

1 Monday, 27 January 2025

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 9.06 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: Thank you.

11 Good morning, everyone. I note that the accused are all present
12 in the courtroom today.

13 Just to start off, we have taken notice of the Defence e-mails
14 on the preparation notes that were filed this weekend on the second
15 witness. The Defence is now in possession of the information in
16 question. We will hear submissions on this once we are finished with
17 this witness today, or hopefully today, and then we'll take up any
18 objections that you have, and you'll have an opportunity to look over
19 the documents carefully.

20 Before we bring in the witness, the Panel would like to put on
21 the record that, through an e-mail of 24 January 2025, it granted the
22 SPO permission to replace the underlying document of ERN 102430 to
23 102442-AT used with Witness W04874 and marked for identification as
24 P01990 with the correct Albanian translation.

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

1 [Private session]

2 [Private session text removed]

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23 [Open session]

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

25 THE WITNESS: Thank you.

Witness: Marek Gasior (Open Session)
Procedural Matters

Page 24504

1 PRESIDING JUDGE SMITH: Witness, today we will start your
2 testimony, which is expected to last approximately just today. As
3 you may know, the Prosecution will ask you questions first, and then
4 the Defence has the right to ask questions of you. And members of
5 the Panel might also have questions for you.

6 The Prosecution estimate for your examination is two hours. The
7 Defence estimates that it will need an hour and 20 minutes for
8 cross-examination. As regards each estimate, we hope that counsel
9 will be judicious in the use of their time. The Panel may allow
10 redirect examination if conditions for it are met.

11 Witness, please try to answer the questions clearly, with short
12 sentences. If you don't understand a question, feel free to ask
13 counsel to repeat the question or tell them you don't understand and
14 they will clarify. Also, please try to indicate the basis of your
15 knowledge of facts and circumstances that you will be asked about.

16 In the event you are asked by the SPO to attest to some
17 corrections made regarding your statements, you are reminded to
18 confirm on the record that the written statement, as corrected by the
19 list of corrections, accurately reflects your declaration.

20 Please also speak into the microphone and wait five seconds
21 before answering a question and then speak at a slow pace for the
22 interpreters to catch up.

23 During the next days while you are giving evidence in this
24 Court, you are not allowed to discuss with anyone the content of your
25 testimony outside of the courtroom. If any person asks you questions

Witness: Marek Gasior (Open Session)

Page 24505

Examination by Ms. Wyler

1 outside this Court about your testimony, please let us know.

2 Please stop talking if I ask you to do so and also stop talking
3 if you see me raise my hand. These indications mean that I need to
4 give you an instruction.

5 If you feel the need to take breaks, please make an indication
6 and we will accommodate you.

7 We begin, Witness, with the questions from the Prosecution.
8 They are seated to your left. Please give them your attention.

9 Madam Prosecutor.

10 MS. WYLER: Thank you, Your Honour.

11 Examination by Ms. Wyler:

12 Q. Good morning, Witness. We have met before. My name is Eva
13 Wyler, I'm an Associate Prosecutor with the SPO, and I'm going to ask
14 you some questions for the next two hours or so.

15 If you could please state your name.

16 A. My surname is Gasior, my Christian name is Marek.

17 Q. And what is your date of birth?

18 A. I was born on 20 June 1946.

19 Q. Thank you.

20 MS. WYLER: I'd like to call up item with ERN 103409 to 103410.
21 This and the remainder of the items I'm going to call up today are
22 not for public broadcasting.

23 Q. Witness, is this your CV?

24 A. Yes, this is my CV.

25 Q. And are its contents accurate to the best of your knowledge?

Witness: Marek Gasior (Open Session)

Page 24506

Examination by Ms. Wyler

1 A. Yes, the content of my CV is true.

2 Q. And is there something you would like to add to it?

3 A. Can I have a look at the final part of my CV?

4 MS. WYLER: If we could please go to the next page.

5 THE WITNESS: [Interpretation] Everything in the CV is true.

6 MS. WYLER: Thank you.

7 Your Honours, we seek admission of this CV. And as with the
8 other two expert witnesses, and in line with your ruling in F02787,
9 we propose that it be MFI'd for the time being, and that we deal with
10 the admission of all evidence from this witness at the end of his
11 testimony.

12 PRESIDING JUDGE SMITH: Do you wish to make any statement at
13 this time, Defence? Otherwise, I'll just mark it.

14 MS. ROWAN: No, thank you. It can be marked MFI.

15 PRESIDING JUDGE SMITH: All right. Granted.

16 And give it an MFI number, please.

17 THE COURT OFFICER: Thank you, Your Honour. The CV will receive
18 MFI P02001. Classification is confidential.

19 PRESIDING JUDGE SMITH: Thank you.

20 MS. WYLER: If I please next could have ERN 103427 to 103470.

21 Q. Witness, on the right side of your screen you now see a page
22 with your name on it and a reference to 7 October 2021. Did you
23 prepare this report?

24 A. Yes, this is my signature.

25 Q. And is this the report you prepared?

Witness: Marek Gasior (Open Session)

Page 24507

Examination by Ms. Wyler

1 A. Yes, I have written this report.

2 Q. And did you prepare this report following a letter of
3 instruction from the SPO?

4 A. Yes. This report, I have written it according to the letter I
5 received from SPO.

6 MS. WYLER: I'd like to call up on the left side of the screen
7 item with ERN 102443 to 102471.

8 Q. On the left side of your screen, you now see the letter of
9 instruction addressed to you dated 30 July 2021. Is this the letter
10 of instruction on the basis of which you prepared the report on the
11 screen on the right side?

12 A. Yes, this letter was the basis for compiling this report.

13 Q. And do you recall being provided with a number of documents
14 along with this letter of instruction?

15 A. I have received these documents, although I don't remember
16 exactly these documents.

17 Q. And is it correct that this letter of instruction contains
18 specific questions about the number of these documents provided to
19 you?

20 A. Yes, this letter contained concrete questions.

21 Q. And do you recall reviewing these documents you were asked about
22 in the letter of instruction and making specific references to such
23 documents in this expert report?

24 A. That letter referred to concrete autopsies that I performed.

25 Q. And with regard to the specific questions on these, *inter alia*,

Witness: Marek Gasior (Open Session)

Page 24508

Examination by Ms. Wyler

1 autopsy reports, did you then make specific references as such also
2 in your expert report?

3 A. I referred to concrete questions which were referring to
4 concrete autopsies.

5 Q. And does this expert report contain your independent opinion
6 concerning the matters addressed therein?

7 A. Yes, it is my opinion and it was my opinion only.

8 Q. And do you remember that you received the opportunity to provide
9 any -- to have reviewed the item and to provide clarifications and
10 corrections in relation to this expert report?

11 A. Yes, it was possible. I had that possibility.

12 Q. And do you recall saying that you do not have any corrections or
13 clarifications on this report of yours?

14 A. I don't remember all the details. Would you show me a concrete
15 report, please?

16 Q. I am referring to our preparation session last week when you
17 were asked and given the opportunity to provide clarifications and
18 corrections on the report. And my question is do you recall that you
19 were saying that no clarifications or corrections to the report were
20 necessary?

21 A. If I remember, small corrections were introduced. I don't quite
22 understand.

23 Q. I don't refer to specific or individual autopsy reports. I
24 refer to the report in this case, which you can see on the right-hand
25 side on your screen. Is it right that you did not have any

Witness: Marek Gasior (Open Session)

Page 24509

Examination by Ms. Wyler

1 corrections and clarifications on this report?

2 A. The report was compiled, I signed that report, which means that
3 it has been done as it has been done.

4 Q. Right. And then you remember we met last week and I asked you,
5 in regard to this report that you can see on the right-hand side of
6 your screen that you compiled for this case, whether you have any
7 corrections or clarifications and you said that none were necessary;
8 is this right?

9 A. But which report you're referring to? Can you show me that
10 report or ...?

11 Q. Absolutely. It's the one on the right-hand side.

12 MS. WYLER: And maybe if the Court Officer could scroll down a
13 bit so you can see the document.

14 Q. Do you now know which report I'm referring to? This is the
15 general report you performed for this case. Witness, you do not have
16 to read the details. I just want you to recognise the report in
17 general. Do you know which report I'm referring to?

18 A. Yes, I do recognise it generally. Thank you.

19 Q. Excellent. So now again my question: Do you recall that when
20 you were asked about clarifications or corrections to this report,
21 that you did not have any; is that correct?

22 A. Yes, that is correct. In this report, there was given a reason
23 why the patient was dead.

24 Q. Is the information in this report that you can see on the
25 right-hand side --

Witness: Marek Gasior (Open Session)

Page 24510

Examination by Ms. Wyler

1 MS. WYLER: And if we, please, can go up to the first page
2 again.

3 Q. Is the information provided in this expert report accurate and
4 truthful to the best of your knowledge?

5 A. The information in this report is in concordance with the
6 autopsy.

7 Q. Witness, this report in general, the one where you can see now
8 the first page, the report you performed for this case, is this a
9 report that is compiled to the best -- truthful and to the best of
10 your knowledge?

11 A. This report, the autopsy was conducted according to the best of
12 my knowledge of the reasons of death of this patient.

13 Q. And does the expert report accurately reflect what you would say
14 if you were examined about the items addressed therein today?

15 A. This report reflects the injuries that were identified on the
16 cadaver, and in this report there is given a reason for death.

17 Q. Thank you.

18 MS. WYLER: Your Honours, we seek admission of the letter of
19 instruction, which has ERN 102443 to 102471, and the expert report,
20 which has ERN 103427 to 103470. And since the Panel will rule on its
21 admissibility later, for now we ask for an MFI for each of them.

22 PRESIDING JUDGE SMITH: 102443 to 102471, which is the letter of
23 instruction, will be given an MFI number.

24 THE COURT OFFICER: That will receive MFI number P02002. The
25 classification is confidential.

Witness: Marek Gasior (Open Session)

Page 24511

Examination by Ms. Wyler

1 PRESIDING JUDGE SMITH: ERN 103427 to 103470, which is the
2 report of 7 October 2021, will be given an MFI number.

3 THE COURT OFFICER: That report will receive MFI P02003.
4 Classification is confidential. Thank you.

5 MS. ROWAN: Your Honour, we would just raise briefly, in
6 relation to this, that all of the witness's answers in response to my
7 learned friend were in the singular. And when confirming his
8 recognition of the document, he repeatedly confirmed that this
9 document confirmed findings in the autopsy and in relation to the
10 cadaver. The report itself is actually clearly much more broader
11 than that, and I wonder whether or not there has been confusion as to
12 what we're looking at, and I note that for the record.

13 MR. TULLY: Your Honour, just one thing, just as a matter of
14 procedure for the accuracy of the record. On page 23, the answer
15 given at line 7 doesn't really follow the question that was asked by
16 the Prosecutor. Thank you.

17 MS. WYLER: Your Honours, I'm happy to ask the witness again
18 whether the report that he compiled for the SPO addressing multiple
19 victims and multiple reports, whether in general --

20 PRESIDING JUDGE SMITH: Just ask the question.

21 MS. WYLER:

22 Q. Witness, the expert report that you compiled based on the letter
23 of instruction from the SPO that addressed multiple autopsy reports,
24 multiple death certificates, and multiple victims, is this a report
25 that you compiled to the best of your knowledge and truthful?

Witness: Marek Gasior (Open Session)

Page 24512

Examination by Ms. Wyler

1 A. Yes, this report I prepared with my knowledge based on the
2 autopsies and the conclusions from therein.

3 Q. Thank you.

4 PRESIDING JUDGE SMITH: Go ahead.

5 MS. WYLER: The SPO also tenders the source material related to
6 this expert report into evidence. The relevant ERNs of the source
7 material are set out in Annex 1 to this witness's preparation note,
8 which is ERN 124921 to 124937. And as we did with the other expert
9 witnesses, we understand that the Panel will rule on the
10 admissibility later. Given the volume of this source material, we
11 don't think it is necessary to assign MFIs at this stage.

12 If we please can take down the letter of instructions on the
13 screen but keep the report. Thank you. And in the report, I would
14 like to go to page 103439, the lower half of the page. Thank you.

15 And on the other side of the screen, if I please could have ERN
16 124921 to 124937, the last page for the witness to mark, please.

17 Could you please check whether that is, in the expert report,
18 the page ending in 39?

19 THE COURT OFFICER: It is page 103439.

20 MS. WYLER: One second. Yes, excellent. Thank you.

21 Q. Witness, I will first read a part of your expert report to you I
22 have a question on and then ask you the question. You write on this
23 page, and I read from it:

24 "As from autopsy report," you refer to an ERN, "during autopsy
25 found:

Witness: Marek Gasior (Open Session)

Page 24513

Examination by Ms. Wyler

1 "injury to processus transverses of 3 (third) lumbar vertebrae -
2 it is cracking line (probably perimortem).

3 "antemortem injury to left wing of sacrum.

4 "Third lumbar vertebrae shows injuries - consistent with
5 perimortem injury/cracking line on third vertebrae indicated that
6 such cracking line are generated/produced by object bearing high
7 energy (bullet passing nearby).

8 "Injury to 3 (third) lumbar vertebrae indicated perimortem
9 injury in important region of body - explaining/cause of death."

10 With the help of your illustration to your left --

11 MS. WYLER: And if the witness could please be enabled to mark
12 it.

13 Q. -- can you please explain why you considered this injury to the
14 third lumbar vertebra to be the cause of death?

15 PRESIDING JUDGE SMITH: That was a question, Witness.

16 THE WITNESS: [Interpretation] On the left side of the screen,
17 we've got the anatomical model of a human body on which there is
18 visible a skeletal and vascular system. The L3 vertebrae -- this
19 part of the spine has five vertebrae. The first one is closest to
20 the chest, 1st, 2nd, 3rd is in this place. And on that height within
21 the cavity of abdomen, there is an artery, abdominal artery, the red
22 one here, in red, and a vein, the blue one. And the bullet or an
23 object of a high kinetic energy going through the lumbar region of a
24 body is carrying a shockwave which destroys the internal organs. A
25 bullet at the level of the 3rd lumbar vertebrae with a high energy

Witness: Marek Gasior (Open Session)

Page 24514

Examination by Ms. Wyler

1 causes damage of the aorta in the cavity or a vein and causes
2 bleeding in the abdominal cavity.

3 Q. Thank you, Witness. If I understood correctly, you marked
4 something. I don't see any marking.

5 MS. WYLER: And also the transcript froze. I cannot see what
6 exactly he said.

7 PRESIDING JUDGE SMITH: First, we need to get the transcript
8 working. [Microphone not activated].

9 MS. WYLER: Your Honours, I don't see the answer captured in the
10 transcript. Should I re-ask the question?

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MS. WYLER: All right. I see it now. We don't have the
13 marking, though.

14 Q. Witness, may I kindly ask you to do a marking again on the
15 illustration you see on the left-hand side of your screen.

16 A. The 3rd vertebrae, lumbar vertebrae, more or less at this
17 height. But in red, this is what I'm marking now, is the abdominal
18 part of aorta. And next to it, in blue, there is a vein.

19 A bullet with a high energy going through the abdomen causes
20 damage to the organs in the abdominal cavity. And in this case, the
21 bullet was going very close to the 3rd lumbar vertebrae, next to the
22 abdominal part of the aorta. And such a bullet with a shockwave
23 causes damage of the abdominal part of the aorta and bleeding out of
24 the patient.

25 Q. Thank you, Witness. This is very clear.

Witness: Marek Gasior (Open Session)

Page 24515

Examination by Ms. Wyler

1 MS. WYLER: Since we have blue colour for the veins in this
2 diagram already, could we please change the colour for the markings.
3 And maybe while we're doing that, could we also zoom in to the region
4 so the witness has a better view to do his markings. Thank you.

5 THE COURT OFFICER: Does this portion need to be saved now?
6 Because if we zoom in, the markings will disappear. So --

7 MS. WYLER: No, I think we can do a new marking. Thank you.

8 THE COURT OFFICER: Thank you.

9 MS. WYLER: You can zoom in more. That looks good. Thank you.

10 Q. Witness, can you make an arrow to the 3rd lumbar vertebrae?

11 A. 5, 4, 3. 5, 4, 3.

12 Q. All right. And could you add the tip of the arrow?

13 A. [Marks]

14 Q. Thank you. And then you had some additional markings, I think,
15 on the blood vessels before you wanted to make.

16 A. Here it is in red. And this is when it goes left and right --

17 Q. Thank you very much.

18 A. -- splits in two.

19 MS. WYLER: If this please could be saved as marked version of
20 page 124937.

21 Q. Witness, while we are saving the screenshot. You referred to an
22 L3 vertebra. Is it correct that this is the 3rd lumbar vertebra?

