

Corrected version of Annex 1

to

Defense Final Trial Brief

Confidential

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I. Introduction

Central to any criminal case is time, place and action. So, it is in the case of Mr. Salih Mustafa. Mr. Mustafa is accused of arbitrary detention, cruel treatment, torture and murder. He has pleaded not guilty to the charges.

Essential for a conviction is that the accused was at the location, at the time when the alleged crimes took place, and that it was him -directly or indirectly- who committed the alleged crimes.

The time element in the case is that the alleged events took place today 23 years ago, in 1999, in the period of the 1-19 April of that year. The alleged crimes took place in Zllash, and the alleged committed crimes were the ones that have been cited above.

It is the Prosecutions obligation to prove that each of these were committed, there and then by the Accused.

The defence has interviewed witnesses for the case of the defence. They have testified in court in the course of trial proceedings.

The defence does not need to prove the whereabouts of Salih Mustafa. It is nearly impossible to give a minute-by-minute or even day-to-day account of each step that a person made 23 years ago. Not anybody can be held to do the impossible.

However, it is essential element in the refutation of the alleged crimes to hear the accounts of people. People who lived the period of the conflict, who experienced events in the period of the conflict, and in particular in the time frame of the indictment. Where were they, who did they meet, what happened in those days, and with whom were day at the time.

The defence went to great efforts to investigate whether there were people that were on the location of the indictment in the period of the indictment. What were they doing there, why would they be there, and what was the situation at that location.

Other people to who the defence interviewed, were on entirely different locations. Far from the location of the indictment. Far, because at the time the situation did not allow them to take the fastest route from one place to another, they had no use of a car but went on foot through mountainous areas, with road blocks or difficult terrain in difficult weather conditions. On these entirely different locations they met Salih Mustafa, took action with Salih Mustafa together or enabled Salih Mustafa to stay or to rest at their place.

It is almost impossible for a person to remember the day-to-day, minute-by-minute action that they undertook in a particular period, especially when it was 23 years ago. It is also not required by law.

But these people, witnesses can indeed relate to events that were significant to them, or personally affected them, and therefore they are able to recall those events and put them in the perspective of the time period in which they lived it, saw it, eye-witnessed it, or heard it.

The witnesses of the defense have each their own personal experience, were eyewitness to events, had contact with Salih Mustafa, or worked with him in the period of the indictment.

None of them are lying about what they did, when they did that, or where they did whatever, they testified about.

Central to the defense case is that a number of witnesses were in Zllash, at the very location of the indictment, in the very period of the indictment, and they were there even sometimes before and after the period of the indictment. Other witnesses were with Salih Mustafa elsewhere in the period of the indictment.

All of the witnesses were able to relate their account, as good as that is possible, to events that were significant to them. As they were able to relate it to these events, they were able to put it in a time frame. A time frame that is essential, as it is the time frame of the indictment within which the alleged crimes would have been committed by Salih Mustafa.

The defense strongly believes in the first-hand accounts of these witnesses. Their accounts are consistent and detailed and precise where and as possible.

Their testimonies are essential for the fact that Salih Mustafa did not commit any of the alleged crimes of the indictment. There was no "Zllash Prison Camp" at the location that is central in the case. And the witnesses testified to that.

Mr. Mustafa did not commit the alleged crimes. He has never detained, ill-treated, detained, tortured or murdered anybody. The witnesses that were heard in the case testified to that effect.

The defense chose to analyze each of the defense witnesses and that is an essential part of the defence case. It is of overwhelming importance what they had to say. The witnesses were not friends who came forward to speak on behalf of Salih Mustafa. Each of them lived the period of the conflict and experienced specific things. And within those experiences and difficult moments, they met Salih Mustafa.

Salih Mustafa is an innocent man, wrongly accused of facts that he has never committed. He was, as many of his fellow compatriots, doing his part in the ultimate goal that he and his fellow compatriots had: gain independence of Kososvo. A struggle that has cost many lives.

