

1 Tuesday, 7 May 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Thaci and Krasniqi appeared
5 via videolink]

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

7 PRESIDING JUDGE SMITH: Mr. Court Officer, please call the case.

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

12 PRESIDING JUDGE SMITH: I note that Mr. Thaci and Mr. Krasniqi
13 have waived their right to be present in the courtroom and are
14 following the hearing via videolink. Mr. Veseli and Mr. Selimi are
15 present in court today.

16 Today, we will start hearing the evidence of Prosecution
17 Witness W03878.

18 Before starting the videolink, Mr. Court Officer, please bring
19 us briefly into private session.

20 [Private session]

21 [Private session text removed]

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1 [Private session text removed]

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4 [Open session]

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

6 Thank you.

7 PRESIDING JUDGE SMITH: Thank you.

8 Mr. Court Officer, please bring the witness into hearing room.

9 [The witness entered court via videolink]

10 PRESIDING JUDGE SMITH: Good morning, Witness. Can you hear?

11 THE WITNESS: [via videolink] [Interpretation] Good morning.

12 Yes, I can hear you.

13 PRESIDING JUDGE SMITH: I will now read out the text of the
14 solemn declaration which you are asked to take pursuant to
15 Rule 141(2) of the Rules. I will ask you to repeat the text aloud
16 and to indicate your consent. So just repeat after me.

17 Conscious of the significance of my testimony.

18 THE WITNESS: [via videolink] [Interpretation] Conscious of the
19 significance of my testimony. Conscious.

20 PRESIDING JUDGE SMITH: And my legal responsibility.

21 THE WITNESS: [via videolink] [Interpretation] And my legal
22 responsibility.

23 PRESIDING JUDGE SMITH: I solemnly declare that I will tell the
24 truth.

25 THE WITNESS: [via videolink] [Interpretation] I solemnly declare

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1 that I will tell the truth, the whole truth.

2 PRESIDING JUDGE SMITH: And nothing but the truth.

3 THE WITNESS: [via videolink] [Interpretation] And nothing but
4 the truth.

5 PRESIDING JUDGE SMITH: And that I shall not withhold anything.

6 THE WITNESS: [via videolink] [Interpretation] And that I shall
7 not withhold anything.

8 PRESIDING JUDGE SMITH: Which has come to my knowledge.

9 THE WITNESS: [via videolink] [Interpretation] Which has come to
10 my knowledge.

11 PRESIDING JUDGE SMITH: And do you agree to that statement?

12 THE WITNESS: [via videolink] [Interpretation] Yes, I do.

13 WITNESS: W03878

14 [The witness answered through interpreter]

15 [The witness testified via videolink]

16 PRESIDING JUDGE SMITH: You can be seated now.

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

18 THE COURT OFFICER: [via videolink] Good morning, Your Honours.

19 I can confirm present at the remote location is myself, Head of Court
20 Management, and W03878. Thank you, Your Honours.

21 PRESIDING JUDGE SMITH: Thank you, Mr. Court Officer.

22 Witness, today we will start your testimony which is expected to
23 last approximately one and a half days.

24 As you may know, the Prosecution will ask you questions first.

25 Once they are finished, the Defence has the right to ask questions of

1 you and members of the Panel might also ask questions of you.

2 The Prosecution estimate for your examination is one hour. The
3 Defence estimates that it will need six and a half hours. As regards
4 each estimate, we hope that counsel will be judicious in the use of
5 their time. The Panel may allow redirect examination by the
6 Prosecution if conditions for it are met.

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

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

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

20 During the next days while you are giving evidence in this
21 Court, you are not allowed to discuss with anyone the contents of
22 your testimony outside of the courtroom. If any person asks you
23 questions outside the Court about your testimony, please let us know.

24 Please stop talking if I ask you to do so and also stop talking
25 if you see me raise my hand. These indications mean that I need to

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1 give you an instruction.

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

4 There is some confusion about whether or not you have waived
5 your right to protective measures, such as obscuring your face or
6 voice or disguising your voice in the courtroom. Did you waive your
7 protective measures, Mr. Witness?

8 THE WITNESS: [via videolink] [Interpretation] No.

9 PRESIDING JUDGE SMITH: So you still want those measures?

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

11 PRESIDING JUDGE SMITH: Thank you. They will be given.

12 We begin now with the Prosecution's direct examination. They
13 will begin and you are to give them your attention and answer their
14 questions in the manner which I've already stated.

