

1 Wednesday, 22 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 Madam 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 I see that the SPO is in the same composition as yesterday.

11 MR. MICHALCZUK: Yes, indeed, Your Honour.

12 PRESIDING JUDGE VELDT-FOGLIA: Okay. We note that goes also for
13 Victims' Counsel.

14 And on our left-hand side, Defence Counsel, if there is a change
15 you would suffice that --

16 MR. GILISSEN: We are the same team excepting with
17 Ms. Kailin Chen, who will join us in the hearing. Thank you.

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

19 Then we have Mr. Shala with us. Good morning, Mr. Shala. Can
20 you confirm me that you hear me well?

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

23 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good. The videolink is
24 also okay.

25 Yes, we are going to discuss an item in private session first.

1 However, I would like to make a little note that is for purposes of
2 clarification.

3 Yesterday, I used the word "altered" at page 3392, page 9, and
4 I meant to say "irritated," and maybe my knowledge of the Spanish --
5 of the Italian language was a reason for a kind of mixup, but I want
6 to have the record clear on that.

7 Very well. Madam Court Officer, can you bring us into private
8 session.

9 [Private session]

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19 [Open session]

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

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

22 Mr. Prosecutor, you have the floor.

23 MR. MICHALCZUK: Thank you very much, Your Honour.

24 Before we start the examination of this witness, I would like to
25 seek the permission of Your Honours to add to the presentation queue

1 one video, which is the video of the SPO interview with the witness,
2 Part 2, and I'll give you the reference number in a moment.

3 The reason for this late addition is that yesterday we discussed
4 two issues. The building, the white building, that was a subject of
5 a contention, and we had a debate between ourselves and the Defence
6 on it. And at some point, the issue of showing the video arose, so
7 we would be very happy to show it to the witness and ask for his
8 comments.

9 The second contentious issue yesterday was also in relation to
10 the trucks being present, apparently, at the Kukes metal factory, and
11 we would like to also show on video and ask the witness to comment on
12 it. A very important issue, in our view. And we would like to start
13 with these two matters.

14 For this reason, I would seek Your Honours' decision now, if
15 possible, before we start. There is no prejudice towards the Defence
16 in this regard, because this item was already disclosed pursuant to
17 disclosure 181 on 9 November this year. So the Defence is well aware
18 of it and has it in its possession.

19 Thank you.

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

21 Defence, you have the floor.

22 MR. GILISSEN: Thank you very much.

23 As we said before, we are here to try to find the truth. So
24 that's a fair way. And we don't have something to add about this.
25 No position.

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

2 Victims' Counsel, anything to add in this respect?

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

4 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you very much.

5 The Panel will allow for adding this to the presentation queue.

6 So we grant it.

7 And, Mr. Prosecutor, you may start as soon as I usher the
8 witness in with your -- further with your cross-examination.

9 MR. MICHALCZUK: Just for the record, Your Honours, I could
10 provide the reference number of this video.

11 PRESIDING JUDGE VELDT-FOGLIA: Okay.

12 MR. MICHALCZUK: It is 077857B, Part 2, RED.

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

14 Court Clerk, could you please usher the witness into the
15 courtroom.

16 [The witness takes the stand]

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

18 THE WITNESS: [Interpretation] Thank you for having me back.

19 PRESIDING JUDGE VELDT-FOGLIA: You can hear me well. I hear. I
20 see.

21 THE WITNESS: [Interpretation] Yes, very well.

22 PRESIDING JUDGE VELDT-FOGLIA: Very well.

23 And, Mr. Shala, can you hear the witness?

24 THE ACCUSED: [via videolink] [Interpretation] Good morning.

25 Yes, I can hear him very well.

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1 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

2 Mr. Witness, how are you today?

3 THE WITNESS: [via videolink] [Interpretation] I'm well. Well.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well.

5 Mr. Witness, I remind you that you are still under oath to tell
6 the truth. You understand that?

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

8 WITNESS: W03887 [Resumed]

9 [Witness answered through interpreter]

10 PRESIDING JUDGE VELDT-FOGLIA: We will continue with the
11 cross-examination by the Specialist Prosecutor's Office, and I will
12 give the floor now to Mr. Prosecutor.

13 Please.

14 MR. MICHALCZUK: Yes.

15 Cross-examination by Mr. Michalczuk: [Continued]

16 Q. Good morning, Mr. Hoxha. How are you today?

17 A. Good morning. I am well. How are you?

18 Q. Mr. Hoxha, yesterday we discussed the issue of the broken trucks
19 resting at a certain location of the compound of the Kukes metal
20 factory. At page 93, lines 5 to 8 of the provisional transcript of
21 yesterday, you told us that there were three to four broken trucks
22 placed somehow in the middle of the compound covering the view of the
23 white building we discussed yesterday. You specifically said the
24 following:

25 "Where number 3 is, there were three or four trucks which were

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1 broken down and were parked there. Actually, I'm not sure if there
2 were three or four. But that part of the courtyard cannot be seen.
3 One could not see what was there."

4 This is what you said.

5 You repeated the issue of these three or four trucks, and you
6 said that you could not see that part of the yard, and this is at
7 page 96, lines 3 to 8, or that this part was not visible. You said
8 that at page 104, lines 24, 25, of the provisional transcript. And I
9 would like to first clarify the number of trucks that were there, the
10 broken down trucks.

11 So yesterday you said there were three, maybe four trucks. You
12 were not sure. However, I would like to put to you what you said
13 during your SPO interview. Let's go to the document, not the video,
14 first.

15 MR. MICHALCZUK: It should be on 077857-TR-ET Part 2, page 5,
16 lines 19 to 22.

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

19 MR. AOUNI: Your Honours.

20 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel.

21 MR. AOUNI: Sorry, Your Honours, but since this is a very
22 important issue, we would love to have the Albanian version of the
23 transcript available for alleviation of any concern.

24 PRESIDING JUDGE VELDT-FOGLIA: We have the Albanian references,
25 so maybe you also have it. If not, I leave it to you.

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1 MR. MICHALCZUK: Your Honours, I don't have it, but it should
2 be -- that's the same page, around the same area.

3 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well.

4 MR. MICHALCZUK: In the Albanian transcript.

5 PRESIDING JUDGE VELDT-FOGLIA: Please, Madam Court Officer,
6 could you bring up also the Albanian version.

7 MR. MICHALCZUK: In the English version, it would be lines 19
8 to 22.

9 PRESIDING JUDGE VELDT-FOGLIA: Line 21, we see "... ne kamion."
10 I'm not completely sure if that is the part.

11 THE INTERPRETER: We believe it's page 6, Your Honour, of the
12 Albanian transcript, line 14.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you. That was also the
14 information I just received from my colleague. Yes, thank you.

15 MR. MICHALCZUK: Can I proceed, Your Honour?

16 PRESIDING JUDGE VELDT-FOGLIA: Yes. I was having a look at it.
17 You may. Our interpretation unit has told us what the corresponding
18 lines are, and it's from line 14 on. Then we are set to go.

19 MR. MICHALCZUK: Yes.

20 Q. Mr. Hoxha, in that part, and I'm going to read it to you, you
21 said the following thing:

22 "For example, on the -- near the warehouse, the metal work
23 warehouse, there was a truck on that side. There was a truck broken
24 down truck, and I slept in the truck."

25 In the whole Part 2 of your statement, and I reviewed that

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1 yesterday, you only spoke about one truck being at the premises of
2 the Kukes factory, and this is, indeed, the truck where you slept.
3 You also said that yesterday about that one truck where you slept.

4 If there were, indeed, as you said yesterday, three or four
5 broken trucks, that they were in the yard of the Kukes metal factory,
6 why did you tell the Prosecutor in 2020 only about one truck that was
7 broken down there?

8 A. To my knowledge, I've also stated back then that there were
9 three to four trucks. I said that I slept in one of them. But
10 whether there were three or four, I'm not sure.

11 Q. Mr. Hoxha, you, indeed, mention several trucks coming and going,
12 being parked at the premises of the Kukes metal factory. But when it
13 comes to broken down trucks, in the SPO interview - in the whole
14 interview - you mentioned only one such truck that was broken down.
15 What would you say to that? Was there one truck, as you claimed
16 before the Prosecutor in 2020, or three to four trucks, as you
17 claimed yesterday?

18 A. No, there were three or four trucks that were broken down.

19 Q. Very well. I would like to clarify also the issue of the exact
20 place where that broken down truck or trucks was or were located
21 within the Kukes metal factory.

22 In your testimony that you gave yesterday, you placed the truck
23 or trucks somehow in the middle of the compound covering the view of
24 the white building that we discussed yesterday; correct?

25 A. Yes, that's correct.

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1 Q. For instance, at page 107, lines 21 to 23 of the provisional
2 transcript, you said, and I quote:

3 "I know that I would bring my tables, desks outside and work
4 just where those trucks were. Exactly where number 3 is. That's
5 where I would bring my desk outside and work."

6 But I would like to show you part of your -- the video of the
7 SPO interview.

8 MR. MICHALCZUK: And that would be, Your Honours, 077857B
9 Part 2, RED. With your permission, Your Honour, I would use this
10 video and ask Madam Court Officer to display it.

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

13 MR. MICHALCZUK: My suggestion, also, would be to put on the
14 right-hand side to the video the English transcript of it, and that
15 would be 00857-TR-ET Part 2, page 5.

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

18 MR. MICHALCZUK: It's page 5, and let's take a look at lines
19 from 16 to 25.

20 I would like Madam Court Officer to play the video from 10:28
21 and continue until 12:00.

22 [Video-clip played]

23 "Q. And if you can using the panoramic photo, can you point out
24 where under the stars, so to speak, that you slept on occasion and
25 also where the warehouse building is located?

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1 "The interpreter: [voiceover] So can you tell us in this
2 panoramic photograph where exactly you slept or when you slept
3 outside the building, for instance, or inside the building itself.

4 "A. And, for example, here, near the warehouse, the metal work
5 house, there was a truck on that side.

6 "[Interpretation] Near the warehouse, the metal work warehouse,
7 there was a truck on that side. There was a truck, a broken down
8 truck, and I -- I slept in the truck.

9 "Mr. Elderkin: I'm just going to use the camera here to show --
10 am I pointing in the right place, roughly, for you to --

11 "The interpreter: [voiceover] So is this the right place where
12 I'm pointing to?

13 "A. Yes.

14 "Mr. Elderkin: So I will turn the camera -- so Mr. Hoxha has
15 just said, yes, this is roughly the area where the broken down truck
16 was that I'm now showing to the recording camera.

17 "Q. Was this broken down truck ..."

18 MR. MICHALCZUK: Could we now move back to 11:45 and stop there.

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

21 MR. MICHALCZUK: So the same video but just stop at that minute,
22 at that timestamp, 11 minutes, 45 seconds.

23 Q. Mr. Hoxha, from that video that we have just played to you, you
24 yourself indicated to the Prosecutor where the broken down truck was
25 parked, was located. And it was, as we can see, on this image, it

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1 was not, as you claimed yesterday, in the middle of the yard, but it
2 was rather next to the wall of the warehouse where you worked. Do
3 you confirm that?

4 A. Mr. Prosecutor, you are forgetting that this interview was given
5 20 years after the war. And, secondly, I was not prepared to be in
6 an interview because I didn't think that these things would ever -- I
7 would ever need these things in my life. And when I actually gave
8 this interview, it could so happen that I may have been mistaken.
9 But now, in the past two years that I've been questioned again, I've
10 had time to think about the entire scene, what it was like, and to
11 the extent of my memory.

12 But back then, I was not prepared when I was first asked. So it
13 could so happen that I may have said a truck, but I'm telling you
14 there were three or four instead.

15 Q. Right now we are not discussing the number of trucks. Right now
16 we are discussing the position where the broken down truck was
17 located. And the Prosecutor, as I have just demonstrated, the
18 Prosecutor pointed his finger at the location where the truck -- the
19 broken down truck was parked. He asked you do you agree that this is
20 the location. You said, yes, it's there. And then in front of you,
21 actually, you have it, the finger is pointing exactly at the place
22 where is the wall of the warehouse. It doesn't point anywhere even
23 near to the middle of the yard. Do you agree?

24 A. In actual fact, it's in parallel. It doesn't necessarily mean
25 that it was parked precisely by the wall. So it's in parallel, in

1 tandem where the trucks were parked. Otherwise, if one looks at the
2 recordings, all the while there are other parts when one would
3 actually see the broken down trucks, but these are the three or four
4 because those trucks that were coming in and out were carrying
5 military materials but also foodstuffs. There were other trucks as
6 well, not just the ones that were broken down and parked. There were
7 other trucks inside the courtyard of the metal factory.

8 So if you look at the film, for instance, at the footage, you
9 would actually see the other trucks, and I can show exactly which
10 ones were the broken down ones.

11 Q. Yes.

12 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, you have the
13 floor.

14 MR. AOUINI: Thank you, Your Honour, and apologies.

15 I think the witness might need to leave the courtroom for our
16 objection, for a point of procedure on this.

17 PRESIDING JUDGE VELDT-FOGLIA: We will proceed in this way.

18 Mr. Witness, you will be ushered out for a few minutes.

19 [The witness stands down]

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

22 MR. AOUINI: Thank you, Your Honour.

23 And apologies for my interruption to my learned colleague.

24 PRESIDING JUDGE VELDT-FOGLIA: Apologies are not needed in this
25 courtroom for these kind of interventions.

1 MR. AOUINI: Okay.

2 Your Honour, we pointed yesterday, and this was a portion that
3 my learned colleague mentioned to the witness to start with, and we
4 want to re-indicate this portion at page 23, lines 15 to 19, where
5 this witness has spoken about --

6 "... so there were, of course, even there trucks parked."

7 So before engaging in one truck or many, this has to be
8 clarified, whether this witness means "parked" means part of the
9 broken ones that were parked, because you have combined parked and
10 broken down. That is the first point, Your Honour. Out of fairness
11 for clarification.

12 And the second thing is, as we can see now, and before it moves
13 away, the photo that is shown is actually a panorama photo. That is,
14 a lot of photos stuck together. So this is a point that we need to
15 refer to because this has been an issue also with another part of the
16 compound.

17 Those are points we want to alert to. Because if we are going
18 to confront the witness, we have to give him the full image of the
19 situation in terms of the documents used and in terms of what he said
20 in different parts.

