

1 Wednesday, 11 October 2023

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 9.02 a.m.

5 PRESIDING JUDGE SMITH: Good morning, everyone.

6 Madam Court Officer, please call the case.

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

10 PRESIDING JUDGE SMITH: This morning we will continue hearing
11 the evidence of Prosecution Witness W04577.

12 For the protection of the witness, please bring us into private
13 session.

14 [Private session]

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11 [Open session]

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

13 PRESIDING JUDGE SMITH: Madam Court Usher, please bring the
14 witness in.

15 Madam Prosecutor, yes.

16 MS. LAWSON: Good morning, Your Honour. I would just like to
17 make it very clear for the record that we do not consider there to be
18 a basis requiring any change in composition on the part of the
19 Prosecution.

20 Nonetheless, we are doing so this morning purely as a gesture of
21 goodwill to the witness and for his well-being, taking account of
22 certain vulnerabilities. That said, I will be continuing the
23 examination of the witness this morning.

24 PRESIDING JUDGE SMITH: Thank you, Ms. Lawson.

25 [The witness takes the stand]

Witness: W04577 (Resumed) (Open Session)
Examination by Ms. Lawson (Continued)

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

2 THE WITNESS: [Interpretation] Yes, I can.

3 PRESIDING JUDGE SMITH: I remind you to please try to answer any
4 of the questions clearly with short sentences. If you don't
5 understand a question, feel free to ask counsel to repeat it or tell
6 them you don't understand and they will try to clarify.

7 Also, please try to indicate the basis of your knowledge of
8 facts and circumstances upon which you will be questioned.

9 Please also speak into the microphone and wait five seconds
10 before answering a question and speak at a slow pace for the
11 interpreters to catch up.

12 Witness, following your request yesterday, counsel has been
13 assigned to you. I remind you that as per the solemn declaration
14 that you read yesterday, you are obliged to tell the truth. That
15 said, you are hereby advised that you are free to consult your
16 assigned counsel should you wish and may also raise any issues with
17 the Panel.

18 Madam Prosecutor, you may begin.

19 WITNESS: W04577 [Resumed]

20 [Witness answered through interpreter]

21 Examination by Ms. Lawson: [Continued]

22 Q. Good morning, Witness.

23 A. Good morning.

24 Q. We have not met before. My name is Clare Lawson and I will be
25 asking you some questions this morning on behalf of the Prosecution.

1 A. Understood.

2 MS. LAWSON: Your Honour, I would like to go briefly into
3 private session just to reiterate some reminders to the witness.

4 PRESIDING JUDGE SMITH: All right.

5 We go into private session, Madam Court Officer, for the
6 protection of the witness.

7 [Private session]

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Witness: W04577 (Resumed) (Private Session)

Page 8682

Examination by Ms. Lawson (Continued)

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Witness: W04577 (Resumed) (Private Session)

Page 8683

Examination by Ms. Lawson (Continued)

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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, Ms. Lawson.

20 MS. LAWSON: Court Officer, as mentioned yesterday, none of the
21 documents I mention should be broadcast.

22 The first document I'd like to call up is SITF00305130, and the
23 relevant page is SITF00305135. And side by side with that, the
24 Albanian, is SITF00305133. And, again, the relevant page of that
25 document is SITF00305135. Thank you.

Witness: W04577 (Resumed) (Open Session)
Examination by Ms. Lawson (Continued)

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1 Q. Witness, the document on your screen refers to an interview with
2 you. We see on the page that the date is 2004. Do you recall
3 providing a statement in 2004?

4 A. This does not stand. This is not true.

5 Q. Are you saying that you did not give a statement in 2004?

6 A. Correct.

7 Q. If you look at the English version of the document, which is on
8 the right-hand side of your screen, do you see your name on that
9 page?

