

1 Monday, 30 October 2023

2 [Open session]

3 [The accused entered the courtroom]

4 [The accused Krasniqi appeared via videolink]

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

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

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

11 PRESIDING JUDGE SMITH: Thank you.

12 Welcome, everyone, to the courtroom. Before we start hearing
13 the evidence of Prosecution Witness 4753, there are a few preliminary
14 matters to address.

15 First, I note that the Specialist Prosecutor, Kimberley West, is
16 present in court today. Madam Specialist Prosecutor, you have asked
17 permission to introduce yourself, and you have the floor.

18 MS. WEST: Good morning, Your Honours. Good morning, everyone
19 in and around the courtroom. My name is Kim West. I'm the newly
20 appointed Specialist Prosecutor, and I recently arrived in The Hague.
21 I'm pleased to be here. It's an honour to appear before the Court.
22 And thank you for this opportunity to introduce myself.

23 PRESIDING JUDGE SMITH: Thank you. Welcome to the Court and to
24 The Hague, Madam Prosecutor. Thank you for taking the time to
25 introduce yourself to the Panel and the parties and the participants.

1 We hope to see you in court often, and we wish you well in your work.

2 And now back to the duties for the day.

3 The Panel will make an oral ruling on the request of the SPO for
4 an extension of the word limit for the SPO's reply to the Defence's
5 joint response to the third Rule 155 motion. This is filing F01889.

6 The SPO submits that an extension of 1.000 words is necessary as
7 the Defence response covers a large amount of material and makes
8 extensive reference to items other than the proposed Rule 155
9 evidence. It is also the Panel's understanding that the Defence has
10 no objection to the request.

11 Anybody wish to comment on this? No. All right. Thank you.

12 The Panel grants the SPO's request for an extension of 1.000
13 words for the reply to the Defence Rule 155 response.

14 And this concludes the Panel's first order of the day.

15 Next, the Panel would like to address at some length the matter
16 of the publicity of proceedings.

17 The Panel recalls that last May it ordered the parties and
18 participants to engage in *inter partes* discussions and to submit
19 proposals on concrete steps that could be taken to ensure a greater
20 degree of publicity of the proceedings.

21 The Specialist Prosecutor, the Defence, and the Victims' Counsel
22 filed helpful submissions on 31 May and 1 June 2023.

23 As a preliminary matter, the Panel notes that it has been a
24 challenge for all parties and for the Panel to find the appropriate
25 balance between the interests of the public and the right of the

1 accused to publicity while preserving the integrity of the
2 proceedings and providing effective protection for witnesses who need
3 protection in an environment of witness intimidation.

4 The parties have thus far done their best, we feel, to account
5 for those sometimes competing interests.

6 The Panel welcomes the exchanges that took place, the proposals
7 made, the agreements reached on some of these proposals, as well as
8 the efforts made by everyone since then, to secure as much publicity
9 of proceedings as is possible in the circumstances in this case. We
10 believe that progress has been made on the front.

11 That said, to further our efforts in maximising the publicity of
12 the proceedings, the Panel wants to implement a procedure for the
13 post-testimony review of private sessions of transcripts of hearings.
14 To do so, the Panel proposes the following: First, the calling party
15 should send *inter partes* a proposed lesser redacted transcript within
16 seven days of the notification of the official version of all
17 transcripts relevant to a witness.

18 Second, the non-calling party, participants, and Registry should
19 accept or challenge any of the redactions within a further three
20 days.

21 And, third, the calling party shall seize the Panel on any
22 agreement reached and any unresolved disputed redactions within a
23 further ten days for the Panel to rule on.

24 Within the same deadline, the non-calling parties, participants,
25 and Registry shall file any submissions regarding proposed redactions

1 which it opposes, stating its reason for the opposition.

2 Our idea is to implement this procedure going forward. For the
3 completed testimonies, the Panel would like to hear the parties and
4 participants as to the feasibility of aiming to complete, on a
5 rolling basis, the review of the transcripts of the completed
6 testimonies by the end of January 2024.

7 Thank you for your attention, and I'd like your submissions,
8 starting with the Prosecution.

9 MR. HALLING: Your Honour, it's difficult to estimate the
10 resources required to do that in the abstract. Is it possible to get
11 back to you at the beginning of the second session with a
12 feasibility?

13 PRESIDING JUDGE SMITH: As far as I'm concerned, everyone can
14 look this over overnight and we can talk about it tomorrow morning so
15 you have enough time to digest it. If you want to say something now,
16 you certainly can.