21 Thank you, Your Honour.

22 PRESIDING JUDGE VELDT-FOGLIA: Could you explain this panorama
23 issue, because it's not clear to me.

24 MR. AOUINI: In many places in the interview, there is a
25 reference to photos in the panorama --

1 PRESIDING JUDGE VELDT-FOGLIA: But, I mean, specifically with
2 regard to this picture. I see a picture, and I see a finger, and I
3 see the finger pointing at a place on the picture. What is the issue
4 that you want to make with us with regard to the problem that it's a
5 panorama picture? Because we are not looking at the whole panorama.
6 We are looking at this specific point.

7 MR. AOUINI: Yes, Your Honour. And I seize the opportunity that
8 the witness is not here, because there was the issue with the other
9 part where the witness has said that he didn't see - never saw - this
10 picture of the white building --

11 PRESIDING JUDGE VELDT-FOGLIA: Yes.

12 MR. AOUINI: -- as it was. And so he said there was a panorama,
13 that's the only thing you showed me. And here we have the
14 opportunity to see bits that are stuck together, just to -- since we
15 have the image to show Your Honours that it is not ERN by ERN
16 specific individual photos, but this is what is referred to as
17 panorama.

18 What we believe that we see, and from the transcripts, is that
19 collated photos have been put together to show to the witness. So
20 that's the point we wanted to alert to in order to understand and
21 maybe clarify things --

22 PRESIDING JUDGE VELDT-FOGLIA: Okay.

23 MR. AOUINI: -- not to [Overlapping speakers].

24 PRESIDING JUDGE VELDT-FOGLIA: You have clarified that. But
25 with regard to this specific topic, I don't see an issue.

1 Mr. Prosecutor will be given the opportunity to react on this,
2 and then I will say what I have to say.

3 Mr. Prosecutor, is there something you want to submit?

4 MR. MICHALCZUK: Yes. First -- Your Honour, just a few very
5 short remarks.

6 First of all, I'm not talking about trucks. I'm talking about
7 broken down trucks only. Not the ones parked. Not the ones that
8 were coming and going. I'm talking only about the trucks the witness
9 mentioned several times yesterday himself. Two -- three to four
10 broken down trucks, and I'm only focusing on this.

11 Earlier today, I demonstrated that in the SPO interview he
12 mentioned only one such broken down truck. Not any other truck;
13 broken down truck. Later on, if you read the whole SPO transcript of
14 the interview, the progression of the interview leaves no doubt that
15 the Prosecutor was methodically discussing the issue of the broken
16 down trucks, and the question also about where he slept. He said
17 there was this place.

18 And then immediately after, the witness was directed to indicate
19 the place where that broken down truck was located, and he showed
20 that at the wall.

21 So I don't believe that there is any doubt about the location
22 that the witness himself mentioned at the SPO interview. That he's
23 now departing from that, it's a wholly different issue. But I don't
24 think that we presented this in any manner which is unfair to the
25 witness.

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

2 Does Victims' Counsel want to add something?

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

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

5 In this respect, Defence Counsel, what your request is to have a
6 portion put to the witness? That's the bottom -- no, no, you don't
7 have to stand. Just a "yes" or "no." You want to have a certain
8 portion put to the witness in order to be fair to him?

9 MR. AOUINI: Yes. And it is about numbers, not about the place.
10 We agree that the place is what is shown here.

11 PRESIDING JUDGE VELDT-FOGLIA: And then I will say to you that
12 if you think that there's a need for clarification in redirect, you
13 can put this specific point to him. But the questions that we have
14 had till now, in my view, and that was the reason that I was kind of
15 hesitant to give you the floor, I think they are all relevant. I did
16 not see any misleading. The portion put to him, and there's another
17 portion too, it's very clear that it's about broken trucks, and
18 yesterday we discussed broken trucks, and it was a question that I
19 would have posed. If the SPO would not have said that they would
20 have discussed it, I would have posed it right away at the start of
21 the testimony.

22 So I -- your objection is -- oh. No, no.

23 MR. GILISSEN: [Microphone not activated].

24 PRESIDING JUDGE VELDT-FOGLIA: No, we are not going into
25 discussion.

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1 MR. GILISSEN: [Microphone not activated].

2 PRESIDING JUDGE VELDT-FOGLIA: No.

3 MR. GILISSEN: [Microphone not activated].

4 PRESIDING JUDGE VELDT-FOGLIA: But I did not give you -- no.

5 Defence Counsel --

6 MR. GILISSEN: [Microphone not activated].

7 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel. Defence
8 Counsel, please -- no, I did not give you the floor. And you cannot
9 stand up and just start talking through me. So no. I am now giving
10 my ruling.

11 So I say the objection is overruled. And you can, when the
12 moment is there, when your second turn comes, you can take the floor.
13 But please don't start talking through me. I will not allow --

14 MR. GILISSEN: Okay.

15 PRESIDING JUDGE VELDT-FOGLIA: -- for that.

16 Madam Court Usher, could you bring the witness in again.

17 [The witness takes the stand]

18 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, you have the
19 floor again.

20 Welcome back, Mr. Witness.

21 MR. MICHALCZUK: Thank you.

22 Q. Mr. Hoxha, how did you travel from Germany to Kukes? By which
23 means of transportation?

24 A. I travelled by 4x4.

25 Q. Did you park that car at the premises of the Kukes metal factory

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1 when you arrived there?

2 A. No, there was a match in Italy, and then -- an accident, sorry,
3 in Italy, and it was from there that we travelled differently. And
4 we went to Kukes by escort, and it was the car of a friend of mine.

5 Q. Speaking about this car of the friend of yours, did you park
6 that car in the Kukes metal factory?

7 A. Yes, inside the courtyard.

8 Q. In which location --

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor --

10 MR. MICHALCZUK: Yes.

11 PRESIDING JUDGE VELDT-FOGLIA: -- I see that Mr. Shala has
12 raised his hand, so I will see what Mr. Shala wants to say.

13 Mr. Shala, on what -- no, no, on what do you want to make --
14 no --

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

16 PRESIDING JUDGE VELDT-FOGLIA: -- a comment.

17 THE ACCUSED: [via videolink] [Interpretation] I just need for --
18 I need some clarification with my counsel. Just a quick question.
19 Perhaps if you would allow me just for some consultation, some time
20 for consultation.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Shala. Well
22 noted. We will have the break at 11.00, and you will be put into the
23 position to consult with your lawyer. Yes?

24 THE ACCUSED: [via videolink] [Interpretation] Thank you.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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1 We proceed.

2 THE ACCUSED: [via videolink] [Interpretation] Your Honour, it is
3 simply about the case, because it has just been proposed right now.
4 It is about this particular juncture, the drawing --

5 PRESIDING JUDGE VELDT-FOGLIA: I understand, Mr. Shala. But now
6 is not the moment to interrupt the proceedings in order to have a
7 consultation. We will proceed now with the questioning, and your
8 Defence team will consult with you. And if there's a matter that
9 should be clarified, it will be done afterwards. Thank you.

10 Mr. Prosecutor, you may proceed.

11 MR. MICHALCZUK:

12 Q. Mr. Hoxha, let me ask you the question again. That car in which
13 you travelled from -- of your friend in which you travelled from
14 Tirana to Kukes, where was it parked in the Kukes metal factory
15 premises?

16 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, please take
17 the pictures down.

18 THE WITNESS: [Interpretation] Inside the courtyard of the
19 factory. That's where it was parked. By the main gates. Where the
20 entrance to the warehouse was, it was parked to the left.

21 MR. MICHALCZUK:

22 Q. Was it parked at the wall of the warehouse or another place?

23 A. Close to the wall, actually.

24 Q. I would like to read to you a very short part of your SPO
25 statement that this was exactly the place where your car was parked.

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Cross-examination by Mr. Michalczuk (Continued)

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1 MR. MICHALCZUK: And this would be, Your Honours, 077857-TR-ET
2 Part 2, page 7, lines 19 to 22.

3 PRESIDING JUDGE VELDT-FOGLIA: Please proceed,
4 Madam Court Officer.

5 MR. MICHALCZUK: Page 7, lines 19 to 22 of the English
6 transcript.

7 Q. The Prosecutor asked you the same question about the place where
8 your car was parked. Listen to this:

9 "Q. And where was your personal car parked during the time you
10 were at Kukes?"

11 Your answer was:

12 "It was parked over there just by the truck or the lorry I
13 mentioned earlier. So it was parked all the time there."

14 For your information, the lorry that you are speaking here about
15 is exactly the broken down lorry that we are just discussing.

16 So from this part of this SPO interview, it seems that your car
17 was parked next to the broken down truck. And today, a few minutes
18 ago yourself, said that my car was parked close to the wall of the
19 warehouse. Is that the case?

20 A. I'm sorry, Mr. Prosecutor, but our car would move. It wouldn't
21 stay at the same time all the time. It wouldn't be parked at the
22 same time -- at the same place all the time. It would move, it would
23 go away, and it had a problem. It broke down and a friend fixed it.

24 But as I said, the car would move and it would not be parked at
25 the same place. That was a working car. When our comrades needed

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 the car, they would use it and go wherever they were assigned to go.
2 However, usually it was parked at the place that I mentioned. I
3 can't guarantee 100 per cent that it was at the same place. But
4 because it would be parked at various places as the car would go to
5 different places on assignment, and then when it came back it was
6 parked where there was a place for it to park.

7 Q. Mr. Hoxha, let me put to you the following. Speaking logically,
8 why would anyone place one or more broken trucks in the middle of the
9 compound that would disrupt the movement of people, vehicles which
10 were coming and going and moving within the compound, instead of
11 somewhere at the site? What is your answer to that?

12 A. That was not my task, to tell people where to park those trucks.
13 It was somebody else's responsibility. I had my own responsibility,
14 my own task, and I carried it out honourably. I didn't deal with
15 other things. I didn't even have the time to look after myself
16 during that period, not only -- let alone deal with these smaller
17 details and record them.

18 It was wartime. You forget about that fact. So many people
19 were killed in Kosovo, children, babies, to 13 years old, in Kosovo,
20 and now you're asking me about one car as if I were a criminal. I
21 don't understand.

22 Q. Mr. Hoxha, I am not suggesting in any way that you are a
23 criminal. We are just trying to elicit from you what really
24 happened. What was that you saw and experienced at the premises of
25 the Kukes factory. That's why I'm trying to be as detailed as

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Cross-examination by Mr. Michalczuk (Continued)

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1 possible. It is not in any way to demean you in any fashion or --
2 I'm not trying to make any accusations towards you. So let be clear
3 that I am just trying to get to the bottom of the truth, about what
4 happened, what you saw, what you experienced. Nothing else.

5 A. Mr. Prosecutor, it happens to people that they forget what they
6 ate for dinner last night, let alone remember things that happened 25
7 years ago.

8 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness.

9 MR. MICHALCZUK:

10 Q. I would like to --

11 PRESIDING JUDGE VELDT-FOGLIA: You may proceed.

12 MR. MICHALCZUK: I would like to change the subject a little
13 bit.

14 PRESIDING JUDGE VELDT-FOGLIA: Yes.

15 MR. MICHALCZUK: It's going to be a short --

16 PRESIDING JUDGE VELDT-FOGLIA: Because this topic we have been
17 working on for a while.

18 MR. MICHALCZUK: Yes.

19 PRESIDING JUDGE VELDT-FOGLIA: And --

20 MR. MICHALCZUK: Yes. Yes, I have exhausted this one. I would
21 like to come back to the issue that we had yesterday, namely the
22 white building, that was the subject of our extensive discussion
23 yesterday.

24 Q. Mr. Hoxha, yesterday, at page 94, at lines 17, 23, at page 103,
25 lines 13 to 14, and at page 105, lines 5 and 10, you told us that the

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 photograph depicting the white building that we discussed yesterday
2 and which you marked with number 5 on the aerial photograph was not
3 shown to you during the SPO interview in 2020. You even indicated
4 that you never saw that photo in your life, and you said that at
5 page 103, lines 13 to 14, lines 20 to 21, and at page 112, lines 20
6 to 21. Is that the case?

7 A. Yes, correct. I had never seen that picture in my whole life or
8 the other photo that was shown after that. I had never seen them
9 before. The Prosecution did not show them to me. I had not seen it
10 before.

11 Q. Very well. In this regard, let me show you a short video of
12 your SPO interview from 2020.

13 MR. MICHALCZUK: And, Your Honours, the ERN of this video would
14 be 077857B Part 2 RED.

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

17 MR. MICHALCZUK: We could also put on the screen the
18 corresponding transcript of that interview in English. It would be
19 077857-TR-ET Part 2, page 22.

20 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

21 MR. MICHALCZUK: It would be from line 1 to 12. Yes, exactly as
22 it is.

23 So if you could play this video-clip from 50:15 to 51:34.

24 [Video-clip played]

25 "I will show this to the camera. Underneath the metal gantry.

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Cross-examination by Mr. Michalczuk (Continued)

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1 And I understand that by the date these photos in the panorama were
2 taken, a small building that used to exist at the position I showed
3 you with my finger used to be there but had been destroyed. And
4 there's a photograph on the page with ERN 074390. This is a
5 structure that I understand used to exist at the position I showed
6 you just now in the panorama."

7 MR. MICHALCZUK:

8 Q. Mr. Hoxha, it was your interview with the SPO. And this is the
9 building that we discussed yesterday at length. Do you still claim
10 that you were not shown this white building during the SPO interview
11 and that you never saw that photo before?

12 A. I don't remember seeing this photograph. When they showed me
13 the photographs of the metal factory, they were long. There were two
14 parts of the buildings. But in the middle, where you are saying that
15 this part was, it was stuck with Sellotape in the middle, but I never
16 saw this building.

17 Q. Mr. Witness, I would like to just recap what we heard from you
18 about this building today and yesterday. So you worked in the
19 warehouse, the entrance of which was in the same courtyard as this
20 white building. You stated that, at times, you worked out of the
21 warehouse in the courtyard. You also happened to sleep in the yard.
22 You were also walking through the yard going to the warehouse, to the
23 sleeping quarters, to the kitchen, to the medical facility, you
24 apparently also occasionally participated in the physical exercises
25 in the yard, and it also seems that the broken down truck was not in

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 the middle of the yard but was at the warehouse wall and did not
2 obstruct your view of that building.

