

Redactions applied pursuant to F744.

1 Wednesday, 20 September 2023

2 [Open session]

3 [The accused appeared via videolink]

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

5 PRESIDING JUDGE VELDT-FOGLIA: Good morning. And welcome.

6 Court Officer, can you please call the case.

7 THE COURT OFFICER: Good morning, Your Honours. This is case

8 KSC-BC-2020-04, The Specialist Prosecutor versus Pjeter Shala.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 First of all, I kindly ask you to indicate who is present today
11 in court, starting with the SPO.

12 MR. DE MINICIS: Good morning, Your Honours. For the SPO,
13 Line Pedersen, Federica Genovesi, Cezary Michalczuk, Gaia Pergolo,
14 and Filippo De Minicis.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

16 And for Victims' Counsel.

17 MR. LAWS: Good morning, Your Honours. I'm Simon Laws,
18 appearing for the victims in this case, together with my co-counsel
19 Maria Radziejowska.

20 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, you have the
21 floor.

22 MR. GILISSEN: Thank you very much, Your Honour. Good morning.

23 So I'm Mr. Gilissen. I'm here with my two counsel, Mr. Aouini
24 and Ms. Cariolou. We are here with part of the Defence team,
25 Ms. Chen, Kailin Chen, an assistant legal officer;

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1 Ms. Juliette Healy, Judit Kolbe, two evidence review assistants;
2 Ms. Alana Goncalves, an intern, a new intern, Livia Veliu, intern
3 from Albania. And we have our case manager, Dzeneta Petravica.

4 And, of course, Mr. Shala who is with us by videolink. Thank
5 you very much.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel.

7 Mr. Shala, can you confirm that you hear the interpretation
8 well?

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

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 Today we start with the presentation of the evidence by the
13 Defence, and we will hear the evidence, the testimony of the first
14 Defence witness, Mr. Bardhyl Mahmuti.

15 Before we proceed with the witness testimony, the Panel would
16 like to address a number of procedural matters, including, Defence
17 Counsel, the e-mail we received this morning concerning the documents
18 the SPO intends to use in cross-examination further today or
19 tomorrow. We will come to that too.

20 Some of the procedural matters we will discuss now are already
21 familiar or partly familiar to the parties and Victims' Counsel
22 because for reasons of management of proceedings, there were
23 exchanges of e-mails between the parties and Victims' Counsel and the
24 Panel, and there is a need to put on record in order to make it
25 public and retrievable.

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1 Very well. The first set of issues concerns the presentation of
2 the evidence by the Defence and the scheduling of its witnesses.

3 First, we will put on record an order given to the Defence via
4 e-mail on 1 September.

5 In order to ensure that the questioning of witnesses is
6 conducted in an efficient manner and is focused on eliciting evidence
7 that is relevant to the case, the Panel ordered the Defence to
8 shorten the estimated length of its direct examination for certain
9 witnesses, as follows:

10 For the witnesses DW4-01, -02, -05, -06, and Witness W04754, the
11 Panel ordered the Defence to shorten the length of its direct
12 examination from four hours to three hours; and for Witness W03887,
13 from eight hours to four hours.

14 And as a result, the Panel also revised the overall time
15 allocated to the Defence for the presentation of its case, and
16 determined that the Defence shall have 31.5 hours in total. And this
17 is, of course, without prejudice to any requests under Rule 153 of
18 the rules made already by the Defence and without prejudice to the
19 Defence requesting more time for the questioning of a particular
20 witness, if needed.

21 Yes? Very well.

22 This concludes our first order.

23 The second point is we noted that the Defence is still working
24 on confirming the exact dates for the testimonies of certain
25 witnesses. This is filing 634. And, on this point, we urge you to

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1 schedule the witnesses in a consecutive manner. We would -- we need
2 to avoid gaps between the witnesses in order to use all the time
3 allocated to us. So I will give an example later on. We direct you
4 to commence the examination of Witness 4754, who is scheduled to
5 testify during the 8th evidentiary block, on Monday, 23 October. We
6 have three days, 23, 24 and 25, so let us start on the 23. And that
7 will assist us in using the courtroom in an efficient way.

8 In case need arises for this specific witness to testify via
9 videolink, and although we noted the preference of the Defence to
10 have the witness here in court, yes, we direct you to make the
11 appropriate request in a timely manner. And it will serve a double
12 purpose. We can rule on it and also we can give the Registry enough
13 time to make all the necessary preparations. But this direction is
14 just in case.

15 Very well. The third direction, that is your request to amend
16 the exhibit list, Defence Counsel. That is filing 649 from 12
17 September of this year. You seek leave to add seven items, and they
18 relate to Witness 4, Witness 3 from the Defence witnesses, and
19 Witness 03887.

20 We have directed the SPO, Victims' Counsel, via e-mail, on 14
21 September to respond to the request of the Defence, and they could
22 also respond if they so wish orally in court.

23 So, Madam or Mr. Prosecutor, would you like to respond in -- to
24 this?

25 MR. DE MINICIS: No objection, Your Honours.

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1 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

2 Victims' Counsel, I turn to you.

3 MR. LAWS: Your Honour, we don't object.

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

5 Having taken note of that, we are satisfied that the request is
6 timely and it was filed promptly upon receipt of the material. It
7 could, indeed, assist in its more comprehensive understanding of the
8 witness's testimonies, and we have noted here in court that there are
9 no objections to the request.

10 We grant, therefore, the request pursuant to Rule 119(5) of the
11 rules. And we direct you to file a updated exhibit list by Tuesday,
12 26 September 2023.

13 And this concludes our second oral order.

14 Yes. I would like to address now the Defence again on filing
15 658, providing additional information on Witness DW4-01 which was not
16 notified yesterday, and for that, we have to go into private session.

17 Madam Court Officer, could you bring us into private session.

18 [Private session]

19 [Private session text removed]

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9 [Open session]

10 THE COURT OFFICER: Your Honours, we're in public session.

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

12 There is one correction to make in the transcript and that's on
13 page 4, line 15. Now we have recorded that I said Witness 4, DW4-04,
14 but it has to be Witness 6. That is now corrected in the transcript.

15 We go to the fifth point I would like to discuss here now. That
16 is the note. That is the Defence notice on evidence of
17 Victims' Counsel expert witnesses. It's the notice of the Defence.
18 It's filing 653 from 15 September of this year.

19 And in your submission, Defence, you object to the admission of
20 Stefan Lerz's report into evidence, and you expressed the wish of the
21 Defence team to cross-examine this expert, and you reserved your
22 right to set out your detailed position as well as the questions the
23 Defence wishes to put the expert witnesses in due course.

24 Now, at the outset, we recall that we have made a finding that
25 reparations proceedings shall be conducted as much as possible, as a

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1 general rule, in writing, based on Rule 168 of the Rules of Procedure
2 and Evidence. This is the filing 598 from 21 July of this year. So,
3 accordingly, the Panel directed the Defence to prepare any desired
4 questions in writing, which would be transmitted to the witness who
5 would, in turn, also provide a written reply. That is the procedure
6 we have set out. And we will adhere to this previous direction, and
7 we don't intend to have the witness testify in court, unless you
8 provide us with reasoning to do differently.

9 So having said that, there is another point I want to make and
10 that is we note that you require - I don't read "request" - but you
11 require additional time for the expert to assess the report of
12 Dr. Lerz, and you reserve your right to set out its detailed position
13 as well as the questions you wish to put to him.

14 And with regard to these submissions, we note that you did you
15 not meet the deadline given to you by the Panel, and you also did not
16 make a proper request for extension of time-limit. And I surely
17 don't have to remind you that -- and it may sound a little bit
18 severe, but how the Code of Professional Conduct reads in this
19 respect. And I ask you, for next time, that's what the Panel directs
20 to you do, to make a request, a proper request, for an extension of
21 time-limit, and we will proceed to give a decision on that. And you
22 have done that before, and I think it's the best way to proceed in
23 that way.

24 But be it as it may, Defence Counsel, when do you estimate that
25 you will be in a position to come up with questions.

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1 MR. GILISSEN: First I like to say that's our fault. That's
2 sure.

3 So now we found someone from Kosovo, a real expert who is able
4 to work with us. So in my opinion, we could have a work well done,
5 properly done, in my opinion, in something like three weeks, maximum
6 one month, I think so, because the expert is now in possession of all
7 the documents. She is studying all the documents. And we wait for a
8 first report, so I prefer to provide you with such a delay. It's a
9 long one, but in my opinion it will be shorter, I think so.

10 PRESIDING JUDGE VELDT-FOGLIA: Yes. And the proper request,
11 that will be the line of working for the future?

12 MR. GILISSEN: Yeah. I think we will made our best. But how
13 many times, I don't know really that. I think so. Yeah, I think
14 it's better.

15 MR. AOUBINI: Your Honours, sorry. Just to add a couple of
16 elements.

17 We tried to notify the Panel at the time we received those
18 documents that we are trying to get into contact with one expert that
19 will help us with their opinion.

20 The position of the Defence was to ascertain what time is needed
21 and then come with a request, or even the questions once we are in
22 possession of them and have been advised by the expert, and include
23 that request in our further submissions.

24 Since we didn't have an accurate estimate, we couldn't make a
25 request that is open in time without having any deadline. Because at

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1 the time we had the deadline, that was the time we were scheduled to
2 meet that expert for the first time. We did everything quickly
3 afterwards. On the same day, confidential undertakings have been
4 signed and first documents have been transmitted to her. And so as
5 soon as we have a time estimate, we will make a proper request to
6 Your Honours to be able to make submissions on the specific topic on
7 a certain date. And it would be up to Your Honours to grant it or to
8 address it.

9 There will be two things: The possible questions that we might
10 provide to the victim's expert based on the opinion of our expert;
11 and the second one that may take a bit more time is to, if
12 applicable, have a report, a written report, from our own expert and
13 then move to -- to add to that the exhibit list and propose this as a
14 new witness and all the measures.

15 We didn't want to make a request that is open in time, but we
16 are very aware of the timing. We believed that we have alerted
17 sufficiently the Panel and the parties that we are specifically
18 requesting advice on the specific extra evidence that the victims has
19 produced, but we didn't have any time estimate at the time to make a
20 proper and accurate request.

21 Thank you, Your Honour.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you for this clarification,
23 Defence Counsel.

24 I do direct you for next time that if we set a deadline, you
25 come to us, you require an extension, and even if you tell us that

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1 you will come back to us with that in court, that will do. But the
2 language chosen now was too much open-ended and it was just not
3 adhering to the time-limit we gave. So that's the only point I
4 wanted to make.

5 With regard to how we are going to proceed, the line, of course,
6 will now be that I will give an oral order with respect to what we're
7 going to do in the upcoming weeks with regard to the formulation of
8 the questions. We will grant you an extension of time-limit of three
9 weeks, and to put -- to prepare questions to put to Mr. Lerz in
10 written form, and that will be 11 October 2023 that the questions
11 should be in.

12 And then, Victims' Counsel shall be responsible for submitting
13 the responses to Mr. Lerz within the three weeks following the
14 receipt of the Defence questions.

15 And I see that you are standing, Victims' Counsel. I will first
16 finalise my order and then you will give be given the floor.

17 MR. LAWS: Certainly.

18 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, we also order
19 you to disclose to the Panel both the name and the qualifications of
20 your expert because, for the moment, we are not aware who that is.

21 When would you be in a position to do that?

22 MR. GILISSEN: Yes, sure. As soon as possible.

23 PRESIDING JUDGE VELDT-FOGLIA: Okay.

24 MR. GILISSEN: [Overlapping speakers] ... it's not a problem.

25 PRESIDING JUDGE VELDT-FOGLIA: So at the end of this week we

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1 will have that.

2 MR. GILISSEN: Okay. Thank you very much.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you. And before I proceed,
4 Victims' Counsel, you have the floor.

5 MR. LAWS: I was standing out of courtesy because you were
6 addressing me and I thought you were about to ask me for a response.

7 Your Honour, we will abide by that timetable, of course. We had
8 informed Dr. Lerz that he was to receive the questions by 15
9 September, and we'll now inform him that they're coming on
10 11 October. And if there is any difficulty from his point of view,
11 we will let you know.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Victims' Counsel.

13 And, lastly, the Defence is instructed to inform the expert
14 witness to reserve one day between 20 November and 1 December, as
15 well as in the first week after the judicial winter recess, to ensure
16 his availability in case he is called in court.

17 And I have just made clear what the position of the Panel, in
18 principle, is, but for reasons of management, it's good to do that.

19 And the same instruction applies to Victims' Counsel who we
20 direct to inform Mr. Lerz regarding the same dates.

21 And we request Victims' Counsel and Defence Counsel to liaise
22 with each other that they are not reserving the same dates for the
23 witnesses because then we would have a kind of collision if we would
24 like to hear them both. But that -- I leave that to you.

25 MR. AOUINI: Just one clarification, Your Honour, sorry, for the

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1 record.

2 PRESIDING JUDGE VELDT-FOGLIA: Of course.

3 MR. AOUNI: Should we understand that the response from
4 Mr. Lerz that would be conveyed by Victims' Counsel would be for
5 1 November? That is three weeks from 11 October. Just to put it on
6 the record. Thank you, Your Honour.

7 PRESIDING JUDGE VELDT-FOGLIA: Three weeks and three weeks.
8 That's the idea. And that would allow us, in case of need, and
9 depending on which other witnesses will be coming to court to testify
10 in that upcoming evidentiary block, to see if we can also insert, if
11 necessary, these witnesses. Just planning purposes to make things
12 work.

13 Very well. This concludes the Panel's third oral order.

14 The next matter pertains to the items that the Defence intends
15 to use during the questioning of today's witness. That is DW4-06.

16 The Defence seeks to use, among others, item DPS01524-DPS01547,
17 along with the Serbian version of the document, and items
18 DPS00270-DPS00863.

19 The SPO objects to the use of the documents in question for lack
20 of relevance.

21 In order to make efficient use of the time available in court,
22 the Panel has received submissions from the parties on this matter
23 via e-mail and will now issue its oral order.

24 The Panel will not permit - for now - the Defence to use the two
25 documents during its examination of the witnesses as the Defence has

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1 not established the relevance of these documents to the case and the
2 charges against the accused.

3 We will now have to go into private session. Madam Court
4 Officer, please. Thank you.

5 ~~[Private session]~~ [Open Session] *Reclassified Pursuant*
to F744

6 THE COURT OFFICER: Your Honours, we are now in private session.

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

8 Very well. We are now in private session because it relates to
9 directions and possible questions you may be asking to the witness,
10 and I think that is better to do this in a private session, also with
11 a view to possible future witnesses.

12 So the Defence may explore any case theory with its witnesses,
13 but such theory must relate to the concrete case that the Panel is
14 seized of, and the Defence must establish a concrete link with the
15 case against Mr. Shala, and the relevance to the case of these
16 questions must be established beforehand.

17 So my question, for now, to you: Will your witness give any
18 information regarding potential fabrication of evidence in case 04?
19 Is there a direct link, Defence Counsel? Because what we don't want
20 here in court, and we will not allow for it, that we will have, as
21 you put it, contextual background information, if the Panel doesn't
22 see how this background, this contextual information relates to this
23 case.

24 And I really want a clear answer on that because, for now, in
25 what you shared with us, and we have been reading it carefully and

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1 studying it carefully, I did not see anything that implied that this
2 witness would say something concrete with regard to this --
3 fabrication of this case.

4 MR. GILISSEN: So with your leave, I start to answer. It's
5 possible that Mr. Aouini complete my answer.

6 I think we were very clear in the pre-trial brief and the
7 preliminary statement about that. So that's a delicate thing to try
8 to prove and to defend --

9 PRESIDING JUDGE VELDT-FOGLIA: You don't have to prove.
10 Let's --

11 MR. GILISSEN: No, but -- sure --

12 PRESIDING JUDGE VELDT-FOGLIA: You don't have to prove anything.
13 We have proof on that side.

14 MR. GILISSEN: Yeah. The thesis of mismanagement of the
15 investigation and the possibility that the Serbian security services
16 has a lead role in. So that's a process that needs to work properly
17 and step by step, if we are not able, first, to provide that it was
18 really the methods of the Serbian Security Service first as
19 recognised by the Serbian judicial system itself. In some decision
20 we are aware to talk about that, I'm sure, the witness is able to
21 talk about that. So this is the very first step.

