

In: KSC-BC-2020-06

**The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi
and Jakup Krasniqi**

Before: Trial Panel II

Judge Charles L. Smith III, Presiding Judge
Judge Christoph Barthe,
Judge Guénaël Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Counsel for Hashim Thaçi
Counsel for Kadri Veseli
Counsel for Rexhep Selimi
Counsel for Jakup Krasniqi

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**Further Redacted Version of 'Joint Defence Response to the Third Prosecution
Motion for Admission of Evidence Pursuant to Rule 154 Concerning the
Remaining Eight Witnesses'**

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I. INTRODUCTION

1. The Defence for Messrs Thaçi, Veseli, Selimi, and Krasniqi (“the Defence”) hereby files its response to the Prosecution motion for admission of evidence of Witnesses W03832, W03880, W04769, W03724, W00072, W01504, W02153, W04368, W04566, and W04586 pursuant to Rule 154 (“the Motion”).¹
2. In line with the communication from the Trial Panel of 27 June 2023, the Defence has filed in an expedited manner its response to parts of the Motion related to W02153 and W04586.² The Defence responds in the present submissions to the parts of the Motion related to the remaining eight witnesses.
3. The Defence objects to the admission of parts of the material tendered under Rule 154 on the grounds that (i) it concerns events that are uncharged, irrelevant, and whose probative value is outweighed by their prejudicial effect; (ii) they are duplicative of other tendered material; (iii) their *prima facie* reliability has not been established; and (iv) with regards to associated exhibits, the SPO has failed to establish that the material in question is an indispensable and inseparable part of the corresponding witness’ Rule 154 Statement.

II. SUBMISSIONS

A. W03832

4. W03832 is intended to give evidence on the presence of armed KLA soldiers in [REDACTED] and [REDACTED]. The Defence does not contest the *prima facie*

¹ KSC-BC-2020-06/F01625, Prosecution motion for admission of evidence of Witnesses W03832, W03880, W04769, W03724, W00072, W01504, W02153, W04368, W04566, and W04586 pursuant to Rule 154 with confidential Annexes 1-10, 23 June 2023.

² KSC-BC-2020-06/F01636, Joint Defence Response to Prosecution Motion for Admission of Evidence Pursuant to Rule 154 Concerning W02153 and W04586, 3 July 2023, para. 5.

authenticity and reliability of the proposed evidence, which are official records of [REDACTED] and SPO statements.

5. The Defence objects to the admission pursuant to Rule 154 of parts of the statement of W03832 which make the unpleaded allegation,³ which is uncorroborated hearsay, that “[REDACTED] told W03832 that ... Jakup Krasniqi had requested that [REDACTED] be brought to him [REDACTED]”.⁴ The Defence submits this objection now, pursuant to the Trial Panel’s previous holding that objections be made before or at the time when the witness gives evidence.⁵
6. The Defence did not have adequate notice of this specific allegation. The Indictment, which is the sole accusatory instrument,⁶ does not mention Mr. Krasniqi in relation to this allegation.⁷ Nor does the Prosecution’s Pre-Trial Brief.⁸ Nor does the Prosecution’s summary of W03832’s evidence.⁹ Accordingly, the Prosecution may not rely on this allegation against Mr. Krasniqi.¹⁰
7. Moreover, the Panel has emphasised the dangers inherent in admitting evidence with very limited probative value onto the record.¹¹ Additionally, the Trial Panel has also stated that hearsay evidence is admissible, provided that “it *does not*

³ 049783-TR-ET Part 2, p. 13, lines 8-16; p. 16, lines 16-18; 049836-TR-ET Part 1, p. 10, lines 13-19; p. 13, lines 5-19; 049837-TR-ET Part 1, p. 20, line 2 – p. 21, line 8;

⁴ Motion, para. 16.

⁵ *Idem*, para. 13.

⁶ *Idem*, para. 21.

⁷ KSC-BC-2020-06/F0099/A01, Annex 1 to Submission of Confirmed Amended Indictment, 30 September 2022, confidential, para. 43.

