

1 Tuesday, 24 October 2023

2 [Open session]

3 [The accused appeared via videolink]

4 --- Upon commencing at 9.31 a.m.

5 PRESIDING JUDGE VELDT-FOGLIA: Good morning. Welcome.

6 Court Officer, can you please call the case.

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

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

10 I look at my right-hand side. The SPO is in the same
11 composition as yesterday?

12 MS. PERGOLO: The same composition as yesterday, Your Honours.
13 Thank you.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

15 I see that the same goes for Victims' Counsel.

16 MR. LAWS: It does, Your Honour. Thank you.

17 PRESIDING JUDGE VELDT-FOGLIA: Very well. And on my left-hand
18 side, I see a slight difference. You have the floor, Defence
19 Counsel.

20 MR. GILISSEN: Yes, Your Honour. So we are here with Mr. Shala.
21 I am Mr. Gilissen. We are here with Mr. Aouini, as our case manager
22 Ms. Petravica, and two legal officers too. But Ms. Leto Cariolou is
23 not with us because we received a document from the Registry about
24 the possibility to have a new witness for tomorrow, so we would like
25 to be sure to be prepared if your wish is to go ahead with. Thank

1 you.

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

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

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

5 Yes, I can hear you well.

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

7 After we have had yesterday the examination-in-chief of Defence
8 Witness 4754, Mr. Mark Shala, by the Defence, we will continue today
9 with the cross-examination of this witness by the SPO, and
10 questioning by Victims' Counsel, and maybe also some questions by the
11 Panel, or maybe we will spill into tomorrow. Very well.

12 We will sit for three regular sessions of one and a half hours
13 with our regular breaks. And before I will give the floor to the
14 Specialist Prosecutor's Office, there is an oral ruling that I would
15 like to give on behalf of the Panel regarding the SPO's request to
16 use, during the questioning of Witness 4754, newly disclosed items.
17 It's a photograph and a document consisting of open source material.

18 I will read out the ERN numbers. That is 077978 till 077982-ET
19 Revised, and SPOE00342278 and then the same number -ET.

20 The request was made via e-mail on Friday, 20 October, at 11.16.
21 The items were disclosed earlier on that day. It's disclosure
22 package 173, and they were added to the presentation queue for the
23 witness. We authorise the SPO to use these items during its
24 cross-examination of the witness, as they were disclosed ahead of
25 today's hearing. Defence and Victims' Counsel have not opposed to

1 it, and they have had sufficient time to study them.

2 Very well. This concludes our ruling. We will proceed.

3 Court Clerk, could you please usher the witness into the
4 courtroom.

5 [The witness takes the stand]

6 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, good morning.

7 THE WITNESS: Thank you.

8 PRESIDING JUDGE VELDT-FOGLIA: And welcome to the Specialist
9 Chambers again. Can you hear me well?

10 THE WITNESS: [Interpretation] Yes, yes, I can. Good morning.
11 Good morning. And it's a pleasure to be here. To all of you who are
12 present here today, greetings.

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

14 Mr. Shala, can you confirm that you hear the witness well?

15 THE ACCUSED: [via videolink] [Interpretation] Yes, I can hear
16 him very well.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay.

18 Mr. Witness, how are you today?

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

20 PRESIDING JUDGE VELDT-FOGLIA: Very well.

21 Mr. Witness, I remind you that you are still under oath to tell
22 the truth. Do you understand that?

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

24 PRESIDING JUDGE VELDT-FOGLIA: Okay. Yesterday, we completed
25 the questioning by the Defence. I will now give the floor to the

1 Specialist Prosecutor's Office to start their cross-examination.

2 Madam Prosecutor, you have the floor.

3 MS. PERGOLO: Thank you, Your Honours.

4 WITNESS: W04754 [Resumed]

5 [Witness answered through interpreter]

6 Cross-examination by Ms. Pergolo:

7 Q. Good morning, Mr. Shala. My name is Gaia Pergolo and I am one
8 of the counsels of the Specialist Prosecutor's Office. I will be
9 asking you several questions today.

10 A. Good morning.

11 Q. Mr. Shala, you told us yesterday that having received the order
12 appointing you for Operation Arrow, you went to Kukes. And this is
13 at transcript page 2920, lines 14 to 17. And you told us that
14 specifically you went to the factory in Kukes. And this is at
15 transcript 2921, line 1. Is this correct?

16 A. It is correct.

17 Q. Can you give us a general description of your daily activities
18 when you were based at the metal factory.

19 A. As I mentioned yesterday, I was in charge of logistics. And
20 based on the order I received, I was the head of logistics or
21 commander for logistics because we did have units at battalion level.
22 So mostly we dealt with transport, maintenance, supply, so supply of
23 armaments, ammunition, but also any other tasks if a need arose to
24 help the units of the KLA.

25 Q. Thank you. Did these activities, in particular the supply that

1 you mentioned, take you to spend your time mostly inside the premises
2 or outside the premises? If you can give us a general idea about
3 that.

4 A. The supply -- or, rather, the location in Kukes was there only
5 as one part of the work that I was to do, because there were other
6 locations as well where we had logistics units. For instance, in
7 Krume but also in the training centres, and that is because in every
8 training centre there was a logistics unit that would support the
9 units around or where that training centre was located. So a large
10 part of the logistics staff was also found in Krume, for instance,
11 and there was also a depot or a warehouse with all sorts of items and
12 equipments, including armament, ammunition as well.

13 The reason being that we kept them there because Krume was the
14 closest point in relation to all of the units which were in the first
15 line of the front, and that is why we had a logistics unit there too,
16 which is called Krume. It is towards Kukes and then Bajram Curri,
17 along that road. So I would say it's around 45 kilometres from
18 Kukes.

19 Q. Thank you. And I will actually return to this point a bit
20 later. But before going there, I just wanted a clarification. And,
21 again, I know that probably in your job there was no typical day or
22 no one day was the same as the other one, but if you could describe
23 in general, like, the majority of the time, would you say that your
24 work was a desk job? You were spending most of the time in your
25 office, or were you more on the move as you just described? Moving

1 to the Krume or these other locations. If you can just give us an
2 idea about that.

3 A. Most of the time I spent moving around because that was the
4 nature of the work I was doing, because everything would take place
5 on the ground, but the ground was extensive. So, therefore, several
6 locations were required, and it would take days to get between them.
7 So 10 to 12 hours, for instance, between Kukes or Burrel to Tirana,
8 and 8 to 9 hours to Burrel. And so there were other places which
9 were further out.

10 So my movements were primarily to Kukes and Krume because for a
11 time in Krume we had the commanding station for the operation. So
12 one would need to go there for meetings with the commander of the
13 operation who would also assign various tasks to me as well in
14 particular in relation to logistics.

15 Sorry, if I might add. When I was in Kukes, every morning, when
16 I was there, that is, I would also meet my associates. I had people,
17 for instance, who would lead other sections. So I would conduct
18 meetings with them, they would report to me as to what was happening,
19 what the situation was like, and how much ammunition they would have,
20 the amount of weapons. And then I would assign them tasks, which of
21 course I received from my own commander.

22 Q. Thank you for that. I would like to focus now on what you
23 discussed, so your movements to the different bases. And in
24 particular, I would like to break this down a little bit by location.

25 First of all, Witness, I would like to focus specifically in the

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1 period of May and June 1999. I know you were at the base from
2 earlier, but we want to focus on these two months in particular.

3 So let's start with Krume. Again, I know that a long time has
4 passed, but can you give us, again, an idea maybe or elaborate a
5 little bit further on what you just said. How frequently did you go
6 to Krume, to the base there?

7 A. As I said earlier, the commanding station was there, and I would
8 go there almost every day, and there were also some logistics people
9 who would take care of the supply for the front. I mean, it would be
10 very rare for me not to go to Krume, but I would almost go there on a
11 daily basis.

12 Q. Thank you. How long did it take to go to Krume from the Kukes
13 factory?

14 A. The road conditions were difficult. The roads themselves were
15 dilapidated, so one would usually go on a vehicle, for instance, a
16 jeep, a 4x4, because the smaller cars would not make it. But back
17 then, you couldn't really work based on kilometres. So, for
18 instance, Krume to Kukes is only 45 kilometres in terms of the
19 road -- the distance, but, actually, you would think about the amount
20 of hours that it would take to get there, because the road was very
21 narrow, extremely unmaintained, not really cemented, not asphalted,
22 so sometimes it would happen that another vehicle would come the
23 other way, and you would have to sort of go towards the edge so that
24 they would go. So it would take forever, basically. It could even
25 take two to three hours, dependent on the driver as well.

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1 Q. And so given the conditions, let's say, I would imagine perhaps
2 you would take off in the morning -- but please, of course, tell me
3 if I'm correct - and say you take off in the morning, get to the
4 base, you said it may take two to three hours, from what you said,
5 and then you would be at the base. Were you able to return the same
6 day or did you happen to -- I think you mentioned that as well
7 already, to stay at that base, actually.

8 A. It really depended why I would go there in the first place.
9 But, for instance, it would so happen that some meetings would take
10 place in the evening. In that case, then I would spend the night
11 over there mostly. So I would go to the other units or sometimes I
12 would even spend two to three days in Krume. But on other occasions,
13 I would also return to Kukes. So both happened, to return for the
14 day, a day return, or stay overnight.

15 Q. All right. I would now like to move to another location. Have
16 you ever visited the base at Cahan?

17 A. Yes, that also happened. That's where the axis command was
18 stationed, so an operational centre was there. So there were three
19 axes at the time, and one of the commanding stations of that
20 particular axis was there, and there were some of my superiors there,
21 some logistics as well. Because there was food that was involved,
22 there was some small depots, warehouses.

23 It wasn't a rather big place. It was -- there was, like, a
24 larger building, and then some other buildings. They were mostly
25 like homes, really. Like two-storey buildings and then some other

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1 buildings around that main building.

2 Q. How many times, if you can estimate, did you go to Cahan during
3 the months we discussed of May and June? If you can give an idea.

4 A. It could have been over ten times.

5 Q. Thank you. How long did it take you to get there? You already
6 mentioned the difficulty of the roads, so maybe if you can give again
7 an estimate in terms of hours.

8 A. So Cahan is actually at the top of Pashtrik highlands. So from
9 Krume to Cahan, it would take quite a long while. It was a very
10 tough journey. From Krume to Cahan, I would say minimum two hours to
11 get all the way up.

12 Q. You mentioned a little earlier, I'll try to find the reference.
13 I believe it's page 7, but I'll double-check that. You just
14 mentioned today, actually, the location -- other location called
15 Bajram Curri, and -- if I pronounced that correctly.

16 Can you tell us if you have ever been there during the period we
17 were just discussing?

18 A. Yes, I did go through Bajram Curri when I went to visit the
19 units in Koshare. So I've only gone through it, passed through it,
20 but I didn't stop there.

21 Q. And so then to Koshare, did you go there? Have you been there?
22 You just said -- you just told us; right? How many times would that
23 have happened during May and June 1999?

24 A. So as I said, I've been there twice.

25 Q. To Koshare?

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1 A. Yes.

2 Q. And, again, how distant was this from the Kukes factory? Just
3 to give us an idea of the geographical distances.

4 A. I think it was something over 80 kilometres.

5 Q. And in terms of time?

6 A. Time-wise, four, four and a half hours.

7 Q. On the two occasions you went to Koshare, did you sleep there?

8 A. No, I came back.

9 Q. So you made a journey of four hours to go there and to come back
10 in one day?

11 A. Yes. I went there to get to know the situation on the ground
12 because they had some requests. And by an order of the commander, I
13 went there, to start off with, to assess the situation, what the
14 situation was like, what their needs were. And there was a friend of
15 mine there whom I knew from the past, and he was the head of
16 logistics. But, unfortunately, though, he has passed away. Afrim
17 Bekaj was his name. So I mostly met him.

18 We went to Papaj, and in Papaj there was a warehouse or a place
19 where some KLA members would stay. And then we went to the Koshare
20 commanding station, and we spent some time. And, yes, I remember, we
21 had lunch there, and after lunch we went back to Kukes.

22 Q. So is it -- do I understand correctly that on that occasion to
23 this trip, this whole journey was done in one day? You left from
24 Kukes, you went to Koshare, then you went to Papaj, then you came
25 back -- or, rather, you went back to the base in Koshare and then you

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1 came back. Is that your testimony?

2 A. The place that is called Papaj was on the way to Koshare,
3 actually. So it was -- it is somewhere between Bajram Curri and
4 Koshare, so I didn't need to go there as such, but we just went to
5 the place, the building. We looked at it, and then we carried on to
6 Koshare.

7 In Koshare, we met, we chatted in relation to the needs that
8 they had there, the requests that they had made in terms of what they
9 needed. And then we decided when they could come for the supplies.
10 And they came back later, one or two days later to Kukes and they
11 received the supplies, the items and equipment they needed.

12 Q. Thank you. I'd like to ask you about another location, which is
13 Pashtrik. Is this a location where you have been, again, during this
14 period?

15 A. Pashtrik is the whole of the highlands. It's a huge place. So
16 there isn't a particular place or residential area that is called
17 Pashtrik as such, but the entire highlands between Kosovo and Albania
18 are called Pashtrik.

19 Q. But you mentioned that Pashtrik was one of the directions of
20 Operation Arrow, Mount Pashtrik in particular. So I'm actually
21 referring to that location.

22 A. Yes.

23 Q. Have you ever been there?

24 A. In terms of the directions, yes. Yes, I went there several
25 times.

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1 Q. And, again, how far was this from the Kukes factory?

2 A. I would say -- I mean, in relation to Papaj, for instance, a few
3 kilometres further up was the border back then between Albania and
4 the former Yugoslavia, and that's where the operations would start,
5 in that particular area.

6 Q. So you said in relation to Papaj, but what about in relation to
7 the Kukes factory? How far was that?

8 A. So as I said, up to Koshare would be four and a half hours. Up
9 to Papaj, four hours. So then from Papaj, about half an hour or
10 something like that.

11 Q. So from Papaj to the, you said, Mount Pashtrik, would be, you
12 said, half an hour; is that correct?

13 A. To Koshare, not the Pashtrik mountain. And Koshare itself was
14 on the border.

15 Q. And where was the direction, the Pashtrik direction then? Was
16 it also the border?

17 A. Yes, the border.

18 Q. Okay. And, again, how long was it to get to this specific
19 location when you travelled there from the Kukes factory?

20 A. Well, it depends on where the units had arrived, where they were
21 based at the time. I can't remember exactly now, but I'd say that
22 the road to go to the units or to the border had to be crossed or
23 traversed in various ways.

24 From, for example, up to Papaj I went by car. You could go by
25 car, a jeep. And then from there on, they would go with -- on other

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1 vehicles such as tractors because the roads were very difficult. And
2 then from there, the soldiers who were on the front line had to use
3 donkeys or other animals, like horses. So that's how they did the --
4 the supply line worked, you know. They used various means of
5 transportation. They went by car to Papaj, and then they used
6 tractors, and then horses or donkeys, whatever was available.

7 Many soldiers would carry the armament or the weapons on their
8 backs as well.

9 Q. Thank you. Moving on now to another location. Did you ever go
10 to Burrel?

11 A. Yes.

12 Q. When was that?

13 A. A few days after the command was established in Kukes. And
14 together with the commander of the operation and the commander of the
15 direction, myself and a driver, we went to Burrel, to Dajt, to
16 Helshan, to Kalimash. Because we weren't familiar with those places
17 yet by that time, so we went together as a command structure to visit
18 them, to see the situation there, the organisation, what kinds of
19 conditions they were living in, what weapons they had.

20 I was interested mostly in logistics, the supplies they had,
21 where were they sleeping, where were they sleeping quarters, whether
22 they had enough food, whether they had enough weapons, and so on.

23 Q. Thank you. So you said that you went after the command was
24 established in Kukes, and I understand from what you told us
25 yesterday that this happened in early April 1999; is that correct?

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1 A. Yes.

2 Q. So, as I mentioned initially, I would like now to focus on the
3 period of May and June. So my question is did you go to Burrel any
4 other time after this first tour to the different facilities in early
5 April?

6 A. I went only once to Burrel and Dajt. That was the time when we
7 visited all these places. So in these two places, in these two
8 locations, I went only once.

9 Q. Which is in early April; correct?

10 A. Yes.

11 Q. Yesterday, you also mentioned - and this is at page 2926, line
12 12, and also 2934, lines 1 and 12 - about a location called Helshan.
13 Did you visit this location again during this period of May and June?

