

Redactions applied pursuant to F744.

1 Tuesday, 3 October 2023

2 [Open session]

3 [The accused appeared via videolink]

4 --- Upon commencing at 9.38 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.

10 Specialist Prosecutor's Office, can I confirm that you are in
11 the same composition as yesterday?

12 MS. PERGOLO: Same composition, Your Honours. Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: And the same goes for
14 Victims' Counsel?

15 MR. LAWS: Yes, it does.

16 PRESIDING JUDGE VELDT-FOGLIA: Okay. And on my left-hand side,
17 the Defence, could you tell us who is present, or confirm that you
18 are in the same composition as yesterday.

19 MR. GILISSEN: We are almost the same. Almost the same.

20 Mr. Shala, of course. Myself, Jean-Louis Gilissen. We are here with
21 Ms. Leto Cariolou, Dzeneta Petravica, Juliette Healy, Judit Kolbe,
22 and Deborah Thiebaut, who is an intern. Thank you very much.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

24 Mr. Shala, can you confirm that you hear the translation well?

25 THE ACCUSED: [via videolink] [Interpretation] Yes, I can hear

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1 you very well. Thank you.

2 PRESIDING JUDGE VELDT-FOGLIA: Very well. Today we will hear
3 the testimony of the third Defence witness, which is
4 Mr. Naser Kocinaj. Mr. Kocinaj will give the testimony without
5 in-court protective measures. We will sit today for three regular
6 sessions of one and a half hour and the normal breaks.

7 Very well. Court clerk, could you please usher the witness in.

8 [Trial Panel and Court Officer confer]

9 [The witness entered court]

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

11 Please have a seat, Mr. Kocinaj.

12 THE WITNESS: [Interpretation] Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: Good morning, Mr. Kocinaj. And
14 welcome to the Specialist Chambers.

15 THE WITNESS: [Interpretation] Good morning.

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

17 THE WITNESS: [Interpretation] Yes.

18 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, can you hear the
19 witness fine? The microphone is off, Mr. Shala.

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

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you. And now it's good to
23 switch it off again. Thank you.

24 Mr. Kocinaj, how are you today?

25 THE WITNESS: [Interpretation] Very well. Thank you.

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1 PRESIDING JUDGE VELDT-FOGLIA: Today we will start with your
2 testimony, and before we begin I have several remarks.

3 Before you -- you are here, you are called to testify in the
4 case of The Specialist Prosecutor's Office versus Mr. Shala in order
5 to assist the Panel to reach a verdict. And we will first have you
6 take your solemn declaration, and before we do that, we will ask --
7 we will give you some guidance and some direction.

8 You're here in this court with the parties, the Victims' Counsel
9 and the Panel. You will first be asked questions by the Defence.
10 They are sitting on your right-hand side. Yes? I see you nodding.
11 Then on the other side, the Specialist Prosecutor's Office will then
12 ask you questions. And then --

13 THE WITNESS: [Interpretation] Thank you.

14 PRESIDING JUDGE VELDT-FOGLIA: -- Victims' Counsel, and we will
15 be the ones asking you questions, if any, at the end. Yes? Do you
16 understand that?

17 THE WITNESS: [Interpretation] Yes, thank you.

18 PRESIDING JUDGE VELDT-FOGLIA: Very well. Before you will be
19 giving your solemn declaration, as I said, you will be given some
20 guidance and some practical advices, so please listen carefully.

21 You will be posed questions. If you don't understand the
22 question, feel free to ask the question to be repeated. Yes? We
23 want you to tell the truth and to tell us what you saw, what you
24 experienced, what you sensed, what you heard. So if you did not see
25 it or hear it yourself, please tell us how you got to know it.

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1 You may remember not all the details of the events, so please
2 feel free to say, "I don't know," "I don't remember." Okay?

3 Don't guess, don't make things up. Is that clear? Yes.

4 THE WITNESS: [Interpretation] Yes.

5 PRESIDING JUDGE VELDT-FOGLIA: And please answer the questions
6 that are being put to you. So don't elaborate. If we need
7 clarification, we will ask you some follow-up questions, and in this
8 way we will receive a very focused testimony. Yes?

9 And I remind you that you have the right to object to provide
10 your testimony on issues that might tend to incriminate you, pursuant
11 to Rule 151(1) of the rules.

12 Do you understand all this?

13 THE WITNESS: [Interpretation] Yes.

14 PRESIDING JUDGE VELDT-FOGLIA: There's also some practical
15 advice I would like to give you with regard to your testimony, and
16 that is everything that we say here is translated and recorded. And
17 that means that it is important to you speak into the microphones
18 that are in front of you, that you speak clearly, that you don't nod
19 because we cannot register that, that you say it out loud, and that
20 you speak at a slow pace.

21 THE WITNESS: Okay.

22 PRESIDING JUDGE VELDT-FOGLIA: And another direction I would
23 like to give you is that when a question is asked to you, please wait
24 five seconds before giving an answer, because everything that is said
25 here is interpreted and recorded, and that allows the interpretation

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1 to be finished before you start speaking. And what we want to avoid
2 is that there are overlapping speakers.

3 If I raise my hand, please stop talking. Yes? And it can
4 happen that we ask you to leave the courtroom, and that will be the
5 case if we have to discuss a question posed to you and we want to
6 avoid that you are influenced by the discussion that follows.

7 If you have any questions, if you need a break, or you want to
8 share something with the Panel, please raise your hand and then I
9 will give you the floor.

10 THE WITNESS: Okay.

11 PRESIDING JUDGE VELDT-FOGLIA: Yes? And then lastly, you may be
12 asked to make a marking on a piece of evidence on your monitor, and
13 Madam Court Usher will then provide with you a marker in order for
14 you to make the marking. All clear?

15 THE WITNESS: [Interpretation] Yes.

16 PRESIDING JUDGE VELDT-FOGLIA: Very well. Mr. Kocinaj, as I
17 have to do with every witness in this courtroom, I will now ask you
18 to make your solemn declaration, and I remind that you it is an
19 offence within the jurisdiction of the Specialist Chambers to give a
20 false testimony. Do you understand that?

21 THE WITNESS: [Interpretation] Yes.

22 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Usher, could you
23 please assist the witness.

24 THE WITNESS: [Interpretation] Solemn declaration pursuant to
25 Rule 141(2). Conscious of the significance of my testimony and my

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1 legal responsibility, I solemnly declare that I will tell the truth,
2 the whole truth, and nothing but the truth, and that I shall not
3 withhold anything which has come to my knowledge.

4 WITNESS: NASER KOCINAJ

5 [Witness answered through interpreter]

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

7 We can now start with the questions by the Defence Counsel.

8 Defence Counsel, you have been given three hours for your
9 questioning. If there are any changes, please inform the Panel.

10 And on a housekeeping note, I see that Mr. Aouini is also in the
11 courtroom, so for the record, that is noted now.

12 Defence Counsel, you have the floor.

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

14 Examination by Mr. Gilissen:

15 Q. Good morning, Mr. Witness.

16 A. Good morning.

17 Q. I'm Mr. Gilissen, the Defence Counsel of Mr. Shala, and I would
18 like to ask you some question and please try to stick to the
19 question. If we have some follow-up question, we will ask you.
20 Okay?

21 A. Okay.

22 Q. Thank you very much. Mr. Witness, could you please state your
23 name and surname.

24 A. Naser Kocinaj.

25 Q. Do you have or did you have -- did you had -- did you have a

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1 nickname?

2 A. No, I didn't.

3 Q. Very clear. Thank you very much. And what are your date and
4 place of birth?

5 A. 2 December 1970, in Vermice village, Prizren municipality.

6 Q. Thank you. Where were you living before the war in 1998?

7 A. In Prizren.

8 Q. So I would like to know, did you join the KLA?

9 A. Yes.

10 Q. Are you able enough to explain us in which condition you joined
11 the KLA?

12 A. The entire Kosovo was mobilised, and we, too, joined the KLA.

13 Q. Could you tell us when you joined the KLA?

14 A. I don't remember the date, but it was 1998, the year. That was
15 the year when I went to Albania for the first time.

16 Q. Yes. And how did you get there?

17 A. Through the mountains.

18 Q. Yes.

19 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, allow me.

20 Mr. Witness said that he joined the KLA in 1998, but I would prefer
21 to have a little bit more specificity with regard to 1998.

22 MR. GILISSEN: [Microphone not activated].

23 PRESIDING JUDGE VELDT-FOGLIA: Okay. Because this is really
24 broad. We have a winter, an autumn.

25 MR. GILISSEN: [Microphone not activated] ... so general. I

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1 thought I will have a story, but I think I have to insist a little
2 bit.

3 Q. So I would like to know how you joined the KLA, in which
4 conditions?

5 A. I went to Albania for the first time in 1998, and I became a
6 member in 1998. That's when I joined.

7 Q. Yes, thank you very much. And in which place in Albania were
8 you?

9 A. In Kukes.

10 Q. So do I have to understand you joined the KLA in Kukes?

11 A. Yes. I went to Albania for the first time in 1998, got a
12 weapon, and returned to Kosovo.

13 Q. Very nice. So could you elaborate a little bit about that. In
14 which condition? Where in Kukes? Because Kukes is -- it's a town.
15 So I would like to have some details. Is that possible?

16 A. We went in an organised manner from Prizren. We went to Kukes,
17 got the weapons, and then returned to Kosovo, and remained in Kosovo
18 until we were expelled by the Serbs and were forced to go to Albania.

19 Q. So were you part of a particular group with a name of a group or
20 a brigade or something like that?

21 A. No. It did not have a name. I went with my father. He was the
22 organiser. He took us to Albania. He brought us back. There was no
23 name to the group. Whoever wanted to come did so.

24 Q. So you explained you were expelled from Kosovo, and where did
25 you go at this moment?

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1 A. Went to Kukes.

2 Q. Yeah. And did you join at this moment, did you join the KLA?

3 A. When we were expelled and when the general mobilisation of the
4 KLA occurred, that's when I joined the KLA.

5 Q. Yes, it's clear. Thank you very much. And where were you
6 stationed in Kukes?

7 A. I worked in Kukes in warehouse 2. That's where I went
8 initially, and I worked in the uniform warehouse where the KLA
9 soldiers would come to join and I would issue them with uniforms.
10 That was my job.

11 Q. Yes. And are you able enough to say from when to when you have
12 this duty, this job?

13 A. When the general mobilisation of the KLA happened and until the
14 end.

15 Q. Yes. And when did the general mobilisation was called? Do you
16 remember the date?

17 A. I don't remember the date. But when everybody came, when they
18 expelled us from the houses, that's when the whole of Kosovo
19 mobilised. I don't remember the date, though.

20 Q. Was it before or after the NATO started bombing?

21 A. Before. When the NATO air campaign started, when everybody was
22 expelled and went to Albania.

23 Q. Thank you very much. And you talk about "till the end." Are
24 you able enough to try to provide us with a date or a period of what
25 you call "the end"?

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1 A. That would be until KFOR forces - NATO, that is - entered
2 Kosovo.

3 Q. So under the control of the Court, may I say you were in Kukes,
4 in Kukes metal factory between mid-May 1999 to the very first day of
5 June 1999?

6 A. I don't know it in dates, but I know that when KFOR entered
7 Kosovo, that's when I returned to Kosovo. I got back to Kosovo
8 together with the German KFOR forces.

9 Q. And I suppose we have to understand, after the end of the war?

10 A. Until the end of the war.

11 Q. Thank you very much.

12 MR. GILISSEN: I think it is more clear. I think so.

13 PRESIDING JUDGE VELDT-FOGLIA: You mentioned dates, and it is
14 clear that the witness is not mentioning any dates, but I think that
15 he was very capable of -- of repeating what you had already said with
16 regard to the dates.

17 MR. GILISSEN: Exactly. And I think that's enough. I think so.
18 Thank you very much, Madam President.

19 Q. So what was your position within the KLA?

20 A. I was working with the logistics. I worked in the warehouse
21 where KLA uniforms were issued. That's where I worked until the end
22 of the war.

23 Q. So during the month you were in the Kukes metal factory, where
24 did you sleep?

25 A. I had my own house in Kukes. I lived in neighbourhood number 3

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1 together with my family. The neighbourhood number 3 is in Kukes.

2 Q. Yeah. And did you ever sleep in the Kukes metal factory?

3 A. No. There were no conditions for us to sleep there. I only
4 worked there. There were uniforms in the warehouse and nothing else.

5 Q. Yes. Could you please describe the layout of the buildings of
6 the Kukes metal factory with simple words.

7 A. I didn't understand the question.

8 Q. So I would like to have a description of the Kukes metal
9 factory, and after your question I will show you - of course, if I am
10 authorised - a picture of the place, of the Kukes metal factory;
11 first an aerial picture and then some more pictures.

12 A. Where I was at this warehouse, there was nothing else. Nobody
13 lived there where I was, where I worked, I mean.

14 Q. Yeah. And could you explain us where was the warehouse in this
15 Kukes metal factory? When you enter in, where was the warehouse?

16 A. When you enter the door, the warehouse was across the door. In
17 front of the door, that is.

18 Q. Thank you very much.

19 MR. GILISSEN: Madam Court Officer, I would like to show some
20 pictures of the Kukes metal factory to the witness. Are you able
21 enough first -- yes.

22 PRESIDING JUDGE VELDT-FOGLIA: I will issue the witness out and
23 then I would like to discuss something briefly with you.

24 Mr. Witness, Madam Court Usher will usher you out, and we will
25 have a short discussion and then you will be asked to come back.

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1 Thank you.

2 THE WITNESS: Okay.

3 [The witness stands down]

4 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I have a
5 preference and that for the -- for the next time, like happened
6 yesterday, that you first show the picture with -- and then ask the
7 witness if he recognises it. Because if you already tell him what
8 you're showing him, the weight of his answer will be of a different
9 nature than if out of himself he shares with us what it is.

10 And yesterday I told the same your colleague. Please, when you
11 show pictures, do you recognise it, and then you can always tell him,
12 "Look, this is the Kukes metal factory," and then proceed.

13 Okay, very well.

14 Madam Court Officer, can you bring the witness back.

15 [The witness entered court]

16 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Witness. Thank
17 you. I give the floor to Defence Counsel.

