

1 Monday, 16 October 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
8 KSC-BC-2020-06, The Specialist Prosecutor versus Hashim Thaci,
9 Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi.

10 PRESIDING JUDGE SMITH: We have a preliminary matter that was
11 raised by the Thaci Defence over the weekend -- or, actually, on
12 Friday. We just now received the filings, so we haven't finished
13 reading them yet. We'll deal with them later on. They don't seem to
14 be a matter of high priority right now, but we do have everything.

15 So today we continue the testimony of W04769. We are to the
16 point of beginning cross-examination. Mr. Roberts will be up first
17 by agreement of the Defence. And I note that the accused are all
18 present in court today.

19 So, Madam Court Usher, you may bring the witness in.

20 MR. ROBERTS: Good morning, Your Honours. Just to confirm that
21 I should be done by the first break this morning. There's a small
22 chance we'll go over, but we'll aim for that.

23 PRESIDING JUDGE SMITH: Thank you.

24 [The witness takes the stand]

25 PRESIDING JUDGE SMITH: Good morning, Witness. Thank you for

1 being with us again today.

2 THE WITNESS: [Interpretation] Good morning.

3 PRESIDING JUDGE SMITH: Today we will continue with the
4 questioning of you by the Defence, the cross-examination by the
5 Defence of you. I remind you to please try to answer the questions
6 clearly with short sentences. If you don't understand a question,
7 ask the attorneys to clarify and they will do their best to do so.

8 Also, please remember to try to indicate the basis of your
9 knowledge of the facts and circumstances upon which you will be
10 questioned. I remind you that you are still under the obligation to
11 tell the truth as stated by you in your solemn declaration Friday.

12 Please also remember to speak into the microphone and also to
13 wait five seconds before answering so the translators can catch up
14 prior to your statement.

15 If you feel the need to take breaks at any time, please let us
16 know and we will do our best to accommodate that need.

17 So, Mr. Roberts, you may begin the cross-examination.

18 MR. ROBERTS: Thank you, Your Honour.

19 WITNESS: W04769 [Resumed]

20 [Witness answered through interpreter]

21 Cross-examination by Mr. Roberts:

22 Q. And good morning, Witness. My name is Geoffrey Roberts. I am
23 counsel for Mr. Selimi. You've obviously heard the instructions from
24 the Presiding Judge. I'm trying to keep this cross-examination as
25 efficient as possible, so please do bear in mind the instruction to

1 only answer the question I ask and to do so as clearly as possible.

2 If any of my questions are unclear, please do ask me to rephrase
3 and I'll be happy to do so.

4 PRESIDING JUDGE SMITH: Hold up just a minute. We're having a
5 little technical issue here.

6 MR. ROBERTS: Certainly, Your Honour.

7 [Trial Panel and Court Officer confers]

8 PRESIDING JUDGE SMITH: [Microphone not activated]

9 MR. ROBERTS: Thank you.

10 Q. Is all that clear, Witness, before we start?

11 A. Yes, it is.

12 Q. Thank you.

13 MR. ROBERTS: And if we can go into private session,
14 Your Honour. I think unfortunately, despite my best efforts, the
15 entirety of the cross-examination is going to be in private session.

16 PRESIDING JUDGE SMITH: Please, into private session,
17 Madam Court Officer.

18 [Private session]

19 [Private session text removed]

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13 [Open session]

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

15 PRESIDING JUDGE SMITH: Thank you. We are adjourned until
16 11.30.

17 --- Recess taken at 10.57 a.m.

18 --- On resuming at 11.32 a.m.

19 PRESIDING JUDGE SMITH: Madam Usher, you can bring the witness
20 in.

21 Something to add?

22 MR. KEHOE: [Microphone not activated]

23 MR. ROBERTS: Your Honour, if I could just use one minute. Just
24 the one document we ultimately wanted to tender was the picture,
25 which was ERN DRS00068. I don't know if the Prosecution has any

1 objections on it.

2 PRESIDING JUDGE SMITH: Any objection?

3 MR. HALLING: No objection as long as we use the version marked
4 by the witness.

5 MR. ROBERTS: Sorry, yes. That was intended, yes.

6 PRESIDING JUDGE SMITH: Okay. As marked, ERN DRS00068 is
7 admitted and will be assigned a number.

8 MR. EMMERSON: Your Honour, I still have a list of documents to
9 tender. I don't want to interrupt proceedings, but I'm happy to do
10 it now.

11 PRESIDING JUDGE SMITH: Let's just kind of see --

12 MR. EMMERSON: Exactly.

13 PRESIDING JUDGE SMITH: -- where we are at the end of this
14 session.

15 MR. EMMERSON: Exactly.

16 PRESIDING JUDGE SMITH: Maybe we can put it in then. Thank you.

17 THE COURT OFFICER: Your Honours, for the record, the photograph
18 marked will receive ERN number REG00973. And the exhibit number
19 assigned will be 3D3.