14 A. Yes, I did once or twice. I think it was a couple of times.

15 Q. And, again, if you can give us an idea of how long it took you
16 to get there.

17 A. Over two and a half hours. Two and a half, three hours. It
18 depended. Because sometimes we would also stop on the way just to
19 have a rest. Where, for example, there was an establishment, a
20 coffee shop or some restaurant, we would stop and have a coffee or
21 get some refreshment.

22 Q. Mr. Shala, have you ever been to Tirana during May and June
23 1999?

24 A. Yes, once.

25 Q. Are you sure it was only one time?

1 A. Well, once, twice, not more than that.

2 Q. How long did it take you to get to Tirana from the Kukes
3 factory?

4 A. If I went there during the day, it could take nine to ten hours
5 because the road was really difficult. It was the old road, and you
6 had to go through the cursed mountains, as they are called. Once I
7 remember we went there at night, and it took about 12 hours because
8 the road was very narrow, very high, uphill. There was no protection
9 on the side of the road, no barriers, so it sometimes happened that
10 members of the KLA slid there and died, had an accident and died.

11 Q. On those occasions you went to Tirana, how many days did you
12 stay there?

13 A. One night. It depended on when we arrived there, whether we
14 were able to finish up something, to do something during the day, or
15 when we couldn't, we did what we had to do the next day and we went
16 back.

17 Q. Finally, did you ever go to Durres?

18 A. To Durres? Yes. I went there before going to Kukes.

19 Q. Have you been there after establishing yourself in Kukes?

20 A. No, that was before going to Kukes. That was during the days
21 that I was staying in Tirana, but that was a private visit. I went
22 to see a friend of mine, a refugee family. I went to see them, and
23 they were based in Durres.

24 Q. I understand. So no other visits to Durres after this visit for
25 personal reasons; correct?

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1 A. No, no.

2 Q. Thank you, Mr. Shala. So you told us that you were appointed
3 chief of logistics for Operation Arrow. When did Operation Arrow
4 take place? I'm talking here about the fighting, actually, the
5 actual combat operations. I understand there was a lot of
6 preparation done before that, but if you could please focus on the
7 actual fight. Can you give us some dates?

8 A. The first operations in the Koshare direction started much
9 earlier. If I remember correctly, they started at the beginning of
10 April. However, the preparations for the Operation Arrow, they
11 started in terms of training soldiers, members of the KLA at the
12 training grounds and training locations that I mentioned. However,
13 Operation Arrow, I think, started somewhere by mid-May or 20 May,
14 approximately. I don't remember the exact date, though.

15 Q. You told us earlier when discussing about Pashtrik in particular
16 that the units there - you mentioned that this location is on the
17 front lines - had to be supplied with weapons; correct?

18 A. Yes.

19 Q. Would this -- the question I have is did this need to be
20 supplied with weapons actually increase when Operation Arrow started?
21 And you gave us, you said, mid-May, 20 May.

22 A. Initially, we did the preparations, and we supplied the units
23 with weaponry and munitions with what we had available at the time
24 because the situation was really difficult. We did not have
25 equipment, armament -- reserves in equipment and armament. We were

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1 being supplied in various ways, so we tried to make preparations and
2 to supply other units with weapons, and they were training with those
3 weapons.

4 And when the operation started, of course the demands increased.
5 There was a great demand for ammunition especially.

6 Q. So together with the increase in the demand of weapons, did also
7 the need for you to travel to these locations increase during that
8 period?

9 A. Yes, yes. And at that time, I was mostly on the ground because
10 I wanted to see for myself what the situation was.

11 Q. And that's understandable, Mr. Witness. Thank you very much. I
12 would like now to move to another topic. And in particular, I'd like
13 to focus on the Kukes factory.

14 So yesterday you told us a lot about it, and the Defence asked
15 you to show some locations. So I would like to ask you a few
16 follow-up questions building on what was discussed yesterday.

17 MS. PERGOLO: And, Your Honours, I would request that one of our
18 exhibits be pulled up, and in particular this is the -- well, I'll
19 give the ERN number first, with your permission, and if that can be
20 shown on the screen, I will take it from there.

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

22 MS. PERGOLO: Yes, so it's SPOE00330362, and it's actually item
23 number 5 on our list of materials.

24 PRESIDING JUDGE VELDT-FOGLIA: Yes, please proceed,
25 Madam Prosecutor.

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1 MS. PERGOLO: Thank you.

2 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, you can pull
3 it up.

4 MS. PERGOLO: And would it be possible to turn the image
5 anti-clockwise? Yes, great, perfect.

6 Q. Mr. Shala, do you recognise this picture?

7 A. Well, it looks like this is a photograph that was taken from the
8 air, from above, and it looks a bit -- looks like that factory, but I
9 can't identify it completely because it's a different image. I have
10 never seen it like this.

11 If you have any other picture? It looks like there is an
12 entrance here, there's a building. This building here --

13 Q. Thank you, Mr. Witness. We will go to that in a second.

14 MS. PERGOLO: Maybe to start with, is it possible to zoom a
15 little bit more in to get the image a little bit bigger? Thank you.
16 That's great.

17 Q. And, Mr. Witness, you said, indeed, that this -- this is
18 actually -- you recognise it as the factory. And maybe, again, I can
19 help you then to orient yourself a little bit more, telling you that
20 the road that you see on the top page -- the top of this page is
21 actually the road that goes to Krume, and maybe you can take it --

22 A. Yes, Kukes --

23 Q. Correct.

24 A. -- Krume.

25 Q. Perfect. Exactly. So I'm not going to ask you to identify all

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1 over the locations that we discussed yesterday. We did that already.
2 But I have just a few follow-up questions, and we will work out --
3 out of this map, but then we will also discuss the sketch that
4 yesterday was shown to you by the Defence.

5 So can you in this map --

6 MS. PERGOLO: And, again, maybe if the Court Officers can assist
7 the witness with marking.

8 Q. Can you mark in this image the commanders building that we
9 discussed yesterday?

10 A. Well, this is the entrance. I marked it yesterday, number 1.
11 The building you're referring to I think is this one, number 2.

12 Q. Perfect. Yes, that's it. Thank you very much. So I have a
13 question on this building that, again, we discussed at length
14 yesterday. You said in this building you had your office; is that
15 correct?

16 A. Yes.

17 Q. And you also marked, actually, the window to your office.

18 MS. PERGOLO: And this is actually an exhibit that was assigned
19 Registry number 00974. We don't need to pull it up. It's just for
20 our reference.

21 Q. Do you remember marking the window of your office, Mr. Witness?

22 A. I think it was that one, yes.

23 PRESIDING JUDGE VELDT-FOGLIA: Has the witness understood the
24 question well? I don't think so. His answer doesn't really get back
25 to your question.

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1 MS. PERGOLO: Absolutely, Your Honours. I can actually rephrase
2 it. And perhaps then I will then ask to pull up maybe the image that
3 yesterday he marked, so at least we confirm what he just said. And
4 so it's REG00974.

5 Q. So, actually, in this picture - and, again, correct me if I am
6 wrong - the commanders building is marked with a number 1? Is that
7 correct? Do you remember that?

8 A. Yes, correct.

9 Q. But today if we look at the image on the right-hand side of the
10 screen, this very same building you marked with a number 2; correct?

11 A. Yes.

12 Q. So my question before was actually just confirming that
13 yesterday - and, again, now we look at the picture on the left-hand
14 side of the screen - you identified and marked with a red sign, I
15 don't think it is a number, but you marked where the window of your
16 office was.

17 MR. AOUINI: It's number 4, Your Honour. The marking was number
18 4.

19 MS. PERGOLO: Oh, apologies. I don't -- I cannot read it but --
20 thanks.

21 PRESIDING JUDGE VELDT-FOGLIA: Yes, it's above. Thank you,
22 Defence Counsel.

23 Madam Prosecutor, I have a question also to the Court Officer.
24 The witness marked with a 1 the picture and now it has disappeared.

25 [Trial Panel and Court Officer confers]

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1 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, please ask the
2 witness to mark again the entrance and the building you were
3 discussing on the right-hand side. Because of the moving of the two
4 pictures, of the two documents, we have lost the marking.

5 MS. PERGOLO: Absolutely, Your Honours.

6 Q. So, Mr. Witness, can you please again mark on the picture on the
7 right-hand side, so the image -- the aerial image, again the entrance
8 and the commanders building as you did a few minutes ago.

9 A. To tell you the truth, this picture that was shown to me
10 yesterday has been taken from the inside, and this does not represent
11 not even half of the facilities that were there. So -- except the
12 command post or the command offices and the kitchen, that's number 2,
13 and where they would distribute the food, and then the maintenance
14 place.

15 PRESIDING JUDGE VELDT-FOGLIA: Witness, please proceed with
16 doing what Madam Prosecutor has asked you, so to mark again the
17 picture on the right-hand side of the screen where you think that the
18 entrance is and the other building. I don't know if you used the
19 word "command," "commanders building," but the second building you
20 have been discussing. I would like to have those two markings on the
21 picture and that suffices, and then Madam Prosecutor will proceed.

22 THE WITNESS: [Interpretation] From what I can see here, the
23 entrance is here. So from the Kukes-Krume road. What number do you
24 want me to mark it with?

25 PRESIDING JUDGE VELDT-FOGLIA: You marked it before with 1, so

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1 please put a 1 here too.

2 THE WITNESS: [Interpretation] Now this building, it's on my
3 right, but it's on the left of the entrance, that was the building
4 where the operations room was and the mobilisation office was. We
5 also had some offices there, and the commander of the operation would
6 also use an office there when he held meetings.

7 And the building I'm talking about is this one here. What
8 number do you want me to mark it with?

9 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, I leave it to
10 you from here.

11 MS. PERGOLO: [Microphone not activated].

12 Q. You can mark it with a number 2, Mr. Witness. Thank you.

13 A. Okay.

14 Q. Thanks.

15 A. [Marks]

16 Q. And just a clarification. You said at page 21, lines 23 to 24:

17 "... this building, it's on my right, but it's on the left of
18 the entrance ..."

19 Actually, I think yesterday the Defence Counsel made with you
20 the same clarification. So building number 2, would it be -- would
21 it be that -- when you enter the building, on which side? On the
22 left or on the right? Just to make it absolutely clear.

23 A. When you enter, it's to the left of course.

24 Q. Thank you. So you mentioned today, and you also discussed that
25 yesterday - this is today at transcript page 21, lines 24 to 25 -

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1 that in this commanders building there was the operational centre and
2 there was also a mobilisation centre or office; is that correct?

3 A. Yes.

4 Q. Yesterday you were asked by Defence Counsel about the number of
5 people who were part of this mobilisation sector or office which, as
6 you just confirmed, was located in this building. And you said the
7 following, and I'm going to read that out.

8 MS. PERGOLO: It's from transcript page 2928, line 23, to 2929,
9 line 1.

10 Q. And you said:

11 "There couldn't have been 20 people altogether in the building
12 because the offices were very small. So in the office, perhaps two,
13 maximum three people. So, yeah, that's about it. Two to three per
14 office. No more than that."

15 Is that what you told us yesterday?

16 A. Yes.

17 Q. So were you referring to -- were you talking generally about the
18 offices in this building or were you talking specifically about one
19 office?

20 A. I meant the mobilisation office, but there was an office -- for
21 example, where the operations room was, that was bigger because
22 that's where the meetings were held. There was a desk and there were
23 communications equipment. The operations people were in direct
24 contact with commanders of the directions and the operation. They
25 received information from the ground, where the units were, where

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1 they were deployed, where they had penetrated, to what extent,
2 whether they had advanced or not, and so on.

3 There were a couple of other offices where five or six people
4 could be there. But the office I meant yesterday, that was a smaller
5 office. So about three or four people, not more than that.

6 Q. Thank you. So you are -- you just told us that you were talking
7 about a specific office when you were talking about the two or three
8 people, but you also said that there were bigger offices, in fact,
9 where actually you said five to six people could be inside.

10 So I would like show you a photograph.

11 MS. PERGOLO: This was actually already shown by the Defence
12 yesterday, Your Honours. So with your permission, the ERN number is
13 083525.

14 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, yes, I will
15 allow for it, but we will first -- because we are going to move this
16 picture now away from the screen, we are first going to save it and
17 give it a new number.

18 Madam Court Officer, can you please proceed with --

19 [Trial Panel and Court Officer confers]

20 PRESIDING JUDGE VELDT-FOGLIA: Both images will be saved
21 together, and it will receive a number.

22 And in the meantime, Madam Prosecutor, I would like to finish
23 with the questioning of the witness before the break five minutes
24 before 11.00, because there's something I would like to discuss. And
25 then we continue, of course, after the break.

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1 MS. PERGOLO: Thank you, Your Honours. I'll keep that in mind.

2 THE COURT OFFICER: Your Honours, markings made by the
3 Witness W04754 on ERN SPOE00330362 will be assigned Registry number
4 REG00976.

5 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
6 We can now proceed with pulling up the other document.
7 Madam Court Officer, please.

8 MS. PERGOLO: Apologies, perhaps I gave the incorrect ERN
9 number. So the full sequence is 083525 to 3534, but the page is page
10 9, apologies. And it can be shown just this one page. Thank you.
11 That's perfect.

12 Q. Mr. Shala, you told us yesterday this picture was taken sometime
13 in May 1999 in Bislum Zyrapi's office. This was at transcript
14 page 2992, line 6 to 7. Do you remember saying that?

15 A. Yes, I do.

16 Q. And you also explained that this, Zyrapi's office, shown in this
17 picture, was on the 2nd floor of the operations centre in building
18 number 2, that is, the command building. And this is transcript page
19 2992, line 21, to page 2993, line 10. Do you remember saying that
20 yesterday?

21 A. Yes, I do.

22 Q. Do you remember by any chance who took this picture?

23 A. I really can't. I just can't. I don't remember.

24 Q. I understand, Witness. A long time has passed. But do you
25 think it was taken by a person? Do you think that the camera was put

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1 on the table? If you remember, of course. I'm not asking you to
2 guess. And if you don't remember, that's completely fine.

3 A. No, no, I remember quite well that we didn't have the gears we
4 have today for photographs, so it couldn't have been taken that way.
5 But this was taken by a camera, a proper camera. But exactly who
6 took the photograph, I cannot remember. But it must have been
7 somebody, from the look of us in the photograph, that he must have
8 said that, "I'm going to take a photograph of you," and we were all
9 looking towards the person who took the photograph. But exactly who
10 that person was, I can't remember.

11 But I do know that this photograph was shown to me, and I also
12 have a copy of this photograph in my personal photo album at home.
13 So I did receive a copy of that too.

14 Q. Thank you, Mr. Shala. So --

15 A. So it was just as a memory of that day, a souvenir of that day.

16 Q. I understand. So, Mr. Shala, how many people do we have in this
17 room at that time?

18 A. So there are six of us in the photograph, so seven it would have
19 been. Maybe somebody else standing sideways on the sides. But I
20 don't think there would have been more than seven, according to the
21 photograph, anyway, because I think -- I can hardly recognise myself,
22 because I think this was about 25 years ago when my hair was proper
23 and not white as it is -- grey as it is now, so a lot of things I've
24 forgotten as well since then.

25 Q. Thank you, Mr. Shala.

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1 MS. PERGOLO: We will move on from here then, and I would ask
2 that this picture be pulled down and for the map, the sketch - and I
3 can provide the ERN number again - to be taken up again. So the
4 Registry number was 976. Maybe we can continue from there.

5 PRESIDING JUDGE VELDT-FOGLIA: Please proceed,
6 Madam Court Officer, with pulling down, indeed, this picture and
7 pulling up the document just cited by Madam Prosecutor.

8 Q. Mr. Witness, could you please mark on this map, again, the one
9 on the right-hand side of your screen, what I believe yesterday you
10 called the sleeping quarters where soldiers slept. You talked about
11 this at transcript page 2958 and following. But if you could please
12 focus on that building and you could perhaps mark it as --

13 MS. PERGOLO: Your Honours, I'm in your hands here. I could ask
14 him to mark it with number 3 or I could ask him to mark with a number
15 5, which corresponds to the number he assigned on the sketch. So
16 since later I will be asking him to -- I'll be using the sketch as
17 well, I don't know if that would aid our understanding, but I'm
18 really in your hands here.

19 PRESIDING JUDGE VELDT-FOGLIA: Let's proceed with 5.

20 MS. PERGOLO: Thank you.

21 Q. So if you could please mark that with number 5.

22 A. [Marks]

23 Q. Thank you. Yesterday, you told us --

24 MR. AOUBINI: Excuse me, my learned colleague. Excuse me,
25 Your Honour. At a convenient point, I'll let my colleague finish her

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1 point, but I would like to come back to make an observation on the
2 previous photo and the questions that were posed, on the previous
3 photo at page 9, at an appropriate time.