23 A. The 3rd lumbar vertebrae. The lumbar vertebrae are counted from
24 top, from the last one, from the last one in the chest.

25 Q. Yes. And when you referred to L3 vertebra, that was exactly the

Witness: Marek Gasior (Open Session)

Page 24516

Examination by Ms. Wyler

1 third one; is that correct?

2 A. The 3rd lumbar vertebrae.

3 Q. Thank you.

4 PRESIDING JUDGE SMITH: If we're going to preserve this
5 particular document, we need to have an MFI number for it.

6 MS. WYLER: Yes, please.

7 PRESIDING JUDGE SMITH: Perhaps .1 of 2003. Would that work?

8 MS. WYLER: Yes, please. We would like to, in due course,
9 tender this screenshot, so it would be great if we could get an MFI
10 number.

11 PRESIDING JUDGE SMITH: I'm suggesting we use 2003.1 for that
12 document. All right. That will be the MFI number for the screenshot
13 of the skeletal vascular diagram.

14 THE COURT OFFICER: Thank you, Your Honour. If I may just add
15 that it will be registered in the system with the Registry number
16 REG01201, this particular screenshot. Thank you.

17 MS. WYLER: I'm mindful of the time, Your Honours, and we are
18 almost ten minutes past 10.00.

19 PRESIDING JUDGE SMITH: Yeah, we'll give a ten-minute break,
20 Witness. You may go with the Court Usher.

21 THE WITNESS: [Microphone not activated].

22 [The witness stands down]

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 We're adjourned for ten minutes.

25 --- Break taken at 10.10 a.m.

1 --- On resuming at 10.22 a.m.

2 PRESIDING JUDGE SMITH: Bring the witness in.

3 MS. ROWAN: Your Honour, if I may briefly raise one matter
4 before we bring the witness in.

5 PRESIDING JUDGE SMITH: Hold on.

6 MS. ROWAN: Your Honour, I'm grateful. It's simply briefly in
7 response to a submission made by the SPO in relation to timing and
8 time estimates for this witness. We are, of course, aware that there
9 has been a significant shift in the Defence time estimates for this
10 witness, but we would like to put on record what has taken place.

11 When this witness was initially notified, the Prosecution
12 listed, as proposed for use documents, 197 documents proposed for
13 use. In addition to the documents proposed for use, the underlying
14 material constituted 75 documents, so we were dealing with an
15 evidential base of over 200 documents, most of which we objected to
16 in the 154 response.

17 The Prosecution replied to that, bedding into their position
18 that all of these documents were to be used with this witness,
19 reaffirming that stance. We received a prep note on Friday night
20 after close of business, at 6.13 p.m., with a list of 65 documents,
21 which was a fundamental shift in the Prosecution's approach to this
22 document and the nature and scope of what they sought to do with this
23 witness.

24 The reason we had had longer time estimates was because, for all
25 intents and purposes, we had been labouring under a false assumption

1 that the 154 response was that which was going to be taken with this
2 witness. Inevitably, the SPO would have known in advance of Friday
3 night that they were no longer seeking to do that with this witness
4 and had not sought to do that during his prep sessions. However, no
5 efforts were made to contact the Defence to notify us of a
6 significant change in their position. Had the Prosecution done so,
7 we would, of course, gladly, and it, of course, would have impacted
8 significantly on our preparation, have informed the Panel that we
9 would need far less time with this witness. We could not have
10 informed the Panel earlier than the weekend because the 250-plus
11 documents only became 65 on Friday night.

12 And we wish to put that on the record.

13 PRESIDING JUDGE SMITH: Thank you.

14 MS. ROWAN: Thank you.

15 MR. PACE: Your Honour, if I may since I made those submissions.
16 When you look at the record, you'll see that that's a
17 mischaracterisation of the record. I note, for example, that the
18 Veseli Defence itself went down from five hours to three hours on
19 8 January 2025. That certainly wasn't because of any shift in
20 perspective.

21 Also, if the Defence had not understood before, had they sought
22 clarity we certainly would have provided it earlier.

23 PRESIDING JUDGE SMITH: Thank you. Please bring the witness in.

24 [Trial Panel and Court Officer confers]

25 PRESIDING JUDGE SMITH: Yes. We need to correct the exhibit

Witness: Marek Gasior (Open Session)

Page 24519

Examination by Ms. Wyler

1 number given the diagram that was issued because it came from a
2 different source than I thought it did. So it will have a separate
3 MFI number instead of the .1 that I mentioned earlier.

4 THE COURT OFFICER: Thank you, Your Honour. So we will correct
5 the exhibit number for the screenshot that was saved previously and
6 marked by witness. It will now receive MFI P02004 instead of
7 P02003.1. Thank you.

8 PRESIDING JUDGE SMITH: Thank you.

9 [The witness takes the stand]

10 PRESIDING JUDGE SMITH: All right. Madam Prosecutor, you may
11 continue.

12 MS. WYLER: Thank you, Your Honour.

13 Q. Welcome back, Witness. We now move on to two other victims.

14 MS. WYLER: And if we could please have on the screen in the
15 report page ending in 34, the top of the page. Yes. And if for the
16 first victim I could also please have on the screen the document with
17 ERN SPOE00072278. It's a one-page document.

18 Q. Witness, I am again going to read excerpts from your report and
19 show you some pictures before I ask my question.

20 In your expert report, you provided the following description
21 for this picture. It's the first bullet point, and it says ERN:

22 "... anterior aspect of third cervical vertebrae. Sharp
23 incisions oriented transversely. Incision on corpus vertebrae up to
24 a few millimetres deep."

25 MS. WYLER: And if for the second victim we could please go to

Witness: Marek Gasior (Open Session)

Page 24520

Examination by Ms. Wyler

1 page ending in 37 of the report, and on the other side of the screen
2 please have ERN SPOE00072262, again a one-page document.

3 Q. Again in your report, Witness, you provide the following
4 description for this photograph. I'm again reading from the first
5 bullet point:

6 "... on anterior aspect of cervical vertebrae number 3 (three)
7 sharp incisions oriented transversely. Incisions on corpus vertebrae
8 up to a few millimetres deep."

9 Witness, do you agree that based on the description both these
10 victims sustained very similar injuries to their 3rd cervical
11 vertebrae?

12 MS. ROWAN: Leading, Your Honour.

13 PRESIDING JUDGE SMITH: That was a leading question.

14 MS. WYLER:

15 Q. Would you agree, Witness, that the two photographs show very
16 similar incisions?

17 MS. ROWAN: Leading, Your Honour.

18 PRESIDING JUDGE SMITH: You're going to have to ask him what it
19 shows instead of telling him what it shows.

20 MS. WYLER: Thank you. Can I have again, instead of the report,
21 the picture shown in SPOE00072278. Instead of the report, both
22 photographs, please.

23 Q. Witness, can you please tell us what these two photographs show?

24 A. Those images show a cervical vertebrae. And in the anterior
25 part, there is a trauma by a sharp object, and this is the anterior

Witness: Marek Gasior (Open Session)

Page 24521

Examination by Ms. Wyler

1 part of the -- of the frontal part of the vertebrae.

2 Q. Thank you, Witness. And this is true for both of the pictures
3 we see; is that correct?

4 A. Yes, indeed. It's about both autopsies, both patients.

5 Q. Thank you.

6 MS. WYLER: If we could please go back to the report, take down
7 the pictures, go back to the report, which is now MFI 02003, and go
8 back to the page ending in 37. And on the other side of the screen,
9 I'd like to call up illustration again we have in Annex 2 of the
10 preparation note, which is ERN 124921 to 124937, it's the last page.
11 Again for the witness to mark.

12 Q. Maybe with the help of the illustration, Witness, could you help
13 by explaining where the 3rd cervical vertebra is? Can you show us
14 where the 3rd cervical vertebra is?

15 A. So we have seven vertebrae. The third one, the 3rd cervical
16 vertebrae, number 3, is something that you cannot see, not on this
17 image. It's somewhere at this height.

18 Q. Thank you.

19 A. More or less.

20 Q. Thank you. And on which side is the corpus vertebrae you
21 referred to, towards the front, towards the throat, or towards the
22 back?

23 A. The trauma on those vertebrae is located on the anterior side of
24 it.

25 Q. From your report, it says that it is on the corpus vertebra.

Witness: Marek Gasior (Open Session)

Page 24522

Examination by Ms. Wyler

1 Could you tell us is the corpus vertebra to the front or to the back?

2 A. Well, the corpus is in the front of the spine.

3 Q. And to the front means towards the throat; right?

4 A. Yes, that's the way to put it. May I show you the location you
5 are asking about, Your Honour, on the model that I have with me?

6 MS. WYLER: If it helps Your Honours. We don't think it's
7 necessary.

8 PRESIDING JUDGE SMITH: Pardon me?

9 MS. WYLER: We don't think it's necessary.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MS. WYLER: Thank you.

12 Q. Such an injury as described in your report, would that damage
13 any organs?

14 A. Well, for a sharp tool to have an incision of the cervical
15 vertebrae number 3, it had to go through soft tissues and also organs
16 like pharynx, for example, oesophagus, and also we have left and
17 right neck veins. You have it in red. And also we have blue veins.
18 So this tool, this sharp tool, before the incision on the vertebrae
19 had to cut those soft tissues and the parts, the veins at this
20 height.

21 Q. Maybe just for clarity, with the pen you have could you please
22 indicate which blood vessels would be cut?

23 A. This is the artery, right, then left, so this is cervical
24 arteries. And also in blue we have veins.

25 Q. Witness, since we have now three markings on this illustration,

Witness: Marek Gasior (Open Session)

Page 24523

Examination by Ms. Wyler

1 could you maybe add a description to your markings in writing with
2 the pen on the illustration?

3 PRESIDING JUDGE SMITH: Madam Prosecutor, that's going to be not
4 very clear. He's going to have to use a line out to it and then
5 write something. You're going to have to be more clear with how you
6 want him to do it.

7 MS. WYLER: I'll do so.

8 Q. So if we start with the 3rd cervical vertebra you marked, you
9 marked it with a line that goes out from the spine. Could you
10 please, at the end of this line, add "3rd cervical vertebrae" in
11 writing? Did you understand what I asked?

12 A. Are you asking maybe, Your Honour, about this incision at the
13 level of the 3rd cervical vertebrae?

14 Q. I am referring to that one, but I first would like to finish
15 your markings on the illustration. So where you have that line going
16 towards the 3rd cervical vertebrae, could you just add a number 1 to
17 that line?

18 A. [Marks]

19 Q. And can you confirm that the two lines going downwards are your
20 markings on the arteries and the veins; is that correct?

21 A. So what we have in green, we have arteries and veins that
22 provide blood for the head.

23 Q. And these are the two lines that go from the head down towards
24 the torso; is that correct?

25 A. Those two vertical lines that are in green show arteries that

Witness: Marek Gasior (Open Session)

Page 24524

Examination by Ms. Wyler

1 bring blood from the heart to the head. And in blue, you have veins.

2 Q. Thank you. Based on the information available to you, Witness,
3 could you describe what could cause such an injury?

4 A. Well, these injuries were caused with a tool, with a sharp tool.
5 From the information that we have received, the archaeologist at that
6 location where the patients were discovered, a scythe was found at
7 that site.

8 Q. And would injuries caused by a scythe be consistent with the
9 injuries we see here?

10 A. The injuries, injuries which could be caused with a -- inflicted
11 with a scythe, were found during the autopsy.

12 Q. And based on the information available to you, Witness, could an
13 injury of this nature be inflicted by one person in your experience?

14 A. Probably. In order for a scythe to cut the 3rd cervical
15 vertebra, the head had to be tilted back. So most likely more than
16 one person had to perform such action.

17 Q. Thank you, Witness.

18 MS. WYLER: If we could please save the markings on this screen,
19 and if it could receive an MFI number, please.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 THE COURT OFFICER: Thank you, Your Honour. Markings made by
22 the witness will receive MFI P02005. They will be registered in
23 Legal Workflow under the Registry number REG01202. Classification is
24 confidential. Thank you.

25 MS. WYLER: Thank you.

Witness: Marek Gasior (Open Session)

Page 24525

Examination by Ms. Wyler

1 Q. Witness, I move on to another matter.

2 MS. WYLER: And I would ask the Court Officer to take both
3 documents down.

4 Q. Witness, do you know Maria Francmann?

5 A. [In English] Could you repeat once again?

6 Q. Do you know Maria Francmann?

7 A. [Interpretation] Professor Maria Francmann from Denmark.

8 Q. The person you remember, how do you know her?

9 A. She is a professor of forensics who, over a period of time, was
10 working in Kosovo and was performing autopsies there.

11 Q. Did you ever attend autopsies she conducted?

12 A. At the time when I was working for the Centre for International
13 Forensic Assistance, usually I was present during all the autopsies.
14 Of course, it could happen that I wasn't present at one or another
15 autopsy, but I was present during most autopsies which were
16 performed. I worked for the organisation over three months, and
17 other doctors, other pathologists were coming there for a shorter
18 period of time. What was the period of work of Maria Francmann
19 there, I don't know. I remember she worked over a certain period of
20 time.

21 Q. It might be a translation matter, but I think you referred to
22 just in general autopsies and autopsies performed. Did you refer to
23 autopsies performed by Maria Francmann or in general?

24 A. I was talking generally about all autopsies.

25 MS. WYLER: If I could please have on the screen document with

Witness: Marek Gasior (Open Session)

Page 24526

Examination by Ms. Wyler

1 ERN SITF00175086 to SITF00175147 at the page ending in 96. We can
2 actually zoom in on the upper half of the page again, please.

3 Q. On the top of this autopsy report, Witness, we can see a date,
4 which is 14 May 2002. And the initials right to the word
5 pathologist, which are MBF.

6 MS. WYLER: If we now could go to the page ending in 104. At
7 the end of the page. Thank you.

8 Q. That's the last page of this autopsy report. And it again has a
9 name on it, which is Maria B Francmann, and the date of 14 May 2002.
10 Do you agree with me that this is a report on an autopsy conducted by
11 Ms. Francmann?

12 A. Yes, I do agree with this statement.

13 Q. Now, let's have a closer look at the autopsy report first before
14 we come back to your involvement in the autopsy.

15 MS. WYLER: If I could please have the page ending in 99 on the
16 screen. And we go to the bottom half. Right.

17 Q. So here under the heading "Main injuries described," and then
18 "Head and neck," it reads:

19 "Skull: There was a disruption of the left zygomaticotemporal
20 suture with reddish discolour of the soft tissue and the bone."

21 Where at the head or the neck is the zygomaticotemporal suture?

22 A. This is -- generally it is between the nose, nose and the eye
23 and the mouth. It may reach -- let's say it may reach the left ear
24 as well. So we are talking about this part of the face.

25 Q. And what does a disruption of the suture mean?

Witness: Marek Gasior (Open Session)

Page 24527

Examination by Ms. Wyler

1 A. Meaning that the joint has been fractured or broken.

2 Q. And what could be the cause of such an injury?

3 A. Well, such injuries are usually caused by a blunt object, a hard
4 blunt object with a certain force applied.

5 Q. It reads about the reddish discolour of the soft tissue. What
6 indicates such a reddish discolour of the soft tissue in the bone?

7 A. In the first sentence of the autopsy, Maria wrote "well
8 preserved" body, which means that the patient, the body, were quite
9 well preserved. The presence of such change of colour was most
10 likely caused by a bleeding from -- a vascular bleeding in that area
11 of the body.

12 MS. WYLER: If we next could go, please, to the page ending in
13 100. Thank you.

14 Q. Under the subheading "Trunk," it reads:

15 "Ribs:

16 "Right side: Rib no. 6 and 7 were fractured at the anterior
17 side. There was reddish discolouration [at] the ribs and of the soft
18 tissue. There was reddish fluid in the right thoracic cavity.

19 "Left side: Rib no. 5-9 were fractured at the anterior side.
20 Rib no. 8-10 were fractured at the lateral side and at no. 9 there
21 were two lateral fractures. There was reddish discolouration of the
22 bones and of the soft tissue."

23 Besides the reddish discolouration of the bones and of the soft
24 tissue, we read about a reddish fluid in the right thoracic cavity in
25 this paragraph. Can you say from this description what kind of body

Witness: Marek Gasior (Open Session)

Page 24528

Examination by Ms. Wyler

1 fluid this was?