10 A. Somebody seems to have scribbled my name there. However, this
11 is not true.

12 Q. Are you denying that that is your signature?

13 A. Entirely.

14 MR. DE BREE: Mr. Presiding Judge, may I briefly -- apologies.
15 May I briefly address the Panel?

16 PRESIDING JUDGE SMITH: [Microphone not activated]

17 MR. DE BREE: Thank you.

18 PRESIDING JUDGE SMITH: The answer is "yes." I'm sorry, I
19 wasn't on mic.

20 MR. DE BREE: Thank you, Mr. Presiding Judge.

21 If I may briefly address, I will do so accordingly. I have this
22 morning consulted with my client as Duty Counsel and found a very
23 distressed person who is not willing to give testimony, is even
24 willing to go to jail as he himself just said to you. I am under the
25 impression that is now guiding his current testimony.

Witness: W04577 (Resumed) (Open Session)
Examination by Ms. Lawson (Continued)

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1 I do not know, to be fully transparent, whether any adjournment
2 will make a change to that position. But given what I now see
3 happening, I would ask your Panel to adjourn at least for some time
4 to be able to consult with him further.

5 PRESIDING JUDGE SMITH: That certainly is not unreasonable. How
6 much time would you need?

7 MR. DE BREE: I think 30 minutes.

8 PRESIDING JUDGE SMITH: If there is no objection, we will do
9 that so that the lawyer can consult with his client.

10 MR. KEHOE: No objection, Your Honour.

11 PRESIDING JUDGE SMITH: Any objection? None. None. All right.
12 We will adjourn for 30 minutes.

13 MR. DE BREE: Thank you.

14 PRESIDING JUDGE SMITH: Take the time you need to understand.
15 He needs to understand that he's brought here to testify and that he
16 has an obligation. Thank you.

17 MR. EMMERSON: Your Honour, before Your Honours rise, may I
18 detain you once the witness is withdrawn?

19 PRESIDING JUDGE SMITH: Certainly.

20 MR. DE BREE: Do you want me to leave as well, I presume?

21 [The witness stands down]

22 MR. EMMERSON: You may remain. It is just the witness I was
23 concerned with.

24 Your Honour will remember yesterday I began the proceedings
25 before the witness was called by saying --

1 PRESIDING JUDGE SMITH: Oh, we're in public session. I'm sorry.

2 MR. EMMERSON: Oh, I'm so sorry.

3 PRESIDING JUDGE SMITH: We'll move to private session. Sorry.

4 My mistake.

5 [Private session]

6 [Private session text removed]

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17 [Open session]

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

19 PRESIDING JUDGE SMITH: All right. We're in public session and
20 we are adjourned.

21 MR. EMMERSON: Your Honour, now that we're in public session,
22 may I just seek a clarification on a brief discussion that
23 occurred --

24 PRESIDING JUDGE SMITH: No, we're adjourned. We're adjourned
25 for a half hour.

1 MR. EMMERSON: So you won't hear me?

2 --- Break taken at 9.26 a.m.

3 --- On resuming at 9.55 a.m.

4 PRESIDING JUDGE SMITH: Duty Counsel, I believe you asked
5 permission to make a statement in court.

6 MR. DE BREE: I did, Mr. Presiding Judge. May I ask for a
7 private session.

8 PRESIDING JUDGE SMITH: Yes, we will be in private session.

9 [Private session]

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4 [Open session]

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

6 PRESIDING JUDGE SMITH: The Court has advised Duty Counsel to
7 explain to his client the possibility of sanctions under 141(6) of
8 our rules and Article 42, paragraphs 7 and 8, of the Law. We also
9 explained that the adjournment is sustained in part. The request for
10 it is sustained in part. The witness will remain in the jurisdiction
11 of the Court to avail himself of contact with Duty Counsel, security,
12 and psychiatric assistance if necessary. His testimony will continue
13 on Monday, 16 October of this year.

14 You are under an obligation, Mr. Witness, not to discuss your
15 case with anyone other than your Duty Counsel. You understand that?
16 Just a simple "yes" or "no."

17 THE WITNESS: [Interpretation] Your Honour, I do understand. But
18 you have to understand me as well when I say that I need a month. If
19 I am not given a month, you know what measures you have at your
20 disposal and you may proceed with the procedure. You can send me to
21 what I mentioned earlier. You can send me to jail. And that's the
22 end of the story.

