

1 Thursday, 24 August 2023

2 [Open session]

3 [Defence Preparation Conference]

4 [The accused appeared via videolink]

5 --- Upon commencing at 9.30 a.m.

6 PRESIDING JUDGE VELDT-FOGLIA: Good morning and welcome after
7 last Monday's hearing.

8 Court Officer, can you please call the case.

9 THE COURT OFFICER: Good morning, Your Honours. This is case
10 KSC-BC-2020-04, The Specialist Prosecutor versus Pjeter Shala.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much,
12 Madam Court Officer.

13 Mr. Prosecutor, can you indicate who is present for the SPO
14 today.

15 MR. DE MINICIS: Yes. Good morning, Your Honours. For the SPO,
16 Line Pedersen, Zuzanna Gorczynska, Federica Genovesi, Gaia Pergolo,
17 and Filippo de Minicis.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much.

19 Victims' Counsel, you have the floor.

20 MR. LAWS: Good morning, Your Honours. I am Simon Laws, counsel
21 for the victims in this case.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

23 Defence counsel.

24 MR. GILISSEN: Thank you very much, Madam President. I am
25 Mr. Gilissen. You know the two co-counsel, Ms. Cariolou and

1 Mr. Aouini. He will be the acting one today. So you have our case
2 manager, Ms. Dzeneta Petravica. We have our assistant legal officer
3 Kailin Chen, and two evidence review assistants, Juliette Healy and
4 Judit Kolbe, and, of course, Mr. Shala who is with us via videolink.
5 Thank you very much.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much, Defence
7 counsel.

8 Mr. Shala, can you confirm that you hear me well?

9 THE ACCUSED: [via videolink][Interpretation] Yes, I hear you
10 very well.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Shala.

12 Today we will hold the Defence preparation -- I think there is
13 something with the channel on which the translation is coming in
14 because I'm hearing not the right language.

15 So as said, we will hold the Defence Preparation Conference,
16 which precedes the opening of the Defence case, pursuant to Rule 119
17 of the Rules of Procedure and Evidence.

18 I recall that, on Monday, the Panel set out the agenda for
19 today's conference. We ordered the parties and Victims' Counsel to
20 file written submissions by Wednesday, so by yesterday. We received
21 both on the 22nd and yesterday, the 23rd, written submissions by
22 Victims' Counsel, which is filing 616, by the SPO, this is filing
23 617, and by the Defence, filing 618.

24 The purpose of today is to prepare the Defence case. That's
25 what we are going to do. We will go through the agenda set out by

1 the Panel. We will address some issues which arose from the Defence,
2 the SPO, or Victims' Counsel's submissions. After that, you will be
3 given the possibility to raise any issue you deem necessary to be
4 discussed here. And then tomorrow, we will issue a number of orders
5 and give some directions in the afternoon at half past 2.00.

6 Before we start with the first item on the agenda, I recall that
7 it's not necessary to repeat what you have said in your written
8 submissions. We have taken note of them. And if you would require
9 to go into private session, please let the Panel know. Then we will
10 proceed as such.

11 The first item on the agenda. That is the Defence
12 investigations.

13 Defence counsel, we understand that you still need to finalise
14 some meetings with potential witnesses. And to be clear, are those
15 potential witnesses that are not on your Defence list of witnesses;
16 and if that is the case, the Panel would like to know what number we
17 are talking about.

18 And we also have taken note that these further discussions with
19 potential witnesses will not delay the presentation of the case. So
20 thank you.

21 Defence counsel, you have the floor.

22 MR. AOUINI: Thank you, Your Honour. Good morning to Your
23 Honours and to everyone in the courtroom and around the courtroom.

24 Yes, Your Honour. So the main point is that we believe our
25 final steps of investigations will not hinder or delay the

1 presentation of our evidence. That's the main point to retain.

2 In terms of the number of individuals we need to meet,
3 unfortunately, there are a number of people that we wanted to meet
4 before this block and we couldn't. We are talking about potentially
5 four different persons in four different countries. Yes. And three
6 of them are in our list. One of them requires a meeting.

7 We can give you the numbers if you wish, Your Honours.

8 PRESIDING JUDGE VELDT-FOGLIA: Yes, please.

9 MR. AOUNI: So I'll just go through the list just to give the
10 pseudonyms rather than names --

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 MR. AOUNI: -- Your Honour, so we can stay in the public
13 hearing.

14 The first one will be 4405. We couldn't meet.

15 We have 4754 who, unfortunately, couldn't meet us because he
16 underwent a surgery recently. We wanted to bring together here in
17 the Netherlands a couple of individuals to be able to meet them, but
18 that's not possible for health conditions, so we will need to travel
19 to this individual, 4754. And we hope to do that in between this
20 block and the next block.

21 We also couldn't manage in our last mission during the recess
22 period to meet with Witness DW4-05, who had personal circumstances.

23 And the most important one, Your Honour, is DW4-04, which we
24 could meet last year around autumn in Kosovo. But since then, this
25 individual moved to another country for medical reasons, and they

1 seem to be heavy health concerns. So we need to at least ascertain
2 or acquire a meeting with him to assess the level of health condition
3 because it has an impact. We don't have any statements from this
4 individual. And to assess what we could do. As it stands now, we
5 are thinking that the videolink, if this individual is fit to
6 testify, is the best way because of the difficulty to move for this
7 individual.

8 But since we had some information about the kind of medical
9 concern he has, we will need to assess whether from last year until
10 today his fitness to testify is not affected. That's why this
11 meeting will need to take place before we move forward and inform
12 Your Honours about how we proceed further with him.

13 And as we mentioned, Your Honour, in our submissions, we are
14 taking contact with some experts to deal with some of the victims'
15 evidence presented, and we will be able to get back to Your Honours
16 on that once we have established some contact and gave some
17 assignment and got some advice from an expert.

18 The plan, as it is for the Defence right now, is that experts
19 will come at the last block, so we are attempting to make sure that
20 by that time, if we have expertise evidence on that matter, that will
21 come in the last block so nothing is delayed. But, of course, as
22 soon as we have documents and ascertain an individual's name, we
23 would amend the list to reflect that in our list.

24 PRESIDING JUDGE VELDT-FOGLIA: So you would provide us, with
25 regard to the expert, with the report before?

1 MR. AOUINI: As soon as we ascertain the individual -- any
2 documents, of course. As soon as we have them, Your Honour.

3 PRESIDING JUDGE VELDT-FOGLIA: And if we speak about experts, is
4 it expert or experts?

5 MR. AOUINI: As we stand, Your Honour, it's more about the
6 economic part of the victims' presentation. We are trying to
7 ascertain whether we need one or two to assess international
8 standards. And if we can find -- because to this moment, we couldn't
9 yet find somebody with the necessary qualifications in Kosovo to
10 explain certain economic aspects proper to Kosovo. As soon as we
11 have information, whether positive or negative, we can inform even as
12 a courtesy of the status. And if we have names and already assigned
13 experts for that purpose, we will inform Your Honours. If we have a
14 report, we will disclose it and we will amend our list.

15 PRESIDING JUDGE VELDT-FOGLIA: Yes, thank you, Defence counsel.
16 So if I count well, you have four -- yes, 4405, 4754, 05, and
17 04, you will try to contact them, and they are on your list.

18 MR. AOUINI: Yes, Your Honour.

19 PRESIDING JUDGE VELDT-FOGLIA: And then the experts, they are
20 not. The potential experts are not on your list.

21 MR. AOUINI: There will be a specific issue with 4405 that we
22 might deal with later, because we have indirect contact. We have not
23 established any contact yet with this individual but we are hopeful,
24 so we're making our last attempt to meet this individual. That will
25 come probably later at Rules 153 to 154 matter. Maybe we can explain

1 later a little bit more in detail. Thank you, Your Honour.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence counsel.

3 Mr. Prosecutor, would you like to raise anything in this regard?

4 Madam Prosecutor?

5 MS. PERGOLO: Yes, Your Honours. Good morning. We welcome the
6 Defence's clarifications with regard to the witnesses. Of course,
7 one of the points we also sought clarification about is how many more
8 witnesses in addition to those lists that the Defence was planning on
9 meeting. We would just request a clarification with regard to
10 DW4-05, because it's not clear to us yet whether there was already a
11 previous meeting with this witness or whether the upcoming meeting
12 will be the first one, and whether, if the latter, also would like to
13 know, but this is something we will be discussing a little bit later,
14 how the Defence was able to provide information included in the
15 summary if there was no meeting before.

16 That would be only our request for clarifications as to this
17 point. Thank you.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Prosecutor.

19 Defence counsel, you have the floor.

20 MR. AOUNI: Thank you, Your Honour. So DW4-05 is somebody we
21 have met and that is to be distinguished from W04405, which is
22 originally an SPO witness. So maybe the numbers are the same. But
23 DW4-05, which is number 11 in our annex, is an individual that we
24 could meet but we need to meet again just to ascertain a number of
25 points of clarification. However, we have met him. That's the

1 reason we provided the summary. This is what he is expected to
2 testify on. And this individual, along with, if I may, Your Honour,
3 DW4-02, have confirmed their availability for the second block, from
4 the 2nd to 6th October if I'm not mistaken.

5 So it is more an internal meeting that we have with him to
6 ascertain and confirm availability and go through, probably, a couple
7 of details. But the expected testimony is the one that we
8 summarised, and the availability is for the second block.

9 I hope this clarifies.

10 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, does it suffice
11 what we've heard now?

12 MS. PERGOLO: Yes, thank you. It does, Your Honours. Thank
13 you.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

15 Victims' Counsel, would you like to make an observation?

16 MR. LAWS: No, thank you, Your Honour.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Very well. So no
18 need for a second round. And then we can proceed to the second point
19 on our agenda which concerns the disclosure of the material the
20 Defence intends to present at trial, including the inspection of any
21 tangible objects by the SPO and the Victims' Counsel.

22 Defence counsel, you informed us already by e-mail last week on
23 Friday, and also in your written submissions, that you have completed
24 your disclosure of the material you intend to present in trial and
25 also the tangible objects. Is there anything you would like to add

1 in this respect?

2 MR. AOUNI: No, Your Honour. That is the situation. We
3 understand that everything in our possession that was necessary to
4 disclose was disclosed.

5 PRESIDING JUDGE VELDT-FOGLIA: Okay. I look at
6 Madam Prosecutor. Anything to add?

7 MS. PERGOLO: Just to confirm that we have received disclosure
8 of all items on the Defence exhibit list. Thank you.

9 PRESIDING JUDGE VELDT-FOGLIA: Very well. Thank you.
10 And Victims' Counsel, would you like to add something?

11 MR. LAWS: No, thank you, Your Honour.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you. We take note of this
13 too.

14 Then we go to a topic that has already been mentioned by
15 Madam Prosecutor, which is the prior statements and/or the notes of
16 conversation with witnesses.

17 Defence counsel, you have informed us that you have not taken
18 any statements from Witness 02, 03, 04, 05, and 06. So Defence
19 witnesses in case 04, 02, 03, 04, 05, and 06. And that you also have
20 refrained from taking notes during your meeting with them. And I see
21 you nodding.

22 What I read is that you're saying that this is because witnesses
23 are fearful to come forward and to become involved, and we take note
24 of that. But the Panel would like to be informed some more if you --
25 if you could develop on what the witnesses are afraid of, because the

1 fear, if I understood rightly, is not of such a kind that you are
2 requesting protective measures.

3 And a second question which I would like you to elaborate on is
4 you provided us with summaries of witnesses, and some of them we
5 don't have any prior statements but only the summary. I would like
6 to hear from you how you were able to gain the information that they
7 would be giving information on those specific topics. And this is
8 not a sarcastic question. It's just to understand the procedure.

9 And this is linked to a question I will be putting to you
10 further on with regard to two witnesses of this group of witnesses
11 which we would like to have some more specific information on what
12 they will be testifying, or at least that you expect that they will
13 be testifying, in order to be better in a position to assess the
14 relevancy.

15 So you have the floor.

16 MR. AOUINI: Absolutely, Your Honour. And we expected that we
17 needed to explain a little bit further.

18 Well, fear is probably too general of a word. But what we have
19 experienced -- and I remind Your Honours, before we started the
20 trial, we had an *ex parte* session where we explained the level of
21 reluctance that we have faced with individuals to come forward and
22 meet us and talk to us. We had occurrences where we have tried four,
23 five times before an individual accepts to meet us. They were
24 reluctant. They were asking many questions about who we are and
25 didn't trust that.

