

*Redactions applied pursuant to F793.*

1 Tuesday, 28 November 2023

2 [Open session]

3 [The accused appeared via videolink]

4 --- Upon commencing at 9.48 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  
8 KSC-BC-2020-04, The Specialist Prosecutor versus Pjeter Shala.

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

10 I see that the Specialist Prosecutor's Office and  
11 Victims' Counsel are in the same composition. Very well. I see you  
12 nodding. And on the left-hand side, I see a slight change.

13 You have the floor, Defence counsel.

14 MR. GILISSEN: Thank you very much, Your Honour. Good morning.  
15 Also we are here with Mr. Shala, in the detention centre. We are  
16 here with him by videolink as usual. With Mr. Hedi Aouini, Ms.  
17 Melissa McKay, Ms. Dzeneta Petravica, Juliette Healy, and Judit  
18 Kolbe, and a brand new intern Mr. Basile Mulera. Thank you very  
19 much.

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

21 Mr. Shala, good morning. Can you confirm that you hear me well?

22 THE ACCUSED: [via videolink] [Interpretation] Good morning. I  
23 hear you very well.

24 PRESIDING JUDGE VELDT-FOGLIA: Today we will hear the testimony  
25 of Defence Witness 4280 who will testify with in-court protective

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1 measures and via video-conference.

2 Before we begin, the Panel would like to address a number of  
3 issues, but we would like to do that in private session and then we  
4 will revert back to the public session.

5 Madam Court Officer, can you bring us into private.

6 ~~[Private session]~~ [Open session] *Reclassified pursuant to F793*

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

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

9 Very well.

10 The first issue concerns the summons for Defence Witness 0001.  
11 To date, the witness has still not been located, and the summons has  
12 not been served on him. Because all the efforts made since the  
13 execution of the summons started so far have not yielded results, the  
14 Panel is considering making the summons public. But before doing so,  
15 the Panel would like to hear the parties, the Victims' Counsel and  
16 also the Registry's view, but in particular the Defence view.

17 You do not need to give your views now, but we will ask you to  
18 come back to us after the lunch break. So that will allow you to  
19 consider this proposal.

20 We also invite Defence counsel to present any further  
21 observations regarding the summons based on the number of witnesses  
22 that are still to be called and that, therefore, the end of the  
23 Defence case might be getting into sight. I leave aside for now the  
24 reparations procedure and your request with regard to add a witness  
25 to the list.

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1           And in addition, for your information, the Panel has requested a  
2           report from the Registry regarding the efforts made since the summons  
3           was issued by Thursday, 14 December 2023, if the summons will not be  
4           served by then, because there are ongoing efforts.

5           So on this point, we will get back after the lunch break. Yes?

6           Good.

[Private session]

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8 [Open session]

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

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

11 Today we will sit in three sessions of one and a half hours with  
12 the regular breaks.

13 And, Madam Court Officer, would you please invite the witness to  
14 the courtroom via videolink and introduce everyone else in the room  
15 present alongside the witness.

16 [The witness entered court via videolink]

17 THE COURT OFFICER: [via videolink] Your Honours, for the record,  
18 present in the courtroom via VTC are the Witness 04280 and the  
19 Court Officer. Thank you, Your Honours.

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

21 Mr. Witness, good morning, and welcome to the Specialist  
22 Chambers. Can you hear me?

23 THE WITNESS: [via videolink] [Interpretation] Yes. [In English]  
24 Yes. [Interpretation] Yes, I can.

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

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1 THE WITNESS: [via videolink] [Interpretation] I am not well. I  
2 woke up feeling not well, to be honest.

3 PRESIDING JUDGE VELDT-FOGLIA: We will do our best, Mr. Witness,  
4 to take that on board while questioning -- while proceeding with your  
5 testimony today.

6 Mr. Witness, today we will start with your testimony, and before  
7 we begin, I have several remarks for you.

8 I first, Mr. Witness, would like to explain briefly to you the  
9 measures that you have been granted for your testimony.

10 Mr. Witness, you have been assigned a pseudonym. It means that  
11 we will never mention your name, but we will refer to you as  
12 "Mr. Witness" to make sure that the public does not know your name.  
13 You also have face and voice distortion, which means that no one  
14 outside the courtroom watching you can see your face or hear your  
15 real voice during the testimony.

16 When you answer questions that will not reveal your identity, we  
17 will do so in open session. It means that the public can hear what  
18 is said in the courtroom. When you are asked to describe anything  
19 that relates specifically to you or to mention facts that might  
20 reveal your identity, we will do so in a private session. It means  
21 that there is no broadcast and no one outside the courtroom can hear  
22 what is said in the courtroom.

23 If anything is said during open session that may identify you,  
24 we will protect this information and we will redact it. Your  
25 testimony will be broadcast with a delay, and we can remove any such

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1 information from the broadcast that will be seen and heard by the  
2 public and from the public transcript of the proceedings.

3 Are the protective measures that I just explained to you,  
4 Mr. Witness, are they clear to you?

5 THE WITNESS: [via videolink] [Interpretation] Yes, that's fine.

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

7 Mr. Shala, for the record, are you hearing the translation well  
8 or the voice -- and/or the voice of the witness?

9 THE ACCUSED: [via videolink] [Interpretation] Yes.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you. We noted that.