4 PRESIDING JUDGE VELDT-FOGLIA: Very well. And is it then
5 necessary to have the witness -- or is it better then to usher the
6 witness out?

7 MR. AOUINI: I don't think so, Your Honour.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay.

9 MR. AOUINI: But it -- I can start and you can tell me.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well. No, if not, we
11 do it before when I could usher -- have the witness ushered out, and
12 then also discuss the other point I wanted to discuss with the
13 parties and Victims' Counsel, and we do that all together.

14 MR. AOUINI: That would be safest and the most appropriate.
15 Thank you.

16 PRESIDING JUDGE VELDT-FOGLIA: Very well.

17 MS. PERGOLO: Your Honours, then, of course, there is no problem
18 on our side. We would, though, request that maybe the witness be
19 ushered out for this question --

20 PRESIDING JUDGE VELDT-FOGLIA: No, but that's --

21 MS. PERGOLO: Oh, sorry, I thought this would be discussed
22 before he's ushered out but --

23 PRESIDING JUDGE VELDT-FOGLIA: No, but he will be -- I might not
24 have been clear, but what I propose to do is that we will have the
25 witness ushered out, we will discuss this point, and then after that,

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1 we will discuss another point, and then we will break.

2 Please proceed.

3 MS. PERGOLO: Thank you.

4 Q. Mr. Shala, yesterday you told us, at page 2958, line 4, that you
5 entered this building that you marked with number 5; is that correct?

6 A. Yes.

7 Q. Can you help us understand where is the entrance door to this
8 warehouse, to this building? If you could perhaps mark it if you
9 remember where it was.

10 A. According to the photograph I have in front of me, and the angle
11 it was taken from, it is difficult to identify the building let alone
12 the entrance. But from what I can remember, if I remember correctly,
13 the entrance was somewhere here at the beginning. Just there where
14 it says "Kukes."

15 Q. Would you be able to mark that on the map with an X, perhaps?
16 Or with an E, actually, for entrance.

17 A. An E? Yes, somewhere here. I think it was right here at the
18 beginning, the entrance. I don't know whether there was another
19 entrance, but I think that was there, the main one. I think but I'm
20 not sure.

21 Q. Thank you. And I will actually shortly show you a photo of this
22 building and maybe it will be easier then for you to identify where
23 the entrance was.

24 But for now, I just want to ask you how far was this building --
25 the entrance, rather, to this building from your office?

1 A. It perhaps -- it couldn't have been more than 50 metres, 70,
2 say.

3 Q. Thank you very much. How many times did you go to this
4 warehouse, to this building?

5 A. Well, I cannot remember the exact number. But whenever I had
6 time, I went there, not for long but just to look at the situation.
7 And that's because the change of the members would take place there.
8 They didn't stay long because following mobilisation and receiving
9 their uniforms as well as any other equipments that they needed, once
10 there was a particular number or we would get to a particular number,
11 then they would be transported to the training centres.

12 Q. Thank you. So you said you went there whenever you had time.

13 A. Yes.

14 Q. Thank you. Mr. Witness, going back to the photograph on the
15 right-hand side of the screen. Can you please mark the toilets with
16 a number 6.

17 A. Based on this photograph and the angle again, I reiterate this,
18 I think - I think - it was here.

19 Q. Would you be able, perhaps, to make a 6 instead of that marking
20 just that -- for our references later on, it would be easier to do
21 so.

22 A. Yes.

23 Q. Thank you. You told us yesterday that these were the only
24 toilets in the facility. This is at page 2959, lines 6 to 7. And
25 you also said that these were the toilets you used, not frequently,

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1 but that you used these toilets. This is at transcript page 2958,
2 lines 19 to 20. Is this correct, Mr. Witness?

3 A. Yes, it's correct.

4 Q. Again, similar question to before. How far were these toilets
5 from your office?

6 A. It could have been up to 150 metres away.

7 Q. Mr. Witness, looking at this map - and, again, I understand it's
8 a little bit difficult to read it and to understand it - but does
9 this correspond -- or, rather, let me rephrase that question. I will
10 actually go to this a little bit later.

11 MS. PERGOLO: So, Your Honours, I would now like to show a
12 couple of photographs to the witness, if I can proceed with that.

13 PRESIDING JUDGE VELDT-FOGLIA: All photographs of the factory?

14 MS. PERGOLO: Yes, for recognition purposes.

15 PRESIDING JUDGE VELDT-FOGLIA: Yes, please proceed.

16 [Trial Panel and Court Officer confers]

17 PRESIDING JUDGE VELDT-FOGLIA: Yes, of course. We're going to
18 save this picture first, and the Court Officer will allocate a
19 Registry number to it.

20 Thank you, Madam Court Officer, for proceeding in that way.

21 MS. PERGOLO: Your Honours, I was just looking at the time,
22 because the part I'm now embarking on would probably take a bit
23 longer than ten minutes, I believe. So I know it's a bit early to go
24 into the break. I don't know whether we would rather want to have
25 the discussion that the Defence raised now or -- because I'm afraid

1 otherwise I would maybe take it a bit --

2 PRESIDING JUDGE VELDT-FOGLIA: Yes.

3 MS. PERGOLO: And having to break there would not be super
4 convenient.

5 PRESIDING JUDGE VELDT-FOGLIA: We will first have the number of
6 this document, and then we will proceed with breaking a little bit
7 earlier.

8 THE COURT OFFICER: Your Honours, the additional markings made
9 by the Witness W04754 on ERN SPOE00330362 will be assigned Registry
10 number REG00977.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
12 That's noted.

13 Yes. Mr. Witness, we will have a break at 11.00, but we are
14 first going to discuss some other issues, so I will ask Madam Court
15 Usher to accompany you out of the courtroom. You can take some rest
16 and we see you back at 11.30.

17 [The witness stands down]

18 PRESIDING JUDGE VELDT-FOGLIA: Very well. I will first give the
19 floor to the Defence. And I assume that this can be done in public?
20 Okay. Then you have the floor.

21 MR. AOUNI: Thank you, Your Honour. Thank you. It's really a
22 matter of fairness to the witness.

23 The questions posed by my learned colleague when using the
24 photograph at ERN 083525 at page 9 and following depicting a number
25 of people in a room, the witness already said that there were a

1 couple of other rooms that were bigger. He said they were in the
2 upper floor. But then my learned colleague ended up saying how many
3 people were there, and suggesting that there is a capacity issue with
4 the rooms without putting it frankly and fairly to the witness.

5 Because what we see here is a number of people around a table,
6 and the question of the capacity was -- when it was first addressed
7 was about how many people would be in a certain office working. So
8 it has to be put clearly to the witness. Maybe he has a
9 clarification.

10 We didn't object because it is a matter to be clarified if the
11 SPO wishes to do so, but the suggestion that somebody's taking the
12 picture, we don't know from where - from outside, inside - we don't
13 know where the door is, and that there are six people, possibly
14 seven, suggesting that this room is bigger than other rooms has to be
15 put fairly and clearly to the witness to explain.

16 It's not the same five people or six people having a coffee
17 around the table, or two or three or more being working in an office.
18 This has to be put in a fair manner to the witness, so if there is an
19 explanation or clarification, then he can put that clearly to the
20 transcript. Suggesting that rooms have different capacities in
21 general, which the witness said some of the rooms are possibly bigger
22 than others, and explained the possible capacity, but that was in a
23 different context.

24 So we should not mislead or be unfair to the witness if the
25 point we want to make later on is, well, the rooms are bigger. We

1 have pictures of the rooms. We can go to the ground and see each
2 room. So if we are trying to adduce evidence as to the size of
3 rooms, we have to do it fairly to the witnesses, and this witness is
4 best placed because he was in the upper floor, and this is exactly
5 what he said.

6 This is the point we want to make, Your Honour.

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

8 You have the floor, Madam Prosecutor, if you want to --

9 MS. PERGOLO: Thank you, Your Honours.

10 PRESIDING JUDGE VELDT-FOGLIA: -- submit anything.

11 MS. PERGOLO: Well, first of all, we submit that counsel could
12 explore this in redirect, if they so wish. And, second, I don't
13 believe it's an issue of fairness to the witness.

14 The witness himself explained that there was an office, a
15 mobilisation office, where he said there were two people. When I
16 asked him, okay, were there other offices in that building with other
17 people being present, he said that there were other offices --
18 actually, he himself volunteered there were offices where five or six
19 people could be there. And then I actually showed him a picture
20 asking a fact: How many people do you see in this picture? That is
21 all we asked, actually, following up on what the witness told us.

22 So our position is that there was no unfairness to the witness.
23 We just explored an issue that we are entitled to explore. And,
24 again, if Defence wants to raise this with him, they can do so in
25 redirect.

1 That would be our submissions, Your Honours. Thank you.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

3 Victims' Counsel, would you like to make submissions in this
4 respect?

5 MR. LAWS: Only to say that we couldn't detect the unfairness in
6 the question.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

8 Defence Counsel, I must say that I don't see any misleading at
9 this point in time, but I do suggest, but I don't need to because I
10 know you are completely aware, that this point you can further
11 clarify. If there is an unclarity at this moment in time, I invite
12 you to pose these questions in redirect to him.

13 And then we close this matter and we go into private session.

14 Madam Court Officer, could you please take care of that.

15 [Private session]

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5 [Open session]

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

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

8 We will have a break till 11.30.

9 The hearing is adjourned.

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

11 --- On resuming at 11.32 a.m.

12 PRESIDING JUDGE VELDT-FOGLIA: Welcome back.

13 I see that we are all -- that we are in the same composition in
14 the court. So we note that for the record, and we proceed.

15 Very well. Madam Court Usher, can you usher the witness in,
16 please.

17 [The witness takes the stand]

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

19 THE WITNESS: [Interpretation] Thank you.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

21 Mr. Shala, did you hear the witness?

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

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

24 Then, I give the floor to Madam Prosecutor. Please proceed.

25 MS. PERGOLO: Thank you, Your Honours.

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1 Q. Mr. Witness, before the break we were discussing the Kukes
2 factory, and I would like to show you some pictures for recognition.

3 MS. PERGOLO: And then I'll give the ERN number, if that can be
4 put up. It's SPOE40010264 to 40010559. This is item number 6 in our
5 list of materials.

6 PRESIDING JUDGE VELDT-FOGLIA: Yes, Madam Court Officer, you may
7 proceed.

8 MS. PERGOLO: And it's page 18 of this document.

9 Q. Mr. Witness, do you recognise this picture?

10 A. Now you're showing parts of it. It looks familiar as a
11 building, but I don't know. I think it's the sleeping quarters that
12 we mentioned earlier with the entrance or the door there. So if we
13 refer to the main entrance, it's the building to the right. I think.

14 Q. Thank you, Mr. Witness. And I think for our references, this
15 was building number 5.

16 MS. PERGOLO: And perhaps we could pull up the map with the
17 markings. I can provide the exhibit number assigned by the Registry.
18 It's the one ending in 977.

19 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

20 MS. PERGOLO: Perhaps if you can zoom in just a little bit, we
21 see the number 5, but -- yeah.

22 Q. So, again, Witness, what you just said is that you seem to
23 recognise the building we see on the picture on the right-hand side
24 as what you marked with the number 5 in -- on the picture on the
25 left-hand side; correct?

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1 A. It looks like that, yes.

2 Q. Okay.

3 MS. PERGOLO: May I now have on the same document, the same ERN
4 number of the picture on the right-hand side, page 26 on the screen.

5 Q. Mr. Shala, do you recognise this picture?

6 A. No. I don't remember.

7 Q. You cannot make anything of this picture?

8 A. No. I don't know what time this photograph was taken. But to
9 be honest, I don't remember this. I don't remember it. Maybe it has
10 changed since then and a long time has passed since then, but I don't
11 remember this. No.

12 Q. Thank you, Mr. Witness.

13 MS. PERGOLO: May I now have picture 27.

14 Q. Do you recognise this picture, Mr. Witness?

15 A. No.

16 Q. You have no idea of -- any pointers where -- what this building
17 could be? You don't recognise it? I understand a long time has
18 passed and probably the facilities looked different at the time.

19 A. I'm looking at the photograph on the left, to my left, and I
20 can't place this one in the scheme or the drawing that I made, and I
21 can't see which building this is.

22 MS. PERGOLO: May I have another picture then, and this is a
23 different ERN number. It's 074390 to 074391, page 1.

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

1 [Trial Panel and Court Officer confers]

2 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, do I understand
3 right that you would like to change the picture on the right-hand
4 side for the picture you just mentioned?

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

6 PRESIDING JUDGE VELDT-FOGLIA: Okay.

7 Madam Court Officer, please proceed.

8 MS. PERGOLO:

9 Q. Mr. Witness, if you take a look at the picture in front of you
10 on the right-hand side, do you recognise this picture or, rather, the
11 building in it?

12 A. No.

13 Q. Mr. Shala, this building, the picture you're looking at now,
14 represents how -- the building that we just saw before that was in a
15 destroyed state at the time of the events. Would that perhaps help
16 you to identify or recognise this building?

17 MR. AOUINI: I'm sorry, Your Honour. You have to be more
18 accurate. Which events? This picture is taken ten years after the
19 events.

20 PRESIDING JUDGE VELDT-FOGLIA: I see that the point has been
21 taken, Defence Counsel.

22 MS. PERGOLO: Yes, thank you.

23 Q. So the picture -- we have evidence that the picture we are
24 currently seeing in front of us represents the building we just saw
25 before during the period of May and June 1999. Does that help you to

1 perhaps recognise this building?

2 MR. AOUNI: Your Honour, I'm sorry, but we have the same
3 objection.

4 PRESIDING JUDGE VELDT-FOGLIA: Please --

5 MR. AOUNI: We can --

6 PRESIDING JUDGE VELDT-FOGLIA: Do -- maybe it's better to usher
7 the witness out?

8 MR. AOUNI: Maybe, Your Honour.

9 PRESIDING JUDGE VELDT-FOGLIA: Yes, very well.

10 Madam Court Usher, could you accompany the witness out?

11 Mr. Witness, you will be ushered out for a moment. Five
12 minutes.

13 [The witness stands down]

14 PRESIDING JUDGE VELDT-FOGLIA: You have the floor.

15 MR. AOUNI: Thank you, Your Honour. Apologies to interrupt.

16 This picture was taken on 9 April 2009, if we trust the
17 metadata. And so it is not -- we have no evidence that this is the
18 state in which it was at the time of the events or before the time of
19 the events. So we have to be very clear.

20 The second point, quickly, Your Honour, is we don't think it's
21 helpful, since the witness has not recognised the picture, to suggest
22 what it is. We did that once with the factory itself with a very
23 recent witness and, if I'm not mistaken, Your Honour, and I stand to
24 be corrected, we were told not to suggest what the picture is if
25 we're submitting the picture to the witness. So we have to have a

1 little bit of consistency.

2 Maybe my learned colleague can go about what she wants to
3 explore in a different way.

4 PRESIDING JUDGE VELDT-FOGLIA: I'm not going to enter with you
5 now in a discussion about consistency, but there is a consistent
6 approach on this.

7 Madam Prosecutor, please, what would your reaction be?

8 MS. PERGOLO: Well, Your Honours, actually, we do have evidence
9 that this is how the building looked at the time of the events from
10 multiple witnesses that we heard in this trial. And I'm happy -- I'd
11 be very happy to provide some references here, but these are live
12 witnesses who came to testify in front of this Panel.

13 Also in terms of putting this to the witness, I proceeded by
14 asking him an open question, whether he recognised the building. And
15 then also I asked -- I didn't say what this building was. I just
16 asked him whether he did recognise it at the time.

17 And, in any event, Your Honours, I will proceed if -- I was
18 planning on actually helping him, to provide some, let's say,
19 references as to the location of this building to see whether the
20 witness actually may -- this may trigger his memory. And, otherwise,
21 I'll proceed to put our -- the SPO case to the witness as to what
22 this building was, if this is how Your Honours will allow me to
23 proceed.

24 PRESIDING JUDGE VELDT-FOGLIA: I propose to proceed as follows,
25 that you can say that evidentiary material has been proposed that

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1 indicates that there was a building at the time of the Confirmed
2 Indictment on the premises of the Kukes metal factory, and then you
3 ask the questions.

4 And then, Defence Counsel, I think we have framed it enough as
5 to see what basis there are. I don't think we have to give the
6 references to the witness. But I'm not so much of putting the case
7 to the witness if it's not necessary at this stage of the
8 proceedings.

