

1 Wednesday, 15 January 2025

2 [Open session]

3 [The accused appeared via videolink]

4 --- Upon commencing at 9.03 a.m.

5 PRESIDING JUDGE SMITH: Madam Court Officer, please 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: I note that the accused are all  
11 attending today's hearing via videolink.

12 You asked the floor.

13 MS. ROWAN: Your Honour, good morning, yes. I'm grateful. It's  
14 in response to a question that Judge Barthe had asked yesterday at  
15 the end of the day, and the question, as we understood it, from  
16 Judge Barthe, was whether or not there was a Supreme Court decision  
17 available in relation to this case.

18 We have made the relevant inquiries, and we do have an answer  
19 for Your Honour, which we can deal with now. However, we do wish to  
20 just raise two matters related to that.

21 One is just a general concern at the side of the courtroom at  
22 which that inquiry was directed, as, of course, the position is it is  
23 the burden upon the Prosecution to prove these men were free. The  
24 burden is not on the Defence to make any inquiries to prove the  
25 alternative. Our burden is simply to raise a doubt.

1           The second matter we wish to raise and to put on the record also  
2           is that the document that was shown to the witness yesterday was a  
3           Prosecution document, so it was a judgment of which the Prosecution  
4           were aware, which was, in fact, in our submission, inappropriately  
5           disclosed. It was disclosed under 102(3) as unused material, and it  
6           was not disclosed as it should have been as clearly exculpatory  
7           material. But it was something the Prosecution were aware of and  
8           had, of course, reviewed.

9           But if we could, we've released an additional queue with an  
10          additional document which we hope will resolve the issue.

11          Madam Clerk, could we please have the document that we put on  
12          our additional queue. The Albanian is DKV1621 to 1632.

13          Now, Your Honour, while this is being brought up, it's a 13-page  
14          document. We found it in the Albanian. We have translated, in our  
15          submission, the most pertinent page, which is the first page, and it  
16          is a Defence translation. We will submit today the full 13-page  
17          document for a full translation of the document, but we believe the  
18          one-page translation should be sufficient for our purposes today.  
19          And the ERN of the English first page is DKV1633.

20          JUDGE BARTHE: Ms. Rowan, before you show the document to us, I  
21          would just like to make clear that I was only asking you whether you  
22          have information in that regard. I was not giving you homework. I  
23          wasn't saying that it was your task to inquire --

24          MS. ROWAN: Yes.

25          JUDGE BARTHE: -- or to make inquiries in this regard. I agree

1 with you that it should be the Prosecution who should have made these  
2 inquiries, but I was only asking you whether you know.

3 MS. ROWAN: I am grateful for that indication. We have made  
4 those inquiries, and we hope that this will resolve Your Honour's  
5 curiosity on the matter.

6 JUDGE BARTHE: I'm very grateful for that.

7 MS. ROWAN: Thank you.

8 JUDGE BARTHE: Thank you.

9 [Trial Panel and Court Officer confers]

10 PRESIDING JUDGE SMITH: I was just authorising her to show the  
11 document.

12 MS. ROWAN: I'm grateful. Perhaps considering the concerns  
13 around confidentiality and linking yesterday, it's best that it's not  
14 broadcast to the public, but we can remain in public session.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MS. ROWAN: Thank you.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MS. ROWAN: I'm grateful.

19 PRESIDING JUDGE SMITH: I'm sorry. We can always change it, but  
20 it will remain confidential for now.

21 MS. ROWAN: I'm grateful. We have the one-page English  
22 translation here on the right-hand side. And just referring to that,  
23 Your Honour will see it is a Supreme Court judgment, as requested.  
24 And we'll see here in the second paragraph we have the relevant  
25 person's name outlined there. And Your Honour will see in that first

1 paragraph we have here "has been in custody since," and we see here  
2 the 4th of October 2000, "convicted of the criminal offences of," and  
3 it lists the same three criminal offences that we saw in the document  
4 that we were looking at yesterday from the Lower Court's judgment.  
5 And if Your Honour looks further down the page, we will see the  
6 second person of whom we are interested in, and again, at the end of  
7 that paragraph, "has been in custody since October ... 2000," and,  
8 again, the criminal offences with which we were concerned in the  
9 Lower Court's judgment.

