

1 Wednesday, 28 February 2024

2 [Open session]

3 [The accused entered the courtroom via videolink]

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

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

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

10 PRESIDING JUDGE SMITH: Good morning. I notice that all of the
11 accused are appearing on videolink, having waived their right to be
12 present.

13 As usual, I have a few procedural matters to address before we
14 begin.

15 First, Mr. Emmerson, you wanted to come back to the Panel
16 regarding the hearing schedule in the summer.

17 MR. EMMERSON: Your Honour, yes. Speaking on behalf of the
18 Veseli team, we have looked at the schedule and the way in which each
19 three-week schedule is planned and operated, and I think Your Honour
20 will remember an occasion where we had a solid and troubling,
21 difficult three weeks. Our concern is that, though it seems a long
22 way away at the moment, a four-week solid sitting schedule is simply
23 too difficult for us to complete.

24 And, I mean, I don't know whether that's a view that's shared by
25 other Defence as we haven't in fact discussed it yet, but looking at

1 the practical reality of preparing witnesses, which are done
2 literally on a rolling basis, there has to be space between blocks
3 for us to be in a position to have, you know, a prepared file for
4 each witness from which to work.

5 And it's simply, in reality, the three weeks on/one week off,
6 three weeks on/two weeks off is working, but more than that we think
7 in the end will be a problem.

8 PRESIDING JUDGE SMITH: And I want to emphasise, this is not to
9 develop a pattern.

10 MR. EMMERSON: No.

11 PRESIDING JUDGE SMITH: We intend to do this one time only to
12 just try to catch up.

13 MR. EMMERSON: Well, I'm not going to press it further.

14 PRESIDING JUDGE SMITH: Yeah, I understand. I understand your
15 point. And I don't disagree, largely. I just -- I guess I'm sort of
16 desperately wanting to pick up a little pace and this is a good way
17 to do it right before a long summer break.

18 MR. EMMERSON: I entirely understand. But I mean, if we look at
19 this week, we've had a wasted date because of events that we don't
20 fully understand. I mean, it's in a sense -- in a sense, it's
21 putting a very heavy burden on the Defence teams. That's all I'm
22 saying.

23 PRESIDING JUDGE SMITH: I appreciate that. And we'll make a
24 decision. And I appreciate your candour. Thank you.

25 Second, the Panel notes that the Defence for Mr. Veseli

1 requested the recording of hours as far as Defence cross-examination
2 has occurred and that we should desegregate the questioning on the
3 part of the Defence that follows the judicial questioning. And we
4 understand the point and do not disagree with that.

5 It will be the -- well, first of all, does anybody have any
6 objection to us decoupling the questioning after the Judges'
7 questions from the actual cross-examination by the Defence?

8 Prosecution?

9 MS. CLANTON: Good morning. Is this for recording purposes that
10 you would decouple it? There would be a record of time taken on
11 cross and then a record of time taken after judicial questioning? Is
12 that the --

13 PRESIDING JUDGE SMITH: That remains to be seen. The main thing
14 is that we don't want to have it counted against the
15 cross-examination. That's all.

16 MS. CLANTON: I'm not hearing you. I can hear you in the
17 courtroom, but ...

18 PRESIDING JUDGE SMITH: My mic is on. Can anybody else hear me?
19 Just you. It might be you.

20 MR. MISETIC: If I may assist, because I sometimes have the same
21 problem with that mic, you have to turn the volume up and it
22 automatically shuts it down for whatever reason whenever you turn the
23 mic off, so ...

24 MS. CLANTON: Thank you.

25 PRESIDING JUDGE SMITH: And yours is still doing that? That's a

1 flaw that ought to be fixed.

2 MR. MISETIC: It has its days. And then just when I'm about to
3 ask to have it fixed, it fixes itself.

4 PRESIDING JUDGE SMITH: Well, we all have our days.

5 So what I'm saying is we are not actively engaged in recording
6 the time on cross-examination following the Judges' questions. We're
7 merely saying it will not be counted against the Defence. How CMU
8 and the Registry takes care of the timing is up to them.

9 MS. CLANTON: Mr. President, I think that we would say that the
10 important thing is that we look at the numbers as they come in. So
11 in principle, it seems fine. But if we find that the questioning
12 that comes after judicial questioning is of such a length that it
13 means that we're not actually able to monitor or place limits on the
14 overall time of Defence questioning, then we may have to come back on
15 that position.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 I understand your question, but it's, of course, up to the Court
18 to decide whether to place limits on it and based upon -- based upon
19 our view of the length of the questioning, and so far it's not been
20 excessive. Maybe in one instance or something, I'm not sure. So
21 thank you for your comment.