17 MR. KEHOE: Well, I certainly would, Judge. As, obviously, the
18 submissions that we have made previously bear true. We just don't
19 have the manpower to do all of this. I mean, this is an enormous
20 amount of material. We have an enormous amount of material that
21 we're reviewing going forward, not only for this session but
22 certainly for the December session.

23 So the strain on personnel to get this done is unwieldily.

24 PRESIDING JUDGE SMITH: Have you got an alternative proposal?

25 MR. KEHOE: I don't have an alternative proposal at this point.

1 I mean, maybe I'll talk to some of the folks internally as to how
2 this could get done, be accomplished. But, you know, obviously, the
3 easiest thing, even moving forward, is to have a lot less -- fewer, I
4 should say, closed sessions and private session matters. I mean, I
5 think that -- I don't know what the percentage is, but, frankly, it's
6 over the top. I mean, most of the witnesses that we have are either
7 in private session or in closed session.

8 And those of us who have had experience in other tribunals have
9 not had that experience at all. Having somebody that was with
10 protective measures in the private or closed session was the
11 exception, not the rule, and it's just the opposite here.

12 So there are a lot of competing issues here, and I just don't
13 know how it can get done as a practical matter. But I will, in good
14 faith, Your Honour, as an officer of the court, talk to the folks on
15 the staff as to how we can accomplish this.

16 PRESIDING JUDGE SMITH: Anybody else?

17 MR. EMMERSON: May I reserve our position until tomorrow
18 morning.

19 PRESIDING JUDGE SMITH: Yes.

20 The same for you?

21 MR. ROBERTS: The same for me, Your Honour, yes.

22 PRESIDING JUDGE SMITH: And, Mr. Ellis, the same?

23 MR. ELLIS: The same, Your Honour.

24 PRESIDING JUDGE SMITH: All right. That's a reasonable request.
25 We will talk about this again tomorrow morning. I know it is an

1 onerous duty, but it is important to the case that people know what's
2 been going on. And it is also important to know that part of the
3 reason for this Court's existence is to deal with the issue of
4 intimidation, and we are doing our best to do that, and this is part
5 of that process.

6 Some of these transcripts, you know, are redacted on an ongoing
7 basis during the trial, during the hearing, so some of them are
8 already in place. It might shorten up the process a bit. But I do
9 understand your concerns, Mr. Kehoe. I'm not making light of them.
10 They are true concerns. And we have to do it. We have to do it in a
11 timely way. And at some time or another it's going to have to be
12 done. Otherwise, it will just be us to do it, and there is four of
13 us. You have more than that. Okay?

14 MR. EMMERSON: Your Honour, before we move on to the next
15 witness, and to some extent following on from the point that you --
16 that Your Honour has just dealt with. We would submit that from this
17 point onwards, each witness for whom there are protective measures,
18 including the next witness, should be questioned briefly by the Panel
19 at the outset in private session as to whether the justification put
20 forward for those measures is supported by the witness.

21 We have reason to believe the next witness, for example, does
22 not wish to have protective measures. But it would be helpful if
23 there could be at least some testing by the Panel of the need for
24 protective measures with witnesses that are currently protected from
25 the witness's own perspective.

1 PRESIDING JUDGE SMITH: We won't be doing that with this first
2 witness just because of the time element, but we will take your
3 request under consideration and discuss it and make a ruling.

4 So, Madam Court Usher, you may bring the witness into the
5 courtroom.

6 [The witness entered court]

7 PRESIDING JUDGE SMITH: Please remain standing, Witness.

8 The Court Usher will now provide you with the text of a solemn
9 declaration which you are asked to take pursuant to Rule 141(2) of
10 our Rules of Procedure. Please look at the document and then read it
11 out loud.

12 THE WITNESS: [Interpretation] Yes. Conscious of the
13 significance of my testimony and my legal responsibility, I solemnly
14 declare that I will tell the truth, the whole truth, and nothing but
15 the truth, and that I shall not withhold anything which has come to
16 my knowledge.

17 WITNESS: W04753

18 [Witness answered through interpreter]

19 PRESIDING JUDGE SMITH: Thank you. You can be seated.

20 Thank you for being with us today, Witness. Today we will start
21 your testimony, which is expected to last approximately 16 hours. As
22 you may know, the Prosecution will ask you questions first. Once
23 they are finished, the Defence has the right to ask questions of you,
24 and the members of the Panel may have some questions for you.