22 And then when we provide you with the possibility to understand
23 the methods used by the service, we will be able to show you, and I
24 think to try at the moment to prove, we are or we could be in the
25 case with Mr. Shala's case. This is the way that we think, we

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1 thought and we continue to think, this is the proper way to provide
2 you with some evidence history to build, under your control and under
3 your eyes, the real possibility, may I say, at this stage, but we
4 have some elements that enforce us to say that this is the core of
5 the Defence. That's the whole.

6 As you know, Mr. Shala claims he was not there, he was not part
7 of these crimes and so on. Even if these crimes had existed, he was
8 not part in. But that more than this, the position of the Defence is
9 to say the accusation against Mr. Shala will be impossible, there
10 could be issue, because we have some real problem in the
11 investigation received by the Prosecutor itself. It's not so an
12 accusation against the Prosecutor. Of course, we are not children,
13 of course. And we know perfectly well the way using in this very
14 long, more than 20 years, investigations, and we know perfectly well.
15 And at the first glance, the first document we have in the files of
16 the Prosecutor itself, it is a very strange document, not signed,
17 with not the seal of this investigation, nothing -- it looked like a
18 false one. We don't have to be afraid to say that.

19 And when you understand that during then almost ten years, the
20 investigator itself didn't trust in the thesis used now by the
21 Prosecutor, of course, you are very interesting with -- that's why we
22 work a lot about this.

23 And the files providing by the Prosecutor itself, and we have
24 the same information in our investigation, demonstrate that the
25 thesis on the basis the indictment has been built only issued after

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1 the intervention of some Serb medias. We have it in the file of the
2 Prosecutor. That's sure.

3 So we know that is [REDACTED]
4 [REDACTED], some links have been created with the
5 Serbian Security Services in Serbia or even in Kosovo, so that's why
6 we consider there is a link and the thesis is very serious.

7 I have to add, I'm sorry to say that, but I want to underline it
8 because that is really our position, that a Defence -- I don't talk
9 only about the Defence of Mr. Shala, of course. A Defence must be
10 free of its choice to present its own case. You trust it, you
11 believe it or not, that's not the point. You are the one who have to
12 decide, of course, about that. But if we don't have the possibility
13 to present our own defence, a defence we choose, we freely choose,
14 it's no way for a trial. Because it's not an effective defence. And
15 without an effective defence, there is no defence. And we don't have
16 to play the defenders for the camera or for something, and I'm sure
17 you agree with that, of course. And I consider that's really the
18 honour of this trial and this Court, to enforce and to enable the
19 Defence to have a real effective defence. That's really the point.
20 And that's why I say that the core of the Defence we are defending.

21 It's not enough for the Defence -- I consider it's not enough
22 for the Defence to say Mr. Shala was not there. He was not part of,
23 and you know that the devil evidence, we call it in French *la preuve*
24 *diabolique*, the devil evidence, to prove he was not there, if you are
25 not able to prove he was somewhere else. That's very difficult and

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1 that's why we provide the Court, the Panel with the presentation of
2 some witnesses who were on the spot, nobody say the contrary, and who
3 are able to come here and to say under oath: I was there during some
4 week, during some months, and I didn't know Mr. Shala. I don't
5 recognise. I didn't recognise him or Ujku, or something like that.

6 But it is not enough. And that's why we consider this as a
7 whole for the Defence, to say more than this, these accusations, it's
8 our position, freely choosed by the Defence, with an agreement of
9 course of Mr. Shala, that's sure, it is to say and how was it
10 possible, how is it possible that Mr. Shala has been accused and
11 continued to be accused by some persons, surely, probably allegedly,
12 I don't know, victims of some violence, some crimes, grave breaches
13 of the humanitarian law and criminal law and so on. But it is not
14 the Olympic Games. May I say, it's not the Olympic Games. You can
15 be victim of some facts, real one, and to lie about some so-called
16 details about your victimisation, and to say, okay, but I will add
17 someone in the violence because I have some arguments with this guy
18 or this woman, because I have an [indiscernible] or I have something
19 to deal with, to take a revenge, to use the word of some witnesses.

20 So that's the purpose of the Defence, and I'm sure that's a real
21 and difficult one, but could be a brilliant one. Brilliant, why?
22 Because if part of this investigation in this case -- I don't talk
23 about the other case, that's not my business and I don't want to have
24 this business on the shoulders. So if we are able to provide you
25 that we have to face in the general way using to conceive, to realise

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1 the investigation, and that these difficulties, these
2 particularities, these bad particularities of the investigation and
3 the way they were conducted are exactly the same that we have to face
4 in the case of Mr. Shala. Because when you try to make, I say, I'm
5 sorry for the words, but it's an image, Olympic Games about a real
6 problem, a real scene or some scenes of violence, but you make it
7 bigger, bigger, and you add some people and some violence, and you
8 have so many discrepancies, so many changing, that that's the best
9 way for us that I consider and I fully trust you to understand it.
10 That's a difficult way for us. But step by step. And this is the
11 first step we would like to make.

12 Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Thank you for your
14 submissions.

15 I do have some further questions. We don't oppose,
16 Defence Counsel, get me right, to your position that the Defence
17 should choose its way of defending the case of its client. That goes
18 without saying.

19 For us, as a Panel, it is important that the witness who is
20 called by the Defence - and that's the reason that we dedicate so
21 much time also to this conversation - that the relevancy of what this
22 witness with regard to this case will provide as evidence can be
23 established. And even -- and that the relevancy criterion is very
24 broad.

25 But one of the questions that now comes up because you have not

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1 -- for me, you have not really answered this. I understand that this
2 witness can talk about possible, alleged fabrication of evidence by
3 Serbian authorities and, more specific, what I read in your
4 documents, by the Serbian Secret Service.

5 We read about detainees that were recruited, according to the
6 documents you provided us with. We read about alleged preparation of
7 witnesses. We saw the book. We read the book, the relevant parts
8 you indicated to us. All that might be relevant contextual
9 information, but for the Panel what is for now lacking is the link
10 with this case.

11 So my question to you would be: Is this witness, or a future
12 witness, going to indicate to us or give evidence -- I mean, we weigh
13 it at the end, but will give evidence regarding which witnesses have
14 been fabricating? Because you did not mention them at all in all the
15 documents we have been asking for. And we saw the reference in the
16 transcript. We heard the witness said. But I didn't read anywhere
17 something about this specific witness or any other witnesses in the
18 case of Mr. Shala from the Prosecution that the witness you are
19 calling could testify on. So that -- and also, I would say, on what
20 specific topics. I heard you say now one, the presence of Mr. Shala.
21 So if I put it in my words - and you have to correct me if I make a
22 summary which is not right, because then you are here to correct me,
23 and I would happily accept - that what you're saying that is there
24 are witnesses in the case of the SPO, one, two, three, I don't know
25 how many, that have been fabricating evidence on several points. And

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1 one of the points would be that Mr. Shala was not there and they are
2 saying that he is there. And apparently on other points too. I want
3 to hear that from you.

4 So for us, it's not enough if you tell us now: This witness is
5 going to give some contextual information. With regard to Case 04,
6 he doesn't know anything, because he was not involved, and it also
7 not so that other witnesses in the future, yes, will be saying
8 something concretely about Case 04.

9 Because you must understand from the part of the Panel that we
10 cannot -- or I will not allow that here in court that we will be
11 talking about something -- and I want to stay away if it happened or
12 not, but that is not related to this case. And for now, and I listen
13 carefully to you, I don't see the link. And I need a link. I mean,
14 it is as simple as that. Because we could be talking about recipes
15 and then we could talk about everything. But I need the link to this
16 case, and I need your assurance that -- and you did not give it in
17 anything that you just told me. I don't see the link to our case and
18 I need that.

19 Yes, I think that's the point I want to make, and I will give
20 the floor also to the SPO and Victims' Counsel, if they would like to
21 have it. But I would like to proceed with you on this issue.

22 MR. GILISSEN: Thank you very much. Before, with your leave,
23 providing the floor to Mr. Aouini, we have to complete my
24 explanation.

25 PRESIDING JUDGE VELDT-FOGLIA: You have to -- sorry, complete,

Redactions applied pursuant to F744.

1 yes.

[Private session]

2 [Private session text removed]

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[Open Session] Reclassified Pursuant to F744

1 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you. If this is
2 what you wanted to share with us.

3 Mr. Prosecutor, something you would like to add and what you
4 have not said yet.

5 MR. DE MINICIS: Excuse me.

6 PRESIDING JUDGE VELDT-FOGLIA: What you have not said yet in
7 your written submissions.

8 MR. DE MINICIS: Yes, so I'll be very brief. Your Honours, the
9 *modus operandi* that this witness can testify about concerns, as we
10 have stated, facts and situations which are radically different, not
11 only separated in time and place, but they concern just simply
12 different -- and I think I'm going to repeat myself here so I will --

13 PRESIDING JUDGE VELDT-FOGLIA: No, no.

14 MR. DE MINICIS: A different set of facts. The first -- the
15 Panda bar situation, Your Honour, happened in a bar in a town where a
16 group of gunmen stormed a public exercise and in a bar and killed
17 people. The crimes that -- and whether what's the truth behind that,
18 we don't know. It doesn't pertain to this case.

19 But the case that we're trying happened within a KLA base. We
20 heard evidence that it was full of soldiers. It was -- military
21 operations were being organised and launched from there. KLA leaders
22 attended. So the link is just not there.

23 So hearing the *modus operandi* of operations -- of alleged
24 operations by the Serbs concerning a radically different set of facts
25 is not going to be helpful or an efficient use of court time in this

Redactions applied pursuant to F744.

1 case.

2 And that's all I have to say, Your Honours.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 Victims' Counsel.

5 MR. LAWS: We agree that it is not relevant. The Defence have
6 been asked specifically to provide evidence of a link between this
7 witness's evidence in Case 04 and the reality is that they are unable
8 to do so. And on that basis, this evidence is not admissible in this
9 case.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

11 I will proceed to give right away directions now.

12 Defence Counsel, what we will do is you will be allowed to put
13 some questions regarding the possible fabrication of evidence by
14 Serbian authorities, but within the framework you just spelled out
15 here, I -- to be honest, about the Panda, I don't want to have
16 anything. You gave it to us, but I don't want to have anything about
17 that. I don't see the relevance to elaborate in this case on that.
18 That would divert the focus and I will be on top of you in this
19 regard.

20 And then I instruct you, and if not, I will do it myself, I want
21 to hear from this witness if he has anything concrete to say about
22 Case 04.

23 So we want to know if he has knowledge of any application of
24 this possible alleged fabrication of evidence in relation to the
25 present case.

Redactions applied pursuant to F744.

1 So that's how we're going to proceed. I will give you some
2 space, but I really want to have it in certain boundaries, and I will
3 cut the witness if I think he goes too far.

4 And that's our direction.

5 Madam Court Officer, can we now go back into public session.

6 And, in the meantime, your witness has been informed that it is
7 taking a little bit more time, although he was already told this
8 morning that he would have to wait at little bit. So we did manage
9 some expectations.

10 Yes, Madam Court Officer.

11 ~~{Open session}~~

12 THE COURT OFFICER: Your Honours, we're now in public session.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

14 With regard to the request of the Defence to use the newly
15 disclosed items, which is DPS00876-ET and DPS00877-ET, which are
16 revised translations of two translations originally prepared by the
17 Defence, we will grant the request to use these documents as they
18 were disclosed promptly and at the earliest opportunity after their
19 receipt.

20 The SPO and Victims' Counsel have had sufficient time to study
21 them. Their use will facilitate the witness's testimony. And we
22 didn't receive any opposition by the SPO and Victims' Counsel.

23 This is our fourth oral order.

24 Very important. I would like to give the Defence a direction
25 regarding the examination of today's witness, Mr. Mahmuti, and yes,

Redactions applied pursuant to F744.

1 that should be done also in private session.

2 So, please, Madam Court Officer, bring us back into private
3 session.

4 [Private session]

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5 [Open session]

6 THE COURT OFFICER: Your Honours, we're in public session.

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

8 With regard to your e-mail of this morning opposing the
9 documents proposed by the SPO for cross-examination, the Panel will
10 direct you to give us in e-mail, in writing, an overview of which
11 documents you object to, because for now, we know which ones those
12 are, and with a short indication of what it is about. And depending
13 on where we end with the questioning of this witness, I hope we can
14 do that somewhere this afternoon, even including the possibility of
15 the SPO to reply to it. But let us see how it goes this morning.
16 But I think that in court going through all the documents will be a
17 kind of burdensome exercise, so that I don't want to do.

18 Very well. Then this concludes the Panel's orders and
19 directions. We can now proceed with the testimony of the witness.

20 Mr. Mahmuti will testify without protective measures, and we
21 will sit, in principle, this morning, twice one and a half hours, but
22 depending on how things go, it could be that we will sit for a
23 shorter lunch break. I will see how things go.

24 Very well. Court Clerk, would you please usher the witness into
25 the courtroom. Thank you.

Redactions applied pursuant to F744.

1 [The witness entered court]

2 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mahmuti, good morning.

3 Welcome to the Specialist Chambers.

4 THE WITNESS: [Interpretation] Good morning. Thank you.

5 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, did you hear the
6 witness?

7 THE ACCUSED: [via videolink][Interpretation] Yes, I did. Thank
8 you.

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mahmuti, how are you today?

10 THE WITNESS: [Interpretation] Very good.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you. We will begin today
12 with your testimony. And before we begin, I have several remarks for
13 you. Yes?

14 You are called to testify, Mr. Mahmuti, before the
15 Specialist Chambers in the case of The Specialist Prosecutor versus
16 Mr. Pjeter Shala to assist this Panel to reach a verdict. You will
17 take first your solemn declaration to tell the truth, and after that,
18 you will be asked questions by the Defence Counsel, the lawyers for
19 the Specialist Prosecutor's Office, Victims' Counsel, who are sitting
20 on your other hand, next to you, and then at the end also the Panel
21 may ask questions to you.

22 Before you take your solemn declaration to tell the truth, I
23 would like to provide you with some guidance and practical advice for
24 answering the questions that you will be asked.

25 Mr. Mahmuti, please listen carefully to each question that will

Redactions applied pursuant to F744.

1 you put to you and if you don't understand, feel free to ask for
2 clarification or the question to be repeated.

3 We want you to tell the truth and to tell us what you saw, what
4 you experienced, what you heard, sensed.

5 If you did not hear it yourself but you found out in some other
6 way, please say so and explain how you got to know that.

7 You may not remember all the details of the events, and this is
8 perfectly fine. Please testify as to what you know.

9 Do not guess. Do not make things up. There is nothing wrong in
10 saying, "I don't know," or "I don't remember."

11 Yes, I see you nodding. Very clear for you, I see.

12 And please answers --

13 THE WITNESS: [Interpretation] Fully.

14 PRESIDING JUDGE VELDT-FOGLIA: Please answer the questions put
15 to you. If we need more clarification, you will be asked to do so.
16 So don't elaborate further on what you are asked.

17 You have understood all this?

18 THE WITNESS: [Interpretation] Yes.

19 PRESIDING JUDGE VELDT-FOGLIA: Very well.

20 I have also some practical advice for your testimony and please
21 take note of the following.

22 Everything that we say here is translated and recorded, so it is
23 important to speak into the microphones that are in front of you, not
24 to speak too quick, and to speak clearly. What is very important is
25 that you should not start speaking -- or you should only start

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1 speaking when the person asking you a question has finished. So
2 please wait five seconds and then start speaking. This will allow
3 the interpreters we have to finish the translation and to start with
4 their translation of what you are saying. If not, we have
5 overlapping speakers and that makes it very complicated or even not
6 workable. So that is a very important point.

7 If I raise my hand, please stop talking, because I'm not always
8 in a position to say it, because if not, I would be the one that is
9 talking through other people. So if you see that I raise my hand,
10 just stop.

11 Sometimes we may ask you to leave the courtroom because we need
12 to discuss the content of your questioning. And we know that you
13 know a little bit of English and we would not like to -- we would not
14 want to influence you with the possible discussions.

15 And if you have any questions, if you need a break or you need
16 something, please raise your hand and I will give you the floor to
17 attend to what -- to what you need.

18 Is that clear?

19 THE WITNESS: [Interpretation] Yes.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

21 Mr. Mahmuti, as we do with all the witnesses, I will now ask you
22 to make your solemn declaration to tell the truth. And I remind you
23 that it is an offence within the jurisdiction of the
24 Specialist Chambers to give a false testimony.

