

1 Tuesday, 21 November 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, Madam Court Officer.

10 On my right-hand side, the Specialist Prosecutor's Office. Who  
11 is present today?

12 MR. MICHALCZUK: Good morning, Your Honours. Good morning,  
13 everyone inside and out of the courtroom. The SPO is represented  
14 today by Gaia Pergolo, the Associate Prosecutor; Line Pedersen, who  
15 is our case manager; Federica Genovesi, who is our SPO intern; and  
16 myself, Cezary Michalczuk, SPO Prosecutor. Thank you.

17 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, you have the  
18 floor.

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

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

22 And on the left-hand side, the Defence team. Mr. Gilissen.

23 MR. GILISSEN: Thank you very much. Good morning. Good  
24 morning, Your Honours. So we are here today with Mr. Shala. I'm  
25 Mr. Jean-Louis Gilissen. We are here with Mr. Hedi Aouini,

1 Ms. Leto Cariolou, Dzeneta Petravica, Juliette Healy and Judit Kolbe.  
2 Thank you very much.

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

4 Good morning, Mr. Shala. Can you confirm that can you hear me  
5 well?

6 THE ACCUSED: [via videolink] [Interpretation] Good morning.  
7 Yes, I can hear you very well.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

9 Today we will continue with the testimony of Witness W03887,  
10 Mr. Zijadin Hoxha, who will testify in public.

11 Is there anything parties or Victims' Counsel would like to  
12 raise with the Panel?

13 Mr. Prosecutor.

14 MR. MICHALCZUK: Yes, Your Honour. Thank you very much.

15 We would like to seek leave of the Panel to add to our  
16 presentation queue for the cross-examination two items. There are  
17 two partials of videos of the SPO interviews of Mr. Zijadin Hoxha.  
18 It is going to be Part 1 and Part 2, partials, just really ten  
19 seconds each.

20 The reason for the late addition is that only yesterday  
21 Mr. Hoxha mentioned certain dates that do not correspond to the dates  
22 that he mentioned in his SPO interview. So we would like to show him  
23 the videos and ask him about certain dates.

24 We also believe that there is no prejudice towards the Defence  
25 in relation to that because the videos of the -- of Mr. Hoxha's

1 interviews were disclosed to the Defence in a redacted form but in  
2 entirety already on 9 November of this year. Thank you.

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

4 Victims' Counsel, anything you would like to submit which  
5 relates to this --

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

7 PRESIDING JUDGE VELDT-FOGLIA: -- or something else?  
8 Defence Counsel.

9 MR. GILISSEN: Thank you very much. We don't know which part of  
10 the video we are talking about. But all of us, we are searching for  
11 the truth, so I don't have any objections. Thank you.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

13 What I heard, in order to answer your question instead of the  
14 SPO, and he will add to it if I leave something out, it is regarding  
15 the dates. Yesterday there was a short discussion, a short exchange  
16 about if it was in the month of May or the month of April.

17 I see Mr. Prosecutor nodding.

18 MR. MICHALCZUK: That is, indeed, the case. We had this issue  
19 with the dates when Mr. Hoxha entered the Kukes premises, and we  
20 would like to clarify that, showing him partials of the videos.

21 Maybe for the record, the items that we're going to add to the  
22 presentation request are the following. 077857B, Part 1. It is  
23 going to be partial. And the same -- the second item would be  
24 077857B Part 2, also partial.

25 PRESIDING JUDGE VELDT-FOGLIA: Yes. And from the top of my

1 head, this is Disclosure Package, you sent it Thursday, 192.

2 MR. MICHALCZUK: [Microphone not activated]

3 PRESIDING JUDGE VELDT-FOGLIA: Yes, yes, yes, yes. We will take  
4 a decision on this later on but we have noted it for now. Thank you,  
5 Mr. Prosecutor.

6 And thank you to the Defence.

7 Anything to raise? No? Nothing.

8 Good. Yes, we will now proceed with the testimony of Witness  
9 W03887. Defence Counsel, I remind you for the need for open  
10 questions. And with regard to time management, I noted that you used  
11 three hours and a quarter, and that you yesterday informed us that  
12 with a generous estimation you would still need an hour. We take it  
13 from here. It is noted. And we will usher now the witness in.

14 I see your colleague standing.

15 Please, you have the floor.

16 MR. AOUINI: Thank you, Your Honour. Just one housekeeping  
17 matter. Since we are mentioning addition of items, we also sent an  
18 e-mail to request the addition of a couple of items to conform to  
19 Your Honours' instruction of yesterday.

20 PRESIDING JUDGE VELDT-FOGLIA: That was noted. And that point  
21 we will discuss after we have looked at the, I think, if I counted  
22 well, the eight excerpts of video still to go. Then we will go into  
23 that too. Thank you.

24 Good. Madam Court Usher, can you usher the witness in.

25 [The witness takes the stand]

Witness: W03887 (Resumed) (Open Session)  
Examination by Mr. Gilissen (Continued)

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1           PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Witness. Can  
2 you hear me well?

3           THE WITNESS: [Interpretation] Yes, I can.

4           PRESIDING JUDGE VELDT-FOGLIA: Good.

5           Mr. Shala, can you hear the witness?

6           THE ACCUSED: [via videolink] [Interpretation] Yes, I can,  
7 Your Honour. Good morning. Good morning.

8           PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, how are you today?

9           THE WITNESS: [Interpretation] I'm well. Thank you.

10          PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, I remind you that  
11 you are still under oath to tell the truth. You understand that?

12          THE WITNESS: [Interpretation] Yes, I do.

13          PRESIDING JUDGE VELDT-FOGLIA: Very well.

14          Defence Counsel, I give you the floor to finalise your  
15 examination-in-chief.

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

17                                   WITNESS: W03887 [Resumed]

18                                   [Witness answered through interpreter]

19                                   Examination by Mr. Gilissen: [Continued]

20          Q. Good morning, Mr. Witness.

21          A. Good morning.

22          MR. GILISSEN: So with your leave, Your Honour, I would like  
23 Madam Court Officer - good morning, Madam Court Officer - displays on  
24 the screen not the first excerpt we announced. I think we could skip  
25 it because it was just to prove the continuation. So the first

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1 excerpt was 0 to 7 seconds, I think so we don't need it anymore. I  
2 think so.

3 And we can go to another excerpt, ERN 078252-01 and to show the  
4 excerpt from 8 seconds until 2 minutes and 30 seconds.

5 Thank you very much.

6 PRESIDING JUDGE VELDT-FOGLIA: Yes, I have a look at it. So  
7 from 8 seconds till 2 minutes and 30 seconds. Okay.

8 Very well. Madam Court Officer, please proceed.

9 I saw that in your filing you gave a much longer proposal with  
10 regard to -- thank you for making that shorter because it is kind of  
11 repetition. Yes.

12 [Video-clip played]

13 PRESIDING JUDGE VELDT-FOGLIA: Yes, 02:30, wasn't it? Yes.

14 Mr. Gilissen, you have the floor.

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

16 Q. Mr. Witness, did you film this video?

17 A. Yes, I did.

18 Q. Yes. And when did you film this excerpt of the video?

19 A. This recording was made on 2 June 1999.

20 Q. Yes. And when -- where? Where did you film this excerpt?

21 A. As a matter of fact, it is in the office of Latif Fejzullahu.  
22 It is inside the factory.

23 Q. Is it the place where you sleep --

24 PRESIDING JUDGE VELDT-FOGLIA: No, no. You already asked the  
25 question.

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Examination by Mr. Gilissen (Continued)

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1 MR. GILISSEN: Yeah.

2 THE WITNESS: [Interpretation] Yes. This room, as I mentioned  
3 earlier, I also used it to sleep in. There were three beds, but  
4 there were four of us using it to sleep in there.

5 MR. GILISSEN:

6 Q. Yes. I would like to know was it a small room? What can you  
7 describe? We have some vision of the room but not a full one. I  
8 would like to have some information about the area.

9 A. It is about 9 to 10 square metres, no more than that.

10 Q. Thank you very much. And what is the scene we are seeing? What  
11 are we seeing? What was the event at the moment you filmed that, the  
12 excerpt?

13 A. This was after quite a tiring day and also a bad day, after the  
14 funeral of the martyr Abdurrahman Gerdellaj. And in the evening, it  
15 just so happened that we all met and then we all spent time there  
16 together as friends. And, as an Albanian saying says, brave men are  
17 not to be -- the lives of brave men are not to be lamented but to  
18 sing songs to.

19 Q. Was it common for you to gather and sing during the evening?

20 A. No. This was both the first and the last time.

21 Q. Thank you very much.

22 MR. GILISSEN: For the purposes of identification of the people  
23 we are seeing on this excerpt, I would like to go to certain stills  
24 of the scene.

25 Could we please go to the still image at 17 seconds.

1           PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
2 Officer.

3           MR. GILISSEN: Thank you very much. Thank you.

4 Q. Mr. Witness, who is the man we are seeing on the left?

5 A. The person at the left is Latif Fejzullahu.

6 Q. Thank you. And who is the man in the middle?

7 A. That man is Shefki Abdullahu.

8 Q. Yes. And the last one, who is he?

9 A. That is Ismet Thaci.

10 Q. Thank you very much. And do you know to which unit these  
11 persons belong to?

12 A. All of us present belonged to the logistics unit.

13 Q. Thank you. Thank you very much.

14           MR. GILISSEN: Could we please move to the still image at  
15 30 seconds.

16           PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
17 Officer.

18           MR. GILISSEN:

19 Q. We can see a woman, perhaps two. I don't know. You have to  
20 inform us. Are you able enough to explain who are these persons we  
21 are seeing on the screen?

22 A. I do not know their names, to be honest. They were sanitary  
23 ladies.

24 Q. So did they have -- did they have something particular in their  
25 uniform to explain to the people they are part of the sanitary unit?



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1           PRESIDING JUDGE VELDT-FOGLIA: Can we clarify what "sanitary  
2 unit" or "sanitary ladies" means? It is not clear to me.

3           MR. GILISSEN:

4           Q. Is it possible for you to explain this idea?

5           A. So they are the nurses who gave the first aid to the soldiers.  
6 Whoever needed the first aid inside the metal factory.

7           PRESIDING JUDGE VELDT-FOGLIA: So medical personnel?

8           MR. GILISSEN: Medical personnel. That's what I understand too.

9           THE WITNESS: [Interpretation] Yes.

10          PRESIDING JUDGE VELDT-FOGLIA: Thank you.

11          MR. GILISSEN: Thank you very much.

12          Q. And according to you - if you know, of course, don't guess - did  
13 these nurses have something particular to be able to recognise as  
14 nurses or part of the medical system, may I say?

15          A. When we didn't -- when they didn't need to intervene anywhere,  
16 they were wearing the uniforms. But otherwise they were wearing the  
17 white coats and nothing else, really, to identify themselves more.

18          Q. Okay. Thank you.

19          MR. GILISSEN: Could we go to the still image at 48 seconds.

20          PRESIDING JUDGE VELDT-FOGLIA: Okay, Madam Court Officer, please  
21 proceed.

22          MR. GILISSEN:

23          Q. Yes, Mr. Witness, who is the person standing and wearing a green  
24 shirt?

25          A. That is Xhemshit Qerimi [phoen].

1 Q. Yes. And do you know which unit he belongs to?

2 A. All of us present are logistics, really.

3 Q. Thank you. It is very clear. So may we go --

4 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, sorry to  
5 interrupt you.

6 Just one more question about the medical personnel, the two  
7 women. The uniform they were wearing, the military uniform they were  
8 wearing, yeah, you said they were wearing uniforms. Were these  
9 uniforms different from other military personnel at the base?

10 THE WITNESS: [Interpretation] No. There was no distinguishment  
11 between them.

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

13 Thanks, Counsel. You have the floor again.

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

15 So may we go to the still image at 1 minute, 1 second, please.

16 Q. Mr. Witness, who is the man with the beard and wearing a black  
17 T-shirt?

18 A. That is Bedri Azemi.

19 Q. Thank you very much.

20 MR. GILISSEN: It's enough for this excerpt. Thank you.

21 So perhaps just one last question about that.

22 Q. What is the room in the -- in the building? On which floor was  
23 this room?

24 A. That was the ground floor.

25 Q. Thank you very much.

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1 MR. GILISSEN: So we could see another excerpt now. I would  
2 like to have on the screen the video ERN 078252-01 and show the  
3 excerpt from 2 minutes, 30, until 3 minutes. Yes. 3 minutes and  
4 0 seconds.

5 PRESIDING JUDGE VELDT-FOGLIA: Before we proceed to that Defence  
6 Counsel. With regard to your last question, I would like to ask a  
7 follow-up question just to have it on record to understand what we  
8 are talking about.

9 You said "the ground floor." And the ground floor of which  
10 building?

11 THE WITNESS: [Interpretation] That is in the central building  
12 where the command was stationed, the logistics command, and on the  
13 ground floor.

14 PRESIDING JUDGE VELDT-FOGLIA: Yeah. We discussed that  
15 yesterday. That is clear. Thank you, Mr. Witness.

16 You have the floor.

17 MR. GILISSEN: Thank you very much.

18 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, you may  
19 proceed with calling up the video.

20 MR. GILISSEN: And the corresponding transcript pages are ERN  
21 078252-01-TR-ET at page 1 for the English version; and for the  
22 Albanian version, it is ERN 078252-01-TR at page 1.

23 PRESIDING JUDGE VELDT-FOGLIA: We will proceed now with calling  
24 up only the Albanian version because, Defence Counsel, you want to  
25 have the sound? What is the reason to call up the --

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1 MR. GILISSEN: No. It's just to be able to identificate the men  
2 and the person who is speaking on this image.

3 PRESIDING JUDGE VELDT-FOGLIA: Because we cannot have three  
4 images on the -- we have two images on the screen. And you also  
5 called for the English one. So for me it's not --

6 MR. GILISSEN: Don't need to have the sound.

7 PRESIDING JUDGE VELDT-FOGLIA: No, but why would you like to  
8 have the Albanian transcript?

9 MR. GILISSEN: It was just to provide the information, full  
10 information to be clear.

11 PRESIDING JUDGE VELDT-FOGLIA: Okay. Then we keep it to the  
12 video.

13 MR. GILISSEN: Yeah. [Overlapping speakers] ...

14 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer --

15 MR. GILISSEN: Thank you.

16 PRESIDING JUDGE VELDT-FOGLIA: -- you can pull down the  
17 transcript. Thank you.

18 Defence Counsel, how -- we can now start with the video. Until  
19 when do we have -- when can we stop the video? Maybe you already  
20 said it, but just for my information.

21 MR. GILISSEN: [Microphone not activated]. Just ten seconds,  
22 it's enough. Just to be able to identify the guy.

23 PRESIDING JUDGE VELDT-FOGLIA: Very well. That are enough  
24 instructions for Madam Court Officer.

25 Madam Court Officer, please proceed for ten seconds.

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1 [Video-clip played]

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

3 Defence Counsel, you have the floor.

4 MR. GILISSEN: Yes.

5 Q. Mr. Witness, are you able enough to identify the person who is  
6 standing behind the men who are sitting at the table?

7 PRESIDING JUDGE VELDT-FOGLIA: Who? Sorry, Defence Counsel.  
8 Who should he identify?

9 MR. GILISSEN: The man we are seeing just on the screen.

10 PRESIDING JUDGE VELDT-FOGLIA: Just on the screen. Oh, the  
11 back. Whose back we are seeing.

12 THE WITNESS: [Interpretation] That's me.

13 MR. GILISSEN:

14 Q. Thank you very much.

15 MR. GILISSEN: So we could go to another excerpt. This is the  
16 same video, and this is the excerpt 6 minutes, 9 seconds, until  
17 6 minutes, 46 seconds.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.  
19 Please proceed.

20 [Video-clip played]

21 MR. GILISSEN: Yes. For the identification, could we go to the  
22 still image at 6 minutes, 9 seconds.

23 Q. Yes, Mr. Witness, are you able enough to provide us the name of  
24 the man we are seeing on the screen?

25 A. That's a soldier who came from the United States with their

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1 brigade for the liberation of Kosovo, the Atlantic Brigade. His name  
2 was Shefki. I do not know his surname.

3 Q. [Microphone not activated].

4 PRESIDING JUDGE VELDT-FOGLIA: Mic.

5 MR. GILISSEN:

6 Q. And did you see him around the Kukes metal factory often?

7 A. No. That night. And they heard us singing so they came over as  
8 guests.

9 Q. Thank you very much.

10 MR. GILISSEN: Please could we move to the still image  
11 6 minutes, 22 seconds.

12 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
13 Officer.

14 MR. GILISSEN:

15 Q. So, Mr. Witness, who is the person wearing a black shirt and  
16 black beret we are seeing on the screen?

17 A. That's Muhamed Kuka. He also came over from the United States  
18 with the Atlantic Brigade.

19 Q. Thank you very much. It is very clear. So this image,  
20 Mr. Witness, has been taken in the same room than the one we saw just  
21 before?

22 PRESIDING JUDGE VELDT-FOGLIA: Has this is image -- where has  
23 this image been taken? It is so easy. Where has this image been  
24 taken?

25 THE WITNESS: [Interpretation] All of these images were taken in

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1 the same room.

2 MR. GILISSEN:

3 Q. Thank you very much.

4 MR. GILISSEN: So we can go to another excerpt, please. The  
5 same video, and the excerpt from 17 minutes, 45 seconds, until  
6 17 minutes, 50 seconds.

7 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
8 Officer.

9 [Video-clip played]

10 MR. GILISSEN:

11 Q. So, Mr. Witness, do you know who is this person?

12 A. That's Shefki Abdullahu.

13 Q. Thank you very much. And did you film this part of the video?

14 PRESIDING JUDGE VELDT-FOGLIA: Sorry, Defence Counsel. About  
15 whom are we talking?

16 MR. GILISSEN: [Microphone not activated]. The man who were  
17 talking in front of us. Just before the image we -- now we have the  
18 still image, we have a man in the street, we saw it, we saw him.

19 PRESIDING JUDGE VELDT-FOGLIA: Can we do that again because I  
20 might have missed that.

21 Please proceed, Madam Court Officer.

22 MR. GILISSEN: Yeah, this one.

23 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well. Thank you.

24 You may proceed.

25 MR. GILISSEN: [Microphone not activated]. I think the witness

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1 has raised a hand.

2 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, you have the floor.

3 THE WITNESS: [Interpretation] I'm sorry. His name is  
4 Fadil Hoxha, not Shefki Abdullahu. I'm sorry, I got the names mixed  
5 up. It's Fadil Hoxha.