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

19 MR. GILISSEN: Thank you very much.

20 So, Madam Court Officer, I would like to have a picture. It is
21 an aerial photo of the Kukes metal factory, ERN
22 SPOE00330362-00330362.

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

25 MR. GILISSEN: Yes, is it possible to turn the image and focus a

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1 little bit on. Thank you very much.

2 Q. So do you recognise this place?

3 A. Yes, I do.

4 Q. Okay. Are you able to tell us where is the warehouse you are
5 talking about?

6 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Usher, could you
7 please assist the witness in giving him a pencil so that he can mark
8 on the picture where he thinks the warehouse is. Thank you.

9 THE WITNESS: [Interpretation] May I mark here?

10 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

11 THE WITNESS: [Interpretation] The main entrance, the door where
12 you enter, the main entrance was here. This is where I worked at
13 this building.

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, can you put a 1 at
15 the entrance and a 2 at the place where you worked?

16 THE WITNESS: [Marks]

17 PRESIDING JUDGE VELDT-FOGLIA: Yes, you may proceed. I have one
18 comment. The witness has been talking about the warehouse 2,
19 warehouse 2. That is the way he called it. And I would like to
20 stick to the language used by the witness.

21 MR. GILISSEN: So I think we can take the picture down and to
22 have --

23 PRESIDING JUDGE VELDT-FOGLIA: Then we will proceed with saving
24 the picture and giving it a number for the record.

25 THE COURT OFFICER: Your Honour, the markings made by the

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1 Witness DW4-05 will be assigned Registry ERN number REG0968.

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

3 Defence Counsel, you have the floor again.

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

5 So I would like to show to the witness another picture. It's

6 ERN SPOE40010264-40010559 at page 2.

7 PRESIDING JUDGE VELDT-FOGLIA: And that is with the same

8 purpose, Defence Counsel.

9 MR. GILISSEN: Absolutely.

10 PRESIDING JUDGE VELDT-FOGLIA: Recognition. Very well.

11 Madam Court Officer, please proceed.

12 MR. GILISSEN:

13 Q. So, Mr. Witness, do you recognise this place, and are you able

14 enough to explain what you are seeing now?

15 A. I don't remember this place. I remember only the place that I

16 marked earlier with 1 and 2. This one, I don't seem to remember.

17 MR. GILISSEN: So I suppose we have to have a number with this

18 picture which has been shown in the hearing.

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

20 THE INTERPRETER: Microphone, please.

21 PRESIDING JUDGE VELDT-FOGLIA: You already gave the ERN number.

22 MR. GILISSEN: Yes.

23 PRESIDING JUDGE VELDT-FOGLIA: And the witness now has said that

24 he has not recognised it. So I think, for now, we are set. It's

25 good.

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1 MR. GILISSEN: Okay.

2 PRESIDING JUDGE VELDT-FOGLIA: The only moment that we would be
3 giving it an additional number is when we have something new, because
4 of the marking.

5 MR. GILISSEN: Okay, that's fine.

6 PRESIDING JUDGE VELDT-FOGLIA: Yes? Okay. But thank you.

7 MR. GILISSEN: Next I would like to have the picture ERN
8 SPOE40010264-40010559. I'm sorry, this is the same, I think so, but
9 the pages 15 and 16.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. And the purpose?

11 MR. GILISSEN: The same, to be able to recognise the place or
12 not.

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

15 MR. GILISSEN:

16 Q. Mr. Witness, are you able to recognise this building?

17 A. I don't recognise it either.

18 MR. GILISSEN: Yeah. And may we have the other picture, 16?

19 Q. And the same question for you, Mr. Witness. Do you recognise
20 this place?

21 A. Only the door I remember, whereby I went to the warehouse.

22 These other buildings I don't recollect. I didn't have anything to
23 do with them.

24 MR. GILISSEN: And may I have the same, page 12, please.

25 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, just one

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1 clarifying question.

2 Mr. Witness, you say -- you just said, page 15, line 23:

3 "Only the door I remember ..."

4 To which door are you referring? And you may mark it.

5 THE WITNESS: [Interpretation] This is the main door, at the
6 entrance. It seems to me like it is the main entrance from this
7 picture.

8 PRESIDING JUDGE VELDT-FOGLIA: Please mark it, in this case,
9 with a 3. Just to be clear about what you recognised.

10 THE WITNESS: [Marks]

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

12 I will ask now this picture to be saved. Because you wanted to
13 proceed to a new picture, Defence Counsel, isn't it?

14 MR. GILISSEN: [Microphone not activated]. I'm sorry. It's the
15 one of page 12.

16 PRESIDING JUDGE VELDT-FOGLIA: Yes. We will save first this
17 picture and then we will go to page 12. Thank you.

18 Madam Court Officer, please proceed with saving the picture.

19 THE COURT OFFICER: Your Honour, the markings made by the
20 Witness DW4-05 will be assigned Registry ERN number REG00969.

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

22 Defence Counsel, you have the floor again. And then I will ask
23 Madam Court Officer to go to page 12, it was.

24 MR. GILISSEN: Yeah.

25 PRESIDING JUDGE VELDT-FOGLIA: Please.

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1 MR. GILISSEN: Could be a little bit focused too much. Yes.

2 Q. So, Mr. Witness, do you recognise this place?

3 A. It seems to me it was at the warehouse where I worked. From
4 this door here. It must be that.

5 Q. Thank you very much.

6 MR. GILISSEN: We can provide a number to the picture, I think
7 so.

8 PRESIDING JUDGE VELDT-FOGLIA: First I would like to clarify the
9 mentioning of the door.

10 "It seems to me it was at the warehouse where I worked. From
11 this door here."

12 Page 17, lines 5 and 6. Mr. Witness, which door you are
13 referring to?

14 THE WITNESS: [Interpretation] This --

15 PRESIDING JUDGE VELDT-FOGLIA: Can you mark it --

16 THE WITNESS: [Interpretation] -- door here --

17 PRESIDING JUDGE VELDT-FOGLIA: Can you mark it because if not,
18 then --

19 THE WITNESS: [Interpretation] This one here. Okay.

20 PRESIDING JUDGE VELDT-FOGLIA: Can you mark it with 4, please.

21 THE WITNESS: [Marks]

22 PRESIDING JUDGE VELDT-FOGLIA: For the moment I'm not seeing
23 anything.

24 MR. GILISSEN: On the right, I think so.

25 PRESIDING JUDGE VELDT-FOGLIA: Ah, okay. Thank you, Mr.

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1 Witness. I will -- Defence Counsel will now ask to save the picture
2 and to give it a number, to allocate it a number.

3 Madam Court Officer, can you please proceed.

4 THE COURT OFFICER: Your Honour, the markings made by the
5 Witness DW4-05 will be assigned Registry ERN number REG00970.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
7 Defence Counsel, please proceed.

8 MR. GILISSEN: Thank you very much.

9 Q. So you tell us you work in this warehouse. But what was your
10 duty there?

11 A. My duty consisted only in providing uniforms to the people who
12 came there to join, to join the KLA. I only provided them with
13 uniforms.

14 Q. Yes. Who was the responsible person for this warehouse?

15 A. I had as a superior there ...

16 Q. Are you able enough to provide us the name, if you remember?

17 A. Kelmendi was his last name, but I don't recall his name, the one
18 who was mainly responsible for the warehouse.

19 Q. Yes, thank you very much. And during the night was --

20 A. If I remember the name in the course of the hearing, I will let
21 you know. Rexhep Kelmendi it was.

22 Q. Thank you very much.

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please wait --
24 please don't talk when the Defence Counsel is talking because then we
25 don't receive interpretation. Thank you.

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1 MR. GILISSEN:

2 Q. If you have to interrupt me, don't hesitate to raise a hand and
3 I will stop.

4 So during the night, was this warehouse closed or open?

5 A. No, it was closed.

6 Q. It was closed. Every night?

7 A. Yes, every night.

8 Q. Thank you very much. Who was the person who would close this
9 warehouse every day or every night?

10 A. I did. I closed the door and went home.

11 Q. And who was the person who opened this warehouse every day?

12 A. It was me. I opened it at 8.00 in the morning every day. That
13 is, the warehouse.

14 Q. And nobody else made the same sometime?

15 A. I don't think so. Because when I closed the warehouse, I
16 counted the number of uniforms. And on the next morning that I came
17 to work, I counted them again and there was the same number.
18 Because, as I said, I was in charge of uniforms.

19 Q. Thank you very much. And were you aware of anybody - soldier,
20 civilian - who spent a night or few nights in this warehouse?

21 A. No. No, there were no civilians there.

22 Q. And no soldiers during the night?

23 A. No. No, there were no soldiers. There were no conditions there
24 for anyone to sleep. If there were conditions, proper conditions to
25 sleep there, I might have slept there. As I said, we kept there only

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1 the uniforms.

2 Q. So according to you, that's sure, not even one time by
3 exception, nobody slept there?

4 A. Nobody, never.

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

6 So I would like to ask you some questions about persons. And
7 the first one is about Osman Kryeziu. Did you know someone called
8 Osman Kryeziu?

9 A. No, I didn't. No.

10 MR. GILISSEN: I would like to go into private session,
11 Your Honour, for two names.

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

14 [Private session]

15 [Private session text removed]

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1 [Private session text removed]

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13 [Open session]

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

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

16 Please proceed, Defence Counsel.

17 MR. GILISSEN:

18 Q. So I would like to know, Mr. Witness, were you part of the
19 Brigade 128?

20 A. Yes. After we returned to Kosovo, when we drew up the list, I
21 registered also with this brigade, 128.

22 Q. So if I understand, you confirm there was a list of the members
23 of this brigade?

24 A. Yes, yes, there was a list.

25 Q. Thank you very much. And I would like to know if you know

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1 someone called Zijadin Hoxha?

2 A. No, I don't know Zijadin Hoxha.

3 Q. Do you know someone called Bedri Dervishaj?

4 A. Yes, I do.

5 Q. Yeah. Was he a member of the same brigade that you were?

6 A. Yes.

7 Q. Do you know -- do you have an idea about the role he had in this
8 brigade? A simple soldier, an officer, or something like that?

9 A. I don't know. I don't know that. I don't know what he was. I
10 only worked in the warehouse, and I don't know if they were appointed
11 as commanders in the front line.

12 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I would like to
13 have a clarification on something the witness said before we proceed
14 and we go into another topic, so if you allow me to do that.

15 Mr. Witness, on -- you just said, page 21, line 19, you said:
16 When we returned to Kosovo we drew up the list.

17 What do you mean with "when"? What is the time you are talking
18 about?

19 THE WITNESS: [Interpretation] The list was drawn up very late,
20 but, as I said earlier, we returned to Kosovo with KFOR.

21 PRESIDING JUDGE VELDT-FOGLIA: So you mean at the end of the
22 war? Is that what you're saying?

23 THE WITNESS: [Interpretation] When we entered Kosovo, I entered
24 with KFOR. The list was drawn up very late so that we knew where
25 people were. I personally didn't know where people went. I had no

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1 information.

2 PRESIDING JUDGE VELDT-FOGLIA: Yes. My question was -- you
3 said: "... we returned to Kosovo with KFOR." And I'm telling you
4 when was that? Are you able to give a date?

5 THE WITNESS: [Interpretation] Yes.

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

7 THE WITNESS: [Interpretation] I don't recall the day, but on the
8 same date that KFOR entered, I entered Kosovo. That is, went to
9 Prizren with KFOR, on the same date.

10 PRESIDING JUDGE VELDT-FOGLIA: Do you remember -- you don't have
11 to give me a date. Do you remember the month?

12 A. Frankly speaking, no. Only I remember it was with KFOR. But I
13 don't remember the date.

14 PRESIDING JUDGE VELDT-FOGLIA: And then if you say -- when you
15 say "we drew up the list," who is "we"?

16 THE WITNESS: [Interpretation] When they drew up the list of
17 veterans, war veterans.

18 PRESIDING JUDGE VELDT-FOGLIA: Aha. Okay. That clarifies a
19 little bit more.

20 Defence Counsel -- thank you, Mr. Witness. Defence Counsel,
21 please proceed.

22 MR. GILISSEN: Thank you very much. I will try to help
23 everybody about the date.

24 Q. So did you hear about the Kumanovo Agreement?

25 A. No.

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Redactions applied pursuant to F744.

1 MR. GILISSEN: So that's not helpful, I think so.

2 Q. So during your presence in Kukes metal factory in 1999, did you
3 know a person or did you meet a person named Pjeter Shala?

4 A. No.

5 Q. And a person who had a nickname Ujku or Ujki, or something like
6 that, Wolf?

7 A. No, I didn't hear of a person with that name.

8 Q. And to your knowledge, was the nickname Ujku, Ujki, a common
9 nickname in Albania or in Kosovo in 1999?

10 A. I didn't hear it.

11 Q. If a person named Pjeter Shala was in the Brigade 128 or before
12 this group was called Brigade 128, do you consider that you were
13 informed of it, you were able to recognise this person?

14 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel and Mr. Witness,
15 please don't proceed.

16 You have the floor, Madam Prosecutor.

17 MS. PERGOLO: Thank you, Your Honours. I think this question
18 calls for speculation on the part of the witness because he has been
19 asked whether he would know if someone called Pjeter Shala had been a
20 member of the brigade.

21 I think the witness already said something about this. He
22 wasn't asked specifically, I think, I believe, about the brigade.
23 But I think this specific question is -- we're entering into the
24 realm that the witness would not necessarily know and be able to
25 speak about.

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1 PRESIDING JUDGE VELDT-FOGLIA: I think can you answer this
2 question. I will allow for it.

3 Defence Counsel, you have the floor. I think it is good to
4 repeat the question -- or maybe we do it otherwise.

5 MR. GILISSEN: Yeah, I can say it.

6 PRESIDING JUDGE VELDT-FOGLIA: Yes.

7 MR. GILISSEN:

8 Q. Were you aware about the name or the face of the other persons
9 who were part of the Brigade 128? Did you know the other people who
10 were part of this brigade or this group?

11 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel --

12 THE WITNESS: [Interpretation] I couldn't possibly know everyone.

13 PRESIDING JUDGE VELDT-FOGLIA: I was worried that Mr. Witness
14 would not understand the question, but he has understood it
15 perfectly.