⁸ KSC-BC-2020-06/F01296/A01, Lesser Redacted Version of ‘Confidential Redacted Version of Corrected Version of Prosecution Pre-Trial Brief, 15 February 2023, confidential, para. [REDACTED]. This paragraph contains general references to [REDACTED]’s interactions with the KLA.

⁹ KSC-BC-2020-06/F01594/A02, Prosecution Submission of Updated Witness List and Confidential Lesser Redacted Version of Pre-Trial Brief, 9 June 2023, confidential, p.201.

¹⁰ Prosecution Motion, para. 27, 29.

¹¹ KSC-BC-2020-06/F01380, Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154, 16 March 2023, confidential, para. 35.

interfere disproportionately with the rights of the Accused.”¹² In this instance, the hearsay is disproportionately prejudicial to Jakup Krasniqi in particular. W03832 also states that [REDACTED] was informed by [REDACTED] that KLA soldiers had originally wanted to take him to Jakup Krasniqi in [REDACTED], and had chosen not to do so.¹³

8. Not only is the latter account in particular second-hand hearsay, based on what [REDACTED] allegedly told W03832 he had been told by someone else, but it is also highly speculative in terms of Mr. Krasniqi’s presence and role in [REDACTED]. It is uncorroborated by other witnesses¹⁴ and other alleged participants in the incidents (such as [REDACTED]) do not feature on the SPO’s List of Witnesses. Finally, there has been no prior account from [REDACTED] himself, and W03832’s evidence is derived wholly from what [REDACTED] was told by [REDACTED], meaning there is no way to authenticate the information from the main source.
9. W03832 also acknowledges learning of part of the incident involving [REDACTED], from the television.¹⁵ Furthermore, W03832 did not refer to Mr. Krasniqi in [REDACTED] SITF statement.¹⁶ Accordingly, the probative value of this evidence is minimal and is wholly outweighed by its prejudicial effect – since Mr. Krasniqi cannot cross-examine the original maker of the statement.
10. Since the allegation of Mr. Krasniqi’s involvement has not been properly pleaded and is uncorroborated hearsay, this portion of the SPO interview should not be

¹² KSC-BC-2020-06/F01380, Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154, 16 March 2023, confidential, para. 46, emphasis added.

¹³ 049836-TR-ET Part 1, p. 10, lines 13-19.

¹⁴ W04744 was asked about this incident by the SPO during his interview, and responded “I don’t know what happened, details, when who.” See 59724-TR-ET Part 6, p. 31, lines 8-21.

¹⁵ 049836-TR-ET Part 1, p. 16, lines 17-24.

¹⁶ 034288-034317 RED2.

admitted into evidence and the SPO should not be permitted to adduce such evidence orally in direct examination.

11. Furthermore, the SPO has failed to prove the added value of admitting both the witness' SPO interview and [REDACTED]. As the SPO notes,¹⁷ W03832 has been offered a full readback of [REDACTED] and has provided corrections and explanations to the evidence offered therein.¹⁸ Inasmuch as the entire content of [REDACTED] is reflected in [REDACTED] SPO interview, the concomitant admission of both [REDACTED] SPO interview and [REDACTED] would unnecessarily overburden the trial record. The Defence therefore objects to the admission of W03832's [REDACTED].

B. W03880

1. Rule 154 Statement

12. The Defence does not object to the admission of W03380's SPO interview.
13. With regards to the W03880's [REDACTED],¹⁹ the Defence notes that W03880 has stated that he does not remember having provided this statement.²⁰ Further, to the extent that the witness has subsequently recalled giving such statement,²¹ the Defence understands that the witness has not been given the opportunity to review the information he has provided, nor was he asked to sign the statement.²² Rather, the witness asserted that "it appeared more as an informal interview or conversation", and that he has never seen his statement in the tendered form.²³ Further, the record appears to be incomplete as the interview ends with a

¹⁷ Motion, para. 20.

¹⁸ 049783-TR-AT-ET Part 1 RED2, pp. 5-42; 049783-TR-ET Part 2 RED2, pp. 1-7.

