December 1996, paragraph 3, subparagraph (f), in which the Assembly called upon all States to take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds,

Recalling also General Assembly resolution 52/165 of 15 December 1997, in which the Assembly called upon States to consider, in particular, the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210 of 17 December 1996,

Recalling further General Assembly resolution 53/108 of 8 December 1998, in which the Assembly decided that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should elaborate a draft international convention for the suppression of terrorist financing to supplement related existing international instruments,

Considering that the financing of terrorism is a matter of grave concern to the international community as a whole,

Noting that the number and seriousness of acts of international terrorism depend on the financing that terrorists may obtain,

Noting also that existing multilateral legal instruments do not expressly address such financing,

Being convinced of the urgent need to enhance international cooperation among States in devising and adopting effective measures for the prevention of the financing of terrorism, as well as for its suppression through the prosecution and punishment of its perpetrators,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. “Funds” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.
2. “A State or governmental facility” means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.
3. “Proceeds” means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

2. (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall

cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;

(b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.

3. For an act to constitute an offence set forth in paragraph 1, it shall not be necessary that the funds were actually used to carry out an offence referred to in paragraph 1, subparagraphs (a) or (b).

4. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

5. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;

(c) Contributes to the commission of one or more offences as set forth in paragraphs 1 or 4 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 7, paragraph 1, or article 7, paragraph 2, to exercise jurisdiction, except that the provisions of articles 12 to 18 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of the offences.

Article 5

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that

legal entity has, in that capacity, committed an offence set forth in article 2. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 6

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State;

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed;

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State;

(b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including diplomatic or consular premises of that State;

(c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act;

(d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State;

(e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender

is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. Without prejudice to the norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 8

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds used or allocated for the purpose of committing the offences set forth in article 2 and the proceeds derived from such offences.

3. Each State Party concerned may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of the funds derived from the forfeitures referred to in this article.

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Article 9

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 7, paragraph 1, subparagraph (b), or paragraph 2, subparagraph (b), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 7, paragraph 1 or 2, and, if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 10

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 7 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 11

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.
4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 7, paragraphs 1 and 2.
5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.
2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.
3. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.
4. Each State Party may give consideration to establishing mechanisms to share with other State Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 5.
5. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 13

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. Accordingly, States Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 14

None of the offences set forth in article 2 shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not

be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 15

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 16

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences set forth in article 2 may be transferred if the following conditions are met:

- (a) The person freely gives his or her informed consent;
- (b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of the present article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State to which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 17

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

Article 18

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, *inter alia*, by adapting their domestic legislation, if necessary, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring financial institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened, and to pay special attention to unusual or suspicious transactions and report transactions suspected of stemming from a criminal activity. For this purpose, States Parties shall consider:

(i) Adopting regulations prohibiting the opening of accounts the holders or beneficiaries of which are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of the real owners of such transactions;

(ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;

(iii) Adopting regulations imposing on financial institutions the obligation to report promptly to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith;

(iv) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international.

2. States Parties shall further cooperate in the prevention of offences set forth in article 2 by considering:

(a) Measures for the supervision, including, for example, the licensing, of all money-transmission agencies;

(b) Feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.

3. States Parties shall further cooperate in the prevention of the offences set forth in article 2 by exchanging accurate and verified information in accordance with their

domestic law and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

(i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;

(ii) The movement of funds relating to the commission of such offences.

4. States Parties may exchange information through the International Criminal Police Organization (Interpol).

Article 19

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 20

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 21

Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes of the Charter of the United Nations, international humanitarian law and other relevant conventions.

Article 22

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 23

1. The annex may be amended by the addition of relevant treaties that:

(a) Are open to the participation of all States;

(b) Have entered into force;

(c) Have been ratified, accepted, approved or acceded to by at least twenty-two States Parties to the present Convention.

2. After the entry into force of this Convention, any State Party may propose such an amendment. Any proposal for an amendment shall be communicated to the depositary in written form. The depositary shall notify proposals that meet the requirements of paragraph 1 to all States Parties and seek their views on whether the proposed amendment should be adopted.

3. The proposed amendment shall be deemed adopted unless one third of the States Parties object to it by a written notification not later than 180 days after its circulation.

4. The adopted amendment to the annex shall enter into force 30 days after the deposit of the twenty-second instrument of ratification, acceptance or approval of such amendment for all those States Parties having deposited such an instrument. For each State Party ratifying, accepting or approving the amendment after the deposit of the twenty-second instrument, the amendment shall enter into force on the thirtieth day after deposit by such State Party of its instrument of ratification, acceptance or approval.

Article 24

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 25

1. This Convention shall be open for signature by all States from ... until ... at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 26

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.
2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 27

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.
2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 28

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on

Annex

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
5. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980.
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.
7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.

9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

Annex II

Discussion papers, written amendments and proposals submitted to the Working Group

<i>Country</i>	<i>Symbol</i>	<i>Subject*</i>
1. Guatemala	A/C.6/54/WG.1/CRP.1	Article 5, para.1
2. Netherlands	A/C.6/54/WG.1/CRP.2	Article 1, para.1
3. Belgium	A/C.6/54/WG.1/CRP.3	Article 2, para. 1 (b)
4. Belgium	A/C.6/54/WG.1/CRP.4	Article 19 <i>bis</i> [21]
5. Guatemala	A/C.6/54/WG.1/CRP.5	Article 1, paras. 1 and 3
6. Mexico	A/C.6/54/WG.1/CRP.6	Article 1
7. Republic of Korea	A/C.6/54/WG.1/CRP.7	Article 2, para. 1 (a)
8. Japan	A/C.6/54/WG.1/CRP.8	Article 8, para. 6
9. France	A/C.6/54/WG.1/CRP.9	Article 1
10. Mexico	A/C.6/54/WG.1/CRP.10	Article 2
11. United Kingdom of Great Britain and Northern Ireland	A/C.6/54/WG.1/CRP.11	Article 20 <i>bis</i> [23]
12. Austria	A/C.6/54/WG.1/CRP.12	Article 2, para. 1 (a)
13. Mexico	A/C.6/54/WG.1/CRP.13	Article 17, 1 (b) [18]
14. Costa Rica and Mexico	A/C.6/54/WG.1/CRP.14	Article 2, 1 (b)
15. Revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman	A/C.6/54/WG.1/CRP.15	Articles 5, 7, 8, 12 and 17 [18]
16. Revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman	A/C.6/54/WG.1/CRP.15/Rev.1	Articles 5, 7, 8, 12 and 17 [18]
17. Revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman	A/C.6/54/WG.1/CRP.15/Rev.2	Articles 5, 7, 8, 12 and 17 [18]
18. Revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman	A/C.6/54/WG.1/CRP.15/Rev.3	Articles 5, 7, 8, 12 and 17 [18]
19. United Kingdom of Great Britain and Northern Ireland	A/C.6/54/WG.1/CRP.16	Articles 1 and 2
20. Guatemala	A/C.6/54/WG.1/CRP.17	Article 8, para. 4
21. United Kingdom of Great Britain and Northern Ireland	A/C.6/54/WG.1/CRP.18	Article 2, para. 1 (a)
22. Guatemala	A/C.6/54/WG.1/CRP.19	Article 5
23. Guatemala	A/C.6/54/WG.1/CRP.20	Article 20 <i>bis</i> [23], para. 1
24. Mexico	A/C.6/54/WG.1/CRP.21	Article 5, para. 4
25. France	A/C.6/54/WG.1/CRP.22	Article 17 [18]
26. Syrian Arab Republic	A/C.6/54/WG.1/CRP.23	Article 2
27. Syrian Arab Republic	A/C.6/54/WG.1/CRP.24	Articles 5, 7 and 8
28. Brazil	A/C.6/54/WG.1/CRP.25	Article 2, para. 1
29. Netherlands	A/C.6/54/WG.1/CRP.26	Article 2
30. Colombia, Costa Rica and Mexico	A/C.6/54/WG.1/CRP.27	Article 2
31. Mexico	A/C.6/54/WG.1/CRP.28	Article 5, para. 3
32. Australia	A/C.6/54/WG.1/CRP.29	Article 5
33. France	A/C.6/54/WG.1/CRP.30	Preamble
34. France	A/C.6/54/WG.1/CRP.30/Rev.1	Preamble

<i>Country</i>	<i>Symbol</i>	<i>Subject*</i>
35. Draft report of the Working Group	A/C.6/54/WG.1/CRP.31 and Add.1-12	
36. Revised discussion paper presented by the coordinator on article 1	A/C.6/54/WG.1/CRP.32	Article 1
37. India	A/C.6/54/WG.1/CRP.33	Article 2, para. 1 (b)
38. Pakistan and Syrian Arab Republic	A/C.6/54/WG.1/CRP.34	Preamble
39. Revised text prepared by the Friends of the Chairman	A/C.6/54/WG.1/CRP.35	Preamble, articles 1, 3 to 25 [28]
40. Revised text prepared by the Friends of the Chairman	A/C.6/54/WG.1/CRP.35/Rev.1	Preamble, articles 1 to 28
41. Kuwait	A/C.6/54/WG.1/CRP.36	Preamble, articles 1, 2, 4, 5, 7, 8, 17 [18] and Annex

* Equivalent provisions contained in the articles in document A/C.6/54/WG.1/CRP.35/Rev.1 (see annex I) are indicated in square brackets.

1. Proposal submitted by Guatemala (A/C.6/54/WG.1/CRP.1)

Article 5

Paragraph 1

1. Each State Party, acting individually or, where necessary or appropriate, in cooperation with other States Parties, shall use all the means provided by the facts or circumstances of each case to ensure that legal entities may be held liable or sanctioned when they have, with the full knowledge of one or more persons responsible for their management or control, benefited from or committed offences set forth in article 2. The factors which each State Party shall take into account for such purposes shall include:

(a) That the activities of the legal entity are carried out in the territory of the State Party or that the legal entity owns or holds assets in that territory;

(b) That the legal entity has its registered offices in the territory of the State Party or, if not, that it is controlled from that territory;

(c) That the legal entity is constituted under the laws of the State Party or has its nationality.

Explanatory comments: The purpose of the proposed text is to strengthen, broaden and make more effective, to the extent possible, the obligation of States Parties to hold liable or sanction legal entities that commit offences under the Convention. It is felt that this text comes closer to fulfilling this purpose than the text contained in annex I, part A, of the report of the Ad Hoc Committee (A/54/37).

2. Proposal by the Netherlands (A/C.6/54/WG.1/CRP.2)

Article 1

Paragraph 1

Substitute [or acquisition] for [or reception]

Explanation:

“Acquisition” is a more active manner to obtain funds and the term furthermore avoids difficulties which delegations may have regarding the element of “reception” (in article 1, paragraph 1) in relation to the requirement of “knowledge” (in article 2, paragraph 1, *chapeau*).

3. Proposal submitted by Belgium (A/C.6/54/WG.1/CRP.3)

Article 2

Paragraph 1 (b)

Replace article 2, paragraph 1 (b), with the following text:

“A murder, when, in view of its context, it provokes terror in the population and is likely to intimidate a government”.

4. Proposal submitted by Belgium (A/C.6/54/WG.1/CRP.4)

Add an article 19 *bis* [21]

“In case of armed conflict, as defined by international humanitarian law, acts governed by this law shall be excluded from the scope of application of the present Convention.”

5. Proposal submitted by Guatemala (A/C.6/54/WG.1/CRP.5)

Article 1

Paragraph 2

Replace the second comma in the first line with a period and delete the remainder of the paragraph.

Paragraph 3

Replace all that follows the first comma in the second line with “and whether or not the group constitutes a legal entity”.

6. Proposal submitted by Mexico (A/C.6/54/WG.1/CRP.6)

Article 1

1. Replace paragraph 3 by the following text:

3. “Organization” means any group of persons united by ties of hierarchy or coordination, whatever their declared objectives, and legal entities such as companies, partnerships or associations.

2. Add a new paragraph 5, as follows:

5. “Profit from the offence” means any advantage or benefit derived from the offences referred to in article 2, including resources, assets or entitlements of any kind.

3. Add a new paragraph 6, as follows:

6. “Financial institution” means banking and non-banking entities, including financial or exchange brokers, which provide financial services.

7. Proposal by the Republic of Korea concerning article 2, paragraph 1 (a) (A/C.6/54/WG.1/CRP.7)

The delegation of the Republic of Korea proposes to replace the present wording of paragraph 1 (a) with the following:

Option 1:

(a) an offence within the scope of one of the Conventions listed in annex I to this Convention, subject to its ratification, acceptance, approval, or accession thereto by the State Party; or

Option 2:

(a) an offence specified in the treaties in annex I to this Convention, subject to its ratification, acceptance, approval, or accession thereto by the State Party; or

8. Proposal submitted by Japan (A/C.6/54/WG.1/CRP.8)

Article 8

New paragraph 6

Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

9. Proposal by France (A/C.6/54/WG.1/CRP.9)

Article 1

For the purposes of this Convention,

1. “Financing” means providing/making available or obtaining/accepting/receiving funds.¹
2. “Funds” means assets/property of every kind, tangible or intangible, however acquired, including but not limited to cash, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit or any other negotiable instrument in any form, including electronic or digital form.²
3. “Organization” means any group of two or more persons, and any legal entity such as a company, a partnership, or an association.
4. “A State or government facility” means any permanent or temporary facility or conveyance that is issued or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.³

10. Proposal submitted by Mexico (A/C.6/54/WG.1/CRP.10)

Article 2

Add one new paragraph to article 2, as follows:

¹ A decision will have to be made on whether or not to maintain this paragraph.

² Alternative based on the Vienna Drugs Convention: “Funds means assets of every kind, whether tangible or intangible, movable or immovable, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.”

³ It has been proposed to move this definition to article 7.

5. The knowledge, intention or purpose required as elements of the offences established in this article shall be inferred from well-founded evidence or objective and actual circumstances.

11. Revised proposal submitted by the United Kingdom of Great Britain and Northern Ireland (A/C.6/54/WG.1/CRP.11)

Article 20 *bis* [23]

1. On depositing its instrument of ratification, acceptance or approval of, or accession to, this Convention, a State Party which is not a party to a treaty listed in the Annex may declare that, in the application of this Convention to that State Party, offences specified in that treaty shall not be treated as offences referred to in article 2, paragraph 1, subparagraph (a). Such declaration shall cease to have effect as soon as the treaty enters into force for that State Party, which shall notify the depositary of that fact, and the depositary shall so notify the other States Parties.

2. States Parties may propose the addition to the Annex of offences specified in another treaty even if the treaty is not yet in force. Once the depositary has received such a proposal from [22] States Parties, the Annex shall be deemed to have been so amended [90] days after the depositary has informed all States Parties that he has received [22] such proposals. However, a State Party which does not agree with the proposal may, before or during the said period of [90] days, declare that the addition shall not apply to that State Party. Such declaration shall cease to have effect as soon as the State Party notifies the depositary of this, and the depositary shall so notify the other States Parties.

3. All declarations and other communications concerning the Annex shall be made to or by the depositary and be in writing.

12. Proposal submitted by Austria (A/C.6/54/WG.1/CRP.12)

Article 2

Paragraph 1 (a)

An act which constitutes an offence within the scope of one of the Conventions listed in the Annex and as specified therein,⁴ when such an act, by its nature or context, is capable of intimidating a Government or the civilian population.

13. Proposal submitted by Mexico (A/C.6/54/WG.1/CRP.13)

Article 17

Amend paragraph 1 (b) of article 17 to read as follows:

“(b) Measures requiring their financial institutions to make use of the most efficient measures to identify their usual or occasional customers, as well as

⁴ For the text of the Annex, see the Austrian proposal contained in document A/AC.252/1999/WP.11 (*Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 37 (A/54/37)*, annex III, sect. 11).

customers in whose interest accounts are opened, and to report suspicious transactions. For this purpose, the States shall consider:

“(i) Adopting regulations prohibiting the opening of anonymous accounts whose owners or beneficiaries are not and cannot be identified, including anonymous accounts or accounts under obviously fictitious names, and measures to ensure that such institutions verify the real identity of the real owners of all transactions;

“(ii) ...

“(ii) *bis* Adopting regulations imposing on financial institutions the obligation to report to the competent authorities any unusual or suspicious transaction, as well as transactions exceeding a certain amount, without fear of assuming civil liability for having provided information in good faith;

“(iii) ...”

14. Proposal submitted by Costa Rica and Mexico (A/C.6/54/WG.1/CRP.14)

Article 2

1. Any person ...

(b) Acts intended to cause death or serious bodily harm to a person when such acts are committed with the intent to provoke terror in the population or to compel a legal person, an international organization or a State to commit or refrain from committing an act.

15. Revised texts of articles 5, 7, 8, 12 and 17 [18] prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15)

Article 5

1. Each State Party, in accordance with its domestic legal system, shall take the necessary measures to ensure that when a person responsible for the management or control of a legal entity located in its territory or organized under its laws has, in that capacity, committed an offence under article 2 of this Convention, that legal entity shall incur liability in accordance with the provisions of this article.

2. Such liability may be criminal, civil or administrative.

3. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

4. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective and proportionate measures.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

- (b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed; or
- (c) The offence is committed by a national of that State.
2. A State Party may also establish its jurisdiction over any such offence when:
- (a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State; or
- (b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including diplomatic or consular premises of that State; or
- (c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act; or
- (d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or
- (e) The offence is committed on board an aircraft which is operated by the Government of that State.
3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.
4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.
5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.
6. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 8

1. Each State Party shall take appropriate measures for the identification, detection and freezing or seizure of any property, funds or other means used or intended to be used in any manner in order to commit the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.
2. Each State Party shall take appropriate measures for the forfeiture of property, funds and other means used or intended to be used for committing the offences set forth in article 2 and the proceeds derived from such offences.
3. Each State Party may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of such proceeds or property, or funds derived from the sale of such proceeds or property.