2 A. Well, probably we are -- what is described here are broken ribs:
3 6 and 7 on the right side; on the left side, ribs 5 and 9 -- 5 to 9,
4 and 8 to 10. It means fractures of ribs on both sides. In the
5 pressure between the ribs, there is an artery and a vein. Arterial
6 vertebralis and vena vertebralis. Broken ribs which damage soft
7 tissue mean that these veins and arteries burst and they begin
8 bleeding into the thoracic cavity. With significant injuries, broken
9 ribs also cause damage to lungs, to the lung tissue. And these are
10 the two sources of bleeding which we observe in case of patient who
11 have many broken ribs, also with puncture of the lungs.

12 Q. Based on the information you have in this autopsy report, if the
13 person receiving such injuries did not receive medical treatment,
14 would he or she survive?

15 A. It's a very good question. With such significant injuries, it
16 is not likely that even with proper medical assistance at a proper
17 time, that that person could survive. This is very unlikely.

18 THE INTERPRETER: A request from the interpreters for the
19 witness to speak closer to the mic.

20 MS. WYLER:

21 Q. Witness, do you remember testifying as an expert witness in a
22 hearing before Judge Agnieszka Klonowiecka-Milart in October 2002?

23 A. In 2002, when I was working in Kosovo, in that case I provided
24 additional statement in front of an international judge.

25 Q. And do you remember that specific hearing before Judge Agnieszka

Witness: Marek Gasior (Open Session)

Page 24529

Examination by Ms. Wyler

1 Klonowiecka-Milart?

2 A. No, I don't remember it.

3 MS. WYLER: Then if I could please call up the document with
4 ERN SPOE00123936 to 00123940 RED.

5 MS. ROWAN: Your Honour, perhaps if we could have some clarity
6 as to whether or not this document is sought to be used as a
7 memory-refreshing tool as the use to which it's being put will have
8 implications later for admissibility.

9 MS. WYLER: I am going to read just a short paragraph to the
10 witness to clarify his involvement into the autopsy report.

11 PRESIDING JUDGE SMITH: Thank you. Go ahead.

12 MS. WYLER: If we could please go to the page ending in 37.
13 Thank you. And then to the middle paragraph.

14 Q. I'm going to read a part of this paragraph that starts with: "No
15 fracture on the scalp."

16 "No fracture on the scalp," you said, Witness, "Let me show on
17 my face where it is located the zygomaticotemporal suture. (witness
18 pointing to his upper part of the cheekbone and the triangle between
19 the ear and the eye) it is most likely that those injury was caused
20 by blunt trauma. The next injury were located in chest on the right
21 and left side of the chest. On the right side of the chest there
22 were broken rib no. 6 and 7 at the anterior side with the reddish
23 discolouration of the soft tissue surrounding it. During autopsy we
24 also found reddish fluid in the right thoracic cavity. We can
25 conclude that most probably, it was internal bleeding to right

Witness: Marek Gasior (Open Session)

Page 24530

Examination by Ms. Wyler

1 thoracic cavity. There was also injury on the left side in the rib
2 no. 5-9 located at the anterior side of the chest and ribs no. 8, 9,
3 10 on the left lateral side and rib no. 9 on the back lateral side.
4 Rib no. 9 was broken 3 times, rib no. 8 was broken twice and there
5 was on the left side of the chest cavity also reddish discolouration
6 of the bones and the soft tissue. We can conclude that most likely
7 it was a blunt trauma to the face and multiple blunt force trauma to
8 the chest."

9 Witness, looking at the injuries described in this paragraph and
10 the autopsy report just discussed, would you agree that they describe
11 the same victim?

12 A. These injuries describe the same victim, the same patient.

13 Q. And that accordingly in this hearing in October 2002, you
14 testified as expert witness on the autopsy report just discussed
15 dated May 2002?

16 A. Yes, I did testify on this matter.

17 Q. And when we focus on the sentences "During autopsy we also
18 found" and "We can conclude," and so on, is my understanding correct
19 that when you testified in this hearing you were referring to an
20 autopsy you, in fact, participated in?

21 MS. ROWAN: Leading.

22 PRESIDING JUDGE SMITH: Overruled.

23 Go ahead, answer.

24 THE WITNESS: [Interpretation] Probably I was present during that
25 autopsy, but I cannot remember this. It happened 23 years ago.

Witness: Marek Gasior (Open Session)

Page 24531

Examination by Ms. Wyler

1 MS. WYLER:

2 Q. Thank you.

3 MS. WYLER: I'm mindful of the time, Your Honours. It's 11.00.

4 PRESIDING JUDGE SMITH: Yes.

5 Witness, we take a half-hour break at this time. You may leave
6 the courtroom with the usher.

7 [The witness stands down]

8 PRESIDING JUDGE SMITH: We're adjourned until 11.30.

9 --- Recess taken at 11.02 a.m.

10 --- On resuming at 11.34 a.m.

11 PRESIDING JUDGE SMITH: Please bring the witness in.

12 [The witness takes the stand]

13 PRESIDING JUDGE SMITH: We continue, Witness, with the questions
14 from the Prosecution.

15 Madam Prosecutor, you have the floor.

16 MS. WYLER: Thank you, Your Honour.

17 Q. I move on to another topic, Witness.

18 MS. WYLER: If I could please have on the screen the document
19 with ERN 031049 to 031095 at the page ending in 52. Thank you.

20 Q. Witness, is this your signature on this page?

21 A. Yes, it is my signature on this page.

22 Q. And did you prepare this report?

23 A. Yes, I did prepare this report.

24 Q. And did you personally conduct the autopsy described in this
25 report?

Witness: Marek Gasior (Open Session)

Page 24532

Examination by Ms. Wyler

1 A. Personally, I have conducted the autopsy described in this
2 report.

3 MS. WYLER: Can we please go to the page ending in 51.

4 Q. In the upper half of this page under the heading "Description of
5 main antemortem injuries," you write, and I quote:

6 "Gunshots wounds affecting distal right femur with destruction
7 of right patella, gunshot wound affecting upper of right tibia," and
8 then a reference to pictures.

9 MS. WYLER: If we can please go to the next page, ending in 52.

10 Q. And as a cause of death, you certify:

11 "Gunshots to the right leg."

12 Witness, can you explain how the gunshot wounds to this right
13 leg that you just described caused the individual's death.

14 A. The gunshot wounds were placed in the right knee, on the -- on
15 the right leg. The area of the right knee is an area where there are
16 both arteries and veins going through. And damage to such an extent
17 of a bone causes that on the line of a gunshots which were executed
18 to the right knee of the right leg, there are vessels which naturally
19 had to be damaged, and the damage of those vessels led to the
20 bleeding out and the death of the patient.

21 Q. And in your expert opinion, what would happen if such a wound
22 was left untreated?

23 A. A patient would die as a result of bleeding out.

24 Q. I move on to another victim now, Witness.

25 MS. WYLER: If I could please have on the screen the document

Witness: Marek Gasior (Open Session)

Page 24533

Examination by Ms. Wyler

1 with ERN SITF00019793 to 00019810 RED on page 95. If we could go to
2 the bottom half of the page. Thank you.

3 Q. Witness, is this your signature on this page?

4 A. Yes, it is my signature on this page.

5 Q. And did you prepare this report?

6 A. Yes, I did prepare this report.

7 Q. And did you personally conduct the examination described in this
8 report?

9 A. I conducted it personally of this patient.

10 MS. WYLER: If we could go please to the page ending in -- no,
11 actually, just up this page to the upper half. Exactly. Thank you.

12 Q. Witness, I'm going to read you a paragraph or two paragraphs
13 from this examination report now, and then show you photographs
14 before I ask my question. I am now reading from the first two bullet
15 points on this page, which read:

16 "On upper/right/front of chest superficial, irregular/scattered
17 scars located on surface measuring 9 [to] 8 cm," reference to
18 pictures 07 and 08. "On ultraviolet lamp - a few scattered scars are
19 +/- round in shape," reference to picture 9.

20 "On upper/right/posterior of right shoulder superficial,
21 irregular/scattered scars located on surface measuring 7 [to] 6 cm,"
22 reference to pictures 18 to 19.

23 MS. WYLER: If we could please now go to the page ending in 98.
24 If you could zoom in a little bit more maybe. Thank you. And now
25 scroll down to the next page. And, finally, go to the page ending in

Witness: Marek Gasior (Open Session)

Page 24534

Examination by Ms. Wyler

1 802. Thank you.

2 Q. Do the photographs I just showed you show the scars to the chest
3 and the shoulder described in the part of the report I read out to
4 you?

5 A. Those scars described in the report are the scars which are
6 visible on those pictures, on the pictures shown to me.

7 Q. And from these photographs and the examination report, could you
8 draw any conclusion as to the nature of these injuries?

9 A. Those scars are a result of an injury. If I remember rightly,
10 the patient mentioned that he got injured or got injuries, and he was
11 burned by cigarettes, and these scars may have been a result of those
12 injuries.

13 Q. Thank you.

14 MS. WYLER: We can take down this document and instead call up
15 document with ERN SITF00019134 to SITF00019150 RED on page ending in
16 38, please.

17 Q. I move to another victim, Witness.

18 MS. WYLER: If you could scroll down a little bit further.
19 Thank you.

20 Q. Is this your signature on this page?

21 A. On this page, there is my signature.

22 Q. Did you prepare this report?

23 A. Yes, I did prepare this report.

24 Q. And did you personally conduct the examination described in this
25 report?

Witness: Marek Gasior (Open Session)

Page 24535

Examination by Ms. Wyler

1 A. I personally conducted the examination of the patient whose
2 injuries are described in this report.

3 Q. Thank you. On this page, you see the victim's name. I'm not
4 going to read it out since we are in public session. And at the very
5 end of the report, you noted "Recommendations," and they read:

6 "Examined person should go to the clinical doctor and then
7 should be undergo x-ray examinations of: head, left foot."

8 MS. WYLER: Could we next to this report, please, have the
9 document with ERN SITF00372709 to 00372732 at the page ending in 21
10 on the screen. If we could go to the bottom half of the page. Thank
11 you.

12 Q. Witness, just under the heading "Report of Physical
13 Examination," we see a note saying:

14 "Amendment:

15 "to examination report [of] OMPF," and then a reference number.

16 Is my understanding correct that this is a follow-up report to
17 the one we have on the right-hand side of the screen?

18 A. Yes, it's an addition.

19 Q. Thank you. And just for clarity, the report on the left side of
20 your screen, is this your signature on this page?

21 A. On the left side --

22 Q. Yes.

23 A. -- of the screen, it is my signature on the report.

24 Q. And did you prepare this report?

25 A. Yes, I did prepare this report.

Witness: Marek Gasior (Open Session)

Page 24536

Examination by Ms. Wyler

1 Q. Next, I would like to show you a number of autopsy reports and
2 death certificates. They concern different victims. And all I'm
3 going to ask you about is whether you authored these items.

4 MS. WYLER: If I could please have on the screen, instead of the
5 two documents shown now, the document with ERN IT-03-66 P228. If we
6 could go to the bottom of this page where we see the signature. Yes.
7 Thank you. And then to the next page, also to the bottom of the page
8 -- or middle. Yes. Thank you.

9 Q. The two signatures just shown to you, Witness, are these your
10 signatures?

11 A. Yes, they are my signatures.

12 Q. And did you prepare this certificate?

13 A. It is I who prepared this document confirming the death of that
14 person.

15 Q. Thank you.

16 MS. WYLER: We go on to the next document, which has ERN
17 SITF00030155 to SITF00030184 RED2 at the page ending in 81. And if
18 we could go to the bottom of the page.

19 Q. Witness, if you look at this signature and then the signature on
20 the next page ending in 82 - thank you - are these your signatures?

21 A. Yes, these are my signatures.

22 Q. And did you prepare this certificate?

23 A. Yes, I did prepare this death certificate.

24 MS. WYLER: The next document I would like to call up is
25 SITF00188171 to 00188185 at the first page. If we could go to the

Witness: Marek Gasior (Open Session)

Page 24537

Examination by Ms. Wyler

1 signature. Exactly.

2 Q. Witness, if you have a look at this signature and then the
3 signature on the next page ...

4 A. Yes, these are my signature -- this is my signature.

5 Q. On both pages?

6 A. On both pages they are my signature.

7 Q. Thank you.

8 MS. WYLER: And if we could go to the page ending in 85, please.
9 To the bottom. Yes.

10 Q. Is this also your signature?

11 A. Yes, it is my signature.

12 Q. And is this your handwriting?

13 A. And this is -- this is my handwriting.

14 Q. Did you prepare this certificate we saw on the first two pages
15 indicated and the report we now have in front of us?

16 A. Yes, I prepared the report. The death certificate I prepared
17 based on the autopsy report.

18 Q. Thank you.

19 MS. WYLER: If I could next have on the screen document with ERN
20 SPOE00325698 to 00325769 at page ending in 706.

21 Your Honours, I note that this item is subject to a pending
22 request to be added to the SPO's exhibit list.

23 The page ending in 706. Exactly.

24 Q. Same procedure here, Witness. I will show you the pages and ask
25 you to confirm your signature and handwriting afterwards. If you

Witness: Marek Gasior (Open Session)

Page 24538

Examination by Ms. Wyler

1 look at this page or this signature, this is an autopsy report.

2 MS. WYLER: If we could scroll up a little bit.

3 Q. For case number FKT20/167BP, cause of death unascertained, if
4 you look at the signature here and then on page ending in 711, which
5 is the last page of your handwritten original autopsy report in the
6 same case, do you confirm that these are your two signatures?

7 A. Yes, these are two of my signatures, and this is my handwriting.

8 Q. Thank you.

9 MS. WYLER: If we then could go to the page ending in 714.

10 Q. This is the typewritten autopsy report in Case FKT20/112BP. The
11 cause of death again unascertained. The signature here, and then on
12 the next page, which is ending in 19 - at the end, yes - this is the
13 last page of your handwritten autopsy report in the same case, are
14 these both your signatures?

15 A. Yes, these are my signatures, and this is my handwriting.

16 Q. Thank you.

17 MS. WYLER: If we could go, please, to the page ending in 737.

18 Q. Again, a typewritten autopsy report in another case which bears
19 number FKT20/035BP, cause of death unascertained. Is this your
20 signature at the end of the page?

21 A. Yes, it is my signature.

22 Q. And on page ending in 49, which is the last page of your
23 handwritten autopsy report in the same case, is this also your
24 signature?

25 A. It is my signature and my handwriting.

Witness: Marek Gasior (Open Session)

Page 24539

Examination by Ms. Wyler

1 Q. Then the last pages I call up in this item end in 755. A
2 typewritten autopsy report in case number FKT20/046BP, cause of death
3 unascertained. And then the next page ends in 62, which is the last
4 page of your handwritten original report in the same case. Again,
5 the question is, is this your signature?

6 A. It is my signature and my handwriting.

7 Q. And did you prepare these four reports that I just showed you?

8 A. Yes, I did prepare them. I prepared those reports.

9 MS. WYLER: This is going to be the last document I call up for
10 the time being. If I could please have on the screen the document
11 with ERN SPOE00194606 to 00194608 on the page ending in 07. We can
12 stay here and zoom in. Thank you.

13 Q. On this autopsy report, you see a case number on top which
14 refers to FKT20. It is the same code as in the autopsy reports I
15 just showed you a minute ago. Do you recall which site this code
16 referred to?

17 A. I do not recall to which site.

18 Q. The information we have is that this was the site code used for
19 the exhumation at the Volljake cave. Does this refresh your
20 recollection?

21 MS. ROWAN: Your Honour, if my learned friend could refrain from
22 giving evidence herself, please.

23 PRESIDING JUDGE SMITH: That's not the proper way to refresh his
24 memory.

25 Your objection is sustained.

Witness: Marek Gasior (Open Session)

Page 24540

Examination by Ms. Wyler

1 MS. WYLER:

2 Q. Do you happen to remember this particular autopsy?

3 A. I do not recall it. This autopsy took place in December of the
4 year 2004, 20 years ago.

5 Q. Have you worked on any remains coming from the Volljake cave?

6 A. Volljake. I don't remember exactly which sections refer to the
7 subjects or patients whose mortal remains were excavated by
8 archaeologists and at which locations. I simply do not recall it.

9 Q. It was a long time ago. Is my understanding correct that you
10 conducted hundreds of autopsies in your career?

11 A. Could I ask you to rephrase this question, please?

12 Q. Certainly. Have you conducted hundreds of autopsies in your
13 career?

14 A. During work in my country, Poland, I used to do autopsies of
15 people who died prematurely and also anthropological ones, but I
16 cannot tell you how many. Definitely many. And on the mission
17 internationally for 12 years, I also performed a number of autopsies
18 but I never counted them.