¹⁹ SPOE00078810-00078819 RED.

²⁰ 070725-TR-ET Part 1 RED, p. 8.

²¹ The Defence further notes that it is not in a position to ascertain with precision which statement the witness refers to given that the interviewer constantly referred to what appears to be the location where those statements were provided, yet the SPO had redacted said information.

²² 070725-TR-ET Part 1 RED, p. 9.

²³ 070725-TR-ET Part 1 RED, p. 9.

substantive question on the last page, yet the answer is not recorded.²⁴ Neither the witness acknowledgment nor the interpreter certification are signed or dated,²⁵ and the witness has further identified errors in the information recorded in the said statement.²⁶ These factors should be considered in assessing the reliability and authenticity of W03880's [REDACTED].

2. Associated Exhibit

14. The Defence does not oppose the admission of the material tendered as associated exhibits.

C. W04769

1. Rule 154 Statement

15. The Defence does not contest the *prima facie* authenticity and reliability of W04769's Rule 154 Statement.
16. The Defence however objects to the admission of portions of W04769's Rule 154 Statement that refer to the uncharged incident concerning the alleged [REDACTED], and the alleged involvement of Mr. Selimi in said incident.²⁷
17. At the outset, the Defence observes that the alleged [REDACTED] contemplated in W04769's Rule 154 Statement occurred in [REDACTED], over [REDACTED] after the Indictment period. Furthermore, the incident in question is not mentioned either in the Indictment, the SPO's Pre-Trial Brief or in the Rule 95 summary of the witness' evidence. In the Motion, the SPO proceeds to make reference to said incident while addressing the relevance of W04769's evidence,²⁸

²⁴ SPOE00078810-00078819 RED, p. SPOE00078818.

²⁵ SPOE00078810-00078819 RED, pp. SPOE00078818- SPOE00078819.

²⁶ 070725-TR-ET Part 3 RED, p. 5.

²⁷ In particular, 074788-TR-ET Part 1 RED2, pp. 19, 24-26; 074788-TR-ET Part 3, p. 18; 074788-TR-ET Part 4 Revised RED, pp. 35-40.

²⁸ Motion, paras. 40-43

yet fails to demonstrate that such evidence bears even the most tenuous connection to the case against the Accused.

18. Evidence is relevant inasmuch as it relates to a material issue pled in the Indictment.²⁹ As the Panel recalled, evidence related to the events that have occurred outside the Indictment period is not inadmissible merely on this basis, yet the tendering party must demonstrate that the fact sought to be established through such evidence is relevant to the case.³⁰ In the present instance, while the SPO has provided virtually no submissions on the matter, the evidence as proffered by W04769 demonstrates the absence of any relevance. In his SPO interview, W04769 confirmed that the alleged incident, had it indeed occurred, would have been “unrelated to the conflict” and to the “hierarchy in command structure”.³¹ Furthermore, [REDACTED] cannot be reasonably subsumed under any of the categories of “opponents” against whom the Accused allegedly conducted a widespread and systematic attack. Nor is such evidence in any way “materially connected to the armed conflict charged in the indictment.”³²
19. In addition, W04769’s evidence on the matter is devoid of any reliability or probative value. First, W04769 admitted that his evidence on the alleged involvement of Mr. Selimi in the incident in question is borne out of his assumption of the circumstances of the incident itself, and that he has no direct evidence for such assumption.³³ Second, he subsequently acknowledged that his assumption is based on a conversation between Mr. Selimi and [REDACTED]

²⁹ ICTY, *Prosecutor v. Prlić*, IT-04-74-AR73.13, Decision on Jadranko Prlić’s Consolidated Interlocutory Appeal Against the Trial Chamber’s Orders of 6 and 9 October 2008 on Admission of Evidence, 12 January 2009, para. 17; ICTR, *The Prosecutor v. Pauline Nyiramasuhuko and Arsene Shalom Ntahobali*, Case No. ICTR-97-21- AR73, Decision on the Appeals by Pauline Nyiramasuhuko and Arsene Shalom Ntahobali on the “Decision on Defence Urgent Motion to Declare Parts of the Evidence of Witnesses RV and ABZ Inadmissible”, 2 July 2004, para. 15..