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

2 bis. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

2 ter. Each State Party may give consideration to establishing mechanisms to share with other State Parties information or evidence needed to establish civil or administrative liability pursuant to article 5.

3. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 12 bis [13]

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. Accordingly, States Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 17 [18]

States Parties shall cooperate in the prevention of the offences set forth in article 2, including by:

1. Taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring financial institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened. For this purpose, States shall consider:

(i) Adopting regulations prohibiting the opening of accounts whose holder or beneficiary is unidentified or unidentifiable;

- (ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;
 - (iii) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international;
 - (c) Measures for the supervision and licensing of all money-transmission agencies;
 - (d) Implementation of feasible measures to detect or monitor the physical cross-border transport of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.
2. Exchanging accurate and verified information in accordance with their domestic law and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular, by:
- (a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;
 - (b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:
 - (i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;
 - (ii) The movement of funds or property relating to the commission of such offences.

16. Revised texts of articles 5, 7, 8, 12 and 17 [18] prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.1)

Article 5

1. Each State Party, in accordance with its domestic legal system, shall take the necessary measures to ensure that when a person responsible for the management or control of a legal entity located in its territory or organized under its laws has, in that capacity, or on its behalf, committed an offence set forth in article 2, a legal entity may be held liable in accordance with the provisions of this article. Such liability may be criminal, civil or administrative.
2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.
3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective and proportionate measures.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:
 - (a) The offence is committed in the territory of that State; or

- (b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed; or
 - (c) The offence is committed by a national of that State.
2. A State Party may also establish its jurisdiction over any such offence when:
- (a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State; or
 - (b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including diplomatic or consular premises of that State; or
 - (c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act; or
 - (d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or
 - (e) The offence is committed on board an aircraft which is operated by the Government of that State.
3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.
4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.
5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.
6. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 8

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any property, funds or other means used or intended to be used in any manner in order to commit the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.
2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of property, funds and other means used or intended to be used for committing the offences set forth in article 2 and the proceeds derived from such offences.
3. Each State Party concerned may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of such proceeds or property, or funds derived from the sale of such proceeds or property.

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Proposed definition

“Proceeds” means any property or other type of profit derived from or obtained, directly or indirectly, through the commission of an offence established in accordance with article 2, paragraph 1.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

2 bis. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

2 ter. Each State Party may give consideration to establishing mechanisms to share with other State Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 5.

3. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 12 bis [13]

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. States Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 17 [18]

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, adapting their domestic legislation, if necessary, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring financial institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification

of their usual or occasional customers, as well as customers in whose interest accounts are opened, and to report unusual or suspicious transactions. For this purpose, States Parties shall consider:

- (i) Adopting regulations prohibiting the opening of accounts the holders or beneficiaries of which are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of the real owners of such transactions;
 - (ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;
 - (ii) *bis* Adopting regulations imposing on financial institutions the obligation to report promptly to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or visible lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith;
 - (iii) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international;
 - (c) Considering measures for the supervision, including, for example, the licensing, of all money-transmission agencies;
 - (d) Considering implementing feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.
2. States Parties shall further cooperate in the prevention of the offences set forth in article 2 by exchanging accurate and verified information in accordance with their domestic law and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular by:
- (a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;
 - (b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:
 - (i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;
 - (ii) The movement of funds or property relating to the commission of such offences.
3. Such States Parties may exchange information through the International Criminal Police Organization (Interpol).

17. Revised texts of articles 5, 7, 8, 12 and 17 [18] prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.2)

Article 5

1. Each State Party, in accordance with its domestic legal system, shall take the necessary measures to ensure that when a person responsible for the management or control of a legal entity located in its territory or organized under its laws has, in that capacity, committed an offence set forth in article 2, that legal entity may be held liable in accordance with the provisions of this article. Such liability may be criminal, civil or administrative.
2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.
3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective and proportionate measures.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:
 - (a) The offence is committed in the territory of that State; or
 - (b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed; or
 - (c) The offence is committed by a national of that State.
2. A State Party may also establish its jurisdiction over any such offence when:
 - (a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State; or
 - (b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including diplomatic or consular premises of that State; or
 - (c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act; or
 - (d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or
 - (e) The offence is committed on board an aircraft which is operated by the Government of that State.
3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.
4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.
5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 8

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds or other means used or intended to be used in any manner in order to commit the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds and other means used or intended to be used for committing the offences set forth in article 2 and the proceeds derived from such offences.

3. Each State Party concerned may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of such funds, other means or proceeds thereof.

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Proposed definition

“Proceeds” means any funds or other kind of benefits derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

2 bis. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

2 ter. Each State Party may give consideration to establishing mechanisms to share with other State Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 5.

3. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 12 bis [13]

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. States Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 17 [18]

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, *inter alia*, by adapting their domestic legislation, if necessary, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring financial institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened, and to report unusual or suspicious transactions. For this purpose, States Parties shall consider:

(i) Adopting regulations prohibiting the opening of accounts the holders or beneficiaries of which are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of the real owners of such transactions;

(ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;

(ii) *bis* Adopting regulations imposing on financial institutions the obligation to report promptly to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith;

(iii) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international.

2. States Parties shall further cooperate in the prevention of offences set forth in article 2 by considering:

(a) Measures for the supervision, including, for example, the licensing, of all money-transmission agencies;

(b) Feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.

3. States Parties shall further cooperate in the prevention of the offences set forth in article 2 by exchanging accurate and verified information in accordance with their domestic law and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

(i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;

(ii) The movement of funds relating to the commission of such offences.

4. Such States Parties may exchange information through the International Criminal Police Organization (Interpol).

18. Revised texts of articles 5, 7, 8, 12 and 17 [18] prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.3)

Article 5

1. Each State Party, in accordance with its domestic legal system, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State; or

(b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including diplomatic or consular premises of that State; or

(c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act; or

(d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 8

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or intended to be used in any manner in order to commit the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds used or intended to be used for committing the offences set forth in article 2 and the proceeds derived from such offences.

3. Each State Party concerned may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of such funds, other means or proceeds thereof.

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Proposed definition

“Proceeds” means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

2 bis. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

2 ter. Each State Party may give consideration to establishing mechanisms to share with other State Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 5.

3. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 12 *bis* [13]

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. States Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 17 [18]

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, *inter alia*, by adapting their domestic legislation, if necessary, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring financial institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened, and to report unusual or suspicious transactions. For this purpose, States Parties shall consider:

(i) Adopting regulations prohibiting the opening of accounts the holders or beneficiaries of which are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of the real owners of such transactions;

(ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;

(ii) *bis* Adopting regulations imposing on financial institutions the obligation to report promptly to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith;

- (iii) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international.
2. States Parties shall further cooperate in the prevention of offences set forth in article 2 by considering:
- (a) Measures for the supervision, including, for example, the licensing, of all money-transmission agencies;
 - (b) Feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.
3. States Parties shall further cooperate in the prevention of the offences set forth in article 2 by exchanging accurate and verified information in accordance with their domestic law and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular by:
- (a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;
 - (b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:
 - (i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;
 - (ii) The movement of funds relating to the commission of such offences.
4. States Parties may exchange information through the International Criminal Police Organization (Interpol).

19. Proposal submitted by the United Kingdom of Great Britain and Northern Ireland (A/C.6/54/WG.1/CRP.16)

Article 1

For the purposes of this Convention:

1. ["Financing" — incorporate the concept in art. 2 (1)]
2. "Funds" means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets [, including, but not limited to, bank credits, travellers' cheques, bank cheques, money orders, share certificates, securities, bonds, bankers' drafts and letters of credit];
3. ["Organization" — delete]
4. "State or government facility" means [no change].

Article 2

1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully provides or accepts funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, to prepare for or to commit:
 - (a) Offences specified ...

20. Proposal submitted by Guatemala (A/C.6/54/WG.1/CRP.17)

Article 8

At the end of paragraph 4 add the following sentence:

“The establishment of any such mechanism shall be without prejudice to such rights to compensation as those victims may have under the generally applicable law of torts of the State or States concerned.”

Explanation. This is an *ex abundanti cautela* provision meant to ensure that no State avails itself of paragraph 4 to effectively deprive victims of the crimes in question of compensation or to delay or hamper payment thereof.

21. Non-paper submitted by the United Kingdom of Great Britain and Northern Ireland (A/C.6/54/WG.1/CRP.18)

Article 2

1. Any person commits an offence ... if that person ... provides funds with the intention that they should be used ... to carry out:

(a) an act which would be an offence for the purposes of a convention listed in annex I to this Convention;

22. Proposal submitted by Guatemala to the revised text proposed in document A/C.6/54/WG.1/CRP.15 (A/C.6/54/WG.1/CRP.19)

Article 5

Paragraph 1

Replace the last part of the paragraph with the following:

“has, as such, committed an act considered to be an offence under article 2 of the present Convention, the said entity shall incur criminal, civil or administrative liability.”

Paragraphs 3, 4 and 5

Delete paragraph 2 and renumber paragraphs 4 and 5 as 3 and 4, respectively.

23. Proposal submitted by Guatemala

Amendment to the revised proposal submitted by the United Kingdom of Great Britain and Northern Ireland, contained in document A/C.6/54/WG.1/CRP.11 (A/C.6/54/WG.1/CRP.20)

Paragraph 1

In the last sentence, between the words “which” and “shall”, insert “, unless the depositary is the Secretary-General of the United Nations,”.

24. Proposal submitted by Mexico (A/C.6/54/WG.1/CRP.21)

Article 5

1. Replace paragraph 4 with the following text:

“4. States Parties shall ensure, in particular, that effective, proportionate and dissuasive penal or non-penal sanctions, including monetary sanctions, are imposed on legal entities liable in accordance with the present article.”

25. Proposal submitted by France (A/C.6/54/WG.1/CRP.22)

Article 17 [18]

1. Unchanged

2.

(a) ...

(b) ...

(i) ...

(ii) ...

(c) If they consider it necessary, States Parties may exchange information through the International Criminal Police Organization (Interpol);

26. Proposal submitted by the Syrian Arab Republic (A/C.6/54/WG.1/CRP.23)

Article 2

First paragraph

Delete subparagraph A of paragraph 1.

Second paragraph

Redraft paragraph B (a new paragraph) to read as follows:

“An act intended to cause death or serious bodily or psychological injury or the destruction in full or in part of a public or private establishment by using any

criminal method whatsoever when such acts by their nature or context are designed to terrorize a Government, an international organization or a civilian population.”

27. Proposal submitted by the Syrian Arab Republic (A/C.6/54/WG.1/CRP.24)

Article 5

Paragraph 1. Redraft to delete “in accordance with the provisions of this article”.

Paragraph 2. Add “in accordance with the domestic laws of the State concerned” at the end of the paragraph.

Article 7

Insert the following phrase at the outset of paragraph 6:

“without prejudice to the norms of general international law”.

Article 8

Rephrase paragraph 5 of the English version to read:

“The provisions of this article shall be implemented without prejudice to the rights of others acting in good faith”.

28. Proposal submitted by Brazil (A/C.6/54/WG.1/CRP.25)

Article 2, paragraph 1

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally proceeds with the financing of a person or organization in the knowledge that such financing will or could be used, in full or in part, in order to prepare or commit:

(a) An act designed to cause death or serious bodily injury to a civilian or to any other person, when such an act, by its nature or context, constitutes a means of intimidating a Government, international and non-governmental organizations or the civilian population; or

(b) An offence within the scope of one of the Conventions itemized in the Annex, subject to its ratification by the State Party, as long as it carries the characteristics mentioned in subparagraph (a) above.

29. Proposal submitted by the Netherlands (A/C.6/54/WG.1/CRP.26)

Article 2

New paragraph 1 bis

If the provision or acceptance of the funds has not been completed by reason of circumstances dependent on the perpetrator’s will, there will be no offence.

**30. Proposal submitted by Colombia, Costa Rica and Mexico
(A/C.6/54/WG.1/CRP.27)**

Article 2

1. Any person commits an offence within the meaning of this Convention if that person voluntarily provides, accepts or collects funds by any means, directly or indirectly, with the intention that the funds should be used, or with the full knowledge and consent that the funds will be used, in full or in part, to prepare for or to commit:

(a) ...

Delete subparagraph (c) of article 2, paragraph 4.

31. Proposal submitted by Mexico (A/C.6/54/WG.1/CRP.28)

Article 5, paragraph 3

Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, administrative or civil sanctions. Such sanctions may include monetary sanctions.

32. Proposal submitted by Australia (A/C.6/54/WG.1/CRP.29)

Article 5

1. Each State Party, in accordance with its domestic legal system, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable, when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2. Such liability may be criminal, civil or administrative.

**33. Discussion paper submitted by France
(A/C.6/54/WG.1/CRP.30)**

Preamble

The States Parties to this Convention,

Bearing in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994, in which, “the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States”,

Noting that the Declaration also encouraged States “to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination

of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter”,

Recalling General Assembly resolution 53/108 of 8 December 1998, in which the Assembly decided that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should “elaborate a draft international convention for the suppression of terrorist financing to supplement related existing international instruments”,

Recalling also General Assembly resolution 51/210 of 17 December 1996, paragraph 3, subparagraph (f), in which the Assembly calls upon all States “to take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds”,

Recalling further General Assembly resolution 52/165 of 15 December 1997, in which the Assembly calls upon States to “consider, in particular, the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210” of 17 December 1996,

Noting that financing which terrorists may obtain increasingly influences the number and seriousness of international acts of terrorism they commit,

Noting also that existing multilateral legal instruments do not specifically address such financing,

Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective measures for the prevention of the financing of terrorism as well as the prosecution and punishment of the perpetrators of actions contributing to terrorism,

Considering that the financing of terrorism is a matter of grave concern to the international community as a whole,

Have agreed as follows:

34. Revised discussion paper submitted by France (A/C.6/54/WG.1/CRP.30/Rev.1)

Preamble

The States Parties to this Convention,

Bearing in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling all the relevant General Assembly resolutions on the matter, including resolution 49/60 of 9 December 1994 and its annex on the Declaration on Measures to Eliminate International Terrorism, in which, “the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States”,

Noting that the Declaration also encouraged States “to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter”,

Recalling General Assembly resolution 51/210 of 17 December 1996, paragraph 3, subparagraph (f), in which the Assembly calls upon all States “to take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds”,

Recalling also General Assembly resolution 52/165 of 15 December 1997, in which the Assembly calls upon States to “consider, in particular, the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210” of 17 December 1996,

Recalling further General Assembly resolution 53/108 of 8 December 1998, in which the Assembly decided that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should “elaborate a draft international convention for the suppression of terrorist financing to supplement related existing international instruments”,

Noting that financing which terrorists may obtain increasingly influences the number and seriousness of international acts of terrorism they commit,

Noting also that existing multilateral legal instruments do not expressly address such financing,

Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective measures for the prevention of the financing of terrorism as well as the prosecution and punishment of the perpetrators of actions contributing to terrorism,

Considering that the financing of terrorism is a matter of grave concern to the international community as a whole,

Have agreed as follows:

35. Draft report of the Working Group (A/C.6/54/WG.1/CRP.31 and Add.1-12)

...

36. Revised discussion paper presented by the coordinator on article 1 (A/C.6/54/WG.1/CRP.32)

Article 1

For the purposes of this Convention:

1. "Funds" means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets, including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.
2. "A State or government facility" means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary, or by officials or employees of a State or any other public authority or entity, or by employees or officials of an intergovernmental organization in connection with their official duties.
3. "Proceeds" means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2.

37. Proposal submitted by India (A/C.6/54/WG.1/CRP.33)

Article 2, paragraph 1

Amend subparagraph (b) to read as follows:

(b) Any other act intended to cause death or serious bodily injury to any person, when the purpose of such an act is by its nature or context to intimidate or compel a third party, namely, a State, an international organization, a natural or juridical person, or a group of persons, to do or to abstain from doing any act.

38. Proposal submitted by Pakistan and the Syrian Arab Republic (A/C.6/54/WG.1/CRP.34)

Preamble

1. *Amend the first two lines of the third of preambular paragraph to read as follows:*

Recalling all relevant General Assembly resolutions, including resolution 49/60 of 9 December 1994, by which it adopted the Declaration on Measures to Eliminate International Terrorism, and in which

2. *Insert the following new fifth preambular paragraph:*

Recalling General Assembly resolution 40/61 of 9 December 1985, in paragraph 9 of which the Assembly urged all States, unilaterally and in cooperation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of the causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those

involving alien occupation, that may give rise to international terrorism and may endanger international peace and security.

3. *Amend the last preambular paragraph to read as follows:*

Considering that international terrorism and its financing is a matter of grave concern to the international community as a whole.

**39. Revised text prepared by the Friends of the Chairman
(A/C.6/54/WG.1/CRP.35)**

Preamble

The States Parties to this Convention,

Bearing in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, contained in General Assembly resolution 50/6 of 24 October 1995,

Recalling also all the relevant General Assembly resolutions on the matter, including resolution 49/60 of 9 December 1994 and its annex on the Declaration on Measures to Eliminate International Terrorism, in which the States Members of the United Nations solemnly reaffirmed their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States,

Noting that the Declaration on Measures to Eliminate International Terrorism also encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Recalling General Assembly resolution 51/210 of 17 December 1996, paragraph 3, subparagraph (f), in which the Assembly called upon all States to take steps to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations which also have or claim to have charitable, social or cultural goals or which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering, including the exploitation of persons for purposes of funding terrorist activities, and in particular to consider, where appropriate, adopting regulatory measures to prevent and counteract movements of funds suspected to be intended for terrorist purposes without impeding in any way the freedom of legitimate capital movements and to intensify the exchange of information concerning international movements of such funds,

Recalling also General Assembly resolution 52/165 of 15 December 1997, in which the Assembly called upon States to consider, in particular, the implementation of the measures set out in paragraphs 3 (a) to (f) of its resolution 51/210 of 17 December 1996,

Recalling further General Assembly resolution 53/108 of 8 December 1998, in which the Assembly decided that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should elaborate a draft international convention for the suppression of terrorist financing to supplement related existing international instruments,

Considering that the financing of terrorism is a matter of grave concern to the international community as a whole,

Noting that the number and seriousness of acts of international terrorism depend on the financing that terrorists may obtain,

Noting also that existing multilateral legal instruments do not expressly address such financing,

Being convinced of the urgent need to enhance international cooperation among States in devising and adopting effective measures for the prevention of the financing of terrorism, as well as the prosecution and punishment of the perpetrators of actions contributing to terrorism,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. "Funds" means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.
2. "A State or governmental facility" means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.
3. "Proceeds" means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2 below.