Salih Mustafa never committed any of the alleged crimes

In this Final Trial Brief, the defence will discuss on the basis of the accounts of the witnesses, that the time, the place, and the alleged actions by the accused, as referred to in the indictment, cannot stand and hold. It is so essential for the case of the defense, and the defense cannot but underline the essential accounts that the witnesses gave, out of their own experience. Other issues will be dealt with during the oral arguments as they are of a different kind.

In a criminal case, it is important to determine the truth. That decision is ultimately up to the Panel. The defense believes strong in the witnesses, as their recollection of events is related to particular events that each of them lived through.

II. The testimony of Musli HALIMI-WDSM 1300

General

1. One of the locations that figures in the case is the location of the school. SPO witnesses testified about it, as well as defense witnesses. In the case file there is nothing that relates to the daily routine adopted in the school, the training and the people actually staying there in the period of the indictment that the “Brigade 153” operated in Zllash.

The Zllash school – a training facility for new recruits

2. Musli Halimi was in charge of the training of the soldiers that were newly recruited and came for training to the school in Zllash. He identified the building and described it in detail.¹
3. The first generation came in 1st of February 1999.² When a new generation of recruits arrived, it was the Cmdr. and his colleagues that would greet the new recruits.

Who was in charge?

4. Mr. Halimi arrived in Zllash on 15th of January 99,³ Mr. Musli Halimi was the commander of the training center.⁴ He was in charge of it ever since his arrival. The training center belonged to the “Brigade 153”⁵. Mr. Halimi was subordinate to Fatmir Sopi, Rrahman Dini and Sejdi Veseli⁶. The staff of the Brigade was not located in the training center, but it was about 500 meters away situated in a private house.⁷

Who was eligible to join the KLA and be trained at the school?

5. Joining the KLA just by arriving at the school or joining the training midway was according to the witness impossible. A new recruit would have to go through the Brigade command.⁸
6. New recruits would need to enlist at the Brigade command, which would draw up of list of new recruits that would be trained. In re-examination the witness testified that he only received a list from the Brigade 153 (command), and that he had never received any list from BIA.⁹

¹ KSC-BC-2020-05, WDSM-1300-official transcript of 20 April 2022, (p.3721-3726 photo SPOE 128386 and SPOE00128412, and p. 3848 SPOE00287801 and SPOE00287803)./https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b8cf95/lw_tpg_edit_transcript

² Ibid, p.3752/3753.

³ Ibid, p.3720

⁴ Ibid, p.3729

⁵ Ibid, p.3727

⁶ Ibid, p.3727

⁷ Ibid, p.3728

⁸ Ibid, p.3745

⁹ Ibid, p.3857and 3858

7. All the recruits were enlisted and a couple of days before the new generation would start, the list was complete and a new generation would start in the next shift. Joining the training in the school by just passing by and expressing one's desire to join was not possible.
7. New recruits, who almost entirely would come from Gollak area, would address Mr. Halimi as commander "Llapi".¹⁰

About the training, daily routine and leaving the training

8. The training was quite professional in its approach to recruits. There was a regular routine of things during a day. That is after waking up do some morning exercise, making up the beds, raising the flag with all the recruits who were obliged to be present, and inspection of the recruits to see whether they were in order. And at 8 am the lessons would start.¹¹
9. The training took 2 weeks, starting in the beginning of a month and then on the 15th of a month¹², with the last generation being trained from the 1st of April until the 15th of April 1999.¹³, even though Mr. Halimi did not completely end the training of the last generation. He left on the 7th of April, but remained sleeping in the school until the 10th of April, when he permanently left the training center in order to hold another position in Brigade 153.
10. As for the training, Mr. Halimi was himself in charge of the physical exercise. There were no means, in the sense of attributes like ropes, barbed wire¹⁴. His colleagues at the training center were a person called Emin Borovci (aka Triumfi), Mesuesi and Bexhet Vitia¹⁵
11. When a new generation of recruits arrived, it was the Cmdr. and his colleagues that would greet the new recruits. Only 1 time, with the 1st generation, it was Fatmir Sopi who greeted them. The first generation came in in February 1999.¹⁶
12. The Cmdr. stressed that the new recruits came from the area where Zllash itself is located¹⁷
13. According to the witness, it was simply not possible for new recruits NOT to continue and complete the training. "There was no going back, until they would finish the training"¹⁸. In the period that the witness was Cmdr. of the training center, there were no cases of people that were relieved from their duty. Apparently all those who joined