9 Please proceed.

10 MS. PERGOLO: Perfectly, Your Honours. We'll proceed in this
11 way. Thank you.

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

13 Madam Court Officer, could you ask Madam Court Usher to bring
14 the witness back?

15 [The witness takes the stand]

16 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Witness, and
17 thank you. I give the floor to Madam Prosecutor to proceed with the
18 questions.

19 MS. PERGOLO:

20 Q. Mr. Witness, we have evidence that this building existed on the
21 premises of the Kukes factory at the time relevant to the indictment,
22 which is May to June 1999, a time at which you were at the metal
23 factory.

24 And perhaps I will help you, telling you that this building
25 was -- the evidence indicates this building was standing in the

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1 middle of the courtyard of the metal factory. Does that help you in
2 any way to perhaps situate this building or remember it?

3 And just maybe a last clarification, Mr. Witness. This
4 building, indeed, doesn't exist anymore at the time. And, in fact,
5 the evidence we have suggests that actually it was destroyed, which
6 is actually the first picture I showed you, but I will take this one
7 at a time.

8 So did anything that I just put to you help you, perhaps, to
9 remember this building which was in the middle of the courtyard?

10 A. Well, I don't remember. On the basis of the photograph on the
11 left that I'm looking at, it's not there, and I don't remember it
12 being there at the time. It could be, but I don't remember.

13 Q. And you're right, Mr. Witness. Actually, this building is not
14 on the picture on the left-hand side. It's just not there. It
15 didn't exist when this aerial picture was taken.

16 However, if we keep looking at that picture on the left-hand
17 side, again, there is evidence in this case that the building on the
18 right-hand side was standing in parallel, so in front, of building
19 number 5, the sleeping warehouse. Does this help at all, perhaps?

20 A. As I look at it now, even the other buildings around don't look
21 familiar to me, let alone this one. No, I don't remember it. I
22 don't know when this photograph was taken, at what time, in
23 comparison to the other one. I don't know.

24 Q. Absolutely, Mr. Witness. And I can tell you that this picture
25 was taken in 2009, so after the time we were talking. But, as I

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1 said, we do have evidence that this building was standing and it
2 looked pretty much how it is in this picture when you were there at
3 the Kukes metal factory.

4 Is it your testimony that you never saw this building?

5 A. When I marked it, I marked the buildings that were used by
6 logistics, and I also marked the part of the command where the
7 operations room was. So I know that, mentioning those buildings, but
8 there were other buildings adjacent that the owner of these
9 facilities was using. Maybe these existed at the time, but I don't
10 remember them.

11 Q. So I understand you're telling us that you marked the buildings
12 that were used by logistics, but you're also saying that there might
13 have been other buildings at the time. Is that accurate?

14 A. Yes, some adjoining buildings. Yes, maybe. The ones that you
15 can see behind here, I didn't see them there, but I can see them in
16 the picture, the aerial photograph.

17 On the basis of this photograph, I may say that maybe they
18 existed at the time, but to me it's not familiar, not only this
19 building but also the other buildings around.

20 Q. But then I understand you were not familiar with every single
21 part of the premises of the metal factory, but this building, as I
22 mentioned earlier, we have evidence it was standing right in the
23 middle of the premises of the metal factory. Are you telling us that
24 you never saw this building at the time?

25 A. No, I didn't see it.

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1 Q. Mr. Shala, we heard evidence in this case that this building was
2 used to detain several people during the months of May and June 1999,
3 which is the time you were there. Did you have an idea that people
4 were detained at the Kukes metal factory when you were there?

5 A. Personally, I didn't see any persons that were detained there.

6 Q. Did you hear, perhaps, there were people detained there during
7 the relevant time?

8 A. No.

9 Q. You never heard there were people detained at the metal factory?

10 A. No, never.

11 Q. Mr. Witness, if I understand your evidence correctly, you told
12 us today that whenever you had time you went to the building number
13 5, sleeping quarters, that was just, as you said today, 50 to 70
14 metres away from your office. And this is page 29, line 21. And as
15 I said, we have evidence that this building where, again, we have
16 evidence people were detained were in the middle of the courtyard.

17 Is it your sworn testimony that you have never during the time,
18 the almost three months you spent at the metal factory, you never
19 seen this building?

20 A. I said I don't remember.

21 Q. Mr. Shala, do you know that two individuals called Sabit Geci
22 and Xhemshit Krasniqi have been tried and convicted by courts in
23 Kosovo for illegally detaining individuals on the premises of the
24 metal factory and in this building in particular when you were there?

25 A. Yes, I heard about that, but I didn't have any knowledge of

1 that.

2 Q. What did you hear exactly about these judgments?

3 A. What I've read in the media, because this was an open court
4 case, and what I've read from the media.

5 Q. So have you also learned that Sabit Geci and Xhemshit Krasniqi
6 were also convicted for keeping in inhumane conditions, mistreating,
7 and torturing detainees in this very building? Have you heard that
8 too?

9 A. As I've said, I have heard that they were convicted, and I
10 learned this through the media outlets, for something along those
11 lines that took place there, but I have no knowledge of that myself.

12 Q. So you said that you learned this through the media. But are
13 you telling us now that during the time you were there you never
14 noticed anything happening there and in this building in particular,
15 in front of which you passed several times you told us today?

16 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, that's not the
17 way he formulated it, so I don't allow for this rephrasing.

18 MS. PERGOLO: Apologies, Your Honours. Maybe I can rephrase my
19 last question.

20 Q. Then my last question would simply be whether you can confirm
21 today that you never knew of these detentions at the time?

22 A. No, I did not know.

23 Q. Thank you, Mr. Shala. I am moving now to another topic.

24 MS. PERGOLO: And, Your Honours, these pictures can be taken
25 down.

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

3 MS. PERGOLO:

4 Q. I'd like to ask you some questions on how you became a Defence
5 witness, Mr. Shala. Do you recall when you were first contacted by
6 the Defence?

7 A. It was in August 2019.

8 Q. Are you sure about that date that you just said, August 2019?

9 A. Yes, it was around that. Perhaps 20th, 21st August. At the
10 Tribunal as well, I gave a statement.

11 PRESIDING JUDGE VELDT-FOGLIA: I think there's a confusion.

12 MS. PERGOLO: Yes, indeed.

13 Q. I believe, Mr. Witness, but perhaps you can confirm, wasn't that
14 maybe the times at which you met with the SPO, rather, where you
15 came, as you said, to the Tribunal?

16 A. Yes.

17 Q. Right. So my question was rather when you met with the Defence
18 team of Mr. Shala that is standing on the -- or, rather, sitting on
19 your right-hand side in this courtroom.

20 A. I think last year or this year. Last year, this year. I don't
21 know. Yeah.

22 Q. On that occasion, did you meet in person?

23 A. Yes.

24 Q. At the time of this meeting, were you aware of the nature of the
25 SPO case against Pjeter Shala?

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1 A. Yes.

2 Q. So were you aware, perhaps in easier, simpler terms, of the
3 accusations against Pjeter Shala at the time?

4 A. Well, yeah, that he was arrested and was being detained, and
5 that there were accusations and the charge against him.

6 Q. Before this first meeting, had you read the already public
7 redacted version of the indictment against Pjeter Shala, which was
8 made public in November 2021?

9 A. No.

10 Q. At the meeting, did you discuss the charges or the accusations?

11 A. No.

12 Q. Did you try to independently acquire information on the accused
13 and these accusations in advance of this meeting?

14 A. No.

15 Q. In advance of that meeting or during that meeting, were you able
16 to review the statement you gave to the SPO in 2019?

17 A. The witness statement I gave in 2012, I didn't even need to read
18 it, and I didn't need to ask anyone about it because it was my
19 statement. I knew what I had said, and I stand by it today as well.

20 PRESIDING JUDGE VELDT-FOGLIA: In the transcript, it's -- okay.
21 Maybe you can clarify that.

22 MS. PERGOLO: Yes, sure, Your Honours.

23 Q. Witness, you said, page 51, line 6, that the statement you gave
24 in 2012. However, I believe before we discussed about August 2019.
25 Which is the correct date? Perhaps you can confirm that.

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1 A. Not 2012. 2019.

2 Q. Thank you, Mr. Witness. How many times did you meet with the
3 Defence between that first meeting and today's testimony?

4 A. Just once. And here at the Tribunal.

5 Q. So just that one time you told me about?

6 A. Yes.

7 Q. Yesterday, you told us that you met the accused in 2004, 2005,
8 or 2006, and this is at transcript page 2970, line 21. Did you have
9 any other meetings with the accused after those years?

10 A. No.

11 Q. So you didn't meet with him after 2019 when you gave your
12 statement to the SPO?

13 A. Neither have we met nor have we heard from each other. Not
14 ever.

15 Q. Thank you, Mr. Witness.

16 [Specialist Prosecutor confers]

17 MS. PERGOLO:

18 Q. Mr. Witness, I would now like to move to discuss your encounters
19 with the accused during the war. This is a topic that the Defence
20 explored with you yesterday, and I would like to clarify a few
21 things.

22 You told us yesterday, at transcript page 2966, line 9, that
23 during the war you met the accused twice; correct?

24 A. Correct.

25 Q. You said that you met him at the Kukes factory, page 2967, line

1 12, and dated the first meeting approximately somewhere between 10
2 and 15 April 1999. Is this correct?

3 A. Correct.

4 Q. And this is transcript page 2969, line 12.

5 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, if there's not
6 really a doubt about what has been said, then it's not necessary to
7 have this "correct," "correct," because he said it yesterday, and it
8 seems like -- if you use it for a step up, it's okay, but we're not
9 going to do it for the second time.

10 MS. PERGOLO: Absolutely, Your Honours. I was just -- it was
11 just more for our own references and to summarise a little bit his
12 evidence from yesterday, but I'm happy to continue without having to
13 repeat all of this for confirmation.

14 Q. And you also said yesterday that when you met him the first
15 time, the accused told you that he wanted to go to the front lines,
16 he had no intention to return before the end of the war, and asked
17 you for a weapon, which you gave him.

18 A. Yes, that's it. Correct.

19 Q. The second time you met him was in June just before the war
20 ended. You met him in a café in Kukes town, and you discussed plans
21 for the future.

22 A. Correct.

23 Q. I take it that this is a fair summary of your testimony from
24 yesterday?

25 A. Correct, yes.

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1 Q. Mr. Shala, we have noticed a number of inconsistencies between
2 what you testified yesterday and what you told the SPO in 2009 --
3 sorry, apologies, in 2019, a statement you said you stood by or you
4 stand by, which was a time in which before Pjeter Shala was indicted
5 and before you became a Defence witness. I would like to discuss
6 these inconsistencies with you today.

7 MS. PERGOLO: And with Your Honours' leave, I would like to read
8 out some parts of his 2019 statement.

9 PRESIDING JUDGE VELDT-FOGLIA: Please proceed if you have
10 already touched upon what he said in court. So --

11 MS. PERGOLO: These were all matters discussed yesterday --
12 sorry, apologies, Your Honours, yes. What I mean is that these are
13 matters that he just confirmed his testimony being accurate --

14 PRESIDING JUDGE VELDT-FOGLIA: Okay.

15 MS. PERGOLO: -- and about --

16 PRESIDING JUDGE VELDT-FOGLIA: And then now you put to him the
17 parts you think would need further clarification. If they are
18 inconsistent, that is yet to be seen of course. But they need
19 further clarification.

20 MS. PERGOLO: Absolutely. I will proceed exactly in that way.

21 So if we could have on the screen 083524-TR-ET Part 5 RED2.

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

24 MS. PERGOLO: And this is at page 23.

25 Q. And you said, Mr. Shala, lines 13 to 18 of the English version:

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1 "When I came to Kukes, I found him together with
2 Ruzhdi Saramati. And for a long time, he had gone somewhere. And
3 then he reported back a month, month and a half later. He came and
4 asked to be sent to the front. I think he stayed there for one
5 night. He left and I don't know where he went or what he did. I've
6 heard rumours that he lives abroad."

7 MS. PERGOLO: And, Your Honours, if I may be allowed to read
8 another passage also on this topic, which is actually at two pages
9 down from here, it's page 25.

10 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

11 MS. PERGOLO: Starting at line 23, and then it goes into the
12 next page. I'll read it slow.

13 PRESIDING JUDGE VELDT-FOGLIA: Please wait, Madam Prosecutor --

14 MS. PERGOLO: Oh, yes.

15 PRESIDING JUDGE VELDT-FOGLIA: -- because on our screen, we can
16 only see till line 20.

17 MS. PERGOLO: Thank you.

18 PRESIDING JUDGE VELDT-FOGLIA: Okay.

19 MS. PERGOLO:

20 Q. So we'll start here, and then as I read it we will move into the
21 next page, if that is workable. So in 2019, you also said, and you
22 were talking about the accused:

23 "He was in Kukes very little. Like I said, when I came I found
24 him with Ruzhdi Saramati. I saw him just that one time. And then he
25 left in an unknown direction ... I don't know if something had

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1 happened to him."

2 Perhaps let me complete this part, Mr. Witness, and then we
3 will -- oh, sorry, are you ...

4 A. May I?

5 PRESIDING JUDGE VELDT-FOGLIA: Do you want to answer a question?
6 Because Madam Prosecutor -- Madam Prosecutor --

7 THE WITNESS: [Interpretation] No, no.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay, tell me.

9 THE WITNESS: [Interpretation] The translation from English into
10 Albanian, it's entirely different. In relation to the numbers, for
11 instance, that Madam Prosecutor was referring to are not the same in
12 the Albanian translation. So I don't know whether -- whether I could
13 have the same ones, if possible, please.

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

15 If I understand you right, Mr. Witness, you're saying that the
16 pages in Albanian, you are looking at --

17 THE WITNESS: [Interpretation] Do not match.

18 PRESIDING JUDGE VELDT-FOGLIA: -- are different than from what
19 you heard through the headphones?

20 Yes, please.

21 MR. AOUNI: Your Honour, I think he wants to see the Albanian
22 version of that passage so he can read it. This is what I
23 understood.

24 PRESIDING JUDGE VELDT-FOGLIA: That's what I understand, too.

25 But I think that the Court Officer tried to do that, but we have the

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1 wrong page apparently.

2 Madam Prosecutor, can you assist Madam Court Officer with the
3 right Albanian page, please?

4 MR. DE MINICIS: Your Honours, for now -- we're proposing to
5 read from the English. If Your Honours would like also the Albanian
6 to be put to the witness, we can get the references. For now, we're
7 just working off the English and have the translator translate for
8 the witness as --

9 PRESIDING JUDGE VELDT-FOGLIA: Okay.

10 MR. DE MINICIS: If that's workable for Your Honour.

11 PRESIDING JUDGE VELDT-FOGLIA: In principle, it is. I look at
12 the Defence.

13 MR. AOUNI: Well, Your Honour, the original language is the
14 Albanian. If he's afforded -- we see that the Albanian page --
15 somewhere on top. I think if we look at line 7 of that page that
16 appears, maybe this is, from looking at the names, maybe this is the
17 corresponding part.

18 But on the language itself, since Albanian is the original, if
19 there is any discrepancy, maybe this is the time to look at it in
20 Albanian rather than have the translation of a translation of
21 English. But --

22 PRESIDING JUDGE VELDT-FOGLIA: Yes, let us see if for -- no, we
23 cannot do it from the top of the head. In principle, the translation
24 should be fine. Let me see here.

25 Maybe the interpreters can give us a hand to locate this part

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1 already starting on the page before, the Albanian text --

2 THE INTERPRETER: Okay. So can we have the page references in
3 the English version? So that's page 25 in Part 5?

4 MS. PERGOLO: Part 5, page 25, line --

5 THE INTERPRETER: Lines?

6 MS. PERGOLO: -- 23.

7 THE INTERPRETER: To?

8 MS. PERGOLO: To page 26, line 12.

9 THE INTERPRETER: If you could just give us some time,
10 Your Honours.

11 PRESIDING JUDGE VELDT-FOGLIA: Yes, please.

12 THE INTERPRETER: Your Honours, would you like the interpreter
13 to indicate the corresponding Albanian part?

14 PRESIDING JUDGE VELDT-FOGLIA: Yes, please.

15 THE INTERPRETER: So what starts at line 23 in English in
16 Albanian is line 9.

17 PRESIDING JUDGE VELDT-FOGLIA: Of which page?

18 THE INTERPRETER: Part 5, page -- the displayed page on the
19 screen, which I can't see exactly now. If we scroll down a little
20 bit, I could indicate you the page. Page 27, indeed.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you. And then that goes
22 till line 17?

