

1 Thursday, 4 November 2021

2 [Open session]

3 [The accused entered court]

4 --- Upon commencing at 9.30 a.m.

5 PRESIDING JUDGE SMITH: Good morning, everyone. Welcome.

6 Madam Court Officer, please call the case.

7 THE COURT OFFICER: Good morning, Your Honours. This is
8 KSC-BC-2020-07, The Specialist Prosecutor versus Hysni Gucati and
9 Nasim Haradinaj.

10 PRESIDING JUDGE SMITH: Thank you.

11 I ask the parties to introduce themselves, starting with the
12 Specialist Prosecutor's Office.

13 MR. PACE: Good morning, Your Honour, and to everyone.
14 Appearing today are Valeria Bolici, Prosecutor; Matt Halling,
15 Associate Prosecutor; Line Pedersen, Case and Evidence Manager; and
16 I'm James Pace, Associate Prosecutor.

17 PRESIDING JUDGE SMITH: I turn to the Defence.

18 Mr. Rees.

19 MR. REES: Your Honour, my name is Jonathan Rees, Queen's
20 Counsel. I represent Mr. Hysni Gucati. I am assisted today by
21 co-counsel Mr. Huw Bowden and Ms. Eleanor Stephenson; also assisted
22 by Ms. Faye Wigmore, Mr. Joseph Bowden, and Mr. Remi Halilaj.

23 PRESIDING JUDGE SMITH: Thank you, Mr. Rees.

24 Mr. Cadman.

25 MR. CADMAN: Good morning, Your Honours. Toby Cadman for

1 Mr. Nasim Haradinaj, assisted by Mr. Carl Buckley,
2 Mr. Jonathan Worboys, behind me Ms. Poppy Henderson, Ms. Chelsea Qu,
3 and Admir Berisha.

4 PRESIDING JUDGE SMITH: Thank you, Mr. Cadman.

5 I also note that Mr. Gucati and Mr. Haradinaj are present in the
6 courtroom.

7 Today we continue the testimony of Mr. Jukic.

8 Madam Usher, could you please bring the witness in.

9 [The witness takes the stand]

10 PRESIDING JUDGE SMITH: Good morning, Mr. Witness.

11 THE WITNESS: [Microphone not activated].

12 PRESIDING JUDGE SMITH: You can be seated.

13 Just for the record. Last week the Prosecution finished its
14 direct examination of the witness, and today the Defence will start
15 its cross-examination.

16 Mr. Rees, Mr. Cadman, having had some additional time to prepare
17 your cross-examination, what is your current estimate of how long you
18 will be with this witness?

19 Mr. Rees.

20 MR. REES: I believe I will be this morning with Mr. Jukic. I
21 think I will go up to lunchtime but hope to finish relatively early
22 in the third and final session of the day.

23 PRESIDING JUDGE SMITH: Thank you.

24 Mr. Cadman.

25 MR. CADMAN: Your Honour, I certainly don't expect to go past

1 the end of the day. Obviously, a lot will depend upon how far
2 Mr. Rees gets. I certainly don't intend to go over any of the -- the
3 same ground. And as we had indicated, we would endeavour to finish
4 today.

5 PRESIDING JUDGE SMITH: Thank you.

6 Mr. Prosecutor, do I understand correctly from your filing that
7 the next witness is ready to start his testimony as soon as the
8 current one is completed?

9 MR. PACE: Yes, Your Honour. We were thinking that would be
10 tomorrow morning. But if it becomes evident that there is a need to
11 start today, we can also make that happen.

12 PRESIDING JUDGE SMITH: Thank you.

13 Let's continue with Mr. Jukic.

14 Mr. Rees, the floor is yours for cross-examination.

15 MR. REES: Thank you, Your Honour.

16 WITNESS: MIRO JUKIC [Resumed]

17 Cross-examination by Mr. Rees:

18 Q. Mr. Jukic, a quick recap, then, of some general matters that you
19 told us about last week.

20 You became a witness security officer with the SPO in September
21 2019; yes?

22 A. Yes, that's correct.

23 Q. And remained in that post until April 2021 when you became
24 witness security and handling team leader?

25 A. Yes, that's correct.

Witness: Miro Jukic (Resumed) (Open Session)

Page 1767

Cross-examination by Mr. Rees

1 Q. Until mid-October 2020, there was a different witness security
2 handling team leader; is that right?

3 A. He was until 31 December 1920 [sic].

4 Q. And why did he leave his post?

5 A. He left his post because of the Brexit and he is a British
6 citizen.

7 Q. So he left not only his post but he also left employment with
8 the SPO; is that right?

9 A. Yes, that's correct.

10 Q. Just explain a bit more, if you can, what was the relevance of
11 Brexit to that departure?

12 A. Because a citizen of UK need to leave organisation in that --
13 1 January 2021.

14 Q. Do you have no British employees at the SPO?

15 MR. PACE: Your Honour, I'd just question the relevance of that
16 matter.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. REES: I want to explore, in the first instance -- I won't
19 be very long, but in the first instance, the credibility of the
20 answer that Brexit was the cause for the departure of the former
21 witness security handling team leader.

22 PRESIDING JUDGE SMITH: I'll overrule the objection at this
23 time, but this is almost irrelevant.

24 So go ahead.

25 THE WITNESS: By my -- my knowledge, there is only one left --

Witness: Miro Jukic (Resumed) (Open Session)

Page 1768

Cross-examination by Mr. Rees

1 MR. REES:

2 Q. Right.

3 A. In the office.

4 Q. And so he escaped the clutches of Brexit, did he?

5 A. No.

6 MR. PACE: Your Honour, is that even a question?

7 PRESIDING JUDGE SMITH: Sustained.

8 MR. REES:

9 Q. I'll put it in a different way. How did that member of the SPO
10 staff escape the clutches of Brexit, a Mr. --

11 MR. REES: Well, is there an objection to me using the name of
12 the former employee?

13 MR. PACE: No objection since it's a former employee, but I do
14 have a objection to this question once it's finished.

15 MR. REES:

16 Q. So is there an explanation as to why that member of staff at the
17 SPO escaped the clutches of Brexit and [REDACTED] Pursuant to Post
Session - Redaction Order F00430 didn't?

18 MR. PACE: Your Honour, the witness is not a human resources
19 representative, and it's calling for speculation. And, still, the
20 line of questioning's relevance is not established at all.

21 PRESIDING JUDGE SMITH: You might ask him first if he has any
22 knowledge of why.

23 MR. REES:

24 Q. Do you have any knowledge as to why the current British member
25 of staff at the SPO avoided the consequences of Brexit and you say

1 [REDACTED] Pursuant to Post Session - Redaction Order F00430 didn't?

2 A. I don't have knowledge about that.

3 Q. [REDACTED] Pursuant to Post Session - Redaction Order F00430
features in the witness contact notes that have been

4 disclosed up until, roughly, 14 October, and then not after that
5 date. Are you saying that he remained in his post after 14 October
6 and active until the third week of December?

7 A. He was active till 31 December. But because he had a lot of
8 leave days, he used some of them.

9 Q. And then for, on your account, some three months at least the
10 position of witness security and handling team leader was a vacant
11 post; is that right?

12 A. Yes, that's correct.

13 Q. You've never worked as an investigator with the SPO; is that
14 right?

15 A. Yes, that's right.

16 Q. Your remit does not extend into involvement in investigations;
17 is that right?

18 A. Yes, that's correct.

19 Q. Your current responsibilities, though, do include working as an
20 adviser to the Deputy Specialist Prosecutor; is that right?

21 A. Yes, that's right. In all witness security and witness
22 protection-related matters.

23 Q. When did you start advising the Deputy Specialist Prosecutor
24 directly in that fashion?

25 A. I was appointed as acting head of -- acting team leader

Witness: Miro Jukic (Resumed) (Open Session)

Page 1770

Cross-examination by Mr. Rees

1 1 January 2021.

2 Q. So before that date, are you saying you had no direct advisory
3 role with the Deputy Specialist Prosecutor?

4 A. Yes, that's correct.

5 Q. Since that time, have you worked closely with the Deputy
6 Specialist Prosecutor?

7 A. Yes, I do.

8 Q. How regularly do you meet with him?

9 A. Almost every day.

10 Q. And that has been the case, has it, since 1 January?

11 A. Yes, that's correct.

12 Q. Before 1 January, had you met professionally with the Deputy
13 Specialist Prosecutor?

14 A. Yes, I did.

15 Q. How often?

16 A. When I was in the office, almost every day.

17 Q. And what about on or before 7 September 2020? Had you met the
18 Deputy Specialist Prosecutor professionally by then?

19 A. Yes, I did.

20 Q. Were you meeting with him on a daily basis at that stage?

21 A. No, I didn't.

22 Q. Did you meet with him during the course of September 2020?

23 A. No, I didn't.

24 Q. Direct contact with witnesses, presumably, is not unusual for a
25 witness security officer.

Witness: Miro Jukic (Resumed) (Open Session)

Page 1771

Cross-examination by Mr. Rees

1 A. Excuse me, is that a question?

2 Q. That's a question. Sorry, I'll make it plain. Do you agree
3 that direct contact with witnesses is not unusual for a witness
4 security officer?

5 A. Witness security officer, direct contact with the witnesses is
6 their job.

7 Q. Part of their role, presumably, is to keep contact with them; do
8 you agree?

9 A. Yes, I agree.

10 Q. Is a witness security officer given responsibility for a set
11 number of witnesses?

12 A. Yes, they are responsible for the number of the witnesses.

13 Q. So they are given an identified group or team of witnesses to
14 remain in contact with and be responsible for; is that right?

15 A. Yes, that's correct.

16 Q. And it is routine to provide the witness with a SPO telephone
17 number, you told us last week; yes?

18 A. Yes, that's correct.

19 Q. That is not a special number for security-related matters, but
20 it is a number that they can use to contact the SPO for all
21 SPO-related matters you said?

22 A. Yes, that's correct.

23 Q. You told us that contact with a witness is then documented in an
24 Official Note after every phone call?

25 A. Yes, that's correct.

1 Q. And you specifically told us that you record all your
2 Official Notes immediately after the meeting or after the phone call;
3 is that right?

4 A. That's correct.

5 Q. You explained to us, perhaps non-controversially, that it is
6 very important to keep an accurate record, a "track" is the word you
7 used, of all contacts with witnesses; yes?

8 A. Yes, that's correct.

9 Q. In September 2020, were you in Kosovo at any point during that
10 month?

11 A. Yes, I was there.

12 Q. Can you tell us the dates that you were in Kosovo?

13 MR. PACE: Your Honour, I question the relevance of this
14 specificity before we get into details knowing that the witness works
15 on different matters.

16 PRESIDING JUDGE SMITH: Overruled.

17 You can answer.

18 THE WITNESS: I don't know exact dates, but it was first half of
19 the September.

20 MR. REES:

21 Q. So were you in Kosovo in the days immediately leading up to and
22 including the first press conference on 7 September 2020?

23 A. Yes, I was in Kosovo that date.

24 Q. And in the days leading up to and including the second press
25 conference of 16 September?

1 A. No, I wasn't in Kosovo at that date.

2 Q. What about the days leading up to or the day of the third press
3 conference on 22 September?

4 A. No, I wasn't in Kosovo that date.

5 Q. Can you help us with other SPO personnel in Kosovo during that
6 month?

7 MR. PACE: Your Honour, I'm not sure again the relevance of this
8 question. If the witness is being asked about who was there, we
9 would need to know why before we get into such specificities, which
10 may also have security implications. And if names are being
11 requested, then we would definitely need to go into private session.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. REES: I think, in order to assist, I will need to suggest
14 some names in the first instance. So perhaps in light of the
15 Trial Panel's previous ruling, we ought to go into private session.

16 PRESIDING JUDGE SMITH: Your objection is overruled, but we will
17 go into private session.

18 [Private session]

19 [Private session text removed]

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1774

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1775

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1776

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1777

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

Reclassified as Public and inserted pursuant to order contained in F611/A3 of 18 May 2022.

9 Q. Are there no permanent SPO representatives based in Prishtine?

10 A. We don't have office in the Prishtine. We don't have official
11 permanent representative over there.

12 MR. REES: I'm going to move on to some names shortly. We can
13 either go back into public session for a short period and then back
14 in private session, or we can remain in private session. I'm in Your
15 Honours' hands.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. REES: Well --

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. REES: Let's go into public session on the basis --

20 PRESIDING JUDGE SMITH: Why don't you go to the -- no, could you
21 do the name bit at this time or do you need to --

22 MR. REES: No, I think I need to build the background up.
23 Otherwise, it would be out of sync and difficult to follow.

24 PRESIDING JUDGE SMITH: All right. Back to public session,
25 then.

Witness: Miro Jukic (Resumed) (Open Session)
Cross-examination by Mr. Rees

Page 1778

1 [Open session]

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

3 PRESIDING JUDGE SMITH: All right. We are back in public
4 session.

5 You may continue, Mr. Rees.

6 MR. REES: Thank you.

7 Q. Now, Mr. Jukic, you provided a declaration to the SPO dated
8 27 October 2020. And that document you submitted to the system on
9 that date; is that right?

10 A. I don't remember.

11 Q. Well, if we look at the document.

12 MR. REES: It's ERN 084008 to 084010.

13 Q. We will see -- and we can deal with this in short order. There
14 is only one date on that document and it's the date at the end of the
15 document, 27 October. Okay?

16 A. Yes, that's correct.

17 Q. So it would follow, would it not, in the absence of a later date
18 that you submitted it to the system on that date?

19 A. I signed declaration on that date. I don't remember when I
20 submitted our system.

21 Q. So when you submit a document to ZyLAB, it doesn't automatically
22 impose a date on the document?

23 A. I'm not expert in that field. I can't say this.

24 Q. Well, you have helped us last week with some of the dates on
25 documents. So as far as you can, can you confirm that submitting a

1 document to ZyLAB does not lead to the imposition of a date
2 automatically by ZyLAB confirming when it was submitted?

3 MR. PACE: Your Honour, this is asked and answer. The witness
4 said "I can't say this" in relation to a similar if not identical
5 question.

6 PRESIDING JUDGE SMITH: You can answer the question. The
7 objection the overruled.

8 THE WITNESS: With Official Note, it's different. I need to
9 print Official Note and I put date when I print it out, and then
10 after that I -- I -- together with the front page of ZyLAB, I bring
11 to the -- to the -- our office for submission.

12 MR. REES:

13 Q. So why is the submission of an Official Note different to the
14 submission of a declaration?

15 A. Because for Official Note we have template.

16 Q. Right. And, what, does the template have a box for the date
17 that the document was made and a different space for a date when it's
18 submitted to ZyLAB?

19 A. We are working in Kosovo. When I am in Kosovo, I prepare all
20 the notes, but I submit them when I'm back in the office. And that's
21 what all the other officers are doing.

22 Q. Yes, but you were in the office on 27 October, because we can
23 see the document says that it was created at The Hague in the
24 Netherlands. Can you see that?

25 A. I was in the office that date.

Witness: Miro Jukic (Resumed) ~~(Private Session)~~ *Reclassified as Public in F611/A3* Page 1780
Cross-examination by Mr. Rees

1 Q. Right. Thank you. So it follows you were -- you dated that
2 27 October, you were in the office, and presumably you submitted it
3 to the system on that date; did you not?

4 A. I think yes.

5 Q. Yes. And then you provide a declaration, a second one, dated
6 27 January 2021.

7 MR. REES: That's ERN 090142 to 090143. And, again, if we can
8 look at that quickly and, in particular, the final page.

9 Q. And we can see that this declaration -- you see the date there,
10 27 January 2021? Again, it's the only date on the document. And
11 presumably that's the date you submitted it to ZyLAB.

12 A. Yeah, that's correct.

13 Q. And again we can see the document shows you were in The Hague on
14 that date; yes?

15 A. Yes, that's correct.

16 Q. Let me go then, please, to private session in accordance with
17 the Trial Panel's previous ruling.

18 PRESIDING JUDGE SMITH: Madam Court Officer, into private
19 session, please.

20 ~~[Private session]~~ *Reclassified as Public and inserted
pursuant to order contained in F611/A3 of 18 May 2022.*

21 THE COURT OFFICER: Your Honours, we're in private session.

22 PRESIDING JUDGE SMITH: Thank you.

23 We're in private session. Mr. Rees, you may continue.

24 MR. REES:

25 Q. Now, you said to us last week that in September itself you

Witness: Miro Jukic (Resumed) ~~(Private Session)~~ Reclassified as Public in F611/A3 Page 1781
Cross-examination by Mr. Rees

1 received several phone calls from witnesses who were concerned about
2 the fact that their name had been published in the media in Kosovo.
3 Let me ask you about some names, because there is a list of names
4 that have been mentioned in the media, as it were, and I'm going to
5 ask you to confirm whether any of these names - the names that were
6 published in the media - are those that rang up saying they were
7 concerned. Okay?

8 MR. PACE: Your Honour, the question is inappropriate. Counsel
9 knows fully well that the names of the persons who contacted the SPO,
10 as documented in the disclosed Official Notes, as was the names of
11 those persons contacted by the SPO, have been redacted and that
12 redaction has been authorised by a decision of the Pre-Trial Judge.
13 So to seek to elicit those names from the witness is an attempt to
14 circumvent that decision and is inappropriate.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MR. REES: No attempt to circumvent an order. What we're
17 dealing with is evidence that was given last week, specific answer
18 given, referring to concern -- witnesses calling saying they were
19 concerned their name had been published in the media.

20 We know the names that were published, because the publications
21 were both public at the time and remain public, and the Trial Panel
22 has heard evidence about those names already. So I intend to ask
23 this witness if any of the names published in the media, I'll go
24 through them, were those who rang up saying they were concerned.

25 The relevance of that is because we say the Panel is entitled to

Witness: Miro Jukic (Resumed) ~~(Private Session)~~ Reclassified as Public in F611/A3 Page 1782
Cross-examination by Mr. Rees

1 consider the background of these persons as part of the overall
2 public interest issue, to use shorthand, which we can't do at the
3 moment because of the redactions.

4 PRESIDING JUDGE SMITH: Just a moment ago you mentioned a
5 general question you could ask him without naming the names, whether
6 the names in the media were the same as the names in the documents or
7 the names of the people that called. You can ask that question
8 first. If he knows --

9 MR. REES: Well, he's already said that. He said that he'd --
10 that:

11 "We received several phone calls from witnesses who were
12 concerned about the fact their name was published in the media in
13 Kosovo."

14 Now, if I go through this list and he says none of those persons
15 are persons who called, then the credibility of the persons calling
16 is undermined because their names were not published in the media.
17 If any of these names are those that called, the Trial Panel is
18 entitled to know who and consider their background, and they're names
19 that the Trial Panel has already heard referred to in evidence.

20 We are in private session, so do I not see what the objection is
21 or remains.

22 PRESIDING JUDGE SMITH: Every name you're going to name has
23 already been mentioned on the record in court?

24 MR. REES: Yes.

25 MR. PACE: Your Honour, if I may be heard.

1 [Trial Panel confers]

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 THE INTERPRETER: Microphone, please.

4 PRESIDING JUDGE SMITH: You can be heard now, Mr. Pace.

5 MR. PACE: Thank you, Your Honour.

6 Simply to say that nothing that counsel has said diminishes from
7 the objection I made. It's clear that the attempt here would either
8 intentionally, or as a consequence, circumvent an existing
9 non-disclosure order, and the relevance has not been established.

10 I also note that, to my recollection, the witness has not said
11 he recalls every single name of persons who contacted the office, so
12 I don't know exactly what the point of going through a list of names
13 with the witness would establish, other than being some form of
14 exercise in the witness's ability to recall names from several months
15 ago.

16 PRESIDING JUDGE SMITH: We are in private session. The question
17 that Mr. Rees has at least proposed to ask is certainly relevant and
18 it will be allowed.