Article 2

...

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 7, paragraph 1, or article 7, paragraph 2, to exercise jurisdiction, except that the provisions of articles 12 to 17 shall, as appropriate, apply in those cases.

Article 4

[See Annex I]

Article 5

1. Each State Party, in accordance with its domestic legal system, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2. Such liability may be criminal, civil or administrative.
2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.
3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 6

[See Annex I]

Article 7

[See Annex I]

Article 8

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or intended to be used in any manner in order to commit the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.
2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds used or intended to be used for committing the offences set forth in article 2 and the proceeds derived from such offences.
3. Each State Party concerned may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of such funds or proceeds thereof.
4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.
5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Proposed definition

“Proceeds” means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2.

Article 9

[See Annex I]

Article 10

[See Annex I]

Article 11

[See Annex I]

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

2 bis. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

2 ter. Each State Party may give consideration to establishing mechanisms to share with other State Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 5.

3. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 12 bis [13]

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. States Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 13 [14]

[See Annex I]

Article 14 [15]

[See Annex I]

Article 15 [16]

Article 16 [17]

[See Annex I]

Article 17 [18]

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, *inter alia*, by adapting their domestic legislation, if necessary, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring financial institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened, and to pay special attention to unusual or suspicious transactions and report transactions suspected of stemming from a criminal activity. For this purpose, States Parties shall consider:

(i) Adopting regulations prohibiting the opening of accounts the holders or beneficiaries of which are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of the real owners of such transactions;

(ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;

(ii) *bis* Adopting regulations imposing on financial institutions the obligation to report promptly to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith;

(iii) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international.

2. States Parties shall further cooperate in the prevention of offences set forth in article 2 by considering:

(a) Measures for the supervision, including, for example, the licensing, of all money-transmission agencies;

(b) Feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.

3. States Parties shall further cooperate in the prevention of the offences set forth in article 2 by exchanging accurate and verified information in accordance with their domestic law and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

(i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;

(ii) The movement of funds relating to the commission of such offences.

4. States Parties may exchange information through the International Criminal Police Organization (Interpol).

Article 18 [19]

[See Annex I]

Article 19 [20]

[See Annex I]

Article 20 [22]

[See Annex I]

Article 21 [24]

[See Annex I]

Article 22 [25]

[See Annex I]

Article 23 [26]

[See Annex I]

Article 24 [27]

[See Annex I]

Article 25 [28]

[See Annex I]

Testimonium

[See Annex I]

**40. Revised text prepared by the Friends of the Chairman
(A/C.6/54/WG.1/CRP.35/Rev.1)**

[See Annex I]

41. Proposal submitted by Kuwait

Preamble

Kuwait supports the proposal submitted by Pakistan and the Syrian Arab Republic (A/C.6/54/WG.1/CRP.34) concerning the amendment of the first two lines of the third preambular paragraph and the insertion of a new fifth preambular paragraph.

Article 1

“For the purposes of this Convention:

“1. “Financing” means the transfer or reception of funds.”

Rationale: Transfer and reception are to be regarded as an action involving the two conditions of offer and acceptance, so that the two elements of a crime are here present: the material, namely the act of transferring and receiving; and the moral, namely criminal intent.

“2. “Funds” means cash, assets or property, movable or immovable, however acquired.⁵

“3. “Organization” means any entity that brings together a group of persons united and linked together by a common interest and declared objectives.⁶

“4. “State or Government facility” means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of the State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.⁷

“5. “Proceeds” means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2 hereunder.”

We propose that a definition of “terrorism” should be included in the Convention since the concept is basic to the instrument.

Article 2

“Any person commits an offence within the meaning of this Convention if that person intentionally [*bi-s ūrah muta`ammadah*] (*āmidan muta`ammadan*)⁸ proceeds with the financing of a person or organization by any means whatever, directly or indirectly, to contribute to the preparation or commission of one of the serious offences⁹ itemized in annex I to this Convention, provided that a State Party to this Convention is a party to the conventions in question,¹⁰ when such an act, by its nature or context, constitutes a means of intimidating a Government or the civilian population.”¹¹

We propose the inclusion in the annex to the Convention of the four Geneva Conventions [of 12 August 1949] and their additional protocols.

We propose that paragraphs 2, 3 and 4 be deleted.

Rationale: It appears to us from our reading of these provisions that they involve useless repetition and redundancy and contain major inconsistencies. They should therefore be deleted.

Article 4

Paragraph (a)

This paragraph should be deleted.

Rationale: It appears to us from our reading of the paragraph that there is a sense of compelling a State that is a party to the Convention to comply with the provisions of

⁵ Adopting the proposal of Guatemala while leaving the expression “however acquired” in place for the sake of generality.

⁶ A proposal by Kuwait. There is nevertheless room for opinion here concerning the extent to which “organization” should be defined or left undefined. This is because the definition may vary from one case to another.

⁷ We propose that this definition be deleted, because it is not needed and because the meaning of “State or government facility” differs in its breadth or narrowness from one country and one administrative system to another.

⁸ Adopting the proposal of the Syrian Arab Republic.

⁹ Adopting the proposal of Japan.

¹⁰ Adopting the proposal of [the Republic of] Korea.

¹¹ Adopting the proposal of Austria.

the conventions mentioned in the annex, all of which, in Kuwait's view, it may not have signed or ratified. The inclusion of this paragraph is therefore to be considered as a kind of unacceptable compulsion. It is this that motivated us to propose the amendment of article 2, paragraph 1 (a).

Paragraph (b)

We propose the amendment of the paragraph, so that article 4 would read as follows:

“Each State Party shall adopt such measures as may be necessary to punish the offences set forth in article 2.”¹²

Rationale: The reason for this amendment is to give the State the freedom to take the measures it deems appropriate *on the basis of those conventions with respect to which it has taken the necessary constitutional measures and that have for it entered into force*, because such conventions on entering into force are automatically considered to be national law that must be applied and complied with without any specific stipulation to that effect and also subject to the State's various laws and regulations.

Article 5

We propose that the article as a whole be amended as follows:

“1. Each State Party, in accordance with its domestic legal system, shall take the necessary measures to enable a person responsible for the management or control of a legal entity located in its territory or organized under its laws to be held liable when, acting as its representative, he has knowingly, through the agency of one or more persons responsible for that entity,¹³ committed an offence set forth in article 2 of this Convention.¹⁴

“2. The person responsible for the legal entity shall incur criminal, civil or administrative liability resulting from the legal entity itself, it being understood that effective and appropriate measures shall be taken against the person concerned.”¹⁵

Article 7

We propose the amendment of some paragraphs of this article, as follows:

Paragraph 2 (a), (b) and (c)

We propose that the reference to “article 2, paragraph 1, subparagraph (a) or (b)” should be amended in accordance with the above proposal to amend article 2.

Paragraph 2 (e)

¹² Subject to the possibility of altering the annex or altering the wording of article 2.

¹³ Adopting the proposal of the Syrian Arab Republic.

¹⁴ Subject to the repositioning or rewording of article 2.

¹⁵ A Kuwaiti proposal based on the fact that it is the natural person that is fully liable for the actions of the legal entity and that it is not the legal entity that incurs civil, criminal or administrative liability but the individual responsible for the entity. (For example, in the case of the board of directors of a company it is the individual members who are fully responsible for the legal entity and it is they and not the legal entity who incur liability.)

We have a question concerning the extent to which a State Party to the Convention may establish its jurisdiction over crimes committed on board an aircraft which is operated by the Government of that State. Is it a Government aircraft whether civil or military? May a State use the right of jurisdiction over aircraft of this kind as representing the sovereignty of the State whose flag and emblem they carry?

Paragraph 6

This paragraph should be deleted because there is no need for it given its redundancy and insignificance.

Article 8

Paragraphs 1 and 2

We propose that paragraphs 1 and 2 should be combined to read as follows:

“1. Each State party shall take appropriate measures, in accordance with its domestic system, for the identification, detection, freezing or seizure of funds resulting from the commission of the offences set forth in article 2¹⁶ of this Convention as well as the proceeds derived from such offences, for purposes of forfeiture in case of need.”

Paragraph 5

The paragraph should be amended to accord with the English version and should read as follows:

“5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.” [Changing *rahnan bi-huq ūq al-ghayr dhawī al-nīyah al-hasanah* (“subject to the rights of others of good faith”) to *ākhdhan bi-`ayn al-i`tibār al-taraf al-thālith husn al-nīyah* (“taking into account the third party, good faith [*sic*]”).]

In this context, we join the Syrian delegation in wondering whether, in this paragraph, the expression “the rights of others” (*huq ūq al-ghayr*) means [those of] a State party or an ordinary individual, it being understood that the ordinary individual is not involved in the Convention because he is a person in private law and not an entity in international law.

We propose the amendment of the Arabic version of the definition of “proceeds” in article 1 to read as follows:

[[“Proceeds” means] any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2.]

Change *tansha`* (“arising”) to *tujna* (“realized”), and change *tuhsal* to *yuhsal `alayhā* (“obtained”).

Article 17

Paragraph 1 (c)

We propose the deletion of the words “and licensing” [A/AC.252/1999/WP.47] in accordance with the proposal of Mexico [A/AC.252/1999/WP.52].

¹⁶ Subject to the alteration of the annex or rewording of article 2.

Article 19 *bis*

The proposal contained in document A/C.6/54/WG.1/CRP.4 would add to the Convention an article 19 *bis* to exclude acts governed by international humanitarian law from the scope of application of the Convention. This is because they are humanitarian acts and funding provided in the event of armed conflict. The delegation of Kuwait therefore agrees with this proposal so that humanitarian organizations involved in providing funding and humanitarian services in time of armed conflict can be protected from having the provisions of the Convention applied to them and so that their actions will not be considered terrorism as characterized by the Convention.

Annex III

Informal summary of the discussions in the Working Group, prepared by the Chairman*

General discussion

1. At its 1st and 11th meetings, held on 27 September and 8 October 1999, the Working Group held a general exchange of views on the draft international convention for the suppression of acts of nuclear terrorism and the draft international convention for the suppression of the financing of terrorism.

2. Several delegations reiterated their unequivocal condemnation of terrorism in all its forms and manifestations and stressed the importance of speedy elaboration and adoption of both conventions. Some delegations observed that the completion of the work on the two draft conventions would enable the Ad Hoc Committee to proceed to the elaboration of a general convention on international terrorism. In this connection, the point was made that, rather than adopting a piecemeal approach and dealing with such hypothetical issues as those of nuclear terrorism, efforts should be focused on the development of a comprehensive legal instrument that would contain a definition of terrorism, distinguishing it from the legitimate struggle of peoples for national liberation and self-determination, and condemn State terrorism as the most dangerous form of terrorism.

A. Elaboration of the draft international convention for the suppression of acts of nuclear terrorism

3. At the 1st meeting of the Working Group, the representative of the Russian Federation noted with appreciation the informal contacts among delegations that took place during the inter-sessional period with a view to elaborating a formulation on the scope of the draft international convention acceptable to all delegations. He expressed the hope that efforts would continue to make it possible to finalize the draft convention during the present session.

* Equivalent provisions contained in the articles in document A/C.6/54/WG.1/CRP.35/Rev.1 (see annex I) are indicated in square brackets.

4. During the general discussion, the point was made that the draft convention should not address issues relating to disarmament, which are better dealt with in other fora. It was stated that efforts should rather be focused on the early conclusion of an international legal instrument for the suppression of acts of nuclear terrorism, which posed a real and very serious threat. It was further suggested that, in the light of limited possibilities of compromise on the existing alternative texts on the scope of application, there was a need to consider a new text, which should take into account the concerns of States on this matter.

5. At the 11th meeting, the Chairman reviewed the status of work relating to the draft convention and appointed a coordinator with a view to organizing open-ended informal consultations on the draft convention at an appropriate time during the current session of the Sixth Committee, who would report to the Chairman of the Sixth Committee on the outcome of the consultations (see sect. II, paras. 10 and 11). The coordinator made a statement regarding the organization of such informal consultations (*ibid.*, paras. 12 and 13).

B. Elaboration of the draft international convention for the suppression of the financing of terrorism

6. At the 1st meeting of the Working Group, the representative of France introduced a working paper on the revised versions of articles 1 and 2 (A/54/37, annex I.B). It was stated that the aim of the proposed draft convention was to prevent the crime of terrorism and punish its financing and, in that regard, that article 1, containing definitions, and article 2, on the scope of the offence within the meaning of the draft convention, were essential provisions of the instrument.

7. It was considered that the working paper submitted by France provided a good basis for further work on those articles. It was observed that, in order to gain broad support, the text of the draft convention should be carefully drafted to give due attention to accommodating requirements of different domestic laws. The importance of achieving a consensus text was also emphasized so as to ensure the effectiveness of the proposed legal instrument through universal participation.

8. The Chairman introduced the discussion paper (A/54/37, annex I.A) prepared by the Bureau at the end of the March session of the Ad Hoc Committee, which was a consolidated version of articles 3 to 25, incorporating the

revised texts of articles 3 to 8, 12 and 17. It was noted that the discussion paper did not constitute a proposal by the Bureau and was primarily an attempt to reflect, in a balanced fashion, the views of delegations expressed in the Working Group of the Ad Hoc Committee, with a view of facilitating the elaboration of the draft convention.

9. The point was made that the discussion paper submitted by the Bureau was a good basis for the work on the draft convention. It was suggested that the Working Group should focus its attention on those key provisions relating to the definition of the crime of financing terrorism in order to determine the scope of application of the draft convention. It was also noted that the purpose of the draft convention was to target the sponsors of terrorism in order to deter as well as to prosecute and punish their criminal acts without penalizing the legitimate activities of humanitarian organizations or those who contribute funds in good faith. The need to establish a specific criminal intention on the part of those who supply the funds was underscored in this connection.

10. At the 11th meeting, the Chairman introduced a revised text of the draft convention, with article 7, paragraph 6, orally amended (see annex I to the present report). Some delegations stated that the draft convention, which would enable States effectively to deter as well as to prosecute and punish the financing of terrorist acts, was an important contribution to the fight against terrorism. It was pointed out, however, that there was no consensus on the text, since not all the proposals regarding the draft articles were taken into account, and more time was needed in order to finalize the text. Some delegations reserved the right to discuss the text in the Sixth Committee.

Preamble

Consideration on the basis of document A/C.6/54/WG.1/CRP.30

11. At the 8th meeting of the Working Group, on 5 October 1999, a proposal for the preamble of the draft convention was introduced (see A/C.6/54/WG.1/CRP.30). The sponsor delegation noted that all members of the international community are directly affected by the phenomenon of terrorism. It was stressed that a new instrument was needed to meet the growing sophistication of transnational terrorism, especially in regard to how it is financed. Further emphasis was placed on the preventive effect of the draft convention.

12. Strong support was expressed for the proposed text.

13. The suggestion was made to add the following preambular paragraph found in the International Convention for the Suppression of Terrorist Bombings, “[r]ecalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 24 October 1995”.

14. A further suggestion was made to add to the preambular paragraph starting with “[r]ecalling General Assembly resolution 53/108,” the following text “and subsequently will address means of further developing a comprehensive legal framework of conventions dealing with international terrorism, including considering, on a priority basis, the elaboration of a comprehensive convention on international terrorism” (see A/AC.252/1999/WP.48). Others opposed this suggestion, noting that it was not relevant to the subject of the present convention.

15. It was also suggested that the phrase “that the financing of terrorism” in the last preambular paragraph be replaced with “international terrorism and its financing”.

16. In regard to the preambular paragraph referring to “existing multilateral legal instruments”, the observation was made that the word “specifically” could be replaced with “expressly”.

17. The view was expressed that a reference to General Assembly resolutions on eliminating the causes of terrorism could be included (see A/C.6/54/WG.1/CRP.34).

Consideration on the basis of document A/C.6/54/WG.1/CRP.30/Rev.1

18. At the 9th meeting of the Working Group, on 6 October, the sponsor delegation introduced a revised version of the preamble, contained in document A/C.6/54/WG.1/CRP.30/Rev.1. Reference was made to preambular paragraph 3, which recalled all relevant General Assembly resolutions.

19. During the discussion on the revised text, the proposal made at the previous meeting to add a preambular paragraph referring to the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 24 October 1995, was reiterated.

20. It was also recommended that the preambular paragraph relating to international humanitarian law, contained in the original proposal for the draft convention submitted by the delegation of France (see document A/54/37, annex II), be inserted into the text under consideration.

21. In reference to the preambular paragraph referring to General Assembly resolution 51/210, the suggestion was made to replace the word “calls” in the second line with “called”.

22. A further proposal was made to replace the preambular paragraph beginning with “[n]oting that financing which terrorists” with “[n]oting that the commission of terrorism depends on financing”.

23. It was also suggested that the penultimate preambular paragraph could be moved to before the paragraph referring to General Assembly resolution 53/108.

24. Concerning the preambular paragraph beginning with “[b]eing convinced of the urgent need”, the proposal was made to add the phrase “and suppression” after the term “prevention”.

25. Further proposals for the preamble were submitted in document A/C.6/54/WG.1/CRP.34, some of which were supported, others opposed.