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

7 THE WITNESS: [Interpretation] I'm sorry, I got the names mixed  
8 up. Apologies.

9 PRESIDING JUDGE VELDT-FOGLIA: No problem. We noted what you  
10 have said now.

11 Defence Counsel, you have the floor again.

12 MR. GILISSEN: Thank you very much.

13 And we can go to the last excerpt of this video. This is an  
14 excerpt from 17:51 until 18:36.

15 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
16 Officer.

17 [Video-clip played]

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

19 MR. GILISSEN:

20 Q. So, Mr. Witness, what unit or brigade the soldier belonged to?

21 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, sorry to  
22 interrupt you. But shall we start with the who, when and where  
23 questions.

24 MR. GILISSEN: [Microphone not activated]. I'm sorry, it's not  
25 my day.



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1           PRESIDING JUDGE VELDT-FOGLIA: No, don't ...

2           MR. GILISSEN: So at the beginning of the video, of the excerpt,  
3 we are seeing some soldiers. Just before then. And I would like to  
4 know if the witness is able to identify the unit or the brigade.

5           PRESIDING JUDGE VELDT-FOGLIA: I don't think my question was  
6 clear. I wanted to have first asked who filmed it.

7           MR. GILISSEN: Oh, yeah.

8           PRESIDING JUDGE VELDT-FOGLIA: Where, and when.

9           MR. GILISSEN: Okay.

10          PRESIDING JUDGE VELDT-FOGLIA: Just to have --

11          MR. GILISSEN: As usual.

12          PRESIDING JUDGE VELDT-FOGLIA: Yes.

13          MR. GILISSEN:

14 Q. So, Mr. Witness, did you film this video, this extract of the  
15 video?

16 A. Yes, I did. I was the one who filmed it.

17 Q. Yes. And when did you film this excerpt of the video?

18 A. This filming was done on 4 June 1999.

19 Q. Do you have something in the video that provided you some  
20 information to be sure of this date?

21 A. Well, I'm sure because Gani Saramati, the martyr of our nation,  
22 was buried on 4 June.

23 Q. And you have some detail to be sure this is his burial on this  
24 date?

25 A. I'm sorry, I didn't quite understand the question.

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1 Q. I would like to be sure of the date, and you explained it was  
2 the funeral of one person. But I would like to know if you have some  
3 details you could explain us that it was a detail really able with  
4 this burial and not another.

5 A. The date is absolutely right because the dates of the burials  
6 and the funeral processions of the martyrs, everybody knows. They  
7 are written in history.

8 Q. And we saw some soldiers and I would like to know which unit or  
9 brigade the soldier belonged to that accompanying the van we were  
10 seeing on the road?

11 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, before we  
12 proceed, I would also like to know the where.

13 MR. GILISSEN:

14 Q. Where did you film this excerpt?

15 A. That is actually in the Kukes cemetery. And that is exactly the  
16 cemetery.

17 Q. Yes. We were seeing these soldiers and the van on the road.  
18 Where is this road? Where was this road?

19 A. This is inside the cemetery itself. So this still is -- what I  
20 can see right now is in the cemetery, in Kukes cemetery.

21 Q. Okay, thank you very much. And now I would like to know what  
22 unit or brigade the soldiers belonged to that are accompanying the  
23 van we were seeing on the image?

24 A. I do not know actually. Some of them are from logistics.  
25 Because in certain cases, when there were funerals, for instance, or

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1 anything else, all of the logistics soldiers were involved. But  
2 there were also soldiers from other brigades who joined us. And  
3 there were also residents of Kukes who joined us. I think in this  
4 particular funeral, over 1.000 people attended it.

5 Q. Thank you very much.

6 MR. GILISSEN: We are finished with this video, and we could  
7 pass through the video number 6, ERN 075138-03. And I would like to  
8 have on the screen the first excerpt from 0 seconds to 6 seconds.

9 PRESIDING JUDGE VELDT-FOGLIA: Yes. Let me see. This is again  
10 the funeral of Gani Saramati, isn't it? Are we not looking at a  
11 similar video as we have just seen?

12 MR. GILISSEN: The idea --

13 PRESIDING JUDGE VELDT-FOGLIA: So a van, the blue van, and then  
14 the soldiers.

15 MR. GILISSEN: The idea is to be sure of the date. We have some  
16 details in this excerpt, I think so, and to have confirmation of the  
17 date. That's the only purpose of this excerpt.

18 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good. It's a short one.  
19 Please proceed, Madam Court Officer.

20 [Video-clip played]

21 MR. GILISSEN: A little bit short, I'm sorry.

22 Q. With what we were just seeing, is it possible for you to explain  
23 us which date were filmed this video?

24 A. As I said, it's 4 June 1999.

25 Q. You are the one who filmed this part of the video?

Witness: W03887 (Resumed) (Open Session)  
Examination by Mr. Gilissen (Continued)

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1 A. Yes, I am. I filmed it.

2 Q. Thank you very much.

3 MR. GILISSEN: We can go to another excerpt. It is 15 seconds  
4 to 44 seconds.

5 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
6 Officer. Thank you.

7 [Video-clip played]

8 MR. GILISSEN: Thank you very much.

9 Q. Did you film this video, Mr. Witness?

10 A. Yes, I filmed it.

11 Q. Yes. When and where did you film the video?

12 A. On 4 June 1999 in Kukes cemetery.

13 Q. Yes. And could you please describe and explain what we just  
14 saw?

15 A. These are preparations for the funeral of the martyr. I don't  
16 know what else to say.

17 Q. Did you see the number of coffins?

18 A. Only one of them, Gani Saramati.

19 Q. Okay. Thank you very much.

20 MR. GILISSEN: We can go to another excerpt from 1 minute,  
21 12 seconds, to 2 minutes, 51 seconds.

22 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
23 Officer.

24 [Video-clip played]

25 MR. GILISSEN: I would like to have the sound for this one.

Witness: W03887 (Resumed) (Open Session)  
Examination by Mr. Gilissen (Continued)

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1 Corresponding transcript page are ERN 075138-03-TR-ET, page 1 for the  
2 English version --

3 PRESIDING JUDGE VELDT-FOGLIA: We would like the Albanian,  
4 because the translation will go from the Albanian to English. But  
5 before you proceed, why do we need the sound?

6 MR. GILISSEN: Oh, because we have a speech --

7 PRESIDING JUDGE VELDT-FOGLIA: Yes.

8 MR. GILISSEN: -- on this part of the video. And the purpose  
9 was to have it included.

10 PRESIDING JUDGE VELDT-FOGLIA: Yes. But if there's no -- to be  
11 honest, there must be a specific need. We have had the need of a  
12 date, yeah, and I saw the point --

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

14 PRESIDING JUDGE VELDT-FOGLIA: At least in your case the point  
15 you wanted to make. But to listen three and a half minutes to a  
16 speech --

17 MR. GILISSEN: No, I was --

18 PRESIDING JUDGE VELDT-FOGLIA: -- a funeral speech --

19 MR. GILISSEN: Don't mind.

20 PRESIDING JUDGE VELDT-FOGLIA: -- I don't -- I don't see the use  
21 of it.

22 MR. GILISSEN: I will stop. I will stop when we have a  
23 particular information, the identification of the person who was  
24 buried and it was enough.

25 PRESIDING JUDGE VELDT-FOGLIA: Okay. And you don't know exactly

1 where that is said.

2 MR. GILISSEN: I think at the beginning.

3 PRESIDING JUDGE VELDT-FOGLIA: Let's hope.

4 MR. GILISSEN: That's why I prefer to say all the information.

5 PRESIDING JUDGE VELDT-FOGLIA: Let's hope so. Good.

6 MR. GILISSEN: And the Albanian version is ERN 075138-03-TR at  
7 page 1.

8 PRESIDING JUDGE VELDT-FOGLIA: But we see it here at 1 minute,  
9 12, I see a name, the specific name.

10 Okay, very well. Please proceed, Madam Court Officer.

11 MR. GILISSEN: Oh, please --

12 PRESIDING JUDGE VELDT-FOGLIA: Oh.

13 MR. GILISSEN: Perhaps the translator could provide us the  
14 information with the name of the person who is buried.

15 PRESIDING JUDGE VELDT-FOGLIA: If there is sound, yeah, if there  
16 is sound, Defence Counsel, it will be translated by the interpreter  
17 unit.

18 MR. GILISSEN: That's super.

19 PRESIDING JUDGE VELDT-FOGLIA: Yeah?

20 MR. GILISSEN: Thank you.

21 PRESIDING JUDGE VELDT-FOGLIA: Please.

22 [Video-clip played]

23 THE INTERPRETER: [Voiceover] "With the units of the  
24 Kosovo Liberation Army gathered in the Kukes cemetery to pay tribute  
25 to the Albanian national freedom fighter, the distinguished soldier

Witness: W03887 (Resumed) (Open Session)  
Examination by Mr. Gilissen (Continued)

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1 Gani Saramati, father's name Hamdi. He died heroically facing the  
2 Serbian Chetnik hordes in the front line in Hasi of Kosovo" --

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 THE INTERPRETER: [Voiceover] -- "in Plane and Mazrek."

5 PRESIDING JUDGE VELDT-FOGLIA: Sorry, Madam Interpreter, that I  
6 talked through your voice.

7 MR. GILISSEN: Thank you very much.

8 Q. Mr. Witness, are you able enough to confirm the burial of  
9 Mr. Saramati, Gani Saramati, was at the date you provide us before,  
10 just before?

11 A. Yes, that's the truth.

12 PRESIDING JUDGE VELDT-FOGLIA: And did you film this? Or who  
13 filmed this? Let's be open.

14 THE WITNESS: [Interpretation] I filmed it. All these recordings  
15 were made by myself.

16 PRESIDING JUDGE VELDT-FOGLIA: Yes. But every time we have to  
17 confirm that, Mr. Witness. That's the reason you are getting the  
18 same question over and over again.

19 Defence Counsel, you have the floor.

20 MR. GILISSEN: Yes. I have a last excerpt. I don't really have  
21 a question about the excerpt itself. It's just to be sure that the  
22 last document we have in the video filmed by the witness, because  
23 just after the information we have on this cassette is about  
24 something what's happened in Germany and no interest in this case.  
25 And I just want to obtain from the witness the confirmation, or not,

1 this is the last part of the cassette about his presence in Albania.

2 So ...

3 PRESIDING JUDGE VELDT-FOGLIA: Okay. And those are 4 seconds,  
4 if I see that.

5 MR. GILISSEN: Exactly.

6 PRESIDING JUDGE VELDT-FOGLIA: Okay, please proceed.

7 [Video-clip played]

8 MR. GILISSEN:

9 Q. So, Mr. Witness, did you film this video?

10 A. Yes.

11 Q. And when and where do you film it?

12 A. For the moment, I can't see anything on the screen. I only saw  
13 the cemetery, nothing else.

14 Q. Yeah. And according to you, do you remember if it is the last  
15 scene you filmed in Albania?

16 A. Yes. In fact, it's the last scene filmed in Albania. I did not  
17 film after this.

18 Q. Okay, thank you very much. It is over with the video.

19 PRESIDING JUDGE VELDT-FOGLIA: But, Mr. Witness, what we've just  
20 seen, that short scene of 4 seconds, is that the last of the material  
21 on that camera from that period?

22 THE WITNESS: [Interpretation] Yes, this was the end. After  
23 this, I did not record with that camera.

24 PRESIDING JUDGE VELDT-FOGLIA: Okay. And, yes, because I'm  
25 puzzled. You were asked where did you film this, this last excerpt,



Witness: W03887 (Resumed) (Open Session)  
Examination by Mr. Gilissen (Continued)

Page 3308

1 and then you said, "I only saw the cemetery, nothing else."

2 So how do you know that this is the last thing you filmed?

3 THE WITNESS: [Interpretation] I know because during the last  
4 burial, I filmed all the graves, the graves of the five martyrs of  
5 our nation that we buried. They were all in a row.

6 PRESIDING JUDGE VELDT-FOGLIA: Okay. That is a little bit more  
7 detailed. Thank you for that.

8 Defence Counsel, you have the floor again.

9 MR. GILISSEN: Thank you very much.

10 Q. Mr. Witness, where did you go after these funerals?

11 A. We, in fact, went back to the factory.

12 Q. And how long after these funerals did you leave Kukes?

13 A. I don't know how long exactly, but it was on 6 or 7 June that I  
14 left on orders of the commander. I went to Germany.

15 Q. Okay, that's very nice. Thank you very much.

16 MR. GILISSEN: So I think we could go to the private session.

17 PRESIDING JUDGE VELDT-FOGLIA: No. We're going to do things  
18 differently.

19 Madam Court Usher, could you usher the witness out.

20 Mr. Witness, we will have an exchange now and afterwards we will  
21 call you back. Thank you.

22 THE WITNESS: [Interpretation] That's fine. Thank you.

23 [The witness stands down]

24 PRESIDING JUDGE VELDT-FOGLIA: Very well. We can go into  
25 private session now.

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

2 [Private session]

3 [Private session text removed]

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Witness: W03887 (Resumed) (Private Session)

Page 3311

Examination by Mr. Gilissen (Continued)

1 [Private session text removed]

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Witness: W03887 (Resumed) (Private Session)

Page 3312

Examination by Mr. Gilissen (Continued)

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Witness: W03887 (Resumed) (Private Session)

Page 3313

Examination by Mr. Gilissen (Continued)

1 [Private session text removed]

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17 [Open session]

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

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

21 The witness can be ushered in again.

22 Thank you, Madam Court Officer.

23 [The witness takes the stand]

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness. Welcome  
25 back.

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Examination by Mr. Gilissen (Continued)

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1 Defence Counsel, you have the floor.

2 [Specialist Counsel confer]

3 MR. GILISSEN: Thank you very much.

4 So I was talking about cross-examination. I'm sorry, of course,  
5 I was talking about my examination. And I have no more questions.

6 Q. I just want to thank a lot the witness because it was a long, of  
7 course, questioning. Thank you very much.

8 A. Thank you.

9 PRESIDING JUDGE VELDT-FOGLIA: Very well. Yes, Mr. Prosecutor,  
10 it's now 10.30. I leave it to you. We can have a break now and then  
11 you can continue with your examination-in-chief -- sorry, with your  
12 cross-examination, if any.

13 MR. MICHALCZUK: Yes, Your Honours, we will have questions in  
14 our cross-examination. We would prefer the break now and could come  
15 back a bit earlier.

16 As I said in the beginning of today's session, we made this  
17 request for addition of two items. And, actually, my intention, of  
18 course, if Your Honours permit me to use those two items, I would  
19 start with them in my cross-examination.

20 PRESIDING JUDGE VELDT-FOGLIA: Okay, very well. I can already  
21 say you to then for now that we will allow for it because there has  
22 been no opposition by neither the party or Victims' Counsel and we  
23 also see no prejudice. So --

24 MR. MICHALCZUK: Thank you.

25 PRESIDING JUDGE VELDT-FOGLIA: And it was, of course, already

1 disclosed.

2 MR. MICHALCZUK: Thank you.

3 PRESIDING JUDGE VELDT-FOGLIA: Yes. But then because my  
4 question was not completely finished. Normally we would have a break  
5 of half an hour. Would that suffice for Specialist Prosecutor's  
6 Office?

7 MR. MICHALCZUK: Of course, Your Honours.

8 PRESIDING JUDGE VELDT-FOGLIA: Very well.

9 Mr. Witness, we will now take a break till ten minutes past  
10 11.00, and then we will continue with cross-examination by the  
11 Specialist Prosecutor's Office. Yes? And after that, we will -- if  
12 there are any questions from the side of Victims' Counsel, with his  
13 questions, and at the end there might be some questions from the  
14 Panel. Yes?

15 So now Madam Court Usher will usher you out, and we see you back  
16 in half an hour.

17 THE WITNESS: [Interpretation] Okay. Thank you.

18 [The witness stands down]

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Usher.

20 Then the hearing is adjourned.

21 --- Recess taken at 10.38 a.m.

22 --- On resuming at 11.11 a.m.

23 PRESIDING JUDGE VELDT-FOGLIA: Welcome back.

24 And, yes, SPO is in the same composition. Very well. Also that  
25 goes for Victims' Counsel. And here on the left-hand side, also the



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1 same people present. We have noted that.

2 Yes, we can continue with the cross-examination by the  
3 Specialist Prosecutor's Office of the witness.

4 Madam Court Usher, please usher the witness in.

5 And we note, Defence Counsel, that you have used four hours and  
6 seven minutes, so perfect.

7 In the meanwhile, Mr. Prosecutor, how much time do you envisage  
8 to use for your cross-examination?

9 MR. MICHALCZUK: Your Honours, I believe I could use the  
10 remainder of the day today and hopefully we will finish by 4.00. If  
11 not, maybe some minutes in the morning tomorrow. Depending on how  
12 everything goes.

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

14 MR. MICHALCZUK: Thank you.

15 [The witness takes the stand]

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

17 THE WITNESS: [Interpretation] Thank you, Your Honour.

18 PRESIDING JUDGE VELDT-FOGLIA: I can see -- I can see that you  
19 hear me well. I will check if Mr. Shala is hearing you well.

20 Mr. Shala.

21 THE ACCUSED: [via videolink] [Interpretation] Yes, I can hear  
22 you very well.

23 PRESIDING JUDGE VELDT-FOGLIA: And you also heard the answer of  
24 Mr. Witness?

25 THE ACCUSED: [via videolink] [Interpretation] Yes, I did.

1 PRESIDING JUDGE VELDT-FOGLIA: Very well.

2 Mr. Prosecutor, you have the floor for your cross-examination.

3 MR. MICHALCZUK: Thank you, Your Honour.

4 Cross-examination by Mr. Michalczuk:

5 Q. Mr. Hoxha, good morning.

6 A. Good morning.

7 Q. I'm the counsel for the Prosecution, and I will be asking you  
8 some questions within the next hours.

9 Mr. Hoxha, yesterday during your examination by the Defence you  
10 said that you arrived in Kukes on 22 or 23 April 1999. And it was on  
11 page 9, lines 17 to 23 of your -- of the provisional transcript of  
12 your testimony.

13 You said something different when you were interviewed by the  
14 Specialist Prosecutor's Office. You said that that date was 22 or  
15 23 May 1999, and I would like to clarify that date.

16 MR. MICHALCZUK: To do that, Madam Court Officer, could you play  
17 one very short clip. The ERN is 077857B Part 1, partial.

18 Q. This is the part of your SPO interview, Mr. Hoxha, where you  
19 talk about the days of your arrival in Kukes. So take a look at the  
20 clip and listen to what you yourself said in this regard.

21 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, you may  
22 proceed.

23 [Trial Panel and Court Officer confer]

24 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, just to be sure,  
25 but I don't see any problems, but this audio will go out and will be

1 translated if ...