15 Mr. Halling, you have the floor.

16 MR. HALLING: Thank you, Your Honour.

17 Examination by Mr. Halling:

18 Q. And good morning, Witness.

19 MR. HALLING: Your Honour, for my initial questions and to
20 protect the identity of the witness, we'd ask to go into private
21 session.

22 PRESIDING JUDGE SMITH: Please, into private session,
23 Mr. Court Officer.

24 [Private session]

25 [Private session text removed]

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17 [Open session]

18 THE COURT OFFICER: Your Honours, we are back in public session.

19 Thank you.

20 PRESIDING JUDGE SMITH: Thank you. You may proceed.

21 MR. HALLING: Thank you.

22 Q. Witness, at least for now we are in public session so the public
23 can hear what we're saying, but this part shouldn't identify you.

24 Witness, you were previously interviewed by the SPO and EULEX;
25 is that right?

1 A. Yes.

2 MR. HALLING: And if the Court Officer could please pull up on
3 the screen 064732-TR-AT Part 1 RED2, page 1. And it can take the
4 whole screen.

5 Q. Witness, I was just hoping if you could look at the document on
6 the screen and just confirm that this is your SPO interview.

7 A. Yes.

8 MR. HALLING: And now if the Court Officer could please pull up
9 on the screen SITF00011014 to 00011027 RED2, and specifically the
10 page SITF00011021.

11 Q. And, Witness, looking at that page on the screen, is this your
12 EULEX statement?

13 A. Yes. Yes, it is.

14 Q. In your preparation session, did you have the opportunity to
15 refamiliarise yourself with the contents of these statements?

16 A. Yes, I did.

17 Q. And in that session, you indicated some changes and
18 clarifications to both your SPO and EULEX statements; is that right?

19 A. Yes, it is.

20 Q. And these changes were reflected in a note that was read back to
21 you; correct?

22 A. Yes.

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

25 A. Yes, I do.

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1 Q. And subject to the changes you provided in that note, do these
2 statements accurately reflect what you said and what you would say if
3 asked again in court today?

4 A. They are correct.

5 MR. HALLING: Your Honours, I believe that satisfies the
6 Rule 154 criteria. In accordance with decision F02117, the SPO
7 hereby tenders all of this witness's SPO and EULEX statements in both
8 English and Albanian along with Preparation Note 1, which is ERN
9 119211-119216. The witness has no associated exhibits.

10 PRESIDING JUDGE SMITH: Any objection?

11 MR. MISETIC: No objection.

12 MS. O'REILLY: None.

13 MR. TULLY: No, Your Honour.

14 MR. ELLIS: No objection, Your Honour.

15 PRESIDING JUDGE SMITH: 064732-TR-AT Part 1 RED2 is admitted and
16 will be assigned an exhibit number.

17 THE COURT OFFICER: And will be assigned Exhibit P01163.1.

18 Your Honours, ERN 064732 has five parts. Should we assign
19 all --

20 PRESIDING JUDGE SMITH: Yes.

21 THE COURT OFFICER: -- five? Yes. In that case, I will proceed
22 reading the other parts.

23 064732 Part 2 will be assigned Exhibit P01163 .2.

24 064732 Part 3 will be assigned Exhibit P01163.3.

25 064732 Part 4 will be assigned Exhibit P01163.4.

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1 And the same ERN, Part 5, will be assigned Exhibit P01163.5.

2 As for the SITF --

3 PRESIDING JUDGE SMITH: No, just a second, I have to admit it
4 first. SITF00011014 to 00011027 RED2 is admitted and will be
5 assigned an exhibit number.

6 THE COURT OFFICER: Thank you, Your Honours. It will be
7 assigned Exhibit P01164.

8 PRESIDING JUDGE SMITH: And the Preparation Note 119211-119216
9 is admitted.

10 THE COURT OFFICER: And will be assigned Exhibit P01165. Thank
11 you, Your Honours.

12 MR. HALLING: Your Honours, we have a short public summary that
13 we can read for this witness. It has been sent to the Defence
14 previously. I can read it now.

15 PRESIDING JUDGE SMITH: Go ahead.

16 MR. HALLING: W03878 was arrested by KLA soldiers in early 1999.
17 The witness was badly beaten over a three-week period, at which point
18 he was transferred and released.