25 The Prosecution estimate for your examination is 1.5 hours. The

1 Defence estimates that it will need 14.5 hours. As regards each
2 estimate, we hope and urge counsel to be judicious in the use of
3 their time. The Panel may allow redirect if conditions for it are
4 met.

5 Witness, please try to answer the questions clearly with short
6 sentences. If you don't understand a question, feel free to ask
7 counsel to repeat the question or tell them that you don't understand
8 and they will try to clarify it for you. Also, please try to
9 indicate the basis of your knowledge of facts and circumstances that
10 you will be asked about.

11 In the event you are asked by the SPO to attest to some
12 corrections made regarding your statements, you are reminded to
13 confirm on the record the written statement as corrected by the list
14 of corrections accurately reflects your declaration.

15 Please also speak into the microphones and wait five seconds
16 before answering a question, and speak at a slow pace for the
17 translators to keep up with you.

18 The Panel understands that the text that you have to read on
19 your screen is sometimes very small and difficult to see. We kindly
20 ask the Court Officers to bear this in mind.

21 Witness, if you are unable to read a document that is shown to
22 you on the screen, please let us know.

23 During the next days while you are giving evidence in this
24 Court, you are not allowed to discuss the content of your testimony
25 outside the courtroom with anyone until you have finished giving

1 evidence. If any person asks you questions outside this Court about
2 your testimony, please let us know.

3 A final caution. Please stop talking if I ask you to do so, and
4 also stop talking if you see me raise my hand like this because that
5 means I need to give you a further instruction.

6 Do you understand that?

7 THE WITNESS: [Interpretation] Yes.

8 PRESIDING JUDGE SMITH: If you feel the need to take a break at
9 any time, let us know and we will try to accommodate you.

10 Mr. Prosecutor, you have the --

11 THE WITNESS: [Interpretation] Thank you.

12 PRESIDING JUDGE SMITH: -- floor. You may start.

13 MR. HALLING: Thank you, Your Honour. For the initial questions
14 identifying the witness, we would ask to move into private session.

15 PRESIDING JUDGE SMITH: Into private session, please,
16 Madam Court Officer.

17 [Private session]

18 [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: Thank you.

19 Go ahead, Mr. Halling.

20 MR. HALLING: Thank you, Your Honours.

21 Q. And, Witness, now we're in open session, which means that what
22 we're discussing can be heard by the public. My questions are
23 designed such that they will not identify you.

24 Witness, have you previously been interviewed by the SPO?

25 A. Yes.

1 MR. HALLING: Could we ask the Court Officer to please pull up
2 ERN 083285-TR-AT, page 1. Thank you.

3 Q. Witness, what you see now on the screen, is this your SPO
4 interview?

5 A. Yes, that's it.

6 Q. And have you recently had an opportunity to refamiliarise
7 yourself with the contents of this interview?

8 A. Yes, last week.

9 Q. In your preparation session, you indicated some changes and
10 clarifications to your SPO interview; is that correct?

11 A. Yes, that's correct.

12 Q. And these changes were reflected in a note that was read back to
13 you. Also correct?

14 A. Yes, that's correct.

15 Q. Do you confirm that what was read back in that note reflects
16 your changes fully and accurately?

17 A. Yes, it reflects all the changes in full. I confirm that.

18 Q. And so subject to the changes provided in that note, does this
19 statement accurately reflect what you said and what you would say if
20 asked again in court today?

21 A. Yes.

22 MR. HALLING: Your Honours, having fulfilled the Rule 154
23 criteria, and in accordance with decision F01848, the SPO hereby
24 tenders all of 083285-TR and all its parts in English and Albanian,
25 along with Preparation Note 1, which is ERN 116645 to 116650.

1 This also includes the associated exhibits identified at
2 footnote 265 of decision F01848. For the fuel log addressed in
3 paragraph 101 of the Rule 154 decision, the SPO is seeking the
4 admission of the items shown to the witness, which is 083287 to
5 083349.

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 MR. KEHOE: The only objection is the associated exhibits. We
8 have articulated this previously, but for the record, obviously this
9 witness signed them, but he never saw them before these interviews.
10 He doesn't know anything about them. He's not the author of them.
11 The Prosecution, during the course of these sessions, simply gave
12 these documents to the witness. He hadn't seen any of these
13 documents before, but, like, you know, just sign this document so we
14 ensure that you've seen the document. But the reality is that he
15 he's never seen any of them, he didn't draft any of them, and to the
16 extent that we haven't objected to that before under our 154
17 submission, we submit that these documents have not been -- or the
18 support for these documents have not been presented by the SPO.