1 I think it is safe to say that they have a reluctance towards
2 the institution, the process. Some of them we had to clarify that
3 they still retain the voluntary aspect of cooperating with us. And
4 so since we don't have, per se, an obligation to take a statement,
5 this was the best way to make sure these individuals show up, talk to
6 us. And the more informal way we could do it with those individuals,
7 the more chances we had of cooperation and maintaining cooperation.

8 We have -- I'm not going to go through all the struggles we had.
9 But many individuals accepted to meet us, then refused, then delayed
10 it. And, obviously, when you travel to a different country to meet
11 somebody, it's very frustrating when you make a whole trip and then
12 you don't see an individual. And, of course, we cannot force them to
13 meet us because it's voluntary. It's cooperation.

14 And so from what we have observed, that every time we hold
15 informal meetings asking about what they know, what they don't know,
16 without taking notes in front of them, that was what led us to be
17 able to meet these individuals on a number of occasions and ascertain
18 what they can help us with in terms of their evidence and their
19 experience.

20 The situation is that we didn't take notes. But after meeting
21 with these individuals, we summarised for ourselves what are the
22 relevant points to us, which are sometimes discrete points or
23 specific points. And those show in the summary. If Your Honours
24 have any questions on more specific elements to assess the relevance
25 of an individual's evidence, we are happy, from the experience -- we

1 are at least two or three at each time who have attended those
2 meetings, and we are very open about what they are coming to testify
3 about from our discussions with them. And we are happy to explain,
4 to the best extent possible, what we expect them to say.

5 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you, Defence
6 counsel.

7 Madam Prosecutor, you have the floor.

8 MS. PERGOLO: Thank you, Your Honours. Yes. And we are also
9 grateful to the Defence for this explanation that, of course, we also
10 needed a bit of background to the process in which they have
11 collected the information included in the summaries.

12 However, by reading the summaries, we think that there should
13 be -- there seems to be some additional information that the Defence
14 must have, you know, that led to the decision to include certain
15 witnesses in their list. And, in fact, what Defence counsel has just
16 indicated is that they may not have taken notes during the meetings,
17 but they had subsequently summarised the information.

18 And we have noticed, for example, that in relation to DW4-06,
19 the Defence is calling him to testify about his whereabouts during
20 the indictment period and explain why he could not have been at the
21 Kukes metal factory at the time alleged by Witness 4733.

22 Now, it is our position that the Defence must know the
23 whereabouts of this witness and also must know where he was if he was
24 not in Kukes if they had decided to include this witness in their
25 list.

1 Similarly, there is no information as to the time in which
2 DW4-04 was in Kukes. And, again, this is something, this information
3 must be known by the Defence. Otherwise, the relevance of this
4 witness's evidence is unclear to the Defence themselves.

5 So, again, to the extent that the Defence has this additional
6 information, we would request that it be disclosed promptly to the
7 Panel and to the parties and participants. Of course, we are aware
8 that Rule 106 establishes that internal work product, notes, and
9 other internal documents must not be disclosed, but we think there
10 must be a way to separate the, let's say, information of an
11 evidentiary content in these notes from the information that, of
12 course, is not subject to disclosure under the rules.

13 We think that disclosing this information will enable the Panel
14 to assess, first of all, in a better way the relevance of these
15 witnesses and, of course, at a later stage, also their credibility by
16 possibly confronting them with the prior statements or prior
17 declarations they have made to the Defence, but also, of course, will
18 enable the Panel to better prepare for the Defence case and, finally,
19 also allow the SPO and Victims' Counsel to prepare for the
20 cross-examination of these witnesses.

21 So we believe that this is essential to enable an efficient
22 preparation for the Defence case and make the trial more efficient in
23 itself.

24 So these are our submissions on this point. Thank you,
25 Your Honours.

1 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Prosecutor.

2 A clarification from our side. I heard two specific requests
3 for information, for further clarification with regard to Witness 06
4 and Witness 04.

5 Is your request, is the request of the SPO specifically with
6 regard to these two points or is it broader? Because if it's
7 broader, then allow me to formulate how I have understood you, and
8 you may add to that or rectify. That you would like to receive with
9 regard to the witnesses for which there are no statements available,
10 only the summaries, the further evidentiary material available at the
11 side of the Defence, leaving out everything which has to do with
12 internal notes.

13 And I see you nodding now, and I think that you are going to
14 tell me now that it's the second approach, but I give you the floor
15 to formulate it how you deem fit.

16 MS. PERGOLO: That is correct, Your Honour. We would request
17 that the Defence disclose any additional information in whatever form
18 it has been recorded, again, that is of evidentiary value, because we
19 believe this will definitely help us and the Panel and parties and
20 participants to prepare for the Defence case.

21 We have also more detailed submissions about the sufficiency of
22 the summaries provided by the Defence in relation to a number of
23 witnesses as well as on the relevance of some of these witnesses. My
24 colleague will comment on these points in more detail when given an
25 opportunity. We thought that maybe the best place would be in

1 relation to item 11 on the agenda. So we have a few further
2 submissions in this regard.

3 But, again, coming back to the point of the disclosure, yes, we
4 would request the Defence to disclose any additional information they
5 have received from the witnesses. Thank you.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Prosecutor.
7 Victims' Counsel.

8 MR. LAWS: Your Honour, I'd like to support what's just been
9 said by our colleagues in the SPO, please. It's been put very well,
10 and I've nothing to add to it.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 Defence counsel, please, you have the floor. And I would like
13 to hear the view of the Defence with regard to the request made by
14 the SPO.

15 MR. AOUMINI: Thank you, Your Honour. Just to say again, the
16 information that we have we have summarised and disclosed to the SPO.
17 Maybe it's not evident for them as to what is the relevance, but I
18 can go through the two individuals we have mentioned, DW4-04 and
19 DW4-06 --

20 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, for now that's
21 not necessary. I would like to hear your view specifically with
22 regard to the question if the Defence has other material, other
23 information available that has evidentiary value that has not been
24 put in the summaries. That is the question for now.

25 So if I would ask you or if I would repeat the question to the

1 Defence, to make it very specific: Do you have in the notes you made
2 after your meeting with Witness 06 any additional information about
3 the whereabouts of this witness during the indictment period? Is
4 there, in your notes, more information about it?

5 And with regard to Witness 04, when was he in Kukes -- yes, when
6 he was in Kukes. Is there in your notes anything that is more
7 specific?

8 And I can add to that that with regard to, yes, several
9 witnesses, and if I say by heart, I think it's on the Defence witness
10 list number 2, 3, 7 and 11, the question arose, when we were reading,
11 when was this witness specifically at the Kukes metal factory. You
12 don't have to answer it, but I want to point out to you that based on
13 what the summary provided to us, for us it was not clear, because the
14 indictment period is a serious amount of time.

15 So it remains very vague what then they have to say. So I will
16 repeat my question: Is there any more information of evidential
17 value in your notes that could be shared with us?

18 MR. AOUINI: Yes, thank you, Your Honour. To answer the first
19 question, the answer is no. We have put what is the evidentiary --
20 of evidentiary value from the notes we have. We can go through again
21 and see if there is any more specifics.

22 But if I take one of the examples, I can explain to you the
23 decision-making and why, based on not very specific information, we
24 elected to call these witnesses, because it is obvious. If we take
25 DW4-04, we understand that this individual was part of the

1 Brigade 128, which is of interest to us, that this individual didn't
2 see the accused in Kukes, which is of high relevance to us, which is
3 the same case for a number of other individuals, and some of them
4 have been interviewed by the SPO himself and said the same thing. So
5 we elected to bring this kind of evidence before Your Honours.

6 The specific extra element that we have on this individual, and
7 I remind you that we saw him only in 2022 very briefly and, since
8 then, have been attempting to meet him again to clarify a little bit
9 of timeline, a little bit of place, and individuals. This individual
10 told us, and we have put it, I believe, in the summary, that he was
11 somehow in charge of discipline and that only involved the discipline
12 of soldiers, which is relevant for us, the Brigade 128, an individual
13 who was in charge of some tasks with the discipline could explain.

14 So we're happy to hear this witness, explain what is the
15 discipline, and to oppose it to any other allegations, how that
16 brigade functioned.

17 If we go to other individuals from the same brigade Your Honour
18 has mentioned, it is the same -- we understand that this brigade was
19 positioned in another point, Point 1; they had a different circuit
20 where they end up in Burrel at some point. We have explained that to
21 Your Honours early before the start of the trial. That is where
22 apparently the whole composition or individuals that belonged somehow
23 to the brigade, which was not very organised at the time, found
24 themselves in Burrel. There was an incident there. And from there,
25 they had a circuit where they went to the front. And that is

1 important for us.

2 As to the allegation of Mr. Shala being part of that brigade,
3 having any role in that brigade or being with the individuals that
4 could be in the brigade either in Point 1 or Point 2, that will be
5 combined with a number of -- a couple of other witnesses who were
6 stationed in the Kukes metal factory and who saw Pjeter Shala one
7 time or two times or didn't see him at all while they were stationed.

8 So we are taking two sets of facts, that is from the brigade,
9 and whether members of this brigade know about Pjeter Shala while
10 they have had activity over a number of months up until the
11 liberation, and individuals who are not from the brigade per se but
12 from the logistics, so were stationed there, spent nights there, and
13 didn't see Shala.

14 PRESIDING JUDGE VELDT-FOGLIA: No, thank you for this further
15 clarification, but my question was that it is of relevance also when
16 these witnesses were at the Kukes metal factory - when, when - and
17 then more specific than during the indictment period. Because that
18 is a long period. Or long -- "long" is a relative word.

19 But that would be a question in which I cannot deduce from the
20 summary.

21 MR. AOUINI: For us, Your Honour, it's quite clear that they
22 were there during the period of indictment because that's when the
23 brigade started to form at Point 1, and then the whole circuit these
24 members of the brigade made up to Burrel, which is one of the
25 incidents where we can put a date, around 1 May, I think, that they

1 were away from Kukes, and then from that to the front.

2 But if Your Honours want us to go through the summaries and try
3 to find if we have any more specifics, this is the information that
4 we have from those individuals that they were there when the
5 mobilisation started. So they came there at different points. We
6 don't have any precision of dates, but we believe that this is
7 exactly at the indictment period where people started gathering.
8 Some of them joined before that, some of them a little bit later, but
9 what we say is that those members that we call found themselves in
10 Burrel at that time and then went to the front.

11 PRESIDING JUDGE VELDT-FOGLIA: What I hear now, I hear you
12 explaining. And from your explanation, my impression is that there
13 is some more information available in the notes that gives more body
14 to the summaries. That is the point I'm trying to make, and I think
15 that was the essence of what the SPO, supported by Victims' Counsel,
16 was doing. And I already heard you say that.

17 My suggestion would be that the Defence goes through the
18 internal notes again and tries to take out as much as possible and
19 add that to the summaries, because apparently you already now know
20 some more than we know. And by explaining it to us, you're already
21 giving us some more information that apparently is available.

22 MR. AOUINI: Yes, Your Honour. And the situation is this,
23 Your Honour. We are satisfied if you want us to put a little bit
24 more detail for -- we understood from the witnesses --

25 PRESIDING JUDGE VELDT-FOGLIA: Not a little bit more. My

1 question would be everything that you think -- that you assess,
2 because that I leave it to you --

3 MR. AOUINI: Yes.

4 PRESIDING JUDGE VELDT-FOGLIA: -- that is of evidential value
5 for -- if we would allow to call the witnesses, to hear the witness,
6 both if it's about what happened, so in terms of fact finding, and
7 also in terms of assessment of credibility. That would be the
8 request.

9 MR. AOUINI: Yes, Your Honour. And that's exactly the point why
10 we only put what we are sure about where the witnesses were specific.
11 So when we understand that when the individual says around the
12 mobilisation, maybe before, maybe after, if we put dates or months in
13 the summary, then it might look, unfairly, that there is a
14 contradiction where the witness tries to explain it in the court.

15 So we can put the dates that we believe or the periods that we
16 believe match from what we understood from the individuals, but that
17 shouldn't count as what the witness told us precisely because they
18 might have a different recollection at that time. But we are happy
19 to go through and explain the periods. But if we put in a summary
20 and then one of the individuals says, "Well, no, it's not March.
21 It's February." It's not because he made a mistake. It's because
22 when we met with him, he said "from the beginning" or "when they made
23 the general call for mobilisation," or say "we were in the brigade
24 from the beginning," or where there was Point 1, for us, was
25 sufficient to establish that they were from the beginning of

1 collection of individuals leaving Kosovo into Kukes.