Consideration on the basis of document A/C.6/54/WG.1/CRP.35

26. A revised text of the preamble, as contained in document A/C.6/54/WG.1/CRP.35, was introduced by the French delegation at the 10th meeting of the Working Group, on 7 October 1999. It was noted that, following on an earlier suggestion, a reference to the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations, contained in General Assembly resolution 50/6 of 24 October 1995, had been included. Furthermore, the term “calls” in the seventh and eighth preambular paragraphs, had been changed to “called”.

27. The paragraph beginning with the words “[c]onsidering that the financing ...” had been moved to become the tenth preambular paragraph, so as to make the order of the preamble more logical.

28. The eleventh preambular paragraph had been reformulated to clarify its meaning. The suggestion was made that the final preambular paragraph should be amended to include a reference to the “suppression” of the financing of terrorism, as follows: “..., as well as for its suppression through the prosecution and punishment of the perpetrators”. That change was reflected in the subsequent version of the preamble, contained in document A/C.6/54/WG.1/CRP.35/Rev.1, which was placed before the Working Group at its 11th meeting, on 8 October 1999.

29. During the discussion on the text contained in document A/C.6/54/WG.1/CRP.35, the attention of the

Working Group was drawn to the proposal contained in document A/C.6/54/WG.1/CRP.34, and in particular paragraph 2 relating to the insertion of a new fifth preambular paragraph recalling General Assembly resolution 40/61 of 9 December 1985. It was argued that a reference to that resolution accorded with the aim of the draft convention. In response, the observation was made that the reference in the fourth preambular paragraph to “[r]ecalling ... all the relevant General Assembly resolutions” was sufficient.

30. The view was also expressed that the concerns underlying the proposal in document A/C.6/54/WG.1/CRP.34 were adequately addressed in the text under consideration, and that a reference to the causes of terrorism in the preamble was not necessary.

Article 1

Consideration on the basis of the working paper prepared by France on articles 1 and 2¹

31. The Working Group considered article 1 on the basis of the working paper prepared by France contained in document A/54/37, annex I.B, which had been submitted at the end of the session of the Ad Hoc Committee in March 1999.

32. In introducing its proposed text for article 1, the sponsor delegation pointed out that the definitions of “financing”, “funds”, “organization” and “State or government facility” were necessary for determining the scope of the draft convention, and were meant to be precise and reflect the comments made by the delegations at the session of the Ad Hoc Committee in March. It was noted that the definition of “financing”, in particular, attempted to cover all means of financing within the scope of the draft convention. The only outstanding issue in this connection was whether to include in the definition the reception of funds in addition to their transfer.

33. Following the discussion in the Working Group, the sponsor delegation (France) submitted a revised text for article 1 (see A/C.6/54/WG.1/CRP.9)

Paragraph 1

34. With regard to the proposed definition of the term “financing”, while support was expressed for retaining it in article 1, the view was also expressed that paragraph 1 could be deleted entirely from the article. Similarly, as the term only appeared in article 2, paragraph 1, it was proposed that the definition could be placed there instead

(see A/C.6/54/WG.1/CRP.16). In terms of the latter proposal, the reference to “proceeds with the financing” in article 2, paragraph 1, would then be replaced with the phrase “provides or accepts funds”.

35. Regarding the reference to the “transfer” of funds, concerns were expressed that the term did not sufficiently cover all types of financial assistance. Proposals for alternative formulations included replacing the term with “providing”, “provision”, or “making funds available”, so as to make it clear that an actual transfer was not required per se.

36. The French working paper had included the concept of “reception” of funds in square brackets to account for those views expressed during the Ad Hoc Committee session in favour of including such a reference. During the current session, differing views were expressed regarding its inclusion.

37. Those that opposed its inclusion expressed the concern that it would cast the meaning of the term “financing” too broadly, criminalizing a wide variety of activities beyond what was originally intended. It was pointed out that such a reference could contradict article 2, and that it captured within its purview not only active acts of transferring but also the passive act of receiving. It was also noted that the reference was unnecessary to cover the case of the middleman who received funds, since the subsequent transfer of those funds would fall within the scope of the term “transfer”.

38. Others expressed strong support for the inclusion of the reference to “reception” of funds so as to enhance the capability of States to counter the funnelling of funds through middlemen, who possessed the specific intention required by the draft convention, or through other similar complex financial arrangements used to finance terrorist acts. It was noted that, without a reference to “reception”, the middleman who possesses the funds with the required intent, but declines to transfer them or is apprehended before he has transferred them might not fall within the scope of the definition of “financing”. As such, broadening the purview of the term “financing” to include the reception of funds would provide States with greater options in their prosecutorial strategies. In terms of a concurring view, the inclusion of the reference to “reception” was in fact envisaged by the specific intent requirement contained in article 2.

39. The view was also expressed that if the notion of “reception” was to be retained, then it would be necessary to clarify the knowledge requirement in relation to those accused of receiving such funds. Opposition was also

expressed to the inclusion of an express reference to the knowledge requirement.

40. Other related suggestions included inserting the required element of intent to qualify the term “reception”, or criminalizing the reception as a separate offence to transferring. Furthermore, it was pointed out that the problem might be one of terminology, and that a more neutral term, such as “acquisition” could be used to overcome the concerns expressed with the use of “reception” (see A/C.6/54/WG.1/CRP.2).

41. A further proposed text was submitted as document A/C.6/54/WG.1/CRP.5.

Paragraph 2

42. Reference was made in the Working Group to the discrepancy between the definition of “funds” in paragraph 2, which included a reference to “property”, and the reference in article 8, paragraphs 1 to 3, to “property, funds and other means”. Support was expressed for a subsequent proposal that the term “property” be deleted whenever it appeared in conjunction with the term “funds” since “funds” was intended to refer to all property.

43. Support was expressed by some for providing only a generic definition, without the inclusion of examples, so as not to include types of financial resources that might become outmoded in the future, as well as to ensure the necessary flexibility to encompass new types of funding that might arise in the future. In the same vein, it was suggested that the paragraph be ended after the words “property” (see A/C.6/54/1999/CRP.5), “intangible” or “acquired”, respectively.

44. The suggestion was made to add the words “including but not limited to”, in line with the proposal in document A/AC.252/1999/WP.60, so as to make it clear that the list is merely illustrative (see also A/C.6/54/WG.1/CRP.16). It was also observed that the inclusion of the term “notably” already made the list illustrative.

45. As to the formulation of paragraph 2 as proposed, it was suggested that the reference to “cash or the currency of any State” be clarified since the reference to “currency” included “cash”. It was also suggested that the reference instead be as follows: “including cash, or the currency of any State”. Furthermore, it was observed that the reference to “cash” appeared twice in the proposed text.

46. The view was expressed that the provision could be formulated differently, as follows: “pecuniary resources or any form of pecuniary benefits”, or “pecuniary benefits, tangible or intangible, however acquired”.

47. A preference was also expressed for the formulation contained in document A/AC.252/1999/WP.60, as well as for the definition of “property” contained in article 1, paragraph (q), of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The following reformulation of the paragraph was proposed:

“‘funds’ means assets of every kind, whether tangible or intangible, movable or immovable, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, traveller’s cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit”.

(See also the proposal in A/C.6/54/WG.1/CRP.16.)

Paragraph 3

48. While a preference was expressed for retaining the text of paragraph 3, as proposed, according to another view, the definition was unnecessarily lengthy and not useful. Similarly, a proposal for its deletion was submitted to the Working Group (see A/C.6/54/WG.1/CRP.16).

49. The view was expressed that if the reference to “person” in article 2, paragraph 1, included both individuals and organizations, then it would not be necessary to define “organization”. However, if the term “person” could not apply to an organization, then it would have to be defined in article 1. In the latter regard, a preference was expressed for the formulation of the definition of “organization” contained in document A/AC.252/1999/WP.6, which included a reference to the requirement of a hierarchical structure. This proposal was opposed in the Working Group.

50. A further similar proposal to add elements of hierarchy and coordination into the definition of organization was made (see A/C.6/54/WG.1/CRP.6).

51. A further suggestion was made to end the formulation of the provision after the phrase “declared objectives” so as to exclude legal entities. Similarly, it was proposed that the text after the phrase “declared objectives” be replaced with the following, more general, formulation: “and whether or not the group constitutes a legal entity” (see A/C.6/54/WG.1/CRP.5).

52. The view was expressed that the reference to a “group ... of two or more persons” was tautologous, and could be reformulated to read “any group of persons, whatever their declared objectives”.

Paragraph 4

53. While support was expressed for the proposed text of paragraph 4, the suggestion was also made that it be moved to article 7, which contained the only reference in the draft convention to “State or government facility”.

54. The view was expressed that the scope of the provision could be expanded to include a more general reference to “any facility”.

Additional definitions

55. It was proposed that two additional definitions be included for the terms “profit from the offence” and “financial institution”, respectively (see A/C.6/54/WG.1/CRP.6).

56. Conversely, the view was also expressed that no new definitions were necessary.

Consideration on the basis of document A/C.6/54/WG.1/CRP.35

57. At the 10th meeting of the Working Group, on 7 October 1999, the coordinator of the informal consultations on article 1 introduced a new text for the provision, which had been included in document A/C.6/54/WG.1/CRP.35. It was noted that divergent views had been expressed on the retention of the reference to the terms “financing” and “organization”. The solution was to delete both references in article 1, together with the reformulation of the *chapeau* to article 2, so as to omit any reference to those two terms.

58. With regard to the definition of the term “funds”, it was observed that the text was based on the footnote contained in document A/C.6/54/WG.1/CRP.9.

59. It was further observed that the definition of “State or government facility” was consistent with the International Convention for the Suppression of Terrorist Bombings, and that the definition of “proceeds”, as proposed in document A/C.6/54/WG.1/CRP.15/Rev.3 under article 8, had been included.

60. The text of article 1 was subsequently included in the revised text prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.35/Rev.1), which had been tabled before the Working Group at its 11th meeting, on 8 October 1999.

Article 2

Consideration on the basis of the working paper prepared by France on articles 1 and 2¹

61. The consideration of article 2 by the Working Group was undertaken on the basis of the working paper prepared by France, contained in the report of the Ad Hoc Committee.¹

62. In introducing the working paper, the sponsor delegation observed that the definition of the offence, found in article 2, had been drafted with a twofold objective. First, it addressed the financing of those acts within the scope of application of existing anti-terrorism conventions. In this connection it was also necessary to envisage the mechanism of updating the list of anti-terrorism conventions annexed to the present text, by including into it future relevant instruments. Secondly, article 2 was also concerned with the offence of causing death or serious bodily injury, which was not covered by the existing conventions (except for the International Convention for the Suppression of Terrorist Bombings). The point was made that, in order to convict a person for an offence under paragraph 1 of article 2, it should not be necessary to prove that the funds were used to prepare for or to commit a terrorist act. It was also noted that conviction would also follow attempts to commit offences as well as various forms of complicity in an offence.

Paragraph 1

63. In regard to the *chapeau* of paragraph 1, it was suggested that the scope of the provision be limited by replacing the phrase “any person or organization” with “terrorist or other person who can be regarded as representing a terrorist organization”. While the observation was made that the phrase “to prepare for” was vague and could be deleted, support was also expressed for its retention.

64. In terms of a further suggestion, the reference to “to prepare for” would be replaced with “to make essential preparations for”.

65. Support was also expressed for the suggestion made in the context of the debate on article 1 to include the definition of “financing” in article 2, paragraph 1, and then to replace the phrase “proceeds with the financing” with “provides funds to any person”. Similarly, an alternative suggestion was made to replace the phrase “person unlawfully proceeds with the financing” with “person unlawfully finances”, since the reference to “proceeds with” implied the existence of a period of time prior to the commencement of the financing.

66. It was further suggested that the concept of “reception” of funds be inserted in the provision, provided that agreement was reached for its inclusion in paragraph 1 of article 1 (see A/C.6/54/WG.1/CRP.16).

67. Suggestions were made to delete the term “unlawfully” before the phrase “proceeds with the financing” since it was viewed as redundant. However, the view was also expressed that it would be useful to retain the reference to “unlawful”, since it added an element of flexibility by, for example, excluding from the ambit of application of the draft convention legitimate activities, such as those of humanitarian organizations and ransom payments. In terms of a further related suggestion, the term “unlawfully” could be replaced with “deliberately”, “willingly” or “knowingly”.

68. As to the requirement of “knowledge”, it was suggested that it be strengthened by adding the qualifier “full” before it, so as to limit the scope of application of the provision.

69. The suggestion was raised, in the context of the discussion of article 1, that the provision be reformulated so as to provide the reference to “person” in the plural which would have the effect of including “organizations”, thus making the use of that term unnecessary.

Paragraph 1, subparagraph (a)

70. It was proposed that the reference to “Offences” be replaced with “An offence” so as to make clear that the requisite intention might apply to one or more offences.

71. While the suggestion was made to add the qualifier “serious” before “offences” so as to avoid an overly broad application of the draft convention to trivial offences, support was expressed for retaining the text without such amendment.

72. A further similar suggestion was made to reformulate the provision so as to include a qualifier in line with subparagraph (b), namely “designed to intimidate a Government or a civilian population” (see A/AC.252/1999/WP.11 and A/C.6/54/WG.1/CRP.12).

73. It was also noted that the reference to “offences as defined in annex I” should be replaced with “offences specified in annex I”, since those offences had already been defined in existing conventions.

74. Support was expressed for specifying the applicable offences clearly. In this regard, the proposal was made that the annex include a specific list of offences. However, the contrary view was expressed that such an approach would

risk excluding, for example, any safeguards contained in other relevant provisions of the conventions in question.

75. Support was also expressed for the approach taken in the proposal, originally contained in document A/AC.252/1999/WP.11, to include ancillary offences such as attempts and various forms of complicity in the annex. This view was opposed in the Working Group by those that preferred limiting the list to primary offences.

76. Differing views were expressed as to whether the provision should take the form of an “opt in” or “opt out” clause. Those who argued in favour of an “opt in” clause pointed to the fact that States may not, in fact, be parties to the conventions in the annex, and not be bound by their provisions. In terms of this argument, an “opt out” clause would, *inter alia*, delay the entry into force of the draft convention, since a State intending to become a party would have to evaluate all the treaties referred to in the annex, even those to which it is not a party. Hence, it was suggested that the draft convention apply only to those offences contained in those conventions to which the State was already a party (see A/C.6/54/WG.1/CRP.7), and that the State be given the option of making a further declaration indicating its willingness to be bound by the application of another treaty in the list to which it is not a party.

77. Conversely, a preference was expressed for including an “opt out” clause, which would be provided for in a new final clause (see A/C.6/54/WG.1/CRP.11 and CRP.20). In terms of this view, the problem of including offences defined in conventions to which a State is not a party was less acute, since the offences were being included merely by reference (see A/C.6/54/WG.1/CRP.18). It was argued further that an “opt in” clause would be impractical as it would require the constant monitoring of the ratification status of the listed conventions.

78. In terms of a further view, the existing formulation of the provision was satisfactory and should not be replaced with any other.

79. The view was also expressed that the list of conventions in the annex was not exhaustive. Therefore, the suggestion was also made to add a further provision so as to allow for the inclusion of new applicable conventions.

80. It was also proposed that the provision be deleted, and subparagraph (b) be amended so as to provide: “acts leading to death or bodily or psychological injury when such acts by their nature or context are designed to intimidate a civilian population”.

Paragraph 1, subparagraph (b)

81. Support was expressed for the deletion of the provision in its entirety, on the basis, *inter alia*, that it was too vague and that it, in effect, created a new crime of terrorism in a convention on financing, without providing for the distinction between terrorist acts and the lawful acts of national liberation movements.

82. The suggestion was made that the reference to “[a]cts intended to cause death or serious bodily injury to a civilian or to any other person not engaged in an armed conflict” be moved to the annex, and the entire provision replaced with the following: “[o]ffences or acts which, by their nature or context, are designed to intimidate a government or a civilian population or to achieve certain other purposes of the offender[s] or actor[s].”

83. It was also recommended that the reference to “serious bodily injury” be deleted so as to narrow the scope of the draft convention to conform with certain domestic legal systems. This view was opposed in the Working Group, where it was pointed out that, without the reference, the provision would be unbalanced as it would be limited to the most extreme offences, and consequently would restrict prosecutions under the draft convention.

84. A further similar view was expressed that the provision should be refined so as to apply only to terroristic assassination or murder, along the lines of the proposal contained in document A/C.6/54/WG.1/CRP.3. Another proposed formulation of the provision was subsequently submitted to the Working Group (see A/C.6/54/WG.1/CRP.14).

85. Concern was expressed that the text under consideration would inadvertently include the activities of humanitarian organizations. In that regard, it was suggested that the draft convention make reference to the hierarchy of norms of international law, whereby in the context of armed conflict the application of humanitarian law would take precedence over that of the draft convention. A new article 19 *bis* was proposed to include such a limitation on the scope of the draft convention (see A/C.6/54/WG.1/CRP.4).

86. The proposal was also made that the reference to not being engaged in an “armed conflict” be deleted. Others opposed this proposal, noting that the phrase was intended to cover, *inter alia*, terrorist attacks on off-duty military forces of a State.

87. The qualifying phrase “designed to intimidate a government or a civilian population” at the end of the provision was the subject of some debate. While some

preferred its deletion as there could be other reasons for committing a terrorist act, others suggested it be retained so as to exclude ordinary crimes.

88. A proposal was made to delete the phrase “by its nature or context”. Some opposed this deletion because it would suggest that the offence required proof of the perpetrator’s subjective state of mind.

Paragraph 2

89. The view was expressed that the provision could be deleted entirely because its content was implicit in paragraph 1. Conversely, support was expressed for retaining the provision since it contemplated the prevention of terrorist acts in the early stages of preparation. The importance of proving the requisite intent was underlined in that regard.

90. Concern was expressed regarding the concept of “preparation” as contained in the provision, which would render the scope of the draft convention too broad.