19 So go ahead, Mr. Rees.

20 MR. REES: Thank you, Your Honour.

21 [Private session]

22 [Private session text removed]

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1784

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1785

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1786

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1787

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

Reclassified as Public and inserted pursuant to order contained in F611/A3 of 18 May 2022.

11 Q. All of those names, of course, had been previously named in
12 media publications and, in fact, were wanted by Interpol for crimes
13 in Kosovo. Does that mean anything to you? Are you aware of that?
14 Do you have any knowledge about that?

15 MR. PACE: Your Honour, as to relevance of this question.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 THE INTERPRETER: Microphone, please.

18 PRESIDING JUDGE SMITH: I'm sorry. You can answer the last
19 question, the question about whether you have any knowledge about
20 that.

21 MR. PACE: Your Honour, I'm sorry to rise again. It's also just
22 to establish that there's a foundation for this assertion. I myself
23 am not aware that this is a fact that's not controversial. So before
24 this is put to the witness as a given fact, could we have some basis
25 for that assertion, please, in relation to all the names, if that's

Witness: Miro Jukic (Resumed) ~~(Private Session)~~ *Reclassified as Public in F611/A3* Page 1788
Cross-examination by Mr. Rees

1 the question.

2 PRESIDING JUDGE SMITH: First of all, I want the witness to
3 answer the question.

4 If you have any information about that.

5 THE WITNESS: I don't have any information about that.

6 MR. REES: The basis of the fact is the newspaper article that
7 the SPO themselves produced in evidence which asserts that they are
8 all wanted by Interpol refers to, and, indeed, has images from
9 Interpol materials confirming those persons named were wanted by
10 Interpol.

11 PRESIDING JUDGE SMITH: Okay. But the preparatory question he's
12 answered, he has no information about that.

13 MR. REES: No. And there's one slight area of follow-up, which
14 the Trial Panel will recall we did deal with this with Ms. Pumper,
15 and the Trial Panel quite correctly pointed out to me that the issue
16 as to whether there had been any cooperation with the SPO and
17 Interpol requires evidence. So I'm going to ask Mr. Jukic whether he
18 has any information about the SPO providing information to Interpol
19 about wanted persons.

20 PRESIDING JUDGE SMITH: You may ask that question.

21 MR. REES: Thank you.

22 Q. Mr. Jukic, let me ask you then: Do you have any information or
23 knowledge of the SPO providing information as to the whereabouts of
24 persons that the SPO has been in contact with to Interpol in relation
25 to them being wanted by Interpol for crimes in Kosovo?

1 A. I don't have any information and knowledge about that.

2 Q. Of course, you are, you say, a witness security officer who's
3 been in the role for sometime and, indeed, since January the acting
4 head of the team. It's your team that has knowledge, information as
5 to the whereabouts of persons you've been in contact with; yes?

6 A. My team doesn't have knowledge about that.

7 Q. Your team doesn't or does?

8 A. Doesn't.

9 Q. It doesn't? So how do you remain in contact with persons when
10 your team has no information as to their whereabouts, contact
11 numbers, addresses, that sort of thing?

12 MR. PACE: Your Honour, could it perhaps be made clear which
13 witnesses counsel is referring to? We had one question about the
14 listed persons and then the subsequent one was more general. It may
15 assist.

16 PRESIDING JUDGE SMITH: That is a very broad question as you ask
17 it. You need to narrow it down some.

18 MR. REES: I'll try and narrow it down.

19 Q. So your office, your team, holds, does it not, the contact
20 details, telephone numbers, addresses of persons that the SPO have
21 been in contact with as potential witnesses?

22 A. Yes, that's correct.

23 [Private session]

24 [Private session text removed]

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1790

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1791

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1792

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1793

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12 [Open session]

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

14 PRESIDING JUDGE SMITH: All right, Mr. Rees. We are back in
15 public session.

16 MR. REES: Thank you.

17 Q. As we have just dealt with in part, it is right, isn't it, that
18 some witnesses, in your experience, will disclose to the public
19 voluntarily that he or she is a witness?

20 A. Yes, that's correct.

21 Q. And they are perfectly entitled to, and some do, reject any
22 assistance from yourselves; yes?

23 A. That's correct, too.

24 Q. There is, presumably, a number of different ways that you might
25 still assist a witness who has made public voluntarily that he or she

1 is a witness; for example, you might still help them with travel
2 arrangements; yes?

3 A. Yes, that's correct.

4 Q. You may assist them with accommodation, if that's needed?

5 A. If I may ask to -- to make clear, are you asking about witnesses
6 who are coming to The Hague to give their statement to SPO?

7 Q. That's an example when you might assist a witness with
8 accommodation, is it not? If they have to travel away from their
9 usual place of residence; yes?

10 A. Yes, that's correct.

11 Q. And you may still assist them with, for example, expenses?

12 MR. PACE: Your Honour, that's a very general question. And as
13 the witness asked for some clarity before, if there's a specific
14 issue the Defence seeks clarification about, that should be put to
15 the witness. "Assistance with expenses" is a very broad concept.

16 PRESIDING JUDGE SMITH: Overruled.

17 You can answer the question, if you know.

18 THE WITNESS: Yes, we assist with all expenses.

19 MR. REES:

20 Q. And where a witness has made public voluntarily that he or she
21 is a witness, you may still, I suppose, assist them with physical
22 protection if they are subsequently actually subjected to a threat;
23 yes?

24 A. We assist them if there is threat.

25 Q. Yes. But what you can't do once a witness has made public

1 voluntarily that he or she is a witness is, in some way, reverse that
2 knowledge, can you? You can't protect their confidentiality as a
3 witness once they've made it public that they are, can you?

4 MR. PACE: Your Honour, that's a very argumentative question.
5 In fact, I'm not sure it's a question rather than a statement.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 THE INTERPRETER: Microphone, please.

8 MR. REES: Thank you, Your Honour.

9 Q. Now, there was a decision made to call persons named in what has
10 been labelled by Ms. Pumper as Batch 1, 2, or 3, and I'm going to use
11 that shorthand, if I may. There was a decision to call persons named
12 in Batches 1, 2, and 3 only after the third press conference that
13 took place on 22 September 2020; is that right?

14 A. Yes, that's correct.

15 Q. There was no specific action taken by the witness security and
16 handling team after the press conference on 7 September 2020?

17 A. No, it wasn't.

18 Q. And there was no specific action taken by the witness and
19 security handling team after 16 September 2020?

20 MR. PACE: Your Honour, in relation to these questions about
21 specific action, can they be a bit more specific? "Specific action"
22 could be many things on many matters.

23 PRESIDING JUDGE SMITH: Sustained. Please be specific what you
24 mean by this, by these words.

25 MR. REES:

Witness: Miro Jukic (Resumed) (Open Session)
Cross-examination by Mr. Rees

Page 1796

1 Q. Was any action that was -- arose only out of the press
2 conference on 16 September 2020 taken by the witness security and
3 handling team?

4 A. No, it wasn't.

5 Q. Thank you. So what had taken place on the 7th and 16th October
6 was not a high priority for the office until 22 September 2020 press
7 conference. Do you agree with that?

8 MR. PACE: Your Honour, that's again argumentative. The
9 question can be put in a non-argumentative way.

10 PRESIDING JUDGE SMITH: Sustained.

11 MR. REES:

12 Q. Well, you referred to the 24 September plan in your evidence as
13 a high priority for the office. Okay? So I'm asking you whether the
14 office considered what had taken place on the 7th and 16th September,
15 I'm asking you to confirm that that was not a high priority for the
16 witness and security team handling unit; is that right?

17 A. It was high priority for the office but not for the witness
18 security team.

19 Q. Right. I'm grateful for that clarification. So -- you may not
20 be able to assist. But what knowledge do you have that leads you to
21 the assertion that it was high priority for the office when you had
22 acknowledge it wasn't a high priority for the witness security team?

23 A. Witness security team continue with the -- their daily and
24 regular activities.

25 Q. Yes.

1 A. And the office was focused on the documents and the publishing
2 of the documents in the media.

3 Q. Well, let me ask you to give us some examples, then, that you
4 aware of that leads you to make that assertion.

5 So was there an SPO office-wide meeting called after the
6 7 September press conference; for example?

7 A. Please, if you can be more specific and tell me more.

8 Q. I'll try and be more specific. I'm asking you was the -- did
9 the Specialist Prosecutor or the Deputy Specialist Prosecutor call a
10 meeting of everybody in the SPO to discuss the 7 September 2020 press
11 conference; "yes" or "no"?

12 A. I don't have knowledge about that.

13 Q. Right. Was there an office-wide meeting called by the
14 Specialist Prosecutor or the Deputy Specialist Prosecutor after the
15 16 September conference to discuss what had happened on the 7th and
16 the 16th; "yes" or "no"?

17 A. In that time, I wasn't in the office, so I really --

18 Q. Right.

19 A. -- can't answer.

20 Q. So what is it then, in your knowledge, that leads you to assert
21 that it was a high priority for the office when you concede that it
22 was not a priority for the witness security and handling team?

23 A. In that time, I was witness security officer, and I got orders
24 from the witness security and team leader.

25 Q. Right. So is it the case, then, that you don't know to what

1 extent it was a priority for other teams within the SPO? All you can
2 say is that as far as the witness and security and handling team is
3 concerned, the 7th and 16th September press conferences did not
4 create a high priority?

5 A. I don't know that. I can't answer.

6 Q. So all you can answer is in relation to your experience with the
7 witness security and handling team; is that fair?

8 A. Yes, that's correct.

9 Q. All right. Let's concentrate on that then. And as far as that
10 team's concerned, the 7th and 16th September did not create a high
11 priority, as you've conceded; yes?

12 A. Yes, that's correct.

13 Q. Right. You also said in your evidence last week that there were
14 a lot of discussions about notes. I think you meant witness contact
15 notes. But those discussions didn't take place after 7 September
16 2020, did they?

17 A. Can you repeat date, please?

18 Q. So let me try and be specific. Your evidence was that from
19 24 September there was a plan put in place for the SPO to contact
20 named persons. Okay? So I'm asking you about the days --

21 PRESIDING JUDGE SMITH: Wait.

22 MR. REES: --

23 Q. -- before that --

24 PRESIDING JUDGE SMITH: He has to answer. He just nodded his
25 head.

Witness: Miro Jukic (Resumed) (Open Session)

Page 1799

Cross-examination by Mr. Rees

1 Is the answer yes?

2 THE WITNESS: Yes.

3 PRESIDING JUDGE SMITH: All right.

4 MR. REES:

5 Q. So I'm asking you about the period before the formulation of
6 that 24 September plan. Okay, Mr. Jukic?

7 PRESIDING JUDGE SMITH: Mr. Jukic, you have to speak loud enough
8 so that we can hear you.

9 THE WITNESS: Okay. I apologise, Your Honour.

10 MR. REES:

11 Q. And I just would like you to clarify an answer that you gave
12 last week, which was in general terms, but I wonder whether, in fact,
13 it ought to be more specific, and I'm going to ask you to help us
14 with that.

15 So you gave an answer saying there were a lot of discussions
16 about witness contact notes. Okay?

17 A. Yes.

18 Q. And I'm going to ask you to confirm, or reject, the suggestion
19 from me that when you talked about there'd been a lot of discussions
20 about witness contact notes, that must have been at the time of or
21 after the formulation of the 24 September plan. Do you agree with
22 that?

23 A. Yes, I agree.

24 Q. Thank you. So there wasn't a lot of discussion about witness
25 contact notes in the days after the 7 September press conference; is

1 that right?

2 A. That's correct.

3 Q. Or, indeed, after 16 September press conference; do you agree?

4 A. Yes, I do.

5 Q. And as you said, no specific action taken in relation to those
6 events by your team.

7 You did say that, as a matter of course, the witness security
8 team has routine telephone meetings with each other; yes?

9 A. Yes, that's correct, in that time.

10 Q. Has that practice changed?

11 A. We try to -- because in that time, we weren't in the office.

12 Q. I see. Right. So the practice has changed but only in the
13 sense that you try and have more face-to-face meetings now, do you;
14 is that right?

15 A. That was -- that was before as well. Before lockdown.

16 Q. I see. So before the COVID pandemic struck, more face-to-face
17 meetings. Then during the pandemic and the more heightened
18 restrictions, less opportunity, so you tried to keep that contact up
19 via telephone or presumably, what, via -- did you use Zoom and that
20 sort of thing as well?

21 A. We used Teams.

22 Q. Teams. But then as restrictions have eased, you tried to move
23 back to more face-to-face meetings?

24 A. Yes, that's correct.

25 Q. But whatever the format, it has always been, in your experience,

Witness: Miro Jukic (Resumed) (Open Session)

Page 1801

Cross-examination by Mr. Rees

1 part of your job for the witness security team to have regular
2 routine meetings, either through telephone or Teams or face-to-face?

3 A. Yes, that's correct.

4 Q. Would those telephone -- well, would those meetings, whether
5 face-to-face, telephone, or by Teams, would they be minuted? Would
6 somebody keep a written record and minute those or not?

7 A. No, they haven't minuted.

8 Q. So they're just informal discussions without any records being
9 kept of them?

10 A. Yes, that's correct.

11 Q. Would the Deputy Specialist Prosecutor join those meetings or
12 not?

13 A. No, he didn't.

14 Q. Or, indeed, the Specialist Prosecutor?

15 A. No.

16 Q. What about other Prosecutors and Associate Prosecutors? Would
17 they join those meetings on a routine basis or not?

18 A. No.

19 THE INTERPRETER: The interpreters kindly note that there should
20 be a pause between question and answer so that we have enough time to
21 interpret everything that is said in the courtroom. Thank you.

22 MR. REES: Thank you, Madam Interpreter. I'll do my best.

23 PRESIDING JUDGE SMITH: You understand, Mr. Witness?

24 THE WITNESS: Yes, thank you.

25 MR. REES:

1 Q. Meetings then between the witness security team leader and the
2 Deputy Specialist Prosecutor, they wouldn't be -- the entire witness
3 security team would not be involved in those meetings, then; is that
4 right?

5 A. Yes, that's correct.

6 Q. So would they simply be the security -- the witness security and
7 handling team leader and the Deputy Specialist Prosecutor, or might
8 there be more persons present?

9 A. There is usually more persons present.

10 Q. And those other persons, who would they be?

11 A. Head of Investigations, Head of Operational and Witness Security
12 Unit, and Specialist Prosecutor.

13 Q. And, again, is there a routine -- are those meetings routinely
14 organised so that the different heads of teams can, in effect, feed
15 in information to each other?

16 A. These meetings is organised once per week.

17 Q. Once a week. So again -- but their routine, they're standard.
18 They happen under any circumstances?

19 A. Yes, that's correct.

20 Q. And are those meetings minuted? Are records kept and then
21 minutes produced of the meeting?

22 A. No.

23 Q. Right. So they're done on an informal basis as well; is that
24 right?

25 A. They're -- yes, informal operational meetings.

Witness: Miro Jukic (Resumed) (Open Session)

Page 1803

Cross-examination by Mr. Rees

1 Q. Yeah. Turning, then, to 22 September and the days immediately
2 after that. You said that: "We identified all the names, went
3 through the list, and decided to call them and inform them about the
4 leak"; yes?

5 A. Yes, that's correct.

6 Q. And can I clarify that answer. When you say that the names --
7 that you went through the list, identified names, you were
8 concentrating, were you, on the names in the document that Ms. Pumper
9 has labelled as Batch 3?

10 A. I'm not aware which documents are in Batch 3. You --

11 Q. I see.

12 A. -- Ms. Pumper --

13 Q. So that's not a label that you're aware of. Okay. Let me put
14 it in a different way. Ms. Pumper told us about a document that's
15 been described as an internal work product. Does that mean something
16 to you?

17 A. Yes, it means something.

18 Q. Okay. So when you talked about going through the list and
19 identifying the names, you were concentrating there, were you, on
20 identifying the names in that internal work product?

21 A. Yes, that's correct.

22 Q. And when you said "we identified the names," can I ask you to be
23 more specific about that? Who did that task?

24 A. "We" is Specialist Prosecutor's Office.

25 Q. Right. So were you provided with a copy of the internal work

1 product, and did you go through the document itself or not?

2 A. No, I didn't.

3 Q. Did anyone in the witness security and handling team do that
4 exercise?

5 A. Yes.

6 Q. Who was that?

7 A. It was the witness security and -- witness security and handling
8 team leader.

9 Q. So [REDACTED] Pursuant to Post Session - Redaction Order F00430,
who we mentioned earlier?

10 A. Yes, that's correct.

11 Q. And, again, if you have knowledge of this, please help us. If
12 you don't and this is outside your knowledge, just say. Do you know
13 where [REDACTED] Pursuant to Post Session - Redaction Order F00430
received his copy of the internal work product,
14 where he received it from?

15 A. I don't have -- I don't have knowledge about that.

16 Q. Or who provided it to him?

17 A. I don't have knowledge about that.

18 Q. When was he provided with it?

19 A. I don't have knowledge about that.

20 Q. But if the plan was employed -- "deployed" is a better word, on
21 24 September onwards, would it be right to infer that [REDACTED]
Pursuant to Post Session - Redaction Order F00430 had
22 had -- been provided with the document before 24 September, or is
23 that an inference that you don't think is right to draw?

24 MR. PACE: Your Honour, it's also an inference that doesn't need
25 to be made by the witness. If the counsel wants to assert that,

1 that's fine. But I don't see how that's an appropriate or relevant
2 question.

3 PRESIDING JUDGE SMITH: The question's all right.

4 Go ahead and answer it.

5 THE WITNESS: Mr. Counsel, please, can you repeat the question.

6 MR. REES:

7 Q. Yes. So as the operation to call people whose names have been
8 identified from the internal work product began on the 24th, is it a
9 proper conclusion to draw that *[REDACTED] Pursuant to Post Session -
Redaction Order F00430* had been provided with a
10 document and told to go through and identify names before
11 24 September, or do you not think that is a fair conclusion?

12 A. It could be 24th as well.

13 Q. It could be on the 24th?

14 A. Yeah.

15 Q. But you never saw that document yourself?

16 A. I never saw that document before.

17 Q. So we don't actually know what was provided to *[REDACTED]
Pursuant to Post Session - Redaction Order F00430*,
18 then?

19 A. No, I don't know what was provided to *[REDACTED] Pursuant to Post
Session - Redaction Order F00430*.

20 Q. Right. But from that document, *[REDACTED] Pursuant to Post
Session - Redaction Order F00430* drew up a list, and
21 the team began contacting the list?

22 A. Yes, that's correct.

23 Q. Again, please say if this is outside the scope of your knowledge
24 and you don't know. But are you aware that no identical document to

25 the document recovered from the KLA WVA labelled, using the shorthand

1 internal work product, was found within the SPO formal systems? Are
2 you aware of that or not?

3 MR. PACE: Your Honour, the witness has said he has never seen
4 this document. I don't think that's an appropriate question for this
5 witness because there is no basis for it with him.

6 PRESIDING JUDGE SMITH: Overruled. You can answer the question.

7 THE WITNESS: I don't have knowledge about that.

8 MR. REES:

9 Q. You don't know either way. So -- and this probably follows, and
10 confirm if you don't know about it, or if you do have some
11 information, please help us.

12 But are you aware that the closest match to the document
13 recovered from the KLA war veterans headquarters was apparently
14 discovered by the Deputy Specialist Prosecutor himself? Do you know
15 anything about that?

16 A. I don't have knowledge about that.

17 Q. Right. So no, you can't help us. No information as to where it
18 was located, whether it was on a personal computer or USB stick or on
19 a phone or anything like that?