23 My situation at the moment is not favourable.

24 PRESIDING JUDGE SMITH: Thank you. Your attorney can explain
25 our ruling to you outside of our presence, and you may have questions

1 for him. But that concludes this matter, and your testimony is
2 adjourned.

3 THE WITNESS: [Interpretation] Okay.

4 PRESIDING JUDGE SMITH: Madam Usher, you may escort the witness
5 out.

6 Thank you for being with us, Duty Counsel.

7 MR. EMMERSON: I wonder if Duty Counsel might remain for one
8 moment.

9 PRESIDING JUDGE SMITH: For what purpose?

10 MR. EMMERSON: I can clarify an issue with Your Honour.

11 [The witness stands down]

12 PRESIDING JUDGE SMITH: No. No, he's out. Go ahead. You may
13 clarify now.

14 MR. EMMERSON: It relates to Duty Counsel.

15 PRESIDING JUDGE SMITH: You're going to have to be a little more
16 open about it. What does it relate to?

17 MR. EMMERSON: The Duty Counsel has made it clear this morning
18 that he has no knowledge of the case papers. Are you requiring him
19 to give advice to his client without discussing anything with the --

20 PRESIDING JUDGE SMITH: He is the Duty Counsel. It is his
21 obligation to carry out his own duties. He knows what his
22 obligations are as a lawyer, and you are not to direct him on how to
23 do that.

24 MR. EMMERSON: Of course not.

25 PRESIDING JUDGE SMITH: Well, that's what you're asking to do.

1 MR. EMMERSON: Absolutely not. And that's insulting and should
2 be withdrawn.

3 PRESIDING JUDGE SMITH: It won't be withdrawn.

4 MR. EMMERSON: Well, I certainly did not ask to do that, tell
5 him how to do his job. My question was, given that he has no
6 knowledge of the papers, are you ruling he may not contact the
7 Prosecution at all?

8 PRESIDING JUDGE SMITH: I didn't say anything about that.

9 MR. EMMERSON: You did in the private session. You said he --

10 PRESIDING JUDGE SMITH: Thank you. That's the end of this
11 session.

12 MR. EMMERSON: Well, if I am contacted or any of us are
13 contacted for advice and assistance in relation to the material, you
14 say we may not speak to him; is that right?

15 PRESIDING JUDGE SMITH: You may not speak to this witness.

16 MR. EMMERSON: Even if he -- not the witness, the counsel, the
17 officer of the Court.

18 PRESIDING JUDGE SMITH: That's up to him.

19 MR. EMMERSON: If he approaches us --

20 PRESIDING JUDGE SMITH: That's up to him.

21 MR. EMMERSON: -- there is no objection to that?

22 PRESIDING JUDGE SMITH: I said that's up to him.

23 MR. EMMERSON: But you earlier said it shouldn't happen. So I'm
24 asking for clarification if we receive any --

25 PRESIDING JUDGE SMITH: I didn't say that shouldn't happen.

1 MR. EMMERSON: Very well. So if he approaches either side for
2 clarification, there is no objection to that.

3 PRESIDING JUDGE SMITH: If he feels it's part of his duty as
4 Duty Counsel, that's what he will do.

5 MR. EMMERSON: That's what I was seeking to clarify. And there
6 is, with respect, no need to make accusations beyond that.

7 PRESIDING JUDGE SMITH: All right. We will go on to the next
8 case. I understand that there is a witness available. And we will
9 step aside for five minutes so you can get rearranged, and then we
10 will begin with that witness. We can at least get him advised.
11 Thank you very much.

12 Oh, I'm sorry, Mr. Ellis.

13 MR. ELLIS: Well, Your Honour, there is an issue with that. We
14 were notified on Thursday, as the order on conduct requires, of these
15 two witnesses for this week. No reserve was notified for this week's
16 sitting, and we are simply not prepared for the cross-examination of
17 the next witness yet.

18 The anticipation was this witness would continue throughout this
19 week's session. Even as the last few hours' events have progressed,
20 we've received no e-mail from the Prosecution notifying that the next
21 witness is about to start their testimony. Understandably, our
22 resources have been devoted to the witness who has just departed.