³⁰ Oral order of 17 April 2023, p. 2864.

³¹ 074788-TR-ET Part 4, p. 37.

³² Oral order of 17 April 2023, p. 2864.

³³ 074788-TR-ET Part 4, p. 36.

presumably overheard by a [REDACTED], who supposedly relayed the event to W04769.³⁴ The witness subsequently provides a most obscure recollection of the substance of said conversation, being unable to recall any further particularity than voices being raised during said conversation and that it concerned the death of [REDACTED].³⁵

20. The witness' entire evidence on the matter is therefore not only entirely speculative, but also premised on second-hand hearsay that is, at best, of remarkable ambiguity, and which the Defence is not in a position to accurately test, as [REDACTED] is not a witness in the present case. As the Panel has identified, "the admission of such evidence could cause unfair prejudice as the accused would be placed in the position of challenging allegations that are, in effect, unverifiable."³⁶ In that respect, while the Defence submits that W04769's evidence on this particular incident is bereft of any probative value due to the manifest absence of any connection between said evidence and any material issue in the present case, should the Trial Panel consider said evidence to nonetheless possess any probative value, then any such value is clearly outweighed by its prejudicial effect.
21. Therefore, the SPO's attempt to introduce evidence of this nature is yet another improper attempt on its part "to blacken the character of the Accused and show a propensity and capacity to commit the crimes charged."³⁷ The admission of evidence of this type, while not only highly prejudicial and materially irrelevant, will further frustrate any considerations of expediency and potentially lead to an unfocused trial.³⁸ The Defence therefore objects to the admission of the evidence

³⁴ 074788-TR-ET Part 4, pp. 37-38.

³⁵ 074788-TR-ET Part 4, pp. 38-39.

³⁶ Oral order of 17 April 2023, p. 2865.

³⁷ ICTR, *The Prosecutor v. Bagosora et al*, ICTR-98-41-T, Decision on Admissibility of Proposed Testimony of Witness DBY, 18 September 2003, para. 17.

³⁸ *Ibid*, para. 28.

in question and requests that the SPO not be permitted to adduce such evidence during the course of W04769's examination-in-chief.

2. Associated Exhibits

22. With regards to associated exhibits, the Defence objects to the admission of several documents that W04769 acknowledges that he has never seen before and provides merely speculative, if any, comment in their respect. In particular, with regards to U002-3339-U002-3340-ET, the witness confirms that has never seen this document before; expresses confusion over the contents; and speculates that it could have been written by [REDACTED] only after upon being prompted by the SPO to name any other G2 ZKZ soldiers at the time.³⁹ He further expressly stated that he does not know who was the sender of the report.⁴⁰ As the Defence noted in its bar table submissions, "[t]his document is undated, handwritten, and contains no indicia of authenticity."⁴¹ The Defence therefore objects to the admission of the document in question.
23. Likewise, with respect to U000-5851-U000-5851-ET, the witness yet again confirms that he has never seen this document before. He further provides no substantive comment on the document in question and only appears to confirm the position in the G2 of the individuals read out from the extract by the interviewer, yet without referring to the content of the extract.⁴² In that respect, the document adds nothing beyond that which is in the transcript.
24. Similarly, with regards to SITF00021875-SITF00021876-ET, the witness attests to not having seen this document before.⁴³ Beyond confirming his knowledge of certain people referenced in the document, he does not comment on its contents

³⁹ 074788-TR-ET Part 2, pp 5-7.

⁴⁰ 074788-TR-ET Part 2, p. 11.

⁴¹ F01387/A06/2 of 371.

⁴² 074788-TR-ET Part 2 RED2, p. 13.