16 MR. GILISSEN: Yeah. And I tried to answer to my dear colleague
17 to avoid any problem between us. That's sure.

18 Q. So, Mr. Witness, just to be sure, the warehouse you are talking
19 about was the one inside the Kukes metal factory?

20 A. Yes.

21 Q. Thank you very much. Thank you very much. So I would like to
22 talk about funeral. Do you remember a funeral taking place in
23 Kukes metal factory during the period of war?

24 A. A martyr was buried there in Kukes.

25 THE INTERPRETER: The interpreter did not get the name of the

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1 person.

2 MR. GILISSEN:

3 Q. And when was this funeral? Are you able enough to try, not to
4 provide us a date, but a period? If you have a date, that's perfect.
5 But a period. At the beginning of your stay in Kukes, at the end, in
6 the middle? To try to have an idea about the timing.

7 A. I do not know when this funeral took place. I don't remember
8 the date. I know only that he was buried in Kukes, but I don't know
9 when, on what date.

10 Q. Yes. And do you know how this person has died?

11 A. I don't know.

12 Q. No. And I'm not sure we --

13 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel.

14 MR. GILISSEN: Yes.

15 PRESIDING JUDGE VELDT-FOGLIA: Apologies to interrupt you. I
16 want to have the transcript clear. Page 25, line 19, you said: "So
17 I would like to talk about funeral." Then apparently something got
18 lost. Was that the name?

19 MR. GILISSEN: That is exactly the question I was --

20 PRESIDING JUDGE VELDT-FOGLIA: No. I say it because the
21 interpreter said that they did not get the name of the person. And
22 my question is: Did you even give a name? And I see --

23 MR. GILISSEN: No, no. I want to ask one more the question to
24 be sure that the witness understood perfectly well.

25 Q. Do you have the name of this hero or this martyr?

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1 A. Yes. Yes, lawyer, I do.

2 Q. Are you able enough to provide us with the name?

3 A. Selver Mackaj is the name of the martyr.

4 Q. Thank you very much. And were you present at this funeral?

5 A. Yes.

6 Q. Are you able enough to describe what happened at this moment?

7 It was a big crowd, it was very crowded, or what happened?

8 PRESIDING JUDGE VELDT-FOGLIA: Please don't provide the witness
9 with answers.

10 THE WITNESS: [Interpretation] There were people present at the
11 funeral, just like on any other funeral. Normal amount of people.

12 MR. GILISSEN:

13 Q. And, according to you, around how many persons?

14 A. I don't recall. It's been 25 years since. I can't possible
15 recall. There were people, but not many.

16 Q. Thank you very much. And I would like to talk about something
17 else now, about another topic.

18 Do you know anything about a medical clinic or doctors being
19 present in the Kukes metal factory?

20 A. Ilir was there at the factory, Ilir Rakaj, working as a doctor.
21 But I had no dealings with him because I was in a good health and had
22 no need for a doctor. But I know he was there, and nowadays he is a
23 war invalid.

24 Q. Yes. And how do you know this person? How do you know him?

25 A. He is a co-villager, he is from Vermice, and he is a friend. We

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1 are more or less of the same age.

2 Q. Thank you very much. So during the war, you stayed in Kukes or
3 did you move, or you stay always in Kukes metal factory?

4 A. No, no, in Kukes.

5 Q. So at the end of the war, where were you at the end of the war?

6 A. In Kukes.

7 Q. And then you -- did you go -- please.

8 A. Then when KFOR entered Kosovo, I returned to Kosovo together
9 with KFOR.

10 Q. And where did you go at this moment when you entered in Kosovo?

11 A. I went home.

12 Q. And what happened when you arrive home?

13 A. I went home and I stayed there, did not go out, didn't go
14 anywhere else. I did go out in the town but not to other places. I
15 only stayed in Prizren.

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

17 MR. GILISSEN: It is over for me, Madam President. I consider I
18 receive the answers, and that's enough. Thank you very much.

19 Q. Thank you very much, Mr. Witness.

20 THE WITNESS: [Interpretation] Thank you.

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

22 Very well. It is 20 minutes to 11.00. Madam Prosecutor, I
23 would propose that we have a break now for half an hour and that we
24 then continue with the cross-examination.

25 Is that suitable for the SPO?

Redactions applied pursuant to F744.

1 MS. PERGOLO: Yes, Your Honours. Thank you very much.

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

3 Mr. Witness, we will have a break of half an hour now. Yes?

4 And then we will continue with the examination by the Specialist
5 Prosecutor's Office.

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

7 PRESIDING JUDGE VELDT-FOGLIA: Yes, we see you back in half an
8 hour. Thank you.

9 [The witness stands down]

10 PRESIDING JUDGE VELDT-FOGLIA: Very well. The hearing is
11 adjourned for half an hour.

12 The hearing is adjourned.

13 --- Recess taken at 10.43 a.m.

14 --- On resuming at 11.13 a.m.

15 PRESIDING JUDGE VELDT-FOGLIA: Welcome back.

16 That side is in the same composition. Yes, thank you, Madam
17 Prosecutor.

18 The Victims' Counsel nods too.

19 And here on our left-hand side, yes, thank you, Defence Counsel.

20 We will continue with the examination of the witness. It's the
21 turn now for the Specialist Prosecutor's Office.

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

23 Mr. Shala, could you hear us fine?

24 THE ACCUSED: [via videolink] [Interpretation] Yes, I can hear
25 you fine. Thank you.

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Procedural Matters

Redactions applied pursuant to F744.

1 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

2 [The witness takes the stand]

3 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, can you put off your
4 microphone. Thank you.

5 Mr. Witness, welcome back.

6 THE WITNESS: [Interpretation] Thank you.

7 PRESIDING JUDGE VELDT-FOGLIA: We will proceed with your
8 examination by the Specialist Prosecutor's Office. And before we do
9 so, the Panel will issue an oral order regarding the SPO request to
10 use during the questioning of the witness three newly disclosed items
11 which consist of Facebook posts. The request was made via e-mail
12 yesterday, 2 October, at 13.39. The items were disclosed on the same
13 day at 9.32. This is disclosure package 168. And they were already
14 added to the presentation queue for the witnesses.

15 The Defence and Victims' Counsel did not oppose the SPO request.
16 We authorise the SPO to use these items during its examination of the
17 witness. They are limited in number and length. We have not
18 received any objections, and the Victims' Counsel and Defence have
19 had sufficient time to study them.

20 We also have taken note of the SPO request to amend its list of
21 materials and corresponding presentation queue for the questioning of
22 the witness. That was received yesterday by e-mail at 23 minutes
23 past 8.00.

24 Are there any observations from the side of the Defence and
25 Victims' Counsel?

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Cross-examination by Ms. Pergolo

Redactions applied pursuant to F744.

1 MR. GILISSEN: Thank you very much. No.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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

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

5 The Panel grants the request. The material is not lengthy and
6 has been already previously disclosed, and we imagine that both the
7 Defence and Victims' Counsel were aware of the content of this
8 material.

9 So now I give the floor to the Specialist Prosecutor's Office.
10 Madam Prosecutor, please proceed.

11 MS. PERGOLO: Thank you, Your Honours.

12 Cross-examination by Ms. Pergolo:

13 Q. Good morning, Mr. Kocinaj. My name is Gaia Pergolo, and I am
14 one of the counsels of the Specialist Prosecutor's Office. I will be
15 asking you several questions today.

16 I'd like to start with some questions on how you became a
17 Defence witness. Do you recall when you were first contacted by the
18 Defence?

19 A. I don't recall. I don't know. I don't remember the exact date.
20 It was perhaps seven or eight months ago, but I don't remember the
21 exact date.

22 Q. Thank you, Mr. Kocinaj. Do you -- how did that first contact
23 happen?

24 A. We met in Prizren for the first time. They called me. I went.
25 I responded to their call.

Witness: Naser Kocinaj (Open Session)

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Cross-examination by Ms. Pergolo

Redactions applied pursuant to F744.

1 Q. How many times did you meet since that first meeting in Prizren
2 and today's testimony?

3 A. Maybe three times.

4 Q. Before attending the first meeting, had you read the public
5 redacted version of the indictment against Pjeter Shala?

6 A. No, I didn't.

7 Q. During the meeting, were you explained the nature of the case
8 against Pjeter Shala?

9 A. I only saw it through television, and the counsel also explained
10 it to me.

11 Q. Were you able to review the information you provided to the
12 Defence after meeting with them?

13 A. I didn't see it.

14 Q. Thank you very much. I would now ask you a few questions about
15 your whereabouts during the indictment period in this case, which is
16 from 17 May until 5 June 1999. You already provided this morning
17 some information about you joining the KLA and your whereabouts.

18 The first question I have is: Did you stay at the Kukes metal
19 factory continuously from the period of mobilisation until the end of
20 the war?

21 A. Yes.

22 Q. Did you ever leave the KLA base at the Kukes metal factory
23 during that period?

24 A. Whenever I had something to do, I would leave. If I had to
25 attend to some personal matters, then I would leave and go to town.

Witness: Naser Kocinaj (Private Session)

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Cross-examination by Ms. Pergolo

Redactions applied pursuant to F744.

1 Q. Mr. Kocinaj, were you ever in Burrel?

2 A. I was not in Burrel.

3 Q. Do you have any knowledge of an incident that happened in Burrel
4 in early May 1999?

5 A. No, I'm not aware because I was not in Burrel.

6 MS. PERGOLO: Your Honours, I would like request to go briefly
7 into private session to discuss a matter that is included in
8 documents that are still confidential in this case. That would be
9 just for a few brief follow-up questions and clarifications.

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

11 Madam Court Officer, please proceed to bring us into private
12 session, please.

13 [Private session]

14 [Private session text removed]

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Witness: Naser Kocinaj (Private Session)

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Cross-examination by Ms. Pergolo

Redactions applied pursuant to F744.

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17 [Open session]

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

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

20 Madam Prosecutor, please proceed.

21 MS. PERGOLO: Thank you.

22 Q. Mr. Kocinaj, did you ever go to Krume?

23 A. No.

24 Q. Did you participate in Operation Arrow?

25 A. No.

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Cross-examination by Ms. Pergolo

Redactions applied pursuant to F744.

1 Q. Did you ever go to Kalimash?

2 A. No.

3 Q. Did you ever go to Gorozhup?

4 A. No, neither to Gorozhup.

5 Q. Thank you very much. I am now moving to a different topic.

6 A. You're welcome.

7 Q. So you told us this morning that you were at the Kukes metal
8 factory and you answered a number of questions by the Defence about
9 this site. I have a few additional questions about it.

10 MS. PERGOLO: And, Your Honours, I would request that the aerial
11 the map the Defence Counsel showed to the witness earlier this
12 morning be again put on the screen for some additional
13 identification.

14 PRESIDING JUDGE VELDT-FOGLIA: If can you provide Madam Court
15 Officer again with the references, we can load the evidence on the
16 screens.

17 MS. PERGOLO: Absolutely. It is SPOE00330362. And perhaps
18 maybe it would help if I give also the exhibit number because that
19 probably includes the whole ERN range. It's P00078. Although,
20 apologies, I now realise that since this was given a Registry number
21 now, there would be a new -- a different identification, so it would
22 be REG00968. We can use the same map that was already marked and
23 take it from there.

24 PRESIDING JUDGE VELDT-FOGLIA: Very well. We proceed in that
25 way.

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Cross-examination by Ms. Pergolo

Redactions applied pursuant to F744.

1 Madam Court Officer, can you swap, please. Thank you for that.

2 Madam Prosecutor, you have the floor.

3 MS. PERGOLO:

4 Q. Mr. Kocinaj, was there a kitchen within the Kukes metal factory?

5 A. I don't remember whether there was a kitchen. I would go from 1
6 to 2. I would stay there. If I had to go somewhere to attend to
7 personal matters, then I would go out to the town.

8 Q. So let me see if I understand correctly. Where did you eat
9 during your functions and work at the Kukes metal factory?

10 A. I stayed in neighbourhood 3. My family was there, and I would
11 go and eat there.

12 Q. Every single day you were going outside --

13 A. Every single day, yes.

14 Q. -- the metal factory to have food?

15 A. Yes. Every day, I would go out and come back.

16 Q. Mr. Kocinaj, we're looking now at this map in front of us. You
17 marked with the number 2 the warehouse where you worked; is that
18 correct?

19 A. Yes.

20 Q. We see, however, in this map another building next to the one
21 you marked with the number 2. Do you know what that is? To the left
22 of the number 2 building?

23 A. I don't know what it is. Maybe it was one single building. I
24 don't remember. I do know only this building where I worked, number
25 2.

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Cross-examination by Ms. Pergolo

Redactions applied pursuant to F744.

1 Q. Mr. Kocinaj, where was the food and the weapons arriving at the
2 Kukes metal factory, where were they kept? Do you remember? Do you
3 know?

4 A. Where I worked, there were no weapons, only uniforms.

5 Q. Mr. Kocinaj, were there any toilets within the premises?

6 A. Where I worked, no.

7 Q. Where did you go to relieve yourself, Mr. Kocinaj, when you were
8 working your shifts at the Kukes metal factory?

9 A. I went out of there. I went to the town.

10 Q. Is it your testimony that every single time you had to relieve
11 yourself you went into town?

12 A. Yes, because my house was nearby, so I went to my home.

13 PRESIDING JUDGE VELDT-FOGLIA: Then I would like to know - sorry
14 for interrupting you - how far was your house from the place you
15 worked, Mr. Witness?

16 THE WITNESS: [Interpretation] Very near. In ten minutes, I
17 would be there.

18 PRESIDING JUDGE VELDT-FOGLIA: I will give the floor back to
19 you, Madam Prosecutor.

20 I remind you that you have to tell the truth.

21 MS. PERGOLO:

22 Q. And so, Mr. Kocinaj, do I understand correctly that every time
23 you had to use the toilets, you would undertake a trip of about 20
24 minutes per time in and out of the metal factory during your working
25 hours?

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Cross-examination by Ms. Pergolo

Redactions applied pursuant to F744.

