

Additional redactions applied pursuant to F793.

1 Monday, 20 November 2023

2 [Open session]

3 [The accused appeared via videolink]

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

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

6 Court Officer, can you please call the case.

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

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

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 First of all, I would like to note who is present in the
11 courtroom today.

12 Specialist Prosecutor's Office, I start with you.

13 MR. MICHALCZUK: Good morning, Your Honours. Good morning,
14 everyone in and outside the courtroom. The Prosecution today is
15 represented by Kimberly West, the Specialist Prosecutor;
16 Line Pedersen, our case manager; Gaia Pergolo, Associate Prosecutor;
17 Filippo De Minicis, Prosecutor; and myself, Cezary Michalczuk,
18 Prosecutor. Thank you.

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

20 Victims' Counsel, you have the floor.

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

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

24 Defence Counsel, it's your turn.

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

Additional redactions applied pursuant to F793.

1 with Mr. Shala who is in the detention. I'm Mr. Gilissen. I'm here
2 with Ms. Cariolou, our co-counsel, and Mr. Aouini, and the usual
3 team, may I say, Ms. Kolbe, Ms. Petravica, Ms. Kailin Chen, and
4 Ms. Healy.

5 Thank you very much.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

7 Mr. Shala, good morning. Can you confirm that can you hear me
8 well?

9 THE ACCUSED: [Interpretation] Good morning. Yes.

10 PRESIDING JUDGE VELDT-FOGLIA: I could not hear your answer.

11 THE ACCUSED: [Interpretation] I can hear you very well. Thank
12 you.

13 PRESIDING JUDGE VELDT-FOGLIA: Mr. Shala, could you repeat your
14 answer, please.

15 THE ACCUSED: [Interpretation] Good morning. I can hear you very
16 well.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Shala. The same
18 goes for me now.

19 Very well. Today we will hear the testimony of Defence witness
20 W03887, which is Mr. Zijadin Hoxha. Mr. Hoxha will testify without
21 in-court protective measures. And before we begin, we will put on
22 record two rulings that were issued in correspondence and we need to
23 put them on record in order to have them in the court file.

24 Very well. They relate both to the testimony of the witness.
25 First, we recall our directions to the Defence regarding the

Additional redactions applied pursuant to F793.

1 examination of Mr. Hoxha. It's an e-mail from the Panel recorded as
2 CRSPD 126. It's with regard to the audio-video material that the
3 Defence intends to show to the witness. We have instructed the
4 Defence to only use selected items of the video, selected portions
5 and not the entire video in the interests of the efficiency of the
6 proceedings.

7 That's our first ruling.

8 And the second one is the rejection by the Panel of the Defence
9 request for an extension of the time to conduct the examination -
10 this is filing 706, and the e-mail from the Panel is recorded as
11 CRSPD 131 - given that the Defence did not indicate what, I would
12 say, new circumstances would warrant the Panel's reconsideration of
13 its previous direction.

14 And this concludes our second ruling.

15 The Defence has four hours, Mr. Gilissen, for
16 examination-in-chief. And if it becomes apparent that the Defence
17 would need more time to complete its questioning, the Defence can, of
18 course, request for more time. This has always been our approach and
19 no different today, yes.

20 Very well. We will sit for three sessions of one and a half
21 hour, regular breaks, and we can now proceed with the witness
22 testimony.

23 And before that I see Mr. Prosecutor is standing. You have the
24 floor.

25 MR. MICHALCZUK: Indeed, Your Honour. We have one question for

Additional redactions applied pursuant to F793.

1 some further instructions in relation to the e-mail that we received
2 on Friday from the Panel. In that e-mail we were instructed to
3 prepare one document in a certain way as directed by the Panel. We
4 analysed the technical possibilities how to go about it and could
5 I -- could we humbly suggest to Your Honours that we simply prepare
6 the same document, we will redact the word that is probably the
7 contentious word in that document and we'll simply disclose it under
8 the same number with RED at the end.

9 We simply believe that if we assign a new number, if we put it
10 under the new number in the case repository, the image will be of a
11 lesser quality. If we do it the way I have just suggested, the
12 quality will remain exactly the same and the witness will have no
13 problems with seeing it and commenting on that photograph.

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, very well. We
15 proceed in this way. Thank you.

16 MR. MICHALCZUK: Thank you very much.

17 PRESIDING JUDGE VELDT-FOGLIA: Court Clerk, could you please
18 usher the witness into the courtroom.

19 [The witness entered court]

20 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, good morning and
21 welcome to the Specialist Chambers. Can you hear me?

22 THE WITNESS: [Interpretation] Yes.

23 PRESIDING JUDGE VELDT-FOGLIA: Very well.

24 Mr. Shala, have you heard the translation of the answer of the
25 witness?

Additional redactions applied pursuant to F793.

1 THE ACCUSED: [Interpretation] Yes. Yes, I did.

2 PRESIDING JUDGE VELDT-FOGLIA: Very well.

3 Mr. Witness, how are you today?

4 THE WITNESS: [Interpretation] I'm well.

5 PRESIDING JUDGE VELDT-FOGLIA: Very well. Mr. Witness, we will
6 start today with your testimony, and I foresee that we can also go
7 into tomorrow. Before we start with the questions, I have several
8 remarks for you.

9 You're called to testify, Mr. Witness, before the
10 Specialist Chambers in the case of The Specialist Prosecutor versus
11 Pjeter Shala to assist the Panel of Judges to reach a verdict.

12 First, we will take your solemn declaration to tell the truth,
13 and after that, you will be asked questions by the Defence Counsel of
14 Pjeter Shala sitting on that side, the lawyers for the Specialist
15 Prosecutor's Office on the other side, the lawyer representing the
16 victims participating in this procedure, yes, and at the end by
17 Judges of the Panel. Yes?

18 Before you take your solemn declaration, I would like to provide
19 you with some guidance and practical advice for answering the
20 questions that you will be asked, so listen carefully.

21 Mr. Witness, listen carefully to each question. If you don't
22 understand, feel free to ask the question to be repeated.

23 We want you to tell the truth, and we want you to tell us what
24 you saw, what you experienced, what you heard yourself. And if you
25 did not see or hear it yourself, please indicate how you found out.

Additional redactions applied pursuant to F793.

1 You may not remember all the details of the events, and that is
2 perfectly fine. Please don't testify on what you don't remember. Do
3 not guess, don't makes things up, it is perfectly fine to say, "I
4 don't know," "I don't remember."

5 THE WITNESS: [Interpretation] All right.

6 PRESIDING JUDGE VELDT-FOGLIA: Please only answer the questions
7 put to you. If the Panel or the counsel for the Defence or the SPO
8 or the Victims' Counsel need more explanation, you will be asked to
9 give more explanation. So stick to your question, or at least to the
10 answer to the question. Yes?

11 And I remind you that you have to the right to object to provide
12 your testimony on issues that might tend to incriminate you, pursuant
13 to Rule 151 of the Rules of Procedure and Evidence.

14 Have you understood all this, Mr. Witness?

15 THE WITNESS: [Interpretation] Yes.

16 PRESIDING JUDGE VELDT-FOGLIA: Very well. I've also some
17 practical advice for you, and please take note of the following.

18 Everything that we say here is translated by the interpretation
19 units and recorded. So it is important that you speak into both
20 microphones in front of you, that you speak at a slow pace, and that
21 you speak clearly. Yes?

22 You should only start speaking when the person asking you a
23 question has finished. So when a question is asked to you, please
24 wait five seconds before you start speaking, and this will allow the
25 interpretation to be finished and then you can start speaking. And

Additional redactions applied pursuant to F793.

1 what we want to avoid is overlapping speakers, because in that case,
2 our stenographer cannot write down if two people, two persons are
3 speaking. Okay?

4 THE WITNESS: [Interpretation] All right.

5 PRESIDING JUDGE VELDT-FOGLIA: If I raise my hand like this,
6 please stop talking. I do that to avoid that we overlap each other.

7 And if you have any questions, if you have any need, if you need
8 a break, please raise your hand and then I will give you the floor.

9 It might also happen that I will ask you to leave the courtroom
10 in case there is a discussion with regard to the content of the
11 question posed to you.

12 And, lastly, you may be asked to make a digital marking on an
13 issue shown to you on the screen in front of you. You will be then
14 be assisted by the Court Usher to -- with the pen to make the
15 marking.

16 THE WITNESS: [Interpretation] All right.

17 PRESIDING JUDGE VELDT-FOGLIA: So you understood all this,
18 Mr. Witness?

19 THE WITNESS: [Interpretation] Yes, I did.

20 PRESIDING JUDGE VELDT-FOGLIA: Very well.

21 Mr. Witness, as I do with every witness, I will now ask you to
22 make your solemn declaration to tell the truth. And I remind you
23 that it is an offence, Mr. Witness, to give a false declaration. Do
24 you understand that?

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

Witness: W03887 (Open Session)

Page 3171

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please read the text
2 provided to you.

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

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness. You are
8 now under oath to tell the truth. And we can now start with your
9 testimony, and I will give the floor to the Defence Counsel to start.

10 As earlier indicated, you have four hours and if there is any
11 need for any change, please inform the Panel.

12 You have the floor.

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

14 WITNESS: W03887

15 [Witness answered through interpreter]

16 Examination by Mr. Gilissen:

17 Q. Good morning, Mr. Witness. Good morning. As you know, I'm
18 Mr. Shala's Defence Counsel. And I would like first to ask you some
19 questions about different topics, and then after that I would like to
20 show you different excerpt of videos that I think you know perfectly
21 well and to ask some questions about these excerpts of video.

22 So, first, I would like to address a topic about you, some
23 personal concerning yourself and your background.

24 So, please, Mr. Witness, could you state your name and surname.

25 A. Zijadin Hoxha.

Witness: W03887 (Open Session)

Page 3172

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

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

2 A. No.

3 Q. What is your date and place of birth?

4 A. I was born on 20 June 1961 in Prizren.

5 Q. Thank you, Mr. Witness. Do you have or did you have a criminal
6 record?

7 A. In the past, I did. Currently, I don't. I was a political
8 prisoner in -- and imprisoned in 1981 and I served eight years --

9 THE INTERPRETER: Correction.

10 THE WITNESS: [Interpretation] Nine years of imprisonment in
11 Yugoslav prisons.

12 MR. GILISSEN:

13 Q. What offence were you convicted for?

14 A. There were demonstrations in 1981 and I was accused of
15 counter-revolution.

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

17 Mr. Witness, where were you living before the war in 1998?

18 A. In 1998, I lived in Germany.

19 Q. Why did you live at this moment in Germany?

20 A. In 1993, the UDB of Yugoslavia wanted to arrest me again and
21 that's why I fled my country, went to Albania, sought asylum, and won
22 it. And that's where I lived.

23 Q. Thank you very much. So, Mr. Witness, did you join the KLA?

24 A. Yes, I did.

25 Q. Are you able enough to explain to us when, in which

Witness: W03887 (Open Session)

Page 3173

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 circumstances you joined the KLA?

2 A. Initially, in 1998, I joined the Homeland Calling Fund, and in
3 April 1998, I went to Albania. I read the transcript and there was a
4 mistake there. I did not arrive in May in Kukes but I arrived there
5 in April, on 22nd or 23rd of April. The date is erroneously
6 recorded. I don't know if it was the interpretation, the
7 translation, or another mistake, but I did not arrive in Kukes in
8 May. I arrived there in April.

9 Q. Thank you very much. So according to you, it is April 1999, I
10 suppose?

11 A. On 22 or 23 April 1999.

12 Q. Thank you very much. That's nice of you.

13 So if you could give us a date about the moment you joined the
14 KLA and the circumstances you joined the KLA. Could you explain us,
15 to be well-informed about this situation, when you joined the KLA?

16 A. In fact, I was an activist within the Homeland Calling Fund,
17 which raised funds, aid. And following the massacres committed by
18 the Serbian occupiers against the population in Kosovo, I decided to
19 join the KLA. I wanted to go into Kosovo. First I went with a
20 friend from Germany to Tirana. I spent a night in Tirana, then went
21 to Kukes with the intention to go straight away to Kosovo, but the
22 circumstances were such that I remained in Kukes.

23 Q. Yes, I would like to know if you remember the name of your
24 friend, the one who was with you at this moment.

25 A. Yes. Ekrem Ahmeti.

Witness: W03887 (Open Session)

Page 3174

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Q. Thank you very much. And how did you end up to Kukes?

2 A. We went from Tirana to Kukes with the intention to mobilise
3 there and go into Kosovo. Kukes was like a gathering point, and that
4 was the reason why we went to Kukes.

5 Q. And do you remember the date you arrive in Kukes?

6 A. No, I don't remember the exact date. However, it was on 22nd or
7 23rd April. In my first statement given to EULEX, it is 22nd or 23rd
8 May. It's a technical mistake or an interpretation mistake, I don't
9 know. But, as I said, I arrived Kukes on 22nd or 23rd April.

10 Q. Yes, okay. Thank you very much. It's very clear. And,
11 according to you, how long did you stay in Kukes?

12 A. I stayed in Kukes up until 6 or 7 June 1999.

13 Q. Thank you. And could you please tell us why you left Kukes at
14 this moment?

15 A. In fact, I left Kukes on an assignment by the commander. The
16 assignment was to go back to Germany and buy certain things that we
17 needed. I didn't know at the time that the war would end in four or
18 five days.

19 Q. Thank you very much, Mr. Witness. It's very clear and I can go
20 to another topic.

21 Mr. Witness, when you joined the KLA in Kukes, was there a
22 specific process you followed to enter in the army, in the UCK?

23 A. No, nothing special. As I said, we were activists of
24 Homeland Calling Fund. We had membership cards. We reported at the
25 gate, entered the barracks and joined immediately. There was no

Witness: W03887 (Open Session)

Page 3175

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 special or particular procedure to join.

2 Q. That's very clear. No special formalities?

3 A. No special formalities.

4 Q. Thank you very much, Mr. Witness. What was your job, your duty
5 with the KLA in Kukes?

6 A. We mobilised in Kukes with the intention to stay there for a day
7 or two and then join the front line. But in the end, I remained in
8 Kukes as a repairman for weapons and also for weapons supply.

9 Q. Yes. Are you able enough to explain us who assigned you to this
10 job?

11 A. In a way, I assigned this myself. When we arrived in Kukes it
12 was quite late. The following day, in the corner of the warehouse, I
13 saw a large amount of weapons that were not working, that were
14 defect, and I asked whether I could repair those weapons, and he said
15 I could. And from there on, I started doing that job.

16 Q. Thank you. And you say he said okay, that you can start to
17 repair. Who was the "he"?

18 A. He was Commander Mark Shala.

19 Q. Do you consider he was your superior?

20 A. Yes, I consider him my superior and he was, in fact, my
21 superior.

22 Q. Thank you very much. So who was authorised to carry a weapon in
23 Kukes metal factory?

24 A. Small weapons, whoever had them were allowed to carry them.

25 However, long weapons were not allowed to be carried inside. With

Witness: W03887 (Open Session)

Page 3176

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 the exception of the guards who were at the gate. They could. The
2 rest of us were not allowed to carry long weapons.

3 Q. So did you have a personal weapon?

4 A. No, I didn't have a personal weapon.

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

6 So during the period you indicate early, it means April to the
7 beginning of June 1999, did you stay in Kukes all the time?

8 A. I did stay in Kukes, in fact. However, I moved around wherever
9 there was need for weapons to be repaired. I would be called and go
10 to repair weapons in Krume, in Cahan, and in other places.

11 Q. So it's a long time ago, I realise that and I know it perfectly
12 well. But, according to you, do you remember how much time would be
13 usefully spend there in Krume or in Cahan or somewhere else?

14 A. Those were mainly one-day visits, not longer than that. We
15 would go within one day, either pick up the weapons and bring it to
16 Kukes to repair. However, if there was not a major defect, then we
17 would stay there on site and repair them on the spot.

18 Q. Okay, I think it's clear. Thank you very much.

19 So, Mr. Witness, some of us were in the Kukes metal factory,
20 some of us have never been there, so are you able enough to describe
21 the Kukes metal factory or the premises, to describe to us?

22 A. It could well be that I can't describe it accurately, but
23 perhaps around about there I can try to do so.

24 Q. So we would like to help you and to show you some pictures for
25 identification purposes. These pictures were taken in 2019, so it

Witness: W03887 (Open Session)

Page 3177

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 means that could change a lot, of course. We are more than 20 years
2 after. But it could be very nice of you to try to explain us if you
3 are able to recognise the place.

4 MR. GILISSEN: So I would like, with the leave of the Panel, of
5 course, to have on the screen the ERN SPOE40010264-40010559 at page
6 3, and to have it on the screen. Thank you very much.

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

9 And, Defence Counsel, you may ask the witness if he recognises
10 anything to start with.

11 MR. GILISSEN:

12 Q. So, Mr. Witness, do you recognise the place we are seeing on
13 this picture?

14 A. From what I can tell, I think it's the entrance to the metal
15 factory.

16 Q. Does it change a lot?

17 A. A lot. Tremendously.

18 Q. Could you please describe what building we are seeing here?
19 Could you make some identification of the buildings we are seeing?

20 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I propose
21 already at this stage that we give Mr. Witness a pencil and then we
22 start with the different buildings we see and marking them. I think
23 that will add to clarity of his testimony here in court.

24 MR. GILISSEN: The idea, it's excellent, Your Honour.

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

Witness: W03887 (Open Session)

Page 3178

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Madam Court Usher, could you please assist Mr. Witness with a
2 pencil, insofar as it is needed.

3 Thank you, Madam Court Usher.

4 You may proceed, Defence Counsel.

5 MR. GILISSEN:

6 Q. Mr. Witness, we will try to go together. You have a first
7 building on the left. If you see, we see some window, some windows.
8 Are you able to recognise this building, to know it or to identify
9 it?

10 A. Although I cannot see the entry gateway, I think that the
11 building to the left is where the headquarters was.

12 Q. Thank you very much. Are you able enough to put a number 1 on
13 the building with your pen?

14 A. [Marks]

15 Q. Thank you very much.

16 So we have another building just in front of what we call the
17 entry with, I think, four windows. Do you recognise this building?

18 A. This actually was the warehouse where all the materials were put
19 in. This was the main warehouse.

20 Q. Thank you very much. It is very clear. Are you able enough to
21 put a number 2 on the building in question?

22 A. [Marks]

23 Q. Thank you. We have, I think, another building on the right.
24 Are you able to identify this building?

25 A. I identify this as a building, but we didn't have access to this

Witness: W03887 (Open Session)

Page 3179

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 building. Not ever. I have never been inside that building myself.