23 THE INTERPRETER: I would need to see the next page in English.

24 PRESIDING JUDGE VELDT-FOGLIA: I understand.

25 Madam Court Officer, can you bring page 26 on the screen, the

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1 one which ends with "I don't know."

2 Yes.

3 THE INTERPRETER: Line 17.

4 It is page 24, rather, Your Honour, lines 13 to 18.

5 PRESIDING JUDGE VELDT-FOGLIA: From the Albanian version?

6 THE INTERPRETER: In the Albanian version, yes. So Part 5, page
7 24, lines 13 to 18.

8 It's line 17, "somewhere in the west." Are we looking at line
9 12 in English, right? The last sentence: "In June, beginning of
10 June"?

11 PRESIDING JUDGE VELDT-FOGLIA: That I would leave it to Madam --

12 MS. PERGOLO: Well, it's partially correct in the sense that
13 it's actually the -- yes, apologies. It's line 12:

14 "In June, beginning of June."

15 Correct. It's page 26, line 12.

16 PRESIDING JUDGE VELDT-FOGLIA: Okay. So if we would go back in
17 the English version to page 25, at line 23:

18 "He was in Kukes very little."

19 That starts in the Albanian version on the page now pulled up,
20 yes, line -- which line, if I may ask the interpreter? So line 23 on
21 page 25 in the English version. Which line in the Albanian version
22 is that?

23 MR. AOUINI: Maybe I can assist, Your Honour. I think the page
24 we're looking at in the Albanian may correspond to the previous
25 passage that was read out. And the page that we just saw at page 27

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1 of the Albanian is the correspondent to the second portion that was
2 about to be read.

3 PRESIDING JUDGE VELDT-FOGLIA: And that was page 25 in the
4 Albanian version?

5 MR. AOUINI: No, page 27 in the Albanian --

6 PRESIDING JUDGE VELDT-FOGLIA: Yes, 27. Sorry, yes, 27.

7 MR. AOUINI: -- line 9 and following. The question would be at
8 line 7, maybe.

9 PRESIDING JUDGE VELDT-FOGLIA: Okay. Madam Court Officer, can
10 you bring us to page 27. And it starts at line 9.

11 A question for the interpreters: Is line 9, corresponds that
12 with the English version page 25, line 23?

13 THE INTERPRETER: Yes, it does.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

15 So we take it from here.

16 MS. PERGOLO: Thank you.

17 Q. Mr. Witness, I'll start again.

18 PRESIDING JUDGE VELDT-FOGLIA: And then I say thank you to the
19 interpreters, just between brackets. Thank you.

20 MS. PERGOLO:

21 Q. So this is what you told the SPO in 2019, and you're talking
22 about the accused.

23 "He was in Kukes very little. Like I said, when I came I found
24 him with Ruzhdi Saramati. I saw him just that one time. And then he
25 left in an unknown direction, and I don't know if something had

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1 happened to him.

2 "And before the end of Operation Arrow, he showed up and said,
3 'I want to go to the front lines.' He slept one night there and then
4 he took off, and I didn't see him after that. And I heard that after
5 Operation Arrow was finished, he then returned to Kosovo, and then he
6 went somewhere into the west. I don't know."

7 You were asked:

8 "So you saw Pjeter Shala in Kukes when you arrived there in
9 early April 1999?"

10 And you answered:

11 "Yes."

12 You were asked:

13 "And you also saw Pjeter Shala in Kukes in May 1999 during the
14 time of Operation Shigjeta?"

15 Answer:

16 "In June, beginning of June."

17 Mr. Shala, in 2019 you said, as we just read, that when you met
18 the accused the first time, he was with Ruzhdi Saramati and then he
19 left in an unknown direction. You made no mention of the accused
20 asking you for a weapon on that occasion.

21 You also stated that on that first encounter, the accused left
22 and then he reported back a month, a month and a half later, and that
23 on that second occasion he asked you for a weapon.

24 Can you please clarify the difference in these statements -- or,
25 rather, the difference from your evidence and this statement that you

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1 gave earlier in 2019?

2 A. Yes, yes. It seems like there is a misunderstanding here in
3 terms of what I have said, because I said that I met Pjeter Shala
4 twice, and that was at the beginning in April. And when I met him,
5 at that time he was at Ruzhdi Saramati's. But in the meeting, it was
6 just me. He met me, not Ruzhdi Saramati as well. And in that
7 meeting, he asked for a weapon, and he said he was going to the
8 front. And he asked for a weapon. And from then until June, I did
9 not see him. The last time I saw him was in June. That is what I
10 have stated back then as well.

11 And I can see here -- perhaps there is a mistake in translation,
12 or perhaps it has been noted down incorrectly, that is, my statement.

13 But the truth is that I saw Pjeter Shala twice, and I shall
14 repeat again, once at the beginning in April, and the last time was
15 in June just before the end of the war. And it was after that that
16 he left. I didn't say he went to Kosovo, but he said he was going to
17 see his family, and his family back then was in Belgium. That's his
18 wife and his children.

19 Q. Mr. Witness, you never said in 2019 that you were asked for a
20 weapon and that you gave a weapon to Pjeter Shala during that first
21 encounter. You placed that occurrence during your second meeting,
22 which you placed in time, rather, at the end of May 1999 or beginning
23 of June. And actually you gave a precise reference in time. You
24 said that it was before the end of Operation Arrow. Isn't that what
25 you said?

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1 A. I'm sorry, but what would he need the weapon for at the end of
2 the war? The war ended at the beginning of June. So he asked for
3 the weapon when we met the first time. While the second meeting we
4 had, it was just a farewell encounter. We just greeted each other,
5 and I continued on with my work. He asked for the weapon at the
6 first encounter, and then, on the basis of his words I'm saying here,
7 that he was leaving for the front.

8 Q. I have a few follow-up questions here. First of all, you
9 actually provided this timeline, the timeline that we just discussed,
10 so a first meeting in April 1999 and a second meeting at the end of
11 May, beginning of June, twice during your SPO interview.

12 MR. AOUINI: No, Your Honours. This is not completely accurate.
13 When he was asked whether it was the end of May, he corrected: "In
14 June, beginning of June," at page 26, line 12 of the SPO statement.

15 PRESIDING JUDGE VELDT-FOGLIA: I see here then as an answer:
16 "Somewhere around there, beginning of June or end of May."
17 That's his answer, no? And you were reading the question?

18 MR. AOUINI: The answer just before was:

19 "In June, beginning of June."

20 So it's --

21 PRESIDING JUDGE VELDT-FOGLIA: Yes, and then there's another --
22 no, I want to have the complete part. And then there's a question:

23 "End of May, beginning of June."

24 And then the answer is:

25 "Somewhere around there, beginning of June or end of May."

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1 That -- if we say it like this, is it -- I want to be as
2 accurate as possible. Then the Defence is fine with it? Okay, good.

3 MR. AOUINI: Yes, that's the whole passage.

4 PRESIDING JUDGE VELDT-FOGLIA: Good.

5 MR. AOUINI: Thank you.

6 MS. PERGOLO:

7 Q. Actually, my point is that, Mr. Witness, the two references that
8 you gave to these timelines are one at page 23, and we read it. And
9 then you said that when you came to Kukes you found him together with
10 Saramati, and you said he reported back a month, a month and a half
11 later.

12 Now, yesterday you told us that, and we discussed it earlier
13 this morning, that you dated that meeting approximately around the
14 10th or 15th April 1999. So if we calculate a month or a month and a
15 half later, to which date are we getting? And my proposition is that
16 that would take us to end of May, beginning of June. Would you agree
17 with me on this?

18 A. Yes, and that's what I -- what I stated, towards the end of May.
19 I'm not sure about the exact date. So, yes, end of May, beginning of
20 June. I said one, one and a half months, but it could have been even
21 more than that. I don't know the exact dates when those things
22 happened.

23 Q. And, Witness, I appreciate that a long time has passed, and it's
24 difficult to be precise with dates after all of this time. However,
25 I understand now that you're confirming that you saw the accused

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1 twice. Once was in April, and once was rather at the end of May,
2 beginning of June.

3 Do you confirm that this second encounter happened before the
4 end of Operation Arrow, indeed, rather, at the end of May, beginning
5 of June?

6 A. Correct.

7 Q. And, Mr. Witness, does this -- does placing these events a
8 little bit more correctly in time, does this also remind you of when
9 you gave Pjeter Shala the weapon, whether that was the first or
10 during the second meeting?

11 A. Of course the first encounter. Our second encounter when we met
12 was just before the end of the war, so why would he want a weapon
13 then?

14 Q. Mr. Witness, you just confirmed, though, that rather this
15 encounter happened at the end of May, beginning of June, which is not
16 exactly right before the end of the war. Is this correct?

17 A. Well, I said towards the end of the war. I didn't say after the
18 end of the war.

19 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, please hold
20 your horses.

21 Defence Counsel.

22 MR. AOUINI: Thank you, Your Honour. We object to asking the
23 same question seven times. Your Honours -- and the witness just
24 answered, and I give you the reference, it's at page 2969, at line
25 18:

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1 "The second occasion was towards the end of the war, just before
2 the war ended in June."

3 So this is exactly what he repeated now and exactly what he
4 said. He has been very clear on several occasions. If my learned
5 colleagues want to challenge him, maybe they can say: Was it the
6 meeting in the city or was it in the factory? They can ask some
7 other type of questions if they think he's not being consistent. But
8 we've been asked now seven times whether the first, second, and the
9 timings, and he has been consistent on it.

10 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, the same
11 question went through my head, but there is one additional point that
12 I would have further explored is towards the end of the war, and I
13 think that the Prosecutor was getting at that, because there is a
14 difference -- yeah, it's a relative -- it's a term which can be
15 interpreted in different ways. And the reason that I was allowing
16 for it is that this was coming up. But I do agree with you that the
17 question has been posed several times, but this last part was the
18 part that I found not clear yet.

19 MR. AOUINI: Yes, Your Honour. And --

20 PRESIDING JUDGE VELDT-FOGLIA: So -- but no, we are not going to
21 discuss. So I will allow on this specific point, and if you have
22 something to add, but not a repetition.

23 But you have the floor to add something.

24 MR. AOUINI: Just briefly that we want to explore the truth, but
25 putting the witness in a difficulty with the exact month, month and a

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1 half, three weeks, he is put in a difficulty where he has been clear
2 with the best of his recollection. That's what we have a difficulty
3 with, Your Honours.

4 PRESIDING JUDGE VELDT-FOGLIA: No, I see your difficulty, and I
5 already told you that partly I understood it, but there was -- I
6 think there is a point that should be clarified with regard to what
7 this is, the end of the war, and they are allowed to put this
8 question in order to further qualify. But we should not repeat
9 questions. There I am with you.

10 Madam Prosecutor, I don't think you need further guidance other
11 than that what -- the discussion we just had. I give the floor to
12 you.

13 MS. PERGOLO: Yes, Your Honours. Maybe I'll just clarify one
14 question again on the timing, and then I'd like to move on to other
15 topics.

16 Q. So, Mr. Witness, you've talked about the end of the war. Can
17 you please clarify what you mean? Give us a time reference for the
18 end of the war.

19 A. With the Kumanovo Agreement between the Serbs - at that time it
20 was called Yugoslavia - and the KFOR forces that were preparing to
21 enter Kosovo. In June 1999 -- and I think this was on the 5th or 6th
22 June, as far as I remember. I mean, the agreement was signed then.
23 And the retreat of their forces started. They began retreating their
24 forces from Kosovo.

25 Soldiers, policemen, paramilitaries, militia, every one of them

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1 were -- started to withdraw, started to retreat from Kosovo, and
2 that's what I call the beginning of the end of the war. And that's
3 the end of the war, practically, which was also accompanied by the
4 entry of our members, of the KLA, in some parts of the territory of
5 Kosovo.

6 Q. Thank you, Mr. Witness. I would now like you to focus on
7 another aspect of what you told us, and in particular on the
8 whereabouts of the accused after your encounters with him.

9 So, again, during -- in your SPO statement, you said that after
10 the first meeting in April 1999, the accused left and you didn't know
11 where he went, and also later you stated that he went to an unknown
12 direction.

13 However, yesterday you told us that after that encounter, you
14 were convinced 1 million per cent that he went to the front line
15 where he intended to go. And later on also you specify that he
16 actually went to the fourth direction, Kukës-Morinë-Gorazhup.

17 Can you explain the difference between these two statements?

18 A. Yes, that's correct. But at that meeting, he didn't tell me
19 where exactly he was going. He said that he was going to the front
20 line, but at the second meeting he told me that he had gone there.
21 And this is correct.

22 Q. So you didn't learn during the first meeting that he actually
23 had gone to the front line. You learned this later. Is this
24 correct?

25 A. He said that he would go, but I didn't know whether he went

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1 there.

2 Q. Then with regard to the second meeting. Yesterday, you said
3 that during the second meeting, which happened in a café in Kukes
4 town, the accused told you that he wanted to go to Belgium. And you
5 also stated that you remember very well him telling you that he
6 wanted to honour -- that he had honoured his father's words.

7 But, in fact, in 2019, you never mentioned any meeting in a café
8 where you discussed plans for the future. You told us, the SPO, that
9 you didn't see him after that time, and you heard rumours that he
10 lived abroad.

11 Can you again explain the differences in these two accounts?

12 A. As far as I know, and that's what I stated at the time, and I
13 will repeat it now, that in the second meeting he told me that he
14 fulfilled his national duty, his duty to the nation, and he would
15 return to his family. And he told me that his family was in Belgium,
16 and he had his wife and children in Belgium there.

17 Q. Mr. Witness, you never mentioned the fact that the accused
18 wanted to go to Belgium. Actually, you didn't mention Belgium at all
19 in your 2019 statement. Can you explain the difference in the nature
20 of this conversation and why you never mentioned it then?

21 A. Maybe I didn't mention it, but that's what I thought at the
22 time, and that's what I think today.

23 Q. And what do you mean what you thought at the time? Which time
24 are you talking about now?

25 A. The second meeting and the conversation I had with him at that

1 meeting. The second meeting in Kukes.

2 Q. Mr. Witness, I have one other point to raise with you, and this
3 is actually the location of your second meeting with the accused.
4 Yesterday, you said that the second time you met was in a café in
5 Kukes town. However, in 2019, while acknowledging that you didn't
6 know exactly where the accused slept after your encounter, what you
7 told the SPO clearly indicates that the meeting did not happen in
8 Kukes town.

9 MS. PERGOLO: And I would like now to read another passage, with
10 Your Honours' leave, regarding the location of this encounter.

11 PRESIDING JUDGE VELDT-FOGLIA: Yes, you may. But following --
12 Defence Counsel, I see that you want to say something.

13 MR. AOUINI: Just to clarify one thing. This is something that
14 has been read out from the previous statement is that the witness in
15 his previous statement mentioned the west, at page 26 at line 6,
16 mentioned the west, which is a reference to western countries. Just
17 for the accuracy.

18 PRESIDING JUDGE VELDT-FOGLIA: But that you could also have
19 explored in your second round. But it's good that you mention it now
20 but -- because now you have already given the answer, and you could
21 have elicited that from the witness.

22 No. You could have elicited that from the witness. Now you
23 have given the answer. But you will get the opportunity to clarify
24 what is needed, Defence Counsel. I will give you ample opportunity.

25 But we have to go back to Madam Prosecutor, and we will have to

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1 find also the Albanian text at this moment in time. So I hope that
2 the interpreters will be able to assist us.

3 MS. PERGOLO: Shall I provide the reference then? It is still
4 in Part 5, RED2, page 27. So we are in the same -- around the same
5 area of the transcript in the Albanian version, I believe. But in
6 English, the lines are 20 to 25.

7 PRESIDING JUDGE VELDT-FOGLIA: May I ask the interpreters to
8 assist us to find the pages in the Albanian version -- the lines and
9 page in the Albanian version.

10 THE INTERPRETER: Can we have some search term to look for?

11 PRESIDING JUDGE VELDT-FOGLIA: It was -- I will give the floor
12 to Madam Prosecutor. It is lines, you said, 20?

13 MS. PERGOLO: So the lines are 20 to 25. Perhaps a word that
14 could help is "sleeping accommodation."

15 THE INTERPRETER: Lines 20 to 25, which page and in which
16 language?

17 PRESIDING JUDGE VELDT-FOGLIA: Page -- so it is page 27 in the
18 English version, and then it's lines 20 till 25, and we are looking
19 for the corresponding part in the Albanian version.