1 A. Yes.

2 Q. Did you ever ask perhaps whether there were toilets that you
3 could have used more easily within the premises?

4 A. I didn't ask anyone about the toilets. I told you, I only gave
5 them uniforms and they went -- and I don't know anything else. I'm
6 telling you what I know.

7 PRESIDING JUDGE VELDT-FOGLIA: I remind you again, Mr. Witness,
8 that you have to tell the truth. So just telling you. And just give
9 it a good thought.

10 THE WITNESS: [Interpretation] I am telling the truth,
11 Your Honour. I am telling the truth for myself.

12 PRESIDING JUDGE VELDT-FOGLIA: But was there a special reason,
13 was there a special reason that you would not -- that you did not ask
14 for -- if there were any toilets at the premises?

15 THE WITNESS: [Interpretation] I dealt only with Rexhep Kelmendi
16 from Peje, and I have nothing to do with other persons. That was the
17 only person I asked when I wanted to go out.

18 PRESIDING JUDGE VELDT-FOGLIA: That was not an answer to my
19 question. I'm just trying to understand that you would -- why you
20 would go -- and maybe there was a medical reason why you would go,
21 and if there's a medical reason you don't want to share in public, we
22 can go into private. But if there was a special reason that would
23 you not go to the toilet on the premises and you just -- you informed
24 us that you didn't know about a toilet, that you didn't ask for a
25 toilet. But just let us be clear. Normally on a premises so big as

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Cross-examination by Ms. Pergolo

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1 -- no, no, please -- no, please let me talk and don't interrupt me
2 because it becomes unworkable.

3 I'm just trying to figure out, to understand, why you would not
4 go on the premises. Because it would be very normal that on a
5 premises of this nature, there would be at least one toilet. So
6 there would be not -- it's not obvious that you would go out of the
7 premises to go to the toilet somewhere else. I'm just calling things
8 by its name. And you are here to give an answer and you must give an
9 answer and you must answer truthful.

10 So I'm asking you: Was there a reason for you not to go to the
11 toilet at the premises?

12 THE WITNESS: [Interpretation] Maybe there was a toilet. I don't
13 remember, Your Honour.

14 PRESIDING JUDGE VELDT-FOGLIA: I will give the floor to Madam
15 Prosecutor. And we note what you just told us.

16 Madam Prosecutor, you have the floor.

17 MS. PERGOLO: Thank you, Your Honours.

18 Q. Mr. Kocinaj, you told us just now - page 36, line 18 - that
19 where you worked, there were no weapons. You've told us that you
20 were dealing only with the uniforms. Do you know, however, if any
21 weapons or any food was arriving at the Kukes metal factory?

22 A. Only uniforms came to that factory. I wasn't responsible for
23 weapons or for anything else. Only for uniforms, to provide them to
24 the people who came there.

25 Q. I understand you were responsible for the uniforms. I'm asking

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1 you whether you knew whether weapons were arriving and considering --
2 please go ahead.

3 A. I don't know. I have no knowledge about that.

4 Q. Did you know whether food was ever arriving at the Kukes metal
5 factory?

6 A. I don't remember. Maybe there were -- there came food, but I
7 don't remember.

8 Q. Thank you, Mr. Witness.

9 MS. PERGOLO: I would now like to show the witness a number of
10 photographs. And if Your Honours allow, I will proceed by calling
11 them on the screen. It is the same ERN number that I will repeat
12 that -- from out of which Defence Counsel showed a number of pictures
13 earlier this morning.

14 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, I will allow
15 for it, but just one remark to Mr. Witness.

16 Mr. Witness, how many months did you spend at -- working at this
17 warehouse 2?

18 THE WITNESS: [Interpretation] From the beginning to the end. I
19 don't recall dates.

20 PRESIDING JUDGE VELDT-FOGLIA: From the beginning to the end.
21 From Alpha to Omega.

22 THE WITNESS: [Interpretation] Yes, until I returned to Kosovo.

23 PRESIDING JUDGE VELDT-FOGLIA: What I remember is that you said
24 that it was from before the NATO started bombing. Or may I say
25 differently. Is it your testimony that you have been there several

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1 months?

2 THE WITNESS: [Interpretation] Yes.

3 PRESIDING JUDGE VELDT-FOGLIA: And is it your testimony that in
4 those several months you never saw during the day when you were
5 working there any food arriving at the premises where you worked?

6 THE WITNESS: [Interpretation] Maybe some food arrived, but I
7 don't remember, Your Honour. I dealt only with the uniforms. Maybe
8 there was foodstuffs there, but I don't know.

9 PRESIDING JUDGE VELDT-FOGLIA: It is not about where you were
10 responsible for. I'm also asking you about what you have seen
11 yourself when you were there.

12 And then I will ask you another question. Do you have problems
13 with your memory in general?

14 THE WITNESS: [Interpretation] Many years have passed. I have
15 forgotten. I remember only what I did, the work I did. I don't
16 remember about other things.

17 PRESIDING JUDGE VELDT-FOGLIA: Or don't you want to talk about
18 other things?

19 THE WITNESS: [Interpretation] No. I don't know. If I knew, I
20 would talk about them.

21 PRESIDING JUDGE VELDT-FOGLIA: I remind you that you are -- of
22 course, if you don't remember, you should not make up anything. But
23 please do your best to recall, because that's the duty, that's the
24 reason you are brought here, to tell us everything you can remember.

25 Madam Prosecutor, you may proceed.

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1 MS. PERGOLO: May I then call up item number 5 in the -- in our
2 list of materials, which is SPOE40010264 to 40010559. And then if I
3 could please have picture at page 34, which is also ending in 297 on
4 the screen.

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

7 MS. PERGOLO:

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

9 A. Yes.

10 Q. What is it?

11 A. At the warehouse, the entrance.

12 Q. Can you then confirm that this is the entrance that you marked
13 with the number 1 on the map that we just saw before.

14 A. Yes.

15 Q. Thank you.

16 MS. PERGOLO: May I now have page 12 of this document.

17 PRESIDING JUDGE VELDT-FOGLIA: Also for the purpose of
18 recognition.

19 MS. PERGOLO: Yes.

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

22 MS. PERGOLO:

23 Q. Mr. Witness, I believe you already identified this picture this
24 morning with Defence Counsel, but I just want to ask you to confirm
25 what is this picture again?

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1 A. Where I worked, that I mentioned earlier.

2 Q. Thank you.

3 MS. PERGOLO: May I now have page 156 of this same document.

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

6 MS. PERGOLO:

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

8 A. No.

9 Q. Does it not remind you of anything?

10 A. When I went there, it seems to me like the one I saw when we put
11 that sign that we saw earlier on the door. It seems to me that that
12 was the place.

13 Q. Can you perhaps clarify what you mean by "when we went to put
14 that sign that we saw before." Can you explain that?

15 A. When we went there to put the plaque, then I entered the -- the
16 words, and I remember that I think I saw this.

17 Q. Perhaps there is an error in the transcript or maybe I'll ask
18 the witness to clarify. When you said "then I entered the words,"
19 what do you mean by that?

20 A. At the warehouse.

21 Q. So is this the warehouse where you worked?

22 A. No.

23 Q. Was there any other warehouse at the Kukes metal factory?

24 A. The one that I marked with number 2.

25 Q. But number 2 is the one where you used to work, isn't it?

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1 A. Yes, but this I didn't see.

2 MS. CARILOU: Your Honours --

3 THE WITNESS: [Interpretation] This I haven't seen.

4 PRESIDING JUDGE VELDT-FOGLIA: Is it something we can share with
5 the witness present?

6 MS. CARILOU: I believe so, yes. It is just an observation.
7 Perhaps in fairness to the witness, we could explain when the picture
8 was taken, because it is considerably long after he was at the
9 particular place.

10 PRESIDING JUDGE VELDT-FOGLIA: Yes. But I don't think that
11 Madam Prosecutor is referring to the things inside but to the
12 building in -- the inner side of the building. But I don't think
13 there is a problem with mentioning the date when the picture was
14 taken.

15 MS. PERGOLO: Absolutely. Let me -- just to be correct, I
16 believe this was in 2009, but I will double-check to be sure.
17 Apologies. It was actually in May 2019, actually.

18 Q. So this was not during the time you were there, Mr. Witness.
19 However, you seem to have recognised this space as a space where you
20 have been; is that correct?

21 A. I don't remember to have seen these things that are here.

22 PRESIDING JUDGE VELDT-FOGLIA: I --

23 THE WITNESS: [Interpretation] I can't identify them now. They
24 were not there.

25 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, I think it is

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1 important - and I see that you're standing - it's important to
2 clarify to the witness what you are asking him to say if he
3 recognises or not. And I'm under the impression there is a
4 misunderstanding between the things that are situated in the building
5 itself and the building -- and the building as such.

6 MS. PERGOLO: Thank you, Your Honours. I will be happy to
7 clarify. I see counsel is standing.

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

10 MR. AOUNI: Thank you, Your Honour, and excuse me. Just for
11 extra clarity, one additional information. The question put by my
12 learned colleague was this is "a space where have you been."

13 I think when the witness answered, he referred to putting a
14 plaque, so probably speaking about another event or occasion. So
15 maybe it is better to have it clear what he is referring -- I have an
16 idea but I'm not testifying what the plaque should be, putting the
17 plaque.

18 PRESIDING JUDGE VELDT-FOGLIA: We will proceed to see if -- I
19 will give the floor to Madam Prosecutor, and we will proceed to see
20 if he can recognise or not the inside of this building.

21 MS. PERGOLO: Thank you, Your Honours.

22 Q. Mr. Witness, my question was whether you recognise the building,
23 the space, not any particular object in it. And, again, you answered
24 earlier that this is where you -- where have you been to put this
25 plaque. Is this accurate?

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1 A. The plaque is outside at the entrance. But what I'm seeing
2 here, these walls, these things, I don't remember to have seen. From
3 inside, I don't remember. Maybe if I look at it from outside. I
4 don't remember to have seen these things within -- inside the
5 building.

6 PRESIDING JUDGE VELDT-FOGLIA: Okay. Mr. Witness.

7 THE WITNESS: [Interpretation] Only uniforms.

8 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, the question is, I
9 would like to know, I leave -- then I will give the floor back to
10 Madam Prosecutor. I just want to understand if you recognise or not
11 the inside of this building, so the windows, the walls, the -- at the
12 back part there are two doors, the ceiling. That is my -- I'm not
13 interested in the things. I just want to know if this is the
14 building where you worked in. That is what I want to know. And I
15 can formulate it differently. If you recognise this building as the
16 building where you worked in.

17 And please don't make -- no, no, wait. Please don't circle
18 around the question. Around the answer, more specifically.

19 THE WITNESS: [Interpretation] I don't -- I can't tell that this
20 was the warehouse where I was now that I see these objects inside, so
21 I can't give you an exact answer, because I don't remember these
22 things. Maybe if you show it to me from the outside, I can tell you
23 whether it was this building.

24 PRESIDING JUDGE VELDT-FOGLIA: I will leave it here,
25 Mr. Witness. I note your answer for now. But I will give the floor

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1 back to Madam Prosecutor and it could be that she wants to proceed
2 some more on this.

3 Although, no. I will have one more question to you. When we
4 were discussing the plaque in front of these premises, did you visit
5 the inside of this building when the plaque was put outside the
6 building -- outside the premises?

7 THE WITNESS: [Interpretation] Yes.

8 PRESIDING JUDGE VELDT-FOGLIA: So at least -- okay.

9 THE WITNESS: [Interpretation] Yes.

10 PRESIDING JUDGE VELDT-FOGLIA: So then for sure you went inside.
11 But you cannot confirm that this building, yes, this picture, because
12 you -- no, I will put it differently. You recognise this building as
13 the building where you went to the day that the plaque was put
14 outside this premises?

15 THE WITNESS: [Interpretation] Yes.

16 PRESIDING JUDGE VELDT-FOGLIA: Yes. And do you remember if this
17 building, from the inside, was the building where you worked during
18 your time at warehouse 2?

19 THE WITNESS: [Interpretation] Maybe it is the same, but these
20 objects inside, these prevent me from confirming it. Maybe it is the
21 same building. Maybe it's the same warehouse I used to work.

22 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, I'm just trying to
23 clarify. I am not trying to get an answer from you left or right
24 or -- that's not my intention at all. But I'm just trying to
25 understand. You went to the premises of this factory to have this

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1 plaque installed there.

2 THE WITNESS: [Interpretation] Yes.

3 PRESIDING JUDGE VELDT-FOGLIA: When you arrived at the premises
4 and you went to this building, you could not remember -- you could
5 not remember if that was the building where you also worked in?
6 That's your testimony.

7 THE WITNESS: [Interpretation] I don't remember, Your Honour.
8 Maybe it is the same building. From the outside, yes; but from the
9 inside, I can't confirm it.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. Madam Prosecutor, I leave
11 it to you.

12 MS. PERGOLO: Thank you, Your Honours.

13 May I now have another picture on the screen, which is page 157.

14 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] Could
15 you clarify what the purpose is of this picture?

16 MS. PERGOLO: Yes, it is still for identification purposes.

17 PRESIDING JUDGE VELDT-FOGLIA: Very well.

18 Madam Court Officer, can you -- you may proceed.

19 MS. PERGOLO:

20 Q. Mr. Kocinaj, do you recognise this picture?

21 A. Can you zoom it out, please? I can't make sure it is the door.

22 Q. Does it work better now?

23 A. No, no.

24 Q. Mr. Witness, you said: "I can't make sure it is the door."

25 Which door are you talking about?

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1 A. The door of the warehouse.

2 Q. Was this -- where was this door of the warehouse?

3 A. I don't remember it now.

4 Q. Was it inside the building or outside the building?

5 A. Inside the building. If you entered at the main entrance, walk
6 straight, you went to the warehouse.

7 Q. And where was this door situated inside the warehouse? Did you
8 ever cross this door?

9 A. I don't seem to recall this gate, this door.

10 Q. But you did recall this gate? You recognise it?

11 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, I see Defence
12 Counsel standing.

13 You have the floor.

14 MR. AOUINI: Sorry for the interruption, Your Honour, my learned
15 colleague. I think there is a confusion here because we also
16 remember that the witness is referring to the whole premise as
17 warehouse as well. So there is a little bit confusion. I think when
18 he asked to zoom out, it is to be shown a picture from further away,
19 I think.

