

1 Monday, 25 September 2023

2 [Open session]

3 [The accused entered the courtroom]

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

6 --- Upon commencing at 9.03 a.m.

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

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

12 Mr. Selimi and Mr. Veseli are both present in court. Mr. Thaci  
13 and Mr. Krasniqi will appear by videolink.

14 I note that there's a matter regarding W03827 that the Panel  
15 will address before we start with the testimony of 4644.

16 The Panel recalls that on 11 and 13 September 2023, W03827  
17 testified before the Panel. On 11 September 2023, the Panel admitted  
18 W03827's witness statements under Rule 143(2) with written reasons to  
19 follow.

20 Following on from this, the Panel orders the SPO to disclose the  
21 audio and visual recording of W03827's SPO interview dated December  
22 6th, 2023, with exhibit reference number P00328, by no later than  
23 4.00 p.m. on Tuesday, 26 September 2023.

24 This concludes the Panel's oral order.

25 Now, Mr. Tully.

1 MR. TULLY: Thank you, Your Honour. I appreciate the Panel  
2 giving me their time this morning.

3 I have two issues as I notified to the Court Officers. I will  
4 give a short outline in public, and then I'll ask to move to private  
5 for the first issue.

6 So the first issue concerns a recurring matter which,  
7 unfortunately, we've had to bring to the attention of the Panel on  
8 numerous occasions, and I rise again to do so today. And this  
9 concerns new information that is creeping into Preparation Note 1.  
10 And at this point, Your Honour, we would ask the Panel to consider  
11 this to be a pattern of behaviour by the Prosecution, not simply an  
12 oversight.

13 If I can move to private session while I address the substance  
14 of the issue, please.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 Into private session, please.

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Procedural Matters

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Procedural Matters

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Examination by Mr. Hafetz

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12 [Open session]

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

14 MR. HAFETZ: Thank you.

15 Q. Witness, do you recall giving a statement to the SPO in January  
16 2020?

17 A. Can you please repeat the question?

18 Q. Certainly. Do you recall giving a statement to the SPO in  
19 January 2020?

20 A. Yes.

21 MR. HAFETZ: I'd ask the Court Officer now to please pull up ERN  
22 073684-TR-AT Part 1 Revised 1. And this is an RED document. And  
23 there's no need for the English at this time. And if we could  
24 display just the first page.

25 Q. Witness, looking at the first full page of this five-part

1 document, do you recognise this as is your January 2020 SPO  
2 statement?

3 A. Yes.

4 Q. As part of your preparation session conducted last week, did you  
5 read this entire January 2020 SPO statement?

6 A. I did.

7 Q. And during your preparation session with me that took place last  
8 week, did you have the opportunity to make clarifications and  
9 corrections to this statement?

10 A. To the extent I could read, I tried to rectify or make the  
11 necessary corrections.

12 Q. And were the clarifications and corrections that you made then  
13 reflected in a note that was then read back to you?

14 A. Yes.

15 Q. And do you now confirm that what was read back to you in the  
16 note fully and accurately reflects the clarifications and corrections  
17 that you made to your statement?

18 A. Yes.

19 Q. And, finally, subject to the information you provided in the  
20 clarification note, does your January 2020 SPO statement accurately  
21 reflect what you said and what you would say if asked again in court  
22 today?

23 A. Yes.

24 MR. HAFETZ: Your Honour, we'd submit that this satisfies the  
25 Rule 154 criteria, and we now seek admission of the witness's prior

1 SPO statement and certain of the associated exhibits, which I'll  
2 identify in a moment.

3 PRESIDING JUDGE SMITH: Any objection?

4 MR. MISETIC: No, Mr. President.

5 MS. O'REILLY: None.

6 MR. TULLY: None.

7 MR. ELLIS: No, Your Honour.

8 PRESIDING JUDGE SMITH: 073684-TR-AT Part 1 Revised 1 is  
9 admitted.

10 MR. HAFETZ: And, Your Honour, the rest of the range would be  
11 the same ERN, 073684-TR-AT, and it's Parts 1 through 5 inclusive,  
12 Revised 1, and that -- there is also an English as well, which is the  
13 same ERN, 073684-TR-AT Part 1 Revised 1 -ET, Parts 1 through 5.

14 PRESIDING JUDGE SMITH: 07 -- I'm sorry, any objection?

15 MR. MISETIC: No, Mr. President.

16 PRESIDING JUDGE SMITH: [Indiscernible].

17 MR. TULLY: No.

18 PRESIDING JUDGE SMITH: 073684-TR-AT Part 1 through 5, plus the  
19 English, is admitted.

20 MR. HAFETZ: Thank you, Your Honour.

21 PRESIDING JUDGE SMITH: Just wait. Got to get the P numbers.

22 THE COURT OFFICER: Your Honours, those parts, Part 1 through 5  
23 will receive exhibit numbers P410.1 for Part 1, P410.2 for Part 2,  
24 P410.3 for Part 3, P410.4 for Part 4, and P410.5 for Part 5.