19 MR. EMMERSON: I also have an objection specifically to part of
20 the associated exhibits which is different in its basis to the
21 objection that's just been raised.

22 Your Honours will recall that there are a number of documents
23 which have been tendered through other witnesses where the Defence
24 contend that looking at the originals, and bearing in mind that they
25 were provided by the Serbian intelligence service, the --

1 [Trial Panel confers]

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 If we're going to continue this, we need to do it outside the
4 presence of the witness.

5 Madam Usher, please take the witness out.

6 [The witness stands down]

7 MR. EMMERSON: I'm so sorry.

8 Amongst the exhibits associated with the proofing note is a
9 document that was shown to the witness in his proofing session which
10 has clearly been provided by the Serbian authorities. Although, of
11 course, you have it only in -- or you'll have both the original and
12 the printed English translation. But it falls into the same category
13 as the two sets of documents that we contend and challenge involve
14 the insertion of data by Serbian intelligence services before the
15 evidence was provided to the ICTY.

16 And as you know, we've contended that in respect of one
17 document, it is marked for identification pending litigation about
18 its submission. And in respect of another that was admitted, it is
19 pending the same piece of litigation in relation to it having been
20 admitted and us requesting the Panel to reclassify it as marked for
21 identification.

22 And the same is true of this one document which was put to the
23 witness. It's an excerpt from the page range that Mr. Halling has
24 just given you, and the number is U001-8967 to U001-9121-ET Revised
25 1. Now, that is another manual which has been provided very clearly

1 by the Serbian intelligence service, from the language on the front
2 page. It is an original document, but it contains in the very back
3 page an addition -- or, rather, I should say it contains an entry --

4 MR. HALLING: Your Honour, I'll object here. This is an
5 admitted exhibit. This is P11. There is no reason to be discussing
6 this now.

7 PRESIDING JUDGE SMITH: [Microphone not activated]

8 MR. EMMERSON: Pardon? Well, I'm so sorry. In which case, I've
9 obviously misspoken myself. Your Honour, just give me one moment.

10 [Microphone not activated].

11 I do apologise. Mr. Halling is quite right. The objection was
12 misplaced, and I'll return to the issue at a later stage.

13 PRESIDING JUDGE SMITH: [Microphone not activated]

14 MR. HALLING: And at least as regards if we can respond briefly
15 to the Thaci Defence objections.

16 This is precisely what having Rule 154 litigation in advance of
17 the witness testifying is for. They've had an opportunity to raise
18 these same arguments, they did for many of them, and the Panel has
19 ruled and ruled that they can be admitted as associated exhibits.

20 MR. KEHOE: The obligation of Defence counsel is to continue to
21 bring before this Court the deficiencies in the documentation
22 advanced by the Prosecution, and that is what our obligation is and
23 we will continue to do.

24 This witness has been shown all these documents and knows
25 nothing about them. Yet, in an effort to try to boost some support

1 for these documents, they have this witness, as they've done before,
2 sign the document as if to substantiate it.

3 Now, I understand we have litigated to some of this in a 154
4 issue, Judge. But, nevertheless - nevertheless - we have to advance
5 the position, and it's certainly to -- thinking about these exhibits,
6 that they mean nothing, nothing, to this witness other than a few
7 comments about the fuel log where his signature might be there.

8 PRESIDING JUDGE SMITH: Thank you, Mr. Kehoe.

9 Mr. Roberts, anything? Mr. Ellis?

10 MR. ROBERTS: Nothing, Your Honour.

11 MR. ELLIS: Only to join those objections, Your Honour.

12 PRESIDING JUDGE SMITH: All right.

13 The objection is overruled. You may continue as soon as we get
14 the witness back.

15 Madam Usher, you may bring the witness in.

16 [The witness takes the stand]

17 PRESIDING JUDGE SMITH: Just for everybody's consideration, if
18 you're going to make a long statement, please allow us to excuse the
19 witness because there may be some material in that argument that he
20 does not need to hear prior to his testimony. So I leave it to the
21 lawyers to please notify me. I can't know what's going to happen in
22 your head, so please let me know.

23 Go ahead, Mr. Halling.

24 MR. HALLING: And, Your Honour, just before continuing, to
25 confirm that those exhibits tendered are, in fact, admitted?