⁴³ 074788-TR-ET Part 2 RED2, p. 29.

or otherwise provide further insight relevant to its authenticity or reliability. As the Defence has previously observed, the document appears to be missing the signature of one of its purported authors, [REDACTED]⁴⁴, indicating that it may not have been endorsed for reasons unknown.

25. Furthermore, the Defence objects to the admission of several videos where the witness is unable to provide any substantive comment on said videos and where the SPO is tendering the entire video, notwithstanding that W04769 was only shown certain extracts. With respect to 054010-03, the witness does not recognise anyone in the video or recall seeing people providing medical care.⁴⁵ Additionally, the video is 35 minutes long and the witness was only show up until the 5-minute mark. Similarly, the video in 011795-06 is 15 minutes long, yet the witness was only showed 15 seconds of footage.⁴⁶ Furthermore, the video in 068357-01 is 2 minutes long yet the witness is only shown 40 seconds of it.⁴⁷ Finally, the Defence notes that the SPO has failed to provide any information as to the production of the videos tendered so as to enable the Defence and the Panel to assess their authenticity.
26. In light of the above, the SPO has failed to substantiate that the non-admission of these exhibits would render W04769'S Rule 154 Statement incomprehensible or of lesser probative value. The Defence therefore objects to the admission of the enumerated documents as associated exhibits.

⁴⁴ F01387/A06/140 of 371.

⁴⁵ 074788-TR-ET Part 4 Revised RED, pp.9-10

⁴⁶ 074788-TR-ET Part 4 Revised, RED, pp.12-14.

⁴⁷ 074788-TR-ET Part 4 Revised RED, pp.14-18.

D. W03724**1. Rule 154 Statement**

27. The Defence does not oppose the admission of W03724's Rule 154 Statement.⁴⁸ However, the Defence notes that the SPO is tendering the present statement with redactions that bear no specific code as required under the Framework Decision on Disclosure,⁴⁹ and the SPO has not provided any justification as for why such redactions are warranted. Such is the case also for other material tendered in association with W03724, such as 067045-067048 RED2. The Defence underscores that the haphazard imposition of redactions absent any clarifications as to whether they are justifiable under any of the relevant rules,⁵⁰ and which have not been authorized by the Panel or the Pre-Trial Judge, deprives the Defence of essential information required for understanding and investigating the allegations contained therein.
28. Furthermore, the limited size of the record tendered is incompatible with the SPO seeking to elicit two hours of evidence during its examination-in-chief. As previously argued with respect to other witnesses, the SPO will have ample opportunity to "highlight, clarify or explain certain aspects of W03724's evidence"⁵¹ during W03724's preparation session. Otherwise, as previously argued,⁵² a direct examination of two hours concerning a Rule 154 Statement of less than 40 pages suggests that the SPO will solicit that W03724 restate the entirety of his Rule 154 Statement, thereby nullifying any potential time-saving effect of Rule 154 admission.

⁴⁸ 085942-085979.

⁴⁹ KSC-BC-2020-06/F00099, Framework Decision on Disclosure of Evidence and Related Matters, 23 November 2020.

⁵⁰ In particular, Rules 108(1)(a), 80(4)(a)(i)-(ii) and 108(1)(b)-(c) and Article 23(1) of the Law.

⁵¹ Motion, para. 56.

⁵² KSC-BC-2020-06/F01636, Joint Defence Response to Prosecution Motion for Admission of Evidence Pursuant to Rule 154 Concerning W02153 and W04586, 3 July 2023, para. 5.

2. Associated Exhibits

29. With regards to associated exhibits, the Defence notes that the SPO is seeking to admit U007-9610-U007-9621 RED2, which comprises a series of [REDACTED] documents. In particular, the Defence notes that said collection contains, *inter alia*, a witness statement provided by [REDACTED] (W04395). The Defence opposes the admission of this particular statement and submits that it is incumbent upon the Prosecution to submit a separate Rule 154 application in respect of W04395 should it intend to rely on said statement for the truth of its content. Furthermore, W03724 has identified various inconsistencies in said account,⁵³ and has only provided comments in respect of only a few of the documents forming part of the incident report.⁵⁴ The SPO therefore failed to establish the reliability of the tendered record and whether it is an indispensable and inseparable part of W03724's Rule 154 Statement.
30. In addition, with respect to 050549-050549, W03724 appears uncertain as to the identity of the individuals referred to in the document, is not its author and does not know the manner in which it was disseminated.⁵⁵ The document itself further provides no information as to the identity of the victims described therein beyond mere references to their ethnicity, and in that respect the Defence submits that the document lacks sufficient probative value for admission. The Defence therefore objects to the admission of the above documents.