22 Anything from the Defence? I assume it's ...

23 MR. TULLY: Yeah, we're happy to support. We think it provides
24 proper context to the numbers. Thank you, Your Honour.

25 PRESIDING JUDGE SMITH: Thank you for bringing that up.

1 In light of the parties' submissions, the Panel grants the
2 Veseli Defence's request and directs CMU to exclude the time spent on
3 questioning by the Defence and parties subsequent to the Panel's
4 questions, just that, from the calculation of time spent on
5 cross-examination or redirect.

6 This concludes the Panel's trial order.

7 The same rules will apply to the Prosecution. If you have a
8 lengthy -- if you have some questions, it will not be counted against
9 your time at redirect or direct examination.

10 Third. The Panel notes that the SPO has requested, in filing
11 F02153, to authorise the testimony of W03878 to take place by
12 video-conference link. That, of course, was the person that was to
13 testify earlier and could not.

14 Before ruling on the request, the Panel would like to hear from
15 the parties if you have any responses or replies on the matters, and
16 we would like to hear from the Registry regarding their assessment of
17 the videolink request.

18 And let's start out with the Registry.

19 Ralph, anything you want to say about that, other than your
20 request to do it?

21 MR. ROCHE: Thank you, Your Honour. Yes, the Registry is able
22 to facilitate the requests on the dates scheduled. The measures set
23 out in our e-mail of 23 February 2024 to the Panel can be
24 implemented. In the event that after further assessments by the
25 Witness Protection and Security Office that any further measures are

1 to be recommended, these will be communicated to the Panel in due
2 course. Thank you.

3 PRESIDING JUDGE SMITH: Thank you very much.

4 Anything from the Defence?

5 MR. MISETIC: Yes, Mr. President.

6 I note for this witness that the witness was here, so at least
7 from the Defence's limited knowledge he is able to travel to
8 The Hague. We note that the Defence was not informed as to the
9 reasons that he left nor is the Defence informed from the
10 Prosecution's filing of any health or other -- any specifics
11 regarding any basis to have him by videolink.

12 So due to the absence of information to our Defence team, as a
13 matter of principle we will oppose the application.

14 PRESIDING JUDGE SMITH: I might add that the Court is aware of
15 the reasoning, and in our view, it certainly didn't have any impact
16 on this case at all, you know. It was for an entirely independent
17 matter.

18 MR. MISETIC: And I absolutely accept that. I just say as a
19 matter of principle so that we don't set a precedent going forward,
20 that we can't agree to videolinks where we have no information as to
21 the basis for it.

22 PRESIDING JUDGE SMITH: Understood.

23 Go ahead.

24 MR. EMMERSON: I would endorse that position. Just simply to
25 reiterate that these, of course, are not routine measures. It's a

1 departure from the general principles. But with that in mind, we're
2 not in a position to advance a reasoned objection.

3 PRESIDING JUDGE SMITH: Thank you.

4 MR. TULLY: We're in a similar position, Your Honour. Thank
5 you.

6 MR. BAIESU: We also join the objection.

7 PRESIDING JUDGE SMITH: Well, we'll make a decision and let that
8 be known. We will, no doubt, make an oral order yet today on that
9 because the dates suggested for that videolink will come up very
10 quickly once we come back from this longer break.

11 I do note also based on the outcome of the psychological
12 assessment -- I'm sorry, let's go into private session.

13 [Private session]

14 [Private session text removed]

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23 [Open session]

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

25 PRESIDING JUDGE SMITH: We'll now start hearing the evidence of

1 Prosecution Witness W01140 who will testify via videolink as granted
2 by the Panel in F01975.

3 Madam Court Usher, please bring the witness into the videolink.
4 I'm not sure whether it's Madam or Mr. Court Officer.

5 MR. TULLY: Your Honour, perhaps while that's being done. I
6 know that you granted more frequent breaks. If you could maybe give
7 us an indication of when you intend to take those breaks for
8 planning.

9 [The witness entered court via videolink]

10 PRESIDING JUDGE SMITH: Our plan will be to have a break at
11 10.00.

12 MR. TULLY: Okay.

13 PRESIDING JUDGE SMITH: And then we'll just kind of have to play
14 it a little bit by ear --

15 MR. TULLY: Sure.

16 PRESIDING JUDGE SMITH: -- based upon how the witness is
17 appearing to do.

18 MR. TULLY: Okay. Understood. Thank you.

19 PRESIDING JUDGE SMITH: Good morning, Witness. Can you hear
20 okay?

21 THE WITNESS: [via videolink] [Interpretation] I can hear.

22 PRESIDING JUDGE SMITH: The Court Officer will now provide you
23 with the text of a solemn declaration which you are asked to take
24 pursuant to Rule 141(2) of our rules.