2 Q. Okay. I would like you to put a number 3 on this building.

3 A. [Marks]

4 Q. Thank you very much.

5 MR. GILISSEN: So I think we can go to another picture. This is
6 ERN SPOE40010264-40010559 at page 16.

7 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, sorry to
8 interrupt you, but what we will first do is save this picture and we
9 allocate it a number and then we proceed with the next picture.

10 MR. GILISSEN: Yes. I have the will to save time. That's an
11 error. Thank you.

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

13 Yes, thank you, Madam Court Officer, for saving this document
14 and allocating it a number.

15 [Trial Panel and Court Officer confer]

16 THE COURT OFFICER: Your Honours, markings made by Witness
17 W03887 on ERN SPOE40010266 will be assigned Registry number REG00982.

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

19 And we have now another picture which is the number is
20 mentioned, Madam Court Officer, on page 15, line 18. Does that
21 assist you in order - yes, I see you nodding - to pull it up.

22 And, Defence Counsel, it's again for identification purposes, if
23 I understand well.

24 MR. GILISSEN: Yes, absolutely.

25 PRESIDING JUDGE VELDT-FOGLIA: Okay. Please proceed.

Witness: W03887 (Open Session)

Page 3180

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN:

2 Q. Mr. Witness, do you recognise this building?

3 A. Yes, I do.

4 Q. Does it change a lot?

5 A. A lot.

6 Q. Thank you very much. So we would like to know what was this
7 building used for.

8 PRESIDING JUDGE VELDT-FOGLIA: About what building are we
9 talking?

10 MR. GILISSEN: The one we are talking on the picture.

11 PRESIDING JUDGE VELDT-FOGLIA: But I see about four buildings.

12 MR. GILISSEN: Okay. I can be more precise, I think so.

13 Q. The big building we are seeing, with two levels. We have some
14 windows at the stage --

15 PRESIDING JUDGE VELDT-FOGLIA: Would it be the first -- is it
16 the second building from the left side next to the gate where we see
17 the white car?

18 MR. GILISSEN: Yeah. I didn't want to talk about the gate or
19 the entry, but that's exactly the building I would like to focus on.

20 PRESIDING JUDGE VELDT-FOGLIA: Okay. But we have to be more
21 specific. Yes. I would prefer -- yes. And could you first have the
22 witness give a number to it and then we can proceed with your
23 questions.

24 MR. GILISSEN: Exactly.

25 Q. So if you see the building we are talking about, the second on

Witness: W03887 (Open Session)

Page 3181

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 the left, when you start from the left, if you are able to put a
2 number 1 on this building to be sure we are talking about the same.

3 A. [Marks]

4 Q. Yes. What was this building used for, Mr. Witness?

5 A. Actually, these were the logistics offices.

6 Q. Is it --

7 A. The logistics command in general.

8 Q. Yeah. Is it the same building you quote as number 1 in the
9 other picture?

10 A. Yes, it is the same.

11 Q. Thank you very much. It is very clear. And who had offices
12 there?

13 A. On level 1, the ground floor, the majority of people there were
14 the ones working in logistics.

15 On level 2, first floor, that was the logistics command where
16 Commander Mark and other commanders stayed.

17 Q. Thank you. And did you have an office or a place there in this
18 building?

19 A. No, I did not have an office at all, to be honest. But there
20 was just an office where every so often I used to sleep with some
21 other colleagues. But otherwise I didn't have an office as such.

22 Q. And where would you sleep -- where would you sleep in that
23 building? Are you able enough to try to show us, if it is visible?

24 A. Yes. You can see where I've put number 1, the ground floor,
25 from the beginning on the left, it is the third window, really.

Witness: W03887 (Open Session)

Page 3182

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Q. [Microphone not activated]. Are you able enough to put a
2 number 2 on the window?

3 A. [Marks]

4 PRESIDING JUDGE VELDT-FOGLIA: For clarity, Defence Counsel,
5 Mr. Witness said "where every so often I used to sleep."

6 Mr. Witness, how often would you sleep there?

7 THE WITNESS: [Interpretation] Very often I slept there. Because
8 this was the room stationed -- where another commander was stationed.
9 There were also three beds and a table, but the majority of the time
10 I stayed -- I slept there with friends.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 Defence Counsel, you have the floor.

13 MR. GILISSEN: Thank you, Your Honour.

14 Q. And sometime did you sleep in Kukes or in -- I'm sorry, in Krume
15 or in Cahan, or you never slept there?

16 A. No, that hasn't happened. No.

17 Q. So we come back to Kukes at the window number 2, and I would
18 like to know would be able to hear any noise from other rooms within
19 the building when you slept there at night?

20 A. No, that hasn't happened.

21 Q. Did you hear any particular noise at night or never at all?

22 A. No. This never happened that I would have heard any particular
23 noise.

24 Q. So it was a place very crowded. There were a lot of transport
25 trucks and so on during the day. It was so quiet during the night,

Witness: W03887 (Open Session)

Page 3183

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 according to you?

2 A. Yeah, it was quiet during the night. And at day-time, they were
3 people going in and out all the time, non-stop, because there were
4 people there coming in and out non-stop, materials, trucks coming in,
5 materials being sent to the front. This was the whole idea about
6 logistics. So basically this was where the materials were coming in
7 and out. But in the evening and at a night it was actually quiet,
8 because there weren't any supplies coming in at night-time. And
9 that's where we stayed and we rested, because we needed a rest as
10 well, obviously.

11 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, just for reasons
12 of clarity. Page 19, lines 10 and 11, I did not hear the witness say
13 today anything about a lot of transport and trucks. You said it, but
14 he did not say it at that moment in time.

15 MR. GILISSEN: No, no --

16 PRESIDING JUDGE VELDT-FOGLIA: Let's keep to what he has said.

17 MR. GILISSEN: Absolutely. I suggest it, it was to be clear.
18 And I would like to know -- thank you very much. I'm sorry for that.

19 Q. And do you remember of an exceptional incident, a noisy moment
20 during your stay in Kukes during the night or not one?

21 A. No, I cannot recall.

22 Q. Thank you very much. Thank you.

23 So, Mr. Witness, was there a medical office in the Kukes metal
24 factory?

25 A. Yes, there was a small office, actually. There were two or

Witness: W03887 (Open Session)

Page 3184

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 three girls that stayed there. I cannot remember exactly how many
2 girls there were.

3 Q. And, according to you, where was this room, this medical office
4 located?

5 A. It was on the ground floor. It was somewhere near the entrance,
6 to the right. It was very close to the entrance.

7 Q. And we have the picture on the screen. Are we able to see the
8 place or it was inside at -- it's impossible to see?

9 A. No, you can't really see it. But I actually think you can see
10 it a little bit but it's on the other side. Not in this part but at
11 the other end of the corridor. That's where the room was.

12 Q. Thank you very much. So, Mr. Witness, do you know a person --

13 PRESIDING JUDGE VELDT-FOGLIA: Defence -- sorry, Defence
14 Counsel. I suggest that we park this and then we go back to the
15 original picture and then we put there -- I think in order not to
16 be -- I think it will then number 4. But we will need to indicate
17 that. I would like to have that clear on record. Yes?

18 MR. GILISSEN: Yeah, we could come back --

19 PRESIDING JUDGE VELDT-FOGLIA: If your are done with this
20 picture, we save it and we go back to the other picture.

21 MR. GILISSEN: Yeah, okay.

22 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, it was not my
23 intention to interrupt you. You may proceed with your questioning.
24 And if you are done with this picture, then we can go back.

25 MR. GILISSEN: Absolutely no problem.

Witness: W03887 (Open Session)

Page 3185

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 PRESIDING JUDGE VELDT-FOGLIA: Yeah?

2 MR. GILISSEN: Absolutely no problem.

3 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

4 MR. GILISSEN: So I see on the screen the picture, may I say,
5 number two, the second we saw. If we have to come back to the first
6 one --

7 PRESIDING JUDGE VELDT-FOGLIA: We do it when you have finalised
8 with your questions on this picture.

9 MR. GILISSEN: No. It's about the person in the medical office.
10 So no questions anymore on this picture.

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

12 Madam Court Officer, could you save this picture and allocate it
13 a Registry number, please.

14 THE COURT OFFICER: Your Honours, markings made by Witness
15 W03887 on ERN SPOE40010279 will be assigned Registry number REG00983.

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

17 Defence Counsel, could you repeat the ERN number of the picture
18 that was shown before this picture, and then --

19 MR. GILISSEN: Yes, thank you very much. It was
20 SPOE40010264-40010559, page 3, 16.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

22 Madam Court Officer, could you pull up that picture. And I know
23 that it's the original picture and not the one we have saved.

24 And I suggest that Mr. Witness puts a 5, because I'm sure that
25 that number has not been used yet, where you think, Mr. Witness, that

Witness: W03887 (Open Session)

Page 3186

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 the medical office was situated.

2 THE WITNESS: [Interpretation] I am sorry but the office cannot
3 be seen in this part, because the main entrance at the headquarters,
4 then the corridor, and then to the left. And in this photograph, you
5 can't see it at all. So there are two sides, the left and the right,
6 and there were offices on the left, there was the cleaner's office,
7 and to the right the offices of the other commanders. But one cannot
8 see it here at all. At all. One would need to go inside the
9 corridor itself to actually see the office.

10 PRESIDING JUDGE VELDT-FOGLIA: So if I understand you well, the
11 medical office -- or I will put it differently. Were there any
12 windows, yeah, to this medical office?

13 THE WITNESS: [Interpretation] I do not know. I swear, I do not
14 know. I do not know.

15 PRESIDING JUDGE VELDT-FOGLIA: Good. No, we showed you this
16 picture --

17 THE WITNESS: [Interpretation] I do not know.

18 PRESIDING JUDGE VELDT-FOGLIA: We showed you this picture
19 because you indicated that we might have seen the medical office on
20 the first picture. And now we have shown you the first picture and
21 now you say --

22 THE WITNESS: [Interpretation] No, no, no.

23 PRESIDING JUDGE VELDT-FOGLIA: -- "I cannot see it." We note
24 that. Thank you.

25 Madam Court Officer, this picture can be taken down.

Witness: W03887 (Open Session)

Page 3187

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Defence Counsel, you have the floor again.

2 MR. GILISSEN: Just before to take down the picture, we could
3 ask Mr. Witness.

4 Q. We are seeing some windows. Do you know this window was part of
5 which place? The window we see -- we are seeing on the right -- on
6 the left, I'm sorry.

7 PRESIDING JUDGE VELDT-FOGLIA: Then we would start with the
8 first window.

9 MR. GILISSEN: Yes. We have a three windows --

10 PRESIDING JUDGE VELDT-FOGLIA: I would say the first window on
11 the left. Do you know for what it was used?

12 THE WITNESS: [Interpretation] No, I do not know. I don't know.

13 MR. GILISSEN:

14 Q. Yeah.

15 A. I don't know. And you know, one forgets. It's 24, 25 years.
16 But I can't remember.

17 Q. I think all of us fully understand the situation. And I prefer
18 you say, "I don't know," "I don't remember," than to make a guess.
19 Thank you very much.

20 MR. GILISSEN: So with the same ERN, could we see a picture page
21 number 15.

22 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, you may pull
23 down this document.

24 And the reason to show the picture to the witness, Defence
25 Counsel?

Witness: W03887 (Open Session)

Page 3188

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: To have a chance to have another view from this
2 building to try to see or if we are able to see this famous medical
3 centre.

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

5 Madam Court Officer, please pull up the next document Defence
6 Counsel is requesting. Thank you.

7 MR. GILISSEN:

8 Q. So, Mr. Witness, are you able to have a better view to try to
9 identify the place where the medical room was?

10 A. It could be in those three small windows, but I'm not sure
11 though. I cannot say accurately. But it could be this one at the
12 entrance, at the main entrance, where the main entrance to the place
13 is. That said, I'm not entirely sure.

14 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].
15 Defence Counsel, could we have a number 5 there?

16 MR. GILISSEN: Exactly.

17 [Trial Panel and Court Officer confer]

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

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

20 Q. So did you go yourself in this medical room?

21 A. Yeah, it so happened that I went there five to ten minutes max,
22 once actually.

23 Q. Okay. Thank you very much. And do you know a person called
24 Time Kadrija?

25 A. No, I do not know -- or, rather, I know her now, but I didn't

Witness: W03887 (Open Session)

Page 3189

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 know her back then, during the war. I didn't know her during the
2 war.

3 Q. Yeah, that is very clear. Thank you very much.

4 PRESIDING JUDGE VELDT-FOGLIA: Can we pull down the picture,
5 Defence Counsel?

6 MR. GILISSEN: Yes, I'm sorry. Yeah.

7 PRESIDING JUDGE VELDT-FOGLIA: No, no, nothing to be sorry
8 about.

9 Madam Court Officer, can you pull down this picture, after
10 having saved it and allocated it a Registry number, please.

11 THE COURT OFFICER: Your Honours, the markings made by Witness
12 W03887 on ERN SPOE40010278 will be assigned Registry number REG00984.

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

15 MR. GILISSEN: Thank you very much.

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

17 A. Yes, now, but I didn't know her during the war. So it is a
18 public persona.

19 Q. Okay. Thank you very much. And do you know a know person
20 called Ilir, Ilir Rakaj?

21 A. No, I do not know him.

22 Q. Okay, thank you very much. I would like to know, Mr. Witness,
23 if they were Albanian officers or Albanian officials at the
24 Kukes metal factory?

25 A. I think there was one, but I do not know their name.

Witness: W03887 (Open Session)

Page 3190

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Q. Yes. And do you know a person called Spiro Butka?

2 A. No, I do not know him personally.

3 Q. Thank you. Thank you very much.

4 MR. GILISSEN: So I would like, I'm sorry, to have the picture
5 with the same ERN, page 16.

6 PRESIDING JUDGE VELDT-FOGLIA: For which purposes, Defence
7 Counsel?

8 MR. GILISSEN: For identification.

9 PRESIDING JUDGE VELDT-FOGLIA: Very well.

10 Madam Court Officer, please proceed.

11 MR. GILISSEN:

12 Q. It's the same picture, Mr. Witness, but I would like to know if
13 you are able to identify the building on the right, the green -- the
14 grey one?

15 A. Yes.

16 Q. Can you tell us more about this building?

17 A. This building is where the kitchen was, where part of the
18 mechanical office was, and there was also a bedroom.

19 Q. Are you able enough to put some numbers on the different places
20 we were talking about? First, the kitchen, the entry of the kitchen?

21 PRESIDING JUDGE VELDT-FOGLIA: We could use number 4 for that
22 because we have not used it yet.

23 MR. GILISSEN: Yeah, yeah. Thank you.

24 THE WITNESS: [Marks]

25 MR. GILISSEN:

Witness: W03887 (Open Session)

Page 3191

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Q. Thank you very much. You were talking about another place, I
2 suppose the other door on the right. Are you able enough to remember
3 what could be this place?

4 A. That's where vehicles were repaired.

5 PRESIDING JUDGE VELDT-FOGLIA: Please use the number 6 for that.

6 THE WITNESS: [Marks]

7 MR. GILISSEN:

8 Q. Yes. And then I have the feeling we are seeing a window with
9 barrels. This is the same place or it's another place in the
10 building?

11 A. It's the same building, but I think this is connected or linked
12 to the other part, if I'm not mistaken. As far as I remember, it was
13 linked to the other part.

14 Q. So the best to be sure, it's to put a number 7, please, on the
15 place you are talking about.

16 A. [Marks]

17 Q. Thank you very much. It's very clear.

18 MR. GILISSEN: It's okay with this picture, I think so, this
19 time. And I would like to -- we have to save it. We have to save
20 it.

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

22 Mr. Witness, I see that you want to say something, and I also
23 have a question for you. Please proceed, what is it what you want to
24 say?

25 THE WITNESS: [Interpretation] Just before number 4, there was a

Witness: W03887 (Open Session)

Page 3192

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 sleeping quarters, quite big room used for sleeping. It's in the
2 corner between the two buildings. That's where the entrance to that
3 sleeping quarters was.

4 PRESIDING JUDGE VELDT-FOGLIA: Could you put an 8 in order to
5 indicate about what corner you're talking about?

6 THE WITNESS: [Marks]

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you. I will look at my --
8 that was also the question from the Panel. So we can now save it.

9 Madam Court Officer, please proceed. And please allocate it a
10 Registry number.

11 THE COURT OFFICER: Your Honours, further markings made by
12 Witness W03887 on ERN SPOE0010279 will be assigned Registry number
13 REG00985.

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

15 Mr. Witness, Defence Counsel, I will just ask one clarifying
16 question about the grey building.

17 Mr. Witness, the grey building on the right-hand side of the
18 picture where you have put the numbers 8, 4, 6 and 7, was that a
19 one-storey building?

20 THE WITNESS: [Interpretation] Yes, it was a one-storey building.
21 However, it was taller, with higher ceilings. As far as I remember,
22 if I'm not mistaken, it was a one-storey building.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness. I will
24 now give the floor back to the Defence Counsel.

25 Mr. Gilissen, you have the floor.

Witness: W03887 (Open Session)

Page 3193

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: Thank you very much. Thank you very much,
2 Your Honour.

3 So I would like to turn to the same ERN but page 13.

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

6 MR. GILISSEN:

7 Q. So, Mr. Witness, do you recognise this picture and the building
8 on the picture?

9 A. Yes, I do.

10 Q. Yes. Are you able to identify some place or places and to
11 explain us what we are seeing?

12 A. On the left are the buildings which I marked with numbers. In
13 front is the building where the main warehouse was, where material
14 was kept.

15 Q. Thank you very much. So to be sure to understand, I think we
16 have a door we see near the tree. Is it the entry of the warehouse
17 you were talking about?

18 A. No, I don't think so. The door should be more in the middle
19 towards the right-hand side. I don't remember these doors that I see
20 here.

21 PRESIDING JUDGE VELDT-FOGLIA: I propose, Defence Counsel, to
22 mark this kind of an entrance with a 9 to be clear about what we are
23 talking.

24 THE WITNESS: [Interpretation] All right.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness. And then

Witness: W03887 (Open Session)

Page 3194

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 also for clarity purposes, the buildings on the left-hand side, do I
2 understand well that those were the buildings you marked with the
3 numbers 4, 6, 7, 8?