20 THE INTERPRETER: It looks like it's page 29, lines 9 to 12.

21 PRESIDING JUDGE VELDT-FOGLIA: Yes, because two lines before you
22 see April 1999.

23 [Trial Panel confers]

24 THE INTERPRETER: The question starts at line 7.

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

1 MS. PERGOLO:

2 Q. Mr. Witness, in relation to the second meeting with the accused,
3 in 2019 you said -- or, rather, you were asked:

4 "And the time when he stayed at the mobilisation centre, did he
5 then stay in your building?"

6 And you answered:

7 "I know that he spent one night, because he came and got the
8 weapon in the morning before leaving, but I don't know if he was in
9 the sleeping accommodation or on the compound or if he was with
10 Ruzhdi Saramati or where he spent the night."

11 Mr. Witness, didn't this encounter, as you described it in the
12 SPO statement, didn't this happen at the Kukes factory?

13 A. The encounter happened at the Kukes factory, but -- you read
14 your own version. But in the Albanian version says that:

15 "I know that he was sleeping somewhere. Whether he slept in the
16 sleeping quarters or at Ruzhdi Saramati's place, I don't know. He
17 slept somewhere. He came there the next morning, got the weapon, and
18 left."

19 This is what it writes here in Albanian.

20 Q. Thanks, Witness. And, in fact, this reads the same in English.
21 The point is not really where he slept but where he met with you when
22 you gave him a weapon. That was the point I was trying to clarify,
23 but you did. So thank you very much for that.

24 Also --

25 A. That's what I said.

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1 Q. Thank you, Mr. Witness. Also no bar was mentioned in that
2 statement, which is also why I was trying to clarify this with you.

3 I have a final point that I would like to discuss.

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, it's five
5 minutes to 1.00, so I would like to break at 1.00 in principle. But
6 how much time do you think that you will need still?

7 MS. PERGOLO: Your Honours, I think this will take me another
8 five to ten minutes max. If we have the flexibility to perhaps go on
9 for a few more minutes, I think I could wrap this part up before the
10 lunch break. Otherwise, I can stop here and then I'll finish this
11 after lunch.

12 PRESIDING JUDGE VELDT-FOGLIA: I ask the interpreters if we can
13 go on for five minutes more.

14 THE INTERPRETER: Yes, Your Honour. We can continue.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

16 Madam Prosecutor, you've heard the answer. We are allowed some
17 more time. So, please, you have the floor.

18 MS. PERGOLO: Thank you.

19 Q. Mr. Witness, again, in 2009, you described the nature -- in
20 2019, you described the nature of the discussion that you had with
21 Pjeter Shala during the second meeting very differently from what you
22 did yesterday. Yesterday you said that you had a café, that you were
23 very relaxed, that he discussed with you his father's wishes. But
24 actually what you told the SPO in 2019 is quite different, actually.

25 And, again, I can provide the reference for the Albanian, or I'm

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1 happy to read this in English and then have the translators interpret
2 this, as Your Honours prefer.

3 PRESIDING JUDGE VELDT-FOGLIA: I would proceed in the way we
4 have done till now.

5 MS. PERGOLO: Then I can provide the reference in English, which
6 is Part 5 still, RED2, page 26, lines 19 to 23.

7 PRESIDING JUDGE VELDT-FOGLIA: And then we will proceed in the
8 future for having both versions available without having to ask the
9 interpreters for their assistance in this.

10 So, Madam Prosecutor, it's page 26, line 19 till 23.

11 And then I will ask the interpreters what would be the
12 corresponding excerpt in the Albanian version.

13 THE INTERPRETER: Bear with us a second, Your Honour.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

15 MS. PERGOLO: Your Honours, perhaps if it's taking a few
16 minutes, we can also break now while the reference is being checked,
17 and I can finish with this after the break. If that is more
18 convenient, we can also proceed in that way.

19 PRESIDING JUDGE VELDT-FOGLIA: As the interpreters are looking
20 for it, we may just finish it now.

21 THE INTERPRETER: There is no direct correspondence, exact
22 correspondence between the words that are said in English and in
23 Albanian. At least, we can't find that at the moment, so ...

24 PRESIDING JUDGE VELDT-FOGLIA: Very well. Then we will
25 proceed -- thank you, Madam Interpreter.

1 Then we will proceed otherwise. We will break now. The
2 necessary references can be looked for.

3 I have a question for Victims' Counsel. Will you proceed with
4 questioning?

5 MR. LAWS: Your Honour, yes, we do have some questions for the
6 witness.

7 PRESIDING JUDGE VELDT-FOGLIA: Okay. And can you give me an
8 indication how much time you would be needing?

9 MR. LAWS: I think probably somewhere around 10 to 15 minutes.

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

11 And will there be a redirect from the part of the Defence?

12 MR. AOUBINI: Your Honour, as it stands, maybe one or two
13 clarifications. Nothing substantial.

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

15 Then, Mr. Witness, we will now have a break for lunch of one and
16 a half hours till 2.30, and then we see you back to proceed with the
17 questioning.

18 [The witness stands down]

19 PRESIDING JUDGE VELDT-FOGLIA: Before we adjourn, we need to go
20 into private session just for a short moment.

21 Madam Court Officer, can you bring us into private session,
22 please.

23 [Private session]

24 [Private session text removed]

25

1 [Private session text removed]

2

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6

7 [Open session]

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

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

10 We'll be taking a break for one and a half hours, and I saw the
11 public arriving, but we will be continuing with the hearing at 2.30.

12 The hearing is adjourned.

13 --- Luncheon recess taken at 1.04 p.m.

14 --- On resuming at 2.31 p.m.

15 PRESIDING JUDGE VELDT-FOGLIA: Good afternoon. Welcome to all
16 of you. Welcome, Mr. Shala.

17 Yes, I see that we are in the same composition as before the
18 break, all the teams, so that is noted. And we will proceed with the
19 cross-examination by the Specialist Prosecutor's Office.

20 Madam Court Usher, yes, thank you, can you usher the witness in.

21 [The witness takes the stand]

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

23 THE WITNESS: [Interpretation] Thank you.

24 PRESIDING JUDGE VELDT-FOGLIA: You can hear me well?

25 THE WITNESS: [Interpretation] Yes, I can. Very well.

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1 PRESIDING JUDGE VELDT-FOGLIA: Good.

2 Mr. Shala, can you hear the witness?

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

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

5 Very well. Then I give the floor to Madam Prosecutor.

6 MS. PERGOLO: Thank you, Your Honours. And just maybe as a --
7 by way of an update. I believe I've used so far approximately two
8 hours and a half. I think I'll have probably another hour to go.
9 I'll keep you updated if there's any updates, but that's my
10 prediction at the moment.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Thank you for this
12 update.

13 MS. PERGOLO:

14 Q. Good afternoon, Mr. Shala. Welcome back. I'd like to wrap up
15 what we discussed before the break --

16 A. Hello.

17 Q. -- this morning. And we discussed at length your 2019 SPO
18 statement, and actually today you said that you stand by it. You
19 stand by what you said in 2019.

20 PRESIDING JUDGE VELDT-FOGLIA: I see you nodding, Mr. Witness.
21 Because if you nod, it's not registered, so it's better that you
22 speak out. Because if not, we have nothing.

23 THE WITNESS: [Interpretation] Okay. I will. Thank you.

24 PRESIDING JUDGE VELDT-FOGLIA: Okay. But please answer the
25 question of Madam Prosecutor.

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1 THE WITNESS: [Interpretation] Okay. Yes.

2 MS. PERGOLO:

3 Q. So I guess the question is whether you confirm that you stated
4 today that you stand by your 2019 statement or whether you do state
5 that you stand by it?

6 A. Yes. Yes, I do.

7 Q. Thank you. And, in fact, at the end of that interview, you were
8 asked, among other things, to confirm the accuracy of what you told
9 the investigators at the time, which you did.

10 MS. PERGOLO: And I can provide the reference, which is
11 transcript Part 9, page 25, lines 8 to 12 for the record.

12 Q. You were also asked at the end of that interview whether you
13 wished to clarify, supplement, or amend anything that you said, and
14 you stated that there was no need for that.

15 MS. PERGOLO: And, again, this is, for our references, still
16 Part 9, page 25, lines 13, 15.

17 Q. Can you confirm that that's what you stated at the time. That
18 there was no need to change or clarify anything at the end of that
19 interview?

20 A. Yes, that was the case.

21 Q. Mr. Shala, in that statement, which is closer in time to the
22 events concerned by this indictment, you described your encounters
23 with the accused quite differently from what you testified in court,
24 as we discussed earlier. And in particular, you said, and we
25 discussed also, I'll briefly go back to it, that the first time --

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1 when you went to Kukes, you found the accused together with
2 Ruzhdi Saramati. The accused then for a long time had gone
3 somewhere. He reported back a month or a month and a half later, and
4 when he came back, he asked to be sent to the front. And then you
5 didn't know where he went from there.

6 Mr. Witness, you offered -- you came up with this timeline
7 during your SPO statement. It wasn't provided to you by the
8 investigators. And you repeated it twice, as we discussed this
9 morning.

10 And you also said that the second meeting that you had, and this
11 was actually where we broke off before the break, that the second
12 meeting was actually very short, and because the accused asked you
13 for -- to go to the front lines, you actually said:

14 "... I said, well, good luck. What else should I say?"

15 And this is at page -- at Part 5 of your interview, page 26,
16 lines 19 to 23, and the corresponding Albanian version, still Part 5,
17 page 28, lines 6 to 9.

18 You also stated, indeed, that -- you talked about the weapon, as
19 we discussed. You never mentioned at the time, in 2019, meeting the
20 accused in Kukes town at the end of the war, discussing plans for the
21 future. But today, in 2023, as you are called to testify as a
22 Defence witness, you said for the first time that this meeting
23 happened at the end of the war when you met the accused in Kukes
24 town, in civilian clothes, and he told you he was returning to
25 Belgium as he had fulfilled his national duties, didn't you?

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

2 Defence Counsel, if you want to say something, you want to
3 object, I see, from the expression on your face, that we will usher
4 the witness out.

5 Madam Usher, could you please usher the witness out.

6 [The witness stands down]

7 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, you have the
8 floor.

9 MR. AOUINI: Thank you, Your Honour. And apologies. The
10 question of my learned colleague --

11 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] ...
12 when you make submissions, because you don't have to apologise to
13 take the floor.

14 MR. AOUINI: Thank you. We are just uncomfortable to interrupt
15 our colleagues when they are doing their job. But we have to point
16 out that the question of colleague started at 14:36, ended at 14:39,
17 so three minutes and a half, making actually submissions, not a
18 question, just to end up saying what he just said this morning.

19 So if they have a problem with what he said -- he stood by what
20 he said. He explained the time. We understand, all, the issue is
21 the timing. Which one is the first, if there is another one, or is
22 it not. They have to go straight to it. He's been asked to confirm
23 time after time what he has said in his statement, what he has said
24 in the hearing. Probably he doesn't even see where is the problem.
25 This is his recollection. He's testifying under oath, and we have to

1 go -- if there is something they want to put to him, they have to go
2 straight to it. We're actually having some lengthy submissions in
3 front of the witness. If they believe he lied, they have to confront
4 him. If they believe he's confused with something, they have to
5 confront him and allow him to clarify that. We've been doing this
6 for quite a lengthy time, Your Honour.

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

8 I will first allow the Prosecution to make submissions on this.

9 MS. PERGOLO: Yes, Your Honours. And I do realise it was a long
10 question. I'm happy to rephrase it or to shorten it, but I do
11 believe that I just summarised what -- basically the evidence the
12 witness gave this morning.

13 But as I said, I'm happy to go straight to my final question to
14 him in this regard.

15 PRESIDING JUDGE VELDT-FOGLIA: Because we have interrupted it,
16 we need to re-ask the question. But at the same time, I found the
17 background given to the question helpful. I do see that it could
18 have been a little bit shorter, but it was background information
19 that allows the witness to understand in which context his question
20 should be seen. That's how I interpret it, and that's the reason
21 that I did not prohibit the Prosecution to proceed.

22 But now we will continue. And it is helpful, Madam Prosecutor,
23 to make the same point but a little bit more succinct if possible.

24 Madam Court Officer, could you ask Madam Court Usher to bring
25 the witness back.

1 [The witness takes the stand]

2 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Witness. We
3 will proceed with the question by the Specialist Prosecutor's Office.
4 Madam Prosecutor.

5 MS. PERGOLO: Thank you, Your Honours.

6 Q. Mr. Witness, you provided, as we discussed already, a certain
7 timeline of the events of these encounters with the accused. And, as
8 I mentioned earlier, you offered yourself this timeline when you were
9 first asked whether you knew Pjeter Shala. Can you confirm that?

10 A. Yes.

11 Q. Thank you. Today you said something that you never mentioned
12 before for the first time. And in particular, you talked about a
13 meeting that you had in Kukes town at the end of the war in a café,
14 in a bar, where the accused was in civilian clothes. And, again, you
15 also said that he was returning to Belgium as he had fulfilled his
16 national duties.

17 So my question to you today is can you confirm that this is the
18 first time you discussed about this meeting?

19 A. No, it is not the first time. I have also stated it the first
20 time when I gave my witness statement back in 2019. So I have said
21 that and repeated that yesterday, too, if you may recall. So I will
22 reiterate it again today, the very same thing. And it was the same
23 thing I thought back then and the same thing I think now.

24 I have said that I have met Pjeter Shala twice. First of all,
25 at the beginning of April 1999, when we had a conversation of about

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1 20 minutes, half an hour, and we had a coffee. And it was in that
2 meeting that he asked for a weapon, and it was then that he said he
3 was going to the front. And I've said this then as well.

4 And the following day, he came over -- and it is also in my
5 statement which I've already given to the SPO. So he came over the
6 following day. He received the weapon, and he left.

7 The second meeting, I have said that it took place either at the
8 end of May or the beginning of April. So it was almost towards the
9 end of the war, and I shall say it again today.

10 PRESIDING JUDGE VELDT-FOGLIA: End of May, yeah, you said, or
11 the beginning of what month?

12 THE WITNESS: [Interpretation] Ah, yeah, the beginning of the
13 sixth month instead, June. June. Apologies. June.

14 And the second meeting took place in town in Kukes. Now, I know
15 we met at a café because in Kukes we wouldn't meet in the street.
16 But you have reiterated several times that perhaps he obtained the
17 weapon and he went somewhere. There was no need for him to obtain a
18 weapon then because the war was ending, had ended. So he said that
19 he had completed his national obligation, as it were, and he said he
20 wanted to go to the west. And it says there, not in a single place,
21 but in two or three places in the statement, that he would go to the
22 west.

23 And when we say "the west," for all of us in the east, we know
24 that the west -- the western countries are Austria, and then further
25 up north --

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1 Q. Thank you.

2 A. -- to the Netherlands, Belgium. And that's what the west
3 denotes for us.

4 Q. Thank you. Thank you, Mr. Witness.

5 A. So -- and I was thinking of the west.

6 Q. Yes, thank you. But please focus a little bit more on what I'm
7 asking you. Actually, what I was putting to you is that you never
8 said in 2019 that this meeting happened in Kukes town in a café at
9 the end of the war. And we saw your transcript this morning, we read
10 them, and you never stated that. Isn't this true?

11 A. To my knowledge, I have said it. It's been a while also since
12 2019. It's 2023 now, close to the end of this year, so it is almost
13 five years soon. So maybe I did say it, and so to my knowledge, I
14 have said it.

15 PRESIDING JUDGE VELDT-FOGLIA: But we did not see it in the
16 transcript. It's not in the transcript. Not in the Albanian and not
17 in the translation -- in the Albanian version and not in the English
18 version.

19 MS. PERGOLO:

20 Q. Thank you, Mr. Witness. I think we can move on from this topic.
21 I have a few more questions, brief questions --

22 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, now that we are
23 on this topic, I'd like to ask a question to Mr. Witness.

24 Mr. Witness, from Kukes town, from the centre where -- in this
25 café where you have said you have been with Mr. Shala to the Kukes

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1 metal factory, if you would walk that, how far is that? In order for
2 us to know something about distances. Or do you have -- or would you
3 go by car?

4 THE WITNESS: [Interpretation] I went by car.

5 PRESIDING JUDGE VELDT-FOGLIA: And how far is that?

6 THE WITNESS: [Interpretation] I think it's about 2 and a half
7 kilometres. So about 10 minutes, 15 minutes I was there.

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

9 MS. PERGOLO:

10 Q. Mr. Witness, still on the topic of the accused. Yesterday, you
11 were discussing with the Defence his role during the war, and you
12 discussed also about a certain document authorising Mr. Shala to do
13 certain activities in relation to Brigade 128.

14 Now, at transcript page 2977, lines 24 to 25, you were asked
15 whether the accused was ever in a commanding role in that brigade,
16 and you excluded that. You said no.