25 So please take a look at the document and then read it out loud.

1 THE WITNESS: [via videolink] [Interpretation] All right.

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

6 WITNESS: W01140

7 [The witness answered through interpreter]

8 [The witness testified via videolink]

9 PRESIDING JUDGE SMITH: Thank you, Witness.

10 Today we will start your testimony, which is expected to last
11 just today. As you may know, the Prosecution will ask you questions
12 first, then the Victims' Counsel will ask you some questions, and
13 finally the Defence has the right to ask questions. Members of the
14 Panel may also have some questions for you.

15 The Prosecution estimate for your examination is one hour. The
16 Victims' Counsel will need 15 minutes. The Defence estimates that it
17 will need around three hours to ask you questions. As regards each
18 estimate, we hope the counsel will be judicious in their use of their
19 time. The Panel may allow redirect examination if conditions for it
20 are met.

21 Witness, please try to answer the questions clearly with short
22 sentences. If you don't understand a question, feel free to ask
23 counsel to repeat the question or tell them that you don't understand
24 and they will clarify.

25 Also, please try to indicate the basis of your knowledge of

1 facts and circumstances that you will be asked about.

2 In the event you are asked by the SPO to attest to some
3 corrections made regarding your statement, you are reminded to
4 confirm on the record that the written statement, as corrected by the
5 list of corrections, accurately reflects your declaration.

6 Please also speak into the microphone and wait five seconds
7 before answering a question, and then speak at a slow pace for the
8 interpreters to catch up.

9 During the next days while you are giving evidence in this
10 Court, you are not allowed to discuss with anyone the content of your
11 testimony outside of this courtroom. If any person asks you
12 questions outside of this Court about your testimony, please let us
13 know.

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

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

19 We will begin with questions from the Prosecutor.

20 Madam Prosecutor, you may begin.

21 THE COURT OFFICER: [via videolink] Your Honours, if I may just
22 confirm for the record that the Witness W01140 has entered the
23 courtroom together with the witness support staff member and myself,
24 Court Officer. Thank you, Your Honours.

25 PRESIDING JUDGE SMITH: Thank you very much.

Witness: W01140 (Private Session)

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Examination by Ms. Clanton

1 And we are in public session.

2 MS. CLANTON: Good morning, Your Honours.

3 Examination by Ms. Clanton:

4 Q. Good morning, Witness. I am Sarah Clanton. I'm counsel for the
5 Prosecution, and today I will be asking you questions.

6 MS. CLANTON: Can we please move into private session to record
7 the personal details of the witness.

8 PRESIDING JUDGE SMITH: For the protection of the witness,
9 Madam Court Officer, please move us into private session.

10 [Private session]

11 [Private session text removed]

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Witness: W01140 (Private Session)

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Examination by Ms. Clanton

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6 [Open session]

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

8 MS. CLANTON:

9 Q. The next questions concern four prior statements that you have
10 made.

11 MS. CLANTON: All of these are not for broadcast.

12 Can the Court Officer please call up ERN 028512-028516-ET
13 Revised RED, and in the original language it's the same ERN RED.

14 Q. Witness, on the left-hand side of your screen, do you recognise
15 this as a statement that you have given?

16 A. Yes.

17 Q. And if we scroll down, please, on the left-hand side, do you
18 recognise the signature on the bottom of this page?

19 A. Yes, that's my signature.

20 Q. Thank you.

21 MS. CLANTON: Can the Court Officer please call up 028544 to
22 028546-ET Revised RED; the same ERN in Serbian RED.

23 Q. Witness, on the left side of your screen, do you recognise this
24 as a statement that you gave?

25 A. Yes.

1 MS. CLANTON: And if we can please scroll down.

2 Q. Witness, do you recognise the signature on this page?

3 A. Yes, that's my signature.

4 MS. CLANTON: Can the Court Officer please bring up ERN
5 028643-028658-ET RED 2.

6 Q. Witness, if you look at the document on the left side of your
7 screen, do you recognise this as a record of a statement that you
8 gave?

9 A. Yes.

10 MS. CLANTON: If we can scroll down, please.

11 Q. Witness, do you recognise the signature on this page?

12 A. Yes, that's my signature.

13 MS. CLANTON: And, finally, can the Court Officer call up
14 069662-TR-ET Part 1 RED2.

15 Q. This is a typed transcript from an interview in 2019 with the
16 Prosecutor's office. The interview was recorded, so there is no
17 signature.