10 PRESIDING JUDGE SMITH: If I may ask, who is responsible for all  
11 of the writing on the document?

12 MS. ROWAN: Your Honour, I'm not in a position to answer that at  
13 the moment. But I'll make again inquiries.

14 PRESIDING JUDGE SMITH: It came to you in that state?

15 MS. ROWAN: It came me also in this fashion.

16 PRESIDING JUDGE SMITH: That's all right.

17 MS. ROWAN: Now, we have only translated this page, but in terms  
18 of just to clarify the date of the issuance of this document, if we  
19 go to the second-last page of the Albanian, please. The second-last  
20 page, pardon me. The ERN of the second-last page is 1631. And if we  
21 just scroll to the bottom, we'll see it's stamped there 30 October  
22 2003, indicating on the first page detention continuing since 2001.

23 PRESIDING JUDGE SMITH: I should note that I asked about the  
24 writing. It seems that that's not at all involved in your position  
25 anyway.

1 MS. ROWAN: No.

2 PRESIDING JUDGE SMITH: The handwritten stuff. It's somebody's  
3 notes.

4 MS. ROWAN: Yes.

5 PRESIDING JUDGE SMITH: Yeah.

6 MS. ROWAN: And this is the form in which it came to the  
7 Defence.

8 PRESIDING JUDGE SMITH: Thank you.

9 MS. ROWAN: Your Honour, I can put it to the witness now before  
10 Judges' questions begin, because it, of course, is a document that  
11 must be admitted, and that it seems like the most efficient way to do  
12 so. I simply intend to read the passages that I have read to the  
13 Panel and ask three supplementary questions in relation to it and  
14 we'll deal with it very shortly.

15 JUDGE GAYNOR: Ms. Rowan, you said the first page indicates  
16 custody since 2001. Did you mean custody since October 4th, 2000?

17 MS. ROWAN: I did.

18 JUDGE GAYNOR: Thank you.

19 MS. ROWAN: Thank you. Pardon me. Thank you for pointing that  
20 out. It's an important distinction.

21 PRESIDING JUDGE SMITH: Do you have any objection to her making  
22 further inquiry considering [Overlapping speakers] ...

23 MR. MICHALCZUK: Yes, yes, if possible, I would like to make one  
24 point, Your Honour. Where, first of all, yesterday the witness was  
25 put this proposition that one of the judgments indicated that at that

1 time the people in question were, indeed, in detention, and the  
2 witness said the reality on the ground was totally different. And he  
3 was adamant, and he said on a number of occasions -- on three  
4 occasions at least, that he's sure that those who kidnapped him did  
5 so and were present and they were not in detention, and he also got  
6 this information from one of the international police officers.

7 So I think the purpose of this exercise is futile because the  
8 witness will say exactly the same as yesterday, and he said that on  
9 three occasions.

10 PRESIDING JUDGE SMITH: The witness is here, is available. I  
11 think for clarity's sake, you should be able to ask the three  
12 questions, but limit it at that, please.

13 MS. ROWAN: Thank you.

14 Your Honour, I will run through the document, for the record,  
15 simply as we've done --

16 PRESIDING JUDGE SMITH: I'm sorry?

17 MS. ROWAN: I will just run through the paragraphs to allow him  
18 to read just what we've done in this exercise so that he can read  
19 what I'm asking him to look at.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MS. ROWAN: Yeah, exactly.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MS. ROWAN: Exactly. Thank you.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 Before the witness is brought in, the Panel would like to

1 inquire with the parties as to their revised estimates in relation to  
2 the witness currently scheduled to testify next week.

