Monday, 11 May 2026
[Open session]
[The accused appeared via videolink]
--- Upon commencing at 9.37 a.m.

JUDGE GOSNELL: Madam Court Officer, please call the case.

THE COURT OFFICER: Good morning, Your Honour. This is file KSC-BC-2023-12, The Specialist Prosecutor versus Hashim Thaci, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuci.

JUDGE GOSNELL: May we have the appearances, please, starting with the Prosecution.

MR. HAFETZ: Good morning, Your Honour. Josh Hafetz on behalf of the Specialist Prosecutor's Office, and I'm joined this morning by my colleagues Ella Palsenberg, Line Pedersen, and Luminata Garaba.

JUDGE GOSNELL: Defence, on the order in the indictment, please.

Ms. Menegon.

MS. MENEGON: Good morning, Your Honour. My name is Sophie Menegon, and I am joined today by Megan Hirst, Lea Allix-Cornelissen, Lirim Greicevci, Axelle Schembri in the back with Sacha Benheim-Laffont. Thank you.

MR. REES: Jonathan Rees, King's Counsel, on behalf of Bashkim Smakaj. I'm assisted by co-counsel Huw Bowden, Mr. Derrick Gooden, and also Matilda Falchetta Hainsworth.

MR. EDWARDS: Good morning, Your Honour. Iain Edwards for Mr. Kilaj, who appears remotely from the EULEX office. And with me today, to my immediate right, is Alexandra Baer, Eva Kalb, and our

new intern, Alex Cumming.

MR. YOUNG: Your Honour, good morning. My name is David Young. I appear today for Mr. Fazliu, who, as Your Honour can see, appears remotely. I am remotely assisted today by Ms. Livia Veliu and Ms. Vjose Beqiri. Thank you.

MR. ADMIRAAL: Good morning, Your Honour. Alexander Admiraal on behalf of Mr. Kuci.

JUDGE GOSNELL: Thank you. I also just note for the record that Mr. Thaci is attending by videolink, as are Mr. Smakaj and Mr. Kuci.

In respect of Mr. Kuci, I note his revised request for remote attendance, which was F901, filed on 6 May 2026, and on the basis of the updated waiver filed as annex 1 to that request, I hereby grant this request to attend any and all hearings for the presentation of the Defence case by video conference.

We're convened this morning to hear the testimony of DHT-03. And before we proceed further, Ms. Menegon, is there any objection to referring to the witness by her name?

MS. MENEGON: No objection, Your Honour.

JUDGE GOSNELL: And DHT-03 is Professor Helen Fraser.

Are you ready to proceed, Ms. Menegon.

MS. MENEGON: I am, Your Honour. But I have submitted by e-mail this morning a request for disclosure by the Prosecution of various items in the -- listed in the Rule 102(3) notice, and I would like that these items be disclosed before the end of my examination-in-chief in order that I be able to incorporate any

question related to these items during my examination-in-chief. Thank you.

JUDGE GOSNELL: Prosecution, do you have any response?

MR. HAFETZ: Your Honour, since I've been in court, I haven't seen the request, but I understand it and -- it was this morning she said, yeah? We will disclose that this morning.

JUDGE GOSNELL: Thank you. And before --

MS. MENEGON: Your Honour?

JUDGE GOSNELL: Yes, Ms. Menegon.

MS. MENEGON: I'm very sorry if -- I just wanted to say for the record, I'm sorry if my colleague has not seen this request. It was submitted on Thursday evening and reiterated this morning by e-mail. I thought you were aware of it, but -- yeah, I take note of your response today and I appreciate it. Thank you.

JUDGE GOSNELL: Thank you very much.

And there's also a pending request from the witness to have her report in front of her during her testimony and a piece of paper and a pen. I just want to know whether any party objects to that request.

MR. HAFETZ: Certainly not, Judge.

JUDGE GOSNELL: Seeing no such objection, we'll proceed on that basis.

Madam Court Clerk, would you please bring in the witness.

And while that's happening, can I also confirm that there are -- there's no intention from any of the other Defence teams to examine

the witness.

MR. REES: Not at present.

MR. EDWARDS: That's the situation at present.

MR. YOUNG: Unlikely, Your Honour.

MR. ADMIRAAL: Confirmed.

JUDGE GOSNELL: Thank you very much.

[The witness entered court]

JUDGE GOSNELL: Good morning, Professor Fraser. Can you hear me?

THE WITNESS: I can hear you, yes.

JUDGE GOSNELL: Welcome to the courtroom. Thank you for coming here to testify. You're appearing in the case of The Specialist Prosecutor versus Hashim Thaci et al. You will be asked questions first by the Thaci Defence, followed thereafter by the Prosecution, if there are no questions from any of the other defendants.

Please do listen carefully to the questions and try to answer them directly. Also please do try to observe a pause between the end of the question and the beginning of your answer as there's simultaneous translation ongoing and those pauses are critical for an accurate record, as I'm sure you appreciate.

Professor Fraser, do you have the solemn declaration in front of you? I'll ask you please to read that solemn declaration.

THE WITNESS: Conscious of the significance of my testimony and my legal responsibility, I solemnly declare that I will perform my

expert analysis conscientiously and to the best of my knowledge, and that I will state my findings and opinion accurately and completely.

WITNESS: HELEN FRASER

JUDGE GOSNELL: Thank you, Professor Fraser. You are now bound by that oath that you have just taken, and I would also advise you that it is an offence, having taken this oath, to give testimony that is false.

Ms. Menegon, please proceed.

MS. MENEGON: Thank you, Your Honour.

Examination by Ms. Menegon:

Q. Good morning, Witness. We have met before, but --

A. Excuse me, Your Honour. I think I would like to have it slightly louder. I'm struggling slightly. Thank you.

Q. Good morning, Witness. Do you hear me correctly now?

A. I think it's loud enough now. Thank you.

Q. Thank you. We have met before, but I will introduce myself again. I am Sophie Menegon, Specialist Counsel for Mr. Hashim Thaci, and I'm going to ask you some questions today on his behalf.

So can you please state your name.

A. Helen Fraser.

Q. Thank you. What is your profession?

A. I'm a researcher in forensic linguistics.

Q. Can you please tell us who is your current employer or where do you work currently?

A. University of Melbourne in Australia.

Q. For how long have you been working as an expert in the field of forensic transcription?

A. For about 25 years, a little more.

Q. Thank you.

MS. MENEGON: Madam Court Officer, I would like to call DHT1201286-01309, tab 40.

Q. Witness, did you prepare this report dated 27 March 2026?

A. Yes, I did.

MS. MENEGON: Madam Court Officer, could you please show page 1201308 of the report.

Q. Witness, is this your CV?

A. Yes.

Q. And are its content accurate to the best of your knowledge?

A. Yes.

MS. MENEGON: Madam Court Officer, I would like to call on the right side of the screen DHT1201281-01284, tab 39.

Q. Madam Witness, is this the letter of instruction on the basis of which you prepared your report of 27 March 2026?

A. Yes, it is.

Q. And do you recall being provided with a number of documents, along with this letter of instruction?

A. Yes, I do.

MS. MENEGON: Madam Court Officer, could you please call, I guess on the -- on the right side again of the screen, the item 61, DHT1201285-01285.

Q. So, Madam Witness, is this the annex to the letter of instructions listing the documents provided to you in December 2025?

A. Yes, it is.

MS. MENEGON: Madam Court Officer, can you please now show page 1201288 of the report, so table 40, which is already on the left side. And can -- so it's the page ending 1288 of the report. I think it's page 3 of the report. Yeah, can you please go down to the next page. Okay. Can you go to the page before, please. Yeah.

Q. So, Witness, the report indicates under 3., "Materials," that:

"This report relates to the following items provided to me via e-mail by the Thaci defence team between 31 January 2025 and 18 March 2026."

Is it correct that first items were sent to you in December 2025 and not January 2025?

A. Yes. That's a typographical error. Sorry.

Q. Thank you. So does the expert report on your screen contain your independent opinion concerning the matters addressed therein -- therein?

A. Yes.

Q. And do you have any correction or clarification to add?

A. No.

Q. Thank you.

MS. MENEGON: Your Honour, we seek admission of the expert report and the letter of instructions and its annex. Since you will rule on admission later, we request that an MFI number be granted for

each of them.

JUDGE GOSNELL: Prosecution, any objection?

MR. HAFETZ: No, Your Honour, pending the outcome of your rule. No.

JUDGE GOSNELL: Yes. So these two documents will be marked for identification.

MS. MENEGON: I would like as well that the annex to the letter of instruction which lists the items be also admitted.

JUDGE GOSNELL: Certain --

MS. MENEGON: [Overlapping speakers] ...

JUDGE GOSNELL: Certainly. So all three of those documents will be marked for identification.

THE COURT OFFICER: Thank you, Your Honour. So the first document is the report, DHT1201286 to 01309, and that document will receive MFI number 1D00136.

The next document was the letter of instructions, I believe?

MS. MENEGON: Yes, the letter of instruction. It's DHT1201281-01284.

THE COURT OFFICER: Yes. That document will receive MFI number 1D00137.

And there was a third document?

MS. MENEGON: And the later document is the annex to the letter of instruction, which is DHT1201285-01285.

THE COURT OFFICER: Thank you. And that document will receive MFI number 1D00138. Thank you.

JUDGE GOSNELL: And I'll just say for the record now that the conditional nature of the admission is subject to the interim decision on Thaci Defence motion for admission of evidence of DHT03 of 23 April 2026. That's F00876.

MS. MENEGON: Thank you, Your Honour.

Q. Now, Professor Fraser, at page 3 of your report, you mention that you have a research interest in forensic transcription since the late 1990s, having published articles, spoken at conferences, and submitted expert reports on this issue.

Can you please explain us the source of this interest or the significance and importance of this field?

A. Yes. I became interested in this topic when I was working as a lecturer in linguistics and phonetics, and I was asked to give expert evidence regarding the transcription of indistinct audio, especially covert recordings, that was used as evidence in criminal trials. And I was involved in several cases where I was worried that the evidence was being used in a way that could potentially be misleading. So that was how I gained my research interest in that topic.

Q. Thank you. Can you also develop further for what types of cases you have submitted expert reports?

A. Yes. These have mainly been criminal trials and mainly in Australia.

Q. And how often have you testified as expert witness?

A. I have written reports over those many years for approximately a hundred cases. I'm primarily a researcher, not a professional expert

witness, so I haven't got a clear record of exactly which cases and how many cases, but I think I have testified in court about a dozen times.

Q. And to your knowledge, were your findings relied upon by the courts?

A. Yes.

Q. And usually, to your knowledge, was it a matter for the court, the judges, or for the jury?

A. In Australia we have jury trials, so ultimately it's a matter for the jury.

Q. And to your knowledge, has any of your report been ruled inadmissible?

A. No, I don't think so.

Q. And what about the early years of your practice in forensic transcription?

A. What about what?

Q. What about the early years of your practice --

A. In the early years of --

Q. -- about forensic transcription?

A. -- my practice, we had a problem in linguistics generally, not speaking for myself particularly, that some of the courts did not recognise linguistics as a field of expertise, thinking that it was simply a matter of common knowledge. So it was just up to the jury and they did not require expert evidence on that topic. But that is no longer the case. Through some publicity for the field of

linguistics and phonetics as a science, I think it's now well recognised in Australia that linguistics is a field of expertise, and linguists commonly testify in criminal trials.

Q. And do you know if it's a field recognised not only in Australia but, let's say, world-wide in general?

A. I think both of the things I've said are true generally, to my knowledge, in many other jurisdictions.

Q. Thank you. Have you been involved as expert in cases with voluminous audio material and transcripts and where the contested material is not limited to short segments?

A. Yes, I have.

Q. Thank you. Now I would like to get some clarification about your report and some principles you describe. At page 6 of your report, you talk about the way our evolving understanding of human science has had an impact on our assessment of forensic evidence, and I quote:

"The [classical] example is eyewitness evidence, now recognised as far less reliable than it seems to common knowledge."

Can you please develop what you're referring to?

A. Yes. In that first section of my report, I was talking about the background of forensic science in general, not specifically forensic linguistics, and I was trying to put forward the idea that many of the legal procedures have been developed over decades and centuries in relation to common knowledge. So an example of a fact understood by common knowledge is that if you see something and you

later say, "I saw this person" or "this event," that your testimony as an eyewitness could be trusted. And this is because we had a fairly simple idea of how visual perception works. We had the idea that you see something in the world, you pick up that visual data and process it, and that what you see is what you see, what you feel as if you see is what you really see.

Later, through work in various branches of cognitive science, including visual perception, it was discovered that visual perception is far more complicated than this, and that it's quite easy to be confident but wrong as an eyewitness. And it's been discovered that many wrongful convictions have been caused by faulty eyewitness evidence. So the field, that branch of expertise, has moved forward from thinking that visual perception is a simple matter to understanding that it has far more complexity.

Q. And so has the progress of science and research led to some changes in the way police do their investigations?

A. Yes, I believe so. Eyewitnesses are generally questioned in -- according to particular procedures that are intended avoid the -- or reduce the possibility of error.

Q. Thank you. Now I would like to talk about the nature of speech and how human speech perception works.

At page 7 of your report, you explain the complexity of human speech perception, stressing that it goes beyond merely recognizing and associating specific phonemes.

Can you please develop what you mean by that?

A. Yes. So a phoneme is a speech sound, an individual unit of speech roughly similar to a letter of the alphabet, a letter in a written text. And when we listen to speech, we have the impression that spoken language is a sequence of phonemes very much in the same way that a written text is a sequence of letters on the page. Each letter is separate from the other letters, and the same letters recur many times, and that they're roughly similar every time that they occur.

In fact, spoken language is not at all like that. Spoken language is a continuous stream of sound in which the letters are merged or blended to the extent that they can't be easily segmented without first understanding the words.

Q. Indeed, at page 7 of your report, you refer to the impact of bottom-up information and top-down information.

Can you please define these expressions and illustrate them.

A. Yes. So the implication of what I just said about the nature of speech, according to common knowledge, it seems that when we're listening to speech, we simply hear each individual sound and put them together to make words, just as we do when we're reading a written text. The fact that those phonemes do not exist in the way that they appear to means that that cannot be the way speech perception works. So we now have a more complex understanding of speech perception in which the perception combines information from two separate sources.

One form of information that we call bottom-up information comes

from the source of the speech itself, the acoustic signal, the sound wave, if you like, and this includes a lot of different types of information that enable us to interpret what we hear. But the bottom-up information alone is not sufficient. We say that bottom-up information underdetermines the perception of the words that we hear.

So in order to hear words, we need another source of information which is commonly called top-down information. This information comes from the mind of the listener, and it can include everything that the listener knows about the speech that they're listening to.

Q. Thank you. And how much of our understanding of speech comes from each of these types of information?

A. This depends on the nature of the speech and the nature of the audio signal. So let's take this scenario where we're listening not live to a speaker in face-to-face contact within a situated context. Let's take the situation of listening to an audio recording, where we do not have the context around us. We're just listening to the decontextualised audio recording.

We can define the clarity of those audio recordings. I like to use the three -- three-way definition, three terms. One is clear audio, and this is audio where the speakers are speaking slowly and clearly. The audio is recorded to a high level, in high quality, and essentially anybody who speaks the language can listen to that audio and easily hear the content of the audio.

The second I would call unclear. So this would be -- sorry? Sorry, I thought somebody might have said something.

Unclear audio would be a situation where perhaps the speakers are speaking in a very conversational way, not particularly clearly. They might be overlapping with each other. They might not be close to the microphone. They might be moving around. There might be background noise. All sorts of things can make it difficult to hear what is being said. The important feature of unclear audio is that if you just listen to it, it will be difficult to understand what is said. But if you're a skilled listener, if you give the same audio to half a dozen skilled listeners and ask them to write down what they hear, they might take some time, they might have to listen numerous times, but eventually they should all get roughly the same content.

The third category I like to call indistinct. This is -- suffers from even more factors that make the audio unclear. When you first listen to it, you might think, gosh, I won't be able to hear a word, this is very difficult to understand. But the most important feature of indistinct audio is that the -- the content is not retrievable only from the bottom-up information from the speech signal itself. It is affected very much by the top-down information available to the listener. So in that situation, if you gave the same recording to half a dozen skilled listeners, they would hear differently depending on how they were briefed to understand that audio.