25 MR. HAFETZ: Your Honour, the SPO tenders also Preparation

1 Note 1, subject to redactions, full redactions to paragraphs 21 and  
2 22, and the ERN range for that document is 115394-115401.

3 PRESIDING JUDGE SMITH: Note 1 with a total redaction of  
4 paragraphs 21 and 22 in ERN 115394 to 115401 is admitted.

5 THE COURT OFFICER: Your Honours, that will be Exhibit P411.

6 MR. HAFETZ: Your Honour, lastly, we would further tender a  
7 selection of the previously noticed associated exhibits to the SPO  
8 statement which were identified in, among other places, the Court's  
9 decision in F01595COR.

10 Specifically, from the range 074666-074681, we tender only the  
11 following: 074666, 074667, 074668, 074669, all four of which are  
12 photographs. And two additional: 074671 and 074672, both of which  
13 are UNMIK death certifications.

14 PRESIDING JUDGE SMITH: Is that the full tender?

15 MR. HAFETZ: That is, Your Honour. We are not tendering the  
16 remainder of that range.

17 PRESIDING JUDGE SMITH: All right. Any objection to those?

18 MR. MISETIC: No, Mr. President.

19 MR. ELLIS: No, Your Honour.

20 MR. TULLY: No, Your Honour.

21 PRESIDING JUDGE SMITH: 074666 through 074669 are admitted, and  
22 074671 and 074672 are admitted.

23 MR. HAFETZ: Thank you, Your Honour.

24 Now, continuing --

25 PRESIDING JUDGE SMITH: Just ...

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1 THE COURT OFFICER: Your Honours, those combined will get  
2 Exhibit P412.

3 PRESIDING JUDGE SMITH: I'm sorry, Madam Court Officer, what  
4 number again?

5 THE COURT OFFICER: Exhibit P412.

6 PRESIDING JUDGE SMITH: Thank you.

7 All right. You may go on, Mr. Prosecutor.

8 MR. HAFETZ: Thank you, Your Honour.

9 Now continuing in public session, with the Court's permission, I  
10 will now read into the record a brief public summary of the witness's  
11 testimony.

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

13 MR. HAFETZ: Thank you.

14 In early 1998, KLA members forcibly took the witness and some of  
15 the witness's family members from their home village and brought them  
16 to several different locations where they were beaten and accused of  
17 being traitors and spies.

18 One of the places the KLA took the witness and the witness's  
19 family members and others was a KLA base. The KLA released the  
20 witness and some of the victims in the middle of the night while  
21 detaining others, including the witness's family members.

22 In the following days, the witness's family members and other  
23 victims were found murdered. The witness saw the bodies of the  
24 witness's relatives which showed signs of severe mistreatment.

25 The witness today still suffers from what happened, and the

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Examination by Mr. Hafetz

1 witness seeks justice.

2 Your Honour, at this time we would request to move into private  
3 session for supplemental 154 questioning.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 Private session, please.

6 [Private session]

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Witness: W04644 (Private Session)

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Examination by Mr. Hafetz

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Witness: W04644 (Private Session)

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Witness: W04644 (Private Session)

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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Examination by Mr. Hafetz

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23 [Open session]

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

25 PRESIDING JUDGE SMITH: Something?



1 MR. HAFETZ: No.

2 PRESIDING JUDGE SMITH: We are adjourned until 11.30.

3 MR. HAFETZ: Thank you, Judge.

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

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

6 PRESIDING JUDGE SMITH: Anything else, Mr. Prosecutor?

7 MR. HAFETZ: No, Your Honour. Thank you. We've completed our  
8 exam.

9 PRESIDING JUDGE SMITH: All right.

10 Mr. Laws, do you wish to use your time?

11 MR. LAWS: Some of it at least, Your Honour. Yes.

12 PRESIDING JUDGE SMITH: Okay.

13 MR. LAWS: Thank you.

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

16 [The witness takes the stand]

17 PRESIDING JUDGE SMITH: Witness, I remind you that you are still  
18 under an obligation to tell the truth.

19 THE WITNESS: [Interpretation] Yes, Your Honour. Only the truth.

20 PRESIDING JUDGE SMITH: The Prosecution has finished their  
21 questioning of you, and now it will be the Victims' Counsel who will  
22 have some questions.

23 Go ahead, Mr. Laws.

24 MR. LAWS: Your Honour, thank you. And we'll need to move back  
25 into private session for this.



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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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6 [Open session]

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

8 PRESIDING JUDGE SMITH: Thank you.

9 MR. TULLY: Your Honours, it's on me. I forgot to update my  
10 time estimates. But I will take longer than I have indicated, which  
11 is two hours. But I've spoken with Mr. Misetic and with Mr. Ellis,  
12 and I believe I'll cover topics that they would have, so the net  
13 result will be the same. I'm about halfway through.