25 Very well. Court Clerk, can you assist -- you already did that.

Witness: Bardhyl Mahmuti (Open Session)

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1 Very well.

2 Mr. Mahmuti, please read the text provided to you.

3 THE WITNESS: [Interpretation] Conscious of the significance of
4 my testimony and my legal responsibility, I solemnly declare that I
5 will tell the truth, the whole truth, and nothing but the truth, and
6 that I shall not withhold anything which has come to my knowledge.

7 WITNESS: BARDHYL MAHMUTI

8 [Witness answered through interpreter]

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you. You are now under
10 oath to tell the truth, Mr. Mahmuti.

11 Defence Counsel, you have been given three hours for your
12 question. Please inform the Panel if there are any changes in this
13 respect. We can start with the testimony.

14 You have the floor.

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

16 Examination by Mr. Gilissen:

17 Q. Good morning, Mr. Witness. Good morning, Mr. Mahmuti.

18 A. [Interpretation] Good morning. Very well. Thank you.

19 Q. So I hope we could start with some questions I wish to ask you.
20 So if you are ready, we can start. So I would like to start with
21 some personal questions, Mr. Witness. Could you please state your
22 name and surname.

23 A. My name is Bardhyl Mahmuti.

24 Q. Do you have, or did you have, a surname -- or a nickname, I'm
25 sorry, a nickname?

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Examination by Mr. Gilissen

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1 A. No.

2 Q. So thank you very much. What is the name of your father?

3 A. Beqir.

4 Q. In a few words, what was your father's professional activity?

5 A. My father was an advisor to the education system in the
6 municipality of -- in 1966, 1968, at the same time he was a
7 professional of philosophy in Tetovo high school.

8 Q. Thank you very much. And in the same -- in a few words, what
9 was your mother's professional activity?

10 A. My mother was a housewife. She took care of house matters and
11 everything that is required to be done in the household.

12 Q. Were they politically involved?

13 A. Holding position -- a position and functions that related to the
14 education, my father tried, made attempts to open Albanian-speaking
15 schools in order for the pupils to be educated in Albanian. And it
16 is precisely because of this engagement, commitment he was first
17 arrested in January 1969, at the time when I was not even 9 years
18 old. I was 8. Special units of the Yugoslav government state came,
19 they overthrew everything in the house, arrested my father, and
20 sentenced him to one year of imprisonment as a nationalist only
21 because he wanted Albanian-speaking people to be educated in
22 Albanian.

23 After serving his sentence, my father was not in a position to
24 find a job in his home country and moved to Kosovo, in Prishtine,
25 where he initially started working with the schoolbooks publishing

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1 house and then worked with the newspaper Shkendija which was a
2 pedagogical newspaper related to the education system in Kosovo. He
3 was a member of the editorial board of this newspaper until he
4 retired in 1980.

5 Q. Thank you very much. May we say that your family was
6 politically involved?

7 A. My family was politically engaged in fulfilling our national
8 rights, my father and my paternal uncle Enver and several family
9 members, cousins, were activists for our national cause because they
10 were aware and conscious that one could only fight discrimination
11 through political engagement.

12 Q. Thank you very much. That is very clear for us. Thank you very
13 much.

14 Can you tell us what your level of education is.

15 A. I went to the elementary school in my home town in Tetovo in
16 part and then in Prishtine where I continued my high school.
17 First -- my first two years of high school. I went then back to
18 Tetovo. So we moved back and forth.

19 PRESIDING JUDGE VELDT-FOGLIA: It would suffice to have the last
20 education where you ended up. We don't have to start with the
21 primary school.

22 So what was your last education?

23 THE WITNESS: [Interpretation] I graduated from the political
24 science faculty at the university of Lausanne in Switzerland. I have
25 a bachelor's degree in Lausanne as well in political science. And my

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1 Ph.D. project was accepted and approved in the same university, but
2 because of my engagements before and during and after the war, I was
3 not able to complete my Ph.D. research work.

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

5 MR. GILISSEN: Thank you very much.

6 Q. What is your work? What is your job now?

7 A. Currently I'm a teacher and helping children with difficulties,
8 difficulties both in the education system or social difficulties. I
9 work in Switzerland in the canton of Vaud, and the structure I work
10 for and with is [indiscernible] which is a Swiss-wide structure. I
11 work in the branch in the Vaud canton, helping, accompanying children
12 with difficulties, difficulties in the education system or other
13 social difficulties.

14 Q. Are you a *sociologue*? That's what I hear.

15 A. I'm a political scientist.

16 Q. *Politologue*. Okay. Thank you very much. I would like to ask
17 you some questions about another topic and to address the topic of
18 the KLA.

19 And my first question is were you ever part of the KLA?

20 A. There were no membership cards in the KLA because it was not a
21 political party. I was a member of the Popular Movement of Kosovo
22 which was a patriotic movement and which had three objectives.
23 First, to protect politically the right war --

24 PRESIDING JUDGE VELDT-FOGLIA: Sir, the question was if you were
25 a member of the KLA. You were not asked to elaborate on patriotic

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1 movement.

2 Are you a member of the KLA? That was your question. And I
3 would like you to -- it's not that every time you get a question,
4 Mr. Witness, you just start to elaborate. If Defence Counsel wants
5 to know something more about this political movement, he will ask
6 you. Yes.

7 Let's use our time efficiently. Please proceed.

8 MR. GILISSEN: Thank you, Mrs. President.

9 Q. So try to stick to the question the best, I think so.

10 PRESIDING JUDGE VELDT-FOGLIA: We don't have an answer yet.

11 Were you a member of the KLA? That's not so difficult a
12 question.

13 THE WITNESS: [Interpretation] My answer, despite the fact that
14 it may appear as evasive, it is related to the movement because it
15 was that movement that created the KLA. And being a member of the
16 popular movement, I was also in the structures of the KLA.

17 PRESIDING JUDGE VELDT-FOGLIA: That -- so it would have sufficed
18 to say: Yes, I was a member of the KLA.

19 Please, Defence Counsel, proceed.

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

21 Q. When did you join the KLA?

22 A. There's no precise date, but as a man who was committed to
23 politically defend the Kosovo Liberation Army, this dates back to my
24 first contacts with the American diplomats in June 1998.

25 Q. Indeed. What was your role in this organisation, in the KLA?

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1 A. I was in charge of reasoning, arguing, in the political
2 diplomatic level the indispensable nature of this liberation war and
3 that this was a just and sustainable war.

4 Q. And where were you based for your activity for the KLA? Where
5 were you based for it?

6 A. We did not have a seat, a social place, as a diplomatic group,
7 because we carried out our activity in all Western states and the
8 United States. In every country we had people who were in charge of,
9 responsible, representing the Kosovo Liberation Army, and I travelled
10 continuously to all these countries to maintain the diplomatic
11 contacts with the purpose of legitimatising and supporting the Kosovo
12 Liberation Army war. There wasn't a seat in a specific place or
13 country.

14 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, allow me to ask
15 a clarification. Thank you.

16 How would you call your -- your function within the KLA?
17 Because I wrote down you were reasoning, arguing, diplomatic
18 relations. How would you call that?

19 THE WITNESS: [Interpretation] Representative, I was a political
20 representative of the Kosovo Liberation Army.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

22 MR. GILISSEN:

23 Q. During this moment, where did you live?

24 A. I lived in Switzerland, in Vevey, the town where I live today.

25 Q. Did you work in Switzerland and then travel with the obligation

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1 you had at this moment?

2 A. I did not work at the time because I was still a student at the
3 time. And when I finished my master's degree studies in 1997, I
4 started with my Ph.D. research work, and I was fully committed and
5 engaged to politically defend the Kosovo Liberation Army and its war.

6 Q. So if I understand it, and you have to correct me, you were
7 based in Switzerland. And can you tell us in which countries and
8 places you visited during the period of activity you carried out for
9 the KLA?

10 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, shall we put a
11 time-frame on that? Because it might be kind of broad and I would
12 like to have it focused.

13 MR. GILISSEN:

14 Q. You explained us you lived in Switzerland and then you travel a
15 lot. Are you able enough to explain us which countries or which
16 places you were?

17 PRESIDING JUDGE VELDT-FOGLIA: And the time-frame.

18 MR. GILISSEN: And the time-frame, yeah.

19 PRESIDING JUDGE VELDT-FOGLIA: Yes. But from which moment on,
20 Defence Counsel, would you like to give --

21 MR. GILISSEN: Generally speaking, to have an idea, and then of
22 course during the period of the indictment. This is the question, of
23 course, the most important point I have to address after.

24 PRESIDING JUDGE VELDT-FOGLIA: Yes. But would we say from --
25 because we have seen there's been a lot of travelling. So from 1

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1 January 1999? I mean, I don't want to give so much space. We have
2 to --

3 MR. GILISSEN: My next question, of course, is April 1999 --

4 PRESIDING JUDGE VELDT-FOGLIA: That I understand that. But
5 before that.

6 MR. GILISSEN: -- and June. But generally speaking, to have an
7 idea of the kind of activities he had and then to address the special
8 period we are focusing on.

9 PRESIDING JUDGE VELDT-FOGLIA: Shall we then do it from the
10 moment he became a member of the KLA? No, it is for you. It is
11 your --

12 MR. GILISSEN: No, it's to provide us a real idea of the reality
13 of the activities and the role of this guy.

14 PRESIDING JUDGE VELDT-FOGLIA: From the moment you started
15 travelling as a political representative for the KLA, can you give us
16 a summary of the places you visited abroad.

17 THE WITNESS: [Interpretation] From June 1998 to June 1999, I was
18 very frequently in France, Germany, England. Twice in the United
19 States. Italy, Austria. I was in Slovenia, Albania. So these are
20 the countries I went to very frequently at the time. Obviously I
21 went in Belgium, Netherlands as well. So these were additional
22 countries I went to. So many countries, basically.

23 MR. GILISSEN:

24 Q. Thank you. And I would like to know, can you tell us where you
25 were between April and June 1999?

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1 A. From April -- to be fair, open -- and open, I have submitted my
2 passport I used to travel at the time because that's the best
3 evidence with respect to the countries I went to. It contains the
4 visas of the countries I went to, the border police stamps. So
5 from -- in April to June 1999, I was once in Albania, several times
6 in France, I was in Germany, Belgium, Brussels, for official
7 meetings.

8 Q. Yes.

9 MR. GILISSEN: Mr. President, with your leave, I would like to
10 show this document, the passport, to the witness to refresh him, of
11 course, his memory, and to be able to answer to some questions about
12 the information we found in this document.

13 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

14 Madam Court Officer, after having given the number, you may pull
15 up the document.

16 MR. GILISSEN: Thank you very much.

17 I would like to show the witness ERN DPS00880-DPS00896. And
18 this is not to be disclosed to the public, please.

19 Q. So, Mr. Witness, do you recognise this document?

20 A. Yes, I do.

21 MR. GILISSEN: May we have the next page of this document,
22 please, Court Officer.

23 PRESIDING JUDGE VELDT-FOGLIA: I think that the front page is
24 the same for everybody, isn't it? But maybe the page where his
25 picture is --

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1 MR. GILISSEN: Exactly. That's why I asked the other one.

2 PRESIDING JUDGE VELDT-FOGLIA: Okay.

3 MR. GILISSEN:

4 Q. So I ask you: Is it your passport?

5 A. Yes.

6 MR. GILISSEN: Madam President, I don't know about the timing,
7 if we have to stop now or -- I because if I start to address the
8 rest, it could be a little longer, I think so.

9 PRESIDING JUDGE VELDT-FOGLIA: Yes. I see that now, yes. The
10 moment is there to have a break, indeed, although I would have liked
11 to proceed.

12 MR. GILISSEN: Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: We will -- but thank you for your
14 time management in this regard.

15 Mr. Witness, what we will do is -- you only have been giving
16 testimony for 20 minutes, but it's time for -- to have a break and
17 also with a view to the interpreters.

18 So what we will do is we will adjourn for half an hour, and then
19 we will ask you to be brought in again. Thank you for your time for
20 now. And we see each other in half an hour.

21 THE WITNESS: [Interpretation] Thank you.

22 [The witness stands down]

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Clerk.

24 We will adjourn for half an hour.

25 --- Recess taken at 11.00 a.m.

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

2 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. And before we call
3 the witness in, I see that the SPO is in the same composition. That
4 goes for the Victims' Counsel team too.

5 And here on my left-hand side, are we complete?

6 MR. GILISSEN: It's almost the same but not exactly, Your
7 Honour.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. Then I give you the floor
9 to note that.

10 MR. GILISSEN: Ms. Kailin Chen left us, and we have
11 Deborah Thiebaut, an intern. Thank you very much.

12 PRESIDING JUDGE VELDT-FOGLIA: Let me see, yes. Good. Then we
13 continue.

14 Madam Court Usher, could you usher the witness in, please.

15 Somebody is already working - I look at the Defence - on the
16 information with regard to the documents from the SPO. Good, good.

17 [The witness takes the stand]

18 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Witness.

19 THE WITNESS: [Interpretation] Thank you.

20 PRESIDING JUDGE VELDT-FOGLIA: Very well. I will give the floor
21 back to Defence Counsel to continue with the examination.

22 Defence Counsel, you were discussing a document. We have to
23 call it up again. So I give the floor, but before you can continue
24 we should have the document visible.

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

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1 Q. So, Mr. Witness, don't hesitate. Slow down, please, and stick
2 to the question. That's the best for us all. Thank you very much.
3 Could be painful, but this is the process.

4 MR. GILISSEN: So we would like to have another -- the same
5 document but another page. Mr. Court Officer or Mrs. Court Officer,
6 are you able enough to show the document DPS00880-DPS00896. It's
7 page 30 of the document.

8 PRESIDING JUDGE VELDT-FOGLIA: Which page would you like to
9 have?

10 MR. GILISSEN: Page 30. It is page 6 of the document. 16, I'm
11 sorry. 16. Page 30 of our document but it's the page 16 of the
12 document.

13 PRESIDING JUDGE VELDT-FOGLIA: But are you referring to the
14 numbering in the right corner up? Is that number -- because could
15 you adhere to the page number DPS00 and then what comes. Because now
16 we are at 880.

17 [Specialist Counsel confer]

18 MR. GILISSEN: It's 895.

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel.

20 MR. GILISSEN: Thank you.

21 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, will that
22 assist you? Thank you.

23 MR. GILISSEN:

24 Q. So, Mr. Witness, are you able enough to look at the dark blue
25 stamp and could you tell us what it says?

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Redactions applied pursuant to F744.

1 PRESIDING JUDGE VELDT-FOGLIA: Which stamp are you referring to,
2 Defence Counsel?

3 MR. GILISSEN: It's the last page, I think so, that's what I'm
4 looking for, because I have the same document.

5 So it's page 30 of the document, so the page -- the last page.
6 And this is the stamp just in the middle, the one can you find on the
7 right under the page, the last one, with the date in 1999, 22 April.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. Please ask -- so,
9 Mr. Witness, you are requested by Defence Counsel to look at the
10 stamp on the left side of the page. So in the upper corner we see
11 30. And then it's the stamp on the right-hand side of the page, the
12 last one, with the date 22 April 1999. Yes?

13 And that's the one you want to ask a question about to the
14 witness.

15 MR. GILISSEN: Yes, the dark blue stamp you have on the page.

16 PRESIDING JUDGE VELDT-FOGLIA: Yeah, the colour ... yes, okay.

17 THE WITNESS: [Interpretation] Yes.

18 MR. GILISSEN:

19 Q. And this stamp is indicating, according to you, what? An
20 arrival on a territory or a departure? In which part?

21 A. It is an exit stamp out of Albania, out of the Rinas airport.

22 Q. This one I see a mark on the stamp that doesn't seem to be an
23 exit part, but to come in in Rinas. Do I commit a mistake or not?

24 A. Above it, on 11 April 1999, that is the date when I entered via
25 Durres. That is the stamp of entry dated 11 April. The

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1 22 April stamp is the one that marked my departure out of Rinas
2 airport.

3 Q. Yes. And according to you, where is Rinas airport? In which
4 country?

5 A. In the Republic of Albania. At that time it used to be the one
6 and only airport of the Republic of Albania.

7 Q. Thank you very much.

8 MR. GILISSEN: Now if we can go to the next page. It's document
9 DPS00880-DPS00896.

10 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]

11 MR. GILISSEN: Yes. It's the page 32 of the passport. And
12 this, I would like to talk about the stamp just in the middle of the
13 page but not the biggest one. The blue one. And is it possible to
14 focus on this stamp because could be not very clear.