19 W03878 suffered severe and lasting injuries as a result of his
20 detention and mistreatment.

21 Q. Witness, at this point, I have a few additional questions that I
22 would like to ask you.

23 MR. HALLING: And at least for the first few of those questions,
24 I believe I can ask them in public session, and then we would need to
25 move into private session for the remainder of my direct examination.

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1 Q. Your statement goes into detail as to who detained you and the
2 mistreatment you suffered over that three-week period. Without
3 mentioning any specific names or places in public session, describe
4 the room where you were detained.

5 A. The room was 5x5 with a concrete floor. That's where I was
6 kept. And three weeks later, I was sent to [REDACTED] Pursuant to In-
Court Redaction Order F2292RED. and I was kept
7 there for three days, but I was not imprisoned there. I stayed there
8 with soldiers, and then I was released.

9 Q. Thank you. And, again, Witness, please don't mention any of the
10 locations discussing at least for this point in the questioning.

11 Was the room that you just described locked during your
12 detention?

13 A. Yes, it was locked.

14 Q. Were there any KLA soldiers guarding your place of detention?

15 A. Yes.

16 Q. Did your room have any windows?

17 A. Yes.

18 Q. Were you able to see a guard outside your window?

19 A. Yes. Yes, I was.

20 Q. Was the guard that you saw armed?

21 A. Yes.

22 Q. Was there a light in the room?

23 A. Yes.

24 Q. During the time you were detained, how often was that light on?

25 A. It was always on.

1 Q. So during the beatings that you describe in your statement, the
2 light in that room was on. Do I understand it correctly?

3 A. Yes, that's correct.

4 Q. During your detention, were you ever brought before a judge?

5 A. No.

6 Q. Were you ever formally charged in any way with a crime?

7 A. No.

8 MR. HALLING: Your Honours, at this point, for the protection of
9 the witness, we would ask to move into private session.

10 PRESIDING JUDGE SMITH: All right. Into private session,
11 please, Mr. Court Officer.

12 [Private session]

13 [Private session text removed]

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16 [Open session]

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

18 Thank you.

19 PRESIDING JUDGE SMITH: All right. We're adjourned for

20 15 minutes. That will be 10.17.

21 --- Break taken at 10.04 a.m.

22 --- On resuming at 10.17 a.m.

23 PRESIDING JUDGE SMITH: Please bring the witness in,

24 Mr. Court Officer.

25 [The witness takes the stand via videolink]

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1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 You can be seated, Witness. Thank you.

3 [Microphone not activated].

4 Are you hearing us okay, Witness?

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

6 PRESIDING JUDGE SMITH: Okay. Thank you.

7 Now, we will begin with some questions from the Defence teams.

8 First of all, Mr. Misetic will be asking you questions representing

9 Mr. Thaci.

10 Go ahead.

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

12 Cross-examination by Mr. Misetic:

13 Q. Good morning, Witness. As the president --

14 A. Good morning.

15 Q. As the president informed you, my name is Luka Misetic. I am
16 Defence counsel for Hashim Thaci. And we are in open session, so I'd
17 ask you to be careful about using names or names of places.

18 But I wanted to first establish that your evidence is that at
19 the time you were detained you were a soldier in the KLA; is that
20 correct?

21 A. Yes.

22 Q. And you had been a soldier in the KLA for more than a year;
23 correct?

24 A. Correct.

25 Q. And at the time of release from detention, you returned almost

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Cross-examination by Mr. Misetić

1 immediately to serve in the KLA; is that correct?

2 A. Yes.

3 Q. And you continued to serve in the KLA to the end of the war?

4 A. Yes.

5 Q. Okay. Thank you.

6 MR. MISETIĆ: Mr. President, now, for the protection of the
7 witness, if we can move into private session.

8 PRESIDING JUDGE SMITH: Please, into private session,
9 Mr. Court Officer.

10 [Private session]

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Cross-examination by Mr. Misetić

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Cross-examination by Mr. Misetić

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Cross-examination by Mr. Miletic

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Cross-examination by Mr. Misetić

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Cross-examination by Mr. Misetić

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Cross-examination by Mr. Misetić

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Cross-examination by Mr. Misetić

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Cross-examination by Mr. Misetić

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Witness: W03878 (Private Session)

Page 15423

Cross-examination by Mr. Miletic

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15424

Cross-examination by Mr. Misetić

1 [Private session text removed]

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1 [Private session text removed]

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6 [Open session]

7 THE COURT OFFICER: Your Honours, we are back in public session.
8 Thank you.

9 PRESIDING JUDGE SMITH: All right. We're adjourned until 11.30.

10 --- Recess taken at 11.00 a.m.