19 Q. And could this be the reason why you do not recall this specific
20 one?

21 MS. ROWAN: Leading, Your Honour.

22 PRESIDING JUDGE SMITH: Sustained.

23 MS. WYLER:

24 Q. Is it correct that this autopsy report is dated 25 January at
25 the bottom but that the autopsy was actually conducted on 8 December

Witness: Marek Gasior (Open Session)

Page 24541

Examination by Ms. Wyler

1 2004?

2 A. In the upper corner, you have the date 8 December 2004. This
3 was usually the date where we performed autopsies. But underneath
4 you have my name, there is no signature, and the date is 25 January
5 2005.

6 Q. According to your CV, you were working in Kosovo in both years,
7 2004 and 2005; is that correct?

8 A. At that time, I was working for the UN Mission in Kosovo.

9 Q. Thank you. My last question for you for the time being,
10 Witness: Can you explain the term "keyhole injury"?

11 A. Normally, typically, this term is used to describe gunshot
12 injuries in the bones of the skull at 90 degree perpendicularly, and
13 this hole is actually round and has the bevelling inwards, which is
14 also round. But if the gunshot gets into the skull at a given angle,
15 at a certain angle -- but the crane [as interpreted] has a width, so
16 we have various layers. So at a certain angle, the internal part --
17 the external part falls off and then there we have a widening which
18 you call a crater one, and it follows the direction of the entry of
19 the gun -- of the bullet, and because of that, we have an injury that
20 looks like a keyhole. That's why it's called a keyhole injury.

21 Q. When you refer to "a certain angle," could you explain what
22 angle this is?

23 A. It's a right angle or obtuse angle. It can be larger or
24 smaller -- smaller than 45 per cent, but it's related to the entry of
25 the skull at an obtuse angle usually.

Witness: Marek Gasior (Open Session)

Page 24542

Examination by Ms. Wyler

1 Q. On the transcript we now have, on line 19, page 54, an angle
2 "smaller than 4 to 5 per cent." If I could clarify with you,
3 Witness, did you mean per cent or was it something else, and is the
4 number correct? Could you explain again at what angle the bullet has
5 to enter so that we call it a keyhole injury?

6 A. It may be 45 or 50, sometimes less than 45 per cent. Moving
7 further, if this angle is not very sharp, not very big, then some of
8 the effects of the gunshot may be the so-called long keyhole. It's
9 an elongated wound, prolonged wound of the bones of the skull,
10 tangential wound, sometimes called a long keyhole or gutter wound.

11 MS. WYLER: Since we again have it on the transcript, I would
12 like to clarify maybe with the interpreters whether the number "4 to
13 5" is right, because I heard from the translation "45," and whether
14 "per cent" is correct or whether that should be something else.

15 THE INTERPRETER: It should be 45 per -- it should be 5 degrees,
16 I'm sorry. The interpreters -- the Polish original was 45 degrees of
17 the angle.

18 MS. WYLER: Thank you. These were all my questions,
19 Your Honours.

20 THE WITNESS: [Interpretation] So it was more or less 45 degrees
21 for that angle.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 Are you beginning?

24 MS. ROWAN: Yes, thank you.

25 PRESIDING JUDGE SMITH: All right. Go ahead.

Witness: Marek Gasior (Open Session)

Page 24543

Cross-examination by Ms. Rowan

1 Cross-examination by Ms. Rowan:

2 Q. Good afternoon, Doctor. In this case, you were asked to look at
3 over 50 autopsy reports by the Prosecution, so we have quite a lot of
4 material that we're working with, and I'm hoping that you could just
5 help us clarify a few matters, but I don't intend to be with you too
6 long.

7 Just as a starting matter, would you agree that it's correct
8 that when you're performing autopsies on skeletal remains, you are
9 more limited than when you are dealing with fresh cadavers who still
10 have their soft tissue intact?

11 A. In the morgue, we were receiving bodies which were delivered in
12 plastic bags. The condition of these bodies was very different. And
13 a general information referring to degree of decay of post-mortem
14 changes, that information is usually put on the first page of the
15 report and it describes the condition of the body which was supplied
16 to the morgue.

17 Q. Exactly. And you've done so in your reports. What I just
18 wished to clarify as a general proposition is that, for pathologists,
19 you are more limited in your work when you're dealing with skeletons
20 than when you also have soft tissue. Would you agree with that?

21 A. It's a correct comment. In many cases in my reports, in the
22 final conclusions I wrote that because of the post-mortem decay, the
23 injuries of soft tissue or sort of results of illness of internal
24 organs cannot be assessed. That means that my conclusions are based
25 only on the analysis of the skeletal remains. And very rightly so,

Witness: Marek Gasior (Open Session)

Page 24544

Cross-examination by Ms. Rowan

1 it is a certain limitation.

2 Q. And it's right that in some of the cases that you were dealing
3 with, you did not have the complete set of skeletal remains. Often,
4 you were dealing with a subset of the skeletal remains, just a few of
5 the bones; is that right?

6 A. When I received on my table a plastic bag with the body of the
7 patient inside, if that happened, I never knew what was inside the
8 bag. And sometimes these were only bone fragments, or sometimes
9 there was only a certain number of bones, or it was the whole body of
10 the patient, the whole patient, and that was usually indicated in the
11 report, whether the skeleton was complete or not. In many cases,
12 what I received was only a piece of bone.

13 Q. Yes. And it's right that in approximately 26 of these cases, so
14 about just under half of the autopsies that you performed, it's right
15 that your conclusion was that the cause of death was unascertainable?

16 A. In a number of my reports -- well, that report was on one bone
17 only. Well, what can we say if we only have one bone to look at?

18 Q. Exactly. So in those circumstances, you're limited. And with
19 your expertise, you're simply not in a position to come to a
20 conclusion in relation to cause of death in those circumstances?

21 A. Well, without having the entire skeleton at my disposal, and
22 having only a bone or a piece of a bone to look at, I wasn't able to
23 ascertain what was the cause of death.

24 Q. I want to ask you about some autopsies that you conducted in
25 2005. Do you recall that in May 2005 you were joined for a number of

Witness: Marek Gasior (Open Session)

Page 24545

Cross-examination by Ms. Rowan

1 autopsies by two Serbian professors? It was a Professor Vujadin
2 Otasevic and a Professor Slavisa Dobricanin.

3 A. Occasionally there were observers coming from Serbia. Professor
4 Otasevic, you mentioned that name. There were two Serbian
5 pathologists.

6 MS. ROWAN: For our assistance, I'd just like to pull up one of
7 those autopsies. Could we please have SPOE00068515 to 00068520,
8 please.

9 Q. What's being called up, Doctor, is one of the autopsies from
10 this time period, and we'll have it on screen now in a moment. Now,
11 we can see on screen the person here - I won't name them - that this
12 autopsy relates to. We can see their name underneath the reference
13 number.

14 MS. ROWAN: Could we please have page ending 519.

15 Q. Now, Doctor, we can see your notes at the top of this page. And
16 you've already mentioned this in passing, but what I just want to
17 confirm, you can see here at the top it reads:

18 "And serbs professors observes [the] autopsy ..."

19 And we have their two names written there. Can you see where it
20 says that? Just to confirm for the record.

21 A. These are two names of Serbian professors who very often were
22 observers during performed autopsies. These names are mentioned in
23 this report.

24 Q. Now, it might be implicit from your answer, but, Doctor, what
25 I'm wishing to establish is the role that they played. Is it right

Witness: Marek Gasior (Open Session)

Page 24546

Cross-examination by Ms. Rowan

1 that they simply were observing you in your work and that you were
2 the person conducting these autopsies as they watched you, is that
3 correct, as it states here?

4 A. Generally, it's correct.

5 Q. Now, their attendance is noted by you in a number of autopsies
6 in this time period. Would it be correct that where their attendance
7 is noted by you, that on each of those occasions they were observing;
8 is that right?

9 A. Generally, that's correct.

10 Q. So the findings and conclusions from those autopsies, when we
11 look at those, the findings are your findings and the conclusions are
12 your conclusions; is that correct?

13 A. Yes, that's correct. These are my conclusions.

14 Q. Thank you. I'd like to move on to another one of your reports,
15 and I'm hoping that you could help us clarify another issue.

16 MS. ROWAN: Could we please have SPOE00208422 to 00208440,
17 please.

18 Q. And you can see in the centre of the page the person whose
19 autopsy we're concerned with on the second line, so we can follow the
20 deceased that we are dealing with.

21 MS. ROWAN: Could we please have page ending 438. Thank you.

22 Q. You recognise this as one of your autopsy reports? We see your
23 signature at the bottom; is that right?

24 A. Can I -- it's my signature on this -- can I read this report,
25 please?

Witness: Marek Gasior (Open Session)

Page 24547

Cross-examination by Ms. Rowan

1 Q. Please do, yes.

2 A. Yes, it's my signature.

3 Q. Thank you. Now, can we just look at the top line together for a
4 moment. We can see that you have noted that what you're dealing with
5 here are the:

6 "Totally skeletonised, disarticulated collection of bones from
7 at least 6 adult individuals."

8 Can you see that?

9 A. Yes, I do see this fragment of the text.

10 Q. So can we understand that what you would have been provided with
11 on your table that day were the remains of at least six skeletons; is
12 that right?

13 A. Yes, this is what the report says.

14 Q. Yes. And we can see that you've noted that -- during the
15 autopsy, 47 different samples were taken from those bones to be DNA
16 tested. We can see that in the second line; is that right?

17 A. Yes, again, this is what the report says.

18 Q. Yes. So can we assume from that, therefore, that at the time
19 you conducted this autopsy, you didn't know - nobody knew - whose
20 remains you were dealing with at the time?

21 A. Well, the only thing I can say, these were human remains.

22 Q. Now, if you go down a little bit, we'll see a sentence
23 beginning: "Right scapula ..." Can you see that? It reads:

24 "Right scapula - from which collected DNA sample shows injury
25 consistent with gunshot (DNA sample ... 47)."

Witness: Marek Gasior (Open Session)

Page 24548

Cross-examination by Ms. Rowan

1 Yes?

2 A. This is what the report says.

3 Q. Yes. And underneath that, it's recorded that:

4 "The rest of bones show no clear ante mortem injuries."

5 Yes?

6 A. This means that the remains that we investigated, we had no
7 signs of injuries that could suggest the cause of death.

8 Q. Yes. And we can see where the cause of death is listed. What's
9 listed there is that for DNA sample 47, so for whomever the scapula
10 belongs to, they would have a cause of death of gunshot to the chest,
11 but just that one bone; is that right?

12 A. The cause of death refers only to this one case.

13 MS. ROWAN: Can we have in this document, please, the page
14 ending 437.

15 Q. Now, remembering, Witness, we had a name when we first opened
16 this document. We can see again the name of a deceased here. And we
17 see on this death certificate that the cause of death is listed as
18 being unascertained; is that right?

19 A. Well, this is what the report says.

20 MS. ROWAN: Could I please have -- we can leave this on half the
21 screen, please, to the left, or the right, and can I please have up
22 SITF00180714 to 000180738, please.

23 Q. Now, Witness, what's being brought up is testimony of
24 anthropologist Baraybar. Okay? Is that somebody who you worked with
25 when you were in Kosovo?

Witness: Marek Gasior (Open Session)

Page 24549

Cross-examination by Ms. Rowan

1 A. Jose Pablo Baraybar?

2 Q. Yes.

3 A. [No interpretation].

4 MS. ROWAN: Your Honour, I didn't receive a translation for the
5 witness's last answer.

6 THE WITNESS: [Interpretation] Yes, Jose Pablo Baraybar, he was
7 my boss.

8 THE INTERPRETER: This is what the witness just said.

9 MS. ROWAN:

10 Q. Now, you'll see here in the document, if you go to the
11 second-last line at the bottom, what we're looking at here is
12 Witness Pablo Baraybar. And this is a record of his evidence in a
13 domestic Kosovan proceeding in December 2005. Just so you know what
14 we're looking at. Okay?

15 MS. ROWAN: Now, within that document could I please have page
16 ending 719. Now, you'll see here -- could I have, please, the bottom
17 half of the page in view. Thank you. Perfect. And could we have it
18 a little bit bigger, please, to assist the witness. As big as we can
19 get that question and answer all on screen. Plus the question. Plus
20 the question. Thank you.

21 Q. Now, just for your benefit, Witness, can you see the question
22 that the prosecutor is asking? He says:

23 "Let's discuss your first report about ..."

24 And then he names the same person that we can see on the
25 right-hand side of the screen; is that right? Albeit minus an H.

Witness: Marek Gasior (Open Session)

Page 24550

Cross-examination by Ms. Rowan

1 A. [In English] Yes.

2 Q. So we're just going to -- I'm going to read to you his evidence
3 in relation to these samples that he gave:

4 "The remains of [this person] were found originally in [the
5 cemetery listed] through the exhumation of the ICTY in 2000.
6 Certainly, at the time of exhumation the ICTY did not know to whom
7 the remains in that body bag belonged. What they noted in their log
8 is that they found a plastic body bag that contained the remains of
9 at least five people and that [the] remains had been the subject of a
10 previous autopsy and that some ... bones showed the marks of bullet
11 injuries. [The] remains were reburied, [and] they were not
12 identified at that time and re-exhumed in 2003. Upon finding the
13 same bag full of bones, it was necessary to account for the number of
14 people the bones belonged to. This is called establishing the
15 Minimal Number of Individuals ... In layman terms, it [was the] head
16 count."

17 And then he explains what the head count is.

18 And he goes on to say:

19 "... we collected 47 DNA samples in order to be able to say that
20 an arm and a leg are part of the same individual. However, we also
21 collected the sample from a scapula, [the] right shoulder bone,
22 because only among those bones we found a [right shoulder bone, the
23 back bone] with a gunshot wound injury through that bone, and this
24 injury would be classified as ... lethal ... because if -- because
25 primarily if somebody gets shot through the scapula, the bullet would

Witness: Marek Gasior (Open Session)

Page 24551

Cross-examination by Ms. Rowan

1 most likely go through the lungs and ... tear [the] artery there."

2 Now, just pausing there for a moment. Would you agree, Doctor,
3 that that injury to the scapula for this person is the injury that
4 you spoke about in your report?

5 A. [Interpretation] Yes, the report points to that.

6 Q. Now, the anthropologist continues in his evidence to say:

7 "We received ... DNA results that link a number of these 47 ...
8 samples to Mr. [name given]. As a matter of fact, 7 of the 47
9 samples belong to [this person]. To give you an idea of this
10 reassociation we are talking about ..."

11 And then he lists the body parts associated with that person.

12 "There is an autopsy report submitted with this report that
13 states ... the cause of death of the remains that have been
14 attributed to [this person] is unascertainable. Primarily, the only
15 bone that showed an injury was the scapula and all the bones we used
16 for the identification of the person do not show ... injury,
17 therefore the cause of death [is] unascertainable. [Because] the
18 scapula could not be linked to any person."

19 Do you see where it says that?

20 A. [In English] I cannot understand it.

21 Q. Okay. Well, perhaps if we go through it again. Doctor, are you
22 able to read in English? Presumably yes. The reports are in
23 English. Could you --

24 A. [Overlapping speakers] ...

25 Q. -- just take your time to read that last paragraph to yourself

Witness: Marek Gasior (Open Session)

Page 24552

Cross-examination by Ms. Rowan

1 and just take a moment to consider it, and then we'll discuss it
2 again.

3 PRESIDING JUDGE SMITH: While we're waiting, could you slow down
4 just a little bit? You're talking over each other a bit.

5 MS. ROWAN:

6 Q. Doctor, perhaps if I can put it in this way: Your report found
7 that the only bone that had an injury that could have caused death
8 was the scapula; is that right?

9 A. [Interpretation] Scapula.

10 Q. Yes. At the time you performed your autopsy, it was not known
11 who that scapula belonged to; is that right?

12 A. That's correct.

13 Q. None of the other bones had an injury that could be attributable
14 to a death; is that right?

15 A. This is what the report concludes.

16 Q. But what we have here is some additional information that
17 Baraybar is giving in evidence, where he says DNA testing was done
18 and 7 of the 47 samples taken were attributed to the person we have
19 named there. Yes? You see where he says that? It's the second line
20 of the second paragraph.

21 A. Yes, I do see it.

22 Q. So we can take from that, would you agree, that some of the
23 bones are attributable to this person through DNA testing?

24 A. Yes, that's what the report says.

25 Q. But in the last line, he says:

Witness: Marek Gasior (Open Session)

Page 24553

Cross-examination by Ms. Rowan

1 "The scapula," so the one bone that had an injury. "The scapula
2 could not be linked to any person."