Paragraph 3

91. Concerns were expressed regarding the inclusion of the notion of attempt within the ambit of the draft convention, as it could capture activities too remotely linked to the crime of financing, such as an attempt at the planning stage. While a preference was expressed for its deletion, others supported its inclusion since it would cover the situation of an unsuccessful attempt halted through measures undertaken by law enforcement agencies.

92. It was also suggested that the provision could be redrafted to ensure that persons are not to be indicted with proof.

Paragraph 4

93. No substantive comments were made by the Working Group on subparagraphs (a) and (b) during its consideration of the text in question.

Paragraph 4, subparagraph (c)

94. Subparagraph (c) was included in square brackets by the sponsor delegation to indicate that diverging views on the inclusion of the subparagraph were expressed during the Ad Hoc Committee session in March 1999.

95. During the discussion on the provision in the Working Group, it was suggested that it be deleted so as to limit the scope of the draft convention. Furthermore its inclusion was not supported in view of the fact that

criminal liability on the basis of common purpose, or other similar conspiratorial bases, was not recognized in many domestic legal systems.

96. Conversely, support was expressed for the retention of the provision in the text on the grounds that the notion of “conspiracy” was pertinent in the context of the financing of terrorism to reach the conduct of those not directly involved in the act of terrorist financing, and was already incorporated in other conventions such as the International Convention for the Suppression of Terrorist Bombings.

97. A further proposal was made to redraft the provision along the lines of article 25, paragraph 3 (d), of the Rome Statute of the International Criminal Court.

New paragraph 5

98. The proposal was made to add a new paragraph 5 to the article so as to incorporate an evidentiary standard concerning the proof of the requisite knowledge, intention or purpose (see A/C.6/54/CRP.10).

99. Further proposals for article 2 were submitted in documents A/C.6/54/WG.1/CRP.23, 25 to 27, and 33.

Consideration on the basis of the text negotiated during informal consultations

100. At the 10th meeting of the Working Group, on 7 October 1999, the coordinator of the informal consultations introduced a revised text for, *inter alia*, articles 2 and the Annex contained in an informal document circulated in the Working Group.

101. During the subsequent consideration of the proposed text for article 2, the comment was made that the phrase “civilian or to any other person” implied that civilians did not take part in hostilities, which was considered not to be always the case. Instead, it was proposed that the provision be amended to read “injury to a person, whether civilian or not, taking an active part”. That proposal was supported in the Working Group.

102. A further point was made that the reference to “civilians” had been included since it was agreed that a certain category of persons should never be targeted. However, it was also necessary to cover another subset of persons, namely, those who were not civilians but were not engaged in armed conflict either. Examples included off-duty military officers. To accept a broader definition would involve difficulties with the application of humanitarian law and could lead to the situation where certain acts

would be classed as terrorism when they would be acceptable under humanitarian law.

103. Further concern was expressed regarding the meaning of the term “armed conflict” in paragraph 2, subparagraph (1) (b). Instead, a preference was expressed for the formulation of the subparagraph proposed in document A/C.6/54/WG.1/CRP.23. Support was expressed for that proposal. It was also pointed out that the reference to “armed conflict” was not appropriate since it could give rise to disputes of interpretation, i.e., as to whether a particular act constituted terrorism, or was undertaken during “armed conflict”.

104. The view was also expressed that the deletion of the term “armed conflict” would have a substantive impact on the draft convention, since it would leave out a category of military personnel not engaged in armed conflict. It was felt that such alteration would greatly affect the balance of the provision. However, it was also argued that such concerns were adequately dealt with by the inclusion of article 19 *bis*.

105. The observation was made that the deletion of the definition of the term “armed conflict” had been undertaken on the understanding that any reference to “armed conflict” in the draft convention should be understood in accordance with humanitarian law, consistent with the similar understanding in the International Convention on the Suppression of Terrorist Bombings and the draft international convention for the suppression of acts of nuclear terrorism.

106. The view was expressed that the Annex, as proposed, was insufficient.

107. It was further noted in the Working Group that the text under consideration was a compromise text.

Consideration on the basis of the revised text prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.35/Rev.1)

108. A slightly modified version of the proposed text for article 2 was included in the revised text of the draft convention, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.35/Rev.1), tabled before the Working Group at its 11th meeting, on 8 October 1999. The text of the Annex, as finalized in the informal consultations, was also included in the revised text of the draft convention.

109. Furthermore, the Chairman made a statement in which it was recalled that a proposal to define the term “armed conflict” in paragraph 1, subparagraph (b), had

been made. It was observed that some delegations had felt that a definition of the term was not really necessary and had requested its deletion. Furthermore, it was stated that after an exchange of views, the Working Group had decided to omit such a definition because the term “armed conflict” could only be interpreted and applied in accordance with international humanitarian law.

Article 19 *bis* [21]

Consideration on the basis of the text negotiated during informal consultations

110. A proposal for the inclusion of an article 19 *bis* to cover the application of humanitarian law had been proposed during the initial consideration of article 2 (see A/C.6/54/WG.1/CRP.4).

111. Following extensive informal consultations, an informal text of articles 2, 19 *bis*, 20 *ter* and the Annex was introduced by the coordinator of the consultations at the 10th meeting of the Working Group, on 7 October 1999.

112. The text of the revised article 19 *bis* was included as article 21 in the text of the draft convention, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.35/Rev.1), which was placed before the Working Group at its 11th meeting, on 8 October 1999.

Article 20 *bis* [23]

Consideration on the basis of document A/C.6/54/WG.1/CRP.11

113. At the 8th meeting of the Working Group, held on 5 October 1999, a proposal for a new article 20 *bis*, contained in document A/C.6/54/WG.1/CRP.11, was introduced following the discussions in the context of article 2. The sponsor delegation observed that the provision had been formulated in the form of an “opt out” clause, whereby a State Party which is not a party to a treaty listed in the annex could declare that in the application of the draft convention to that State Party, the provisions of that treaty should not be treated as offences referred to in article 2, paragraph 1, subparagraph (a).

114. Paragraph 2 contained a mechanism for updating the list of conventions in the annex. The sponsor delegation explained that the provision was designed to avoid lengthy parliamentary ratification procedures for each amendment to the list, since such amendment would be approved in advance on the ratification of the convention as a whole.

Paragraph 1

115. Support was expressed in the Working Group for the approach taken to paragraph 1.

Paragraph 2

116. Opposition was expressed in the Working Group to the proposed text for paragraph 2, on the grounds, *inter alia*, that the automatic procedure envisaged would pose practical difficulties for States Parties due to lengthy parliamentary procedures for the ratification of amendments; and that it might contradict the Vienna Convention on the Law of Treaties by imposing new obligations on third parties without their consent. In response, the view was expressed that the provision did not contradict the Vienna Convention on the Law of Treaties. The addition would not result in States Parties automatically becoming parties to the convention in question.

117. Furthermore, it was pointed out that similar provisions were contained in other multilateral conventions in, for example, the disarmament and environment areas. In that connection, it was observed that the reference to treaties in those areas was not directly applicable, since such mechanisms usually related to the addition of technical annexes, and not the scope of the conventions in question. Such an amendment to the scope of the convention would require parliamentary approval.

118. A further preference was expressed for an “opt in” clause, along the lines of the proposal contained in document A/AC.252/1999/WP.29.

119. A preference was also expressed for not including the reference to “even if the treaty is not yet in force”.

Article 20 *ter* [23]**Consideration on the basis of the text negotiated during informal consultations**

120. Following the informal consultations on article 2, a text for a new article 20 *ter* was proposed by the coordinator of the consultations, at the 10th meeting of the Working Group, on 7 October 1999. The new provision related to the amendment of the Annex.

121. A revised version of the proposed article 20 *ter* was included as article 23 in the text of the draft convention, prepared by the Friends of the Chairman

(A/C.6/54/WG.1/CRP.35/Rev.1), which was placed before the Working Group at its 11th meeting, on 8 October 1999.

Article 5**Consideration on the basis of the discussion paper submitted by the Bureau on articles 3 to 25²**

122. The Working Group commenced its consideration of article 5 on the basis of the text submitted by the Bureau contained in annex I.A to the report of the Ad Hoc Committee. In introducing article 5, the Chairman noted that the Ad Hoc Committee had undertaken its second reading of article 5 on the basis of the revised text contained in document A/AC.252/1999/WP.45.³

123. With regard to paragraph 1, the Bureau had decided to delete the phrase “having their registered offices”. The text under consideration therefore included three alternative criteria relating to legal entities, namely, “carrying out activities”, “located in its territory”, or “organized under its laws”. The phrase “are held liable” was replaced with “may be held liable”, as the concept of obligation was already contained in the use of the word “shall” in the first line. The phrase “knowingly, through the agency of” was replaced with the words “, with the full knowledge of”, thus addressing the concerns that had been expressed regarding the necessary threshold required to establish liability, as well as concerns as to the use of the term “agency”, which had different connotations in certain legal systems.

124. Furthermore, as regards the requirement concerning commission of offences by the legal entities in question, the words “derived profits from” were replaced with the words “benefited from”. Similarly, the phrase “participated in the commission of offences” was replaced by “committed offences”.

125. In terms of the new formulation of paragraph 2, the phrase “[s]uch legal entities may incur criminal, civil or administrative liability” was replaced with “[s]uch liability may be criminal, civil or administrative”. Furthermore, the word “fundamental” before “legal principles” was deleted in light of concerns regarding its precise meaning.

126. While no change was made to paragraph 4, the phrase “legal entities responsible for committing an offence referred to in this Convention” in paragraph 4 was replaced with “legal entities liable in accordance with paragraph 1”, so as to avoid any implication that liability could be expanded beyond the scope of paragraph 1. In addition, the

phrase “effective measures that are commensurate with the offence” was replaced with “effective and proportionate measures”, thus aligning the text with the French-language version.

127. It was decided to delete the original paragraph 5, which dealt with the notion of State responsibility under international law, on the grounds that it fell outside the scope of the draft convention.

Paragraph 1

128. During the debate in the Working Group on the proposed text for paragraph 5 contained in the report of the Ad Hoc Committee,⁴ the suggestion was made that the phrase “in accordance with its domestic legal system” be inserted after the reference to “[e]ach State Party”, so as to take into consideration the diversity of national legal systems.

129. Proposals were also made to delete the phrase “carrying out activities” which was considered to be too broad and too vague, as well as to delete the qualifier “full” before “knowledge” on similar grounds.

130. With regard to the three conditions for jurisdiction over legal entities, namely, their carrying out activities, or their being located in the territory of the State Party or their being organized under the laws of the State Party, it was suggested that it be clarified that States were not obliged to take measures covering all of the above conditions. A further proposal was made to delete the three conditions entirely, so as to leave the question of jurisdiction entirely to article 7.

131. Doubts were raised as regards the reference to “benefited from”, which was considered to be too broad and could cover non-criminal activity. While it was suggested that the clause be deleted, others preferred its retention and expressed the view that legal entities that “benefited” from the illicit activities of their employees should be held liable. It was also pointed out, in that regard, that the provision was qualified by the phrase “may be held liable” which introduced a discretionary element, thus mitigating the broad application of the draft convention.

132. It was further proposed that the phrase “benefited from or committed offences set forth in article 2” be replaced with “committed acts set forth in article 2”, or with the formulation contained in document A/AC.252/1999/WP.21, which, *inter alia*, emphasized the vicarious liability of legal entities. Support was expressed for the phrase “a person responsible for” contained in that proposal.

133. The proposal was made to add a qualifier regarding the failure to exercise management or control on the part of persons responsible for such management and control. A further similar preference was expressed for including an explicit reference to a high-level manager. It was also suggested that the phrase “action or acquiescence of one or more persons responsible for ... management or control”, found in document A/AC.252/1999/WP.37, be reflected in the provision. Different views were expressed regarding the liability of the legal entity for the actions of those of its employees not acting in a managerial capacity. It was observed that, while an explicit reference to employees was not necessary in the text, if it was to be included then a provision outlining the duties of the legal entity would have to be included as well.

134. It was suggested that the term “committed” be replaced with “participated”, to reflect the fact that many legal systems did not recognize the possibility of legal entities committing criminal acts.

135. The proposal was made in the Working Group that the provision be replaced with a formulation along the following lines: “States Parties shall adopt all necessary measures, in accordance with their legal principles, with a view to establishing the responsibility of legal entities located in their territories or organized under their laws, for the participation in offences criminalized in the present convention”, so as to be closer to the language of the draft United Nations Convention against Transnational Organized Crime.

136. A proposal for a new text of article 5, paragraph 1, was subsequently submitted to the Working Group (see A/C.6/54/WG.1/CRP.1).

Paragraph 2

137. A preference was expressed for the deletion of the term “criminal”, in view of the fact that some domestic legal systems did not recognize the concept of criminal liability of legal entities.

138. A further suggestion was made to delete the reference to “according to the legal principles of the State Party”, at the end of the provision.

Paragraph 4

139. It was suggested to expand the cross-reference in the provision to paragraph 2 as well.

140. A reformulation of the text, as contained in document A/C.6/54/WG.1/CRP.21, was also proposed.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15)

141. Following the discussion in the Working Group, a revised text of article 5 prepared by the Friends of the Chairman was tabled before the Working Group, at its 6th meeting, on 30 September 1999.

142. In introducing the revised text, the Chairman explained the changes made to the text contained in annex I.A to the report of the Ad Hoc Committee. He pointed out that the phrase “in accordance with its domestic legal system” had been inserted after the words “Each State Party”, so as to maintain consistency with the draft United Nations Convention against Transnational Organized Crime.

143. Furthermore, in paragraph 1, the words “carrying out activities or” were not included in the revised draft, as suggested by some delegations.

144. The phrase “according to the legal principles of the State Party”, in paragraph 2, was deleted as a consequence of the insertion of the reference to “its domestic legal system” in paragraph 1.

145. It was also decided to retain the reference to “proportionate measures” in paragraph 4, pending further discussions.

Paragraph 1

146. During the ensuing debate in the Working Group on the revised text for article 5, the suggestion was made that the reference to “an offence under article 2” be replaced with “an offence set forth in article 2”, so as to conform with the agreed upon reference for the financing offences specified in article 2.

147. It was also proposed that the phrase “or on its behalf”, should be added after “in that capacity”, as it was not always easy to establish in which capacity the individual had acted.

148. The view was expressed that the phrase “shall incur liability” could be replaced with “may be held liable”, as contained in the first text of the Bureau,² in view of the fact that the words “shall take” in the first line already made the provision mandatory. This view was opposed in the Working Group, where the suggestion was made to replace instead the phrase “shall incur liability” with “is held liable”. That approach was viewed as being stricter and as providing an incentive for managers to supervise the

activities of the legal entity much more closely. In response, it was pointed out that it was inappropriate to use mandatory language, such as “shall incur liability” or “is held liable”, in advance of any proceedings establishing such liability. Furthermore, the concern was expressed that the reference to “shall incur liability” did not take into account the fact that, while a legal entity might be prima facie liable for its activities, it could rely on certain excuses or defences that would preclude such liability. That view was disputed in the Working Group.

149. The proposal was made to replace the last part of the paragraph with the text contained in document A/C.6/54/WG.1/CRP.19, which incorporated the substance of paragraph 2 into paragraph 1.

150. Support was also expressed for reinserting the notion of benefiting from, so as to be in line with the draft United Nations Convention against Transnational Crime. That suggestion was opposed in the Working Group, where concerns were expressed that the concept of “benefit” was too vague in the draft convention under consideration.

Paragraph 2

151. The proposal was made to incorporate the paragraph into paragraph 1, as described above.

Paragraph 4

152. While no comments were made regarding paragraph 3, the preference was expressed for deleting paragraph 4 in its entirety, since it was redundant, as the measures envisaged in the provision were implied in the reference to “necessary measures” in paragraph 1. The proposed deletion of the paragraph was opposed on the basis that it was necessary to ensure that measures would be taken not only against the individuals concerned, but also against the legal entity. It was also noted that similar provisions were to be found in other instruments, such as the International Convention for the Suppression of Terrorist Bombings (article 4), and that it played an important deterrent role.

153. Support was expressed for the proposal to reformulate paragraph 4 along the lines of the text subsequently submitted as document A/C.6/54/WG.1/CRP.28, which made reference to the types of sanctions imposed against legal entities. Conversely, concerns were expressed in the Working Group that strengthening the language in paragraph 4 raised serious questions of sovereignty, especially for those States that did not recognize the criminal liability of legal entities.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.1)

154. Following the discussion in the Working Group on the revised text in document A/C.6/54/WG.1/CRP.15, the Friends of the Chairman prepared a further revision, taking into account the suggestions made in the Working Group and various texts emanating from informal consultations. The new text was contained in document A/C.6/54/WG.1/CRP.15/Rev.1, and was introduced at the seventh meeting, on 4 October 1999.

155. At that meeting, the Chairman noted that paragraphs 1 and 2 of the previous text had been merged into a single paragraph. By moving the words “such liability may be criminal, civil or administrative” into paragraph 1, it was made clearer that such liability would arise in accordance with the domestic legal systems of States Parties. In view of the merger, the subsequent paragraphs were renumbered accordingly. Furthermore, the words “shall incur liability” have been substituted by the expression “may be held liable”. Likewise, the phrase “or on its behalf” was added after “in that capacity”. Consistent with the overall text of the draft convention, the phrase “under article 2 of this convention” was substituted with “set forth in article 2”.

156. While no changes were made to paragraph 2 (former paragraph 3), it was decided to retain the existing formulation of paragraph 3 (former paragraph 4), pending the outcome of informal consultations, particularly regarding the words “effective and proportionate measures”.

Paragraph 1

157. During the debate on the new revised text, the suggestion was made to replace the term “a legal entity” with “that legal entity”.

158. As to the inclusion of the words “or on its behalf”, differing views were expressed. While a preference was expressed for their deletion as being superfluous, others argued for its retention, *inter alia*, because it retained the notion of “benefit”. It was also noted that retaining the reference could also serve to cover the situation of the manager acting beyond his or her powers, but still on behalf of the legal entity. A further suggestion was made by way of compromise to modify the text so as to read “in this capacity or on behalf of the entity”. It was also observed that it was unclear whether the words “or on its

behalf” also covered persons exercising a power of attorney.