18 Witness, do you recall that you were interviewed by the
19 Prosecutor's Office?

20 A. Yes, I remember.

21 MS. CLANTON: We can take this down from the screen.

22 Q. Witness, do you remember that late last year a team from the
23 Prosecutor's Office, including me, came to your location with an
24 interpreter and read your prior statements out to you?

25 A. Yes.

1 Q. And do you recall that with me and with my colleagues you
2 provided clarifications and corrections to some of those prior
3 statements?

4 A. Yes.

5 Q. And do you recall that those clarifications and corrections were
6 typed up and then read back to you in your language by an
7 interpreter?

8 A. Yes.

9 Q. Now, Witness, if we include all of the corrections and
10 clarifications that you made when we recently met, which were read
11 back to you, is the information in the four statements accurate and
12 truthful to the best of your knowledge and belief?

13 A. Can you please repeat? I didn't quite understand.

14 Q. Yes. Witness, if we include all of the corrections and
15 clarifications that you made when we met late last year, which were
16 read back to you, is the information contained in the four statements
17 that were just brought up on the screen in front of you accurate and
18 truthful to the best of your knowledge and belief?

19 A. It is correct, yes.

20 Q. And, finally, Witness, if we include all of the corrections and
21 clarifications that you made when we recently met late last year,
22 which were read back to you, do the four statements that were brought
23 up on the screen in front of you a moment ago accurately reflect what
24 you would say today if you were asked the same questions about the
25 same events?

1 A. Certainly.

2 MS. CLANTON: Your Honours, at this time we seek admission of
3 the prior statements and associated exhibits of the witness, all of
4 which were part of the Rule 154 decision F01976. For the record,
5 we're tendering two revised English-language translations which
6 replace those in the 154 decision. This was notified to the parties.
7 The new ERNs are 028512 to 028516-ET Revised RED and 028544 to
8 028746-ET Revised RED which replace the replace the previous versions
9 of those documents found in footnote 49 of the 154 decision.

10 In addition, since the time the decision was issued, two of the
11 associated exhibits have been admitted. 028566 to 028596 has been
12 admitted as P01028. 028547 to 028556 has been admitted as 3D00014.
13 So we're asking for the associated exhibits that have not yet been
14 admitted to be admitted as well as Preparation Note 1, which has been
15 disclosed in Legal Workflow and has ERN 117797 to 117805.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 Any objection by the --

18 MR. MISETIC: No.

19 PRESIDING JUDGE SMITH: -- Defence.

20 All right. ERN 028512 to 028516-ET REV RED is admitted.

21 028544 to 028546-ET REV RED is admitted.

22 ERN 028643 to 028648-ET RED2 is admitted.

23 069662-TR-ET Part 1 RED2 is admitted together with Prep Note 1
24 and the associated exhibits, other than the two that were already
25 admitted.

1 MS. CLANTON: For clarity on the record, we're tendering parts 1
2 through 4 of 069662. And I believe there was a number that was
3 off --

4 PRESIDING JUDGE SMITH: I'm sorry, when you posted it you said
5 Part 1. 1 through 4?

6 MS. CLANTON: 1 through 4. We brought up Part 1 to have an
7 example, but it's a four-part interview. And I --

8 PRESIDING JUDGE SMITH: So unless there's an objection, Parts 1
9 through 4 of that exhibit is admitted.

10 MS. CLANTON: And just to correct the record, there was a -- I
11 think you misspoke. It was 028643 to 028658 and not 648.

12 PRESIDING JUDGE SMITH: Actually I wrote it down wrong. With
13 that correction, that exhibit is admitted. Plus the -- I think I
14 said the associated exhibit, except the two that you have admitted
15 already.

16 So, Madam Prosecutor, you may continue.

17 You can assign numbers now or later if you wish.

18 THE COURT OFFICER: If I can do it now, Your Honour, we are done
19 with it.

20 For the first statement, 028512 to 028516, all versions -
21 English, Albanian, Serbian - the exhibit number will be P1031.

22 For the second statement with common ERN 028544 to 028546,
23 English, Albanian, Serbian versions, the exhibit number will be
24 P1032.

25 The third statement with ERN 028643 to 028658-ET RED2, together

1 with the Albanian and Serbian versions, will be Exhibit P1033.

2 The fourth statement that consists of four parts, 069662-TR-ET,
3 together with Albanian, Serbian, and that is part -- Part 1 will be
4 Exhibit P1034.1. Part 2 will be Exhibit P1034.2. Part 3 will be
5 Exhibit P1034.3. And Part 4 will be Exhibit P1034.4.

6 And then for the two associated exhibits that are outstanding
7 and not admitted so far. The first one, 069663 to 069664, will be
8 Exhibit P1035. And associated Exhibit 074946 to 074948 will be
9 Exhibit P1036.

