

1 Thursday, 11 May 2023

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 9.00 a.m.

5 PRESIDING JUDGE SMITH: Madam Court Officer, you may call the
6 case.

7 THE COURT OFFICER: Good morning, Your Honours. This is case
8 KSC-BC-2020-06, The Specialist Prosecutor versus Hashim Thaci,
9 Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi.

10 PRESIDING JUDGE SMITH: Today we will continue hearing the
11 evidence of Witness 4748.

12 First, the Panel will address the matter raised by the Krasniqi
13 Defence at the end of yesterday's hearing regarding the translation
14 of witness preparation notes.

15 The Panel notes that the Order on Conduct of Proceedings does
16 not require the SPO to provide a translation of the preparation
17 notes. The aim of the notes is to put the Defence on notice of any
18 clarifications, changes or corrections made by the witness to
19 previous statements and the witness's reason for these changes, and
20 any new information obtained from the witness.

21 These notes have to be produced quickly to ensure timely notice
22 to the Defence and to allow the Defence to prepare accordingly.

23 The Defence is then in a better position to determine if and
24 what part of such information requires further instruction from their
25 client. The relevant parts of the notes can then be translated or

1 interpreted by the Defence. This appears to be the most expedient
2 and effective way to do it, and the Defence has not argued that it
3 lacks the resources to do so.

4 The Panel is of the view that no unfairness arises from this and
5 that this also appears to be consistent with the practice of other
6 tribunals operating under a procedural regime similar to ours, in
7 particular, the ICTY.

8 Therefore, the Krasniqi Defence request for translation of
9 witness preparation notes is rejected.

10 And this concludes the oral order.

11 So now let us continue with the testimony of Witness 4748. I
12 note that the accused are all present in court today.

13 Mr. Halling, do you intend to finish your direct examination
14 today?

15 MR. HALLING: I would like to, Your Honour. We have a ten-hour
16 estimate, and there was a lot of procedural discussion and objections
17 yesterday, so Friday morning first session at the latest.

18 PRESIDING JUDGE SMITH: Yes, I will say we figure you had four
19 hours yesterday instead of five, so we understand that.

20 Also, Mr. Halling, will you need to start out in private session
21 today?

22 MR. HALLING: Yes, Your Honour.

23 PRESIDING JUDGE SMITH: All right.

24 Madam Court Usher, please bring the witness in.

25 And please take us into private session, Madam Court Officer.

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Witness: W04748 (Resumed) (Private Session)

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Witness: W04748 (Resumed) (Private Session)

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Examination by Mr. Halling (Continued)

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Examination by Mr. Halling (Continued)

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11 [Open session]

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

13 PRESIDING JUDGE SMITH: All right. We will take our break. Be
14 back at 11.30. Thank you very much.

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

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

17 PRESIDING JUDGE SMITH: Mr. Halling, continue. Oh, nobody to
18 ask questions of.

19 Please go back into private session.

20 [Private session]

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Examination by Mr. Halling (Continued)

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Examination by Mr. Halling (Continued)

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Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

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Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3597

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3598

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3599

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3600

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3601

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3602

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3603

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3604

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3605

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3606

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3607

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3608

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3609

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3610

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3611

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3612

Examination by Mr. Halling (Continued)

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1 [Private session text removed]

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5 [Open session]

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

7 PRESIDING JUDGE SMITH: So we'll break for lunch. We'll see you
8 back at 2.30.

9 --- Luncheon recess taken at 1.00 p.m.

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

11 PRESIDING JUDGE SMITH: Please go into private session.

12 [Private session]

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Witness: W04748 (Resumed) (Private Session)

Page 3615

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3616

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3617

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3618

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3619

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3620

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3621

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3622

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3623

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3624

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3625

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3626

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3627

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3628

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3629

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3630

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

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Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

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Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

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Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3634

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3635

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3636

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3637

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

Page 3639

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Witness: W04748 (Resumed) (Private Session)

Page 3640

Examination by Mr. Halling (Continued)

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Witness: W04748 (Resumed) (Private Session)

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Witness: W04748 (Resumed) (Private Session)

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5 [Open session]

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

7 PRESIDING JUDGE SMITH: Thank you. We'll be back in 15 minutes.

8 --- Break taken at 3.45 p.m.

9 --- On resuming at 4.00 p.m.

10 PRESIDING JUDGE SMITH: Mr. Halling, would you like to respond
11 to the request before we finally consider this?

12 MR. HALLING: Strongly oppose, Rule 127(3).

13 PRESIDING JUDGE SMITH: Okay. I kind of thought you'd say that.
14 The response that we make is as follows, and this will be an
15 oral order.

16 Judicial questions can be asked at any point. They are not
17 cross-examination mirroring any parties' questions. They are
18 intended to seek and to contribute to the determination of the truth
19 as it comes within its mandate.

20 The Order on Conduct of Proceedings, therefore, foresees that
21 judicial questions are to be asked at the end of every party's
22 questions so that we have the right of every party -- I misstated
23 that.

24 The Order on Conduct of Proceedings, therefore, foresees that
25 judicial questions are to be asked at the end of every party's

1 questions so that we have the benefit of every party's questions, and
2 many judicial questions might be rendered unnecessary as a result of
3 Defence cross-examination.

4 The Order on Conduct of Proceedings already provides for the
5 necessary safeguards to ensure fairness by authorising parties to ask
6 follow-up questions based on any new material elicited by judicial
7 questioning. The Defence has failed to provide reasons justifying
8 the changing of the order of questioning by the Judges, and the
9 application is, therefore, rejected.

10 And that ends the second oral order.

11 We will begin cross-examination tomorrow morning at 9.00 a.m.

12 And we wish you a good evening.

13 And, Madam Usher, you may release the witness for today.

14 So we are then adjourned.

15 --- Whereupon the hearing adjourned at 4.02 p.m.

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