159. Support was expressed for replacing the phrase “may be held liable” with a more definite phrase such as “is held liable” or “shall be held liable”. That suggestion was opposed in the Working Group, where it was pointed out, *inter alia*, that the phrase “may be held liable” was to be read in conjunction with the requirement in the first line that “[e]ach State Party ... shall take the necessary measures”.

160. While a further proposal was made to add the notion of “for the benefit” of the legal entity into the text, concerns were expressed in the Working Group that such an addition would make the scope of the article too broad.

161. A proposal was made to delete the reference to “in accordance with the provisions of this article” (see A/C.6/54/WG.1/CRP.24).

Paragraph 2

162. The suggestion was made that the provision could be modified to cover accomplice liability. However, it was pointed out that such liability was already contemplated under article 2.

163. A further proposal was made to add the phrase “in accordance with the domestic laws of the State concerned” at the end of the paragraph (see A/C.6/54/WG.1/CRP.24).

Paragraph 3

164. While support was expressed for retaining the text of the provision as revised, a preference for its deletion was also expressed.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.2)

165. On the basis of the discussion in the Working Group on the revised text of article 5, contained in document A/C.6/54/WG.1/CRP.15/Rev.1, the Friends of the Chairman prepared a further revision, contained in document A/C.6/54/WG.1/CRP.15/Rev.2.

166. In introducing the new text, at the 8th meeting of the Working Group, on 5 October 1999, the Chairman noted that the words “a legal entity”, in paragraph 1, had been corrected to read “that legal entity”. Furthermore, following the discussion in the Working Group, the words “on its behalf” were deleted in accordance with the views expressed in the Working Group. He also observed that the

Friends of the Chairman had decided on retaining the reference to “may be held liable”, and that no changes had been introduced relating to the words “for the benefit”, pending the outcome of informal consultations.

Paragraph 1

167. Reference was made during the discussion in the Working Group to the proposal for a new paragraph 1, contained in document A/C.6/54/WG.1/CRP.29. In expressing support for the proposal, it was observed that it represented a compromise between the insertion of a reference to “may be held liable” and to “shall be liable”. While a preference was still expressed for retaining the existing reference to “may be held liable”, the view was expressed that the proposed text was an acceptable compromise. As to the formulation of the proposal in document A/C.6/54/WG.1/CRP.29, the point was made that the reference to “enabling” a legal entity was inelegant and could be improved.

168. The suggestion was further made to insert in paragraph 1 a reference to “effective and proportionate measures”, as contained in paragraph 3, and to delete paragraph 3 accordingly. In terms of a similar proposal, paragraph 3 would be merged into paragraph 1, and the word “measures” would be replaced with “sanctions”.

Paragraph 3

169. Proposals were made during the debate to merge paragraph 3 into paragraph 1 (see above).

170. The Working Group considered the proposal for a new text for paragraph 3 (see A/C.6/54/WG.1/CRP.28), based on the 1999 revision of the draft United Nations Convention against Transnational Organized Crime. It was explained that the proposal was intended to clarify the reference in paragraph 3 to “measures”. Support was expressed in the Working Group for the proposal.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.3)

171. Following the debate in the Working Group on the text contained in document A/C.6/54/WG.1/CRP.15/Rev.2, the Friends of the Chairman prepared a further revised text of article 5 (see A/C.6/54/WG.1/CRP.15/Rev.3).

172. In introducing the revised text at the ninth meeting held on 6 October 1999, the Chairman noted that paragraph 1 had been replaced with the text contained in

document A/C.6/54/WG.1/CRP.29, which contained the consensus text emanating from the informal consultations.

173. While no changes were made to paragraph 2, the word “measures” in paragraph 3 was replaced with “and dissuasive criminal, civil or administrative sanctions”. Furthermore, the following sentence was added at the end of the provision: “Such sanctions may include monetary sanctions”.

174. No comments were made on article 5 during the ensuing discussion.

Consideration on the basis of document A/C.6/54/WG.1/CRP.35

175. At the 10th meeting of the Working Group, on 7 October 1999, the Chairman pointed out, in reference to the revised text prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.35), that the phrase “domestic legal system” in paragraph 1 had to be replaced with “domestic legal principles”. That change was effected in the following version of the text (A/C.6/54/WG.1/CRP.35/Rev.1), which was tabled before the Working Group at its 11th meeting, on 8 October 1999.

Article 6

Consideration on the basis of the discussion paper submitted by the Bureau on articles 3 to 25²

176. At the 8th meeting of the Working Group, held on 5 October 1999, the proposal was made to add a new paragraph 2 to the provision along the lines of the proposal contained in document A/AC.252/1999/WP.17, submitted to the Ad Hoc Committee in March 1999. It was explained that the proposed additional clause would cover the complicity of States in contracts or agreements to commit an offence under the draft convention, and would create an obligation on States not to enforce such agreements. It was argued that such a provision would be in line with the need for a comprehensive legal framework to combat terrorism.

177. While some support was expressed for the proposal, the observation was made that a reference to the responsibility of States was not appropriate in the draft convention.

Article 7

Consideration on the basis of the discussion paper submitted by the Bureau on articles 3 to 25²

178. The consideration of article 7 was first undertaken by the Working Group on the basis of the text submitted by the Bureau, contained in annex I.A to the report of the Ad Hoc Committee.⁴ In introducing the article, the Chairman noted that the Ad Hoc Committee had undertaken its second reading of article 7 on the basis of the revised text contained in document A/AC.252/1999/WP.51.³

179. It was observed that the text proposed by the Bureau did not amend paragraph 1. Furthermore, in paragraph 2, the phrase “carrying out of an attack” in subparagraph (a), was replaced with “carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b)”, so as to address concerns regarding the use of the word “attack”. New subparagraph (b) corresponded to subparagraph (c) of document A/AC.252/1999/WP.51. The same amendment made in subparagraph (a) relating to the words “carrying out of an attack”, was made in subparagraph (b). New subparagraph (c) corresponded to subparagraph (d) of document A/AC.252/1999/WP.51. It too was slightly reformulated in line with the preceding subparagraphs. New subparagraph (d) corresponded to former subparagraph (b) of document A/AC.252/1999/WP.51. Subparagraph (e) was a new paragraph, based on a proposal made in the Ad Hoc Committee, and was intended to cover the case of an offence committed on board an aircraft operated by the Government of a State.

180. While no changes were made to paragraph 3, an editorial change was made to paragraph 4, whereby the words “of the present article” were deleted.

181. In paragraph 5, the phrase “terms and conditions” was replaced by “modalities”.

182. No change was made to paragraph 6.

General comments

183. During the debate in the Working Group on the text, the view was expressed that article 7 did not apply to legal entities, only to natural persons.

Paragraph 1

184. A proposal was made to change the reference in the *chapeau* of the paragraph from “shall” to “may”, so as to take into account the predominance of territoriality in

international law as the basis for criminal jurisdiction, especially in light of the reference to nationality in subparagraph (c).

185. In relation to subparagraph (b), it was reiterated that the provisions of the 1982 United Nations Convention on the Law of the Sea relating to the jurisdiction of the coastal State over territorial waters would apply. A further view was expressed that the retention of subparagraph (b), as drafted, would be useful as it would allow the flag State to exercise its jurisdiction over the vessel while in the territorial waters of another State. It was also pointed out that the provision was based on a similar provision in the International Convention for the Suppression of Terrorist Bombings.

Paragraph 2

186. A proposal was made to delete the reference to “or resulted in” contained in subparagraphs (a) to (c), with a view to narrowing the scope of the provision. In that regard, it was also suggested that subparagraphs (a) to (c) could be merged into one subparagraph.

187. It was observed that the reference to “in the territory”, in subparagraph (a), was already covered by paragraph 1, subparagraph (a), and was not found in the original proposal by the French delegation.⁵

188. With regard to subparagraph (b), it was suggested that the phrase “an embassy or” be deleted, since it was already covered within the legal meaning of the terms “diplomatic premises”. As to subparagraph (e), it was suggested that the provision be deleted.

Paragraph 6

189. A suggestion was made to reformulate the text in accordance with the proposal submitted to the meeting of the Ad Hoc Committee in March 1999, as contained in document A/AC.252/1999/WP.58. It was argued that the text under consideration was too broad and could allow for extraterritorial exercise of jurisdiction by States. As such, it could benefit from the inclusion of qualifying language referring to the relevant rules and principles of international law (see A/C.6/54/WG.1/CRP.24). Conversely, an observation was made that the provision was based on similar provisions in other international conventions and that it was not intended to create new rights or obligations.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15)

190. In introducing the revised text for article 7, prepared by the Friends of the Chairman on the basis of the discussion in the Working Group, the Chairman noted that the only modification made in the article related to paragraph 2, subparagraph (b), where the words “an embassy or other” were deleted to maintain consistency with the 1961 Vienna Convention on Diplomatic Relations. Furthermore, it was observed that paragraph 2, subparagraph (e), had been retained in the absence of a clear preference for deleting it.

Paragraph 2, subparagraph (e)

191. In the debate that followed the Chairman’s introduction of the revised text, the observation was made that the provision should be clarified since it gave rise to questions regarding concurrent jurisdiction. In response, a preference was expressed for retaining it since State aircraft, such as military, police and customs aircraft were not covered by paragraph 1, subparagraph (b), while the vessels contemplated in paragraph 1, subparagraph (b) included both commercial and government vessels.

Paragraph 6

192. The view was expressed that the provision should be deleted or clarified further, since it could allow for a breach of international law. Conversely, a view was expressed that the provision was useful, since it recognized that the draft convention was not intended to limit the authority of States to exercise jurisdiction beyond that provided for by the convention.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.1)

193. Following the discussion in the Working Group on the revised text in document A/C.6/54/WG.1/CRP.15), the Friends of the Chairman prepared a further revision, taking into account the suggestions made in the Working Group and various texts emanating from informal consultations. The new text was contained in document A/C.6/54/WG.1/CRP.15/Rev.1, and was introduced at the 11th meeting, on 4 October 1999.

194. In observing that no changes had been made to article 7, the Chairman pointed out that paragraph 2, subparagraph (e), had been retained in light of the discussions in the Working Group, and that paragraph 6 had not been modified, pending the outcome of informal discussions on the provision.

195. During the debate that followed, support was expressed for retaining the article as presented by the Friends of the Chairman.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.2)

196. Following the discussion in the Working Group on the text of article 7, contained in document A/C.6/54/WG.1/CRP.15/Rev.1, a new set of revised texts was prepared by the Friends of the Chairman (see A/C.6/54/WG.1/Rev.2).

197. In introducing the new texts, the Chairman noted that no changes had been made to article 7.

Paragraph 6

198. During the discussion that followed, the Working Group’s attention was drawn to the proposal in document A/C.6/54/WG.1/CRP.24 to add a phrase at the beginning of the paragraph to make it clear that paragraph 6 was not intended to alter international law.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.3)

199. In response to the discussions in the Working Group on the basis of the texts in document A/C.6/54/WG.1/CRP.15/Rev.2, the Friends of the Chairman prepared a further revised text (see A/C.6/54/WG.1/CRP.15/Rev.3).

200. In introducing the revised text at the 9th meeting, held on 6 October 1999, the Chairman noted that no changes had been made to article 7, pending the outcome of informal consultations on, particularly, paragraph 6.

Consideration on the basis of the revised text prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.35)

201. Reference to article 7 was made during the consideration of the revised text of the draft articles, prepared by the Friends of the Chairman, during the 10th meeting of the Working Group, on 7 October 1999, at which time the general observation was made that the text was still the subject of informal consultations.

202. At that meeting, it was noted in relation to paragraph 6 that the exercise of national terms of reference should be applied in conformity with international law. If not, the provision could lead to actions considered unacceptable under international law.

203. A further reference was made to the proposal for paragraph 6 contained in document A/AC.252/1999/WP.58.

Consideration of the text for paragraph 6 negotiated during informal consultations and included in the revised text prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.35/Rev.1)

204. At the 11th meeting of the Working Group, on 8 October, the coordinator of the informal consultations on paragraph 6 introduced the text negotiated during those consultations, which had been included in the revised text prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.35/Rev.1).

205. Paragraph 6, as contained in the revised text, was orally amended by the coordinator to reflect the agreement in the informal consultations to add the following phrase, based on the proposal in document A/C.6/54/WG.1/CRP.24, at the beginning, “[w]ithout prejudice to the norms of general international law”.

Article 8

Consideration on the basis of the discussion paper submitted by the Bureau on articles 3 to 25²

206. The Working Group commenced its consideration of article 8 during the current session first on the basis of the text submitted by the Bureau, contained in annex I.A of the report of the Ad Hoc Committee.⁴ In introducing the article, the Chairman recalled that the Ad Hoc Committee had undertaken its second reading on the basis of the revised text contained in document A/AC.252/1999/WP.45.³

207. In explaining the changes made by the Bureau to that text, the Chairman noted that the following modifications were made to paragraph 1, so as to align it with the French language version: the word “goods” was replaced with “property”; the phrase “designed to be” was substituted with “intended to be”; the words “to allow” in the first line were deleted; and the word “the” was inserted before “identification”. The phrase “set forth in article 2” was added so as to clarify which offences were being referred to. The square brackets around the phrase “as well as the proceeds derived from such offences” were also deleted, so as to expand the scope of the provision.

208. With respect to paragraph 2, the reference to “in accordance with its fundamental legal principles to permit” was deleted by the Bureau, in line with the prevailing trend of the discussions in the Ad Hoc Committee. Furthermore, the phrase “and the proceeds derived from such offences” was added at the end of the paragraph, so as to align it with paragraph 1.

209. Paragraph 3 remained the same, with the exception of the deletion of the square brackets around the words “proceeds or”, thus aligning the provision with the prior paragraphs.

210. In paragraph 4, the opening phrase “[s]ubject to its domestic law” was deleted. The word “indemnify” was replaced by the word “compensate”. A further editorial change was made to the reference to “within the ambit of this Convention”, which was replaced with “referred to in article 2, paragraph 1, subparagraph (a) or (b)”.

211. No change was made to paragraph 5.

Paragraphs 1 and 2

212. During the debate in the Working Group on the Bureau’s proposed text, it was noted that the word “property” was redundant, since it was already envisaged in the concept of “funds”, as defined in article 1. Thus, it could be deleted.

213. The view was expressed that the phrase “or intended to be used” should be deleted, since, in practice, it would be difficult to prove the intention to use funds to commit an offence set forth in article 2. Furthermore, the view was expressed that while the reference to intended use was included in article 5, paragraph 1 (b), of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, such a reference was not appropriate in the context of the current draft convention, since the possession of funds (as opposed to drugs) did not, per se, present any danger. That view was

opposed in the Working Group. A further proposal was made, by way of resolving the issue, to replace the term “intended” with “attempted”.

214. The remark was made that the interpretation given to the phrase “offences set forth in article 2” by the Bureau — namely, that it was a reference only to those financing offences established under the draft convention — was too narrow. The original text of article 8 also covered the offences listed in the annex. Thus, it was proposed that the text under consideration cover both types of offences.

Paragraph 3

215. A suggestion was made that the term “concerned” be added after the phrase “each State Party”, so as to specify the States which may consider the agreements envisaged in the provision.

216. In line with a similar proposal raised in the context of paragraphs 1 and 2, it was suggested that the phrase, “property, or funds derived from the sale of such proceeds or property” be replaced with the term “funds”, so as to read “of such proceeds or funds”. A further proposal was made to replace the same final phrase of the provision with the following formulation, “of any assets derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2”, derived from article 1 (p) of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. It was explained that in doing so the substance of the provision would be clarified. This suggestion was opposed in the Working Group on the grounds that the paragraph in question was more in line with the two preceding paragraphs.

Paragraph 4

217. A proposal was made to replace the phrase “shall consider” with “may give consideration”, so as to allow for greater discretion in establishing mechanisms for compensation. This view was opposed in the Working Group where it was pointed out that stronger language was required to encourage the provision of compensation for victims of the crimes in question would be compensated.

218. The view was also expressed that the reference to “criminal acts resulting from the commission of” was vague, and consequently could be deleted.

219. It was also suggested that the scope of the provision be extended to include compensation for the victims of the offences listed in the annex.

Paragraph 5

220. The observation was made that the phrase “third parties” in the provision should be clarified, since it could be interpreted to refer to States as well.

New paragraph 6

221. A proposal was made to include a new paragraph 6 with a view to including a reference to domestic law, in line with paragraph 9 of article 5 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (see A/C.6/54/WG.1/CRP.8).

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15)

222. A revised text for article 8, based on the discussions in the Working Group, was prepared by the Friends of the Chairman, and issued as document A/C.6/54/WG.1/CRP.15. In introducing the revised text at the sixth meeting of the Working Group, on 30 September 1999, the Chairman noted that the Friends of the Chairman had not deemed it appropriate at that stage to consider the various proposals that had been made in regard to paragraphs 1, 2 and 3, pending agreement on the final wording of articles 1 and 2.

223. With regard to paragraph 4, it was pointed out that the phrase “criminal acts resulting from the commission of” had been deleted, in line with the prevailing view of the debate in the Working Group.

224. As to paragraph 5, it was observed that the Working Group would return at a later stage to consider the phrase “third parties”.

Paragraphs 1 and 2

225. It was proposed to delete the phrase “intended to be used” in both paragraphs; it was considered to be ambiguous.

226. In relation to the phrase “proceeds derived from such offences”, it was recalled that a proposal had been made (see A/C.6/54/WG.1/CRP.6) to include a definition of the concept of profiting from the offence in article 1. It was further noted that the definition proffered in that proposal conformed generally with the definition found in the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Conversely, the proposal to include such a definition was opposed in the Working Group.