3 Do you see where he says that?

4 A. Yes, I do see that.

5 Q. Right. So if we turn back to the certificate on the right-hand
6 side, does it therefore make sense that if the scapula does not
7 belong to this man, we don't know his cause of death because it
8 wasn't his scapula?

9 A. Has the DNA led to establish whose scapula it was?

10 Q. Well, Doctor, as you'll see on the left, the only information we
11 have available from Dr. Baraybar is that the scapula could not be
12 linked to any person. So the understanding -- his understanding in
13 2005 was at that point they couldn't link it to anyone. But what we
14 do know is it's not attributable to the man we see named on the
15 right, according to this evidence. Would you agree?

16 A. The samples of the DNA were taken. There was a DNA sample taken
17 from the scapula. So whose scapula is it then?

18 Q. That is the question, Doctor, that remains unanswered. But what
19 I'm asking you about is this man. I'm not interested in asking you
20 about whose it may be. I just want to deal with this man on the
21 right. Would you agree it's not his and therefore it makes sense to
22 you that his cause of death is unascertained?

23 A. The answer could be given only after we've examined the DNA
24 results.

25 Q. Witness, are you saying that you don't accept the evidence of

Witness: Marek Gasior (Open Session)

Page 24554

Cross-examination by Ms. Rowan

1 Dr. Baraybar as we've read it, that you don't accept his recounting
2 of the DNA results?

3 A. Can I see the report and the DNA examination of the scapula?
4 From my report, it concludes that the sample, the DNA sample has been
5 taken.

6 Q. Perhaps let's just leave it with one proposition. The only
7 fatal injury that you identified in those collections of bones was
8 that -- to that one scapula; is that correct?

9 A. That is a conclusion from my report.

10 Q. Okay. Thank you.

11 MS. ROWAN: Could we just focus a little bit more on the
12 document on the right-hand side, please. If we could just scroll up
13 a little bit. Down. I'd like the bottom -- okay, no, not changing
14 the page, just the same page but the bottom of the page. Thank you.

15 Q. You were shown this document, Doctor, by the Prosecution when
16 you met them in prep session. Do you recall it?

17 A. Yes, I do recall it.

18 Q. And you had noticed that the signature on this page is not your
19 signature; is that right?

20 A. It is not my signature.

21 Q. And you are not in a position to explain why it was signed by
22 somebody else on your behalf; is that right?

23 A. I am unable to answer this question.

24 Q. You have no memory of authorising or asking somebody else to
25 sign this on your behalf?

Witness: Marek Gasior (Open Session)

Page 24555

Cross-examination by Ms. Rowan

1 A. I do not recall.

2 MS. ROWAN: Could we please move then to a different document.

3 Could I please have IT-03-66 P228.

4 Q. Again, Doctor, this was a document that you were shown in your
5 prep session. Do you recall seeing this one?

6 MS. ROWAN: Can we zoom out and have the bottom in view, please.

7 THE WITNESS: [Interpretation] Yes, it is my signature.

8 MS. ROWAN:

9 Q. And is it right that you told the Prosecution in relation to
10 this document that it seems like you signed this for Dr. Morcillo,
11 and therefore it seems most likely that she performed the autopsy and
12 you signed the death certificate on her behalf? That's what you told
13 the Prosecution in prep session; is that right?

14 A. Yes, this is what it seems. Yes.

15 Q. And it's correct that today you don't presently have a memory of
16 this specific case?

17 A. I do not recall the circumstances surrounding this case today.

18 Q. So you would not be in a position to explain why it is that you
19 signed for her or whether or not you played any role in the autopsy?

20 A. I am unable to answer this question.

21 Q. Would it be fair then to suggest that if you signed it on her
22 behalf, and if it was her who had conducted that autopsy, you took on
23 trust her findings and conclusions and signed this death certificate
24 on her behalf?

25 A. I trusted the conclusions made by the forensic doctor who

Witness: Marek Gasior (Open Session)

Page 24556

Cross-examination by Ms. Rowan

1 conducted this autopsy.

2 Q. Thank you.

3 MS. ROWAN: Could we please now have SITF00030155 to

4 SITF00030184 RED2.

5 Q. Doctor, you can see here we have the beginnings of an autopsy
6 report, handwritten; is that right?

7 A. It is a handwriting.

8 MS. ROWAN: And if we can go to the next page.

9 THE WITNESS: [Interpretation] It is not my handwriting.

10 MS. ROWAN:

11 Q. Yes. This autopsy, would you agree, was performed by Dr. Ong?

12 MS. ROWAN: Perhaps if we can go to page ending 0159, please.

13 Q. We can see the summary of the report there with Mr. Ong's --
14 Dr. Ong's name at the bottom. Do you see that?

15 A. The date is 25 June.

16 Q. It is. Above that, you'll see Dr. Beng Ong's name. Do you see
17 that?

18 A. O-n-g.

19 Q. Yes. Would you agree that we can assume that because the
20 summary is in his name, that the autopsy was likely also conducted by
21 him?

22 A. This is what this report leans towards.

23 Q. We know it wasn't your report as you don't recognise the
24 handwriting. Would that be fair?

25 A. Yes, this is correct.

Witness: Marek Gasior (Open Session)

Page 24557

Cross-examination by Ms. Rowan

1 MS. ROWAN: Could we please go to page ending 0181. And if we
2 could zoom out, please, and scroll to the bottom.

3 Q. Do we see your signature here on this death certificate?

4 A. Yeah, there is a date, 2002. It is my signature.

5 Q. Would it be fair to assume, then, like with the last autopsy we
6 looked at, that you would have looked at the report of your
7 colleague, Dr. Ong, taken his conclusions and findings on trust, and
8 signed this death certificate based on that? Would that be a fair
9 assessment of what would have taken place?

10 A. It could be described like that.

11 Q. Thank you.

12 MS. ROWAN: Can we please have SITF00169843 to 00169851 RED.

13 Q. And you can see the person listed on the top with whom we're
14 dealing. It is their examination I'd like to look at.

15 MS. ROWAN: Could we please look at page ending 9849.

16 Q. And we can see here an initialling. Is that your handwriting
17 there or would that have been initialled on your behalf?

18 A. Yes, this is my handwriting.

19 Q. And we can see that the cause of death given by you is gunshot
20 to the head and chest; is that right? In the middle of the page.

21 A. [In English] Head and chest. [Interpretation] Head and chest.
22 Yes, this is what is in the report.

23 MS. ROWAN: Could we go down one page, please, to look at the
24 autopsy report itself. And if we can scroll to the bottom where the
25 findings are listed. Thank you.

Witness: Marek Gasior (Open Session)

Page 24558

Cross-examination by Ms. Rowan

1 Q. You can see here, Doctor, at the bottom, I'd like to just look
2 at the injury to the trunk, please. You list here:

3 "Injury to the ribs on the left side affecting ribs 6, 7, 8, 9,
4 10 and 11.

5 "- Injury [is] consistent with [a] gunshot ..."

6 Do you see that?

7 A. Consistent? Yes, I can see it on this page.

8 Q. It's right that several ribs, as we can see, were involved in
9 the injury you observed; is that right?

10 A. From the description, description is leading to that the
11 injuries of the ribs were caused by gunshot, a tangential shot to the
12 trunk with the injuries to the ribs.

13 Q. Yes. Witness, my question was just in -- my question was in
14 relation to the number of ribs involved. It's right that a number of
15 ribs were involved in this injury; is that right?

16 A. From the report, it concludes that there were six ribs injured
17 on the left side.

18 Q. And that would be a surface area of up to 10 centimetres as you
19 note on your last line; is that right?

20 A. The injuries are located 6 to 10 centimetres from the caput
21 costae. That is, from the spine.

22 Q. Now, you, in the report, note that this injury, as you've just
23 mentioned, is consistent with gunshot. That was your finding; yes?

24 A. Yes, it is consistent with gunshot.

25 Q. And would you agree that while it is consistent with gunshot,

Witness: Marek Gasior (Open Session)

Page 24559

Cross-examination by Ms. Rowan

1 that it's not possible to exclude completely that these injuries were
2 caused by blunt force trauma?

3 A. In the report I wrote [In English] "gunshot," gunshot, "probably
4 tangential shot." [Interpretation] So these are injuries consistent
5 with a gunshot wound, tangential -- from a tangential shot causing
6 injuries to ribs.

7 Q. To be clear, it's not being challenged that these injuries are
8 consistent with a gunshot wound as you've described. What I'm simply
9 asking is whether or not you would agree that, in addition to that,
10 it's not possible to exclude completely that they could have been
11 caused by blunt force trauma, that that's not possible to exclude as
12 an alternative?

13 A. Well, it's more likely that it was a gunshot.

14 Q. Yes. That, of course, is the finding that you have recorded,
15 but just for clarity, you cannot exclude as causation blunt force
16 trauma.

17 A. Well, it is highly unlikely that these injuries could be caused
18 by something different than a gunshot.

19 MS. ROWAN: Could we have, please, SITF001 -- pardon me,
20 that's -- I'll give you the range first. SITF00019793 to 810 is the
21 range.

22 Q. Doctor, what's being brought on the screen in a moment will be
23 the photographs you looked at a moment ago with the Prosecutor.

24 MS. ROWAN: Could we please have, within this, page ending 798,
25 please. Thank you.

Witness: Marek Gasior (Open Session)

Page 24560

Cross-examination by Ms. Rowan

1 Q. Do you recall seeing this image earlier?

2 A. This photo was taken during investigation of the -- examination
3 of the patient.

4 Q. Yes. Now, your evidence earlier this morning to the Prosecution
5 was that the scars that we see here, in your words, may have been
6 caused by burning of cigarettes; is that right?

7 A. Well, the cause of these injuries could be different, and one of
8 the possible causes is burning with a cigarette with such results.

9 Q. Would you agree with me that typically when one sees injuries
10 caused by the burning of the tip of a cigarette, that a person will
11 suffer a crater-like scar as a result of that mechanism?

12 A. It's a correct comment. However, these injuries and these burns
13 resulting from burning with a cigarette tip, sometimes they cause an
14 infection, and then these scars have an irregular shape and are
15 bigger. What happened in this case -- well, scars were identified
16 and they could be a result of such injuries.

17 Q. But is it right to understand your evidence that you do agree
18 with the proposition that typically one would expect to find with a
19 cigarette tip burn a crater-like scar? Of course, we can have in
20 certain occasions different forms of scar.

21 A. Well, if there is no infection or inflammation that follows.

22 Q. Yes. And you would agree that in this person that you examined,
23 you found no crater-like scar?

24 A. Well, I have discovered such scars as seen in these photos and
25 as they were put in the report, as they were described in the report.

Witness: Marek Gasior (Open Session)

Page 24561

Cross-examination by Ms. Rowan

1 Q. For the record, can we take that answer to mean no? No, you
2 didn't find any?

3 A. So if cigarette-tip burns, if they are followed by an
4 inflammation, then the scars usually have an irregular shape just
5 like those seen in the picture here. And from my experience, I know
6 that burns heal in a very different way, especially burns with a
7 cigarette tip.

8 Q. Thank you.

9 MS. ROWAN: Could we please have one more document before the
10 lunch break. Could we have SITF00175086 to SITF00175147.

11 Q. Doctor, this is an autopsy that you were asked about a little
12 earlier.

13 MS. ROWAN: And can I have within that, please, page 5104.

14 Q. This is the autopsy, Doctor, conducted by a Dr. Francmann. Do
15 you recall being asked questions about that earlier?

16 A. Yes, I do remember.

17 Q. Just to clarify the position with this autopsy, you today don't
18 have a memory of this specific autopsy; is that fair?

19 I believe we're missing, perhaps, a translation from my last
20 question. I'll repeat it.

21 Just to clarify, Doctor, you don't have a memory of this
22 specific autopsy from the time as we sit here today?

23 A. I don't recall this autopsy in detail.

24 Q. And as you've explained to the Prosecution -- as you've
25 explained to the Prosecution earlier, you do recall being present for

Witness: Marek Gasior (Open Session)

Page 24562

Cross-examination by Ms. Rowan

1 almost all of Dr. Francmann's autopsies, but you can't be sure
2 whether or not you were present for this one. Would that be fair?

3 A. Well, during my work for that organisation, I was usually
4 present at the morgue during most of the autopsies which were
5 performed there.

6 Q. Of course, you were usually there, and you were certainly there
7 for most of the autopsies that she conducted. But sitting here
8 today, you cannot be certain that you were here for this one; is that
9 right?

10 MS. WYLER: Asked and answered, Your Honours.

11 PRESIDING JUDGE SMITH: He can answer.

12 Go ahead.

13 THE WITNESS: [No interpretation].

14 MS. ROWAN: I didn't receive an interpretation.

15 THE WITNESS: [Interpretation] I do not recall this concrete
16 autopsy.

17 MS. ROWAN:

18 Q. So, therefore, Doctor, would it be fair to say that when you
19 gave evidence about this autopsy in the past in Kosovo, and when
20 you've given evidence about it today, what you are giving us is your
21 expert analysis of the autopsy as you read it; is that right?

22 A. This is information that I provide on the basis of the report
23 from autopsy.

24 Q. Yes. So your evidence is not based upon your own findings and
25 conclusions as you would come to them if it was your autopsy. What

Witness: Marek Gasior (Open Session)

Page 24563

Cross-examination by Ms. Rowan

1 you have done here is read the autopsy of another person and
2 commented upon the findings as you saw within it; is that fair?

3 A. Well, I provided this information on the basis of the autopsy
4 report which was compiled by the person who performed the autopsy and
5 he -- and that person wrote that report.

6 Q. And like with the other autopsies we've looked at, you took it
7 on trust that those findings and conclusions were correct?

8 A. In this case, the autopsy was performed by a professor and the
9 conclusions were written down in the report, and this is the basis
10 for me.

11 MS. ROWAN: Your Honour, I have one document left. I'm content
12 to either go on for five minutes, deal with it now, or perhaps we're
13 better off coming back at 2.30.

14 PRESIDING JUDGE SMITH: You mean you'll be finished with your
15 questioning in five minutes?

16 MS. ROWAN: It depends on the answers I get.

17 PRESIDING JUDGE SMITH: Pardon me?

18 MS. ROWAN: It depends on the answers I get. It may string into
19 10.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MS. ROWAN: Okay. Thank you.

22 PRESIDING JUDGE SMITH: Witness, we'll give you a break for
23 lunch now, it'll be an hour and a half, and you'll come back at 2.30
24 and then we'll go on after then.

25 MS. WYLER: Your Honours, for planning purposes, can we know for

Witness: Marek Gasior (Open Session)

Page 24564

Cross-examination by Ms. Rowan

1 how much longer the other teams wish to go on?

2 MS. ROWAN: Your Honour, in terms of timing, I have one
3 document --

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 [The witness stands down]

6 PRESIDING JUDGE SMITH: Go ahead, Ms. Rowan, now.

7 MS. ROWAN: I would have optimistically thought I could deal
8 with it in less than ten minutes. It's a little bit niggly because
9 of the way the documents have been presented, but it is just one
10 document.

11 PRESIDING JUDGE SMITH: What about you, Ms. Tavakoli?

12 MS. TAVAKOLI: I don't think I'll have any questions.

13 MR. TULLY: We don't have any questions, Your Honour.

14 MS. V. ALAGENDRA: No questions from us either.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 We're adjourned.

17 --- Luncheon recess taken at 1.01 p.m.

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

19 PRESIDING JUDGE SMITH: Please bring the witness in, Madam Court
20 Usher.

21 [The witness takes the stand]

22 PRESIDING JUDGE SMITH: Welcome back, Doctor. Ms. Rowan will
23 have a few more questions for you. Please give her your attention.

24 MS. ROWAN:

25 Q. Doctor, I just want to deal with one more document and then

Witness: Marek Gasior (Open Session)

Page 24565

Cross-examination by Ms. Rowan

1 we'll be finished.

2 MS. ROWAN: Could I please have on screen SPOE00212987 to

3 SPOE00213007. And could we have page 2, please. Thank you.

4 Actually, let's go to the second-last page of this to orientate

5 ourselves. I think it will be easier, please. And look at the death

6 certificate.

7 Q. Now, we can see at the top of this page the person that we are

8 concerned with. Witness, do you see a person's name at the top of

9 this document? No need to read it aloud.

10 A. I can see name and the surname, and in the next one, two, two,

11 four -- eight reports.

12 Q. I believe we're going to be dealing with seven in this batch of

13 documents, but is it --

14 A. Yes, seven.

15 Q. Yes. And is it right that we understand that list of numbers,

16 so the numbers FKT, and then we have the numbers, each of those

17 numbers refers to a report; is that right? Or refers to a fragment?