4 THE WITNESS: [Interpretation] Yes, that's the one.

5 PRESIDING JUDGE VELDT-FOGLIA: Okay. Could you then please mark
6 that with a 10 so that we know that ...

7 THE WITNESS: [Marks]

8 PRESIDING JUDGE VELDT-FOGLIA: Yes. So that's clear for future
9 when, in the future, we consult the transcript, it is clear what we
10 are discussing.

11 Defence Counsel, you have the floor.

12 MR. GILISSEN: Thank you very much.

13 Q. We are seeing windows on the right of this unknown door. Was it
14 part of the warehouse you were speaking about or you don't know what
15 it is?

16 A. It was part of the warehouse, in fact.

17 Q. That's very nice if you are able to put, I think, a number 10 or
18 number 11?

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

20 MR. GILISSEN: Thank you.

21 THE WITNESS: [Marks]

22 MR. GILISSEN: I think we can save the document.

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

24 Thank you. Madam Court Officer, please save the document and
25 allocate a Registry number to it. Thank you.

Witness: W03887 (Open Session)

Page 3195

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 THE COURT OFFICER: Your Honours, markings made by Witness
2 W03887 on ERN SPOE40010276 will be assigned Registry number REG00986.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
4 Defence Counsel, you have the floor again.

5 MR. GILISSEN: Thank you very much.

6 So I would like to have on the screen the same ERN but page 12.

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

9 MR. GILISSEN: Thank you very much.

10 Q. So, Mr. Witness, do you recognise this building?

11 A. Yes, I do.

12 Q. Yes, I --

13 PRESIDING JUDGE VELDT-FOGLIA: Could we be more specific?

14 MR. GILISSEN: Exactly.

15 Q. The idea is to understand what is this building. We have an
16 idea because you provide some explanation before, but we would like
17 to be sure to understand exactly what it is.

18 A. This is the main warehouse building, and here on the right is
19 the main entrance to the warehouse. The whole building was a
20 warehouse.

21 Q. Thank you very much. Are you able enough to put the number, I
22 think, 12 on the door?

23 A. [Marks]

24 Q. Thank you very much. And to be sure, 13 on what you call the
25 main building, the main warehouse.

Witness: W03887 (Open Session)

Page 3196

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 A. [Marks]

2 PRESIDING JUDGE VELDT-FOGLIA: I will ask one clarifying
3 question, Defence Counsel, a short one.

4 Mr. Witness, so when you say "the main warehouse," it's both the
5 grey building and the adjacent building with the kind of
6 orange/brownish wall?

7 THE WITNESS: [Interpretation] No. This, from the beginning to
8 the end, was a warehouse where materiel was kept. From the beginning
9 until the end, that's where military materiel was kept.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. But then for my
11 understanding, I would like to understand where the warehouse ends.

12 THE WITNESS: [Interpretation] I don't know to the right how far
13 it goes, the picture. Because where I've put number 12, the building
14 continues on, on the right side.

15 PRESIDING JUDGE VELDT-FOGLIA: Okay. Mr. Witness, I will try to
16 be more clear. The building, the part of the building above the
17 number 12, that is also warehouse?

18 THE WITNESS: [Interpretation] This is where the main entrance
19 was, at number 12. And the warehouse continued on both sides, both
20 to the left and to the right.

21 PRESIDING JUDGE VELDT-FOGLIA: Very clear. Thank you.

22 Defence Counsel, you have the floor.

23 MR. GILISSEN: Thank you very much.

24 Q. Mr. Witness, are you able enough to explain where was the place
25 you worked?

Witness: W03887 (Open Session)

Page 3197

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 A. It was inside this warehouse. I had a desk there. You cannot
2 see inside the warehouse from this picture.

3 Q. Yes, thank you very much. And in which part of the building?
4 In the grey part or in the other part with the brick?

5 A. From number 12, you enter and you go right to reach the place
6 where my desk was.

7 Q. So we are not able to see the place where your desk was? Yeah.

8 A. No. It's not visible on this photograph. From the outside,
9 it's not visible.

10 Q. And would you usually work there or always work there?

11 A. Well, it depended. Where there was not much work to be done, I
12 would work inside. Where there was major repair that I had to do,
13 then I would work outside in the yard and would also call on soldiers
14 to help me. But most of the time, I worked inside.

15 Q. Thank you. Thank you very much. It's very clear.

16 MR. GILISSEN: So I think we can go to another picture, but it's
17 the same ERN, page 11.

18 PRESIDING JUDGE VELDT-FOGLIA: Madam Court --

19 MR. GILISSEN: Perhaps to save the first picture before.

20 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, this picture
21 has not been saved yet? Then we proceed -- then please proceed with
22 saving it and allocating it a Registry number. Thank you.

23 [Microphone not activated].

24 Defence Counsel, it's ten minutes to 11.00, so, please, for your
25 -- for your information.

Witness: W03887 (Open Session)

Page 3198

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: That's very nice of you.

2 THE COURT OFFICER: Your Honour, markings made by Witness W03887
3 on ERN SPOE40010275 will be assigned Registry number REG00987.

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
5 Defence Counsel, you have the floor again.

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

7 I would like to have another picture, the same ERN but page 11.

8 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, please
9 proceed.

10 MR. GILISSEN: Thank you very much.

11 Q. So, Mr. Witness, could you explain us what we are seeing just
12 now?

13 A. In fact, it's again the main warehouse. From the beginning
14 until the end, it was a warehouse. It is where food, clothes,
15 uniforms were kept. It was the main logistics supplies warehouse
16 that supplied the front in Kosovo.

17 Q. That's very clear. Are you able enough to put on the door the
18 same number you put before on this door? It was, I think, 8, but I'm
19 not sure, or 12. I think so.

20 PRESIDING JUDGE VELDT-FOGLIA: Yes, I see here "main entrance"
21 in my notes. So please put number 12, Mr. Witness.

22 THE WITNESS: [Marks]

23 MR. GILISSEN:

24 Q. Thank you. It is very clear. And is it possible that you try
25 to show us, or even almost show us, the place where you work? The

Witness: W03887 (Open Session)

Page 3199

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 level, according to you, where your desk was situated.

2 PRESIDING JUDGE VELDT-FOGLIA: With the number 13 -- 14. 14,
3 please.

4 THE WITNESS: [Interpretation] My working desk was inside this
5 warehouse. You cannot see it from outside in this picture. It was
6 inside the building. I can mark it approximately where it was. I
7 can put the number, but I do not know exactly where it was. It's
8 inside the building.

9 MR. GILISSEN:

10 Q. No, it's interesting to know. You can mark it. Thank you very
11 much.

12 A. Could you please tell me which number again?

13 Q. It's 14, I think so.

14 A. [Marks]

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

16 So I would like to know when you entered by the door you mark as
17 12, it was just between the two buildings we are seeing, the grey one
18 and the bricks one. Is there a door between these two buildings,
19 between these two part of the building? Is there an inside door
20 between the two parts of the building?

21 A. No, there wasn't. There wasn't an inside door. It was an open
22 space. It was empty, from one end to the other.

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

24 MR. GILISSEN: I think it could be a good moment because I have
25 to address another topic now, and it could be a good moment to the

Witness: W03887 (Open Session)

Page 3200

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 break, I think so, I suggest.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

3 Madam Court Officer, could you save this picture and allocate it
4 again a Registry number, please.

5 THE COURT OFFICER: Your Honours, markings made by Witness
6 W03887 on ERN SPOE40010274 will be assigned Registry number REG00988.

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

8 Mr. Witness, we will go for a break, half an hour. I will ask
9 Madam Court Usher to escort you out of the courtroom, and we see you
10 back at 11.30. Thank you.

11 THE WITNESS: [Interpretation] Thank you.

12 [The witness stands down]

13 PRESIDING JUDGE VELDT-FOGLIA: We will resume in 30 minutes.

14 The hearing is adjourned.

15 --- Recess taken at 10.55 a.m.

16 --- On resuming at 11.30 a.m.

17 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. I see a slight
18 change in composition of the team of the Specialist Prosecutor's
19 Office.

20 MR. MICHALCZUK: Yes, indeed, Your Honours. The
21 Specialist Prosecutor herself is not present.

22 PRESIDING JUDGE VELDT-FOGLIA: Very well. We note that.

23 Same composition for Victims' Counsel. And on my left-hand
24 side, also in the same composition.

25 Very well. We will continue with the testimony of

Witness: W03887 (Open Session)

Page 3201

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Zijadin Hoxha.

2 Very well. Madam Court Usher, could you please usher the
3 witness back into the courtroom.

4 [The witness takes the stand]

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

6 THE WITNESS: [Interpretation] Thank you.

7 PRESIDING JUDGE VELDT-FOGLIA: Can you hear me well?

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

9 PRESIDING JUDGE VELDT-FOGLIA: Very well.

10 Mr. Shala, can you hear the witness well or the translation?

11 THE ACCUSED: [Interpretation] Yes, I can hear that very well.

12 Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: Very well, noted.

14 Then we proceed. Defence Counsel, you have the floor again for
15 the examination-in-chief.

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

17 Your Honour, after reviewing our material during the break, with
18 your leave, we would like to ask a question about an additional
19 picture before going to another topic.

20 PRESIDING JUDGE VELDT-FOGLIA: Very well. For identification
21 purposes?

22 MR. GILISSEN: Absolutely.

23 PRESIDING JUDGE VELDT-FOGLIA: Very well. If you give the
24 number to Madam Court Officer, she can pull the document up.

25 MR. GILISSEN: Thank you very much. It is the same ERN but page

Witness: W03887 (Open Session)

Page 3202

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 19. The purpose is to try to have a full vision of the courtyard.

2 Thank you very much.

3 Q. Mr. Witness, do you recognise this place and this building we
4 are seeing on this picture?

5 A. Yes, I do. But it has changed a lot. As a matter of fact, it
6 has changed tremendously.

7 Q. So is it possible for you to explain for every part of the
8 buildings we are seeing what you know, what you are able to provide
9 us with information?

10 A. Actually, to my left, that was the main warehouse; whereas to
11 the right, I don't actually know what that was because we didn't have
12 access to that building. I think the keys to this building were only
13 kept by the owner of the premises. So I've never been there when it
14 was all emptied out like this, the courtyard and everything else,
15 never before.

16 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I propose to add
17 a number 15 to the building just described by Mr. Witness.

18 Please proceed, Mr. Witness.

19 THE WITNESS: [Interpretation] The building to the left or the
20 one to the right, please?

21 PRESIDING JUDGE VELDT-FOGLIA: You -- yes. You described a
22 building where you had never had access to and the owner kept the
23 key. That building, can you indicate that with the number 15.

24 THE WITNESS: [Marks]

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

Witness: W03887 (Open Session)

Page 3203

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: Thank you very much.

2 Q. Mr. Witness, if we continue this building you marked with the
3 number 15, we are going to a building with some colours on. It seems
4 to be a blue or a grey one, if you want, just in the middle of the
5 picture. Did you know this place or do you know this place?

6 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, for me it's not
7 clear about what building you're talking.

8 MR. GILISSEN: Yeah, I think it is the only one we are seeing
9 colours or colour on, just in the middle of the picture. We have two
10 places where we are seeing something like a blue/white colour, and
11 then two other parts in bricks.

12 PRESIDING JUDGE VELDT-FOGLIA: So you mean -- I see part of -- I
13 see something -- I see a white wall, partly a white wall. Is that
14 what you're meaning?

15 MR. GILISSEN: Yeah, it seemed to be a white wall. Yeah.

16 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor.

17 MR. MICHALCZUK: Your Honours, could we ask to remove the
18 witness from the courtroom just for a minute.

19 PRESIDING JUDGE VELDT-FOGLIA: Very well.

20 Madam Court Usher, could you accompany the witness out.

21 Mr. Witness, you will be accompanied out for a moment. Thank
22 you.

23 [The witness stands down]

24 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, you have the
25 floor.

Additional redactions applied pursuant to F793.

1 MR. MICHALCZUK: Your Honours, thank you very much.

2 Asking the question about the building which on this photograph
3 does not really exist, it could be misleading. Maybe my learned
4 friend could first ask a couple of introductory questions or
5 introduce a remark that this picture does not represent how that part
6 of the compound looked at that time when the witness was there, and
7 then perhaps follow up with some question. Otherwise, the witness
8 could have -- they could believe that this is exactly how it looked
9 back in 1991, which is definitely not the case.

10 PRESIDING JUDGE VELDT-FOGLIA: But it is my understanding that
11 the witness has -- looking here to the -- because I see your point,
12 but I was not afraid of that because the witness himself has
13 indicated that it has changed tremendously from what it used to be.

14 MR. MICHALCZUK: This is true, Your Honour.

15 PRESIDING JUDGE VELDT-FOGLIA: But we could be -- because I
16 thought that that would be your question, and I will give you the
17 floor to answer the observations made by the Prosecutor, by
18 Mr. Prosecutor. I thought that you were going to ask in what way has
19 it changed tremendously. Because in that way, he could first --
20 about the whole compound, if there is something that has changed. So
21 that, I think, would be a question -- a very open question.

22 And your suggestion is, Mr. Prosecutor -- I think then we will
23 listen to what the witness said in that aspect, and I think we can
24 then openly ask him if he can comment on the -- yeah, I said on
25 purpose "the walls," because I don't want to indicate anything with

Additional redactions applied pursuant to F793.

1 regard to these buildings. I want to leave it to the witness.

2 MR. MICHALCZUK: If I may very quickly, Your Honour. This
3 building or this part of the compound is crucially important for the
4 case, and we should avoid any inclarity and any confusion on his
5 part. Indeed, the witness said, on two or three occasions before we
6 started commenting on that part, that the compound has changed a lot
7 but he was commenting on other parts.

8 PRESIDING JUDGE VELDT-FOGLIA: Yes.

9 MR. MICHALCZUK: And I think we've got to also make to him a
10 specific remark that this -- you know, on this photograph, it doesn't
11 represent the compound as it was back in 1999. It should be clear.
12 I think this is, Your Honours, very relevant.

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

15 Thank you, Mr. Prosecutor.

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

17 I fully understand my learned friend, but I think it could be an
18 error to introduce such information. It could be leading for the
19 witness. I prefer to ask a very general question, do you recognise
20 it, because that's like this now on the picture, and we will see what
21 he is able to answer. And some following question we are able to ask
22 him, if any, of course.

23 But I am sensitive, you say, about the questioning does it
24 change a lot or something like that. We will see. Really, I have no
25 purpose to reach. The only thing I would like to know is to obtain

Additional redactions applied pursuant to F793.

1 some information. We have some buildings we were rarely or not at
2 all receive some information before. That's just to see to -- to try
3 to obtain some information.

4 PRESIDING JUDGE VELDT-FOGLIA: Yes. I see Mr. Prosecutor
5 standing again? No.

6 MR. MICHALCZUK: [Microphone not activated] ... the transcript
7 not running, so I thought that there was some kind of technical
8 problem, but it's running now. Thank you.

9 PRESIDING JUDGE VELDT-FOGLIA: Very well.

10 I propose that we continue, that we proceed as follows.

11 First, I would like to have a question what has changed with
12 regard to the premises as we see them here on the picture.

13 Mr. Prosecutor, with regard to the information with regard to
14 specific buildings, I see the point you are making, but you will be
15 given the possibility in cross-examination to confront the witness
16 with any material you deem necessary in order to see what he has to
17 say to that. But I would not at this moment in time oblige the
18 Defence to put anything to them that they don't want to put. It's
19 their decision.

20 MR. GILISSEN: May I --

21 PRESIDING JUDGE VELDT-FOGLIA: I see two lawyers standing. So
22 allow me -- I mean, maybe you can ...

23 Mr. Aouini, you have the floor.

24 MR. AOUINI: Just on this point, excuse me, Your Honour. And
25 good morning to everyone. It's not that we don't want, Your Honour.

Additional redactions applied pursuant to F793.

1 We don't have any evidence that was led as to when this building
2 changed. We have pictures that come -- that are posterior. We don't
3 how many times this has changed and which times.

4 We have a picture from 2011, but we don't know what the state is
5 in 1999. That's why. So to put him that this is not how it looked
6 at 1999, it is not our decision to avoid such a comment, but it is
7 not even something that we know. And the Prosecutor didn't adduce
8 evidence as to the actual state of the building in 1999.

9 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, we're not going
10 to anticipate any statements that, in my view, are for later. What I
11 was trying to say is that it is the choice of the Defence team to
12 proceed in this respect how it -- how it wants. And what the reasons
13 for that are can be different reasons, but it's not necessary to
14 discuss that now. I won't oblige to you ask the question in that
15 way.

16 Mr. Prosecutor.

17 MR. MICHALCZUK: Very, very quickly, Your Honours. We believe
18 that two witnesses already recognised the building as it was back in
19 1999, and it was TW04-01 and TW04-10. So we have some kind of
20 clarity on this issue already. So just to give a very short rebuttal
21 to my learned friend.

22 PRESIDING JUDGE VELDT-FOGLIA: "Your Honours, we believe that"
23 -- I'm reading the transcript, which is, for me, not completely
24 clear.

25 I leave it for now. It is clear how we're going to proceed.

Witness: W03887 (Open Session)

Page 3208

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Madam Court Officer, could you please ask Madam Court Usher to
2 bring the witness in.

3 [The witness takes the stand]

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

5 Welcome back, Mr. Witness.

6 I will give the floor again to Defence Counsel to continue the
7 questioning.

8 Defence Counsel, you have the floor.

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

10 Q. So, Mr. Witness, we come back to this picture. We are seeing a
11 lot of buildings in front of us. The one you identificate with
12 number 15 on the right. And then we have just in front of us, it
13 seems, some buildings. First, the one with what we call a white
14 colour, then it seems almost the same in bricks, and then at the
15 bottom another building seemed to be built with bricks.

16 Did these buildings change? Did they change a lot or a little?
17 What are you able to provide as information about that to us?

18 A. I don't really know what to say. I do not recognise that part,
19 as a matter of fact. The problem being that where the crane is,
20 where it is now, there were some out-of-order trucks and they never
21 moved. And I do not know what was in that other part, so I just
22 don't know. I mean, I myself cannot really say anything. I can't
23 remember those buildings. I can't. That part there, I can't
24 remember.