11 Mr. Witness, you are called to testify before the Specialist  
12 Chambers in the case of The Specialist Prosecutor's Office versus  
13 Mr. Pjeter Shala to assisted the Panel to reach a verdict.

14 First, you will take your solemn declaration to tell the truth.  
15 And after that, you will be asked questions by, first, the Defence  
16 counsel of Mr. Pjeter Shala, then the lawyers for the Specialist  
17 Prosecutor's Office, then the lawyers representing the victims  
18 participating in this procedure, and by us at the end, the Judges of  
19 the Panel.

20 Before you take your solemn declaration, I would like to provide  
21 you with some guidance and practical advice for answering the  
22 questions that will be put to you.

23 Mr. Witness, please listen carefully to each question. And if  
24 you don't understand the question, feel free to have it repeated. We  
25 want you to tell the truth, and we want you to tell us what you saw,



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1 what you experienced, what you heard yourself. If you did not see or  
2 hear it yourself but you found out in some other way, then you should  
3 tell us and explain it.

4 You may not remember all the details of the events, and this is  
5 perfectly fine. Please testify on what you remember. Do not guess.  
6 Do not make things up. It's perfectly fine to say, "I don't know,"  
7 "I don't remember."

8 And please only answer the questions put to you. If we need  
9 further clarification, we will ask you. And I also remind you that  
10 you have the right to object to provide your testimony on issues that  
11 might tend to incriminate you pursuant to Rule 151(1) of the Rules of  
12 Procedure and Evidence.

13 Mr. Witness, have you understood all this? [Indiscernible].

14 THE WITNESS: [via videolink] [Interpretation] Yes, I understood  
15 them.

16 PRESIDING JUDGE VELDT-FOGLIA: Yes. Very well.

17 I also have some practical advice for you. Please take note of  
18 the following.

19 Everything what we say here is translated and recorded, so it is  
20 very important that you speak into the microphone in front of you,  
21 that you speak at a slow pace, and that you speak clearly.

22 You should only start speaking, Mr. Witness, when the person  
23 asking you a question has finished. It is helpful to wait five  
24 seconds, count in your head five seconds, and only then to start  
25 answering the question, and this will allow to -- everything to be

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1 recorded and translated.

2 If I raise my hand, Mr. Witness, when I do like this, please  
3 stop talking. I want to avoid that we have overlapping speakers.

4 Sometimes we may disconnect the audio-video feed from the  
5 courtroom. That can be the case if we need to discuss something that  
6 you should not hear.

7 Lastly, if you have any questions, if you need a break or you  
8 need assistance, please raise your hand, like I'm doing now, and I  
9 will give you the floor, and I will then assist you.

10 Have you understood all this, Mr. Witness?

11 THE WITNESS: [via videolink] [Interpretation] Yes, I understood  
12 it.

13 PRESIDING JUDGE VELDT-FOGLIA: Very well.

14 Mr. Witness, as we must do with every witness, I will now ask  
15 you to make your solemn declaration to tell the truth. And I remind  
16 you that it is a criminal offence in the jurisdiction of the  
17 Specialist Chambers to give a false testimony. Do you understand  
18 that?

19 THE WITNESS: [via videolink] [Interpretation] Yes, I do  
20 understand it.

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

22 Can the Court Clerk please assist the witness with the solemn  
23 declaration.

24 Please, Mr. Witness, read the text provided to you.

25 THE WITNESS: [via videolink] [Interpretation] Conscious of the

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

5 WITNESS: W04280

6 [Witness answered through interpreter]

7 [Witness testified via videolink]

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness. You are  
9 now under oath to tell the truth.

10 Finally, Mr. Witness, I would like to explain to you why you  
11 have been called to testify before the Specialist Chambers.

12 It's on the request of the Defence for Mr. Shala, who is the  
13 accused in this case, that you have been summonsed to testify after  
14 the Defence did not manage to call you as a witness by itself. The  
15 Defence thought you were of importance into the case of Mr. Shala.

16 The Panel has granted the Defence request because there is a  
17 likelihood that you may have information about a crime and/or an  
18 alleged perpetrator and/or important circumstances relevant to the  
19 criminal proceedings in this case. That likelihood is up to the  
20 Panel to assess. You, as a witness, had an obligation to come and to  
21 answer.

22 I hope this is clear.

23 We will now begin with your --

24 THE WITNESS: [via videolink] [Interpretation] That's fine.

25 PRESIDING JUDGE VELDT-FOGLIA: We can now begin with your

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1 testimony, Mr. Witness. We will start with the questioning by  
2 Defence counsel.

3 Defence counsel, you have three hours for questioning this  
4 witness. And please, as always, inform the Panel of any changes in  
5 this respect.

6 You have the floor. And please be mindful of whether or not to  
7 go into private. And before I give you the floor, Defence counsel, I  
8 see that Mr. Witness is raising his hand, so I will first give him  
9 the floor.