18 A. This is what it transpires from, those markings.

19 MS. ROWAN: Can we go to the second page of this certificate,

20 please.

21 Q. And we can see here -- that's fine. We can see here that the

22 cause of death listed here in this certificate reads here as

23 unascertained; is that right?

24 A. Unascertained.

25 Q. Now, what I'd like to do, just for the benefit of those

Witness: Marek Gasior (Open Session)

Page 24566

Cross-examination by Ms. Rowan

1 following, is to just look at what we actually have here in terms of
2 the different reports because it is a little bit confusing, this
3 file. I'm hoping you can help us just clarify a few things.

4 MS. ROWAN: Can we just go back to the beginning, please, to the
5 second page. Thank you. And I'd like us to just scroll out so that
6 -- or zoom out, pardon me, so we can see the whole document. Thank
7 you.

8 Q. Now, we can see here at the top of the page, Witness, an FKT
9 number, as we saw in the death certificate; is that right?

10 A. FKT20/034BP.

11 Q. Thank you. Now, we see here cause of death unascertained? At
12 the bottom.

13 A. This report was dealing with examination of a part of the
14 fragment of a thigh bone.

15 Q. Yes, I'm going to go back --

16 A. Of the femur bone, sorry.

17 Q. I'm going to come back to the details of the report in a moment.
18 I'm just hoping that you can help us just look at what documents we
19 have and we'll deal with the details in a moment.

20 MS. ROWAN: Could we just go over the page, please. I'd like to
21 take this relatively quickly.

22 Q. We then see that we have your autopsy here.

23 MS. ROWAN: And if we flick over another page.

24 Q. We have a second autopsy report; yes?

25 MS. ROWAN: Can we zoom out, please.

Witness: Marek Gasior (Open Session)

Page 24567

Cross-examination by Ms. Rowan

1 Q. Yes? Another FKT autopsy report?

2 A. FKT20/156BP.

3 Q. Thank you.

4 MS. ROWAN: And can we go over the page.

5 Q. We see the details here.

6 MS. ROWAN: Over the page again.

7 Q. We have another autopsy report, FKT20 again; yes?

8 A. FKT20/157BP.

9 Q. Yes. So I don't intend to take you to all seven of them, but
10 it's right that we have seven separate autopsy reports like this one
11 for different fragments of bone; is that right?

12 A. These reports encompassed human bones.

13 Q. Yes. Now, would you agree - and please let me know if you would
14 like to see each report individually - but is it right that for five
15 of the seven autopsy reports in this file the cause of death is
16 listed as unascertained?

17 A. That's what transpires from the reports.

18 Q. Now, would it be right for us, therefore, to assume that when
19 the mortuary received these different collections of remains, it was
20 not known that they all belonged to the same person? Because had the
21 mortuary known that, they would have been considered together.

22 A. These are the procedures.

23 Q. Yes. But I'm looking for your assistance in just explaining
24 what's clearly happened here so we can understand why we have a
25 number of reports instead of one.

Witness: Marek Gasior (Open Session)

Page 24568

Cross-examination by Ms. Rowan

1 Now, it's right that we do have a cause of death for two of
2 these reports; is that right? For example, the one on screen gives
3 us a cause of death as injury to the sacrum and lumbar vertebrae.

4 A. This is what transpires from the report.

5 Q. Yes.

6 MS. ROWAN: If we can just turn back to the death certificate,
7 please. That's on the second-last page, ending 3006, I believe.
8 Thank you.

9 Q. Now, just looking --

10 MS. ROWAN: Oh, if we can zoom out a little bit. Just looking
11 for the date of this report. It should be toward the signature
12 block.

13 Q. We can see the date of this report here is in 2012; is that
14 right? We can see that on the bottom left-hand corner? Is that --
15 can you see that on the document?

16 A. Yes, I can see it --

17 Q. Thank you.

18 A. -- on the document.

19 Q. Can we just go to the top of this document, and we can see at
20 the top that each of these bone fragments have been attributed to the
21 person we see named at the top. Would that be how this report reads
22 as you understand it?

23 A. This is how it should be understood if the examinations of the
24 DNA confirmed this, that those bones belong to this person.

25 Q. Yes. And that information was not known in 2005 when the

Witness: Marek Gasior (Open Session)

Page 24569

Cross-examination by Ms. Rowan

1 autopsies were conducted?

2 A. As I mentioned earlier, we were receiving plastic container, a
3 plastic bag which contained remains, and we were examining them.

4 Q. So should we assume that what's happened here is that a number
5 of years after the autopsies were conducted, and after the DNA
6 results were received, a DNA certificate was then issued for this
7 person, taking both of those findings together in one? Pardon me, a
8 death certificate was then issued for this person.

9 A. Death certificate.

10 Q. Perhaps I should ask the question again. Doctor, can we assume
11 what's happened here is that the autopsies took place in 2005, DNA
12 was sent for testing, and then when DNA results came back in 2012,
13 somebody has issued a death certificate, putting the information in
14 the autopsies together with the DNA and issuing the certificate we
15 have here? Would that be a fair assumption as to what's happened
16 here?

17 A. From the report, it transpires that this is what took place.

18 MS. ROWAN: Could we look at the bottom of this certificate,
19 please. I just want to look at the signature block.

20 Q. Now, we can see your name, Doctor, at the bottom but that's not
21 your signature -- pardon me, we can see your name in print, but
22 that's not your signature; is that right?

23 A. It is not my signature.

24 MS. ROWAN: And can we go over one more page, please. And again
25 to the signature block at the bottom.

Witness: Marek Gasior (Open Session)

Page 24570

Cross-examination by Ms. Rowan

1 Q. And again, here we have your name in type but also again not
2 your signature. Is that correct?

3 A. This is not my signature.

4 Q. Now, as we stand here today, you're not in a position to explain
5 to us why it is that somebody else signed for you in 2012; is that
6 right?

7 A. I am unable to answer this question. The death certificate was
8 issued on 3 April 2012. I was working until the end of June 2012.

9 Q. Now, you told the Prosecution that you believe that it might
10 have been a Dr. Barbu who signed this; is that right?

11 A. It was a woman.

12 Q. Dr. Barbu is a woman?

13 A. Most likely. The name corresponds to the surname mentioned
14 here.

15 Q. And Dr. Barbu was a pathologist working in Kosovo?

16 A. It was a lady who was working for a certain time in Kosovo, in
17 the territory of Kosovo.

18 Q. But they were a pathologist; that's right?

19 A. A forensic medical doctor.

20 Q. By "forensic medical doctor," can we assume that that means
21 pathologist? This doctor was a pathologist; yes?

22 A. We can assume that.

23 Q. Yes. That was what you understood her qualifications to be when
24 you worked with her?

25 A. This is what should be understood as such.

Witness: Marek Gasior (Open Session)

Page 24571

Cross-examination by Ms. Rowan

1 MS. ROWAN: If we just scroll to the top of this page, we can
2 see that the cause of death is inserted here as unascertained.

3 Q. Can we assume that because Dr. Carmen Barbu signed this
4 document, that it was likely she who inserted the cause of death as
5 unascertained?

6 A. Yes, this report indicates to this.

7 Q. And in doing so, one would assume that she looked at the seven
8 reports that you had compiled in 2005 that were available at the
9 time. Could we assume that?

10 A. As it transpires from this report, this lady got to know those
11 reports, including FKT20/157BP. And in that report, there was the
12 cause of death mentioned.

13 Q. Yes, I just want to deal with cause of death now with you.

14 MS. ROWAN: Could we look at page ending 2999. Now, we could
15 just zoom out a little bit.

16 Q. Now, this is one of the autopsy reports where a cause of death
17 is given. And we can see here on the top line that this was an
18 autopsy of a disarticulated middle and proximal part of the right
19 femur. So is it right that all that was available for this autopsy
20 was part of a thigh bone?

21 A. This is what comes out of the report.

22 Q. And the cause of death that you note here is gunshot wound to
23 the right thigh; is that correct?

24 A. This is what the report says.

25 Q. And if we can just turn over the page so you can have the

Witness: Marek Gasior (Open Session)

Page 24572

Cross-examination by Ms. Rowan

1 benefit of the detailed findings, please, at the bottom of the page.

2 You can have your observations here at the bottom.

3 Doctor, because this was simply one skeletal remain, it's
4 correct, isn't it, that you would not have had the benefit of
5 observing any vascular or soft tissue when conducting your analysis?

6 A. Could I have a look at the annotations on the first page? There
7 is an information in what state those remains were.

8 Q. Of course.

9 MS. ROWAN: Could we please go back one page.

10 Q. Is this the page you wish to see?

11 A. Yes. Skeletonised totally, deprived of --

12 THE INTERPRETER: Inaudible.

13 THE WITNESS: [Interpretation] With no soft tissue. There was no
14 soft tissue present. Only the skeletal bones remained.

15 MS. ROWAN:

16 Q. Thank you.

17 MS. ROWAN: If we could go back to the page we were on. The
18 next page over.

19 Q. So it's right, Doctor, then, in the absence of the soft tissue
20 and the vascular system, you weren't in a position to analyse the
21 extent of the injury of any gunshot to the soft tissue or to any
22 organs; is that right?

23 A. The soft tissues weren't there in the provided -- for the
24 analysis material, in the material provided for the analysis. So I
25 am unable to say what was the state of the soft tissues.

Witness: Marek Gasior (Open Session)

Page 24573

Cross-examination by Ms. Rowan

1 Q. And an injury such as this, a gunshot wound to the leg, in
2 certain circumstances can be survivable. Would you agree with that?

3 A. The gunshot wound, trochanter mayor, it's in the upper part of
4 the femur bone, thigh bone. Here it is evident that there is a
5 defect of a diameter of about 7, 8 millimetres with a crater
6 expansion, and it is consistent with the gunshot wound from the
7 right, going from right to the left.

8 Q. Yes. And you note that in your report. But absent the soft
9 tissue, and simply in possession only of part of the femur, you
10 wouldn't be able to assess definitively the extent of any injury, for
11 example, to organs in the pelvic region or injuries to any arteries
12 because they simply weren't present for you to examine. Would that
13 be fair?

14 A. It is a very apt remark. But one has to take into account what
15 organs are nearby in the proximity of the damaged bone.

16 Q. Yes.

17 A. And what vessels are nearby, blood vessels.

18 Q. Yes. So of course this is a possible cause of death, and it is
19 possible that this gunshot wound could have been fatal dependent upon
20 the extent of the damage it caused. But would you agree that on the
21 information available, which is just the femur bone, that a
22 definitive decision or conclusion could not be made as to cause of
23 death but that a possible cause of death in the gunshot wound could
24 be identified?

25 A. From that description, it transpires that the injuries, those

Witness: Marek Gasior (Open Session)

Page 24574

Cross-examination by Ms. Rowan

1 injuries were most likely ante-mortem or perimortem within a period
2 predeceasing the death. In that area where there was a gunshot wound
3 established, there are quite important and vital blood vessels
4 present, and an injury of that area caused -- must have caused
5 injuries to the vascular system, cardiovascular system, which usually
6 causes relatively quick death of a patient.

7 Q. Of course it is possible, and I understand your evidence to be
8 that it is likely that those vessels were damaged, but would you not
9 agree that in the absence of that soft tissue you cannot say
10 definitively that they were, in fact, damaged, albeit likely that
11 they were?

12 A. Well, according to the anatomy of a human being, in this part
13 there are blood vessels, arteries, and veins, so an injury of a bone
14 in that place must cause the tissues that are nearby, including the
15 blood vessels.

16 Q. But may not necessarily in all circumstances cause death, but
17 may in certain circumstances?

18 A. Could we look at the anatomy of a human being? There are
19 crucial, very important blood vessels which are supplying the pelvis
20 and the thigh bone. The damage to the bone leads to conclude that
21 the tissues in that area. So according to the common sense, the
22 damage to the bone in that area caused to the -- caused damage to the
23 soft tissues, including the arteries and veins.

24 Q. I simply wish for there to just be clarity on your evidence
25 without the need to refer to diagrams to assist. Your evidence, is

Witness: Marek Gasior (Open Session)

Page 24575

Cross-examination by Ms. Rowan

1 it, that this injury was necessarily fatal? Just to be clear, that's
2 your evidence. This injury was necessarily fatal in and of itself.

3 A "yes" or "no" would assist just at this juncture.

4 A. An injury which caused the soft tissues damage, including blood
5 vessels, so veins and arteries, which led to the loss of blood and to
6 the death.

7 PRESIDING JUDGE SMITH: I think we've exhausted that line of
8 questioning.

9 MS. ROWAN: I'm finished. Thank you.

10 Q. Would you accept that a pathologist of a more purist persuasion
11 would come to a different conclusion?

12 A. I am unable to answer this.

13 Q. Very well.

14 MS. ROWAN: Could we look at page ending 2992, please.

15 Q. We're going to pull up, Doctor, as it's coming, the second
16 autopsy report where a cause of death was listed.

17 THE COURT OFFICER: I have not caught the page number. If
18 counsel could repeat it, please.

19 MS. ROWAN: It's the same batch but it should be ending 2992,
20 which looks like it's page 6. Yeah. Thanks.

21 Q. All right. Doctor, we can see here a list at the top of this
22 page of the bones that were concerned in this autopsy report. We
23 have a sacrum and some other bones, and then we have the cause of
24 death listed as injury to the os sacrum and lumbar vertebrae. Do you
25 see that? Yes?

Witness: Marek Gasior (Open Session)

Page 24576

Cross-examination by Ms. Rowan

1 A. This is what transpires from the report.

2 Q. Thank you.

3 MS. ROWAN: Could we turn the page, please, so we can see the
4 details of the findings. And if you can scroll toward the middle of
5 the page. Can we just pause here in the middle. Can we see there --
6 sorry, can we have the whole of the bottom of this document on the
7 page? Thank you.

8 Q. All right. We see your findings listed here, Doctor. Under
9 other findings, we'll see that there is an old healed fracture to the
10 left side of the sacrum; is that right? So that was an old injury
11 you had identified?

12 Sorry, Witness, you will have to answer affirmatively as well as
13 nod so we can capture it on the transcript, please.

14 So I'll just ask you again: Can you see that it's noted here
15 that there's an old healed fracture of the left side of the sacrum?

16 A. Yes, it's an old fracture of the left side of the sacrum os.

17 Q. And we can see at the bottom of the page, we can see an
18 ante-mortem injury to the left wing of the sacrum. Do you see that
19 at number 4?

20 A. Well, there was simply a new injury overlapping and overlapped
21 on the old one, and it's described in the report. And it happened
22 ante-mortem.

23 Q. Ante-mortem being before death in your view?

24 A. [In English] Before death.

25 Q. So am I right in understanding --

Witness: Marek Gasior (Open Session)

Page 24577

Cross-examination by Ms. Rowan

1 A. [Interpretation] Yes, it means before death.

2 Q. So am I right in understanding that two injuries are said to
3 have been observed here: An old healed fracture to the left sacrum
4 and a separate injury, unidentified, to the left sacrum?

5 A. This is what transpires from this report.

6 Q. And we see it only lists it as "injury." It doesn't describe
7 the nature of the injury; is that right? Is that correct?

8 A. This is what transpires from this report.

9 Q. So another pathologist reading this report would not be able to
10 necessarily identify the nature of the injury given the way that it's
11 described here. It can be assumed that it's a fracture, but it's not
12 stated in terms; is that right?

13 A. I cannot answer for other pathologists or forensic doctors. So
14 in my reports, you just read what I found during the autopsy. What I
15 found during the autopsy. And this is my responsibility I take.

16 Q. Well, let's just do that. Let's look at number 1. What I want
17 to look at is the phraseology that you used in the finding number 1.
18 And we see that that relates to the lumbar vertebrae injury, and we
19 note that in your findings themselves, in addition to ticking a box
20 on the right-hand side, you note that it was "probably perimortem."
21 Can you see where it says that? In brackets at the end.

22 A. That's right.

23 Q. Perimortem means in and around the time of death. It can
24 include shortly before or shortly after death; is that right?

25 A. Indeed. Ante-mortem or perimortem.

Witness: Marek Gasior (Open Session)

Page 24578

Cross-examination by Ms. Rowan

1 Q. Well, sorry, Witness, just in terms of the definition of
2 perimortem, perimortem can mean as a term -- it means in and around
3 the cause of death. A perimortem injury can be suffered shortly
4 before but also shortly after death; is that right?

5 A. Those terms are actually very similar. Ante-mortem/perimortem,
6 I would say.

7 Q. Well, how would you define perimortem?

8 A. At a time when is related to death. It's just before or just
9 after death. These terms are really very close in meaning.