So to answer your question in summary, the role of the bottom-up information versus the top-down information depends greatly on the

clarity of the audio. So with clear audio, the bottom-up information can be enough if you have speakers -- if the listeners are speakers of the language. With the unclear or indistinct information, you need more top-down information.

Q. Thank you. And so in practice, which factors may impact our perception of the speech? I'm thinking about audio factors, speech factors, or speaker factors.

A. Yes. So this goes to what -- what factors tend to make clear, unclear, or indistinct, and we can divide up a number of different factors. Some of them I've mentioned briefly without really defining them in what I said.

One is the speech factors. This is the nature of the speech. Is the speech in a dialect that you understand? Is the speech produced clearly by speakers who are monitoring their production to make sure that it is easy to understand? Is the speech formal or colloquial? These are the kind of factors that we can call speech factors.

Audio factors have to do with the technical recording quality. This has to do with the placement of the microphone, the amount of background noise, whether the settings of the recording software are set correctly or not.

And then the speaker factors have to do with whether the speaker is -- I may have, sorry, mixed that up with the speech and speaker factors together. That has to do with whether the speaker is monitoring what they're saying, understanding that they're making a

recording that somebody will be listening to later on.

Q. Thank you. So is it possible to summarise these three different levels of quality of the audio with clear audio is easy to understand for people who know the language, unclear audio means you have to listen to -- carefully and repeatedly to understand it, while indistinct audio is easy to mishear?

A. That's exactly right. The important characteristic of indistinct audio is not that it's hard to hear. Unclear speech is hard to hear, but it's possible without any top-down knowledge to reach a reliable understanding by listening many times. Indistinct audio can be defined as easy to mishear if you have incorrect or misleading top-down information.

Q. Thank you. Now, could you please explain us what is "priming," commented at page 7 of your report.

A. Yes. So priming essentially is the application of top-down knowledge, which I've already defined. So this is the information that you have about the nature of the speech and any presuppositions, expectations you might have about the content of the speech, who the speakers are and so on. So priming is the application of that knowledge, and the importance of the word "priming" is that this knowledge or expectations or information starts to apply before you have even started listening to the speech. It comes first.

Q. In your report, you differentiate contextual priming and textual priming. Can you please explain us what these are?

A. Yes. Contextual priming is what I've mainly been talking about

so far. So this is when your prior information or expectations about what you might be about to hear comes from the context, your understanding of the situation, what you think is about to happen.

Textual priming is -- so contextual priming is always in operation -- almost always in operation. In a normal situation, we have a lot of contextual priming.

Textual priming is not always in operation. What it is is when we have a prior expectation of the exact words that we might hear. So in contextual priming, it's not precise and exact detailed expectations; it's a general or perhaps vague expectation of the type of content that you might expect. Textual priming gives us an expectation or presupposition about the exact words that we might hear.

The most common experience for most people is watching a movie or a TV show or a video where the audio is of poor quality and you have subtitles. I don't mean subtitles translating to another language. I mean subtitles that give a written version of the words in the language that they're spoken, and you can usually have the experience that those subtitles assist you in understanding. So that would be an example of textual priming, where the subtitles are showing you the words as they are being spoken. And this is -- most people find subtitles extremely helpful when listening to poor quality audio.

Q. In your report you say that textual priming is even more powerful than contextual priming, at page 8. Can you please explain

us why?

A. Yes. I think that is exactly right. When you -- these subtitles, it's very powerful assistance. So you can -- especially when the audio is indistinct, the power of textual priming overrides the power of the bottom-up information. So it's quite easy to prime somebody -- I'd like to really emphasise here that I'm speaking about indistinct audio recordings. I'm not talking about every kind of speech perceptions. There's a lot of different types of speech perception. With indistinct audio recordings, it's quite easy to mislead somebody into hearing words that are not there by giving them inaccurate textual priming. It's a very powerful force in speech perception.

Q. And how widely accepted are these principles relating to priming within forensic science?

A. In -- not just in forensic --

Q. Linguistic science --

A. -- linguistics -- in linguistic science more generally, excuse me, these principles have been extremely well established and well accepted since probably at least the late 1950s, when they were first really brought to -- people were aware of them before, but really brought to attention. I've given some discussion in my report there. The general principles are extremely well established in linguistics and also in psychology. So we have a field of psycholinguistics, which straddles both psychology and linguistics. The general principle that speech perception involves both bottom-up and top-down

information, and that contextual and textual priming have a powerful effect on speech perception, extremely well established and well accepted.

I will say that there is quite a lot of variation within the academic disciplines as to the theoretical explanation of these observations. So there can be many debates. We have whole conferences on these topics, where people put forward different theories, explanations, experimental results, all sorts of things. But the general principles that I've just described I think are extremely well understood.

Q. Thank you. And is priming different from cognitive bias, or are there circumstances in which these concepts overlap?

A. Yes. Thank you. Cognitive bias is different from priming. They are sometimes mixed up or confused, but I think it's very useful and important to keep them separate in our minds when we're thinking about speech perception and the reliability of perception under different circumstances.

So priming I have just described. That is the application of any kind of contextual or textual expectations or information to understanding. Bias is perhaps more specific, and that's when we have more of an expectation or an intention to use the information that we're hearing, the content of the audio, to make a case, if you like. So this would be bias when we are inclined to interpret the incoming speech or the content in order to make a particular case one way or the other.

So it's important to understand that priming operates, even if you're not at all biased, if you're completely independent and neutral. It also applies even if you're biased. They are different things but they do overlap to a significant extent.

Q. Thank you. Now I would like to explore this concept through a short video.

MS. MENEGON: Madam Court Officer, can you please play the first minute of the video DHT1201624-01624, tab 42. It is entitled "How do we perceive human speech," by Rhodes, Ryan, and he was quoted at page 9, footnote 12 of your report.

[Video-clip played]

MS. MENEGON: You can cut it. Thank you.

Q. Professor Fraser, can you please explain us what this short video proposes to show with regard to priming, in particular textual priming?

A. So this would be an example of textual priming, where something that is -- most people find it unintelligible. Many people don't even feel that they're listening to speech the first -- in the first clip. I want to emphasise that the -- at the end, it is exactly the same audio. Some people think that it's now different audio. It's exactly the same audio. All that has changed is that you've had some textual priming, and for most people this makes the speech much, much clearer than it was before. So the only difference -- there's no difference in the bottom-up information, but there's very big difference in the top-down information.

Q. I understand that the video uses a sine-wave technique. Can you explain us what it is and -- yeah, can you please explain us what it is.

A. So I'd like to emphasise that this is -- this is not forensic audio. This is a specially constructed demonstration that's been around for quite a long time now. I think it was in the late '80s that they developed this technique. It's called sine-wave speech. So what they do is they record some sentences in a high-quality studio recording, and then they systematically degrade the audio such that it only has -- it's a very minimal amount of information in it. And in fact, they were doing it specifically to explore the relationship between bottom-up and top-down information.

The important thing about this is it starts as a clear audio recording which is then degraded or reduced in the amount of bottom-up information. And it's a powerful demonstration of how top-down expectations and textual priming can work.

What we don't get in this demonstration is the possibility of hearing it some different way. So here we just have the -- the actual words are provided to us as the textual priming, and that's because the researchers know the actual words. They designed the sentences, recorded the sentences, degraded the sentences, and so on. In forensic audio, the important thing is that nobody knows for sure exactly what was said. And the audio is degraded not in this systematic way, but it's degraded in the ways I was describing before, with all sorts of different things that reduce the bottom-up

information in a much more chaotic kind of way.

Q. And so would the same principles of textual priming apply to an audio which is indistinct, for instance, for other reasons? This time, for instance, because of a poor quality of the recording?

A. Yes, but it's much less controlled. The poor quality of the recording through all the -- all the factors that I described earlier. As I say, it's not systematically degraded. And also -- in fact, our Research Hub has also done some experiments on that kind of sine-wave speech. And usually people just provide the real words, but if you provide misleading words, you can quite easily lead people to hear something different, even when it's that systematically degraded.

One of the main types of experiments that we've done is to show how by priming people with different text or different contextual priming as well, you can give people the experience of hearing the same audio in completely different ways. So a typical experiment would be first play not the sine-wave speech. So that is a very specific type of thing that's used for experimentation and development of theories. I'm talking about more realistic forensic audio. If you play it first with no information at all, people hear whatever they hear. Sometimes nothing. Sometimes a range of different things. If you then prime them with one kind of text, many will be influenced by that text to hear words the same or similar to the words that you've provided for them. And then if you then take them another step and say some people think that that was the wrong

content and they instead suggested different content, you can easily have them now completely changing their perception, and having the experience, oh, I was wrong before but now I'm right, now I'm confident but right, forgetting that they were equally confident a few minutes ago, and seemingly not thinking, oh, I wonder if they're going to give me another kind of textual priming and perhaps I'll be equally confident of something completely different.

So these are very unsettling experiences for people. It's not a common thing that we have. We normally just listen and hear what we hear. And in the vast majority of cases, we hear what is really there and everything is fine. So it's an unusual experience to have this -- listening to the indistinct audio, first being unable to hear anything, then hearing it one way, and then hearing it a different way.

Q. Thank you. So is it fair to say, as per the expression, garbage in, garbage out, that if an interpreter is primed with wrong contextual information or textual information, then his transcript will be wrong, tainted?

A. It won't necessarily be wrong, but it's very -- priming somebody with misleading contextual or textual information makes it very much more difficult to be confident that what they hear is reliable.

Q. Thank you.

MS. MENEGON: Your Honour, I would like to tender this video, DHT1201624-01624, into evidence.

JUDGE GOSNELL: Prosecution?

MR. HAFETZ: We have no objection, Judge.

JUDGE GOSNELL: This will be marked for identification for the time being.

MS. MENEGON: Thank you.

THE COURT OFFICER: Thank you, Your Honour. The video will receive MFI number 1D00139, and the classification is public. Thank you.

MS. MENEGON:

Q. Now, Professor Fraser, could you please explain us what is the difference between bureaucratic and forensic transcription that you comment at page 9 of your report.

A. Yes. It's very common in many official circumstances, or I've used this term "bureaucratic" here, that we use transcripts and translations very frequently for all kinds of things. In most of those situations, the audio is fairly clear, sometimes tending to unclear. But mostly the content is known and the context is known to the transcribers and translators.

In forensic audio, I think I've already alluded to this, the point -- sorry, I'll just say one more thing about bureaucratic. The intention of bureaucratic transcription or translation is to make a written record or a lasting record of known content, what everybody has heard, to make an official record that can be referred to later by people who were not present, or by people who was present, by anybody who wants a record of what was said on that particular occasion. So the issue is not to understand what was said; that's

easy. The issue is to represent what was said in a form that's suitable to the end-user.

Forensic audio, the purpose of the transcription or translation is first to determine the content. So especially the transcription phase, the audio -- and again I want to emphasise, I'm talking about indistinct forensic audio where the content is not immediately easy to understand. The intention of the transcript then is to determine what was said and represent it in such a way that it will assist later listeners to understand the content. So this is a slightly different purpose to the purpose of bureaucratic transcription.

Q. So how can we describe the nature of a transcript in forensic transcription? Can we say that it's a representation of what the listener has heard?

A. It's a representation of what that listener heard that's intended to assist later listeners in understanding this indistinct audio which they might not be able to understand otherwise, except with that assistance.

Q. Thank you. So what do these principles mean for how forensic transcription of indistinct audio should be done, and in particular, are there recognised good practices for forensic transcription?

A. Yes. Thank you. I think it's fair to say there is not yet universally -- universally accepted best practice for providing transcripts of forensic audio. And myself and other colleagues, my Research Hub and similar organizations in different countries, are working to develop that kind of best practice so that we can ensure

that courts are always and only assisted by reliable transcripts.

What I can say, however, is although we do not yet have universally recognised best practice, we do have quite well-recognised poor practice or bad practice.

Q. Can you tell us what are those bad practices that should be avoided?

A. So the practices to be avoided, to have the transcribers working closely with the client, whether that's the prosecution or the defence. The nature of the way these things work is usually forensic audio is obtained on behalf of the prosecution through law enforcement or other agencies. But exactly the same principal applies whether it's defence or prosecution. And the importance of that is because of what we've just been talking about all along. It's the same principle from forensic science more generally and from our understanding of human speech perception in the -- all the explanations that I've been trying to give you just now is that the -- is the influence of that top-down knowledge or top-down expectations. It's been very well established through many branches of forensic science, not all -- not only language, many others that are considered to be very objective, that having some hint or expectation of the outcome of the -- of what content would assist in understanding the outcome of the trial can really influence the way people understand the evidence.

So one commonly -- if you look at the research that's been done, we've had various surveys of practitioners. One of the most common

questions is what do you do to avoid cognitive bias or inappropriate priming, and most people who work on forensic transcription have some answer to that as to how they avoid the misleading priming or cognitive bias.

Q. And how university -- sorry, how universally is it agreed, this -- like such bad practice -- I'm referring mainly to the -- I guess, the closeness between the transcribers and the police investigators or prosecution. How universally is it agreed, this concept or practice?

A. Well, of course, I don't know for every practitioner or group everywhere. But my understanding is it's very well understood now. It did not use to be. It used to be very common, even in -- even where it's not the police themselves providing the transcripts, which also happens. We haven't spoken about that. But in situations where the transcripts are provided by practitioners, it's -- it used to be very common for the client, typically the police in the jurisdictions that I'm familiar with, to come and brief them. This is what's going on. These are the speakers. These are the things we want you to look for and so on. There have been quite a few trials where that's been taken up, and I think most people strongly avoid that now. Most law enforcement agencies avoid that as well.

Q. Thank you. And do these good or bad practices vary, according to you, depending on the length of the audio in the case and how much of it is contested?

A. No, not at all. It's the same.

Q. And is it important to distinguish between what is done for the investigations and what is produced for the court as evidence?

A. I think this is a very important point. During an investigation it's -- I suppose this happens more commonly for the translation side than for the transcription side. During an investigation, it's quite common that no transcript is made. The investigators will be listening. They may have assistance of translators or other language experts to help them understand what is being said, and they may not even make a transcript. They may have some summaries. But they want to act quickly during the investigation, understand the content, and act during the investigation. Nothing I'm talking about here has anything to do with that. I have no intention to make recommendations about how investigations are conducted.

What I do think is important is that transcripts or translations that are used during an investigation, there -- there are problems in using the same material as evidence in court, where neutrality and independence and reliability are more important.

Q. Thank you. Now I would like to discuss about the audio and transcripts in this case that were provided to you. As indicated in the letter of instructions, because of the voluminous nature of the audio recordings and associated materials, you have been provided with materials relating only to two of the 11 recorded detention visits, as a sample. And at page 3 of your report, you noted that such sample was representative of a much larger corpus of forensic audio evidence from the case.

So my question is: What factors would you take into account to determine whether or not a set of audio samples is representative?

A. Well, I did not decide that these ones were representative. I was given these two sets of recordings, and it was you that told me that they were representative. If I were asked to determine whether samples were representative of a larger corpus, I would probably be looking at factors like those that we've already discussed, the speech factors, the speaker factors, and the audio factors, and make sure that the level of intelligibility of the audio was approximately similar throughout.

Q. Thank you. And what about the representativeness of the transcripts? For instance, would you need to know how they have been created to assess whether they are not representative of a larger batch?

A. In anything to do with a transcript, it's really very important to know the process that was followed in creating those transcripts. It's very difficult to just look at a transcript *post hoc*, after the fact, after it's been made, when it's sitting there in front of you, it's very difficult to determine how reliable it is.

Q. So you do not speak Albanian. And while you do not speak this language, how did you assess the quality of the audio in this case? And how did this limit you in the work undertaken for this report?

A. I do not understand the language. Normally, if I'm listening to indistinct audio in English, I can first listen myself with no contextual information and that gives me an impression of how

intelligible the audio is, whether it's clear, unclear, or indistinct. I usually work with -- we have a small group of transcribers that have been tested and trained, and that I can rely on them as being very skilled listeners to indistinct audio. So normally I would give it to them and ask them independently, first with no contextual information. Now that -- I want to emphasise that's not the end of the process. You don't do the whole thing with no contextual information, in my opinion. Some people think that should be done. But at the beginning, it's important to get an impression of what skilled transcribers hear with no contextual information. Why is that important? Because it gives you an impression of how much information is in the acoustic signal itself as opposed to how much information is coming from some external contextual information.