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

12 PRESIDING JUDGE SMITH: Mr. Court Officer, you can bring the
13 witness in.

14 MR. HALLING: And, Your Honour, apologies, before doing that, we
15 had an update for the Panel on the next witness.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. HALLING: Yes. As Your Honours are aware, the next and last
18 witness of this week is W02486. The Defence sent us an e-mail over
19 the break saying that, having re-reviewed the papers of that witness,
20 they have no objection to that witness proceeding under Rule 153.

21 Now, it's not enough time for us this week to substitute another
22 witness, but we're certainly grateful for the indication. If the
23 Defence have no questions for this witness and they would agree to
24 admit the statement in writing, we would say there is no reason to
25 insist on this witness's appearance.

1 So we've indicated we have no objection to that request and
2 wanted to inform the Panel.

3 PRESIDING JUDGE SMITH: Thank you very much. Thank you to the
4 Defence for alerting us on that.

5 Now, Mr. Court Officer, you may bring the witness in.

6 [The witness takes the stand via videolink]

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 I'm sorry. You may be seated.

9 Do you wish to go back to private session?

10 MR. MISETIĆ: Yes, Mr. President.

11 PRESIDING JUDGE SMITH: All right.

12 Please take us into private session, Mr. Court Officer.

13 [Private session]

14 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15427

Cross-examination by Mr. Miletic

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Witness: W03878 (Private Session)

Page 15428

Cross-examination by Mr. Misetić

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15429

Cross-examination by Mr. Misetić

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Witness: W03878 (Private Session)

Page 15430

Cross-examination by Mr. Misetić

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Witness: W03878 (Private Session)

Page 15431

Cross-examination by Mr. Misetić

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Witness: W03878 (Private Session)

Page 15432

Cross-examination by Mr. Misetić

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15433

Cross-examination by Mr. Miletic

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15434

Cross-examination by Mr. Misetić

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15435

Cross-examination by Mr. Misetić

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15436

Cross-examination by Mr. Misetić

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15437

Cross-examination by Mr. Miletic

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15438

Cross-examination by Mr. Miletic

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15439

Cross-examination by Ms. O'Reilly

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15440

Cross-examination by Ms. O'Reilly

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15441

Cross-examination by Ms. O'Reilly

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15442

Cross-examination by Ms. O'Reilly

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15443

Cross-examination by Ms. O'Reilly

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15444

Cross-examination by Ms. O'Reilly

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15445

Cross-examination by Mr. Tully

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15446

Cross-examination by Mr. Tully

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15447

Cross-examination by Mr. Tully

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15448

Cross-examination by Mr. Tully

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15449

Cross-examination by Mr. Tully

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15450

Cross-examination by Mr. Tully

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15451

Cross-examination by Mr. Tully

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15452

Cross-examination by Mr. Ellis

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15453

Cross-examination by Mr. Ellis

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15454

Re-examination by Mr. Halling

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15455

Re-examination by Mr. Halling

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15456

Questioned by the Trial Panel

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15457

Questioned by the Trial Panel

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15458

Questioned by the Trial Panel

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15459

Questioned by the Trial Panel

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15460

Questioned by the Trial Panel

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15461

Questioned by the Trial Panel

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15462

Questioned by the Trial Panel

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15463

Questioned by the Trial Panel

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15464

Questioned by the Trial Panel

1 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15465

Questioned by the Trial Panel

1 [Private session text removed]

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1 [Private session text removed]

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6 [Open session]

7 THE COURT OFFICER: Your Honours, we are back in public session.
8 Thank you.

9 PRESIDING JUDGE SMITH: Thank you.

10 Mr. Halling, would it be possible for you to be able to tender
11 the 153 documents after lunch today?

12 MR. HALLING: I'll inquire over the break, and I can come back
13 with either a tender or an update.

14 PRESIDING JUDGE SMITH: I think we need to make that record and
15 then get a waiver from the Defence as to cross-examination and get
16 that on the record today if possible --

17 MR. HALLING: We'll try, Your Honour.

18 PRESIDING JUDGE SMITH: -- so we don't have to come back on
19 Friday to do it.

20 Okay. We are adjourned until 2.30.

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

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

23 PRESIDING JUDGE SMITH: Before the witness is brought in, there
24 are two issues that the Panel would like to deal with.