20 Because what we read into "inside the warehouse" could be
21 meaning inside the whole premise, because he called the whole premise
22 "the warehouse." That's the confusion we might need to clarify,
23 Your Honours.

24 PRESIDING JUDGE VELDT-FOGLIA: We might proceed, but it is my
25 recollection that Madam Prosecutor said inside or outside, and then

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1 he confirmed with inside. So -- and I don't think it's outside the
2 premises. So -- but for reasons of clarity, there can always with a
3 misunderstanding, I'm happy to have the question repeated.

4 MS. PERGOLO: Perhaps, Your Honour, I would like to do it
5 slightly different. Because I believe this morning the witness
6 identified the entrance door to the warehouse from the courtyard, so
7 -- and I think these two doors are -- again, we'll see them, but I
8 think they look quite different.

9 PRESIDING JUDGE VELDT-FOGLIA: If you take on board the point
10 that has just made in order to be sure that there is no
11 misunderstanding, you may proceed with your examination as you deem
12 necessary.

13 MS. PERGOLO: Thank you. Then maybe I will perhaps ask if these
14 photographs that we showed this morning can be shown again to the
15 witness, and the ERN number is REG00970.

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

18 MS. PERGOLO:

19 Q. Mr. Witness, earlier this morning, you marked with number 4 the
20 entrance to the warehouse. Is it correct?

21 A. Yes, that's the one, with number 4.

22 Q. Was this the door you used to enter the warehouse when you went
23 to work?

24 A. Yes, I would go inside through this door.

25 Q. Is this door the same that we saw in the earlier -- in the

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1 previous picture?

2 A. That one, I cannot remember. But this one here, with number 4,
3 I do. It is the door through which I would go inside. But the other
4 door, that I seem not to remember.

5 MS. PERGOLO: Your Honours, I would like to try to clarify one
6 more thing with respect to this issue with the witness, and then I
7 would like -- I would need again to call up the aerial map of the
8 factory. And I will provide the ERN number, which is -- well, the
9 Exhibit number is P00078. And again the marked today by Registry is
10 REG00968.

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

13 MS. PERGOLO:

14 Q. Mr. Witness, we see on this map the warehouse marked with
15 number 2. That's where you said you used to work. I asked you
16 earlier whether you recognised or knew the building next to it, which
17 is the building on the left-hand side of number 2, and you said that
18 you didn't know. You only knew the uniform warehouse.

19 MR. GILISSEN: I'm sorry. With your authorisation. I would
20 like to explain something but without the presence of the witness.

21 PRESIDING JUDGE VELDT-FOGLIA: Very well, Defence Counsel.

22 Mr. Witness, I will ask Madam Court Usher to accompany you out,
23 and we will have an exchange on the question. I see you back in five
24 minutes.

25 THE WITNESS: [Interpretation] That's okay.

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1 [The witness stands down]

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

3 MR. GILISSEN: Thank you very much, Your Honour. Your Honour, I
4 would like to focus on one thing with the Panel. If we take a look
5 at the picture, the aerial picture we have on the screen, we say the
6 warehouse with the number 2. This is not the picture of the
7 warehouse with the number 2.

8 PRESIDING JUDGE VELDT-FOGLIA: No. But we know.

9 MR. GILISSEN: Yeah, exactly. But when we were on the spot -- I
10 don't want to be a witness in my case, of course.

11 PRESIDING JUDGE VELDT-FOGLIA: No, no. But I know what you're
12 saying, and I know what -- where we are.

13 MR. GILISSEN: These big doors were open. And in reality, it
14 doesn't look like this. I didn't realise that this door, this big
15 door was so huge, may I say, because it was closed, and we had the
16 feeling it was like a continuation of the hall -- may I say, of the
17 halls. And I consider when I see the number 2, that that's -- the
18 other side of the window could be the warehouse. That's what I
19 wanted to focus on.

20 But I see that you understand perfectly well, so I don't want to
21 say something --

22 PRESIDING JUDGE VELDT-FOGLIA: No. But I'm very happy that you
23 raised the point just to have it clear for all of us. Because if I
24 would not be aware, it could complicate maybe the conversation. So
25 please always feel free to raise an issue you think is necessary to

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1 raise with us. So, yes.

2 MR. GILISSEN: Yeah, thank you very much.

3 MS. PERGOLO: Your Honours, yes, we will -- just to react on
4 this, we will take that on board. Our purpose was not to mislead the
5 witness as to the identification of a building where he worked by
6 showing a picture that was not where he worked. So we were just
7 asking whether he was able to recognise this building because we're
8 trying to ascertain a number of things. But that was the only
9 reason. So we will, of course, keep what counsel said into
10 consideration.

11 PRESIDING JUDGE VELDT-FOGLIA: But I don't think -- at least for
12 the Panel, we -- I was not under the impression there was any type of
13 misleading in this sense.

14 Yes. If views have been exchanged, then we can proceed.

15 Madam Court Officer, could you ask Madam Court Usher to bring
16 the witness in.

17 [The witness takes the stand]

18 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Witness. I
19 will give the --

20 THE WITNESS: [Interpretation] Thank you.

21 PRESIDING JUDGE VELDT-FOGLIA: I will give the floor again to
22 Madam Prosecutor and she will continue with her questioning.

23 MS. PERGOLO:

24 Q. Mr. Witness, we were talking about the building that we see on
25 this image next to what you marked as number 2, and you told us that

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1 you didn't know what that was; is this correct?

2 A. I know what number 2 is.

3 Q. Apologies. Perhaps my question was unclear. I was referring to
4 the building next to it. And in the picture, you see it with the
5 lighter grey on the left side of what you marked as number 2. Is
6 this -- is this correct?

7 A. This was attached to number 2. It was one structure attached
8 with that door.

9 Q. Thank you very much, Mr. Witness. So that door that you were
10 talking about, is that the metal door - I think we can describe it in
11 this way - that we saw earlier in the picture?

12 A. The door itself I don't recall. I would go inside through that
13 door that I marked with number 2. Whereas this building was attached
14 to the building I marked with number 2. Maybe there was a door, but
15 I don't remember.

16 MS. PERGOLO: Perhaps, Your Honours, we can ask the witness to
17 mark with another number this other part of this building so at least
18 we are clear as we proceed. If that is ...

19 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, can you mark the
20 building next to the building where you used to work with number 5.

21 THE WITNESS: [Interpretation] This one.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you. That's clear.

23 Madam Court Officer, can you save this picture and allocate it a
24 new number, please.

25 [Trial Panel and Court Officer confer]

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1 MS. PERGOLO: Shall I proceed or -- I thought I was waiting
2 for --

3 PRESIDING JUDGE VELDT-FOGLIA: No, no, no, we are -- Madam
4 Prosecutor, we are waiting because it is better that the Court
5 Officer has her full attention with everything that is going on in
6 the court. So we finalise this administrative matter and then we
7 proceed.

8 [Trial Panel and Court Officer confer]

9 PRESIDING JUDGE VELDT-FOGLIA: We have an issue of a technical
10 nature, so we will ask IT to come in to assist. So we have to wait
11 for a moment. We have to exercise some patience.

12 [Trial Panel and Court Officer confer]

13 PRESIDING JUDGE VELDT-FOGLIA: I was updated that IT personnel
14 is coming to try to resolve this issue.

15 [Trial Panel and Court Officer confer]

16 PRESIDING JUDGE VELDT-FOGLIA: We will see if it can be resolved
17 in a couple of minutes. If not, we will adjourn for five or ten
18 minutes. But it is too early to take a break. We are just working
19 one hour so ...

20 Mr. Witness, we have to be patient for a little moment.

21 THE WITNESS: [Interpretation] There's no problem, Your Honour.
22 No problem at all.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

24 [Trial Panel and Court Officer confer]

25 PRESIDING JUDGE VELDT-FOGLIA: We will adjourn the hearing for

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1 now. I will first usher the witness out.

2 Mr. Witness, you will be ushered out till the technical issue
3 has been resolved, so Madam Court Usher will accompany you out.

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

5 [The witness stands down]

6 PRESIDING JUDGE VELDT-FOGLIA: As soon as the issue has been
7 solved, we will come back and continue with our hearing.

8 The hearing is adjourned.

9 --- Luncheon recess taken at 12.24 p.m.

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

11 PRESIDING JUDGE VELDT-FOGLIA: Welcome after the break.

12 Let me see. In the same composition is the SPO team; the same
13 goes for the Victims' Counsel's team. And here on my left-hand side,
14 are you in the same composition?

15 MR. GILISSEN: Yes, we are in the same composition excepting for
16 Ms. Cariolou who was unable to appear before the Court.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

18 And Mr. Shala is with us. Can you hear me fine?

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

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

22 Before we continue, there are two matters to discuss. I will
23 give you the floor, Defence Counsel, for a point you wanted to make.
24 But before that, I want to discuss briefly the numbering of one of
25 the documents because we were in the process of saving a document in

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1 order to allocate a number to it.

2 And before the break, during the SPO's cross-examination,
3 Mr. Witness made an additional marking on an item, and that item had
4 already been marked earlier today during the examination-in-chief by
5 Defence and was assigned number REG00968.

6 And the Court Officer was in the process of saving the new
7 marking, as a new document, when we encountered this technical
8 problem and we had to adjourn the session.

9 The computer automatically saved the new markings over the
10 document previously saved as REG00968, and now we have one document
11 of both the markings of the Defence which were marked in red colour
12 during examination-in-chief and a marking made in black during
13 cross-examination.

14 And considering that both markings are now saved on one
15 document, we will retain it as such instead of having two separate
16 items like was our intention. And this one item will also retain the
17 number REG00968. Yes? Just to be clear on the record what has
18 happened with the numbering of this document.

19 Defence Counsel, Mr. Aouini, I give you the floor.

20 MR. AOUINI: Thank you, Your Honour. And good afternoon to Your
21 Honours and to everyone.

22 Your Honour, we wanted to address one point for clarification

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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

2 Is there anything Madam Prosecutor wants to say on this?

3 MS. PERGOLO: No, Your Honours. We appreciate the clarification
4 from the Defence on this topic. Thank you.

5 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

6 Victims' Counsel, anything you want to address?

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

8 PRESIDING JUDGE VELDT-FOGLIA: Very well. Then we can proceed
9 with the cross-examination by the Prosecutor's Office.

10 Court clerk, can you please usher the witness back into the
11 courtroom.

12 [The witness takes the stand]

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

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

15 PRESIDING JUDGE VELDT-FOGLIA: I hope you were able to have some
16 rest. We will now continue with the cross --

17 THE WITNESS: [No interpretation].

18 PRESIDING JUDGE VELDT-FOGLIA: We will now continue with the
19 cross-examination by Madam Prosecutor. I will give her the floor to
20 continue.

21 MS. PERGOLO: Thank you, Your Honours.

22 Q. Good afternoon, Mr. Kocinaj.

23 A. Good afternoon, Madam Prosecutor.

24 MS. PERGOLO: Your Honours, I would like to call again on the
25 screen the picture we were discussing and that -- we were just

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1 discussing before and that the witness marked before the technical
2 error occurred, and it is REG00968.

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

5 Mr. Shala, could it be that your microphone is on?

6 THE ACCUSED: [via videolink] [Interpretation] Yes? No.

7 PRESIDING JUDGE VELDT-FOGLIA: I hear some background noise.
8 I'm not accusing you for not switching off the microphone, Mr. Shala.
9 Sorry. I'm just trying to make clear where that noise comes from
10 because it distracts a little bit from our main task.

11 Okay. Now let us proceed.

12 MS. PERGOLO:

13 Q. Mr. Witness, before the break, we were looking at this image in
14 front of you, where you had marked with the number 5 a building. And
15 before the break, you told us that building 5 was attached to
16 building 2 with a door; is that correct?

17 A. Yes.

18 Q. Do I understand correctly that the two buildings were connected
19 from the inside?

20 A. There was an internal door.

21 Q. Mr. Witness, did you ever go to building 5?

22 A. The one that was attached? Yes. Because they were completely
23 attached. There was no door in between. There was only one entrance
24 to the building from where you could go in and out of the entire
25 structure.

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1 Q. Thank you. What was inside building 5?

2 A. Building number 5 had uniforms inside. From number 2 to this
3 one, the entire place was filled with uniforms.

4 Q. So if I understand correctly, you are telling us that the two
5 buildings, 5 and 2, were only filled with uniforms?

6 A. Yes.

7 Q. Were you working then in both buildings?

8 A. I worked in this area that was one space. There was no door in
9 between. There was one door from where you could enter the building
10 and come out. There was no division.

11 PRESIDING JUDGE VELDT-FOGLIA: Let me clarify.

12 If you say, Mr. Witness, "There was no division" -- or let me
13 put it more open. No division between what?

14 THE WITNESS: [Interpretation] Between 2 and 5. I would go in
15 through one door and then I could move freely in the entire
16 warehouse. There was no door in between.

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

18 MS. PERGOLO:

19 Q. Mr. Witness, you told us this morning that where you worked,
20 which I now understand to comprise both building 5 and building 2,
21 there were no weapons and that you were only responsible for the
22 uniforms.

23 A. Yes.

24 Q. Do you know, however, if there were weapons at all at the metal
25 factory?

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1 A. I don't know that. I don't remember. I don't remember that
2 there were weapons there at the metal factory.

3 Q. But was the Kukes metal factory used for KLA soldiers and
4 fighters?

5 A. Yes.

6 Q. So are you saying that those fighters would not have any weapons
7 to fight with?

8 A. People who came from the diaspora from abroad, from Kosovo, they
9 would come there in civilian clothes, they would get uniforms and
10 leave. Where they got their weapons, that I don't know. I was not
11 in charge of that. My duty was to provide them with uniforms.

12 As to where they left and went to afterwards, that I don't know,
13 and I wasn't interested. It wasn't part of my job.

14 Q. Thank you, Mr. Witness. I would like to show you now another
15 picture.

16 MS. PERGOLO: And for this purpose, again for identification
17 reasons, Your Honours. We can take down the image that we have in
18 front of us, and I would request that we go back to some of the
19 pictures that we were looking at before.