10 Mr. Witness, I see that you raised your hand. You have the  
11 floor.

12 THE WITNESS: [via videolink] [Interpretation] Yes. Your Honour,  
13 I have a request, if it's possible. Because of my health condition,  
14 which I think you are able to see --

15 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, sorry to interrupt  
16 you. Please --

17 THE WITNESS: [via videolink] [Interpretation] -- my last  
18 statement which I gave --

19 PRESIDING JUDGE VELDT-FOGLIA: We are going into private  
20 session.

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

23 [Private session]

24 [Private session text removed]

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3 [Open session]

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

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

6 Mr. Witness, this is to inform you, like I already also told you  
7 in private session, but this is also for the public, that we will  
8 continue with your testimony today, and that the larger part of your  
9 testimony will be given in private session. And this is to manage  
10 expectations from the public. Very well.

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

13 [Private session]

14 [Private session text removed]

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1 [Open session]

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

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

4 Mr. Witness, we will have a break of 30 minutes till 11.35.

5 And, yes, I hope you can take some rest, and then we will proceed  
6 with the questioning by Defence counsel again.

7 Mr. Court Clerk, could you please usher the witness out of the  
8 room.

9 Thank you, Mr. Witness.

10 [The witness stands down via videolink]

11 THE COURT OFFICER: [via videolink] Your Honours, the witness has  
12 left the courtroom. Thank you, Your Honours.

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

14 We will now adjourn for the next 30 minutes.

15 --- Recess taken at 11.05 a.m.

16 --- On resuming at 11.36 a.m.

17 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. Okay. I see that  
18 the SPO is in the same composition.

19 Victims' Counsel.

20 MR. LAWS: Your Honour, it's me alone.

21 PRESIDING JUDGE VELDT-FOGLIA: Yes.

22 MR. LAWS: Ms. Radziejowska is not here.

23 PRESIDING JUDGE VELDT-FOGLIA: Very well. Noted.

24 And for the Defence?

25 MR. GILISSEN: It's the same composition too, Your Honour.

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1 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

2 Mr. Shala, can you hear me?

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

5 PRESIDING JUDGE VELDT-FOGLIA: Good. Thank you. Then we  
6 proceed with ushering the witness into the room.

7 Thank you, Mr. Court Clerk.

8 [The witness takes the stand via videolink]

9 THE COURT OFFICER: [via videolink] Your Honours, for the record,  
10 to confirm that present in the courtroom via VTC are the  
11 Witness W04280 and the Court Officer. Thank you, Your Honours.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Court Clerk, for  
13 informing us regarding the connection via videolink with the witness.

14 Welcome back, Mr. Witness. Can you hear me fine?

15 THE WITNESS: [via videolink] [Interpretation] Yes, I can.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

17 Mr. Shala, did you hear the answer of the witness?

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

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

20 I will be giving you the floor again, Defence counsel. We are  
21 in open session. Would you like me to go into -- ask the  
22 Court Officer to go into private session?

23 MR. AOUNI: Yes, Your Honour.

24 PRESIDING JUDGE VELDT-FOGLIA: Very well.

25 And before we do that. Mr. Shala, could you kindly switch off

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1 your microphone. I did not hear you, Mr. Shala.

2 THE ACCUSED: [via videolink] [Interpretation] I switched the mic  
3 off.

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

5 Madam Court Officer, can you bring us into private session,  
6 please.

7 [Private session]

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*Redactions applied pursuant to F793.*

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Witness: W04280 (Private Session)

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Examination by Mr. Aouini

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Witness: W04280 (Private Session)

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Examination by Mr. Aouini

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Witness: W04280 (Private Session)

Page 3771

Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

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Witness: W04280 (Private Session)

Page 3772

Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

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Witness: W04280 (Private Session)

Page 3773

Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

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Witness: W04280 (Private Session)

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Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

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[Open session] *Reclassified pursuant to F793*

8 Q. Thank you, Mr. Witness. Do you remember a funeral taking place  
9 in the premises at the time you were there?

10 A. No, that is not true.

11 Q. Thank you. Now, do you remember roughly the layout of the  
12 premises?

13 A. No, I did not have access to it.

14 PRESIDING JUDGE VELDT-FOGLIA: Please answer to the question.  
15 Or maybe there is an interpretation issue. That could also be the  
16 case.

17 So, Defence counsel, please re-ask the question, because it was  
18 so far from what you intended to say and what I heard.

19 MR. AOUINI: Your Honour, I propose to, at this stage, maybe  
20 show some pictures and see if there is identification.

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

22 Yes, for sure you may proceed with showing pictures, but I am a  
23 little bit astonished about -- I would like you to re-ask the  
24 question because I want to be sure if it's a matter of interpretation  
25 or something else.

Examination by Mr. Aouini

Redactions applied pursuant to F793.

1 MR. AOUINI: Very well.

2 Q. Mr. Witness, do you remember roughly what kind of structure or  
3 layout this premises that we called barracks were? You mentioned the  
4 depot. But do you remember how it was in terms of setting or layout  
5 or structures of the premises?

6 A. I do not remember. It's been over 20 years since then. But I  
7 remember the buildings being very old.

8 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, I think this is  
9 a good moment to come with some material to show to the witness.