2 MR. MICHALCZUK: This is fine.

3 PRESIDING JUDGE VELDT-FOGLIA: Yes -- very well.

4 Good. Madam Court Officer, you may proceed.

5 [Video-clip played]

6 "Q. Can we get first the date or an approximate date when you  
7 arrived in Kukes?

8 "A. So it was 22 or 23 of May."

9 MR. MICHALCZUK: Your Honours, if possible, I would like to play  
10 immediately the second clip to the witness. Could we now have the  
11 video and the ERN would be 077857B Part 2, partial.

12 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

13 [Video-clip played]

14 "Q. Just to confirm, what year was ..."

15 "Q. Just to confirm, what year was it when you -- in May that  
16 you arrived in Kukes?

17 "A. In May 1999."

18 MR. MICHALCZUK:

19 Q. So, Mr. Hoxha, from those two clips that you -- you featured on  
20 those clips. It is rather obvious that on two separate occasions  
21 when you were interviewed by the Prosecutor, you clearly said that  
22 you had arrived in Kukes on 22 or 23 May 1999; correct?

23 A. Yes, I heard both video-clips. The very first one I couldn't  
24 hear quite well as to the date of when I arrived. And the second  
25 clip I could hear really well, but it was a mistake. I made mistake,

1 by the way, and not the transcript. But it was my mistake. Because,  
2 as a matter of fact, all of these activities in the Kukes metal  
3 factory, even if every single day in the whole month was taken, I  
4 couldn't really arrive to the May dates. Because from April or  
5 May to June, it's about ten days that I spent altogether, and  
6 actually I spent over one month and a half in the factory. So it was  
7 a mistake in the date I gave.

8 Q. The only thing that surprises me, Mr. Hoxha, is that you didn't  
9 say that only once but you said that once, and then an hour or so  
10 later, before the same Prosecutor, you repeated the same date, 22 or  
11 23 May 1999.

12 So is it your position now that it was April when you came to  
13 Kukes?

14 A. Yes, I am sure it was April.

15 Q. So why exactly did you say to the Prosecutor that it was May and  
16 not April?

17 A. Why, I don't even know myself. It was a mistake, to be honest.  
18 It was a mistake that I made in my statement.

19 Q. Mr. Hoxha, let's move to another topic. Yesterday when you were  
20 questioned by the Defence - and we can find the reference to that on  
21 page 12 lines 20 to 22 of the provisional transcript - you said that,  
22 apart from staying in the Kukes metal factory, you also, and I quote,  
23 "would be called and go to repair weapons in Krume, in Cahan, and in  
24 other places."

25 And I would like to ask you a few questions about those

1 locations.

2 MR. MICHALCZUK: Madam Court Officer, could we pull up the  
3 document, SPOE00127400.

4 PRESIDING JUDGE VELDT-FOGLIA: For what purpose, Mr. Prosecutor?

5 MR. MICHALCZUK: Your Honour, I would like to show this  
6 document, this is the map of the Kukes area. The witness mentioned  
7 himself a few locations and I would like him to mark them on the map  
8 in relation to Kukes, just to see and to comment on some distances  
9 between those locations.

10 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
11 Officer.

12 MR. MICHALCZUK: Your Honours, could we make this map a little  
13 bit bigger, make a close-up. Kukes should be somehow in the centre,  
14 and upwards we should see the location -- one is Krume up there.

15 PRESIDING JUDGE VELDT-FOGLIA: Now we lost Krume.

16 MR. MICHALCZUK: We lost Krume. We've got to scroll down a  
17 little bit. Or scroll up in this case, excuse me. A bit more, a bit  
18 more.

19 PRESIDING JUDGE VELDT-FOGLIA: Yes.

20 MR. MICHALCZUK: Yes, here is fine. Yes.

21 Q. Mr. Hoxha, could you please circle for us with the pen that I  
22 believe will be provided by Madam Court Usher, could you circle  
23 Kukes? Make a circle around that place.

24 A. [Marks]

25 Q. Could you mark it with number 1 for us.

1 A. [Marks]

2 Q. Thank you. Do you see on the map the location of Krume that you  
3 mentioned yesterday? And if so, could you do the same; namely, to  
4 circle that location.

5 A. [Marks]

6 Q. Could you put number 2 close to it.

7 A. [Marks]

8 Q. Do you see on this map also the place called Cahan that you  
9 mentioned yesterday? If so, please do the same; namely, circle the  
10 location and put number 3.

11 A. [Marks]

12 Q. Thank you very much.

13 Mr. Hoxha, from your testimony of yesterday - and I'm referring  
14 to page 13, lines 1 to 4 of the provisional transcript - the reason  
15 why you were going there was, and I quote you:

16 "... to pick up the weapons and bring it to Kukes to repair.  
17 However, if there was not a major defect then [you] would stay there  
18 on site and repair them on the spot."

19 Is that correct?

20 A. I'm sorry, I didn't catch the interpretation.

21 Q. Yes, I'm going to repeat that. So according to your testimony  
22 of yesterday, and I quote it, the purpose of going there was:

23 "... to pick up the weapons and bring it to Kukes to repair.  
24 However, if there was not a major defect, then [you] would stay there  
25 on site and repair them on the spot."

1 Is that correct?

2 A. Yes, that's what I've stated.

3 Q. Mr. Hoxha, how were you going to those locations, Cahan and  
4 Krume, by what means of transportation?

5 A. Well, as a matter of fact, one could go to Krume by small car.  
6 But to Cahan, for instance, unless had you a 4x4, you couldn't get  
7 there, because the road was really bad and you really couldn't get  
8 through. But up to Krume, one could use a small vehicle but not to  
9 Cahan, because you really needed a 4x4, a jeep.

10 Q. Right. Let's discuss trips to both locations one by one.

11 So let's discuss Krume first. What is the distance between  
12 Kukes metal factory and Krume, the location that you were going to?

13 A. Oh, I don't know. In terms of kilometres, I do not know what  
14 the distance is. But by car, it would take about two hours, two and  
15 a half hours.

16 Q. You mean two hours going just there, one way, from Kukes to  
17 Krume; is that what you are saying?

18 A. Yes, one way. Because the road was very bad, so you couldn't  
19 really drive that fast.

20 Q. I would like to actually ask you about the road conditions. So  
21 could you tell the Court what were the road conditions. Was the road  
22 asphalted, cobblestoned? Was it a dirt road, gravel?

23 A. Actually, partly so. So there was some parts that were  
24 asphalted, some were not. The roads in a way were destroyed. You  
25 couldn't really speed up through those roads.

1 Q. Was the road a straight one or was it a winding road?

2 A. No, it was a winding road. And one can see this from the map, I  
3 think.

4 Q. Did the road go through the mountains, or partially through the  
5 mountains, or was it a flat terrain? How could you describe it?

6 A. I can't really remember the details now. I'm so sorry, but I  
7 can't remember.

8 Q. You said that it was possible to reach the location of Krume  
9 using a regular vehicle and not a 4x4 vehicle. Is that your  
10 evidence?

11 A. Yes, that is my evidence.

12 Q. Witness, I would like to refer you to the testimony of your  
13 superior in the KLA, Mr. Mark Shala, who gave testimony before this  
14 Court on 24 October 2023.

15 MR. MICHALCZUK: We don't need to pull up this. I'm just going  
16 to read a very short part.

17 Q. On page 3014, Mr. Shala had the following exchange with the  
18 asking Prosecutor:

19 "Q. How long did it take to go to Krume from the Kukes [metal]  
20 factory?"

21 And the answer of your -- of Mr. Shala was:

22 "The road conditions were difficult. The roads themselves were  
23 dilapidated, so one would usually go on a vehicle, for instance, a  
24 jeep, a 4x4, because the smaller cars would not make it."

25 So Mark Shala was not mentioning really a regular vehicle. He



1 said that the location in Krume could be reached only by 4x4 vehicle.  
2 Do you agree with Mr. Shala or do you still maintain that you could  
3 reach that place using a regular car?

4 A. No, I agree with the statement of Commander Mark. But the  
5 commanders usually had jeeps for themselves, so for inappropriate  
6 terrain. Otherwise, one could go from Kukes to Krume also by regular  
7 car, small vehicle. But it was another thing for the commanders  
8 because they had to have the highest possible security. We,  
9 soldiers, we couldn't pick and choose in terms of what vehicles we  
10 would use.

11 Q. I perfectly understand what you are saying, but I'm going to  
12 repeat what Mark Shala said. It was:

13 "... a jeep, a 4x4, because the smaller cars wouldn't make it."

14 Would you agree with Mr. Shala on that issue?

15 A. I agree with Mr. Shala, but with a 4x4, we would need primarily  
16 to get to Cahan, not to Krume. Cahan, rather. Because the terrain  
17 is really difficult. Because Kukes to Krume, there were also smaller  
18 cars going -- doing that distance, also residents of that area  
19 because that is the main road for that part. But maybe his statement  
20 was been misunderstood. So by 4x4, one would need to go from Krume  
21 to Cahan only. So to go to the border in -- as a matter of fact.

22 Q. Mr. Hoxha, during your stay in Kukes in 1999, how many times did  
23 you go to Krume?

24 A. I don't know. The minimum, even then.

25 Q. No, but how many times --

1 A. Minimum ten.

2 Q. A minimum ten. Sorry, I misunderstood you.

3 When you were in Krume, how long would you usually stay there?

4 A. There's no interpretation. Well, a day trip, so we would go  
5 back to Kukes. So two, three hours, four, and then we would go back  
6 to Kukes.

7 Q. So just to recap, so two hours would take you to go from Kukes  
8 to Krume, two hours back, and three to four hours staying there, in  
9 Krume; is that correct?

10 A. Yes, it is.

11 Q. When you were taking weapons with you to Kukes to repair from  
12 Krume, would you also yourself return it to Krume after it had been  
13 repaired?

14 A. No, I didn't return them to Krume. No. As a matter of fact,  
15 let me explain something, if I may, from the beginning. When I was  
16 given the task to repair the weapons, I spoke to Commander Mark, and  
17 the idea was that every weapon, once it was repaired, first I would  
18 have to check that it worked properly, and then I would give it to a  
19 soldier. Otherwise, there was a small depot in the metal factory. I  
20 had the keys and I would put them there. So whenever there was a  
21 need, the commander would take those weapons and he would give them  
22 to other people.

23 Q. Mm-hm. This is clear. Thank you very much.

24 So let's now discuss the location of Cahan. What is the  
25 distance between Kukes metal factory and the Cahan location that you

1 mentioned? In terms of kilometres or in terms of the time necessary  
2 to reach that place from Kukes.

3 A. In terms of kilometres, I do not know. But from Kukes to Krume,  
4 Krume to Cahan, it would be about three, three and a half hours,  
5 something like that. But I don't know exactly.

6 Q. How was the road to Cahan? How would you describe it? The road  
7 conditions, how were they?

8 A. Well, actually, that was a mountainous road, so it wasn't like  
9 it was asphalted or anything. It was like a mountainous road. So  
10 one would need a 4x4, or perhaps by tractor, to get through to the  
11 top. Otherwise, by small car, you couldn't get there. Just no  
12 chance you'd get there.

13 Q. Was it a winding road?

14 A. Yes. And it was very narrow. Two cars, if they would meet each  
15 other at either end, they just wouldn't be able to pass through.  
16 There was only one place in the middle where one would actually just  
17 go in a sort of a lay-by and allow the other car to go through.  
18 Otherwise it was extremely narrow.

19 Q. Was it a dirt road, paved road, asphalted road?

20 A. No, no, no asphalt. It was just stone, gravel. And as you went  
21 up, on the right-hand side, really, it was 200 metres that would go  
22 down a cliff. And, you know, even in snow conditions, if you went  
23 down, nobody would live, would make it out of that.

24 Q. During your stay in Kukes in 1999, how many times did you go to  
25 Cahan?

1 A. I went around four to five times to Cahan.

2 Q. When in Cahan, how long would you usually stay there?

3 A. Generally three to four hours and then I would go back. But I  
4 wasn't there on my own in Cahan. Never. There was always a driver  
5 taking me there. I didn't dare drive through that road myself.  
6 Although I've -- I had been driving for over 30 years, I just didn't  
7 dare drive on that road. It really was very dangerous.

8 Q. Mr. Hoxha, did you happen that you ever slept in Cahan?

9 A. No, that has never happened.

10 Q. So just to recap the times. So three, three and a half hours  
11 one way, three or three and a half hours back, and three to four  
12 hours of being in Cahan. Is my recap correct?

13 A. Yes.

14 Q. Mr. Hoxha, on page 12, lines 20 to 22 of the provisional  
15 transcript of your yesterday's testimony, you said that apart from  
16 Krume and Cahan, you would, and I quote, would be called and go to  
17 repair weapons also "in other places."

18 And having this map in front of you, could you tell the Court  
19 and mark on the map those other places that you were going to repair  
20 weapons or to collect weapons from?

21 A. No, not other places. I didn't go to repair weapons. I didn't  
22 go to other places. The other places, the idea was to supply them  
23 with weapons, but I didn't go for that. There -- my colleagues went  
24 there with the weapons and they supplied those fighting stations with  
25 weapons.

1 Q. Mr. Hoxha, whatever the reason, let's forget about supply or  
2 repairment of weapons, but yesterday yourself you said that -- in the  
3 part that I quoted, that you were also going to other places. So my  
4 question is naturally what are those other places you were referring  
5 to yesterday?

6 A. I do not remember having said other places. These were the  
7 three locations. My responsibility was for these three places.

8 Q. So your evidence is now that, apart from Cahan and Krume, apart  
9 from these two places, you were not going anywhere else outside of  
10 Kukes. Is that what you are saying?

11 A. To repair weapons? No, I didn't go outside Kukes, Krume and  
12 Cahan.

13 Q. My question also that with other reasons -- did you leave Kukes  
14 to travel to other locations for other reasons; and, if so, what are  
15 those locations?

16 A. No, not usually. No. I mean, close by, in villages around  
17 Kukes, yes, I have been there. But not farther than the villages  
18 around Kukes. Because, for instance, one day we were visiting the  
19 families of the martyrs, and this was in the villages nearby, and  
20 there were refugees there. So, yes, I left Kukes back then and I  
21 went there with my friends. And, actually, my recordings show that  
22 we had gone to visit the families of the martyrs, and they were  
23 located outside Kukes.

24 Q. Could you mark the village that you have just mentioned on the  
25 map?

1 A. No, I can't remember. I'm sorry, but I can't remember 24 or 25  
2 years ago that -- 24 or 25 years have passed now. And I can't  
3 remember villages around Prishtine now where I was born, let alone  
4 villages of Kukes. I don't know how much you understand what I'm  
5 saying.

6 Q. This is perfectly understandable. I get that. You mentioned  
7 those small villages around Kukes. On how many occasions did you go  
8 to those small villages?

9 A. Well, we went to visit the martyrs' families, my friends and I.  
10 That was once. And I think four or five times I went to Kolsh.  
11 That's where the shooting range was, so where we tried the weapons,  
12 whether they worked well or not.

13 Q. So let me ask you about these two places. So the place in  
14 Kolsh, first of all. It seems that indeed you were going to that  
15 place, to Kolsh, and there was a shooting range there. And I have a  
16 question. On the map that you have in front of you, can you see this  
17 location of Kolsh; and, if so, could you also circle that location?

18 A. [Marks]

19 Q. Could you put number 4 next to it, please.

20 A. [Marks]

21 Q. Thank you. So you had just told us that you visited Kolsh, if I  
22 recall correctly, five times; is that correct?

23 A. I can't remember exactly. Whether it was five or six times, I  
24 just do not know exactly. I don't. It's not like I was keeping  
25 track or proof of how many times I went there.

1           PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, could you please  
2 mark again Kolsh with number 4 because it's not very clear on the  
3 map.

4           THE WITNESS: [Marks]

5           PRESIDING JUDGE VELDT-FOGLIA: Thank you.

6           Please proceed.

7           MR. MICHALCZUK: Thank you.

8           Q. Mr. Hoxha, what was the reason why you were going to Kolsh?

9           A. Actually, I went to Kolsh to test the weapons I had repaired in  
10 the factory, because there were also barracks of our army there, the  
11 shooting range, and because in Kukes there was no shooting range, so  
12 I couldn't test the weapons as to whether they were still out of  
13 order or whether they were actually repaired, because I needed to be  
14 absolutely sure is that the weapon had been repaired fully. And I  
15 didn't want to hand over a broken-down weapon to a soldier unless it  
16 was absolutely working correctly.

17          Q. Do I understand you well that every time you repaired the  
18 weapons, you were then going to Kolsh to test it before this weapon  
19 was handed back to the soldiers? Is that your evidence?

20          A. Yes. When there were 20 or 30 or 40 weapons, I would load them  
21 on a jeep or a truck. I would go to Kolsh, test all of them. Those  
22 that were working, we would put them aside. Those that were still  
23 with defect, we would put them aside, and then take them back to  
24 Kukes.

25          Q. Do you remember the distance between Kukes and Kolsh, in terms

1 of kilometres or in terms of the time that was necessary to get  
2 there?

3 A. I don't know in terms of kilometres. In terms of time, it  
4 wasn't more than one hour.

5 Q. And what was the road? Was it in a good condition, bad  
6 condition? Similar to the one taking you to Krume? Similar to the  
7 one taking you to Cahan?

8 A. Well, it was partly with asphalt, partly damaged. In general,  
9 not in good condition. Not as they are today.

10 Q. When you were going there to that location of Kolsh, how much  
11 time would you usually spend there?

12 A. Usually, I would stay there until I completed the testing with  
13 all the weapons. That's why I would go there, to test the weapons,  
14 not for anything else. Sometimes I would stay for an hour, two  
15 hours, three hours. It depended on the amount of weapons I had with  
16 me.

17 Q. I understand. So one hour to get there, one hour to get back,  
18 and one to three hours spent there testing weapons; is that correct?

19 A. Yes, that's correct.

20 Q. Did it ever happen that you stayed there overnight in that  
21 location of Kolsh?

22 A. No, that never happened.

23 Q. Just one question about those small villages that you were  
24 apparently visiting. What was the distance between Kukes metal  
25 factory and those small villages where you were going in 1999?



1 A. That, I don't know. I don't know exactly what the distance was.  
2 The day when we went to visit the families, we spent the whole day  
3 visiting martyrs' families.

4 Q. So apart from going to Krume, Cahan, Kolsh, and that village of  
5 the martyrs, did you go to any other places outside of Kukes?

6 A. Well, if you take into account the location at Drini i Bardhe  
7 where the guard of honour did its preparations and which is outside  
8 Kukes, then, yes. But as for other locations, I wouldn't say so.