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

16 It's not the upper stamp but the stamp under the upper stamp?

17 MR. GILISSEN: Yeah.

18 PRESIDING JUDGE VELDT-FOGLIA: With the words printed in German.

19 MR. GILISSEN: No. The other one. The other one, Republic of
20 -- from Austria.

21 PRESIDING JUDGE VELDT-FOGLIA: Oh, the black one.

22 MR. GILISSEN: Not the black one, the blue one.

23 PRESIDING JUDGE VELDT-FOGLIA: The blue one next to the black
24 one.

25 MR. GILISSEN: Yeah.

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1 PRESIDING JUDGE VELDT-FOGLIA: Okay. So to the -- okay, thank
2 you.

3 MR. GILISSEN: No, I fully understand, Your Honour. That is
4 very difficult. Sometimes there are so many stamps.

5 PRESIDING JUDGE VELDT-FOGLIA: So, Mr. Witness, you are asked to
6 look at the stamp in the middle of the page at the right-hand side
7 next to the words in French, and in the right corner of the stamp you
8 see "AL."

9 THE WITNESS: [Interpretation] Yes.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. I give the floor to
11 Defence Counsel.

12 MR. GILISSEN: Thank you very much.

13 Q. Could you, Mr. Witness, explain us what means this stamp.

14 A. I cannot discern the date that clearly. It is, however, a stamp
15 of exit from the Republic of Albania.

16 Q. Yeah. And you leave the Republic of Albania territory?

17 A. Yes.

18 Q. Yeah. And just -- you have two figures in the square. Are you
19 able to read the date? You have two figures.

20 A. I cannot see it clearly, and I'm not entirely certain about
21 those dates. However, analysis can be done on this stamp to be able
22 to ascertain with certainty what it says.

23 I see the letters that suggest the month was April, but I'm not
24 able to discern the date with any clarity.

25 Q. Yeah. And the year is, according to you?

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Redactions applied pursuant to F744.

1 A. 1999. We can see the year.

2 Q. Thank you very much. May I suggest you to the date of 29
3 April 1999?

4 PRESIDING JUDGE VELDT-FOGLIA: But where can you see that?

5 I see also the SPO standing.

6 Why would you suggest that date? On which basis?

7 MR. GILISSEN: Because I have a feeling it is a 2 and a 9, I
8 have to confess.

9 PRESIDING JUDGE VELDT-FOGLIA: But I think that that -- I won't
10 allow for that question. The witness can say, "I see a date" or "I
11 don't see a date."

12 MR. GILISSEN: Yeah. Because I know that's if you have your
13 glasses or not could be the difference. That's why I would like to
14 be able to try to help it.

15 PRESIDING JUDGE VELDT-FOGLIA: Yes. But maybe there are other
16 ways to approach where he was in that period without -- this is
17 really guessing, I would say, without a basis on his memory with
18 regard to something he did in that period.

19 MR. GILISSEN: [Overlapping speakers] ...

20 PRESIDING JUDGE VELDT-FOGLIA: But before we do that, Defence
21 Counsel, in order to be -- in order to have clear on record to which
22 stamp we were looking at, I would like to ask Madam Court Usher to
23 assist Mr. Witness with a pencil, that he can mark the stamp he just
24 described, and then it's given an exhibit number here in court, and
25 that we go back to the prior page and we do the same. That will

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1 assist us in future exercises if we have to refer to these documents.

2 Very well. Mr. Witness, can you circulate the stamp you just
3 discussed with Defence Counsel.

4 THE WITNESS: [Marks]

5 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

6 THE WITNESS: Thank you.

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

8 Court Officer, could you save this image? Thank you. Could you
9 give it right away an exhibit number or is that something we should
10 be doing later, Madam Court Officer?

11 [Trial Panel and Court Officer confer]

12 PRESIDING JUDGE VELDT-FOGLIA: Please proceed. And then we will
13 do the same thing for page 895.

14 THE COURT OFFICER: Your Honours, markings made by the witness
15 DW4-06 will be assigned Registry number REG000964. Apologies,
16 REG000964.

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

18 And, Defence Counsel, we will go back to this page because maybe
19 we can even make it bigger in order to try to see what is visible.
20 But we will first do this other formality.

21 Madam Court Officer, could you bring us to page 895.

22 And, Mr. Witness, please circle the stamp you discussed on this
23 page with the Defence Counsel. Or the two stamps we discussed.

24 THE WITNESS: [Interpretation] First of all, I'm circling the
25 entry stamp of 22 April, and then the exit stamp.

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1 PRESIDING JUDGE VELDT-FOGLIA: I would say the other way around.
2 Because the 22nd -- it's from the 11th of April you say that you
3 were -- let me see.

4 THE WITNESS: [Interpretation] Okay.

5 PRESIDING JUDGE VELDT-FOGLIA: Are you sure?

6 THE WITNESS: [Interpretation] Exit, yes. If I'm not mistaken,
7 it is the exit.

8 PRESIDING JUDGE VELDT-FOGLIA: Which one is the exit? 22 of
9 April or 11 of April?

10 THE WITNESS: [Interpretation] Based on the signs there, the way
11 I understand it is the entry is on 22 April and the departure has to
12 be at the end of April. Whilst here, it is another entry on 11
13 April. In fact I'm not certain about it.

14 PRESIDING JUDGE VELDT-FOGLIA: Me neither. I was not there.
15 It's your testimony and I cannot say anything about this.

16 Yes, please.

17 THE WITNESS: [Interpretation] What I'm able to say with
18 certainty here is that towards the end of April 1999 and until the
19 month of June, when the war ended, I have never been in Albania. At
20 that time I was in Switzerland, France, Germany, and Belgium.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness.

22 Defence Counsel, I give it back to you and if you want to
23 clarify anything with regard to these stamps, I give you the floor.

24 MR. GILISSEN: I think I could try to help us to understand
25 exactly.

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1 PRESIDING JUDGE VELDT-FOGLIA: And after that, we will allocate
2 an exhibit number to this document.

3 MR. GILISSEN: I would like, Madam Court Officer, to have on the
4 same document but page --

5 PRESIDING JUDGE VELDT-FOGLIA: Wait --

6 MR. GILISSEN: -- 23, another stamp.

7 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, if you want to
8 move to another document, then I will --

9 MR. GILISSEN: It's the same document.

10 PRESIDING JUDGE VELDT-FOGLIA: No. To another page.

11 MR. GILISSEN: Yeah.

12 PRESIDING JUDGE VELDT-FOGLIA: Then I first have to save this
13 page in order to be able to allocate a number.

14 Madam Court Officer, could you please save this page and give it
15 an exhibit number, please.

16 THE COURT OFFICER: Your Honours, the markings made by the
17 witness DW4-06 will be assigned Registry number REG00965.

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

19 Defence Counsel, you may proceed with giving a new document
20 number to Madam Court Officer.

21 MR. GILISSEN: Thank you very much.

22 The document is DPS00891. It's the page 23 of the passport.

23 And I would like to show it to the witness.

24 Q. Mr. Witness, this is a stamp from the Slovenian republic with
25 the date of 20 April 1999. Do you remember a trip which corresponds

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1 to this date?

2 A. Yes, I do.

3 Q. And is this stamp in relation with the one we were able to see
4 at the page 30 of the passport with the date of 22 April 1999, just
5 the day after, in Rinas airport?

6 A. Yes. If I'm allowed to clarify. Because of the background of
7 war, even though my ticket was from Zurich to Tirana, as a result of
8 the conditions of war, we were forced to land in Slovenia. The
9 aircraft was unable to continue to Tirana and that is why I was given
10 this one-day visa which enabled me to travel towards Tirana the day
11 after.

12 That is the explanation for the two-day visa.

13 Q. So if I understood properly, you arrive by Slovenia to the
14 Republic of Albania? And do you remember the duration of your trip
15 during this particular trip?

16 A. I am saying here that the entire journey lasted for one day.
17 Because we were travelling with Adria airlines, we landed in
18 Ljubljana. NATO did not allow us an air corridor for that journey to
19 Tirana, so we were forced to land in Ljubljana. During that period I
20 met family members in Ljubljana too. And so this trip lasted at
21 least 24 hours.

22 Q. Thank you very much. And you arrived in Albania, in Rinas, and
23 what happened then? You stayed in Albania how many days or how many
24 weeks, according to you?

25 A. My arrival to Albania - let me clarify - was in the capacity of

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1 the member of the Steering Council of the People's Movement for
2 Kosovo. During the entirety of the war, I had two post, two
3 functions. I was a political representative of the Kosovo Liberation
4 Army as well as a member of the Steering Council of the People's
5 Movement for Kosovo.

6 In Albania --

7 Q. It's not the point, I think so. Don't mind, but try to stick to
8 the date. That's the duration of the trip.

9 PRESIDING JUDGE VELDT-FOGLIA: Yes, just the date. Just the
10 date, sir.

11 THE WITNESS: [Interpretation] It would have been for a maximum
12 of one week. I know that at the end of month of April I was in
13 Switzerland.

14 MR. GILISSEN:

15 Q. So according to --

16 PRESIDING JUDGE VELDT-FOGLIA: Sorry, Defence Counsel. Sorry to
17 interrupt you. Just for the record to have a clear record. Page 51,
18 line 15, the date of 20 is mentioned but it is the 21st of April. If
19 I understood well, the date on the stamp is 21st. Yeah? So that has
20 now been cleared.

21 Defence Counsel, please proceed.

22 MR. GILISSEN:

23 Q. So if I try to make a link between the very first stamp from the
24 Republic of Slovenia, the second stamp issued from Rinas airport, and
25 the third stamp we have at the page 32 of the passport, it seemed you

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1 were in Kosovo and you left it before the end of April 1999. Do I
2 understand it correctly?

3 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. This
4 goes far too quick.

5 Page 32. Madam Court Officer, can you bring us to page 32.

6 Because this, Defence Counsel, has not been established. So
7 this conclusion is going -- I would -- I don't -- I hear what the
8 witness has been saying and that can be his testimony, but you cannot
9 base it on the stamp on page 32 because we have not established
10 what -- what we can see on that stamp.

11 MR. GILISSEN: Yes, indeed. But we don't have any other stamps
12 in the document.

13 PRESIDING JUDGE VELDT-FOGLIA: No, no. But then we have the
14 date of 21 April, Slovenia. We have 22 April, yeah.

15 MR. GILISSEN: Yeah.

16 PRESIDING JUDGE VELDT-FOGLIA: That is an entrance, if I
17 understood well, into Albania, Defence Counsel.

18 MR. GILISSEN: Yeah.

19 PRESIDING JUDGE VELDT-FOGLIA: Yeah? So we have an entrance in
20 Slovenia, and then the day after an entrance in Albania. And then we
21 don't have, at least in this passport, a stamp that says that he
22 left. He can have left. I'm not saying anything about it. But
23 please don't base your conclusion on this stamp.

24 MR. GILISSEN: No, no, no. Not only on this stamp, Madam
25 President. On the statement he made at the hearing, maximum one

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1 week.

2 PRESIDING JUDGE VELDT-FOGLIA: But that has nothing to do with
3 page 32 and you were referring to page 32.

4 MR. GILISSEN: No, no. That's why I try to understand one week
5 and we have a stamp in April 1999, and this is the only one we seem
6 to stick with. That's why I asked the question.

7 PRESIDING JUDGE VELDT-FOGLIA: Yeah, but then please put this as
8 a question, not as a conclusion.

9 MR. GILISSEN: No, no. That's sure.

10 Q. So you went out Albania at this moment, after one week or almost
11 one week?

12 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, you will get the
13 floor. But please reply to my question, if you can.

14 You stayed you stayed for a week in Albania, less or more. How
15 did you -- do you remember, because we are talking about really a
16 long time ago, of course, but do you remember how you left the
17 country?

18 THE WITNESS: [Interpretation] The stamp in front of my eyes has
19 got three big letters, APR, which means April 1999. However, I
20 cannot see the exact date of this exit stamp out of Albania, but it
21 certainly pertains to April 1999, this exit stamp from Albania, that
22 is.

23 I stayed for a maximum of a week in Albania. I cannot remember
24 the exact date. But I know it to be certain that by the end of
25 April, I was in Switzerland.

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1 PRESIDING JUDGE VELDT-FOGLIA: Thank you. That you already said
2 also before the break and we noted that, that you left then Albania.
3 Thank you.

4 MR. GILISSEN: Thank you very much.

5 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, you have the
6 floor.

7 MR. LAWS: Thank you, Madam President. Just for the record, I
8 believe that my learned friend accidentally said "Kosovo" when he meant
9 Albania. And that's going to perhaps cause us problems later on.

10 PRESIDING JUDGE VELDT-FOGLIA: Please. If you indicate ...

11 MR. LAWS: It's line 8 on page 53.

12 MR. GILISSEN: Yes, indeed, that's my fault.

13 MR. LAWS: "It seemed you were in Kosovo and you left it before
14 the end of April ..."

15 I think Mr. Gilissen meant Albania.

16 MR. GILISSEN: Thank you very much, my dear colleague.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you. That has been
18 cleared.

19 MR. GILISSEN: Yeah. Of course. And it's important, I think
20 so.

21 PRESIDING JUDGE VELDT-FOGLIA: A suggestion would be, because --
22 and, Madam Court Officer, maybe you can assist us. Could we rotate
23 the page and then even zoom more.

24 MR. GILISSEN: Exactly.

25 PRESIDING JUDGE VELDT-FOGLIA: I mean, technology can maybe

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1 assist us here.

2 Defence Counsel, you have the floor. But I can agree now more
3 than I did before that I see an A and a P and an R, and now it's
4 easier to see where the tower is, I would call it a tower, at the
5 left-hand side in the corner. I see a number. And, yes, it could be
6 a 2 and a 9, but I'm not sure. Or -- it could be.

7 MR. GILISSEN: But the best is to have the witness [Overlapping
8 speakers] ...

9 PRESIDING JUDGE VELDT-FOGLIA: Yes, but I don't think that the
10 witness is neither an expert in deciphering unclear stamps than we
11 are. Or we are -- I think we are at the same level, I would say.
12 What has assisted us, at least, is to have it zoomed out. And I
13 don't want to dig too much in trying to get a number out of this,
14 because it is what it is. And you have heard me stating clearly what
15 it could be, but I don't know. But the testimony of this witness is
16 what he has already repeated twice. And I would like to leave it for
17 now and not to dwell on it more.

18 MR. GILISSEN: Just one last question, Madam President.

19 Q. Mr. Witness, do you remember if you left the Albanian territory
20 before the end of April 1999?

21 A. I left in April -- at the end of April. I know that. Because I
22 had to be in Switzerland in the beginning of May.

23 Q. It is very clear. Thank you very much.

24 PRESIDING JUDGE VELDT-FOGLIA: We are now going to make a
25 marking, Defence Counsel.

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1 Mr. Witness, could you put a circle, could you circle the stamp
2 we have been discussing -- yes, no, but not this one.

3 Yes, if I'm wrong, then -- Madam Court Officer, have we already
4 saved this page? Yes, we have? Okay. Then we don't have to --

5 THE WITNESS: [Interpretation] Should I circle it? Can I? Can
6 I -- should I do it now?

7 PRESIDING JUDGE VELDT-FOGLIA: No. But what we will do -- no,
8 thank you, Mr. Witness.

9 But, Madam Court Officer, could you say out loud the -- or the
10 page we are now -- I will say it.

11 The page we are on now is page 896 and we are discussing the
12 light blue stamp. I think that is enough to be -- to have clear on
13 record which stamp we were discussing. Okay, thank you. Good.

14 Defence Counsel, you may proceed.

15 MR. GILISSEN: Thank you very much. Things are complex and
16 difficult, I know.

17 Q. I would like to show you now another document.

18 MR. GILISSEN: With your leave, Madam President, I would like to
19 show the document ERN DPS00876-ET, and the Albanian version is
20 DPS00876. And this is not to be disclosed to public, please.

21 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, it is my
22 understanding that you would like the Panel to call up a different
23 document. Could you give briefly an explanation for the purpose of
24 this document, why you want to confront the witness with this
25 document.