10 MR. AOUINI: Thank you, Your Honour. And we would start -- we  
11 will display different pages of the same ERN. So I start by giving  
12 the ERN, SPOE40010264-40010559. And we can start with page 3.

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

15 Defence counsel, after you have finalised this part, there's a  
16 question I want to clarify, but let us first finish what you are  
17 dealing with.

18 MR. AOUINI:

19 Q. Do you see the picture in front of you, Mr. Witness?

20 A. Yes, I see it.

21 Q. Do you recognise it or anything in this picture?

22 A. No, I don't recognise anything.

23 MR. AOUINI: Can we go to page 15, please.

24 Q. Do you recognise this picture or anything in this picture,  
25 Mr. Witness?



Witness: W04280 (Private Session)

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Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

1 A. No, I don't recognise anything.

2 MR. AOUINI: Page 14, please.

3 Q. The same question, Mr. Witness. Do you recognise anything here?

4 A. No, I don't recognise it.

5 MR. AOUINI: Page 11, please.

6 Q. How about this picture? Do you recognise anything?

7 A. I don't remember it.

8 MR. AOUINI: Page 19, please.

9 Q. Mr. Witness, do you recognise this one or anything inside of it?

10 A. No, I don't recognise anything from it.

11 Q. Thank you, Mr. Witness.

12 MR. AOUINI: Your Honour, I've finished with the pictures, so  
13 maybe this is your time -- Your Honour's time.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence counsel.

[Private session]

15 [Private session text removed]

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Witness: W04280 (Private Session)

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Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

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Witness: W04280 (Private Session)

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Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

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[Open session]

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

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

16 Defence counsel, you have the floor.

17 MR. AOUMINI: Thank you, Your Honour.

18 Q. Mr. Witness, we're in public session. Please be careful not to  
19 say anything that may identify you.

20 My question is this: Mr. Witness, in 1999, in the period that  
21 we have been just discussing, during the wartime, did you know or  
22 ever hear about someone called Pjeter Shala?

23 A. No, I've never seen him or heard of him except for when the  
24 trial against him started.

25 Q. Mr. Witness, during the same time in 1999, during the wartime,

Witness: W04280 (Private Session)

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Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

1 did you know or hear about someone nicknamed Ujku?

2 A. No, I did not hear of the nickname.

3 Q. Thank you, Mr. Witness.

4 MR. AOUINI: Your Honour, unless there is any follow-up on this,  
5 we have to go back to private session for other questions.

6 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you  
7 bring us back into private session.

8 [Private session]

9 [Private session text removed]

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Witness: W04280 (Private Session)

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Examination by Mr. Aouini

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Witness: W04280 (Private Session)

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Witness: W04280 (Private Session)

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Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

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[Open session] *Reclassified Pursuant to F793*

7 MR. AOUINI: Your Honour, with your leave, if we could proceed  
8 to show some pictures for identification purposes.

9 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

10 MR. AOUINI:

11 Q. Mr. Witness, we will show you a few pictures and ask you if you  
12 recognise those pictures.

13 MR. AOUINI: Madam Court Officer, we would start with  
14 SITF00372465-00372466 at page 2.

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

17 MR. AOUINI:

18 Q. Mr. Witness, do you recognise this person?

19 A. No.

20 Q. Thank you.

21 A. I don't recognise him. It's been a long time since then, and I  
22 don't know who this person might be.

23 MR. AOUINI: Thank you, Mr. Witness.

24 Your Honour, we can take this picture down and pull another  
25 picture and that would be the newly disclosed one. And I will give

Examination by Mr. Aouini

Redactions applied pursuant to F793.

1 the ERN, DPS01729, which is the redacted version of page 10 of ERN  
2 059113-059144. And I put both ERNs for the record afterwards if we  
3 look at the transcripts.

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

5 Madam Court Officer is already proceeding.

6 MR. AOUINI:

7 Q. Do you recognise this person, Mr. Witness?

8 A. No, I don't recognise him.

9 Q. Thank you.

10 MR. AOUINI: We move to another picture, SITF00372523-00372525  
11 RED, page 2.

12 Q. Mr. Witness, do you recognise the individual in this picture?

13 A. No, I do not.

14 MR. AOUINI: Another ERN, Madam Court Officer, please.  
15 077978-077982 at page 1, please.

16 Q. Mr. Witness, do you recognise anybody in this picture?

17 A. No, I do not.

18 MR. AOUINI: Can we go to SITF00374418-00374419 at page 2,  
19 please.

20 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

21 MR. AOUINI:

22 Q. Do you recognise this person or this picture?

23 A. No, I don't know him.

24 MR. AOUINI: The last picture now. SITF00372523-00372525 RED at  
25 page 3, please.



Witness: W04280 (Private Session)

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Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

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

2 A. No, I don't know him.

3 Q. Thank you very much.

4 MR. AOUINI: We can take those pictures off the screen.

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

6 MR. AOUINI:

7 Q. We're moving to a slightly different topic, Mr. Witness. And my  
8 question is, during the time you spent in the barracks, did you see  
9 anybody being detained?