10 Thank you, Your Honours.

11 Apologies. And the last one, the preparation note with ERN
12 117797 to 117805 will be Exhibit P1037. Thank you.

13 PRESIDING JUDGE SMITH: Thank you.

14 You may proceed.

15 MS. CLANTON: At this time, we have prepared a short public
16 summary.

17 PRESIDING JUDGE SMITH: Go ahead.

18 MS. CLANTON: W01140 was a resident of Prizren. In June 1999,
19 he was abducted and beaten by KLA members. He was interrogated and
20 threatened with death. During his detention, he observed other
21 persons -- other detained persons with injuries.

22 He was released by a KLA member who he knew from before. He
23 still suffers health consequences from the injuries he sustained.

24 Mr. President, if we can move into private session to protect
25 the identity of the witness.

Witness: W01140 (Private Session)

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Examination by Ms. Clanton

1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 Take us into private session, Madam Court Officer, for the
3 protection of the witness.

4 [Private session]

5 [Private session text removed]

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Witness: W01140 (Private Session)

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Examination by Ms. Clanton

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Witness: W01140 (Private Session)

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Examination by Ms. Clanton

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Witness: W01140 (Private Session)

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Examination by Ms. Clanton

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Witness: W01140 (Private Session)

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Examination by Ms. Clanton

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Witness: W01140 (Private Session)

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Examination by Ms. Clanton

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Witness: W01140 (Private Session)

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Examination by Ms. Clanton

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14 [Open session]

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

16 PRESIDING JUDGE SMITH: Thank you.

17 MS. CLANTON: If I can ask for the Court Officer to please bring
18 up V000-4004-1-A_1.09.57-1.13.02. And while we're waiting for that
19 to come up, the ERN for the transcript is
20 V000-4004-1-A-Cropped-TR-ET_1.09.57-1.13.02.

21 On the transcript, we will be looking at page 31.

22 Q. Now, Witness, I'd like to show you a video -- just one moment.

23 MR. MISETIC: Mr. President, just for the record, I don't have
24 an objection to showing the video nor do I have an objection
25 necessarily to the audio. But if anything in the audio is going to

1 be relevant to what he's going to be asked about in terms of
2 identification of people or anything like that, then it would be
3 leading to play the audio for the witness first. And I think he
4 should first be asked what he sees on the video, and then if there's
5 a need to play the audio, they can play the audio.

6 But without knowing what the questioning is going to be, I'd
7 just like to put that on the record.

8 PRESIDING JUDGE SMITH: Let's run through it without the sound
9 first or without -- and then we will -- or without the translation
10 first and then we will consider the translation.

11 MS. CLANTON: Just so I understand the procedure. The video is
12 in German. There's an English transcript. To my knowledge, the
13 witness does not speak German or English --

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MS. CLANTON: There's no subtitles. So it could be played
16 without the witness understanding as long as the booth doesn't
17 translate it into his language.

18 PRESIDING JUDGE SMITH: Is that acceptable?

19 MR. MISETIC: It's acceptable to me as long as technically it's
20 possible.

21 [Trial Panel and Court Officer confers]

22 PRESIDING JUDGE SMITH: Go ahead. Run it with the sound then
23 under those circumstances.

24 MS. CLANTON: Okay.

25 Q. I have one additional remark. The audio track, Witness, of this

1 excerpt of a video runs slightly ahead of the picture in the video.
2 It's off by just a few seconds. So this means that the audio will
3 start before the visual part of the segment actually begins.

4 So the very beginning of the clip will have something different
5 on your screen than what you're hearing and different than what I
6 want to ask you about. So if you can please focus your attention on
7 what is shown after a vehicle leaves the screen. Those are the
8 matters that we're interested in.

9 MS. CLANTON: And if I can ask that we play the clip, and then I
10 would ask a few questions to the witness.

11 Q. Witness, please bear in mind that we're in public session, so
12 please don't interrupt and just watch the first time.

13 [Video-clip played]

14 MS. CLANTON:

15 Q. Witness, were you able to see the video from your location?

16 A. Yes, yes, I could.

17 Q. And in the video from the time after you see the tank, there
18 were two men who were walking towards a building. Did you recognise
19 that building?

20 A. Yes, that is the seminary in Prizren.

21 Q. And in your prior evidence at P01031, you indicated that you and
22 your family took steps to leave Prizren. Is this the location where
23 you went, the seminary building?

24 A. Yes.

25 Q. And what we saw in the video, is this the place where you slept?

1 A. We slept outside because it was full. You couldn't even
2 approach it. I mean, the sleeping quarters.

3 MS. CLANTON: If we could move into private session for the rest
4 of my questions on this topic, please.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MS. CLANTON: Actually, it would be better to break now then.