In this case, I was not able to do that because I don't speak Albanian and I do not have access to any skilled Albanian transcribers of indistinct audio. So I used AI transcriber. I discussed that in my report. I don't know if you want me to go into it now.

Q. I will ask you another question before. Indeed, you have mentioned that you did not have access to skilled Albanian listeners for this report. Would you have preferred to benefit from the assistance of such a trained Albanian speaker in the current case?

A. Ideally, I would like at least two --

Q. Yeah.

A. -- speakers of the language, not just that they're trained in transcription and translation. I'd like to make this point very clearly because it's very important. Many people are trained in transcription and translation in that bureaucratic sense that we're speaking about. They have very high-level skills that we can all respect. That is a different set of skills from the skill of deciphering indistinct audio.

I often say that forensic transcription -- that's the name given to my field is forensic transcription, but I often say it's a misnomer. It's a very poor name for the term because the key thing is not the transcription. The transcription, writing it down, is the easy part. The hard part is determining what words were spoken. And this is a very specialised skill that does -- does not get trained or tested particularly within the many other forms of transcription, either for linguistics or for bureaucratic circumstances.

Q. Thank you.

A. So I would like the people who speak the language and have demonstrated skill in deciphering indistinct audio, at least two of them to work with.

Q. Yeah. And so in the current case, did you ask for such assistance to us and --

A. I believe I did, yes, at the beginning.

Q. And for the record, I would like to note that we said it was not possible within the time we had in this case.

A. Correct.

Q. So, indeed, at page 7 of your report, and you just mentioned that you tried to assess the intelligibility of the audio by running it through an AI transcription tool.

So just to clarify, do you consider that AI is a good tool to transcribe indistinct audio?

A. Definitely not. It is definitely not any kind of substitute for a reliable human transcriber.

Q. And so why did you think it was useful at least to use this AI in the current case?

A. Because I thought --

THE INTERPRETER: Interpreter's note: The speakers are kindly requested to pause between question and answer and to slow down. Thank you.

THE WITNESS: Shall I continue?

MS. MENEGON:

Q. Yes.

A. Thank you. Sorry about that.

So where was I? I was saying that AI is no substitute for human -- skilled human transcription of indistinct audio. The reason that I chose to use it in this situation is simply that it could give us an indication of how much information was available bottom-up.

Shall I continue to say what I did?

Q. Yes, briefly.

A. Okay. So what I did was I used the AI transcription tool Whisper 5 from ChatG -- Whisper from ChatGPT-5, which was the best

available at the time, with the largest model. First, I used an Albanian news recording for which I had English subtitles.

Q. I'm going to interrupt you --

A. Oh, sorry.

Q. -- because I think it's quite well-described in your report. But my question was more about what was the benefit of -- of recurring to this AI in the present case pursuant to -- pursuant to you?

A. AI -- the benefit was that the AI recording could easily transcribe the clear audio and translate, giving a translation nearly identical to the human-transcribed material. On the other hand, the audio from this case it could not understand or transcribe whatsoever. It just made a mess of it.

Q. So I understand it gives you, let's say, a hint, an indicia, to identify the quality of the audio.

A. That's right. Thank you.

Q. Thank you. Now I would like to have your views on a test we conducted regarding the quality of the audio files of the Kuci visit of 3 September 2023. For this visit, as listed in the part 3 of your report, the SPO created so-called enhanced audio files of certain excerpts and provided a transcript for the non-enhanced audio files and slightly different transcript for the enhanced audio files.

Before we look at some of these transcripts, can you please tell us your understanding of this process on enhancement, what does it involve, and what is the result usually.

A. Well, in -- did you say "usually" or in this case?
Q. In this case in particular.
A. Okay. Well, we have -- we have reports of what was done, but we have no report of what effect this had or especially what effect it had on perception. There's no objective measurement of the effect on the perception. So essentially we don't know exactly what effect this has.
Q. And to your knowledge, in general, and in the current case, is an enhanced version necessarily clearer than the unenhanced version of the audio?
A. No. Enhancing is quite a variable technique. A lot of it involves noise reduction. This is a really good example of what we were speaking about earlier, about common knowledge versus scientific knowledge.

So in common knowledge, if audio is very difficult to hear, we often have the experience or the impression that there is some clear speech behind a veil or a mask of noise. And this gives us the idea that if only we could remove that veil or mask of noise, we would be able to hear the clear speech behind it. This is completely false. This is not how it is at all. What makes indistinct audio indistinct is the lack of bottom-up information. Enhancing cannot, or at least should not, add information. Reducing the noise does not really make the speech clearer. And sometimes -- and I've done a lot of work on this and a lot of experiments both by myself and with others. Sometimes the attempt to reduce the noise can actually make the

speech objectively less intelligible. It sounds strange, but it is true that in reducing the noise, it's also removing information.

Q. Thank you.

MS. MENEGON: Now I would like to show you, Madam Court Officer, 1D37. It's tab 10.

Q. So this is an e-mail exchange between the Thaci Defence and Hysni Recica, an independent Kosovo Albanian freelance interpreters, translators, who was asked to transcribe and translate two enhanced audio files of the Kuci visit.

MS. MENEGON: For reference, it was items -- the audio files were P107.4 and P107.3, so they correspond to two extracts from the Kuci visit of 3 September 2023.

Q. And he was not provided with the SPO transcript.

So can you see that pursuant to this e-mail --

MS. MENEGON: Sorry, Madam Court Officer, can you please go down a bit. Thank you.

Q. So can you see that pursuant to this e-mail exchange, Hysni Recica indicated that he was not able to transcribe and translate these two enhanced audio files based on the audio quality of the file?

A. Yes, I can see that.

Q. Now I would like to compare it with the corresponding SPO transcript.

MS. MENEGON: So, Madam Court Officer, could you please put on the screen P107.4-ET, which is tab 5. This is the SPO transcript of

the enhanced audio file P107.4. Thank you. Can you -- we can see the title of the audio files on the first line, enhanced.

Madam Court Officer, can you go down slowly until the last page.

Q. So you will see that for these audio files, the SPO produced a detailed transcript of five pages.

MR. HAFETZ: Your Honour, if I may.

JUDGE GOSNELL: Yes.

MR. HAFETZ: Just to the extent we're in public session and broadcasting the exhibits publicly. If we're not, that's fine, but I just want to make sure we're not.

JUDGE GOSNELL: This document is not being broadcast, so I believe we can proceed.

MR. HAFETZ: Thank you.

MS. MENEGON:

Q. So, Witness -- oh, sorry.

Witness, I want to ask you about the difference of transcription between the SPO and Hysni Recica for the same enhanced audio file. First, does this difference tell us anything about the quality of the audio itself? The fact that Mr. Recica was not able to transcribe while the SPO did.

A. Well, it probably does or possibly does. With respect, it's not a very well-controlled experiment. We do not really know this Hysni and what his -- and I personally do not know -- of course, I have great respect for him as a translator and transcriber, but I do not personally know if he would fall into the category of people that

I spoke of earlier who have demonstrated ability in deciphering indistinct forensic audio. However, in general terms, I think this supports very much the kind of framework that I was providing early, whereby -- that we can see that producing a transcript of this material benefits greatly from top-down information, which I believe Hysni did not have. So this is common scenario. I suppose, roughly speaking, it's like what we heard with the sine-wave speech, only very roughly, but it's the same concept. When you listen to something with no top-down information, it's very difficult to understand. When you do have that top-down information, it becomes far more intelligible. So I think in general, that that's what -- the sort of thing that we're seeing here.

Q. Now I would like to show you another e-mail.

MS. MENEGON: Item 1D121 which is tab 11.

Q. This is an e-mail exchange between the Thaci Defence and the Court Management Unit in December 2025.

A. I'm sorry, I don't see it yet.

Q. Yeah.

A. Here it comes now. Mm-hm.

Q. So the Court's Language Services Unit, LSU, was asked to transcribe the corresponding non-enhanced audio files of the Kuci visit of 3 September 2023.

Can you see that, pursuant to this e-mail exchange, LSU indicated that it was not able to transcribe and translate these two non-enhanced audio files based on the audio quality of the files?

A. Yes. I think this was before I was involved in the case at all. Yes. I see that.

Q. Indeed. Now I would like to compare it with the corresponding SPO transcript.

MS. MENEGON: So, Madam Court Officer, can you please put on the screen the full transcript of the Kuci visit of 3 September 2023, which is P106-ET, tab 2, from page 137. So I would like to go to page 137.

We can see the name of the audio file at line 9, and they indicate at line 8 and they say at line 9 that this recording has been enhanced and transcribed in a different transcript.

Can you please go down until page 141 in order that we see how detailed is this transcript. Thank you.

Q. So I'm going to ask you the same question. In your opinion, what this difference of transcription between the SPO and LSU say about the quality of the audio, and which factors may explain this difference of transcription?

A. Well, it seems to be a very similar circumstance. Again, I want to emphasise that, again with all respect to the translators and transcribers, I don't personally have any demonstration of their ability with indistinct audio. If I were doing this kind of experiment, I would use people where I could speak to that skill on their -- on their side. But once again, we see that without the contextual information, this audio is very difficult to understand. That would be the minimal way to state it. It's very difficult to

understand. And with the contextual information, it becomes easier to understand.

Q. And for now, we don't have neither information about the listener skills of the SPO staff involved in the transcripts.

A. I personally have no access to that.

Q. And what about the fact that the SPO staff may have had access to both the enhanced and unenhanced audio files? Do you think it could have influenced as well the -- the transcript they created?

A. I think it is poor practice to go back and forth between enhanced and unenhanced audio. Simply that the -- it's common practice, but it's poor practice from a speech perception and forensic transcription perspective. The enhancing alters the audio. Of course, the intention is to alter it by only removing noise and thus making the signal clearer. But, again, with respect to those who do these things, it's not really -- doesn't really show a very good understanding of the nature of speech and the way speech perception works. So essentially the enhancing is altering the audio.

If you go back and forth between one and the other, you might hear something in the enhanced that you didn't hear in the unenhanced. Then you would go back and think, oh, right, maybe I hear that now. But do you really or are you just being influenced? It's definitely poor practice to go back and forth like that. You should do either one or the other, and ideally have different people so that you can, again, using skilled transcribers, have some

strategy for doing a proper experiment to find out what is the effect of the enhancing on perception. And as far as I've seen, that has not been done here.

MS. MENEGON: I think --

JUDGE GOSNELL: Ms. Menegon --

MS. MENEGON: Yeah, it's a good time to break, but before, could I please ask the SPO to confirm when they do they expect to disclose the items on their Rule 102(3) notice. And I have to admit, I'm sorry, I apologise, it appears that I had omitted to put the SPO in copy of my e-mails, so that's why I guess they didn't do it earlier. I apologise.

MR. HAFETZ: So about that, Your Honour, when we started the session --

JUDGE GOSNELL: Just before we proceed with your answer, Mr. Hafetz.

Court Clerk, could you please usher the witness out of the courtroom.

Professor, we'll be back with you after the break at 11.30. Thank you very much.

[The witness stands down]

JUDGE GOSNELL: Yes, please proceed, Mr. Hafetz.

MR. HAFETZ: I appreciate Ms. Menegon acknowledging now, at 11:02, that we were not copied or included at all on the e-mail on Thursday and weren't included on the e-mail complaining, apparently, to Your Honour this morning and detailing in detail that we hadn't

complied with their request which we didn't receive. We were then sent an e-mail this morning just to us after I was asked and told in court that we haven't provided the e-mail, just to us, forwarding the e-mail saying there was a malfunction. I don't know what the malfunction was and I'm not commenting on that. But what would have been more transparent, I think, to the Court for the last hour and a half, would be to forward that e-mail to all of the parties, noting that the SPO had been dropped off, and that they were, in fact, incorrect, and that they were, in fact, taking us to task with Your Honour for not providing it immediately on Thursday.

The answer to Ms. Menegon's question, though, is we will endeavour now, having received it, to produce it as soon as possible this morning.

JUDGE GOSNELL: Thank you. Thank you, Mr. Hafetz. So the issue has been ventilated. Now there's transparency on the communication, so we'll proceed accordingly.

Ms. Menegon, how much more time do you have in your direct, bearing in mind, of course, that the Court has carefully read the report and, of course, it is tendered as her testimony. So can you give an indication of how much more time you may have?

MS. MENEGON: Yes, Your Honour. It's more or less the same time, one hour and a half.

JUDGE GOSNELL: Thank you.

So we will break now until 11.30, and then we will be back in session at that time. Thank you.

--- Recess taken at 11.04 a.m.

--- On resuming at 11.33 a.m.

JUDGE GOSNELL: Madam Court Usher, could you please bring in the witness.

[The witness takes the stand]

JUDGE GOSNELL: Welcome back, Professor.

Ms. Menegon.

MS. MENEGON: Thank you, Your Honour.

Q. So, Professor Fraser, we are going to continue for, I think, at least one hour and a half with the same type of questioning.

So we also asked two independent interpreters, Hysni Recica and Eurideas Language Experts, to translate and transcribe two short excerpts of the audio recording of the Kilaj visit of 6 October 2023, which were played by the SPO during its opening statements, and I would like to review them with you.

MS. MENEGON: So, Madam Court Officer, I would like to call first the transcript of the second excerpt of the Kilaj visit, which is P109-ET, at page 3. And can you put it on the left side, please. So page 3, from line 8, until page 4, line 7.

And can you please now put on the right side item 1D39.1, which is tab 15, at page 6. This is a transcript produced by Hysni Recica in response to the Thaci Defence to -- that he transcribe the same audio file of the Kilaj visit of 6 October 2023. So it starts -- please go to the bottom. It starts at B, segment 2. So we see the transcript of Mr. Hysni Recica.

Q. We can note, for instance, that he has put in red the term "Vllaznim."

MS. MENEGON: And now I would like to call, on the right side again, this time the transcript produced by Eurideas, which is, Madam Court Officer, 1D132-ET, tab 34, in response to a Defence request to transcribe and translate the same audio file of the Kilaj visit.

So we see it starts similar, in the same way.

And can you please go down, Madam Court Officer. And can you please go to the next page. We can see at the top it says: "Speaker 1, Vllaznim, not entirely sure of the name."

Can you please, on the transcript of the SPO, go to the second page, please, page 4, line 7. Can you please go up a bit?

Q. And we see, for instance, on line 4 it says: "Vllaznim, how are you."

So, Professor Fraser, we see here like -- we have seen three different transcripts of the same short audio file which are pretty detailed, with some similar names, such as this individual I've just named.

What does this comparison of transcripts say about the quality of the audio file, pursuant to you?

A. Well, these transcripts look reasonably similar, so perhaps this is a clearer audio file.

Q. And so does that mean that, indeed, with such a clearer file, which may be clarified a clearer unclear audio, with a careful

review, various interpreters will reach a similar result?

A. "Unbiased interpreters," did you say? Yes.

Q. No, with -- I said "various interpreters."

A. Oh, various. Sorry. Yes, exactly, yes.

Q. Thank you.

MS. MENEGON: Now, Madam Court Officer, I would like to call the transcript of the first excerpt of the Kilaj visit played during the opening statement. So on the left side, can you please put the SPO transcript P109-ET, from page 55, line 12. Thank you. And can you please scroll it slowly until the page 58, line 7, in order that we see how detailed it is. Thank you. So we can see they managed to produce a transcript of around four pages.

Now, Madam Court Officer, can you please put on the right side of the screen item 1D39.1, page 6, which is the response of Mr. Hysni Recica to our request to transcribe the same audio file. Page 6.

Q. And his responses for the B segment one, "unclear, inaudible." So he didn't manage to transcribe anything.

MS. MENEGON: Now, Madam Court Officer, can you please put on the right side again item 1D131-ET, tab 32, which is the transcript produced this time by Eurideas in response to our request to transcribe the same audio file. Can you please go down and to the next page.

Q. And we can see for the SPO line 7, it says, "Please convincingly do not." And on the Eurideas version, the last line says, "Speak

with confidence."

So, Professor Fraser, we see that Mr. Recica did not manage to transcribe something, the Eurideas transcript is, like, one page and a half, and the SPO transcript is more or less four pages, with some different words. So in your opinion, what does it say, these different transcripts, about the quality of the audio file?

A. Again, this seems much less clear. There seems to be a lot of variation, and especially the one with no contextual knowledge or contextual expectations was able to hear a lot less.