17 However, at page 2978, lines 5 to 9, you stated, and I quote:

18 "I personally did not hear of this brigade. I know that later
19 on something else was formed under the leadership of another person,
20 not Pjeter Shala. In this respect, Pjeter Shala was connected to
21 that other structure but not as a commander. Rather, as a simple
22 soldier."

23 Do you remember saying that yesterday?

24 A. Yes, I do.

25 Q. So first of all, I'd like to ask you who was this person under

1 whose leadership something else was formed?

2 A. Ruzhdi Saramati.

3 Q. And what did you mean when you said that the accused was
4 connected to that other structure under Ruzhdi Saramati?

5 A. Well, with his unit.

6 Q. Perhaps I'm not understanding your answer, Mr. Witness. Do you
7 mean that the accused was in Ruzhdi Saramati's unit? Is that what
8 you meant?

9 A. Yes.

10 Q. Thank you very much. I will move on now to another set of
11 questions concerning a number of individuals. I'll start by asking
12 you about Fatmir Limaj. Do you know this person?

13 A. Yes, I do.

14 Q. What was his role in May 1999?

15 A. Fatmir Limaj, and I think it was mid-May 1999, came over from
16 Kosovo territory to Albania. And after a while, he came to the north
17 and he was stationed in Krume. And it was from there or until then
18 that I didn't know him personally but had heard about him, about his
19 name also during the war. And he was a commander during the war,
20 too, and then in the General Staff.

21 After his arrival to Albania, the commander of the operation was
22 Bislím Zyrapi. And Zyrapi afterwards went over to Tirana and he was
23 replaced as a commander by Fatmir Limaj.

24 Q. Thank you for that. So around this time, you said mid-May, when
25 Limaj came over to the north of Albania and was stationed in Krume,

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1 did you ever see him at the Kukes factory?

2 A. To Kukes? No. To Krume, so, yes. And we had almost daily
3 meetings with him since he took over the leadership, the
4 commandership of the operation.

5 Q. So you never saw him in Kukes at the metal factory?

6 A. No, no, I have not seen him personally.

7 Q. Do you know a person called Sabit Geci?

8 A. Sabit Geci, by name, yes. I have heard of him. He was an early
9 fighter from Drenica. He was wounded during the war, during the --
10 severely. And during the war, I never had the opportunity to get to
11 know him myself. But after the war, I did meet him, and it was in
12 Prishtine that I met him when I was there.

13 Q. So did you ever meet or see Sabit Geci at the Kukes factory?

14 A. As I said, the first time I met Sabit Geci was after the war.

15 Q. Thank you. Do you know a person called Xhemshit Krasniqi?

16 A. Yes.

17 Q. How do you know him?

18 A. I met him several times -- I saw him, sorry, several times in
19 Kukes.

20 Q. Did you see him at the Kukes factory as well?

21 A. Yes, several times.

22 Q. What role did he have at the Kukes factory?

23 A. He wasn't part of the logistics group. I was in charge of
24 logistics. And I know almost all of those who were members of the
25 logistics group. But Xhemshit Krasniqi, I met when I got there.

1 He'd been there earlier, too, in a group that was led by
2 Xheladin Gashi. But the exact position he held, I never knew.

3 Q. Thank you, Mr. Shala.

4 MS. PERGOLO: Your Honours, I would request now to move briefly
5 into private session to address a matter that we also discussed
6 yesterday and for the same reasons we went into private session
7 yesterday.

8 PRESIDING JUDGE VELDT-FOGLIA: Yes.

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

10 ~~[Private session]~~ [Open Session] *Reclassified Pursuant*
11 *to F760*

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

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

14 Madam Prosecutor, you have the floor.

15 MS. PERGOLO:

16 Q. Mr. Witness, yesterday you told us that you met at the Kukes
17 factory a person called Time Kadriaj. Do you remember that?

18 A. Yes, I do.

19 Q. And you also mentioned that she was with a person called Nasim.
20 Do you remember saying that?

21 A. Yes.

22 Q. Could you perhaps explain to us who this Nasim was?

23 A. Nasim Haradinaj was a commander. At the time, he was a
24 commander in the Koshare direction. And I think at the time, Time
25 Kadriaj was there too, and they came because there was a journalist
who had been injured by a bombardment. So the three of them came

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1 over together.

2 Q. Thank you, Mr. Witness.

3 MS. PERGOLO: And, Your Honours, we can move back into public
4 session.

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

7 ~~{Open session}~~

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

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 Madam Prosecutor, you may proceed.

11 MS. PERGOLO:

12 Q. Mr. Witness, I actually would like to go back briefly to the
13 person we discussed -- a person we discussed a few moments ago, and
14 in particular Fatmir Limaj. You said that he became the commander of
15 Operation Arrow at some point in May 1999; is this correct?

16 A. Yes.

17 Q. You mentioned that you never saw him at the Kukes factory; is
18 that correct?

19 A. I didn't see him personally, no.

20 Q. Do you know otherwise if he was present there? Maybe you heard
21 from other people?

22 A. No.

23 Q. Mr. Witness, I would like to actually raise with you, like,
24 something that you mentioned during your SPO interview in relation to
25 this individual.

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1 MS. PERGOLO: And perhaps, Your Honours, I can provide the
2 reference for the record, but I'm happy to summarise and I don't need
3 to read the entire passage.

4 [Specialist Prosecutors confer]

5 MS. PERGOLO: Your Honours, before maybe doing that, I can
6 actually put another question to the witness.

7 PRESIDING JUDGE VELDT-FOGLIA: But normally I have a preference
8 to call up the evidence because then all parties and Victims' Counsel
9 and also the Panel can read it. Although, there are some exceptions.
10 Like before, you cited the end of a witness statement, that was --
11 that sufficed. But normally it's better to call it up.

12 But please proceed.

13 MS. PERGOLO: Actually, I'm happy to proceed in that way or I'm
14 also happy to ask a question, and then depending how the witness
15 answers, maybe I can call up the statement, if that is okay to
16 proceed? Thank you.

17 Q. So you said before that Fatmir Limaj replaced Bislim Zyrapi in
18 the command of Operation Arrow; correct?

19 A. Yes.

20 Q. Does that mean that by becoming the commander of
21 Operation Arrow, Fatmir Limaj also became responsible for the Kukes
22 centre, the Kukes factory, by virtue of his authority as the
23 commander of Operation Arrow?

24 A. The commander of the Shigjeta operation, or Operation Arrow, was
25 responsible for the actions and operations at the front line but also

1 other activities such as logistics, supplies, operations. So what I
2 mean is the commander is the main person that commands the whole
3 operational structure in that direction.

4 Q. Do I understand your answer to mean that given, as you said,
5 that the commander of the operation was responsible not only for the
6 actions and the operations at the front but also the other activities
7 - logistics, supplies, and all of that - that when you became the
8 commander of Operation Arrow, you also became the person responsible
9 for the Kukes factory as well as other facilities, bases in the north
10 of Albania that were engaged in the preparations and then in the
11 fight for this operation?

12 A. He was the main commander.

13 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please answer the
14 question. This is not a real answer. There's a specific question,
15 and I would like you to answer it.

16 THE WITNESS: [Interpretation] Yes.

17 MS. PERGOLO:

18 Q. So, Mr. Witness, did Fatmir Limaj's authority also extend to the
19 Kukes factory when he became the commander of Arrow?

20 A. Yes.

21 PRESIDING JUDGE VELDT-FOGLIA: So, Mr. Witness, this answer was
22 possible, and we did not have to -- I prefer that we don't have to
23 insist on that.

24 THE WITNESS: [Interpretation] I understand.

25 MS. PERGOLO:

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1 Q. Mr. Witness, do you know a person called Naser Kocinaj?

2 A. I had forgotten his name, but I think he was a witness a few
3 days ago, and then I was reminded that he was a soldier in Kukes. I
4 had forgotten about him, but I heard his name a few days ago. I
5 heard that he was a witness here, and then I remembered the name, and
6 I think he was there. He was there.

7 Q. Did you meet him at the metal factory, at the Kukes factory?

8 A. I don't remember now. It's been a few years, a lot of years.
9 But when I saw the photograph, I couldn't tell that it was him.
10 People change.

11 Q. Thank you, Mr. Witness.

12 MS. PERGOLO: Your Honours, I would ask again to move into
13 private session for the next couple of questions, and I can explain
14 more the reasons once we move in private.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

16 Madam Court Officer, kindly bring us into private session.

17 [Private session]

18 [Private session text removed]

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Witness: W04754 (Resumed) (Private Session)

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Cross-examination by Ms. Pergolo

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[Open Session] *Reclassified Pursuant to F760.*

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

16 Madam Court Officer, could you please have the witness ushered
17 in again. Thank you.

18 [The witness takes the stand]

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you for your patience,
20 Mr. Witness. I will give the floor back to Madam Prosecutor.

21 MS. PERGOLO: Thank you, Your Honours.

22 Q. Mr. Witness, do you know a person called Safete Hadergjonaj?

23 A. I know the name and I know her as a person. I only met her
24 after -- met her after the war. She was an MP in the parliament. An
25 MP of the Democratic Party.

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1 Q. Do you know where she is from?

2 A. She's from the Decani municipality. Decan municipality.

3 Q. Was she a member of the KLA during the war?

4 A. I'm not aware. Personally, I'm not aware. I have no knowledge
5 of that.

6 Q. Was she a member of the Kosovo liberation corps after the war?

7 Do you know that?

8 A. I think so, yes, in the beginning. But she didn't stay there
9 long.

[Private Session]

10 [Private session text removed]

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Witness: W04754 (Resumed) (Private Session)

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Cross-examination by Ms. Pergolo

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Witness: W04754 (Resumed) (Private Session)

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Cross-examination by Ms. Pergolo

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Witness: W04754 (Resumed) (Private Session)

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Cross-examination by Ms. Pergolo

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Witness: W04754 (Resumed) (Private Session)

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Cross-examination by Ms. Pergolo

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Witness: W04754 (Resumed) (Private Session)

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Cross-examination by Ms. Pergolo

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Witness: W04754 (Resumed) (Private Session)

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Cross-examination by Ms. Pergolo

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11 [Open session]

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

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

14 Please proceed, Madam Prosecutor.

15 MS. PERGOLO: Thank you, Your Honours. And I really have, I
16 think, five minutes left to go with these questions.

17 So if I may have then ERN 077978 to 077982. The Albanian is
18 page 4. And it's the same ERN number ending in -ET Revised for the
19 English, also at same page, 4.

20 PRESIDING JUDGE VELDT-FOGLIA: And you would like the witness to
21 comment on it or for what --

22 MS. PERGOLO: Yes, Your Honours, exactly.

23 PRESIDING JUDGE VELDT-FOGLIA: -- purpose?

24 MS. PERGOLO: We would like the witness to comment on it and see
25 if he recognises the document and if he can perhaps shed some light

1 on it.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

3 MS. PERGOLO: I believe it should be page 4 of this document.

4 Yes, correct.

5 Q. Mr. Witness --

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

7 MS. PERGOLO: Oh, sorry.

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

9 MR. AOUINI: Thank you, Your Honour. Can we perhaps have a
10 little bit of context as to the chain of custody or where this
11 document comes from to understand a little bit of context? Just to
12 understand to be able to follow.

13 PRESIDING JUDGE VELDT-FOGLIA: Before we do that, can we do that
14 in the presence of the witness or not?

15 MS. PERGOLO: Well, Your Honours, yes. I was going to ask the
16 witness whether he could authenticate the content of the document and
17 also perhaps the signature, the date, the symbol that we see on top.
18 So I think that would help us, would give also some context, so I
19 don't think the witness needs to be ushered out for this.

20 PRESIDING JUDGE VELDT-FOGLIA: Okay.

21 Defence Counsel, would that suffice? Or if you want more
22 background, I will have the witness ushered out. And that's not a
23 problem. We are not in a time rush.

24 MR. AOUINI: Yes, Your Honour. It was more about the chain of
25 custody, where this came from, rather than the authenticity of the

1 document, that we are worried about. We have metadata in the
2 Legal Workflow.

3 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Usher, could you
4 usher the witness out.

5 [The witness stands down]

6 PRESIDING JUDGE VELDT-FOGLIA: Let us see where this will bring
7 us. Defence Counsel, what is the point you want to make?

8 MR. AOUINI: Your Honour, I don't want to get ahead of things,
9 because -- that's why I asked the question first. *[REDACTED] Pursuant
10 to In-Court Redaction Order F695RED.*

11 *[REDACTED] Pursuant to In-Court Redaction Order F695RED.* So this is
12 at least what we have as
13 the originator. So we wanted to have a little bit of context because
14 maybe we'll have some submissions to put on the record. But we would
15 like to hear from the SPO where this document came from first and
16 then we can make any observation.

17 PRESIDING JUDGE VELDT-FOGLIA: We did not receive any objections
18 with regard to this document on beforehand.

19 MR. AOUINI: Yes, Your Honour. And it's always this dilemma of
20 not knowing beforehand the use of the document, and this document
21 contained also a picture. So until the moment where we have a
22 specific occurrence where it is going to be used -- that's why we
23 asked the question, to know where this could be going, then we can
24 make an objection, or where we can go, or any objection that we need
25 to make.

26 PRESIDING JUDGE VELDT-FOGLIA: But my suggestion would be in

1 general that if you have an observation of this kind, not to leave it
2 for this moment, because we have a procedure to at least give a
3 heads-up on beforehand. So that's a general remark.

4 MR. AOUINI: Of course, Your Honour.

5 PRESIDING JUDGE VELDT-FOGLIA: But what is now the point you
6 want to make? You want to have an explanation where this document is
7 coming from?

8 MR. AOUINI: Yes, so --

9 PRESIDING JUDGE VELDT-FOGLIA: But that's in the metadata.

10 MR. AOUINI: Yes. And that might lead not to an objection but
11 probably something we want to place and more context that we would
12 want to place. Not an objection per se. That's why we wanted to
13 hear a little bit where this document comes from.

14 PRESIDING JUDGE VELDT-FOGLIA: Yes, but this is not the moment
15 to make observations. So I -- I don't see -- I will give the floor
16 to the Prosecutor, but this is not the moment to make observations.
17 You can make an objection to a question asked or a document used, but
18 to use a document is kind of late. But if you make a specific
19 objection, we will of course deal with it. And that's it for now.

20 Madam Prosecutor.

21 MS. PERGOLO: Yes, Your Honours, just very briefly. We don't
22 have the information at hand, but, again, there was no objection to
23 this document which was introduced in our list of materials to be
24 used for this witness. So we are happy to look into this matter, but
25 we don't have the information now, and we didn't think there would be

1 a discussion about the provenance or the chain of custody.

2 And the purpose, again, for the Defence to know, is really to
3 have the witness discuss the content of this document. So that would
4 be our submission.

5 PRESIDING JUDGE VELDT-FOGLIA: Yes.

6 Yes. Because if you have an objection to the admissibility,
7 then, of course, we will litigate that. There's no doubt about that
8 but -- yes. So I give you the floor once again if you want to make
9 an objection. But if you are going to object as to the
10 admissibility, I would say that will -- that we will do in writing,
11 of course.

12 MR. AOUINI: Okay, Your Honours. We will --

13 PRESIDING JUDGE VELDT-FOGLIA: But is there something you would
14 like to add? Because I don't want to cut you on what you want to
15 present to this Panel.

16 MR. AOUINI: Yes, that's why we started by asking the question.

17 *[REDACTED] Pursuant to In-Court Redaction Order F695RED.*

18 *[REDACTED] Pursuant to In-Court Redaction Order F695RED.*

19 We're not examining this person. But if this is used for a certain
20 purpose, then we will have to put some elements in the transcript to
21 address it for the admissibility afterwards in writing.

22 That's why I said we don't want to get ahead of things, but it's
23 different because the document contains a number of things. A
24 picture, for example, for the witness to identify himself would be
25 completely permissible for that because whatever, let's say, the

1 origin doesn't make a big difference. However, a document where
2 there are some structures or names could be a little bit more
3 problematic, Your Honours.

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

5 MS. PERGOLO: Yes, Your Honours.

6 *[REDACTED] Pursuant to In-Court Redaction Order F695RED.*

7 *[REDACTED] Pursuant to In-Court Redaction Order F695RED.*

8 *[REDACTED] Pursuant to In-Court Redaction Order F695RED.*

9 *[REDACTED] Pursuant to In-Court Redaction Order F695RED.*

10 PRESIDING JUDGE VELDT-FOGLIA: We will go into private session.

11 Madam Court Officer, can you bring us into private session,
12 please.

13 ~~(Private session)~~ (Open Session) *Reclassified Pursuant to F760*

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

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

16 Before I give you the floor, Defence Counsel, for me it's not
17 clear yet why at the moment the -- no, two questions. If I
18 understand you well, you would -- this is in preparation -- the
19 submissions you would like to make is in preparation of a possible
20 point you want to make with regard to the admissibility if they want
21 to introduce it into evidence? Yeah, I see you nodding.