10 A. No, I did not see anybody.

11 Q. Men, women, soldiers, civilians, anybody that you came to  
12 understand were detained or deprived of their liberty in some way?

13 A. No, I didn't see anything.

14 Q. Were you aware or did you come to understand at some point  
15 during the time you spent there in the barracks of the existence of a  
16 building serving for detention of people?

17 A. I don't know that there was such a thing there.

18 Q. Did you see or have you heard that somebody was being questioned  
19 or interviewed for suspicions of crime or any other grounds?

20 A. No, I did not hear of that.

21 Q. Did you see any civilians inside the barracks performing any  
22 kind of work or labour?

23 A. No, I didn't see that either.

[Private session]

24 [Private session text removed]

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Witness: W04280 (Private Session)

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*Redactions applied pursuant to F793.*

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Witness: W04280 (Private Session)

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*Redactions applied pursuant to F793.*

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Witness: W04280 (Private Session)

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*Redactions applied pursuant to F793.*

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[Open session] *Reclassified pursuant to F793*

20 Q. Mr. Witness, during the time you spent in the barracks, did you  
21 hear, know, or see, or hear about somebody passing away, who has  
22 died?

23 A. No, I did not hear that.

24 Q. Did you come to knowledge or hear about, at any point, even  
25 after the war, that information about people being detained in the

Witness: W04280 (Private Session)

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Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

1 barracks at some point?

2 A. No, I did not hear of that.

[Private session]

3 [Private session text removed]

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Witness: W04280 (Private Session)

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Witness: W04280 (Private Session)

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Witness: W04280 (Private Session)

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Examination by Mr. Aouini

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Witness: W04280 (Private Session)

Page 3792

Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

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[Open session]

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

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

16 Mr. Witness, we will have a break till half past 2.00. I hope  
17 that you will get some rest during that time. Thank you for your  
18 efforts -- your considerable efforts this morning. It has been very  
19 much appreciated. And I will now ask the Court Clerk to accompany  
20 you out of the room. Thank you again.

21 [The witness stands down via videolink]

22 THE COURT OFFICER: [via videolink] Your Honours, the witness has  
23 left the courtroom.

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Court Clerk.

25 Defence counsel, I see that you are standing. You have the

*Redactions applied pursuant to F793.*

1 floor.

2 MR. AOUINI: Your Honour, as an abundance of caution, we want to  
3 put some references as -- by way of notice, we'll address some  
4 allegations that emanate from documents that are not in our  
5 presentation queue. We're not going to use them. However, just for  
6 everyone's reference, since we have the break now, for everyone to  
7 understand where specific points come from, I would like to give the  
8 ERN for the benefit of everyone to be able to see it because it's not  
9 in our presentation queue.

10 PRESIDING JUDGE VELDT-FOGLIA: But if I understand well, it  
11 should have been in the presentation queue because you are using it  
12 as a basis for your questions. Is that what you are saying? Or is  
13 my interpretation ...

14 MR. AOUINI: Your Honour, it's true and not completely true,  
15 because we will ask about some names. So we're not using the  
16 documents. But for everyone's understanding, those are references  
17 that we took those names from. So what we ask the witness is whether  
18 he knows a person or not --

19 PRESIDING JUDGE VELDT-FOGLIA: I would say that, as a general  
20 rule, if you base your questions on certain information, they should  
21 be in the presentation queue. And to go back to the example, without  
22 going into details, I think that that one should have been in the  
23 presentation queue.

24 But I will give the floor to the Specialist Prosecutor and  
25 Victims' Counsel. But to be honest, I don't see a problem that you

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1 are using them, but it's just for us, in order to prepare, to have  
2 them. Because everything you give us, we read it and we look at it  
3 and it helps us to follow better the proceedings. That's the way it  
4 works.

5 Is there something that you would like to submit in this  
6 respect?

7 MR. DE MINICIS: No, Your Honour.

8 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel.

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

10 PRESIDING JUDGE VELDT-FOGLIA: Okay.

11 MR. AOUINI: Your Honour --

12 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, would you like  
13 to give the ERN now?

14 MR. AOUINI: Yes, we would. Unless there is a preference that  
15 we do it by e-mail and then it's added to the presentation queue.  
16 We're in your hands with this.

17 PRESIDING JUDGE VELDT-FOGLIA: Then that is a proposal that I  
18 like very much. Please proceed in that way because then we have  
19 everything in one -- in one document, and also for future reference  
20 it can be helpful. And then you can also add the reference, which is  
21 already in the provisional transcript, which was page -- let me see.  
22 I don't know it by heart anymore, but I know it was about -- I don't  
23 want to go into details, but there is one, a very clear one.

24 MR. AOUINI: Yes. And maybe there was a misunderstanding,  
25 because we had a certain rule that some --

*Redactions applied pursuant to F793.*

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

2           MR. AOUNI: No. No need, Your Honour. We will purge  
3 everything. We will send an e-mail and put everything. Yeah.

4           PRESIDING JUDGE VELDT-FOGLIA: So everything will come in an  
5 e-mail. Thank you for that.

6           Then we -- sorry to the interpretation unit. There's one thing  
7 I still want to discuss with parties but that will be done in two  
8 minutes.