9 Q. In a moment I will have a few questions about those events, so  
10 bear with me.

11 Mr. Hoxha, from your testimony we understand that in 1999, while  
12 in Kukes, you recorded several videos of funeral ceremonies of the  
13 fallen KLA soldiers; correct?

14 A. Yes, correct.

15 Q. You also confirmed on a number of occasions that you were the  
16 one filming those ceremonies; is that correct?

17 A. Yes, correct.

18 Q. Could you tell the Court, because maybe I did not understand it  
19 properly yesterday and today, in how many ceremonies in total, how  
20 many funeral ceremonies did you personally attend?

21 A. I personally attended three funeral ceremonies.

22 Q. Are we talking about these three funeral ceremonies that you  
23 discussed yesterday and also today with the Defence? Are these those  
24 funeral ceremonies?

25 A. Yes, those are the ones.

1 Q. Just to make it clear, did you attend any other funeral  
2 ceremonies which you were not filming at that time, in 1999?

3 A. No, I didn't.

4 MR. MICHALCZUK: Your Honours, could we have one or maybe two  
5 photographs on the screen. The reason for that is that we would like  
6 to show a photograph of a certain location to the witness and ask him  
7 about it. It relates to the funeral ceremonies.

8 PRESIDING JUDGE VELDT-FOGLIA: Please proceed with giving the  
9 ERN number.

10 MR. MICHALCZUK: Could we put on the screen the document DPS --

11 PRESIDING JUDGE VELDT-FOGLIA: Yes, yes. Completely right.

12 My attention was called to the fact that we first have to save  
13 this document and give it a Registry number.

14 MR. MICHALCZUK: Of course. Of course.

15 PRESIDING JUDGE VELDT-FOGLIA: That's on me.

16 Yes, Madam Court Officer, please save it and then you can  
17 allocate a Registry number.

18 THE COURT OFFICER: Your Honours, markings made by Witness  
19 W03887 on ERN SPOE00127400 will be assigned Registry number REG00991.

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

21 And one extra remark. We will continue till 12.40. We will be  
22 changing a little bit the schedule this afternoon, but for now, we  
23 know we will break a little bit earlier. And also for you,  
24 Mr. Prosecutor, that you know --

25 MR. MICHALCZUK: Yes, understood.

1           PRESIDING JUDGE VELDT-FOGLIA: -- how to organise your  
2           questioning.

3           MR. MICHALCZUK: Understood. May I proceed, Your Honour.

4           PRESIDING JUDGE VELDT-FOGLIA: Yes, you may.

5           MR. MICHALCZUK: Madam Court Officer, could you pull up the  
6           following document: DPS00159 to DPS00161. And let's take a look at  
7           page number 1.

8           PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

9           MR. MICHALCZUK:

10          Q. Mr. Hoxha, can you see this photograph in front of you?

11          A. Yes, I can see it.

12          Q. In your testimony of yesterday - and I'm referring to page 81,  
13          lines 13 and 14 - you said the following thing, speaking about the  
14          cemetery in Kukes:

15                 "This is on the road between Kukes and Krume. The road to the  
16          cemetery. It is the main road."

17          Could you possibly locate on this map the location of the Kukes  
18          cemetery.

19          MR. MICHALCZUK: Is there any way to make the map a little bit  
20          bigger, maybe just by -- yes, maybe this would suffice.

21          Could we lower it down -- yes, in this way.

22          Q. My question again, Mr. Hoxha: Could you locate on this image  
23          the location of the Kukes cemetery; and, if so, could you circle it?

24          A. [Marks]

25          Q. Thank you. Could you put number 1 next to it.

1 A. [Marks]

2 MR. MICHALCZUK: Your Honours, is that fine, is that big enough,  
3 this number?

4 PRESIDING JUDGE VELDT-FOGLIA: I think it will do. Thank you.

5 MR. MICHALCZUK: Okay.

6 Q. Yes, Mr. Hoxha, is it possible also to circle - if you can, of  
7 course - on this map the location of the Kukes metal factory?

8 A. I'm not quite sure. Unless it's where this red spot is on the  
9 map. I'm not sure otherwise.

10 Q. That is -- that is fine. Could you tell the Court how far is  
11 the cemetery from the Kukes metal factory, in terms of time necessary  
12 to get there or in terms of kilometres? If you know.

13 A. About 1 kilometre.

14 Q. Mr. Hoxha, yesterday and today we have seen a number of  
15 video-clips, a number of images of people leaving the Kukes metal  
16 factory, then going as part of the procession through the city of  
17 Kukes, then gathering at the cemetery. Could you tell the Court how  
18 much time did it take to you go to the funeral -- to the local  
19 cemetery with that funeral group? How much time would that take?

20 PRESIDING JUDGE VELDT-FOGLIA: Yes.

21 MR. AOUINI: Excuse me, Your Honour.

22 PRESIDING JUDGE VELDT-FOGLIA: No, wait, wait, wait,  
23 Mr. Defence Counsel. Is the remark you want to make something that  
24 the witness should not hear? Okay, please proceed.

25 MR. AOUINI: No. And excuse me, my learned colleague. I just

1 see on the transcript that "going as part of the procession to the  
2 city of Kukes." Maybe it is a slip of the tongue, but I don't think  
3 this is what my learned colleague meant. The procession, I think,  
4 from the metal factory to the cemetery may be what he meant.

5 MR. MICHALCZUK: It was exactly my question. If there was a  
6 slip of the tongue on my part, I apologise. And thank you for the  
7 correction. This is exactly what I wanted to say.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you. We have noted that in  
9 the transcript. Please --

10 MR. MICHALCZUK: So maybe I should repeat I would question.

11 Q. So having seen your footages of those processions leaving the  
12 Kukes metal factory, going through the city of Kukes to the cemetery,  
13 how long would that usually take to get there, walking in this  
14 procession?

15 A. From the factory up to the cemetery of Kukes, it took about 20  
16 or 25 minutes. This is in approximate terms. I do not know exactly  
17 how long it took.

18 PRESIDING JUDGE VELDT-FOGLIA: Okay. Mr. Prosecutor, the  
19 information regarding "through the city of Kukes" was not information  
20 that was already available. At least for now.

21 MR. MICHALCZUK: Right. The -- my question was formulated in  
22 this way because on several images we saw the people walking through  
23 the city. And if we believe that on this map the cemetery is at the  
24 outskirts of the city, wherever the Kukes metal factory is there, it  
25 should be somewhere, you know, on this image below, which means in

1 the city or at least in part of it. So this is my understanding. If  
2 I was not clear, I could maybe --

3 PRESIDING JUDGE VELDT-FOGLIA: No -- okay. It's clear --

4 MR. MICHALCZUK: -- lay some foundation.

5 PRESIDING JUDGE VELDT-FOGLIA: It is information I think I would  
6 have preferred not to have been shared in this way, but it has now  
7 been said. Yes.

8 MR. AOUINI: If we may, Your Honour. Geographically, you have  
9 to pass through the city and go outside the city to arrive at the  
10 metal factory. And going to the cemetery doesn't make you --

11 PRESIDING JUDGE VELDT-FOGLIA: That's the point I'm making, that  
12 it is too much of information. That was the point that the Panel was  
13 making.

14 MR. AOUINI: And geographically incorrect, Your Honour. That's  
15 also a point.

16 PRESIDING JUDGE VELDT-FOGLIA: And that is something that I  
17 leave to you because I don't want to have a discussion on that. I  
18 just thought that we were sharing too much information.

19 MR. MICHALCZUK: Yes. Yes, Your Honours, I will try be to  
20 precise. What we saw on the videos were definitely roads and some  
21 building structures, so this is what I meant. And I think that the  
22 witness should know what was the road, so I don't think I'm  
23 misleading him. If so, maybe I could seek clarification.

24 Q. So the only issue -- you want to clarify something. Please.

25 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please proceed.

1 THE WITNESS: [Interpretation] I wanted to clarify the following.  
2 In fact, from the town or city to the cemetery, we only went once.  
3 It is the first funeral service, those that were at the Kukes  
4 hospital. The other two funerals, the crowd, the procession started  
5 from the metal factory. And that's why you can see the town -- the  
6 entire town during the first funeral. That was in the Kukes  
7 hospital.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

9 MR. MICHALCZUK:

10 Q. This is clear, Mr. Witness. Thank you very much for this  
11 answer, for this clarification.

12 So you said it was around 20, 25 minutes that the procession --  
13 that it took for the procession to go from the metal factory to the  
14 cemetery. You also mentioned the hospital. What was -- how much  
15 time did it take to reach the coffins and the procession from the  
16 hospital to the cemetery?

17 A. I don't know exactly. I don't know how much time it takes to  
18 get there. As I said, only the first funeral procession started from  
19 there. When the first martyrs were buried, they were taken from the  
20 morgue of the Kukes hospital. However, Abdurrahman Gerdellaj, his  
21 funeral procession started from the metal factory and so did  
22 Gani Saramati's funeral. The road that we made from hospital to the  
23 cemetery, we only did it once.

24 Q. That's all right. Thank you for this clarification.

25 From the videos that you discussed with the Defence yesterday,

1 we understand that after the procession reached the cemetery, there  
2 was also some time that was spent by the group of people at the  
3 cemetery. So what we saw yesterday, it was the gathering of the  
4 people first, people were coming to the cemetery. Later on, we could  
5 see funeral speeches. Then we could see some depictions of coffins  
6 being lowered to the grave, soldiers laying wreaths and performing  
7 ceremonial gun salute. Is that correct?

8 A. Yes, that's all of it.

9 Q. How much time would that take for all those elements of the  
10 funeral that I have mentioned, from the moment people reached the  
11 cemetery to the moment they left the cemetery?

12 A. I don't know. We didn't look at the time, but I would say about  
13 40 minutes to one hour. Not more than that.

14 Q. Apart from the funeral ceremonies, yesterday we saw on one of  
15 the clips -- and this is the video that we displayed. It was  
16 075138-01. We saw on that video the KLA soldiers practicing the  
17 ceremonial gun salute before the funeral ceremony. Do you remember  
18 that video?

19 A. Could you please repeat your question? I didn't understand it.

20 Q. Yesterday, on one of the videos we saw KLA soldiers practicing  
21 the ceremonial gun salute in the air that took place before the  
22 funeral ceremonies. Do you remember that video?

23 A. Yes, I remember it very well.

24 Q. Yesterday you also said that you took that video. And this is  
25 on page 69, line 3, of the provisional transcript.



1           And you said also yesterday and also today - and it is on page  
2 -- from yesterday's session on page 69, lines 19 to 20 of the  
3 provisional transcript - you said that this event took place at the  
4 White Drini river, about 2 kilometres away from the metal factory,  
5 towards Krume. Is that correct?

6           A. I said near Drini i Bardhe, or White Drini, not behind  
7 Drini i Bardhe. It is near the factory, about 1 and a half or 2  
8 kilometres away.

9           Q. Understood. But it is on the way to Krume; correct? On the  
10 same road.

11          A. On the same road.

12          Q. How long did it take you to go there?

13          A. I don't know. Actually, on that day we went with a mini-van, a  
14 van, and it took us about ten minutes, not more than that.

15          Q. And how long did you stay there?

16          A. I don't know exactly how long. I don't know. I didn't look at  
17 the time.

18          Q. I understand. If we remember the video, first you film a group  
19 of people slowly walking alongside the river, I believe. Then they  
20 are given some instructions, I believe. This is at least what could  
21 be seen on the video. Then they performed this training on shooting  
22 in the air. And then you go back.

23                 Does that jog your memory about the approximate time you spent  
24 there at that location?

25          A. I honestly don't know. An hour and a half, two, maybe three. I

1 cannot give you an exact time.

2 Q. Understood. Thank you very much.

3 A slight change of a topic but you are still in Kukes 1999. To  
4 which unit, battalion or brigade, did the soldiers who were buried at  
5 the Kukes cemetery belong?

6 A. They were, in fact, soldiers of Ruzhdi Saramati's brigade.

7 Q. But you don't remember the name of that brigade, you don't  
8 remember the number of that brigade, or do you? Just to make it  
9 clear.

10 A. No, I don't know it. I don't know.

11 Q. Yesterday you said that the martyrs who were buried, they fell  
12 in the battle of Gorozhup; is that correct?

13 A. Yes, that's correct.

14 MR. MICHALCZUK: And for the record, the witness said that on  
15 page 69, lines 6 to 13 of the provisional transcript.

16 Q. Also yesterday, at page 78, line 12 of the provisional  
17 transcript, you mentioned that some of the participants in the  
18 funeral were from Ruzhdi Saramati's brigade. And my question is: Do  
19 you know where they had come from to take part in that celebration --  
20 that ceremony?

21 A. To what I heard, part of them came from the front line to attend  
22 the funeral of the martyrs. And this is based on what I heard. I  
23 didn't speak directly to them. And that's where I heard that these  
24 were Ruzhdi Saramati's soldiers.

25 Q. You have mentioned the front line. What was your understanding,

1 where was that front line these soldiers have come from?

2 A. They were inside the territory of Kosovo. There was the  
3 Operation Arrow and this operation included a part of Gorozhup  
4 territory where these martyrs fell.

5 Q. So are you saying that these killed -- fallen soldiers were  
6 killed in the framework of this Operation Arrow? Is that what you  
7 are saying?

8 A. Yes.

9 Q. Mr. Hoxha, how were the bodies of those killed soldiers and  
10 those who also been wounded at that battle, how were they transported  
11 from the operation place on the front line to Kukes? By which means  
12 of transportation; if you know?

13 A. That I don't know because I wasn't there. I cannot give you an  
14 answer to that.

15 MR. MICHALCZUK: Your Honours, just a very quick second of  
16 consultation.

17 [Specialist Prosecutor confers]

18 MR. MICHALCZUK:

19 Q. Mr. Hoxha, you mentioned today that at some point you met with  
20 the families of the fallen KLA martyrs outside of Kukes in one of the  
21 villages; correct?

22 A. Yes.

23 Q. Whose family? Could you give us the name of the family?

24 A. We visited Selver Mackaj's family. They were refugees staying  
25 there near Kukes, and we went to visit them. There is a recording.

1 Q. Yes.

2 MR. MICHALCZUK: Actually, the recording that we also have  
3 should be the recording 075138-01.

4 Q. How much time did you spend there with that family?

5 A. I do not know. Something like around an hour. Something like  
6 an hour.

7 Q. In which direction was that village? In the direction of Kukes,  
8 going -- not Kukes, Krume, going to the north? In the direction of  
9 Kolsh, going to the west? Or in another direction? Do you remember  
10 that?

11 A. No, I don't know. I can't remember. I can't remember. I'm  
12 sorry, but I can't.

13 Q. How much time did it take you to get there, from Kukes metal  
14 factory to that place, to that village?

15 A. I'm sorry, but I can't answer because I do not know. I don't  
16 know because I didn't think that later somebody was going to ask me  
17 about -- questions about this so that I could actually keep the time  
18 as to how long it would take me. And it's not like we had time to do  
19 that. So I can't give you an answer. I'm sorry.

20 Q. But was it less than an hour, more than an hour? You don't have  
21 to be super precise. Just give us the approximation, if you can.

22 A. No, no, I'm not going to guess. I'm sorry.

23 Q. That is also fine.

24 Yesterday you were shown one of the videos by the Defence - and  
25 this is 075138-01 - that you shot yourself, and you confirmed that on

1 page 77, line 16 of the provisional transcript. That video depicted  
2 the morgue of the local hospital in Kukes from where the bodies were  
3 being taken. That was the video. Do you remember that?

4 A. Yes, I remember that very well, actually. I will never, ever  
5 forget it in my life.

6 Q. How much time did you spend in that hospital on that occasion?

7 A. I would say ten to 15 minutes, because the bodies were ready and  
8 we just went there. So it was ten to 15 minutes.

9 Q. Were there other occasions that you visited that hospital?

10 A. Yes, I was there once with friends when we interviewed the other  
11 wounded people. So I was there once.

12 Q. Yes, indeed, we have it on one of the videos, and that would be  
13 075138-02, and it runs from the very beginning to the 8th minute.

14 How long did you stay in the hospital, talking to the wounded  
15 soldiers on that occasion?

16 A. I don't know that. I don't know how long we stayed there. I  
17 can't remember.

18 Q. That video is an extensive piece. It seems that you were  
19 filming somebody or maybe you yourself talking to the wounded  
20 soldiers in hospital beds. Does that jog your memory about the time  
21 that you might have spent there?

22 A. No, I filmed. It's not like I interviewed anyone. But I filmed  
23 non-stop. And the ones who were interviewing them were other  
24 colleagues. But actually --

25 PRESIDING JUDGE VELDT-FOGLIA: Mr. ...

1 I saw Defence Counsel standing and I tried to find a natural  
2 moment to interrupt the witness.

3 Please.

4 MR. AOUINI: Thank you, Your Honour. Sorry. We've been  
5 refraining from intervening, but this is impermissibly vague,  
6 especially when we refer to some footage, and it could mislead, to be  
7 honest, to say -- suggesting that possibly he was talking in the  
8 videos where it is not. Maybe we can show him the video. Now he  
9 helpfully corrected that he was not talking to the victims in the  
10 hospital, but we have to be a little bit more precise. He was  
11 filming, not interviewing or talking to any of the victims.

12 PRESIDING JUDGE VELDT-FOGLIA: But this would only go for this  
13 specific question. I don't think that there has been any -- and I  
14 will give you the floor. But I -- we have not been shown the videos,  
15 but there has been no moment that the Panel thought that there was  
16 unclarity from the side of the witness.

17 Mr. Prosecutor.

18 MR. MICHALCZUK: Yes, it was not about who was talking to whom  
19 really, but it was about jogging the memory about the time that the  
20 witness spent with those wounded soldiers. But I don't have any  
21 further questions on that, so we could safely move on to another  
22 topic.

23 PRESIDING JUDGE VELDT-FOGLIA: Yes. But I want to clarify what  
24 did -- the witness said:

25 "Yes, I was there once with friends when we interviewed the

1 other wounded people."

2 MR. MICHALCZUK: Yes.

3 PRESIDING JUDGE VELDT-FOGLIA: That specific part. Who was  
4 interviewing those people? Mr. Witness.

5 THE WITNESS: [Interpretation] Actually, our friends, our  
6 soldiers interviewed them. Ismet Thaci and Latif Fejzullahu.

7 PRESIDING JUDGE VELDT-FOGLIA: Okay. And, Defence Counsel, does  
8 that clarify? Because if there has remained something unclear, I  
9 want to clarify it now.