20 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, please
21 proceed with pulling up the document Madam Prosecutor will be
22 requesting.

23 MS. PERGOLO: The ERN range is SPOE40010264 to 40010559. And if
24 we could please have on the screen picture ending in 290 or the one
25 at page 27.

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

2 A. I can't remember what this is. I don't remember.

3 Q. Thank you.

4 MS. PERGOLO: May I have now another picture on the screen,
5 again for recognition purposes, and this time it has a different ERN
6 number.

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

9 MS. PERGOLO: And the Exhibit number is P00093, ERN 074390 to
10 074391, and if we could have the first page.

11 Q. Mr. Witness, do you perhaps recognise this photograph instead?

12 A. No, I don't recognise this one either. I don't know what it is.

13 Q. Thank you, Mr. Witness.

14 MS. PERGOLO: I think we can pull this down for now.

15 Q. Mr. Kocinaj, I would now like to ask you a few questions about
16 the metal factory, its layout, and a few other things connected to
17 it.

18 First of all, while you were performing your work at the
19 warehouse or when you were arriving there, were you able to visit any
20 other building within the compound?

21 A. When I went there, when I would go there, I would go straight to
22 the building marked with number 2. I stayed there the whole time.
23 That's where the uniforms were, and that's where I issued soldiers
24 with uniforms. I did not move from that one. I only stayed in that
25 building.

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1 Q. You told this morning - and this is at transcript page 27, lines
2 15 to 17 - that there was a doctor there. How do you know that he
3 was at the Kukes metal factory?

4 A. The doctor came to the warehouse where I was and got his
5 uniform, and that's where we got to know each other.

6 Q. Thank you, Mr. Witness. So you mentioned that there were people
7 coming to the warehouse to get their uniforms, so I would like to ask
8 you: Was the Kukes metal factory a busy place?

9 A. There was movement, people coming from the western countries,
10 and from Kosovo, and other places who joined the KLA. They all came
11 there and there was movement. They would get their uniforms and
12 leave.

13 Q. How many people do you estimate were present at the Kukes metal
14 factory during the period you worked there, approximately?

15 A. Depending on the number of them coming from abroad, 50 or 60.
16 There was movement on a daily basis. It's not that people would
17 arrive just on one day and never again.

18 Q. So you're saying that there were people who were coming from
19 abroad and from Kosovo, I understand. Do you know where did they go
20 once they got their uniform?

21 A. No, that I don't know. They would get their uniforms and left.
22 It was of no interest to me to know where they were going. They had
23 their own tasks and duties.

24 Q. Did you see any uniformed soldier on the premises?

25 A. Yes, of course. That's where they would put on their uniforms.

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1 Q. Did any of these soldiers stay in these premises for more than
2 the time necessary to get the uniform?

3 A. No. Nobody stayed there longer. They just would get their
4 uniforms and leave.

5 Q. So you're saying that all of the people who came to get their
6 uniforms came there, got the uniforms, and left the same day?

7 A. Yes. They left the same day. They had no place to stay there.
8 They went to other places.

9 Q. Do you know if any - any - of these soldiers ever slept at the
10 warehouse -- sorry, apologies, at the Kukes metal factory?

11 A. No. They could not sleep there because there were no
12 conditions.

13 Q. And you're saying there were no conditions in the entire
14 Kukes metal factory?

15 A. I'm only speaking about the place where I worked. There, there
16 were -- there was no room to sleep. For the rest, I don't know.

17 Q. Did you see people who were not wearing uniforms at the
18 Kukes metal factory?

19 A. There could be no such -- there, of course, when they arrived,
20 they arrived in civilian clothes, and they dressed, put on their
21 uniforms and left.

22 Q. So these people with no uniforms came inside the warehouse. You
23 saw them there?

24 A. Yes.

25 Q. Mr. Witness, were there any detainees at the Kukes metal

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1 factory?

2 A. No. Not where I was.

3 Q. Were there any detainees anywhere else at the Kukes metal
4 factory, not where you were working?

5 A. I don't know about other places, but where I was, there wasn't
6 any.

7 Q. Thank you. I have a few more questions about your work at the
8 metal factory. First of all, were you the only person in charge of
9 the warehouse?

10 A. No. Rexhep Kelmendi was the person in charge of the warehouse.
11 I was not alone.

12 Q. So was it only you and Mr. Kelmendi working at the warehouse?

13 A. No. Rexhep was a supervisor. He worked in another office. I
14 worked in the warehouse, and I got my orders from him, whenever we
15 had to issue uniforms.

16 Q. So you told us earlier that the uniform -- the warehouse where
17 you worked was -- comprised two parts, part 2 and part 5, all of them
18 full of uniforms. Were you the only person discharging the duties of
19 issuing uniforms to the soldiers?

20 A. There were three other persons who Rexhep had brought. I don't
21 know their names. But he had brought these three soldiers, KLA
22 soldiers. They were from the Peje area, but at this moment I can't
23 remember who they were.

24 Q. So were these people from Peje also working in the warehouse?

25 A. Yes, they worked at the warehouse.

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1 Q. They were also issuing uniforms to new recruits?

2 A. Yes, we did the same job.

3 Q. Thank you. I would like you to describe now your typical day at
4 the Kukes metal factory. At what time did you get there in the
5 morning?

6 A. At around 8.00, always.

7 Q. What were your working hours?

8 A. Until 4.00 or 5.00, depending on the number of people coming to
9 get uniforms. But usually until 4.00 or 5.00.

10 Q. You told us earlier that you went to eat back in Kukes town. So
11 is it correct that you took a lunch break?

12 A. Yes, I would go home.

13 Q. After finishing your work, did you immediately leave the metal
14 factory?

15 A. Yes.

16 Q. Mr. Kocinaj, how did the uniforms arrive to the Kukes metal
17 factory?

18 A. They were brought from abroad, from Germany, Switzerland, Italy.
19 They were all coming from abroad. There were American, Swiss, German
20 uniforms. And everything came there, arrived there.

21 Q. How were they physically transported to the metal factory?

22 A. By trucks.

23 Q. How many trucks did arrive each day, approximately? If you can
24 make an estimation.

25 A. I don't remember. I can't tell you exactly how many.

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1 Q. Would you be able to give us an approximate number? Just an
2 idea.

3 A. Frankly speaking, I can't remember. I know that they came every
4 day, but I don't know how many.

5 Q. Was anyone helping you to bring the uniforms in the warehouse?

6 A. Yes.

7 Q. Who was that?

8 A. Those three persons that Rexhep Kelmendi brought there. So
9 together with these three, we arranged the uniforms. We were all
10 together four people.

11 Q. Mr. Kocinaj, during the second half of May until the beginning
12 of June 1999, did you ever see any persons of Roma ethnicity at the
13 Kukes metal factory?

14 A. No.

15 Q. Did you know if any Roma musicians were at the Kukes metal
16 factory during the time you were there?

17 A. No, there weren't any when I was there.

18 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, can you
19 indicate to the Panel how much time you think you will be needing
20 still?

21 MS. PERGOLO: Yes, Your Honours, I think I will probably need
22 maybe another hour or 45 minutes.

23 PRESIDING JUDGE VELDT-FOGLIA: Okay. Because you are exceeding
24 the time allocated, in principle, to you, because our agreement is
25 that less or more for cross you might need -- you will be given the

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1 same amount of time as in examination-in-chief. However, for now, I
2 have seen the relevancy of the questions are you posing, but please
3 keep this in mind.

4 MS. PERGOLO: Yes, Your Honours. I will try to --

5 PRESIDING JUDGE VELDT-FOGLIA: Because you will be exceeding
6 extensively the amount of time. But as long as you can show that
7 it's relevant for the case, then you may proceed.

8 But it would have been better to anticipate this and to tell us
9 this, and now have I seen that -- I already give you a little bit
10 more, and now we are really standing in front of much more time. And
11 we have it. That's not a problem. But I would like to put on notice
12 before.

13 MS. PERGOLO: Absolutely, Your Honours. Point taken. I will
14 try to see if I can perhaps shorten some of my --

15 PRESIDING JUDGE VELDT-FOGLIA: No, but that was not the gist of
16 my question. I just want -- as far as it is relevant, all parties
17 and Victims' Counsel will get the time needed. That's for the
18 Defence, for the Victims' Counsel, and for the SPO.

19 MS. PERGOLO: Thank you.

20 Q. So, Mr. Kocinaj, you told us that there were trucks coming to
21 take uniforms to the warehouse, that the warehouse with uniforms had
22 two parts full of uniforms. And you told us that there was only four
23 people, you and three people, to unload these uniforms from the
24 trucks and bring them to the metal factory. Is that your evidence?

25 A. Yes, that's correct.

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1 Q. Are you aware of two public judgments issued by the District
2 Court of Mitrovica and the Basic Court of Mitrovica convicting
3 individuals, in particular, Sabit Geci and Xhemshit Krasniqi, for
4 illegally detaining individuals at the Kukes metal factory at the
5 time you were there?

6 A. Not there.

7 PRESIDING JUDGE VELDT-FOGLIA: I don't understand that answer.

8 The question is: Are you aware of two public judgments issued
9 by the District Court of Mitrovica and the Basic Court of Mitrovica
10 convicting individuals, in particular, Sabit Geci and Mr. Krasniqi,
11 for illegally detaining individuals at the Kukes metal factory?

12 That is the question. If you are aware of these judgments.

13 THE WITNESS: [Interpretation] I heard about that in -- on TV.

14 MS. PERGOLO:

15 Q. But you never saw any people detained at the Kukes metal
16 factory?

17 A. No, I never saw anyone being detained. Not where I was.
18 Because every day there were 50 or 60 people coming there, so it was
19 not possible to detain anyone.

20 Q. I noticed that you said that you never saw anyone being detained
21 where you were, and I'll just follow up one last time on this topic.
22 Were you aware or did you ever see anyone being detained anywhere
23 else in the premises of the Kukes metal factory?

24 A. No. No, Prosecutor, I didn't see.

25 Q. Mr. Witness, are you aware that the District Court of Mitrovica

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1 also acknowledged that some of these detainees were forced to work
2 long hours in the warehouse every day, unloading trucks of supplies
3 for the KLA?

4 A. This is not true. Not where I was.

5 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I see you're
6 standing.

7 MR. AOUNI: Thank you, Your Honour. This is the second time, I
8 think. This witness is not a legal expert to be asked about his
9 awareness of some legal documents. He's a witness of facts. She can
10 ask him about the facts. We know the basis. And I mean, we repeat
11 some of the questions multiple times where it is clear what he is
12 answering.

13 So she can ask him about unloading, which was done. Why do we
14 have to put that this is coming from a judgment?

15 PRESIDING JUDGE VELDT-FOGLIA: I think it is completely
16 legitimate to indicate that there are judgments on this subject and
17 to confront the witness with it, and he can reply as he is doing.

18 MS. PERGOLO: Thank you, Your Honours. In fact, I was only
19 asking about a fact, whether he knew of these judgments at all.

20 Q. Mr. Witness, I would now like to ask you a few questions about
21 certain individuals. Do you know a person called Sabit Geci?

22 A. I saw him on television.

23 Q. Did you ever see him anywhere else other than in television?

24 A. No.

25 Q. Did you ever see him at the Kukes metal factory?

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1 A. No, I didn't see him.

2 Q. Do you know a person called Xhemshit Krasniqi?

3 A. Yes.

4 Q. How do you know him?

5 A. I know him because he's a co-villager. We are from the same
6 place.

7 Q. Did you ever see Mr. Krasniqi at the Kukes metal factory?

8 A. I don't remember.

9 Q. Do you know whether Mr. Krasniqi was also a member of
10 Brigade 128?

11 A. No.

12 Q. No, you don't know; or no, he wasn't a member?

13 A. He was not a member. Because I know from the list of veterans
14 that he wasn't.

15 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I wanted to
16 finish the witness with this question. What would you like to say?

17 MR. AOUINI: Your Honour, I think we have an answer now, but we
18 were surprised because we don't know any -- what is the basis to link
19 Krasniqi with this brigade. We understand that he comes from another
20 brigade. But it's been answered, so it's not a problem anymore.

21 MS. PERGOLO:

22 Q. Mr. Witness, do you know a person called --

23 MR. GILISSEN: I'm sorry, I'm sorry. I think it is a big
24 problem. They provide information, a wrong one, to the witness.

25 Mr. Krasniqi, we don't have any document and any information about

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1 the fact he was part of the Brigade 128. Why to submit this to the
2 witness? Is it a trap?

3 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor.

4 MS. PERGOLO: Your Honour, I was asking and the question is
5 recorded there for everyone to see whether he knew whether
6 Mr. Krasniqi was also a member. I didn't put to him that he was
7 member. I was asking whether he had any knowledge of the -- of his
8 membership. That was an open question, and I was just going to
9 explore this with the witness. The witness said that, no, he wasn't,
10 and that's -- we got the answer.

11 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel --

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

13 PRESIDING JUDGE VELDT-FOGLIA: -- to be honest, that's the way I
14 understood it. And I agree with you that we will not allow for the
15 witness to be confronted with information that is not correct, but I
16 had interpreted it as Madam Prosecutor has just explained. Yes?

17 MR. GILISSEN: I receive the information and the answer, I
18 understand it.

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

20 MR. GILISSEN: Thank you.

21 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, please proceed.

22 MS. PERGOLO:

23 Q. Mr. Witness, do you know a person called Mark Shala?

24 A. No.

25 Q. Do you know a person called Bedri Azemi?

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1 A. No.

2 Q. Do you know a person called Fadil Zejnullahu?

3 A. Yes, I saw him once in Prishtine. I remember him from that
4 time.

5 Q. Did you ever see him at the Kukes metal factory?

6 A. No, I didn't see him there. I met him in Prishtine but not in
7 the metal factory. Maybe I saw him there but I didn't recognise him
8 then.

9 Q. Mr. Witness, do you know a person called Bedri Dervishaj?

10 A. Yes.

11 Q. How do you know him?

12 A. We are friends and we have an in-law relationship with them for
13 years.

14 Q. When was the last time you saw Mr. Dervishaj?

15 A. About four or five days ago when I met him in Prizren.

16 Q. Did you ever see him at the Kukes metal factory when you were
17 there?

18 A. No, I didn't. I used to stay within the premises of the
19 warehouse. I wasn't interested to go outside and look around. I was
20 keen only on doing my job. I wasn't interested in other things. My
21 job was to provide the uniforms and that was it. I wasn't interested
22 in what was going on there.