2 And that doesn't affect, per se, the relevance of those
3 individuals for us because we're coming -- they were part of the
4 brigade at the time there was the events in May in Burrel and then
5 the front, the bombing, and the most important aspects of the
6 indictment period, the day they joined should be taken then with a
7 lot of margin.

8 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, our direction
9 would be -- because we have been discussing this. The direction of
10 the Panel would be in this regard that you should only put in the
11 summary what you can refer back from the witness has told you.

12 So if you cannot say a date because you don't know, please don't
13 put anything in it. That is for sure. It's referring back to the
14 Panel and to the SPO and Victims' Counsel what you have heard about
15 from this witness what he will be expected to testify on, because it
16 should come as close to as what he has said to you.

17 MR. AOUNI: Very well, Your Honour. And we welcome that
18 direction, because that doesn't put us in a situation where we put
19 things in the mouth of a witness where it's not clear for them. So
20 that's why we refrained from putting any specifics where there isn't
21 from --

22 PRESIDING JUDGE VELDT-FOGLIA: Yes.

23 MR. AOUNI: -- those individuals.

24 PRESIDING JUDGE VELDT-FOGLIA: But --

25 MR. AOUNI: Thank you.

1 PRESIDING JUDGE VELDT-FOGLIA: -- at the same time we should be
2 able to assess the relevancy. And I leave it there.

3 MR. AOUNI: No, we understood, Your Honours. And we will go
4 through again our summaries. Any relevant, probably, factors as to
5 period, even without the utmost specificity, we will try to put it as
6 clear as possible, because the Defence situation is we're trying to
7 put everything that is relevant. We're not hiding any aspects.
8 We're not taking anyone by surprise. It's just that the situation,
9 more than two decades afterwards, where we can't push for a memory
10 exercise with those witnesses, led us to satisfy ourselves with
11 events that refer us to the period.

12 So we will go through the summaries again and see if anything of
13 evidentiary material as to times and places is there, even in
14 reference format referring to events, we will put it. We will put
15 it. Thank you, Your Honour.

16 PRESIDING JUDGE VELDT-FOGLIA: I will do a second round, but I
17 would also like to thank the Defence team for providing us, on a
18 rolling basis, with the courtesy copies of the summaries. That has
19 been much appreciated.

20 Madam Prosecutor, is there something you would like to add in
21 this respect?

22 [Specialist Prosecutors confer]

23 MS. PERGOLO: Your Honours, again, we have specific submissions
24 on the relevance of the witnesses. We welcome the directions and
25 also the clarification. We appreciate the difficulty. But also the

1 Defence, we believe, should know what the witnesses are expected to
2 testify about, especially when it comes to time periods, again, to be
3 able to assess the relevance. But I will leave it at that for now.
4 Thank you.

5 PRESIDING JUDGE VELDT-FOGLIA: Two points.

6 The observations the SPO has with regard to the witnesses on the
7 Defence witness list. When we will -- we will be discussing the
8 Defence witnesses' expected testimonies after the order of the
9 appearances. I can give the floor to the SPO then to comment on the
10 different witnesses.

11 Yes. Defence counsel, by when would you be able - today, I
12 hope - to provide us with the additional information? Because it's
13 of relevance for our decisions, our oral orders we have or we intend
14 to give tomorrow. So we would appreciate very much if you could give
15 us the updated summaries by the end of the day.

16 MR. AOUINI: Yes, Your Honour. The only hurdle is we have the
17 big Rule 130 filing to submit today which engages a lot of the
18 resources. But we will do our best, again, to supplement any of the
19 summaries if we have extra information by the end of the day
20 Your Honour said, I think.

21 PRESIDING JUDGE VELDT-FOGLIA: Okay, the one -- yes, the 130
22 Rule request. Yes. But this needs to be done, I would say, and I
23 welcome very much if you would first provide us with the summaries.
24 And if the Rule 130 would come in tomorrow, which we hope it won't,
25 but there will be some leniency. But on this point, we have to

1 proceed.

2 And I have to give the SPO and the Victims' Counsel a
3 possibility also to react on this additional information, and that
4 would mean that we would be asking you to comment on it when it comes
5 in by somewhere tomorrow morning. Tight deadlines. But tomorrow we
6 are in court, and I think it's important, with a view to the planning
7 of the Defence case, which we would like to start 18 September as
8 planned, that we take care of how we are going to proceed by
9 tomorrow.

10 MR. DE MINICIS: If I may, Your Honours. The submissions that
11 we intend to make about the relevance of these witnesses will be of
12 guidance to the Defence as well as to what additional information we
13 think is required in order for a proper relevant assessment to be
14 possible.

15 PRESIDING JUDGE VELDT-FOGLIA: Good. Thank you.

16 MR. AOUINI: We have a suggestion, Your Honour.

17 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, you have the
18 floor.

19 MR. AOUINI: Thank you, sorry. Would it be possible for us to
20 have the leniency to submit our Rule 130 motion, which is due today
21 at 4.00, by midnight. And then we can give utmost priority to the
22 summaries? Because we are at the stage where the part of the team
23 that is assessing the evidence and footnotes -- the evidence is the
24 one that is dealing with the summaries. So we can offload better
25 summaries as soon as possible, and then we have a little bit of the

1 evening to finish with the Rule 130 motion.

2 So rather than 4.00, at midnight, which --

3 PRESIDING JUDGE VELDT-FOGLIA: Yes, let me have a small thought
4 about deadlines. But, yes, I think that could be a solution.

5 For now I will continue my round.

6 Victims' Counsel, is there anything that you would like to add
7 in this exchange of views?

8 MR. LAWS: No, thank you, Your Honour.

9 PRESIDING JUDGE VELDT-FOGLIA: Very well.

10 We will now go to the order of appearance of witnesses.

11 But, yes, with regard to the 130 Rule request that is due today,
12 if we would, in that respect, shorten a little bit the deadlines for
13 the SPO and Victims' Counsel, would that be possible?

14 [Specialist Prosecutors confer]

15 MR. DE MINICIS: Your Honours, I understand Your Honour means
16 the time for us to respond?

17 PRESIDING JUDGE VELDT-FOGLIA: To the -- yes.

18 MR. DE MINICIS: Yes. Well, Your Honours, of course, we want to
19 be as cooperative as possible in order to be efficient. It depends
20 on what motion we are talking about, and then the length, and then
21 the complexity, but we will --

22 PRESIDING JUDGE VELDT-FOGLIA: You will endeavour.

23 MR. DE MINICIS: We will endeavour.

24 PRESIDING JUDGE VELDT-FOGLIA: I leave that --

25 MR. DE MINICIS: Certainly.

1 PRESIDING JUDGE VELDT-FOGLIA: -- for now.

2 MR. DE MINICIS: Yes.

3 PRESIDING JUDGE VELDT-FOGLIA: That is enough. To the
4 impossible, nobody is held.

5 Victims' Counsel.

6 MR. LAWS: Yes, our position is the same, Your Honour. Of
7 course we will. Thank you.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you for this cooperation
9 spirit. Thank you.

10 I see you standing, Defence counsel.

11 MR. AOUINI: Just one further suggestion on the Rule 130. By
12 the time we submit it, we might provide a courtesy copy for everyone,
13 pending the official distribution on the following day, so they can
14 have them first day the next day, pending the distribution.

15 PRESIDING JUDGE VELDT-FOGLIA: Yes.

16 MR. AOUINI: Although, CMU has been very great in distributing
17 before opening of business on the next day. But if that helps, we
18 can do that.

19 PRESIDING JUDGE VELDT-FOGLIA: The deadlines won't change. It's
20 just that you have a little bit less time because it's coming in
21 later. That is where it boils down to.

22 Very well. Let us go to the next point, the order of
23 appearances of witnesses.

24 Any specific difficulty that the Defence envisages to call
25 during the sixth and the seventh evidentiary blocks which witnesses.

1 Now we noted, Defence counsel, that you envisaged to call only
2 one witness for the sixth evidentiary block, that would be
3 Witness 06, and only as of 20 September. And I think that you can
4 imagine what I will be saying now.

5 I recall our repeated directions to all parties and participants
6 that, to the extent possible, of course, and foreseeable, that the
7 courtroom should not be left unused. We feel very strong about this,
8 as you may understand, and we only have limited time in court because
9 we have to share this courtroom with other Panels. And this is the
10 time we have and we should use it to the best of our possibilities.

11 And an important other reason, which I don't have any doubt that
12 is on the front part of your mind, is that we have an accused in
13 pre-trial detention, and we just want to keep up a real serious pace.

14 So my question to you would be would the Defence be in a
15 position to call a witness already for the 18th, another witness?
16 And as a follow up of preceding that question, have you made any
17 efforts to call a witness for the first two days?

18 MR. AOUINI: Thank you, Your Honour. We appreciate the need to
19 fill the court days, and we were working towards that to be able to
20 start. The -- the initial date we wanted Witness 06 to appear was
21 the 18th, but we were faced with his medical problem. He has
22 promised that -- he has a medical examination on that day, which
23 changed our schedule on, I think, the day before we submit our list.

24 He committed to travel by land to be able to attend, but we
25 don't have yet his date of arrival. He said he would be willing to

1 travel even on the 18th at night, but he's --

2 PRESIDING JUDGE VELDT-FOGLIA: No, no, but I see --

3 MR. AOUINI: Yes.

4 PRESIDING JUDGE VELDT-FOGLIA: -- your point, and I have no
5 problem with starting on Wednesday with this witness because I leave
6 the plan -- or even on Thursday. I leave the planning, in principle,
7 to the Defence team. However, I don't want to have one witness in
8 that week only, because it means that a part of the week we will not
9 be using the courtroom. And, yes, I have seen a number of witnesses,
10 we have 17, and I know you have some -- you will be introducing some
11 requests, so we will not be -- if we allow for them, not hearing them
12 all here in court. But still, that week should be used, I hope, more
13 efficient.

14 MR. AOUINI: Yes, Your Honour. We couldn't place the two
15 witnesses of the seventh block, that is the second block of the
16 Defence, before because we are fearful of visas and passport issues,
17 and that's why we used a European citizen to start. There is one
18 possibility for a witness that could fit in one or two days, and that
19 is, if you allow me, DW4-04, who is available. But at this stage, we
20 don't know what he requires in terms of logistics.

21 What we can promise is that we can try our best to possibly have
22 him to fill even through starting DW4-06, but we cannot promise that
23 this will be successful, Your Honour. It is unfortunate. This is
24 the best that we could do to -- you understand, Your Honours, that in
25 the 17th -- in the 17 witnesses, only a few we have really control of

1 how to present them ourselves. And so that's why we started with 06,
2 and then the two witnesses, and then the two logistics. We have
3 three days of hearing on 23 October in which we suggested to put 01.

4 Our plan was to make sure that when we put them on the block
5 that we make sure it happens rather than have any surprises. But we
6 can try, Your Honour, to fill those two days, and we can inform you
7 if we are successful.

8 PRESIDING JUDGE VELDT-FOGLIA: And if I may suggest, I heard you
9 saying problems with passports, visa. You can also try to bring them
10 before. I mean, it's not set that it won't work out. I mean, if you
11 hear tomorrow, by tomorrow the Panel will decide, in principle -- I
12 mean, things can always happen. But in principle, tomorrow you will
13 hear what our views are, and then you might try to press a little bit
14 to see.

15 But I leave it to you. This is our direction to endeavour.

16 Yes, Mr. Gilissen. Defence counsel, you have the floor.

17 MR. GILISSEN: Oh, I'm sorry. One of the real difficulties,
18 that we are not judges, we are not prosecutor, we don't have any
19 police. And for these people in Kosovo, that's very important. They
20 are more than reluctant, really. And so even when they accept to,
21 may I say, deal with us, they feel themselves very free. Sometimes
22 we have some meetings, they don't come. The last one we had a
23 meeting, we were in Prishtine to see this guy, and the day when we
24 arrive he says, "I am sorry. I have a wedding." "A wedding?
25 Please. We have a meeting." "A wedding with my daughter." "So you

1 were aware." So this kind of difficulty we faced.

2 And you can trust me. We tried a lot, really a lot. So they
3 fear. That is sure. They fear. They are reluctant. So that is
4 really a very [indiscernible] difference, a very difficult one.