10 MR. AOUBINI: It is clear, Your Honour. It's just ...

11 PRESIDING JUDGE VELDT-FOGLIA: Okay.

12 MR. AOUBINI: Just to be precise. It's helpful.

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

14 MR. MICHALCZUK:

15 Q. Mr. Hoxha, speaking about that Kukes hospital, was that a  
16 regular hospital, having all hospital facilities?

17 A. That was the city hospital, so it was the central hospital in  
18 the city of Kukes.

19 Q. Do you know what kind of equipment did that hospital have at  
20 that time?

21 A. No, I don't. I didn't work at the hospital. How could I  
22 possibly know? I'm sorry.

23 Q. But you were there yourself in that hospital. You were with the  
24 wounded soldiers. You spent some time there. What did you see? Did  
25 you see any equipment that is expected to be in a hospital, a normal

1 hospital, or there was no such equipment? Little? More than the  
2 regular hospital? Could you tell us more? Because you were there.  
3 We were not. That's why we are asking this question.

4 A. I think I said that it was the main hospital in Kukes and,  
5 actually, for the areas around Kukes as well. So we went to see the  
6 wounded soldiers who came from Gorozhup, so with all of our friends,  
7 and to see also what had happened also for those who had fallen from  
8 the same battle. We went there to ask questions to them to sort of  
9 keep track and -- of what had happened. Just to have some sort of  
10 paperwork and documents.

11 The hospital was like a hospital. Hospital beds, some medical  
12 devices, but it's not like I noticed anything out of the ordinary.

13 Q. That is clear. Did the soldiers receive treatment there in that  
14 hospital?

15 A. Yes.

16 Q. What sort of treatment?

17 A. Well, they were all wounded. All of them were wounded in  
18 Gorozhup, and it was from there that they were sent to Kukes  
19 hospital, and that's when they were given medical treatment and cured  
20 accordingly. Actually, one of them to this day still uses a  
21 wheelchair because they couldn't do anything about him at that stage.

22 Q. But who were they treated, those wounded soldiers? By doctors,  
23 surgeons? By whom?

24 A. Well, I'm sure it was the doctors and the nurses, because the  
25 medical staff was there, the hospital staff was there. So I don't



1 know. I don't really know how to answer.

2 Q. This is fine. I would like to pay your attention -- that you  
3 pay attention to what you yourself said to the SPO Prosecutor.

4 MR. MICHALCZUK: And, Your Honours, that would -- we don't have  
5 to show it, but this would be on the following ERN number:  
6 077857-TR-ET Part 4, and it's on pages 19 to 20, lines 24-25 on pages  
7 19, and lines 1 to 3 on page 20.

8 So --

9 PRESIDING JUDGE VELDT-FOGLIA: Wait, wait, wait.

10 MR. MICHALCZUK: Of course.

11 PRESIDING JUDGE VELDT-FOGLIA: So these are four lines?

12 MR. MICHALCZUK: These are just five lines, actually.

13 PRESIDING JUDGE VELDT-FOGLIA: Five lines. If you're not going  
14 to show it, and sometimes it can be easier, but then you should quote  
15 it.

16 MR. MICHALCZUK: I'll quote it verbatim, Your Honours.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay, very well.

18 And before we proceed with that, Mr. Prosecutor, we have this  
19 map on the screen. Would you like to -- are you going to make  
20 additional questions with regard to this map? Because if not, I  
21 would like to save in order to avoid that if we have a glitch, that  
22 we would lose the map with the markings on it.

23 MR. MICHALCZUK: Let me briefly check my examination. I think  
24 I'm done with the map, Your Honours.

25 PRESIDING JUDGE VELDT-FOGLIA: And if not, we can always pull it

1 up again.

2 MR. MICHALCZUK: Yes, yes.

3 PRESIDING JUDGE VELDT-FOGLIA: At least it is safe for now.

4 MR. MICHALCZUK: Thank you very much.

5 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you  
6 save this image and allocate it a Registry number.

7 MR. AOUINI: In the meantime, Your Honours, if I may.

8 PRESIDING JUDGE VELDT-FOGLIA: Yes, Defence Counsel, you may.

9 MR. AOUINI: If we may suggest that if we are quoting verbatim  
10 some portions of statement, that we show the witness the Albanian  
11 version of it so he can read it at the same time in his own language,  
12 if we're quoting some prior statements, for accuracy.

13 [Trial Panel and Court Officer confer]

14 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. There  
15 is translation and it's a short portion. But if there is any -- if I  
16 see that there is any reason that Mr. Witness is not getting what we  
17 are discussing, we will revert right away to it. Yes?

18 Madam Court Officer, you have the floor.

19 THE COURT OFFICER: Your Honours, markings made by Witness  
20 W03887 on ERN DPS00159 will be assigned Registry number REG00992.

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

22 Mr. Prosecutor, you will get the floor now. Just one remark,  
23 that we are ten minutes before the break moment.

24 MR. MICHALCZUK: Yes, I am aware of that. Thank you very much.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

1 MR. MICHALCZUK:

2 Q. Mr. Hoxha, let me read you verbatim the question that was posed  
3 to you by the Prosecutor during your SPO interview and your answer to  
4 that question. So listen to this carefully. Question of the  
5 Prosecutor:

6 "Do you know if there were any surgeons there?"

7 Your answer:

8 "Yes. Yes, it was the town hospital, so they had all the  
9 medical staff, but they didn't have all the equipment that they  
10 needed. Because Albania, at the time, was in a very difficult  
11 situation as well."

12 My question is then: Do you confirm, Mr. Hoxha, that, indeed,  
13 there were surgeons in the Kukes hospital at that time in 1999?

14 A. Yes, of course, I can confirm it because the wounded, because  
15 they were wound -- bullet wounds, they were operated. And other than  
16 a surgeon, who else can operate on them?

17 MR. MICHALCZUK: I've got just one small set of questions and I  
18 believe we could break for lunch.

19 Q. Mr. Hoxha, apart from those locations that you mentioned, Krume,  
20 Cahan, Kolsh, the village of Selver Mackaj, were there any other  
21 places within Kukes - within Kukes - that you were going but outside  
22 of the Kukes metal factory?

23 A. In the Kukes area, yes, I did go. But outside Kukes, other than  
24 those locations, I didn't go anywhere else. But inside the Kukes  
25 area, yes, I did go there.

1 Q. Let's focus on the Kukes area, not the places outside. Kukes  
2 area. What were the reasons and occasions when you were going  
3 outside of the Kukes metal factory?

4 A. Well, for instance, I've gone out for a coffee somewhere or  
5 perhaps to have dinner with a friend. So there were cases such as  
6 these. Or to actually fill the car with fuel. So we were free to  
7 move around. And, yes, I could move around freely. It's not like  
8 there were any constraints imposed upon me.

9 Q. Those occasions when you were leaving the Kukes factory you have  
10 mentioned, coffee, dinner, to fill the cars, were they daily  
11 occurrences?

12 PRESIDING JUDGE VELDT-FOGLIA: He did not say dinner. Did I  
13 hear -- or maybe I --

14 MR. MICHALCZUK: Dinner with friends, no?

15 PRESIDING JUDGE VELDT-FOGLIA: Oh, dinner with -- oh, sorry.  
16 I -- good.

17 MR. MICHALCZUK:

18 Q. So those occasions that you mentioned, were they daily  
19 occurrences, for example, were you going out for a coffee on a daily  
20 basis, to fill the car also on that basis, or were they rarer  
21 occurrences than that?

22 A. No, that happened every so often, because, as I mentioned, I  
23 wasn't in Kukes the whole time. I went to Krume, to Cahan. It's not  
24 like I spent the whole time in Kukes or to go out and about in town.  
25 Other than that, for instance, there was food in the barracks, so we

1 could have food there all the time. Breakfast, lunch, dinner,  
2 everything was served there, actually, at the factory.

3 Q. Mr. Hoxha, in SPO interview, you mentioned one specific occasion  
4 when you went out for dinner with your friends; do you remember that?

5 A. Yes, I remember it very well, actually. It was the only dinner  
6 during my time at the factory. It was the only time I went outside  
7 the factory to have dinner somewhere.

8 Q. Do you remember when was it? Towards the end of your stay in  
9 Kukes? At the beginning? In the middle? Do you remember the time?  
10 Approximately.

11 A. No, I can't remember.

12 Q. Do you --

13 A. I can't remember.

14 Q. That is fine. Do you remember approximately the time you spent  
15 with your friends on that dinner outside of the Kukes metal factory?

16 A. I don't know. Two hours. Three max. But around two hours.

17 Q. Was it still within the town of Kukes or somewhere else?

18 A. Yes, yes, it was in Kukes. Yes.

19 MR. MICHALCZUK: Your Honours, maybe this is a convenient moment  
20 to stop for now. We can resume after lunch.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

22 Mr. Witness, we will take a lunch break now, and after that, we  
23 will continue with the cross-examination by the Specialist  
24 Prosecutor's Office.

25 And before we do that, I would like to give you the schedule for

1 today because it's a little bit different from what we have normally.  
2 We will resume at 2.00. So it's a little bit shorter break. Then we  
3 will have a one-and-a-half-hour session. Then we have a ten-minutes  
4 break, which is always important after a one-and-a-half-hour session,  
5 and then we do a half an hour more so that we will finalise at ten  
6 minutes past 4.00. Ten minutes past 4.00, yes. So that's a little  
7 bit longer than normally. But then we have a 30-minute session at  
8 the end. Yes? Okay, good.

9 Then the hearing is -- oh, no. No, no. That is too quick. We  
10 will first usher the witness out.

11 I wish you a good break and we see you back at 2.00.

12 [The witness stands down]

13 PRESIDING JUDGE VELDT-FOGLIA: Now it's the moment to adjourn.  
14 The hearing is adjourned.

15 --- Luncheon recess taken at 12.38 p.m.

16 --- On resuming at 2.05 p.m.

17 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. Five minutes after  
18 2.00. Yes, okay.

19 Let us see. In the same composition is the SPO.

20 MR. MICHALCZUK: Same composition.

21 PRESIDING JUDGE VELDT-FOGLIA: That's not difficult.

22 And on our left-hand side.

23 MR. GILISSEN: And the same composition too.

24 PRESIDING JUDGE VELDT-FOGLIA: Very well. Mr. Shala is here  
25 with us. Very well.

1 Mr. Shala, can you confirm that you hear me?

2 THE ACCUSED: [via videolink] [Interpretation] Yes, I can hear  
3 you.

4 PRESIDING JUDGE VELDT-FOGLIA: Very well, thank you.

5 Good. We will continue with the cross-examination of  
6 Mr. Zijadin Hoxha. But before we do that, I was informed that there  
7 is a request from the side of the Defence, and my question in this  
8 respect would be can we do it in public session or would you prefer  
9 to go into private?

10 MR. GILISSEN: Mr. Aouini is dealing with it.

11 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good.

12 MR. AOUNI: Thank you, Your Honour.

13 Thank you, Mr. Gilissen.

14 Your Honour, this discussion will revolve around Rule 151. I  
15 don't know if Your Honours prefer to go into private session for  
16 that. Yes.

17 PRESIDING JUDGE VELDT-FOGLIA: I think that is a good idea.

18 Madam Court Officer, could you bring us into private session,  
19 please.

20 [Private session]

21 [Private session text removed]

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9 [Open session]

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

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

12 Madam Court Usher, if there's nothing else to raise with the

13 Panel, then we can proceed with the continuation of the

14 cross-examination by the Specialist Prosecutor's Office.

15 So we will now continue until half past 4.00, then we have ten  
16 minutes' break and then another half an hour, so a two hour -- half  
17 past 3.00. Thank you. Half past 3.00, ten minutes' break, and then  
18 half an hour.

19 [The witness takes the stand]

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

21 THE WITNESS: [Interpretation] Greetings to you all.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you. I -- we will now  
23 continue the cross-examination by the Specialist Prosecutor's Office.

24 You already started before the break, and he will now continue.

25 You have the floor.

1 MR. MICHALCZUK: Thanks, Your Honour.

2 Q. Mr. Hoxha, welcome back. I hope you had a good rest.

3 A. It was good. Thank you.

4 Q. Before I move on to other topics, I would like to come back very  
5 shortly to two matters that you touched upon before the break, if I  
6 may.

7 Today - and we can find it at page 57, lines 24, 25, and at page  
8 58, lines 1 to 4 - we were discussing the issue of the means of  
9 transportation of the bodies and the wounded people from the front  
10 line to Kukes. Do you remember that we discuss this issue? Do you  
11 remember it?

12 A. Yes, I do.

13 Q. And then upon my question about the means of transportation of  
14 those bodies and the wounded, you answered in the following fashion,  
15 and I quote:

16 "That I don't know because I wasn't there. I cannot give you an  
17 answer to that."

18 That was your answer today about the means of transportation.

19 However, I would like refer you to your statement that you gave  
20 to the SPO.

21 MR. MICHALCZUK: And it would be 077857-TR-ET Part 4 RED, and it  
22 is pages 6 and 7.

23 Q. So this is what you said about the means of transportation of  
24 the bodies and the wounded people from the front line to Kukes.

25 "The truck was used to transport the wounded or the killed

1 soldiers from that front line, so there were like gauzes or things  
2 that changed their wounds during the transport and they remained  
3 there. Because until Krume, they were transported in other vehicles,  
4 and then from Krume to Kukes, they were transported in this lorry."

5 So in the SPO interview, you clearly talk about trucks that  
6 transported the people up to a certain location, to Krume, and then  
7 from Krume to Kukes, that they were transported in the lorry. Do you  
8 confirm it or do you still maintain that you don't know the means of  
9 transportation used?

10 A. From the front line, I don't know how they were brought because  
11 I wasn't there. What I know is that there is a recording and that  
12 they brought the wounded from Krume with that truck.

13 As to the front line, how they were brought and withdrawn to  
14 Krume, that I don't know because I wasn't on the front line.

15 Q. So if you don't know how the bodies were transported from the  
16 front line, why did you say that to the Prosecutor, that they were  
17 transporting with the use of the trucks?

18 MR. AOUINI: Excuse me, Your Honour.

19 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. Can  
20 we discuss it in the presence of the witness without influencing him  
21 on the matter?

22 MR. AOUINI: I think we can. Because what we read in the  
23 transcript of the prior statement is something different, so we  
24 should --

25 PRESIDING JUDGE VELDT-FOGLIA: Okay. Then we go --

1 MR. AOUINI: -- offer this to the witness to see it. Because up  
2 until Krume -- I leave it to Your Honours.

3 PRESIDING JUDGE VELDT-FOGLIA: But no, what we do is we pull it  
4 up, yeah, because if there is discussion on the content of the prior  
5 statement, that were my directions before the break. I would have a  
6 preference to pull it up and then I will give to the floor.

7 MR. MICHALCZUK: Of course. We can pull this up. So, again, I  
8 said it was 077857-TR-ET Part 4 RED, pages -- I believe it's 6 and 7,  
9 I think.

10 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
11 Officer.

12 [Trial Panel and Court Officer confer]

13 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. Do we  
14 have an Albanian version? A reference?

15 MR. MICHALCZUK: [Microphone not activated]. At this point,  
16 unfortunately, we don't have it. We just found it in the break this  
17 reference, during the break, and this is what we have for now.

18 But maybe I could shorten this to the last lines to clarify  
19 about the transportation of the bodies from Krume to Kukes.

20 Q. So --

21 PRESIDING JUDGE VELDT-FOGLIA: And then we have it translated as  
22 always into Albanian and we see if we can clarify.

23 MR. MICHALCZUK: Yes.

24 MR. AOUINI: The point that made us raise is from the front line  
25 to Krume which mentions in the prior statement other vehicles, and my

1 learned colleague submitted the question as if the truck was used  
2 from the front line to Krume. That's the discrepancy that we need to  
3 clarify. What we read here is that the lorry or truck would have  
4 been used from Krume onwards, not from the front line to Krume.  
5 That's the -- we're probably at cross-purposes, but just to clarify  
6 it is better for everyone.

7 PRESIDING JUDGE VELDT-FOGLIA: I must say that this discussion  
8 we should not have had here, but -- with the witness present, but,  
9 anyway.

10 MR. MICHALCZUK: Your Honours, we'll just make it very, very  
11 short. Let's focus on the part of transportation of the bodies from  
12 Krume to Kukes.

13 Q. So from this SPO statement that we have before us, it seems that  
14 from Krume to Kukes the bodies and the wounded ones were transported  
15 in the lorry. Is that what happened?

16 A. It's the same lorry depicted in the recording, at the very  
17 beginning of the recording. It's the same truck. There, you can see  
18 the blood, the bandages. You have all the evidence in that truck  
19 that testifies to them being transported by that truck to the Kukes  
20 hospital.

21 Q. I would like to clarify with you another matter. We discussed  
22 before the location from which the bodies and the wounded people were  
23 transported, and you mentioned the place called Gorozhup. And it's  
24 at page 57, line 20. Do you remember that name, Gorozhup?

25 A. I remember Gorozhup as a name, but I've never been to that place

1 in my whole life.

2 Q. Even if you were not there yourself, do you know whether -- what  
3 was in Gorozhup? Because you mentioned that from that location, the  
4 wounded and the killed ones were transported all the way to Kukes.

5 So my question is do you know what was at that time in Gorozhup?

6 A. There was fighting going on in Gorozhup between our army and the  
7 Serbian forces. All the wounded that were in Kukes hospital had been  
8 wounded there, including those who had been killed. Gorozhup is in  
9 the territory of Kosovo and was part of the front line where combat  
10 was going on.

11 Q. Was there any KLA location in Gorozhup at that time?

12 A. The soldiers who had been killed were killed in Gorozhup,  
13 because the front line stretched to Gorozhup and that was part of the  
14 battle. I was not myself on that side of the territory. I was on  
15 the other side. I was part of logistics. I'm not familiar with the  
16 other side, but I know, based on information that I had and on what  
17 the commanders said, there were six or seven soldiers who had been  
18 wounded in Gorozhup and five who had been killed.

19 Q. Thank you for this explanation, but my question was different.  
20 My question was, was there any KLA location there, in terms of the, I  
21 don't know, base, centre, anything of that sort, at that time in  
22 Gorozhup? That was my question.

23 A. I don't know. I wasn't there.

24 Q. But these people, the wounded and the fallen people brought from  
25 that location, was there any discussion amongst the soldiers about

1 that battle, about that particular place? If so, maybe somebody  
2 mentioned what was there in Gorozhup?

3 A. In fact, we did speak to co-fighters who were in that part.  
4 They were ambushed. Our forces were penetrating the area, and then  
5 they fell into an ambush and five soldiers were killed there at  
6 Gorozhup.