Q. Thank you. Now I would like to talk more generally about the reliability of the SPO transcription. So what information would you expect to receive in order to be able to confirm that the transcript is reliable?

A. So to confirm that a transcript is reliable - and again, I want to emphasise that I'm speaking about indistinct forensic audio recordings, so this is a special category of transcription task - I think we would like to know that the transcribers had some demonstrable aptitude or demonstrable skill in deciphering indistinct audio, and we would like to know that they had also followed a process. I have my preferred process. Others have different processes, I'm sure, not exactly the same. As I said earlier, we do not yet have widely agreed best practice in this area. I hope we soon will, but at this stage we do not. But I would definitely like to see some indication that a particular practice had been followed, and that practice would probably include at least as a minimum that

the transcribers had first been asked to transcribe with no contextual information and no access to each other's transcripts, just independently transcribing before the comparison took place. And that would give us some indication of what could be heard in that audio by skilled transcribers just from the audio itself.

Then I would like to see some following process, we have some variation in our field. Some people like to give some relevant, reliable general information about the nature of the audio. Some people like to ask the transcribers to compare each other's transcripts and work together in that way. But some sort of process should be followed. And the transcribers should be well protected from any detailed case-related information that tends to go to the outcome of the trial. This is exactly the same practice and procedure that is followed by other forensic science -- responsible forensic sciences where there is -- as we spoke earlier, we generally expect some separation between the parties in the trial and the work of the transcription.

Q. Thank you. So in the present case, what were your conclusions about the reliability of the SPO transcripts on the basis of the information provided to you?

A. I think the reliability is low, not in the sense that I can state that the transcripts are wrong. I can't. But I don't think we can rely on them as being accurate, accurate enough for this kind of context.

Q. Can you please clarify for which reason? The issues you have --

I mean, can you please summarise the issues you have identified in your report, especially I'm referring to the Part 7.4, description of the transcripts, at page 19 to 20. How did you reach this conclusion that the reliability is low?

A. Well, partly because of what we've just been speaking about, that we do not have the demonstrable aptitude or skill for deciphering poor-quality audio. That does not mean they're not experienced. And, again, I want to emphasise, I have respect for them in general as transcribers and translators that work in this field, and I'm sure they are very experienced. But experience and expertise are two different things. We need demonstrable expertise in this particular skill. And the lack of a process that was followed in the way that I have described, we do not have this kind of staged process that I think is a prerequisite for reliable transcripts, especially those that are then going to be used to provide a translation which is then -- it's the translation that will be guiding the Court.

In saying that, I have not gone into the issues in 7.4. I'll be guided by you as to what you want me to say there.

Q. Yeah. So am I right to understand that you identified the lack of timestamps also as one of the issue which affects reliability of the transcripts?

A. So these go to being more aspects that I see in the transcripts themselves. And a lack of timestamps, I can't tell you how difficult that makes the whole business of evaluating these transcripts and

translations. Not only is it impossible, really, to follow the transcript for more than a few lines against the audio, it also makes it very, very difficult to compare one transcript with another or the transcript with a translation, and all of these kinds of things. So I think it would be -- I would never put forward a transcript without detailed timestamps, partly for the benefit of the court, but partly for our own benefit in analysing and reviewing those transcripts.

Q. Thank you. You also mention that there was -- you noted that there was a great deal of sophisticated punctuation as an issue, and, indeed, the transcripts often include quotation marks. What do you think about this practice?

A. So these texts end up looking very much like written texts rather than like transcripts of spoken language. So written texts, of course, we use a lot of punctuation for all kinds of things, colons, semi-colons, quotation marks, all the rest of it. In transcription, my personal practice -- I think at least some colleagues would agree with this, some might have some difference of opinion. My feeling is to use minimal transcription -- sorry, minimal punctuation in a transcript that is intended to be followed against audio simply because punctuation is an interpretation of the intonation, the rhythm, the voice quality and other features of the voice that would be audible to the listeners to the audio. So the punctuation effectively is putting forward the transcriber's or translator's understanding which arguably could be left to the listener.

Q. Thank you. So am I right to understand that this issue you have just identified are related to the proper process to create forensic transcription? We're not talking about bureaucratic transcription here.

A. We're not talking about?

Q. Bureaucratic transcription.

A. Correct, yes. I'm -- I want to in general say I'm talking about transcription of indistinct forensic audio, and again this is a special case.

Q. Thank you.

A. It's much different from bureaucratic.

MS. MENEGON: And, Madam Court Officer, can you please put on the screen Exhibit P110-ET, at page 222, line 1. So this is an SPO transcript of the Smakaj visit of 7 October 2023.

Q. And I'm going to invite you to comment some of the transcript's content. I would like to just refer to line 1 of page 222.

So you can see that on the first line it says: "Artan Behrami: [Imitates someone] [indiscernible]."

What can you tell us about such comment from the transcriber?

A. These are quite detailed questions so I want to emphasise that I have not studied this in detail. So you are asking me more or less to respond off the cuff in some way. But just looking at that very first line, "imitates someone" I think is very much an interpretation from the transcriber and the translator. So, yeah, these -- these transcripts and translations are putting more into what's on paper

than is in audio. How do we know whether they were imitating someone or not? Perhaps they were. I don't know.

Q. Thank you. And in your report, you also mention as an issue the interpretation of various sounds, like page turning, which go far beyond what is objectively derivable from the audio itself.

A. Yes. There were quite a lot of examples of what you could call sound effects being described in ways that -- exactly that. It goes beyond what you can hear. Perhaps you hear something that sounds like paper rustling or paper moving. Is it a page being turned? Same, you might hear what seems to be like a door moving. Is it somebody entering or leaving? These are, I would say, going beyond what is in the audio itself.

Q. You also mention that you noted a lack of indication of variable confidence in the transcription of different parts of the audio. Why is that an issue?

A. Well, we seem to have here mostly a two-way distinction. Things are either indiscernible or they're given quite detailed interpretation, not just in terms of the words that are heard, but in terms of, as we've been speaking, the punctuation that they should be given and the interpretation of the various sound effects. And, yeah, this is very poor-quality audio, as we've been discussing all along, and usually there would be some variation in confidence that I think could potentially be helpful to the Court to understand which parts the transcribers and translators are understanding with more confidence as opposed to less confidence. This is very, very common

practice in English transcription.

Q. With regard to the quality of the audio overall with regard to those provided to you, so it's Kuci visit and Kilaj visit, so we have said you do not speak Albanian, but you used several tools to try to understand or identify the quality, and you also read the transcript, listened to the audio. So is it fair to say that at least parts of this audio are indistinct?

A. Yes, I'd say so.

Q. Thank you. So coming back with regard to the reliability of the SPO transcript, can we say that one of the main issues is the fact that the interpreters are part of the SPO staff, because of the contextual priming effect?

A. Yes. I'm afraid, and again I say this with great respect to the practitioners, but I think the -- I've spoken about it earlier. It's highly appropriate during an investigation to have the investigators assisted by translators. It's essential. You couldn't do it without that. However, I think the close interaction between the translators and the investigators is poor practice overall and very highly recognised as poor practice throughout all the responsible forensic sciences. In a way, linguistic evidence like this is the last in a long line of different types of forensic sciences which have progressively been moving from having the analysts or experts or scientists, whatever term is appropriate in different fields, working directly with the investigators to that kind of separation that we spoke about earlier this morning.

Q. Thank you. Since we last spoke with you, the SPO has provided some additional information about its language staff and their roles in the transcripts. The SPO indicated, in its filing F906, which is public, that the language assistants assigned to transcribe the detention recordings have all been involved in other aspects of the investigation in the present contempt case, Case 12, and the related war crime case, Case 06.

So the SPO -- I'm referring to paragraph 5 and 6. I don't think we need to put it on the screen.

They revealed that all transcribers were involved in transcription and translation of witness and/or documentary evidence in both Case 06 and Case 12, so the war crime case and contempt case against Mr. Thaci, and that they also revealed that one of the transcribers was involved in search-and-seizure operations carried out by the SPO in the present case.

And pursuant to Annex 2 of this filing - I'm not going to give names so I think I can remain in public session - some of the transcribers also worked as interpreters during SPO interviews of witnesses allegedly discussed during the visit of Mr. Thaci in detention, and also some of them were also present during Mr. Thaci's SPO interview in the main war crime case. And I'm referring to the Annex 2, page 2 and 3.

MS. MENEGON: Your Honour, I'm just informed that the SPO has released the disclosure I had asked this morning. So is it possible to have a maybe 15-minute break, because I'm going to enter into the

material listed in this filing, in order to review these items and adapt my examination-in-chief, if need be? I think the documents are pretty short, so I think 15 minutes should be enough.

JUDGE GOSNELL: Prosecution, do you have any reaction to that?

MR. HAFETZ: Your Honour, well, Your Honour has already found that this is not necessary for the witness's examination. I actually don't have a position or really an objection to her taking a break if she wants to.

JUDGE GOSNELL: Do you think that would facilitate the efficiency of your examination of the witness, Ms. Menegon, and perhaps even shorten it somewhat?

MS. MENEGON: Yes, Your Honour, because if I'm not able to see them now, I will ask for a similar extension -- suspension after in order that I review these items before I conclude my examination-in-chief. I would not want the cross-examination to start before I have seen these items.

MR. HAFETZ: Your Honour, may I make a suggestion? What I would propose respectfully is that she continue her examination, then review the documents, determine whether they are, in fact, things she wants to put to the witness, and then come back and, if we need to, she can assess that over the break and do it after the break. That seems most efficient to me.

MS. MENEGON: I mean, Your Honour, I am aware already of the content of the tables, one of the documents annexed in the list of items to be provided, and the SPO has indicated that, for instance,

they have discussed which interpreters was involved in which transcript and between which time periods they were created. So it is very relevant for my questioning and is going to have an impact, I'm pretty sure, on the questions I'm going to ask.

JUDGE GOSNELL: Just a moment, please. I just want to consult with the Registry.

[Single Judge and Court Officer confers]

JUDGE GOSNELL: I think what we'll do, Ms. Menegon, is we will take the lunch now -- and I understand that this is logistically possible. So we'll take the lunch now, it's a little bit earlier than we're used to, and then we will have two sessions this afternoon. So that means that probably the last session, I think the Prosecution would be able to start its cross-examination. Ms. Menegon, hopefully you'd be able to finish at the end of the full next one-and-a-half-hour session.

MS. MENEGON: Thank you, Your Honour. That's much appreciated.

JUDGE GOSNELL: So we'll break now and we'll reconvene -- could the witness please be escorted out.

[The witness stands down]

JUDGE GOSNELL: Thank you. So we'll break now and we'll reconvene at 1.30. Thank you.

--- Luncheon recess taken at 12.02 p.m.

--- On resuming at 1.31 p.m.

JUDGE GOSNELL: Could the witness be brought in, please.

And I'll take this opportunity to thank everyone in and around

the courtroom for accommodating the change in schedule.

We'll proceed now until 3 p.m., Ms. Menegon.

MS. MENEGON: Yes, Your Honour.

[The witness takes the stand]

JUDGE GOSNELL: Welcome back, Professor Fraser. We'll continue now until 3 p.m. and then we'll take a break of probably 15 to 20 minutes and then we'll go until 4 p.m., just to give you a sense of the rest of the afternoon. Thank you.

MS. MENEGON: Thank you, Your Honour.

Q. Welcome back, Professor Fraser. During the lunch break, we obtained further information from the SPO regarding its transcription process. Namely, we obtained a table listing which transcripts were prepared by which interpreters over which period of time, and we obtained the redacted CV of seven persons involved in the creation of the SPO transcripts of the detention visits.

I'm going to call first the table in order for you to have a look at the information provided, and then I'm going to compare it with the CV of three staff, SPO staff, involved in the creation of the transcripts.

MS. MENEGON: So, Madam Court Officer, can you please put on the screen SPOE00412757.

Q. So this is the information provided by the SPO. I'm going to summarise it for you when relevant.

In this document, there have listed 16 visits with Mr. Thaci, one of the co-accused from Case 06, where at least one of the seven

interpreters -- of seven interpreters were involved. And overall, they have indicated the transcription start date and end date. And for those related to the charged visits, it took -- the transcription process apparently took between two years and a bit more than two years.

MS. MENEGON: Now I would like to call the CV of one of the persons involved in this transcription process, which is -- Madam Court Officer, can you put it on the screen. So it's SPOE00411795, so this is the CV of SPO-0036-18.

Q. Pursuant to the table provided by the SPO, on the right, he worked on the transcript of the Smakaj visit, which is line 10 of the table.

MS. MENEGON: Madam Court Officer, if you can go down.

Q. And on two transcripts related to two visits of Mr. Selimi, one of the co-accused of Mr. Thaci.

And now I would like you to look at his CV. We see that he is Albanian, and the occupation or position held is analytical support function. And there is a summary of his activities and name of address [indiscernible] KSC SPO. So the activity involved provided analytical support in structured procedural sittings, reviewed and synthesized sensitive information, conducted research using open [indiscernible] sources, produced written outputs, ensuring accuracy and confidentiality, et cetera.

MS. MENEGON: Can we please move to page 2 of this document, the CV.

Q. We can see in education and training, a title of "Qualifications awarded," graduate level degree in political science, principal subject international relations --

A. Excuse me, sorry. I just need a minute to --

Q. Yes.

A. -- orientate myself on this page.

Q. It's toward the bottom, education and training.

A. Aha. Title of -- graduate level degree in political science -- okay.

Q. And at the bottom, we can see that his mother tongue is Albanian.

A. Yes.

Q. Now --

A. And, excuse me --

Q. Yes.

A. -- while we've paused, sorry if I'm being dense, but could you just remind me which -- on the right we have the "Performed by" column in the middle, LA-20, LA-1, and so on, which one of those does this CV relate to?

Q. So it's line 10, 9 September Smakaj visit --

A. But there's three of --

Q. And he's SPO-36-18 --

A. Okay. Very good.

Q. Contractor.

A. Thank you.

Q. Now my -- Professor Fraser, my question is, what does the -- the feature of the CV I've indicated, highlighted to you, indicate about eventual priming of this transcriber when he worked on the detention recording of the Smakaj visits?

A. It's very difficult to just look at something and respond instantly like this. I suppose the main two things that I would at least be asking questions about, but I don't want to be leaping to conclusions, but is there anywhere that shows any aptitude or skill demonstrated in relation to deciphering indistinct audio-recordings. And then the other thing is it appears this legal support function seems to involve a lot of contextual information in an uncontrolled way. So those would be at least two things that I would be asking questions about.

I want to emphasise I don't really like to just look at something and immediately make a strong commentary, but those would be some things, based on what we discussed this morning, that I would be asking questions about.

Q. And for the record, I note that in the CV there is no reference to the transcription of covert recording or indistinct audio.

A. I'll just add one more thing. It went by a little bit quickly, and it might be on the --

MS. MENEGON: Can you please go back to the first page.

THE WITNESS: The previous page.

MS. MENEGON: -- related to the work experience within the SPO in particular.

THE WITNESS: This was the one about -- oh, yes, work experience, main activities. Dot -- point 4, "produce written outputs ensuring accuracy and confidentiality according to institutional standards."

Does that mean the accuracy of the transcripts themselves or --

MS. MENEGON:

Q. I have no information about that.

A. Okay. If it does, then I would be asking questions about how can we be sure that they're accurate because we do not know what we often call ground truth, we don't know ultimately what was said. We don't have something to compare the produced transcripts against to determine their accuracy.

So those were a couple of things I noticed as you went by --

Q. Thank you.

A. -- very quickly.

Q. And in this regard, the title of this person within the SPO is not an interpreter or translator. He is analytical support function. Would you say that *a priori*, in light of these few points mentioned in his CV, he could be qualified as someone who has an interest in the outcome of the trial or of the investigations?

A. It's hard for me to know, really.

Q. But would you *a priori* consider that he is or is not sufficiently independent from the investigations to be able to conduct, let's say, independent transcription without priming?

A. I don't get that impression from what I see here.

Q. Thank you. Now I'm going to ask you some questions about the CV of another interpreter.

MS. MENEGON: Madam Court Officer, could you please call on the left SPOE00411775. This is the CV of SPO-31-18.

Q. Pursuant to the table on the left -- sorry, on the right, this transcriber was involved in the transcript of the Fazliu visits, which is on line 1 of the table.