20 [The witness takes the stand]

21 PRESIDING JUDGE SMITH: It's admitted as such. Thank you.

22 Witness, we are ready to continue your cross-examination.

23 Mr. Kehoe still has the floor.

24 Go ahead, Mr. Kehoe.

25 MR. KEHOE: Thank you, Your Honour.

1 Q. And welcome back, Witness. And I'm going to try as best I can
2 not to cover issues that were covered by my colleague Mr. Roberts or
3 my colleague Mr. Emmerson, but if you can just bear with me on one
4 issue.

5 MR. HALLING: Apologies to the counsel. We are currently in
6 open session.

7 MR. KEHOE: I think we should probably --

8 PRESIDING JUDGE SMITH: All right. Private session, please.

9 [Private session]

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Cross-examination by Mr. Kehoe

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Witness: W04769 (Resumed) (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04769 (Resumed) (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04769 (Resumed) (Private Session)

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Witness: W04769 (Resumed) (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04769 (Resumed) (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04769 (Resumed) (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04769 (Resumed) (Private Session)

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Witness: W04769 (Resumed) (Private Session)

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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4 [Open session]

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

6 PRESIDING JUDGE SMITH: Thank you. We're adjourned until 2.30.

7 --- Luncheon recess taken at 1.03 p.m.

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

9 PRESIDING JUDGE SMITH: Mr. Emmerson, you have something?

10 MR. EMMERSON: Just one matter of time. I think Mr. Kehoe has a
11 relatively short time left this afternoon --

12 MR. KEHOE: [Microphone not activated]

13 MR. EMMERSON: I think I'm right in saying Mr. Ellis is
14 approximately half an hour. If you allow me to examine, I would have
15 about ten minutes. Then, of course, we have re-examination and
16 Judges' questions, so it may be that this witness doesn't finish in
17 one session.

18 PRESIDING JUDGE SMITH: [Microphone not activated]

19 MR. EMMERSON: Exactly. And so that raises one other question,
20 which is the witness that didn't complete his evidence last week, who
21 I gather is in the building, and I wondered whether --

22 PRESIDING JUDGE SMITH: He's not in the building.

23 MR. EMMERSON: I'm sorry, wrong information.

24 PRESIDING JUDGE SMITH: He's not in the building, Mr. Emmerson,
25 because we decided it was going to take too long today for everybody

1 else, so we sent him home.

2 MR. EMMERSON: Fine. Fine. No, it's just if there were any
3 clarifications as to what was [Overlapping speakers] ...

4 PRESIDING JUDGE SMITH: I understand. And we have no problem
5 with you having the extra ten minutes for questions.

6 MR. EMMERSON: Thank you very much indeed.

7 PRESIDING JUDGE SMITH: So anything else?

8 All right. Madam Usher --

9 MR. HALLING: Your Honour, the only matter that we wanted to
10 raise is that just before the break the counsel for the Selimi
11 Defence talked about the classification of Exhibit 3D3. Because it
12 has the witness's personal handwriting on it, we would suggest that
13 that be kept with a confidential classification. However, because of
14 the nature of the photograph, it can be mentioned publicly without
15 revealing the identity of the witness.

16 So we would ask for a confidential classification but with that
17 understanding on its use.

18 MR. ROBERTS: Your Honour, if I just very quickly can respond to
19 that, if anyone can identify from that scrawl on the screen the
20 witness's handwriting, they are a much better person than I am. I
21 don't think there is anything that's confidential in that
22 information, but I obviously leave it to Your Honours.

23 PRESIDING JUDGE SMITH: We'll let you know on that.

24 MR. ROBERTS: Thank you.

25 PRESIDING JUDGE SMITH: All right. Madam Usher, you can bring

1 the witness in.

2 [The witness takes the stand]

3 PRESIDING JUDGE SMITH: All right, Madam Court Officer, please
4 take us into private session to protect the witness's identity

5 [Private session]

6 [Private session text removed]

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Witness: W04769 (Resumed) (Private Session)

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Ellis

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Cross-examination by Mr. Ellis

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Further cross-examination by Mr. Emmerson

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Further cross-examination by Mr. Emmerson

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Further cross-examination by Mr. Emmerson

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Re-examination by Mr. Halling

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Witness: W04769 (Resumed) (Private Session)

Page 8976

Questioned by the Trial Panel

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Witness: W04769 (Resumed) (Private Session)

Page 8977

Questioned by the Trial Panel

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Witness: W04769 (Resumed) (Private Session)

Page 8978

Questioned by the Trial Panel

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Witness: W04769 (Resumed) (Private Session)

Page 8979

Questioned by the Trial Panel

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Witness: W04769 (Resumed) (Private Session)

Page 8980

Questioned by the Trial Panel

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Witness: W04769 (Resumed) (Private Session)

Page 8981

Questioned by the Trial Panel

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Witness: W04769 (Resumed) (Private Session)

Page 8982

Questioned by the Trial Panel

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Witness: W04769 (Resumed) (Private Session)

Page 8983

Questioned by the Trial Panel

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Witness: W04769 (Resumed) (Private Session)

Page 8984

Questioned by the Trial Panel

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Witness: W04769 (Resumed) (Private Session)

Page 8985

Questioned by the Trial Panel

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6 [Open session]

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

8 PRESIDING JUDGE SMITH: We are adjourned until 10.00 tomorrow.

9 --- Whereupon the hearing adjourned at 4.05 p.m.

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