25 You can stand back up if you wish.

1 First, can the SPO tender the 153 material for W02486 and make
2 submissions as to the classification of the tendered material?

3 MR. HALLING: We can, Your Honour. So, yes, we've conferred
4 over the break, and the Rule 153 tender is identical to the items
5 tendered in F02270-A01 just with the RED2 versions of the SPO
6 interview from Disclosure Package 1228. And if you like, I can go
7 through all of the individual ERNs now.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 It would probably be best for the record to do that.

10 MR. HALLING: Certainly. And we've released a presentation
11 queue for this purpose. It's entitled W02486_SPO153.

12 But the tender is the English, Albanian, and Serbian versions of
13 statements 078047-TR, and that's Parts 1 and 2, the RED2 versions.
14 And then 021672 to 021683 RED. We would also tender associated
15 exhibit 101739 to 101739 in both English and Serbian. And we would
16 ask that they be classified confidential.

17 PRESIDING JUDGE SMITH: Thank you.

18 Any objection from the Thaci Defence and do you waive
19 cross-examination?

20 MS. TAVAKOLI: No objection. And, yes, we waive
21 cross-examination.

22 PRESIDING JUDGE SMITH: All right.

23 The same question.

24 MS. O'REILLY: No objection. And, yes, we waive
25 cross-examination.

1 PRESIDING JUDGE SMITH: All right.

2 MR. TULLY: And the same for us, Your Honour.

3 PRESIDING JUDGE SMITH: Thank you.

4 MR. ELLIS: Yes, the same position, Your Honour.

5 PRESIDING JUDGE SMITH: All right.

6 Those enumerated documents are admitted and will be assigned an
7 exhibit number or numbers.

8 THE COURT OFFICER: Thank you, Your Honours. If I may come back
9 a bit later with exhibit numbers.

10 PRESIDING JUDGE SMITH: All right.

11 THE COURT OFFICER: Thank you so much.

12 PRESIDING JUDGE SMITH: Fine.

13 So the Panel, having reviewed them, is satisfied that W02486's
14 proposed evidence is relevant to the crimes charged in the
15 indictment, *prima facie* authentic and probative. The Panel is also
16 satisfied that W02486's proposed evidence meets the requirements
17 under Rule 153 and that its admission in lieu of oral testimony would
18 not be unduly prejudicial within the meaning of Rule 138(1). And
19 they are admitted, as I stated, without cross-examination.

20 This means that the videolink testimony of W02486 scheduled for
21 Friday is cancelled.

22 Second, the Panel notes that in F02289, the Defence jointly
23 requested an extension of time to respond to Prosecution's request to
24 amend the exhibit list, F02279.

25 Can the SPO provide its response now? Because it is -- we have

1 very short time before the next block begins.

2 MR. HALLING: I see. Well, we do oppose that extension. We
3 were planning on filing something in writing on this.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 Can you file it tomorrow?

6 MR. HALLING: We should be able to, yes.

7 PRESIDING JUDGE SMITH: All right. I don't see the necessity
8 for a reply, unless you do. But I would like to get this decided yet
9 this week, which would mean by Friday.

10 MR. MISETIC: Mr. President --

11 PRESIDING JUDGE SMITH: Do you feel some strong need to reply or
12 do you know yet?

13 MR. MISETIC: Not having seen what they're going to say, I can't
14 take a position one way or another. But, obviously, given the time
15 constraints, we will let the Panel know if we believe we need a
16 reply, and we would endeavour to respond by -- let's say by noon on
17 Thursday.

18 PRESIDING JUDGE SMITH: Everyone okay with that? All right.

19 If you intend to reply, let us know immediately upon receiving
20 their response and please let us know at that time. We, as I said,
21 will endeavour to have an order on this by the end of the week
22 because it does interfere with witnesses yet to be called.