¹⁰ Ibid, p.3729

¹¹ Ibid, p.3732 -3733

¹² Ibid, p.3734

¹³ Ibid, p.3734

¹⁴ Ibid, p.3740

¹⁵ Ibid, p.3738 and p. 3792

¹⁶ Ibid, p.3752/3753

¹⁷ Ibid, p.3756

¹⁸ Ibid, p.3753, line 20-21

had good will and intentions and with a purpose to become a good soldier of the KLA and to go back to the places where they came from.¹⁹

The training center: a somewhat “closed” location: Latif Krasniqi and Driton Babiqi

14. The witness testified and insisted that there was no chance for somebody to pick up somebody from the training center.²⁰ It was even strictly prohibited for third parties.
15. During the period of the Cmdr. staying in the training center, he testified that there was no occasion at all that anybody was informing about a person with the name of Latif Krasniqi. Nobody was ever picked up from the training center with the name of Latif Krasniqi. Halimi testified that nobody from the guards ever informed the Cmdr. about people coming to the training center and enquiring about Latif Krasniqi.²¹ Neither did any family member of the Krasniqi family ever come to Halimi or any of the guards asking about Latif Krasniqi.²²
16. According to the witness Adem Shehu never stayed in the school²³ and Shehu was never an instructor. None of the Brigade staff (Sopi and Shehu) had an office within the training center. And there were no female recruits. The witness explained that guard duty was only at night and not in the daytime.
17. The witness never heard the recruits with names such as Etem, Bekim, Driton or Baraba, even though it was nearly impossible for the Cmdr. to know the names of the new recruits.²⁴
18. Regarding Driton Babiqi, nobody ever came to the school in order to ask Driton to go with them and take him elsewhere. The witness has never heard (at the time) about a person with the name of Brahim Mehmetaj, aka BIMI.²⁵ None of the guards had ever reported to Halimi that some recruit had been picked up and taken away elsewhere.
19. He testified that he only knows “now” (that is at the time of his testimony) who Bimi is, as he learned to know him after the war, as the witness testified that he worked together with him in the municipality.²⁶ But while at the training center he never met Bimi there and then.
20. Halimi testified that neither Fatmir Sopi nor Adem Shehu ever told him that some person would need to leave the training center and neither was he told that Bimi would come and pick up some kind of new recruit. The witness testified and insisted that

¹⁹ Ibid, p.3747

²⁰ Ibid, p.3761

²¹ Ibid, p.3761

²² Ibid, p.3760

²³ Ibid, p.3743

²⁴ Ibid, p. 3756

²⁵ Ibid, p.3758/3759

²⁶ Ibid, p.3765 and 3853

there was no chance for somebody to pick up somebody from the training center.²⁷ It was even strictly prohibited for third parties.