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1 MR. GILISSEN: Yes, of course. I can say it in front of the
2 witness. We received from the Albanian authority some documents in
3 relation of the presence of the witness on the territory of Albania.
4 And we have some information, we have to receive an answer from the
5 witness about that, because could be a difficulty between the stamp
6 in the passport and the document we received from the Albanian
7 authorities.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay, good. I -- and is it not
9 possible to first ask a question? Or you want him -- based on what
10 we have already discussed, confront him with this -- these two
11 documents that apparently could be --

12 MR. GILISSEN: I have the feeling it is the best that the --

13 PRESIDING JUDGE VELDT-FOGLIA: I see your point.

14 MR. GILISSEN: -- witness be aware --

15 PRESIDING JUDGE VELDT-FOGLIA: Because I know which document you
16 want to show.

17 MR. GILISSEN: Yeah, yeah, I think so.

18 PRESIDING JUDGE VELDT-FOGLIA: Good.

19 Madam Court Officer, could you please proceed.

20 MR. GILISSEN: Yes. And that's the document we were revised.
21 We have the same document, the first one, but we have the same
22 document after revised.

23 MR. AOUINI: Sorry, Your Honour. The English translation we are
24 showing here is not the revised translation. Mr. Gilissen is calling
25 for the revised. So it is the same ERN but a revised translation

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1 from the Registry. It is almost the same but just to use the
2 official one.

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

4 And did you add that to the evidence list -- to the evidence
5 list? Has it been added to the evidence list?

6 MR. GILISSEN: Yes, indeed, I think we did, yeah. Did we?

7 MR. AOUINI: I'm told, Your Honour, that we made the request via
8 e-mail when we added it, but we didn't add it to the presentation
9 queue because it was after it was released. So we could not touch
10 the presentation queue. It is almost identical but just to use the
11 official --

12 PRESIDING JUDGE VELDT-FOGLIA: Yes, but then the -- I will
13 liaise with Madam Court Officer.

14 [Trial Panel and Court Officer confer]

15 PRESIDING JUDGE VELDT-FOGLIA: If we exercise a moment of
16 patience, then it will be added to the queue and then we can depart
17 from there.

18 [Trial Panel and Court Officer confer]

19 PRESIDING JUDGE VELDT-FOGLIA: It has been added to the queue.

20 And, please, Madam Court Officer, if you could broadcast it.

21 Thank you.

22 [Microphone not activated].

23 MR. GILISSEN: Thank you very much.

24 Q. So, Mr. Witness, I have the same document in my hand. Are you
25 able enough to explain what is this document about?

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1 A. I brought this document to you to prove that in the -- during
2 the period of time from 15 April 1999 until 26 May 1999, I was not --
3 my entries or exits were not registered in the airport of Rinas.
4 We're referring here to a historical context where an ethnic
5 cleansing was taking place, so not everybody was registered. Meaning
6 those who entered or left Albania. However, they could not enter or
7 leave without having stamps put on their travel documents, and
8 precisely for this reason, in order to be transparent in front of the
9 Court, I brought the travel documents I used at the time. I also
10 requested from the refugees' office in Switzerland where I handed in
11 my refugee status and the accompanying document, in order for the
12 Court to understand clearly that I entered and left Albania during
13 that period of time even when my entries and exits from Albania were
14 not registered in the log-books. I brought evidence for the Durres
15 port and the Rinas airport.

16 So with respect -- this is with respect to the period of time I
17 was in Albania.

18 Q. Thank you very much.

19 MR. GILISSEN: So to be complete, I think so, the best is to see
20 the other document about the same things. It is ERN DPS00877-ET
21 revised.

22 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor.

23 MR. DE MINICIS: Just to make an observation. I understand the
24 witness testimony as to say that these documents released by the
25 border authority may not be reliable because not all entries and

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1 exits were, in fact, registered. That's why he brought his passport
2 with him.

3 On that -- because of that testimony, that information, we would
4 object to the admission of these documents in evidence because of
5 their unreliability, as testified by the witness now, and therefore
6 to their use now during the testimony. And we have used the passport
7 -- he has showed the passport, but I understand from what he has just
8 stated that these records may not be reliable.

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

10 Defence Counsel, what would your reasons be to have these
11 documents, if you have the evidence apparently that you think was --

12 MR. GILISSEN: To be transparent. We don't have something to
13 hide. We received these documents from the Albanian authorities and
14 we don't want to hide. At a first glance, we could have a
15 difficulty, and the intention of the Defence of Mr. Shala is to be
16 very clear and not to play a role.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you for this clarification.
18 You may proceed.

19 MR. GILISSEN: The second document I called is the same kind of
20 document but issued by the Durres port.

21 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, you may
22 proceed after having received the number.

23 MR. GILISSEN: It is DPS00877-ET revised.

24 Q. So, Mr. Witness, are you able to explain the document you have
25 on the screen now?

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1 A. Yes. This is about the document issued by the Ministry of
2 Interior Affairs to the Republic of Albania. This is not
3 custom-issued document as it was qualified by the Prosecutor. But
4 this is an official document of the Albanian state which testifies
5 that, during this same period of time, 15 April to 26 May, I was not
6 registered in the port of Durrës, be that with respect to entries or
7 exits. I think there's a clarification for this.

8 Why did I ask my request for the period of time until 26 May and
9 not longer than that? It is because on 26 May I was -- in 1999, I
10 was in Paris in an official meeting at the Ministry of Foreign
11 Affairs, a meeting I held with Mr. Hubert Védrine who was the
12 minister of foreign affairs at that time.

13 So I had official meetings in Germany, France, and Belgium. And
14 this is the reason I did not ask for a longer period, because I could
15 not possibly be at the same time in two different places, in Albania
16 and these countries I just mentioned where I had official meetings.

17 Q. So, Mr. Witness, do you have something to add about the apparent
18 contradiction between those two documents and the stamp of your
19 passport? Do you have something else to say, to explain?

20 A. I am here today to tell the truth and only the truth. Had there
21 been anything hidden, I wouldn't have brought my travel document, my
22 passport. I wanted to be fully transparent in front of this Court,
23 and I wanted to indicate that even in the -- in the cases or
24 occasions when entries and exits were not registered, there was a
25 reason to this. Because we're referring to a period of time when

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1 over a million Albanian civilians were expelled, forcefully expelled
2 by the Serbian authorities.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank, Mr. Witness. And just to
4 have it on record, you only had in that period one passport? This
5 was the only passport you were travelling with?

6 THE WITNESS: [Interpretation] Correct. From 1991, when
7 Switzerland recognised me as a refugee and gave me the refugee
8 status, and until the end of the war, I only used one single
9 passport. I never had any other travel documents.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

11 Defence Counsel, please proceed.

12 MR. GILISSEN: Thank you very much.

13 Q. We can change of topic, Mr. Witness.

14 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] ...
15 pull the documents down.

16 MR. GILISSEN: Exactly. We can pull the document down, yeah.
17 Thank you very much, Madam President.

18 Q. So, Mr. Witness, have you ever been in your life in Kukes,
19 Albania?

20 A. I was there in May 1998. From June 1998 to June when the war in
21 Kosovo ended, I was never in Kukes. With the expectation of Tirana
22 and Durres in Albania, I have not been in any other place in Albania
23 or location during the period of time from 1 June 1998 to
24 12 June 1999.

25 Q. Thank you very much. It is very clear.

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1 MR. GILISSEN: Madam President, with your leave, I think it is
2 best to go in private session now.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 Madam Court Officer, can you bring us into private session,
5 please.

6 [Private session]

7 [Private session text removed]

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Witness: Bardhyl Mahmuti (Private Session)

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Witness: Bardhyl Mahmuti (Private Session)

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Procedural Matters

Redactions applied pursuant to F744.

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Witness: Bardhyl Mahmuti (Private Session)

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Examination by Mr. Gilissen

Redactions applied pursuant to F744.

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[Open Session] *Reclassified Pursuant to F744*

8 MR. GILISSEN: Thank you very much, Madam President.

9 Q. So, Mr. Witness, I would like to hear, if you have any, your
10 comment about this quotation.

11 A. From what I was able to hear from what you have read, there is
12 nothing that is accurate. Everything is untrue. I have never met
13 Daut Haradinaj. I mentioned that earlier. I had never met him
14 before the end of the war. Nazmi Brahimaj, who I cooperated from the
15 moment when he went to war and until the end of the war, is someone
16 who I had never met. Fatmir Limaj, another co-activist, from the
17 moment he set off for war and until the end of the war, I never met
18 him. Sabit Geci, who was also mentioned, I had never known him
19 before. I never met him during the war and I met him once or twice
20 after the war.

21 None of the people mentioned there are people who I have met.

22 In addition to this, I also said that from 1 June 1998 until 12
23 June 1999, I never set foot in the north of Albania. I never
24 travelled to a city other than Durrës and Tirana.

25 Q. Thank you very much. That is very clear. Thank you.

Witness: Bardhyl Mahmuti (Private Session)

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Redactions applied pursuant to F744.

[Private session]

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Witness: Bardhyl Mahmuti (Private Session)

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Witness: Bardhyl Mahmuti (Private Session)

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Redactions applied pursuant to F744.

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[Open Session] *Reclassified Pursuant to F744*

4 So, Mr. Witness, would you like to issue some comments about
5 this quotation.

6 A. There is no truth in there. I mentioned it earlier when I said
7 that I have -- had never met Fatmir Limaj from the moment he set off
8 for Kosovo until the end of the war.

9 The date of [REDACTED] May has been mentioned there. On that
10 particular
11 day, I was in Switzerland. At the end of April -- I left at the end
12 of April, as I said, because I had a number of meetings. I had
13 meetings in Paris, I had meetings in Aix-en-Provence, which is
14 mentioned in the pages of the books from -- by the former ambassador.

15 PRESIDING JUDGE VELDT-FOGLIA: We lost the image of Mr. Shala,
16 and I don't know if Mr. Shala has heard the second part of the answer
17 of Mr. Witness.

18 Mr. Shala, did you hear everything --

19 THE ACCUSED: [via videolink][Interpretation] Yes, I heard it in
20 its entirety, yes. I can hear everything.

21 PRESIDING JUDGE VELDT-FOGLIA: Very well. Then we just lost the
22 connection -- the visual contention, but not the rest of it.

23 Very well. You have the floor.

24 THE WITNESS: [Interpretation] I am mentioning here only the
25 truth that attests to the fact that I was not in Albania. I do not
wish to comment on an account that is of a fantastical nature, where

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1 people are put in a place and context that is unreal. I am 100
2 per cent certain that it is untrue.

3 As I said, I remain convinced that Fatmir Limaj, Daut Haradinaj,
4 Nazmi Brahimaj, and others, had nothing better to do, i.e., leave the
5 war where genocide was being carried out to come in and mistreatment
6 some people over there.

7 However, what I am saying here is that there is not a grain of
8 truth in the account that I heard.

9 PRESIDING JUDGE VELDT-FOGLIA: Stick to the question. That
10 would be my direction. Yeah? Good.

11 Defence Counsel, you have the floor.

12 MR. GILISSEN: Thank you very much.

13 So I think we can go back to the public session, and perhaps to
14 take look at the watch, because I think it could be nice to stop.

15 PRESIDING JUDGE VELDT-FOGLIA: Have a break.

16 MR. GILISSEN: I have the feeling. Thank you.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

18 Madam Court Officer, can you bring us into public session,
19 please.

20 ~~{Open session}~~

21 THE COURT OFFICER: Your Honours, we're now in public session.

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

23 We are going to have -- we're going to adjourn for a lunch
24 break, Mr. Witness. That will bring us to 2.00. So I wish you a
25 good lunch. And Madam Court Usher will escort you out. Thank you.

Redactions applied pursuant to F744.

1 [The witness stands down]

2 PRESIDING JUDGE VELDT-FOGLIA: I would like to shorten our break
3 to 2.00 in order to see how far we can come today.

4 With regard to the written submissions of the Defence with
5 regard to the documents intended to use by the SPO for the
6 cross-examination, would it be possible to provide the Panel by 2.00
7 with a document, or earlier? I mean, the earlier, the better, but
8 before we resume?

9 MR. AOUNI: We are finalising it just -- at the break --

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. That would even be greater
11 if --

12 MR. AOUNI: The final revision. Within a few minutes,
13 Your Honours.

14 PRESIDING JUDGE VELDT-FOGLIA: Very well. Thank you for that.

15 I now look at the SPO and at Victims' Counsel.

16 Mr. Prosecutor, if it would come in in a few minutes, when would
17 the SPO be able to reply to it?

18 MR. DE MINICIS: Would Your Honour want to us reply in writing
19 or orally?

20 PRESIDING JUDGE VELDT-FOGLIA: Now, I can also -- it would be
21 fine if it -- it could also come in after our hearing this afternoon,
22 if you want to do it writing. Then it should be in by, I would say,
23 5.00. But if can you do it orally, then it would even be better.

24 MR. DE MINICIS: We'll be able to respond whenever Your Honours
25 want us as we resume the hearings.

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1 present.

2 So we adjourn for one hour. Thank you.

3 [Trial Panel confers]

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
5 please bring us into public session, please.

6 ~~[Open session]~~

7 THE COURT OFFICER: Your Honours, we're back in public session.

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

9 We noticed that Mr. Shala is not here anymore, so we will not
10 proceed with the hearing. There was one point I wanted to make, but
11 I will do that in the presence of Mr. Shala.

12 What I can say in the presence of you all, that I would like to
13 start -- that we are considering to start tomorrow at 9.00, and after
14 the break I will come back to that.

15 And, yes, we will now have a break till 2.00.

16 --- Luncheon recess taken at 1.05 p.m.

17 --- On resuming at 2.03 p.m.

18 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. And I will ask for
19 appearances. I see there on my right-hand side --

20 MR. DE MINICIS: Yes, Your Honour. Federica Genovesi left the
21 courtroom for the afternoon.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

23 And Victims' Counsel is in the same composition. I see
24 Victims' Counsel nodding. Thank you.

25 And then the Defence team.

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1 MR. GILISSEN: Yes, Ms. Chen, Kailin Chen, is with us again.

2 PRESIDING JUDGE VELDT-FOGLIA: Okay, very well. Thank you. We
3 noted that.

4 Mr. Shala, can you hear the translation well?

5 THE ACCUSED: [via videolink] [Interpretation] Yes, I can hear
6 you well.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

8 And before we continue, I would like to organise -- or to do
9 some planning.

10 Defence Counsel, how much time do you think that you would still
11 need for your examination-in-chief?

12 MR. GILISSEN: So I have the feeling if this thing are right,
13 will be right, perhaps the rest of the afternoon. I think so.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel.

15 Very well. We received the submissions of the Defence, at
16 13.42, with regard to the documents proposed by the Specialist
17 Prosecutor's Office.

18 Mr. Prosecutor, are in a position at the end of the hearing to
19 react on it orally, or we can give you even some time even to do it
20 in writing? And we would like to receive it by 5.00, if that would
21 be possible.

22 MR. DE MINICIS: Your Honour, I received it just as I was coming
23 to court, so I was just reading it now as I was waiting for the Panel
24 to come back. And I think that we may be in a position to respond
25 orally. Yes.

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1 ~~[Open session]~~

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

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 Madam Court Usher, could you bring the witness in, please.

5 [The witness takes the stand]

6 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Mahmuti. Can
7 you hear me well?

8 THE WITNESS: [Interpretation] Yes.

9 PRESIDING JUDGE VELDT-FOGLIA: Very well.

10 Mr. Shala, did you hear the witness?

11 THE ACCUSED: [via videolink][Interpretation] Yes, I can hear
12 very well.

13 PRESIDING JUDGE VELDT-FOGLIA: Very well.

14 Defence Counsel, you have the floor again to proceed -- to
15 continue with your examination-in-chief.

16 MR. GILISSEN: Thank you very much.

17 Q. Good afternoon, Mr. Witness.

18 A. Good afternoon.

19 MR. GILISSEN: With your leave, Madam President, I would like to
20 show to the witness a picture of a person, but the best, in my
21 opinion, it's -- that's -- this is not to disclose to the public, for
22 a recognition or no recognition of the person who is on the picture.

23 PRESIDING JUDGE VELDT-FOGLIA: Well, I see no objections. So,
24 please, Defence Counsel, proceed with giving the number to
25 Madam Court Officer.

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1 MR. GILISSEN: Thank you very much. I would like to show ERN
2 059113-059144, at page 15. This is not to be disclosed to the
3 public, as I said.