E. W00072

1. Rule 154 Statement

31. The Defence does not oppose the admission of W00072's SPO Interview.⁵⁶ Regarding her prior statements, while in her UNMIK statement she was asked

⁵³ 085942-085979, paras. 57, 59, 87-88.

⁵⁴ For example, no comment was provided in 085942-085979 in respect of pp. U007-9616 to U007-9621.

⁵⁵ 085942-085979, 42-43.

⁵⁶ 041400-TR-ET Part 1 RED.

to review the transcript, to make any corrections as appropriate and to sign each page,⁵⁷ the document tendered contains no such signature and no corrections. In that respect, the Defence notes that W00072 has stated during her SPO interview that, despite her insistences, she was in fact not given the opportunity to make any corrections to her previous statements.⁵⁸ The above factors therefore affect the reliability and authenticity of the statements tendered.

32. In addition to the reliability concerns identified, W00072 has been offered a full readback of her UNMIK statement in the course of her SITF interview, which is recorded in the transcript of said interview.⁵⁹ The witness has further provided various corrections and additions to said statement during the interview in question. In that respect, the SPO has failed to establish the added value of admitting both her SITF and UNMIK statement when the latter is already incorporated in the former. The Defence therefore objects to the admission of W00072's UNMIK statement.

2. Associated Exhibits

33. With respect to the record of a site visit⁶⁰ and a photo line-up used with the witness for which the SPO seeks admission,⁶¹ the Defence notes that these records were not signed or marked at any point by the witness. Furthermore, her site visit is not addressed or acknowledged at any point throughout the witness' Rule 154 Statement. The mere fact that it is "connected", as the SPO claims, yet without substantiating precisely in what manner,⁶² to her UNMIK witness hearing is by no means equivalent to being an inseparable and indispensable part of said statement. It is further unexplained how, in the SPO's view, the non-

⁵⁷ SPOE00193498-00193547 RED, p. 25.

⁵⁸ 041400-TRET Part 1 RED, p. 8.

⁵⁹ 005300-TR-ET RED.

⁶⁰ SPOE00191289-00191299 RED.

⁶¹ SPOE00200658-00200679.

⁶² Motion, Annex 5, pp. 6-7.

admission of a document that is neither discussed nor acknowledged by the witness in her statement may render said statement incomprehensible or of diminished probative value. The SPO's attempt to circumvent the proper procedures for the admission of associated exhibits is further evident with respect to SPOE00191289-00191299 RED, which likewise does not feature throughout the witness' Rule 154 statement. The Defence therefore objects to the admission of the enumerated documents as associated exhibits.

F. W01504

34. The Defence does not oppose the admission of W01504's Rule 154 Statement and associated exhibits.

G. W04368

1. Rule 154 Statement

35. The Defence does not oppose the admission of W04368's SPO interview.⁶³ With respect to the witness' [REDACTED],⁶⁴ the Defence notes that while an Albanian translation is appended to said statement, the witness' signature only features on the English version of the statement. In that respect, the witness has attested that he signed the statement in English, yet without being provided with a readback in Albanian, albeit that said statement expressly required so prior to signing.⁶⁵ Furthermore, the witness was offered a readback of his [REDACTED] during his SPO interview and has corrected various inconsistencies recorded therein.⁶⁶ The SPO has therefore failed to establish the added value of admitting the [REDACTED] given that it has been incorporated with the requisite

⁶³ 065280-TRET Part 1 RED2; 065280-TR-ET Part 2 RED2; 065280-TR-ET Part 3 RED2

⁶⁴ SITF00297509-00297517 RED2

⁶⁵ 065280-TR-ET Part 3 RED2, p. 25.