25 Q. Thank you very much. Are you able enough to show us with the

Witness: W03887 (Open Session)

Page 3209

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 number 16 the place where these trucks were in the courtyard?

2 A. [Marks]

3 Q. Okay, that's kind of you. Very clear one more time.

4 And we have this long building just at the bottom of the
5 courtyard. We saw up some windows. Do you know what was for the
6 building? What use was for this building?

7 A. No, I don't know. I was never in that part, actually. Never.

8 PRESIDING JUDGE VELDT-FOGLIA: For me, it's not clear, Defence
9 Counsel, what we are discussing at the moment.

10 MR. GILISSEN: [Microphone not activated]. I'm sorry. We have
11 on the left hand the building identified before as the warehouse.

12 Now we have on the right, with the number 15, a building. We
13 don't know what it is because the witness told us he has never been
14 there.

15 And we have in front of us, I have the feeling, two kind of
16 layers, may I say. The one with the white colour, and then, after
17 that, another building, a long one, we saw upstairs the windows. And
18 I would like to know what was this other building who closed the
19 courtyard. Am I precise enough?

20 PRESIDING JUDGE VELDT-FOGLIA: I want to follow you, but I --
21 for me, it's not clear. I will re-read what you are -- "we have in
22 front of us ..."

23 MR. GILISSEN: The building behind.

24 PRESIDING JUDGE VELDT-FOGLIA: So I would say -- I'm going to
25 describe it to you. I see on the left-hand side the green trees.

Witness: W03887 (Open Session)

Page 3210

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: Yeah.

2 PRESIDING JUDGE VELDT-FOGLIA: And then in that corner, we see a
3 wall which is bricks, grey bricks under and reddish bricks, I would
4 say, on the second floor.

5 MR. GILISSEN: Yeah. May I, Your Honour? This is the building
6 I would like -- this is the building I can describe as behind,
7 really, and close the courtyard. I would like to know what was this
8 building.

9 PRESIDING JUDGE VELDT-FOGLIA: Okay. So you're not discussing
10 the white walls and the reddish walls.

11 MR. GILISSEN: Yeah. Not anymore, yeah.

12 PRESIDING JUDGE VELDT-FOGLIA: I would call them 1, 2, 3, 4.
13 But the building behind those walls.

14 MR. GILISSEN: Yeah. And I am sorry if I'm not precise enough.

15 PRESIDING JUDGE VELDT-FOGLIA: Yes. No, it's not about
16 apologising. So I would say it's the two-storey building at the very
17 end of the picture. Yeah?

18 And, Mr. Witness, in order to be sure that you know what
19 building we have been discussing, could you put a number 17. It's
20 the building at the end of the yard that apparently consists of -- I
21 don't know if is -- if it is two storeys, but it is under grey and,
22 above that, a kind of reddish bricks and then a construction of wood.

23 THE WITNESS: [Marks]

24 PRESIDING JUDGE VELDT-FOGLIA: Yes, okay.

25 I look at the right-hand side if the Specialist Prosecutor's

Witness: W03887 (Open Session)

Page 3211

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Office thinks it's clear enough and Victims' Counsel and Defence
2 Counsel.

3 MR. MICHALCZUK: It is, Your Honours.

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

5 You may proceed.

6 MR. GILISSEN: Yes, I consider the 17 is on the windows on -- of
7 the building behind the wall with the white colour.

8 Q. And I would like to know, Mr. Witness, if you are aware what was
9 for a building, what use was reserved for this building?

10 A. I do not know. I've never entered that building. I do not
11 know. I was never there. Not that building, no.

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

13 MR. GILISSEN: We can save the picture. And I have no more
14 questions about this picture. Thank you.

15 PRESIDING JUDGE VELDT-FOGLIA: I don't want to go too much for
16 now into this picture. But just for reasons of clarity, where you
17 put the number 16, Mr. Witness, how many trucks or -- yeah, how many
18 trucks were there standing?

19 THE WITNESS: [Interpretation] I do not know exactly. Three or
20 four were broken down and they couldn't be repaired, so, therefore,
21 they were just there the whole time. They were parked there, if you
22 like.

23 PRESIDING JUDGE VELDT-FOGLIA: Okay. And is it your
24 testimony -- I will go back to what you just said. Let me see.

25 Do I understand well - please correct me if I'm wrong - that you

Witness: W03887 (Open Session)

Page 3212

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 say that those broken trucks blocked your vision? Is that what you
2 are saying? I put it in my words. But I do understand well that
3 that is what you are saying?

4 THE WITNESS: [Interpretation] Yes, that's correct.

5 PRESIDING JUDGE VELDT-FOGLIA: Okay. For now, we note that.
6 Thank you.

7 Madam Court Officer, could you save the picture and then
8 allocate a Registry number to it.

9 THE COURT OFFICER: Your Honours, markings made by Witness
10 W03887 on ERN SPOE40010282 will be assigned Registry number REG00989.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
12 You can -- oh, it's already down.

13 Defence Counsel, you have the floor again.

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

15 Q. So, Mr. Witness, you told us that the things, the Kukes metal
16 factory change a lot. Are you able enough to explain how many change
17 and what was changing or has changed? When you say "changed a lot,"
18 are you able enough to explain us to be sure we understand exactly
19 your information, the information you provide to us?

20 A. Well, it's changed a lot because, you know, time plays its role.
21 In some places the facade is not what it was. In other places,
22 windows are broken down. So not for anything else, but the buildings
23 themselves are still there. So it's as if it is dilapidated,
24 destroyed. So it's changed. It's changed as to what it was back
25 then. It's no longer what it was 24 years ago.

Witness: W03887 (Open Session)

Page 3213

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Q. Yes. And is it true for all the places in the Kukes metal
2 factory or for some places, or it is a general reflection you have
3 about the site itself?

4 A. No. Generally, there are changes to it in general. It is not
5 as if just one building has changed more or less. But, for instance,
6 the headquarters, where it was, it's completely changed. It looked
7 completely different. The atmosphere there was completely different.
8 Now, it's a different thing altogether.

9 Q. Okay, thank you very much. Thank you very much. I would like
10 to go to another topic because I don't want to lose time.

11 Mr. Witness, do you know a person called Bislim Zyrapi?

12 A. Yes, I do. He was my commander.

13 Q. So this person was in the Kukes metal factory in 1999?

14 A. Yes, he was.

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

16 A. Actually, he wasn't there the whole time, but every so often he
17 would be there, but not non-stop. But he would come back every so
18 often because he was the main commander of Operation Arrow. He led
19 the entire operation.

20 Q. That is very clear. So I have no more questions. It was my
21 next question and you answered to it. Thank you very much. It is
22 very clear.

23 And do you know a person called Jakup Krasniqi?

24 A. Yes, I do. Actually, I know him from a long time. Since the
25 1980s. 1987, 1988. We were in prison together, Jakup Krasniqi and

Witness: W03887 (Open Session)

Page 3214

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 I. He was a political prisoner, as was I, so we served three years
2 in prison together in Novi Sad.

3 Q. Yeah, thank you. It is one more time very clear. And did you
4 see this person, Jakup Krasniqi, in Kukes in 1999?

5 A. No, I have never seen him there.

6 Q. You're sure? Never? Not even once?

7 A. I am 100 per cent certain that I've never seen him there.

8 Q. Thank you very much. Do you know a person called Bedri Azemi?

9 A. Yes, I do know Bedri Azemi. We got to know each other in the
10 barracks. And from then on, we're still friends.

11 Q. So he was in the Kukes metal factory in 1999. And do you know
12 in which quality?

13 A. Yes, he was there, but as to his role, I do not know exactly.
14 He was also in the logistics unit. We all were. But whether he was
15 looking after the foodstuffs warehouse or the uniform one, I do not
16 know which one. I don't know. I'm not sure. But Bedri was there
17 non-stop, the whole time. And Bedri and I even shared a bed
18 sometimes because in the office there were only three beds and there
19 were four of us. So when Bedri would go to sleep before myself, then
20 I would have the mattress and then I -- I would sleep there. But
21 then if I went there before him, then I would sleep in an additional
22 mattress and he would use the bed.

23 But, yes, I know him very well, and I know his family too.

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

25 Do you know a person called Sabit Geci?

Witness: W03887 (Open Session)

Page 3215

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 A. I got to know Sabit Geci after the war, not -- I did not know
2 him during the war. After the war I did. So we met a couple of
3 times. But during the war, I never met him or heard his name.

4 Q. So you don't know if you ever see him in Kukes metal factory, or
5 perhaps -- what is your position about that?

6 A. No, no, no, no. I've never seen him. Yes, after the war, that
7 is. I met him after the war. It must have been sometimes in the
8 years 2000. But during the war, at the then time, I have never met
9 him, not in the metal factory, not anywhere for that matter.

10 Q. Okay, thank you very much. And do you know a person called
11 Xhemshit Krasniqi?

12 A. Just a second. What he looks like? Yes. And after the war, I
13 heard he was convicted, that he was there. But I do not know him
14 personally.

15 Q. Thank you very much. And do you know a person called
16 Fadil Hoxha?

17 A. Yes. Yes, I did know him. I still know him.

18 Q. Did you ever see this person in Kukes metal factory in 1999?

19 A. Yes, Fadil was stationed there.

20 Q. And do you know what position he had?

21 A. I do not know exactly, but I think he was the commander of
22 military police. Although I'm not sure about this.

23 Q. Thank you very much. And do you know a person called
24 Ruzhdi Saramati?

25 A. No, I never met him back then. But after the war, I got to know

Witness: W03887 (Open Session)

Page 3216

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 him. But back then, I've never met him.

2 Q. Thank you. Do you know a person called Sali Saramati?

3 A. No, I didn't. I still don't know Sali Saramati. Sali Saramati
4 is a hero.

5 Q. And do you know something about him, what's happened to him or
6 something like that?

7 A. He was killed in the front. He was fighting against the Serbs
8 and that's when he was killed, and that's why he is one of our
9 heroes.

10 Q. Yeah. Do you know a person called Selver Mackaj?

11 A. Selver Mackaj, perhaps you mean to say.

12 Q. Yes, I'm sorry for my accent.

13 A. Selver Mackaj is also a hero, a martyr. He was killed in
14 Gorozhup by the Serbs, and he was buried in the Kukes cemetery to
15 start off with.

16 Q. Do you know a person called Shpend - I don't know if the accent
17 is good -- the pronunciation is good - Shpend Berisha?

18 A. The same, he is also a martyr. He was killed the same day as --
19 the same day as Selver Mackaj. They're all martyrs.

20 Q. And I would like know if you know a person called Ilir Ukmetaj?

21 A. No, I've never heard about him.

22 Q. Do you know a person called Abdurrahman Gerdellaj?

23 A. Abdurrahman Gerdellaj is a hero, a martyr. Again, he was killed
24 on the same day as Selver and the others.

25 Q. Thank you very much. Do you know a person called Shefki

Witness: W03887 (Open Session)

Page 3217

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Abdullahu?

2 A. Yes, I do know him.

3 Q. And do you have some information to provide us with about this
4 person?

5 A. Well, Shefki was also at the metal factory, but what sort of
6 rank he had, I do not know, or what job he did.

7 Q. Do you know a person called Gani Saramati?

8 A. Gani Saramati is also a martyr of our nation. He was also
9 killed in Gorozhup. Actually, he was wounded in Gorozhup, but he
10 passed away in Tirana.

11 Q. [Microphone not activated]. I'm sorry. Really, I'm sorry.
12 Do you know a person called Ismet Thaci?

13 A. Yes, I do know him.

14 Q. Yeah. Do you ever see this person in Kukes metal factory in
15 1999?

16 A. Yes, he also stayed in the metal factory in Kukes.

17 Q. And do you have some information to provide us with about this
18 person?

19 A. Well, we went to Kukes from Tirana in a car. There were four of
20 us - myself, Ismet Thaci and another person called Dukagjin Morina.
21 So there was the four of us who went together to Kukes from Tirana
22 along with Ismet Thaci. And Ismet also acted in that part but
23 exactly what his role or duties were, I do not know.

24 Q. Okay. I would like to know if do you know a person called Bedri
25 Halimi?

Witness: W03887 (Private Session)

Page 3218

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 A. I have heard about him after the war, but I didn't know him or
2 of him back then.

3 Q. Do you know if this person was in Kukes during the war?

4 A. I do not know. I cannot really give any accurate information as
5 to that. I do not know.

6 Q. Yeah, because you [Indiscernible] that's better. That's nice.

7 MR. GILISSEN: May we go to private session, Your Honour.

8 PRESIDING JUDGE VELDT-FOGLIA: You will explain us why we are in
9 private session, why we are going there.

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

12 [Private session]

13 [Private session text removed]

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W03887 (Private Session)

Page 3219

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 [Private session text removed]

2

3

4

5

6

7

8

9 [Open session]

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

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 Defence Counsel, you have the floor.

13 MR. GILISSEN: Thank you very much. And I'm sorry for this
14 little, tiny incident. I think you can understand the situation and
15 I fully understand it.

16 Q. [REDACTED] Pursuant to In-Court Redaction Order F722RED.

17 [REDACTED] Pursuant to In-Court Redaction Order F722RED.

18 Q. Yeah. I would like to know if you know Mr. Pjeter Shala?

19 A. No, I don't know him and I never met him in my life.

20 Q. And did you see him on a picture or in the TV? Do you know now
21 who is Mr. Pjeter Shala?

22 A. Now I do know because I am here at this trial as his witness.
23 But in the past, I never knew him and I never had met him. I don't
24 know why the Prosecution questioned me or interrogated me about a
25 person whom I never knew.

Witness: W03887 (Open Session)

Page 3220

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Q. Exactly. You understand exactly the meaning of my question.

2 Thank you very much.

3 And I would like to know if you knew a person or anyone name or
4 nickname Ujku?

5 A. No, I never heard that nickname.

6 Q. [Microphone not activated].

7 MR. GILISSEN: I think we could go to the video and I finish
8 with the first part of my questioning.

9 Q. Thank you very much, Mr. Witness. This was very, very clear.

10 So I would like to address with you some excerpt of video during
11 your stay at Kukes metal factory in 1999. Did you record some videos
12 there?

13 A. Yes, I did. In fact, I recorded the burial ceremony of the
14 martyrs.

15 Q. Yes, Mr. Witness. Generally speaking, what did you film in
16 Kukes in 1999? Only these funerals of martyrs or something else?

17 A. In fact, 99 per cent of the recordings are the burial
18 ceremonies. However, there is a part, a ten-minute sequence where a
19 sort of a gathering inside an office is recorded. The rest, 99 per
20 cent, is of the funerals.

21 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, it would be
22 useful if, in general, you would clarify the purpose of discussing
23 the videos, and also every time we see a video, that you clarify it.
24 So also now.

25 MR. GILISSEN: You're absolutely right. And it was a point I

Witness: W03887 (Open Session)

Page 3221

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 would like to explain.

2 Q. We will show you, Mr. Witness, some excerpts of these videos, or
3 some videos, and every time we would like ask you to confirm that you
4 filmed them, when and where they were video filmed, with each of
5 these videos. Okay? Every time to be sure we are talking about the
6 video you filmed yourself.

7 PRESIDING JUDGE VELDT-FOGLIA: But my point was that we would
8 like to know why we will be discussing them with the witness, that we
9 understand that.

10 MR. GILISSEN: You can trust me, it was exactly --

11 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

12 MR. GILISSEN: -- my question. It was why did you film these
13 videos, the video you filmed by yourself.

14 PRESIDING JUDGE VELDT-FOGLIA: No, but that's not my question.
15 It is why you, as a Defence team, wants to discuss it with the
16 witness. That's the background of my question.

17 MR. GILISSEN: Yeah. So we consider that these videos are able
18 to provide some information about the timing, very precise timing,
19 and we need and we consider that you will need to know this timing
20 when you have to think about all the elements we collect because it
21 could be, and we say it is, in linked with some information that some
22 person explained.

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, you have the
24 floor.

25 MR. MICHALCZUK: I apologise for interrupting, Your Honours, but

Witness: W03887 (Open Session)

Page 3222

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 if we get engaged in prolonged discussions about the reasons, it
2 could be also leading if the witness is here with us.

3 So maybe we should continue this discussion, and, of course, my
4 learned friend should provide for his explanations but in the absence
5 of the witness. That is our suggestion.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

7 Is there something you would like to add for now?

8 MR. GILISSEN: I could say first for identification reasons, of
9 course. Thank you.

10 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, it's -- we will
11 get into this matter, I think, every time we will discuss a video.
12 So I -- in order to clarify why we will be looking at a certain
13 excerpt.

14 Good. You may proceed with the questions.

15 MR. GILISSEN:

16 Q. So, Mr. Witness, did you have a camera to make or to film this
17 video and how did you have it?

18 A. Yes, I had a camera and I brought it with me from Germany. It
19 was my personal camera.

20 Q. And did you need an authorisation to film what you filmed at
21 this moment?

22 A. Well, I did not need a permission, but let me explain it more in
23 detail.

24 We were activists, as I said, of the Homeland Calling Fund, and
25 at the time there was misinformation at large that soldiers were

Witness: W03887 (Open Session)

Page 3223

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 deserting, that they had nothing to eat or drink. So I took my
2 camera with me to record and send the recordings to the
3 Homeland Calling Fund so that they can see that nothing was true.
4 This was the main reason I took the camera with me.

5 So that was my main intention initially. But later on, as you
6 can see from the recordings, only the burial ceremonies of the
7 martyrs were recorded.

8 Q. Thank you. And when you left Kukes, did you take the camera
9 with you?

10 A. No, I didn't. I only took the tapes with me and left the camera
11 behind.

12 Q. And are you still in possession of these videos, of these
13 videotapes?

14 A. No, I'm not. They were damaged, destroyed, but I had placed
15 them on Facebook and that's where they are preserved. I don't have
16 the originals. I did not keep them. They were damaged and
17 destroyed, and that's why I don't have the originals.

18 Q. And could you provide us the information, they were destroyed in
19 which condition?

20 A. In 2008 -- I had the tapes in my home, and in 2008, it rained
21 heavily and our houses were flooded. There was above 1 metre of
22 water in the rooms, and that's where the tapes were damaged and
23 destroyed.

24 Q. So did you save this picture before or at this moment? How is
25 it possible that we have this image in our possession?

Witness: W03887 (Open Session)

Page 3224

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 A. These are recordings that can be found in Facebook. From the
2 time I was interrogated by the Prosecution, I have no longer access
3 to the Facebook page. I cannot access them from my phone. I don't
4 know the reason behind this.