4 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

5 MR. GILISSEN: May I? Thank you.

6 Q. So, Mr. Witness, do you recognise this person that appears on
7 the screen you are watching to?

8 A. No, I've never seen him.

9 Q. Thank you very much.

10 PRESIDING JUDGE VELDT-FOGLIA: Can the picture be taken off?

11 MR. GILISSEN: We can take it down, absolutely.

12 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

13 MR. GILISSEN: So I would like to address another topic in
14 relation with the case in public, under your control, of course, as
15 is ...

16 Q. So, Mr. Witness, did you ever write a book about or in relation
17 with the situation of Kosovo in 1998, 1999, or before?

18 A. In 2015, I published in Albanian the book "Blood Libel" which is
19 a political analysis of the events that a portion -- a portion of
20 this of what happened during the war in Kosovo, with particular
21 emphasis on the manipulations that were done using that war and the
22 misinterpretations of what happened during the war. That book was
23 translated into English and distributed. It was translated also in
24 French and published in France by the publishing house Harmattan, and
25 also in other languages, translated and distributed.

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1 If you allow me to add one more thing, this is a book which
2 meets all the scientific criteria because the facts have been dealt
3 with based on -- with objectivity to the level that this book can be
4 found now in prestigious university libraries, such as Harvard,
5 Cambridge, Oxford, and the seat library of the United Nations in
6 Geneva, and many other libraries. I have also published novels but I
7 don't --

8 PRESIDING JUDGE VELDT-FOGLIA: Sorry --

9 THE WITNESS: [Interpretation] but I'm not sure that my novels
10 would be of any relevance in this context.

11 PRESIDING JUDGE VELDT-FOGLIA: Please --

12 MR. GILISSEN: Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: No, I will not allow again that
14 you elaborate so much on a question. A simple "yes" or "no" would
15 have sufficed here. So, please we are not here to make conferences.
16 You are here to ask -- to reply to the questions of the Defence.

17 Defence Counsel, please proceed.

18 MR. GILISSEN: The next question, to be precise, is what is the
19 book about, but I think the witness has already answered to this
20 question, I consider. Yeah.

21 Q. So, Mr. Witness, can you tell us about what sources and
22 methodology you used for your research to write this book?

23 A. The sources on which the argumentation of this book are based
24 are mainly Serbian sources, over 95 per cent of the sources are
25 Serbian, and some other sources are French, or others. There are

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1 very few Albanian sources in this book.

2 Q. So you didn't hide us your political opinion. And are you able
3 to differentiate between your personal political opinion and
4 involvement, because you had it, with the liberation of Kosovo and
5 the facts related in this book?

6 PRESIDING JUDGE VELDT-FOGLIA: Before you answer.

7 Defence Counsel, what did you mean with "you didn't hide us your
8 political opinion"?

9 MR. GILISSEN: Mr. Mahmuti explained he was part of KLA, he a
10 lead role in this KLA, and so and so --

11 PRESIDING JUDGE VELDT-FOGLIA: Okay. But it's good -- if you
12 make references --

13 MR. GILISSEN: It's not --

14 PRESIDING JUDGE VELDT-FOGLIA: -- then it's good that you make a
15 reference to the transcript, because I -- we don't if you were
16 referring to the book --

17 MR. GILISSEN: Okay. That's sure.

18 PRESIDING JUDGE VELDT-FOGLIA: -- or to the transcript.

19 MR. GILISSEN: It's the best. So I will provide it. But if we
20 want not to lose time, I could provide it after the answer, perhaps.

21 PRESIDING JUDGE VELDT-FOGLIA: Of course. You have the team at
22 your disposal, yes.

23 MR. GILISSEN:

24 Q. Perhaps to ask the witness to answer to the question now? I
25 think so.

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1 A. Can I answer? In this book, none of my political viewpoints or
2 interpretations are contained in there. This is based on
3 indisputable Serbian sources which bring to the surface the reality
4 of what happened.

5 As a representative of the KLA, I avoided any interpretation of
6 the facts because there was a danger that this would then be
7 interpreted or seen as a subjective analysis where I portray my
8 political beliefs. None of my political positions are expressed in
9 the book. These are facts that cannot be challenged or disputed by
10 anyone.

11 MR. GILISSEN: I'm able to provide you with the transcript
12 reference. It's page 38, 39. Page 38, line 22, and page 39, line 2.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel.

14 MR. GILISSEN: Thank you very much.

15 Q. So, Mr. Witness, what knowledge, what kind of knowledge allow
16 you to treat and write a book on this topic?

17 A. I am a political scientist and I graduated from a world-renowned
18 prestigious university. I have dedicated my intellectual abilities
19 to elucidating the facts that happened in Kosovo. My entire
20 commitment was to bring in there indisputable facts, because I am
21 fully aware, intellectually speaking, that from the moment when you
22 tried to put only facts, your political beliefs, then you -- that can
23 be -- this can be misleading. I started from the point that facts
24 could only be elucidated based on Serbian sources.

25 My book is a scientific work. Each chapter has the prologue

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1 containing the Serbian propaganda, and this chapter then would finish
2 with another prologue with sources, references to another Serb who
3 then denies what comes first. I have only used -- I've quoted Serge
4 Halimi, director of *Le Monde diplomatique*, a French journalist, who
5 refers to writings by reporters from *El País* in Spain, to deny the
6 genocide that happened in Kosovo.

7 In the epilogue, I have quoted a pathologist, French pathologist
8 who had been asked by the ICTY to investigate the crimes committed in
9 Kosovo, and this pathologist wrote the book titled "20 years amongst
10 the dead."

11 PRESIDING JUDGE VELDT-FOGLIA: If I raise my hand, please stop
12 talking. This was quite a long answer which was not only on the
13 sources.

14 Defence Counsel, if you see that the witness is going a little
15 bit broader, please stop him yourself, because I don't want to
16 interrupt your witness. So I leave that to you.

17 MR. GILISSEN: I will try.

18 PRESIDING JUDGE VELDT-FOGLIA: Yeah, no. No. It is more than
19 "I will try."

20 MR. GILISSEN: No, no, we will --

21 PRESIDING JUDGE VELDT-FOGLIA: Because if not, I will cut the
22 witness while talking. And I don't want to do that because that's
23 very uncomfortable because he wants to share certain information with
24 this Panel.

25 MR. GILISSEN: I'm going to make it anyway.

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1 PRESIDING JUDGE VELDT-FOGLIA: Okay, thank you.

2 MR. GILISSEN:

3 Q. Mr. Witness, and please answer to the question, what do you know
4 about the kind of methods used by Serbian services, secret police or
5 security services? And please, how did you become aware of the
6 existence of this information?

7 PRESIDING JUDGE VELDT-FOGLIA: Before you start answering. The
8 question is not completely clear in the transcript. "What do you
9 know," I read, "about the kind of," and then it's not.

10 MR. GILISSEN: Of methods.

11 PRESIDING JUDGE VELDT-FOGLIA: Methods, okay, used --

12 MR. GILISSEN: Methods used by the Serbian secret service,
13 police service or security services.

14 PRESIDING JUDGE VELDT-FOGLIA: But in which respect? This is a
15 very vague question. In which respect you want the witness to
16 elaborate?

17 MR. GILISSEN: Yeah. We can say the secret services, I think
18 so.

19 PRESIDING JUDGE VELDT-FOGLIA: Sorry?

20 MR. GILISSEN: We can say secret services, Serbian secret
21 services.

22 PRESIDING JUDGE VELDT-FOGLIA: Yes. But what do you know about
23 the methods used by the Serbian secret services?

24 MR. GILISSEN: Yeah, and possibly --

25 PRESIDING JUDGE VELDT-FOGLIA: And then my question is in which

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1 time-frame you want to know that, in relation to what. This is an
2 open -- an open question but it is too open.

3 MR. GILISSEN: I fully understand.

4 PRESIDING JUDGE VELDT-FOGLIA: You really have to narrow it
5 down.

6 MR. GILISSEN: I fully understand. And you are right. I'm
7 sorry, that's fault. So my question concerns the period of 1999,
8 perhaps 1998 and 1999, but particularly in 1999.

9 PRESIDING JUDGE VELDT-FOGLIA: And then I would like to know
10 with regard to which location and with regard to --

11 MR. GILISSEN: Yeah --

12 PRESIDING JUDGE VELDT-FOGLIA: -- what --

13 MR. GILISSEN: During the Kosovo war in Kosovo or even in the
14 different states around the Kosovo at this moment.

15 PRESIDING JUDGE VELDT-FOGLIA: But that is still too broad,
16 Defence Counsel. I won't allow for a question of this kind. You --
17 this could bring up any topic.

18 MR. GILISSEN: So the question concerns --

19 [Trial Panel and Court Officer confer]

20 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, do you need a break,
21 Mr. Shala?

22 THE ACCUSED: [via videolink][Interpretation] Your Honour, I
23 would need just a minute, a small clarification.

24 PRESIDING JUDGE VELDT-FOGLIA: No, no, you will not be allowed
25 now --

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1 THE ACCUSED: [via videolink][Interpretation] If -- if --

2 PRESIDING JUDGE VELDT-FOGLIA: No --

3 THE ACCUSED: [via videolink][Interpretation] If questions are
4 not allowed, then what I'm doing here? Please, Your Honour. If you
5 were from Bangladesh, I would understand. But you are a European
6 citizen and this is not a method to use.

7 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]

8 THE INTERPRETER: Microphone for Your Honour, please.

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, if I ask you to stop
10 talking, please adhere to my instructions. Your Defence Counsel is
11 here for you to defend your interests.

12 MR. GILISSEN: Yeah, and my question is not about generally
13 speaking, of course, about all the subject matter or topics and so
14 on.

15 Q. I would like you focus on the UCK, the members of the UCK, the
16 people involved in the war, something in relation with the case like
17 the one we are here in the Shala case.

18 PRESIDING JUDGE VELDT-FOGLIA: So if I may re-formulate to see
19 if I understand the question well. And, Defence Counsel, please, if
20 you think that the question needs to be adjusted, feel free to do so.
21 It's just that I want to know if we are listening to the same
22 question or at least that the witness is listening to the same
23 question.

24 You would like to know if the witness has any knowledge, and
25 then, of course, you want to know the basis of that knowledge, with

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1 regard to actions or methods, methods that was your word, methods
2 used by the Serbian secret services with regard -- in relation to the
3 KLA, and then for me it stops.

4 What do you want to know in relation to the KLA that the witness
5 will testify about?

6 MR. GILISSEN: And the people who were involved in the KLA. So
7 we know by this book, because we read it, that the witness explained
8 a lot of things about criminal cases and about the treatment of some
9 criminal cases by the Serbian authorities, and including the answers
10 to these cases by the Serbian judicial authorities. And I would like
11 to know -- first, to know if what he explained was used in Kosovo and
12 could be in relation with a case like this. If he have some
13 information about that. To explain the kind of method used and if we
14 are able to make a link with a criminal case like the one we are
15 dealing with.

16 PRESIDING JUDGE VELDT-FOGLIA: For me, it remains not clear what
17 you want to know from the witness. You must ask him a concrete
18 question. Really. I -- you know that I want to give you the space
19 you need, but this is not a question for the witness.

20 MR. GILISSEN: Okay. I have a --

21 PRESIDING JUDGE VELDT-FOGLIA: Maybe you have an answer in mind.
22 But I need a question.

23 MR. GILISSEN:

24 Q. So do you have any information about the employment by the
25 secret service in 1998, 1999 of people convicted or having problem

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1 with the police by the Serbian security service or secret services?

2 PRESIDING JUDGE VELDT-FOGLIA: There's one word lacking in your
3 question, Defence Counsel. "So do you have," and then --

4 MR. GILISSEN: Information.

5 PRESIDING JUDGE VELDT-FOGLIA: Do you have information --

6 MR. GILISSEN: About the employment of people convicted or
7 having problem with the police, Serbian police, by the Serbian
8 security services or secret services.

9 PRESIDING JUDGE VELDT-FOGLIA: And convicted, convicted people,
10 where? In Kosovo? In Serbia?

11 MR. GILISSEN: In Serbia and Kosovo. You know the situation of
12 Kosovo at this moment. It was in Serbia but with a particular
13 situation. But, yes, indeed, in Serbia and Kosovo. Did they used,
14 did they employ some convicted person or person who had problem with
15 the police services.

16 PRESIDING JUDGE VELDT-FOGLIA: And the police services, which
17 police services?

18 MR. GILISSEN: [Microphone not activated].

19 PRESIDING JUDGE VELDT-FOGLIA: For me, it is not that clear at
20 all.

21 MR. GILISSEN: It was the only one on the ground at this moment.
22 It was the Serbian police --

23 PRESIDING JUDGE VELDT-FOGLIA: So do you have information
24 regarding the secret service in 1998 and 1999 regarding convicted
25 people, either in Kosovo or in Serbia, that were having problems with

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1 the Serbian police? Or Kosovar police?

2 MR. GILISSEN: [Microphone not activated].

3 PRESIDING JUDGE VELDT-FOGLIA: With the Serbian police, yes.

4 Because of the Serbian security service. Is that your question?

5 MR. GILISSEN: Employment by the secret or security service,
6 Albanian security services, of these kind of people.

7 PRESIDING JUDGE VELDT-FOGLIA: You're saying that -- I don't
8 your questions.

9 MR. GILISSEN: Yeah.

10 PRESIDING JUDGE VELDT-FOGLIA: Are you saying that the secret
11 service were employing these convicted people?

12 MR. GILISSEN: That's what I would like to know.

13 PRESIDING JUDGE VELDT-FOGLIA: Yeah, but then I would insert it
14 in your question, Defence Counsel. So please pose it again to the
15 witness.

16 MR. GILISSEN: Yeah.

17 Q. Do you have information, do you have a knowledge about the
18 employment by the Serbian security or secret service of some persons
19 who were convicted and persons who had problem in the investigation
20 undertaken by the Serbian police?

21 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, and if I say
22 that your question is that if the secret service used -- used some
23 convicted persons, to recruit them, to work for them, is that what
24 you are saying?

25 MR. GILISSEN: That's what I would like to know, if -- if --

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1 PRESIDING JUDGE VELDT-FOGLIA: Yeah, no, if he has -- if the
2 witness has information.

3 MR. GILISSEN: Yeah, exactly.

4 PRESIDING JUDGE VELDT-FOGLIA: But then now we have a question.
5 Mr. Witness, please.

6 THE WITNESS: [Interpretation] Let me initially talk about the
7 sources. These are Serb sources. And let me cite Vuk Draskovic who,
8 during the war in Kosovo, particularly the gravest period from
9 April to -- from January to April 1999, had two key posts, held two
10 key posts, deputy prime minister of Yugoslavia and minister of
11 foreign affairs.

12 In 2015, Vuk Draskovic made it clear that Milosevic's
13 headquarters had come up with a decision for Albanians and other
14 Serbs and other ethnic -- any people from other ethnicities to be
15 killed so that the blame would be laid at the hands of the Albanian
16 Kosovo Liberation Army -- the Kosovo Liberation Army so they would be
17 painted as terrorists.

18 This is source is part and parcel of my book. This -- this book
19 is available there. It is online. You can easily find it out.

20 So this is a quote that comes from someone who held high
21 positions during the war. And he states that during the Panda case
22 in Peja case where six --

23 PRESIDING JUDGE VELDT-FOGLIA: No. We're not going to discuss
24 this case. We were asking for sources. You gave a source. And I
25 allowed you to elaborate a little bit more on Vuk Draskovic.

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1 If you have another source, you are allowed to it. But we are
2 not going to expand in other things.

3 The question was to have sources. Yeah? That's --

4 THE WITNESS: [Interpretation] The second source is the fund for
5 humanitarian rights, a non-governmental Serbian organisation based in
6 Belgrade, which in one of its dossiers on motorised brigades, the one
7 that is connected to the commander of Brigade 37, Dikovic, Ljubisa
8 Dikovic. In that dossier, it explains how 150 prisoners were freed
9 from Serbian jails. Two lieutenant-colonels were used to train them
10 in order for that brigade to be deployed to Kosovo so that they would
11 commit crimes, and these crimes would then be attributed to the
12 soldiers of the Kosovo Liberation Army. These are Serb sources.