20 PRESIDING JUDGE SMITH: Excuse me, Mr. Rees, he's already said
21 he doesn't know.

22 MR. REES: I'm grateful.

23 MR. PACE: And, Your Honour, sorry, just one more point. Can we
24 just make sure that the assertions being put are based on something
25 actually said? I'm not aware that there is any evidence to indicate

1 the Deputy Specialist Prosecutor himself identified the document at
2 issue. So if we're going to make assertions and put them to a
3 witness, they should be accurate.

4 PRESIDING JUDGE SMITH: Thank you.

5 Go on, Mr. Rees.

6 MR. REES: Well, Your Honour, the Trial Panel, of course, have
7 heard the evidence.

8 Q. So no information there. It's very candid of you. Thank you
9 for making that clear.

10 Let me move on then to the concept of a cooperative witness, as
11 you referred to them. So if I remind you briefly, your evidence last
12 week was that you -- is that the names were identified, as you've
13 clarified now, by *[REDACTED] Pursuant to Post Session - Redaction
Order F00430* from the document he was provided
14 with. And then the decision was made to call the cooperative
15 witnesses and inform them about the leak; yes?

16 So a cooperative witness, does that include every person who was
17 summonsed by the SPO as a witness and gave a statement to the SPO?

18 A. Yes, that's correct.

19 Q. Within the list that *[REDACTED] Pursuant to Post Session -
Redaction Order F00430* had produced; yes?

20 A. Yes, that's correct.

21 Q. Does it include persons who the SPO had summonsed as a witness
22 but had not given a statement to the SPO?

23 A. It doesn't include that persons.

24 Q. So they weren't contacted?

25 A. No, they weren't.

1 Q. So somebody -- well, would it include a person who'd been
2 summonsed to an interview as a witness by the SPO and had given an
3 account in interview -- had attended and given an account, but the
4 account effectively was: I've got no -- I don't know anything about
5 this, I've got no information to help the SPO with. Does that fall
6 within your cooperative witnesses who were contacted or not?

7 A. Yes, that's correct.

8 Q. What about persons who have been summonsed not as a witness but
9 as a suspect and had given an account? Were they contacted if their
10 name was in the document [REDACTED] Pursuant to Post Session -
Redaction Order F00430 produced or not?

11 A. No, we didn't contact them.

12 Q. And, again, as -- in your experience as a witness security
13 officer, you presumably are aware that there was a period of time
14 when, somewhat controversially, the SPO was sending out summonses to
15 individuals to invite them to an interview as a suspected witness?
16 Are you aware of that?

17 MR. PACE: Your Honour, the editorialising is not appropriate.
18 There is either a question to be put or a comment to be made, but not
19 both.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MR. REES: I'll shorten the question.

22 PRESIDING JUDGE SMITH: I'm sorry. For the record, make that in
23 the question form.

24 MR. REES: Yes.

25 Q. Are you aware that for a period of time the SPO were sending

1 summonses to individuals, inviting them for an interview as a
2 suspected witness? Are you aware of that?

3 A. As I mentioned before, I wasn't involved in investigations. And
4 I don't know who was summonsed as a witness, who was summonsed as a
5 suspect.

6 Q. Okay. But let's leave aside identity of persons for the moment.
7 Can you just confirm whether or not you're aware that for a period of
8 time, a significant period of time the SPO were summonsing
9 individuals to attend for interviews as a suspected witness?

10 MR. PACE: Your Honour, the witness did not refer to identity
11 himself. He answered, as asked in the general, that he was not aware
12 who was summonsed as a witness and who was summonsed as a suspect. I
13 don't think this could lead anywhere based on the already provided
14 answers.

15 PRESIDING JUDGE SMITH: Sustained.

16 You've asked him the question. He's answered it that he doesn't
17 know.

18 MR. REES: The basis for asking these questions is that in his
19 evidence in-chief, as part of the exercise of identifying who was to
20 be contacted, he referred to the qualifying criteria of every witness
21 who was summonsed by SPO and gave a statement. So he was using the
22 process of summonsing to explain the scope of that exercise of
23 identifying and contacting persons.

24 So I'd like to explore with him a little bit further, not much
25 further, it would help if he would just answer the question I've

1 asked twice now, his understanding of persons being summonsed for the
2 purpose of identifying that list to be contacted.

3 MR. PACE: Your Honour, that comment is unfair to the witness.
4 He has answered the questions put to him. If the answer that the
5 witness gave is not the favoured answer to the counsel, that doesn't
6 mean that there should be a comment about the manner in which he
7 answered.

8 PRESIDING JUDGE SMITH: I'm going to sustain this objection as
9 to the question as it was asked. You can ask it, shorten it up, make
10 the question about what he has knowledge about. If he doesn't know,
11 he doesn't know. You can't make it better.

12 MR. REES: No. And I hope I have -- I think I have a number of
13 times now I've impressed upon Mr. Jukic that if the answer to my
14 question is he doesn't know, he should say that. He must say that.
15 That's what I want --

16 PRESIDING JUDGE SMITH: [Overlapping speakers] ... and he did.

17 MR. REES: Well, I don't think he has yet answered the question.
18 I will try and shorten it as much as I can.

19 Q. Are you aware, Mr. Jukic, that the SPO has summonsed individuals
20 for interviews on the basis that they are suspected witnesses?

21 A. Yes, I'm aware.

22 Q. Right. Thank you. So when you're explaining that the persons
23 contacted were those who had been summonsed by the SPO, did you
24 include persons who had been summonsed as suspected witnesses?

25 A. Can you -- can you just repeat the question?

1 Q. So let me just recap. You've helped us by explaining that the
2 persons contacted included persons named in [REDACTED] Pursuant to
Post Session - Redaction Order F00430 list who
3 were summonsed and gave a statement to the SPO, and you have
4 explained that that included persons summonsed as a witness but it
5 didn't include somebody summonsed as a suspect. You excluded them
6 from the exercise.

7 So I'm asking you did you include or exclude persons summonsed
8 as a suspected witness?

9 MR. PACE: Your Honour, the term "suspected witness" is not one
10 that the SPO is familiar with, and could that be explained before the
11 question is answered, please?

12 PRESIDING JUDGE SMITH: Please do.

13 MR. REES: Well, in the first instance, Mr. Jukic has given
14 evidence that he's aware that the SPO had summonsed individuals for
15 witness interviews as a suspected witness.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. REES: Well, that is an interesting challenge that
18 Your Honour is putting to me. It was an issue raised because there
19 were -- and I am conscious that counsel is not to give evidence. But
20 there were a number of summonses that were sent out inviting people
21 for interviews as suspected witnesses. The concept of a suspected
22 witness was challenged.

23 PRESIDING JUDGE SMITH: Excuse me. He said he was aware of
24 that.

25 MR. REES: Indeed. Mr. Pace apparently is not.

1 PRESIDING JUDGE SMITH: So ask your next question.

2 MR. REES: Thank you.

3 Q. So please set aside Mr. Pace's intervention there and try and
4 remember the question I asked you.

5 Did you include or exclude, in your list of persons to contact,
6 individuals who had been summonsed for interview as a suspected
7 witness?

8 A. We include them if they gave the statement.

9 Q. Right. Thank you. You said that that exercise, the
10 24 September plan, if I can call it that, was conducted mainly by
11 telephone; yes?

12 A. Yes, that's correct.

13 Q. And you said, in your evidence last week, that you obtained the
14 witnesses' telephone numbers from public sources in Kosovo as well as
15 your own records?

16 A. Yes, that's correct.

17 Q. Which public sources in Kosovo did you use to obtain telephone
18 numbers?

19 A. Internet and Vala records.

20 Q. So help us with the internet then. What public source on the
21 internet did you use to obtain telephone numbers for persons you're
22 saying had been summonsed by the SPO as either a witness or suspected
23 witness and had given a statement?

24 A. Before we summonsed them, we -- we just check on the internet if
25 there is any record of -- about phone numbers over there.

Witness: Miro Jukic (Resumed) (Open Session)
Cross-examination by Mr. Rees

Page 1813

1 Q. Yes, but we're not talking about before summonsing. We're
2 talking about for the 24 September plan; yes? And you're saying --
3 you said last week that you obtained telephone numbers for persons to
4 be called from public sources in Kosovo, as well as from your own
5 records. So can you help us with which public sources you used to
6 obtain telephone numbers to carry out the 24 September exercise?

7 MR. PACE: Asked and answered, Your Honour.

8 PRESIDING JUDGE SMITH: You can answer the question.

9 THE WITNESS: Yes, I can help you.

10 MR. REES:

11 Q. Thank you.

12 A. Maybe I wasn't clear in that answer, but I was referred to the
13 collecting phone numbers before interview or during or after
14 interview, because we already had all the phone numbers people we
15 called.

16 Q. Well, the question and answer last week was specific in relation
17 to the 24 September plan, was it not? We've got the transcript at
18 page 1695 and specifically at line 12 onwards.

19 MR. REES: So if we can bring that up.

20 Q. Perhaps you can see it in front of you, Mr. Jukic.

21 So just to put it in context.

22 MR. REES: If we look back please, Madam Court Officer,
23 page 1694.

24 Q. And we can see there, at line 4 on that page, you begin talking
25 about -- you refer to 22 December, but it was a slip of the tongue,

1 and you meant 22 September onwards; yes? And just for the record,
2 you've nodded there, Mr. Jukic. So we'll proceed on the basis that's
3 the 22 September onwards.

4 And then over the page, at page 1695, after you had discussed
5 how the list of persons to contact was created and what the criteria
6 were, at line 12, Mr. Pace asked you:

7 "In relation to the telephone contacts that the office made to
8 these persons, could you tell us how you obtained the relevant
9 telephone numbers?"

10 And your answer is:

11 "So we got relevant phone numbers from -- from public sources in
12 Kosovo and also ... from the witnesses during their interview. They
13 provide us with ... phone numbers."

14 Just pause there. You were talking, were you not, about
15 obtaining telephone numbers to contact witnesses as part of the
16 24 September plan, were you not?

17 A. As I previously answered, we got phone numbers before interview
18 or during the interview directly from the witnesses. So we have our
19 database of the phone numbers and that's how we start to call on
20 22 September.

21 Q. But that does that database set out the source for the telephone
22 number? So does it identify whether the telephone number was
23 obtained during an interview or whether obtained from a public
24 source?

25 A. No, it's not written in database, but it's usually written in

1 Official Notes of -- or -- or interview notes.

2 Q. In your experience, have you come across individuals providing
3 you with a contact telephone number that subsequently you find out
4 does not work?

5 A. I don't remember that situation.

6 Q. Do you, in your experience, come across individuals who provide
7 the SPO with a telephone number that works but no one answers the
8 phone when you ring?

9 A. Yes.

10 Q. In your experience, some individuals lose interest in
11 cooperation with the -- with investigators?

12 A. Yes, that's correct.

13 Q. Others, in your experience, may have other motivations for not
14 remaining in contact with investigators?

15 A. Yes, that's correct.

16 Q. And perhaps we can all think of potential reasons why. I don't
17 need to explore those further with you, Mr. Jukic.

18 But trying to focus on some motivations, one obvious one might
19 be that, for example, an individual has given an account which they
20 know will not stand scrutiny in a courtroom. In your experience --

21 MR. PACE: Your Honour, this is hypothetical and irrelevant.

22 I'm not sure how the witness can assist in this or how the
23 proceedings can be assisted with this line of questioning.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MR. REES: Well, as I say, perhaps we can all think of obvious

Witness: Miro Jukic (Resumed) (Open Session)
Cross-examination by Mr. Rees

Page 1816

1 potential motivations for an individual losing interest.

2 PRESIDING JUDGE SMITH: Mr. Rees, just a moment.

3 For the record, my microphone was off. The objection was
4 sustained.

5 MR. REES: Your Honour.

6 PRESIDING JUDGE SMITH: And it's time for our morning break.

7 You can escort the witness out, Madam Usher.

8 [The witness stands down]

9 PRESIDING JUDGE SMITH: So we will reconvene at 11.30.

10 We are adjourned.

11 --- Recess taken at 10.59 a.m.

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

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

15 [The witness takes the stand]

16 PRESIDING JUDGE SMITH: You can be seated, Mr. Jukic.

17 THE WITNESS: [Microphone not activated].

18 PRESIDING JUDGE SMITH: And, Mr. Rees, you can continue.

19 MR. REES: Thank you, Your Honour.

20 Q. Okay, Mr. Jukic?

21 A. Yes.

22 Q. So just before the break, we'd been discussing some of your
23 professional experience, and you had said that you had come across
24 individuals who had provided telephone numbers for contact which,
25 when you had subsequently run them, the witness or the individual had

1 not answered; yes?

2 A. Yes, that's correct.

3 Q. And, presumably, in circumstances where that happens, you try to
4 find out other ways of contacting the individual?

5 A. Yes, that's correct.

6 Q. So, for example, if the telephone number provided at an
7 interview was not sufficient for you to maintain contact with the
8 witness, you might look at a public source to see if you can get an
9 alternative number for the individual; yes?

10 A. Yes, that's correct, too.

11 Q. And is that what you were referring to when you said that you
12 would obtain telephone numbers from both the SPO's own records but
13 also public sources?

14 A. I said that we usually try to obtained telephone numbers with --
15 in public sources before we summonsed them.

16 Q. Yes. But I'm asking you whether when you were conducting the
17 24 September exercise, were there examples where attempts to contact
18 the witness on the number previously provided weren't successful, so
19 you had to look at public sources to get alternative contact details?

20 A. No, we didn't look in that exercise of the public sources.

21 Q. You'd also told us, in your experience, you'd come across some
22 individuals losing interest in maintaining contact with
23 investigators. Is it right that you've also come across individuals
24 in your professional experience that seek financial assistance from
25 investigators?

Witness: Miro Jukic (Resumed) (Open Session)

Page 1818

Cross-examination by Mr. Rees

1 A. There are some people who were asking for the financial --
2 financial assistance.

3 Q. Have you come across, in your experience, individuals, for
4 example, asking for relocation as a means of improving their
5 accommodation and their lifestyle?

6 A. That's not correct.

7 Q. Have you come across individuals who have asked for relocation
8 and you've considered their credibility, considered whether they are
9 using that request as a means of improving their accommodation and
10 lifestyle?

11 A. That's not correct.

12 Q. In your experience, is relocation a potential tool to ensure
13 that investigators know the whereabouts of an individual you do not
14 want to lose track of?

15 A. No, that's not correct.

16 Q. You said that you were personally involved in around 30 calls
17 and met, maybe, ten people related to the events in September 2020.
18 Do you remember giving that evidence last week?

19 A. That's correct. I remember.

20 Q. In disclosure of witness contact notes that the SPO say are
21 relevant to this case, there were only 11 that you made; yes?

22 MR. PACE: Your Honour, the witness is not part of the
23 prosecuting team or disclosure office in this case. So if something
24 wants to be explored on these lines, it should be within his
25 knowledge.

1 MR. REES: Well, let me put it a different way then.

2 Q. You made only 11 witness contacts notes relating to this case;
3 yes?

4 A. I don't remember.

5 Q. And you feature in two further notes only; yes?

6 A. As I said, I don't remember how many note -- notes I made.

7 Q. Well, there's two explanations, isn't there? One is that
8 because you make, you say, a contact note after every contact, that
9 there should be lots more contact notes that you made because you
10 were, you said, personally involved in around 30 calls and maybe met
11 ten people, than we have; or, we have 11 witness contact notes
12 because, in fact, the level of -- the number of calls and meetings
13 you had relating to this incident were less than you had estimated
14 last week? And it was an estimation only.

15 A. As I remember, there were two Official Notes with multiply
16 witnesses. In the one, I think for 12 or 14 witnesses, about contact
17 with witnesses.

18 Q. So that's a fair point. We'll look at your contact notes
19 shortly in a moment. Okay?

20 Let me put it this way: So what we have in the 11 witness
21 contact notes made by you and the two further notes in which you
22 feature, that accurately records the number of calls and meetings you
23 had relating to the events of September 2020 with witnesses; yes?

24 A. Can you repeat the question, Mr. Counsel, please?

25 Q. So we will look at the content of your witness contact notes,

Witness: Miro Jukic (Resumed) (Open Session)
Cross-examination by Mr. Rees

Page 1820

1 but you can confirm that the accurate level of your contact with
2 witnesses relating to September 2020 events is reflected in your 11
3 witness contact notes and the other two that you feature in?

4 MR. PACE: Your Honour, perhaps before this question is put, it
5 should be established whether the witness has any knowledge of what
6 has and has not been disclosed in this case.

7 PRESIDING JUDGE SMITH: Sustained.

8 MR. REES:

9 Q. Well, you've seen the 11 witness contact notes that you made,
10 because Mr. Pace took you through them in your evidence; yes?

11 A. Yes, I saw them.

12 Q. Thank you. So can you confirm that those witness contacts notes
13 that you made, and the other two that Mr. Pace showed you in which
14 you feature, they accurately record the level of contact you had with
15 witnesses to do with the events of September 2020?

16 MR. PACE: Your Honour, we still don't know if the witness has a
17 basis of knowledge in relation to what has and has not been
18 disclosed.

19 PRESIDING JUDGE SMITH: He can answer the question.

20 THE WITNESS: There was more notes, for sure.

21 MR. REES:

22 Q. Right. So where are they?

23 MR. PACE: Your Honour, I don't think that's a fair question to
24 the witness.

25 PRESIDING JUDGE SMITH: You need to ask him if he knows.

1 MR. REES:

2 Q. Do you know where they are?

3 A. They are in ZyLAB.

4 Q. Do you know how many more relevant witness contact notes there
5 are that we haven't been told about?

6 MR. PACE: Your Honour, can the term "relevant" in this context
7 be explained to the witness if he is to answer this question, please?

8 PRESIDING JUDGE SMITH: You can answer.

9 THE WITNESS: I don't know.

10 THE INTERPRETER: The interpreters kindly ask the speakers to
11 make a pause between -- when making comments. You are often
12 overlapping and it's very difficult to follow. Thank you very much.

13 MR. REES: My wrist has been again slapped.

14 PRESIDING JUDGE SMITH: [Microphone not activated] Oh, that goes
15 for all of us.

16 MR. REES:

17 Q. Or is it the case that the 11 contact notes you made and the two
18 others that you feature that Mr. Pace took you in direct examination
19 through accurately record the level of your contact with witnesses
20 relating to the events of September 2020 and whether deliberately, or
21 by accident, you exaggerated, overestimated the number of calls and
22 meetings you were involved in when you were asked before being taken
23 through your records the level of contact, and you said personally
24 involved in around 30 calls and met maybe ten people?

25 A. As I previously said, it was around 30 calls and I met around --

Witness: Miro Jukic (Resumed) (Open Session)

Page 1822

Cross-examination by Mr. Rees

1 let -- I don't know exactly, but maximum ten people.

2 Q. All right. So you don't know exactly. And the records that we
3 have, we will go through shortly.

4 You also said that you were all the time involved in this
5 exercise. Do you remember saying that?

6 A. If you can define "all the time"?

7 Q. Well, I'm just quoting your words.

8 MR. PACE: Your Honour, perhaps the question can be read out as
9 well as the answer for context, since the witness asked for
10 clarification.

11 PRESIDING JUDGE SMITH: Sustained.

12 MR. REES:

13 Q. The question was: Do you remember saying you were involved in
14 this exercise all the time? That was the question.

15 MR. PACE: Your Honour, I'm clearly referring to the transcript
16 reference. Not counsel's question.

17 MR. REES: Let's look at the transcript then.

18 PRESIDING JUDGE SMITH: Let's pull up the transcript so we can
19 have it exactly read to him.

20 MR. REES: Your Honour, page 1701, lines 15 to 19. Thank you.

21 Can I interject and place a short request to Madam Court
22 Officer?

23 PRESIDING JUDGE SMITH: Yes.

24 [Specialist Counsel and Court Officer confer]

25 MR. REES:

1 Q. So, Mr. Jukic, can you see at the top of that page at line 4
2 Mr. Pace is just explaining that he was dealing with the September
3 exercise, he means the 24 September plan; yes?