5 Q. Yes. And why did you upload these pictures online?

6 A. Initially, I was waiting for a museum of the KLA to be
7 established after the liberation and to hand in the tapes to them.
8 But as everything was delayed, and the families of the martyrs also
9 wanted to have the tape, I uploaded them on Facebook. These were
10 public recordings.

11 Q. And did you ever edit those videos?

12 A. No. There was no intervention or editing with those recordings.
13 They were just the way I recorded them.

14 As I said, I cannot access them on my Facebook account from my
15 phone. My Facebook account is completely blocked.

16 Q. Thank you very much. It's very clear.

17 MR. GILISSEN: With your leave, and I can explain why, we would
18 like to show some extracts of the first video. We would like to
19 show --

20 PRESIDING JUDGE VELDT-FOGLIA: We will usher the witness out
21 and -- for a short while and then you can explain it.

22 Mr. Witness, just a moment, and then you will be brought back
23 in. Thank you.

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

25 [The witness stands down]

Additional redactions applied pursuant to F793.

1 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, please clarify
2 the reason for showing this excerpt.

3 MR. GILISSEN: Thank you very much.

4 So these videos were filmed, as the witness said just before,
5 during some funerals. And at this moment, the dates are very
6 important because some of the witnesses from the Prosecution team
7 provided us with some information about the timing, who was there,
8 who was -- who is who, a lot of information. And we are able for the
9 first time to incarnate what we are talking about. We are seeing, we
10 are able to see the place before the ruin or the destruction of some
11 elements of the Kukes metal factory. I think that's the very first
12 time you will see not the Kukes metal factory, you saw a lot of
13 picture of that, but in the reality of movement. So -- and we are
14 able to see for the first time what was alive and the persons who
15 were present in a very important event, in some very important
16 events, because these funerals were set during some days. It seemed
17 during some three days. So we are able to make an identification of
18 the place, of the time, of the people, and we will obtain a lot of
19 information.

20 We were a little bit reluctant to choose the extract because it
21 must be appropriate, of course. And we choose to show some extracts
22 to understand what's happened, all the stages of these funerals, but
23 only if we are able to identify some people and to have some faces,
24 and to ask to the witness to provide us with some names of the people
25 we are able to see on these pictures.

Additional redactions applied pursuant to F793.

1 PRESIDING JUDGE VELDT-FOGLIA: I see your -- the points you are
2 making, but we have also videos of other locations you have proposed
3 which do not fall within the borders of what you have just described.

4 So you are now going to show us which excerpt, Defence Counsel?

5 MR. GILISSEN: We would like to show for the first video -- I
6 can provide the ERN now if you want.

7 PRESIDING JUDGE VELDT-FOGLIA: Yes. And then also the time
8 stamp, because I have also in front of me the filing you have made in
9 this respect where you identified the different video excerpts you
10 want to show us.

11 MR. GILISSEN: Yeah. We would like to show for this first video
12 ERN 075138-01.

13 PRESIDING JUDGE VELDT-FOGLIA: Yes.

14 MR. GILISSEN: We would like to show an excerpt ERN 075130-01,
15 from 0 until 24 seconds.

16 PRESIDING JUDGE VELDT-FOGLIA: Okay. That -- that we will -- I
17 see some relevance in this respect, so we can provided with this one.

18 Very well. Madam Court Officer, could you please usher the
19 witness back in.

20 [The witness takes the stand]

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

22 THE WITNESS: [Interpretation] Thank you.

23 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, you have the
24 floor again. And, Defence Counsel, as a heads-up, if people come up
25 that should be identified, be mindful that we are in public session

Witness: W03887 (Open Session)

Page 3227

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 and, yes, that we might have to revert to private session.

2 MR. GILISSEN: Yeah, I know that is a delicate exercise. Thank
3 you very much.

4 So, Court Officer, may we have the video on the screen. So I
5 would like to have this video from 0 until 24 seconds.

6 [Video-clip played]

7 MR. GILISSEN: Thank you very much.

8 Q. Mr. Witness, do you recognise these images?

9 A. Yes, I do.

10 Q. Yes. Can you please confirm that you recorded this part of the
11 video.

12 A. Yes, I was the one who recorded it.

13 Q. Yeah. And do you remember the date of this recording?

14 A. I cannot remember the exact date, but it was either 30 or
15 31 May. 31 May, I think, though I'm not sure. I think it was 31
16 May.

17 Q. Yes. And why do you remember such a date after so many time?

18 A. Because these are facts that one can never forget in one's life.
19 These are the trucks with which the wounded and the fallen in
20 Gorozhup were transported. And it was with this truck that they
21 brought them to Kukes, to the hospital, both the wounded and the
22 dead, and then they parked the truck at the metal factory. So these
23 are the recordings that will be there forever.

24 PRESIDING JUDGE VELDT-FOGLIA: And, for the record, could you
25 say the year? Although I think I know the year, but I just want to

Witness: W03887 (Open Session)

Page 3228

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 have it on record.

2 THE WITNESS: [Interpretation] It is 1999.

3 MR. GILISSEN:

4 Q. So, Mr. Witness, the truck we are seeing on the screen is in
5 Kukes metal factory; do I understand that well?

6 A. Yes.

7 Q. Thank you very much. I think we have the information we need to
8 understand what we are seeing, and the rest of the video we have to
9 see.

10 MR. GILISSEN: I would like to have on the screen the second
11 video-clip. It's an excerpt from --

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

13 [Trial Panel confers]

14 PRESIDING JUDGE VELDT-FOGLIA: Two remarks I would like to make.

15 One remark for Mr. Witness, that I can imagine that it can be
16 upsetting to look at these images. So if you would need a break,
17 then please tell me. We are confronting you with these, but I can
18 understand that it could be upsetting.

19 THE WITNESS: [Interpretation] Okay. Thank you for that.

20 PRESIDING JUDGE VELDT-FOGLIA: And, Defence Counsel, to come
21 back to the -- because we have a question with regard to what we have
22 just seen, and I would like to put that question now to the witness.
23 Because if we do it at the end, when it's, so to say, our turn, we
24 would have to upload this video again.

25 Where did this truck park? We just saw a video excerpt. Where

Witness: W03887 (Open Session)

Page 3229

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 was it that the truck was parked?

2 THE WITNESS: [Interpretation] It was parked in the courtyard of
3 the metal factory. In the barracks, logistics barracks, otherwise
4 known as the logistics barracks.

5 PRESIDING JUDGE VELDT-FOGLIA: And if you say "logistics
6 barracks," it's my understanding -- what -- no. I will say it
7 differently.

8 What building are you pointing at then? What building are you
9 referring to, if we say the "logistics barracks"?

10 THE WITNESS: [Interpretation] Well, as a matter of fact, it's in
11 the courtyard of the barracks. So it's in front of the HQ. That's
12 where it was parked.

13 PRESIDING JUDGE VELDT-FOGLIA: For me, it's not completely clear
14 yet. We will look at it again.

15 Madam Court Officer, please.

16 [Video-clip played]

17 PRESIDING JUDGE VELDT-FOGLIA: Okay, we can stop. Thank you.

18 So the nose of the trucks, yes, towards which of the buildings
19 are they pointing?

20 THE WITNESS: [Interpretation] Actually, from the entrance, as
21 you go into the yard of the barracks, the engine, the front, was
22 towards the main warehouse.

23 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. You
24 can pull the image down. Preferable not to have this on the screen.

25 What you have called the "main warehouse," is that what you are

Witness: W03887 (Open Session)

Page 3230

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 saying, that the engine of the trucks are pointing at the main
2 warehouse, the warehouse where you were working?

3 THE WITNESS: [Interpretation] Yes, yes. Yes, that's it.

4 [Trial Panel confers]

5 PRESIDING JUDGE VELDT-FOGLIA: Could you clarify where the
6 broken trucks were situated with respect to the trucks we have just
7 seen?

8 THE WITNESS: [Interpretation] In relation to this truck, the
9 broken-down trucks are to the right.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. We leave it for now here.
11 Thank you, Mr. Witness.

12 Defence Counsel, you have the floor again.

13 MR. GILISSEN: Thank you very much.

14 So I have no more questions about this first excerpt of video.

15 The second video I would like to show is the same video, ERN
16 075138-01, and to show an excerpt from third minute, 11 seconds
17 until - and it's shorter than we are announced - 3 minutes,
18 28 seconds. So it means something like 15 seconds in place of some
19 minutes we announced.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you. We will escort the
21 witness out and then can you give us some more clarification in this
22 respect.

23 Mr. Witness, you will be escorted out. We would like to discuss
24 the excerpt you will be shown.

25 THE WITNESS: [Interpretation] All right.

Additional redactions applied pursuant to F793.

1 [The witness stands down]

2 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, you have the
3 floor to clarify why we should look at this excerpt. Thank you.

4 MR. GILISSEN: Yes, thank you very much. It is for some
5 identification of persons we are able to see on the image, and I
6 think it is very interesting to have showing the quality of training
7 of the KLA personnel in Kukes. That's just some seconds, but you
8 will be able to see these fighters or future fighters and the way
9 they use to -- with their guns, to the orders and so on, I think it
10 is interesting to see the quality at this stage of the member of the
11 KLA.

12 Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, you have the
14 floor.

15 MR. MICHALCZUK: Your Honours, with all due respect, that might
16 be very interesting, and I agree is a very interesting image, but the
17 question is, is it relevant for this case? That's our submission,
18 Your Honour. We think it's not particularly relevant.

19 PRESIDING JUDGE VELDT-FOGLIA: It was implicit your submission.

20 Defence Counsel, with regard to the identification, no need to
21 further substantiate. With regard to the quality of training, is
22 there something you would like to further submit on this point?

23 MR. GILISSEN: Yes. It's not evident to justify it as something
24 that appear for me as an evidence, because for me it is very clear.
25 We are talking now during some weeks and even some months about the

Additional redactions applied pursuant to F793.

1 Kukes metal factory. What was the Kukes metal factory? Was it a
2 jail, a detention centre or a place with some stuff, some logistics
3 has to be? The people came there and so on. And I think, I consider
4 it is very interesting for you, you have to judge the case, to have
5 this information during these just tiny seconds where we are able to
6 see these famous people who arrive in Kukes, receive a uniform, and
7 how does it deal for them, what's the quality of their training as
8 soldiers.

9 PRESIDING JUDGE VELDT-FOGLIA: We will proceed with looking at
10 them, but I think we are kind on borderline of relevancy, but I -- if
11 it is the choice of the Defence, we will proceed.

12 MR. GILISSEN: May I add, Madam President, Mr. Judges? That's
13 why I cut the excerpt to just some seconds, because no need of more.
14 Thank you.

15 PRESIDING JUDGE VELDT-FOGLIA: Very well. We will proceed.

16 Madam Court Officer, could you please ask Madam Court Usher to
17 bring the witness back in.

18 [The witness takes the stand]

19 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Witness, and
20 thank you for your patience. We will have to do this exercise
21 several times more. And I see that you are smiling. I understand
22 that as understanding that we have to do it in this way. Thank you.

23 Defence Counsel, please, you have the floor.

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

25 So I would like, Madam Court Officer, this part corresponding to

Witness: W03887 (Open Session)

Page 3233

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 transcript page ERN 075138-01-TR-ET, at page 1 for the English
2 version. And for the Albanian version, ERN 075138-01-TR, page 1. It
3 is an excerpt from 3 minutes, 11 seconds to 3 minutes, 28 seconds.
4 Thank you very much.

5 [Video-clip played]

6 THE INTERPRETER: We cannot hear.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

8 [Trial Panel and Court Officer confer]

9 PRESIDING JUDGE VELDT-FOGLIA: It's inaudible so it cannot be
10 translated. I see you nodding, Defence Counsel. Does it mean that,
11 for you, it is sufficient that we look at the images without any
12 further translation?

13 MR. GILISSEN: Yes, I don't need translation, I think. My
14 questioning don't concern exactly the words which are uttered, so ...

15 PRESIDING JUDGE VELDT-FOGLIA: Okay. We might have some
16 questions too. But please proceed.

17 MR. GILISSEN: Thank you very much.

18 Q. So, Mr. Witness, could you please explain us what we just saw on
19 this image.

20 PRESIDING JUDGE VELDT-FOGLIA: Shall we start with authenticate
21 or -- and then when it was recorded and where it was recorded, and
22 then proceed with the content.

23 MR. GILISSEN: [Microphone not activated]. I consider the
24 witness was able to explain us. But, indeed, it is more accurate to
25 ask.

Witness: W03887 (Open Session)

Page 3234

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Q. Mr. Witness, did you take this picture with your camera? Did
2 you film that?

3 A. Yes, I did record it.

4 Q. And do you remember when you filmed these images?

5 A. I think it was 31 May. And they are members of the military
6 police. Because on 31st, we had the very first martyrs in Gorozhup
7 and their funeral took place on 1 June. And back then, the military
8 police had no experience, because from 1990s, for about ten years, up
9 until 1999, we were suffering under the Serbian apartheid. And we
10 didn't serve in their military, we didn't have experience with
11 weapons. So this was just part of the funerals. So then what we did
12 was that the military police, we took them to the White Drin river to
13 the funeral of the very first martyrs who died in Gorozhup.

14 Q. Yes. Where are these people? Near Kukes metal factory?

15 PRESIDING JUDGE VELDT-FOGLIA: Let's put an open question.

16 MR. GILISSEN: [Microphone not activated]

17 THE INTERPRETER: Microphone, please.

18 MR. GILISSEN:

19 Q. Where did you take these pictures?

20 A. This was taken at the White Drin river, Drini i Bardhe, about 2
21 kilometres away from the metal factory, towards Krume.

22 Q. Is it possible for you to identify the person who gives the
23 orders to the others?

24 A. I think it was Latif Fejzullahu and Fadil Hoxha. Those two.

25 Q. Thank you very much.

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: I consider I received the information I was
2 searching and we could go to another extract, with your leave, of
3 course.

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

5 Madam Court Officer, you can pull the items down, please.

6 Defence Counsel, we are ten minutes to 1.00, so I hope we can do
7 another video before adjourning the hearing for the lunch break.

8 MR. GILISSEN: So I would like to have the next video-clip, may
9 I say. This is the same ERN, 075138-01, and an excerpt from 6
10 minutes, 19, until 7 minutes, 27 seconds.

11 PRESIDING JUDGE VELDT-FOGLIA: Very well.

12 Madam Court Usher, could you usher the witness out?

13 We have to discuss again, Mr. Witness, the video excerpt. Thank
14 you.

15 [The witness stands down]

16 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, could you
17 clarify the need for this video, please.

18 MR. GILISSEN: Yes, surely. Thank you very much, Your Honour.

19 So, first, if we want to understand the timing between the
20 different elements we are seeing, we could understand the bodies of
21 the people who died were in the hospital of Kukes. We will see the
22 number of coffins. It is very important to understand the different
23 timing, the timing between the different funerals, and to have an
24 identification of the people who were buried.

25 PRESIDING JUDGE VELDT-FOGLIA: That is not clear to me why --

Additional redactions applied pursuant to F793.

1 where we need to look at the hospital, at the morgue, to -- and to
2 see the relevancy for the timing. I fail for now, but I'm happy to
3 hear your clarification, but I fail for now to see why we should
4 approach in this way.

5 MR. GILISSEN: Yeah, we would like to show you the timing
6 between the elements. It appears that these videos are, in reality,
7 a lot of excerpts, like a patchwork. And the witness is the only one
8 able to rebuild, to reconstruct the timing and to authorise us to
9 understand exactly what has happened. And I underline the fact that
10 all these events has a sense in the time, in the timing. There is
11 the first day of burials. That's what we explained, that's what we
12 claim. There is another day. And the people who were buried has an
13 order, a special order too. And the people who were present and we
14 are able to see in the other excerpts has a meaning to -- to be
15 there. There is the sense in this.

16 PRESIDING JUDGE VELDT-FOGLIA: But why -- why is it important to
17 go to the hospital and to the morgue? I mean, that I don't -- I fail
18 to see. Or you explain it clearer to us. But if not, we are not
19 going to proceed to look at this film. It is also a matter of
20 principle, that I want to be shown with -- with films that are
21 relevant to understand --

22 MR. GILISSEN: The number of coffins. The number of coffins.
23 It is not the same for every funeral. And if we want to see the
24 orders, we could understand, in my opinion, more better, in a better
25 way, we could understand the timing and the reality of the things.

Additional redactions applied pursuant to F793.

1 PRESIDING JUDGE VELDT-FOGLIA: But the timing of what?

2 MR. GILISSEN: Of these funerals. Because you will have during
3 these funerals some elements and you will have - I'm sure of that -
4 to compare with some information that some witnesses of the
5 Prosecution team explain or claim, and it doesn't ring. That's our
6 feeling, of course. We have to discuss it after. But we would like
7 to show the reality. We have the chance to have some film about.
8 That's more than some pictures. And it's really some things, and it
9 doesn't match with the information we received from some witnesses at
10 the hearing or in their statement.

11 PRESIDING JUDGE VELDT-FOGLIA: Now, we are first -- I will ask
12 the witness to come back.

13 And looking at the time, we have not enough time. We will go
14 for break, we will adjourn, and then we take it from there. But
15 before we do that, I will ask the Prosecution and Victims' Counsel if
16 they have any submissions to make in this regard.

17 MR. MICHALCZUK: [Microphone not activated] No submissions
18 really. I mean, the videos, in general terms they relate to the
19 indictment period. However, I concur with Your Honours that the
20 explanation of my learned friend is not super clear about what he
21 wants from the videos.

22 Maybe he should start playing them and see where it goes and
23 then Your Honours could decide whether this is indeed relevant or
24 not.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you. We will see after --

Additional redactions applied pursuant to F793.

1 no, no, no, no. It's not the moment yet.

2 Victims' Counsel, is there something you would like to submit?

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

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

5 I saw Mr. Aouini standing. You have the floor.

6 MR. AOUNI: Thank you, Your Honour. Maybe before the break,
7 just to give more general information about the relevance for the
8 benefit of everyone. Your Honour, we believe this is relevant
9 because we have statements - and I can give Your Honours the
10 references - where one of the admitted statements of one of the
11 witnesses mentioned that Pjeter Shala came to Kukes at the time the
12 injured people were transported.