5 And we already tried for the first block of the Defence
6 presentation of proof to have a second one. We will try once again.
7 But you can trust me, it's not -- absolutely not a choice. That's
8 really very painful.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you for this further
10 clarification.

11 With regard to the visas, I would say please liaise with the
12 Registry, if they can be of any assistance. I don't have any doubt
13 that they will do their utmost if they can.

14 MR. AOUINI: Yes, thank you, Your Honour. And on that point, we
15 have already sent the forms that are necessary to the Registry, and
16 we will be, after this set of hearings, really working on that aspect
17 to make sure everyone is ready on the dates.

18 And, again, like Mr. Gilissen said, we will try once again.
19 This is the only individual, DW4-01, that could fit in the two days.
20 And if we can acquire his availability for those two days, we will
21 not hesitate. It's the common interest to go as smoothly as possible
22 and to fill all the days.

23 Thank you, Your Honour.

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you. So then we will go
25 and we continue.

1 We will now discuss the expected testimonies of witnesses
2 proposed by the Defence.

3 And, Defence counsel, we are now in public. And I foresee that
4 we will be going through the list of the witnesses. I think -- yes,
5 we might better go into private if you are going to enter into
6 details. Or if you say no, I can discuss everything in public with
7 regard to the different witnesses, then it's good for me too. But I
8 wanted to have your view on this.

9 MR. AOUINI: Your Honour, we can start in public, speaking
10 logistics and facts. That doesn't identify anybody. And if there is
11 need for more specifics, then we can group specific topics and
12 address them in private session together, if Your Honours agree.

13 PRESIDING JUDGE VELDT-FOGLIA: Very well. What I will do is I
14 will start first with a round of the SPO and Victims' Counsel.

15 Madam Prosecutor -- or Mr. Prosecutor, I think it was you who
16 was going to give some further observations with the assessment
17 you -- the information that was lacking for a further assessment of
18 the relevancy of the witnesses.

19 MR. DE MINICIS: Well, you understand, Your Honours, that the
20 Defence will now be going through the list of witnesses one by one.
21 And if that's the case, then we can respond to the Defence after --
22 if they are going to make additional relevant submissions about the
23 witnesses, we can respond to those. Or I can lay out now our
24 observations concerning the witness list, on the exhibit list. Not
25 about all of them. Some of them we have no observations.

1 PRESIDING JUDGE VELDT-FOGLIA: I think it would be useful to do
2 it like that, because that could be of assistance for the Defence
3 when going through their notes. And furthermore, while you are
4 talking, I have here our list with questions, and we will see where
5 it coincides in order not to double.

6 Please.

7 MR. DE MINICIS: Very well, Your Honours. Just one second.

8 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, coming back to
9 the points we have just discussed with regard to bringing in the
10 witnesses and the difficulties you are facing in terms of time. You
11 could also consider, if the visa doesn't work out or the passport is
12 a problem, to see if there's a possibility for a videolink hearing.
13 I mean, if they are available, they are willing, and you know where
14 they are. We have seen that a lot is possible. So I give that as a
15 suggestion, too, that that might resolve some possible problems.

16 MR. AOUINI: Yes, Your Honour. That's why DW4-01 is our best
17 chance of filling two days regardless of those logistical issues. We
18 will try that.

19 PRESIDING JUDGE VELDT-FOGLIA: Very well. Thank you.

20 Mr. Prosecutor, I used the time just to discuss this little
21 point with the Defence.

22 You have the floor.

23 MR. DE MINICIS: Thank you, Your Honour.

24 Your Honours, Rule 137 states that the parties shall submit
25 evidence relevant to the case. And pursuant to Rule 143(4), the

1 questioning of the witness must be effective for the ascertainment of
2 the truth and avoid undue consumption of time and resources.

3 It's our position, Your Honours, that based on the information
4 we received so far, that a considerable number of witnesses proposed
5 by the Defence is irrelevant or their relevance cannot be assessed
6 without the provision of additional information.

7 For some witnesses, the information is so scarce as to prevent
8 any assessment on whether they may have any relevant information on
9 the charges. Other witnesses were not, based on available
10 information, at the Kukes metal factory at the times relevant to the
11 indictment who are supposed to testify about events which took place
12 long after the end of the indictment period.

13 Finally, the relevance of certain topics the Defence wants to
14 elicit is unclear, and we request that it be clarified, if need be,
15 by clearly laying out what the Defence case is and how these
16 witnesses are relevant to substantiate it.

17 I will start with the first witness. I will only list the
18 witnesses that we take -- the relevance of which we want to take
19 issue now.

20 The first one is number 2 on their list, a Witness 4454.

21 Based on available information, which consists of SPO
22 statements, the witness was not at the Kukes metal factory during the
23 indictment period. We understand that -- from our statements that he
24 went to Burrel at the end of April 1999, where he stayed for about
25 two weeks. In mid-May, he returned in Kukes, where he stayed about a

1 week, but he stayed at Pavilion or Point 1, which is a location far
2 from the Kukes metal factory, perhaps somewhere between a few hundred
3 metres and a kilometre. And according to the witness, during that
4 time - which is the indictment period - he did not return to the
5 Kukes metal factory.

6 So we object to the relevance of this witness without the
7 provision of additional clarification as to what evidence the Defence
8 want to elicit.

9 Number 3 on the Defence witness list, which is DW4-02. From the
10 summary provided by the Defence, Your Honours, this witness appears
11 to have only been at Pavilion 1. Again, not the Kukes metal factory.
12 Therefore, his ability to testify about the alleged crimes, which we
13 allege took place at Pavilion 2, is unclear. Considering the
14 circumstance, his expected evidence that he did not know the accused
15 is also not relevant.

16 Now, the evidence -- the Defence wants to elicit evidence from
17 this witness about the KLA organisation in Kukes. But to us, the
18 relevance of that defence -- of the evidence for the Defence case,
19 Your Honours, is not clear. The Prosecution bears the burden of
20 proving certain contextual elements, but why is this relevant for the
21 Defence case? And the same goes for the movement of Brigade 128.
22 That's unclear at this time. So we would request at least
23 clarification of the relevance of that information for the Defence
24 case.

25 The other witness we take issue with is number 7 on their list,

1 DW4-04. There is no information -- we've already touched upon this.
2 But no information whatsoever on when this witness was in Kukes and
3 where he was, whether Pavilion 1, Pavilion 2, was he there at all.
4 Thus, the same other considerations we shared for the other witnesses
5 apply to this witness.

6 And in this regard, Your Honours, we submit the Defence, before
7 calling a witness, that they must know where the witness was and what
8 evidence the witness, therefore, is able to provide. We don't accept
9 the submission that, "We don't know, we're not certain, we don't want
10 to write it because we might be wrong." If they don't know that the
11 witness is able, because he was there, to provide relevant
12 information, then we question whether this witness should be called
13 to testify at trial. But we're not going into a -- to see if we are
14 lucky enough that the witness had information, relevant information
15 to provide. The Defence should know that. And if need be, they
16 should contact this witness and elicit this additional information
17 and amend their summaries accordingly.

18 Now, with regard to witness 12 on their list, who is DW4-06. As
19 already stated by my colleague, we do need more detailed information
20 about what his whereabouts were at the time. We can't wait for the
21 witness to tell us at trial. It's a matter of fairness and equality
22 of arms. We believe that the Defence must have discussed the
23 witness's whereabouts at the time and that they must be in possession
24 of this information. If they're not, we ask the Defence to reach
25 back to the witness and ask to provide this information.

1 Also, general statements like "the witness will provide relevant
2 background information about the context of the charges" are too
3 general to appreciate their value, Your Honours.

4 Finally, the issue of the alleged fabrication of cases by the
5 Serbian secret service is absolutely not relevant without further
6 explanation by the Defence. We just simply don't understand what
7 this witness will testify about and how it affects the charges in
8 this case and the evidence presented so far by the SPO.

9 We also object, Your Honours, to witnesses number 14, 15, and 16
10 on the Defence list - the three internationals. The Defence want to
11 elicit evidence about events which happened well after the end of the
12 indictment period.

13 Now, we understand that we have elicited evidence on a certain
14 topic, *[REDACTED] Pursuant to In-Court Redaction Order F621RED.*
15 *[REDACTED] Pursuant to In-Court Redaction Order F621RED.* But, first
16 of all, only one of the three witnesses the
17 Defence wants to call, who is W03881, actually participated in that
18 operation. The other two did not. One did not go to the location at
19 all, and the other one went hours later to pick up a specific person
20 and take that person to the hospital.

21 But even with respect to 3881, we don't understand -- the
22 Defence should be specific about what evidence they want to elicit
23 from this witness. We absolutely -- we have no idea. And as things
24 stand now, we don't think -- we submit that it's irrelevant. We have
25 read the statements of this witness again to try to see if we could,
through that, in combination with the summary from the Defence,

1 understand a bit more. We don't. So we submit that the Defence
2 tells us how the testimony of this witness fits with their case, what
3 their case is in that regard, and what this witness will be
4 testifying about.

5 If he is called to testify about evidence provided by SPO
6 witnesses, then the Defence should clarify that, what evidence it is
7 and what witness we are talking about. As things stand now, these
8 witnesses are not relevant.

9 All three witnesses are also called to testify about the
10 situation in Kosovo, *[REDACTED] Pursuant to In-Court Redaction Order*
11 *F621RED*. Your Honours, how is that relevant to the charges in
12 this case? It's simply not relevant.

13 Finally, Your Honours, W04751. The Defence proposes this
14 witness to be tendered through Rule 155. Now, this witness was on
15 the Prosecution witness list.

16 As I said earlier, the Prosecution bears the burden to prove
17 certain elements, certain contextual elements that we believe this
18 witness was able to talk about at the time; for example, the
19 organisation of -- the fact that the KLA was an organised group and
20 that the Kukes metal factory was used for certain purposes. The
21 witness left Kukes at the end of April 1999.

22 From the summary provided by the Defence, it's absolutely
23 unclear what the relevance of this witness's evidence is for the
24 Defence case. So while we would be, of course, making written
submissions on that if the Defence ends up filing that motion, I want

1 to, as a preliminary remark, state that we are puzzled as to why this
2 witness would be part of the Defence case.

3 And in this regard, Your Honour, because it may be efficient to
4 deal with it now, that our objection to the relevance of the three
5 internationalists proposed by the Defence also translates into an
6 objection to their request to amend the exhibit list with a number of
7 exhibits pertaining to these witnesses, the relevance of which, Your
8 Honours, is not clear. One exhibit does mention two victims that the
9 SPO allege were detained in Kukes, but it's a report that concerns
10 the whereabouts of this witness -- the whereabouts of these
11 witnesses, if I'm not wrong, on 22 June 1999. Well after the
12 indictment period, well after [REDACTED] Pursuant to In-Court
13 Redaction Order F621RED. So the
14 relevance of that document, the mere fact that it may mention two
15 persons of interest in this case does not make that document relevant
16 in our view.

16 And this concludes our submissions, Your Honours, on the
17 relevance of the witnesses proposed by the Defence.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Prosecutor.

19 Before I give you the floor, Defence counsel.

20 Victims' Counsel, are there observations you would like the
21 make?

22 MR. LAWS: Your Honour, we fully support the submissions that
23 have just been made by the SPO, and we have nothing useful to add.

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

25 Defence counsel, before I give you the floor, in addition to

1 what has been said, the Panel would like -- and I am going back to
2 what I said before already. With regard to the witnesses on your
3 witness list, number 2 and 3 and number 7 and 11, the Panel would
4 like to know if these witnesses -- when these witnesses were, during
5 the indictment period, at the Kukes metal factory, and we would like
6 to know, as far as possible, when precisely.

7 So were they throughout the indictment period at the Kukes metal
8 factory, and when precisely.

9 And I think we had some overlapping questions, but I think if
10 you -- if you want to react, then you have the floor, of course.

11 MR. AOUNI: Thank you, Your Honour. Thank you. We heard the
12 SPO colleagues puzzled by the scarce information. We're puzzled also
13 by the scarce information they provided in their case, and we're
14 trying to respond to that.

15 We have clearly said that -- Mr. Shala was accused, and they
16 mention it in their PTB, that he was part of the Brigade 128. We are
17 bringing the Brigade 128 to tell us that Pjeter Shala is not part of
18 that brigade. We are bringing people who were stationed in the KMF
19 to say that they didn't see Shala there.