23 MR. KEHOE: I have to echo that response. Obviously, there was
24 an enormous amount of material with this witness, and we had no
25 notice that a reserve witness is coming up for this week. As

1 Mr. Ellis just said, we had the notification of two witnesses this
2 week.

3 MR. EMMERSON: May I also add this, that in accordance with Your
4 Honours' directions, we have sought to allocate primary
5 cross-examination responsibilities amongst the team. As it happens,
6 it is my primary responsibility to cross-examine this witness that
7 has just left but also the next witness.

8 Inevitably, given the complexities of what has been going on
9 over the last few days, it's been quite impossible to prepare any
10 cross-examination for the next witness. I would be ready in the
11 morning to cross-examine if you wanted to order the evidence-in-chief
12 today and then adjourn till tomorrow morning.

13 PRESIDING JUDGE SMITH: What is the estimated time for the
14 witness's testimony in chief?

15 MS. LAWSON: Your Honour, I believe it's three hours, but I'm
16 just going to have to verify that.

17 PRESIDING JUDGE SMITH: Okay.

18 MS. LAWSON: The other point I would like to make is that he is
19 not a reserve witness. He's just the next witness in the order for
20 this block, and his preparation note was disclosed on Monday, and his
21 presentation queue was disclosed yesterday morning around 9.00 a.m.

22 MR. KEHOE: That, of course, doesn't answer the question as to
23 what it takes for Defence counsel to prepare for witnesses for which
24 they are notified, and we were only notified for two for this week.

25 Information comes through, and we are preparing for that witness

1 to come next week, not this week. So I can tell that with the amount
2 of information that we have with this prior witness, our attentions
3 have been fully devoted to that.

4 Now, I understand Your Honours' concern about time.
5 Nevertheless, this is a paramount concern to the Defence because,
6 frankly, we have spent the last days preparing for this witness with
7 an enormous amount of material.

8 PRESIDING JUDGE SMITH: Mr. Emmerson has generously offered to
9 wait till tomorrow and submit his cross-examination, which probably
10 we can make work. The three hours sometimes is --

11 MS. LAWSON: It's two hours, Your Honour.

12 PRESIDING JUDGE SMITH: Two?

13 MS. LAWSON: A correction, yes.

14 PRESIDING JUDGE SMITH: Oh, it should have been three.

15 MS. LAWSON: We can attempt to make it three, if necessary.

16 PRESIDING JUDGE SMITH: I think we will go with that. If we get
17 farther beyond that, and Mr. Emmerson may take longer than what he
18 suspects.

19 What you are estimating?

20 MR. EMMERSON: We've got three hours allowed, three hours
21 submitted.

22 PRESIDING JUDGE SMITH: And tomorrow is Thursday. It's a short
23 day, anyway. We are not having the third session.

24 MR. EMMERSON: Exactly, so --

25 PRESIDING JUDGE SMITH: I think we can make this all work.

1 MR. EMMERSON: If I am permitted to start cross-examination in
2 the morning, then we can do the chief this afternoon.

3 PRESIDING JUDGE SMITH: We will do that. And thank you for your
4 cooperation.

5 We'll step aside just so you can get -- oh.

6 MR. ELLIS: Your Honour, sorry, just on a final point, what
7 would that do for scheduling for the witness who's just departed?
8 Because he's, I think, ordered to come back on Monday.

9 PRESIDING JUDGE SMITH: He is ordered to come back on Monday.

10 MR. ELLIS: We want to finish the next witness by Monday.

11 PRESIDING JUDGE SMITH: You probably won't, yeah. So he will be
12 put on hold until he's available.

13 MR. ELLIS: I understand, Your Honour. But to be clear, I will
14 not be ready to cross-examine the next witness tomorrow. I don't
15 think that will be a problem because of the time, but --

16 PRESIDING JUDGE SMITH: That won't be a problem, yeah.

17 So thank you very much. We will step aside. We'll be back
18 and -- we'll give you ten minutes to get organised and then we'll be
19 back.

20 --- Break taken at 10.37 a.m.

21 --- On resuming at 10.48 a.m.