10 Q. And we see that you go out of your way to note here that it is
11 "probably perimortem," so that was in your opinion not a definitive
12 finding. It was a probable finding. Is that how we read number 1?

13 A. [In English] "Probably perimortem." [Interpretation] I say
14 "probably perimortem."

15 Q. And is it right that we can distinguish that from the last
16 injury listed, where there is no such equivalent lack of clarity,
17 where you say clearly "ante-mortem injury." So with number 4 there
18 was no uncertainty on your part as to when that injury was caused; is
19 that right?

20 A. Yes, I can see that.

21 MS. ROWAN: And can we go back to the autopsy report on the last
22 page, please. Sorry, the previous page. And it's my last question.

23 Q. We see the cause of death here is noted on these as injury to
24 the sacrum and to the lumbar vertebrae. Would you agree that looking
25 at those findings as they have been described by you, considering

Witness: Marek Gasior (Open Session)

Page 24579

Cross-examination by Ms. Rowan

1 that the lumbar vertebrae injury was noted as probably being
2 perimortem, and then taking into account the injury to the sacrum
3 being noted as old and as new, that another pathologist reading this
4 report a number of years later could have taken the view that this
5 injury was not a definitive cause of death but a possible cause of
6 death?

7 MS. WYLER: This calls for speculation, Your Honours.

8 PRESIDING JUDGE SMITH: He doesn't have any way of knowing what
9 another pathologist would do.

10 MS. ROWAN:

11 Q. Witness, let me ask it this way: Would you agree that
12 considering the absence, again, of the soft tissue, of the vascular
13 system when examining these bodies, and considering your own finding
14 that that lumbar vertebrae injury could only be said to be probably
15 perimortem, that in those circumstances, while it is, of course,
16 possible that this is a possible cause of death, that you could not
17 say definitively that it is, in fact, the cause of death? Would you
18 agree with that?

19 A. I take responsibility for my reports and for the cause of deaths
20 that I put in my reports, and I offer no comments on other
21 pathologists. These are my findings during autopsies.

22 Q. Yes, but, Witness, that question didn't deal with other
23 pathologists. What I asked you was: Bearing in mind when you
24 conducted this autopsy, and you did not have the soft tissue, and you
25 did not have the vascular system, and considering your own findings

Witness: Marek Gasior (Open Session)

Page 24580

Cross-examination by Ms. Rowan

1 around the lumbar vertebrae injury being said to be no more than
2 probably perimortem, that taking those factual findings of yours into
3 account, would you agree with me that while it is possible it is the
4 cause of death, you cannot say it is definitively the cause of death?
5 Would you agree with that or no?

6 A. During the autopsy with the injuries that I found, which I took
7 into account as the cause of death, there was no evidence of healing
8 of bone. That means that these injuries were inflicted very briefly
9 before death.

10 Q. Yes. But would you agree that you cannot definitively say that
11 these injuries caused the death? This person may have died in
12 another way; for example, a shot to the thigh which you also said
13 might have killed this person or in another --

14 MS. WYLER: Asked and answered, Your Honours.

15 MS. ROWAN: Could I finish the question before it's objected to?

16 PRESIDING JUDGE SMITH: It has been asked and answered quite a
17 few times, and he is not going to agree with you.

18 MS. ROWAN: I assume the objection is sustained.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MS. ROWAN: I assume therefore the objection is sustained?

21 PRESIDING JUDGE SMITH: Well, yes, it is.

22 MS. ROWAN: Thank you. Then I'm finished.

23 PRESIDING JUDGE SMITH: Thank you.

24 [Microphone not activated].

25 MS. TAVAKOLI: No, thank you.

1 MR. TULLY: No, Your Honour.

2 MS. V. ALAGENDRA: No, Your Honour.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 Do you have any redirect, Madam Prosecutor?

5 MS. WYLER: No redirect. Thank you.

6 PRESIDING JUDGE SMITH: Doctor, your testimony is complete now.
7 You have satisfied your obligation to the Court, and we will release
8 you now from any further testimony. You may leave the courtroom in
9 the company of our Court Usher.

10 Thank you for being with us, and we wish you well in the future.

11 THE WITNESS: [Interpretation] Thank you very much.

12 [The witness withdrew]

13 PRESIDING JUDGE SMITH: Are you ready with the next witness?

14 We need to spend a little time getting things out of the
15 courtroom, so we'll take a half-hour -- well, 15 -- yeah, 20 minutes.
16 We'll take 20 minutes and see if we can be ready to go in that time
17 period.

18 MS. ROWAN: Your Honour, might I just raise briefly, like with
19 the other expert witnesses, the Defence were afforded a number of
20 days to respond to the Prosecution's tender. Could we have the same
21 and ask for Friday, please --

22 PRESIDING JUDGE SMITH: Yes.

23 MS. ROWAN: -- for this witness?

24 PRESIDING JUDGE SMITH: I was going to give you that time also.
25 So --

1 MS. ROWAN: Excellent. Thank you.

2 PRESIDING JUDGE SMITH: -- you will provide in writing the
3 tender of each of your documents by what day? Can you -- tomorrow?

4 MS. WYLER: Absolutely. We can do that today.

5 PRESIDING JUDGE SMITH: Okay. And then you may respond by
6 Friday. And if you have a reply, that should be on Monday.

7 So we're adjourned for 20 minutes.

8 --- Break taken at 3.12 p.m.

9 --- On resuming at 3.32 p.m.

10 PRESIDING JUDGE SMITH: Before we start hearing the evidence of
11 Prosecution Witness W04743, there are some preliminary matters that
12 the Panel would like to address.

13 Madam Court Officer, please bring us into private session.

14 [Private session]

15 [Private session text removed]

16

17

18

19

20

21

22

23

24

25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

[Private session text removed]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 [Private session text removed]

12 [Open session]

13 THE COURT OFFICER: Your Honours, we are now in public session.
14 And I can confirm that the protective measures have been removed, and
15 from this point on the witness will testify without voice and face
16 distortion. Thank you.

17 PRESIDING JUDGE SMITH: Thank you, Madam Court Officer.

18 Witness, we are now ready to start your testimony. I'd ask you
19 to please stand for just a moment. The usher will now provide you
20 with the text of the solemn declaration which you are asked to take
21 pursuant to our Rule 141(2). Please take a look at the document and
22 then read it aloud.

23 THE WITNESS: [Interpretation] Conscious of the significance of
24 my testimony and my legal responsibility, I solemnly declare that I
25 will tell the truth, the whole truth, and nothing but the truth, and

Witness: Naser Krasniqi (Open Session)
Procedural Matters

Page 24587

1 that I shall not withhold anything which has come to my knowledge.

2 WITNESS: NASER KRASNIQI

3 [The witness answered through interpreter]

4 PRESIDING JUDGE SMITH: Thank you, Witness. You can be seated
5 now.

6 Witness, today we will start your testimony, which is expected
7 to last approximately two days. As you may know, the Prosecution
8 will ask you questions first. Thereafter, the Defence has the right
9 to ask questions, and members of the Panel might also ask questions
10 of you.

11 The Prosecution estimate for your examination is three hours.
12 The Defence estimates that it will need approximately four hours and
13 15 minutes. As regards each estimate, we hope that counsel will be
14 judicious in the use of their time. The Panel may allow redirect
15 examination by the Prosecution if conditions for it are met.

16 Witness, please try to answer the questions clearly, with short
17 sentences. If you don't understand a question, feel free to ask
18 counsel to repeat the question or tell them that you don't understand
19 and they will clarify. Also, please try to indicate the basis of
20 your knowledge of facts and circumstances you will be asked about.

21 In the event you are asked by the SPO to attest to some
22 corrections made regarding your statements, you are reminded to
23 confirm on the record that the written statement, as corrected by the
24 list of corrections, accurately reflects your declaration.

25 Please also speak into the microphone and wait five seconds

Witness: Naser Krasniqi (Open Session)
Procedural Matters

Page 24588

1 before answering a question, and then speak at a slow pace so the
2 interpreters can catch up.

3 While you are giving evidence in this Court, you are not allowed
4 to discuss with anyone the content of your testimony outside of the
5 courtroom. If any person asks you questions outside the Court about
6 your testimony, please let us know.

7 Please stop talking if I ask you to do so and also stop talking
8 if you see me raise my hand. These indications mean that I need to
9 give you an instruction.

10 If you feel the need to take a break, please let us know and an
11 accommodation will be made.

12 We are aware that counsel has been assigned to you, Mr. Witness,
13 so that you are able to seek legal advice if he has any legitimate
14 concerns of self-incrimination, or if you do.

15 Witness, I'll remind you that per the solemn declaration that
16 you have just read you are obliged to tell the truth. Under our
17 rules, you are hereby advised that you are not required to answer a
18 question that is incriminating unless and until the Panel compels you
19 to answer in accordance with our Rule 151(2) and determines if an
20 assurance under Rule 151(3) should be provided to you.

21 You are hereby advised that in the event such a question of a
22 self-incrimination arises, you or your assigned counsel may raise the
23 issue to the Panel, and we will proceed to determine whether or not
24 and under what circumstances you might be compelled to answer. In
25 such a case, the decision as to whether you must answer a question is

Witness: Naser Krasniqi (Open Session)
Procedural Matters

Page 24589

1 exclusively that of the Panel. If ordered to do so by the Panel, you
2 must answer all the questions of you.

3 We begin now with the questions from the Prosecution. They are
4 seated to your left. Please give them your attention.

5 Madam Prosecutor, you have the floor.

6 Yes?

7 THE WITNESS: [Interpretation] May I say something and file a
8 request to the Trial Panel, please?

9 PRESIDING JUDGE SMITH: Yes, you may.

10 THE WITNESS: [Interpretation] Considering that I was a member of
11 the Kosovo Liberation Army and that my answers to the questions that
12 will be asked of me might contain incriminating elements, I would
13 kindly ask the Trial Panel to guarantee me, give me assurances given
14 to a witness in compliance with the constitution and in accordance
15 with the rules and procedures under the European Convention on Human
16 Rights. Thank you.

17 PRESIDING JUDGE SMITH: Madam Prosecutor, it appears that he's
18 asking for an assurance. Does the Prosecution have a position?

19 MS. IODICE: Yes, Your Honour. We'd like to indicate that we
20 are -- we would like an assurance pursuant to Rule 153(b) to be
21 provided.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 Does the Defence wish to be heard on this issue? No?

24 Witness, I remind you that you have been called to testify and
25 are obligated to testify and to tell the truth. If you do not tell

Witness: Naser Krasniqi (Open Session)
Procedural Matters

Page 24590

1 the truth, you might be sanctioned. If you believe you may
2 incriminate, as you have stated you could, by answering a question,
3 you may refuse to answer, but instead you're asking for an assurance;
4 is that correct?

5 THE WITNESS: [Interpretation] That is correct, Your Honour.

6 PRESIDING JUDGE SMITH: The assurance is that you would not be
7 prosecuted by anyone concerning the statements you make in the
8 courtroom to questions asked of you. Do you understand that?

9 THE WITNESS: [Interpretation] I do. That is correct.

10 PRESIDING JUDGE SMITH: If you are ordered by the Court to
11 answer questions, you are bound to do so. If you fail to answer
12 questions after you have been directed to do so by the Panel, you
13 might be subject to sanctions for it. Please note that you are not
14 permitted to refuse to answer questions at this point since we are
15 granting you the request that you made.

16 You have been granted the assistance of counsel. Counsel is not
17 with you, but you have consulted with him; is that correct?

18 THE WITNESS: [Interpretation] Yes, that's clear. I have
19 consulted, but I did not wish to have counsel present here.

20 PRESIDING JUDGE SMITH: That's your right, and we appreciate
21 that.

22 The SPO has agreed to granting the assurance that you requested
23 and has no objection to it. So the assurance in accordance with
24 Rule 151(2) and (3) of the rules is granted, and we will proceed now.

25 MR. ROBERTS: Your Honour, if I just may at this point. My

Witness: Naser Krasniqi (Open Session)
Procedural Matters

Page 24591

1 understanding from the rules is that, as a consequence of 151(3)(a),
2 the evidence is now given *in camera*.

3 PRESIDING JUDGE SMITH: He has chosen to testify in public.

4 MR. ROBERTS: Okay. So the position is that he's waived that
5 protection from Rule 151?

6 PRESIDING JUDGE SMITH: Well, I assume that, but I will ask him
7 for you.

8 MR. ROBERTS: I just want to be clear for the record,
9 Your Honour. Thank you.

10 PRESIDING JUDGE SMITH: Understood.

11 MR. MISETIC: And, Mr. President, I just rise to point out that
12 the assurance under (3)(b), with respect to jurisdictions outside of
13 this jurisdiction, if it's in public, obviously, then it needs to be
14 clear to him that --

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MR. MISETIC: Yeah, thank you.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. MISETIC: Thank you.

19 PRESIDING JUDGE SMITH: So you had asked to testify in public,
20 but when you testify in public, you are going to be saying things
21 that are heard outside of this jurisdiction. Do you understand that?
22 Would you rather testify *in camera*, with no one hearing it but those
23 in this room?

24 THE WITNESS: [Interpretation] I understand. However, I wish to
25 testify publicly.

Witness: Naser Krasniqi (Open Session)

Page 24592

Examination by Ms. Iodice

1 PRESIDING JUDGE SMITH: What has been brought up, which is a
2 fact, is that the assurances we give you are for Kosovo and for this
3 jurisdiction that we're in in this Court. But someone else in some
4 other jurisdiction may try to use your words against you, and that's
5 why we give you the opportunity to testify what we call *in camera*,
6 and that is without anybody hearing it but those in this room, and
7 you're giving up that right. And are you doing so consciously and
8 voluntarily?

9 THE WITNESS: [Interpretation] Yes.

10 PRESIDING JUDGE SMITH: Okay. We will proceed then.

11 Madam Prosecutor, you may begin.

12 MS. IODICE: Thank you, Your Honour.

13 Examination by Ms. Iodice:

14 Q. Good afternoon, Mr. Krasniqi. My name is Vega Iodice, and today
15 I will be asking you questions on behalf of the SPO. As explained
16 during our last meeting, rather than asking you questions about every
17 relevant issue you may have information about, it may be possible to
18 admit some of your statements containing such information into
19 evidence. There are a number of procedural steps to follow in order
20 to do so. Before turning to these, I would like to first establish
21 your identity.

22 So could you please tell your name to the Court?

23 A. Naser Krasniqi.

24 Q. And what is your date of birth?

25 A. 11 October 1973.

Witness: Naser Krasniqi (Open Session)

Page 24593

Examination by Ms. Iodice

1 Q. What is your country of nationality?

2 A. I'm a citizen of Kosovo.

3 Q. And what is your level of education?

4 A. I studied -- after the war, I studied law at a law faculty.

5 Q. Sir, you have given a statement to the SPO in the past and you
6 were allowed to review it in preparation for testimony.

7 MS. IODICE: Could the Court Officer please bring up
8 ERN 082908-TR-ET and the Albanian translation.

9 THE COURT OFFICER: Which part?

10 MS. IODICE: Just the first page.

11 THE COURT OFFICER: Just the first page.

12 MS. IODICE: Thank you.

13 THE COURT OFFICER: Of the Part 1, I assume.

14 MS. IODICE: Yes, thank you.

15 Q. Do you recall being interviewed by the SPO in 2019?

16 A. Yes, I do.

17 Q. Do you recall that that interview lasted two days?

18 A. Yes.

19 MS. IODICE: Could we now bring up SPOE00073191 to 73199. And
20 the Albanian, that's SPOE00073200 to 73209.

21 Q. Do you recall being interviewed by the SPRK in 2011 on 12 May?

22 A. Yes.

23 Q. And do you recall reading these statements in your language last
24 week?

25 A. Yes, that is correct.

Witness: Naser Krasniqi (Open Session)

Page 24594

Examination by Ms. Iodice

1 Q. Do you recall that you had the opportunity to make corrections
2 and clarifications to these statements?

3 A. Yes.

4 Q. Do you recall that those corrections were written down in a note
5 and read back to you?

6 A. Yes.

7 Q. And do you confirm that what was read back to you in that note
8 reflects your changes fully and accurately?

9 A. Yes, I do confirm that.

10 Q. Now, if we include all the corrections and clarifications that
11 you made last week, is the information in your statement accurate and
12 truthful to the best of your knowledge and belief?

13 A. The information is correct and accurate.

14 Q. Thank you. And if you were asked the same questions today about
15 those same events, would your answers be the same?