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

10   [Private session]

11   [Private session text removed]

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*Redactions applied pursuant to F793.*

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15 [Open session]

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

17 PRESIDING JUDGE VELDT-FOGLIA: Very well. We will adjourn for  
18 one and a half hour.

19 The hearing is adjourned.

20 --- Luncheon recess taken at 1.09 p.m.

21 --- On resuming at 2.43 p.m.

22 PRESIDING JUDGE VELDT-FOGLIA: Welcome back.

23 Mr. Shala, welcome back. Do you hear me fine?

24 THE ACCUSED: [via videolink] [Interpretation] Yes, I do.

25 PRESIDING JUDGE VELDT-FOGLIA: Very well.

Redactions applied pursuant to F793.

1 First, we see who is present in the courtroom. The SPO is in  
2 the same composition. I also see that Victims' Counsel is there. I  
3 will continue on that side.

4 For the Registry, please. You have the floor.

5 MR. ROCHE: Thank you, Your Honour. My name is Ralph Roche,  
6 appearing on behalf of the Registry this afternoon. Thank you.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

8 Defence counsel, you are in the same composition as before?

9 MR. GILISSEN: Almost, Your Honour.

10 PRESIDING JUDGE VELDT-FOGLIA: Yes.

11 MR. GILISSEN: Mr. Mulera is not with us anymore and  
12 Ms. Kailin Chen joined us. Thank you.

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

14 Before we continue with the testimony of the witness, I would  
15 like to go into private session, please.

16 Madam Court Officer, could you bring us into private session

17 ~~[Private session]~~[Open session]Reclassified pursuant to F793

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

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

20 Defence counsel, I was going to give you the floor first at this  
21 moment in time with regard to the question of the Panel with regard  
22 to making the summons public, but I would like to give the floor  
23 first to the Registry.

24 Mr. Roche, you have the floor.

25 MR. ROCHE: Thank you, Your Honour. Just in the last number of

Redactions applied pursuant to F793.

1 minutes we have received an operational update from [REDACTED]  
2 [REDACTED] the Registry. [REDACTED]  
3 [REDACTED] they succeeded in locating Witness DW-0401 yesterday  
4 afternoon. They attempted to serve the summons upon him, but he  
5 refused to accept it. The consequences of this were explained to  
6 him, and he signed a document indicating his refusal to accept the  
7 summons.

8 So we have just received copies of the relevant signed document  
9 and will submit those to the Panel as soon as possible.

10 Thank you, Your Honour.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 For now, unless parties and Victims' Counsel want to comment on  
13 it, but we will follow up on this, and that will be via filing or via  
14 e-mail, to see how we proceed. But if you -- if one of the parties  
15 or Victims' Counsel would like to take the floor, you may of course.  
16 No? Okay.

17 Very well. Thank you. Then this has taken another turn than we  
18 had expected. So thank you very much, Mr. Roche. We will now  
19 continue with another topic. You may leave the courtroom. Thank you  
20 very much.

21 Yes, Madam Court Officer, could you bring us back into public  
22 session, please.

23 ~~{Open session}~~

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

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you. I will now turn to

*Redactions applied pursuant to F793.*

1 the Defence request to modify its presentation queue which was made  
2 via e-mail at ten minutes past half past 2.00.

3 Mr. Prosecutor, do you have any objections or do you have any  
4 submissions in this respect?

5 MR. DE MINICIS: Yes, Your Honours. Four of the documents are  
6 documents that also are on our presentation queue, so we don't object  
7 to those. But there is another document, which is SITF0009727-9751,  
8 which it's unclear to us why the Defence has decided to put this  
9 document on the -- in the presentation queue.

10 There is an individual in there who shares the same name with  
11 the witness we have here today, but they're not the same person. And  
12 we -- this document, we really -- we're a bit in the dark as to why  
13 it's being added to his presentation queue. So to that, we have an  
14 objection, yes.

15 PRESIDING JUDGE VELDT-FOGLIA: We will go for that into private  
16 session. I think there could be a useful -- Victims' Counsel, what  
17 is your position?

18 MR. LAWS: Nothing to add. Thank you, Your Honour.

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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

22 [Private session]

23 [Private session text removed]

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*Redactions applied pursuant to F793.*

1 [Private session text removed]

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*Redactions applied pursuant to F793.*

1 [Private session text removed]

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3 [Open session]

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

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

6 Very well. The request is granted. And for the future, we  
7 would like to have in the presentation queue everything you intend to  
8 use, Defence counsel, including transcripts of previous testimonies,  
9 for notice purposes.

10 There's another issue I would like to communicate to the parties  
11 and Victims' Counsel with regard to the witness.

12 We have verified with WPSO during the break how the witness was  
13 doing, and we understand that he continues to be fit to testify. So  
14 that is where we stand.

15 Very well. We will now connect the witness back via the  
16 videolink. Yes, I see that we have the connection. We can proceed.