22 PRESIDING JUDGE SMITH: Mr. Ellis.

23 MR. ELLIS: Your Honour, there's one matter that follows on from
24 what we discussed earlier that I had the chance to discuss briefly
25 with Ms. Lawson opposite, and it's about the presentation queues.

1 I think it follows from what I said earlier that we would not be
2 ready to release our presentation queue at the end of the direct
3 examination today, so I'd seek a temporary extension of time to do
4 that until the end of Friday. That, on the basis that my
5 cross-examination will not start until Monday, so there should still
6 be plenty of time.

7 PRESIDING JUDGE SMITH: Any objection?

8 MR. HALLING: None, Your Honour.

9 PRESIDING JUDGE SMITH: All right. Granted.

10 MR. KEHOE: I trust that goes for all Defence --

11 PRESIDING JUDGE SMITH: No, just him.

12 MR. EMMERSON: I'm starting on Friday -- tomorrow, so my aim is
13 to have the Veseli Defence queue released before I start.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 The extension is granted for all three, other than Mr. Emmerson,
16 who has volunteered not to.

17 MR. ROBERTS: Actually, on that issue, Your Honour, if
18 Mr. Emmerson is scheduled to take three hours on Thursday, can I
19 similarly request to start on Monday rather than starting for the
20 short period of time before we finish on Thursday lunchtime? And
21 then that would also give me until -- because I -- just to be clear,
22 I am due to go second after Mr. Emmerson in relation to this witness,
23 so that would also --

24 PRESIDING JUDGE SMITH: Well, unless it comes out shorter than
25 expected.

1 MR. ROBERTS: Understood, yes. Yes.

2 PRESIDING JUDGE SMITH: But we will accommodate you.

3 MR. ROBERTS: Thank you, Your Honour.

4 PRESIDING JUDGE SMITH: Madam Usher, please bring the witness
5 into the courtroom.

6 Madam Court Officer, you can call the case.

7 [The witness entered court]

8 PRESIDING JUDGE SMITH: So we are going to proceed with the
9 witness's testimony. Today we will be hearing the evidence of
10 Prosecution Witness W04769, and we are in public session.

11 Can you hear me okay?

12 THE WITNESS: [Interpretation] Yes, I can.

13 PRESIDING JUDGE SMITH: The Court Usher will provide you with
14 the text of the solemn declaration which you are asked to take
15 pursuant to Rule 141(2) of our rules of procedure. So look at the
16 document and then read it out loud.

17 THE WITNESS: [Interpretation] Conscious of the significance of
18 my testimony and my legal responsibility, I solemnly declare that I
19 will tell the truth, the whole truth, and nothing but the truth, and
20 that I shall not withhold anything which has come to my knowledge.

21 WITNESS: W04769

22 [Witness answered through interpreter]

23 PRESIDING JUDGE SMITH: Witness, you may be seated.

24 THE WITNESS: [Interpretation] Thank you.

25 PRESIDING JUDGE SMITH: Witness, today we will start your

1 testimony, which is expected to last over the next several days. As
2 you may know, the Prosecution will ask questions first. Once they
3 are finished, the Defence has the right to ask questions of you, and
4 members of the Panel may also have questions for you.

5 The Prosecution's estimate for your examination is two hours.
6 The Defence estimates it will need approximately 13 hours. And as
7 regards each estimate, we hope and urge counsel to be judicious in
8 their use of their time. The Panel may also allow redirect
9 examination if conditions for it are met.

10 Witness, please try to answer the questions clearly with short
11 sentences. If you don't understand a question, feel free to ask
12 counsel to repeat the question or tell them you don't understand and
13 they will clarify.

14 Also, please try to indicate the basis of your knowledge of
15 facts and circumstances that you will be asked about.

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

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

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

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

3 Finally, I want you to know that if I ask you to stop talking,
4 you need to stop immediately, or if I raise my hand like this and you
5 see that, stop immediately. That means that I need to give you
6 further instruction. Do you understand that?

7 THE WITNESS: [Interpretation] Yes, I understand everything.

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

10 We begin with the Prosecution's direct examination. This
11 gentleman over here will be asking you questions.

12 Go ahead.

13 MR. HALLING: Thank you, Your Honour.

14 Before asking the first question, just a question of scheduling.
15 When would the Court like to take the first break?