3 Do you still maintain that you don't remember that building,
4 that white building, which was rather a big structure situated
5 practically in the middle of the yard?

6 A. Yes, I maintain that position. I did not see it. I did not
7 have the time to deal with other buildings or other facilities. I
8 had my own tasks, and actually I went from the sleeping quarters to
9 my working station to the depot.

10 Q. Mr. Hoxha, we have heard evidence from witnesses in this case
11 that at the time you were working in the Kukes metal factory, this
12 building was used to detain people. The detention of people at the
13 Kukes metal factory was also established in the trials against
14 Sabit Geci and Xhemshit Krasniqi who were convicted for the detention
15 and mistreatment of the people in that location.

16 Were you aware at the time you were at the Kukes metal factory
17 that there were people detained in that building?

18 A. No, I wasn't.

19 Q. Did you subsequently become aware of it after the convictions of
20 Mr. Sabit Geci and Xhemshit Krasniqi?

21 A. Yes, I learned about it much later.

22 Q. When did you learn about it?

23 A. I don't remember. I couldn't tell you. I don't know which year
24 it was.

25 Q. I would like to very quickly ask you about some locations where

Witness: W03887 (Resumed) (Open Session)
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1 you slept while in the Kukes metal factory. So, for now, we have
2 established that you slept for some time in the warehouse where you
3 worked, and this is at page 82, lines 21, 24. Also at page 84,
4 line 14. Correct?

5 A. I didn't sleep there for some time. I slept there only for one
6 night or two max. I'm not sure about how many nights, but one or two
7 nights only.

8 Q. Yes. You also mentioned that on one occasion you slept in that
9 broken down truck, and we have that at page 114, line 20, 21, of
10 yesterday's provisional transcript. Correct?

11 A. Yes.

12 Q. You also mentioned certain room. It was the office of
13 Latif Fejzullahu of 9 to 10 square metres in the building where there
14 were three beds; page 6, line 18, page 7, line 1, 2, 7 of yesterday's
15 transcript; correct?

16 A. Yes, 95 per cent of the times I would sleep there.

17 Q. Did you sleep also in other locations, apart from those that I
18 have just mentioned?

19 A. No, I didn't.

20 MR. MICHALCZUK: Your Honours, very quickly I would like to put
21 on the screen the SPO interview. It's 077857-TR-ET Part 1, page 18.

22 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

23 MR. MICHALCZUK: Again, it's page 18, lines from 15 to 24.

24 Q. Mr. Hoxha, the question of the Prosecutor:

25 "And where were you sleeping?"

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 And your answer:

2 "Well, it was everywhere -- to tell you the truth, everywhere, I
3 didn't have a bed that I would go on my own bed. Anywhere where I
4 could find a place to sleep I would sleep. And often -- never the
5 same place, because it was a kind of moving process there. There
6 were people there. Soldiers coming from Tirana on the way to Kosovo,
7 so sometimes I couldn't sleep in a bed, I would sleep in a truck or
8 anywhere rough. But that's -- that's how it happened."

9 From this short exchange with the Prosecutor, it seems that you
10 slept in many locations, wherever there was space available; is that
11 correct?

12 A. I mentioned it before that sometimes I slept at the warehouse,
13 sometimes it would happen that I slept in the truck, and sometimes in
14 a bed. I did not have my own bed.

15 As I said yesterday, in Latif Fejzullahu's office, there was a
16 foam mattress under a bed, and Bedri Azemi and I would sleep there,
17 taking turns. When I was first to go there, I would pull out the
18 foam mattress and sleep on it and leave the bed to him. When he went
19 there before me, he would pull out the foam mattress and leave the
20 bed to me.

21 So I did not have an assigned bed to me. There were so many
22 soldiers, we did not have enough places to sleep.

23 Q. I understand. Speaking about Kukes metal factory and activities
24 there, was it a busy place during the time you were there?

25 A. That was the main logistics for the front. For the Shigjeta,

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 Arrow operation. All the brigades that came into Kosovo from Krume
2 would come to that -- would pass through our barracks. They would
3 get supplies in weapons, food, and so on, so there was a lot of
4 circulation. This would also happen at night, not only during the
5 day.

6 Q. Was it a noisy place?

7 A. No, I wouldn't say noisy. Normal noise, normal sounds made by
8 people circulating. But everybody had their own tasks, their own
9 responsibilities.

10 Q. You have just told us that it was -- it was the place where
11 people were coming and going, trucks were coming and going. I
12 understand it was a logistical hub where trucks were coming to get
13 supplies, they were loading stuff, offloading stuff; correct?

14 A. Yes.

15 Q. Did you ever see non-military vehicles parked inside the
16 courtyard?

17 A. In fact, we did not have any military vehicles. All of our
18 vehicles were civilian. As I said yesterday, we did not have our own
19 state. We did not have a regular army. That was a voluntary army.
20 And people donated things to the army. Somebody would bring a
21 vehicle, somebody would bring a jeep, and everything was voluntary
22 because it wasn't an obligation to anyone. So all our equipment and
23 vehicles were civilian. I can't say that any of them were military.

24 Q. So on some of the videos, there were trucks in the yard coming
25 and going and parked; correct?

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 A. Yes.

2 Q. There were also smaller cars, like lorries. We saw one blue
3 van, for example, exiting the premises. So there were also smaller
4 cars like vans, correct, there?

5 A. Yes, there were vans that had come from Switzerland, and their
6 license plates were Swiss license plates. They were not military.
7 And many of the vehicles there did not have license plates at all
8 because we did not have the right to use Albanian license plates.

9 Q. And the car that you came in from Tirana to Kukes, what car was
10 it? Do you remember the make of the car?

11 A. It had German license plates.

12 Q. I'm talking about the make of the car, not the license plates?
13 If you remember, of course.

14 A. It was a Ford Escort.

15 Q. Were there more cars like this? Coming and going, parked, like
16 yours? Not the trucks, not the vans, but just small cars like this
17 one. At Kukes, 1999.

18 A. I don't know. I don't remember. I was not there at the gate to
19 look at the cars and keep a logbook. As I told you, most of the time
20 I was in the field.

21 Q. It's perfectly understandable.

22 MR. MICHALCZUK: I've got just the last very short line of
23 questions. Just a few, Your Honours. It would take me five minutes,
24 tops.

25 Q. Do you recall, among the supplies of the logistics department,

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 whether there were any flak jackets or bullet-proof vests that the
2 KLA stored in Kukes?

3 A. Flak jackets, there were many. I don't know about bullet-proof
4 vests. Perhaps there were those as well. I brought bullet-proof
5 vests from Germany to Albania by plane, as a matter of fact.

6 Q. So do you know how many of those bullets [sic] did you bring
7 from Germany?

8 A. I remember once -- one occasion when I brought 20. It was 1998.

9 MR. MICHALCZUK: Your Honours, could I just put before the
10 witness a very short part of his statement. It's 077857-TR-ET
11 Part 4, page 31.

12 PRESIDING JUDGE VELDT-FOGLIA: I understand to confront him with
13 his prior --

14 MR. MICHALCZUK: This is exactly --

15 PRESIDING JUDGE VELDT-FOGLIA: -- remarks --

16 MR. MICHALCZUK: -- the reason.

17 PRESIDING JUDGE VELDT-FOGLIA: -- on this. Very well.

18 Court Officer, please proceed.

19 MR. MICHALCZUK: It would be Part 4, page 31. 31. Is it
20 page 31? Could we just move up? It might not be the correct page.

21 So my colleague will find the right page, but maybe in the
22 meantime I will ask the witness a question also about what he has
23 just said.

24 PRESIDING JUDGE VELDT-FOGLIA: Please proceed but not --

25 MR. MICHALCZUK: [Overlapping speakers].

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 PRESIDING JUDGE VELDT-FOGLIA: -- yet on this. What you want --
2 yes, another question.

3 MR. MICHALCZUK: Yes.

4 Q. So you said at one point you brought around 20 flak jackets.
5 Did you bring more flak jackets from Germany on other occasions?

6 A. Yes. I worked for the Homeland Calling Fund, and one of my
7 duties was to bring military supplies from Germany.

8 Q. So could you tell the Court those other occasions when you
9 brought the flak jackets from Germany?

10 A. Tens of occasions. Not only one occasion. The war lasted for
11 two years. We started the war from scratch. We did not have
12 anything. Nothing at all. And from zero, we had to find supplies
13 and to provide supplies within our means.

14 Q. My question was only about the flak jackets sent from Germany to
15 Kukes. You said there were "tens of occasions," so on those tens of
16 occasions you were sending those flak jackets from Germany to Kukes?
17 Is that what you are saying?

18 A. No, I didn't send them to Kukes. I sent them to Tirana. And
19 then I didn't know where they were distributed to from Tirana. What
20 we did was send those supplies to Tirana, and then drivers were
21 engaged to distribute them. There were thousands of such supplies
22 sent to Tirana, and then where they were sent onwards from Tirana I
23 don't know.

24 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, just to be sure
25 that the transcript is correct --

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 MR. MICHALCZUK: Yes.

2 PRESIDING JUDGE VELDT-FOGLIA: -- we are at page 34, line 7, so:

3 "Do you know how many of those bullets ..."

4 MR. MICHALCZUK: Bullet-proof vests.

5 PRESIDING JUDGE VELDT-FOGLIA: Bullet-proof vests.

6 MR. MICHALCZUK: Not bullets, bullet-proof vests.

7 PRESIDING JUDGE VELDT-FOGLIA: Okay, thank you. We note it.

8 MR. MICHALCZUK: Yes.

9 PRESIDING JUDGE VELDT-FOGLIA: Now it's on -- it's recorded.

10 Thank you.

11 MR. MICHALCZUK: I think the citation that I was trying to find
12 could be at page 29. Let's move to the bottom of 29.

13 [Trial Panel and Court Officer confers]

14 MR. AOUINI: If we can help, Your Honour.

15 [Specialist Prosecutors confer]

16 [Trial Panel and Court Officer confers]

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

18 As a matter of a more general remark, it's good that we indicate
19 if we are referring to the page numbering at the right side of the
20 page or the numbering of the PDF, because that is not always the
21 same --

22 MR. MICHALCZUK: [Microphone not activated].

23 PRESIDING JUDGE VELDT-FOGLIA: -- and then we get
24 misunderstandings.

25 Defence Counsel, I see you standing. You were trying to assist

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 us in this?

2 MR. AOUINI: Yes, Your Honour. It's page 31 in the PDF, 29 of
3 the actual document. And we would like to have the Albanian as well,
4 since this is the practice, as instructed by Your Honours, for the
5 SPO to indicate the corresponding Albanian for the witness. It is
6 the way we've proceeded so far. We don't see any reason to depart
7 from it.

8 Thank you.

9 MR. MICHALCZUK: Your Honours, we could also ask the
10 interpreters to help us --

11 PRESIDING JUDGE VELDT-FOGLIA: Yes.

12 MR. MICHALCZUK: -- to really interpret everything verbatim. So
13 it should not be an issue, I think.

14 PRESIDING JUDGE VELDT-FOGLIA: No, no. But I do agree with --
15 and I was -- to be honest, I was -- there was an e-mail already
16 prepared to ask that, in general, it's good to have the both, because
17 that -- it has been our line of working. So our direction would be
18 that in general -- and sometimes there can be an exception if we have
19 a video, but it is helpful also for the witness if Albanian is the
20 language he talks in to have that.

21 So I agree with Defence Counsel.

22 I do understand -- do you have it at this moment?

23 MR. MICHALCZUK: [Microphone not activated].

24 The Albanian, we don't. We just have an English indication. So
25 it starts at page 28 at the very, very bottom, line 24, and it

Witness: W03887 (Resumed) (Open Session)
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1 continues on the next page.

2 PRESIDING JUDGE VELDT-FOGLIA: I will allow for it now, but we
3 have this as a general rule. And for the next time, I -- then I
4 won't send the e-mail. We have now said it out loud on this. And we
5 proceed with both languages.

6 MR. MICHALCZUK: Of course, we will comply with that, Your
7 Honours.

8 PRESIDING JUDGE VELDT-FOGLIA: Very well.

9 MR. MICHALCZUK: Yes, this is exactly the place where it could
10 start.

11 Q. Mr. Hoxha, again, this is part of your interview with the SPO.
12 It's Part 4. And the question of the bullet-proof vests was
13 discussed with you. The Prosecutor asks you:

14 "Do you recall among the -- sorry. One second.

15 "Do you recall among the supplies of the logistics department,
16 whether there were any flak jackets or bullet-proof vests that the
17 KLA had stored in Kukes?"

18 And your answer was:

19 "Yes, there were. And I have also sent hundreds of them from
20 Germany to there. There was a meeting, and we couldn't supply those
21 to all the soldiers, of course."

22 So, first of all, you are saying that you sent hundreds of them;
23 is that correct?

24 A. Yes, as I said earlier. I -- on one occasion, I brought them to
25 Tirana myself. That is 20 pieces. But on other occasions, they were

Witness: W03887 (Resumed) (Open Session)
Cross-examination by Mr. Michalczuk (Continued)

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1 sent by truck from Germany to Tirana. So, yes, it was the case that
2 there have been hundreds.

3 Q. And also it's not about Tirana, this exchange, because it's
4 about Kukes. The question says -- talks about bullet-proof vests
5 stored in Kukes, and your answer is I sent hundreds of them from
6 Germany to there. Namely, to Kukes. What would you say to that?

7 A. Directly to Kukes? No, I've never sent military supplies
8 directly to Kukes myself. And I sent those from Germany to Albania,
9 not directly to Kukes. Because when I got to Kukes, I didn't even
10 have a weapon, and then I received my weapon in Kukes. Because
11 personal weapon, I didn't have when I was in Tirana because in Tirana
12 we didn't need weapons. So we weren't fighting Tirana but Serbia.

13 Q. Where were those bullet-proof vests stored within the premises
14 of the Kukes metal factory? In which location, precisely?

15 A. That, I do not know. It wasn't part of my tasks. My tasks were
16 to deal with weapons, not foodstuffs, not clothing, not bullet-proof
17 vests. My duty was to deal with the weapons in general.

18 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I have a question
19 for clarification.

20 MR. MICHALCZUK: Yes.

21 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, did you bring flak
22 jackets or also bullet-proof vests from Germany?

23 THE WITNESS: [Interpretation] Your Honour, I did both. Both
24 flak jackets and uniforms, as well as bullet-proof vests.