13 One more thing, Your Honour. I took an oath here to tell you
14 the truth and only the -- all the truth and nothing but the truth.
15 And if I am not allowed to say the whole truth here, I fear that the
16 Trial Panel may get the wrong impression. I am hear to give answers,
17 but if I'm cut and not able to give the answers in their entirety,
18 not the whole truth will emerge.

19 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, you are directed to
20 give answers to the questions that are put to you. Yeah? And I will
21 tell you when it is our assessment that you're not answering anymore
22 to the question but that you are elaborating further on that. And we
23 are all aware that you have given an oath, but that has nothing to do
24 with that you -- you're saying that you're not able to tell the whole
25 truth. You will be put in a position to answer the questions to the

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1 best of your knowledge. That is what we ask you to do here.

2 And maybe there are a lot of things you want to share with this
3 Panel, but we are here -- you are here primarily because the Defence
4 has asked to you come and the Defence is asking you certain
5 questions. And you should answer those questions, not other
6 questions.

7 Defence Counsel, please proceed.

8 MR. GILISSEN:

9 Q. Yes, and may I add. Don't hesitate to slow your pace, first,
10 and stick to the question. That's a delicate process. We try to
11 make it with the agreement and the control of the Court. That's
12 normal. Sometimes my question is too open, too general, and that's
13 why I have to correct myself. It is painful to confess it, but it is
14 the reality.

15 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, we have now
16 discussed -- or we have now been given evidence on two sources.

17 I would like to you go back to the other part of the question,
18 which was this potential -- this alleged -- this attempt at
19 recruitment, because that was another important part of your
20 question. So please proceed with that.

21 MR. GILISSEN: Thank you very much.

22 Q. And do you have any information about the kind of mission these
23 persons that were recruited have to do, have to fulfil?

24 A. Their mission was crystal clear. Vuk Draskovic, the former
25 deputy prime minister of Yugoslavia, made it quite clear that their

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1 aim was to kill Serbs, Albanians and members of other ethnicities so
2 that these crimes would be blamed on the Kosovo Liberation Army. The
3 inclusion of convicted criminals into the secret services were
4 widespread. And I have put at the disposal of Defence Counsel
5 another source that suggested that in the case of the murder of the
6 Serbian prime minister Zoran Djindjic, 8.688 members of criminal
7 groups in Yugoslavia were -- have been arrested. People who were at
8 the service or serving under these Serbian secret services as such.

9 Q. Yes, thank you very much. But I would like to focus on things
10 that could be in relation with our case, the case of Mr. Shala. And
11 I would like to know if you are aware about some cases where the
12 Serbian judicial authorities decided that some evidence, some proof
13 has been fabricated, or if some false evidence was used in some
14 criminal cases, in relation, of course, with the Kosovo, with the
15 UCK, during the war, not generally speaking.

16 A. I can mention two cases, two criminal proceedings, one of which
17 is connected with the current case against Pjeter Shala. The first
18 one is the Panda case.

19 PRESIDING JUDGE VELDT-FOGLIA: No. We're not going -- Defence
20 Counsel, I told you -- and we will escort the witness now out and
21 then we will discuss it.

22 MR. GILISSEN: But I think understand exactly the point.

23 PRESIDING JUDGE VELDT-FOGLIA: Yeah, but we have to discuss it.

24 Mr. Witness, Madam Court Usher will usher you out.

25 [The witness stands down]

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1 PRESIDING JUDGE VELDT-FOGLIA: I see in your question - and we
2 are now at page 99, line 10 - and then you're asking the witness if
3 he is aware of some cases where the Serbian judicial authorities
4 decided that some evidence has been fabricated or maybe -- I
5 understood it as that they decided that evidence had to be
6 fabricated, and that they decided that false evidence had to be made.
7 Is that -- my point -- what I see here is that you say that there are
8 two cases in which apparently the Serbian judicial authorities,
9 according -- or at least that is your question, have created -- have
10 created evidence.

11 But -- or no, they decided -- that they decided that some
12 evidence has been fabricated.

13 I don't understand that question completely, so maybe you can
14 reformulate that.

15 And then the other question is if the witness knows about some
16 false evidence that was used in criminal cases. I think I already
17 made clear to you that we will not allow for this general line of
18 questioning. We want to have questioning related to the case of
19 Mr. Shala. So I -- we will not allow for this question, because I
20 gave the witness some space to answer, and then we ended up
21 discussing a case we decided that we should not have questions about
22 because you had not shown to the Panel - for now - the relevance to
23 the case of Mr. Shala.

24 So I leave it to you. But this question, in this way, I will
25 not allow for it, and that has everything to do with the reply of the

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1 witness in already his second sentence.

2 MR. GILISSEN: Yes.

3 PRESIDING JUDGE VELDT-FOGLIA: And if you want to go deeper
4 maybe into the questioning, maybe it's good that we go into private
5 session.

6 Madam Court Officer, can you bring us into private session.

7 Mr. Shala, you will have the floor as soon as we are in private
8 session.

9 ~~[Private session]~~ [Open Session] *Reclassified Pursuant
to F744*

10 THE COURT OFFICER: Your Honours, we're now in private session.

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

12 Mr. Shala, we have here your Defence Counsel. I will give you
13 the floor shortly. What do you want to say in this respect?

14 THE ACCUSED: [via videolink] [Interpretation] Thank you very
15 much.

16 You're not even allowing my Defence lawyer to ask questions.
17 Your Honour, if you had been from Bangladesh, I would have understood
18 this. However, you are a European citizen. And I don't know what
19 justice we're talking about if you're not allowing my Defence Counsel
20 to ask questions. In that case, you take it over, you ask the
21 questions. Let the Defence lawyer go home. There's no need to pay
22 him. You ask the questions then. I am hearing here only your
23 questions. You're not allowing the Defence lawyer to formulate any
24 sentence. You're intervening all the time.

25 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, thank you. I had

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1 not -- I can say something about this to you in order to try to
2 clarify.

3 Questions in this courtroom by this Panel will be allowed if
4 they are relevant to the case, and we cannot just discuss certain
5 topics in general. We want to see a relevance, a link to your case.
6 And I'm not going to discuss it further with you. I will now turn to
7 your Defence Counsel.

8 Defence Counsel, what is the -- the next question you would like
9 to pose in this respect? Or what is your -- or what would be your --
10 yeah, your remark, your observation with regard to what I just said
11 to you.

12 MR. GILISSEN: Indeed, you were right. The purpose was not to
13 obtain some information about one particular case or another, a case
14 about a coffee or something else. Of course. No. The question
15 concerns exactly and as the use of some convict person, if they --
16 there is some knowledge of the use of false evidence, you can say
17 fabricated evidence, we can use some words about that, but if the
18 witness has the knowledge about that. And if, according to him --
19 his knowledge, some method like this has been used in the criminal
20 case concerning the case in relation with the Kosovo war, the war in
21 Kosovo. And then, of course, step by step, if he has some
22 information or if he has something to say about the case of Mr. Shala
23 or not.

24 But I think to ask the question: Do you know if there was the
25 use of some false evidence in the case of Mr. Shala, it's a little

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1 bit short if we want to have a real information. I think so.

2 PRESIDING JUDGE VELDT-FOGLIA: I will give you the floor right
3 away, Mr. Prosecutor.

4 It boils down to that, Defence Counsel. Yes. I think I have
5 said it now already several times. It boils down to that. I gave
6 you some space to ask questions with regard to any information this
7 witness might have with regard to methods used by the Serbian secret
8 service, in regard to the KLA fighters, and apparently, I use your
9 words, false evidence, fabricated evidence.

10 We got an answer on that. He was very clear that, in his view,
11 that is the case. But I think that we are very quickly getting to
12 what has -- what could this have to do with the case of Mr. Shala.
13 So -- and I repeat, I don't want to limit your questioning, but I
14 need some relevancy to this case.

15 And before I give you the floor, I will give the floor to
16 Mr. Prosecutor.

17 Please.

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

19 Your Honour, we maintain our position on absolute lack of
20 relevant for the Panda bar issue to the case at hand. However -- and
21 I note that Defence Counsel did not ask about that case. The witness
22 made the connection himself. And now we have on the record:

23 "I can mention two cases, two criminal proceedings, one of which
24 is connected with the current case against Pjeter Shala. The first
25 one is the Panda case."

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1 Now, we maintain there is no relevance, but perhaps there would
2 be no harm in seeing why the witness sees a connection there, to have
3 the record on that, without the witness being prevented from
4 expressing his testimony, his view there, and, of course, with
5 Your Honours being watchful of where this issue goes. And avoiding
6 that it derails in the directions that Your Honour has made it clear
7 you don't want to go.

8 But right now we have a record where the witness states that.
9 We see -- there is no relevance of that case and there is no
10 similarity, but we would see no harm in the witness being allowed to
11 finish that answer.

12 Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: Yes, there was a little sigh from
14 my side because it has not been made clear yet -- and I've heard the
15 SPO, of course, but it has not been made clear yet by the Defence how
16 these cases could be linked to the case of the -- of Mr. Shala.

17 You have the floor.

18 MR. AOUINI: Thank you, Your Honour. And we appreciate the
19 candidness of our colleagues from the Prosecutor.

20 Just to mention that at page 99, at line 8, Mr. Gilissen asked
21 the question specifically in relation to our case. He said:

22 "Yes, thank you very much. I would like to focus on things that
23 could be in relation with our case, the case of Mr. Shala."

24 And without quoting the rest, he asked an open question,
25 starting by this introduction, if the witness has any cases that he

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1 can mention in this topic of manipulation of evidence, let's put it
2 generally, and the witness suggested Panda. So Mr. Gilissen, in our
3 submission, didn't put any Panda-related specific facts to the
4 witness. It is the witness who is establishing this link. And
5 Your Honours have directed us that if there is a connection and then
6 we can find out if we hear from the witness if there is a relation.
7 And then Mr. Gilissen would go specifically or move away if the link
8 is not evident.

9 But we believe that the question is completely permissible
10 because it was put with an introduction of a relation with Mr. Shala
11 and his cases and the specific topic.

12 So we urge Your Honours to allow this question that is open and
13 see what the witness would say about it.

14 PRESIDING JUDGE VELDT-FOGLIA: But, Mr. Aouini, could you
15 explain to the Panel, yeah, because that's my question and has been
16 my question already for several times, what is the link then in your
17 view between the Panda case and the case of Mr. Shala?

18 If you could -- because I asked it this morning. I did not get
19 answer. And right away you said, "No, no, we're not going to discuss
20 that." I discussed it now with Mr. Gilissen. Mr. Gilissen said to
21 me, "No, no, we are going to stay away from the Panda case."

22 So my impression is that your position is -- that's how I
23 understood it. I'm just listening, I'm listening to what you are
24 telling me because we did not see at first the relevancy. I
25 understood from your replies that it was not your intention to

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1 discuss the Panda case. So then I ask you, because this is your
2 witness, and, of course, you know what your witness is going to bring
3 to your Defence case, I'm asking you can you explain beforehand what
4 is the relevancy because -- for the case.

5 MR. AOUINI: Yes, Your Honours. And we confirm, I confirm on
6 behalf of Mr. Gilissen, that the intention is not to go and explore
7 Panda and the question was not meant to trigger a Panda discussion.
8 It is meant to make some kind of link between fabrication of
9 evidence, incentivisation of witnesses in criminal proceedings. And
10 then that these methods remain applicable from the time of the war or
11 topics related to the war and the KLA up until today with the
12 institution.

13 That's the purpose.

14 Panda came up in an answer, not in a question, Your Honour. So
15 if we are allowed some margin, Mr. Gilissen is allowed some margin,
16 we are very confident he knows how to prevent derailing the evidence
17 from the purpose. And the intention, again, is not to discuss Panda
18 unless the witness has a clear link which we will hear from him. But
19 the intention is to establish the methods, their relevance in time to
20 even -- to general criminal proceedings and up to the institutions
21 dealing with judicial processes related to Kosovo, related to the war
22 of liberation, to establish that link.

23 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] ...
24 establish a general link, you would agree with me that we have to get
25 to the case of Mr. Shala.

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1 MR. AOUINI: Mr. Gilissen is attempting to do that through
2 questions, Your Honours, and we have put --

3 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]

4 MR. AOUINI: Apologies. And Mr. Gilissen is trying hard to do
5 that through his questions.

6 MR. GILISSEN: Madam President, may I?

7 PRESIDING JUDGE VELDT-FOGLIA: Yes, of course, you may. But
8 what for me is important, what is the upcoming question you would
9 like to ask to Mr. Witness?

10 MR. GILISSEN: More than this. What we would like to do is to
11 know, first, did and does these services, Serbian services use this
12 kind of method. If the response is no, it's over. It is very
13 simple. Is the response a real one or not a real one, you are the
14 one who have to decide. If yes, does he consider he has some
15 information about the use of some methods in the, may I say, Kosovo
16 war case and particularly, of course, that's the next question, to
17 the Shala's case. We have a yes, we have a no. The Panda case or
18 the other one, and you know perfectly well what I am talking about,
19 it is not important. The thing is do we have some reliable
20 information with the use of such method. No, it's over. Yes, okay.
21 Is it or could it be part of the case like us? Up to the witness to
22 answer. And is he aware, yes or no, about the use of such method,
23 the use of convicted persons, of persons who have problem with the
24 police, the Serbian police, of course, or all the methods we were
25 talking about in the case of Mr. Shala. And the answer is yes or

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1 not. And if the answer is credible or not, up to you, of course.

2 PRESIDING JUDGE VELDT-FOGLIA: No, it's -- we are not there at
3 all. We are just eliciting information. That's where we are now.

4 If you talk about methods, I think it's good to have on record,
5 you ask the witness what kind of methods. Because I have heard you
6 saying some methods. Because if you refer to -- yes. I will allow
7 you to proceed with the questioning. I take on board what the SPO,
8 what Mr. Prosecutor has said, that we will ask, first, what in the
9 view of Mr. Witness is the link between the Panda case and the case
10 of Mr. Shala. I mean -- but that will be the first question because
11 I want to have that resolved right away. And then you can proceed
12 with your questions.

13 MR. GILISSEN: Yes, but I'm not interested with the Panda case.

14 PRESIDING JUDGE VELDT-FOGLIA: Sorry?

15 MR. GILISSEN: I'm not interested with the Panda case.

16 PRESIDING JUDGE VELDT-FOGLIA: No. But what I see is the
17 interest to have now, because the witness was able -- said that he
18 saw a relation, then I see the point of the Prosecution to have it
19 cleared why he does see it. And if it is not done now, it will come
20 back in cross-examination.

21 And, if not, maybe it will even be asked by us. We will
22 finalise this point here and then I give you the floor.

23 MR. GILISSEN: Yeah. The real questioning is about methods.
24 First, employment, as we saw, or we said; second, the thing we are
25 discussing just now; and, third is the witness about the use of such

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1 methods and even false - this is a third one - witness in some
2 criminal case and, according to him, does or did these kind of
3 methods used -- were used by the security services, according to him,
4 in the investigation that the Prosecutor received from the former
5 Prosecutor. As you know, that's a very long story of investigation
6 and delicate process and a painful one. We know that.

7 PRESIDING JUDGE VELDT-FOGLIA: What would be the question? What
8 are the basis of this knowledge? If you ask him if -- then the next
9 question would be, yeah, what are the basis for your knowledge.

10 MR. GILISSEN: Yeah, yeah, of course. Of course. I would like
11 to objectify the possible answer we would receive. It's not a
12 question to make a gossip here. We are in a court of justice.
13 That's sure. We have to try to objectify the information.

14 PRESIDING JUDGE VELDT-FOGLIA: Good. We will proceed. We are
15 now in private session.

16 Madam Court Officer, can you bring us back into public session.

17 ~~{Open session}~~

18 THE COURT OFFICER: Your Honours, we're in public session.

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

20 Madam Court Usher, can you usher the witness back in, please.

21 [The witness takes the stand]

22 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, welcome back.

23 THE WITNESS: [Interpretation] Thank you.

24 PRESIDING JUDGE VELDT-FOGLIA: Before I give the floor to the
25 Defence Counsel, I would like to go back to something you said

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1 before. You said that there are two cases, two criminal proceedings,
2 and one of which is connected with the case of Mr. Shala. And the
3 first case, you said that is the Panda case.

4 And what I like to know from you, yes, what is the connection
5 between the Panda case and the case of Mr. Shala?

6 THE WITNESS: [Interpretation] The issue connected to the
7 proceedings against Pjeter Shala is the second case, the Klecke case,
8 where --

9 PRESIDING JUDGE VELDT-FOGLIA: No, no --

10 THE WITNESS: [Interpretation] The second case, not the first
11 case. So it is the second case which is connected to Pjeter Shala
12 proceedings.