Paragraph 3

227. A suggestion was made to add the term “concerned” after “States Parties”. The suggestion was opposed in the Working Group, where it was pointed out that the requirement in the paragraph was a general one, requiring States Parties to consider entering into such arrangements in advance of any actual cases. Thus, it would not be possible to ascertain who the States Parties “concerned” would be.

Paragraph 4

228. A proposal to add a sentence at the end of the paragraph containing a savings clause relating to the rights of victims under the generally applicable law of the State was submitted to the Working Group (see A/C.6/54/WG.1/CRP.17).

Paragraph 5

229. Concern was again expressed that the phrase “third parties” could be interpreted to include the States alluded to in the prior paragraphs. During the ensuing debate, proposals were made to replace the term with “third persons”, “other persons, natural or legal” or “others acting in good faith” (see A/C.6/54/WG.1/CRP.24). The view was also expressed that the provision should be retained in its current form, since the phrase “third parties” was generally accepted to include States and natural or other legal persons.

New paragraph 6

230. Support was once again expressed for the proposal to add, as a new paragraph 6, a savings clause in favour of the domestic law of each State Party (see A/C.6/54/WG.1/CRP.8). In supporting the proposal, the observation was made in the Working Group that the new text was based on article 5, paragraph 9, of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. It was also noted that its inclusion would serve to allay concerns among some regarding the possibility of forfeiture of funds prior to a conviction.

231. The new paragraph was opposed in the Working Group, where it was pointed out that it would narrow the scope of article 8 too much and that it would undermine the flexibility built into paragraphs 1 to 4. Indeed, it was pointed out that the new paragraph was not necessary, since a qualifier was already present in each paragraph of article 8. In that regard, a proposal was made to refine the

language of new paragraph 6, by replacing the words “domestic law” with the phrase “fundamental legal principles”. It was argued that that would serve to raise the threshold in the provision. In terms of a further observation, it was noted that the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances utilized the words “domestic law”.

232. In terms of a further view, the new paragraph would have to be redrafted so as to be consistent with article 5.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.1)

233. Following the discussion in the Working Group on the revised text in document A/C.6/54/WG.1/CRP.15, the Friends of the Chairman prepared a further revision, taking into account the suggestions made in the Working Group and various texts emanating from informal consultations. The new text was contained in document A/C.6/54/WG.1/CRP.15/Rev.1, and was introduced at the 7th meeting, on 4 October 1999.

234. In regard to paragraphs 1 and 2, the Chairman noted that no substantial changes had been made, in view of their linkage to articles 1 and 2, which were still under negotiation. The only exception was the insertion of the phrase “in accordance with its domestic legal principles” after the term “measures”, in the first line of each paragraph. That modification was made in lieu of the introduction of a new paragraph 6, as proposed in document A/C.6/54/WG.1/CRP.6.

235. With regard to paragraph 3, the word “concerned” was inserted after “each State Party”.

236. No changes were made to paragraphs 4 and 5.

237. As regards the proposed definition of “proceeds”, the definition was included on the understanding that its formulation was the result of informal consultations. It was observed that the definition was based on article 1 (p) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

238. During the debate that followed, an observation was made that the phrase “domestic legal principles” should be standardized throughout the entire draft convention. In that regard, a preference was expressed for following formulations: “domestic laws”, “domestic legal norms”, or “its laws and legal procedures”. It was also pointed out that a distinction could be drawn between “its laws”, when referring to a concept shared by all legal systems, and

“domestic legal principles”, when alluding to a particular concept which was viewed differently by States.

Paragraph 1

239. In relation to paragraph 1, it was reiterated that the term “property” could be deleted, since it was already encompassed within the definition of “funds”.

240. While support was expressed for deleting the phrase “or intended to be used”, such deletion was opposed in the Working Group.

241. A further proposal was made to delete the phrase “in any manner”.

Paragraph 2

242. The observation made in regard to the use of the word “property” in paragraph 1 was made in the context of paragraph 2.

243. Various views were expressed regarding the phrase “or intended to be used”. While some supported its deletion, since it implied forfeiture prior to a conviction, others noted that if it were to be retained, then the phrase “in accordance with its domestic legal principles” would also have to be retained. It was observed further that the phrase should be retained, because the draft convention recognized financing as a main offence, under article 2, and therefore “intended” use was important. Others noted that retaining such a provision was commensurate with the approach of the draft convention, which placed emphasis on prevention. Furthermore, it was noted that an intention requirement already existed in article 2.

244. In a further proposal, the phrase “intended to be used” would be replaced with “destined to be used” or “destined for use”. That approach was opposed in the Working Group. Other suggestions to replace the phrase “intended to be used” included “in order to commit”, “which they start to use for the commission of the crime”, “attempted to be used”, “other means attempted or used”, and “used or allocated”.

245. It was stated that the phrase “set forth in article 2”, should be replaced with “referred to in article 2”.

246. Support was further expressed for adding the words “and legislation” after “domestic principles”, and for replacing “domestic legal principles” with “domestic laws”.

247. The view was also expressed that paragraph 2 was redundant and could be deleted.

Paragraph 3

248. While a preference for retaining the text of the provision as proposed by the Friends of the Chairman was expressed, a suggestion was also made to replace the phrase “proceeds or property or funds” with “funds, other means or proceeds thereof”. That proposal was opposed in the Working Group.

249. In a further proposal, the term “concerned” could be deleted.

Paragraph 5

250. The attention of the Working Group was drawn to the proposal in document A/C.6/54/WG.1/CRP.24, whereby the words “third parties” would be replaced with “others”.

Proposed definition of “proceeds”

251. In response to a request by the Chairman that delegations comment on the proposed definition of “proceeds”, the view was expressed that it was superfluous and could lead to confusion.

252. It was observed that the proposed text for the definition could be amended as follows: the phrase “established in accordance with article 2” could be replaced with “as set forth in article 2” for consistency in citing the offences in article 2, and “property” could be replaced with “funds”, because, although “property” was defined in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, it was subsumed under the definition of “funds” in the current draft convention.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.2).

253. Following the discussion in the Working Group on the text of article 8, contained in document A/C.6/54/WG.1/CRP.15/Rev.1, a new set of revised texts was prepared by the Friends of the Chairman (see A/C.6/54/WG.1/Rev.2).

254. In introducing the new text, the Chairman noted that the word “property” had been deleted from both paragraphs 1 and 2, in view of its inclusion within the scope of the definition of “funds” in article 1. The words “or intended to be used” were retained, pending further consultations among interested delegations. The same applied to the words “in any manner” following “intended to be used” in paragraph 1.

255. Concerning paragraph 3, the only change made was to replace the phrase “proceeds or property or funds derived from the sale of such proceeds or property” with “funds, other means or proceeds thereof”, so as to align the text with paragraph 1.

256. As to the proposed definition “proceeds”, a new text based on informal consultations was presented. In that text, the words “property or other type of profit” had been replaced with “funds or other kinds of benefits”. Furthermore, consistent with the rest of the text of the draft convention, the words “established in accordance with article 2, paragraph 1” were replaced with “set forth in article 2”.

Paragraph 1

257. In reference to the words “other means”, a suggestion was made that they be deleted, since the concept was covered within the definition of “funds”.

258. Support was reiterated for the deletion of the phrase “or intended to be used”.

Paragraph 2

259. An observation was made that the word “forfeiture” could be replaced with “confiscation” which was the term used in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

260. While some preferred the deletion of “intended to be used”, others supported its inclusion. In that regard, the proposal to replace the phrase with “destined to be used” was reiterated.

261. A proposal to replace the words “set forth” with “referred to”, by way of compromise on the question of “intended to be used”, was opposed in the Working Group.

262. The proposal to delete the phrase “other means” in paragraph 1 was made in connection with paragraph 2.

Paragraph 5

263. While suggestions were made to replace the term “parties” with “persons” and to define the term to include legal entities, support was expressed for retaining the phrase “third parties”.

Proposed definition of “proceeds”

264. A suggestion was made to delete the phrase “other kinds of benefits”, since the term “funds” was sufficiently broad. That suggestion was opposed in the Working Group.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.3)

265. Following the discussion in the Working Group on the text contained in document A/C.6/54/WG.1/CRP.15/Rev.2, the Friends of the Chairman prepared a further revised text (see A/C.6/54/CRP.15/Rev.3).

266. The Chairman introduced the revised text at the ninth meeting of the Working Group, held on 6 October 1999. He pointed out that, in regard to paragraphs 1 and 2, the words “intended to be used” were retained, pending the results of informal consultations. Furthermore, the words “other means” in paragraphs 1 and 2 were deleted, on the grounds that the term “funds”, as defined in the draft convention, was sufficiently broad.

267. Paragraph 3 was orally amended to delete the phrase “other means”, in line with paragraphs 1 and 2.

268. Paragraph 5 was not altered.

269. With respect to the proposed definition of “proceeds”, the phrase “other kinds of benefits” was deleted, so as to be consistent with the definition of “funds”.

Paragraphs 1 and 2

270. During the ensuing debate, the proposal to replace “or intended to be used” with “or calculated” was reiterated.

Consideration on the basis of the revised text prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.35)

271. The text of article 8 was next considered at the 10th meeting of the Working Group, on 7 October 1999, in the context of a revised text for the draft articles prepared by the Friends of the Chairman (see A/C.6/54/WG.1/CRP.35).

272. During the ensuing debate, it was noted that the proposed definition for the term “proceeds” had been inadvertently retained under article 8 and should have been deleted since it had been included in article 1.

273. At the same meeting, the coordinator of the informal consultations on paragraphs 1 and 2 of article 8 reported on the outcome of those negotiations. It was noted that it had been agreed to replace the words “or intended to be used”, in paragraph 2, with “allocated for the purpose of”, as had been previously suggested.

274. The observation was subsequently made that the same change could be made to paragraph 1.

275. The text of the article, as amended, was included in the revised text prepared by the Friend of the Chairman (A/C.6/54/WG.1/CRP.35/Rev.1), which was tabled before the Working Group at its 11th meeting, on 8 October 1999.

Article 12

Consideration on the basis of the discussion paper submitted by the Bureau on articles 3 to 25²

276. The Working Group undertook its consideration of the article on the basis of the text submitted by the Bureau, contained in annex I.A of the report of the Ad Hoc Committee.⁴ In introducing the article, the Chairman noted that the Ad Hoc Committee had undertaken its second reading of article 12 on the basis of the revised text contained in document A/AC.252/1999/WP.45.³

277. In regard to paragraph 1 of the Bureau's text, it was observed that the word "criminal" was inserted before "investigations", thus excluding the possibility of mere speculative investigations, which some delegations had concerns about. The word "brought" before "in respect of" was deleted. The phrase "referred to in article 2" was replaced with "set forth in article 2", so as to conform with the agreed upon method of referring to the financing offences in article 2. The phrase "evidence at their disposal" was replaced by "evidence in their possession".

278. While paragraph 2 had been reformulated, it still retained the substance of paragraph 3 in the corresponding text in document A/AC.252/1999/WP.45.

279. The Bureau decided to include a new paragraph 2 *bis* concerning the misuse of information obtained under the draft convention, in response to the suggestion to add a provision similar to that found in article 7, paragraph 13, of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

280. Paragraph 3 corresponded to paragraph 2 of the text in document A/AC.252/1999/WP.45, with the exception of the expansion of the cross-reference in the first line to paragraph 2, which served to expand the scope of the provision.

281. The Bureau did not make any changes to paragraph 4.

Paragraph 1

282. During the discussion in the Working Group on the text proposed by the Bureau, the suggestion was made to replace the phrase "in their possession" with "at their disposal", on the grounds that it would be in line with article 10, paragraph 2, of the International Convention for the Suppression of Terrorist Bombings.

283. A further proposal was made to delete the reference to "criminal" investigations or to add a reference to "civil and administrative" into the provisions, so as not to limit mutual cooperation to criminal investigations, since the provision also envisaged cooperation in administrative matters. The suggestion was opposed in the Working Group on the grounds, *inter alia*, that the lifting of bank secrecy laws was not acceptable in the context of mutual cooperation in civil and administrative matters.

New paragraph 2 *ter*

284. It was proposed to include a new paragraph 2 *ter* establishing a permissive regime of mutual assistance in civil and administrative matters, which would contain the following formulation:

"[e]ach State Party may give consideration to establishing mechanisms to share with other State Parties, on a regular or case-by-case basis, information or evidence needed for civil or administrative procedures initiated under this Convention".

285. The proposed inclusion of a new paragraph was opposed in the Working Group on the same grounds as for the objection to the deletion of the reference to "criminal" in the context of paragraph 1.

Paragraph 3

286. While support was expressed for retaining the provision in its present form, the concern was expressed that the cross-reference to paragraph 2 could be interpreted to undermine the obligation in that paragraph regarding bank secrecy. As such, the cross-reference could be deleted. Conversely, a preference was expressed in the Working Group for retaining the cross-reference to paragraph 2.

287. The suggestion was made to add a reference to "or information exchange" after "assistance" so as to expand the scope of the provision to include treaties or other arrangements dealing specifically with information exchange.

288. It was further proposed that the element of reciprocity be added to the mechanism envisaged in the provision by adding at its end the phrase “provided reciprocity is granted”.

289. It was also suggested that a reference to “their domestic law” be added to the first sentence.

Paragraph 4

290. The view was expressed that a reference to extradition in article 12, which dealt with mutual assistance, was inappropriate since extradition was within the purview of article 11. As such, it was proposed to delete the phrase “for extradition or” from the provision.

291. Conversely, it was pointed out that the reference to extradition also existed in paragraph 1, which dealt with mutual legal assistance in the context of extradition. It was also noted, with regard to the reference in paragraph 4, that retaining it within the confines of article 12 did not create a conflict with article 11.

292. Others supported its deletion on the understanding that a similar provision would be added to article 11, so as to preserve the prohibition on refusing extradition on the grounds that it concerned a fiscal offence.

293. As to the formulation of paragraph 4, the suggestion was made to reinsert the reference to “sole” before the term “ground” which existed in the original text submitted by the sponsor delegation.⁵

294. The view was also expressed that the second sentence could be deleted, as it was redundant.

295. A further preference was expressed for retaining the provision as it was presented.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15)

296. Following the discussion in the Working Group, the Friends of the Chairman prepared a revised text for article 12, contained in document A/C.6/54/WG.1/CRP.15. Introducing the text, the Chairman pointed to the inclusion of a new paragraph 2 *ter*, which was of a permissive nature, and which concerned the exchange of information in cases dealing with the civil or administrative liability of legal entities.

297. As regards paragraph 3, the words “or information exchange” were inserted after the phrase “mutual legal

assistance” with a view to reflecting the existing practice in a number of States.

298. Following the debate on paragraph 4, the Friends of the Chairman decided to recast it as new article 12 *bis* (see below).

Paragraph 2 *ter*

299. During the debate on the revised text, the proposal was made to add the term “criminal” before “civil” so as to include mutual legal assistance in the context of a criminal offence committed by a legal entity under article 5.

Paragraph 3

300. It was recalled that a preference had been expressed for deleting the cross-reference to paragraph 2, since it could be read as undercutting paragraph 2. However, it was noted that the cross-reference could be kept on the understanding that paragraph 3 merely provided the procedural context for the obligations under paragraphs 1 and 2. Support was expressed in the Working Group for the latter interpretation of the provision.

301. The suggestion was also made to replace at the end of the paragraph the words “their domestic law” with “the domestic law of the requested State”.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.1)

302. Following the discussion in the Working Group on the revised text in document A/C.6/54/WG.1/CRP.15), the Friends of the Chairman prepared a further revision, taking into account the suggestions made in the Working Group and various texts emanating from informal consultations. The new text was contained in document A/C.6/54/WG.1/CRP.15/Rev.1, and was introduced at the 7th meeting, on 4 October 1999.

303. In regard to paragraph 2 *ter*, the Chairman noted that the only change made to the paragraph was the addition of the word “criminal” before “civil or administrative”, so as to address the concern that the provision might not encompass legal entities in certain cases.

304. While no modification was made to paragraph 3, the cross-reference to paragraph 2 was retained on the understanding that paragraph 3 only related to procedural matters and was not intended to undermine the bank security provision in paragraph 2. With regard to the

proposal to add the reference to the “domestic law of the requested State”, the Friends of the Chairman considered the concept as already being covered in the text of paragraph 3.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.2 and A/C.6/54/WG.1/CRP.15/Rev.3)

305. Following the discussion in the Working Group on the text of article 12, contained in document A/C.6/54/WG.1/CRP.15/Rev.1, two sets of revised texts were prepared by the Friends of the Chairman (see A/C.6/54/WG.1/CRP.15/Rev.2 and A/C.6/54/WG.1/CRP.15/Rev.3), and discussed at the 8th and 9th meetings of the Working Group, on 5 and 6 October 1999, respectively.

306. In introducing document A/C.6/54/WG.1/CRP.15/Rev.2, the Chairman noted that the text of article 12 had not been amended. No observations on article 12 were subsequently made during the following discussion.

307. Similarly, no changes were made to article 12 in the text contained in document A/C.6/54/WG.1/CRP.15/Rev.3.

Paragraph 2 bis

308. During the discussion on that text, the proposal was made in the Working Group to add the phrase “or for any purpose” after the word “proceedings”, and to delete the word “or” before “proceedings”. It was argued that the proposed text would cover the unauthorized disclosure of the information in question. This proposal was opposed in the Working Group.

Article 12 bis

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15)

309. Article 12 *bis* had been proposed by the Friends of the Chairman, in their first revised text of article 12, contained in document A/C.6/54/WG.1/CRP.15. It incorporated the prior paragraph 4 of article 12,⁶ with one modification, namely, the insertion of the word “sole” before “ground”, towards the end of the second sentence.