25 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good. That's enough for

Witness: W03887 (Resumed) (Open Session)
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1 me. Thank you.

2 Mr. Prosecutor, you have the floor.

3 MR. MICHALCZUK: [Microphone not activated].

4 Q. Maybe one last question on this issue. So you don't know where
5 they were stored, the bullet-proof vests, but perhaps you've seen
6 bullet-proof vests there in that premises of the Kukes metal factory?
7 If so, where did you see them?

8 A. I've already said that I didn't know where they were kept. It
9 wasn't my duty. That was somebody else's duty to deal with. I don't
10 know whether it was Latif Fejzullahu, Bedri Azemi, I don't know. My
11 task was to look after the weapons. I didn't actually -- I minded my
12 own business rather than get involved in other people's business.

13 PRESIDING JUDGE VELDT-FOGLIA: It's five minutes to 11.00,
14 Mr. Prosecutor.

15 MR. MICHALCZUK: Your Honour, just one second. I need to
16 consult with my colleague.

17 [Specialist Prosecutors confer]

18 MR. MICHALCZUK: Your Honours, that would conclude my
19 cross-examination of this witness.

20 Q. Thank you, Mr. Hoxha.

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

22 THE WITNESS: [Interpretation] Thank you very much.

23 PRESIDING JUDGE VELDT-FOGLIA: So I counted here also
24 approximately four hours, so you are even in that respect.

25 Mr. Shala, I will first conclude with the witness, and then I

1 will give you the floor. Not now yet. I will give you the floor.

2 Mr. Witness, we will now have a break of half an hour till
3 11.30. Although, maybe I will first see what is coming, then I can
4 inform you about that too.

5 Victims' Counsel, do you have any questions for the witness?

6 MR. LAWS: I do not. Thank you, Your Honour.

7 PRESIDING JUDGE VELDT-FOGLIA: Very well.

8 At the side of the Defence team, would you like to have a second
9 round for the witness?

10 MR. GILISSEN: Yes, Your Honour. Thank you very much. Yes.
11 But a short one, I --

12 PRESIDING JUDGE VELDT-FOGLIA: No --

13 MR. GILISSEN: I think I could have only one question about an
14 identification of place, but it could be very short.

15 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well.

16 Mr. Witness, you may -- you will be ushered out, and then we see
17 you back at 11.30.

18 THE WITNESS: [Interpretation] Thank you very much.

19 [The witness stands down]

20 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, you have the floor.

21 THE ACCUSED: [via videolink] [Interpretation] Your Honour, I
22 think that there are two questions, but I would like to ask my
23 counsel -- and I think we have two questions, not one rather. Thank
24 you very much. But I will consult my counsel.

25 PRESIDING JUDGE VELDT-FOGLIA: Of course. You will be given

1 that possibility now during the break. And if your counsel says one,
2 even if it is three or four, that is, of course, not a problem.

3 THE ACCUSED: [via videolink] [Interpretation] Thank you very
4 much.

5 PRESIDING JUDGE VELDT-FOGLIA: Very well. If there's nothing to
6 raise with the Panel for now? Victims' Counsel, not. And Defence
7 Counsel.

8 Then we take a break. The hearing is adjourned.

9 --- Recess taken at 10.57 a.m.

10 --- On resuming at 12.19 p.m.

11 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, everyone. We are
12 starting a little bit later, but I understood that there were some
13 technical problems to get into touch with Mr. Shala. But eventually,
14 you managed, I see? Yes.

15 Okay. The SPO is in the same composition. That goes also for
16 Victims' Counsel. And here on my left-hand side, I see a slight
17 change, isn't it, Mr. Gilissen?

18 MR. GILISSEN: Yes, indeed, Your Honour. It's almost the same
19 team. I'm very proud to present you Melissa McKay. She is our new
20 legal officer, and she has -- she's very pleased to appear before you
21 for the first time. Thank you very much.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Thank you. Well
23 noted.

24 And, for the record, Mr. Shala is here. Can you hear me fine,
25 Mr. Shala, via the video connection?

1 THE ACCUSED: [via videolink] [Interpretation] Yes, I can. Thank
2 you.

3 PRESIDING JUDGE VELDT-FOGLIA: Good. Good.
4 Yes, we finalised the SPO cross-examination.
5 Mr. Prosecutor, you have the floor.

6 MR. MICHALCZUK: Yes, Your Honours, we have finalised our
7 cross-examination. However, as promised before the break, we would
8 like to express our position in relation to the documents and --
9 counsel assigned to the witness that is due to testify, hopefully
10 tomorrow.

11 So we have reviewed the documents in question --

12 PRESIDING JUDGE VELDT-FOGLIA: Sorry, I would like to go into
13 private session.

14 MR. MICHALCZUK: Of course, Your Honour.

15 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can you
16 bring us into private session please.

17 [Private session]

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15 [Open session]

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

17 PRESIDING JUDGE VELDT-FOGLIA: Very well. Good. I will now
18 have the witness ushered in for the continuation of his testimony.

19 And it will be your turn again, Defence Counsel. Yes? Very
20 well. I see you nodding.

21 Thank you, Madam Court Usher.

22 [The witness takes the stand]

23 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Hoxha.

24 THE WITNESS: [Interpretation] Hello. Thank you.

25 PRESIDING JUDGE VELDT-FOGLIA: Very well. I will give the floor

Re-examination by Mr. Gilissen

1 now to the Defence Counsel again for some additional questions.

2 Yes, Defence Counsel, you have the floor.

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

4 Re-examination by Mr. Gilissen:

5 Q. Good morning, Mr. Witness.

6 A. Good morning.

7 Q. So, Mr. Witness, you were talking about the room that was shown
8 in the video yesterday where you gathered with other KLA members to
9 sing after the funeral of Abdurrahman Gerdellaj. Reference is
10 transcript 21 November 2023, page 3289 to 3294. At the provisional
11 transcript of today, at page 30, line 6 to 8, you said you slept in
12 the office of Latif Fejzullahu 95 per cent of the time.

13 For clarification and to avoid any misunderstanding, I would
14 like to call up the picture REG00983.

15 MR. GILISSEN: With your leave, Your Honour, of course.

16 PRESIDING JUDGE VELDT-FOGLIA: What is the background of showing
17 this picture to the witness, Defence Counsel?

18 MR. GILISSEN: Yeah, that's the same picture we saw. In my
19 opinion, it was not yesterday. The day before. But without, of
20 course, the mark that the witness made two day ago.

21 PRESIDING JUDGE VELDT-FOGLIA: It's not completely clear to me,
22 but please proceed.

23 MR. GILISSEN: Yeah, it's a question of identification.

24 PRESIDING JUDGE VELDT-FOGLIA: Very well.

25 MR. GILISSEN: I think it's not this one.

1 PRESIDING JUDGE VELDT-FOGLIA: No.

2 MR. GILISSEN: REG00983, this is the one? [Microphone not
3 activated].

4 PRESIDING JUDGE VELDT-FOGLIA: Yes? Okay. This is the one.

5 MR. GILISSEN: [Microphone not activated].

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

7 MR. GILISSEN: You are very helpful. Thank you very much.

8 Q. So, Mr. Witness, could you please mark on this picture where the
9 Latif Fejzullahu is or was? Which window was this place?

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

11 Defence Counsel, you mean the room of Mr. Fejzullahu?

12 MR. GILISSEN: [Microphone not activated].

13 My next question, first the office, because he talk about an
14 office, and then he talk about the room where they gather to sing.
15 So I would like to ask first where was the office of this Latif, and
16 then where is the room where they gathered to sing after the funeral.

17 PRESIDING JUDGE VELDT-FOGLIA: That makes sense. In the
18 question, there was no reference to the place. Only to the name. So
19 it was written where the Latif Fejzullahu is or was. But that was
20 not your intention. The office?

21 MR. GILISSEN: Yeah.

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

23 MR. GILISSEN: Thank you very much.

24 Q. Is it clear for you, Mr. Witness?

25 A. Yes, it is clear. And it is already noted by number 2.

1 Q. So may we say, to be sure, that this number 2 is also the Latif
2 office, first? That's my question.

3 A. Yes, that's the one.

4 Q. Yes. And is it the place where you were gathered singing after
5 the funeral of Mr. Gerdellaj?

6 A. Yes, that's the room.

7 Q. Thank you very much.

8 MR. GILISSEN: It's over with this picture, and I can go to
9 another topic.

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

11 Thank you, Madam Court Officer.

12 MR. GILISSEN: So I would like to have and could we show the
13 statement of the witness, ERN 077857-TR-ET Part 2 RED2.

14 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, what is the
15 purpose of starting out with the statement? Is there not a first
16 question you would like to put and then to --

17 MR. GILISSEN: Yes.

18 PRESIDING JUDGE VELDT-FOGLIA: -- show the statement?

19 MR. GILISSEN: Yes. In three passages of this statement, it was
20 asked to the witness to show roughly, approximatively a place. And
21 we have a finger on the wall, not on a place, in the courtroom. And
22 I would like that in the Albanian version, because I will provide, of
23 course, the reference in the Albanian version, we will be able, and
24 you will be able to see that it was asked roughly to show an
25 approximatively place for this famous truck we were talking just

1 before the break.

2 PRESIDING JUDGE VELDT-FOGLIA: Okay. But there's not a question
3 you would like to ask first to the witness? I mean, the intention is
4 to elicit information from him now, and then --

5 MR. GILISSEN: Yes, it's ask him to confirm the way he was asked
6 to show the thing, because today it was presented that it was not
7 rough or approximatively. I didn't hear these words. That's why I
8 wake up after Mr. Aouini. And it's important, of course. They ask
9 it was there, roughly there, and now I hear that it was just on the
10 front of the wall, the thing -- you don't point the front of the
11 whole wall. It was pointing almost the roof of the building, and
12 that's sure, the truck was not on the roof of the building. All of
13 us agree on that.

14 So I would like to propose to the witness to confirm, or not, he
15 was asked roughly to show and not, very precisely, the place where
16 was this famous truck he slept in.

17 PRESIDING JUDGE VELDT-FOGLIA: With this explanation, there is
18 no question anymore for the witness, because everything has been
19 translated. So we may proceed, but it would have been better to
20 escort him out because you -- we have already discussed it now, all.
21 That's one thing.

22 The other thing is I will never discuss with you on the content
23 what you want to tell me but it's on the mode and the way.

24 MR. GILISSEN: Yeah.

25 PRESIDING JUDGE VELDT-FOGLIA: That was my only problem. For

1 the rest, I will give you the floor when asked for it, but not while
2 I'm talking.

3 MR. GILISSEN: Yeah.

4 PRESIDING JUDGE VELDT-FOGLIA: That was the only thing. And let
5 us be clear about that.

6 MR. GILISSEN: Yeah.

7 PRESIDING JUDGE VELDT-FOGLIA: I will never interrupt you. I
8 will never say that you cannot say something.

9 MR. GILISSEN: That's nice of you. Thank you very much. And
10 this is the first time, except if I make a mistake, but I think I
11 don't make a mistake, the witness is able to see his statement in
12 Albanian language. So that's why I would like to focus on. Because
13 he saw the English version, but not what he heard at this moment and
14 what he said exactly.

15 PRESIDING JUDGE VELDT-FOGLIA: I will show -- I will allow for
16 pulling it up. I just tell you that by having given this
17 explanation, the answer of the witness is kind of coloured because
18 you have been explaining everything around it.

19 So, anyway, Madam Court Officer, if you have the -- yes, you
20 have the number, so you can pull it up.

21 And to come back to your remark, Defence Counsel, that the first
22 time he sees his statement in Albanian. We have been listening to
23 different excerpts where he has been in a position to listen to
24 himself in Albanian, and I would say that that is no different than
25 having the statement in Albanian. So just for the record.

1 Thank you, Madam Court Officer.

2 MR. GILISSEN: [Microphone not activated].

3 I'm sorry. In the English version, I would like that the
4 witness could be able to read page 5, line 24, to page 6, line 5.
5 Particularly on the line 25 -- no, 23. And even to go till page 7,
6 to line 5, and the last interesting line is on the page 7, line 4.

7 I can, of course, repeat it.

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

9 MR. GILISSEN: This is the English one.

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

11 MR. GILISSEN: And -- yeah --

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

13 MR. GILISSEN: Yeah. And in the Albanian version, I think we
14 have page 6, line 17, to page 7, line 2. On the page 7, line 19
15 to 21 could be interesting too.

16 Q. Yes, please, Mr. Witness.

17 MR. GILISSEN: With your leave, of course.

18 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

19 MR. GILISSEN: Thank you very much.

20 Q. Please, Mr. Witness, could you read the excerpt you are seeing
21 on the screen --

22 PRESIDING JUDGE VELDT-FOGLIA: I think it's better that you read
23 it out, because we don't have a control over what he is reading. So
24 if you want to have -- to have something put on record --

25 MR. GILISSEN: Yeah.

1 PRESIDING JUDGE VELDT-FOGLIA: -- then you must read it.

2 MR. GILISSEN: In English, of course.

3 PRESIDING JUDGE VELDT-FOGLIA: Yes, yes.

4 MR. GILISSEN: Because my Albanian language is very, very poor.

5 PRESIDING JUDGE VELDT-FOGLIA: No, that's clear.

6 MR. GILISSEN: Yes.

7 Q. So I start with page 5, line 23:

8 "Mr. Elderkin: I'm just going to use the camera here to show --
9 am I pointing in the right place, roughly?"

10 Page 6, line 1:

11 "The Witness: Yes.

12 "Mr. Elderkin: So I will turn the camera -- so Mr. Hoxha, has
13 just said yes this is roughly the area where the broken down truck
14 was. I'm now showing to the recording camera."

15 And I pass through until page 7, line 3. It's a question:

16 "And you are pointing to the same place where I've just
17 indicated with my finger approximately the location of the broken
18 down truck; is that right?"

19 And the answer is:

20 "Yes. Correct."

21 So my question is very simple, of course: Mr. Witness, when you
22 confirmed the so-called place where was this famous truck, was it
23 roughly and approximately with a finger pointing the wall of the
24 hall of the *bâtiment*?

25 A. Yes, approximately. Yes, approximately it was there.

1 Accurately and precisely with a finger, you can't really show it,
2 point to it. But, yes, it was there, actually. Approximately or
3 roughly at that part there, because that bit was in the middle across
4 it. So from the wall to the other end. They were parked there.