17 Court Clerk, could you please usher the witness in, please.

18 [The witness takes the stand via videolink]

19 THE COURT OFFICER: [via videolink] Your Honours, to confirm for  
20 the record, back in the courtroom via VTC is the Witness W04280 and  
21 myself, Court Officer. Thank you, Your Honours.

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

23 Welcome back, Mr. Witness. Can you hear me fine?

24 I did not hear your answer.

25 THE WITNESS: [via videolink] [Interpretation] Yes.

Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

1 PRESIDING JUDGE VELDT-FOGLIA: Now I did hear it. Thank you.

2 Mr. Shala, did you hear the witness's voice?

3 THE WITNESS: [via videolink] [Interpretation] Yes, very clearly.

4 PRESIDING JUDGE VELDT-FOGLIA: Good.

5 Then, Defence counsel, you have the floor to continue your  
6 examination of the witness. And I noted that you thought to be  
7 needing about ten minutes for some further questioning.

8 MR. AOUINI: Yes, thank you, Your Honour. Maybe less.

9 Q. Good afternoon, Mr. Witness.

10 A. Good afternoon.

11 Q. We will address the last part of our questions for you today.  
12 And my question is about after the war, after the war when you  
13 returned to your country.

14 MR. AOUINI: Your Honours, maybe we need to go to private  
15 session. Yes.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence counsel.

17 Madam Court Officer, can you bring us into private session.  
18 Thank you.

19 ~~[Private session]~~ [Open session] *Reclassified pursuant to F793*

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

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.  
22 Defence counsel, you have the floor.

23 MR. AOUINI: Thank you, Your Honour.

24 Q. So, Mr. Witness, after the war, after you returned to Kosovo, in  
25 the months, years, up until today, have you seen anybody that you saw

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Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

1 in the barracks again? The Kukes barracks, that is.

2 A. No, I haven't had any contacts with anyone.

[Private session]

3 [Private session text removed]

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Witness: W04280 (Private Session)

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Examination by Mr. Aouini

*Redactions applied pursuant to F793.*

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[Open session] *Reclassified pursuant to F793*

14 Q. My question is slightly different. It's whether at any point  
15 after the war you have told such a thing to anybody, not that in fact  
16 it happened.

17 A. No, I haven't discussed it with anyone.

18 Q. Thank you very much, Mr. Witness. The purpose of our questions  
19 was to verify information, not to bother you [REDACTED]

20 [REDACTED] We thank you very much for your effort.

21 MR. AOUINI: Those are our questions, Your Honours, in  
22 examination-in-chief.

23 Q. *Faleminderit.*

24 PRESIDING JUDGE VELDT-FOGLIA: Very well.

25 Madam Court Officer, can you bring us into public session,

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1 please.

2 ~~{Open session}~~

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

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

5 Mr. Witness, the questioning by the Defence counsel is now  
6 finished, and what we will do is to give the floor to the Specialist  
7 Prosecutor's Office to do its cross-examination. You understand  
8 that?

9 THE WITNESS: [via videolink] [Interpretation] I do. Fine.

10 PRESIDING JUDGE VELDT-FOGLIA: Very well.

11 Mr. Prosecutor, the floor is for you. And if you require to go  
12 into private session, please inform the Panel.

13 MR. DE MINICIS: [Microphone not activated].

14 Thank you, Your Honour. Yes, we would need to go into private  
15 session right from the start.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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

19 [Private session]

20 [Private session text removed]

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Cross-examination by Mr. De Minicis

*Redactions applied pursuant to F793.*

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

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Witness: W04280 (Private Session)

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

*Redactions applied pursuant to F793.*

1 [Private session text removed]  
[Open session] *Reclassified pursuant to F793*

2 Do you recall if, when registering upon your arrival at the KLA  
3 base, you were asked about your profession at the time? Perhaps  
4 names -- your names or what's your job? Were you asked that?

5 A. I don't remember them asking me about my occupation. I remember  
6 they asked me my age, family members, how many family members I had,  
7 and whether I had someone to leave in charge of them or to take care  
8 of them.

[Private session]

9 [Private session text removed]

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Cross-examination by Mr. De Minicis

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Witness: W04280 (Private Session)

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Cross-examination by Mr. De Minicis

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Cross-examination by Mr. De Minicis

*Redactions applied pursuant to F793.*

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Witness: W04280 (Private Session)

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Cross-examination by Mr. De Minicis

*Redactions applied pursuant to F793.*

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[Open session] *Reclassified pursuant to F793*

16 Q. Did you notice whether, upon your arrival, in the courtyard of  
17 the place of this base there was any tent set up where people could  
18 take showers?

19 A. I did not see it.

20 PRESIDING JUDGE VELDT-FOGLIA: I saw Defence counsel standing.

21 MR. AOUINI: Yes, maybe, Your Honour, it's not a big problem,  
22 but this is the first time we mention a courtyard. Maybe my learned  
23 colleague could ascertain whether the witness understands there to be  
24 a courtyard or not, because we're facing limited details. So maybe  
25 ascertain certain facts so we're not in a -- blurred by the answer

Witness: W04280(~~Private Session~~)(Open Session)Reclassified pursuant to F793

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Cross-examination by Mr. De Minicis

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1 when it's not emanating from the witness himself.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence counsel.