13 So it is more than relevant to see the different parts where
14 those bodies, those caskets were transported to actually ascertain
15 that Pjeter Shala is not there at that moment, and this goes to one
16 clarification of one part of the statement. I can give you the
17 reference if you wish to. It is 060124-TR-ET Part 2 Revised RED4, at
18 pages 144 to 145. And I will get you the pseudonym of the witness as
19 soon as possible.

20 We have also one deceased -- another deceased witness who
21 mentioned that *[REDACTED] Pursuant to In-Court Redaction Order*
F722RED.

22 *[REDACTED] Pursuant to In-Court Redaction Order F722RED.* I am
23 mindful

24 that we are in public session so I shall not go into more detail
25 about that.

26 So the reality, in general, of what we have, which are live

Additional redactions applied pursuant to F793.

1 videos of things happening during those days, is very important to
2 see who is there but also who is not there, and who is doing certain
3 activities on those days. Important days for the life of Kukes. Any
4 brigades, any formations. And like Mr. Gilissen said, to see it the
5 reality of what is happening and the people who are involved.

6 In order to make sense of this, and not go in bits and pieces,
7 we have to ascertain certain facts like the number of caskets on each
8 day because we are going on three different days over a span, I
9 believe, of five or six days. So I'm not going to testify now, but
10 we have one -- two consecutive days, and then a couple of days later,
11 which the witness mentioned, that some were injured, died in Tirana,
12 and then the procession -- the funeral ceremony happened a few days
13 later. And that goes to another relevant part which is [REDACTED]
Pursuant to In-Court Redaction Order F722RED.

14 *[REDACTED] Pursuant to In-Court Redaction Order F722RED.*

15 *[REDACTED] Pursuant to In-Court Redaction Order F722RED.*

16 The reference in the mind of the witness is more to how many
17 bodies there were. So he needs see a little bit of background on
18 each excerpt, because the videos themselves are a compilation of
19 excerpts, so for him to understand which day it is. One of the
20 videos is actually going to specifically one speech that mentions a
21 date. So in order to make sense of all of this, we have to have a
22 little bit of margin to be more efficient. And this is what we
23 wanted to know -- Mr. Gilissen is, I'm sure, very conscious to be
24 very efficient with this. This is why he has cut some of the
25 excerpts. But we need to make a line of logic for the witness to

Additional redactions applied pursuant to F793.

1 understand and this will result in a smoother way of presenting the
2 evidence. We are not roaming around just to see what is interesting
3 or not. This is very relevant to some points that we would point out
4 later. Who is there, which formations are there, who are the
5 different people, who is not there. And it relates later to some
6 statements of some witnesses that we believe are very important for
7 those specific dates, 31st, 1st of June, 4th of June.

8 Thank you, Your Honour.

9 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. It's
10 not about time, Defence Counsel, because if it was something about
11 time, we could just look at them and then -- it would go smoother.

12 So it's about that the Panel wants to understand what they're
13 looking at and why they are looking at it in order to assess its full
14 weight. And if I'm only looking and hearing what the witness is
15 saying, it's -- I can only guess, with the knowledge we have of what
16 has been presented to us, why we should take it on board. So that is
17 the background of what we are doing as Panel here. It goes to
18 thoroughness of proceedings.

19 Anyway, we will bring the witness back in to have him ushered
20 out again because we are going to have a break.

21 [The witness takes the stand]

22 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, thank you for coming
23 back, although it is only to inform you that we have finalised our
24 discussion and that we will proceed with the hearing after the lunch
25 break. I wish you a good lunch break. And thank you for your

Additional redactions applied pursuant to F793.

1 patience this morning with coming and going. We will proceed this
2 afternoon at 2.30. Madam Court Usher will usher you out. Thank you.

3 [The witness stands down]

4 PRESIDING JUDGE VELDT-FOGLIA: We will now break, and we will
5 resume at half past 2.00.

6 The hearing is adjourned.

7 --- Luncheon recess taken at 1.02 p.m.

8 --- On resuming at 2.30 p.m.

9 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. Let me see. Yes,
10 first, I see that the SPO is in the same composition. Thank you.

11 And here, on our left side, also? Thank you, Defence team.

12 The Victims' Counsel are nodding.

13 Very well. Then we continue with this afternoon's session.

14 With regard to the videos, Defence Counsel, what we will do is
15 proceed with the different videos, as you have pointed out in your
16 filing shared with the Panel. And, in principle, you will be allowed
17 to show them. It could be that there will be one or two that I will
18 ask some further clarification, but let's proceed as soon as possible
19 with this exercise.

20 So I will ask the witness to be ushered in. Madam Court Usher,
21 please.

22 [The witness takes the stand]

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

24 THE WITNESS: [Interpretation] It is good to be back.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

Witness: W03887 (Open Session)

Page 3242

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Mr. Shala, good afternoon. Could you hear the translation or
2 the witness?

3 THE ACCUSED: [Interpretation] Good afternoon. Yes, yes, I
4 could. Yes, I can hear very well.

5 PRESIDING JUDGE VELDT-FOGLIA: Very well.

6 Defence Counsel, you have the floor.

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

8 Q. Good afternoon, Mr. Witness.

9 MR. GILISSEN: So I speak for the Court Officer. We would like
10 to have on the screen ERN 075138-01, an excerpt from 6 minutes,
11 19 seconds to 7 minutes, 27 seconds.

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

14 [Video-clip played]

15 MR. GILISSEN:

16 Q. So, Mr. Witness, could you please explain what we just saw on
17 the screen.

18 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, shall we start
19 with the same sequence as you proposed yourself, that we acknowledge
20 that he has seen it, when and where.

21 MR. GILISSEN: Yeah. Sure, okay. Thank you very much.

22 Q. So, Mr. Witness, are you the one who filmed the image we just
23 saw?

24 A. Yes. Yes, I recorded it.

25 Q. Are you able to say when did you film this image?

Witness: W03887 (Open Session)

Page 3243

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 A. This recording was on 1 June, and it was in the morgue of Kukes
2 hospital, when we took the bodies of the three martyrs of our nation.

3 Q. Yeah. You are talking about three things. Are you able enough
4 to explain exactly what it means and what it represents for you, the
5 number three? We are talking about coffin or casket --

6 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
7 please bring the video down.

8 Apologies for interrupting you, Defence Counsel, but it is
9 better to that have off the screen.

10 MR. GILISSEN: Absolutely not a problem. Yeah.

11 Q. So are you able enough to explain us to be sure that we be able
12 to understand?

13 A. There are three coffins of the bodies of the three heroes of our
14 nation.

15 Q. Yeah. And it is the only funerals where we have -- we have the
16 only funeral where we have three bodies?

17 A. Yes.

18 Q. Thank you very much. Are you able enough to identify the units
19 or the brigade of the people we saw on the image?

20 A. They were soldiers of Ruzhdi Saramati's unit.

21 Q. Yeah. And you identify the unit in question, the one of
22 Ruzhdi Saramati? Are you able enough to provide us a number or a
23 name?

24 A. No. No, no. I do not know a number. I do not even know a
25 name. I can't remember. I can't remember what it was called. I

Witness: W03887 (Open Session)

Page 3244

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 just know that this brigade was led by Ruzhdi Saramati.

2 Q. Thank you very much.

3 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, but then I have
4 a follow-up question in order to understand how he identified this
5 unit. Maybe you were going ask that too. But we now have that he
6 has identified.

7 But how could you identify it? How do you know?

8 THE WITNESS: [Interpretation] We knew it because people spoke
9 there and they told us that these soldiers fought with that unit.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. Okay.

11 THE WITNESS: [Interpretation] And everybody knows, I mean
12 historically, that it was an ambush and that they were killed at the
13 same place.

14 PRESIDING JUDGE VELDT-FOGLIA: That -- but that's for the
15 Defence -- it's something else than identification. But it is good
16 to have this clarified.

17 Please proceed.

18 MR. GILISSEN: So thank you very much. I would like to go to
19 another -- to the next video-clip now. It concerns the same ERN from
20 8 minutes, 47 seconds to 9 minutes, 10 seconds.

21 PRESIDING JUDGE VELDT-FOGLIA: Please --

22 MR. GILISSEN: And, of course, I'm able to explain why I would
23 like to show this excerpt.

24 PRESIDING JUDGE VELDT-FOGLIA: For now, we will proceed with
25 showing the video.

Witness: W03887 (Open Session)

Page 3245

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Madam Court Officer, please proceed.

2 [Video-clip played]

3 MR. GILISSEN: Thank you very much.

4 Q. So, Mr. Witness, are you the one who take -- who took this image
5 with your camera?

6 A. Yes. Yes, I am the one.

7 Q. Thank you very much. And are you able enough to explain exactly
8 what we just saw on this picture?

9 A. Actually, here we saw the journey from the hospital, Kukes
10 hospital, to the cemetery. And that is Selver Mackaj's body. And at
11 the head of the coffin is his father, Bajram Mackaj, who, five days
12 previously, his daughter was set to fire by the Serbian forces. She
13 was burnt alive.

14 PRESIDING JUDGE VELDT-FOGLIA: Okay. Shall we stick --

15 THE WITNESS: [Interpretation] And five days later, his son was
16 killed.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay. But please answer the
18 questions and don't elaborate on something more.

19 MR. GILISSEN:

20 Q. I would like to know who are the persons holding the flowers?

21 A. They're ordinary, simple soldiers. I do not know the names. I
22 just knew what they looked like.

23 Q. Yes. Was it customary to have flower bouquets for funerals?

24 A. Yes, it was.

25 Q. Is it the only day we have some flower bouquets like this or is

Witness: W03887 (Open Session)

Page 3246

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 it the same for other funerals?

2 A. No. On the first day, there were no flowers because we weren't
3 prepared. But in the second and the third funeral, yes, there were
4 flowers.

5 Q. Yes. And we have bouquets of flowers or wreaths, may I say,
6 wreaths of flowers. There was difference. And was it a different
7 situation for the different funerals we have to see?

8 A. Yes, there were both bouquets and wreaths.

9 PRESIDING JUDGE VELDT-FOGLIA: Please, Defence Counsel, you are
10 really asking kind of leading questions. I would like to have them a
11 little bit more open. You are already anticipating to what is to
12 come. So please don't ask leading questions. And I think you very
13 well know what I am telling.

14 MR. GILISSEN: Yes. It was little bit leading, I have to
15 confess.

16 PRESIDING JUDGE VELDT-FOGLIA: Yes, I prefer not to the
17 interrupt you but ...

18 MR. GILISSEN: Yeah. Okay. Thank you very much. So with your
19 leave, Your Honour, I would like to go to another excerpt. The same
20 ERN, 075138-01, 9 minutes, 12 seconds until 9 minutes, 17 seconds.
21 Thank you very much.

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

24 [Video-clip played]

25 MR. GILISSEN:

Witness: W03887 (Open Session)

Page 3247

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Q. So, Mr. Witness, where was this clip filmed; do you know that?

2 A. This is of the road between Kukes to Krume. The road to the
3 cemetery. It is the main road. It is close to the factory
4 somewhere.

5 Q. And are you the one who took these pictures?

6 A. Yes.

7 Q. Yes. And do you know which units the soldiers standing in a row
8 belonged to?

9 A. No, I do not know. I do not know.

10 Q. Yes. And is it the same day, is it a continuation of the
11 excerpt we saw just before?

12 PRESIDING JUDGE VELDT-FOGLIA: We could also ask on what day was
13 this.

14 MR. GILISSEN: Yes.

15 THE WITNESS: [Interpretation] This was recorded on 1 June 1999.

16 MR. GILISSEN:

17 Q. Thank you very much. It's very clear.

18 MR. GILISSEN: May we go to another excerpt. The same ERN, of
19 course, and the excerpt from 9 minutes, 35 seconds until 9 minutes,
20 15 seconds.

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

23 [Video-clip played]

24 MR. GILISSEN:

25 Q. Yes, Mr. Witness, are you the one who took these pictures?

Witness: W03887 (Open Session)

Page 3248

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 A. Yes, I am.

2 Q. And where are we when we are seeing these pictures? In which
3 place?

4 A. It is actually at the cemetery, Kukes cemetery. These are the
5 family members of Selver Mackaj's.

6 Q. It was my next question you answered. Thank you very much. You
7 are very clear.

8 MR. GILISSEN: With your leave, Your Honour, we can go to the
9 last excerpt of this video. It is 10:25 until 12:30.

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

12 [Video-clip played]

13 MR. GILISSEN:

14 Q. So, Mr. Witness, are you the person who took those images?

15 A. Yes, I am.

16 Q. Yeah. And where was this scene filmed?

17 A. This part was filmed in the kitchen in the metal factory
18 following the funeral. And that is Selver Mackaj's family. His
19 father, his mother, his two sons, a daughter, and wife.

20 Q. Yes. That is very clear. And are you able enough to explain us
21 and to say the date you filmed these images?

22 A. The date was 1 June 1999.

23 Q. Thank you very much.

24 MR. GILISSEN: I would like to go to several stills of the scene
25 in order to identify several persons, please. Firstly at 10:31.

Witness: W03887 (Open Session)

Page 3249

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

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

3 MR. GILISSEN: Yes.

4 Q. Mr. Witness, who is the man wearing a uniform with a beard? Do
5 you know him?

6 A. That is Bedri Azemi.

7 Q. Thank you very much. And do you recognise the man standing next
8 to him with a uniform too?

9 A. Yes, I know what he looks like, but I do not remember the name.

10 Q. Yes.

11 MR. GILISSEN: Can we go to the image 12:26, please.

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

14 Q. Yes, Mr. Witness, do you recognise any of the persons in this
15 image?

16 A. Yes.

17 PRESIDING JUDGE VELDT-FOGLIA: No, wait, wait, wait, wait.

18 Defence Counsel, you want to know the names of both persons or
19 is it sufficient to know the name of the person on the left-hand --

20 MR. GILISSEN: I would like to know the name, Your Honour, of
21 the person who wears a uniform --

22 PRESIDING JUDGE VELDT-FOGLIA: Okay.

23 MR. GILISSEN: -- and if it possible to identify the young lady.

24 PRESIDING JUDGE VELDT-FOGLIA: Yes, because you are -- the
25 persons, you said, and I --

Witness: W03887 (Open Session)

Page 3250

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: Yes, that's why put a [Overlapping speakers] ...

2 PRESIDING JUDGE VELDT-FOGLIA: Okay.

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

4 PRESIDING JUDGE VELDT-FOGLIA: Yes. So you only are asked to
5 identify the person with the uniform on.

6 THE WITNESS: [Interpretation] That is Shefki Abdullahu.

7 Q. And for the young girl, are you able enough to provide us
8 information or not?

9 A. The girl is the daughter of Selver Mackaj. I think her name
10 mind be Silvana, but I'm not sure.

11 Q. Thank you very much. We have enough information. So,
12 Mr. Witness, do you confirm that the entire video we saw the excerpts
13 just now was filmed during the day of the first funeral? Was it the
14 first -- the date of the first funeral?

15 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, why can you not
16 just ask an open question? Yes, you can just ask -- no, but this is
17 now the third time I have to ask you to ask open questions. And I
18 must say that the weight we can attach objectively is different or
19 could be different by the way you're posing the questions. So
20 it's ...

21 MR. GILISSEN: You're absolutely right. And I'm sorry, but I
22 take a look at the watch --

23 PRESIDING JUDGE VELDT-FOGLIA: No, but we are not -- the watch
24 is my concern. I'm paid for that, so, please. Please proceed.

25 MR. GILISSEN: Thank you very much.

Additional redactions applied pursuant to F793.

1 Q. So all the image that we saw until now was image from the same
2 day, and which one?

3 A. Yes, same day. It was 1 June 1999.

4 Q. Thank you very much.

5 MR. GILISSEN: So for the information of all of us, we could go
6 to the video number 2, ERN DPS00879.

7 Q. So, Mr. Witness, we will show you excerpts from what we call the
8 second video now.

9 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].
10 Defence Counsel, with regard to these four videos, I would like a
11 clarification. I will not be asking them for all of them, but this
12 specific I would like.

13 So, Mr. Witness, Madam Court Usher will usher you out for a few
14 minutes only. Thank you.

15 [The witness stands down]

16 PRESIDING JUDGE VELDT-FOGLIA: Very well. Defence Counsel,
17 could you give us a further clarification with regard to the four
18 videos I see that you would like to show to the witness.

19 MR. GILISSEN: Yes, of course, Your Honour.

20 For the first excerpt, it is a question of identification of
21 persons. And for the second excerpt, it is very important because we
22 have to hear a speech, and just the beginning of the speech, not too
23 long, because we will obtain some information about the notification
24 of the people who were -- the funeral of which person it was, and the
25 date. We have a formal identification of the date. So that's why we

Additional redactions applied pursuant to F793.

1 would like to have it.

2 We have a third excerpt. It concerns the following, may I say,
3 the continuity between the excerpt we show. There is no trap.

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

5 MR. GILISSEN: Yeah.

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

7 I was wondering what was the relevancy. I won't prohibit it,
8 but -- we have, of course, watched them all, and also several times.

9 MR. GILISSEN: Yeah, yeah. The notification. As Mr. Aouini
10 explained, I think perfectly clearly, we would like to show who was
11 there and who was not there.

12 PRESIDING JUDGE VELDT-FOGLIA: But is it necessary, is it
13 necessary to have -- to listen to that speech, to that second speech?

14 MR. GILISSEN: Just a tiny one. The start of the speech is very
15 important. The first excerpt was just to show the continuation
16 between the different excerpts, so if you consider it is not
17 necessary, I can understand. It was to provide that there is no
18 [Indiscernible] in the presentation we made.

19 PRESIDING JUDGE VELDT-FOGLIA: You have your date. That's what
20 you --

21 MR. GILISSEN: Yeah.

22 PRESIDING JUDGE VELDT-FOGLIA: -- said was important. And you
23 want to identify with the second video excerpt who was there.

24 MR. GILISSEN: Yeah.

25 PRESIDING JUDGE VELDT-FOGLIA: But then the continuation, I

Additional redactions applied pursuant to F793.

1 don't see really the relevance --

2 MR. GILISSEN: No. This is particularly the extract --

3 PRESIDING JUDGE VELDT-FOGLIA: The second extract was important.

4 MR. GILISSEN: Yeah, 2 minutes, 43 to 4 minutes, 07 seconds.

5 PRESIDING JUDGE VELDT-FOGLIA: Okay.

6 MR. GILISSEN: And we would like to have the interpreters to
7 help us to understand exactly the speech and the words used in the
8 speech.