5 Q. Thank you very much. I think it's very clear and it's better
6 for us.

7 MR. GILISSEN: For us all. I only speak about the Defence. And
8 I have no more questions, and I thank you very much, My Honour.

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

10 I see that there's a -- maybe a -- an unclarity in the
11 transcript. Page 53, line 19, "with a finger pointing the wall of
12 the hall of the battalion." That is the building, I suppose?

13 MR. GILISSEN: Yes, yes --

14 PRESIDING JUDGE VELDT-FOGLIA: Yes, yes, very well. Just for
15 the record.

16 MR. GILISSEN: Is it clear now? Thank you very much.

17 PRESIDING JUDGE VELDT-FOGLIA: Also Defence Counsel have
18 finished in the second round with his questions.

19 Is there from the side of the Specialist Prosecutor's Office a
20 question building on this?

21 [Specialist Prosecutors confer]

22 MR. MICHALCZUK: Your Honours, we are not going to ask any more
23 questions. Thank you.

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

25 Victims' Counsel.

1 MR. LAWS: No. No questions. Thank you, Your Honour.

2 PRESIDING JUDGE VELDT-FOGLIA: Very well.

3 Mr. Witness, there are no questions anymore from the side of the
4 parties and Victims' Counsel. Neither are there questions from the
5 side of the Judges of the Panel. So that means that this is the end
6 of your testimony before this Panel in this case. And I would like
7 to thank you very much for your efforts you have put in in this two
8 and a half days of testimony.

9 I remind you that you should not discuss your testimony with
10 anyone, and I wish you a safe trip home. Madam Court Usher will
11 usher you out now. Thank you.

12 THE WITNESS: [Interpretation] Thank you. You were quite
13 correct. Thank you.

14 [The witness withdrew]

15 PRESIDING JUDGE VELDT-FOGLIA: Very well. We will now have our
16 lunch break. And I propose to do it as follows: We will break now
17 till 2.00, and then have one-and-a-half-hour break -- sorry,
18 one-and-a-half-hour session, of course, then ten-minutes break, and
19 then we will liaise to see if we can have then another 20 minutes or
20 half an hour. Yes?

21 So I wish you a good lunch and the hearing is adjourned.

22 --- Luncheon recess taken at 12.47 p.m.

23 --- On resuming at 2.00 p.m.

24 PRESIDING JUDGE VELDT-FOGLIA: Welcome back.

25 Mr. Shala, good afternoon. Can you hear me? Can you repeat

1 what you said? I didn't hear you.

2 THE ACCUSED: [via videolink] [Interpretation] [No
3 interpretation].

4 PRESIDING JUDGE VELDT-FOGLIA: I did not hear a translation. I
5 did hear the voice of Mr. Shala, but no translation.

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

8 THE INTERPRETER: Can you hear me now?

9 PRESIDING JUDGE VELDT-FOGLIA: Yes, thank you.

10 THE INTERPRETER: Okay. Thank you.

11 PRESIDING JUDGE VELDT-FOGLIA: On the right-hand side, the SPO
12 is in the same composition. That goes for Victims' Counsel, too.
13 And here on the left-hand side also. Yes.

14 MR. GILISSEN: Yes, we have two --

15 PRESIDING JUDGE VELDT-FOGLIA: Oh, yes. No, sorry. I
16 overlooked one person.

17 MR. GILISSEN: Yes, Ms. Kailin Chen and Ms. Déborah Thiébaud
18 join us. Thank you very much.

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much. We noted
20 that.

21 Yes, we will now proceed with the hearing of the testimony of
22 the Witness 4441, Ms. Safete Hadergjonaj.

23 I will ask the Court Usher to bring her in -- oh, no, excuse me,
24 I see the Prosecutor -- Madam Prosecutor standing, but there's
25 something else I want to discuss.

1 So before we go into the testimony of the witness, I would like
2 to do something else. But first the floor for Madam Prosecutor.

3 MS. PERGOLO: Thank you, Your Honours. Yes, I have just two
4 brief procedural matters to raise with the Panel.

5 So we have taken note of Your Honours' directions that when
6 showing the prior statement of the witness we should be also showing
7 both the English and Albanian version. However, for the
8 Witness W04440, the SPO is not in possession of an Albanian version
9 of those SPO interviews, and that is because those were disclosed to
10 the Defence under Rule 103, so we did not have an obligation to
11 disclose also the Albanian versions of those transcripts.

12 So we are actually just looking for -- seeking some guidance
13 from the Panel on how you would like us to proceed in this regard.
14 This is a witness called by the Defence, of course. So I don't know
15 if perhaps the Defence have, in the meantime, been able to have those
16 statements translated, or whether Your Honours would like to proceed
17 for this specific situation, given also the short time between today
18 and possibly tomorrow, the start of the testimony, to proceed as we
19 have done before, or in whatever best way the Judges think would be
20 best to proceed.

21 I just wanted to raise this matter because of the directions we
22 received this morning.

23 PRESIDING JUDGE VELDT-FOGLIA: Yes, very well. The directions
24 apply in principle -- and I will give you the floor. In principle to
25 the prior statements we have been using up to now where we had an

1 English and an Albanian version. That was the procedure we applied.

2 But if I do understand you well, you're saying you don't have an
3 Albanian version of this statement? Is that what you're saying?

4 MS. PERGOLO: That is correct, Your Honours.

5 PRESIDING JUDGE VELDT-FOGLIA: Okay.

6 MS. PERGOLO: Yes.

7 PRESIDING JUDGE VELDT-FOGLIA: But what there is not, cannot be
8 made so quickly, unless if there is a translation of another kind,
9 but I don't think so. That would be completely new to us.

10 MR. AOUMINI: Thank you, Your Honour. And, yes, we confirm that
11 there is no Albanian transcript, and that was the reason -- we
12 contacted the Registry to obtain an official translation of the
13 transcript, but they made the fair point that this would be a
14 translation of a translation, since the original language in the
15 audio was the Albanian, and the Registry didn't provide transcription
16 services.

17 And so what we did is have the audios, checked certain portions
18 for our benefit, especially those that we might have to mention or
19 refer to, so what we can do is whenever there is details that need to
20 be scrutinised, whenever there is a contention on some responses or
21 details or refreshment, whenever possible, we - all parties, we
22 mean - revert back, if necessary, to the audio, because it contains
23 the original speech of the witness, if necessary.

24 PRESIDING JUDGE VELDT-FOGLIA: I would say, in principle, only
25 if necessary, because we have our interpretation unit which functions

1 perfectly and can provide, in principle, all the assistance we need.
2 Good.

3 So that was your first point, Madam Prosecutor?

4 MS. PERGOLO: Yes. And the other point is, just briefly. We
5 would like to request the inclusion in our presentation queue for
6 Witness W04441, who is coming today, to add three translations of the
7 last three exhibits included our presentation queue. We do have a
8 translation already embedded in the items, but the office has
9 provided a more official translation, and we would kindly request to
10 include those too. We don't believe there should be prejudice in the
11 sense that the content of the English is already included in the
12 items that we have already disclosed, but we are just preparing the
13 disclosure of the additional -- more official translations as we
14 speak.

15 PRESIDING JUDGE VELDT-FOGLIA: But can you confirm that the
16 translation we were able to see in the document itself is the same as
17 the translation provided in a more official way?

18 MS. PERGOLO: The content is the same. It's, of course, the
19 translation provided in the document, is provided by the, let's say,
20 social media platform from which the main text is taken, and we also
21 wanted to, of course, have a more official translation. But the
22 content from our verifications is the same.

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

24 I will make the tour. Victims' Counsel, is there anything you
25 would like to submit on this?

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

2 PRESIDING JUDGE VELDT-FOGLIA: Okay. Defence Counsel, who can I
3 give the floor?

4 MR. AOUINI: Yes, Your Honour. No objection, of course. We
5 would like to have the translation, an official one. I'm thankful
6 for that.

7 PRESIDING JUDGE VELDT-FOGLIA: Very well. Then that is granted.
8 Good.

9 And the reasons, of course, that no objection, it makes
10 completely sense to have the official translation, and there is no
11 prejudice for the Defence in this aspect.

12 Very well. Then we will go now into private session.

13 Madam Court Officer, could you bring us there?

14 [Private session]

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1 [Open session]

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

3 PRESIDING JUDGE VELDT-FOGLIA: Very well.

4 Madam Court Usher, could you bring in Madam Safete Hadergjonaj
5 so that we can start with the taking of the testimony. And
6 Ms. Hadergjonaj will testify without in-court protective measures.

7 So, Defence Counsel, we will be sitting till half past 3.00.
8 Yes?

9 [The witness entered court]

10 PRESIDING JUDGE VELDT-FOGLIA: Please have a seat, Madam
11 Witness.

12 Good afternoon, and welcome to the Specialist Chambers.

13 THE WITNESS: [Interpretation] Good afternoon.

14 PRESIDING JUDGE VELDT-FOGLIA: Can you hear me fine?

15 THE WITNESS: [Interpretation] Yes, I can hear you fine. Thank
16 you for having me.

17 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, can you confirm that
18 you can hear the witness?

19 THE ACCUSED: [via videolink] [Interpretation] Yes, I can hear
20 her very well. Thank you.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

22 Madam Witness, how are you?

23 THE WITNESS: [Interpretation] I'm okay.

24 PRESIDING JUDGE VELDT-FOGLIA: Very well. Today we will start
25 with your testimony. It's still a question to me why we had to

1 revert to summons to ensure your presence in this courtroom. But
2 anyway, here we are.

3 Before we begin with the questions for you, I have several
4 remarks.

5 Madam Witness, you are called to testify before the Kosovo
6 Specialist Chambers in the case of the Specialist Prosecutor's Office
7 versus Pjeter Shala to assist this Panel of Judges to reach a
8 verdict.

9 First, we will start with taking your solemn declaration to tell
10 the truth. After that, you will be asked questions by, first,
11 Defence Counsel of Mr. Pjeter Shala, sitting on that side with the
12 red robes, then the lawyers for the Specialist Prosecutor's Office,
13 the colleagues with the robes in purple, and then the lawyer
14 representing the victims participating in this case, sitting on your
15 left-hand nearest to you, and then by us, the Judges of this Panel.

16 Before you take your solemn declaration to tell the truth, I
17 would like to give you some guidance and some practical advice for
18 answering the questions that we will put to you.

19 So, Madam Witness, please, listen carefully to each question.
20 If you don't understand, feel free to ask the question to be
21 repeated.

22 We want you to tell the truth and to tell us what you saw, what
23 you experienced, what you heard yourself. If you did not hear or see
24 it yourself, but you found out in some other way, you should explain
25 to us how.

1 You may not remember all the details of the events, and this is
2 perfectly fine. Please, in that case, just tell us what you
3 remember. Do not guess. Do not make things up. It suffices to say
4 "I don't know," "I don't remember."

5 Please only answer the questions put to you. If we need any
6 further clarification, we will ask you.

7 And I also remind you that you have the right to object to
8 provide your testimony on issues that might tend to incriminate you,
9 pursuant to Rule 151(1) of the Rules of Procedure and Evidence.

10 Madam Witness, have you understood all this?

11 THE WITNESS: [Interpretation] Yes.

12 PRESIDING JUDGE VELDT-FOGLIA: Very well. I've also some
13 practical advice for you with regard to your testimony.

14 Please take note that everything we say here is translated and
15 recorded, so it is important to speak into the two microphones in
16 front of you, to speak clearly, and to speak at a slow pace to allow
17 the interpreters to translate everything, and it's also important
18 that you should only start speaking when the person asking you a
19 question has finished. So when a question is asked, it helps if you
20 wait for five seconds and then you start talking because that will
21 allow the interpreters to finalise their interpretation and
22 everything that is recorded to be recorded, and then we can proceed.

23 If I raise my hand, please stop talking. That I raise my hand
24 instead of talking in order to avoid that we overlap. And it can be
25 that I will ask you on certain occasions to leave the courtroom,

1 Madam Court Usher will then accompany you, because in that way we can
2 discuss the content of a question to be posed to you.

3 If you have any questions, if you need a break, or there's
4 something else you would like to share with the Panel, please raise
5 your hand and then I will give you the floor at the moment that is
6 fit for it.

7 And, lastly, it could be the case that we will ask you to make
8 digital markings. There is a pencil next to your screen. And with
9 that pencil -- maybe you can show it, Madam Court Usher, where it is.
10 You can make the markings as requested.

11 Have you understood all this?

12 THE WITNESS: [Interpretation] Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: Very well.

14 As I have to do with every witness, Madam Witness, I will now
15 ask you to make your solemn declaration to tell the truth, and I
16 remind you that it is an offence, Madam Witness, to give a false
17 testimony before the Specialist Chambers Panel. You understood that?

18 THE WITNESS: [Interpretation] Yes.

19 PRESIDING JUDGE VELDT-FOGLIA: Very well.

20 Court Clerk, can you assist Madam Witness with the text for her
21 declaration to tell the truth.

22 Please, Madam, you may read the text.

23 THE WITNESS: [Interpretation] Conscious of the significance of
24 my testimony and my legal responsibility, I solemnly declare that I
25 will tell the truth, the whole truth, and nothing but the truth, and

1 that I shall not withhold anything that has come to my knowledge.

2 WITNESS: W04441

3 [Witness answered through interpreter]

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Witness. You
5 are now under oath to tell the truth.

6 Now the Defence can start with the questioning.

7 Defence Counsel, you have one and a half hours for the
8 questioning. And if there's a change, please inform the Panel.

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

10 Examination by Mr. Gilissen:

11 Q. Good evening, Mrs. Witness. So thanks to be here. We have some
12 questions to ask you to you about different topics, and I think it
13 could be very clear for us to receive some information and to be sure
14 to understand. This is the purpose of the questions.

15 So the first topic I would like to go with you, it's a personal
16 question about you. Mrs. Witness, could you please state your name
17 and your surname?

18 A. I am Safete Hadergjonaj.

19 Q. Thank you very much. Do you have or did you have a nickname?

20 A. No, never.

21 Q. What are your date and place of birth?

22 A. I was born in Voksh village on 13 November 1964, and I live in
23 Decan since 1975.

24 Q. Thank you very much. So what level of education do you have?

25 A. I finished secondary school in the Vëllezërit Frashëri school in

1 economics, and then I finished university at the University of
2 Prishtine, university studies for economics. And then I also studied
3 for my masters and my PhD in the economics faculty in Prishtine.
4 It's that -- it's Hasan Prishtine University in the Republic of
5 Kosovo.