16 PRESIDING JUDGE SMITH: We're going to take the break as soon as
17 you -- maybe get him to identify himself. The translators have been
18 going at this since 9.00, so we'll take our first break about the
19 usual time. Let's call it five after. You can get some upfront
20 matters out of the way, and then we will go on.

21 Do you need to go into private session?

22 MR. HALLING: Yes, we would, Your Honour.

23 PRESIDING JUDGE SMITH: All right.

24 Madam Court Officer, into private session for the protection of
25 the witness's identity.

Witness: W04769 (Private Session)

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Examination by Mr. Halling

1 You can read your summary, for example, if you wish.

2 [Private session]

3 [Private session text removed]

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Witness: W04769 (Private Session)

Page 8713

Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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11 [Open session]

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

13 PRESIDING JUDGE SMITH: Thank you.

14 You may proceed.

15 MR. HALLING: Thank you, Your Honour.

16 Q. Witness, we're now in open session. Have you previously been
17 interviewed by the SPO?

18 A. Yes.

19 MR. HALLING: We'd ask to have the following put up again on the
20 screen, 074788-TR-AT Part 1 Revised RED2, page 1, and it can be the
21 entire screen.

22 Q. Witness, is this your SPO interview?

23 A. Yes.

24 Q. Have you recently had an opportunity to refamiliarise yourself
25 with the contents of this interview?

1 A. Yes.

2 Q. And in the preparation session you had last week and early this
3 week, you indicated some changes and clarifications to this
4 interview; is that correct?

5 A. Yes.

6 Q. And those changes were all reflected in a note that was read
7 back to you; also correct?

8 A. Yes.

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

11 A. Yes.

12 Q. Subject to the changes you provided in that note, does your SPO
13 interview transcript accurately reflect what you said and what you
14 would say if asked again in court today?

15 A. Yes.

16 MR. HALLING: Your Honour, having fulfilled the Rule 154
17 criteria, and in accordance with decision F01700, the SPO hereby
18 tenders all parts of that SPO interview along with Preparation
19 Note 1, which is ERN 116066 to 116071.

20 We would further tender the associated exhibits to this
21 interview that were identified in that decision. We can read each
22 one into the record, if that's necessary, but the admitted exhibits
23 are all listed in footnote 133 of Your Honours' Rule 154 decision
24 except for a transcript excerpt we were asked to make, which is
25 011795-06-TR_F01770 and its English translation. And this last ERN

1 is the provisionally admitted transcript from that same decision.

2 PRESIDING JUDGE SMITH: [Microphone not activated]

3 MR. KEHOE: I don't think you have the microphone, Judge.

4 PRESIDING JUDGE SMITH: Oh, I'm sorry. Any objection to the
5 proposed admission?

6 MR. KEHOE: Just subject to our prior objections, no objection.
7 Prior objections in our response to the 154 motion.

8 MR. ROBERTS: Only a small objection to part of the preparation
9 note, Your Honour, which, to my mind, contains new information which
10 shouldn't be considered to be a clarification to an existing
11 statement but new information that, therefore, shouldn't be admitted
12 as part or attached to his 154 statement.

13 And I believe it's confidential, so I can't discuss it in open
14 session but can do so after the break, if necessary, but it's
15 paragraph 8 of that SPO preparation note. One section of paragraph
16 8. Preparation Note 1. And, for the record, that's ERN 116066 to
17 116071.

18 PRESIDING JUDGE SMITH: Have you two discussed this?

19 MR. HALLING: First we're hearing about it, Your Honour.

20 PRESIDING JUDGE SMITH: Okay.

21 MR. ROBERTS: It's because of the -- the witness appearing
22 earlier than foreseen, I didn't have a chance to let the
23 Prosecution --

24 PRESIDING JUDGE SMITH: I'm not finding fault. I just say
25 perhaps you should talk about it once first so --

1 MR. ROBERTS: We can talk about it at the break, Your Honour, if
2 that assists --

3 PRESIDING JUDGE SMITH: [Overlapping speakers] ...

4 MR. ROBERTS: -- and then maybe we can see if there's an
5 agreeable solution that we can come to and inform Your Honours
6 afterwards.