1 PRESIDING JUDGE SMITH: [Microphone not activated]

2 MR. HALLING: And does the Court Officer wish to assign exhibit
3 numbers now?

4 PRESIDING JUDGE SMITH: The ERN 083825-TR-AT, English and
5 Albanian, being the primary SPO interview, I take it, is admitted
6 together with the associated exhibits that have been enumerated.

7 Please give everything a number, Court Officer.

8 THE COURT OFFICER: Thank you, Your Honours. I'll start with
9 the statements.

10 So 083285-TR-AT Part 1 RED2 and its English version will be
11 Exhibit P653.1. The same ERN Part 2 will be P653.2. Part 3 will be
12 Exhibit P653.3; Part 4 will be Exhibit P653.4; Part 5 will be
13 Exhibit P653.5; Part 6 will be Exhibit P653.6; Part 7 will be
14 Exhibit P653.7; and Part 8 will be Exhibit P653.8.

15 For the Preparation Note 1 under ERN 116645 to 116650, that will
16 be Exhibit P654.

17 And the items admitted through footnote 265 of the Rule 154
18 decision, ERN 083286 of 083286 to 083518 RED3 will be Exhibit P655.

19 083287 to 083349-ET RED2 and the Albanian translation at 083287
20 to 083349 will be Exhibit P656.

21 U001-8666 to U001-8666, both English and Albanian versions, will
22 be Exhibit P657.

23 U001-7995 to U001-7995, for the English, and page 083505 of
24 083286 to 083518 RED3 for the Albanian, will be Exhibit P658.

25 Pages 083506 to 083507 and 083521 of 083286 to 083518 RED3 will

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1 be Exhibit P659.

2 Page 083513 of 083286 to 083518 RED3 will be Exhibit P660.

3 Pages 083514 to 083517 of 083286 to 083518 RED3 will be
4 Exhibit P661.

5 ERN U000-6159 to U000-6159 for both English and Albanian, it's
6 the same ERN, will be Exhibit 662.

7 And for all those admitted exhibits, the specific portions will
8 be identified in Legal Workflow. Thank you, Your Honours.

9 PRESIDING JUDGE SMITH: [Microphone not activated]

10 THE COURT OFFICER: The last is P662.

11 PRESIDING JUDGE SMITH: [Microphone not activated]

12 So 653, Parts 1 through 8, through 662 are all admitted and
13 assigned the numbers as recited.

14 You may go ahead, Mr. Halling.

15 MR. HALLING: Thank you, Your Honour. We do have a short
16 summary to read into open session. We'd suggest to do it now.

17 PRESIDING JUDGE SMITH: Yes.

18 MR. HALLING: W04753 was a KLA soldier at Drenoc. He will
19 primarily testify to the command structure at Drenoc, the role of the
20 military police there, and persons detained there.

21 Thank you.

22 Now, Your Honours, for the beginning of my questions at this
23 point, which are about the -- kind of the establishment of the
24 command at Drenoc, we believe we can stay in open session.

25 Q. So, Witness, with that in mind, I have a few additional

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1 questions for you. We'd like to start with, in the Drenoc area, who
2 was the commander by the end of May 1998?

3 A. Xheme Gashi, Commander Gjermani.

4 Q. And around when did he arrive in the area?

5 A. It was at the beginning of May 1998.

6 Q. Where is Xheme Gashi from?

7 A. Xheme Gashi is an Albanian of Kosovo, to my knowledge.

8 Q. And where in Kosovo is he from?

9 A. From a village. Sferke, it's called, the village. In the Kline
10 territory.

11 Q. Who was Xheme Gashi's deputy commander?

12 A. Mahir Hasani. He came later.

13 Q. You said he came later. Around when did he arrive in the Drenoc
14 area?

15 A. If I'm not mistaken, after 12 May. After the battle that was --
16 that took place in that zone.

17 Q. And where is Mahir Hasani from?

18 A. I heard that he is from a village near Peje. I don't know
19 exactly from where.

20 Q. These places, Kline, Peje, is it correct to say that Xheme Gashi
21 and Mahir Hasani were people from outside the area of Drenoc?

22 A. Yes, they were not from Drenoc.

23 Q. And I understand you yourself don't know who sent them to the
24 Drenoc area; is that correct?

25 A. I never knew it. Not then, not now.

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1 Q. Witness, I'd like to ask you a question about part of your
2 statement.

3 MR. HALLING: This is P653.2, page 20 to 21 in the English, and
4 page 26 in the Albanian. And we'd ask if the Court Officer could
5 display it on the screen.