6 Q. Thank you very much. It's very clear. So did you have work
7 before the 1998, 1999 war? Did you work?

8 A. Yes, I worked. After finishing my studies in economics. In
9 1997, I started working at the Vëllezërit Frashëri gymnasium,
10 secondary school, as a teacher. And then for four years, I worked at
11 this school again.

12 From 1990, our schools were closed by the Serbian occupier.
13 They just locked the door. They locked us out, all the students and
14 the professors, so we were obliged to organise our lessons in private
15 homes, and I worked like that for four years.

16 Then after 1994, together with my brother, we set up a tourist
17 agency, and I worked there until 1998 when the police came and closed
18 it down as well. Closed the agency. And we had to stay home.

19 After the war, I worked at the office of the prime minister as
20 an official for political issues, and I supervised two ministries,
21 the Ministry of Finance and the Ministry of Economy. Then -- I
22 worked there for two or three months. And then I was director of
23 administration in the Ministry of Trade and Industry.

24 In 2004, I was part of the candidates list for the parliamentary
25 elections in Kosovo. I ran for a member of parliament, and I won. I

1 became an MP.

2 From 2004 to 2019, I was an MP in the Kosovo parliament, and at
3 the same time I was a lecturer at the business college from 2013 to
4 2017.

5 From 2019, I am no longer a member of the parliament, and now,
6 presently, I work as an adviser for financial issues to the
7 parliamentary group of the Democratic Party, and I also work part
8 time at Haxhi Zeka University.

9 This is briefly my CV and the work I've done.

10 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I want to make
11 two points.

12 One point is that, for next time, please stick to the question,
13 because the question is what you did before the war. And maybe the
14 lawyer is also interested to know what you were doing after the war,
15 but that was not the question. So for next time, please adhere to
16 what you are asked and then reply to that. That's one thing.

17 The other point is I want to be sure if there's not recorded
18 something wrong in the transcript, or maybe a translation issue, or
19 maybe you said it in this way but you meant something else. That's
20 page 70, you said:

21 "In 1997, I started working at Vëllezërit Frashëri..."

22 You meant 1997?

23 THE WITNESS: [Interpretation] No, no, it wasn't 1997. It was
24 1987 when I finished my university studies. I tried to get a job
25 somewhere else, but it wasn't possible. So --

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1 PRESIDING JUDGE VELDT-FOGLIA: That suffices.

2 THE WITNESS: [Overlapping speakers].

3 PRESIDING JUDGE VELDT-FOGLIA: I just wanted to know the date.

4 So here again let's stick to the question, because, if not, we get a
5 lot of information that maybe is not relevant to what we want to know
6 today.

7 Defence Counsel, you have the floor.

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

9 Q. So would you say you are or you have been a public figure in
10 Kosovo?

11 A. After the war.

12 Q. After the war. Okay. Thank you very much.

13 A. I was a member of parliament. And, of course, a member of
14 parliament is a public figure.

15 Q. Thank you very much. So where were you in 1998?

16 A. In 1998, initially I was at home. In April and May of 1998, the
17 situation in Decan was really tense until the end of May. So during
18 April and May in Decan, there were a lot of military and police
19 forces because my house is by the Decan-Gjakove main road. And
20 during those -- the situation that was in Decan at the time is
21 similar to what we saw in Ukraine.

22 PRESIDING JUDGE VELDT-FOGLIA: No, no, I -- please. I would
23 like -- the lawyer wants to know where you were in 1998. So I would
24 not go too much in --

25 THE WITNESS: [Interpretation] [Overlapping speakers].

1 PRESIDING JUDGE VELDT-FOGLIA: Oh, no, please don't interrupt
2 me, because if not, we have a problem of interpretation, because then
3 they hear you and me and they don't know what to translate.

4 But please, not too much details. We want to know where you
5 were. So you can say for the different periods where you were
6 without a lot of details. If there are follow-up questions, they
7 will come. Okay?

8 MR. GILISSEN: Yes. And may I say, my next question, indeed --

9 PRESIDING JUDGE VELDT-FOGLIA: It's good. But now we have April
10 and May and a town with other details that I don't see, for now, the
11 relevancy for the case, because if we start in 1998, in order to end
12 up in 1999, we have a long way to go. So I want to have it a little
13 bit more concise.

14 MR. GILISSEN: Yeah, of course. Of course. I fully understand
15 it.

16 Q. But I would like to know --

17 A. Okay. So I will give a brief answer. We did not leave our
18 homes voluntarily. At the end of May, we were forced to leave our
19 homes because the police started to enter our homes and we left our
20 homes at the beginning of June.

21 PRESIDING JUDGE VELDT-FOGLIA: Yeah, I -- maybe we will do it
22 differently. Where did you go in June? I only want to know where.

23 THE WITNESS: [Interpretation] At the end of May, we set off. We
24 left our village. We stayed in a forest for some time. We went to
25 our -- to my birth village, to Voksh, in order to escape from the

1 police repression. Voksh is on the border. So from there, we stayed
2 in a forest. And from the forest, we went to Albania --

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 THE WITNESS: [Interpretation] For three days, we walked and we
5 arrived in Tropoje. Myself and some members of my family did not
6 stay overnight in Tropoje. We took a van and we went to Durres.

7 So at the beginning of June, we settled in a village near to the
8 Durres beach.

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

10 I will give the floor to the Defence Counsel. And I understand
11 that it must not be easy to talk about these facts of those times.

12 Defence Counsel, you have the floor.

13 MR. GILISSEN: Thank you very much.

14 Q. So, Mrs. Witness, could you provide us a date when you arrived
15 in Albania through the borders?

16 A. The attacks against Decan happened on the 28th, 29th, and 30th.
17 And from my recollection, on the 2nd or the 3rd we arrived in Durres.
18 So it was June 1998.

19 It's a bit difficult to remember the dates, and it's also very
20 difficult to go back to that time because we lived through many
21 difficult -- a lot of difficult times, and we don't want to go to
22 those recollections.

23 Q. I fully understand, and I respect that. That's very important
24 to be aware about that because we have to plea on the guilt or not
25 but also to the sentence, and this is the spirit why so many people

1 decide to fight, but I intend to respect that.

2 So are you able enough to provide us with a date concerning your
3 arrival in Durres?

4 A. It was about 2 June, from what I remember, 1998.

5 Q. Thank you very much. And until when did you stay in Durres?

6 A. I stayed in Durres until July 1999. After Kosovo was liberated,
7 we remained for a bit longer there because we didn't have a place to
8 go to. Everything had been burnt. But I don't remember the exact
9 date. However, I know that it was towards the end of July.

10 Q. Thank you very much. And during this period you stay in Durres,
11 did you leave sometime Durres to go somewhere else for a trip or
12 something like that?

13 A. What do you mean? In Albania or outside Albania?

14 Q. In Albania or somewhere else. Really, my question is very
15 general.

16 A. Regarding Albania, we settled in Arapaj village, which is a
17 village close to the Durres beach. And my movements there were
18 basically from that village to Durres to get food supplies and other
19 supplies. Or sometimes I would go to Shkozet, which was about 2 or
20 3 kilometres from the village we were living, because we had -- I had
21 some uncles there, and we went to visit them for a short period of
22 time because they then left and went abroad.

23 And a few times I went to Tirana. It was difficult to move at
24 the time because we didn't have any vehicles. We were alone at that
25 home, we were staying at that place, settled there, and we didn't

1 have any vehicle.

2 So that was the extent of my movements in Albania.

3 Q. Thank you very much. During this period, what did you do during
4 this period of war? Did you have a activity, a special activity in
5 Albania?

6 A. No. No, no activities. In the village where we lived, there
7 were about five -- people from five or seven -- five or six villages
8 from the same area I came, from Voksh, and we -- we would talk to
9 them. Somebody didn't know where their family were or their children
10 were because of the police repression in that area, in the area of
11 Voksh, in the municipality of Decan. I didn't engage in any
12 activities, and I wasn't part of any organisation.

13 Q. So during this period, were you a member of the KLA?

14 A. Unfortunately, I wasn't a member of the KLA so that I could be
15 proud now to have been a member of the KLA then.

16 Q. Thank you very much. And have you ever been to Kukes or in the
17 town of Kukes in Albania? In the north part of Albania?

18 A. No, never. Never.

19 Q. So we received, we have in this case, evidentiary material that
20 placed you in Kukes in spring -- in spring 1999. And I would like to
21 know your reaction about this information.

22 A. Initially, when I started giving my testimony here, I made an
23 oath, and I am saying this under oath. I never was in Kukes. Not
24 for even one second of my life.

25 Q. Thank you very much. It's very, very clear. So have you ever

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1 visited any KLA headquarter or *caserne* during the war?

2 A. Never. No KLA headquarters. No headquarters because I wasn't
3 in Kosovo.

4 Q. So I would like to be very clear and to cover all the
5 possibilities. So did you contribute in any way to the effort of war
6 during this period?

7 A. From the place I was, I wasn't able to contribute to the war
8 effort. But I helped the families that were in the Arapaj village,
9 trying to help with their children, to find ways to help them because
10 there were people who did not have any money with themselves. They
11 had not been able to bring anything from Kosovo. So, basically, I
12 helped the people in the village where we settled. That's all.

13 Q. Thank you very much. So did you ever receive a medical training
14 or a medical -- did you provide some medical assistance to someone?

15 PRESIDING JUDGE VELDT-FOGLIA: Please add when.

16 MR. GILISSEN: Generally speaking, really, did you receive,
17 ever, any medical training or something like that. Something in
18 relation with a medical --

19 PRESIDING JUDGE VELDT-FOGLIA: Would it be relevant if it would
20 be -- have been in 2010?

21 MR. GILISSEN: Even before --

22 PRESIDING JUDGE VELDT-FOGLIA: Yes --

23 MR. GILISSEN: Even before.

24 PRESIDING JUDGE VELDT-FOGLIA: -- before, I can understand. But
25 after?

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1 MR. GILISSEN: Before the war or during the war.

2 PRESIDING JUDGE VELDT-FOGLIA: Okay. I think that we should
3 make your questions a little more to the point.

4 MR. GILISSEN: [Overlapping speakers]. I understand. It's more
5 clear, yeah. [Indiscernible].

6 THE WITNESS: [Interpretation] Counsel, neither before the war,
7 nor during the war, not even after the war. Never have I received
8 any medical training. I am an economist by training. I have a
9 graduate degree in economics. And after the war, I have also
10 received further training in economics.

11 I have nothing to do with the health field. Whatever I know
12 from health-related issues is to get a paracetamol if I have a
13 headache, and if that doesn't help me, I go to see the GP
14 immediately.

15 When it comes to the health sector, perhaps just to explain
16 things, after the war, there was a project -- there was a project
17 during my masters degree, and that is an MA in health management, but
18 this has nothing to do with, say, a doctor's profession. So this I
19 completed in 2008 with AER funding, but it's about budgeting, it's
20 about managing institutions, but it has nothing to do with doctor's
21 training.

22 I have never had any such training sessions. I've never been
23 involved in this regard. I have nothing to do with a doctor's
24 profession.

25 MR. GILISSEN:

1 Q. That is very clear. And I thank -- really, I thank you very
2 much. And the same, I suppose, with the training to be a nurse or to
3 provide some services of nurse, I suppose? But you have to explain
4 us.

5 A. Never. Never have I had any training to become a nurse.

6 I have nothing to do with nurses and nursing. Never in my life
7 have I ever served as a nurse or received any training as a nurse. I
8 don't even know what to do in terms of being a doctor or a nurse.
9 Even if I were to -- asked about it, I wouldn't know. But if I were
10 to be asked about an economist, what they do, I can keep answering
11 until daybreak. But in terms of doctors and doctoring, nothing to do
12 with that.

13 Q. So to be sure, because I'm not sure, I focus on this, have you
14 ever been in a place of the KLA in Albania? Have you ever been there
15 in Albania in a place, a headquarter of the KLA in Albania?

16 A. No.

17 Q. [Overlapping speakers].

18 PRESIDING JUDGE VELDT-FOGLIA: That question has been asked,
19 Defence Counsel.

20 THE WITNESS: [Interpretation] No.

21 PRESIDING JUDGE VELDT-FOGLIA: I think it was clear also the
22 answer.

23 MR. GILISSEN: Yeah, I didn't focus on Albania. That's why.
24 That's why. That's only why.

25 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

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1 THE WITNESS: [Interpretation] Counsel, no, no, never ever.

2 MR. GILISSEN:

3 Q. I think that is very clear. Thank you very much. Thank you
4 very much.

5 MR. GILISSEN: Your Honour, for the next question I think it's
6 better to go to private session, because it's a question of
7 identification of certain persons.

8 PRESIDING JUDGE VELDT-FOGLIA: Very well.

9 Madam Court Officer, can you bring us into private session
10 please.

11 [Private session]

12 [Private session text removed]

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1 [Private session text removed]

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18 [Open session]

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

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

21 Defence Counsel, you have the floor.

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

23 Q. Mrs. Witness, did you know or do you know a person named

24 Pjeter Shala?

25 A. The person by the name of Pjeter Shala, his name, rather, and

1 his face, I first -- very first time I saw on the day he was arrested
2 by the institution. Never before had I seen him. Never had I heard
3 his name before.

4 Therefore, when I received the invitation by the Court, when I
5 opened it and I saw that I was to take part in the process as a
6 witness in his case, for me it really both was a surprise and it was
7 quite ridiculous because he's a person --

8 PRESIDING JUDGE VELDT-FOGLIA: [Overlapping speakers].

9 THE WITNESS: [Interpretation] -- I have never seen before.

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

11 THE INTERPRETER: Microphone, please.

12 PRESIDING JUDGE VELDT-FOGLIA: Yes. Please stick to answering
13 the questions. You are not here to elaborate on topics you deem
14 necessary. And this is now the third time that I'm telling you, so
15 please -- I will interrupt you if you do it again, and I prefer not
16 to interrupt you.

17 Defence Counsel, you have the floor.

18 MR. GILISSEN: Thank you very much.

19 Q. So do you know or did you know a person nicknamed Ujku, and
20 particularly during the period of the war 1998, 1999, did you have
21 some information about a so-called Ujku?