7 PRESIDING JUDGE SMITH: We will leave paragraph 8 of the
8 preparation note out at this time. Admit -- I'm sorry, Mr. Ellis,
9 any objection?

10 MR. ELLIS: No, Your Honour.

11 PRESIDING JUDGE SMITH: Mr. Emmerson, any objection to any of
12 this?

13 MR. EMMERSON: [Microphone not activated]

14 PRESIDING JUDGE SMITH: We will admit 074788-TR-AT Part 1
15 Revised, and the prep notes except for prep note paragraph 8.

16 [Trial Panel and Court Officer confers]

17 PRESIDING JUDGE SMITH: We'll read the associated exhibits after
18 the break and deal with it then along with the objection to
19 paragraph 8.

20 MR. HALLING: Your Honour, we are prepared to read the summary
21 now, if you would like us to.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 For the translators note, we're going to read this short summary
24 and then we will take a break.

25 MR. HALLING: Yes, and the summary has been communicated to

1 Defence counsel, and it has no impact on the objection of the Selimi
2 Defence.

3 PRESIDING JUDGE SMITH: All right. Go ahead.

4 MR. HALLING: W04769 is a former KLA member with knowledge of
5 the KLA's command structure in Albania and the Pashtrik zone. He has
6 knowledge of persons present at meetings of the KLA General Staff in
7 1998 and 1999, including the accused.

8 W04769's evidence supports the murder of a charged Klecke victim
9 Ymer Xhafiqi as well as KLA figures and crimes charged in Prizren in
10 June 1999.

11 PRESIDING JUDGE SMITH: All right. This is an appropriate time
12 for a break.

13 We just started, I understand you are thinking that,
14 Mr. Witness, but we have to give some rest time to the interpreters
15 who are working very hard. So we will have a half-hour break, and
16 then you'll come back to the courtroom, and we'll commence your
17 examination.

18 Remember not to speak to anyone about your testimony in court.
19 You may leave.

20 [The witness stands down]

21 PRESIDING JUDGE SMITH: We are in public session. We will
22 adjourn until 20 minutes until 12.00.

23 --- Recess taken at 11.08 a.m.

24 --- On resuming at 11.40 a.m.

25 PRESIDING JUDGE SMITH: Madam Usher, you may bring the witness

1 in.

2 MR. HALLING: And, apologies, Your Honour, before that's done.
3 Just to give an update on the *inter partes* consultation --

4 PRESIDING JUDGE SMITH: Oh, yeah.

5 MR. HALLING: -- with the Selimi Defence, and I think I can even
6 say this in open session. The disputed part of paragraph 8, what was
7 agreed upon with the Selimi Defence - and, please, correct me if I
8 state otherwise - I will attempt to elicit that same information
9 through the witness in this session. If I'm able to successfully do
10 so, that would resolve the objection.

11 So we would ask that the admissibility of that part of
12 Preparation Note 1 be held at this time until that happens.

13 PRESIDING JUDGE SMITH: No problem.

14 Can that be done, Madam Court Officer?

15 [Trial Panel and Court Officer confers]

16 THE COURT OFFICER: Your Honours, to assign the numbers to the
17 documents admitted, I will start with the statements.

18 ERN 074788-TR-ET Part 1 RED2 and the Albanian transcript for it
19 will be Exhibit 492.1. Part 2 for the same ERN number will be
20 Exhibit P492.2. Part 3 for the same ERN number will be P492.3.
21 Part 4 will be Exhibit P492.4. And Part 5 will be Exhibit P492.5.

22 Then the Preparation Note under 116066 to 116071 will be
23 Exhibit P495.

24 Associated exhibits 074784 to 074787 will be Exhibit P496.

25 ERN U0006497 to U0006504 will be Exhibit P497.

1 U0023339 to U0023340 will be Exhibit P498.

2 U0005851 to U0005851 will be Exhibit P499.

3 SITF00021875 to SITF00021876 will be Exhibit P500.

4 054010-03, the sequence of that video, which is from 00 minutes
5 to 05:07 seconds, will be Exhibit P501.