MS. MENEGON: Madam Court Officer, if you could show it. So he -- yeah, his name is -- no, it's -- so it's line -- sorry, line 2 of the table, indeed. So the 2 July visit of Mr. Fazliu. We can see his name, SPO-31-18.

Q. And pursuant to the filings previously disclosed by the SPO, I'm referring to F906-A03, this interpreter was present during 31 SPO interview or contact with witnesses. And pursuant to F906-A02, page 2 -- 3, 4, he was also involved in seven additional SPO interview or contact with the witnesses. So he's familiar with witnesses in the main war crime cases.

Now, we can see his nationality is Dutch.

MS. MENEGON: And can we, Madam Court Officer, go down his CV a bit.

Q. You can see that he is part of the SPO -- Kosovo Specialist Chambers and SPO since 2018, and his position is [indiscernible] expert, document reviewer, interpreter. And on the -- for instance, the second point includes summarising documents, updating the SPO database, identifying duplicates, comparing originals with translated

version to avoid duplication, searching and promptly retrieving materials from the SPO database and external resources.

Do you agree that these tasks appear to be more analytical than merely translation and transcription?

A. To the best of my understanding on this brief encounter, yes.

MS. MENEGON: Madam Court Officer, can you go to page 6 of this CV.

Q. And you can see here that his education and professional training are redacted. We know that his -- Albanian is his mother tongue. And for the record, there is no reference in the CV -- no explicit reference to prior transcription of covert recording or indistinct audio.

MS. MENEGON: Now, can we go back to the first page of the CV.

Q. On the basis of this summary presentation of this staff and of his involvement in interpretation but also document review, what could you say about the eventual priming he would have been the subject of?

A. Again, based on this very brief encounter of a lot of things of which I have limited understanding, it does seem to confirm what appeared to be the case before, which is there's a lot of interaction between working on the case and working on the linguistic material.

Q. Thank you. Now I would like to show you a last CV.

MS. MENEGON: Madam Court Officer, can you please call SPOE00411417. This is the CV of LA-3.

Q. Pursuant to the table provided by the SPO, which is still on the

right, this person has been involved in the creation of -- or review of 13 transcripts of the detention visit of Mr. Thaci or his co-accused. In particular, the first visit of 2 July, line 2; the Smakaj visit of 9 September, line 10; the Smakaj visit of 7 October, line 16. And so his name is LA-3, and you see, for instance, on the second line that he's one of the persons in charge of the final full review.

MS. MENEGON: Madam Court Officer, can you scroll down slowly in order that we see how often he is in the column "Final full review." Thank you.

Q. You may have noticed that he is most of the time in charge of the final review.

MS. MENEGON: Now I would like to go to his -- yeah, I would like to add for -- also for your information that, pursuant to the filing disclosed by the SPO earlier, I'm referring to F906-A03, page 24, this interpreter was present during 64 witness interview or contacts, phone calls. And pursuant to F906-A02, page 23, he was also present during 17 witness interview or contacts, calls, et cetera.

Q. Now I would like to review his CV. You can see his nationality is Albanian. Languages, Gheg and Tosk Albanian native. He mentions in professional profile, senior legal and law enforcement linguist with over 25 years of experience.

MS. MENEGON: And can we go to the next page, please, of the CV, and the bottom.

Q. You will see in the last line, as experience, among his international assignments he referred to, transcription and translation of several hundred hours of --

MS. MENEGON: Can you please go to the next page?

Q. "Several hundred hours of Albanian-language recorded audio, including audio obtained from detention centres, jails, and wire-tapped communications." And since 2018, contracted linguist of the KSC SPO, with some description about his tasks.

MS. MENEGON: And can we go to the last page.

Q. As diploma, we see he has a post-graduate diploma in translation and in public service interpreting and he's -- Albanian is his native language.

Now I would like to ask you a similar question to my previous question. Given that this person was involved in *a priori* the creation or review of certain transcripts of different visits, that he was present during more than 70 witness interview or contacts, what can you tell us about the eventual priming that this person would have been the subject of?

A. I think it would be a similar thing. We see here the kind of interaction between the contextual information and the work on the transcripts and translations that we've been -- as discussing before, is not good practice. And we also see a lot of focus on interpreting and translating skills with -- I think I did not notice any reference to proficiency in transcribing indistinct audio. I think I did notice somewhere else something about reviewing for accuracy. But

again, I would point out that people who really work in this field would not be talking about verifying accuracy when we do not have a ground-truth version, in other words, known -- a factually known correct transcript to compare the current transcripts against.

So I think the nearest we would have for best practice in this type of thing, and certainly what we would do in my Research Hub, even though we're a research unit more than a casework unit, we would be looking at testing transcribers on known materials so that we as the researchers know a ground truth or at least a reference transcript. And the transcription practitioners would be doing their transcript according to our guidance, and then we would be able to evaluate it against some known reference transcript, so that that way we have independent understanding of their skill and accuracy in relation to a known transcript, and then we would have more confidence in deploying them to work on a situation where, by definition in the forensic context, we do not have known content. That's the whole point of the transcript.

Q. Okay. In this regard, to your knowledge, are there any training in forensic transcription?

A. In this CV?

Q. No. Does it exist?

A. It's, I think, done usually by the various units that work on it. I'm not sure that you can independently just go around and find a certificate on forensic transcription. But most of the -- most of the units that I'm aware of who do this kind of work would have some

sort of induction and training process for their transcribers.

Q. Thank you.

MS. MENEGON: Your Honour, I would like to tender this table and three CVs as an exhibit. I would like to note already that I do intend to tender all the CVs because I consider they're relevant for the purpose of our demonstration because they show similarly prior involvement with SPO witnesses. So I don't know whether you want to rule on this admissibility right now, or we will have to file a bar table motion for these other CVs not shown to the witness.

JUDGE GOSNELL: Any comment from the Prosecution?

MR. HAFETZ: Your Honour, we support the admission of all seven of the CVs if -- to the extent she's making them relevant now. So no objection whatsoever.

JUDGE GOSNELL: I would suggest that we -- for the time being, since this document has been used with -- and the other documents have been used or will be used with the witness, that we, as with the other documents, MFI them --

MS. MENEGON: Yes.

JUDGE GOSNELL: -- and then deal with their admission together with all the other documents used with the witness.

MS. MENEGON: Okay.

THE COURT OFFICER: Thank you, Your Honour. So the first document is SPOE00412757 to 00412760, and that one will receive MFI number 1D00140.

The next one is SPOE00411795 to 00411797. That one will receive

MFI number 1D00141.

Third document is SPOE00411775 to 00411781. That one will receive MFI number 1D00142.

And finally, the last document is SPOE00411417 to 00411420. That one will receive MFI number 1D00143.

They're all classified as confidential. Thank you.

MS. MENEGON: Thank you.

Q. Professor Fraser, in light of the profile and prior invest -- involvement of the transcribers I've shown you in the SPO investigations - for instance, we've seen that one was document reviewer, the other one was analytical support function - does it indicate, this, let's say, proximity between these interpreters and the SPO investigations and SPO witnesses' interview, does this indicate a reason to doubt the reliability of the transcripts that were created by these transcribers?

A. In the sense that I've written in the report, it is -- I'm not saying that they are inaccurate. I'm saying that they're unreliable in the sense that they cannot be relied upon as being accurate.

Q. Thank you. Now I would like to talk about voice attribution. To the extent you can, what are your views on the way the SPO did voice attribution? I'm referring to part 5.6 and 7.5 of your report.

A. I think I spoke more briefly about speaker recognition than voice attribution.

Q. Indeed, especially at part 7.5 related to speaker attribution and identification.

A. Yes. So speaker attribution is very similar to transcription in the sense that it relies far more heavily than people realise on the context. We all recognise each other's voice very confidently and mostly accurately every single day of our lives. This gives a strong impression that we're recognising them by their voices, but in almost every case, we're recognising partly by the voice but largely by the context.

When we take speaker recognition out of context, for example, by creating an audio recording and testing people's ability to identify the voices, even when I've done experiments like this myself - and there are numerous famous experiments on this topic - even when the voices are close family members, friends, colleagues, people who are well known to the listeners, they make many errors, and confidence and accuracy are very poorly correlated. So people can say, "I think that's John Smith" confidently when it's not, or they might unconfidently say they think it's John Smith and it is. There is no good correlation there.

And this research goes back, again, many decades, in fact even earlier. The earliest stud y that's commonly cited comes from the 1930s. And in relation to the -- in relation to the particular of this case, there's no information that I've been -- I've been given access to as to how it was done. It seems to be rather intuitive. And I suppose -- I'm not quite seeing it here, so I'm not sure if it's -- I said this in the sections that you're referring to, but you'll guide me. One thing that I noticed particularly was the

concept in one of the documents that I was given that Your Honour would be able to listen to the telephone recordings where the voices are known and compare those voices with the voices in the case material recordings. And this is something that people think we can do, that you can listen to a voice in one recording and recognise it in another recording. This is even less -- far less reliable than recognising the voices of people that you know. Listening in a recording where people are -- I believe that they were prison telephone recordings from inside the prison to outside the recording -- outside the prison, so telephone recordings, typically quite clear, and the -- these very indistinct recordings. I'm very confident that if we tested people and listened to the recordings from the prison and see how well you recognise the voices in the case recordings, I'm very confident that they would have surprisingly low ability to do that, unless primed, of course, and that confidence and accuracy would be low. The correlation between confidence and accuracy would be low. In other words, they would feel confident when they were wrong. This is when we do know ground truth. Of course, in the real life, we do not know who really is who for sure. So it is relying very heavily on contextual priming in the first place and then textual priming from one transcript to the next.

Q. Thank you. Now I would like to talk about the SPO transcript revisions. Can you tell us how should the Court read different versions of a transcript of a given audio file? And are these correctly seen, these successive revised versions as -- are they

correctly seen as different versions of the same piece of evidence or should they be treated as different pieces of evidence?

A. I'm not a hundred per cent sure of how the transcribers and translators were defining "version." In my experience of both doing transcription and supervising others to do transcription, practically every time you look at it, you make a new version. It's a continual process of revision and editing. You cannot simply listen and write down what you hear. You have to be going back and back and back, and the more indistinct the audio is, the more you have to go back over it and the more -- as you get more and more into the audio, the internal context is becoming clearer to you. As you get further down the recording, you come back and the earlier parts now seem clearer, so on and so on. It's hard to know how to define a version. Is it at the end of the day or at the end of a transcription session or -- I don't know how these versions were defined in that respect.

In any case, it's not clear to me what the Court is supposed to do with these versions. I would personally prefer to recommend that the Court just got one final -- one final version that was supported as being the outcome of all the procedures. I don't see how the Court could possibly look at those -- I think there was mainly three versions, from memory, some maybe only two. How can you look at them and decide which one is better. I'm not sure what the purpose of these versions is.

Q. Thank you. So we are going to go through some of these revised versions. So I'm going to show you two versions of a transcript of

the Smakaj visit of 9 September 2023 from the SPO and ask your views on some discrepancies between them.

MS. MENEGON: So, Madam Court Officer, I would like to call side by side, on the left 1D113-ET, at page 201. This is the second transcript version produced by the SPO from the audio of this visit since it ends by "Revised." So 1D113, page 201, line 6 to 25. Thank you.

And on the right side, can you please put P108-ET, from page 213, line 17. And this is the sixth version of the transcript produced by the SPO for this visit. It ends with "Revised 4-ET." So from line 17.

Q. On line 6 on the left, we can see that it says "everyone was a peasant." And then on line 6 on the right -- sorry, 17 on the right, it becomes "all the villagers were volunteers."

Now, on line 9 on the right, we can see "in the mountains." And on the right, at line 19, it becomes "[indiscernible]". And last --

A. Excuse me, I just want to make sure I'm right. So I'm here at line 19 on the right, it's "[indiscernible]," and which line is it on --

Q. Sorry, it's line 9 on the right --

A. Line 9, over here, "in the mountains."

Q. "In the mountains."

A. Okay.

Q. And it becomes on --

A. "[Indiscernible]."

Q. Line 19 on the left --
A. Yeah.
Q. -- "[indiscernible]."
A. Okay.
Q. [Overlapping speakers] ...
A. And this a later revision on the [overlapping speakers] ...
Q. Yes. From what we understood because we have no --
THE INTERPRETER: The interpreters kindly ask the speakers.
MS. MENEGON:
Q. -- indication as to when --
THE INTERPRETER: -- to make a pause between question and answer --
MS. MENEGON:
Q. -- and how exactly they were created?
THE INTERPRETER: -- and not to overlap. Thank you.
MS. MENEGON:
Q. And so --
THE WITNESS: We were just asked to go more slowly.
MS. MENEGON: Sorry. Thank you.
Q. Last example. If we look at line 18 on the left, it says, "I can talk, "/?honestly/". And on the left at line --
MS. MENEGON: Sorry, can you move to page 214 on the left.
Q. Line 10, it becomes "I am talking about, /?honour/."
A. I see.
Q. So I have shown you some differences in this transcription. How

can we determine which version is the most reliable or accurate, or closer to the truth, I guess?

A. I think this is impossible to do. At this stage. I mean, certainly during the process, if -- through -- if it had been following a recommended process, I think there would be ways to resolve this during the process and produce a reliable end product. But at this point, looking at the versions and thinking, well, which one is better than the other, I think this is an example of what I was speaking about earlier when I was saying it's very difficult to evaluate transcripts and especially translations which are at a -- further removed from the audio itself *post hoc*. If you just see a paper with writing and you've got two versions, how can you possibly say which is better? Even if you've just got one version, how can you possibly say whether it's reliable or not? You need to know more than just what's on the page.

Q. On line 18 on the left, we can see they have added a question mark before the word "honestly." What does it tell us, pursuant to you, about the, let's say, accuracy of the -- this word pursuant to the transcriber?

A. I don't know. Also, I'm conscious that these are sort of -- with respect, they're just random -- to me, random examples that you've obviously picked out for whatever reasons, so I'm not sure. I don't remember seeing anywhere any kind of legend or information about what symbols like square brackets and question marks mean. On the surface of it, I would guess that the slant brackets and the

question mark mean some level of less confidence or uncertainty, but I don't really know.

MS. MENEGON: Now, Madam Court Officer --

Q. I'm going to show you two versions of a transcript of the Kilaj visit of 6 October 2023 from the SPO and ask your view as well on one discrepancy between them.

MS. MENEGON: So, Madam Court Officer, I would like to call on the left 1D116-ET, page 20 -- 44. So this is a first transcript version produced by the SPO from this audio. Line 7 to 11. Page 44. Thank you.

And can please put on the right P109-ET, page 47, line 21-25. This is the third transcript version produced by the SPO about the same audio. Because it -- I mean, that's our understanding because it ends by "Revised 1-ET."

Q. So I would like to compare line 7-11 on the left and line 21-25 on the right. You see that on the left, there is no reference to putting something in a pocket, while on the right now they have added "now put it in your pocket."

How can we explain this difference of transcription, and how can we determine which version is the most reliable?

A. Well, I can't.

Q. And what about the fact that these transcripts are not dated? We don't know exactly when they were created.

A. That seems surprising to me. I hadn't realised that until now.

Q. Thank you. Now - and this is my last topic - I would like to

talk about the LSU verification process. So my question is, when a transcript has already been created, what sort of process can be applied to work out whether it is reliable or not? And which practice should or should not be adopted?

A. Well, ultimately, once a transcript has already been produced and we want to evaluate it in a situation like this, really the only -- and again, I want to emphasise that I'm talking about indistinct forensic audio. Other types of audio transcripts, certainly you can review them against the audio and edit. Indistinct forensic audio, the process of evaluating a transcript by reviewing it against the audio, it sort of makes sense, it seems like a straightforward and obvious thing to do. The danger, of course, is that in reviewing the transcript while listening to the audio, that transcript will be giving you textual priming all the way.

So what I usually say, and what I believe, is that the only real way to evaluate an existing transcript once you're already into the trial proceedings is to create a new transcript through accountable evidence-based processes and then compare the two of them.

So I can give a small anecdote that might illustrate this very well. This goes back to a case that I was involved in retrospectively. So this was a retrial in -- fairly recently of a trial that originally took place in the '90s, 1990s. In that 1990s trial, there was a police transcript -- this is all in English, I should say. There was a police transcript. Then there was a prosecution expert who reviewed the police transcript by editing it.