23 All right. So we can bring the witness in now.

24 [The witness takes the stand via videolink]

25 PRESIDING JUDGE SMITH: You may be seated, Witness.

Witness: W03878 (Private Session)

Page 15470

Questioned by the Trial Panel

1 Witness, we will continue with questions from the Judges at this
2 point. Judge Barthe still has some questions.

3 Go ahead.

4 JUDGE BARTHE: Thank you, Judge Smith. And good afternoon,
5 Witness, and welcome back.

6 A. Thank you.

7 JUDGE BARTHE: Mr. Court Officer, could we please go into
8 private session for the protection of the witness.

9 [Private session]

10 [Private session text removed]

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Witness: W03878 (Private Session)

Page 15471

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15472

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15473

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15474

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15475

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15476

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15477

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15478

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15479

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15480

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15481

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15482

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15483

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15484

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15485

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15486

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15487

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15488

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15489

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15490

Questioned by the Trial Panel

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Witness: W03878 (Private Session)

Page 15491

Further Cross-examination by Mr. Misetic

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Witness: W03878 (Private Session)

Page 15492

Further Cross-examination by Mr. Misetic

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Witness: W03878 (Private Session)

Page 15493

Further Cross-examination by Mr. Miletic

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Witness: W03878 (Private Session)

Page 15494

Further Cross-examination by Mr. Misetic

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Witness: W03878 (Private Session)

Page 15495

Procedural Matters

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25 [Open session]

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

2 PRESIDING JUDGE SMITH: Now, Ms. O'Reilly.

3 MS. O'REILLY: Thank you, Your Honour. I just had a quick
4 matter arising out of my questions today and the preparation session
5 for this witness.

6 On 3 May, we received an e-mail from the SPO about an additional
7 prep session that had been carried out with this witness due to the
8 intervening period between when he was originally supposed to testify
9 and his actual testimony. The e-mail that we received said that the
10 witness wanted to re-read the relevant part of one of the exhibits
11 that I asked him about, P711, and that the witness did not wish to
12 re-review any other materials.

13 In an e-mail of 6 May, the Veseli Defence indicated that they
14 wished to understand his reason for wanting to review that exhibit
15 and asked for an additional prep note explaining that. We got the
16 additional prep note in the form of an addendum, and the ERN for that
17 is 120935. That addendum does not explain why the witness wanted to
18 review that exhibit. Today, I therefore asked the witness why he
19 wanted to see the exhibit, and he said at page 65, lines 17 to 18:

20 "I did not ask. They showed it to me."

21 There is an apparent conflict here between what the witness is
22 saying and what the Prosecution informed us as to what transpired.

23 My only point is that had we had an audio recording of this
24 preparation session, we wouldn't be in this difficult position of not
25 being able to resolve a conflict without calling upon the

1 Prosecution. So I would just like to reiterate the submissions that
2 we made in F2230 regarding our requested modification to preparation
3 sessions to allow for recording of all sessions. Thank you.

4 PRESIDING JUDGE SMITH: Thank you.

5 MR. HALLING: Just to say that the record is the record, and the
6 note and the witness's responses is all that can be said about this.
7 We would say that that's a pretty transparent attempt to supplement
8 something that's already through the briefing schedule and leave it
9 at that.

10 PRESIDING JUDGE SMITH: Thank you.

11 Anybody else have anything yet today? This is last day we'll be
12 together until a week from now -- a week from Monday.

13 One other thing, Mr. Halling. The Panel would prefer that the
14 paragraphs on the preparation note be numbered for ease of reference.
15 It's much easier then to try to find the spot in the notes if it
16 comes up for a question or if it comes up in some writing.

17 MR. HALLING: I certainly understand that, but didn't the
18 preparation notes for this witness have numbered paragraphs? Is that
19 what you're referring to?

20 JUDGE METTRAUX: We're also referring to the number of the
21 preparation note. You seem to be a reluctant user of "Proofing Note
22 1" and "2."

23 MR. HALLING: Yes, so the titles of the notes specify which note
24 it is. Yes.

25 PRESIDING JUDGE SMITH: It's easier to refer to things if it's

1 note 1, paragraph 9; note 2, paragraph 3. So if you will.

2 MR. HALLING: I think I follow. Thanks.

3 PRESIDING JUDGE SMITH: I didn't explain it very clearly.

4 So anything else? We're adjourned then until the following
5 Monday after this.

6 MR. MISETIC: I believe it's Tuesday.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 We are adjourned.

9 --- Whereupon the hearing adjourned at 3.39 p.m.

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