4 A. Yup.

5 Q. And can you look at line 13. And he asks you:

6 "How would you describe this exercise in terms of intensity or
7 time consumption?"

8 Your answer was:

9 "It was -- actually, my -- personally, I was all the time
10 involved in this exercise."

11 So do you remember now saying that?

12 A. Yes, I do.

13 Q. You also said, didn't you, that the telephone calls were
14 approximately 15 minutes each; yes?

15 A. Yes, I remember that.

16 Q. So even in your higher estimate, beyond that which we see in the
17 witness contact notes of around 30 calls at 15 minutes each, we're
18 talking about a maximum of one working day in telephone calls. Would
19 you agree?

20 A. No, I don't agree.

21 Q. Well, 30 calls, times 15 minutes, what does that work out to as
22 in terms of hours?

23 MR. PACE: Your Honour, I'm not sure if this is a question. If
24 the counsel actually expects the witness to do mathematics on the
25 stand, or if there is a question it should be put as a question.

1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 MR. REES:

3 Q. Working day, eight, nine hours; do you agree?

4 A. 12 hours.

5 Q. 12 hours, right. So 30 calls, times 15 minutes, is less than
6 one of your working days then; do you agree?

7 A. I disagree.

8 Q. You're saying that those 30 calls, approximately, around ten
9 meetings, they took all your time. Over what period do you say?

10 A. Three days.

11 Q. Right. You also said that around 200 calls in total were made
12 by all SPO staff as part of this 24 September plan.

13 MR. REES: Can we look, please, at transcript page 1698,
14 lines 17 onwards.

15 Q. So can you see there the question asked:

16 "Could you give us a rough idea, if you know, of how many calls
17 were made by all SPO staff as part of this specific exercise?"

18 You said:

19 "... we did around 200 phone calls.

20 "We document them in official notes after the phone calls."

21 Can you see that? Line 23 also; yes?

22 A. Yes, that's correct.

23 Q. Can I just clarify one thing, then. At a later stage, if we
24 look at page 1761, and if we look at line 16 -- and there's no
25 criticism here. These things happen. But can you see that at

1 line 16 you were reminded, with the caveat, if I'm not mistaken, that
2 you had said in the morning that you contacted around 200 witnesses -
3 that's you and your colleagues. But as we've just seen, in fact, you
4 hadn't said that. You said around 200 phone calls were made. Is
5 that right? Can you see that?

6 A. Yeah, I -- I see that.

7 Q. Yes. And I can see that you adopted the answer:

8 "Yeah, approximately 200."

9 But, obviously, we've just seen that, in fact, your evidence had
10 been 200 calls made. Not 200 witnesses.

11 And you said you were not involved in the planning of the
12 24 September operation, just the making of telephone calls; is that
13 right?

14 A. Yes, that's correct.

15 Q. Now, obviously you've been called by the SPO to help us with
16 operational consequences in your role as not just the witness
17 security officer leading up to January but also as the acting team
18 leader from January 2021 onwards and, indeed, the formal team leader
19 from April onwards. And, no doubt, you've looked at the records, the
20 witness contact notes; yes?

21 A. Yes, that's correct.

22 Q. And you've reviewed them; yes?

23 A. Yes, that's correct.

24 Q. And you weren't giving us a precise analysis in your evidence
25 last week. You were giving us a general idea as to what those -- the

1 consequences demonstrated by the witness contact notes; yes?

2 A. Yes, that's correct.

3 Q. Right. Well, I'm going to try and help you further, okay? And
4 I'm going to go through some analysis of the witness contact notes,
5 and I'm going to ask you whether you agree or disagree. And again,
6 don't take it from me. If you don't agree, say you disagree. If you
7 do, say you agree. If you don't know, just say you don't know.

8 Okay?

9 A. Don't worry, I will do it.

10 Q. Thank you very much, Mr. Jukic. So we've been provided with a
11 total of 114 witness contact notes. One of them, in fact, doesn't
12 refer to -- doesn't record contact with a witness but it records
13 contact with *[REDACTED] Pursuant to Post Session - Redaction Order*
F00430 on 8 March 2021, so 113 notes. Right?

14 Doing our best, because these are anonymised notes, and
15 acknowledging, as you said earlier, that some notes will record more
16 than one contact with a witness; is that right?

17 A. Yes, that's correct.

18 Q. We make it that there's about 139 telephone calls or messages or
19 meetings that occur in those witness contact notes. Would you agree
20 with that number, 139 as a more specific indication of the number of
21 telephone calls, messages, or meetings?

22 A. I really don't know that answer.

23 Q. Okay. And, again, acknowledging that, because the notes have
24 been anonymised, two contact notes might refer to contact with two
25 different witnesses, or they could refer to two contacts with the

1 same one witness. Do you accept that?

2 A. Yes, it's possible.

3 Q. The maximum number of persons to which the SPO could attribute
4 the name "witness," an individual spoken to by an SPO officer or
5 receiving a message from or meeting with, the maximum number is 113.

6 MR. PACE: Your Honour, is counsel giving --

7 MR. REES:

8 Q. -- would you accept that?

9 MR. PACE: -- evidence? Or it's unclear what the question is.
10 And if counsel is asking the witness for his determination of what
11 the term means, that's not appropriate to this witness.

12 PRESIDING JUDGE SMITH: Just finish it with a question.

13 MR. REES: Well, again, and no criticism, Mr. Pace, this happen
14 to all of us. But he did, in fact, rise to his feet and spoke over
15 me as I was asking the question.

16 PRESIDING JUDGE SMITH: Understood. Go ahead. Finish your
17 question.

18 MR. REES:

19 Q. Do you accept that the records show a maximum number of
20 individuals contacted as 113?

21 A. I don't know that --

22 Q. Okay.

23 A. -- information.

24 Q. And there were four additional contacts with somebody identified
25 as a son of blank. So not a contact note recording contact with a

1 person who could be described as a witness but with a relative, a son
2 of that person. Do you remember that?

3 A. Yes, I remember that.

4 Q. And they're anonymised, so we don't know whether it was the same
5 son of the same individual, or different sons, at least two, of the
6 same individual or a different son of individual A and a different
7 son of individual B. Do you remember of those four contact notes
8 recording contact with a son whether it was the same person or
9 different people?

10 A. I remember that note and it was the same son.

11 Q. Okay. So again that number, four -- actually, now you've
12 clarified it, is simply is one, isn't it? Which is a good example of
13 how when they're anonymised you can get the wrong picture. It can
14 look like more contacts than actually in reality there were; yes?

15 MR. REES: Maybe that's a comment and I'll move on.

16 Q. So let's look at the period at which these contacts are
17 recorded. So dealing with, firstly, the period beginning with
18 7 September, so the first press conference date, and up to and
19 including the 23rd. So the day after the third. The witness contact
20 notes appear to record only 13 telephone calls or meetings or
21 messages. Would you agree that that number is a more accurate
22 indicator of the precise number of relevant contacts?

23 A. I don't know that information.

24 Q. And those 13 contacts, not 13 all from an individual to the SPO
25 but a mixture of individual to SPO, SPO back to individual. Does

1 that figure accord with your general understanding even if you can't
2 be precise about it, Mr. Jukic?

3 A. I can't be precise because, as I said, I was involved in the
4 part of the calls.

5 Q. Well, let's have a look, then, at the 24 September plan for the
6 SPO to take the initiative and contact individuals who hadn't raised
7 any concern. In the two weeks -- sorry, not two weeks. In the short
8 period from 24 September, so starting on 24 September, and the end of
9 September, the records show 38 telephone calls or meetings or
10 messages taking place. And then in the first two weeks of October,
11 that activity continues with some 56 telephone calls, meetings, or
12 messages.

13 Would you accept that that reflects a more precise indicator of
14 the level of activity following the 24 September decision to make
15 contact?

16 MR. PACE: Your Honour, while I think -- I don't have an
17 objection to the question in general, I just want to note that these
18 statistics are being provided by the Defence. I don't currently have
19 those statistics at hand. So when they're put to the witness, I just
20 would like it to be made clear that that is based on the Defence's
21 analysis or assessment on disclosed notes. Just so that the full
22 context can be provided to the witness.

23 PRESIDING JUDGE SMITH: We don't have anything in the record
24 about that.

25 MR. REES: No, well, I'm --

1 PRESIDING JUDGE SMITH: So you'll have to qualify your statement
2 by saying this is how you figure.

3 MR. REES: It's -- it's qualified by asking the witness to
4 accept it or reject it or to say he doesn't know.

5 PRESIDING JUDGE SMITH: You might tell him where the figure is
6 coming from, is all I'm saying.

7 MR. REES: Well, yes, and I acknowledge Mr. Pace fairly saying
8 he wanted to simply put that on the record. But one would have
9 thought, perhaps, that as the SPO were calling this witness to
10 demonstrate the level of activity, that they might have done some
11 analysis themselves of it, rather than calling the witness to give
12 a one-page --

13 PRESIDING JUDGE SMITH: That's not the point right now. The
14 point right now is you are questioning in a cross-examination. So
15 please just state the source of your information.

16 MR. REES: Yes.

17 Q. So the source of the information, Mr. Jukic, and I'm conscious I
18 can't give evidence, and I'm not giving evidence, but as I've been
19 asked to, it's our analysis, right? And, again, I'll repeat it. I'm
20 going to put the analysis to you, and you can agree with it or you
21 can reject it or you can say you don't know. And then depending on
22 what your answers are, then we'll have to take it from there.

23 Let me remind you of the figures then, because of Mr. Pace's
24 helpful interjection to put on the record his position.

25 So we dealt with, I suggest, the 13 telephone calls, or meetings

1 or messages, in the period the 7th to the 23rd September disclosed by
2 the records. The 24th September then, the start of your
3 intervention, to the end of September, 38 telephone calls, meetings,
4 or messages. And then from 1 October to the 14th, a further 56
5 demonstrated by the contact notes disclosed. Do you agree with that
6 analysis? Does that sound about right? Is that helpful to you
7 rather than you being asked, as you were last week, to just give wild
8 estimations off the top of your head? Or do you say or do you just
9 not know?

10 MR. PACE: Your Honour, if counsel could limit his questions to
11 actual questions, not criticism of questions put last week, it would
12 be most helpful.

13 PRESIDING JUDGE SMITH: It also was a compound question with
14 about four parts.

15 MR. REES:

16 Q. Agree, disagree, or don't know.

17 PRESIDING JUDGE SMITH: No. Ask the question. One question at
18 a time. You had several points in the question.

19 MR. REES:

20 Q. Right. We've dealt with the 7th to the 23rd of September.
21 24 September to end of September, 38 telephone calls, meetings, or
22 messages. Agree, disagree, or don't know?

23 A. I don't know.

24 Q. 1 October to 14 October, 56 telephone calls, meetings, or
25 messages. Agree, disagree, or don't know?

1 A. I don't know.

2 Q. But you would agree with this, wouldn't you, that after
3 14 October that activity effectively came to an end and dropped off?

4 A. I disagree.

5 Q. 14 October to 31 October then, we're back down to nine telephone
6 calls, meetings, or messages disclosed in the -- recorded in the
7 witness contact notes. Would you agree with that, disagree with
8 it --

9 A. I don't know.

10 Q. -- don't know? Let's put it this way: Would you agree that
11 that -- that the activity certainly tailed off after 14 October, even
12 if there were some further ongoing contacts?

13 A. This exercise was finalised in the middle of December.

14 Q. Right. So you disagree -- no, sorry, you don't know about
15 whether the records are accurate in suggesting nine telephone calls,
16 meetings, or messages on 14 October to 31 October.

17 And then I'm going to ask you about November. Records, I
18 submit, suggests seven telephone calls, meetings, or messages. Would
19 you agree with that, disagree with that, or don't know?

20 A. I don't know.

21 Q. And then the records for December, I'm going to suggest they
22 suggest eight telephone calls, meetings, or messages in December.
23 Would you agree, disagree, or don't know?

24 A. I don't know.

25 Q. And then, well, as you said, as far as you were concerned that

1 enterprise came to an end in December. And then there were some
2 further relevant contacts, very few though, two in March and one in
3 July 2021. Would you agree with that, or disagree, or don't know?

4 A. I don't know.

5 Q. Let me help you with this, then. Would you agree that the
6 witness contact notes do not record anywhere a witness screaming or
7 being heard to scream? Do you agree with that?

8 A. I don't recall.

9 Q. Now do you agree with this, that the notes record a concern, any
10 level of concern expressed by an individual in 37 notes? Do you
11 agree, disagree, or don't know?

12 A. I don't know.

13 Q. And in the majority, considerable majority of notes, 77 notes
14 expressly recorded that there was no concern on the part of the
15 individual. Do you agree, disagree, or do you not know?

16 A. I don't know the numbers.

17 MR. REES: Well, we've heard the evidence. Perhaps, in light of
18 Mr. Pace's intervention on the record, there can be an attempt to, on
19 an *inter partes* basis, to make some agreed facts in relation to that
20 and that analysis.

21 Q. You were asked last week how many persons told you that they'd
22 received threats in or after September 2020, and you answered "I
23 can't recall."

24 MR. REES: Can we look, please, at transcript page 1762 just
25 to -- so you can remind yourself about that. And if we look at

Witness: Miro Jukic (Resumed) (Open Session)

Page 1834

Cross-examination by Mr. Rees

1 line 2 -- sorry, line 4.

2 Q. You were asked:

3 "... how many of these persons told you that they had received
4 threats in or after September 2020?"

5 And you said:

6 "I can't recall."

7 Yes?

8 A. Yes, that's correct.

9 Q. Is it still the case you can't recall?

10 A. I can recall majority but not numbers.

11 Q. Well, you say that today. What you actually said on 28 October
12 when you gave evidence was when you were pushed, just to say roughly,
13 you said "very few." Can you see that in line 8?

14 A. Yes.

15 Q. So not a majority. You said "very few." Now, we've heard in
16 this case about a Welsh couple. We also now know perhaps about a
17 German few. I'm not making any criticism here, but I'd like you, in
18 your own words, to describe how many is "very few," please.

19 A. By my knowledge, two.

20 Q. Thank you. Now that does accord with our analysis, at least in
21 part. Let me explain and deal with that.

22 Two contact notes. One refers to - perhaps you can help us, if
23 you recall this - the posting on a Facebook post on the page of
24 Kosovo Press, does it not?

25 A. I can't recall.

1 Q. And what was referred to as an unknown person expressing an
2 opinion as to what events on 7 September, the press conference, what
3 in that person's view it amounted to.

4 MR. PACE: Your Honour, perhaps it would be more helpful to show
5 the note to the witness, if he's expected to comment upon its
6 contents, noting that he said he can't recall in particular.

7 PRESIDING JUDGE SMITH: I would agree that that would probably
8 help us get to the truth of the matter quicker.

9 MR. REES: Well, it's ERN 089997.

10 Q. And so can you see there there's a reference to messages being
11 exchanged, and on 7 September they appear, in the first one, to be a
12 link to Facebook.com and page for Kosova Press. Can you see that in
13 the blue?

14 A. Yes, I can see that.

15 Q. And then a further message, again from an unknown person,
16 appears to be the reporting of that person's opinion as to what the
17 7 September amounted to. Can you see that in the line under the time
18 17.19?

19 A. Yes, I can see that.

20 Q. That was one of the documents that refers to a threat. And the
21 other document is at -- well, it relates to 18 March 2021. Do you
22 agree? The second reference to a threat.

23 MR. PACE: Your Honour, again, that's asking the witness to go
24 back in time and remember something when we have a note that could
25 assist, potentially.

Witness: Miro Jukic (Resumed) (Open Session)
Cross-examination by Mr. Rees

Page 1836

1 MR. REES: Well, with respect, I'm trying to be specific and
2 concentrate on his knowledge in the first instance.

3 PRESIDING JUDGE SMITH: You may ask the question. If he has no
4 knowledge, then we will have to look at it a different way.

5 MR. REES: Exactly.

6 Q. I just want to clarify. So the second example, forget about the
7 exact day, whether it was the 18 March, but earlier this year. So
8 later, after the 24 September exercise had come to an end in
9 December; yes? Do you recall that or not?

10 A. I don't recall.

11 Q. You don't recall. All right. Well, the only second -- the only
12 other reference you could find in the witness contact notes is at
13 094748.

14 And can you see the date on this document now, 18 March?

15 A. Yes, I can see.

16 Q. If we look down [indiscernible] at paragraph 3, there's a
17 reference to the individual referring to staying at home after the
18 events in September 2020. Can you see that?

19 A. Yes, I can see.

20 Q. Paragraph 5 though, this anonymous individual went on to say, to
21 refer to an arrest of -- events that took place after the arrest of a
22 person not involved in this case; do you agree?

23 A. Yes, I agree.

24 Q. And said that -- claimed, I say, because, of course, we are not
25 hearing from this witness so we don't know whether what he was saying

1 was true or not, but he claimed that he received a letter with a
2 threat if he was going to be a witness; yes?

3 A. Yes, I can see.

4 Q. And he was asked for the letter and he couldn't produce it, so
5 there must be some doubt as to whether he received -- whether this
6 letter was, in fact, received by him. But he doesn't say himself,
7 does he, that that refers to events arising out of September 2020 in
8 that record, does he?

9 A. He doesn't.

10 Q. No. And he doesn't claim that the author of the letter, if
11 indeed there was a letter, said anything relating the letter back to
12 the events of September 2020; do you agree?

13 A. Yes, I agree.

14 Q. Thank you. We can take that down now and look at your assertion
15 last week, not only about your own time, but you said that the
16 exercise was taking all the time for all witness security officers
17 and for most investigators and lawyers. I'm going to suggest to you
18 that that was an exaggeration.

19 A. Yes, that's what I said.

20 Q. Yeah. And I'm going to suggest to you you were exaggerating,
21 weren't you?

22 A. No.

23 Q. Just recap some of the events that took place in that time.

24 Sorry, Mr. Jukic, it looks like there's an issue with
25 interpretation, so I'm stopping for a moment.

Witness: Miro Jukic (Resumed) (Open Session)

Page 1838

Cross-examination by Mr. Rees

1 A. Thank you very much.

2 PRESIDING JUDGE SMITH: Is it okay?

3 THE ACCUSED GUCATI: [Microphone not activated].

4 PRESIDING JUDGE SMITH: Go ahead, Mr. Rees.

5 MR. REES:

6 Q. So just looking at some of the events that took place from the
7 start of the SPO's intervention on 24 September. Mr. Gucati and,
8 indeed, Mr. Haradinaj were, of course, arrested in that period; yes?

9 A. Yes, that's correct.

10 Q. Mr. Salih Mustafa was arrested on 24 September, wasn't he?

11 A. Yes, that's correct.

12 Q. And, indeed, he appeared in court, his first appearance, on
13 28 September, did he not?

14 A. I don't know that information by heart.

15 Q. Right. But you weren't aware, were you, of investigators and
16 lawyers working on his case during that period?

17 A. I haven't worked with that investigators and lawyers who was --
18 who were involved in the arrests and court proceedings.

19 Q. No, because your position doesn't extend to working with
20 investigators and prosecutors in that sense? They're confined to
21 witness handling.

22 A. As I said, we were very busy for two, three days with the phone
23 calls.

24 Q. Right, okay. Thank you. That's a helpful clarification. You
25 also said that you used secure means of communication. What secure

1 means of communication?

2 MR. PACE: Your Honour, unless there's a really good reason for
3 that, that's inappropriate as it goes to the SPO's internal processes
4 which are not relevant to this case.