23 Q. Did you ever see --

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

25 Defence Counsel, you have the floor.

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1 MR. AOUNI: Sorry to interrupt, Your Honours. Just to correct
2 the transcript with the name before it goes away. I think my learned
3 colleague asked about Bedri Azemi and it's recorder Ademi. But I
4 have the impression that I heard Bedri Azemi.

5 PRESIDING JUDGE VELDT-FOGLIA: I agree. I heard it with a Z.
6 But let us --

7 MR. AOUNI: Yes. Before it goes away.

8 PRESIDING JUDGE VELDT-FOGLIA: But let us confirm it with Madam
9 Prosecutor. It's line 23, page 72.

10 MS. PERGOLO: Yes, indeed. It is actually Bedri Azemi, with a
11 Z.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you for this clarification,
13 Defence Counsel. But I also see in the transcript that it was to be
14 revised yet.

15 You have the floor again, Madam Prosecutor.

16 [Specialist Prosecutor confers]

17 MS. PERGOLO:

18 Q. Mr. Witness, did you ever see Pjeter Shala at the Kukes metal
19 factory?

20 A. No.

21 Q. Did you see him anywhere else during the period of the war?

22 A. No, I never saw him anywhere else. I know him only from seeing
23 him on TV.

24 Q. When? When did you see him on TV?

25 A. When this trial started.

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1 Q. Mr. Witness, you told us today that you don't know of any people
2 detained at the Kukes metal factory during the period you were there.

3 A. Correct. That's correct.

4 MS. PERGOLO: Your Honours, may have I again on the screen a
5 photograph we saw earlier today, and I can provide again the ERN
6 number, just for a final question on this topic to the witness.

7 PRESIDING JUDGE VELDT-FOGLIA: But we're not going into
8 repetition on this.

9 MS. PERGOLO: No. I just wanted to clarify one matter
10 concerning the positioning of the building.

11 PRESIDING JUDGE VELDT-FOGLIA: Okay. Because we have explored
12 this matter. But, yes, Madam Court Officer, can you please pull up
13 the document as soon as we have the ERN number.

14 MS. PERGOLO: Yes, it is P00093 or ERN 074390.

15 [Specialist Prosecutor confers]

16 MS. PERGOLO:

17 Q. [Microphone not activated]

18 THE INTERPRETER: Microphone, please.

19 MS. PERGOLO: Sorry.

20 Q. You also told us that you never saw this building; is that
21 correct?

22 A. Yes. As I told you earlier, I didn't.

23 Q. Mr. Witness, we have evidence that this building was standing in
24 the middle of the courtyard at the Kukes metal factory. Is it your
25 evidence that you never saw this building while entering the premises

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1 to go to the warehouse where you were working every day?

2 A. I don't remember this, Prosecutor. Maybe it was there, but I
3 have forgotten. I don't remember. I didn't look round. I just went
4 to my workplace. I wasn't interested in other things. I wanted to
5 do my job and I didn't care about anything else.

6 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, while acknowledging
7 that you should only give as evidence what you can remember, that's
8 very important, I want to remind you that you have to tell the truth.
9 And I also want to tell you that I'm trying to imagine what you're
10 telling to us. And should I then understand that you would walk
11 straight without looking left or right, without acknowledging
12 anything around you when you were at the premises?

13 THE WITNESS: [Interpretation] Maybe it was there, Your Honour,
14 but I don't remember. I went straight to the warehouse. I have no
15 idea about what you are putting to me. I don't remember. Maybe it
16 was there, but I don't remember it.

17 PRESIDING JUDGE VELDT-FOGLIA: Clear answer. Thank you.

18 MS. PERGOLO: Thank you, Your Honours. I will move on to
19 another topic, and I believe it's -- I have really only a few more
20 questions, so I will probably be done in the next ten minutes, I
21 hope. This is just to give an update.

22 I think this picture can be taken down at the moment.

23 Q. Mr. Witness, you told us that were based at the metal factory
24 until June. And you also told us today that you -- after this, you
25 returned to Kosovo, and you mentioned that at page 28, lines 5 and 9.

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1 Where did you go in Kosovo, if you can explain to us?

2 A. To my own home.

3 Q. And where was that at the time?

4 A. At the entrance to Prizren, where I still live now.

5 Q. Did you ever go to Nashec, Mr. Witness?

6 A. No, I had nothing to do with Nashec.

7 Q. Mr. Witness, another soldier in Brigade 128 indicated that
8 Brigade 128, after the war, moved to Nashec and saw you there.

9 A. I didn't go to Nashec. When the brigade withdrew from there and
10 we went to Tropoje, I went there. But for a time I wasn't there.
11 Only when the brigade withdrew and was transformed into the Kosovo
12 Protection Force, I served in Dragash for two years.

13 Q. So let me see if I understand correctly. When the brigade
14 withdrew, you went to Nashec; is that correct?

15 A. From Nashec? I didn't stay there. I went with the logistics to
16 Dragash office, where we were displaced from there. I returned
17 with -- and worked with the Kosovo Protection Corps for two years in
18 Dragash.

19 Q. So you went to Nashec, you said you didn't stay there. Can you
20 perhaps explain why you went there?

21 A. I had the logistics duties. I carried them bread. Maybe some
22 ten days before they moved away from Nashec, I took them bread that I
23 took in Prizren and went back.

24 Q. How long did this taking the bread and -- last? If you can give
25 us some time references.

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1 A. I don't remember very well, but it was very soon that we left
2 Nashec. And then we went to Zym. And it was in Zym that I stayed in
3 Dragash for two years. I worked in the TMK, that is, the Kosovo
4 Protection Corps.

5 Q. Were you there at the time --

6 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, please, I have
7 Defence Counsel standing.

8 You have the floor.

9 MR. AOUNI: Thank you, Your Honour. There was a reference to a
10 soldier from Brigade 128, and we would like to know what is the
11 reference so we can check. Because from the documents we see in the
12 queue, this might or might be -- might or might not be correct, so we
13 want to verify before making objections.

14 PRESIDING JUDGE VELDT-FOGLIA: Could you indicate to me about
15 which line you are talking, Defence Counsel?

16 MR. AOUNI: Absolutely, Your Honour. Page 76, line 24, 25.

17 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].
18 Sorry. The question of Madam Prosecutor is:

19 "Mr. Witness, another soldier in Brigade 128 indicated that
20 Brigade 128, after the war, moved to Nashec and saw you there."

21 And the question of the Defence is which soldier are you
22 referring to and what the basis are for this reference.

23 MS. PERGOLO: Sure, Your Honour. I will be happy to provide it.
24 However, I would request to go briefly into private session for this
25 discussion.

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

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

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

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

6 Madam Prosecutor, we have the witness here. Can this discussion
7 be done in his presence?

8 MS. PERGOLO: Yes, Your Honours, this person is not a protected
9 witness. We thought only just for reasons of privacy maybe it would
10 better to pronounce the name in private session, but I think
11 immediately after -- I can give the reference and then we can move
12 back into public session.

13 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

14 MS. PERGOLO: So this is an SPO statement of Idajet Gashi and
15 it's a statement that is listed as number 12 in our list of materials
16 or presentation queue. The ERN is 065236-TR-ET Part 2, and the
17 relevant page is page 11.

18 PRESIDING JUDGE VELDT-FOGLIA: But for my understanding, why are
19 reasons of privacy so pertinent that this could not be said in
20 public?

21 MS. PERGOLO: It was just reference to the name of the person
22 who provided this information.

23 PRESIDING JUDGE VELDT-FOGLIA: Okay.

24 MS. PERGOLO: But we can immediately move to public session,
25 Your Honours. We would just like to avoid [Overlapping speakers] ...

Witness: Naser Kocinaj (~~Private Session~~) (Open Session) *Reclassified Pursuant to F744* Page 2888
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1 PRESIDING JUDGE VELDT-FOGLIA: No, but my question -- Defence
2 Counsel.

3 MR. AOUINI: Sorry, Your Honour. Thank you. This is not a
4 witness in our case. It's not a witness that is protected. And then
5 we would like to step back and object to say why didn't they just put
6 the name and ask about the information coming from the name. Maybe
7 he knows this person. We don't have any opportunity to check this or
8 to examine this witness, Idajet. So maybe the way the question was
9 framed, we don't even know for sure if he is from the brigade. So
10 maybe they should have established some foundation whether he knows
11 this person or that the source could be made clear to him.

12 But, in any case, we don't see that this should be done in
13 private session, Your Honour.

14 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I was exploring
15 that. I mean ...

16 Yes. Yes, for me, it is not clear why we should do this, if it
17 is not a protected witness. Yesterday -- I'm very keen on being in
18 public when necessary, and reasons of privacy in general are not
19 enough, because that's the testimony they have given. So I think it
20 is important to explore this a little bit further because you put him
21 somewhere, where Mr. Witness is saying that -- it's not clear where
22 he was -- if he was there and when he was there.

23 So I would say let us go back into public session and then
24 clarify this specific matter, and, yeah, I would say to have this in
25 public.

Witness: Naser Kocinaj (~~Private Session~~) (Open Session) *Reclassified Pursuant to F744* Page 2889
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1 MS. PERGOLO: Absolutely, Your Honours. We can move back to
2 public and we can proceed accordingly.

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

5 ~~{Open session}~~

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

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
8 So please proceed, Madam Prosecutor, with in mind what we have
9 just discussed, that this should be done in public.

10 MS. PERGOLO:

11 Q. Do you know a person called Idajet Gashi?

12 A. Yes, I know him very well.

13 Q. How do you know him?

14 A. I see him downtown. He moves around the whole day.

15 Q. Did you know him at the time of the war?

16 A. No. I don't know where he was. He himself said he was in
17 128 Brigade, but that I don't know personally.

18 Q. So you're saying that you met him after the war. Is that your
19 testimony?

20 A. After the war, yes.

21 Q. Mr. Witness, Mr. Gashi stated that you were at Nashec when he
22 was also there after the war.

23 A. I did not see him. I don't remember. Maybe he was, but I
24 didn't see him. Because, as I said, Prosecutor, I did not stay in
25 Nashec.

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1 Q. But you said that you went to Nashec at least on one occasion
2 bringing bread; is that correct?

3 A. Yes. Not at least on one occasion, but for ten days I went
4 every day. I would bring them breakfast and lunch, but I did not
5 stay there. That's why I didn't see whether Idajet Gashi was there
6 in Nashec or not. I don't remember seeing him. Had I seen him, I
7 would have said so. There's no reason for me to lie to you.

8 Q. Thank you, Mr. Witness. Were you in Nashec at the time KFOR
9 arrived, raided the premises, and released detainees from there?

10 A. No, I wasn't.

11 Q. Are you aware that KFOR came to Nashec and liberated some
12 detainees?

13 A. I heard. I was told that KFOR was there. It's based on what I
14 heard. I personally didn't know what happened. I wasn't interested
15 in that part.

16 Q. But did you know, then, KFOR liberated prisoners from the Nashec
17 base where the KLA was stationed? I understand you were not
18 stationed there, but I understand that part of the KLA brigade was
19 there.

20 A. I don't know if there were detainees in Nashec. I don't have
21 such information. I don't know.

22 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, I give the
23 floor to Defence Counsel.

24 MR. AOUBINI: Thank you, Your Honour. Two quick points. We
25 would like to know the purpose of these questions because they don't

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1 emanate from our examination-in-chief and the link to the indictment
2 is not very clear. If this is a credibility issue, we don't see,
3 since the witness has explained what his presence was. And to -- we
4 understand the general interest, without saying more, Your Honours,
5 but we have to be cautious with the rules. We are not investigating
6 anything here and this is not why the witness is called.

7 So if we can link this to some credibility issues, we're happy
8 to listen to this. If this is linked to something in the
9 examination-in-chief, we're happy to listen to it. But not more than
10 that, we believe.

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

12 Madam Prosecutor.

13 MS. PERGOLO: Yes, Your Honours, the purpose of these questions
14 were really to test the credibility of the witness. We have heard
15 the witness testifying that he didn't know of any detentions at the
16 Kukes metal factory. We are aware of the fact that there were
17 detentions in this other site where the witness, as he said, was, for
18 a period of time. So we wanted to ask him whether he was aware or
19 whether he had no knowledge also of these other detentions. So the
20 purpose here was really to, yeah, test his credibility, because we
21 believe that any information or denial about these events are
22 relevant for the credibility of this witness.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Prosecutor. We
24 will -- I will allow for these questions already. I was allowing for
25 it on that basis. Yes, we proceed.

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1 Madam Prosecutor, you have the floor.

2 MS. PERGOLO: Thank you. In any event, Your Honours, I am done
3 with this line of questioning and I'll move on to the last questions.

4 Q. Mr. Witness, I have just a few last questions for you. Did you
5 tell anyone that you were coming to testify before the Kosovo
6 Specialist Chambers?

7 A. Yes.

8 Q. Whom did you tell?

9 A. A friend of mine who was with me.

10 Q. What is the name of that friend?

11 A. Bashkim Hoxha.

12 Q. Is this the only person you told that you were coming to
13 testify?

14 A. Yes. That's the only person I stay with.

15 MS. PERGOLO: Your Honours, I would like to show the witness
16 some Facebook posts that we had included in our presentation queue,
17 and I will be happy to provide the reference, if you will allow.

18 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

19 MS. PERGOLO: So this is item number 15 on our list, and I'll
20 give you the ERN as well. It is SPOE00341607 to SPOE00341607-ET.

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

23 MS. PERGOLO: I don't know if it would assist the witness better
24 to see the Albanian version of this item, which is SPOE00341607 to
25 1614. And perhaps we can have the first page.

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1 Q. Mr. Witness, can you see the -- this Facebook post on the
2 screen?