9 PRESIDING JUDGE VELDT-FOGLIA: There's not a transcript of that?

10 MR. GILISSEN: We have a transcript at page ERN DPS00879-TR-ET
11 at page 1 for the English version; and for the Albanian version, we
12 have ERN DPS00879-TR at page 1.

13 PRESIDING JUDGE VELDT-FOGLIA: Yes. And for me to understand,
14 why would we need our interpreters if we have the transcript of the
15 video?

16 MR. GILISSEN: To have a clear correspondence and the
17 confirmation this is exactly the date and the element of the date of
18 the timing --

19 PRESIDING JUDGE VELDT-FOGLIA: I would say, if we have the
20 transcript --

21 MR. GILISSEN: It's enough.

22 PRESIDING JUDGE VELDT-FOGLIA: -- that's enough. And if you
23 challenge the accuracy of the transcript, of the translation that
24 have been provided, we have a special procedure for that. But --

25 MR. GILISSEN: It is not our intent, so --

Additional redactions applied pursuant to F793.

1 PRESIDING JUDGE VELDT-FOGLIA: Then I would like it for now as
2 it is with the transcript. So we take out the third video.

3 And then the last video excerpt?

4 MR. GILISSEN: Yes. We have a video we don't have the intent to
5 show.

6 PRESIDING JUDGE VELDT-FOGLIA: Okay. So you will be showing us
7 two videos now.

8 MR. GILISSEN: Yeah.

9 PRESIDING JUDGE VELDT-FOGLIA: Okay.

10 MR. GILISSEN: So the one who starts at 2 minutes, 43.

11 PRESIDING JUDGE VELDT-FOGLIA: Yes.

12 MR. GILISSEN: And the other one who start at 7 minutes,
13 33 seconds.

14 PRESIDING JUDGE VELDT-FOGLIA: Ah, okay. So the first one, 00
15 till 0051, you will not be showing.

16 MR. GILISSEN: I think we can pass, yeah.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay. So the second and the
18 fourth one.

19 MR. GILISSEN: Yeah.

20 PRESIDING JUDGE VELDT-FOGLIA: Very well. And I take the
21 opportunity now to go for a moment into private session in order to
22 discuss something, and then we come back and we proceed with showing
23 the video.

24 Madam Court Officer, could you bring us into private session,
25 please.

Additional redactions applied pursuant to F793.

1 [Private session]

2 [Private session text removed]

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Additional redactions applied pursuant to F793.

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11 [Open session]

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

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

14 Could you please ask Madam Usher to usher the witness in.

15 [The witness takes the stand]

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

17 will give the floor again to Defence Counsel.

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

19 So I would like to see the excerpt on the screen from 2 minutes,

20 43 until 5 minutes, 7 seconds. Thank you very much.

21 PRESIDING JUDGE VELDT-FOGLIA: 4 minutes, 07, or not?

22 MR. GILISSEN: Yeah.

23 PRESIDING JUDGE VELDT-FOGLIA: 4, yes.

24 MR. GILISSEN: Yeah, yeah.

25 [Trial Panel and Court Officer confer]

Witness: W03887 (Open Session)

Page 3257

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: Yes. I just would like that add, I would like to
2 have the sound of this video.

3 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, how we will
4 proceed in terms of transcript, we will have the video and we will
5 have the Albanian transcript, and then I don't know if I
6 misunderstood you, but what we will do is we will then interpret the
7 Albanian transcript. So not the -- what we -- the sound that we hear
8 on the video, but just the transcript, the Albanian transcript will
9 be translated by the interpreters for us. Yes?

10 MR. GILISSEN: Exactly. We have to make the link between the
11 sound, the transcript, and the [Overlapping speakers] ...

12 PRESIDING JUDGE VELDT-FOGLIA: Yes, but not the sound from the
13 video, but as it has been recorded in the transcript in Albanian.

14 MR. GILISSEN: Okay.

15 PRESIDING JUDGE VELDT-FOGLIA: Very well. Madam Court Officer,
16 could you please pull the documents up.

17 Please proceed, Madam Court Officer.

18 [Video-clip played]

19 THE INTERPRETER: [Voiceover] "You come and stay over here.

20 "And you stay over there.

21 "Yesterday, on 31 May 1999, on the front line of Kosovo soil,
22 the following martyrs for freedom fell: Selver Bajram Mackaj from
23 Ljubiceva of Prizre, Ilir Ukmata and Shpend Berisha from Drenica,
24 battalion commander. Honourable soldiers, martyrs of the nation, we
25 are saying goodbye to you today painfully, but with your blood you

Witness: W03887 (Open Session)

Page 3258

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 have written a new page in our nation's history. Your blood watered
2 the mountains, it poured into the White Drin river and joined the
3 Fierza lake. This was your last will and the will of your parents
4 who are alongside you today, alongside your graves in the Kukës of
5 Albanian lands. So are your co-fighters, your commanders, who have
6 gathered here today to give you the honour you deserved."

7 MR. GILISSEN: Thank you very much.

8 Q. So, Mr. Witness, are you the one who took these pictures?

9 A. Yes, I filmed this. But here we have somebody's name completely
10 different, Esat Shala. But, actually, in a way, he is not the author
11 or the person behind the filming. I am the person behind the
12 filming.

13 Q. And do you recognise the man who is giving the speech?

14 A. I know his face, but I don't know his name.

15 Q. And do you know the unit, the battalion he was from?

16 A. No. No, I do not know.

17 Q. So thank you very much. I think it is enough about this
18 excerpt.

19 PRESIDING JUDGE VELDT-FOGLIA: Okay. We can pull it down,
20 Madam Court Officer. Thank you.

21 MR. GILISSEN: I would like to have another and the last excerpt
22 of this video. This is the same ERN, DPS00879, and this is a clip
23 from 7:33 to 8:49 seconds.

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

Witness: W03887 (Open Session)

Page 3259

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 [Video-clip played]

2 THE INTERPRETER: We cannot hear anything, Your Honour.

3 [Video-clip played]

4 THE INTERPRETER: [Voiceover] "Go over to the other side. Just a
5 minute, please. I can take it from here. Help him out. I will go
6 over this way. Let's lower it slowly. Yes, about the flag. Let's
7 remove the flag. Yes. Take the flag away. Lower it if you can,
8 please. Just be gentle. And let's put the lid on it. Yes, we'll
9 sort it out."

10 MR. GILISSEN: Thank you very much.

11 Q. So, Mr. Witness, are you the one who took these pictures?

12 A. Yes, I am. I filmed it, but then it was clearly taken from me,
13 so Esat Shala has actually posted this as if it was his doing. But
14 these are my recordings. I have filmed this.

15 Esat Shala during the war was only 10 or 11 years of age, no
16 more than that. So in a way, he's, like, falsifying history, really.
17 But I filmed this. I did this myself. This was done by my own
18 hands.

19 Q. Are you able enough to told us about the number of coffins, of
20 caskets we are able to see in this picture?

21 A. In this video, there are three coffins, actually. Three martyrs
22 were buried that day, the first day, on 1 June 1999. There were
23 three martyrs.

24 Q. Thank you very much.

25 MR. GILISSEN: It's enough for this excerpt.

Witness: W03887 (Open Session)

Page 3260

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

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

2 We're now going to the third video.

3 MR. GILISSEN: Absolutely.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay. Then let us see if we
5 don't have to re-usher the witness out. I have just one question
6 about the first video, which is very short, you wanted to show. We
7 already have had a similar location filmed, and I was wondering if it
8 was necessary. And if it is difficult to say anything other than yes
9 or no, that if you want to, if you insist on having it, then we have
10 to -- first --

11 MR. GILISSEN: No. I think it was just to show the continuity.
12 But it is not a necessity, I think so.

13 PRESIDING JUDGE VELDT-FOGLIA: Good. Then we don't have to
14 usher the witness out and then you may proceed with the other too.
15 You have the floor.

16 MR. GILISSEN: Thank you very much.

17 So with this third video, I would like to start with an excerpt
18 of this ERN 075130-02, an excerpt from 12 minutes, 40 seconds, until
19 13 minutes, 55 seconds.

20 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, you can pull
21 the other two documents down and proceed with showing the excerpt of
22 this video. Thank you.

23 MR. GILISSEN: I think I'm afraid the ERN on the transcript is
24 not a good one. So I prefer to repeat it to be sure to avoid any
25 problem.

Witness: W03887 (Open Session)

Page 3261

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 ERN 075138-02.

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

4 [Video-clip played]

5 MR. GILISSEN: Thank you very much.

6 Q. So, Mr. Witness, are you the one who took these pictures?

7 A. Yes, I am.

8 Q. Where was this scene filmed?

9 A. This entire scene was filmed in the courtyard of the factory.

10 Q. Yes. And do you know which unit or brigade the soldiers that
11 we've just shown belonged to?

12 A. No, I do not know. In fact, some of the soldiers are from the
13 logistics department that were there in the barracks. And for the
14 rest, I don't know to which brigade they belonged.

15 Q. Thank you very much.

16 MR. GILISSEN: Is it possible to go back to the beginning of the
17 excerpt to show a still for identification purposes at 12, 41
18 seconds.

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

21 MR. GILISSEN: I can repeat if you want. Could be better. The
22 image of 12, 41 seconds.

23 Q. So, Mr. Witness, could you please tell what parts of the
24 Kukes metal factory we are seeing just on this image?

25 A. This is, in fact, at the entrance or, rather, exit to the

Witness: W03887 (Open Session)

Page 3262

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 factory. These -- this is the main gate.

2 Q. Yes. We saw some people, some female soldiers with blue berets
3 on the right. Do you know what it means, a blue beret?

4 A. No, I don't know its meaning. I don't know.

5 Q. According to you, there is no meaning? According to you.

6 PRESIDING JUDGE VELDT-FOGLIA: That's not what he said. "I
7 don't know its meaning." That is something different.

8 MR. GILISSEN: Yeah, yeah, that's [Overlapping speakers] ...

9 PRESIDING JUDGE VELDT-FOGLIA: No, that is something different,
10 Defence Counsel.

11 MR. GILISSEN: Of course. That's why I asked the question to be
12 sure that I don't lose some information.

13 PRESIDING JUDGE VELDT-FOGLIA: No, but you were not asking a
14 question.

15 MR. GILISSEN: Yeah.

16 PRESIDING JUDGE VELDT-FOGLIA: You were giving an affirmation.

17 MR. GILISSEN: Yeah.

18 Please could we go -- could we move to the still image at
19 13 minutes, 7 seconds.

20 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, no, we will go
21 back now to -- just to make the point. The witness said: "I don't
22 know its meaning." And then you say: "No meaning." But that is
23 something different, because something can have a meaning but you
24 cannot know what it is.

25 So that's the reason that I got back to you.

Witness: W03887 (Open Session)

Page 3263

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: I fully agree. But in my language it is a
2 question in reality. I know in English you don't have the question
3 the same but in French, and you have a French Judge who is able to
4 confirm, it was a [Overlapping speakers] ...

5 PRESIDING JUDGE VELDT-FOGLIA: Yeah, but we are here -- it's on
6 record and this is what is used. Yeah?

7 MR. GILISSEN: Yeah, yeah.

8 PRESIDING JUDGE VELDT-FOGLIA: And not the French language.

9 MR. GILISSEN: No, no.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay.

11 MR. GILISSEN: But the purpose is know exactly, to have the real
12 information and the information is the one you quoted and you focus
13 on.

14 PRESIDING JUDGE VELDT-FOGLIA: But I would say let us go back to
15 it the image. We have been discussing now the blue berets.

16 For the record, it is important, I would say, to have the still
17 where the blue berets are visible. So, Madam Court Officer, could
18 you please show the video again.

19 And, Mr. Witness, please look careful at the image of the
20 persons wearing the blue berets.

21 [Video-clip played]

22 PRESIDING JUDGE VELDT-FOGLIA: We can note 12:59.

23 Mr. Witness, did you recognise -- let me see. No. First, it is
24 12:59.

25 And, Madam Court Officer, could you bring us into private

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 session.

2 ~~[Private session]~~ [Open session] *Reclassified Pursuant to F793*

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

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

5 Mr. Witness, did you recognise anybody with the blue berets?

6 THE WITNESS: [Interpretation] Just a clarification. Two
7 minutes, if I'm allowed.

8 PRESIDING JUDGE VELDT-FOGLIA: I don't understand. A
9 clarification? You need two minutes?

10 THE WITNESS: [Interpretation] Yes.

11 PRESIDING JUDGE VELDT-FOGLIA: You would like to go -- you would
12 like to be ushered out? Is that what are you asking?

13 THE WITNESS: [Interpretation] No, no, no, no. I want to clarify
14 something in relation to these berets.

15 PRESIDING JUDGE VELDT-FOGLIA: Okay. But I first want you to
16 reply to my question and then you will be given the opportunity to
17 clarify. Because maybe we can do the clarification also in public
18 session.

19 Do you recognise anybody?

20 THE WITNESS: [Interpretation] No, I don't.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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

23 [Open session]

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

Witness: W03887 (Open Session)

Page 3265

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

2 Mr. Witness, what do you want to clarify with regard to the blue
3 berets?

4 THE WITNESS: [Interpretation] I just wanted to explain
5 something. In fact, the Kosovo Liberation Army was a voluntary army.
6 We did not have factories to produce the same uniforms for everybody,
7 the same headgear for everybody. Actually, the uniforms, the
8 headgear, all the equipment, came from the west, and we used them as
9 we received them.

10 For example, on this photograph, on the right-hand side, the
11 first person has a red beret. Then have you a persons with green
12 berets. We did not have our factories to have the same uniform for
13 each and every soldier. We were a voluntary army. At the time, we
14 were not a state as we are today.

15 This is what I wanted to explain.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness. We noted
17 this.

18 Defence Counsel, you have the floor again.

19 MR. GILISSEN: Thank you very much. So I would like to go to
20 the still image 13:41.

21 PRESIDING JUDGE VELDT-FOGLIA: No. Are you sure?

22 MR. GILISSEN: 13:14. I'm sorry.

23 PRESIDING JUDGE VELDT-FOGLIA: 46, I have here.

24 MR. GILISSEN: But 13:40 -- 14, I'm sorry.

25 PRESIDING JUDGE VELDT-FOGLIA: In your filing I see here 13:56?

Witness: W03887 (Open Session)

Page 3266

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: Yeah. But that's a building which has been
2 identifiicated just before, so it's a question to -- not to lose too
3 much time.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

5 Madam Court Officer, please proceed.

6 So it is 13:40.

7 MR. GILISSEN: [Microphone not activated]. 14.

8 PRESIDING JUDGE VELDT-FOGLIA: Ah, 14.

9 MR. GILISSEN: 14, yeah.

10 PRESIDING JUDGE VELDT-FOGLIA: So that's -- that --

11 MR. GILISSEN: Yeah, this is the one.

12 PRESIDING JUDGE VELDT-FOGLIA: Okay. That's half a minute more.

13 Hm. Okay, please proceed.

14 MR. GILISSEN:

15 Q. Mr. Witness, are you able just to identify the two buildings we
16 are seeing? Just to be sure we cannot committed a mistake.

17 A. To the left is the command building, whereas straight, where the
18 door is open, is the kitchen. Behind the soldiers, that building,
19 where the door is open.

20 Q. That is very clear. Thank you very much. And the men, they are
21 standing in front of this building, do you know what brigade they
22 belonged to?

23 A. In fact, the majority were members of the military police and
24 the honourable guards were also there. On that day, there was
25 another funeral. Abdurrahman Gerdellaj was buried, and these were

Witness: W03887 (Open Session)

Page 3267

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 preparations for that funeral ceremony.

2 Q. Thank you very much, Mr. Witness. We will now show you the last
3 excerpt of this video.

4 MR. GILISSEN: Madam Court Officer, could we please display on
5 the screen the same video, ERN 075138-02, and show the last clip from
6 13:56 until 16 minutes, 1 second.

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

9 [Video-clip played]

10 MR. GILISSEN: Thank you very much.

11 Q. So, Mr. Witness, are you the one who took these pictures we were
12 just seeing?

13 A. Yes, I am the one who made the recording.

14 Q. So do you know the date you took these pictures?

15 A. The date is 2 June 1999.

16 Q. Yeah. How is it be possible to be so sure of the date for you?

17 A. I'm sure because on the first day - that is, on 1 June 1999 - we
18 buried three martyrs; whereas on the second day, on 2 June 1999,
19 Abdurrahman Gerdellaj was buried. And then we have the fourth martyr
20 on 4 June.

21 Q. Yes. Do you know, and how do you know, whose funeral procession
22 we were watching?

23 A. This was the funeral of martyr Abdurrahman Gerdellaj.

24 Q. And you are able to say that why? For which reason?

25 A. Well, all the soldiers knew who was killed, where they were

Witness: W03887 (Open Session)

Page 3268

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 killed. The commanders told us whose funeral that was. That's why
2 we knew this information. Although 24 years have passed, there are
3 certain things that will never be forgotten, and martyrs are amongst
4 those.

5 Q. So are you able to underline some details we saw in this picture
6 to be sure it is another day, another funeral than the one we saw
7 before?

8 A. On the first day, the funeral ceremony began from the Kukes
9 hospital. We had three bodies there.

10 On the second day, we have one coffin, one martyr, and this
11 coffin left from the factory, not from the Kukes hospital.

12 Q. So thank you very much.

13 MR. GILISSEN: So could we please move forwards and show the
14 still image at 14:39.

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

17 [Video-clip played]

18 MR. GILISSEN:

19 Q. So, Mr. Witness, could you identify the place?

20 A. This is the exit from the factory.

21 Q. Thank you very much.

22 MR. GILISSEN: And I would like to go to the still image at
23 15 minutes, 18 seconds. Thank you very much.

24 Q. Mr. Witness, do you recognise the man walking in this image, the
25 one in the middle of the picture?

Witness: W03887 (Open Session)

Page 3269

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 A. No, I don't.

2 Q. Okay. And are you able enough to --

3 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, for the record,
4 I don't think it's now clear to whom you are referring. In the near
5 future --

6 MR. GILISSEN: Yes, I have to repeat the question.

7 Q. Are you able enough to identify someone on this picture? That's
8 the best, I think so.

9 A. I'm not sure about any of them because the picture, the still,
10 is also blurry. I cannot look at it properly.

11 MR. GILISSEN: So is it possible, Madam Court Officer, to go
12 ahead just one or two seconds to be sure not to lose something.