They asked him, "Do not create a new transcript, just to save time and expense, just edit the police transcript," which he did. That was the prosecution expert. And then it went to the defence expert who again was asked to edit that prosecution expert's transcript.

So that was all going smoothly until -- this was back in the day of fax machines. So the transcript had been provided, and he noticed that one of the pages was missing. He asked for that one page to be faxed up. It took a long time, so he thought, well, in the meantime, I'll just go ahead and make my own transcript.

Then when the prosecution version of that page finally arrived, he noticed, huh, this is interesting. When I've been editing, I've just been making a few changes. Now that I'm comparing one that I did independently and looking at that in relation to the prosecution version that has just been faxed up, my version is completely different. And for him, that was his -- because they were phonetics experts, they were more used to analysing speech, not so much experts in perception. That was their first -- that was his first encounter with the -- I'm sure he knew about priming, but hadn't realised just how strong this effect was.

Because of that, there actually in that case were multiple expert witnesses, and he got them all, "Please transcribe this audio independently and then we'll compare." And the differences were very great.

Now, you could say, well, that may be because the defence weren't as good or something like that. However, the retrial where I

was involved, which was many years later, in fact many of those transcripts that had been accepted by the prosecution expert and then partially accepted by the defence experts as they were doing the editing, many of them were acknowledged to be wrong and were not used in the retrial.

So I hope that gives you a sense of just how powerful this effect is, and how it's really difficult to be sure that you are detecting all relevant errors and correcting them appropriately.

Q. Thank you. In the current case, LSU was ordered to verify the accuracy, among others, of the SPO transcripts of the enhanced and non-enhanced audio files of the Kuci visit of 3 September 2023 by listening to both the audio-recordings and reading the SPO transcripts at the same time and providing its correction, if any. And I'm referring in particular to the decision F745, which indicated at its paragraph 38, I will quote:

"The standard practice developed by LSU professionals should continued to be applied. The LSU may refer to the 'forensic' audios of the SPO" -- sorry. "The LSU may refer to the 'forensic' audios and SPO transcriptions, in either Albanian or in English, as part of the process of evaluating the accuracy of those English-language transcriptions."

So in practice, the LSU listened to the audio files and reviewed the SPO transcripts and was able this time to provide a corrected transcript for both the non-enhanced audio files and the enhanced audio files of the Kuci visit, with a few corrections that they

highlighted in bold.

So I would like to show you one of the memo.

MS. MENEGON: Madam Court Officer, can you please put on the screen the LSU memo, KSC-BC-2023-12-F866. Thank you.

Q. So this memo contains the LSU corrections to the SPO transcript of the non-enhanced audio file of the Kuci visit of 3 September 2023. As we discussed earlier this morning, when we first sent these files to LSU, they say they were not able to transcribe anything.

MS. MENEGON: So can you please, Madam Court Officer, go to footnote 2 on page -- on the first page.

Q. I invite you, Professor Fraser, to read it internally, the footnote 2, just for your understanding as to which audio files they had access when they did this exercise.

A. Footnote 2, starting "Prior to receiving ..."?

Q. Yeah.

A. Okay. I'll just read it quietly.

So they used only the original and not the enhanced versions.

Q. Indeed, but they had access initially to both the --

A. Correct.

Q. For these exercises. But when they did this exercise, they said they only reviewed the original, non-enhanced audio file.

MS. MENEGON: Can we now, Madam Court Officer, move to page 67. If you can please go down where it says, "Following ..."

Q. So you will see it says:

"Following the verification of the Albanian transcripts against

the original audio file, some discrepancies between the relevant portion of the audio and its transcription were found. The Albanian transcript should be amended to read ..."

And then you will see they have started to put in bold some of their corrections.

MS. MENEGON: Now, Madam Court Officer, can you please go to page 72. Can you go down?

Q. There it says: "To reflect the Albanian original, the English translation should be amended to read," and you will see again some of their corrections in bold.

MS. MENEGON: Madam Court Officer, can you go -- go down slowly to the end of the transcript -- or the memo, just in order that we see the extent of the corrections, if any.

THE WITNESS: So I'm understanding that just the bold sections have changed? The rest of it is exactly the same?

MS. MENEGON:

Q. Yes. Thank you.

So is it right that it appears that LSU brought only limited corrections to the SPO transcript?

A. Excuse me for one moment.

Q. Yes.

A. Okay. Yes, I'm ready. Sorry.

Q. Yeah, sorry. So is it right, in light of the excerpt we've seen, in the few instances of bold character, that the LSU brought only limited corrections to this SPO transcript, to the original SPO

transcript?

A. That seems to be -- there is relatively few bold sections there.

Q. Thank you. So, Professor Fraser, in your opinion, which factors may explain the fact that when LSU first listened to the non-enhanced audio recordings of the Kuci visit at our request, it was unable to transcribe anything, while when it subsequently reviewed them with the benefit of the SPO transcripts, they were then able to issue a corrected transcript, confirming most of the content of the SPO transcripts?

A. I would like to answer your question, and I'll do so, but I think there's a couple of other things that would need to be said. I'm not sure if they're going to come up in your next questions, but I've taken a note so I can be sure to cover them, if that's all right.

In relation to the discussion that we've been having already, I think what we're seeing here is textual priming. Again, I'm not sure that we were told, or I may have forgotten, but whether it was the same person that did the earlier version as is doing these reviews.

Q. We have no information in this regard.

A. We don't have information about that. So that would be relevant to know. As I said before, and again I say it very respectfully, but it's not a very well-controlled experiment. We would normally like to do something that had all the factors a little bit more controlled except the one or two factors that we wanted to study. So we would want to make sure that we had transcribers of similar ability and so

on.

But on the face of it, I think everybody can see, based on all that we've said today, that what we're seeing here is textual priming. And in a way it's the reverse situation to the situation that I was describing from that case in the 1990s, where the person first did the editing and then did the independent transcription from their own -- off their own bat and found that the latter was much more difficult. Here it's been the other way around. First they've attempted to transcribe independently and with no text to follow, and then they've had a text to follow here.

Q. Thank you. And so does the process undertaken by the LSU increase the reliability of the original SPO transcript or not, in your assessment?

A. It certainly does not. And I'd like to say two -- the two things that I jotted down. Is that okay with you?

Q. Yes. Yes.

A. So, first of all, I'm not sure which version -- were they using the final version or ...

Q. It's what we believe to be the final version, the one tendered by the SPO, and in practice it appears to be the latest revised version, at least in the title of the document. But again we have no dates about when and exactly how they were created.

A. So it's remarkable that none of the uncertainty that appears to have been part of the SPO's process is coming up for the LSU transcribers. Again, I want to emphasise, I'm saying all of this

with respect to everybody involved. This is a very difficult task and it has many different variables and moving parts to be considered. So it's remarkable that the same uncertainties were not showing up here.

But I think the most important thing, the easy way to take what we see there is it seems like, oh, they're agreeing with it all except for this small percentage of bolded sections, and that can give the impression that if these people had sat down and done their own, that they would have come up with something identical or very close to identical. This is really completely false. Even if they were both coming -- even with relatively clear audio, if they were both coming to something quite similar, they would definitely have some differences in their transcripts and even more so in their translations. We saw that earlier with the other ones you commissioned, not from the LSU, but from the other independent organizations. Even the ones where we said, oh, this is relatively clear audio, they are all coming to a similar interpretation, they were only similar. They were not identical. You never, ever get -- very rarely do you get absolutely identical transcripts or translations of indistinct or poor-quality audio. So the fact that these are so completely identical is almost working against their reliability for me.

And I suppose the final thing I would say is that I think most of the people or practitioners that I know who work in this field of transcribing indistinct audio and understand about priming and

reliability, all the things that we've been speaking about, I think they would generally decline to do the task in this way because they would know themselves that this is not a way to come to the reliable transcription. So I think I also said that in my report, again respectfully. The lack of awareness of the kinds of issues that we've been discussing today is quite problematic to me.

Q. Thank you. And my next question. You have mentioned that to assess the reliability of a transcript already done, you would need to put a -- to create a new transcript by independent interpreters following an evidence-based process. My question is: How would it be documented, this evidence-based process? Which information should be -- should we get to assess this -- to assess it?

A. Well, I think we covered this quite well this morning. I think we'd certainly need some sort of demonstration of the aptitude or skill of the transcribers. We'd need some demonstration that they'd been protected from potentially misleading case-related contextual priming, and then we would want a documented process probably, from my perspective. And as I've said earlier today, different case managers might do things slightly differently, but I think they would all want to start with having at least two independent, skilled transcribers transcribing the audio with no information, and then have a documented -- documentation of what information they were given and what they were asked to do. And then one final transcript with confident -- the more confident words in the text differentiated from less confident.

Those would be some examples of things that I would expect to see.

Q. Thank you.

MS. MENEGON: I have no further questions.

JUDGE GOSNELL: Thank you, Ms. Menegon. Are there any questions now from any of the other defendants?

MR. REES: No, thank you.

MR. EDWARDS: No, thank you, Your Honour. But can I just take the opportunity of being on my feet to place on the record that Mr. Holmes has joined us via videolink.

MR. YOUNG: Your Honour, if I may. Just a few questions, please.

JUDGE GOSNELL: Yes, please go ahead, Mr. Young.

MR. YOUNG: Thank you.

Cross-examination by Mr. Young:

Q. Professor, can I just seek your assistance on a few matters. All right? I represent Mr. Fazliu, who is one of the co-accused of Mr. Thaci. All right?

Now, you've told us today very clearly that, obviously, whereas there's some training and best practices, presumably different transcribers operate in different ways.

A. Yes.

Q. And there's no universal way of operating at present.

A. Yes.

Q. And presumably years ago, it was even worse than today.

A. Correct.
Q. Right. Thank you. So you've said that in your research, in your work, I understand you've had the benefit of reliable transcribers, presumably well trained.
A. Yes.
Q. Yes? But what I'd like -- I want to cover two topics with you. Firstly, the processes actually used in the actual transcription itself so we understand that in the court. I'm sure we do.
So let's look at some of the possible ways in which -- or practices that might be used. So ideally -- is this right to say, that ideally, the transcriber would be well trained, have experience of deciphering transcription and indistinct speech, and also have presumably no access to contextual information?
A. I wouldn't necessarily say no access to any contextual information whatsoever, but certainly they should be protected from biasing, potentially biasing information.
Q. Yes. Thank you.
A. And I'd also like to just add one small thing.
Q. Of course.
A. You said "experience," and I think earlier I said there's a difference between experience and expertise, so I would like to see some evidence that they had some expertise.
Q. Yes. You'd like to see that on the CV or in their experience.
A. Maybe it wouldn't be on their CV because I said that so far we don't really have courses that you can follow and get an HD or a D or

something like that, but something to give some --

Q. Yes.

A. -- basis.

Q. So presumably you're looking for confidence in this transcription process.

A. Correct.

Q. And validity.

A. Correct.

JUDGE GOSNELL: Just Mr. Young and Professor, please do observe a pause between the question and the answer. Otherwise --

THE WITNESS: I'm very sorry. Thank you.

MR. YOUNG: It's my fault. Thank you.

Q. Yes. So presumably, therefore, to just talk about the more ideal scenario in a given example, if we -- and a more ideal example may be this, when you have a transcriber who is well trained, has the relevant experience, and presumably also is not case related at all and is removed from the situation that they are looking at.

A. The investigation, yes.

Q. Yes, thank you. But having said that, presumably there are other cases and other examples of transcription process. So has it been your experience on occasions that the person who is attempting the transcription has in front of them at the same time as listening to the audio recording a previous translation of the latest recording?

A. I'm sorry, I'm not sure I follow that.

Q. Sorry. When the person is listening to an audio recording --
A. Yes.
Q. -- of a covert recording --
A. Yes.
Q. -- so they're listening to the audio, at the same time it's listening to them, they have in front of them an already-translated version.
A. Translated or transcribed?
Q. Translated. Say it's coming from one language to another.
A. I think the first step is a transcription in the original language.
Q. Yes.
A. I think that's the main topic of today. So to do a transcription in the original language, you should not have an existing transcript in front of you.
Q. No, you shouldn't do, but does that happen sometimes?
A. Perhaps.
Q. Yes. Would that be poor practice?
A. Yes.
Q. And presumably it's even worse practice if the person who's listening to the audio has an existing document that wasn't even prepared by themselves.
A. It's very hypothetical, so I'm not --
Q. Let me put it in a more pragmatic, concrete way. Some transcribers/translators may have done the actual, initial first fix

or initial transcription themselves, and then they presumably go back and they go back, yes? But does it happen on occasions that the transcriber who is used in court is transcribing a document that was originally transcribed by a different translator?

A. That can happen, but it would be -- if I'm understanding you correctly, that would be poor practice.

Q. Yes.

A. We would not normally -- we would normally have the transcriber working only from the audio at the start. So at the start you get the independent transcriptions, and then later they might compare it with somebody else. But by that time you have a record of what they heard in the first place [overlapping speakers] ...

Q. Yes. But you want to be satisfied about the validity and integrity of the whole process.

A. I'd be worried -- if somebody was doing their initial transcript based on an existing transcript, I would be worried about that.

Q. Yes. So ideally the -- is it the case that the transcriber is normally the same person as the translator?

A. That's a good question. I think to my experience, it normally is the case, but I'm more familiar with the Australian scenario.

Q. I see.

A. But I think almost always -- almost all the cases that I've been familiar with to any level, that has been the case.

Q. In Australia.

A. Even in Europe.

Q. Thank you. Have you dealt with any Albanian cases before?
A. No, I haven't.
Q. Thank you. But I'm looking now at more ideal scenario where better practice is used rather than worst practice. Would it be the case that you would have the same person who's translated looking at a transcription, maybe a previous version, listening to the audio, and maybe also possibly, as well as listening, having a video recording of the audio?
A. That can certainly happen. That happens quite frequently these days. Sometimes the video is equally poor quality, but sometimes the video is better.
Q. I see. Thank you. So to sum, is it right to say that the parties to the court proceedings using transcribed transcripts need to have transparency as to the actual processes that were used in the individual cases for the individual transcripts?
A. Yes. Well, I think they need some assurance that an evidence-based practice -- what I wouldn't like to see and what might be -- I'm not sure if this is what you meant, but I feel I'd like to clarify it. Sometimes people say, oh, you should put every version and every step before the court so that they can evaluate everything. Evaluating a transcript is itself an area of expertise. I would personally prefer to see forensic transcription handled in the same way as other responsible forensic sciences, where the evaluation and quality control are part of the process, and at the end of it you get either no transcript at all, if it's just too hard and nobody can

transcribe it reliably, or a reliable transcript. And then you can evaluate it as you do gunshot residue or fingerprints or all the other types of evidence that we get where you look at the skill and the qualifications of the practitioner and the evidence base of the method that they're following. You don't get in among the data yourself and say, oh, I think this gunshot residue came from this gun, not that gun. That is not something that you would normally do in court.

Q. And you would say this is an area of developing science where you're aiming for best practices more universally?

A. I think so, yeah.

Q. Thank you. And from what you're saying, you're -- maximum transparency is critical?

A. As I say, I don't think it's necessary for the court to have -- I think that could create a lot of adversarial discussion. I think the important thing is to have accountability.

Q. Yes. Thank you. So at the very least, let me ask you about what would be the minimum practice you would expect in a given case. At the very least, would you expect -- in terms of documentation from a transcriber, apart from the training and the experience, would you expect at the very least some sort of statement or report from that transcriber as to the processes that he or she used?

A. From the case manager perhaps more than the individual transcribers, but yes, indeed, and that's what I think I wrote in my report. I expected that in this case, but I was --

Q. Thank you. And you --
A. I discovered that there was no such thing, and that was when I asked Ms. Menegon to -- if there was such a thing.
Q. Thank you. Thank you. So you'd expect that for every -- every transcript relied upon in court.
A. I don't see why not.
Q. Thank you. The second topic I'd like to ask you very briefly is on information about -- not just on the transcription process, which you've dealt with, but on the transcribers themselves. So can I turn to that with a few questions.

Why, Professor, is it important to understand which transcribers transcribed individual transcripts?
A. Well, it might not be in every single case. I think the important thing is -- as I said before, it's not having transparency into every single aspect of its accountability. So you'd want -- I think it's always useful to go to the other responsible forensic sciences and look at what they do. We probably don't bring in individual fingerprint analysts and grill them about all sorts of things, but we have faith in the accountability, we know that that agency fingerprinting group turns out reliable fingerprint analysis in the majority of cases.
Q. Yes. Even if it's not necessary to have the actual name or identification of the individual, it's important to know the -- presumably their background, their training, their experience, in relation to transcribing.