20 So we are responding specifically to the allegations that Shala
21 had any kind of authority - moral or titles or anything - in the
22 Kukes metal factory that would have allowed him to enter any
23 agreement with any other individuals to commit crimes. That is very
24 clear, and this is the reason why we bring people from the Brigade
25 128, even if we don't know everything.

1 As Mr. Gilissen said in the opening statement, Mr. Shala had no
2 place in the Kukes metal factory, and there was no place for him.
3 And this is what we show. We are not shying away. And you will see,
4 Your Honours, that most of the witnesses are witnesses interviewed by
5 the SPO. This is precisely why we ask for them to be called, because
6 we want the truth and we want to show that this information existed
7 when the SPO chose to formulate their charges.

8 This is the utmost relevance to this case. We have one
9 individual who was there who said, "From the beginning I was there,
10 from Point 1, until liberation," and he will explain what the brigade
11 and the people who were with him were there, and we have listed him,
12 and that he is number 3, Your Honour. And he will explain, and we
13 said it in the summary, what is this makeshift clinic that we -- or
14 clinic in the officer's building, and that we believe is very
15 relevant to see the level of basicness or basic facilities that there
16 were there at the moment.

17 We are bringing somebody who had a role in discipline. And
18 we're satisfied that if we call this person, he will explain that he
19 was part of that brigade, and that brigade formed before the general
20 mobilisation and ended in Prizren and Nashec after the liberation.
21 Everything that happens with this brigade is relevant, and we are
22 there, even if we don't have all the informations, to have them here
23 and ask them questions because we are confident. And my colleagues
24 say it's not important that somebody doesn't know Pjeter Shala. When
25 they were there or in the brigade, they knew the members of the

1 brigade, and that's also the case for the deceased person, number 17.

2 One of the key points for number 17, even though he speaks about
3 other elements, is that he was not even asked by the SPO about
4 Pjeter Shala. The head of the brigade wasn't asked about
5 Pjeter Shala. There was a document signed by one head of ministry,
6 and he denied the authenticity of that document. And we didn't call
7 that witness, even through documentary, because the SPO has given up
8 on the authenticity or veracity of the content of that authorisation
9 that supposedly made Pjeter Shala go to Kukes.

10 So we are addressing the allegations of the case, saying that
11 Mr. Shala's job was not in Kukes. He was in the front fighting for
12 his nation. He was not there, didn't have any role there, and we
13 have stated clearly the case of Mr. Shala when we needed to.

14 The other part is the logistics individuals that were withdrawn
15 from the SPO. There is one person who has the only live footage of
16 what was happening there at that time, and we are calling them. And
17 there is one person who was all the time there and had an encounter
18 with Mr. Shala at that time, and he will explain in which context and
19 when he saw him and when he ever saw him again. This is of the
20 utmost relevance, Your Honour.

21 The other individuals like DW4-01 responds to specific
22 allegations that we have submitted in cross-examination. And just by
23 the name, Your Honours will have the specific topic and that
24 individual addressed that point.

25 As to DW4-06, we have the relevant information and we shared it.

1 This person who was alleged to be in Kukes metal factory amongst some
2 high officials. Because the witness who mentions this individual and
3 almost all the political elite of Kosovo at that time in Kukes trying
4 to beat him, that is W04733. We have one individual here who was not
5 at all in Kukes, and we have disclosed two certificates that show
6 that he didn't enter Albania. This is sufficient for us and this is
7 relevant for us.

8 And this is something that we will show combined with number 6
9 in our list, W04441; and number 10 in our list, W04440. Those
10 individuals had been mentioned as having a role, criminal or not, in
11 the Kukes metal factory where these individuals never set his feet in
12 Albania or never set foot in Kukes as well. This is relevant,
13 Your Honour, for the credibility of those witnesses. And we are
14 entitled to respond. We are not calling all of them live. We are
15 putting their statements. We didn't have contact with them, but what
16 they have said to the SPO is of high relevance for the duty of the
17 SPO, the charges they are squaring against Mr. Shala, and for our
18 response to the credibility of those witnesses.

19 If I come to the internationals. It is very important,
20 Your Honour, and we made the submissions at a certain time during
21 cross-examination to explain that we will bring documents about the
22 specific event, and this relates clearly and directly to the
23 credibility of individuals and stories we heard that happened in that
24 liberation in [REDACTED] Pursuant to In-Court Redaction Order
F621RED. You can test -- and we are very
25 transparent and complete with it, Your Honour. We have a [REDACTED]
Pursuant to In-Court Redaction Order F621RED.

1 [REDACTED] Pursuant to In-Court Redaction Order F621RED., and we
submit to you the individuals who were involved from
2 close or far, physically or by signing or [REDACTED] Pursuant to In-
Court Redaction Order F621RED.
3 [REDACTED] Pursuant to In-Court Redaction Order F621RED. we put it
all on the table here so
4 Your Honours can see the truth of certain events.

5 And we say the information about the general situation, that is
6 relevant to understand what could be true or what could not be true
7 at that moment. This is chaos. And these people are internationals
8 who can testify as to what it is the situation then or what it is to
9 believe or not. Maybe they will tell us if -- I don't want to say
10 this in public but --

11 PRESIDING JUDGE VELDT-FOGLIA: Then we can go into private.

12 MR. AOUNI: It is one small point. But they will say, in the
13 people they met, whether there are the individuals mentioned in some
14 of the evidence we heard from witnesses. I can explain further,
15 Your Honour, but this is all about the credibility of that part of
16 the evidence that we heard and that we believe that the SPO knows
17 about, has a lot of limits, has other explanations, and sometimes and
18 many times is far from what the reality is. And we submit those
19 witnesses for Your Honours.

20 As to the KLA organisation. It is our position that the
21 organisation is not what is depicted. They have the duty, and we
22 don't have the duty to prove anything. But what is depicted as the
23 general organisation is far from the reality. And specifically for
24 this Brigade 128, we believe that it is far from the reality.

25 The reality of the field at that time, civilians gathered

1 together, tried to fight their nation, and it was the intervention of
2 many factors that led them to be liberated with their braveness and
3 effort. But the level of organisation is not the one that supports a
4 regular army like the Serbian army had.

5 And that is one of the key aspects. Some of the individuals
6 will come and testify about the circumstances, and this is one of the
7 main points that Mr. Gilissen in his opening made. These are the
8 victims. These are the tortured ones. These are the expelled ones.
9 And they had to fight back with scarce means. And that is the
10 situation and in that context that need to be said and done for the
11 Republic of Kosovo, that we -- we set this context when we are
12 talking about charges.

13 And that will explain what the case of Mr. Shala that has been
14 put is about. It's not about going after fellow nationals and beat
15 them and punish them. It's not at all about that. And if somebody
16 did it, they did it on an individual basis.

17 Yes, Your Honour. My last point is about equality of arms. It
18 is the equality of arms that led us to put those documents because we
19 didn't meet these people. Some of them refused contact with us. We
20 know they are relevant. Some of them are mentioned in the PTB of the
21 SPO. It is the equality of arms that we don't have to go and play
22 poker with individuals who refuse and sometimes are hostile to us.
23 We put their statements. So, Your Honours, if you don't take them
24 for the veracity and truthfulness of what is in the statements, at
25 least you know what is the information that has been provided to the

1 SPO, and you have to take it into account when you are judging
2 Mr. Shala.

3 Those individuals are put under those rules because we don't
4 necessarily need to go through and prove elements. There are
5 relevant information as to Mr. Shala or contradicting certain
6 allegations contained in other witnesses' evidence that were admitted
7 through documentary fashion, and that's why we are putting them under
8 those rules for Your Honours. We believe this is the most efficient
9 way to do it. And we are happy if Your Honours say, "No, they have
10 to come," but we don't have access to them, and that's why other
11 rules will have to come into play.

12 But we are not shying away from anybody. We see what is in the
13 statements. We want them part of your assessment, Your Honours, when
14 you reach a verdict. And we are happy, the rules allow it, we can
15 make requests if necessary, if you need to have them, for
16 cross-examination so the SPO can explain why they didn't call them or
17 -- or for other reasons or even testify live fully. But we will have
18 to go through Your Honours if we are going there.

19 Thank you, Your Honour.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

21 In my notes, I see that all the different items have been
22 responded to. But just to be sure, I look at Mr. Prosecutor.

23 Mr. Prosecutor, are all the points you made answered?

24 MR. DE MINICIS: No. No, Your Honours, they're not.

25 PRESIDING JUDGE VELDT-FOGLIA: No, they're not?

1 MR. DE MINICIS: No, they're not, because we --

2 PRESIDING JUDGE VELDT-FOGLIA: I meant to say "touched upon."

3 MR. DE MINICIS: "Touched upon," yes, Your Honour, I think, by
4 and large. Answered, I don't think they were. If Your Honours would
5 like to hear a short reply, perhaps on a couple of points, I would be
6 happy to. If Your Honours have heard enough, then we --

7 PRESIDING JUDGE VELDT-FOGLIA: No, I would like to have a
8 further reply. And what I did not hear was an answer to our
9 questions. So I invite you to come back to that.

10 And then, sorry, Mr. Prosecutor, I will give you the floor to
11 give some further submissions.

12 Because, Defence counsel, I find it very important to talk this
13 thoroughly through because we want to give you all the space to
14 present your case. But it's useful to get some further clarification
15 on some points.

16 MR. AOUINI: If you allow me, Your Honour, just to return to
17 Your Honours' question.

18 PRESIDING JUDGE VELDT-FOGLIA: My question was were the
19 witnesses during the indictment period at the premises of the Kukes
20 metal factory. And if you can even be more specific, not a general
21 remark, but if you have more information, when they were there.

22 MR. AOUINI: Yes, Your Honour.

23 PRESIDING JUDGE VELDT-FOGLIA: And what I mean is we noted, or
24 at least evidence has been brought to us, that they have been
25 discussing several places where the KLA apparently resided, but we

1 are specifically talking about the Kukes metal factory.

2 MR. AOUNI: Yes, Your Honour. And this is one of the reasons
3 we've always submitted that Your Honours should go to the crime site
4 to see those two points because it will make it clear.

5 To respond to Your Honours' question. When we have those
6 individuals who joined the KLA and the Brigade 128 from the
7 beginning, they were at Point A because Point 1 was the first one
8 operational. And from that time on, we have their circuit of
9 passage. And they were at the Kukes metal factory occasionally.
10 Those who were stationed at Point 1 with the brigade are there. It's
11 very near. And they can explain that the soldiers from the brigade
12 are there, and they went from there to different points.

13 One of the individuals, as you see in the summary, and that is
14 number 3 of our list, DW4-02, explains that he went once to get a
15 bandage, so that's when he made it to the Point 2, that is the
16 *fabrique*, the metal factory. So their entrances, occasional ones, in
17 the Kukes metal factory are depicted. And then --

18 PRESIDING JUDGE VELDT-FOGLIA: Yes, but I am not talking about
19 the occasions. I am talking about timeframes. The Panel is
20 interested in timeframes, if you have those. That was my point.

21 MR. AOUNI: If we can give a general timeframe, those
22 individuals from the brigade were there from February, before the
23 general mobilisation, let's say, at different times. They were from
24 the general mobilisation or upon general mobilisation. And I take
25 the example of DW4-02 who came from Germany at the time of

1 mobilisation, so that is the timeframe, and made it to Kukes. That's
2 the timeframe.

3 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, I think I'm not
4 making myself clear. The Panel would like to know with regard to
5 Witness 2, 3, 7, and 11, if you can say more specifically during the
6 period of the indictment, which you stated apparently they have been
7 there at the Kukes metal factory, if you have more specific
8 timeframes. If those witnesses can say, "We were there around 20
9 May," or "We were there around the end of May," or "We were there
10 5 June," or "We were there the 10th" -- I mean, that is what my
11 question turns around.

12 MR. AOUINI: Yes, Your Honour. And we promise to go through and
13 be as specific as possible with any more precise timeframes, but the
14 only references we have is general mobilisation, that is, end of
15 May -- end of March, sorry, and from there onwards they can explain a
16 week, ten days, and that's the way probably we can figure out.

17 And then the other point that is of -- where we have a date is
18 Burrel incident. So that gives us references between mobilisation
19 and then the Burrel incident for the Brigade 128. And then the
20 Operation Arrow where that brigade went to the front in Kalimash. So
21 those are the general specifics that we worked around.