⁶⁶ 065280-TR-ET Part 3 RED2, pp. 21-37.

corrections in his SPO interview. The Defence therefore objects to the admission of W04368's [REDACTED].

2. Associated Exhibits

36. With respect to associated exhibits, the Defence notes that the SPO is tendering p. SITF00180474 of SITF00180469-00180502, notwithstanding that the witness was unable to recognize the building depicted on said page.⁶⁷ Furthermore, SITF00180469-00180502 contains a total of 33 photographs, of which the witness was only shown 4. The SPO however has however listed the full ERN range of all photographs rather than simply the 4 that were show and not specified that it does not seek admission of the remaining photographs. The Defence therefore opposes the admission of the entire collection as tendered.
37. With respect to 065278-065279, the Defence notes that the witness was not able to recognize the individual at p. 065279 and nor has he provided any comment in its regard.⁶⁸ The SPO has further failed to provide specific submissions as to how the non-admission of this exhibit would render W04368's Rule 154 Statement incomprehensible or of lesser probative value. The Defence therefore opposes the admission of the document in question as an associated exhibit.

H. W04566

38. The Defence does not oppose the admission of W04566's Rule 154 Statement.⁶⁹
39. With respect to associated exhibits, the SPO is seeking to tender [REDACTED],⁷⁰ the relevance of which to the present case is entirely unexplained. The SPO's explanation of the purported relevance of this letter is merely a restatement of

⁶⁷ 065280-TR-ET Part 2 RED2, p. 41.

⁶⁸ 065280-TR-ET Part 3 RED2, pp. 17-18.

⁶⁹ 073437-TR-ET Part 1 RED2; 073437-TR-ET Part 2 RED2; 073437-TR-ET Part 3 RED2; SITF00180503-00180541.

⁷⁰ SITF00299712-00299713-ET.

its contents,⁷¹ which can already be aptly deduced from the description of said letter. The SPO further fails to connect the contents of the letter in question to any material issue in the present case. With respect to 073790-073804-ET RED, the Defence notes that said document contains the verdict against [REDACTED]. Nothing in this verdict bears any trace of relevance to the present proceedings, and the SPO has yet again failed to provide any specific submissions in that respect beyond a restatement of what the document contains. Likewise, the Defence notes that none of the above documents are mentioned in the SPO's Pre-Trial Brief, showcasing the limited relevance the SPO itself attaches to them.

40. In light of the above, the documents tendered are not suitable for admission as associated exhibits pursuant to Rule 154. The Defence therefore objects to the admission of the identified exhibits.

III. CONFIDENTIALITY

41. These submissions are filed confidentially pursuant to Rule 82(4) as they respond to confidential submissions filed by the SPO. The Defence will submit a public redacted version of the present submissions in due course.

IV. CONCLUSION AND RELIEF REQUESTED

42. In light of the above, the Defence respectfully requests the Trial Panel to take notice of the Defence objections, and to **DENY** the admission of:
- W03832's evidence on Mr. Krasniqi's alleged involvement in the [REDACTED];
 - W03832's [REDACTED];

⁷¹ Motion, Annex 9, p. 3.

- W04769's evidence on Mr. Selimi's alleged involvement in the [REDACTED];
- W04769's associated exhibits objected to in paragraphs 22-25;
- W03724's associated exhibits objected to in paragraphs 29-30;
- W00072's UNMIK statement and associated exhibits objected to in paragraph 33;
- W04368's [REDACTED] and the associated exhibits objected to in paragraphs 36-37;
- W04566's associated exhibits objected to in paragraph 39; and

ORDER the SPO not to elicit any evidence regarding the involvement of Mr. Krasniqi and Mr. Selimi respectively in the incidents described above during the examination-in-chief of W03832 and W04769.

Word count: 4428

Respectfully submitted on 5 July 2023,



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