7 Q. Mr. Hoxha, let's change the topic slightly, if possible. I'll  
8 ask you some questions regarding the Kukes metal factory, the  
9 premises of the factory, and while doing that, I will be showing you  
10 photographs of that compound. Most of the buildings on these photos  
11 look the same as they were in May, June 1999, but please bear in mind  
12 that some of the buildings there might look differently.

13 I will start with questions about your workplace in the  
14 Kukes metal factory, and also other buildings in that location.

15 So, first, let me show you the aerial photograph of the compound  
16 and ask some questions.

17 MR. MICHALCZUK: Your Honours, the purpose is just to walk the  
18 witness through the compound from a slightly different angle, from  
19 the aerial angle, and let's see whether he will be able to recognise  
20 some of the structures within the compound.

21 PRESIDING JUDGE VELDT-FOGLIA: Let us first see if he recognises  
22 the compound.

23 MR. MICHALCZUK: Of course, of course.

24 Could we pull up the following document: SPOE00330362 RED.

25 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court



1 Officer.

2 MR. MICHALCZUK: Thank you. Yes, this would do.

3 Q. Mr. Hoxha, I am aware that you haven't seen the premises from  
4 the bird's eye view, so to speak, but perhaps you will be able to  
5 recognise some of the locations. And, to be fair to you, I would  
6 like to tell you up front that there is -- in this picture, there is  
7 one building that is missing, the one structure that is missing which  
8 was in the middle of the courtyard, and on this photograph it doesn't  
9 look the way it looked in 1999 when you were there. Part of this one  
10 has been demolished.

11 So taking a look at this aerial photograph, are you able to  
12 identify some buildings? Is that structure familiar to you?

13 A. Yes, part of it is -- looks familiar.

14 Q. Thank you. I'll try to, step by step, walk you through this  
15 photograph, and maybe with my assistance we could assist the Court  
16 with understanding which locations were in which places.

17 So could you identify on this photograph the entrance to that  
18 compound; and, if so, could you please mark it with number 1.

19 A. [Marks]

20 Q. Thank you very much.

21 MR. MICHALCZUK: Your Honours, I would like to show the witness,  
22 alongside this photograph that should be with us present on the  
23 screen at all times from now on, also some other photographs of the  
24 actual compound. And then we will try to mark certain places on both  
25 types of photographs, first on the aerial and then on the actual

1 photograph, of a certain location, if possible.

2 PRESIDING JUDGE VELDT-FOGLIA: You may proceed.

3 MR. MICHALCZUK: Madam Court Officer ...

4 [Trial Panel and Court Officer confer]

5 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. Even  
6 if we make it smaller, the marking will disappear. So we first have  
7 to save it and then we can add ...

8 MR. MICHALCZUK: Maybe I could propose something slightly  
9 different. Maybe we could make it smaller and then start putting  
10 photographs, and the witness could again mark at the entrance on this  
11 photograph number 1 and others, just not to repeat the same exercise  
12 again and again.

13 PRESIDING JUDGE VELDT-FOGLIA: I'm sure you will -- understood  
14 it will disappear, the marking number we have now, the 1.

15 MR. MICHALCZUK: Yes, yes.

16 PRESIDING JUDGE VELDT-FOGLIA: Okay.

17 MR. MICHALCZUK: We will put it again in a moment.

18 PRESIDING JUDGE VELDT-FOGLIA: Very well.

19 MR. MICHALCZUK: I hope the witness will be able to put it.

20 PRESIDING JUDGE VELDT-FOGLIA: Okay. Madam Court Officer,  
21 please proceed with making this image smaller and pulling up the  
22 document requested by the Specialist Prosecutor's Office.

23 MR. MICHALCZUK: Right. The --

24 PRESIDING JUDGE VELDT-FOGLIA: Before we start --

25 MR. MICHALCZUK: Yes.

1           PRESIDING JUDGE VELDT-FOGLIA: -- could you ask the witness what  
2           is it that he is seeing here. Because my question was that I wanted  
3           to have him identify what is this structure.

4           MR. MICHALCZUK: Yes. Yes, Your Honour.

5           Q. Mr. Hoxha, could you state for the record what is this  
6           structure?

7           A. As a matter of fact, that's the factory in Kukes.

8           Q. The one in which you were in 1999?

9           A. Yes, that's the one.

10          MR. MICHALCZUK: Madam Court Officer, could you, alongside this  
11          photograph, put also the document SPOE40010264 to 40010559, at  
12          page 11.

13          PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
14          Officer.

15          MR. MICHALCZUK:

16          Q. Mr. Hoxha, yesterday in court, you said - and we have at page  
17          32, line 25 of the provisional transcript - that:

18                 "It was inside this warehouse. I had a desk there."

19                 That's what you said.

20          Do you confirm that on the left-hand side on the picture you  
21          have this part of the warehouse where you had your desk and where you  
22          worked?

23          A. Yes, I confirm it.

24          Q. Could you go to the picture on the right and mark for us again  
25          with number 1 the entrance to the factory and with number 2 that

1 warehouse where you worked in 1999?

2 A. [Marks]

3 Q. Okay. Thank you very much. So just for clarification, is that  
4 the place marked with number 2 where you worked repairing your  
5 weapons in 1999?

6 A. Yes. In fact, that was the main warehouse.

7 Q. Yesterday during your testimony - and we have it at page 33,  
8 lines 10 to 13 of the provisional transcript - you also indicated  
9 that on certain occasions you also repaired weapons outside the  
10 warehouse. And you said the following:

11 "Where there was a major repair that I had to do, then I work --  
12 I would work outside in the yard ..."

13 Is that correct?

14 A. Yes, it is correct.

15 Q. On the aerial photo, on the right-hand side, could you mark,  
16 roughly at least, the place where you were repairing weapons outside  
17 in the yard and put number 3.

18 A. [Marks]

19 Q. Just for the record, was it in front of the gate through which  
20 you were entering and exiting the warehouse or in another place?

21 A. It was to the side, really. To the side of the entrance. So  
22 there's the crane there and just there, by the crane. The one that  
23 you can see in the photograph to the left, the large crane machinery.  
24 That's by -- that's where I worked, by the crane.

25 Q. Mm-hm. Are we talking about this line that goes from the

1 warehouse marked with number 2 to another building, that black line?

2 Is that the crane that you are talking about?

3 A. Yes, precisely there. That's it.

4 Q. Mr. Hoxha, speaking about this warehouse where you worked, did  
5 it also happen that you slept in that warehouse?

6 A. Yes, a couple of nights. Two nights. Actually, not two nights,  
7 but once -- one night I slept but not in that part where I worked but  
8 to the opposite end, to the left side. From the main entrance to the  
9 left.

10 Q. Mm-hm. Could you mark it -- mark it with A, the place where you  
11 slept?

12 A. In the photograph to the left of it or to the right?

13 Q. Let's stick to the aerial photograph, the one on the right.

14 A. Number 4, right?

15 Q. No, no, let's make it letter A maybe, letter A.

16 A. Letter A, correct?

17 Q. Mm-hm.

18 A. [Marks]

19 Q. So you said that you slept there two nights. You said a couple  
20 of nights, two nights.

21 Was that the only place with number A --

22 PRESIDING JUDGE VELDT-FOGLIA: Shall we ask what he means with  
23 "a couple of nights." I mean, I didn't hear him say two.

24 MR. MICHALCZUK: Yes.

25 PRESIDING JUDGE VELDT-FOGLIA: And we have to -- yes, please ask

1 the question what he means with "a couple of nights." And then I  
2 want to make one remark.

3 MR. MICHALCZUK: We will ask this question, indeed,  
4 Your Honours.

5 MR. AOUINI: Before that, Your Honour, excuse me.

6 PRESIDING JUDGE VELDT-FOGLIA: Please -- no, I want to finalise  
7 this and then -- because a couple ...

8 MR. AOUINI: The witness corrected just after that.

9 PRESIDING JUDGE VELDT-FOGLIA: Yes.

10 MR. AOUINI: So we have to read it. I can give you the exact  
11 ...

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

13 MR. AOUINI: Sorry. At page 82, line 21 and 22, he corrected.  
14 So we don't have the information of only a couple but then a slight  
15 specific. He said ...

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

17 MR. MICHALCZUK: [Microphone not activated]

18 PRESIDING JUDGE VELDT-FOGLIA: I think that is a good idea.  
19 Thank you, Defence Counsel.

20 And Mr. Prosecutor, you have the floor.

21 MR. MICHALCZUK:

22 Q. Mr. Hoxha, we've got to seek one clarification from you in  
23 relation to the number of nights that you slept in the warehouse  
24 because first you said:

25 "[I spent there] a couple of nights."

1 Then you said:

2 "Two nights. Actually," you said, "not two, but ... one night I  
3 slept ..."

4 And you continued.

5 So what do you mean by "a couple of nights"? How many nights  
6 did you sleep in the warehouse during your stay in Kukes metal  
7 factory in 1999?

8 A. Two nights I slept there.

9 Q. I would like that show you one photograph.

10 MR. MICHALCZUK: And could we please remove the photograph, the  
11 one on the left-hand side, and let's keep the aerial photograph,  
12 please. Using the same range as I indicated before, which is  
13 SPOE40010264 ...

14 May I continue?

15 Yes. So I would like to display on the left-hand side of the  
16 screen the same document with the same range, which is SPOE40010264  
17 to 40010559, but this time page 165.

18 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
19 Officer.

20 MR. MICHALCZUK: [Microphone not activated]

21 PRESIDING JUDGE VELDT-FOGLIA: Please, mic.

22 MR. MICHALCZUK:

23 Q. Mr. Hoxha, do you recognise this structure on the photograph on  
24 the left-hand side?

25 A. No, I don't.

1 Q. Mr. Hoxha, today - and we have it on page 41 of the transcript  
2 at line 15 - you said that within the main metal factory there was a  
3 small depot.

4 "I had the keys and I would put them there."

5 So that's basically the issue. So there was a small depot  
6 within the factory. Is it that depot that you mentioned today in  
7 your testimony, a small depot within the warehouse?

8 MR. AOUINI: Excuse me, Your Honour.

9 THE WITNESS: [Interpretation] No.

10 PRESIDING JUDGE VELDT-FOGLIA: Wait.

11 Defence Counsel.

12 MR. AOUINI: Sorry. He said within the factory and now the  
13 question is "within the warehouse," which is quite different. A  
14 depot within the factory and now my learned colleague --

15 MR. MICHALCZUK: I can clarify it, Your Honour.

16 PRESIDING JUDGE VELDT-FOGLIA: Very well. It's taken on board.  
17 Thank you, Defence Counsel.

18 MR. MICHALCZUK:

19 Q. So that in testimony that I have just read to you, you mentioned  
20 there was place within the factory. You didn't specify the place.  
21 And that you were putting away the weapons, repaired weapons or  
22 something. Where was this structure that you said when you said "a  
23 small depot within the factory," where was it.

24 A. It's not this -- it's not this, the depot. The depot I was  
25 thinking, it was like I had a depot of the weapons. It was in the



1 room we slept in opposite the corridor. So there was a very small  
2 room there. And it was there where the headquarters was, where the  
3 leaders of the headquarters were, and there was a small part there  
4 where I would put the weapons. I do not recall this. It could so  
5 happen that, say, it was there and it was covered in clothes or any  
6 type of materials, but I do not remember this structure. I've never  
7 seen it before.

8 Q. Mm-hm. I would like to clarify one issue that you --

9 PRESIDING JUDGE VELDT-FOGLIA: No, Mr. Prosecutor.

10 MR. MICHALCZUK: Yes.

11 PRESIDING JUDGE VELDT-FOGLIA: There is one point I want to  
12 make. For next time for all the different questions you're going to  
13 ask, I want you to make open questions. And here, for example, you  
14 could have asked: Could you assist us where this depot is. And then  
15 you could have -- instead of putting and saying: Is it this? Yes?  
16 Yes.

17 And I want to come back to another point I want to make. The  
18 whole issue of having the picture on the right-hand side redacted was  
19 that I -- the Panel first wanted the witness to recognise the  
20 premises. But you started right away with telling him that these  
21 were the premises.

22 We cannot go back in time, but please adhere to the instructions  
23 of the Panel, because now it has been useless what we have done in  
24 that respect. And please adhere to open questions in order to see  
25 what comes up.

1 MR. MICHALCZUK: Of course. I will comply with that  
2 instruction. Thank you, Your Honour.

3 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

4 MR. MICHALCZUK:

5 Q. Mr. Hoxha, I would like to make a very short reference to your  
6 statement that you gave to the SPO, and it would be 077857-TR-ET  
7 Part 4 RED, at page 29, when you were asked the question about the  
8 place where you were storing weapons within the warehouse. And this  
9 is what you said:

10 "There was a small enclosure like it used to be a toilet, where  
11 I set up a structure to put the weapons there like a depot, and then  
12 afterwards, I would take all of them and send them to where it was  
13 needed."

14 And my question is in relation to that part because you mention  
15 a depot that you were putting the weapons. This structure on the  
16 left-hand side, was it that structure?

17 A. No, it was not that one. It's a completely different building.  
18 The depot I was using was an entirely different building. It is the  
19 building in which the room where I slept is, so just opposite the  
20 room. As soon as you open the door, opposite you would find this  
21 enclosure depot.

22 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. I  
23 will do it -- say it now with my microphone on.

24 Defence Counsel, I see that you are standing.

25 MR. AOUINI: Thank you, Your Honour. And apologies to interrupt

1 again.

2 The question of this depot being the one has been asked and  
3 answered, so no need to repeat it many times. We have noticed a  
4 little bit of pressing.

5 The other objection we have is we have establish what kind of  
6 structure before going -- before going to the prior statement. What  
7 kind of structure, in which place. We have an aerial view, he can  
8 mark it, and then we can establish whether it is made of the same  
9 materials or not, in which place. And then probably if they have  
10 information that this is the one or another one or this is the only  
11 one in the warehouse he refers to, then we can confront him, if there  
12 is a basis to confront him.

13 Now what we did is we showed him a picture he didn't recognise.  
14 We then went to a statement and asked him a question again while his  
15 answer was about a different part of the building.

16 So if there is another structure that he made, he can explain  
17 which material, in which place he can place it, and then maybe if  
18 there is a basis to suggest to him something else.

19 This is our objection, Your Honour.

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

21 Mr. Prosecutor, would you like that react to this?

22 MR. MICHALCZUK: Your Honours, we have clarified everything we  
23 want to clarify. The witness said it was in a different place, the  
24 structure that he set up. We can simply move on.

25 PRESIDING JUDGE VELDT-FOGLIA: Yes. But for next time, we

1 normally don't pull just a part of the statement in order to confront  
2 him with that. We first try to have the witness talk on that matter.  
3 But for these purposes I see that it was useful.

4 Please proceed.

5 MR. MICHALCZUK: Mm-hm, thank you.

6 Q. Mr. Hoxha, you told us yesterday - and it is it at page 20,  
7 lines 8 to 9, and also 13 and 14 and others - that there was a  
8 medical facility within the compound of the factory; correct?

9 A. Yes.

10 Q. Could you please, if possible, mark it on this aerial photograph  
11 that you have on the right-hand side with number 4, if you are able  
12 to locate it.

13 A. [Marks]

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, did you mark it?

15 THE WITNESS: [Interpretation] Yes, I did. I thought I did.

16 PRESIDING JUDGE VELDT-FOGLIA: It's not visible for -- at least  
17 for the Panel.

18 THE WITNESS: [Marks]

19 PRESIDING JUDGE VELDT-FOGLIA: Okay. Ah, okay. Thank you.

20 MR. MICHALCZUK:

21 Q. While commenting on the medical facility in the Kukes metal  
22 factory, at page 20, line from 8 to 10, you said:

23 "There were two or three girls that stayed there."

24 That's what you said. Who are those two or three girls?

25 A. They were soldiers. I do not know their names.

1 Q. The question -- your answer to that question was in the context  
2 of the medical office. These two or three girls, were they  
3 considered members of medical personnel or not?

4 A. Actually, medical personnel, I think they were, and they must  
5 have had a degree in medicine. I was also there where the girls were  
6 once. In one case, they gave me first aid, in a way, and that was  
7 it.

8 Q. But those who gave you this first aid, who were they? Doctors,  
9 nurses, members of medical personnel of other sort? Who were they?

10 A. They were nurses.

11 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, can we take down  
12 the picture on the left-hand side?

13 MR. MICHALCZUK: On the left-hand side we can, indeed.

14 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
15 Officer.

16 MR. MICHALCZUK:

17 Q. Mr. Hoxha, while you were working in Kukes metal factory, where  
18 did you go to the toilet if you needed to relieve yourself?

19 A. I really do not remember. I swear I don't remember where. I  
20 don't remember. I can't answer, really.

21 Q. But it was within the Kukes metal factory or not?

22 A. It must have surely been there inside the factory. There must  
23 have been a toilet. But I don't remember where because I was mostly  
24 moving around rather than staying put in one single place in the  
25 factory. And there were places, also cafés, or wherever we went. So

1 I don't remember where that would have been inside the factory. I  
2 think it would have been in the command post. There was a small WC  
3 there, but I'm not entirely sure.

4 Q. Mr. Hoxha, we have heard evidence that there was, indeed, a  
5 toilet in the Kukes metal factory but it was -- if you take a look at  
6 this location, it was, rather, if you take as a point of reference  
7 the warehouse number 2, you go to the other side and you go all the  
8 way up and the toilet is there at the very end of this building in  
9 this kind of narrow corridor at the end. We heard this evidence.

10 Do you remember there being toilets?

11 A. No, I don't. I'm sorry. I don't remember.

12 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, I remind you that  
13 have you to tell the truth here. You have been there for six weeks  
14 and if you don't know, we accept that. But, on the other hand, I  
15 just -- I just want to remind you.

16 THE WITNESS: [Interpretation] And I'm also telling you the  
17 truth. I am here for the truth. I am not here to lie.

18 PRESIDING JUDGE VELDT-FOGLIA: You have the floor,  
19 Mr. Prosecutor.

20 MR. MICHALCZUK:

21 Q. Mr. Witness, just one question echoing what the Presiding Judge  
22 has just said. You were there for several days in the Kukes metal  
23 factory, and we understand from your evidence that you were busy  
24 repairing weapons. And if you were going to the toilet within the  
25 factory, you must be going there rather often. So I'm also surprised

1 that you cannot, even in general terms, tell us where the location of  
2 the toilet was, if you were going there on a daily basis.