21. He testified similarly about a person with the name of Dardan: he never heard of that person and a person with such name never came to him to pick up somebody from the training center, nor was he informed by any guard about that, nor was he informed by Fatmir Sopi or Adem Shehu about a person with the name of Dardan picking up somebody from the training center.²⁸
22. In essence, during the entire period, even when the cmdr had left for Prapastice at some point, nobody ever informed him about any of the recruits leaving the training center²⁹

Last generation of recruits

23. The witness testified that the last generation at the training center was from the 1st until the 15th of April 1999. *"The last generation was trained from 1 to 15 April."*³⁰

No dealings with BIA

24. Halimi testified that he had no dealings with people or members from BIA or any other soldier for that matter. He had only contact with the recruits. Only recruits, instructors had access to the center. Nobody else had access. It was even forbidden, because they want anyone there to manipulate or do something wrong. Even if someone wanted to come, he wouldn't be allowed.³¹
25. The witness testified that he only received a list from the Brigade 153 (command), and that he had never received any list from BIA³².

No dealings with Salih Mustafa in Zllash in April 1999

26. Halimi had no meetings with Salih Mustafa and couldn't really tell anything of relevance about him. He testified: *"I merely met him once or twice and the meeting consisted in just greetings. That's it"*.³³
27. Halimi had no dealings with Salih Mustafa in Zllash in April 1999 as he testified: *"I was not interested to know what he was doing there. He was also not so interested in what I was doing. It was not the time for us to deal with what we were doing. My purpose was to train the soldiers and to perform my duty. Because I travelled over 2.000 kilometers to join the war. So I minded -- I mind my own business"*³⁴

²⁷ Ibid, p.3761

²⁸ Ibid, p.3766/3767

²⁹ Ibid, p.3768

³⁰ Ibid, p.3734, line 22

³¹ Ibid, p.3850

³² Ibid, p.3857 and 3858

³³ Ibid, p.3814

³⁴ Ibid, p.3816

Halimi leaving the training center permanently

28. The witness left the training facility permanently on 10th of April 1999. He was appointed in another position of the Brigade. Even though he left earlier, on the 7th of April 1999, he came back in the evenings or early nights and remained informed about what – if anything- would be happening in the training center and the trainings. According to the witness he testified that: *“When the war broke out in Prapashtice, where the border with Serbia was. And I went there and I was appointed battalion commander from Brigade 153. But I returned on 10 April again in Zllash to the training centre. After the 10th, I never returned to this training center, but I remained in Prapashtice and in some other villages where fighting took place.”*³⁵
29. Halimi remained informed about the situation even when he was absent in the daytime. He testified: *“The officer on duty had a notebook or a log-book where he used -- he had to write or to record everything that happened during the day, how the activity went on, what happened, every hour. So every time I came, I read that log-book, which he also reported to me orally in case there was something special happening. But there wasn't anything extraordinary happening, no problems or any problems with the training. Everything went on smoothly”*.³⁶

Conclusion

30. The witness has been very extensive about how and what happened at the training center. The defence believes in the reliability of the account of the witness. As it was a training center of the brigade, only recruits of the brigade were allowed to participate. There were no members or participants of BIA and according to the witness there has never been any recruit *“picked up”* from the training center, nor did anybody come to the training center to enquire on the whereabouts of Latif Krasniqi. It is simply not plausible that any recruits were picked up during the period of March or April 1999. Any SPO witness who is telling the opposite, is simply not telling the truth.

III. The testimony of Ahmet ADEMI-WDSM 300

General remark about the witness' testimony³⁷

31. The defense starts with a general note when describing the testimony of this witness. In the testimony, there was an issue regarding the NATO airstrikes. The defense wishes to remind that the NATO **airstrikes began 24 of March and lasted until 12th of June 1999**. As the witness at some point described an event that he eye-witnessed, the defense believes it is important to note this. The NATO airstrikes were not a single

³⁵ Ibid, p.3735, line 2 to 11

³⁶ Ibid, p.3809 and 3810

³⁷ KSC-BC-2020-05, WDSM-300-official transcript of 28 March 2022, p.2813/ https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b689d5/lw_tpg_edit_transcript

event on a single day. Having said that, the defense will discuss the testimony of this witness.