22 If we have any more specific notes, we will provide them in the
23 summaries for Your Honours.

24 PRESIDING JUDGE VELDT-FOGLIA: Very well.

25 Mr. Prosecutor, I see that it's 11.00. With my further

1 clarification question, we come at the moment of the break.

2 We will continue and then I will give you the floor for the
3 second round.

4 The hearing is adjourned for half an hour.

5 --- Recess taken at 11.02 a.m.

6 --- On resuming at 11.31 a.m.

7 PRESIDING JUDGE VELDT-FOGLIA: Welcome back and let's proceed.

8 I see that the SPO composition is the same, that goes also for
9 the Victims' Counsel, and I see some colleagues missing for the
10 Defence.

11 MR. AOUINI: Yes, Your Honours. Kailin, Ms. Kolbe,
12 Ms. Juliette Healy have left the courtroom for this session. Thank
13 you.

14 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

15 We were at the point that you had given us some further
16 clarifications with regard to our question regarding Witness 2, 3, 7,
17 and 11.

18 And I now give the floor to Mr. Prosecutor for the second round.
19 You have the floor. Thank you.

20 MR. DE MINICIS: Thank you, Your Honour. Some of the witnesses
21 discussed by the Defence counsel during their submissions, we are not
22 taking issue with them or with their relevance, so we won't be
23 replying. We'll just be replying to two or three points.

24 The first, Your Honours, is the issue of the internationals. If
25 the Defence believes that any of their evidence contradicts the

1 evidence of specific witnesses in this case, or part of their
2 evidence, then we request the Panel to order them to specify what
3 this evidence is, both with respect to the witness in question, the
4 witness called by the SPO whose evidence they want to contradict, and
5 to the evidence of the international. So what part of these
6 statements of witnesses you've listed contradicts the evidence called
7 by the SPO and how does that support your case. Because, Your
8 Honours, we repeat, we could not determine that, and the Defence have
9 failed altogether to sufficiently substantiate the relevance of these
10 witnesses, even in their response.

11 And statements like "evidence on the general situation will help
12 understand what is true and what is not," as counsel stated at page
13 42 of the transcript, are really unhelpful. They're just, like,
14 another general statement which does not substantiate the need to
15 call these witnesses.

16 But, of course, we welcome further submissions which meet the
17 required degree of specificity so that we can reply and Your Honours
18 can make an informed decision on that. As things stand now, these
19 three witnesses have no place to testify in this trial at this time.

20 The footage, the footage of the funeral. We really, at this
21 point, we don't understand what the relevance of the footage is, most
22 of which happens outside -- the vast majority of which happens
23 outside the walls of the Kukes metal factory. If there are other
24 reasons for it to be relevant, we would request the Defence to be a
25 bit more specific on that. Because so far, we haven't heard anything

1 more specific than what was in the summaries at the start.

2 Now, also, they want to elicit a lot of evidence about Brigade
3 128. And at page 40, Defence counsel stated that they want to elicit
4 evidence about the movements of that brigade and that everything that
5 happened to that brigade is relevant.

6 First of all, this is too general a statement. But then when --
7 it is even more puzzling when then you take the position, as taken at
8 page 39, that the accused was not a member of that brigade. So if
9 the accused is not a member of that brigade, how is everything that
10 happened to that brigade relevant?

11 I think, Your Honours, we really need to be more specific. The
12 allegations are very specific in terms of the timeframe when they
13 happen, in terms of the location, in terms of the accused's role and
14 participation in these crimes. So, like, the movements to Nashec,
15 the -- the relevance needs to be explained, Your Honours, if need be
16 through the Defence providing additional information of what their
17 theory of the case is, if that would enable everybody to understand
18 better the position.

19 But as things stand now, Your Honours, the relevance -- we
20 maintain the submissions that we made at the beginning, and the
21 Defence hasn't shed any further light on the witnesses they want to
22 call in relation to which we contested the relevance.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Prosecutor.

24 Victims' Counsel, you have the floor.

25 MR. LAWS: We've nothing to add. Thank you, Your Honour.

1 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

2 Defence counsel, your turn.

3 MR. AOUINI: Thank you, Your Honour. We understand the SPO want
4 us to make our closing submissions at this stage or to put the burden
5 of proof on us. We will not fall in that trap.

6 We will explain once again. At the PTB in paragraph 9, the SPO
7 allege that Mr. Shala was part of Brigade 128. We are bringing the
8 Brigade 128, several members with several roles, to explain:
9 Pjeter Shala, I don't know him; Pjeter Shala, I heard about him
10 afterwards, he wasn't with us. Is that not relevant to this case?
11 We submit it is the heart of the case.

12 More than the brigade, because the brigade was outside at
13 moments, we explained the movement of that brigade. Mr. Shala was
14 not part of that brigade, again. And we bring evidence from people
15 who were stationed at the Kukes metal factory because they worked on
16 the logistics, and those are relevant to say: I didn't see Shala. I
17 saw Shala one day, he took a weapon. This is all in our opening
18 statement. And he left to the front. I only saw him at the
19 liberation. That is also more than relevant.

20 And so the allegations of the SPO, which they failed to prove,
21 we are bringing in front of Your Honours. I have given specific
22 examples from DW4-02 explaining clinics, things that -- the reality
23 of this officers building we heard about. We are bringing another
24 witness, DW4-05, and this is in the summary, who worked in the
25 warehouse where we have heard that people were detained and slept

1 there. And this person is there to explain. Some of them we briefly
2 met and because of their role, we want to see them and hear them.

3 And that leads me to the internationals. We gave tremendous
4 latitude to the SPO to present [REDACTED] Pursuant to In-Court
Redaction Order F621RED.

5 We know this is tied with specifically one of the witnesses more than
6 any others. And these individuals, whom we could not contact, have
7 statements, and we are putting these names at this stage,
8 Your Honour, to provide you the context. Those are the people who
9 made the report or participated in that event, and we are happy to
10 ask them for the first time elements that we have submitted during
11 the cross-examination of that witness: Where were the people freed?
12 Was it in the basement or was it in the 3rd floor? Where was the
13 dead person found? Was there anybody with it? Was there a Rambo
14 with a Kalashnikov there? All these elements need to be assessed
15 from the people who were there for Your Honours to assess the
16 credibility of this evidence mainly about one witness.

17 The situation at that time is relevant to assess whether
18 somebody can make up extra elements in their story, because those are
19 the individuals that were there. They can tell us if they took all
20 the detainees, how many, were they hundreds like some individual
21 says, or were there 10 or 11? Those are the individuals who can tell
22 us that story, and we are here to listen to the truth of that part.
23 We understand this is not specifically what's happening in Kukes, but
24 the SPO presented that, and we believe it's in close relationship
25 with the credibility of one of the witnesses. And we have the

1 opportunity to explore that.

2 All that is context and support for what we already announced
3 that we will submit in documentary fashion, that is, [REDACTED]
4 Pursuant to In-Court Redaction Order F621RED.

5 [REDACTED] Pursuant to In-Court Redaction Order F621RED. One of the
6 individuals made the
7 trip and transported some freed individuals. Another one was there.
8 And the third one is the one that wasn't there but signed the report.
9 This is the relevance of these individuals with that report. And
10 they can explain to us what is in the report and some elements of
11 relevance to this case that will help Your Honours understand the
12 credibility of an account of one of the witnesses at least, maybe
13 two, on specific events there will help Your Honours assess. This is
14 absolutely at the centre of the case.

15 If Your Honours want me to address any other elements, I'm happy
16 to do that. But on the specific points of the individuals and the
17 brigade, we are responding to what the SPO has alleged. And I
18 believe Mr. Gilissen at some point will have more general submissions
19 as to the context that we are bringing, because the SPO made some
20 choices in presenting their evidence, and we are trying to put the
21 full picture in front of Your Honours.

22 We believe this is our right, and this is the duty that we have
23 to defend Mr. Shala, who was not part of the allegations that the SPO
24 is squaring against him. Thank you, Your Honour.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence counsel.

MR. GILISSEN: May I, Madam President?

PRESIDING JUDGE VELDT-FOGLIA: You may. And --

1 MR. GILISSEN: Very shortly. Very shortly.

2 PRESIDING JUDGE VELDT-FOGLIA: No, no, you get the time you
3 need, Mr. Gilissen.

4 MR. GILISSEN: Yes.

5 PRESIDING JUDGE VELDT-FOGLIA: But before I give you the floor,
6 just one further observation I would like to make.

7 That witnesses 2 -- on the list, I'm following the numbering of
8 the next, 2, 3, 7, 9, and 13, that they all discuss Brigade 128, I
9 noted. And I just want to note that we also evaluate -- we assess,
10 of course, also any kind of repetitiveness in allowing for a certain
11 number of witnesses, if we would do that. I just want to bring that
12 to your attention.

13 MR. AOUINI: Thank you, Your Honour. Just briefly before
14 Mr. Gilissen takes the floor.

15 The two witnesses we have been able to contact and we ascertain
16 they will come in the second block are witnesses on the ranking
17 number 3 and number 11.

18 We explained to Your Honours that number 7, we have an issue
19 with his health. And even we need to see him to assess his fitness
20 to testify, but we have put him here in case he's fit and able to
21 testify by videolink.

22 The other two, that is number 2 on the list, and Your Honour
23 said number 9 --

24 PRESIDING JUDGE VELDT-FOGLIA: 2, 3, 7, and 9 -- oh, I --

25 MR. AOUINI: 3, 7 --

1 PRESIDING JUDGE VELDT-FOGLIA: -- I intend to say 11. If I said
2 9, then I made a mistake. But I intended to say 11.

3 MR. AOUNI: 11 I just addressed --

4 PRESIDING JUDGE VELDT-FOGLIA: Yes.

5 MR. AOUNI: -- along with number 3 as well as number 7.

6 For number 2, the most relevant element is that this is also a
7 member of the brigade that doesn't know Pjeter Shala. So you have a
8 number of members of that brigade who don't know Mr. Shala. And this
9 individual in particular we put in under this rule because we
10 couldn't meet him and he refused to meet us, this is why we
11 combined -- and, technically, we have two individuals who are able to
12 come, and they have very specific elements different from one another
13 that they can bring to this trial. One a little bit more information
14 about the incident in Burrel and the clinic, and the other one about
15 the warehouse specifically where we had a role and we heard one of
16 the witnesses speak about this name, this individual, and place him
17 at the warehouse. I think it's DW4-10, if I'm not mistaken. And we
18 are elucidating the evidence from the person that is mentioned there.
19 So this very specific to -- extra from what the general membership of
20 the brigade entails and their circuits. So we have some specific
21 elements during the indictment period that they talk about, either
22 the clinic or the warehouse, that we want to bring.

23 PRESIDING JUDGE VELDT-FOGLIA: Good. Thank you.

24 Mr. Gilissen, you have the floor.

25 MR. GILISSEN: Thank you very much, Your Honour.

1 To be very brief, I'm a little bit disappointed because I have
2 the feeling that with the wilfulness to empty the case or to empty
3 the possibility of the Defence to present its case in the fact of my
4 dear colleague from the SPO.

5 A case is built, and you build a case because you make some
6 choice in the evidence you have to show. But a judicial error is
7 built with the same things. You make some choice not to show, not to
8 talk about a lot of things, and you provide a very credible or a
9 possible very credible image of the reality because you omit to show
10 and to provide to the Judges some part of the reality but some very
11 important part that changes all of the things. And that's exactly
12 what we would like to do, to make, to enable you to have the full
13 picture of the things, of the reality.

14 The truth, you know the truth, all of us have an idea of the
15 truth, of the reality, and there is a lot of [indiscernible] that is
16 amazing, almost funny, to hear we have some problem with the date.
17 We were obliged to hear even happening in 1998, during some hours,
18 during some hours, out of the delay of the indictment -- of the
19 period of the indictment.

20 And we have some people who were in Kukes. They are able to
21 provide you some very important information about the life in Kukes,
22 the organisation in Kukes, who was there, who was responsible or not.

23 We even have one man who provide us with movies and movies about
24 the life in the Kukes metal factory. We're able to see people who
25 were there, who was not, and about very important events. And we

1 know we have -- if we have to trust the witness of the Prosecution,
2 we have to know that during this event the heads, the very big fishes
3 of the UCK were in the Kukes metal factory for some funerals during
4 three days.