22 A. No, never. Never ever.

23 Q. So I have to thank you to be here and to be so clear in your
24 answer. I have no more questions to you.

25 MR. GILISSEN: And I have to thank you for giving me the floor.

1 That's all, Your Honour.

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

4 We still have some time till the break. Madam Prosecutor, could
5 you continue with your cross-examination now?

6 MS. PERGOLO: Absolutely, Your Honours. Yes.

7 PRESIDING JUDGE VELDT-FOGLIA: Okay.

8 Then, Madam Witness, I will now give the floor to the Specialist
9 Prosecutor's Office, and they will continue with the
10 cross-examination. Yes?

11 THE WITNESS: [Interpretation] Okay. And I will try to respect
12 all the rules that you have laid out before me.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

14 The floor is for you, Madam Prosecutor.

15 MS. PERGOLO: Thank you, Your Honours.

16 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, just to be
17 sure, the oral order I -- we granted at the beginning, was that also
18 with reference to the request you made on 20 November with regard to
19 the disclosed items ending in 374, 376, and 377? Because I am under
20 the impression that they are on the list that -- and that you made
21 the request to -- on that moment, and that we have admitted them, but
22 they are not put on record yet.

23 MS. PERGOLO: Your Honours, if you refer to the three items,
24 let's say in --

25 PRESIDING JUDGE VELDT-FOGLIA: Yes.

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Cross-examination by Ms. Pergolo

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1 MS. PERGOLO: Yes. So those were disclosed, and we have
2 included them in our presentation queue. I don't -- is that what --

3 PRESIDING JUDGE VELDT-FOGLIA: Yes.

4 MS. PERGOLO: -- Your Honour was --

5 PRESIDING JUDGE VELDT-FOGLIA: So we have now mentioned them,
6 and there are now this e-mail correspondence and this request and our
7 decision has now been put on record, just that we have a clean record
8 on this and that it's not hidden somewhere in the digital world
9 without having been said here in court.

10 MS. PERGOLO: Thank you very much.

11 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

12 Cross-examination by Ms. Pergolo:

13 Q. Good afternoon, Madam Witness. My name is Gaia Pergolo. I am
14 one of the counsel of the Specialist Prosecutor's Office, and I will
15 be asking you a few questions this afternoon to explore and
16 understand better what you told us today earlier.

17 You told us earlier that you were born in Voksh, if I understood
18 correctly, and I wanted to ask you, first of all, to which
19 municipality does Voksh belong?

20 A. Voksh belongs to Decan municipality. It's somewhere 5 to 6
21 kilometres from Decan.

22 Q. How far is Voksh from the village of Junik?

23 A. Voksh must be about 6 to 7 kilometres away from Junik, but I've
24 not lived in Voksh. When I was very young, we moved to Decan. When
25 I was about 10 years old, we then -- from that age, we lived in

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1 Decan. I didn't live in Voksh.

2 Q. Thank you for that clarification. And then I have another
3 question for you: How far is then Decan from Cermjan? Do you know
4 this village I am talking about?

5 A. To be honest, I don't know how far away it is. In terms of
6 kilometres, Decan and Gjakove are about 18, 19 kilometres away. But
7 I've never been to Cermjan, and I don't know where it is.

8 Q. Is Cermjan part of the same municipality? Is it also part of
9 Decan in terms -- as a municipality? Do you know that?

10 A. No, no, Cermjan is, to my knowledge, is part of the municipality
11 of Gjakove.

12 Q. Thank you.

13 A. And I've never been there.

14 Q. Thank you very much. You told us earlier that you were a
15 teacher for several years, and I'm now trying to retrieve the
16 reference, because you mentioned a specific location, a specific
17 school where you were teaching. And perhaps if you can -- this is at
18 page 70 of the transcript from today. I think -- I believe it is the
19 first few lines. Yeah, the Vëllezërit Frashëri gymnasium. Is that
20 correct?

21 A. Yes, in Decan. That's where it is.

22 Q. Thank you very much. So you taught there, you said, between
23 which years? Can you confirm, perhaps, a bit more precisely?

24 A. In 1987 to 1994.

25 Q. Thank you very much. You also told us earlier that at some

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1 point in -- and actually you said -- you explained in June 1998 you
2 moved to Albania; is that correct?

3 A. Yes, it is.

4 Q. And you also told us that you mentioned a few locations in
5 Albania where you went, and you also stated that you were never --
6 you never went to Kukes, to the town was Kukes; is that correct?

7 A. Correct. Never.

8 Q. Were you aware, though, of the presence of a KLA base or
9 headquarters there in 1999, which is the same time in which you were
10 in Albania?

11 A. Never have I had this sort of information.

12 Q. You never had it at the time, or you never knew about this even
13 later after the war?

14 A. Never. Never did I know, never did I learn about it until these
15 judicial processes commenced. I didn't know this from anyone, not
16 from a man, not from a woman, not from a boy or a girl. Never has
17 anyone mentioned that there was such a thing there. I have no
18 knowledge of that.

19 Q. Did you perhaps learn that through the media then at any point
20 in time?

21 PRESIDING JUDGE VELDT-FOGLIA: Maybe an open question would here
22 have been better.

23 MS. PERGOLO: I will rephrase my question.

24 Q. So you mentioned that you didn't have any knowledge from a man,
25 a woman, children, and you mentioned a few other sources of

1 information.

2 So my question is was there any other source of information
3 through which you may have ever received any information about a KLA
4 base in Kukes?

5 A. I don't have any knowledge of that. I don't know.

6 Q. Have you ever heard about two public judgments against -- one
7 against an individual called Sabit Geci and another against an
8 individual called Xhemshit Krasniqi concerning events in Albania?

9 A. I don't remember.

10 Q. You had never heard about these judgments that I am mentioning?

11 A. I don't remember. I haven't heard. I don't know.

12 Q. Thank you, Witness. I would now like to ask you about a number
13 of individuals, if you know them.

14 MS. PERGOLO: And for the first part, Your Honours, I would
15 request to go briefly into private session, and I'll explain the
16 reasons when we are in private session.

17 PRESIDING JUDGE VELDT-FOGLIA: Very well. Madam Court Officer,
18 can you bring us into private session please.

19 [Private session]

20 [Private session text removed]

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Witness: W04441 (Private Session)

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Cross-examination by Ms. Pergolo

1 [Private session text removed]

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Witness: W04441 (Private Session)

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Cross-examination by Ms. Pergolo

1 [Private session text removed]

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1 [Private session text removed]

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7 [Open session]

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

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

10 Madam Prosecutor, you have the floor.

11 MS. PERGOLO: Thank you, Your Honours.

12 Q. Madam Witness, do you know a woman named Fitnete Ramosaj. And I
13 apologise for my pronunciation. I hope that is clear enough for you
14 what I mean.

15 A. Yes, I knew her. But she is not alive anymore. She was a very
16 good activist. She was a student of mine when I was a teacher.

17 Q. Where was she from?

18 A. She was from Carrabreg village.

19 Q. And where is Carrabreg village?

20 A. Carrabreg is about 1 to 2 kilometres from Decan where I live.
21 These are villages that are connected to each other.

22 Q. Do you know if she was in the -- she was a member of the KLA
23 during the war?

24 A. I knew Fitnete only as a student when she was in the gymnasium
25 and I was a teacher there. I used to teacher her. After she

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1 finished the gymnasium, after she graduated, I did not have any
2 information about her.

3 Q. Did you ever meet her after your encounters at the school?

4 A. I don't remember ever meeting her after. I don't know. Maybe
5 in some rally where she held a speech. Perhaps I was there. Maybe I
6 met her by chance, but I don't remember.

7 Q. So you mentioned a rally or where she gave a speech, from what I
8 understand. Can you perhaps help us locate this event in time and
9 place? Where was this rally, to start with?

10 A. Well, I can't remember exactly because it's been a long time.
11 But I remember immediately after the war she held a speech. So she
12 read a speech about the martyrs of the nation. I just saw her from
13 afar. I did not have a chance to talk to her.

14 MS. PERGOLO: Your Honours, perhaps it's a technical issue, but
15 I don't see the transcript working from line 17.

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

17 It's the same here. And the Defence, it's also not running.
18 Let us see.

19 [Trial Panel and Court Officer confers]

20 PRESIDING JUDGE VELDT-FOGLIA: It's working again. At least at
21 this side.

22 Madam Prosecutor, do you see the transcript?

23 MS. PERGOLO: Yeah, I think it's updating now.

24 PRESIDING JUDGE VELDT-FOGLIA: Yes. Okay. That goes for
25 everybody? Very well. I see Victims' Counsel nodding and also

Witness: W04441 (Open Session)
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1 Defence team. Very well. Good.

2 Madam Prosecutor, please proceed.

3 MS. PERGOLO: Thank you.

4 Q. Thank you, Witness. So you mentioned a speech immediately after
5 the war. Do you remember where was that, that rally and that speech
6 that she made?

7 A. I don't remember.

8 Q. And in addition to meeting her in the context of this rally, did
9 you ever meet her during the war?

10 A. No. Where would I meet her? I was in Albania.

11 Q. So you mentioned that she gave a speech. I think this was in
12 answer to my question whether she was involved with the KLA, and you
13 mentioned a speech about the martyrs of the nation. So do you
14 know -- or, rather, let's start in this way.

15 So do you have any knowledge, perhaps, either from her directly
16 or from other sources of whether she was, indeed, involved with the
17 KLA during the war?

18 A. I have no knowledge of that. Because myself, I was not a member
19 of the KLA, so I don't know who was and who wasn't.

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

21 Madam Prosecutor, I see Defence Counsel standing.

22 Defence Counsel, you have the floor.

23 MR. AOUINI: Thank you, Your Honour.

24 We have an objection to place. We believe we've been now
25 witnessing a fishing expedition that lasted more than 15 or 20

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1 minutes. We don't see the relevance of all this. We don't see this
2 as an exercise of testing credibility. We understand what is
3 probably an attempt to try to give more credibility to some other
4 witnesses, but this is not the purpose.

5 This has gone way too far about remote things and hearsay of
6 hearsay. This is not the topic that we addressed, and we don't
7 believe this is something that goes to the credibility of this
8 witness. If they have something to confront her with, we're happy to
9 listen to that and re-examine, if necessary. But we don't even know
10 where we're going with this. And this lasted for too long for Your
11 Honours to allow it.

12 Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: It's only too long if I say that
14 it's too long; but well noted, your objection, Defence Counsel.

15 Madam Prosecutor, I have allowed for it, but there is also a
16 moment that at this side of the table we think that the moment comes
17 to conclude this.

18 So I don't agree with the Defence. So, on the other hand, yes,
19 I think you might wrap it up or make clear why it's necessary to
20 continue.

21 MS. PERGOLO: Yes, Your Honours. I was anyway about to conclude
22 on this specific topic.

23 Yes, the questions are aiming at testing the witness --
24 credibility of the witness, and, of course, also to get a better
25 picture of, of course, other evidence that we have on record. But

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1 I'm happy to move on from here. Actually, this was concluding my
2 questioning with regard to this individual.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 MS. PERGOLO:

5 Q. Madam Witness, I have just a few last questions about another
6 individual. Do you know a person called Muhamet Tafili?

7 A. No.

8 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, it's almost
9 half past 3.00. So if you could try to put an end to your
10 questioning now with one question, or not, I leave it to you, and
11 then we have a break of ten minutes, and then we will continue for
12 another half an hour.

13 MS. PERGOLO: Will do, Your Honours. Thank you.

14 Q. Have you ever heard about this family name, perhaps?

15 A. No.

16 Q. Thank you, Witness.

17 MS. PERGOLO: I think we can break here from our side. Thank
18 you.

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

20 Thank you, Madam Prosecutor.

21 Madam Witness, we will have a ten-minutes break, and then we
22 will continue for another half an hour, till minutes past 4.00. Yes?
23 I will ask Madam Court Usher to accompany you.

24 THE WITNESS: [Interpretation] Understood. Thank you.

25 [The witness stands down]

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1 PRESIDING JUDGE VELDT-FOGLIA: The hearing is adjourned for ten
2 minutes.

3 --- Recess taken at 3.28 p.m.

4 --- On resuming at 3.43 p.m.

5 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. And we will
6 proceed.

7 Madam Court Usher, can you bring the witness in please.

8 How long do you have left, Madam Prosecutor?

9 MS. PERGOLO: I think I'll be able to complete in the next half
10 hour, if not earlier. Most likely earlier than the next half hour.

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

12 [The witness takes the stand]

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

14 Welcome back, Madam Witness. I will give the floor to the
15 Prosecution to continue with its cross-examination.

16 THE WITNESS: [Interpretation] Thank you.

17 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, what I've seen
18 is that you now -- up till now, you have used the same amount of time
19 that the Defence has used. As long as we see the relevancy of your
20 questioning, you will be allowed to continue, but just for you to
21 know that normally you should revert to the Panel if you see that you
22 are going over the time used by the Defence.

23 MS. PERGOLO: Thank you, Your Honours. Yes, absolutely. I will
24 proceed accordingly.

25 Q. Madam Witness, I would like to ask a few questions about your

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1 political affiliations. Were you -- have you ever been a member or
2 an activist in any party in Kosovo?

3 A. Since 1999, I am a member of the Democratic Party of Kosovo.

4 Q. Have you had any formal role within that party?

5 A. Yes.

6 Q. Which ones? Or which one?

7 A. In 1999, we took the initiative to establish the Democratic
8 Party of Kosovo, and I was engaged in creating the branch of the
9 Democratic Party in Decan. And at the time, we had the elections,
10 and I was head of that chapter. And then in the elections that were
11 held for the steering committee of the party, I became a member of
12 the steering committee in the year 2000.

13 Q. Thank you very much. Who was the president or chairman at that
14 time of the party?

15 A. In the assembly of the year 2000 that we held, after the
16 assemblies were held in all the municipalities of Kosovo, the
17 delegates to the assembly, that attended the assembly, voted and
18 elected the honourable and very respected Hashim Thaci was elected
19 president. There were other people who ran for the same position,
20 and Hashim Thaci won the vote.

21 Q. Thank you very much, Madam Witness. I would like to show you
22 now a few Facebook posts from your Facebook account and ask you to
23 comment on them.

24 MS. PERGOLO: And, Your Honours, with your leave, I would
25 request that the first ERN number be put up on the screen.