3 So what is your final position, Witness, on this?

4 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I have the  
5 Defence standing --

6 MR. MICHALCZUK: Oh, excuse me.

7 PRESIDING JUDGE VELDT-FOGLIA: -- so I will give him the floor  
8 first.

9 Please Defence Counsel.

10 MR. AOUNI: Yes, Your Honour. We understand the importance of  
11 the matter, but my learned colleague didn't ask a question. He made  
12 comments. And this is not entirely true. The witness has made an  
13 effort and placed one WC, which we understand to be a toilet,  
14 somewhere.

15 PRESIDING JUDGE VELDT-FOGLIA: Overruled. We are not going to  
16 discuss it any further. No. No.

17 Please proceed, Mr. Prosecutor.

18 MR. MICHALCZUK:

19 Q. So my question is what is your final position, that you still  
20 don't remember where the toilet was, where you were going?

21 A. No, I do not remember. And even the weapons where the depot  
22 was, where I was repairing, there was a WC there too. There was a WC  
23 there too, not only where you are saying in the corner, but also  
24 where I kept the repaired weapons. There was a WC there as well.

25 Q. You have just mentioned -- mm-hm.

1 A. And even if I go to the premises there today, the WCs will be in  
2 the same place.

3 Q. Yes. I mean, you have just yourself said that there was one WC  
4 in the corner. Is that what you have just said?

5 A. Yes, I did. I said that.

6 Q. Mr. Hoxha, if you, again, take a look at this aerial photograph,  
7 moving up all the way, you can see that there is a building which is  
8 rather short at the end of this yard. Can you see that? If you move  
9 from number 3 all the way up, there is a structure, can you see that,  
10 that is against the wall of buildings?

11 A. Well, yes, I can see it, but I also explained this yesterday.  
12 Where number 3 is, there were three or four trucks which were broken  
13 down and were parked there. Actually, I'm not sure if there were  
14 three or four. But that part of the courtyard could not be seen.  
15 One could not see what was there. I could not see it because my  
16 duties were not to go to that part. So -- the idea was from  
17 General Staff to the factory, to the courtyard or elsewhere, if I was  
18 told to go. So this is what I was supposed to do. My tasks. My  
19 tasks were not to gallivant around the factory and to see what was  
20 there.

21 And, on the other hand as well, it is 24 years later. Of  
22 course, one cannot remember absolutely everything.

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, for reasons of  
24 clarity, I would like to, either with a number or a cross, indicate  
25 which structure the witness is now discussing to be sure that we know



1 that we are talking about the same building.

2 MR. MICHALCZUK: Yes. Unfortunately, there is no way for me to  
3 mark it for the witness --

4 PRESIDING JUDGE VELDT-FOGLIA: No, no, not for you.

5 MR. MICHALCZUK: However, I will try to guide the witness to do  
6 it himself.

7 Q. So, Mr. Hoxha, could you please try to mark for us the building  
8 we are discussing, just to have clarity for all of us which structure  
9 we are discussing.

10 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, could you first  
11 answer the question from Mr. Prosecutor? Unless it's not clear. And  
12 then you will be given the floor and then you can say what you think  
13 that is important to say.

14 THE WITNESS: [Interpretation] Okay.

15 PRESIDING JUDGE VELDT-FOGLIA: Yes? Thank you.

16 MR. MICHALCZUK:

17 Q. So, Mr. Hoxha, if this is possible, with number 5, could you  
18 mark this structure we are discussing right now. So, again this  
19 structure, if you go from number 3 all the way up through the yard,  
20 it lies at the very, very end of the yard. This is the structure I  
21 was also referring to. Thank you very much.

22 A. [Marks]

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, you wanted to say  
24 something. You have the floor.

25 THE WITNESS: [Interpretation] Yes, Your Honour. I wanted to say

1 something. On Friday, when I received my file to read it, the  
2 interview I had given in 2020, in September of that year, at the end  
3 of the file, of my file, there were two photographs which I had never  
4 been shown by the Prosecutor or anyone else. Those photographs I do  
5 not recognise. I do not know what those photographs are or whose  
6 they are. There were two photographs which I do not recognise, never  
7 seen them in my life before.

8 PRESIDING JUDGE VELDT-FOGLIA: We're not going to follow up on  
9 it right now. But thank you for sharing that with us. Well noted.  
10 Yes?

11 Mr. Prosecutor, you may continue.

12 MR. MICHALCZUK:

13 Q. Mr. Hoxha, I would like to discuss with that you structure that  
14 you marked with number 5. And to be fair with you, I need to tell  
15 you that this photograph that is in front of you does not really  
16 reflect how the building looked back in 1999. We believe that the  
17 structure was much longer, protruding further into the middle of the  
18 yard. So this one is just the photograph for demonstrative purposes,  
19 so to speak.

20 MR. MICHALCZUK: Your Honours, could I have alongside the aerial  
21 photograph another photograph, and I would like to show to the  
22 witness the structural part of it from a different angle. I believe  
23 we saw that photograph also yesterday.

24 PRESIDING JUDGE VELDT-FOGLIA: Please proceed with giving the  
25 number to Madam Court Officer.

1 MR. MICHALCZUK: It would be SPOE40010264 to 40010559.

2 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
3 Officer.

4 [Microphone not activated].

5 MR. MICHALCZUK: Of course. Page number would be page -- would  
6 be 19, 1-9. Yes, thank you very much.

7 Before I ask any questions, could we zoom to 150 per cent of the  
8 original size to that structure that is painted in white or has got a  
9 white colour. Maybe a bit more, maybe even 200. Just to show the  
10 witness this building in a proximity. Yes, that would suffice.

11 Q. Mr. Witness, do you see that building with white -- white  
12 painted walls at the end of the courtyard? Do you see that?

13 A. Yes, I do see it. I saw it yesterday as well. But I told you  
14 yesterday and a little while ago that I personally could not see this  
15 part because of the trucks that were out of order and that were  
16 parked in the yard. This is what I said yesterday and what I said  
17 earlier on. There were three or four trucks parked there.

18 PRESIDING JUDGE VELDT-FOGLIA: The question has not been posed  
19 yet, and we heard very well what you just said about it and what you  
20 said yesterday. And the -- Mr. Prosecutor will -- that's the way of  
21 working, will not be repeating questions to you which have already  
22 been posed. But I suppose that he will have a kind of follow-up  
23 question for you on this matter. Okay?

24 MR. MICHALCZUK: Thank you. Thank you very much.

25 Q. So my question -- my question is: Can you see that building

1 clearly, and does it correspond, in relation to that location, to the  
2 building that you marked with 5 on the right-hand side?

3 A. Based on this aerial photograph, it could be. But I'm not sure.

4 MR. MICHALCZUK: Your Honours, I would like to show another  
5 photograph of that location from a slightly different angle and I  
6 would ask the witness to comment on it. And it would be the same  
7 range, page 27.

8 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
9 Officer.

10 MR. MICHALCZUK: Yes.

11 Q. Mr. Hoxha, this is the same building shot from a closer  
12 distance. So this is how the building looks today. And on the  
13 right-hand side, if you take a look at this building, when you're  
14 looking at this photograph on the left-hand side, if you take a look  
15 at that building, a little bit to the right there is some kind of  
16 door and there is a shirt hanging there in front of it. Can you see  
17 it? It is at the very verge of this photograph. Can you see that?

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

19 THE WITNESS: [Interpretation] I cannot see any shirt.

20 PRESIDING JUDGE VELDT-FOGLIA: For the Panel, it is not clear  
21 what's the door you are referring to, Mr. Prosecutor.

22 MR. MICHALCZUK: Yes. I will try to clarify. So we have this  
23 building in front of us, the one on the left-hand side on that  
24 photograph. And then to the right from this building, when we have  
25 this red bricked wall, to the right of it, we've got this piece of

1 clothing hanging there. It is at the very verge of the photograph.  
2 And some kind of rectangular hall which we believe is the gate, and  
3 we will show it also in a moment on another photograph. We just want  
4 to walk the witness through this location step by step.

5 PRESIDING JUDGE VELDT-FOGLIA: Now, you were referring to a door  
6 and --

7 MR. MICHALCZUK: To a door. We believe it is a steel door.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. Please proceed. I suggest  
9 that you have the witness mark on the left-hand picture the object  
10 you are referring to in order to be sure that we are discussing the  
11 same object.

12 MR. MICHALCZUK: Yes. Yes, of course. Of course.

13 Q. So, Mr. Witness, take a look at this building again. You can  
14 see the red bricks. This is the wall of this building. And slightly  
15 to the right, at the end you can see some piece of clothing there and  
16 there is this rectangular-shaped thing that we believe is the gate,  
17 and we will show it to you in a moment as a close-up.

18 But, first of all, could I mark this door or rectangular hall  
19 with maybe number 5A. Just to be on the same page, that we are  
20 talking about the same place.

21 A. [Marks]

22 Q. Thank you. This is exactly the location that we are talking  
23 about.

24 PRESIDING JUDGE VELDT-FOGLIA: And then specifically where the  
25 letter A has been put, that is the -- you said T-shirt, clothing, is

1 that what you mean?

2 MR. MICHALCZUK: This is exactly what I am talking about.

3 PRESIDING JUDGE VELDT-FOGLIA: Okay. Okay. Before you  
4 continue, Mr. Prosecutor.

5 You're not standing, but because I'm reading your facial  
6 expression and I want to give the Defence all the room to say what it  
7 has to say, I give you the floor even without standing.

8 MR. AOUINI: Thank you, Your Honour. We hesitate to interrupt  
9 but if the focus is the piece of clothing and the door, the previous  
10 page actually is a facing -- if the focus is that, that's why I  
11 didn't stand up yet --

12 PRESIDING JUDGE VELDT-FOGLIA: Okay, but --

13 MR. AOUINI: If the focus is to show the door, just the previous  
14 page is really facing that, so maybe it's clearer for everyone.

15 PRESIDING JUDGE VELDT-FOGLIA: No, but what I see is that  
16 Mr. Prosecutor is walking us through.

17 MR. MICHALCZUK: First -- yes, Your Honour, indeed. I first  
18 wanted to show the location from a distance. Then a little bit --  
19 get a bit closer to show the building and then part of the door and  
20 this piece of clothing. And then, indeed, I would like, following  
21 the intervention of my colleague, go to page 26 of the same range  
22 just to show how it looks. It is going to be much clearer now.

23 PRESIDING JUDGE VELDT-FOGLIA: But we have to save images at a  
24 certain moment.

25 MR. MICHALCZUK: Yes.

1 [Trial Panel and Court Officer confer]

2 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, are you done with  
3 this picture or would you like to continue with some questions?

4 MR. MICHALCZUK: With this one, I'm done.

5 PRESIDING JUDGE VELDT-FOGLIA: The left one.

6 MR. MICHALCZUK: With the one on the left-hand side, I'm done.  
7 We can save it and remove it from the screen.

8 PRESIDING JUDGE VELDT-FOGLIA: Yes. So what we will be doing  
9 is -- no, I will ask you. We will save the one on the left-hand side  
10 but not both.

11 MR. MICHALCZUK: Only the one on the left-hand side.

12 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, please  
13 proceed with saving the one on the left-hand side and allocate it a  
14 Registry number, please.

15 [Specialist Prosecutor confers]

16 THE COURT OFFICER: Your Honours, markings made by Witness  
17 W03887 on ERN SPOE40010290 will be assigned Registry number REG00993.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.  
19 Mr. Prosecutor, you may proceed.

20 MR. MICHALCZUK: [Microphone not activated]. Let's show on the  
21 left-hand side the photograph from the same range, on page 26. Yes.

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

23 MR. MICHALCZUK: Thank you.

24 Q. So, Mr. Hoxha, this is a photograph that depicts this place in a  
25 little bit better manner. So can you see at the end the metal door

1 and the piece of clothing hanging in front of it? Can you see that  
2 now?

3 A. Yes, I can.

4 Q. While in Kukes in 1999, did you ever enter the building or  
5 buildings or structures through that metal door?

6 A. For me, this area, in 1999, is not familiar. I've never passed  
7 through or by this part.

8 Q. Mr. Hoxha, we also received evidence that in that location there  
9 was also the entrance to the toilet. We discussed the toilets today,  
10 and you said that you were going to toilets when you were in Kukes in  
11 1999. Do you remember there being a toilet?

12 A. I don't remember. Again, this part I'm not familiar with.

13 MR. MICHALCZUK: Your Honours, I would like to show the  
14 structure as we believe it was in 1999, and to do that, I would  
15 remove the photograph on the left-hand side and replace it with  
16 another one, with your permission.

17 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Mr. Prosecutor,  
18 with giving the number, the references to Madam Court Officer.

19 MR. MICHALCZUK: Yes. It would be P00093. We also have it  
20 saved on 074390 to 074391.

21 And, Your Honours, could we just briefly move back to the last  
22 photograph. Just to ask one last question. I apologise.

23 PRESIDING JUDGE VELDT-FOGLIA: No apologies needed.

24 MR. MICHALCZUK: So the same page 26, the previous range that I  
25 gave.



1           PRESIDING JUDGE VELDT-FOGLIA: I just want to confirm with  
2 Madam Court Officer if she has the reference at hand - yes - of the  
3 previous picture, photograph. Yes, please proceed, Madam Court  
4 Officer.

5           MR. MICHALCZUK:

6 Q. Mr. Witness, I'm still trying to jog your memory about  
7 locations, and I would like to pay your attention to the red bricks  
8 that you have on the left-hand side. Most of the structures, as you  
9 could see, don't have the red bricks. This one has got the red  
10 bricks, the one on the left-hand side. Does that jog your memory or  
11 do you still claim that you are not familiar with this structure?

12 A. I'm not familiar with this part.

13 Q. Okay.

14           MR. MICHALCZUK: Thank you, Your Honours. We can remove that  
15 one and replace it with the document again P00093, or 074390 to  
16 074391. It's the same but different ERNs.

17           PRESIDING JUDGE VELDT-FOGLIA: Yes.

18           Please proceed, Madam Court Officer.

19           Mr. Prosecutor, just a moment.

20           Mr. Shala?

21           THE ACCUSED: [via videolink] [Interpretation] Yes?

22           PRESIDING JUDGE VELDT-FOGLIA: I -- is there something you would  
23 like to say? I have the feeling -- I get the impression that you  
24 were kind of --

25           THE ACCUSED: [via videolink] [No interpretation].

1           PRESIDING JUDGE VELDT-FOGLIA: No, no, let me talk. That you  
2 were --

3           THE ACCUSED: [via videolink] [No interpretation].

4           PRESIDING JUDGE VELDT-FOGLIA: No, let me talk, please. That  
5 you were kind of agitated. Is there something that we should take  
6 care of? Other than commenting on the witness testimony.

7           THE ACCUSED: [via videolink] [Interpretation] Yes, Your Honour.  
8 The Prosecutor there is to present his case and not to make a movie  
9 or a scenario. He went three times back to the same thing. The  
10 witness said he didn't know. He yesterday remember -- the same thing  
11 happened yesterday, and today he is going back to repeating things.  
12 This is a court of -- renowned in the whole world, and there's no  
13 place in it to make scenarios for animated movies.

14          PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, it's not at all what  
15 you are saying, so please be careful when saying it in that way. We  
16 have found it relevant. The Panel has found it relevant. I have  
17 found it relevant to be asked, so -- and if we find it relevant to be  
18 asked, then we proceed in that way.

19          Mr. Prosecutor, please proceed.

20          MR. MICHALCZUK: Madam Court Officer, I can see that this is not  
21 100 per cent of the photograph that we can see. Can we make it  
22 bigger and really focus on the part of the photograph that depicts  
23 the building and the adjacent portion on the right? Could you make  
24 it even bigger, maybe 150 per cent. Or maybe this would suffice  
25 actually. Yes, yes. Thank you so much.

1 Q. Mr. Hoxha, here is the building that we understand it looked  
2 like this in 1999 when you were at Kukes metal factory. Can you see  
3 at the very, very end the same door, metal door that I showed you on  
4 the former photograph? Can you see that?

5 A. I can see this photograph, and I mentioned earlier, on Friday  
6 when you gave me my file, that was the first time I saw this  
7 photograph. This photograph was not shown to me in year 2000, and  
8 I've never seen it in my life.

9 Q. I understand that, but please answer my question. Looking at  
10 this photograph, could you see the door, the same door that I showed  
11 you just a few minutes ago on the former photograph, in the previous  
12 photograph? Do you see that?

13 A. There is no interpretation. Excuse me.

14 I'm not familiar with the structure on this photograph. I've  
15 never seen it in my life.

16 Q. Yes, you have said that already, but my question is different.  
17 On this photograph that you have in front of you, do you see at the  
18 end this door that I showed you also on the prior photograph? This  
19 is my question. Do you see that or not?

20 A. No, I cannot see it because it's black.

21 MR. MICHALCZUK: Could we make a close-up, maybe 200 per cent,  
22 and show just this location of the door.

23 Q. Do you see this rectangular shape that we just discussed before,  
24 that we --

25 A. Now I see it.

1 Q. Yes. Do you also see at the end these reddish bricks, at the  
2 end, very close to that door?

3 A. Yes.

4 Q. Mr. Witness, during your testimony yesterday - and we have it at  
5 page 33, lines 10 to 13 of the provisional transcript - you testified  
6 that in addition to working inside the warehouse, you also worked in  
7 the courtyard; correct?

8 A. Yes.

9 Q. You worked at the courtyard. This building, as you can see on  
10 the photograph on the left-hand side, is quite a big one, quite  
11 sizeable, in relation to the rest of the structure. So working in  
12 the courtyard with weapons, didn't you see at any point that there  
13 was such a building at the end of this structure, at the end of the  
14 courtyard? It was not far away. We could see that from the aerial  
15 photograph. I'm trying to understand how is it possible that you  
16 didn't see that building?

17 A. Mr. Prosecutor, I'm saying this for the fourth or fifth time.  
18 There were three or four trucks that were out of order and that this  
19 part was not visible. My job was there to do my job and not to  
20 inspect buildings, which building is where. I did not see, I did not  
21 pay attention to this building. I had my own work to do. I could  
22 not concentrate and inspect every aspect of the buildings in that  
23 location.

24 As I said, I saw this building for the first time on Friday, and  
25 I was quite surprised when I saw it as part of my file. In 2000,

1 when you interviewed me as -- in your capacity as Prosecutor, I was  
2 not shown this photograph. I was shown two sides of the factory and  
3 there was like a drawing of a building but not a photograph. This  
4 photograph was not there.

5 Q. Mr. Hoxha --

6 PRESIDING JUDGE VELDT-FOGLIA: No, sorry.

7 MR. MICHALCZUK: Yes.

8 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, there's no reason to  
9 -- to become altered. We -- and nobody is telling you that you  
10 should have inspected anything back then. The only point is to see  
11 what -- the only thing we would like to know from you, what can you  
12 remember from what you have seen back then. And it is legitimate  
13 from the side of the Prosecutor to ask you several questions on this  
14 matter. So just please stick to answering the questions.