6 Q. So, Witness, if you'll bear with us a moment, a page from your
7 SPO interview is being put on the screen. This isn't being broadcast
8 to the public. And I have a question about a specific portion.

9 MR. HALLING: So the English, it'll actually go from page 20 to
10 page 21. So maybe just to scroll down a little more to page 21, line
11 5.

12 Q. So it was this part of the statement:

13 "Did you actually see Mahir Hasani and Bislum Zyrapi when they
14 were in Drenoc?

15 "A. Yes, and there were others as well whose names I don't
16 remember. It was four or five Albanians who were former officers in
17 the Yugoslav army. It's rumoured that they were spread among other
18 areas after they came, and Mahir happened to stay with us in our
19 area."

20 Witness, just as an initial question, this accurately reflects
21 your evidence; yes?

22 A. Yes, yes. It does.

23 Q. And in conjunction with a part of your preparation note about
24 this passage, is it understood correctly that of the people that were
25 in this group, including Mahir Hasani, you heard Bislum Zyrapi was in

1 it and you heard the names of some of its other members, four or five
2 names, which you can no longer remember?

3 A. Correct. I never met Bislím Zyrapi. I only heard of him, his
4 name.

5 Q. I wanted to ask you a question then about the preparation note
6 admitted into evidence. At P654, and I'll just read this, because
7 it's only in Albanian, it says, just in part:

8 "As for the group of former officers arriving at the end of May
9 1998" --

10 MR. KEHOE: Where are you reading from, counsel?

11 MR. HALLING: This is paragraph 7 of P654.

12 Q. "As for the group of former officers arriving at the end of
13 1998, they stayed for a few days in Zatriq. The witness did not meet
14 or see the group personally."

15 So, Witness, my question is the statement suggests that you may
16 have seen them and the preparation note doesn't. Which one is
17 accurate?

18 MR. KEHOE: Object to the leading, Your Honour. Please.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 The objection is overruled.

21 You may answer the question.

22 MR. HALLING:

23 Q. Witness, would you like me to repeat the question?

24 A. I'm clear, sir, Prosecutor.

25 Q. So just to confirm then, did you see them or not?

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1 A. When they came, I didn't see them with my own eyes.

2 Q. Understood. I'd now like to show you a document.

3 MR. HALLING: Could the Court Officer please pull up
4 SPOE00225777 to SPOE00225777. The Albanian on one half of the
5 screen, and the English on the other, please. Thank you.

6 Q. Witness, I'm interested in this document and just with the first
7 sentence, it says:

8 "Mr. Mahir Hasani from Peja was placed at the disposal of the
9 Drenovc base under the command of Mr. 'Gjermani', by the order of
10 Messrs. 'Bis' and 'Maxhupi.'"

11 Now, Witness, just at the outset, you hadn't seen this document
12 before your preparation session, and you don't know yourself who Bis
13 and Maxhupi are; is that right?

14 A. I never saw him until the day that you showed me that. The
15 document, I mean.

16 Q. You see that this is dated 31 May 1998. Does that match the
17 timeframe from your recollection as around when Mahir Hasani was
18 appointed the deputy commander at Drenoc?

19 A. Yes, it's the same date, 31st. I don't know who wrote that.

20 Q. Understood. And it says the Mahir Hasani from Peja. Is this
21 the same Mahir Hasani you were referencing previously?

22 A. Yes, it's the same person. The same Mahir Hasani.

23 Q. And it says "under the command of Mr. 'Gjermani'," I believe you
24 said it already, but just to confirm, who is Mr. Gjermani?

25 A. This is what they said. Commander Gjermani was Xheme Gashi.

1 MR. HALLING: Your Honours, we would say that there is
2 sufficient indicia to justify admitting this order concerning Mahir
3 Hasani dated 31 May 1998. As for where this order comes from, it's
4 Jakup Krasniqi's house. We tender it for admission.

5 MR. KEHOE: Again, Judge, there is no foundation with this
6 witness at all. Let him bring somebody in. It's a document that
7 this witness has never seen before that the SPO is trying to slip in.
8 It's not signed by anybody. How do we substantiate the foundation of
9 this?

10 PRESIDING JUDGE SMITH: [Microphone not activated]

11 MR. KEHOE: Well, the foundation.

12 PRESIDING JUDGE SMITH: [Microphone not activated]

13 MR. KEHOE: There is absolutely no foundation for this.

14 PRESIDING JUDGE SMITH: [Microphone not activated]

15 MR. ELLIS: Your Honour, we share those objections. This is a
16 document which is not signed, not stamped. There is no indication of
17 who wrote it. It's plainly incomplete because there's an entry at
18 the bottom right that says "Authorised persons," and then two numbers
19 with nothing written there.