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1 PRESIDING JUDGE VELDT-FOGLIA: You may proceed.

2 MS. PERGOLO: Thank you. It's SPOE00342376 to 00342376. And if
3 the English translation could also be shown. It's the same ERN
4 number ending in ET.

5 THE WITNESS: [Interpretation] Can you zoom in a bit, please?

6 MS. PERGOLO:

7 Q. Absolutely. Can you see it now, Madam Witness?

8 PRESIDING JUDGE VELDT-FOGLIA: Can you see it, Madam Witness?

9 THE WITNESS: [Interpretation] Yes, yes.

10 MS. PERGOLO:

11 Q. And from what I see, this is actually something you reposted
12 from the Facebook profile of Bardhyl Mahmuti; is this correct?

13 A. It looks like that's the case.

14 Q. Thank you. I would now like to read briefly the content of this
15 post, and then I'll ask you a few questions on this. And, again, I'm
16 reading now from the translation, which is on the left-hand side of
17 the screen. This is a post from 24 January 2021, and it says:

18 "In spite of the undeniable fact that none of the Kosovo
19 Liberation Army fighters have in any case avoided facing justice,
20 although the charges were completely stitched up and politically
21 motivated, the Pre-Trial Judge Nicolas Guillou turned down the
22 request by lawyer Ben Emmerson to release Kadri Veseli from custody
23 and allow him to defend himself in freedom.

24 "Such a decision is based on allegations influenced by Belgrade
25 political circles and has nothing in common with justice. On the

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1 contrary, this decision testifies to the political character of the
2 so-called Specialist Chambers and Specialist Prosecutor's Office.
3 Shame on you!"

4 Madam Witness, are you, indeed, of the view that the charges
5 brought against certain KLA members, including Kadri Veseli, are
6 politically motivated?

7 A. Yes, they are politically motivated. Serbia is continuing its
8 special war against Kosovo. And the things that were stitched up by
9 the Serbian police are continuing here.

10 The question you asked me about Fitnete Ramosaj was asked of me
11 by the Serbian police back in time, and it's a shame to ask the same
12 question about a woman that now is not alive. The same identical
13 question that was asked by you was asked of me by the Serbian police
14 for the three days that I was kept by them and tortured in the police
15 station building in Peje.

16 This is not my opinion. It is Bardhyl Mahmuti's opinion that I
17 shared, but I think that's true. These are all concocted by the
18 Serbian police --

19 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]
20 [Overlapping speakers].

21 THE WITNESS: [Interpretation] -- bringing here --

22 PRESIDING JUDGE VELDT-FOGLIA: [Overlapping speakers].

23 THE WITNESS: [Interpretation] -- false testimonies by witnesses.

24 I am here today --

25 PRESIDING JUDGE VELDT-FOGLIA: You are not being translated

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1 anymore.

2 THE WITNESS: [Interpretation] [Microphone not activated].

3 PRESIDING JUDGE VELDT-FOGLIA: No, I will not repeat it. But I
4 warn you that in this court -- no, Mr. Shala, not now. That in this
5 court, it's not necessary to raise your voice. And if I ask you to
6 stop talking, please stop talking. Because you answered the question
7 and it was not necessary to elaborate any further. And you are here
8 to tell the truth, and you are obliged to answer, and there is no
9 need to get irritated.

10 It was a completely legitimate question to ask you, and you
11 should just answer it.

12 THE WITNESS: [Interpretation] Can I just say one more thing?

13 PRESIDING JUDGE VELDT-FOGLIA: No, you cannot say anything now.
14 I will give the floor back to Madam Prosecutor, and she will ask you
15 a follow-up question or a new question.

16 MS. PERGOLO:

17 Q. Madam Witness, my next question is so are you of the view that
18 decisions made by this Court are based on assumptions influenced by
19 Belgrade's political circles and have nothing to do with justice?

20 A. Madam Prosecutor, every day on TV we are able to see that
21 Belgrade, their secret service, the Serbian secret service, has
22 provided all sorts of stitched-up things to discredit the KLA. This
23 is not my position. It is theirs, because we can see this every day
24 on a daily basis on TV. Although I wasn't able to follow myself,
25 because I wasn't much interested in the proceedings here, I didn't

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1 see that the Prosecution has distanced themselves from this and to
2 say that this isn't the case.

3 The question that you asked me about Fitnete coincides with the
4 same question that I was asked in Peje.

5 PRESIDING JUDGE VELDT-FOGLIA: You made that point, and it's not
6 necessary to repeat it. It has been noted.

7 MS. PERGOLO:

8 Q. Thank you, Madam Witness.

9 MS. PERGOLO: I would like to ask to now show another Facebook
10 post. So this can be taken down. And if we can proceed with
11 another, I'll give the ERN number.

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

14 MS. PERGOLO: The ERN is SPOE00342374 to 00342375, and this is
15 the first page, and the corresponding translation has the same ERN
16 ending in ET.

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

19 MS. PERGOLO:

20 Q. Madam Court Officer, can you see the screen, what is shown
21 there?

22 A. Yes.

23 Q. Can you tell us what that is if you remember posting this?

24 A. Yes. You think I wrote this? What's written here? Because
25 this is a share off a post by Edi Rama.

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1 Q. I understand that -- I understand that that's --

2 A. Could you please clarify the question.

3 Q. Sure. So, first of all, I wanted to confirm that this is
4 something that you posted on your Facebook profile.

5 A. Yes, I have posted it. And I reiterate again that these notes
6 made here and the people noted here -- and this is not the place to
7 do this, because I'm not in the court for this, but they are the
8 value of our own nation. They are the values of our life and freedom
9 and of our nation. I --

10 PRESIDING JUDGE VELDT-FOGLIA: I will not allow you to speak
11 further on, and I have override you so you will not be translated.

12 Please answer the questions. You are here as a witness and you
13 are under an obligation to give an answer to the questions that are
14 posed to you.

15 Madam Prosecutor, please proceed.

16 MS. PERGOLO: Thank you.

17 Q. Indeed, Madam Witness. In this post, you mentioned a number of
18 individuals, and we all have these in front of us. All of these
19 people are accused before this Tribunal, including Pjeter Shala who
20 is the accused in this case. And you mention that these individuals
21 are the value of our nation, of our life and freedom.

22 I wanted to ask you in this regard what did you mean by this
23 expression, by this sentence?

24 A. What question is this? These people liberated Kosovo. These
25 people fought fairly in our liberation war. These people actually

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1 protected us from the genocide ran by Serbian state. How can we not
2 appreciate these people? They are the value of our lives, of our
3 nation. They're our liberators. That is why not just here but a
4 hundred times over I will keep saying this. Because they are of
5 value to us all, and these people are in this court, which,
6 unfortunately, has become ridiculous.

7 They have come here with stitched-up allegations which the
8 Serbian secret service --

9 PRESIDING JUDGE VELDT-FOGLIA: Okay. Now you are repeating
10 yourself.

11 THE WITNESS: [Interpretation] -- has put there with their --

12 PRESIDING JUDGE VELDT-FOGLIA: I have overridden you, so you are
13 not being translated. And we don't allow you to call this Court
14 ridiculous. It's not necessary to use those -- no, those type of
15 terms. No, but --

16 THE WITNESS: [Interpretation] [Microphone not activated].

17 PRESIDING JUDGE VELDT-FOGLIA: You are not having the floor.

18 THE WITNESS: [Interpretation] [Microphone not activated].

19 PRESIDING JUDGE VELDT-FOGLIA: No, no, no. No, you will not get
20 the floor, and I am overriding you, so you will not be translated.

21 Madam Prosecutor, you may put your next question if this has
22 been sufficiently answered.

23 MS. PERGOLO: Thank you, Your Honours.

24 Q. Madam Witness, at the time you made this Facebook, or reposted
25 this post, were you familiar with the charges brought by this

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1 Tribunal against Pjeter Shala?

2 A. I have never read the indictment against Pjeter Shala because I
3 wasn't interested in an indictment which is based on stitched-up
4 allegations of false witnesses.

5 Tell me, Madam Prosecutor, why am I sitting here today? Where
6 I'm sitting here, you could be sitting. Did you know Pjeter Shala in
7 1999? Did you know his name, Pjeter Shala's name? Were you a
8 doctor? Of course not.

9 PRESIDING JUDGE VELDT-FOGLIA: Madam Witness --

10 THE WITNESS: [Interpretation] [Microphone not activated].

11 PRESIDING JUDGE VELDT-FOGLIA: -- you are not being translated
12 anymore, and I know you can understand me.

13 THE WITNESS: [Interpretation] [Microphone not activated].

14 PRESIDING JUDGE VELDT-FOGLIA: You know -- I know that you heard
15 what I said to you. You are not the one asking the questions here.
16 Please answer the questions that are posed to you.

17 Madam Prosecutor, you may continue.

18 MS. PERGOLO: Thank you, Madam Presiding Judge.

19 Q. Witness, I have one last question for you, and then I will ask
20 that the last exhibit be pulled up. But, first of all, I would like
21 to ask you also whether you are familiar with the charges that were
22 brought against Salih Mustafa?

23 A. I don't even want to read the indictments. The charges from the
24 secret -- Serbian secret service, stitched-up allegations, I don't
25 want to read them.

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1 MS. PERGOLO: May I have then the last exhibit, which is
2 SPOE00342377 to 00342379, page 1, and the corresponding English
3 translation is the same ERN.

4 PRESIDING JUDGE VELDT-FOGLIA: Please proceed,
5 Madam Court Officer.

6 And, Madam Witness, when the question is posed to you, please
7 stay calm in your answer.

8 MS. PERGOLO:

9 Q. Madam Witness, do you recognise this post?

10 A. Yes.

11 Q. I'll read briefly what it says in the translation:

12 "We are all Cali!

13 "False, wretched, fabricated testimonies, let them weigh heavy
14 on the conscience of everybody who has given them, and who has fallen
15 in the trap of the genocidal Serbian regime.

16 "False testimonies are also punishable. I believe that the
17 domestic and international justice, which have fallen down, would one
18 day sober up."

19 Now, Madam Witness, I have a question for you. You told us that
20 you have not read the indictment against Salih Mustafa. Then how can
21 you state that the charges -- or the evidence, the witnesses in that
22 case, are false and fabricated?

23 A. Every statement that has been given against the KLA members,
24 when, in fact, they actually liberated us and fought fairly, is
25 fabricated. Perhaps today I would have written it even more strongly

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1 since I'm sitting here on false testimony. And I just understood
2 this today, because I didn't know until I got here today why I'd been
3 called to The Hague. I just didn't know why.

4 I didn't know how you even came up with my name to summon me
5 here. So you have found it. You based it on false testimony. And
6 if I actually could, I would improve what I've put in there.
7 Because, of course, there were cases, like, for me, here today as a
8 witness, that are based on false testimony, based on stitched-up
9 allegations of the Serbian secret services. And what can you say to
10 that? Of course, for this there must have been a case like mine.
11 Although, I don't know.

12 That is why I say that it is a shame.

13 PRESIDING JUDGE VELDT-FOGLIA: Just for you to know that you are
14 here on request of the Defence. Just to remind you of that.

15 Madam Prosecutor, you have the floor.

16 MS. PERGOLO: Your Honours, if you allow me one moment, please,
17 to confer with my colleague.

18 PRESIDING JUDGE VELDT-FOGLIA: Yes, we are going to wrap --

19 MS. PERGOLO: Yup.

20 PRESIDING JUDGE VELDT-FOGLIA: -- up.

21 [Specialist Prosecutors confer]

22 MS. PERGOLO: Your Honours, this concludes our
23 cross-examination. Thank you.

24 PRESIDING JUDGE VELDT-FOGLIA: Very well.

25 MS. PERGOLO:

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1 Q. Thank you, Madam Witness.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

3 Victims' Counsel, I'm going to do the planning for tomorrow. Do
4 you have any questions for this witness?

5 MR. LAWS: Very few.

6 PRESIDING JUDGE VELDT-FOGLIA: Okay.

7 MR. LAWS: Probably five minutes. I'm very happy to do it now,
8 if it's possible, but --

9 PRESIDING JUDGE VELDT-FOGLIA: Yes, but -- let us see, I think
10 that the day -- the time for today is what it is.

11 MR. LAWS: Yes, I understand.

12 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, I will give you the
13 floor after I have finalised this part.

14 Defence Counsel, is there -- can you already oversee if you
15 would like to have a second round?

16 MR. GILISSEN: No, thank you very much. But before giving the
17 floor to Mr. Shala, I'd prefer to have a contact with him.

18 PRESIDING JUDGE VELDT-FOGLIA: Very well. But then I can tell
19 Mr. Shala that he can be given the floor tomorrow, because I don't
20 see how we could, within the limited time that we have at our
21 disposal at this moment in time --

22 MR. GILISSEN: It could be very brief.

23 PRESIDING JUDGE VELDT-FOGLIA: -- create that. So I will tell
24 Mr. Shala that you will talk with him later this afternoon, and then
25 he can choose to be given --

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1 MR. GILISSEN: Yeah.

2 PRESIDING JUDGE VELDT-FOGLIA: He can choose to be ask for the
3 floor tomorrow. Okay?

4 MR. GILISSEN: Thank you very much.

5 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, your lawyer has asked
6 me to convey to you that he will discuss with you this afternoon.
7 And then if there is anything you would like to share with the Panel,
8 you can do that tomorrow when we continue with the examination of the
9 witness.

10 I won't give you the floor on request of your lawyer. No,
11 Mr. Shala.

12 Madam Witness, thank you for your testimony you have been giving
13 to us today. I wish you a restful evening. Madam Court Usher will
14 usher you out, and we see each other back at 9.30 tomorrow. I
15 foresee that it will not be a long session. And please don't discuss
16 your testimony with anybody. Thank you again. You can leave
17 together with Madam Court Usher.

18 No, not now. No, Madam Witness, for now it's over.

19 [The witness stands down]

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

21 Before we adjourn, is there anything that parties and
22 Victims' Counsel would like to raise with the Panel?

23 MS. PERGOLO: No, Your Honours, thank you.

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

25 MR. GILISSEN: Thank you, Your Honours. Nothing.

1 PRESIDING JUDGE VELDT-FOGLIA: Good. The hearing is adjourned
2 until tomorrow at 9.30.

3 --- Whereupon the hearing adjourned at 4.11 p.m.

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