5 MR. REES: Well, if I can explain the relevance.

6 PRESIDING JUDGE SMITH: If it can be asked in a generic way,
7 I'll allow the question. But if we're going to go into any kind of
8 details, I'm not going to allow it.

9 MR. REES: Well, I follow that, Your Honour. And I can't think
10 of a more generic way of asking it than what secure means of
11 communication. The answer can be generic and we can take it from
12 there. But the relevance of it is that there was evidence called by
13 the SPO last week as to measures taken which can be attributed, they
14 say, to the events of September 2020. So I'd like to explore in the
15 first instance what are usual routine measures.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. REES: Thank you.

18 Q. So what secure means of communication?

19 A. We use some applications on the phones.

20 Q. Right. And will there be occasions where you provide a phone to
21 a individual to assist with maintaining contact?

22 A. There was few occasions that we provide them with the phones.

23 Q. Before September 2020, had you provided phones to individuals?

24 A. I don't remember before September 2020.

25 Q. Okay. So does that answer mean you may have, you may not,

Witness: Miro Jukic (Resumed) (Open Session)
Cross-examination by Mr. Rees

Page 1840

1 without being able to look at the records you can't say?

2 A. Yes, that's correct.

3 Q. And the use of a particular app or apps, I'm not going to ask
4 you for the type of app or the brand or anything, but the use of
5 those apps are part of your routine security measures to keep
6 communication with witnesses private?

7 A. That's part of our routine.

8 Q. Yes. So the use of such an app or apps again predates September
9 2020? You were already doing that?

10 A. Yes, we were doing before as well.

11 Q. Thank you. And then in relation to the exercise beginning on
12 24 September, you said that the witness security and handling team
13 leader, [REDACTED] Pursuant to Post Session - Redaction Order F00430,
14 had given instructions as to which information
15 to provide to witnesses and what kind of questions to ask? That's
16 what you said. We can look at the transcript, if you wish.

17 A. Yes, that's correct.

18 Q. Were those instructions provided in writing to you and other
19 members of the witness security and handling team?

20 A. No, it wasn't. It was during the phone meeting.

21 Q. Were they -- so they were just verbal. Did anyone make a record
22 of them as they were provided?

23 A. There was no record about instructions.

24 Q. And were the same instructions given verbally to everybody
25 involved in the exercise or just those who were members of the
witness and security handling team?

1 A. I was present at the meeting with the witness security officers
2 and witness security team leader. I don't know about Prosecutors and
3 investigators.

4 Q. Again, so that's fair. So you don't know. Let's have a look,
5 then, at the contact notes that you produced, beginning with P134,
6 which is ERN 091902.

7 So I'm starting with this document because in paragraph 1 of the
8 content there is a reference to a meeting on 7 September 2020; yes?

9 A. Yes, that's correct.

10 Q. And there's a short summary of what was said, save that
11 paragraphs 4 and 5 and possibly the remainder of paragraph 6 are
12 redacted, so we can't see the content there or, indeed, how long that
13 took. But we do see that the individual has said:

14 "He didn't notice anything suspicious and he haven't had any
15 problems since our last meeting."

16 Yes?

17 A. Yes, that's correct.

18 Q. And when it says "our last meeting," "any problem since our last
19 meeting," do you remember what the last meeting was and what that was
20 about?

21 A. Yes, I do remember.

22 Q. Was it a routine meeting?

23 A. That was witness security meeting after he gave the interview to
24 the investigators of the SPO.

25 Q. Okay. So no problem the witness had had. Can you look at the

1 top? There's a date. So we've got a table with two columns and five
2 rows. The rows are labelled date, author, other attendees,
3 reference, and activity; correct?

4 A. Yes, that's correct.

5 Q. And is that the template that you are referring to when you said
6 about there had been a template for Official Notes?

7 A. Yes, that's kind of that template.

8 Q. And the date -- well, the author is said to be yourself. No
9 attendees with you. That means other than the individual you were
10 speaking with; yes?

11 A. Yes, that's correct.

12 Q. So whereas last week you said that you tried to ensure, for
13 perhaps obvious reasons, that meetings, contacts with potential
14 witnesses would be done in the presence of more than one SPO
15 official, that obviously didn't happen all the time, and this is an
16 example; yes?

17 A. Yes, that's correct.

18 Q. So this is an example of you just meeting with the individual on
19 a one-to-one; yes?

20 A. Yes, that's correct.

21 Q. And there's nothing under the Reference row to suggest the
22 purpose of the meeting was -- what the purpose of the meeting was.
23 You say "meeting with" and then the name is redacted under the
24 Activity row. But the row for the date is 15 February 2021. And
25 that was intended to be, wasn't it, the date that you made the note.

1 A. That is date when I submit to the ZyLAB.

2 Q. So in this template, in the row Date, the date that we see there
3 is the date upon submission to ZyLAB, is it?

4 A. In this note, that's the date.

5 Q. Well, it's a template. It must be in all notes, mustn't it?

6 A. I am not expert for -- for the ZyLAB, so --

7 Q. All right. Fair enough. I'll dig a bit more to see if we can
8 ascertain the level of your knowledge.

9 That date there, 15 February 2021, did you type that in there?

10 A. Probably I did.

11 Q. Yes, right. So let's leave aside whether you're an expert in
12 ZyLAB or not. Why did you put in that date, in that row the date
13 15 February 2021?

14 A. I think this is typo.

15 Q. You think it's a typo? So what date should it be, then?

16 A. 7 September 2020.

17 Q. I see. So let's leave aside the submission to ZyLAB point.
18 That's actually a typo and you should have typed in 7 September 2020
19 but instead you typed 15 February 2021. When you typed that, was it
20 7 September 2020 when you were typing this note, then?

21 A. I -- I did this note 7 September.

22 Q. And it's just a typo, a random typo that you came up with
23 15 February 2021 in that row, is it?

24 A. I submit this note in ZyLAB and I -- because I found, when I
25 review of documents in the office, and I find out this note wasn't

Witness: Miro Jukic (Resumed) (Open Session)

Page 1844

Cross-examination by Mr. Rees

1 submitted in the ZyLAB.

2 Q. Right. And then you did what?

3 A. I submit to ZyLAB.

4 Q. And, what? You changed the date? Is that what you're saying
5 there? That it was 7 September and you altered it so it then read
6 15 March?

7 A. I don't remember.

8 Q. Yes. Isn't the truth, Mr. Jukic, that you didn't make a note on
9 7 September and you were asked as late as 15 February to try and
10 remember back and prepare a note?

11 A. No, that's not true.

12 Q. The next note is at 093386.

13 PRESIDING JUDGE SMITH: Is there a P number?

14 MR. REES: Sorry, P131.

15 PRESIDING JUDGE SMITH: Thank you.

16 MR. REES:

17 Q. Another Official Note produced by you. You're down as the
18 author in the template table; yes?

19 A. Yes, that's correct.

20 Q. And we can see at paragraph 1 you refer to receiving a message
21 on 8 September 2020?

22 A. Yes, that's correct.

23 Q. And trying to call him that day, just shy of half an hour later,
24 then speaking to his wife at 9.15 on 8 September, and then at 10.30
25 actually speaking to him; yes?

1 A. Yes, that's correct.

2 Q. And you told him -- you calmed him down, documents made public
3 are old SITF documents, nothing from SPO era, and that nothing in the
4 files related to him, and he was a bit calmer; yes?

5 A. Yes, that's correct.

6 Q. And then at paragraph 6 you move on to a new date, 22 September
7 2020, and say you received a message from that person. Is it the
8 same person or not?

9 A. It's the same person.

10 Q. It's the same person. And then a third date, 23 September 2020,
11 in the last paragraph, and you called him to say his name was not in
12 leaked documents; yes?

13 A. Yes, that's correct.

14 Q. And we can see the date of this document is in the Date row of
15 the template, 25 September 2020; yes?

16 A. Yes, that's correct.

17 Q. All right. So the first question is: Where's your note made on
18 8 September 2020 of that contact?

19 A. This is a note about multiply contacts with one person for in
20 certain period of time.

21 Q. Yes, I thought you told the Trial Panel last week and, indeed,
22 reminded them this morning, that you document an Official Note
23 immediately after every phone call or meeting the contact, but you
24 didn't on 8 September; is that right?

25 A. That's right.

1 Q. Right. And let's look at 22 September. Where's your note that
2 you made immediately after that contact on 22 September? You didn't
3 make any; is that right?

4 A. I made comments in this note.

5 Q. Yes, but this is, at the earliest, 25 September, isn't it? So
6 three days later. Do you agree with me you didn't make a note of
7 that contact immediately after on 22 September. Do you agree?

8 A. I have my notes -- I had my notes with me in that time.

9 Q. Ah, so there are other documents, are there?

10 A. Not other documents. I mean my -- my -- my written notes.

11 Q. Oh, well, that's another document, isn't it? And you're saying
12 there's something else, is there? Another record.

13 Are you, Mr. Jukic, or are you saying that you made this note of
14 events on 8 September and 22 September a short period later on
15 25 September?

16 A. Yes, I made this note.

17 Q. Yes.

18 A. 25 September.

19 Q. Right. So just so we understand, your evidence that you record
20 in Official Notes immediately after every phone call and meeting, you
21 accept that that's now wrong. Do you agree with that?

22 A. That's right.

23 Q. And you were trying to impress upon the Trial Panel how
24 seriously you take matters. But that was misleading; do you agree?

25 A. No, I disagree.

1 Q. And there's a third date, isn't there, in this note,
2 23 September 2020, in paragraph 8. You made no Official Note
3 immediately after that contact on 23 September, did you?

4 A. As I said, this is multiplied note which I prepared, because in
5 that time I haven't been in the office. So I sent it, this note,
6 25th of 2020 to the office.

7 Q. Right. So the date we see in the template row for Date, are you
8 saying -- is that the date you made the note or not?

9 A. That was date I finalised this note.

10 Q. 25 September? Right. And let's have a look at the left-hand
11 corner. Why do we get the date 15 March 2020 in the top left-hand
12 corner?

13 A. I reviewed the documents in the February and March of -- 2020.
14 It's again typo. It's 2021.

15 Q. Yeah, okay. So 2021 --

16 A. So I --

17 Q. Why does it have 25 March 2021 on it?

18 A. I reviewed the documents because I asked from the Prosecutor in
19 this case to review Official Notes related to this incident, and I
20 found this note. And when I compare with the ZyLAB, I couldn't find
21 it in ZyLAB, and this is the date when I submit to the ZyLAB.

22 Q. Well, you didn't submit it on 15 March 2020. Are you saying you
23 submitted it on 15 March 2021?

24 A. Yeah, this is typo.

25 Q. Yeah, so that's on typo by you. That's not added by ZyLAB, that

Witness: Miro Jukic (Resumed) (Open Session)

Page 1848

Cross-examination by Mr. Rees

1 date. You've typed that onto the document?

2 A. I type this on the document.

3 Q. So you altered this Official Note on 15 March 2021; is that
4 right?

5 A. Can you repeat the question, please?

6 Q. So you altered this Official Note on 15 March 2021. Is that
7 your evidence now?

8 A. I submit this note on 15 March 2021 in ZyLAB.

9 Q. Before 15 March 2021, did that date, 15 March 2020, appear on
10 the note?

11 A. No.

12 Q. So you altered the note, on your evidence, on 15 March 2021; is
13 that right?

14 A. I did typo, as I said.

15 Q. Yes, forget the typo. I'm asking you to confirm you altered
16 this note by adding, at the least, the date 15 March, incorrectly,
17 2020, on 15 March 2021. Is that your evidence?

18 A. Excuse me, can you just repeat the question?

19 Q. Yes.

20 A. I don't understand.

21 Q. On 15 March 2021, did you alter this note by adding, at the
22 least, the date 15 March 2020?

23 A. Probably I did.

24 Q. Thank you. Did you alter anything else in this note?

25 A. I didn't change anything in this note.

1 Q. Did you alter anything else in any other notes?

2 A. I never change anything in the notes.

3 Q. And this hadn't been submitted to ZyLAB by 15 March 2021. Are
4 you saying that?

5 A. I submitted to the ZyLAB that date. I don't know when exactly
6 it was putted in the ZyLAB, but I hand over to the ZyLAB.

7 Q. On 15 March 2021?

8 A. Yeah.

9 Q. Right. And last week you were saying that there was a delay in
10 submitting documents to ZyLAB by you because you weren't in the
11 office, blaming the pandemic; is that right?

12 A. Yes, that's correct.

13 Q. We saw you in the office earlier on 27 October 2020, didn't we?

14 A. Yes, that's correct.

15 Q. Yes. So if this note predated that, why didn't you submit this
16 note on that date?

17 A. During this exercise, we were out of -- witness -- witness
18 security team leader ask us to send Official Notes by secure means to
19 him, and he's supposed to be submit them in ZyLAB.

20 Q. Right. So it's [REDACTED] Pursuant to Post Session - Redaction
Order F00430 fault, is it? Is that what you're
21 saying?

22 A. I'm not saying that it's his fault.

23 Q. On 15 March 2021, you were able to identify and submit this note
24 to ZyLAB. I'll ask you again: Why didn't you submit it, if it
25 predated 27 October, when you were in the office submitting your

1 declaration about these very matters?

2 A. Because I just review the file with the Official Notes. I
3 didn't check if that notes are submitted to the ZyLAB.

4 Q. Can we at least agree on this, then, that your explanation that
5 this, in part, was to do with the pandemic was a lie, wasn't it?

6 A. No.

7 Q. It was a lie that you thought up to try and explain away the
8 discrepancy in these dates, wasn't it, Mr. Jukic?

9 A. No, it's not true.

10 Q. Let's have a look at the next one.

11 MR. REES: P136, please. This note is ERN 093379.

12 Q. We can see in the body of the text you are referred to and, in
13 fact, [REDACTED] Pursuant to Post Session - Redaction Order F00430,
14 also present with you, as was an interpreter,
15 LA-11; is that right?

16 A. Yes, that's right.

17 Q. And this is an example of a phone conversation, and there's a
18 record of messages, with somebody who's described as a son. So
19 presumably that is not somebody who could be described as a witness
20 but a relative of theirs, the son; is that right?

21 A. Yes, that's right.

22 Q. And this is an example of somebody who declined any assistance.
23 We can see that at the end of paragraph 2 in a reference to a text
24 message on 13 September 2020:

25 "There is no need for your side to help us."

Can you see that?

1 A. Yes, I can see that.

2 Q. And then following that text message on 13 September, on
3 14 September there's a conversation recorded in the note where the
4 son expresses concerns about security and says -- I'm not quite sure
5 what that means:

6 "He told we did nothing for a long time ..."

7 So that individual, is that -- was he saying that he had
8 concerns that predated 7 September 2020? Is that what he was saying?

9 "Did nothing for a long time."

10 If you can't remember, say you can't remember.

11 A. I can't remember.

12 Q. Right. Do you agree that, at least on the face of it, it looks
13 like he was saying [REDACTED] Pursuant to Post Session - Redaction
Order F00430

14 THE INTERPRETER: Kindly slow down.

15 MR. REES:

16 Q. [Previous translation continues] ... that he had had concerns
17 for a long time -- sorry. He had concerns that predated it and you,
18 the SPO, had done nothing for a long time?

19 THE INTERPRETER: Kindly slow down.

20 MR. REES:

21 Q. Do you agree with that or can you not say?

22 A. She was interrupt you during the question.

23 Q. Sorry.

24 A. Can you repeat, please?

25 Q. Do you agree that on the face of it, at least, it looks like the

Witness: Miro Jukic (Resumed) (Open Session)

Page 1852

Cross-examination by Mr. Rees

1 son of somebody was saying that there were concerns that predated
2 7 September and the SPO had done nothing for a long time?

3 A. He referred about time before 7 September.

4 Q. Yes, thank you. And then there's a further telephone call to
5 the son dated 24 September 2020; do you agree?

6 A. Yes, I agree.

7 Q. Now, this Official Note was not made after the contact on
8 13 September, was it?

9 A. No, this wasn't not.

10 Q. It couldn't be, could it? Because it refers to later contact on
11 the 14th and the 24th. So it wasn't made after the first contact,
12 was it?

13 A. It wasn't finalised after the first contact, for sure.

14 Q. You didn't make it after the 14 September contact either, did
15 you?

16 A. I didn't finalise after 14 September.

17 Q. Right. Do you keep drafts of these documents?

18 A. Yes, I do.

19 Q. Do you know where they are?

20 A. They were on my secure USB stick.

21 Q. And if you've made an Official Note -- let me correct that. Are
22 you saying you made an Official Note of the contact on 13 September
23 2020?

24 A. For sure I did.

25 Q. And so where is that, then? You submitted that to ZyLAB,

Witness: Miro Jukic (Resumed) (Open Session)

Page 1853

Cross-examination by Mr. Rees

1 presumably, did you?

2 A. Again, I wasn't in the office in that time.

3 Q. All right. You were on 27 October. Did you submit it to ZyLAB
4 on that date?

5 A. I sent this note to [REDACTED] Pursuant to Post Session -
6 Redaction Order F00430 through the secure
7 communication.

8 Q. Did [REDACTED] Pursuant to Post Session - Redaction Order F00430
9 say to you, "Why has this got the date
10 22 September 2020 on it?"

11 A. Probably my mistake.

12 Q. No, forget about why for the moment. Did [REDACTED] Pursuant to
13 Post Session - Redaction Order F00430 say to
14 you, "Why has this got 22 September 2020 on it?"

15 A. It's -- it's typo, again.

16 Q. Did [REDACTED] Pursuant to Post Session - Redaction Order F00430
17 say to you, "Why has this document got
18 22 September 2020 on it?"

19 A. No, I haven't discussed with him about this.

20 Q. Did [REDACTED] Pursuant to Post Session - Redaction Order F00430
21 say to you, "Why does this document have
22 14 March 2021 on it?"

23 A. 14 March, [REDACTED] Pursuant to Post Session - Redaction Order
24 F00430 wasn't in the office.

25 Q. No. All right. But you submitted it to him, you're saying, are
26 you, some point in September or not? When are you saying you
27 submitted this to [REDACTED] Pursuant to Post Session - Redaction
28 Order F00430?

29 A. I sent to the [REDACTED] Pursuant to Post Session - Redaction
30 Order F00430 in September.

31 Q. Right. So when you sent it to him, did [REDACTED] Pursuant to
32 Post Session - Redaction Order F00430 say to you,

33 "Why does this document have 14 March 2021 on it?"

34 A. This document is at that date is add 14 March 2021 after I

1 review Official Notes and when I find out that this note is not
2 submitted in ZyLAB.

3 Q. Is the truth -- I'm going to put it to you. It is the truth,
4 isn't it, that you created this document around 14 March when you
5 realised there wasn't an Official Note of this contact, and you
6 created it then?

7 A. That's not true.

8 Q. Well, we can discount, can't we, your explanation last week that
9 it had anything to do with the pandemic and you not being able to get
10 to the office before then, can't we? That was a lie, wasn't it?

11 A. It wasn't lie.

12 Q. Well, you were in the office 27 October, at the least. And in
13 January, were you not?

14 A. Yes, I was in the office in that time.

15 Q. Yes. So why didn't you submit these Official Notes then?

16 A. As I said, I sent Official Notes to my team leader in that time,
17 and he was supposed to submit them. Because of the pandemic, we
18 haven't been allowed to come in the office.

19 Q. Well, let's look at the next document, because there's another
20 date at which you're in the office, is it not. P135.

21 THE INTERPRETER: Kindly slow down. Kindly. Otherwise, we will
22 not be able to interpret. This is really too, too fast. We would
23 appreciate you if you acknowledge the fact that this is very, very
24 fast.

25 MR. REES: Acknowledged. P135, please.

1 Q. This document, again an Official Note authored by you, other
2 attendees a Prosecutor, the British Prosecutor. Is he still a member
3 of the SPO staff?