5 We have this film, and we have this thing why? Because the
6 Prosecutor had them. We saw these films, and we tried to collect a
7 lot of information to know who is who, who is able to utter a speech,
8 who is able to direct the operation and so on. No -- not even one of
9 the people who have to be there, if we trust the SPO witness, no one
10 is on the picture. No one.

11 So, of course, we are in the core of the case. What we would
12 like is not that you trust us or you believe us. That's not the
13 point. We are not children. That you have all -- you could have all
14 the elements in hand to decide. And I'm sure when you will have all
15 the elements to decide, you will decide very fairly, I'm sure of
16 that. And my guess, that you will consider that all the elements,
17 the full picture, is not the one presented by the SPO. This is the
18 different point of view.

19 So, please, I would like to be able to obtain the possibility to
20 ask some questions to these witnesses. We select, we met a lot of
21 persons. And you have to know, it's not a secret, some people, and
22 not two or three, took contact with us because they want -- they
23 wanted to be witnesses, and we refused them because we hate the way
24 they use and we fully understood that these people want to bring some
25 element in this case that there is no reason to be.

1 And so we make some choices in some very, very delicate and
2 complicated situation. So I am sure you will enforce a real fair
3 trial with the witnesses we propose. Of course, if some of them have
4 to bring the same information or something like that, we will be the
5 first to say it's too much, we withdraw this witness. You have my
6 words about that.

7 So thank you very much to hear me. Thank you.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence counsel. I
9 trust that your remark with regard that you are a little bit
10 disappointed with regard to the wilfulness to empty your case is not
11 directed at the Panel, because we are here to prepare your case.

12 MR. GILISSEN: Of course. I say in the position of my colleague
13 of the SPO. I'm not used with that, I'm sorry, to be said.

14 Till now, I consider we have excellent relationships because the
15 will is to find the truth. But now, really, I'm wondering why. They
16 are afraid of what? To hear some people that we know that they are
17 on the list of the brigade. They're on the list of the UCK. We know
18 they were on the spot. They're afraid to hear these people? Afraid
19 of what? Afraid of the reality? That's the question. Thank you
20 very much.

21 PRESIDING JUDGE VELDT-FOGLIA: Have we concluded the discussion
22 on the content of the witnesses for now, Mr. Prosecutor?

23 MR. DE MINICIS: Yes, Your Honours. We have no further
24 submissions at this time.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

1 Victims' Counsel?

2 MR. LAWS: Nothing to add. Thank you, Your Honour.

3 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good.

4 Very well. Then we continue with the next issue. And I urge
5 the -- no, let us go for a moment into private session. Just two
6 minutes and then we get back.

7 Madam Court Officer, can we go into private session, please.

8 [Private session]

9 [Private session text removed]

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18 [Open session]

19 THE COURT OFFICER: Your Honours, we are now in public session.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much.

21 Then we go to our next topic on the agenda, which are the expert
22 witnesses. And more specifically, witness 4 on the Defence witness
23 list, and it is Witness 03, Defence Witness 03.

24 And we have taken note of the submissions by the SPO regarding
25 the qualifications and the work experience of Witness 03, which is

1 filing 617, paragraph 3 and 4.

2 Defence counsel, do you wish to respond to the submissions made
3 by the Specialist Prosecutor's Office? And would you be in a
4 position to provide a more detailed CV of the expert? And if that is
5 the case, by when? You have the floor.

6 MR. AOUMINI: Your Honour, I don't have much to say other than we
7 maintain that this expert is largely qualified to submit the
8 expertise he has made and the report he has composed. If Your
9 Honours want us to make full submissions, we can do it by writing.
10 If Your Honours want us to have a more elaborate CV of the experience
11 and the actions of these expert, we are happy to do that and ask
12 them.

13 We believe we have contacted the most qualified expert probably
14 in all Europe about ballistics and the matters that he gives opinion
15 on. This is a highly qualified expert from Britain who works for
16 years, decades, on very elaborate and complex issues related to
17 weapons and ballistics and everything related to weaponry. So if
18 Your Honours want us to make an exchange in writing, we can do that.
19 If a more elaborate CV is required, we are happy to contact them and
20 give us a number of extra information and -- of their writings and
21 everything. We are happy to do that.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you. I hear that. Yes,
23 indeed, thank you. And something about the timeframe?

24 MR. AOUMINI: What we can promise is that we can ask today. We
25 are still in August, unfortunately. And when we addressed them

1 through the institute that we are dealing with, we didn't have in the
2 -- just before the recess until now, their responses were not very
3 quick because of the situation. And this is one of the reasons we
4 have also provided from the beginning a question about availability
5 to this expert for the last block to make sure everything is set and
6 no surprises are encountered.

7 But, of course, we can send the questions today. And as soon as
8 we have them, we can provide them to everyone, even as a courtesy.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much. And with
10 regard to setting this witness, if it would be, yes, following the
11 procedure we always do, we could also try not to leave it for the
12 last block, depending on how quick things go. I mean, it's not set
13 in stone, I would say.

14 Very well. Specialist Prosecutor's Office, who can I give the
15 floor if any submissions --

16 MR. DE MINICIS: Is it on this matter?

17 PRESIDING JUDGE VELDT-FOGLIA: Yes.

18 MR. DE MINICIS: We don't have any submissions, Your Honour.

19 PRESIDING JUDGE VELDT-FOGLIA: Very well. Clear.

20 Victims' Counsel, is there anything you would like to say in
21 this regard?

22 MR. LAWS: No, thank you, Your Honour.

23 PRESIDING JUDGE VELDT-FOGLIA: Good. We have taken note of your
24 submissions. We will follow up also tomorrow on this.

25 The next topic concerns the applications under Rule 153, 154,

1 and 155 of the rules. We have seen some changes in this respect.

2 Defence counsel, do you have anything to add in respect to your
3 written submissions?

4 MR. AOUINI: Not really, Your Honour. But the assessment of the
5 rules and the way it should proceed is -- the most accurate one is to
6 proceed first with Rule 153 because of lack of dealing with acts and
7 conducts. That is the position of the Defence. However, we are
8 conscious of the interplay between the rules. We are happy, and this
9 is the statement that we want to say, that we are happy if these
10 individuals are called for cross-examination or for everything, if
11 that's the wish of the Panel.

12 And we already put the notice that since we didn't have any
13 contact with them or they refused contact from the outset, despite
14 all efforts, then we will have to come to Your Honours to request
15 summons so they can appear. And that's why -- I mean, as soon as we
16 have any decisions on that, we can place them in the blocks, that we
17 have. Most of them don't require extensive time, if they are called.
18 But since we consider that they don't concern acts and conducts, the
19 starting point should be the Rule 153.

20 Thank you, Your Honour.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence counsel.

22 Mr. Prosecutor or Madam Prosecutor, would you like to raise
23 anything in this regard?

24 MS. PERGOLO: Yes, Your Honour. Very briefly. So my colleague
25 has made some comments as to the relevance of some of the proposed

1 witnesses, and some of this includes witnesses proposed under
2 Rule 153, and this includes, for example, 3881 or 4454.

3 As for the other witnesses proposed under Rule 153, we object to
4 the introduction of their evidence under this rule. But we will, of
5 course, respond to the Defence submissions when they are filed.

6 And similarly, a similar observation with regard to 4751, which
7 is proposed under 155. Again, as been said, the relevance is unclear
8 to us, but we hope to get more clarity on the Rule 155 application to
9 which we will respond in due course. Thank you.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

11 Victims' Counsel, would you like to make any observations?

12 MR. LAWS: No, thank you, Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

14 No second round necessary? No. Very well.

15 The point you touched upon, Defence counsel, with regard to the
16 summons, that is the next item on the agenda, the summons of
17 witnesses pursuant to Rule 121(3) of the rules. We understand,
18 Defence counsel, that there are eight of the witnesses on your list
19 that have refused to meet with you or you have had no further contact
20 with them.

21 And for the record, I mention Witness 4441, 4280, 4440, 2517,
22 Witness 3881, Witness 2549, Witness 4405, and Witness 4454.

23 We noted that you intend to file a Rule 121(3) request for
24 Witness 2517 and for Witness 2549, and for the rest you intend to
25 make the 153 request.

1 And it is now my understanding, Defence counsel, that if your --
2 if they would be allowed, and if you would file a 153 request and
3 that would be rejected, you will be requesting these witnesses to be
4 summoned by the Panel. Is my understanding, just for reasons of
5 clarity, correct?

6 MR. AOUINI: Yes, Your Honour. And it's a little bit more
7 subtle than that. Even if it is accepted but Your Honours require
8 them for cross-examination, so we go into the 154, under paragraph
9 (3), I believe, then still for the cross-examination alone that will
10 require also the request to summon them.

11 So we don't have hold of these individuals except for one that
12 I'll come to at the end of the submission that we met before and then
13 refused. The others, we don't have contact with them.

14 So if they are required, in part or in full, to come to the
15 courtroom or videolink or any kind of live testimony, we will have to
16 make that request for Your Honours.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay. Now, as is foreseen,
18 according to Rule 121(3) of the rules, it's up to the Defence to call
19 its witnesses, of course, and you are responsible for that. And the
20 Panel would like to know what efforts you have made to contact these
21 witnesses. That's my first point.

22 And the second point, which is not so much a question as more an
23 observation, is the requirement -- one of the requirements is that if
24 we decide to summon these witnesses, it's your responsibility to
25 provide us with the necessary information identifying the witness and

1 their place of residence. Just I want to make that clear, because we
2 cannot go running around the globe for the witnesses. And as you
3 have said yourself, it's not that they are all in Kosovo. And by
4 reading the statements, we already noticed that some of them are not
5 in Kosovo.

6 So, yes, if you could give us some further clarifications as to
7 what efforts you have been -- and I would like to, if it's possible,
8 that we are kind of specific.

9 MR. AOUINI: Thank you, Your Honour. We believe it's less
10 complex than going throughout the globe, because, as Your Honours
11 see, most of them have been in contact with the SPO, so we might have
12 where to find those data of personal data, but I'll go through the
13 individuals with the steps taken.

14 So starting with W04454, who is number 2, I think, the second on
15 our list.

16 PRESIDING JUDGE VELDT-FOGLIA: Yes.

17 MR. AOUINI: We requested the contact details from the SPO, and
18 it was -- the SPO helpfully contacted them to ask whether they accept
19 to enter into contact with the Defence, and that was rejected from
20 that individual.

21 It is the same for W04405. The same for W04454, which I just
22 mentioned.

23 PRESIDING JUDGE VELDT-FOGLIA: Not too quick. 44 -- yes. So it
24 was rejected. So they didn't want to enter into contact. But,
25 apparently, there is an address?

1 MR. AOUNI: What had happened --

2 PRESIDING JUDGE VELDT-FOGLIA: Because this is -- I am
3 interested in both your efforts to contact them but also to know
4 where we stand as it comes to information regarding their place of
5 residence, to see the level of complexity we are at.

6 MR. AOUNI: Yes, Your Honour. Then I'll go one by one and
7 explain the situation for each one.

8 So for the two on the list that I just mentioned, W04454, the
9 SPO contacted those witnesses of theirs initially because they had
10 their information, and this individual refused to share their contact
11 details with us. We have made efforts to locate them to try again in
12 a different manner, and it was unsuccessful. We've had absolutely no
13 contact with this individual. All we have is his statement and the
14 information that the SPO took a statement from them. That if a
15 summons becomes applicable, maybe we'll need to request from the SPO
16 to share the contact details. That might help us make the request
17 for Your Honours and for Your Honours to summon them. That is the
18 first one.

19 Turning to W04405. That is the fifth on our list. It is the
20 same, declined to share his contact details with us after requesting
21 it from the SPO. However, there is one slight glimmer of hope with
22 him. We have established some indirect contact with acquaintances of
23 his, and we are waiting and hoping for a response message, the same
24 way we did with the SPO, whether this individual could accept to meet
25 us, but we've had no response yet.

1 It was a bit difficult because there are two people with this
2 name in the KLA at the time of the war. One was a high commander and
3 another one was a soldier, and this is the right one. But we don't
4 have a response yet. If we have a contact, we succeed to contact
5 this individual, maybe then we try to bring him ourselves with our
6 efforts, but this is not the situation that we can report at this
7 stage.

8 Turning to -- I will deal with W04441 and W04440 together.

9 So 440, we have met once this individual on -- I'm conscious we
10 are in public. We have met once to understand that this person
11 cannot cooperate with us. There is mention of health problems, and
12 there is unwillingness to discuss that. The only information is the
13 one that is in the statement: Never been to Kukes. Never been with
14 any role in Kukes.