13 [Microphone not activated].

14 PRESIDING JUDGE VELDT-FOGLIA: We can go back, I would say, five
15 seconds and we will just let it run and that can avoid the blurring
16 and maybe assist in having a more clear image.

17 Thank you, Madam Court Officer.

18 [Video-clip played]

19 MR. GILISSEN: I think that's enough.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

21 MR. GILISSEN:

22 Q. Mr. Witness, did you see someone you were able to identify in
23 these last images?

24 A. The one who had his cap in his hand is Fadil Hoxha. And towards
25 the end - it's no longer visible now on the screen - but the girl,

Witness: W03887 (Open Session)

Page 3270

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 her name was Nexhevane Ibrahimaj [phoen].

2 For the rest, I don't recognise them.

3 MR. GILISSEN: It could perhaps be nice to go back to see the
4 person identified as Fadil Hoxha, to be sure and to have --

5 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
6 bring the video back to where we started, just before the witness
7 identified a person on the video. Thank you.

8 [Video-clip played]

9 MR. GILISSEN: I think we can stop here exactly.

10 Q. Mr. Witness, are you able to put your pen on the one you
11 recognise or identified as Fadil Hoxha, to put a number 1 on the
12 picture.

13 A. [Marks]

14 Q. Yeah, it's very clear.

15 MR. GILISSEN: Thank you very much.

16 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can we save
17 this still and can you then allocate a Registry number to it, please.

18 Mr. Witness, do you remember -- you already said it, but for me,
19 what day was it that you filmed this?

20 THE WITNESS: [Interpretation] This was on 2nd of June. 2nd of
21 June, 1999.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

23 [Trial Panel and Court Officer confer]

24 THE COURT OFFICER: Your Honours, markings made by Witness
25 W03887 on the still of the video with ERN 075138-02, at 15 minutes,

Witness: W03887 (Open Session)

Page 3271

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 18 seconds will be assigned Registry number REG00990.

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

3 Defence Counsel, you have the floor.

4 MR. GILISSEN: Thank you very much.

5 Q. So, Mr. Witness, we are seeing flowers on the pictures, but it
6 seems not to be bouquets. Are you able to provide us with some
7 information about that? Does it mean something?

8 A. They don't have another meaning. On the first day, when we
9 buried the three martyrs, we did not place wreaths. But on the
10 second day, on 2 June, when we went to bury Abdurrahman Gerdellaj, we
11 put, placed wreaths for each and every martyr that we buried.

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

13 MR. GILISSEN: So could we please move forwards and show the
14 still image at 15:50.

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

17 MR. GILISSEN: Thank you very much.

18 Q. So, Mr. Witness, do you know which unit these soldiers belonged
19 to?

20 PRESIDING JUDGE VELDT-FOGLIA: Which soldier, or soldiers?

21 MR. GILISSEN: The one we are seeing on this picture. We are
22 seeing three persons --

23 PRESIDING JUDGE VELDT-FOGLIA: I see --

24 MR. GILISSEN: -- two with blue berets --

25 PRESIDING JUDGE VELDT-FOGLIA: Yes.

Witness: W03887 (Open Session)

Page 3272

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: -- and a man with a cap.

2 PRESIDING JUDGE VELDT-FOGLIA: Yes.

3 MR. GILISSEN: Is he aware about which units they were a part
4 of.

5 PRESIDING JUDGE VELDT-FOGLIA: You mean these three persons.

6 MR. GILISSEN: Yeah. Yeah, yeah.

7 PRESIDING JUDGE VELDT-FOGLIA: Okay. But that's important to
8 specify.

9 MR. GILISSEN: No, no, that's sure. It's more accurate, that's
10 sure.

11 THE WITNESS: [Interpretation] No, I don't know them. And I
12 don't know to which brigade they belonged.

13 MR. GILISSEN:

14 Q. Okay. Did you see these persons in Kukes metal factory before
15 or after the funerals?

16 A. No, never.

17 Q. Okay. Thank you very much. That is very clear.

18 PRESIDING JUDGE VELDT-FOGLIA: Allow me to add that the image is
19 kind of blurred. Okay. Good.

20 MR. GILISSEN: This is indeed. But we can pass some image to be
21 sure if it is [Overlapping speakers] ...

22 PRESIDING JUDGE VELDT-FOGLIA: No, no, it's your question. You
23 are asking if the witness did see these persons in the Kukes metal
24 factory before or after the funerals, and he said: "No, never." And
25 my only observation is that this is a blurred image and that it's

Witness: W03887 (Open Session)

Page 3273

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 not -- very -- it's not easy to recognise anybody from this image,
2 just to make the point.

3 MR. GILISSEN: You're absolutely right. That's why I suggest to
4 have some other image during one, two, or three seconds, if the
5 witness is more able to -- to identify the person.

6 PRESIDING JUDGE VELDT-FOGLIA: If that is your wish, Defence
7 Counsel, but it didn't seem to be your wish before I made the remark.
8 But, yes, we can proceed. And for your information, we have
9 15 minutes to go before we end our day in court today.

10 Madam Court Officer, could you please go back a few seconds and
11 then we can look at the video again.

12 [Video-clip played]

13 MR. GILISSEN: Yeah, I think it's enough. Thank you very much.

14 Q. So, Mr. Witness, with this moving image, moving images, are you
15 able to identify those persons or what?

16 A. No, I'm not able to identify them because, in this particular
17 case, when you look at this funeral, in general, there are 200, 300
18 soldiers and 90 to 95 per cent of them do not belong to the factory.
19 They came just for the funeral. They were not stationed at the
20 factory.

21 We, the soldiers who were stationed at the factory, are a
22 completely different thing. 90 to 97 per cent of the soldiers we see
23 on these images did not belong to the factory, and that's why I
24 cannot recognise them or know them. Maybe there I had seen them for
25 the first time and never saw them again. Most of them were of

Witness: W03887 (Open Session)

Page 3274

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 Ruzhdi Saramati's brigade. And following the death of these martyrs,
2 many soldiers came from the front line to attend the funeral and then
3 return back to the front line.

4 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, you said now three
5 times the same thing. It suffices if you say it one time.

6 And I add as an observation that also the running images were
7 not very clear.

8 You have the floor, Defence Counsel.

9 MR. GILISSEN: Thank you very much. May we go to the video
10 number 4, ERN 078249-01, DPS00878.

11 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, with regard --
12 we now -- with regard to this video, we have four excerpts you would
13 like to show.

14 MR. GILISSEN: Yeah.

15 PRESIDING JUDGE VELDT-FOGLIA: And with regard to the first one,
16 my question to you would be why would we show again? We have been
17 extensively looking at video with this content.

18 MR. GILISSEN: I fully agree, Your Honour. It was just to show
19 the continuation and to identificate the unit, but I think now we
20 have the information.

21 PRESIDING JUDGE VELDT-FOGLIA: Yes?

22 MR. GILISSEN: Yeah.

23 PRESIDING JUDGE VELDT-FOGLIA: Very well. Then we skip the
24 first one.

25 MR. GILISSEN: And may I just add? It's not an answer to your

Witness: W03887 (Open Session)

Page 3275

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 question, but this video was disclosed by the SPO with the number ERN
2 078249-01. However, this video was without any sound, we have any
3 sound, and we have this part of the video. However, the video with
4 the ERN, we have -- able to disclose is the ERN DPS00878. It's
5 exactly the same video, but we have sound.

6 PRESIDING JUDGE VELDT-FOGLIA: Okay. But if there's not a real
7 purpose that would add to the point --

8 MR. GILISSEN: No, that's sure.

9 PRESIDING JUDGE VELDT-FOGLIA: -- you would like to make with
10 the witness -- or for the questions you would like to pose to the
11 witness, because that is the purpose of your exercise, that you want
12 to put questions to the witness based on these videos.

13 MR. GILISSEN: Yeah.

14 PRESIDING JUDGE VELDT-FOGLIA: And another question would be, I
15 see that there three more videos. Is there a specific reason that we
16 would have the second and the third -- the third and the fourth?
17 It's both, yeah, it seems, at the same location.

18 MR. GILISSEN: Yeah. For the second, I think so we can avoid
19 it.

20 PRESIDING JUDGE VELDT-FOGLIA: The second would be the 04 or 09?

21 MR. GILISSEN: 03:19 to the 4.

22 PRESIDING JUDGE VELDT-FOGLIA: Oh. Yeah, that we could leave
23 out too.

24 MR. GILISSEN: Yes, I think so. But the third one is an
25 interesting one, I think.

Witness: W03887 (Open Session)

Page 3276

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 PRESIDING JUDGE VELDT-FOGLIA: Okay. Yes, I see. But my
2 question was more to the fourth one, if is that a necessary one.

3 MR. GILISSEN: Yeah, I take a look at. Oh, it concerns the
4 number of graves.

5 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

6 MR. GILISSEN: It's a detail that could be --

7 PRESIDING JUDGE VELDT-FOGLIA: I see your point. Please -- we
8 still have eight, nine minutes to go. Let us continue with the --

9 MR. GILISSEN: Yes, I think we --

10 PRESIDING JUDGE VELDT-FOGLIA: -- 04 or 01.

11 MR. GILISSEN: Yeah, I think we could try be accurate with that.
12 May we have the excerpt from 4 minutes until 6 minutes, 2 seconds.

13 PRESIDING JUDGE VELDT-FOGLIA: That's longer than you had
14 indicated here.

15 MR. GILISSEN: Yeah. We could perhaps stop before the end.

16 PRESIDING JUDGE VELDT-FOGLIA: You said here 5:33. Is it
17 necessary to hear the whole speech?

18 MR. GILISSEN: No. That's what I say, we could stop at one
19 moment. We have some information to obtain, and then I will show -
20 with your leave, of course - to Madam Court Officer. That's enough,
21 I think so.

22 PRESIDING JUDGE VELDT-FOGLIA: But you don't know where that is.

23 MR. GILISSEN: I have a tiny idea.

24 PRESIDING JUDGE VELDT-FOGLIA: Okay, but -- okay, good.

25 Madam Court Officer, could you please pull up this excerpt.

Witness: W03887 (Open Session)

Page 3277

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 [Trial Panel and Court Officer confer]

2 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, is there a need
3 to play the sound?

4 MR. GILISSEN: Exactly. Exactly. We need it. And it's the
5 same, we have a corresponding transcript, page ERN DPS00878-TR-ET, at
6 page 1 for the English version; and for the Albanian version, ERN
7 DPS00878-TR, at page 1. It could be, in my opinion, interesting to
8 proceed as we made with the other speech, with the help of the
9 translators. Thank you very much.

10 PRESIDING JUDGE VELDT-FOGLIA: It is my understanding, Defence
11 Counsel, that the Albanian transcript is then translated into English
12 by the interpreters. So they're not listening to the -- so the
13 assistance is translating the Albanian transcript. Okay, good.

14 [Video-clip played]

15 THE INTERPRETER: [Voiceover] "On 2 June 1999, outstanding
16 soldier Abdurrahman Gerdellaj, born in 1974 in the village of Rrenc
17 of Dragash municipality, fell heroically in the field of honour. He
18 was born on blessed Albanian lands. He went on to support his
19 family, having grown up, but the Serbian authorities chased him down
20 to call him up for Serbian military service."

21 MR. GILISSEN: I think it's enough. I think so.

22 PRESIDING JUDGE VELDT-FOGLIA: Yes, okay. Thank you.

23 Please, Madam Court Officer, yes.

24 MR. GILISSEN: Thank you very much.

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

Witness: W03887 (Open Session)

Page 3278

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 A. Yes, I filmed this.

2 Q. And when did you film this excerpt?

3 A. This was filmed on 2 June 1999.

4 Q. Yeah. And in which place did you film these images?

5 A. In Kukes cemetery.

6 Q. And, Mr. Witness, can you confirm whose funeral this was?

7 A. This was the funeral service of our martyr

8 Abdurrahman Gerdellaj.

9 Q. Thank you very much. And do you have any]some information to
10 say which date it was?

11 A. I'm sorry, I don't understand.

12 Q. Do you have information to provide us a date of this funeral
13 just we are seeing on this picture?

14 PRESIDING JUDGE VELDT-FOGLIA: The 2nd of June. I mean, that's
15 what he just said.

16 MR. GILISSEN: Yeah, I just want a confirmation.

17 PRESIDING JUDGE VELDT-FOGLIA: So it's no need to repeat.

18 MR. GILISSEN: Yes, I just want a confirmation.

19 PRESIDING JUDGE VELDT-FOGLIA: No, but I --

20 MR. GILISSEN: We don't need to, okay.

21 Q. So, Mr. Witness, go to -- no, I'm sorry.

22 MR. GILISSEN: Madam Court Officer, could we go back to the
23 beginning of the excerpt to show a still image for identification
24 purpose at 5:07, 5 minutes, 7 seconds.

25 PRESIDING JUDGE VELDT-FOGLIA: Okay.

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: This is the last question.

2 PRESIDING JUDGE VELDT-FOGLIA: Yes, I understand, but I have a
3 preference to go into private session at this point.

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

6 ~~[Private session]~~ [Open session] *Reclassified pursuant to F793*

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

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

10 MR. GILISSEN:

11 Q. So I would like to know if you are able to identify or to
12 recognise [REDACTED]

13 A. If I'm not wrong, [REDACTED]. But I do
14 not know his surname. Could be wrong, though. I'm not sure.

15 Q. If are you not sure, I would prefer to stay like this.

16 PRESIDING JUDGE VELDT-FOGLIA: We can go back into public
17 session.

18 THE WITNESS: [Interpretation] I really am not sure. I'm not
19 sure.

20 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, please bring
21 us back into public session.

22 And we're almost there. Two minutes to 4.00, Defence Counsel.

23 MR. GILISSEN: Yeah.

24 [Open session]

25 MR. GILISSEN: So I have the last excerpt but it seems to --

Witness: W03887 (Open Session)

Page 3280

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 PRESIDING JUDGE VELDT-FOGLIA: No, we are not --

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

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

5 How much time would it take you from this last excerpt? Because
6 we can go also into tomorrow. I mean, we have the time tomorrow.

7 MR. GILISSEN: So I prefer to say a little hour. To be sure
8 not to mislead the things, I think so.

9 PRESIDING JUDGE VELDT-FOGLIA: No, sorry, my question was not
10 clear. My question was the last excerpt, how much time would it take
11 you?

12 MR. GILISSEN: I think it could be very, very short. I think
13 so, yeah.

14 PRESIDING JUDGE VELDT-FOGLIA: Because then we would close it
15 here.

16 Would the interpretation unit allow me for some minutes more to
17 conclude with this part? Thank you. I see a thumbs-up.

18 THE INTERPRETER: Yes, indeed.

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Very kind.

20 Please, you have the floor, Defence Counsel.

21 MR. GILISSEN: Thank you very much.

22 Madam Court Officer, could we have on the ERN DPS00878 the
23 excerpt 9:41 until 9:57 seconds. It is very short.

24 PRESIDING JUDGE VELDT-FOGLIA: And is this with or without
25 sound?

Witness: W03887 (Open Session)

Page 3281

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 MR. GILISSEN: No, no need of sound.

2 PRESIDING JUDGE VELDT-FOGLIA: Then we can take off the
3 transcript.

4 [Video-clip played]

5 MR. GILISSEN: Thank you very much.

6 Q. Mr. Witness, how many graves were shown on this clip?

7 A. Actually, up to that day, there were four graves. There are
8 many graves there, but in terms of martyrs that we buried, there were
9 four of them.

10 PRESIDING JUDGE VELDT-FOGLIA: But your question was a different
11 one, Defence Counsel.

12 MR. GILISSEN: Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: Please repeat the question. I
14 won't take over.

15 MR. GILISSEN:

16 Q. How many graves are we able to see on this picture, according to
17 you?

18 A. Oh, I didn't really see. It was just that there were graves of
19 our martyrs. But I didn't look at anything else.

20 MR. GILISSEN: So I consider it's enough for today, Your Honour.
21 I think so, yes.

22 PRESIDING JUDGE VELDT-FOGLIA: Wasn't your question if there was
23 a fresh grave? Was that not -- I would like to finalise this one.
24 Then we can put a bow on it and then proceed with the --

25 MR. GILISSEN: That was exactly the idea. How many fresh graves

Witness: W03887 (Open Session)

Page 3282

Examination by Mr. Gilissen

Additional redactions applied pursuant to F793.

1 are we seeing on the pictures.

2 PRESIDING JUDGE VELDT-FOGLIA: That was the question.

3 THE WITNESS: [Interpretation] Well, then that is an entirely
4 different thing. There are four new graves. Because on 1 June 1999,
5 the three martyrs were buried, and on 2 June there was another one
6 buried, so four in total. Four martyrs in two days we buried.

7 PRESIDING JUDGE VELDT-FOGLIA: Okay.

8 THE WITNESS: [Interpretation] And two days later, there was
9 another grave that was opened for another martyr.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. But that's --

11 THE WITNESS: [Interpretation] And, of course, I'm sure you will
12 be able to see it from other footage.

13 PRESIDING JUDGE VELDT-FOGLIA: That is something, if need be, we
14 will leave for tomorrow.

15 MR. GILISSEN: Exactly. And that is very clear. Thank you very
16 much.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

18 Mr. Witness, it's 4.00. We will finalise for today. We will
19 continue tomorrow, 21 November, with your testimony. You should not
20 discuss your testimony with anybody. I wish you a good rest for this
21 evening, and Madam Court Usher will usher you out. Thank you.

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

23 [The witness stands down]

24 PRESIDING JUDGE VELDT-FOGLIA: Very well. Does the Specialist
25 Prosecutor's Office have something to raise with the Panel?

Additional redactions applied pursuant to F793.

1 MR. MICHALCZUK: We don't have anything, Your Honour.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

3 Victims' Counsel.

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

5 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

6 Defence Counsel, is there something you would like to discuss
7 with the Panel at this moment in time?

8 MR. GILISSEN: No, not at all. Just one more time to say I'm
9 sorry sometimes I ask some questions that's not open enough, but I
10 was scared with the time. It's not a good excuse, but it is mine.

11 Thank you very much.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

13 Very well. Then we will continue tomorrow at 9.30.

14 The hearing is adjourned.

15 --- Whereupon the hearing adjourned at 4.05 p.m.

16

17

18

19

20

21

22

23

24

25