4 A. No, he's not.

5 Q. Caught by the clutches of Brexit?

6 A. I don't know. Probably, yes.

7 Q. And an interpreter, LA-11. This refers to a contact with an
8 individual by phone on 24 September 2020; yes?

9 A. Yes, that's correct.

10 Q. He said he had not been called or approached by anyone. Can you
11 see that in the middle of paragraph 2?

12 A. Yes, that's what -- that's correct.

13 Q. But despite not being called or approached by anyone, he asked
14 to be relocated with his family and said that he would withdraw
15 cooperation if you didn't relocate him; is that right?

16 A. Yes, that's right.

17 Q. And this call lasted some 20 minutes, you recorded?

18 A. Yeah, approximately.

19 Q. Then another call, this time to a different individual --

20 A. This --

21 Q. -- in paragraph 3?

22 A. This is call with a different individual.

23 Q. And he too said he had not been called or approached by anyone?

24 A. That's correct.

25 Q. And the call ended after approximately ten minutes?

Witness: Miro Jukic (Resumed) (Open Session)

Page 1856

Cross-examination by Mr. Rees

1 A. That's correct.

2 Q. And then on 25 September, there's a reference to a further
3 contact, 25 September 2020, by the same individual or one of those
4 two individuals or again a third individual?

5 A. I can't recall.

6 Q. And for the contact on 25 September, was the British Prosecutor
7 with you or not?

8 A. I can't recall.

9 Q. Well, the text in paragraph 4 does not refer to him being
10 present, does it?

11 A. It doesn't refer.

12 Q. And the text in paragraph 3 to the second call on 24 September
13 doesn't refer to the interpreter LA-11 being present, does it?

14 A. Yeah, that's true.

15 Q. So whereas the note says that this records contact between an
16 individual and yourself, the British Prosecutor and LA-11, that's not
17 entirely accurate in relation to the contacts recorded therein, is
18 it?

19 A. That's correct.

20 Q. The date on this document in the template row for the date is
21 15 February 2021; is it not?

22 A. That's correct.

23 Q. And that was the date you made this note, wasn't it?

24 A. I can't remember.

25 Q. It's the same date that you made the note P134, isn't it, that

1 also had the date 15 February 2021 on it; isn't it?

2 A. Yup, that's correct.

3 Q. You made them both on that date, didn't you?

4 A. I didn't made notes on that date.

5 Q. So why did you date both documents 15 February 2021, then?

6 A. Because I reviewed the documents and I -- I've -- I found out
7 they are not submitted in the ZyLAB.

8 Q. Right. So you found out on 15 February that this document
9 wasn't submitted, this Official Note. Why didn't you submit the same
10 date P136 that we just looked at? Why didn't you submit that on
11 15 February 2021 as well?

12 A. As I said, I was reviewing a lot of notes in that time. And
13 when I found the note who didn't match our -- our database with the
14 ZyLAB, I just submit them in the ZyLAB.

15 Q. So you were in the office able to submit documents 27 October
16 2020, and you didn't submit any of these contact notes then.

17 A. Because I didn't review that notes in that time.

18 Q. And you were there in the office in January when you submitted
19 your second declaration, and you didn't submit any of these notes
20 then.

21 A. We started with the exercise of reviewing notes in February.

22 Q. And you --

23 A. So I couldn't submit because I -- I -- my understanding was that
24 notes are already submitted in ZyLAB.

25 Q. And you were in the office, you say, on 15 February 2021

1 submitting Official Notes to ZyLAB. You didn't submit P131 or P136
2 that date?

3 A. I don't know about which notes you are talking about.

4 Q. Well, the two notes that we've just looked at, Mr. Jukic. The
5 one that you said you altered to have the date the 15 March 2020,
6 although it should have been 2021; and the second note that you put
7 14 March 2021 on. You didn't --

8 A. As I --

9 Q. -- submit those two notes --

10 A. Sorry.

11 Q. -- in February.

12 A. Sorry, I am too fast. As I told you, we started this exercise
13 reviewing the notes in the February and took a while. So when I
14 found the note, if that note wasn't in the ZyLAB, I submitted in the
15 ZyLAB.

16 Q. Can I suggest to you that you were asked in February to start
17 putting together notes, and you realised that there were notes that
18 you had not made of witness contact, and you started preparing them
19 in February and March. That's why they are dated months after the
20 events. That's the truth, isn't it, Mr. Jukic?

21 A. That's not the truth at all.

22 MR. REES: The next one, P137.

23 Q. This is another Official Note of yours. This refers to you as
24 the author and another attendee of the contact being an interpreter
25 LA-01; is that right?

Witness: Miro Jukic (Resumed) (Open Session)

Page 1859

Cross-examination by Mr. Rees

1 A. That's correct.

2 Q. And the text records contact on 3 October 2020.

3 A. That's correct.

4 Q. And amongst other things, you record the individual saying that
5 nobody had approached him or threatened him and he doesn't feel
6 threatened; do you agree?

7 A. That's correct.

8 Q. And although this time in the row of the template label date you
9 do have a corresponding date to the content - namely,
10 3 October 2020 - in the top left this again has the date 15 March
11 2021 on it, does it not?

12 A. That's correct.

13 Q. So when did you make that document?

14 A. I made this document 3 October 2020.

15 Q. Why has it got the date 15 March 2021 on it, then?

16 A. During reviewing documents, I found this note wasn't submitted
17 to the ZyLAB. I putted the date 15 March 2021 on the top left and I
18 submitted in ZyLAB that day.

19 Q. So why did you not submit this note on 27 October --

20 A. I sent this note --

21 Q. -- when you made it on the 3rd on your account?

22 A. I apologise. I sent this note to my team leader in that time,
23 and my understanding was that he submitted in the ZyLAB.

24 Q. Why didn't you say that to us last week?

25 A. Can you be more specific in your questions, please?

1 Q. I can. Why didn't you say to us last week that you'd submitted
2 these documents to [REDACTED] Pursuant to Post Session - Redaction
Order F00430?

3 A. Nobody asked me that question.

4 Q. You were asked to explain the discrepancies in the dates, and
5 you said it was because "the gap in time is because of the lockdown,
6 we didn't have the opportunity, and we haven't been allowed to go in
7 the office that we can submit all our documents in ZyLAB."

8 A. Some of them, yes, but probably that's also reason why [REDACTED]
Pursuant to Post Session - Redaction Order F00430
9 didn't submit in the ZyLAB.

10 Q. And you were in the office in October and in January and in
11 February. Why didn't you submit this note then if what you say has
12 any truth in it?

13 A. Are you questioning my -- my testimony?

14 Q. Yes.

15 A. Good.

16 Q. I am. I am saying that you are lying and coming up with a
17 number of different accounts to explain the discrepancy in the dates,
18 which I put to you, has an obvious explanation, that you were asked
19 from February onwards to start putting together documents and you
20 created records about events taking place months earlier. That's
21 what I'm suggesting to you.

22 A. That's completely wrong and lie.

23 MR. REES: Let's have a look then at 084303, which I don't think
24 has a P number. Although I will be corrected, no doubt, if there is.

25 THE COURT OFFICER: That is P130.

1 MR. REES: There we are. I'm very grateful.

2 Q. This document again records one-on-one contact between yourself
3 and an individual apparently on 3 October 2020; do you agree?

4 A. Yes, I agree.

5 Q. And as part of that, you asked if he had any security concerns,
6 and it's right, isn't it, that it's recorded that the anonymised
7 individual stated he had not received any direct threat but he heard
8 rumours?

9 A. That's correct.

10 Q. And this is not dated 3 October but it's dated 28 October 2020;
11 yes?

12 A. Yes, that's correct.

13 Q. And this has a submission date, if that's what the date in the
14 top left-hand corner is intended to suggest, that matches 28 October
15 2020; yes?

16 A. Yes, that's correct.

17 Q. You, presumably, had typed that submission date on it?

18 A. Yes, I did.

19 Q. Did you type that on it on 28 October --

20 A. I --

21 Q. Or did you type that on it --

22 A. I was --

23 Q. -- on 15 February 2021?

24 A. Can you repeat the question, please?

25 Q. Did you type that date, on the top left, on 28 October 2020, or

1 did you type it on there on 15 February 2021, or did you type it on
2 there on 15 March 2021? Can you help us?

3 A. I typed on 28 October 2020.

4 Q. So if this is a document, an Official Note created and submitted
5 the same day, why did you not submit the document P134 dealing with
6 events on 7 September; P131, dealing with the events on 25 September;
7 P136, dealing with the 13th, 14th, and 24th September; P135, dealing
8 with the 24th September and the 25th; and P137, dealing with
9 3 October? Why didn't you submit those on 28 October 2020 when you
10 say you submitted this document?

11 A. My team leader, [REDACTED] Pursuant to Post Session - Redaction
12 Order F00430, wasn't in the office on
13 3 October and after that -- and I haven't had chance to send this
14 document to anyone. I finalised these notes 20 of the -- 28 October
15 when I went to the office and I submitted in the ZyLAB.

16 Q. Yes. So if you submit this on 20 October, why didn't you submit
17 the other documents on 28 October 2020 if, as you say, they existed
18 at that date?

19 A. I haven't submitted them because I sent them already to the
20 Mr. [REDACTED] Pursuant to Post Session - Redaction Order F00430.

21 Q. You haven't submitted them because they did not exist then.
22 That's the truth, isn't it?

23 A. That's not true.

24 MR. REES: It's a convenient point to break.

25 PRESIDING JUDGE SMITH: We will break for lunch.

Madam Usher, will you please escort the witness out.

Witness: Miro Jukic (Resumed) (Open Session)
Cross-examination by Mr. Rees

Page 1863

1 [The witness stands down]

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 --- Luncheon recess taken at 1.02 p.m.

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

5 PRESIDING JUDGE SMITH: Just before we start, the Panel was
6 asked by Language Services Unit to help us keep our excellent
7 interpreters in mind when we're talking, and I'm as guilty as the
8 rest of going too fast at times. But I'll remind you to speak at a
9 slow pace, be aware that, while reading, we all tend to speed up our
10 delivery, wait five seconds before answering a question, and very
11 importantly avoid overlapping with another speaker.

12 We are also being asked to wait a few seconds, five seconds or
13 so, when we move between public and private session. So if there's a
14 small delay, you'll understand why. That's to avoid the
15 interpretation running over into the next session. It has to be
16 finished for the private session before moving on.

17 Madam Usher, would you please bring the witness back in.

18 MR. PACE: Your Honour, just to note, while that happens, that
19 Mr. Halling is not joining this afternoon.

20 PRESIDING JUDGE SMITH: Just a second.

21 [The witness takes the stand]

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MR. PACE: Just to note that Mr. Halling is not joining this
24 afternoon.

25 PRESIDING JUDGE SMITH: Okay, thank you.

Witness: Miro Jukic (Resumed) (Open Session)

Page 1864

Cross-examination by Mr. Rees

1 Anybody else dropping out?

2 MR. CADMAN: Mr. Worboys is absent at the moment but he will be
3 joining us.

4 PRESIDING JUDGE SMITH: All right. Thank you.

5 Mr. Rees, you still have the floor.

6 MR. REES: Thank you, Your Honour.

7 Q. If we look at the next of your contact notes then, please,
8 Mr. Jukic.

9 MR. REES: P132.

10 Q. Again, a note, Mr. Jukic, of one-to-one contact between yourself
11 and an individual via telephone, message in the first instance and then
12 a phone call; is that right?

13 A. Yes, that's correct.

14 Q. The first message is dated 26 October 2020, and then there is a
15 reference to a telephone call and further message on 27 October; is
16 that right?

17 A. Yes, that's correct.

18 Q. And this note is dated 27 October 2020; yes?

19 A. Yes, that's correct.

20 Q. And there is a date in the top left. What does that date of
21 27 October 2020 in the top left indicate, please?

22 A. That's date when I sent to the ZyLAB, this note.

23 Q. I'll ask you again. You submitted that document on 27 October,
24 your declaration on 27 October. Why did you not submit the notes
25 P134, P131, P136, P135, P137, if they existed as of 27 October 2020?

1 A. I can't say now, because I don't know which notes you referred
2 exactly.

3 Q. Well, the notes that were dated P134, dated 15 February 2021,
4 but dealing with a contact on 7 September; P131, dated 25 September
5 2020, but with a further date, 15 March 2020 [sic], dealing with
6 events in September 2020; P136, dated 22 September 2020, but with a
7 further date of 14 March 2021, dealing with events in September; and
8 so on.

9 Why were those documents not submitted on 27 October 2020 with
10 your declaration and, you say, the Official Note we see on the
11 screen?

12 A. This particular Official Note wasn't part of my declaration
13 because, as you can see, it is submitted of 27th and my note was
14 already drafted and -- before -- my declaration, sorry, was drafted
15 day before, and I just signed immediately in the morning, as I
16 remember.

17 Q. They're dated the same date, 27 October 2020, are they not?

18 A. Date is the same, but time is not the same.

19 Q. Where is the time on that document?

20 A. You can see that my last call with this particular witness was
21 1651.

22 Q. According to the content of the note, the witness asked for the
23 SPO to pay medical invoices; is that right?

24 A. He are -- he provide us with the medical documentation and
25 invoices.

1 Q. Yes, he wanted the SPO to pay for it, didn't he?

2 A. He ask if it's possible that SPO pay for these invoices.

3 Q. Yes. So he provided you with invoices and asked you to pay.

4 Did you pay them?

5 A. We paid that invoices.

6 Q. Did you? How much was that?

7 MR. PACE: Your Honour, what's the relevance of the how much the
8 invoices paid for a person's medical bills?

9 PRESIDING JUDGE SMITH: Counsellor.

10 MR. REES: It's an issue of credibility.

11 MR. PACE: Whose credibility, Your Honour?

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. REES: Not Mr. Pace's, yes.

14 Q. How much did you pay?

15 A. I can't say exactly, but it was about, I think, 400 euros
16 approximately.

17 Q. And where are those invoices now? Do you know or not?

18 A. They are in ZyLAB.

19 Q. Do you recall the dates on those invoices or not?

20 A. No, I don't.

21 MR. REES: Next note then, please. ERN is 089909. I don't have
22 a P number, but Madam Court Officer will tell me if there one.

23 THE COURT OFFICER: No, it doesn't have a P number.

24 MR. REES: Right, okay. There we are. So this is one without a
25 P number. I'll just wait for it to be pulled up.

1 Q. So this one's slightly later now. We're into December. And
2 it's a note. You're the author of it. Other attendees. There's one
3 other, it's an SPO investigator whose name we've seen before. And
4 the content of the note records a contact on 1 December 2020; yes?

5 A. That's correct.

6 Q. And you called the individual and informed him that his name had
7 leaked in the media and, according to the note -- well, he said:

8 "By his opinion it was certainly his name ..."

9 What does that mean? Was there some doubt as to what his name
10 was?

11 A. I don't remember that.

12 Q. Do you see the line that I'm referring to: "By his opinion it
13 was certainly his name ..." Was he unsure about his name or ...

14 A. He was sure, obviously. It is written here.

15 Q. Well, were you sure of his name?

16 A. Yes, I'm sure.

17 Q. Right, okay. But he said he didn't care about it and said that
18 he hadn't received any threat and he doesn't have any security
19 concerns; yes?

20 A. That's correct.

21 Q. And is that a note that was written on 1 December and submitted
22 to ZyLAB the same date?

23 A. If it's written here, it is.

24 Q. So it's yet another date before February and March 2021 when you
25 were able to submit documents to ZyLAB; yes?

Witness: Miro Jukic (Resumed) (Open Session)

Page 1868

Cross-examination by Mr. Rees

1 A. Yes, it was.

2 MR. REES: And then P133, please.

3 Q. And we have another note. This is 3 December 2020. And it
4 records a contact, yourself and the same investigator involved, this
5 time on 3 December. And again, you informed the individual his name
6 leaked in the media. He said he wasn't worried, he hadn't received
7 any threat, didn't have any security concerns. Is that right?

8 A. That is correct.

9 Q. And, again, this a document dated 3 December, so are you saying
10 you drafted it that day?

11 A. Yes, I did.

12 Q. And submitted 3 December?

13 A. Yes, I did.

14 Q. So yet another date before February and March 2021 where you
15 were able to submit Official Notes to ZyLAB; yes?

16 A. That is correct.

17 MR. REES: And then 092064. Again, I don't have a P number for
18 it, but Madam Court Officer will tell me if I'm wrong about that.

19 THE COURT OFFICER: There is no P number for this one.

20 MR. REES: No.

21 Q. These were documents, I think they were certainly referred to in
22 the course of your direct examination but these ones not exhibited.

23 And this, again, is a note authored by you, the same
24 investigator involved in the contact. Again, this is dated
25 5 December 2020 and appears to relate to a contact with an individual

Witness: Miro Jukic (Resumed) (Open Session)

Page 1869

Cross-examination by Mr. Rees

1 on the same date; yes?

2 A. Yes, that's correct.

3 Q. And the individual said he's not afraid, doesn't have any
4 security concerns, never threatened after the war in Kosovo. The
5 only threat for him was Serbs during the war. Is that right?

6 A. That's what he said.

7 Q. And the top left-hand corner. The date again is 5 December
8 2020. Does that indicate you submitted it to ZyLAB the same date?

9 A. That's correct.

10 Q. So yet another date in which you were able, notwithstanding the
11 pandemic, to submit documents into ZyLAB, specifically Official Notes
12 of contact with individuals; yes? Yes?

13 A. That's correct.

14 Q. Let me go back to a couple of these just to deal with one
15 specific point. I say "a couple." That was a Welsh couple, a few of
16 these.

17 MR. REES: Can you go back, please, Madam Court Officer, to
18 P135, and there was a -- so I can explain, Your Honour.

19 There was a request over the luncheon adjournment for the list
20 of names that were read -- that I read to the witness earlier to be
21 prepared in writing for the assistance of the stenographer. And
22 we've done that and we've uploaded it to our presentation queue.
23 It's a very sensible suggestion. I was grateful for it. And I'm
24 going to ask about that list again, but I don't need to read the
25 names out because it's now in a document form.

Witness: Miro Jukic (Resumed) (Open Session)
Cross-examination by Mr. Rees

Page 1870

1 So what I'm going to ask is for that list to be alongside the
2 contact notes, please.

3 PRESIDING JUDGE SMITH: Thank you for the explanation.

4 MR. REES: And we're only going to need to go into private
5 session if the answer from the witness to the question is
6 affirmative. So at the moment, at least, I'm going to ask us to
7 remain in public session.

8 Q. But can you see that in the Official Note in relation to
9 paragraph 2 and a contact with an individual on 24 September, the
10 note records that the British Prosecutor that was present for that
11 phone call informed the individual that his name had become public in
12 the Kosovo media.

13 Now, do you remember I went through a list of names that had
14 been made public in the media earlier on this morning?

15 A. Yes.

16 Q. And that --

17 A. Yes.

18 Q. -- list.

19 A. Yes, I remember.

20 Q. That list I've reduced down to writing. It's now, you can see,
21 on the left-hand side of the screen. So what I want you to do is
22 look at that list. And in the first instance, just tell me: Yes,
23 no, or can't remember to the following question. Does the person who
24 was told his name had become public in the Kosovo media, does his
25 name appear on that list on the left-hand side?

1 MR. PACE: Your Honour, the question this morning was asked and
2 answered. We went through every name on this list and the witness
3 said he couldn't recall. Now we are definitely getting into the
4 realm of seeking to circumvent the protective measures order, because
5 the counsel is essentially asking the witness to tell us if any of
6 the names on the left are under any of the redactions on the right,
7 which is not appropriate, and will lead us nowhere.