Ademi's activities in the period of the conflict

33. Ademi was running a pharmacy in Prishtina at the period of the conflict. He was active for the Kosovo Red Cross. In 1998 he had set up a Red Cross office, based in a private home in Germia, a neighborhood of Pristina.
34. The witness explained in general terms the problems that his office had in obtaining and distribution of supplies.³⁸ Ademi described the supplies as medication, foodstuffs, diapers, milk, and so forth.³⁹ As Kosovo Red Cross operated clandestinely.⁴⁰
35. The witness said that the NATO airstrikes began on the 23rd or 24th of March 1999. It was approximately around that date that the airstrikes began.⁴¹ The witness explained the difficulties he had distributing supplies. He personally experienced that while carrying some 40 kilograms of supplies in a backpack, he was noticed by Serbian forces and they fired on him. At the incident he rolled over down a hill and broke his hip.⁴²
36. The witness spoke about supplies being distributed to the Gollak area and that were volunteers working there too. The volunteers accompanied or took the people to various areas.⁴³ He also testified there was displacement of population.

Incident regarding him and his family – time frame of incident

37. The witness described an incident that had happened to him and his family. Police forces came and they maltreated his wife and 4-year-old child. The witness had to climb up to his roof (of his house)⁴⁴
38. He recalled this event taking place sometime by the end of March, or maybe the middle of March.⁴⁵
39. The witness continued a little further and states: *"I think, if I'm not mistaken, the incident occurred during the bombardment, when the police came and beat up my wife and my child with a small hatchet"*.⁴⁶
40. Upon refreshing the mind about the statement that he gave to the defence, counsel cited the paragraph relevant to this particular incident (DSM 00452 page 5, 2nd paragraph and DSM 0608). The witness testified that he was then completely sure that

³⁸ Ibid, p.2784

³⁹ Ibid, p.2785

⁴⁰ Ibid, p.2785

⁴¹ Ibid, p.2786

⁴² Ibid, p.2790/2791

⁴³ Ibid, p.2793

⁴⁴ Ibid, p.2795

⁴⁵ Ibid, p.2795

⁴⁶ Ibid, p.2798, line 2-3

this incident happened after the NATO bombing, and added: *“When KLA members, three persons came to me, they visited us”*.⁴⁷ Asked again, the witness said that it was during the attack, during the NATO strikes, that it had happened.⁴⁸

Conclusion on the time frame that the witness indicated about the incident

50. The incident described by the witness regarding his family, even though it was not so easy to finally get to that point, was put in time by the witness which is that it was after the NATO airstrikes **had begun (“the NATO had already begun with the airstrikes”)**, therefore after 23/24 March 1999.⁴⁹ The witness could not clarify the exact date but it was somewhere at the end of March, as he stated in his testimony.
51. The defence believes that the witness, as he stated in his earlier statement to the defence as well as ultimately in court during his oral testimony, that this incident took place after the NATO airstrikes had begun, and somewhere in the period of 30 March – 4 April 1999. Even though the witness could not exactly pinpoint the event on a date, the witness testified in good faith, but just could not remember the dates exactly. His testimony is in no manner unreliable.

Meeting Fatmir Humolli and Salih Mustafa – late March or early April 1999

52. Following the incident, 3 people came to his house. These 3 people stayed overnight and gave the witness and the people in the neighborhood moral support so that they were not scared.⁵⁰ He testified that these people were Fatmir Humolli and Salih Mustafa, and a 3rd person.
53. As to the period when these 3 people arrived the witness stated:
*“It was end of March, beginning of April. I don't know whether it was the 30th of March or 2, 3, 4 April. I don't remember. But that was the time-period when they went -- they came to our neighborhood.”*⁵¹
54. The witness further states about staying overnight:
“I'm repeating it. They spent that night in my paternal uncle's house. The next morning, we met up and went out to the neighborhood. We spoke to the people the entire day. They gave the population heart and courage. And in the evening, they continued, left”.⁵²
55. According to the witness, both men took notes when they spoke to people and gathered information and they were not armed and dressed in normal clothes.⁵³ They came on foot and left on foot.⁵⁴