7 PRESIDING JUDGE SMITH: Witness, we'll give you a ten-minute
8 break now. The Court Usher will escort you out of the room.

9 THE WITNESS: [Interpretation] Yes.

10 PRESIDING JUDGE SMITH: You can turn the transmission -- black
11 it. I guess you can't. You can't turn it off. Okay.

12 [Trial Panel and Court Officer confers]

13 [The witness stands down via videolink]

14 PRESIDING JUDGE SMITH: Okay. So we'll break until 10.10.
15 We're adjourned until that time.

16 --- Break taken at 10.00 a.m.

17 --- On resuming at 10.11 a.m.

18 PRESIDING JUDGE SMITH: Madam Usher, bring the witness in.

19 [The witness takes the stand via videolink]

20 THE COURT OFFICER: [via videolink] Your Honours, to confirm for
21 the record that the witness is back in the courtroom together with
22 the witness support officer and Court Officer. Thank you,
23 Your Honours.

24 PRESIDING JUDGE SMITH: Thank you.

25 Madam Prosecutor, you may continue.

Witness: W01140 (Private Session)

Page 13043

Examination by Ms. Clanton

1 MS. CLANTON: Thank you. If we move into private session for my
2 next questions, please.

3 PRESIDING JUDGE SMITH: Please take us into private session.

4 [Private session]

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Witness: W01140 (Private Session)

Page 13044

Examination by Ms. Clanton

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Witness: W01140 (Private Session)

Page 13045

Examination by Ms. Clanton

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Witness: W01140 (Private Session)

Page 13046

Questioned by Victims' Counsel

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Witness: W01140 (Private Session)

Page 13047

Questioned by Victims' Counsel

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Witness: W01140 (Private Session)

Page 13048

Questioned by Victims' Counsel

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Witness: W01140 (Private Session)

Page 13049

Questioned by Victims' Counsel

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Witness: W01140 (Private Session)

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Questioned by Victims' Counsel

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Witness: W01140 (Private Session)

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Questioned by Victims' Counsel

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Witness: W01140 (Private Session)

Page 13052

Questioned by Victims' Counsel

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Witness: W01140 (Private Session)

Page 13053

Questioned by Victims' Counsel

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Witness: W01140 (Private Session)

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Questioned by Victims' Counsel

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Witness: W01140 (Private Session)

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Questioned by Victims' Counsel

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Witness: W01140 (Private Session)

Page 13056

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13057

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13058

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13059

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13060

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13061

Cross-examination by Mr. Tully

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9 [Open session]

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

11 PRESIDING JUDGE SMITH: All right. Now we're adjourned until
12 11.30.

13 --- Recess taken at 11.01 a.m.

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

15 PRESIDING JUDGE SMITH: Before we go back to the witness, I want
16 to proceed with an oral order on the SPO's videolink request as
17 stated in F02153.

18 At the outset, the Panel recalls that while video-conference
19 testimony should not be considered only on an -- I mean, should not
20 be considered only on an exceptional basis, the presence in the
21 courtroom of a witness during testimony remains the preferred option.
22 I also recall that when considering whether to permit
23 video-conference testimony, the Panel may consider a number of
24 factors, such as the location, personal, and health situation of the
25 witness as well as the complexity and duration of any logistical

1 travel and other arrangements to be made.

2 In the present case, in light of W03878's personal circumstances
3 and health condition set out in paragraph 6 of the request, the Panel
4 considers that video-conference testimony is needed to ensure the
5 witness's well-being.

6 As the defendants will be able to fully cross-examine the
7 witness, the Panel is also satisfied that granting the request will
8 neither result in undue prejudice to the accused nor will it impede
9 the Defence's ability to confront the witness.

10 Having carefully considered the SPO's request, the Defence's
11 response, and the Registry's assessment, the Panel is satisfied that
12 the SPO has established the circumstances which warrant allowing
13 W03878 to testify via video-conference. The Panel is satisfied that
14 this will not cause prejudice to the accused and will contribute to
15 the fair and expeditious nature of the proceedings.

16 For these reasons, the Panel grants the SPO request F02153 and
17 authorises W03878's testimony to take place via video-conference in
18 accordance with Rule 144.

19 And this concludes the Panel's oral order.

20 As to our suggestion to amend the sitting schedule for the
21 balance of the year beginning in March - and I will reiterate the
22 dates: May 10, May 24, May 30, July 15th to the 18th, October 31,
23 and November 28th - the Court will adopt that schedule, bearing in
24 mind the caution by the Veseli Defence.