8 PRESIDING JUDGE SMITH: Your objection is overruled.
9 You may answer the question.

10 MR. REES:

11 Q. So just keep your answer at the moment to yes, no, or don't
12 know. Looking at the list on the left, are any of those individuals
13 on the list on the left the individual that, according to this
14 contact note, on 24 September was told his name had been made public
15 by the media?

16 A. No.

17 Q. Thank you.

18 MR. REES: Can we look, please, it a P135, leaving the list up.
19 Sorry, not P135. We've just seen that. 089909.

20 Q. Can you see there in paragraph 2, according to the note, at
21 least, this individual -- is this a different individual or the same
22 individual as in the last note?

23 A. This is different individual.

24 Q. So this individual was told his name was in the media. Again,
25 confining your answer to yes, no, or don't know, does his name appear

Witness: Miro Jukic (Resumed) (Open Session)
Cross-examination by Mr. Rees

Page 1872

1 in the list on the left-hand side?

2 MR. PACE: Your Honour, I will object again for the same reason.
3 I also would seek clarification if the Panel is basically allowing
4 this, does that mean that the Pre-Trial Judge's order on
5 non-disclosure of these names has been revoked? Because that's our
6 understanding, that this flies in the face of that order, this
7 exercise. Should the witness happen to confirm in the affirmative,
8 that would entirely undermine the redaction and the reasons why it
9 was granted. And for those reasons, we feel this exercise is not
10 appropriate, neither is there any real reason to conduct this
11 exercise.

12 The witness has already said he can't recall whether the people
13 on the left were contacted or not, other than, I believe, it was the
14 first person who he knows affirmatively was not contacted.

15 [Trial Panel confers]

16 PRESIDING JUDGE SMITH: Given the circumstances, the Court will
17 allow the answer.

18 One of the accused, Mr. Rees' client, is accused of releasing
19 these names, number one; and, number two, he has no other way of
20 getting to this information because he doesn't have all of the names
21 in the redaction.

22 So, yes, you may answer the question, if you know the answer.

23 THE WITNESS: The answer is no.

24 MR. REES: And, again, leaving the list on the left, if we could
25 look at 089908.

1 THE COURT OFFICER: P133, for the record.

2 MR. REES: Sorry, P133 indeed.

3 PRESIDING JUDGE SMITH: And, Mr. Pace, if you wish, you can make
4 this an ongoing objection to the same line of questioning. If you
5 wish.

6 MR. PACE: Yes, I do wish, Your Honour.

7 PRESIDING JUDGE SMITH: All right.

8 MR. PACE: Thank you.

9 MR. REES:

10 Q. And we can see, is this contact with a different individual
11 again or the same individual?

12 A. This is contact with different individual.

13 Q. And again we can see, in paragraph 2, he was told his name had
14 been leaked in the media. Does this individual's name appear in the
15 list on the left-hand side of your screen: Yes, no, or don't know?

16 A. No.

17 Q. And the preparation of the list for you to -- that you used as
18 the basis for these contacts, you've told us that you don't
19 specifically know from what material [REDACTED] Pursuant to Post
20 Session - Redaction Order F00430 prepared that
21 list; is that right?

22 A. That is correct.

23 MR. REES: Can I just ask, in relation to P135 -- I should have
24 dealt with it when it was in front of us, but perhaps it won't take
25 long for it to be put back on the screen. P135.

Q. The individual that's referred to in paragraph 2 of that note,

1 who asked for relocation, was that person relocated?

2 A. No, it wasn't.

3 Q. Is that person somebody with a criminal record or do you not
4 know?

5 A. I don't know.

6 MR. REES: And apologies for jumping back and fore, but if we
7 can look back, please, at P133 as an example.

8 Q. Can you see the name of the investigator there?

9 A. Yes, I see the name of the investigator.

10 Q. Can you help us with him, please. What is his role?

11 A. He's investigator in the Specialist Prosecutor's Office.

12 Q. There's a team of investigators in the Prosecutor's Office; is
13 that right?

14 A. Yes, that's correct.

15 Q. He's not the only investigator. And what are his duties?

16 MR. PACE: Your Honour, there is an objection as to the
17 relevance of this question. The witness is not this person, neither
18 is he his line manager, to my knowledge. Neither does he work on the
19 team. So eliciting information from this witness about the specific
20 duties of another colleague has no relevance. At least not at the
21 moment, unless counsel can establish it.

22 MR. REES: Well, let me begin, perhaps, with establishing --

23 PRESIDING JUDGE SMITH: Go ahead.

24 MR. REES: -- this witness's knowledge.

25 Q. Do you know what that investigator's duties are?

1 A. He's -- as I said, he is investigator in the specialist --
2 Specialist Prosecutor's Office.

3 Q. So there's nothing unique about his role?

4 A. He is a -- as all others, investigators, in the Specialist
5 Prosecutor's Office.

6 Q. And how many are there?

7 MR. PACE: Your Honour, what's the relevance of knowing the
8 number of people employed as investigators with the SPO? Even if
9 harmless, I just don't see where this is going.

10 PRESIDING JUDGE SMITH: What is the point?

11 MR. REES: So this investigator, as we all know, is somebody who
12 potentially can give relevant evidence on matters that the next
13 witness is being called to deal with. The only explanation we've had
14 from the Specialist Prosecutor's Office for not calling that witness
15 is that he is somebody with a unique role and unique duties. Without
16 any explanation. And this witness is somebody who can assist us, and
17 I think already has, in that as far as his evidence is concerned,
18 there's nothing unique about this investigator's role or duties.

19 MR. PACE: Your Honour, this merely establishes that it's an
20 inappropriate line of questioning. The decision and the submissions
21 that counsel refer to have been already ruled on. Who the
22 Prosecution chooses to call is its prerogative, and that is a matter
23 that is not going to go anywhere in relation to the charges and the
24 case we're hearing today. So it has been made clear that this
25 witness cannot actually assist with anything relevant.

1 MR. REES: Well, with respect --

2 PRESIDING JUDGE SMITH: Mr. Rees, you've explained what you
3 thought was the relevance, and there was no explanation there. There
4 is nothing that drives this Court to allow this question, because --

5 MR. REES: Well, I --

6 PRESIDING JUDGE SMITH: -- it's proving nothing other than
7 his -- first of all, we don't even know if he has knowledge of the
8 duties.

9 MR. REES: He said that he has and --

10 PRESIDING JUDGE SMITH: He said he knew he was a special -- an
11 investigator.

12 MR. REES: And his role and duties are the same as every other
13 investigator in the SPO.

14 PRESIDING JUDGE SMITH: But he didn't say he knows what those
15 are.

16 MR. REES: No. But he has certainly given evidence that there
17 is nothing unique about it.

18 PRESIDING JUDGE SMITH: What is it you want to prove? What is
19 your case?

20 MR. REES: Well, Your Honour, obviously, the course of
21 questioning can go in different directions, depending on the answer.
22 We've been given information from the SPO there was something unique
23 about this investigator's role, and in circumstances where there is a
24 live issue as to whether this case involves police incitement, the
25 suggestion of that investigator having a unique role was one that I

1 wished to explore.

2 I didn't know whether, for example, Mr. Jukic would answer:
3 Yes, he does have a unique role and then could spell out what that
4 unique role was. But the evidence, in fact, is that there is nothing
5 unique about that investigator's role and duties.

6 So I will move on, having dealt with it in evidence.

7 PRESIDING JUDGE SMITH: Go ahead. Move on.

8 MR. REES:

9 Q. There are two other notes that you asked about last week that
10 you featured in but you didn't prepare.

11 MR. REES: One is at ERN 084232.

12 Q. And this is a note prepared by an Associate Prosecutor of a
13 contact with which you were present with an interpreter. And if we
14 could look at paragraph 4 of the note, the note recalls that the
15 individual being contacted was asked whether anything had happened in
16 the last weeks that caused concerns, and he stated nothing had
17 happened and he didn't expect anything concerning to happen. And
18 that was dated 26 October; yes?

19 A. Yes, that's correct.

20 Q. And then a further note on 092914. This time it's a note
21 authored by the investigator that we were just discussing. This has
22 got a reference in the template for the row on the date, dated
23 3 December 2020, and yet a further date at the top left of 9 March
24 2021. But, obviously, I'm not going to ask you about the discrepancy
25 in those dates, as you didn't author the note.

1 But the content of it appears to deal with the contact on
2 3 December in which the individual being spoken to said she hadn't
3 received any threat either; yes?

4 A. Yes, that's correct.

5 Q. There was a further note that was addressed with you, even
6 though you don't feature in the note. And that's at 084247. We
7 don't need to pull it up. You might remember it. It's the one where
8 you weren't named but you said that you were observing the meeting.
9 Do you recall that?

10 A. Yes, I recall that note. I was present in the room.

11 Q. You were present in the room.

12 A. But not part of conversation.

13 Q. So did the individual concerned in the meeting, were they aware
14 that you were present?

15 A. I think so.

16 Q. Why did you say you think so? What doubt could there be as to
17 whether they knew you were present?

18 A. I don't know if they were, that I'm present. But I was in the
19 room.

20 Q. How big is the room?

21 A. I don't know, 20 square metres.

22 Q. So a big room?

23 A. 20 square metres.

24 Q. All right. 4x5 metres. And you were in the room but you don't
25 know whether the witness knew you were in the room?

Witness: Miro Jukic (Resumed) (Open Session)

Page 1879

Cross-examination by Mr. Rees

1 A. Witness knew that I'm in the room.

2 Q. And the Associate Prosecutor drafted the note when you were in
3 the room?

4 A. She saw me in the room.

5 Q. And the Deputy Prosecutor?

6 A. He saw me as well.

7 Q. Well, you can't think of any explanation as to why you're not
8 down as an attendee in the meeting, because the meeting does list the
9 author and other attendees, doesn't it, in the note?

10 A. Yes, that's correct. But I really don't know why
11 Associate Prosecutor didn't put me in the note.

12 Q. Because they put the interpreter in there, haven't they, as
13 another attendee?

14 A. I don't have note in front of me. I can't see.

15 Q. Okay. Well, we'll pull it up quickly.

16 MR. REES: 084247.

17 Q. So you can see there in the heading the template, as we've seen,
18 has the row for the author. It's the Associate Prosecutor's name
19 there. And then there's a box for other attendees, and the
20 Deputy Prosecutor is listed, as is the interpreter LA-17 and, indeed,
21 they're also referred to in the body of the text. In paragraph 1 you
22 can see them listed. But you're not.

23 A. That's correct.

24 Q. Were you listening in on a listening device, perhaps? So you
25 were not in the room. You were listening to it from a different

1 location?

2 A. No, that's not correct.

3 Q. Or viewing it on a video camera recording it and you were
4 viewing that in a different room?

5 A. We never record of -- meetings with the witnesses.

6 Q. Or did you just make that up when Mr. Pace put you on the spot
7 and asked if you had any direct knowledge about that meeting?

8 A. We never -- we very rarely doing that. But in this case, no.

9 Q. Right. You said last week that one of the witnesses spoke to
10 you and said, "I know very well what happened to the witnesses in
11 Kosovo." Do you remember saying that to the Trial Panel?

12 A. Yes, I remember.

13 Q. And that was early on, you were saying, as one of the calls you
14 received from a person you called a witness. Not one that you
15 contacted; yes?

16 A. Yes, that's correct.

17 Q. And yet we've looked at the notes of your meetings, haven't we,
18 and we've seen you had one meeting and you received one call from a
19 witness and one from a relative before the 24 September exercise
20 where you began calling people yourself. And in none of those notes
21 do you record a witness saying, "I know very well what happened to
22 witnesses in Kosovo," do you? You don't record that anywhere in the
23 contact notes.

24 A. They are not in these contact notes.

25 Q. No, they're not in any contact note. Did you make that up as

1 well last week?

2 A. Can you please repeat your question?

3 Q. You don't record in any contact note a witness saying to you, "I
4 know very well what happened to witnesses in Kosovo." Did you make
5 that up when you were addressing the Trial Panel in evidence last
6 week?

7 A. I made it in some notes for sure.

8 Q. Yes, but not any of the notes that we've got. Do you agree with
9 that at least?

10 A. I don't remember.

11 Q. Well, you don't want to go again, do you, through your own
12 contact notes and see the content? We've done it. Can you not
13 accept that in none of those notes do you record a witness saying, "I
14 know very well what happened to witnesses in Kosovo"?

15 A. I remember that from the conversation of -- with the witness.

16 Q. Yes.

17 A. But I can't say that it is in the notes which are presented to
18 this Panel.

19 Q. So you remember that from your recollection of events, what,
20 over a year ago now, but of -- in relation to which you've made no
21 record?

22 MR. PACE: Asked and answered, Your Honour, multiple times.

23 PRESIDING JUDGE SMITH: Sustained.

24 MR. REES:

25 Q. Now, you said all the persons that contacted you were scared.

Witness: Miro Jukic (Resumed) (Open Session)

Page 1882

Cross-examination by Mr. Rees

1 A. Yes, I did.

2 Q. Well, what about the witness who, in your note P134, apparently
3 spoke to you on 7 September 2020 and said:

4 "I haven't noticed anything suspicious and I haven't had any
5 problem."

6 What about that witness?

7 A. Is it phone call or meeting?

8 Q. That's a meeting.

9 A. So I said all the witnesses who called me, they're scared.

10 Q. What about the son who called you in P136 who said, "There's no
11 need for your side to help us." Didn't express that they were
12 scared.

13 A. He didn't, because he expressed we -- we don't need any help
14 from your side.

15 Q. So it was an exaggeration when you said all the persons who
16 contacted you were scared, was it not?

17 A. That son didn't call me. I called him.

18 Q. You said, in evidence last week, that in relation to measures
19 that were taken as a result of the September 24 exercise, some
20 witnesses who weren't able to contact you "we provided them with
21 phones."

22 Can I ask you again, perhaps you've had time to think now, how
23 many witnesses, individuals that you had contact with, were provided
24 with a phone prior to September 2020?

25 A. Maybe one or two.

1 Q. How many after? Can you say or can you not remember?

2 A. Let's say between five and ten. I really don't know exact the
3 number.

4 Q. Well, do you keep a record of a decision to provide a phone to a
5 witness?

6 A. It is recorded in the Official Notes.

7 Q. It's not recorded in any of the Official Notes that we've looked
8 at or, indeed, have been disclosed.

9 MR. PACE: Your Honour --

10 MR. REES:

11 Q. Would you agree with that?

12 MR. PACE: -- that's argumentative and that's not a question.

13 PRESIDING JUDGE SMITH: Sustained.

14 MR. REES:

15 Q. Well, when you say it's recorded in the Official Notes,
16 Mr. Jukic, you don't mean the Official Notes of contact, do you,
17 because none of the Official Notes of contact record a witness being
18 provided with a phone?

19 A. All these Official Notes presented here are about contact
20 related to the publishing of the documents by KLA war veterans
21 organisation. These Official Notes, I mentioned before that we are
22 doing Official Notes every -- after every contact with the witnesses,
23 and these phones were provided afterwards.

24 Q. I follow. So there may well be phones provided to witnesses
25 afterwards, but nothing to do with the events of September 2020?

1 A. They were provided to them because of the incidents of September
2 2020.

3 Q. Really? But no record that you will produce to demonstrate
4 that; is that right?

5 MR. PACE: Your Honour, that's not citing what the witness said
6 correctly. He'd explained that there are differences in contact
7 notes, so that's an unfair proposition put to the witness. It can be
8 phrased differently and perhaps then would be acceptable.

9 MR. REES:

10 Q. Are you going to produce a document --

11 PRESIDING JUDGE SMITH: Just a moment. Let me rule on that.

12 His objection is overruled. You can continue with your
13 question.

14 MR. REES: Thank you.

15 Q. Are you going to produce a document which sets out a record of a
16 phone being provided to a witness and setting out that the reason is
17 to do with the events of September 2020?

18 MR. PACE: Objection, Your Honour. As Your Honour has ruled in
19 relation to previous requests by counsels to SPO staff members or
20 witnesses, this is not an exercise that counsel can engage in,
21 requesting tasks or documents to be produced while the witness is
22 going evidence.

23 PRESIDING JUDGE SMITH: Sustained.

24 MR. REES:

25 Q. I'm not asking you, you'll understand, Mr. Jukic, to do

1 anything. I'm asking you to confirm, and the answer is yes or no,
2 are you going to produce a document --

3 PRESIDING JUDGE SMITH: I sustained the objection.

4 MR. REES:

5 Q. The emergency risk management plan. You told us that that is
6 something that's undertaken for witnesses who are identified as the
7 most vulnerable and also important for the Prosecutor's Office. Do
8 you recall saying that?

9 A. Yes, I recall.

10 Q. Nothing in any of the contact notes on the preparation of an
11 emergency risk management plan, so we'll have to just take your word
12 for this, for what it's worth. Were any emergency risk management
13 plans already in place for witnesses before 7 September 2020?

14 MR. PACE: Your Honour, if counsel could perhaps be a bit more
15 clear. If he's talking in general, in the past number of years that
16 the SPO has been in operation, and if we are talking in that
17 generality then it is certainly not relevant.

18 PRESIDING JUDGE SMITH: Sustained.

19 Please limit your question.

20 MR. REES:

21 Q. Were any emergency risk management plans already in place for
22 any witness before 7 September 2020 in the two years before
23 7 September 2020?

24 MR. PACE: Your Honour, that is a very broad period of time, and
25 the relevance of this question has not been established.

1 PRESIDING JUDGE SMITH: Overruled.

2 You can answer.

3 THE WITNESS: Yes, there was two or three emergency risk
4 management plans in the place.

5 MR. REES:

6 Q. Do you keep a record of those plans?

7 A. Yes, we do.

8 Q. And of the decision-making process leading to the creation of
9 such a plan?

10 A. No, we don't have a -- records of the decision-making process of
11 that so -- creating such plans.

12 Q. You don't keep a record of that. Okay. And you were asked
13 about the level of threat. Is there a ladder or table setting out
14 the different levels of threat that you use?

15 A. We use a -- a regular table for the level of the threat, which
16 is common in use.

17 Q. Okay. Well, help us with that, then. So there is a table you
18 use. Can you go through each level of the table?

19 A. I think I'm not now prepared for that questions, but, yeah, I
20 can try.

21 Q. Okay. Please try and we'll bear that in mind. Please try.
22 Help us with the different levels in the table.

23 A. So we have low, medium, high, and very high risk.

24 Q. Thank you. And, again, are you going to produce any record to
25 confirm that emergency risk management plan was created as a response

1 to the events of September 2020, or are you simply going to ask us to
2 take your word for it?

3 MR. PACE: Your Honour, you've already ruled on a question very,
4 very similar to this, and it's inappropriate for counsel to put the
5 same question again.

6 PRESIDING JUDGE SMITH: Sustained.

7 MR. REES:

8 Q. What is the difference between a witness security officer and a
9 operational security officer?

10 A. Witness security officer are responsible for the work with the
11 witnesses, contacts with the witnesses, support witnesses during the
12 travels to -- to the place of the interview. And operational
13 security officers are taking care about security of the staff and
14 also about our vehicles and also about security of the organisation.

15 Q. Thank you. May I ask you about relocations. On 28 October, you
16 gave evidence in the morning and mentioned one relocation. And in
17 the afternoon, you said that there were two. Do you recall that?

18 MR. REES: Can we have a look at transcript page 1762.

19 MR. PACE: Your Honour, given that reference was also made to
20 what the witness said in the morning, I would also ask the witness to
21 be referred to page 1708, so that a complete and accurate picture of
22 what he said is being put to him.

23 MR. REES: Well, let's deal with it a different way.

24 Q. You told Mr. Pace and Mr. Matt Halling during a witness
25 preparation session on 14 October 2021 that there was one relocation

1 that related to events from September 2020. And then we can see here
2 on page 1762 of the transcript, at line 25, you said there were two.