16 A. Yes.

17 MS. IODICE: Your Honour, having fulfilled the Rule 154 criteria
18 in accordance with decision F02804, paragraphs 24, 25, I'd like to
19 tender 082908-TR-ET Parts 1 to 5. The ending is Revised Corrected
20 Interpretation Revised RED and their Albanian translations,
21 082909-TR-ET Parts 1 to 6. Parts 1, 4 and 6 have the ending Revised
22 Corrected Interpretation Revised RED, and Part 5 has the ending Part
23 5 Revised RED, and the Albanian translations.

24 And I would also like to tender SPOE00073191 to 73199 and its
25 Albanian translation, SPOE73200 to 73209.

Witness: Naser Krasniqi (Open Session)

Page 24595

Examination by Ms. Iodice

1 Finally, I'd like to tender Preparation Note 1, which is ERN
2 124938 to 124958.

3 PRESIDING JUDGE SMITH: Any objections?

4 MR. ROBERTS: No objection, Your Honour.

5 MS. V. ALAGENDRA: No objection.

6 PRESIDING JUDGE SMITH: ERN 082908-TR-ET Parts 1 through 5 is
7 admitted.

8 THE COURT OFFICER: Thank you, Your Honour. Part 1 of 082908
9 will receive Exhibit P02006.1; Part 2 will be assigned
10 Exhibit P02006.2; Part 3, P02006.3; Part 4, P02006.4; and Part 5,
11 P02006.5. Classification for all of them is confidential.

12 MS. IODICE: They can be public.

13 PRESIDING JUDGE SMITH: Reclassified as public.

14 THE COURT OFFICER: Thank you.

15 PRESIDING JUDGE SMITH: And then 082909-TR-ET Parts 1 through 6
16 is admitted.

17 THE COURT OFFICER: Part 1 of 082909 will receive
18 Exhibit P02007.1; Part 2, P02007.2; Part 3, P02007.3; Part 4,
19 P02007.4; Part 5, P02007.5; and, finally, Part 6, P02007.6.
20 Classification for those is confidential as well.

21 PRESIDING JUDGE SMITH: Is that reclassified as well?

22 MS. IODICE: Yes, Your Honour.

23 PRESIDING JUDGE SMITH: Reclassified as public.

24 And then SPOE00073191 to SPOE00073199 is admitted.

25 THE COURT OFFICER: Thank you, Your Honour. That document, and

Witness: Naser Krasniqi (Open Session)

Page 24596

Examination by Ms. Iodice

1 its Albanian translation with ERN SPOE00073200 to SPOE00073209, will
2 receive Exhibit P02008. Classification is, I believe, confidential
3 for this one.

4 PRESIDING JUDGE SMITH: And then the note, which is ERN 124938
5 to 124951, is admitted.

6 THE COURT OFFICER: Yes, the preparation note will receive
7 Exhibit P02009. Classification is confidential.

8 PRESIDING JUDGE SMITH: Have I covered them all? Okay.

9 MS. IODICE: Thank you. And, Your Honour, moving on to the
10 associated exhibits, I'd like to tender pages from ERN 082926 to
11 083087. These are the pages I'd like to tender: 082926, 082928,
12 082934 to 082937, 082989, 083011, 083014 to 15, 083017 to 083043.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MR. ROBERTS: No objection, Your Honour.

15 PRESIDING JUDGE SMITH: The associated exhibits as enumerated
16 are admitted.

17 THE COURT OFFICER: Thank you, Your Honour. Just to clarify,
18 they can be collated into one document and receive one exhibit
19 number?

20 MS. IODICE: Yes, thank you.

21 THE COURT OFFICER: Thank you. They will receive
22 Exhibit P02010. Classification is confidential. Thank you.

23 MS. IODICE: The second associated exhibit is 082911 to 082917,
24 and the English translation, 082911 to 082911.

25 PRESIDING JUDGE SMITH: Any objection?

Witness: Naser Krasniqi (Open Session)

Page 24597

Examination by Ms. Iodice

1 MR. ROBERTS: No, Your Honour.

2 MS. V. ALAGENDRA: No objection.

3 PRESIDING JUDGE SMITH: That document is admitted, the
4 associated exhibit as enumerated.

5 THE COURT OFFICER: That associated exhibit will receive
6 Exhibit P02011. Classification is confidential.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 MS. IODICE: Yes, the -- this one, yes, Your Honour. The other
9 ones, to protect third parties, I believe it's best that they stay
10 confidential.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 082911 to 082917 will be reclassified as public.

13 MS. IODICE: Thank you. And the last associated exhibit, it's
14 an excerpt from a video, ERN IT-03-66 P35, time code 02:46 to 03:38,
15 and the relevant transcript excerpts pages 1, 2 in both languages.

16 PRESIDING JUDGE SMITH: Any objection to the video and the
17 transcript?

18 MR. ROBERTS: No.

19 MS. V. ALAGENDRA: No objection.

20 PRESIDING JUDGE SMITH: The video and the -- I should say the
21 transcript is admitted.

22 THE COURT OFFICER: Thank you, Your Honour. The video Albanian
23 transcript and English translation will receive Exhibit P02012.
24 Classification is confidential.

25 MS. IODICE: This can be public.

Witness: Naser Krasniqi (Open Session)

Page 24598

Examination by Ms. Iodice

1 PRESIDING JUDGE SMITH: Reclassified as public, please.

2 MS. IODICE: Thank you, Your Honour. I'd like to now ask a few
3 additional questions.

4 PRESIDING JUDGE SMITH: Yes, go ahead.

5 MS. IODICE: Thank you.

6 Q. Sir, in your statement - and this is in P2006.1, page 11, 13 -
7 you stated that you met Rexhep Selimi aka Agron in Likoc, and later
8 on he came to Klecke. Do you recall when you saw him for the first
9 time in Klecke?

10 A. When I saw him in Likoc, when I arrived from Albania, I did not
11 know him as Rexhep Selimi. I only knew him by the name of Agron.
12 Later on, I understood that Agron was Rexhep Selimi. And then before
13 the first offensive, I remember having seen him at least once.

14 Q. Okay. Thank you. And that would be 1998; correct?

15 A. Correct.

16 Q. Thank you. And do you know what he was doing in Klecke when you
17 saw him before the first offensive?

18 A. I do not know the purpose of his visit in Klecke. I am not able
19 to tell you what he was doing there.

20 Q. Do you know whether he met anyone?

21 A. I know that he met with Fatmir who was also in charge of the
22 point in Klecke.

23 Q. Thank you. Could you please state Fatmir's full name, please?

24 A. Fatmir Limaj.

25 Q. Thank you. Now, and just as I told you before, since your

Witness: Naser Krasniqi (Open Session)

Page 24599

Examination by Ms. Iodice

1 statement has been admitted, I will be just asking you specific
2 details about your evidence. So I might stop you sometimes if you
3 are adding details that are already contained in your statement.
4 Okay?

5 So in your statement you mentioned that your first duties
6 related to logistics, and that you received food and supplies from
7 the population. How did you keep track of what people donated?

8 A. We documented the received material and assistance through a
9 register. We called that "paragon" at the time.

10 Q. And what kind of register was it? Did you confirm what you had
11 received?

12 A. Yes. We would note down the exact amount received, the nature
13 or type of material received, and I would put my signature there. I
14 would keep the original for myself or the point and give a copy to
15 the person who was giving the aid.

16 Q. Thank you. And you also mentioned that Sadik Shala was involved
17 in logistics. Do you remember if he had a nickname?

18 A. Sadik Shala had the nickname Burgija.

19 Q. Thank you. Now, going to the part your statement where you
20 mentioned the units called Lumi, Pellumbi, Celiku, and Fera. I'd
21 like to ask you, where was the Lumi unit based?

22 A. The Lumi unit must have been based in Malisheve or in the
23 surroundings.

24 Q. And do you know who led it?

25 A. In the period of time we're talking about, I know the unit was

Witness: Naser Krasniqi (Open Session)

Page 24600

Examination by Ms. Iodice

1 led by Mr. Isni Kilaj.

2 Q. Thank you. And what about the Pellumbi unit, who led it?

3 A. Based on my information, it was led by Mr. Ferat Shala.

4 Q. And do you recall any other unit in that area?

5 A. There were others most probably, such as Lisi, Guri further on.

6 There were several units. I am not able to recall all of them, but

7 there were many units.

8 Q. That's fine. Do you recall where the Lisi unit was based?

9 A. Lisi must have been positioned in the village of Doberdolan or
10 in the area around it.

11 Q. Thank you. What about the Guri unit that you mentioned?

12 A. The Guri unit was in the part of Drenica. I do not know the
13 name of the exact location or the territory, but it was a high point,
14 and they communicated with other points using radio devices.

15 Q. Thank you. In Exhibit P02009, you mentioned at paragraph 83 the
16 locations of various KLA points. Do you recall whether there was a
17 KLA point in Greicec?

18 A. Yes, there was a point in Greicec.

19 Q. And do you know who led it?

20 A. That point was led by Jetullah Qarri.

21 Q. What was Qarri's nickname, if any?

22 A. From what I know, his nickname was --

23 THE INTERPRETER: The interpreter could not hear the nickname.

24 MS. IODICE:

25 Q. I'm sorry, Witness. Could you please repeat for the

Witness: Naser Krasniqi (Open Session)

Page 24601

Examination by Ms. Iodice

1 interpreter? They did not hear you.

2 A. Jetullah Qarri's nickname was Guri.

3 Q. Thank you.

4 MS. IODICE: Now, could we have ERN SPOE00227441 to

5 SPOE00227543, and the English as well.

6 THE COURT OFFICER: If counsel could please repeat the ERN
7 number.

8 MS. IODICE: Yes, sorry. SPOE00227541 to SPOE00227543.

9 Q. Sir, based on your knowledge of the KLA units at the time, do
10 you know whether the men listed on this document belonged to any
11 unit?

12 A. As I already answered earlier, based on the surnames, they might
13 have been part of the Lumi unit. But I don't know any of the people
14 on the list except number 1.

15 Q. Can you repeat the name of the unit, please?

16 A. The names on this list may belong to the Pellumbi unit based on
17 the surnames. But I don't know them, all of them on the list.

18 Q. And you said that you know the first one. Is that the same
19 Ferat Shala who led the Pellumbi unit?

20 A. I am not aware that there was any other Ferat Shala, so this
21 must be the one I know.

22 Q. Thank you. At the number 19, there is a Naser Krasniqi. Is
23 that you?

24 A. No, this is not in reference to me.

25 Q. Thank you.

Witness: Naser Krasniqi (Open Session)

Page 24602

Examination by Ms. Iodice

1 MS. IODICE: Your Honour, I would like to tender this document
2 into evidence.

3 MS. V. ALAGENDRA: Your Honours, we object to the document being
4 admitted. The witness has clearly said he's never seen this list
5 before, and he's only been able to identify one name off that list.
6 We don't know where this -- who wrote this document. There's no date
7 on this document, Your Honours.

8 PRESIDING JUDGE SMITH: Anybody else?

9 MR. DIXON: Yes, Your Honour. We support that objection. It's
10 just one page existing in thin air. No idea where it comes from,
11 what is the purpose of the list, no cover page, no details that the
12 witness is not able to assist us.

13 MS. IODICE: Your Honour, sorry, first if ...

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MS. IODICE: The witness has sufficiently commented on the list.
16 He said he recognised the first name. He doesn't know anyone else
17 with that name. He had already mentioned that that person was the
18 leader of the Pellumbi unit. And he has provided sufficient context
19 for the rest of the names for the admissibility of this document.

20 PRESIDING JUDGE SMITH: It's of sufficient relevance and it will
21 be admitted under 00227541-SPOE00227543. It's admitted. Please give
22 it a number.

23 THE COURT OFFICER: Thank you, Your Honour. This document will
24 receive Exhibit P02013. Classification is confidential.

25 MS. IODICE: Thank you.

Witness: Naser Krasniqi (Open Session)

Page 24603

Examination by Ms. Iodice

1 Q. Now, I'd like to move on to your time in Brigade 121.

2 MS. IODICE: Could we please have on the screen SPOE00226323 and
3 the corresponding English.

4 PRESIDING JUDGE SMITH: I think the transcript has stopped.

5 [Trial Panel and Court Officer confers]

6 MS. IODICE: I believe I may continue, Your Honour.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 MS. IODICE: No.

9 [Trial Panel and Court Officer confers]

10 MS. IODICE: Thank you.

11 Q. Sir, before I showed you this document last week, had you ever
12 seen it?

13 A. No, I hadn't seen it before last week.

14 MS. IODICE: And could we scroll the Albanian so that the
15 signature is visible? Maybe if we can leave it so that the rest of
16 the document is also -- thank you.

17 Q. Do you recognise the signature on this document?

18 A. Although I'm not an expert in handwriting, I can say that this
19 was written by Cerkin Dukolli based on a number of other documents
20 that I received in the course of our cooperation.

21 Q. Thank you. And what was Dukolli's role in Brigade 121?

22 A. During the time of this document, he was head of S1 or the
23 personnel unit. He also was called commander for personnel of the
24 brigade.

25 Q. Thank you. And if you look at the bottom left, there's those

Witness: Naser Krasniqi (Open Session)

Page 24604

Examination by Ms. Iodice

1 initials CD. What does that indicate?

2 A. I think the initials refer to Cerkin Dukolli. So the first
3 letter of his name and first letter of his surname.

4 Q. Thank you. And in the text of this telegram, we can see that it
5 is addressed to "Mr. '10'." Do you know who that is?

6 A. In our brigade, we knew that this number or this figure was kept
7 as a pseudonym by Mr. Rexhep Selimi. I'm not aware if somebody else
8 had a similar pseudonym.

9 Q. And when you say "in the brigade," who do you mean within the
10 brigade? The entire brigade, parts of the brigade?

11 A. I mean the command of the brigade and other people that I had
12 the opportunity to work with in the military police.

13 Q. Thank you. And to your knowledge, were there any other KLA
14 members who were also known by numbers?

15 A. I can remember at least two other ones, but I'm not sure.

16 Q. Which other ones do you remember? Which two do you remember?

17 A. For example, Sokol Bashota was number 11, and Mr. Kadri Veseli
18 had number 7. I don't remember any other numbers.

19 Q. And how did you know these two numbers?

20 A. During the time when we were active, I don't think this was a
21 secret to us. I don't know how many people were privy to that
22 information, but we did have such information.

23 Q. And who do you mean by "we"? Who is "us"?

24 A. I mean the persons that belonged to the 121 Brigade command.

25 Q. Thank you.

1 MS. IODICE: Your Honour, at this time I'd like to tender this
2 document.

3 PRESIDING JUDGE SMITH: Any objection to the document?

4 MR. ROBERTS: No objection, Your Honour, apart from unclear what
5 relevance it is. Apart from that, nothing.

6 PRESIDING JUDGE SMITH: It meets the minimum standards of 138,
7 so ERN 00226323 is admitted.

8 THE COURT OFFICER: Thank you, Your Honour. That document will
9 receive Exhibit P02014. Classification is confidential.

10 MS. IODICE: Yes, Your Honour, I note the time.

11 PRESIDING JUDGE SMITH: Witness, that's the end of our time
12 today. You'll have to be here tomorrow at 9.00. We'll be ready for
13 you. And have a good evening. Remember not to speak to anyone about
14 your testimony outside of the courtroom.

15 THE WITNESS: [Interpretation] Thank you.

16 [The witness stands down]

17 MR. ROBERTS: Your Honours, just before we leave for the day,
18 there's just two very minor matters. First, it's just to inform you
19 that the order for cross-examination, I think we've already notified
20 you through the Court Management, that we'd be going first. The
21 order then would be counsel for Mr. Veseli, then counsel for
22 Mr. Krasniqi, and then, finally, counsel for Mr. Thaci.

23 And, secondly, we have a slight issue in relation to a document
24 that's on the presentation queue of the Prosecution that wasn't
25 listed within their notified documents. I'll just give the ERN,

1 which is SPOE00226483. And the full range is to SPOE00226490. And
2 the practice in the past is when such documents have not been
3 notified, that the Prosecution would proffer the relevance of this
4 document and what they intend to use it for given the fact that we
5 weren't provided with that notice in advance. So we would simply
6 request that the Prosecution could do that overnight.

7 PRESIDING JUDGE SMITH: Please do so.

8 MS. IODICE: Your Honour, I believe this was used in Preparation
9 Note 2, so the relevance can be -- I can double-check and --

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 If it's still an issue in the morning, we'll take it up at that
12 time.

13 So we're adjourned until 9.00 a.m. tomorrow.

14 --- Whereupon the hearing adjourned at 4.31 p.m.