20 The witness cannot do anything to authenticate it because he had
21 never seen it before. In those circumstances, we would say the test
22 is not met.

23 [Trial Panel confers]

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 We'll mark that for identification, please.

1 THE COURT OFFICER: Your Honours, SPOE00225777 to SPOE00225777
2 will be marked as P663.

3 PRESIDING JUDGE SMITH: Thank you very much.

4 Go ahead, Mr. Halling.

5 MR. HALLING: And for Your Honours' consideration when
6 evaluating the admissibility of that document, we would just note
7 that items seized from the accused's house, we aren't able to ask the
8 person from where it came from and we are dependent on witnesses like
9 this to identify core contents of them.

10 MR. KEHOE: Well, that -- that --

11 PRESIDING JUDGE SMITH: We understand the dilemma.

12 MR. KEHOE: Well, that --

13 PRESIDING JUDGE SMITH: We don't need any more comment on it.

14 MR. KEHOE: Your Honour, that's simply not accurate. What
15 normally happens is the Prosecution puts a witness on that seizes it.
16 We're supposed to take the SPO's word for this.

17 And by the way, just for the Court Officer, they noted the
18 exhibit number, but I think it was just noted for identification.

19 THE COURT OFFICER: [Microphone not activated]

20 MR. KEHOE: Okay.

21 PRESIDING JUDGE SMITH: Thank you.

22 MR. HALLING: So, Your Honours, at this point, for the next line
23 of questioning, we would ask to move into private session.

24 PRESIDING JUDGE SMITH: All right. Court Officer, into private
25 session, please.

Witness: W04753 (Private Session)

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Examination by Mr. Halling

1 [Private session]

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Examination by Mr. Halling

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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18 [Open session]

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

20 PRESIDING JUDGE SMITH: We're adjourned.

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

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

23 PRESIDING JUDGE SMITH: Just a couple of things before we get
24 started again.

25 We have completed the schedule for January through July.

1 Similar to what we discussed about. Slight adjustments for holidays
2 and things like that. We will e-mail that out to all of you
3 hopefully by tomorrow. And we will not start in court until
4 15 January, which is what I think I told you earlier.

5 Number two. I failed to mention this morning that
6 Mr. Krasniqi - whoops, he's not there at all now - is appearing on
7 videolink, and the other accused are present in the courtroom. There
8 he is. Okay.

9 All right. Madam Usher, you may bring the witness in.

10 [The witness takes the stand]

11 PRESIDING JUDGE SMITH: Witness, we will continue now with the
12 cross-examination, first with Mr. Kehoe.

13 MR. KEHOE: Thank you, Your Honour.

14 Q. Welcome back, Witness. I hope you got a cup of coffee. I think
15 you told the Prosecution that the military police had, in Drenoc,
16 started in the beginning of June 1998. That's correct, right?

17 A. Yes, that's correct.

18 PRESIDING JUDGE SMITH: Excuse me. Do you want to be in private
19 session, Mr. Kehoe?

20 MR. KEHOE: I think so, Judge. I mean, I think it's probably
21 safer.

22 PRESIDING JUDGE SMITH: All right.

23 MR. KEHOE: I mean, I would prefer not to be, frankly, but if
24 we're getting into his identity, I think it's probably going to stray
25 into that area.

1 PRESIDING JUDGE SMITH: Please take us into private session,
2 Madam Court Officer.

3 MR. KEHOE: My apologies for not flagging that ahead of time.

4 [Private session]

5 [Private session text removed]

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Witness: W04753 (Private Session)

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Cross-examination by Mr. Emmerson

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Cross-examination by Mr. Emmerson

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Cross-examination by Mr. Emmerson

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Cross-examination by Mr. Emmerson

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Cross-examination by Mr. Emmerson

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Cross-examination by Mr. Emmerson

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Cross-examination by Mr. Emmerson

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Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9203

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9204

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9205

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9206

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9207

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9208

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9209

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9210

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9211

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9212

Cross-examination by Mr. Emmerson

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1 [Private session text removed]

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3 [Open session]

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

5 PRESIDING JUDGE SMITH: How much?

6 MR. EMMERSON: [Microphone not activated]

7 PRESIDING JUDGE SMITH: You will have a few more questions after
8 lunch? Okay.

9 MR. EMMERSON: [Microphone not activated]

10 PRESIDING JUDGE SMITH: [Microphone not activated]

11 --- Luncheon recess taken at 1.04 p.m.