310. During the debate on the first revision of articles 12 and new 12 *bis*, the suggestion was made to replace the phrase “[a]ccordingly, States Parties may not” with “No State Party can”. The deletion of the word “[a]ccordingly” was supported in the Working Group.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.1)

311. Following the discussion in the Working Group on the revised text in document A/C.6/54/WG.1/CRP.15, the Friends of the Chairman prepared a further revision, taking into account the suggestions made in the Working Group and various texts emanating from informal consultations. The new text was contained in document A/C.6/54/WG.1/CRP.15/Rev.1, and was introduced at the 7th meeting, on 4 October 1999.

312. The Chairman pointed out that the word “[a]ccordingly” at the beginning of the second line had been deleted, as had been agreed during the previous discussion of the article.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17 prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.2 and A/C.6/54/WG.1/CRP.15/Rev.3)

313. Following the discussion in the Working Group on the text of article 12 *bis*, contained in document A/C.6/54/WG.1/CRP.15/Rev.1, two sets of revised texts were prepared by the Friends of the Chairman (see A/C.6/54/WG.1/Rev.2 and A/C.6/54/WG.1/Rev.3), and discussed at the 8th and 9th meetings of the Working Group, on 5 and 6 October 1999, respectively.

314. No changes were made to the article in either texts.

315. During the discussion of the provision, as contained in document A/C.6/54/WG.1/CRP.15/Rev.2, the observation was made that regard should be had for the negotiations under way in Vienna on the draft United Nations Convention against Transnational Organized Crime. The same point was raised at the following meeting, in the context of the discussion of the text of the article contained in document A/C.6/54/WG.1/Rev.3. At that meeting the concern was expressed that the provision could be abused. As such, it was proposed to add the phrase “and qualified as such by the States Parties” after “set forth in article 2”. The proposal was opposed in the Working Group on the grounds that it would introduce an element

of discretion which could undermine the application of the provision.

Consideration on the basis of the revised text prepared by the Friends of the Chairman (A/C.6/54/WG.1/1999/CRP.35)

316. The Working Group next discussed the text for article 12 *bis* in the context of its consideration of the revised text of the draft articles prepared by the Friends of the Chairman, as reflected in document A/C.6/54/WG.1/CRP.35.

317. The discussion was held at the Working Group's 10th meeting, on 7 October 1999, at which time the observation was made that the provision should be clarified so as to avoid diverting the aim of the draft convention to combating fiscal offences instead of offences arising out of the financing of terrorism.

318. The text of the provision was retained in the revised text prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.35/Rev.1), which was placed before the Working Group at its 11th meeting, on 8 October 1999.

Articles 13 and 14

319. At the 8th meeting of the Working Group, the view was expressed that articles 13 and 14 could be deleted, in the light of the negotiations on articles 1 and 2, as had been suggested in the proposal submitted to the meeting of the Ad Hoc Committee in March 1999 (see A/AC.252/1999/WP.55).

320. A preference for retaining articles 13 and 14 in the text was expressed.

Article 17

Consideration on the basis of the discussion paper submitted by the Bureau on articles 3 to 25²

321. Article 17 was considered by the Working Group on the basis of the text submitted by the Bureau contained in annex I.A of the report of the Ad Hoc Committee.⁴ In introducing the article, the Chairman noted that the Ad Hoc Committee had undertaken its second reading of the article on the basis of the revised text contained in document A/AC.252/1999/WP.47.³

322. The Chairman explained that the Bureau had modified subparagraph (a) of paragraph 1 by inserting the word "illegal" before "activities" so as to align the English text with the original French proposal. Furthermore, the reference to "groups" was deleted since it fell within the definition of "organization" contained in article 1. In regard to subparagraph (b), the phrase "improve the identification of", in the *chapeau*, was replaced with "utilize the most efficient measures for the identification of", since that initial formulation implied that some existing measures required improvement. It was also observed that the two sentences in subparagraph (b) (i), as presented in document A/AC.252/1999/WP.47, were merged to form a new subparagraph (b) (i). Subparagraph (b) (ii) was reformulated slightly with a view to clarifying the initial text. Subparagraph (b) (iii) contained a reformulation of the corresponding initial version of the text, with the addition of a specific reference to domestic and international transactions. No changes were made to subparagraphs (c) and (d).

323. With regard to paragraph 2, subparagraph (a), the phrase "offences established in accordance with article 2 of the Convention" were replaced with "offences set forth in article 2", so as to align the text with the *chapeau* of article 2. In regard to the *chapeau* in subparagraph (b), the reference to "offences established in accordance with article 2 of the Convention" was replaced with "offences set forth in article 2". Furthermore, the phrase "being involved in offences referred to in this Convention", in subparagraph (b) (i), was replaced with the words "being involved in such offences". No change was made to subparagraph (b) (ii).

324. The Bureau had decided not to include paragraph 3, contained in document A/AC.252/1999/WP.47, since it referred to State responsibility, which was a matter for general international law.

Paragraph 1

325. A proposal was submitted to the Working Group to replace the text of the *chapeau* and subparagraph (b) (i) of the provision and to insert a new subparagraph (b) (i) *bis* (see A/C.6/54/WG.1/CRP.13), to strengthen the preventative aspect of article 17.

326. Concerning the *chapeau* of the text under consideration, it was suggested that the word "their" before "financial institutions" be deleted so as to include other financial institutions functioning on the territory of the State Party.

327. It was also proposed to add the term “available” after the phrase “most efficient measures” contained in the *chapeau*, so as to recognize the actual means at the disposal of States in that regard.

328. In relation to subparagraph (b) (i), the view was expressed that the phrase “including anonymous accounts or accounts under obviously fictitious names” be deleted as being superfluous.

329. Furthermore, it was pointed out that while subparagraph (b) (i) was based on recommendation 10 of the Financial Action Task Force on Money Laundering (FATF), it did not conform entirely with the formulation in that recommendation, which included a reference to “law”, “regulations” and “agreements”. Only a reference to “regulations” was to be found in the subparagraph. Hence, it was proposed that the phrase “or other appropriate measures” be added after “regulations”, so as to provide a wider range of options to States Parties. In response, it was noted that the matter was covered by the word “including” in the *chapeau* to article 1. While a further proposal was made to add a reference to “appropriate” before “measures” in subparagraph (c), so as to add even more flexibility to the text, it was noted that the reference to “[t]aking all practicable measures” in the *chapeau* to paragraph 1 already provided sufficient flexibility.

330. Furthermore, the question was raised whether exchange bureaux were covered by the reference to “financial institutions” in subparagraph 1 (b), or “money-transmission agencies” in subparagraph 1 (c).

331. The view was further expressed that it should be made clearer that subparagraphs (c) and (d) were not mandatory.

Paragraph 2

332. In regard to subparagraph (b) (i), it was proposed to replace the phrase “suspected of being” with “in respect of whom reasonable suspicion exists that they are”, so as to insert a reasonableness element with a view to preventing abuse of the provision which could negatively affect the rights of innocent individuals.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15)

333. Following the discussion in the Working Group on the basis of the text prepared by the Bureau of the Ad Hoc

Committee (contained in A/54/37, annex I.A), the Friends of the Chairman prepared a revised text for article 17 (see A/C.6/54/WG.1/CRP.15).

334. In introducing the revised text, the Chairman noted that no substantial changes had been made. It was observed that, in paragraph 1, subparagraph (b), the word “their”, in the first line of the *chapeau*, had been deleted, in the absence of objections by delegations to that suggestion. Furthermore, the term “available” was added after the phrase “efficient measures”. In regard to subparagraph (b) (i), the expression “including anonymous accounts or accounts under obviously fictitious names” was deleted in view of the unchallenged explanation that the preceding phrase “unidentified or unidentifiable” could apply to a variety of situations, which were to be looked at on a case by case basis, including those referred to in the deleted expression.

335. As to paragraph 2, subparagraph (b) (i), the phrase “in respect of whom reasonable suspicion exists that they are” was introduced to replace the words “suspected of being”, so as to raise the threshold of the cooperation required.

336. The Chairman also drew the attention of the Working Group to the proposal on reporting suspicious transactions, contained in document A/C.6/54/WG.1/CRP.13.

Paragraph 1

337. During the ensuing debate on the revised text prepared by the Friends of the Chairman, concern was expressed regarding the use of the phrase “practicable measures” in the *chapeau*.

338. With regard to paragraph 1, the proposal was made to add a new subparagraph (a) *bis*, in line with the proposal contained in document A/AC.252/1999/WP.32, which dealt with measures to prohibit access into the territories of States. While support was expressed for the inclusion of such a provision, the observation was made that subparagraph (a) was sufficient to cover the activities that were intended to be covered by the proposed subparagraph (a) *bis*. Furthermore, the remark was made that the proposed new subparagraph could have implications for the rights of refugees under humanitarian law. Similarly, it was noted that a blanket prohibition on the entry into the territories of States may actually impede law enforcement activities. Furthermore, the view was expressed that such a provision could contradict the requirement that States either try or extradite individuals in their custody. The following proposals were made, by way of compromise: to delete the word “illegal” before “activities” in

subparagraph (a), or to add the phrase “and prohibiting access into their territories of such persons” to the end of subparagraph (a).

339. In regard to subparagraph (b), the proposal contained in document A/C.6/54/WG.1/CRP.13, to include additional elements in the *chapeau* of subparagraph (b) and in subparagraph (b) (i), was reiterated. It was pointed out that the proposal was consistent with the recommendations of the FATF. While support was expressed for the proposal, concern was expressed that it actually went further than those recommendations, and that subparagraph (b) (i) was sufficient.

340. The proposal in document A/C.6/54/WG.1/CRP.13 also contained the text of a new subparagraph (b) (ii) *bis*, imposing a reporting obligation on States. The view was expressed that while the proposal was acceptable, the phrase “unusual or suspicious transaction” could be replaced. In that regard, a proposal was made to replace the phrase with “transaction exceeding a certain amount”.

341. With regard to subparagraph (c), a preference was expressed for deleting the reference to “and licensing”, as it went beyond what was required by the FATF recommendations. That suggestion was opposed in the Working Group, on the grounds that the reference was needed to counter the legitimization of shadow banking systems.

Paragraph 2

342. With regard to subparagraph (b) (ii), the suggestion was made to delete the phrase “or property”, since it was already captured within the definition of “funds”.

343. A proposal was made to include a new subparagraph (c), providing for the exchange of information through the International Criminal Police Organization (Interpol) (see A/C.6/54/WG.1/CRP.22).

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.1)

344. Following the discussion in the Working Group on the revised text in document A/C.6/54/WG.1/CRP.15, the Friends of the Chairman prepared a further revision, taking into account the suggestions made in the Working Group and various texts emanating from informal consultations. The new text was contained in document A/C.6/54/WG.1/CRP.15/Rev.1, and was introduced at the seventh meeting, on 4 October 1999. At that meeting, the

Chairman outlined the various modifications made to the text, which were agreed upon in the informal consultations.

345. The new *chapeau* of paragraph 1 combined the opening sentence of the article, together with the former *chapeau* of article 1 (in A/C.6/54/WG.1/CRP.15). The word “including”, found both after “article 2” and after “taking all practicable measures”, was deleted. The words “if necessary”, found before the phrase “adapting their domestic legislation”, were moved to after that phrase so as to improve the drafting.

346. It was observed further that the text that had emerged from the informal consultations retained the term “illegal” before “activities”, in subparagraph (a).

347. Concerning the *chapeau* to paragraph 1, subparagraph (b), the words “and to report unusual or suspicious transactions” were added at the end of the first sentence. The word “Parties” was also inserted after the word “State” at the end of the *chapeau*.

348. As regards subparagraph (b) (i), the phrase “and measures to ensure that such institutions verify the identity of the real owners of such transactions” was inserted at the end. No change was made to subparagraph (b) (ii). Subparagraph (b) (ii) *bis* was a new provision which emerged from negotiations in the informal consultations, and contained elements of document A/C.6/54/WG.1/CRP.13. No change was made to subparagraph (b) (iii).

349. As regards subparagraph (c), it was observed that the paragraph had been altered by the addition of “[c]onsidering” at the beginning. Furthermore, the phrase “including, for example, the licensing” was added after “supervision”.

350. In subparagraph (d), the word “[c]onsidering” had been added at the beginning, the term “implementation” was changed to “implementing”, and “transport” was replaced with “transportation”.

351. The Chairman noted that, while the Friends of the Chairman had reproduced the text as proposed by the coordinator of the informal consultations, several drafting modifications were necessary. A suggestion was also made to place subparagraphs (c) and (d) into a new paragraph 1 *bis*.

352. As to the *chapeau* of paragraph 2, the words “States Parties shall further cooperate in the prevention of the offences set forth in article 2 by” were inserted. No changes were made to subparagraphs (a) and (b).

353. A new paragraph 3 was added, on the basis of the proposal in document A/C.6/54/WG.1/CRP.22. It was

explained that the Friends of the Chairman had decided to make it a new paragraph, instead of a subparagraph to paragraph 2, because its formulation was not in line with the *chapeau* to paragraph 2.

354. During the ensuing debate, the coordinator of the informal consultations noted, *inter alia*, that the phrase “measures to ensure” in paragraph 1, subparagraph (b) (i), was included so as to ensure consistency with FATF regulations. It was observed further that it was agreed in the informal consultations that subparagraphs (c) and (d) to paragraph 1 were permissive in nature. Hence, the suggestion to move them into their own paragraph 1 *bis* was supported.

Paragraph 1

355. In relation to the *chapeau*, a suggestion was made to revert back to the language of document A/C.6/54/WG.1/CRP.15, whereby the phrase “including, if necessary, “would be inserted after “measures”. In terms of a further suggestion, the phrase “, *inter alia*,” would be inserted after “practicable measures”.

356. In regard to subparagraph (b), it was observed that linking the phrase “and other professions” with “financial institutions” was inelegant. Thus, it was proposed to replace “and other professions” with “including other professions involved in financial transactions”, in parentheses.

357. In regard to new subparagraph (b) (ii) *bis*, it was suggested that the term “unusual” be replaced with “unusually”. This was opposed in the Working Group on the grounds that it changed the substantive meaning of the provision and was not the term used in the FATF regulations.

358. In terms of a further suggestion, the word “visible” could be replaced with “obviously”.

359. Concerns were expressed regarding the reference to “reporting” suspicions in the last line, on the grounds that it went further than what was required by the FATF regulations. Thus, it was proposed to replace the word “report” with the idea of paying special attention to. That proposal was opposed in the Working Group on the basis that the text reflected FATF recommendation 16. It was also observed that article 17 did not attempt to reproduce all the FATF recommendations but that it contained amalgamations of some of the recommendations.

Paragraph 2

360. A suggestion was made to delete the word “property” since it was already covered by the definition of “funds”.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.2)

361. Following the discussion in the Working Group on the revised text in document A/C.6/54/WG.1/CRP.15/Rev.1, the Friends of the Chairman prepared a further revision, taking into account the suggestions made in the Working Group. The new text was contained in document A/C.6/54/WG.1/CRP.15/Rev.2 and was introduced at the 8th meeting, on 5 October 1999.

362. At that meeting, it was pointed out that the words “, *inter alia*, by” had been inserted in the *chapeau* of paragraph 1 before “adapting their domestic legislation”, in view of the general support for that modification in the Working Group.

363. With regard to paragraph 1, subparagraph (b), it was explained that the phrase “other professions” had been retained, since it was based on the FATF recommendations. Concerning subparagraph (b) (ii) *bis*, the word “visible” was replaced with “obviously”. The question of replacing the word “report” with “paying special attention to” was still the subject of informal consultations.

364. Following the decision at the previous meeting to move subparagraphs (c) and (d) out of paragraph 1, a new paragraph 2 was created to include those subparagraphs, as subparagraphs (a) and (b). A new *chapeau* was added, along the lines of the *chapeau* in paragraph 1. The word “implementing” was deleted from former paragraph 1, subparagraph (d) (now paragraph 2, subparagraph (b)), so as to adjust the text to the new *chapeau*.

365. As a result of the insertion of a new paragraph 2, former paragraphs 2 and 3 were renumbered as paragraphs 3 and 4. In new paragraph 3, subparagraph (b) (ii), the word “property” was deleted.

Paragraph 1

366. A suggestion was made to insert the phrase “to pay special attention to” after “accounts are opened, and” in the *chapeau* of subparagraph (b), so as to align the text with FATF recommendation 14. A suggestion was also made to replace the word “report” in the fourth line with “if the financial institution suspects that funds stem from criminal activity, it shall report”, by way of compromise.

367. In relation to subparagraph (b) (ii) *bis*, a suggestion was made to add the word “or” between “unusual” and “large”.

368. Concern was expressed that the reporting procedure in subparagraph (b) (ii) *bis* could conflict with the bank secrecy principle. In response, the observation was made that the language in the text was based on FATF recommendation 14.

Consideration on the basis of the revised texts of articles 5, 7, 8, 12 and 17, prepared by the Friends of the Chairman (A/C.6/54/WG.1/CRP.15/Rev.3)

369. Following the discussion in the Working Group on the revised text in document A/C.6/54/WG.1/CRP.15/Rev.2, the Friends of the Chairman prepared a further revision taking into account the suggestions made in the Working Group. The new text was contained in document A/C.6/54/WG.1/CRP.15/Rev.3 and was introduced at the ninth meeting, on 6 October 1999.

370. At that meeting, an amendment to the *chapeau* of paragraph 1, subparagraph (b), was introduced orally. The words “and to report unusual or suspicious transactions” were to be replaced with “, and to pay special attention to unusual or suspicious transactions and report transactions suspected of stemming from a criminal activity”.

371. Furthermore, the word “such” was deleted from the beginning of paragraph 4.

372. No further suggestions on article 17 were made during the consideration in the Working Group of document A/C.6/54/WG.1/CRP.15/Rev.3.

Notes

¹ *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 37 (A/54/37)*, annex I.B.

² *Ibid.*, annex I.A.

³ *Ibid.*, annex III.

⁴ *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 37 (A/54/37)*.

⁵ *Ibid.*, annex II.

⁶ See *ibid.*, annex I.A.