A. Well, I would again -- experience is not so important as expertise. Can they do this task.
Q. Yes.
A. I'm just referring always to the exact standards that we -- well, we don't -- we don't have them. We certainly don't follow them consistently and wonderfully well all the time, but they're there as an ideal, that we have practitioners who are trained and tested and we have methods that are evidence-based and updated on the basis of research.
Q. Presumably in some sciences, obviously scientists and experts have their work peer-reviewed. Is that something that you think is something that should be applicable in linguistic forensic transcription?
A. Peer review in this forensic field is quite a fraught concept. I would still just come back to accountability and evidence base and those types of things.
Q. Thank you.
A. Peer review can be done in a lot of different ways, some good and some bad.
Q. Right. Well, I'll move on then, Professor.
A. Okay.
Q. In terms of understanding who the transcribers are, presumably part of that is in order to ascertain and to verify their independence and neutrality.
A. That's exactly right, yes.

Q. Yes. So you -- you'd want to be satisfied so you're sure that the individual transcriber had no direct connection -- any direct connection to the investigation or the case that they were transcribing.

A. You'd want to be sure that they didn't have an interest in the outcome of the trial.

Q. Yes. And presumably that can be ascertained through questioning and presumably looking at their professional background, or in many different ways?

A. We do it all the time with all sorts of other transcribers and translators.

Q. Yes. But even if -- supposing, for example, looking at their CV, it was apparent that a particular transcriber, whether you had no -- there was no evidence of any evidential connection to the case concerned, would you also be concerned if, say, an individual transcriber had a long history of working for prosecution agencies in the past, when being asked to consider a contentious covert transcription case?

A. Again, I find that the question is a little bit hypothetical. I'm not sure -- I also say I have never worked on any cases like this before. I understand the stakes are very high, and I'm not really sure I have a good answer for that question.

Q. Well, we'll leave --

A. In general, I can say you definitely want independence, just as we do with many other things.

Q. Thank you, Professor. I'll leave it there. Thank you very much.

MR. YOUNG: Thank you.

JUDGE GOSNELL: Mr. Admiraal.

MR. ADMIRAAL: Your Honour, I think the statement of the Professor is very clear, so no further questions. Thank you.

MS. MENEGON: Your Honour, I omitted to tender some item. I'm referring to the Prosecution supplementary 102(3) notice and its annexes that I quoted during my examination-in-chief, and I put some figures to the witness about the number of interviews conducted by some of the SPO interpreters involved in the transcription of the detention recording. So they are relevant, and I would like to tender them into evidence or that they be granted an MFI. The SPO cover filing is F906, and the two annexes I quoted I -- are the Annex 2 and 3 to this filing. Thank you.

[Single Judge and Court Officer confers]

JUDGE GOSNELL: Ms. Menegon, that's a filing, is it not, on the record?

MS. MENEGON: Yes, it's a filing, but I suggest to tender it as evidence because in the past, the SPO has tendered several filings from the case file and we did as well through the bar. So I suggest that they admitted as evidence, at least especially the annexes because they contain some precise information about which interpreter did which interview, and they are not simply, let's say, factual legal submissions. But I am in your hands. My point is that I want

to be able to rely on them in our final brief.

JUDGE GOSNELL: Well, if I could just suggest, it might be convenient to put together a list of all of the MFI'd -- all of the items that are, let's say, being requested for MFI, and that way we will deal with their admission in a single decision at the -- following the end of the witness's testimony. So if I could just suggest that we recapitulate all of the items that are proposed for MFI, send those, please, to the Registry, and then we'll proceed accordingly.

MS. MENEGON: This is noted.

JUDGE GOSNELL: Mr. Hafetz.

MR. HAFETZ: Thank you, Your Honour.

Cross-examination by Mr. Hafetz:

Q. Good afternoon, Ms. Fraser. Dr. Fraser, we agree that court [sic] recordings can contain valuable evidence, right?

A. Court recordings?

Q. Covert recordings.

A. Covert recordings can contain valuable evidence, yes.

Q. And you've recognised that in multiple articles that you've written in the past; yeah?

A. I expect so, yes.

Q. Well, you actually say it quite frequently, right? One of the things you've said is "legally obtained covert recordings can provide powerful evidence in criminal cases, capturing speakers giving information or making admissions they might not be willing to reveal

openly in court."

A. Yes.

Q. And just for context, you wrote that in a 2017 piece, "How interpretation of indistinct covert recordings can lead to wrongful conviction," and that's a case study that you wrote.

Do you remember that?

A. I don't remember that specific article, but I certainly agree I've said things along those lines very frequently.

Q. You said in 2018, in the Judicial Officers' Bulletin, so July 2018, that "covert recordings potentially provide powerful forensic evidence, allowing the court to hear admissions that would not be made overtly." And I ask that because it's because that -- that recordings can contain important evidence, that courts and parties endeavour to get it right. Is that fair?

A. I expect so.

Q. Well, this is your life's work, right?

A. I'm not sure about that, but yeah. It's something I work on.

Q. You have -- you are the director now of the hub that's dedicated at the University of Melbourne to this specific issue; right?

A. Correct.

Q. And you've written more than 20 articles on it; right?

A. Yes.

Q. And when I say get it right, I mean courts have procedures --

THE INTERPRETER: The interpreters kindly ask the speakers to make a break --

MR. HAFETZ:

Q. -- aimed at ensuring --

THE INTERPRETER: -- between a question and answer. Thank you very much.

THE COURT OFFICER: [Microphone not activated].

MR. HAFETZ: Certainly.

Q. Courts do have procedures aimed at ensuring the accuracy of transcripts of covert recordings that go to the fact-finder; right?

A. Yes.

Q. And they have them in Australia.

A. Yes.

Q. And in fact, this Court has procedures aimed at ensuring the accuracy of the transcripts and translations that go to the Judge in this case; is that right?

A. I expect so.

Q. Well, you were provided with a filing outlining them, were you not?

A. Mm-hm, yes.

Q. Okay. So when you say you expect so, you mean you know that; right?

A. Okay.

Q. That's a yes-or-no question.

A. Yes, I've read that. If you mean the language policy, I've forgotten the exact name of it, but I did read it, yes.

Q. The working language decision?

A. Correct.
Q. They provided that to you, the Thaci Defence --
A. Yes.
Q. -- at a later point in time than they gave you the original materials in this case; right?
A. Yes.
Q. Okay. They also provided you with this Judge's decision on the request for verification; right?
A. Yes.
Q. Okay. And you also received F00745 - that's the number for the filing, I don't expect you to remember that - which has the Judge's decision on a Defence request for clarification and reconsideration of the verification process in this case.
A. Well, as you say, I don't know the exact number and so on, but is there a title for it that I might recognise?
Q. The title is: "Decision on Defence clarification/reconsideration request."
A. Okay. Yes.
Q. If it's listed in your report as a document you received, we can presume you read the document; yes?
A. Yes.
Q. Because those materials in the early pages of your report are materials you relied on for the report; right?
A. Yes.
Q. Okay.

A. I read -- the documents that I listed there, I did read them. Yes.

Q. And while I understand from your direct examination and your report and your writings that you may disagree with some of the procedures in this institution and in other institutions, you would agree that the intent behind those rules and procedures is to ensure the accuracy of transcripts and translations that go to the fact-finder; right?

A. Yes.

Q. Now, one of the reasons that you've been critical of the procedures regarding forensic transcriptions in your home jurisdiction of Australia is that relying in any way on the defence to challenge the accuracy of transcripts is, in your view problematic; right?

A. I agree with everything except "in any way." I do agree that the defence should have some role, but, yeah, they -- sometimes there's too great a role on the defence to challenge.

Q. And the reliance on defence to challenge transcripts is part of your critique of the existing safeguards; is that fair?

A. Yes.

Q. One of those specific critiques is that defendants in criminal trials sometimes lack the sophistication to properly or adequately review recordings and transcripts in order to raise accuracy challenges; is that right?

A. Yes. I would go more than "sometimes." I'd say "mostly."

Q. I think you've previously described it as "reviewing transcripts, especially of lengthy indistinct material, is itself a skilled task beyond the capability of many defendants."
A. Yes.
Q. Not all; right?
A. I'm not sure about the difference between "many" and "all," but certainly at least many, yeah.
Q. Well, doctor, those are your words, not mine; right? So --
A. I said "many," and you said "not all," and I --
Q. Yeah. You know the difference between "many" and "all"; right?
A. I do, but I think I -- well, I'm agreeing with you that I can't say all for certain, but at least many. I think first of all you said "some." That's not -- not enough.
Q. Fair enough. In the case of an underresourced or indigent defendant, that might well be an exacerbated problem; right?
A. It is especially, yes.
Q. Or if a defendant couldn't read.
A. That would make it very difficult, yes.
Q. And another specific critique of yours is that defendants and their defence counsel may lack sufficient time or resources to properly review audio recordings and transcripts in order to raise accuracy challenges; right?
A. Partly that they lack time and resources, but partly all the things we've been saying before earlier today. It's not -- it's not ideal to provide a potentially inaccurate transcript and hope that

the inaccuracies will be discovered, because, as we've said, reviewing an existing transcript is not an easy task.

JUDGE GOSNELL: And, Mr. Hafetz, I'm sorry to have to interrupt. But we are at the one-and-a-half-hour mark, so we do have to take a break.

Could the witness please be escorted out while I'm doing this.

We'll just be breaking, Professor, for 15 minutes.

THE WITNESS: Okay.

[The witness stands down]

JUDGE GOSNELL: So, Mr. Hafetz, we'll just be breaking for 15 minutes, and we'll be reconvening at 3.15 and then we'll go until 4.00.

MR. HAFETZ: Understood, Judge. Thank you.

JUDGE GOSNELL: Thank you very much.

We can break now. Thank you very much.

--- Recess taken at 3.00 p.m.

--- On resuming at 3.19 p.m.

JUDGE GOSNELL: May the witness be brought in, please.

[The witness takes the stand]

JUDGE GOSNELL: Welcome back, Professor. We're proceeding just until 4 p.m., so not much longer now.

Mr. Hafetz.

MR. HAFETZ: Thank you very much, Your Honour.

Q. Welcome back, Professor.

The last answer to my question, I'm just going to read it back

because I want to ask a follow-up question, and it was about the specific issue of defence resources and time to review transcripts.

Your answer was:

"Partly they lack time and resources, but partly all the things we've been saying before earlier today. It's not ideal to provide potentially inaccurate transcript and hope that the inaccuracies will be discovered, because, as we've said, reviewing an existing transcript is not an easy task."

That's understood.

One of the difficulties you've identified defendants face is resources; yes?

A. Yes.

Q. And another is proper or sufficient numbers of or resources of defence counsel; yes?

A. Yes.

Q. Another is when the material is provided in an either unclear or disorganised fashion; is that right?

A. Yes.

Q. And that's what you told the House of Lords in 2025, just last year; right?

A. Perhaps, yes.

Q. And I believe you noted in that House of Lords evidence that this is especially the case in legally aided cases, where defence resources are often stretched to the point that evaluation of forensic audio is minimal. Does that sound right?

A. Yes.
Q. Now, Professor, you're aware that in this case the accused for whom you wrote the report is the former president of a country; right?
A. Yes.
Q. With a multi-member, experienced legal team; right?
A. I expect so.
Q. Well, you know several of them; right?
A. Yes.
Q. And you're also aware that the recordings at issue in this case have been in Mr. Thaci's and his Defence team's possession since at least February 2025; right?
A. Yes.
Q. In fact, in his case, he's actually been in possession of the recordings since 2023, the later part of the year.
A. Okay.
Q. And you're aware, because you've received at least a few of them, that all of the audio content is contained on five-minute-increment wav files; right?
A. Yes.
Q. And they're all organised in separate folders according to the date of the visit; right?
A. Yes.
Q. And you've seen from the way you've received them that they're organised by the date and then the five-minute increments in which

they occurred; right?

A. Yes.

Q. That's not exactly the situation that you talk about when you talk about underresourced or lack of time and resources to review covert recordings; right?

A. Yes.

Q. And I asked you just a few minutes ago about the importance of getting it right, is the words I used; right?

A. Yes.

Q. Earlier on direct examination, I believe you called the LSU verification process here an "experiment." Do you remember that?

A. I think I was referring to when Ms. Menegon gave it to the people beforehand. I think I was saying it was not an experiment.

Q. I think you said it wasn't a good experiment, but I'll get the transcript. Do you remember that?

A. It would have been it wasn't a good experiment, yes.

Q. But it's not an experiment at all. It's actually a process that's happening; right?

A. Okay.

Q. Well, that's a yes-or-no question; right? Your words exactly were, at page 71 of the transcript, "not a very well-controlled experiment."

A. Yes.

Q. It's not an experiment; right? It's the Court's verification process; right?

A. I'm honestly not sure that I do agree with that, but I'll accept it.
Q. Well, I'm asking you to explain it. Do you think that the Court's verification process here is an experiment they're running?
A. I'm sorry, I don't really know how to answer these questions.
Q. Well, Professor, you said "it's not a very well-controlled experiment," so I'm asking you what you mean by that, because it's not -- it doesn't sound like you're agreeing with that. But it is, in fact, not an experiment the Court is running; right?
A. But you're making it sound as if it was a part of a court process. My understanding was it was something that Ms. Menegon did as some kind of experiment to see what would happen if she asked these independent transcribers to look at the material.
Q. I'll come to it in a bit.
A. I beg your pardon?
Q. Please finish your answer.
A. I had finished, yeah.
Q. I believe what Ms. Menegon -- and we can call it up on the screen if we need to, for page 71 - was asking you about was the LSU verification process which involves the process you spoke about at length.
A. Okay. Now I'm with you, yes. Okay. Yes.
Q. And your words were "it's not a very well-controlled experiment." Are you with me?
A. Yes. I think I was referring to the earlier one where we didn't

know about the qualifications of the translators.

Q. Okay. So when you referred to "not a very well-controlled experiment," you don't mean to speak at all about what the Language Services Unit did in this case; that is right?

A. I think what the Language Services Unit did in this case with those final versions, they were doing a verification process that was suggested by His Honour. The previous things, as I understand it, were initiated by Ms. Menegon. They're slightly different in -- as far as I see it but ...

Q. So to the extent there's any ambiguity, you are not suggesting that what LSU was doing in this case was any kind of experiment.

A. No.

Q. Well-controlled or otherwise.

A. What LSU were doing were reviewing an existing transcript. That was not an experiment. I think what Ms. Menegon was doing, she was conducting an experiment to see what would happen if she asked independent transcribers to look at the material.

Q. Understood. Thank you. Now, earlier on direct, you were also asked and gave some answers about transcribers in this case putting in observations as to sounds heard. Do you remember that?

A. Yes, I do.

Q. Now, you yourself have done some transcription work; right?

A. Yes, I have.

Q. And you have done it in some criminal court cases; yes?

A. Correct.

Q. And one of those was the Eastman case; right?
A. I did not do the initial transcripts in that. I commented on existing transcripts.
Q. I apologise for the inarticulate question. You reviewed some audio and opined on the audio and transcription in that case; correct?
A. Yes, that's true.
Q. And when the court summarised your findings in that case --
MR. HAFETZ: And the reference is, for the Court and parties -- this is in our queue at SPOE00410930 to 401961, and that's at 2018 ACTSC 186.
Q. That's an Australian way of keeping track of their court records; correct?
A. Correct.
Q. In that case, the court summarised several observations you made about multiple recordings which are referred to on the page I'm going to give in a minute as tabs.
A. Taps?
Q. Tabs, t-a-b?
A. Oh, tabs, yes. That's right.
Q. Yeah, Tab 001, Tab -- that's how they --
A. Yeah. Yes, yes, that was how they numbered the recordings.
Q. Exactly. And the court reflected that you noted, among other things, that one of the recordings you listened to featured background of sport commentary or other television or radio; in

another audio, that there was a good deal of shuffling and other sounds interfering with speech; and that the file featured various episodes of whispering plausibly interpretable as a continuation of a complaining style about bureaucratic process, although it was certainly far from clear.

Dr. Fraser, you yourself opined, it seems, on a complaining style of speech; right?