3 I see a nod from the side of Mr. Prosecutor.

4 MR. DE MINICIS: Point taken.

5 PRESIDING JUDGE VELDT-FOGLIA: Point taken. I would like to  
6 take the opportunity to ask you to finish today with your questioning  
7 by five minutes to 4.00 because there's a question I would like to  
8 ask with regard to a topic, and I would like to close at 4.00 the  
9 hearing for today.

10 MR. DE MINICIS: Oh, okay.

11 PRESIDING JUDGE VELDT-FOGLIA: Yes?

12 MR. DE MINICIS: But can I continue tomorrow?

13 PRESIDING JUDGE VELDT-FOGLIA: Of course. Of course. Sorry, if  
14 I was not clear on that. That was not my intention. But for today  
15 if you could continue -- if you could continue five more minutes, and  
16 then leave the rest of the time for --

17 MR. DE MINICIS: Yes.

18 PRESIDING JUDGE VELDT-FOGLIA: -- some other procedural matters.

19 MR. DE MINICIS: Yes, Your Honour. By all means.

20 [Specialist Prosecutors confer]

21 MR. DE MINICIS: Your Honour, next in line would be to discuss  
22 with the witness the sketch that I have in my -- and that might take  
23 a little longer than five minutes. So if Your Honours wanted me to  
24 finish in five minutes, I would ask that I'm allowed to finish now  
25 and restart tomorrow.

Cross-examination by Mr. De Minicis

Redactions applied pursuant to F793.

1           PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, that would fit  
2 very well the schedule for this afternoon. So thank you.

3           Madam Court Officer, could you bring us into public session,  
4 please.

5                               ~~{Open session}~~

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

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

8           Mr. Witness, we are going to adjourn this hearing in a few  
9 minutes. So for today, we have finished with asking questions to  
10 you. We will proceed tomorrow. Mr. Prosecutor will then continue  
11 with the questions.

12           I will ask now, Victims' Counsel, do you foresee to have  
13 questions for the witness?

14           MR. LAWS: I think it's very unlikely, Your Honour.

15           PRESIDING JUDGE VELDT-FOGLIA: Okay. Good. Thank you.

16           And I imagine it's too early for Defence to say if they want to  
17 have a second round, just to inform the witness where -- what he can  
18 expect. And if no answer is possible, that's also an answer.

19           MR. AOUINI: Your Honour, as of now, very, very limited. We'll  
20 see how it --

21           PRESIDING JUDGE VELDT-FOGLIA: Yes.

22           MR. AOUINI: -- develops tomorrow.

23           PRESIDING JUDGE VELDT-FOGLIA: Very well.

24           So tomorrow morning, I foresee that we will still be in court,  
25 Mr. Witness. And for now, thank you very much for the efforts you

*Redactions applied pursuant to F793.*

1 have put in giving your testimony. I wish you a good rest this  
2 afternoon, and then we see you back tomorrow at 9.30.

3 And please don't discuss your testimony with anybody. Thank  
4 you. Mr. Court Clerk will now usher you out of the courtroom.

5 [The witness stands down via videolink]

6 [Trial Panel and Court Officer confers]

7 THE COURT OFFICER: [via videolink] Your Honours, the witness has  
8 left the courtroom.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much, Mr. Court  
10 Clerk, for your assistance today. We can now interrupt the videolink  
11 connection with the premises. Thank you.

12 Very well. Madam Court Officer, can you bring us back into  
13 private session, and then we will finalise in open session. Thank  
14 you.

15 ~~[Private session]~~ [Open session] *Reclassified pursuant to F793*

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

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

18 Yes, I have a question for Defence counsel, and you can come  
19 back to that tomorrow morning. But the question of the Panel would  
20 be if the circumstance that the witness has refused to have the  
21 summons served upon him, if that would change the position of the  
22 Defence to call this witness. Because a -- we have a lot of  
23 opportunities and possibilities to proceed -- or some possibilities  
24 to proceed. But there's -- so here we have to weigh how to proceed.  
25 But for me -- or, for me.

Redactions applied pursuant to F793.

1 But for us, foremost, it's important to know where the Defence  
2 stands with calling this witness, taking into account the importance  
3 of the witness and other interests that you might take on board when  
4 we would proceed with this procedure or not. Yes? Good.

5 And tomorrow, we would be grateful if you could come back to us  
6 in the morning. Yes. Very well.

7 Let us see. Then we go back into public session.

8 ~~{Open session}~~

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

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

11 Anything that the Prosecution would like to raise with the  
12 Panel?

13 MR. DE MINICIS: No, thank you, Your Honour.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

15 Victims' Counsel?

16 MR. LAWS: Nothing. Thank you, Your Honour.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

18 And Defence counsel?

19 MR. GILISSEN: No, thank you very much.

20 PRESIDING JUDGE VELDT-FOGLIA: Okay. I thank you for your  
21 attendance and participation. We will proceed tomorrow at 9.30.

22 The hearing is adjourned.

23 --- Whereupon the hearing adjourned at 3.56 p.m.

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