3 A. Yes, I can see it, Prosecutor.

4 Q. And it is, if I understand correctly, from Lagija Bajram Curri
5 Prizren?

6 A. Lagija Bajram Curri, Bajram Curri neighbourhood, that is, there
7 is a neighbour of mine who lives in that neighbourhood. And I cannot
8 stop anybody from posting things on their Facebook pages. I
9 personally did not post anything. Nothing is posted on my name. I
10 personally didn't make any post.

11 Q. I understand that, Witness. But you told us before that you
12 only told one friend of yours that were coming to testify to the KSC;
13 is that correct?

14 A. May I explain? If you see the notes, that this post was taken
15 from Bashkim Hoxha's to Bajram Curri neighbourhood page. It is the
16 same post. And, as I said, I cannot stop anybody from posting things
17 on Facebook.

18 Q. Absolutely, Mr. Witness. My question was more how would they --
19 would this neighbour have learned about your testimony.

20 MS. PERGOLO: May I then have another Facebook post, and this is
21 number 17 on our list.

22 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

23 MS. PERGOLO: And the ERN is SPOE00341648 to SPOE00341651. This
24 is the Albanian. And then I can provide the English.

25 PRESIDING JUDGE VELDT-FOGLIA: Yes, please proceed with also the

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1 English.

2 MS. PERGOLO: Which is 1648-ET.

3 Q. Mr. Witness, can you see this image, this Facebook post?

4 A. He took over the same post from Bashkim Hoxha. I know this
5 friend very well. He was in the war. His name is Uran Badalli from
6 Zhur village. He was injured. And again, I cannot stop him from
7 posting things on Facebook.

8 I think the first -- the original post by Bashkim, who was the
9 only person who knew, was then reposted by others. I personally did
10 not post anything and nothing was posted on my behalf. Again, I
11 cannot stop people from posting things on their Facebook pages.

12 Q. So, Mr. Witness, is your evidence that the source of this
13 information is the same person, Bashkim Hoxha; is that correct?

14 A. Yes, it's the same person. He made the original posts, and just
15 like Lagija Bajram Curri, this person also took over the post and
16 reposted it, the post of Bashkim Hoxha. I did not make any post,
17 Prosecutor, and I usually don't post anything. You have my Facebook
18 account and you can see that I don't make such posts.

19 Q. Thank you, Mr. Witness.

20 MS. PERGOLO: Can I just ask you to -- if we can perhaps zoom in
21 a bit on this post and just ask him to look at the first and second
22 line of this post. And I will be reading the translation in English
23 but, of course, the witness has it in Albanian.

24 Q. The Facebook post reads:

25 "My comrade-in-arms Naser Kocinaj has been summonsed as a

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1 witness in The Hague. I know you will come back triumphant, oh
2 Valiant man!"

3 Mr. Witness, what does this person refer to when saying that you
4 will come back triumphant?

5 A. That, I don't know. I cannot read people's minds what they want
6 to say. I cannot possibly know what he thinks. I can also write for
7 him whatever I want.

8 Your Honour, I cannot stop people from writing or tell them to
9 write. They can write whatever they want. They can write good
10 things. They can write bad things. They can write nothing. So I
11 have my friends. I have my circle.

12 PRESIDING JUDGE VELDT-FOGLIA: You have given a clear answer to
13 this, and I think you have explored enough this point.

14 And I see you're standing, but I think we are there already, but
15 you can make your point. But I think that the witness has made it
16 very clear what he can say about this.

17 MR. AOUINI: Your Honour, I'll leave the second point since I
18 think it's already exhausted. But out of fairness in the
19 proceedings, we should have shown the first post, since the witness
20 said this is the original post, for clarity, the dates of the
21 original post, for the record, Your Honours, that was reposted. And
22 only the second one was shown to the witness. This is as a matter of
23 fairness in the proceedings.

24 PRESIDING JUDGE VELDT-FOGLIA: Could you give us the number of
25 the first post because I would like to go there, just to have a clear

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1 understanding of the point you are making.

2 MR. AOUNI: Thank you, Your Honour. Our understanding - and I
3 will be corrected by my learned colleagues if I am wrong - the
4 original post, that is the one from 25 September, is the one
5 emanating from Bashkim Hoxha, and would be number 21 in the list of
6 the Prosecutor. So I rather give the ERN.

7 SPOE00341652-SPOE00341652-ET, which we understand is the original
8 post, which was followed by the two that were shown.

9 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. Thank
10 you. No, let me put it in a question. Was this post not shown
11 together with the other post next to each other? But that would be
12 my question. If you say no, we leave it for here. But, okay, please
13 continue. And then we should have shown in your view?

14 MR. AOUNI: This is, in our understanding, the earlier and the
15 original post as the witness referred, and then there was a reposting
16 the following day which was the one that was shown to the witness.
17 Yes. And that one is what my learned colleague showed at
18 SPOE00341607.

19 PRESIDING JUDGE VELDT-FOGLIA: I will give the floor to Madam
20 Prosecutor to see if she can respond. But the one you are indicating
21 to us, Mr. Aouni, that should have been shown as first, this one of
22 25 September, I remember to have seen it just on my screen. But
23 maybe I am mistaken.

24 MR. AOUNI: That's the --

25 PRESIDING JUDGE VELDT-FOGLIA: I will give the floor to Madam

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1 Prosecutor.

2 MR. AOUINI: [Microphone not activated]. I am sorry. That was
3 the point, because it is a reposting of the same content. That's why
4 Your Honour's impression was that you saw it before.

5 PRESIDING JUDGE VELDT-FOGLIA: Not this one. But, anyway, Madam
6 Prosecutor.

7 MS. PERGOLO: Your Honours, the question I had was really on the
8 content of that specific post. I wasn't delving anymore into who was
9 the source. The first post that counsel is referring to, I believe,
10 is number 16 on our list, ending in 1652. I'm happy to ask the same
11 question to the witness with that first post because I believe the
12 content that I was exploring is also present in that very same first
13 post.

14 PRESIDING JUDGE VELDT-FOGLIA: Is that the point you wanted to
15 make, Defence Counsel? My impression is slightly different.

16 MR. AOUINI: Yes, Your Honour, our point was a point of
17 fairness, to start where the witness indicated the start of the
18 posting. So it doesn't give the impression to anyone in this
19 proceeding that this was an originating post from this second
20 gentleman, whereas it was a simple reposting of the original -- an
21 earlier post from Bashkim Hoxha. That was the point of fairness, not
22 the content. The content is the same, but the sequence is of
23 relevance here, out of fairness.

24 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, you have the
25 floor.

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1 MS. PERGOLO: Just to react to say I think the witness explained
2 very well that indeed it was a reposting, and I had no further
3 questions following that.

4 I just put another post following that because it appeared to
5 come from another individual, not the neighbour, not the first
6 source, so I wanted to ask about that. But the witness clarified
7 that, in his opinion, everything came from this one person he told,
8 he spoke to, and that is what he said.

9 What I was now exploring was something about the content of the
10 post.

11 PRESIDING JUDGE VELDT-FOGLIA: Yes.

12 MS. PERGOLO: But I'm very happy to go back to the original post
13 in chronological order and ask actually the same question regarding
14 that.

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

16 With regard to the fairness point, I think it has been clear
17 that the witness has made clear to all of us that it was a question
18 of reposting. So I don't think there was any misleading or any
19 making things unclear to the Panel, or that the evidence was elicited
20 in a way that did not represent what, according to the witness,
21 actually happened. So I can -- we can proceed from this point on.
22 And I don't think we have to put any further questions on this.

23 Is there something you would like to further elaborate on with
24 this -- in this respect? Because I'm looking at the time. We are --
25 it is 35 minutes before our end time, and so I'm just looking into

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1 how much time you still need, and if we need to have a break
2 somewhere, one way or the other, or if we can just continue until
3 4.00.

4 MS. PERGOLO: Your Honours, if you may just allow me one moment
5 to consult with my colleague.

6 PRESIDING JUDGE VELDT-FOGLIA: And then I will also consult --
7 liaise with the CMU.

8 [Specialist Prosecutor confers]

9 [Trial Panel and Court Officer confer]

10 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor.

11 MS. PERGOLO: Yes, Your Honours, we are -- from our side, we are
12 done with the cross-examination of this witness. And, again,
13 apologies for not keeping good track of the time. We will do better
14 next time.

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

16 Mr. Witness, the Prosecutor's Office has finished with its
17 examination. I will now turn to Victims' Counsel to see if he wants
18 to question you.

19 Victims' Counsel.

20 MR. LAWS: No, we have no questions. Thank you, Your Honour.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

22 Then I will turn to Defence Counsel. Defence Counsel, would you
23 like to have a second round, re-direct?

24 MR. GILISSEN: No. Thank you very much. Thank you.

25 PRESIDING JUDGE VELDT-FOGLIA: No, okay. Thank you for that.

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1 I will confer now with the colleagues to see where we stand.

2 And I'm also waiting for the reply from CMU.

3 [Trial Panel confers]

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

5 [Trial Panel and Court Officer confer]

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

7 THE ACCUSED: [via videolink] [Interpretation] Your Honour, can
8 you give me a two-minute break? I need to go to the toilet, please.

9 PRESIDING JUDGE VELDT-FOGLIA: We will adjourn the hearing for
10 ten minutes, Mr. Shala.

11 THE ACCUSED: [via videolink] [Interpretation] I just need two
12 minutes, one, two minutes. There is no need for a longer break.

13 PRESIDING JUDGE VELDT-FOGLIA: We will have a longer break of
14 ten minutes.

15 We will adjourn the hearing for ten minutes.

16 --- Recess taken at 3.29 p.m.

17 [The witness stands down]

18 --- On resuming at 3.41 p.m.

19 PRESIDING JUDGE VELDT-FOGLIA: Welcome back.

20 I note that we are in the same composition as before we
21 adjourned the hearing for ten minutes. I see Mr. Shala is with us.
22 And I will usher the witness in for the last part of today's hearing.

23 So thank you, Madam Court Usher, for ushering the witness in.

24 [The witness takes the stand]

25 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, welcome back for the

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1 last part of this hearing.

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

3 PRESIDING JUDGE VELDT-FOGLIA: You have been asked several
4 questions by the Defence team and by the Specialist Prosecutor's
5 Office, and now the Panel will ask you some additional questions.
6 And I will give the floor to the Judge on my left-hand side,
7 Judge Bitti, for some additional questions. Yes?

8 You have the floor.

9 JUDGE BITTI: Thank you, Madam Presiding Judge.

10 Questioned by the Trial Panel:

11 JUDGE BITTI: Mr. Witness, you said today on page 63, line 5 and
12 6:

13 "The doctor came to the warehouse where I was and got his
14 uniform ..."

15 Could you describe the uniform that you gave to the doctor.

16 A. A military uniform, a KLA uniform that I gave him.

17 JUDGE BITTI: Did you give him a beret?

18 A. I don't recall the beret, but I know that I gave him a uniform.
19 It must have been a complete uniform, a set.

20 JUDGE BITTI: So medical personnel of the KLA did wear a
21 uniform?

22 A. Yes, he had.

23 JUDGE BITTI: Okay. Being yourself a specialist in KLA
24 uniforms, are you aware of KLA soldiers wearing a blue beret?

25 A. I don't remember that. There were only caps, not berets, where

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1 I was in the warehouse. Caps with a visor.

2 JUDGE BITTI: Okay. So none of the soldiers to whom you gave a
3 uniform had a beret?

4 A. No, we didn't have berets there.

5 JUDGE BITTI: Okay, thank you. When you went to work at the
6 Kukes metal factory, did you have to identify yourself?

7 A. No.

8 JUDGE BITTI: So you could leave the Kukes metal factory and
9 enter the Kukes metal factory at will?

10 A. Yes. Because that was my work, how it was. When I needed to go
11 home, I went home for my personal needs.

12 JUDGE BITTI: There was no guard at the entrance checking the
13 people coming in and coming out? Are you sure?

14 A. There was. There was someone responsible. Saramati, he stood
15 at the gate.

16 JUDGE BITTI: It was Mr. Saramati standing at the gate?

17 A. Yes, Salih Saramati.

18 JUDGE BITTI: Okay, thank you. You told us, I think, that you
19 had the keys of the warehouse. Did you have them with you all the
20 time?

21 A. I closed the warehouse. But when I went home for lunch, I
22 didn't lock it. Only in the evening I locked it.

23 JUDGE BITTI: And you were the only one to have the keys of that
24 warehouse?

25 A. Maybe the other one had a key, that is, my superior. Probably

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1 he did. But I don't know. I was the one who opened and closed it.
2 For lunch, as I said, I left it open when I went home for lunch
3 because there were other people there.

4 JUDGE BITTI: So you were not the only one to have access to
5 that warehouse and to be able to close or open that warehouse?

6 A. There was Rexhep too.

7 JUDGE BITTI: Okay. So we are clear that other people could use
8 that warehouse when you were not there?

9 A. Rexhep was the only one who could. Nobody else.

10 JUDGE BITTI: Okay. Thank you very much.

11 I have no other questions.

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

13 THE INTERPRETER: Microphone.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Judge Bitti.

15 Mr. Witness, then we have reached the end of your testimony, and
16 I would like to thank you for the efforts you have put into giving
17 your testimony, which I believe will be of assistance to the Panel.
18 So thank you very much.

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

20 PRESIDING JUDGE VELDT-FOGLIA: And I also remind you that shall
21 not discuss your testimony with anybody, the testimony you have given
22 here before the Specialist Chambers.

23 Madam Court Usher will now assist you to go out, to leave the
24 courtroom.

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

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1 [The witness withdrew]

2 PRESIDING JUDGE VELDT-FOGLIA: Is there anything Prosecution
3 would like to raise with the Panel? No.

4 Victims' Counsel, is there anything you would like to raise with
5 us?

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

7 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel.

8 MR. GILISSEN: No. Thank you very much.

9 PRESIDING JUDGE VELDT-FOGLIA: Okay.

10 Thank you, Madam Court Usher.

11 Then we will now adjourn, and at the earliest opportunity we
12 will inform the parties and Victims' Counsel when we will proceed.
13 Yes?

14 And then at this moment in time, I -- before I adjourn the
15 hearing, I thank the stenographer for her assistance today, and also
16 the audio-video booth and the IT and our interpreters and security.

17 The hearing is adjourned.

18 --- Whereupon the hearing adjourned at 3.51 p.m.

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