3 So which is correct: What you told Mr. Pace and Mr. Halling
4 that it was one relocation or --

5 A. I don't remember that I said to Mr. Pace that it was one
6 relocation.

7 Q. Well, Mr. Pace does, because he wrote a note and he gave it to
8 us, and you said one relocation.

9 So let me ask you again which is correct: What you told
10 Mr. Pace, that it was one relocation; or what you told Judge Barthe,
11 that it was two?

12 MR. PACE: Asked and answered, Your Honour.

13 PRESIDING JUDGE SMITH: Overruled.

14 You can answer.

15 THE WITNESS: The truth is what I said to Judge Barthe, it's two
16 relocations.

17 MR. REES:

18 Q. Were you exaggerating again? Mr. Jukic, were you exaggerating
19 again?

20 A. Can you explain me, please?

21 Q. Can you answer the question: Were you exaggerating when you
22 said two relocations? It's a straightforward question.

23 MR. PACE: Your Honour, it is not a straightforward question.
24 The reference to "again" is very vague, and it is a loaded assertion.

25 PRESIDING JUDGE SMITH: He took "again" out when he rephrased

Witness: Miro Jukic (Resumed) (Open Session)

Page 1889

Cross-examination by Mr. Rees

1 the question.

2 You can answer.

3 THE WITNESS: There was two relocations.

4 MR. REES:

5 Q. Were you exaggerating?

6 A. I don't understand question.

7 Q. Well, it's a question that calls for an answer, either yes or
8 no, or, I suppose, don't know. Were you exaggerating when you said
9 two relocations?

10 A. It was two relocations.

11 Q. In your October declaration, you did not say anywhere that the
12 SPO had to relocate any witness as a result of the events of
13 September 2020; do you agree with that?

14 A. I agree with that.

15 Q. And in your January declaration, you did not say anywhere that
16 the SPO had to relocate any witnesses as a result of the events of
17 September 2020; do you agree with that?

18 A. Yes, I do.

19 Q. Of the two witnesses that you now say were relocated -- let me
20 break it down, actually.

21 In relation to the witness you told Mr. Pace, the one witness
22 who had been relocated, is that somebody with a criminal record?

23 A. There is no person relocated with criminal record.

24 Q. And is that because you consider their credibility when there is
25 a request for relocation?

1 A. That's one of the conditions for the relocation.

2 Q. And the date in which the relocation took place?

3 A. One was few days after --

4 MR. PACE: Sorry, Your Honour, I know it's a late objection, but
5 it is not an appropriate question to ask. It's very specific. Even
6 if the witness is able to answer, it's not relevant and it is too
7 specific and may endanger the relocated witness.

8 PRESIDING JUDGE SMITH: Overruled.

9 You can answer the question.

10 MR. PACE: Your Honour, if it's -- the witness is to answer,
11 could that be please held in private session. The relocation of a
12 witness located in Kosovo is an event which may have garnered some
13 form of attention, and out of an abundance of caution it is best not
14 to draw too much attention to that particular circumstance in public
15 session. If we move to private, the Defence will still be informed
16 of the relevant information.

17 PRESIDING JUDGE SMITH: Counsel.

18 MR. REES: Well, Your Honour knows my view, that we're dealing
19 with matters which should be properly dealt with in public.

20 PRESIDING JUDGE SMITH: Well, I don't --

21 MR. REES: I've expressed that.

22 PRESIDING JUDGE SMITH: I don't know where you're going with the
23 questioning, though, so I don't know whether or not more private
24 information is going to be revealed.

25 MR. REES: I want to explore with the witness the circumstances

1 in which he says a relocation took place, to see whether, in fact, it
2 has anything to do with the events of September 2020. One of those
3 features will be the proximity in time, for example, to events.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 MR. REES: So let me ask -- sorry.

6 [Private session]

7 [Private session text removed]

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1892

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1893

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1894

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1895

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1896

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1897

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1898

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: Miro Jukic (Resumed) (Private Session)

Page 1899

Cross-examination by Mr. Rees

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

Reclassified as Public and inserted pursuant to order contained in F611/A3 of 18 May 2022.

15 MR. REES:

16 Q. Thank you, Mr. Jukic. I've no further questions save that, as
17 with the previous witness, Ms. Pumper, can I reserve a position
18 pending the resolution of disclosure matters as to whether there may
19 be a request to re-call him. But no further questions at this stage.

20 PRESIDING JUDGE SMITH: Yes, you may.

21 MR. REES: Thank you.

22 PRESIDING JUDGE SMITH: Mr. Cadman, cross.

23 MR. CADMAN: Your Honours, due to the very extensive
24 cross-examination we've already heard, I merely adopt the questions
25 and the position put forward by Mr. Rees in its entirety. Our

Witness: Miro Jukic (Resumed) ~~(Private Session)~~ *Reclassified as Public in F611/A3* Page 1900
Cross-examination by Mr. Rees

1 position is the evidence speaks for itself. You've heard that. We
2 also reserve the right to re-call this witness subsequent to the
3 disclosure, as Mr. Rees has set out.

4 PRESIDING JUDGE SMITH: Thank you, Mr. Cadman.

5 [Trial Panel confers]

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 [Open session]

8 THE COURT OFFICER: Your Honours, for the record, we are in
9 public session.

10 MR. CADMAN: Sorry, Your Honour, I had completely forgotten that
11 we were still in private session when I made my point. Perhaps that
12 single point can be reclassified as public, or I can just state it
13 again.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MR. CADMAN: Well, Your Honour, our position is due to the
16 extensive cross-examination we've already heard from Mr. Rees, the
17 Defence for Mr. Haradinaj adopts and supports, in its entirety, the
18 questions asked and the position put forward by Mr. Rees. Our
19 position is the evidence speaks for itself. Whilst we do reserve the
20 right to re-call this witness for further cross-examination should
21 the need arise following the decision on disclosure, I have no
22 questions for this witness at this time.

23 PRESIDING JUDGE SMITH: Thank you very much.

24 Redirect, anything?

25 MR. PACE: Yes, Your Honour. But I can be very brief.

1 PRESIDING JUDGE SMITH: We remind you it must be something
2 brought up on cross-examination.

3 MR. PACE: Certainly, Your Honour.

4 Re-examination by Mr. Pace:

5 Q. Good afternoon, Mr. Witness.

6 A. Good afternoon, Mr. Prosecutor.

7 Q. Just a few minutes ago, reference was made to a witness
8 preparation session and to certain information you may or may not
9 have provided there.

10 MR. PACE: And I'm referring to pages 123 to 124 of today's
11 transcript.

12 Q. And the issue that counsel for Mr. Gucati was asking about was
13 about whether there was one relocation, two relocations, and in
14 particular how many relocations you referred to during that session.

15 MR. PACE: And, Your Honour, I note that the witness preparation
16 log is not in evidence. However, everybody here has access to it,
17 and I seek your leave just to read one paragraph which, in our
18 submission, is relevant to this specific point.

19 PRESIDING JUDGE SMITH: Go ahead.

20 MR. PACE: Thank you, Your Honour.

21 Q. Now, Mr. Witness, this is the information the SPO provided after
22 the meeting that counsel for Mr. Gucati referred to as you having had
23 with myself and the other Associate Prosecutor on this case. And I
24 will read from the e-mail, which just for everyone's ease of
25 reference, is on 14 October at 4.21 in the afternoon. It states as

Witness: Miro Jukic (Resumed) (Open Session)

Page 1902

Re-examination by Mr. Pace

1 follows:

2 "Following the distribution of the batches, SPO witness security
3 took measures in the field. Such measures included one relocation,
4 moving someone to [REDACTED] Pursuant to Post Session - Redaction
Order F00419, and referring persons to witness
5 protection."

6 Mr. Witness, does this sound accurate in terms of the
7 information you provided to the SPO. Specifically, here we're
8 talking about one relocation and someone being moved to [REDACTED]
Pursuant to Post Session - Redaction Order F00419?

9 A. Yes, that's correct. Two persons.

10 Q. And just to be clear, Mr. Witness, in terms [REDACTED] Pursuant
to Post Session - Redaction Order F00419

11 [REDACTED] Pursuant to Post Session - Redaction Order F00419, are you
distinguishing that from a relocation, or is it

12 essentially the same thing?

13 A. It's the same thing.

14 Q. And could you explain why, at least as reported in this note,
15 you did distinguish at one stage between one relocation and [REDACTED]
Pursuant to Post Session - Redaction Order F00419

16 [REDACTED] Pursuant to Post Session - Redaction Order F00419? Is
there any difference that you can think

17 of, if there is any, and if relevant?

18 A. The relocation we did was direct -- directly person was
19 extracted out of the Kosovo moving in the [REDACTED] Pursuant to Post
Session - Redaction Order F00419COR Person was

20 extracted from their home to the [REDACTED] Pursuant to Post Session -
Redaction Order F00419, and afterwards extracted

21 out of the Kosovo.

22 Q. Thank you, Mr. Witness. I've no further questions.

23 PRESIDING JUDGE SMITH: Thank you, Mr. Pace.

24 Judge Gaynor.

25 JUDGE GAYNOR: Thank you, Mr. President.

Witness: Miro Jukic (Resumed) (Open Session)
Questioned by the Trial Panel

Page 1903

1 Questioned by the Trial Panel:

2 JUDGE GAYNOR: Mr. Jukic, I would just like to understand an
3 expression that was used during your evidence today. For the benefit
4 of the other participants, it was at pages 47 to 49 of today's
5 transcript. The expression is "suspected witness."

6 Now, do you use the expression "suspected witness" in your work?

7 A. We don't use that words.

8 JUDGE GAYNOR: Are you familiar with the expression "suspected
9 witness"?

10 A. That was words I heard today first time from the -- Mr. Counsel.

11 JUDGE GAYNOR: And is it correct that you deal with some
12 witnesses who are suspects and some witnesses who are not suspects?

13 A. Yes, we deal with both categories of the witnesses.

14 JUDGE GAYNOR: That's all I wanted to clarify.

15 Thank you, Mr. Jukic.

16 Thank you, Mr. President.

17 PRESIDING JUDGE SMITH: Judge Mettraux will have some questions.

18 JUDGE METTRAUX: Thank you, Mr. President.

19 Good afternoon, Mr. Jukic.

20 The first thing I'll ask is for the Registry to bring up page 27
21 of the transcript of today, please.

22 And Mr. Jukic, I'll ask you to look at that page without
23 mentioning the name in question.

24 Now, please focus on page 27, Mr. Jukic. You were asked
25 specifically about this witness who appears on that page, and you

Witness: Miro Jukic (Resumed) (Open Session)
Questioned by the Trial Panel

Page 1904

1 indicated that he contacted your office and your office contacted
2 him.

3 Do you recall this exchange with Mr. Rees?

4 A. That's correct.

5 JUDGE METTRAUX: And you indicated, I believe, that you did not
6 personally have contact with that individual, but what I want to ask
7 you is whether you are aware of what that individual told your
8 colleagues when they had contacts with him?

9 A. I was aware that this individual was in contact with the witness
10 security team.

11 JUDGE METTRAUX: And do you know what this person told the team,
12 in particular, in relation to any concern, if any, that he might have
13 for his security, or any threat that he had received, or anything to
14 that effect?

15 A. I have knowledge only from the Official Notes and from some
16 discussions during the witness security team meetings.

17 JUDGE METTRAUX: And what is it that you know about that you
18 read in this note and in the meeting, in relation specifically to
19 that individual?

20 A. I can't recall exactly what he said, but he was complaining
21 about publishing of the leaked documents.

22 JUDGE METTRAUX: And to your recollection, was any measure or
23 measures taken in response to that, in relation to that particular
24 individual?

25 A. SPO didn't take any measure to protect this particular

Witness: Miro Jukic (Resumed) (Open Session)
Questioned by the Trial Panel

Page 1905

1 individual.

2 JUDGE METTRAUX: Now, at page 51 and 54 of the transcript - and
3 I don't need, I think, to get to that. But Mr. Rees asked you a
4 number of questions about reasons that could lead a witness to lose
5 interest in continuing with his or her involvement in an
6 investigation or prosecution.

7 Do you recall those questions?

8 A. Yes, I recall.

9 JUDGE METTRAUX: Now, in your experience as a witness protection
10 officer, is the disclosure of an individual, and I should say witness
11 name or personal detail, a potential cause to dissuade that person
12 from further engagement with any investigation or prosecution?

13 A. From my experience, I can say yes.

14 JUDGE METTRAUX: And to the extent you are aware, of course, has
15 this happened in relation to the leak of information in September
16 2020?

17 A. Yes, that was happened during the -- this exercise.

18 JUDGE METTRAUX: Now on what seems to be everyone's favourite
19 topic, the relocation, you were asked a number of questions about it
20 by both sides. And I want to ask you in what sort of circumstances
21 would relocation be regarded as appropriate from your point of view
22 and in the exercise of your functions?

23 A. There is a few conditions for relocation: Number one is threat;
24 second is statement of the person; and third is that person must fill
25 some conditions that we can relocate them, him and the family, it's

Witness: Miro Jukic (Resumed) (Open Session)
Questioned by the Trial Panel

Page 1906

1 voluntariness.

2 JUDGE METTRAUX: And, again, no need to disclose any
3 confidential information here. But what sort of process goes into
4 that assessment that is being made by your office to advise or to
5 recommend relocation? Is it something where there's several people,
6 several offices, several procedures put in place to determine whether
7 relocation is justified in particular circumstances, or are you just
8 taking the words of a witness for it?

9 A. There is a participation of the Prosecutor in the case,
10 investigator, witness security officers who prepare proposal to the
11 Specialist Prosecutor. And if Specialist Prosecutor decide that that
12 person is -- can be referred to be relocated, then we start with the
13 preparation of the referral for including in the Registry Witness
14 Protection Programme.

15 JUDGE METTRAUX: I'm grateful, thank you.

16 A. Welcome.

17 PRESIDING JUDGE SMITH: Judge Barthe has a question.

18 JUDGE BARTHE: Thank you very much, Mr. President.

19 Mr. Jukic, I have a question in relation to the number of
20 telephone calls and/or persons contacted by you and your colleagues
21 in and after September 2020. And I don't want to touch upon the
22 difference, if there is any, between the Welsh understanding of "a
23 couple," Mr. Rees, and the German definition of "a few," here.

24 But for the sake, Mr. Jukic, of clarity, you mentioned the
25 number 200 in relation to phone calls, as I understood. Now, here's

1 my question: How many witnesses did you call in one telephone call?
2 Or, to be more precise, did you speak to more than one person during
3 a telephone call, for example, two or more witnesses or persons
4 living in the same household or sharing a mobile phone?

5 A. We never speak with the -- more than one person in the one call.

6 JUDGE BARTHE: Did it happen that you called and spoke to one
7 and the same person or witness more than once or a couple of times?

8 A. Yes, that's happened during that exercise.

9 JUDGE BARTHE: And, Mr. Jukic, could it be that you and, as far
10 as you know, your colleagues made more than 200 telephone calls in
11 and after September 2020?

12 A. Yeah, we -- it is possible.

13 JUDGE BARTHE: So is the number 200 then your minimum estimate,
14 or is it the maximum estimate?

15 A. It's around 200. I -- I really can't say.

16 JUDGE BARTHE: It could be more --

17 A. Could be more.

18 JUDGE BARTHE: -- than 200? Thank you very much. No further
19 questions.

20 PRESIDING JUDGE SMITH: Anything further of this witness at this
21 time?

22 Mr. Jukic, thank you for being with us. The Court Usher will
23 escort you out.

24 THE WITNESS: Thank you, Your Honour.

25 [The witness withdrew]

1 PRESIDING JUDGE SMITH: Mr. Rees.

2 MR. REES: Your Honour, can I assist with one thing. The
3 reference to a suspected witness. Certainly, from our understanding
4 of the evidence, and it will be there on the transcript. If I'm
5 right, I'm right. If I'm wrong, I'm wrong. But my understanding was
6 that the witness said that he was aware that the SPO had, for some
7 time, been sending summonses for persons to be interviewed as a
8 suspected witness.

9 And as difficult as it is to understand that concept, and that's
10 why I was put on the spot when Your Honour asked me to explain what
11 that is, we didn't know. But it is certainly right -- there's no
12 doubt about it, and I'm sure that this can be an agreed fact as well,
13 that the SPO were sending out summonses to persons to interview them
14 as a suspected witness. It was a bone of contention that's been
15 raised with them and eventually they stopped using that phrase and
16 began to make a distinction between interview as a witness and
17 interview as a suspect. And that's where reference to suspected
18 witness came from. As I say, perhaps that's something that can be
19 dealt with by way of an agreed fact.

20 I will also ask as I undertook to do so during the course of
21 cross-examination those who assist me to deal -- to speak to members
22 of the Prosecution team to see if we can arrive at some agreed facts
23 as to the analysis of the witness contact notes in the topics, the
24 areas - the headings, if you like - that I used in cross-examination.
25 That, I hope, will also assist the Trial Panel in due course.

1 PRESIDING JUDGE SMITH: Well, we have been encouraging agreed
2 facts from day one.

3 MR. REES: Yes.

4 PRESIDING JUDGE SMITH: So we would encourage it again.

5 MR. REES: Thank you.

6 PRESIDING JUDGE SMITH: And hopefully you can talk about these
7 matters.

8 MR. PACE: Your Honour, of course we can engage in *inter partes*
9 discussions, but just to clarify I'm not aware of this term
10 "suspected witness" as being anywhere in evidence, or I still don't
11 know where it came from.

12 And in terms of any agreed facts in relation to the number of
13 notes referring to a threat or otherwise, the Panel is very aware
14 that we sought admission of all these notes, regardless of what they
15 say in terms of whether they do indicate a threat or not, and that
16 request was rejected.

17 If the Defence would agree for those to all be admitted, we
18 would definitely not have any opposition to that. However, I'm not
19 sure if engaging further on this matter would be productive.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 THE INTERPRETER: Microphone for Your Honour.

22 PRESIDING JUDGE SMITH: One other thing before we adjourn.

23 I want to inform everyone that there will be an urgent
24 confidential application this afternoon from the next witness. Once
25 the application is received, I ask both parties to indicate this

1 evening, by e-mail, whether there are any objections to the
2 application. If there are, the Panel will hear from each of you in
3 the morning prior to starting with that witness.

4 And that's all of the information I can give you at this time.

5 Mr. Rees, one other thing. We were still in private session
6 when you said you had no further questions, so I assume you can
7 restate now that you have no further questions at this time,
8 reserving the right.

9 MR. REES: Absolutely. I concluded my cross-examination at
10 least as far as any questions I have at this stage, and I asked for
11 Your Honours' leave to reserve my position for any future
12 cross-examination if the need arose as a result of conclusion of the
13 ongoing disclosure issues.

14 PRESIDING JUDGE SMITH: And as well as with Mr. Cadman, we
15 approved that leave to re-call the witness, if necessary.

16 MR. REES: Thank you.

17 PRESIDING JUDGE SMITH: Mr. Pace, I'm not ignoring you. I just
18 didn't see you stand up. Go ahead.

19 MR. PACE: No problem, Your Honour. It's not too urgent. I'm
20 just a little -- I just would like to clarify the record, because you
21 mentioned an application from the next witness.

22 PRESIDING JUDGE SMITH: Yes.

23 MR. PACE: And I just want to put it on record that the SPO does
24 not intend to file one, neither are we aware that he will be filing
25 anything.

1 PRESIDING JUDGE SMITH: I understand that. And I realise it
2 seems a bit mysterious, but we will have to take it as it comes.
3 You'll be aware of it later on today. And you can do as we ask, send
4 us an e-mail if you have an objection.

5 And we are adjourned. See you tomorrow at 9.30.

6 Excuse me. I now know that the document is now filed, so you'll
7 be hearing quickly.

8 --- Whereupon the hearing adjourned at 3.56 p.m.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25