12 --- On resuming at 2.33 p.m.

13 PRESIDING JUDGE SMITH: Madam Usher, you may bring the witness
14 in.

15 MR. EMMERSON: Just for the convenience of the Court and the
16 parties, I'll be very brief.

17 [The witness takes the stand]

18 PRESIDING JUDGE SMITH: All right, Witness. We will continue
19 with Mr. Emmerson's questions of you.

20 Go ahead, Mr. Emmerson.

21 MR. EMMERSON: Yes, I think we're actually starting in public
22 session, I think.

23 PRESIDING JUDGE SMITH: [Microphone not activated]

24 MR. EMMERSON: Well, there's no reason to depart from the
25 practice we've been adopting thus far.

Witness: W04753 (Private Session)

Page 9214

Cross-examination by Mr. Emmerson

1 PRESIDING JUDGE SMITH: Please take us to private session,
2 Madam Court Officer.

3 [Private session]

4 [Private session text removed]

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Witness: W04753 (Private Session)

Page 9215

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9216

Cross-examination by Mr. Emmerson

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Witness: W04753 (Private Session)

Page 9217

Cross-examination by Mr. Ellis

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Witness: W04753 (Private Session)

Page 9218

Cross-examination by Mr. Ellis

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Witness: W04753 (Private Session)

Page 9219

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9220

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9221

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9222

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9223

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9224

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9225

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9226

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9230

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9231

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9232

Re-examination by Mr. Halling

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Witness: W04753 (Private Session)

Page 9233

Questioned by the Trial Panel

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Witness: W04753 (Private Session)

Page 9234

Questioned by the Trial Panel

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Witness: W04753 (Private Session)

Page 9235

Questioned by the Trial Panel

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Witness: W04753 (Private Session)

Page 9236

Questioned by the Trial Panel

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Witness: W04753 (Private Session)

Page 9237

Questioned by the Trial Panel

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Witness: W04753 (Private Session)

Page 9238

Questioned by the Trial Panel

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1 [Private session text removed]

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4 [Open session]

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

6 MR. HALLING: Your Honours, just as an update on the scheduling.

7 That happened much, much faster than was anticipated. The next
8 witness isn't available to commence testifying until Thursday
9 morning.

10 PRESIDING JUDGE SMITH: So nothing tomorrow. Thursday. Do you
11 have another witness after him? Because that doesn't look like it's
12 going to take terribly long.

13 MR. HALLING: Right. So the next witness can start and finish
14 perhaps on this Thursday, and then the following witness would go
15 next Monday.

16 PRESIDING JUDGE SMITH: Okay. Any questions about that
17 schedule?

18 MR. KEHOE: No, Your Honour.

19 MR. EMMERSON: No.

20 PRESIDING JUDGE SMITH: We have to do something about the
21 estimates. This was estimated for 16 hours for this guy. We spent
22 four, you know. And a good deal of that was cross-examination that
23 didn't happen.

24 You had estimated two hours, you used an hour and a half.

25 MR. HALLING: Correct. And we'd estimated 90 minutes before the

1 hearing.

2 MR. KEHOE: Your Honour, I understand what the issue is.
3 Obviously, as things went on, we collectively made a decision to cut
4 back on cross-examination. But when you get this information in the
5 raw data form, you see a multitude of issues that you're going to
6 cross on.

7 I understand we should sharpen our cross-examination estimates,
8 and we will make every endeavour possible to do that.

9 [Trial Panel confers]

10 PRESIDING JUDGE SMITH: We're to the point we're kind of
11 concerned about this, because we're going to end up going on way too
12 long in this trial that could be finished, I realise, in a long time,
13 but shorter than what we've been estimating.

14 Is there nobody you can bring tomorrow?

15 MR. HALLING: From the information I've received, we have no one
16 who's available to testify before the witness Thursday. Tomorrow was
17 supposed to be for this witness.

18 PRESIDING JUDGE SMITH: [Microphone not activated] ... get backed
19 into putting time limits on the Prosecution and time limits on
20 cross-examination if you all can't do it. So I would suggest you
21 strongly work on that or that will be our next step, because it isn't
22 working out very well with everybody just voluntarily doing their
23 best. So think about that.

24 We are adjourned until Thursday morning at 9.00.

25 --- Whereupon the hearing adjourned at 3.30 p.m.