22 And then my second question would be why could this not be done
23 in writing because you can -- it's not that you have to -- it's for
24 me not clear yet why you should have to put it on record now in order
25 to be able to litigate it later on.

1 MR. AOUINI: Thank you, Your Honour. And this is, again, why we
2 wanted to ask the question. Because if there is elements for the
3 chain of custody that cast doubt on the authenticity of the document,
4 then we will make those submissions. If not, we are happy to make
5 submissions as to admissibility otherwise in writing.

6 That's why the context that we asked for would help us whether
7 we need to do an objection or some confirmation or a -- a further
8 context to put before --

9 PRESIDING JUDGE VELDT-FOGLIA: Okay. But if I then understand
10 you well, it's for two points. It's for the admissibility and for
11 the use now in court. Or not?

12 MR. AOUINI: Yes, Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: Ah, okay. But --

14 MR. AOUINI: You said it.

15 PRESIDING JUDGE VELDT-FOGLIA: Okay.

16 Madam Prosecutor, you have the floor.

17 MS. PERGOLO: Your Honours, just an update, because we received
18 some information, very helpfully, from our case manager. And if this
19 can help perhaps to aid this discussion, this document was actually
20 provided by a witness during an SPO interview with the witness. Not
21 a witness in this case. So this is actually the originator that we
22 have for this document in Legal Workflow. So that's what we can say
23 at the moment with regard to the origins and the chain of custody.
24 We cannot say more at this stage.

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

1 Defence Counsel.

[Private Session]

2 [Private session text removed]

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[Open Session] *Reclassified pursuant to F760*

10 So those are contexts that cast doubt for us in general, and
11 also the source itself, as to where this document comes from and
12 whether it's permissible to use as an authentic or not. Probably if
13 some questions are asked about the content without the use of the
14 document, it could be possible. But in any case, we wanted to place
15 that this source we cannot verify and we are not able to
16 cross-examine this person. This is what we wanted to place.

17 PRESIDING JUDGE VELDT-FOGLIA: But, again, this should have been
18 done at another moment. But, yes.

19 MR. DE MINICIS: Your Honours, sorry, if I may just --

20 PRESIDING JUDGE VELDT-FOGLIA: Yes, you --

21 MR. DE MINICIS: -- close off this. This is so entirely
22 premature, this discussion. My colleague just wanted to put some
23 questions to the witness about the document, including its content.
24 We haven't tendered the document yet. There is no harm in asking the
25 witness about his knowledge of the information recorded therein. So

1 this whole discussion is taking a long time and is entirely
2 premature. If counsel then has an objection to the admission of the
3 document or wants to know more about its source, that can be done
4 later.

5 But I think that we have said enough at this point. The witness
6 can be asked about its content and then we can take it from there.
7 There is no harm in asking questions to the witness about the content
8 where the witness himself is mentioned.

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

11 MR. AOUINI: We're just trying to do our job without
12 disturbance. It's probably premature, but it's probably too late as
13 well. So we tried to place the moment where we can submit the
14 concerns of the Defence at a point that is appropriate, and we
15 believe it could be useful to have it in the knowledge of Your
16 Honours before any questions are asked so you have it in your mind.
17 Maybe it is too late or maybe it is premature to put it before seeing
18 the use that they make of it when we receive it in the presentation
19 queue.

20 PRESIDING JUDGE VELDT-FOGLIA: But I don't understand in what
21 aspect you say it's too late. The discussion about admissibility, I
22 already explained to you that is not for now. So for me -- and
23 that's the way you started out. That's not the moment because it's
24 not even tendered as we speak.

25 And with regard to asking questions, I don't see why we should

1 not ask questions at this moment in time with regard to this
2 document. So, yeah, I -- you have been given the possibility to make
3 your point, and for me it's not clear yet if you -- or maybe you said
4 it -- you are now also objecting? Because at first you were not
5 objecting, but you are objecting to the use of this document? That's
6 what you're saying?

7 MR. AOUINI: Your Honour, we're making all reservation possible
8 to the use of documents about --

9 PRESIDING JUDGE VELDT-FOGLIA: So we just wait and -- Mr. Shala,
10 I see that you want to say something?

11 THE ACCUSED: [via videolink] [Interpretation] Your Honour, I'm
12 sorry to intervene, but I do not understand whether this is allowed
13 to be used as evidence. And we've never had this as evidence. How
14 can this be allowed?

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

16 No, Mr. Shala -- no, no.

17 THE ACCUSED: [via videolink] [Interpretation] When this type of
18 lie is --

19 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, this is something that
20 you have to discuss with your Defence, and your Defence was already
21 making the point.

22 We are going to proceed. You will have been able to make the
23 observations you wanted to make. And we have 15 minutes left, and we
24 will proceed with the questions.

25 Madam Court Officer, could you usher the witness in.

1 [The witness takes the stand]

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

3 Madam Prosecutor will proceed with some further questions.

4 MS. PERGOLO: Thank you, Your Honours.

5 THE WITNESS: [Interpretation] Thank you.

6 MS. PERGOLO: And would the document please be pulled up again.

7 I'm happy to provide the ERN number again if [Overlapping speakers]

8 ...

9 PRESIDING JUDGE VELDT-FOGLIA: We -- we have it --

10 MS. PERGOLO: Oh, apologies.

11 PRESIDING JUDGE VELDT-FOGLIA: -- here.

12 MS. PERGOLO: Apologies. Sorry, I had my ...

13 Q. Mr. Witness --

14 MR. AOUINI: I'm sorry, we are still in private session, and I
15 don't know if we need to stay.

16 MS. PERGOLO: We can return to public session.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you for your observation,
18 Defence Counsel.

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

21 ~~{Open session}~~

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

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

24 Madam Prosecutor, please proceed.

25 MS. PERGOLO:

Witness: W04754 (Resumed) (Open Session)
Cross-examination by Ms. Pergolo

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1 Q. Mr. Witness, this document is an order of the minister of
2 defence of the Provisional Government of Kosovo Azem Syla, dated
3 1 April 1999. Can you see that in the document?

4 MS. PERGOLO: And perhaps if the document, especially in the
5 Albanian version, can be scrolled down a little bit for him to see.

6 THE WITNESS: [Interpretation] Yes, I can see it.

7 MS. PERGOLO:

8 Q. At point or item number 6, we read that Major Mark Shala was
9 appointed as chief of logistics for Operation Arrow. Do you see
10 that?

11 A. Yes.

12 Q. Does this correspond to the appointment that -- to the role that
13 you had during Operation Arrow?

14 A. Yes.

15 Q. Is the appointing authority as well as the date of the
16 appointment consistent with the events you testified about?

17 A. Yes.

18 Q. Thank you.

19 MS. PERGOLO: Your Honours, we can take down this document.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

21 Madam Court Officer, will you please pull it down.

22 MS. PERGOLO:

23 Q. Mr. Witness, I have one last question for you. In describing
24 the Kukes factory, you told us that there was an entrance gate and
25 that there was -- that this gate was guarded. My question is: Was

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Cross-examination by Ms. Pergolo

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1 any specific unit or group responsible for guarding the gate of the
2 Kukes factory at the time you were there?

3 A. It was a particular number of some members who were in uniform,
4 and also they had -- they were armed. They had weapons. So they
5 would carry weapons and they would keep guard. And they would also
6 check those coming in and going out, not only people but also
7 vehicles, or any vehicles that would come in either for loading or
8 unloading, for instance, of various goods from the Kukes factory.

9 Q. Thank you, Witness. And so you said a number of members wearing
10 uniforms. So my question is were they members of a specific unit or
11 a specific group, these people who were guarding the gate?

12 A. No, they were just called the guards of the facility.

13 Q. Thank you, Mr. Witness. And thank you very much for your
14 efforts today. This concludes our cross-examination. Thank you very
15 much.

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

17 Let me see. I look at the clock.

18 Victims' Counsel, it's up to you. We also will have a second
19 round, of course. And the Panel has questions. So I leave it to you
20 if you want to use these ten minutes to make a start, or maybe even
21 finalise, or that we adjourn now and then we go into tomorrow. It
22 depends on the time you need.

23 MR. LAWS: Yes, thank you, Your Honour. I'm happy to use the
24 time now, and if I finish, all well and good. If not, I'll continue
25 in the morning. If that's acceptable to Your Honour. Thank you.

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1 PRESIDING JUDGE VELDT-FOGLIA: If there are some items that can
2 be asked questions on -- at separate moments, then it's good.
3 Sometimes you want to stick everything together. Very well.

4 MR. LAWS: Thank you very much.

5 PRESIDING JUDGE VELDT-FOGLIA: You have the floor.

6 MR. LAWS: Thank you.

7 Questioned by Victims' Counsel:

8 Q. And good afternoon, Mr. Witness. I'm going to introduce myself.
9 My name is Simon Laws and I am counsel for the victims in this case.

10 I wanted to ask you just a couple of questions about the
11 evidence that you gave yesterday about the treatment of people who
12 had been injured and who were at the Kukes metal factory. Do you
13 recall giving some evidence about that yesterday?

14 A. No, there wasn't any sort of treatment of people who were
15 injured. At the Kukes facility, that is.

16 Q. It may be an issue in translation. I'm not suggesting they were
17 injured there, but you had people who were injured who required
18 medical assistance. Perhaps they'd come from fighting and been
19 brought to Kukes. Does that clarify what I mean?

20 PRESIDING JUDGE VELDT-FOGLIA: But a reference to the transcript
21 is always useful.

22 MR. LAWS: Your Honour, I'll give it straightaway. It's
23 page 2933. It's yesterday's transcript. And it's starting at line
24 25.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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1 MR. LAWS:

2 Q. Does that clarify what I am asking you about, Mr. Witness, about
3 the way in which people who had come to be injured were sent, as you
4 told us, to, I think, four different places altogether. Does that
5 bring back to mind the testimony --

6 A. Yes, yes --

7 Q. -- you gave yesterday?

8 A. -- yes.

9 Q. Yes. And you told us that there were two field hospitals.

10 MR. LAWS: And this is at the same reference, Your Honour, and
11 it continues.

12 Q. And if they couldn't help, there was the city hospital in Kukes.
13 And the most serious cases were taken to Tirana. Do you recall
14 telling us that?

15 A. Correct.

16 Q. Thank you. The questions I wanted to ask you are this: How
17 were the serious cases taken to Tirana?

18 A. The serious cases were sent to Tirana, so it depended on their
19 injuries. But in terms of those cases, the medical teams would
20 decide on them, those who had treated them. That is why some would
21 perhaps need to get there as quickly as possible.

22 And on some occasions, some individuals were actually sent by
23 helicopter, too. So there was also that sort of organisation, so
24 taking them from Kukes to Tirana by helicopter. But there were other
25 cases when, for instance, they were not as seriously injured, they

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1 could also be transported by ambulance.

2 Q. Yes, thank you very much. It was really the helicopter that I
3 wanted to ask you about. It's something that you mentioned to the
4 Prosecution when you were interviewed by them.

5 MR. LAWS: It's Part 5 of the interviews at page 14 for those
6 who want to follow.

7 Q. That, on occasions, a helicopter was deployed to take people
8 from Kukes to Tirana for urgent medical help.

9 A. Yes.

10 Q. Thank you. And how were communications coordinated between the
11 KLA in Kukes and the hospitals, either the Kukes city hospital or the
12 hospital in Tirana?

13 A. When it comes to Kukes city hospital, it was done through
14 liaison. But for Tirana, it was done by telephone. So back then, we
15 had some satellite phones which we used, and they were also used by
16 the health teams that were on the ground. So they had this direct
17 link with the person who was in Tirana and in charge of these
18 matters, and they dealt with this, and they coordinated the work in
19 relation to these cases.

20 Q. Thank you. And just a couple of questions now, if I may, about
21 or using your expertise as the chief of logistics at Kukes.

22 If I understand right, your warehouse or your warehouses were
23 receiving materiel, military supplies of all kinds; is that right?

24 A. Correct.

25 Q. What I'm interested in is this. Can you tell us some of the

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1 countries that these supplies had originated from?

2 A. Well, they would have originated from various sources because
3 the KLA did not have a single source of supplies or a particular base
4 for all of these materials like regular armies would. But the
5 sources would vary.

6 Q. Yes.

7 A. There were materials that came because of donations, for
8 instance, or those that arrived from other countries, from Albania.
9 But a considerable quantity of various materials was also directly
10 purchased from the market, from the open market in Albania.

11 Q. Yes. So there were certainly materiel coming to you from
12 Albania, but from other countries -- shall we start in Europe, first
13 of all. From other European countries. Is that fair?

14 A. The Albanian diaspora lives almost everywhere across Europe, in
15 all European countries, and the majority did help out by collecting
16 donations and then putting them in trucks and bringing them to
17 Albania via Italy --

18 Q. Yes.

19 A. -- by ship to Durres port, and then from there on to the north.
20 Those that were assigned for the KLA, but there were also donations
21 for the civilian population because of the huge flow of refugees.
22 So, of course, they needed help too.

23 Q. And is this right, you tell me yes or no, that sometimes people
24 would bring their own equipment from whatever country they were
25 volunteering from and arrive in Albania with whatever they had been

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1 able to buy in wherever they came from, from Italy, from Switzerland,
2 from Austria, wherever it was?

3 A. In terms of the country, it depends which country they came
4 from. There were countries that would allow that. For the
5 equipment, for instance, for military equipment, uniforms as well, or
6 any other items. But there were the countries that would not allow
7 for this --

8 Q. No.

9 A. -- because, of course, they would have to go through checks and
10 border crossing points. So it really depends on the country and
11 which country they came from.

12 Q. But did people sometimes bring their own equipment with them?
13 Not necessarily firearms and ammunition but, for example, military
14 clothing or boots, for example?

15 A. Yes, yes.

16 Q. I wanted to ask you about one type of item in particular, and
17 that's bullet-proof vests. Do you remember having bullet-proof vests
18 in your warehouses?

19 A. In the warehouse? No, we did not. But in general, anyway,
20 there were very few bullet-proof vests used by the KLA members.

21 Q. Do you know what countries they had originated from, the
22 bullet-proof vests that were available in Kukes in, let's say, 1999?

23 A. I cannot remember at all, no. I just -- I can't remember which
24 country they would have come from.

25 Q. But can you help us? Would it have been one country alone or

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1 more than one country, do you suppose?

2 A. Perhaps more than one country. But there were very few, anyway.
3 There were very few of these types of vests in the KLA, and very few
4 KLA members would wear them or use them. Perhaps some of the very
5 senior commanders or perhaps a special unit of some sort. But simple
6 soldiers, I mean, very, very few of them would use them, because it
7 was a difficult time, and it was very difficult to supply them with
8 bullet-proof vests.

9 Q. Yes, thank you very much.

10 MR. LAWS: Your Honour, may I just have one moment.

11 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, I think we
12 are -- you used your time --

13 MR. LAWS: Yes. Your Honour, those are all the questions that I
14 have. Thank you.

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

16 Very well. Mr. Witness, it's 4.00. We will continue tomorrow
17 with the last part of your testimony. We will have a second round,
18 and the Judges will have some questions for you. Yes?

19 For now, I thank you for your efforts of today. I advise you to
20 take some rest, and I recall you that you cannot share or discuss
21 anything we have been talking about before this Panel with anybody.

22 So thank you. And I will ask Madam Court Usher to usher you
23 out. See you tomorrow.

24 Yes, what do you want to say?

25 THE WITNESS: [Interpretation] The open sessions, madam,

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1 Your Honour, are broadcast directly in various TV stations; correct?
2 So I do not know what's in them other than the private sessions,
3 because everything else the public knows about.

4 PRESIDING JUDGE VELDT-FOGLIA: Yes, but still you are not
5 supposed to discuss your testimony you have given before this Panel
6 this evening with anybody.

7 THE WITNESS: [Interpretation] Well, no, no. No, I will not.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. So you are not going to
9 discuss that, so ...

10 THE WITNESS: [Interpretation] Goodbye.

11 [The witness stands down]

12 PRESIDING JUDGE VELDT-FOGLIA: Very well. We will proceed
13 tomorrow at 9.30. I wish you good evening.

14 And the hearing is adjourned.

15 --- Whereupon the hearing adjourned at 4.05 p.m.

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