A. Yes.

Q. That's going outside the audio or was perceptible to you and observable to you, correct, one of those two?

A. It was perceptible to me or observable by me, yes.

Q. You were able to determine from just the audio that it was a complaining style of speech.

A. Yes.

Q. And you also did some work on the case of Michael Clark; yes?

A. Correct.

Q. And you issued a report in that case in March of 2014; right?

A. Yes.

Q. Okay.

MR. HAFETZ: I'll give the SPOE number. This is on our presentation queue.

Q. But in your 37-page report, Professor Fraser, you yourself noted that some of the audio files had loud television playing football commentary, men discussing a football game and some topics related to the television, and that in one case you observed further from the

microphone, whispers, apparently in an urgent secretive manner, and the other, meaning the other person, closer to the microphone responding occasionally with "mm-hm," meaning MM.

Do you remember that?

A. I do.

Q. So again, you yourself are --

MS. MENEGON: Your Honour? Sorry -- sorry to interrupt. Can we get, each time you refer to such prior documents, the SPO number and the page number. I don't need to show it on the screen, but just for completeness of the reference. Thank you.

MR. HAFETZ: Absolutely. It's SPOE00412606 through 412645, and this material is found at page 23 of 37, which is located on the upper right-hand corner of the document.

Q. So again, you yourself, Professor Fraser, were able to discern football game and topics related to the television, and where individuals were in relation to a microphone, and an urgent secretive manner of speaking; yes?

A. Yes.

Q. Okay. When you were asked about this earlier, the specific topic was paper shuffling and page turning. Do you remember that this morning?

A. Yes.

Q. And correct me if I'm wrong, but my understanding of what you said was the transcription you were looking at went beyond what a transcriber could or should do when they noted pages turning. Is

that right?

A. That would have been one of the examples, yes.

Q. And earlier in that answer you noted that there could be paper shuffling heard; right?

A. Yes.

Q. Do you remember that?

A. Mm-hm.

Q. And to be precise, what I understood you to say from the transcript at page 45 is, "so these transcripts and translations are putting more into what's on paper than is on audio."

A. Yes, in some cases.

Q. Well, one of the cases was page turning; right?

A. Yes.

Q. And you said in your report that -- Ms. Menegon asked you:

"Thank you. In your report, you also mention as an issue the interpretation of various sounds like page turning, which go too far beyond the -- what is objectively derivable from the audio itself."

A. Yes.

Q. So just to go back to the two examples from Eastman and Clark, what you were observing in those audios, including the secretive intent, was observable to you from the audio; yes?

A. Yes.

Q. All right. It was objectively derivable; yes?

A. Okay.

Q. Yes or no?

A. Yes.
Q. Okay. And the sound of paper shuffling on a recording is, in your view, something that could be objectively derivable from the audio; right?
A. I -- okay. Yes.
Q. Yes, paper shuffling is objectively derivable in some cases?
A. I don't really like the terms "objectively derivable," but for the sake of moving along, I will agree with what you say there.
Q. Well, they're Ms. Menegon's words to you which you answered yes to.
A. Yeah.
Q. Which words would you prefer instead of "objectively derivable"?
A. I don't know. I'd have to look back and think it through again.
Q. Just to be clear, though, you're not disputing that a transcriber for the Prosecution in this case could have properly heard and written down in their transcript the sound of paper shuffling on one of these convert recordings; right?
A. Yes.
Q. And they could have heard it in multiple recordings; right?
A. They could have, yes.
Q. And that would depend on listening to the recording --
A. Yes.
Q. -- and hearing it; right?
A. Yes.
Q. Page turning might be something that's different, it might be

more specific. Is that what you're saying?

A. Yes.

Q. Okay. But if the issue is one is trying to figure out whether paper was in the room and being used during the discussion, it would be useful to know if there was objectively derivable audio indicating paper shuffling; right?

A. Yes.

Q. I want to ask you a few questions about whispering.

A. Okay.

Q. Now, in your report for this case, you note that:

"In some sections the voices are loud enough that I would expect the content to be mostly intelligible to skilled listeners familiar with the language."

A. Yes.

Q. Do you remember that?

A. Yes.

Q. And to be clear, this is on page 17 of the report.

You then say that:

"Other sections feature low-amplitude or whispered speech which I expect would be indistinct even for skilled listeners ..."

And you go on to explain what you mean by that.

A. Yes.

Q. Okay. Whispering on a convert audio is a readily discernible thing for a human being; yes?

A. Yes.

Q. One does not necessarily need to speak the language of the speaker who is whispering to discern it; correct?
A. To discern that -- that they're whispering.
Q. Exactly. Thank you.
A. Yes.
Q. The fact of the whispering --
A. Yes.
Q. -- is readily discernible by most humans with average or good hearing; yes?
A. Yes.
Q. In this case, in the audio you reviewed, you were able to discern the fact that whispering was happening even though you don't speak Albanian.
A. Yes.
Q. Now, a listener's ability to understand what's being whispered, whether in a live conversation or a covertly recorded one, depends on several factors; right? We need to hear the answer.
A. I'm sorry, I didn't think you'd finished the question.
Q. Oh, no, I had.
A. Okay. So what was the question?
Q. The question is: Does a listener's ability to understand --
A. The fact that somebody's whispering?
Q. -- whether it's recorded or live --
A. Yes.
Q. -- it depends on several factors; right?

A. I thought you were going to go on to a list of factors.
Q. We'll get there.
A. Okay. Well, I'm not sure how many factors you need to know that somebody's whispering. Yeah.
Q. Sorry, I don't mean to ask the number. I mean it does depend on more than one factor; right?
A. I'm not -- I don't have specific factors in mind for it, but yes. Okay.
Q. Let me ask you about some.
A. Yeah.
Q. One factor would be the intensity or amplitude or volume of the whispering; right?
A. I think it might have more to do with the voice quality.
Q. But would the volume that I'm speaking not be a factor in one's ability to discern my whispering?
A. I could imagine a scenario in which the whisper was louder than the modal voice as we call it, so --
Q. But I'm just asking if it could be a factor.
A. It could be a factor.
Q. And there's degrees of whispering; right?
A. Yes.
Q. As you just illustrated, one can whisper in a very loud whisper.
A. Yes, that's right.
Q. I won't do it here because we're in court and I'll get a complaint.

A. Okay.
Q. But it can be higher and -- like, one can really go down and whisper and one can go very loud whisper; yes?
A. I think "whisper" is generally defined as a particular mode of vibration of the vocal cords that gives it that breathy sort of quality.
Q. And whispering then can have varying levels of clarity; yes?
A. Yes.
Q. Another factor in discerning what is being said when one is whispering is background noise; right?
A. Yes.
Q. The more background noise there is, the more difficult it may be to discern the whispering; right?
A. In general, yes.
Q. Cross-talk is another; right?
A. Yes.
Q. That's why we get in trouble here for cross-talking.
A. That's right.
Q. And another factor in the ability for a listener to understand the language that's being whispered is a factor; right? The ability to speak is a -- and understand a language is a factor; yes?
A. Definitely.
Q. So a native speaker of Albanian might be more easily able to discern whispering occurring on one of the recordings you received than you; right?

A. Yes.
Q. In fact, they're much more likely to be able to discern more information than you are; right?
A. Yes.
Q. Even about the quality of the whispering.
A. I don't know about that.
Q. You don't know whether you are as good as a native Albanian speaker --
A. "The quality of the whispering," what do you mean by that?
Q. The audibility, intelligibility of the whispering.
A. Being able to speak the language is an advantage in understanding spoken language. Not all speakers of particular languages are very good at deciphering indistinct audio, but certainly somebody who can speak the language is in a better position than somebody who cannot speak the language at all. I don't know what you mean by "quality of the whispering." If you mean the content of the whispering or if you mean is it an angry whisper or a gentle whisper or -- I'm not sure that that would be influenced -- I'm not sure exactly what you're speaking --
Q. Let me be more precise.
A. Thank you.
Q. Let's use your three categories of clear, unclear, and indistinct.
A. Mm-hm, yes.
Q. A native Albanian speaker is going to be better at properly

categorising a piece of audio in Albanian than you are as a non-speaker; correct?

A. Categorizing as clear, indistinct, or unclear?

Q. Yes.

A. As a generalisation, it is -- another topic that we have worked on is the assumption that native speakers are able to discern the content of poor-quality audio is not the case. After all, not all native speakers of English are very good at discerning very poor-quality audio. This is a distinct skill beyond just being a native speaker of the language. It's certainly true that being able to speak the language is a prerequisite for being able to understand the content of the audio, whether it's whispered or not.

Q. But not just the content, the categorization by your three categories; right?

A. Well, ability to understand the content would be part of what would enable you to make those categories.

Q. Professor Fraser, at pages 17, 18, and 19 of your report --

A. Yeah.

Q. -- you talk about your use of ChatGPT; correct?

A. Yes.

Q. And I believe it's at the bottom of page 17 and the top of 18; right?

A. Okay.

Q. Okay. The reason you used ChatGPT in this case is for the purpose of categorising the samples of audio you received; right?

A. Yes.
Q. Because you as a non-speaker were not equipped to do it; right?
A. Not fully. I was able to make some judgements in that direction, but yes, that's right. Yeah.
Q. I think -- I think what --
A. Being a native speaker is definitely an advantage. I'm not arguing with you about that. But what I'm reluctant to go towards is that just being a native speaker is enough to be able to ensure that you have a reliable version of any of these things, and I think categorising the speech along those different dimensions is a fairly difficult task, different from just understanding the content of the audio. So I'm just trying to be precise in my answers because I'm not sure where we're going, so ...
Q. Well, Professor Fraser, let me worry about where we're going --
A. Yeah, I --
Q. -- and you answer my questions as I ask them.
A. I'm doing my very best to do so, but I'm trying to be precise in my answers, because I -- I know I might be quoted later on. I'll do my best.
Q. I'm going to pull up the question I asked because I want to ask it again --
A. Okay.
Q. -- to make sure we're getting it precise.
A. Right.
THE INTERPRETER: The interpreters kindly ask the speakers to

slow down.

THE WITNESS: Thank you. We've been asked to slow down.

MR. HAFETZ:

Q. I will come back to that question.

A. Okay.

Q. In the meantime --

A. Yes.

Q. -- while we're here, do you know which version of ChatGPT-5 Whisper you used?

A. Yeah, I used the one that was the latest at the time. I can't remember the exact numbers of it.

Q. You don't know which model of Whisper you used?

A. I don't think it's a model of Whisper. I think Whisper is the thing and then you choose a large, medium or small model. I chose a largest model for Whisper 5 at the time.

Q. And when exactly was that, because there was some time between your receipt of the material and the completion of your report?

A. I can't remember the exact date.

Q. Do you recall if you used the programme in its online version or if you downloaded it first?

A. I have two versions of it. I have an online version and one that works on my computer, and I think I used both of them, in fact.

Q. What would have been the purpose of using both?

A. Just to see if they were similar or different.

Q. And were they similar or were they different?

A. For the news item, they were similar. For the other, they were more different.
Q. How were they different?
A. I can't remember. They weren't -- they weren't making sense of the audio.
Q. Were both the online and offline versions not making sense?
A. Yes.
Q. Just making sense -- making nonsense differently?
A. Yes.
Q. All right. Did you document anywhere which versions you used?
A. All I know is I -- all I can remember is I used the latest on the date, but I can't remember the date either now.
Q. And do you know if it was the OpenAI model that you used?
A. Yes. Yes.
Q. So you went to OpenAI's Whisper web site?
A. No, I didn't.
Q. Where did you go to do it?
A. Through programmes that access those, through the OpenAI models.
Q. What programmes are those?
A. I'd rather not disclose that, if possible.
Q. Okay. Are they proprietary?
A. Yes.
Q. Well, Dr. Fraser --
A. They're not -- well, I feel that that's personal information about what programmes I personally use. If His Honour would like me

to answer, I will, but I'd rather not. I don't think it matters. They simply access the ChatGPT Whisper models.

Q. I'm going to ask a couple more questions to perhaps elicit why it matters and then I'm going to ask you to answer.

A. Okay.

Q. Professor Fraser, you would agree that your use of ChatGPT's Whisper was important to your report; yes?

A. I don't think it was massively important to it. It was an illustration.

Q. That illustration you rely on for your conclusion in your report; right?

A. Yeah.

Q. In fact, you rely on it centrally, do you not?

A. I'd have to look at what I said.

Q. Well, let's call it up.

A. I've got it here.

MR. HAFETZ: Let's call up the bottom, from memory, I believe, page 17.

THE WITNESS: That's a different conclusion.

MR. HAFETZ: I will provide you with the ERN. The ERN is DHT1201286-01309.

Q. It is, in fact, page 17, at the bottom, at point 7.2.

A. Yes.

MR. HAFETZ: Can we call that up, please. Oh, thank you. I'm behind.

THE COURT OFFICER: Just for the record, this is MFI 1D00136.

MR. HAFETZ: Thank you. For our purposes for the moment, I'm going to refer to it as "Professor Fraser's report," if that's all right.

Q. Now, Dr. Fraser, looking to the bottom third of the page, this section is entitled "Assessing the need for external context in understanding this audio."

A. Mm-hm, yes.

Q. That assessment, the need for external context, is foundational to the conclusion you made in your report; correct?

A. Yes, that's right.

Q. Okay. And the very first paragraph in that section says, because you do not speak the language and have no access to skilled Albanian listeners --

A. Mm-hm.

Q. -- you assessed the intelligibility of the audio by running it through an AI transcription tool. The first sentence of the section on your assessment which is foundational to your report begins with your use of ChatGPT-5; correct?

A. Yes.

Q. Okay. The end of that paragraph is:

"This is an exercise purely to assess the degree of contextual information needed to transcribe this audio."

Right?

A. Yes. I do call your attention to -- I had also made the comment

on the basis of the quality of the audio earlier as well. But yes, I agree with what you're saying there.

Q. In your prep note just a week ago, right, your prep session with the Defence --

A. Oh, yes. Mm-hm.

Q. -- you told them when asked specifically about this issue --

A. Yes.

Q. -- that your assessment that you just mentioned was limited because of your lack of Albanian; right?

A. That's true. I think I've said that in the report. Yes.

Q. We agree.

A. Yes.

Q. My question is, if you turn to the top of page 18 --

A. Yes.

Q. Is, again, your use of ChatGPT-5 for this assessment --

A. Yes.

Q. -- which you yourself were limited in making --

A. Yes.

Q. -- was essential to your report; right?

A. Yes.

Q. And that's why I'm asking which version or versions of the programme did you use?

A. Version 5.

Q. You told me there's some either proprietary or other personal reason --

A. No, that's -- no, that's just -- that's not another version of Whisper. That's programmes that use Whisper that access it from ChatGPT.

Q. Professor Fraser, I'm asking you very simply how exactly you tested these segments of audio.

A. I used programmes that I personally use on my computer for lots of other things, not necessarily this, which taps into ChatGPT without me having to go and upload files to ChatGPT.

Q. And understanding the quality of that programme and what it actually is is, in fact, essential to understanding its performance; no?

A. Well, I wouldn't really say that because I wasn't looking in detail at it. I was just demonstrating the difference between what it did with clear audio and what it did with the audio from this case.

Q. I'm going to ask again --

A. Okay.

Q. -- which programme or programmes --

A. Okay.

Q. -- and software you used.

A. I can assure you they have no impact on the use of ChatGPT.

JUDGE GOSNELL: Can we -- before we go further, can we go into closed session, please.

THE WITNESS: Does that mean I should leave?

JUDGE GOSNELL: I'm sorry, I used the wrong terminology.

Private session.

No, Madam Witness, you can just --

THE WITNESS: Okay.

JUDGE GOSNELL: -- stay there, please.

[Private session]

[Private session text removed]

[Private session text removed]

[Private session text removed]

[Open session]

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

JUDGE GOSNELL: Professor Fraser, that concludes your testimony just for today. We'll have you back, please, tomorrow morning at 9.30. Overnight and after you leave the courtroom, please do not discuss your testimony with anyone. And we look forward to seeing

you again tomorrow morning.

THE WITNESS: Thank you, Your Honour.

JUDGE GOSNELL: Thank you.

[The witness stands down]

JUDGE GOSNELL: Are there any scheduling or other matters that need to be raised before we adjourn for the day?

Thank you very much. We'll see each other tomorrow morning at 9.30.

We stand adjourned.

--- Whereupon the hearing adjourned at 4.01 p.m.