25 I would ask and direct the Prosecution to bear in mind that that

1 week will be the fourth week in a row and that then there is a long
2 break thereafter, and so we would very vigorously suggest that
3 shorter-term witnesses be used during that week so that they are not
4 excessive in length and so that we do not have to hold a witness over
5 over that long extended summer break thereafter.

6 Finally, I'd like -- Mr. Halling the other day mentioned the
7 next block of witnesses. We'd like some clarity on who the reserve
8 witness might be also. He had mentioned the witness we just dealt
9 with for videolink, but I would suggest that we will still need a
10 reserve after that. If you'd let us know that yet this week, that
11 would be good.

12 All right. Mr. Court Officer, you may bring the witness back
13 into the room.

14 THE COURT OFFICER: [via videolink] Yes, Your Honours.

15 [The witness takes the stand via videolink]

16 PRESIDING JUDGE SMITH: All right. Witness, are you hearing me
17 okay?

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

19 PRESIDING JUDGE SMITH: We will continue with the questions by
20 the Selimi Defence for you. Give them your attention.

21 Mr. Tully, you may proceed.

22 And we are in public session. Do you wish to be in private
23 session?

24 MR. TULLY: I was just about to address that. Unfortunately, I
25 don't think I will be able to deal with any of this in public session

Witness: W01140 (Private Session)

Page 13066

Cross-examination by Mr. Tully

1 given the protective measures, Your Honours. So private session,
2 please.

3 PRESIDING JUDGE SMITH: For the protection of the witness, the
4 Court Officer is directed to take us into private session.

5 [Private session]

6 [Private session text removed]

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Witness: W01140 (Private Session)

Page 13067

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13068

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13069

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13070

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13071

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13072

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13073

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13074

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13075

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13076

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13077

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13078

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13079

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13080

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13081

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13082

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13083

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13084

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13085

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13086

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13087

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13088

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13089

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13090

Cross-examination by Mr. Tully

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Witness: W01140 (Private Session)

Page 13091

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13092

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13093

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13094

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13095

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13096

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13097

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13098

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13099

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13100

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13101

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13102

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13103

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13104

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13105

Cross-examination by Mr. Misetic

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21 [Open session]

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

23 PRESIDING JUDGE SMITH: We're adjourned until 2.30.

24 --- Luncheon recess taken at 1.05 p.m.

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

1 PRESIDING JUDGE SMITH: Mr. Court Officer, you can bring the
2 witness into the room.

3 [The witness takes the stand via videolink]

4 PRESIDING JUDGE SMITH: Welcome back, Witness. We hope you had
5 an opportunity to rest a bit.

6 THE WITNESS: [via videolink] [Interpretation] Yes, thanks very
7 much.

8 PRESIDING JUDGE SMITH: All right. We will continue with
9 Mr. Misetic's questions for you. Please give him your attention.
10 Go ahead, Mr. Misetic.

11 MR. MISETIC: Thank you, Mr. President.

12 Q. Good afternoon again, Witness. I'd just like to have you
13 confirm two statements --

14 A. Good afternoon.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MR. MISETIC: Oh, sorry.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. MISETIC: Yes, in private session, please.

19 PRESIDING JUDGE SMITH: Please take us to private session,
20 Madam Court Officer.

21 [Private session]

22 [Private session text removed]

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Witness: W01140 (Private Session)

Page 13109

Cross-examination by Mr. Misetic

1 [Private session text removed]

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Witness: W01140 (Private Session)

Page 13110

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13111

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13112

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13113

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13114

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13115

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13116

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13117

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13118

Cross-examination by Mr. Misetic

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Witness: W01140 (Private Session)

Page 13119

Cross-examination by Mr. Baiesu

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25 [Open session]

Witness: W01140 (Open Session)
Cross-examination by Mr. Baiesu

Page 13120

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

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. BAIESU: Thank you.

4 PRESIDING JUDGE SMITH: Now you may proceed.

5 MR. BAIESU:

6 Q. Witness, you said that there was chaos in the streets of Prizren
7 in mid-June 1999, with a large crowding celebrating the end of the
8 war; isn't that right?

9 A. Yes. When the KFOR entered, it was pure anarchy.

10 Q. And during the session before the break, you said that people
11 were shooting in the streets of Prizren; correct?

12 A. Yes. When I was released from detention, I could hear shots.
13 And they were searching. There was breaking. They were breaking
14 into shops and all other such stuff. I hid at street corners, and I
15 was lucky that I wore black trousers so I fit somehow to a degree in
16 their population, and I could speak Albanian perfectly, and that was
17 how I managed to get to my house. Otherwise, I would never have
18 gotten there.