14 PRESIDING JUDGE SMITH: [Microphone not activated]

15 MR. TULLY: I'd imagine maybe another two hours.

16 PRESIDING JUDGE SMITH: You may get restricted. [Microphone not  
17 activated]. Some of the questioning has been somewhat irrelevant,  
18 and so we try to focus on what's really important to the case.

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

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

21 PRESIDING JUDGE SMITH: Yes, Mr. Misetic.

22 MR. MISETIC: Mr. President, just to update you on our time  
23 estimate. We will be -- instead of three hours, we will be an hour  
24 or less on cross-examination. That's the first point.

25 The second, I just wanted to put on the record that my client

1 was trying to reach me over the lunch break and, apparently, the  
2 phone system is down in the detention unit, so he has been unable to  
3 communicate with me. If the Court -- with the Court's leave, I think  
4 Mr. Tully plans to take the rest of the afternoon. And if that's the  
5 case, then I don't anticipate a problem, and I'll hope to communicate  
6 with my client overnight. But if I should have to go earlier than  
7 that, then I may ask to somehow consult with my client before I  
8 begin.

9 PRESIDING JUDGE SMITH: Okay. Thank you.

10 Mr. Tully, can you be finished in one and a half hours?

11 MR. TULLY: I'll do my best, Your Honour. But --

12 PRESIDING JUDGE SMITH: No.

13 MR. TULLY: Well, Your Honour, I'll do my best, but there was a  
14 new allegation included in that preparation note on Friday, there was  
15 one dropped this morning, and this witness is crucial to my client.  
16 I will try to finish within an hour and a half.

17 PRESIDING JUDGE SMITH: [Microphone not activated] ... really  
18 were not very relevant. So you've got an hour and a half. That's  
19 it.

20 MR. TULLY: And, Your Honour, if I need more time, can I apply  
21 for it? I'm getting to the issues now that I will ...

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MR. ELLIS: Your Honour, if it assists, I don't anticipate using  
24 the hour and a half that we had budgeted for this witness. I think  
25 it's much more like half an hour to an hour on our side.

1           PRESIDING JUDGE SMITH: Remember that we only have two sessions  
2 tomorrow, too.

3           Okay. Madam Usher, you may bring the witness in.

4                               [The witness takes the stand]

5           PRESIDING JUDGE SMITH: Welcome back, Witness. Can you hear me  
6 okay?

7           THE WITNESS: [Interpretation] Thank you. Yes, I can. Very  
8 well.

9           PRESIDING JUDGE SMITH: Mr. Tully will continue with questions.

10          MR. TULLY:

11          Q.    [REDACTED] Pursuant to In-Court Redaction Order F01816RED.

12          [REDACTED] Pursuant to In-Court Redaction Order F01816RED.

13          [REDACTED] Pursuant to In-Court Redaction Order F01816RED.

14          PRESIDING JUDGE SMITH: Excuse me, Mr. Tully. We need to be in  
15 private session.

16          MR. TULLY:

17          Q.    Sorry, Witness. We were-- I think there was an issue with --

18          PRESIDING JUDGE SMITH: Is there something you wanted to say?

19          MR. HAFETZ: [Microphone not activated].

20          PRESIDING JUDGE SMITH: We should be in private session.

21          MR. TULLY: Yes.

22          Q.    For your protection we're --

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

25          MR. TULLY:

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1 Q. -- going into private session.

2 [Private session]

3 [Private session text removed]

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Witness: W04644 (Private Session)

Page 8310

Cross-examination by Mr. Tully

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Witness: W04644 (Private Session)

Page 8311

Cross-examination by Mr. Tully

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Witness: W04644 (Private Session)

Page 8312

Cross-examination by Mr. Tully

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Witness: W04644 (Private Session)

Page 8313

Cross-examination by Mr. Tully

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Witness: W04644 (Private Session)

Page 8314

Cross-examination by Mr. Tully

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Witness: W04644 (Private Session)

Page 8315

Cross-examination by Mr. Tully

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Witness: W04644 (Private Session)

Page 8316

Cross-examination by Mr. Tully

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Witness: W04644 (Private Session)

Page 8317

Cross-examination by Mr. Tully

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Witness: W04644 (Private Session)

Page 8318

Cross-examination by Mr. Tully

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Witness: W04644 (Private Session)

Page 8319

Cross-examination by Mr. Tully

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Witness: W04644 (Private Session)

Page 8320

Procedural Matters

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14 [Open session]

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

16 PRESIDING JUDGE SMITH: We are adjourned until 9.00 tomorrow.

17 --- Whereupon the hearing adjourned at 4.05 p.m.

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