15 Defence Counsel.

16 MR. AOUINI: Sorry to be a little bit heavy, Your Honours. In  
17 the transcript --

18 PRESIDING JUDGE VELDT-FOGLIA: You're not heavy. You have the  
19 floor and that's it.

20 MR. AOUINI: Thank you. The transcript - and I'm thinking about  
21 the future - it says "to become outraged," which is not, I believe,  
22 what Your Honour said. I don't know what Your Honour said but it  
23 wasn't "outraged."

24 PRESIDING JUDGE VELDT-FOGLIA: I wanted to say "altered."

25 MR. AOUINI: Yes, so when we read it afterwards, at least it's

1 corrected, Your Honour. Thank you.

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

3 Mr. Prosecutor, you have the floor.

4 MR. MICHALCZUK:

5 Q. Mr. Hoxha, I would like to clarify the issue of the trucks  
6 first. So you said, on page 104, just a few minutes ago, lines 23,  
7 24, that there were trucks, three or four trucks that were out of  
8 order. And you said that because of them, that part of the yard was  
9 not visible. And you said that -- the same thing yesterday. We have  
10 it at page 44, lines 7 to 11.

11 So I've got a few questions about those trucks. First of all,  
12 were those trucks, the out-of-order, damaged trucks, placed there all  
13 the time during your time at Kukes?

14 A. Yes, they were there continuously.

15 Q. For all that time, nobody tried to repair them? Nobody was  
16 interested in putting them back in motion?

17 A. No, because they had a major defect, I guess, and could not be  
18 repaired.

19 Q. During your SPO interview with the Prosecutor - and we have it  
20 at Part 2, page 21 to 23 - you were specifically and extensively  
21 asked about that part of the factory compound, and at no point of  
22 that interview you mentioned any damaged trucks. And I'd like to  
23 read part of what you said about that. And there is a question about  
24 trucks, actually.

25 The question of the Prosecutor, and we have it lines 13 to 18.

1 So the question of the Prosecutor:

2 "Did you ever see trucks down at that end of the compound?"

3 And your answer:

4 "Yes, there were trucks. There were frequently trucks coming in  
5 and out, so they would park anywhere in the territory, so there were,  
6 of course, even there trucks parked."

7 However, you never mentioned any damaged trucks. You said  
8 trucks coming and going, trucks parked. Why didn't you say to the  
9 Prosecutor at that time that there were three or four, as you said,  
10 out-of-order trucks being there permanently but you are saying that  
11 only now?

12 A. Well, why I did not mention it then, it's probably because this  
13 photograph was not shown to me by the Prosecution. They asked about  
14 the building, and I replied that there were trucks that were out of  
15 order. It is true that trucks came in and went out all the time.  
16 They would come in loaded with goods, we would unload them, and then  
17 they would leave. But these trucks that had major defects remained  
18 there. I don't know whether they had no mechanic who could fix them.

19 I know that I would bring my tables, desks outside and work just  
20 where those trucks were. Exactly where number 3 is, that's where I  
21 would bring my desk outside and work.

22 Q. Mr. Hoxha, this is exactly my problem because you were asked --  
23 it was an open question, were there any trucks at the end of that  
24 compound, and you never mentioned in the SPO interview any  
25 out-of-order trucks. Three or four trucks, it's a group of trucks.

1           PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] I see  
2 that I have two lawyers standing on my left-hand side.

3           MR. GILISSEN: Yes, I'm afraid, Madam President, that --

4           PRESIDING JUDGE VELDT-FOGLIA: It's almost time -- it is break  
5 time. But anyway, just ...

6           MR. GILISSEN: We have to be fair with the witness. This is a  
7 rule. He was talking about a truck, a truck broken down near the  
8 warehouse. So I don't understand that my dear friend of the  
9 Prosecution claimed he didn't talk about that. He talked about this  
10 on the interview 077857 --

11          PRESIDING JUDGE VELDT-FOGLIA: Yes, we have it in front of us,  
12 Defence Counsel.

13          MR. GILISSEN: Yeah, Part 2 --

14          PRESIDING JUDGE VELDT-FOGLIA: Page 5 --

15          MR. GILISSEN: Part 2, page 5.

16          PRESIDING JUDGE VELDT-FOGLIA: Yes, it is here with us and ...

17          MR. GILISSEN: Page 19 and the following.

18          PRESIDING JUDGE VELDT-FOGLIA: We have it here.

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

20          PRESIDING JUDGE VELDT-FOGLIA: But there is a difference, and I  
21 will not point it out now, that you see too. Okay. I see you  
22 nodding, Defence Counsel.

23          MR. MICHALCZUK: Yes.

24          PRESIDING JUDGE VELDT-FOGLIA: I would like to go for a break  
25 now for ten minutes, unless you think it's -- because you're in the



1 middle of this specific part, then I will allow you to pursue.

2 MR. MICHALCZUK: Yes. Yes. Let's have a break then.

3 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well.

4 Defence Counsel, you have the floor.

5 MR. AOUBINI: Thank you. Just one additional reference to  
6 alleviate any unclarity. If we look at the page 25 of the prior  
7 statement we have been mentioning, at line -- oh, it's page 23, the  
8 lines are 15 to 18, at the end at the line 18, there is a portion -  
9 and we're not going to go into the details, we invite you to read it  
10 - that could mean what we've been discussing. I don't want to read  
11 it. It's about ...

12 Thank you, Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. Thank  
14 you, Madam Court Officer.

15 We take a break of ten minutes, and please be back within the  
16 ten minutes, not past the ten minutes. Yes. And I will -- and we  
17 have to -- yes, I see it.

18 Let us first save also the images. Please, Madam Court Officer,  
19 could you save the image on the right-hand side of our screen and  
20 allocate it a Registry number.

21 [Trial Panel and Court Officer confer]

22 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. By  
23 saving it, we cannot add any more markings, but I prefer, when we  
24 have a break, not to leave it like it is. So please save it,  
25 Madam Court Officer. Okay.

1 Mr. Witness, we will have a break of less than ten minutes, and  
2 then we will proceed for another half an hour, and then it is over  
3 for today. Yes?

4 THE WITNESS: [Interpretation] That's okay. Thank you.

5 PRESIDING JUDGE VELDT-FOGLIA: We see you back in ten minutes.

6 [The witness stands down]

7 THE COURT OFFICER: Your Honours, markings made by Witness  
8 W03887 on ERN SPOE00330362 will be assigned Registry number REG00994.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.  
10 The hearing is adjourned for the next ten minutes.

11 --- Recess taken at 3.38 p.m.

12 --- On resuming at 3.49 p.m.

13 PRESIDING JUDGE VELDT-FOGLIA: I note we are in the same  
14 composition in this courtroom. Very well. Well noted.

15 We proceed. Before we usher the witness in, Mr. Prosecutor, a  
16 fair point was made on the left-hand side, although we saw some  
17 differences between what was stated in the prior statement and what  
18 was said here in court, but I -- I leave it up to you how to proceed  
19 but with this direction that we should be fair to the witness and  
20 also go back to this part of the prior statement.

21 MR. MICHALCZUK: Of course, Your Honour.

22 PRESIDING JUDGE VELDT-FOGLIA: Okay, very well.

23 Okay. I look at the left-hand side. Very well.

24 Madam Court Usher, could you bring the witness in.

25 And then we proceed for another 20 minutes, till ten minutes

1 past 4.00. That's the idea.

2 [The witness takes the stand]

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

4 THE WITNESS: [Interpretation] Thank you for having me back.

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

7 THE ACCUSED: [via videolink] [Interpretation] Yes, I can hear  
8 him well. Thank you.

9 PRESIDING JUDGE VELDT-FOGLIA: Very well.

10 We will continue, Mr. Witness, with another 20 minutes of  
11 examination today, and then we will proceed tomorrow.

12 THE WITNESS: [Interpretation] Okay.

13 PRESIDING JUDGE VELDT-FOGLIA: Good.

14 Mr. Prosecutor, you have the floor.

15 MR. MICHALCZUK: Thank you, Your Honour.

16 Q. Mr. Hoxha, before the break, you told us that during your SPO  
17 interview you were never shown that building, the last building that  
18 we were discussing. Is that what you said?

19 A. Yes. The first -- for the first time I saw it, it was on  
20 Friday.

21 MR. MICHALCZUK: Your Honours, I would like to confront the  
22 witness with his SPO statement where he actually was shown the  
23 building and where he actually commented on it as well.

24 We can move, Your Honours -- with your permission, of course, we  
25 can show on the screen the SPO interview 077857-TR-ET Part 2, page

1 22.

2 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, please  
3 proceed.

4 MR. MICHALCZUK: Page 22.

5 PRESIDING JUDGE VELDT-FOGLIA: And for the witness, we will  
6 have, of course, the Albanian translation provided by the  
7 interpretation unit.

8 MR. MICHALCZUK: Yes, exactly this part that we have in front of  
9 us.

10 Q. Right. Mr. Hoxha, this is Part 2 of your interview with the  
11 SPO, and in front of you, you have at line 6 the number ERN 074390.  
12 We showed you a photograph under this ERN number and this was exactly  
13 the white building that we were talking about at the end of the yard  
14 that we extensively commented upon. So do you still claim that the  
15 first time you saw that photograph was just on Friday?

16 A. Yes, I still say that. In actual fact, the day you interviewed  
17 me in Prishtine, I was shown a photograph, it was this big, and then  
18 you would see the premises, the building, and there was just a  
19 drawing. The photograph was not there. Not this identical  
20 photograph. It was never, never shown to me. Never saw it before.  
21 It had cello tape around it on both sides.

22 Q. Yes.

23 [Specialist Prosecutor confers]

24 MR. MICHALCZUK: Your Honour, I just wanted to put to the  
25 witness that in his SPO interview actually this features and he

1 comments on it. On page 24 in the Albanian, we've got exactly the  
2 same.

3 PRESIDING JUDGE VELDT-FOGLIA: If I don't see a request from the  
4 side of the Defence that we should put this, the extract.

5 MR. AOUINI: That's the only possible suggestion is to look at  
6 the audios or video if we have them to see, to make sure. We can  
7 leave it [Overlapping speakers] ...

8 PRESIDING JUDGE VELDT-FOGLIA: No, yeah, I can leave it. You  
9 will have the possibility to -- in the second round, if you think  
10 there's a need tomorrow to explore this further. It was just a  
11 question if you wanted to have the Albanian version, but I don't see  
12 particularly the need for it. Or there was something you wanted to  
13 comment on?

14 MR. AOUINI: No, Your Honour. I don't think the problem would  
15 be the translation between Albanian and English but whether  
16 individual -- the visual version of the interview we can find  
17 something, but [Overlapping speakers] ...

18 PRESIDING JUDGE VELDT-FOGLIA: Yes, but then I will leave it for  
19 now to you, but no Albanian translation now. Okay, very well.

20 Mr. Prosecutor, you have the floor again.

21 MR. MICHALCZUK: Yes, thank you.

22 Q. Mr. Hoxha, during your testimony yesterday - and we can have it  
23 at page 33, lines 10 to 13 of the provisional transcript - you  
24 testified that in addition to working inside the warehouse, you also  
25 worked in the courtyard, and you also repeated that today; is that

1 correct?

2 A. Yes, it is correct.

3 Q. If this is the case, and you marked for us the place where you  
4 worked outside, when you sit -- when you exit the building of the  
5 warehouse and you work at the place that you indicated, the building  
6 that we were just talking about, that building that you don't  
7 recognise, it is just to the left from the place where you are  
8 repairing weapons outside. Does that depiction that I have just made  
9 jog your memory that the building was there? Did you see that or  
10 still don't have any recollection of that?

11 A. I said this I don't know how many times. Actually, from the  
12 main warehouse as you go out, to the left, that's where I worked and  
13 there were trucks parked there. And I worked just in front of the  
14 trucks twice or three times because, otherwise, I actually worked  
15 inside. But twice or three times, it so happened that I work there  
16 in front of the trucks. So the trucks were there, parked, and I  
17 worked just in front of them.

18 Q. Mr. Hoxha, did you also happen to sleep outside in the yard of  
19 the Kukes premise factory?

20 A. Yes, it has so happened once. I was so tired that I just went  
21 into a truck and actually I slept there.

22 Q. Which truck are we talking about? One of those damaged trucks?  
23 Another truck?

24 A. The broken-down trucks.

25 Q. And you are saying that you slept there only once in that yard,

1 in that truck. Is that what you are saying?

2 A. Yes, yes, I am.

3 MR. MICHALCZUK: Your Honours, I like to put to the witness his  
4 SPO statement exactly on this issue.

5 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Mr. Prosecutor.

6 MR. MICHALCZUK:

7 Q. Mr. Hoxha, in Part 2 of your SPO statement, 077857-TR-ET, at  
8 page 5, you said that there were several occasions -- there were  
9 occasions where you slept outside the --

10 PRESIDING JUDGE VELDT-FOGLIA: Sorry, Mr. Prosecutor, I would  
11 like to have it on the screen. Sorry for not being clear on that.

12 MR. MICHALCZUK: Very well. Very well. Let's have it on the  
13 screen then. So, again, it's 077857-TR-ET Part 2, page 5.

14 [Specialist Prosecutor confers]

15 MR. MICHALCZUK:

16 Q. So the question was about you -- take a look. The question  
17 starts from line 4. The question of the Prosecutor to you:

18 "Sorry. I was just asking did you ever have to sleep in the  
19 compound, but outside under the stars."

20 Your answer was:

21 "Yes, there were occasions when there was no other place where  
22 to stay and sleep, only -- or even standing. So but I found a place  
23 outside, and I would sleep there as well. There were occasions."

24 So in the SPO interview, you're referring to "occasions," not  
25 one. What is your testimony? What is your evidence? Did you sleep

1 under the stars within the -- in the yard on one occasion or more  
2 occasions, as you said at the SPO interview?

3 A. I do not know how the interview has been recorded, but sleeping  
4 outside has only happened once. Once. I was extremely tired and I  
5 just slept there. I rested there in the trailer.

6 Q. Mr. Hoxha, during your stay in Kukes metal factory, did it ever  
7 happen that you participated in the physical exercises organised in  
8 the yard of the factory?

9 A. No, I didn't usually go out.

10 Q. You didn't usually go out? But did it happen that you take part  
11 in that exercise or exercises?

12 A. I don't know. I can't remember whether I've gone out. But in  
13 99 per cent of cases, no.

14 Q. So did you participate in those exercises at least one occasion?

15 A. I don't know. I can't remember. It's 24 years later I'm being  
16 asked these questions.

17 MR. MICHALCZUK: Your Honours, could I refer the witness to his  
18 own SPO interview on this particular issue?

19 PRESIDING JUDGE VELDT-FOGLIA: Yes, you may. And we are five  
20 minutes from the end of today's hearing, so I think that this will be  
21 the last question.

22 MR. MICHALCZUK: Yes. Of course, Your Honour. Of course.

23 Could we pull up the document, 077857-TR-ET Part 1 RED2,  
24 page 22.

25 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court



1 Officer.

2 MR. MICHALCZUK: Yes, we can start from line 6 to line 22,  
3 maybe.

4 Q. So the question is about the exercises. The Prosecutor said:

5 "You mentioned the morning exercises within the metal factory  
6 compound. Tell us what you remember about that. Was it for  
7 everybody?"

8 And you said:

9 "No, it was -- no, even myself, I wouldn't go there all the time  
10 or every time. Sometimes I felt lazy, I was tired. So it was not an  
11 obligatory exercise. People would go there if they want to, or they  
12 wouldn't if they were tired or resting."

13 And then line 20, the Prosecutor asks you a question:

14 "So in the open air, not under the roof?"

15 And you said:

16 "Yes, it was an open area. And the weather was good. It was  
17 May, June, at that time."

18 From that short excerpt, you say in this excerpt that you didn't  
19 go there every time, that sometimes you felt lazy, so on those days  
20 you did not participate in the exercises. But from what I can  
21 understand - correct me if I'm wrong - that according to this part,  
22 you were at times - at times - participating in physical exercises in  
23 the yard of the factory. Is that true?

24 A. It could have happened that might have been out a day, but most  
25 of the time I didn't. No, I didn't. Because I had my own duties to

1 tend to during the day, and I was tired. I could have happened that  
2 I may have been out a day, but in the majority of cases, no. And  
3 there was no obligation to do so. Otherwise, the soldiers who were  
4 younger would go out. At the time I was 38 years old.

5 Q. Do you remember in which part of this yard did the exercises  
6 take place, physical exercises?

7 A. It's the central part, just in front of the General Staff -- the  
8 staff.

9 MR. MICHALCZUK: Your Honour, for now we will stop and we could,  
10 with your permission, resume tomorrow morning.

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

12 Very well. Mr. Witness, it has been a long day. We will resume  
13 tomorrow with your testimony. Take some rest this evening, and we  
14 will see you back tomorrow at 9.30. Thank you for your efforts of  
15 today, and I also remind you that you should not discuss anything  
16 regarding your testimony with anybody. Understood?

17 THE WITNESS: [Interpretation] Yes, okay. Thank you very much.

18 PRESIDING JUDGE VELDT-FOGLIA: See you again tomorrow in the  
19 courtroom.

20 [The witness stands down]

21 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, for tomorrow, how  
22 long do you think that you have left?

23 MR. MICHALCZUK: [Microphone not activated]. Within half an hour  
24 I should be done.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

1 Victims' Counsel, do you intend to pose any questions to the  
2 witness?

3 MR. LAWS: I'm so sorry, Your Honour. I didn't hear that.

4 PRESIDING JUDGE VELDT-FOGLIA: If you already can say now if you  
5 intend to pose any questions to the witness, and how long you think  
6 you will be needing.

7 MR. LAWS: Very unlikely to ask any questions at all.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

9 And, Defence Counsel, it's early because we will still have half  
10 an hour of questioning tomorrow, but do you intend to have a second  
11 round with questions?

12 MR. GILISSEN: If I'm going to have one, it could be one or two  
13 questions maximum.

14 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

15 MR. GILISSEN: If.

16 PRESIDING JUDGE VELDT-FOGLIA: We're making some planning with  
17 regard to the next witness and to see for what time we should line  
18 him up.

19 MR. GILISSEN: I fully understood, Your Honour.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

21 Very well. Then my last question, is there anything the parties  
22 and Victims' Counsel would like that raise with the Panel at this  
23 moment in time? No.

24 Then I wish you all a good rest also for this evening, and we  
25 see you back in court tomorrow at 9.30.

1           The hearing is adjourned.

2                               --- Whereupon the hearing adjourned at 4.11 p.m.

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