6 ERN video with 011795-06 and the sequence there of minute 04:55
7 to 05:07, and the transcript which was presented by the Prosecutor
8 this morning under 011795-06-TR_F01770, will be Exhibit P502.

9 And the last video, 068357-01, the sequence at 00:10 seconds to
10 00:54 seconds will be Exhibit P503, Your Honours. Thank you.

11 PRESIDING JUDGE SMITH: Thank you.

12 One other thing. Mr. Kehoe, you had a list of exhibits that you
13 were going to present. Do you want to do that today?

14 MR. KEHOE: [Microphone not activated].

15 I have to share that with my colleagues at the SPO, so we just
16 have that *inter partes* conference.

17 PRESIDING JUDGE SMITH: No problem. Let's just don't forget to
18 do it.

19 MR. KEHOE: [Microphone not activated] I won't forget. My
20 colleagues have reminded me of it. But we just --

21 PRESIDING JUDGE SMITH: Okay, good.

22 You can bring the witness in now.

23 [The witness takes the stand]

24 PRESIDING JUDGE SMITH: Are you hearing okay?

25 THE WITNESS: [Interpretation] Yes.

Witness: W04769 (Private Session)

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Examination by Mr. Halling

1 PRESIDING JUDGE SMITH: Mr. Halling, go ahead.

2 MR. HALLING: Thank you, Your Honour.

3 At this time, we would ask to move into private session. We
4 expect to remain there for some time.

5 PRESIDING JUDGE SMITH: All right. To protect the witness's
6 identity?

7 MR. HALLING: Correct, Your Honour.

8 PRESIDING JUDGE SMITH: All right.

9 Madam Court Officer, to protect the witness's identity you may
10 move to private session.

11 [Private session]

12 [Private session text removed]

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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22 [Open session]

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

24 PRESIDING JUDGE SMITH: [Microphone not activated]

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

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

2 MR. HALLING: Your Honours, we had a small point of
3 housekeeping, with your indulgence.

4 PRESIDING JUDGE SMITH: Hold on. Okay.

5 MR. HALLING: Thank you, Your Honour.

6 Yeah, there's been a lot of interest from the Defence side as to
7 our witness order for next week in light of decision 1851 and the
8 orders made this morning.

9 So just to give an update on the record, and we can send an
10 e-mail to this effect as well. We're currently projecting a revised
11 order for next week. First, the completion of the current testifying
12 witness's testimony, then the resumption of the testimony of the
13 witness this morning, and then, if necessary, reserve witness W00208.

14 PRESIDING JUDGE SMITH: All right.

15 Madam Usher, you may go escort the witness in.

16 [The witness takes the stand]

17 PRESIDING JUDGE SMITH: All right, Witness. Welcome back. Can
18 you hear me okay?

19 THE WITNESS: [Interpretation] Yes. Very well.

20 PRESIDING JUDGE SMITH: Mr. Halling has more questions for you.

21 MR. HALLING: Thank you.

22 But I will finish this session, I am sure. But we would ask to
23 go into private session.

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

Witness: W04769 (Private Session)

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Examination by Mr. Halling

1 [Private session]

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Examination by Mr. Halling

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Examination by Mr. Halling

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Examination by Mr. Halling

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Examination by Mr. Halling

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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Examination by Mr. Halling

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Examination by Mr. Halling

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Witness: W04769 (Private Session)

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Examination by Mr. Halling

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21 [Open session]

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

23 PRESIDING JUDGE SMITH: All right, Mr. Ellis.

24 MR. ELLIS: Your Honour, just on the issue of attendance, it may
25 well be that Mr. Krasniqi wishes to attend by video-conference

1 tomorrow. We'll submit a waiver after the hearing.

2 PRESIDING JUDGE SMITH: That should be no problem.

3 MR. ELLIS: Thank you, Your Honour.

4 PRESIDING JUDGE SMITH: Thank you all. We're adjourned until
5 9.00 tomorrow.

6 --- Whereupon the hearing adjourned at 3.37 p.m.

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