3 Mr. Prosecutor, any revision in your time estimate?

4 MR. MICHALCZUK: No changes for now. If there are any changes  
5 due to objective circumstances, we will inform the Court accordingly,  
6 but no changes for now.

7 PRESIDING JUDGE SMITH: And we're going to lose, basically, two  
8 days here on --

9 MR. MICHALCZUK: We don't have any --

10 PRESIDING JUDGE SMITH: I know it's difficult to get them here  
11 and to have them available, but do your best next week to fill the  
12 time.

13 MR. MICHALCZUK: We will do our best next week, Your Honour.

14 PRESIDING JUDGE SMITH: Any change from your perspective?

15 MR. MISETIC: No change from the Thaci Defence.

16 MR. DIXON: Likewise, no change, but we'll always endeavour to  
17 shorten if we can.

18 MR. ROBERTS: Likewise, no change for us at the moment. But  
19 we'll update as and when if anything should.

20 MR. BAIESU: No change from us.

21 PRESIDING JUDGE SMITH: All right. Thank you very much.

22 Now we'll continue hearing the evidence of Prosecution  
23 Witness W04500.

24 Madam Court Officer, please bring the witness in.

25 Mr. Court Officer, I'm sorry.

1 [The witness takes the stand via videolink]

2 PRESIDING JUDGE SMITH: You can be seated, Witness.

3 Madam Court Officer, are all of the cautions on security  
4 implemented? All right.

5 Witness, today we're going to continue your testimony. I remind  
6 you to please try to answer the questions clearly, with short  
7 sentences. If you don't understand a question, feel free to ask  
8 counsel to repeat the question or tell them if you don't understand  
9 and they will try to clarify. Also, please remember to try to  
10 indicate the basis of your knowledge of the facts and circumstances  
11 upon which you will be questioned.

12 I remind you you are still under an obligation to tell the truth  
13 as stated by you in your solemn declaration. Please also remember to  
14 speak into the microphone and to wait five seconds before answering a  
15 question, and then speak at a slow pace for the interpreters to catch  
16 up.

17 If you feel the need to take breaks, please make an indication  
18 and an accommodation will be made.

19 First of all, we have some additional questions from the Veseli  
20 Defence.

21 Ms. Rowan, you have the floor.

22 WITNESS: W04500 [Resumed]

23 [The witness answered through interpreter]

24 [The witness appeared via videolink]

25 Cross-examination by Ms. Rowan: [Continued]



1 Q. Good morning, Witness.

2 MS. ROWAN: Madam Court Officer, could I please have on screen  
3 DKV1633 in the English and DKV1621 in the Albanian.

4 MR. MICHALCZUK: Your Honour, could I kindly ask you to go into  
5 private session because maybe the --

6 PRESIDING JUDGE SMITH: Yes.

7 MR. MICHALCZUK: -- questions will be very careful but the  
8 answers might not be.

9 PRESIDING JUDGE SMITH: I think that's a cautious approach. We  
10 will do so.

11 Go into private session, please, for the protection of the  
12 witness.

13 [Private session]

14 [Private session text removed]

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Witness: W04500 (Resumed) (Private Session)

Page 23823

Cross-examination by Ms. Rowan (Continued)

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Witness: W04500 (Resumed) (Private Session)

Page 23824

Cross-examination by Ms. Rowan (Continued)

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Witness: W04500 (Resumed) (Private Session)

Page 23825

Procedural Matters

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Witness: W04500 (Resumed) (Private Session)

Page 23827

Procedural Matters

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Witness: W04500 (Resumed) (Private Session)

Page 23828

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23829

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23830

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23831

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23832

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23833

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23834

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23835

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23836

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23837

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23838

Questioned by the Trial Panel

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Witness: W04500 (Resumed) (Private Session)

Page 23839

Procedural Matters

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1 [Private session text removed]

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3 [Open session]

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

5 PRESIDING JUDGE SMITH: Thank you.

6 --- Whereupon the hearing adjourned at 9.55 a.m.

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