19 MR. BAIESU: And, for the record, I was referring to page 79,
20 lines 16 to 17 of today's transcript.

21 Q. Witness, there were civilians also armed with weapons all over
22 Prizren, correct, in those days?

23 A. Yes, there were. Yes. There were also vehicles from Albania
24 that came there, and they were yelling, shooting. And they were also
25 in civilian clothes.

Witness: W01140 (Open Session)
Cross-examination by Mr. Baiesu

Page 13121

1 Q. Witness, can I please take you to another short video, which is
2 DJK00732.

3 MR. BAIESU: If the Court Officer could please assist in playing
4 it.

5 [Video-clip played]

6 MR. BAIESU: Thank you.

7 Q. Witness, does this video also show the situation in Prizren in
8 mid-June 1999?

9 A. Yes.

10 MR. BAIESU: Mr. President, I would like to offer this video
11 into evidence, please.

12 PRESIDING JUDGE SMITH: Any objection?

13 MS. CLANTON: No.

14 PRESIDING JUDGE SMITH: DJK00732 is admitted.

15 THE COURT OFFICER: Your Honours, that will be assigned
16 Exhibit 4D34.

17 And a question, Your Honours. It's marked as public, and it was
18 just used in public session. Should it remain public?

19 PRESIDING JUDGE SMITH: It can remain public as far as we're
20 concerned, yes.

21 MR. BAIESU: Thank you very much, Witness.

22 Thank you, Mr. President. Those are my questions.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 THE WITNESS: [via videolink] [Interpretation] Thank you.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

Witness: W01140 (Private Session)

Page 13122

Procedural Matters

1 JUDGE METTRAUX: Thank you, Judge Smith.

2 And good afternoon, Witness.

3 Just as a matter of clarification, at the time of your arrest
4 were you still a member --

5 MS. CLANTON: Mr. President, I --

6 JUDGE METTRAUX: We'll go into private session.

7 [Private session]

8 [Private session text removed]

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Witness: W01140 (Private Session)

Page 13125

Questioned by the Trial Panel

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Witness: W01140 (Private Session)

Page 13126

Questioned by the Trial Panel

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Witness: W01140 (Private Session)

Page 13127

Questioned by the Trial Panel

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Witness: W01140 (Private Session)

Page 13128

Questioned by the Trial Panel

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Witness: W01140 (Private Session)

Page 13129

Questioned by the Trial Panel

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Witness: W01140 (Private Session)

Page 13130

Procedural Matters

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Witness: W01140 (Private Session)

Page 13131

Procedural Matters

1 [Private session text removed]

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1 [Private session text removed]

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16 [Open session]

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

18 PRESIDING JUDGE SMITH: Anything else to come before the Court
19 at this time?

20 MS. O'REILLY: I just have one matter I'd like to request
21 clarification on, if that's okay.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MS. O'REILLY: And this was in reference to one of the oral
24 orders given earlier today with respect to the disaggregation of
25 cross-examination times, cross-examination in the main and

1 cross-examination following judicial questioning.

2 It wasn't clear to me whether we were going to get those
3 separate times reflected in the periodic reporting or if there was a
4 problem with that? Can we expect to receive that from the Registry?

5 PRESIDING JUDGE SMITH: You will get the cross-examination
6 numbers without reference to anything of questioning of the Judges --
7 after the Judges' questions, so it will just be that alone.

8 MS. O'REILLY: Is there --

9 PRESIDING JUDGE SMITH: Is there -- we haven't gone further than
10 that at this point.

11 MS. O'REILLY: So could we formally request that in the periodic
12 time reporting --

13 PRESIDING JUDGE SMITH: You already did formally request that.

14 MS. O'REILLY: And so are you going to rule on it, or have you?

15 PRESIDING JUDGE SMITH: We have not done it yet, no.

16 MS. O'REILLY: Okay.

17 PRESIDING JUDGE SMITH: No. And we can't guarantee that we
18 will. We're not sure it's necessary. If you don't have those hours
19 included in your cross-examine estimate, then it doesn't serve any
20 purpose.

21 MS. O'REILLY: It does serve a purpose for us because it allows
22 us to assess where -- why time is being spent in court additional to
23 what is estimated. If it arises out of Judges' questions, then we
24 have a case to make that the Judges' questions are prolonging this
25 trial.

1 PRESIDING JUDGE SMITH: Well, we'll see about that. So, anyway,
2 at this point all it is is we are not going to count your questions
3 against your cross-examination time.

4 MS. O'REILLY: All right. Thank you, Your Honour.

5 PRESIDING JUDGE SMITH: The questions that come up after the
6 Judges' questioning.

7 So we are adjourned until March 18th at 9.00 a.m.

8 --- Whereupon the hearing adjourned at 3.24 p.m.

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