13 PRESIDING JUDGE VELDT-FOGLIA: So do I hear it right, do I
14 understand right that you say that the Panda case is not connected to
15 the case of Mr. Shala?

16 THE WITNESS: [Interpretation] It's -- we can deduce, imply and
17 understand how the Serbian secret service operated, killing
18 Albanians, Serbians, Montenegrins, and then taking innocent people
19 and forcing them to confess that they committed crimes. This is how
20 the services work. This is indirectly connected to the case of
21 Pjeter Shala.

22 However, the case of Bekim Mazreku is connected to a person who
23 is directly implicated.

24 PRESIDING JUDGE VELDT-FOGLIA: That part I will leave to the
25 Defence Counsel, if you would like to explore that further, because

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1 my question here was only to see the connection between the Panda
2 case and the case of Mr. Shala. And any other questions I will leave
3 to Defence Counsel, and we will continue when we deem it appropriate
4 to continue.

5 Defence Counsel, you have the floor.

6 MR. GILISSEN: Thank you very much, Madam President. Thank you.

7 Q. So, Mr. Witness, I do understand that, according to you, the
8 link between the case we are dealing with and the one you are
9 thinking about is about and concerning the method used by secret
10 service from Albania. Am I wrong? Do I understand correctly or not?

11 A. You meant Serbia, not Albania.

12 Q. I'm sorry. Yes. Miss of the tongue.

13 A. In the Panda case, it is exactly the way secret services work in
14 this direction. Whereas in the Mazreku case, there is an individual
15 who is involved in this case and who had contacts with the Special
16 Prosecution Office and gave a contribution to this Prosecution
17 office. So the second case is directly connected to the case of
18 Mr. Shala.

19 PRESIDING JUDGE VELDT-FOGLIA: Please, Defence Counsel, we have
20 to correct something in the transcript. The answer is not from the
21 Presiding Judge but from the witness.

22 Please proceed.

23 MR. GILISSEN:

24 Q. So please let's break it down step by step. If I understand
25 correctly, and you have to stop or correct me if I commit a mistake,

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1 you consider that you have some reliable information concerning the
2 use of criminal people who were convicted by the Serbian security
3 service, the use or even the fabrication of some evidences in some
4 criminal case concerning the Albanian person from Kosovo during the
5 year --

6 A. Yes.

7 Q. -- 1999 and 1998. Is it the case?

8 A. Yes. In the Panda proceedings, there are over 100 persons who
9 have been brutally tortured and six new persons were forced to sign
10 their confessions that they allegedly killed six Serbian and
11 Montenegrins in the Panda cafe and many policemen in the village of
12 Carrabreg and Prilep in the municipality of Decan. So there are two
13 sets of charges against them to which they confessed under extreme
14 torture. After ten months of investigations, during the court
15 proceedings held in Leskoc, when the court panel asked, "Why did you
16 sign the statement confessing to your crimes if you're denying it
17 now," they opened their shirts where cuts -- knife cuts could be
18 seen, burns, and terrible, horrible injuries and wounds, to the point
19 that the court suspended the proceedings. This was in October --

20 Q. May I interrupt you.

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

22 MR. GILISSEN: Yeah. Yeah, I --

23 PRESIDING JUDGE VELDT-FOGLIA: But next time please cut off
24 earlier. This is not the point.

25 MR. GILISSEN: Yeah, exactly.

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1 Q. We don't have this kind and we don't sustain, we don't claim
2 this is the case in the case of Mr. Shala. I talk to you about two
3 methods, I would like to know if some Serbian authorities recognise
4 the use of false witnesses or even witnesses of some events but the
5 statement was not correct with the reality.

6 A. Precisely in this case, just like in the other case, in the case
7 involving Bekim Mazreku who was tortured and forced to publicly state
8 to the reporter for military matters, his name is Drecun --

9 Q. Mr. Witness, I'm sorry.

10 A. -- during an interview --

11 Q. I'm sorry to interrupt you, but I think it's necessary. It not
12 a question of torturing some false witness. It is the -- the
13 question is: Do you have some information about the use of witnesses
14 that -- so-called witnesses that wilfully make some false statement?
15 This is the point. I think so.

16 PRESIDING JUDGE VELDT-FOGLIA: In the Shala case. Eventually in
17 the Shala case. I mean, you were -- I won't insist. You know the
18 view of the Panel. It has to have a link to the Shala case
19 eventually.

20 THE WITNESS: [Interpretation] If you allow me to explain, I will
21 explain how this -- these proceedings, these proceedings are
22 connected to the Shala case. Who is Mr. Drecun? He is a reporter
23 who tries to obtain a false testimony, statement from an arrested
24 person after which he is sentenced, found guilty. He is sentenced to
25 20 years in prison, together with his brother, despite the fact that

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1 it had been established that he had been arrested one year and 27
2 days before the case -- the Klecke case. After the fall of
3 Milosevic, he is released of the charges and returns to Kosovo.

4 Milovan Drecun was a journalist against whom the independent
5 journalists association filed criminal charges, meaning against
6 Milovan Drecun, for incitement of crimes in Kosovo. And precisely
7 this Milovan Drecun gave an interview to a TV station on 28 September
8 2020 where he states that he had had contacts with the Specialist
9 Prosecution. He says the Prosecutors did not know what to do. They
10 didn't have a lead: I held them. I instructed them how to
11 investigate. I told them that there were 159 detention centres held
12 by the -- operated by the KLA, six of which were in Albania. And he
13 adds that he's happy to have helped the Specialist Prosecutor to
14 qualify the KLA as a joint criminal enterprise. The detention
15 centres are a product of the Serbian propaganda and this is directly
16 linked to the proceedings in Pjeter Shala case.

17 Q. So do you consider you have any element to link this method to
18 the Prosecution on all the investigations used before this Tribunal
19 in this case?

20 A. I don't know which methods were used. However, in his
21 statements --

22 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, could you try to
23 speak at a slower pace. That will assist the interpreters to
24 translate everything that you are saying.

25 THE WITNESS: [Interpretation] I don't know exactly how the court

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1 proceedings took place because I would have been very much busy with
2 writing a book, which I hope to publish on 15 May, the day of the
3 genocide.

4 However, what I know is that Milovan Drecun states that he gave
5 all his files to the Prosecution office and directed -- instructed
6 the Prosecutor, Prosecution office as to their investigations. And
7 he says, "I have received a letter of gratitude in writing by the" --
8 from the Prosecution office for his contribution to them.

9 I have not finished. With your permission, can I continue?

10 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] ...
11 your witness, Defence Counsel.

12 MR. GILISSEN:

13 Q. I would like that have a complete answer, if it is in link with
14 the question, of course.

15 PRESIDING JUDGE VELDT-FOGLIA: So the fact that you were
16 publishing a book on the -- that you will publish a book is not
17 relevant. So try to stick to your -- to the questions.

18 THE WITNESS: [Interpretation] I will continue my answer.

19 So specifically the witnesses that were secured by the team
20 leading and those working for the Specialist Prosecutor's Office,
21 following a man -- following the instructions and statements of a man
22 who is accused of war crimes by Serbia itself is -- are false
23 statements. This was done also by --

24 THE INTERPRETER: The interpreter didn't get the name.

25 THE WITNESS: [Interpretation] And in Kosovo -- in Croatia and in

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1 Kosovo.

2 THE INTERPRETER: But the same individual did the same thing in
3 Croatia and Kosovo.

4 MR. GILISSEN:

5 Q. Are you able enough to repeat the name? Because it seems that
6 the interpreter, they don't have it.

7 A. Milovan Drecun is such an individual that he led the group who
8 offered evidence and witnesses to the Specialist Prosecutor's Office,
9 and this person, if he wants to achieve his objectives, he will -- he
10 is capable of securing, finding witnesses who will testify that the
11 entire members of the Prosecution office have committed war crimes.

12 PRESIDING JUDGE VELDT-FOGLIA: Could you ask, Defence Counsel,
13 for the basis of the knowledge of your Defence witness.

14 MR. GILISSEN:

15 Q. So we would like to know the basis of your knowledge about all
16 the facts you are talking. Are you able enough to quote your
17 sources?

18 A. The source of this information is the broadcasting interview
19 where the gentleman says exactly the words I just mentioned, without
20 changing anything, without interpreting them. He says literally he
21 oriented the Prosecution office as to the direction in which they
22 would -- they should follow the investigations, develop their
23 investigations.

24 So you have a warring party representative taken by the -- used
25 by the Prosecution office to obtain evidence to prove that the KLA

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1 has committed crimes. This is an evidence, because the Prosecution
2 office did not react in front of this evidence to dismiss it or not.
3 On the contrary, they issued a certificate or letter of gratitude to
4 him, as he states.

5 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, it is very much
6 that we would like to have from you a witness who is testifying based
7 on his own knowledge, yeah, with regard to the case of Mr. Shala. I
8 hope you see that. And I'm not going to allow, after having heard
9 the source, if it is something that has been on the broadcast -- this
10 is not the way to introduce this type of evidence. I hope you will
11 agree with me on this matter.

12 MR. GILISSEN: Yeah, I would like to be sure that this
13 information concerning cases -- concerning our jurisdiction in KSC
14 and particularly the case of Mr. Shala. Did -- does this person, did
15 this person talk about the case or the case we have to deal with here
16 in Den Haag before the KSC, and it means the case in which Mr. Shala
17 is included in.

18 MR. DE MINICIS: Your Honour.

19 PRESIDING JUDGE VELDT-FOGLIA: Yes, you have the floor.

20 MR. DE MINICIS: Maybe before the witness answers. We've been
21 talking now -- the witness has been talking about an interview of
22 this individual whose name has been given. This Panel would request
23 at least -- I'm not sure if the Defence is in possession of this
24 interview at this time, but at least some indications of what
25 interview we're talking about, when it was given, where it was

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1 broadcast, on which date. That will allow us at least to follow the
2 witness's testimony more precisely.

3 PRESIDING JUDGE VELDT-FOGLIA: Yes.

4 Defence Counsel, up to you to ask that information to the
5 witness. But also I repeat my guidance that we would like to have
6 evidence from the witness with regard to the questions -- or
7 knowledge with regard to the case of Mr. Shala. Because, if not, I
8 can imagine that you will be calling other witnesses to give from
9 their own knowledge. So in addition to the question of the
10 Defence -- of the SPO to have more information with regard to this
11 source --

12 MR. GILISSEN: Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: -- I think that it is clear what
14 I mean.

15 MR. GILISSEN: And it could be my last question because I
16 consider we discuss about the purpose of the presence of the witness
17 here. As you know, we would like to summon one witness that refused
18 to come and this is the following, may I say, of the testimony of
19 Mr. Mahmuti.

20 Q. So, Mr. Mahmuti, do you have some elements between all these
21 methods you were talking about and the case of Mr. Shala?

22 PRESIDING JUDGE VELDT-FOGLIA: Sorry, Defence Counsel, for me
23 the question is not clear.

24 MR. GILISSEN: Okay. I will try to reformulate it.

25 Q. Do you have some elements you can add about a real link, a

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1 direct link between the method you were talking about, using by the
2 secret service, during the period we were talking about, 1998, 1999,
3 and the case of Mr. Shala?

4 Do you have some elements to add or to provide us to be able to
5 deal with?

6 A. The issue of the video recording, I can obtain that. It is 16
7 minutes and something. The issue of the connection is very clear, in
8 my view, because Drecun in this interview says that the Prosecution
9 office did not know. And the source of the detention centres, about
10 the six detention centres in Albania was given. This information was
11 given by Drecun. So this is a -- a clear connection as to who made
12 up the existence of these detention centres, and Mr. Shala is charged
13 with similar charges.

14 So he informed them because the Prosecution office did not know.
15 If you listen to him, he literally says "*luta*" [phoen], that's a
16 Serbian word which is a depreciative word used with respect to the
17 Prosecution work meaning that they are just hanging around and they
18 were unable to find evidence.

19 However, with respect to the video recording, I can obtain that
20 as soon as I leave the courtroom.

21 Q. Yes, thank you very much. I know that's painful sometimes, the
22 way we use in this court could be a very strange one for the one who
23 are not used with. But thank you very much. I have no more
24 questions to ask.

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

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1 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

2 There's a question in order to understand better, Mr. Witness.

3 You're talking about six detention centres. But is one of these
4 detention centres -- do you know the names of these detention
5 centres? You mentioned this. Do you know which detentions they are?

6 THE WITNESS: [Interpretation] In the interview of Milovan Drecun
7 this is mentioned in general terms --

8 PRESIDING JUDGE VELDT-FOGLIA: No, no. Stop, stop.

9 THE WITNESS: [Interpretation] -- saying that out of 159
10 detention centres, six of them were in Albania.

11 PRESIDING JUDGE VELDT-FOGLIA: Yes. My question is only do you
12 know the names of the detention centres. That was my question. And
13 I heard you say, I understand from you that they were just mentioned
14 in general terms.

15 So your answer is: No, I don't know about which detention
16 centres he is talking. Is that right?

17 THE WITNESS: [Interpretation] They are not mentioned.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

19 So if you say that there is a link, a direct link, a real link,
20 yeah, to the case of the accusations against Mr. Shala, if I
21 understand well, you don't know if this person is referring to this
22 case, to his case?

23 THE WITNESS: [Interpretation] If you allow me to explain.

24 PRESIDING JUDGE VELDT-FOGLIA: No, no, no, no. I just want to
25 know, yeah, if you heard in this interview mentioning, yeah, the

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1 place which is mentioned in the indictment which contains the charge
2 against Mr. Shala.

3 THE WITNESS: [Interpretation] No.

4 PRESIDING JUDGE VELDT-FOGLIA: Good.

5 Let me see the time. It is half past 3.00. Mr. Prosecutor, at
6 this moment in time, what would be your preference? To proceed --

7 MR. DE MINICIS: Your Honour, we still need to respond to the
8 Defence objection on the use of our documents. I would like maybe
9 just some time to go over them. We received them as we were
10 literally walking down to the courtroom. So time to look at them, to
11 respond to the objection would get us pretty close to the end of the
12 today.

13 With the Panel's leave, we would be happy to start tomorrow.

14 PRESIDING JUDGE VELDT-FOGLIA: Very well. What we will do is
15 please provide us with your submissions with regard to the
16 submissions -- or your reply to the submissions of the Defence
17 regarding the documents you want to use tomorrow in cross-examination
18 by 5.00, or before, of course, but at the latest at 5.00.

19 We will continue tomorrow with cross, then we will have
20 Victims' Counsel, and then the Panel might conclude with questions
21 that they might have on their side.

22 Yes, we will start tomorrow then at 9.00.

23 Mr. Witness, thank you very much for your testimony today. I
24 remind you that you should not discuss with anybody your testimony
25 you have been giving in court today. We see you again tomorrow

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1 morning at 9.00. Thank you very much.

2 THE WITNESS: [Interpretation] Thank you.

3 [The witness stands down]

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Usher.

5 Before we proceed, is there anything the Prosecution would like
6 to raise with the Panel?

7 MR. DE MINICIS: No, Your Honour. Thank you.

8 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel.

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

10 PRESIDING JUDGE VELDT-FOGLIA: Very well.

11 And, Defence, would you like to raise something with the Panel?

12 MR. GILISSEN: Just one thing, Your Honour.

13 Lawyers are very strange persons, and particularly the jurists
14 who are lawyers, and Mr. Shala is not one of us, so I'm sure you are
15 able, Your Honours, to understand that sometimes Mr. Shala has some
16 feelings that things are not going in the way he would like or he
17 understand. He can have some misunderstandings. I have to confess
18 that in the criminal proceedings, international procedure, sometime I
19 don't understand too. So I'm sure you will -- you are able to
20 understand that if Mr. Shala is boiling sometimes, it's not because
21 he is a bad guy or it's not a lack of respect for the process and for
22 the Court.

23 Thank you very much.

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

25 Defence Counsel, and rest assured that this Panel takes that on

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1 board.

2 Very well. Then we will, at this time, thank our interpreters
3 and our stenographer - it was an intense day - and our audiovisual
4 booth and our security.

5 We will proceed tomorrow at 9.00. The hearing is adjourned.

6 --- Whereupon the hearing adjourned at 3.32 p.m.

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