15 But we have a clear refusal to testify. And this is one of the
16 reasons we want the statement, for that discrete point we want to
17 establish through the statement, which is very short.

18 And this is the same for the other individual that is W04441.
19 We had only indirect contact, because this is a similar setting,
20 let's say, similar facts, indirect through the first witness - we are
21 talking about 4440 - which led us to hope to meet this individual and
22 after several efforts, contacts, some excuses of course, and then
23 there was a clear rejection to meet us. So this is an individual
24 that we didn't meet. And for a similar reason, we want their
25 statements in or to summon them eventually to come and testify about

1 these points, very discrete points. We don't need that much more
2 from them.

3 Coming back to another individual, if Your Honours want?

4 PRESIDING JUDGE VELDT-FOGLIA: Yes, yes, please. Thank you.

5 MR. AOUINI: Okay. So W04280, that would be the ninth in our
6 list, we requested it from the SPO and the request was rejected to
7 share contact details with us. And despite all efforts, we could not
8 locate this individual. We believe this individual is in Kosovo, but
9 we don't have further details. But we believe the SPO could be in a
10 better position to have official details of where to address any
11 communication to this individual officially.

12 Regarding -- I'll probably deal with the three internationals
13 together. We have attempted to contact at least one of them through
14 private details that we found that is not related to the official
15 duty of this individual, and that was in November 2022. And to this
16 date, we didn't have any response. When we requested the details
17 from the SPO, we received a clear indication that we are forbidden
18 from taking contact with them due to the circumstances of their work.
19 I think we are on the same page on that.

20 And then I would come to the Rule 155 individual, that is
21 W04751.

22 PRESIDING JUDGE VELDT-FOGLIA: Okay. But I --

23 MR. AOUINI: Yes.

24 PRESIDING JUDGE VELDT-FOGLIA: -- would never -- the Panel would
25 never ask you to contact this person. So I don't think it's

1 necessary to elaborate on that. Unless --

2 MR. AOUINI: Yes, just --

3 PRESIDING JUDGE VELDT-FOGLIA: Okay?

4 MR. AOUINI: Just to say that we've come to understand that this
5 has become a Rule 155. At the time we tried the steps --

6 PRESIDING JUDGE VELDT-FOGLIA: Okay.

7 MR. AOUINI: That's all we wanted to say, of course. Of course.

8 PRESIDING JUDGE VELDT-FOGLIA: Good. Thank you.

9 Are those the submissions you wanted to make with regard to the
10 efforts you made to contact these witnesses?

11 MR. AOUINI: Your Honour, unless I missed one of the
12 individuals, those are in the list that we have.

13 PRESIDING JUDGE VELDT-FOGLIA: I think it's okay. Very well.

14 Then I will give the floor to the Specialist Prosecutor's
15 Office. Would you like to comment?

16 MR. DE MINICIS: Your Honour, just to clarify the record. We
17 did not, and I'm sure that Defence counsel didn't mean to misstate
18 our communications, but our indication is that with regard to
19 internationals, it's not forbidden from contacting them. It's that
20 we're not at liberty to share their contact details due to their
21 position and they should have gone through the authorities. They
22 should have requested their contact details to the authorities for
23 which these individuals work and under which they're employed.

24 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you.

25 MR. AOUINI: Apologies, yes. They were not allowed to make

1 direct contacts, and so we had no other means of contacting.

2 PRESIDING JUDGE VELDT-FOGLIA: But you have not contacted the
3 authorities -- Defence counsel, you have not contacted the
4 authorities for which they work?

5 MR. AOUINI: This is --

6 PRESIDING JUDGE VELDT-FOGLIA: Or you could do that?

7 MR. AOUINI: This is what I'm trying to ascertain, whether we
8 sent a correspondence to the entity. Just a second, Your Honour.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 Victims' Counsel, in the meantime, may I give you the floor for
11 any observations?

12 MR. LAWS: No, we've nothing to add. Thank you, Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

14 MR. AOUINI: Yes, Your Honour. I'm told that we made one e-mail
15 contact on personal contact details with one of them, who is W02517.
16 We have found a phone number for another one, which -- I'm not sure
17 which one of the two others, unsuccessful, but we have not contacted
18 directly the entity.

19 PRESIDING JUDGE VELDT-FOGLIA: Okay. I leave it to you as a
20 suggestion to obtain further information to contact them, but let us
21 first assess how we proceed with these witnesses.

22 Yes, a question for the Specialist Prosecutor's Office. If I
23 understand rightly, for some of these witnesses the SPO might be in a
24 position to share - if it would come to summons - share information
25 regarding their place of residence and further addresses?

1 MR. DE MINICIS: Your Honour, does Your Honour mean -- not the
2 three internationals? We are talking about the other ones? Yes, we
3 would be in a position to share, if required by the Panel, additional
4 information which may be subject to standard redactions at the moment
5 in their statements and perhaps more.

6 PRESIDING JUDGE VELDT-FOGLIA: Okay.

7 MR. DE MINICIS: Of course, we will cooperate to the best of our
8 abilities.

9 PRESIDING JUDGE VELDT-FOGLIA: Very well. Thank you. For now I
10 think we can conclude this.

11 The point the Panel wanted to make for now is the importance
12 that the Defence obtains or comes with the place of residence and the
13 addresses of the witnesses they want to call, but I think that point
14 has been sufficiently made. And we have heard about if there's any
15 possibility the SPO can assist, it will.

16 MR. AOUINI: One further point, Your Honour. If it comes to a
17 summons, and there is an impediment to share with us the details, as
18 long as those details are obtained by the Panel to issue the summons
19 and these individuals finally appear here, we don't need to know it.
20 We just need these individuals, if they are summoned, to come and
21 appear. If there is an impediment for us to know those details,
22 we're happy with that. All we need is that they somehow are
23 reachable. Because despite all efforts, we could not ascertain those
24 details ourselves. That's all I wanted to make sure of.

25 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you.

1 Next topic is potential request to examine witnesses via
2 video-conference or away from the trial venue.

3 We have taken note of your submissions. And if there's nothing
4 to add, we can move on to the next topic. No. Very well. Thank
5 you. I saw all parties and Victims' Counsel nodding that it was not
6 necessary. Thank you.

7 Very well. Point 11, assurances against self-incrimination is
8 the next item pursuant to Rule 151(3) of the rules.

9 Also for this topic, Defence counsel, we have taken note of your
10 submissions. And if there's nothing to add in this respect, we can
11 move on. Yes, I see that there's nothing to add. Very well.

12 The SPO would like to make a submission?

13 Please, you have the floor, Madam Prosecutor.

14 MS. PERGOLO: Thank you, Your Honours. Just briefly, again,
15 it's difficult to comment on this point without more information on a
16 number of witnesses. However, it is already apparent from our
17 records that we have reviewed that Witness 4280 might require such
18 assurances. So this is just something to be put on the record for
19 future reference. Thank you.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you. That is noted.

21 Victims' Counsel, would you like to add something?

22 MR. LAWS: No, thank you, Your Honour.

23 PRESIDING JUDGE VELDT-FOGLIA: Yes. The next item concerns the
24 objections by the SPO and Victims' Counsel to the admissibility of
25 non-oral evidence the Defence intends to present at trial.

1 We have taken note of your submissions, both with regard to what
2 the Prosecutor has brought and Victims' Counsel.

3 Mr. Prosecutor, is there anything you would like to add? And I
4 see that you're puzzled. I didn't want to say that you are
5 objecting. It's on the topic of the admissibility.

6 MR. DE MINICIS: [Microphone not activated]

7 PRESIDING JUDGE VELDT-FOGLIA: Yes. No, no, no. As I was
8 saying it, I realised that it could be interpreted in two ways.

9 MR. DE MINICIS: Yes, nothing to add to what is already in our
10 written submissions, Your Honour.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 Victims' Counsel?

13 MR. LAWS: No, nothing to add to what we've submitted in
14 writing. Thank you.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Good.

16 Defence counsel, would you like to raise anything in this
17 regard?

18 MR. AOUNI: Nothing, Your Honour. Thank you.

19 PRESIDING JUDGE VELDT-FOGLIA: Very well.

20 The last item on the -- no, not the last. We have still one
21 item. That is with regard to the protective measures for the
22 proposed witnesses. We've seen, Defence counsel, that you have not
23 requested any protective measures for the time being.

24 Is there anything that you would like to add in this respect?

25 MR. AOUNI: Just a precision for the record that no protective

1 measures requested from those we were able to meet. The question
2 might be posed if there is a summons for people we didn't contact,
3 then the question has to be asked to them at that point and then we
4 can work that out. So those we met, and I'm mainly talking about the
5 DW4s, and the two that we met that were originally SPO witnesses, no
6 protective measures were requested.

7 However, the others ones, the question -- we cannot speak for
8 them for now.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 MR. AOUNI: Thank you.

11 PRESIDING JUDGE VELDT-FOGLIA: An important addition. Thank
12 you.

13 Is there anything to say from the part of the Specialist
14 Prosecutor's Office?

15 MS. PERGOLO: No comment on this point. Thank you.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

17 Victims' Counsel, any observations?

18 MR. LAWS: No, thank you, Your Honour.

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Very well.

20 Then we go to the last topic on the agenda, and that was the
21 request of the Defence to amend the exhibit list. This is filing
22 618, paragraph 29 till 32.

23 Is there anything you would like to add to your written
24 submissions, Defence counsel?

25 MR. AOUNI: No, Your Honour. I think we have set out

1 specifically the documents and the reasons behind it. And if that's
2 satisfactory for Your Honours, we will just stick to those. Thank
3 you.

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor or
5 Mr. Prosecutor?

6 MR. DE MINICIS: Your Honours, we already made remarks on the
7 relevance of these witnesses. Nothing to add at this time.

8 PRESIDING JUDGE VELDT-FOGLIA: We noted them. Thank you.
9 Victims' Counsel?

10 MR. LAWS: No, nothing to add. Thank you.

11 PRESIDING JUDGE VELDT-FOGLIA: Now, that was the last item on
12 our agenda.

13 Do the parties and Victims' Counsel have any other issue they
14 think it's necessary to discuss at this moment in time?

15 MR. DE MINICIS: Not from us, Your Honour.

16 PRESIDING JUDGE VELDT-FOGLIA: Very well.

17 MR. LAWS: Not from me. Thank you.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

19 MR. AOUBINI: Nothing from our side either. Thank you, Your
20 Honour.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much.

22 Then I thank the parties and the Victims' Counsel for their
23 attendance and participation today, and I also want to thank security
24 and the audio-visual booth and the stenographer and our interpreters
25 for their assistance today.

1 Oops.

2 MR. DE MINICIS: I'm sorry, Your Honour.

3 I thought that we were going to address orally the reply to the
4 Defence response to our motion for admission of evidence relating to
5 the accused. Does Your Honour --

6 PRESIDING JUDGE VELDT-FOGLIA: On that -- I was not aware that
7 the Specialist Prosecutor's Office wanted to do that, because I left
8 it open if it would be orally or in writing, and I had not heard
9 anything, so I -- but before we proceed to adjourn the hearing till
10 tomorrow, if you could reply to that, I will give you, of course, the
11 floor. Sorry for being not clear on this.

12 MR. DE MINICIS: No, Your Honour. We should have stated our
13 intention to do so. We thought it would be more efficient then --
14 upon Your Honours' invitation to consider that possibility, we think
15 that it's more efficient to make a short oral reply, which we're
16 prepared to do now.

17 PRESIDING JUDGE VELDT-FOGLIA: Very well. I think it's a very
18 good idea. So please, Mr. Prosecutor, you have the floor.

19 And for this point, do we need to go into private session?

20 MR. DE MINICIS: Yes, Your Honour, we do.

21 PRESIDING JUDGE VELDT-FOGLIA: That was kind of a Socratic
22 question, yes.

23 Madam Court Officer, can we go into private session, please.

24 [Private session]

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7 [Open session]

8 THE COURT OFFICER: Your Honours, we are now in public session.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

10 So tomorrow we will have another hearing starting at half past
11 2.00. Then the Panel will be giving some orders issuing some
12 directions regarding the Defence case. And then we will adjourn
13 for -- we will see for when.

14 Very well. The hearing is adjourned.

15 --- Whereupon the hearing adjourned at 12.38 p.m.

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