⁴⁷ Ibid, p.2802

⁴⁸ Ibid, p.2802

⁴⁹ Ibid, p.2808, line 11-17

⁵⁰ Ibid, p.2809

⁵¹ Ibid, p.2810, line 11, 12 and 13

⁵² Ibid, p.2812, lines 14 to 18

⁵³ Ibid, p.2811

⁵⁴ Ibid, p.2813

57. The witness identified Salih Mustafa, and he knew Salih Mustafa as he would come to the office of the Red-Cross in Germia.⁵⁵ Ademi knows who Salih Mustafa is as he knew him also after the war in the street and in the military barracks in Prizren.⁵⁶ He also met Salih Mustafa at a later occasion during a reburial in 2000.⁵⁷

The 3 men left in the direction Llap area

58. The witness eventually accompanied the men in the correct direction.
*“They asked me to bring them to the road that goes towards Llap area. I accompanied them, showed them the road, which road to take from my neighborhood to go towards the Llap area. I know it was evening when they set off. Maybe it was 10.00, 11.00 in the evening. I don't know the exact time. They left in the direction of Llap area”.*⁵⁸

No relation whatsoever to BIA

59. The witness did not know anything about BIA and had during his activities no dealings with it.

Conclusion

60. In essence, the witness is someone who is an eyewitness of Salih Mustafa being in Prishtina in the period of 30th of March and what he views as 3rd or 4th of April. He is at least sure that it was about the end of March, and other witnesses will indeed confirm that Salih Mustafa was in that period of time in Prishtina, rather than in Zllash at a compound, as alleged in the indictment. There is no reason to doubt about the content of his experiences during the period of the conflict in March and April 1999. The defence believes that Ademi, as he testified about his very personal experiences during this period, which makes his entire account reliable. The SPO could not alter in any manner the account that the witness gave of these events.

IV. The testimony of Fatmir HUMOLLI-SPO Witness 4849

General

61. Even though the SPO used the witness as a witness for the SPO, the defense will discuss this witness as the defense believes that this witness actually provided an alibi for Salih Mustafa.

Position of Humolli

62. Humolli was during the period of the conflict responsible for political morale in the Llap OZ since the end of June 1998.⁵⁹

⁵⁵ Ibid, p.2814

⁵⁶ Ibid, p.2815

⁵⁷ Ibid, p.2819

⁵⁸ Ibid, p.2813, lines 10 to 15

⁵⁹ KSC-BC-2020-05, SPO Witness 4849-official transcript 1 February 2022, p.2293/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b0d70f/lw_tpg_edit_transcript

63. Humolli held another position: responsible for civil administration in the Llap OZ, appointed by the general Staff and he held the position from December 1998 up until KFOR and UNMIK arrived; he held the position until September 1999.⁶⁰

About the position of Salih Mustafa with National Movement for the Liberation of Kosovo (NMLK)

64. Mr. Humolli testified that Salih Mustafa was a member of the NMLK. The structure of this movement in the wartime period consisted of popular councils. These councils set up organizational trios and Mustafa undertook to enlarge the ranks of this movement in Prishtina and everywhere else in Kosovo⁶¹.
65. His assignment in Prishtina was to distribute the magazine "Çlirimi" which was published every month by the national liberation movement.⁶²

The NMLK and the General Staff of the KLA

66. The witness testified about the merger of the NMLK and the KLA.
67. On may 11 1998 an agreement was drawn up that the NMLK formations would be led by the general staff of the KLA.⁶³
68. In August 1997 it was agreed that in the Llap OZ actions would be coordinated with the general staff.⁶⁴
68. After the merger, Salih Mustafa became a member of the KLA. So, he was a member. He was part of the military units of the national movement. In order to establish the armed units, it was Humolli himself who was responsible for that (establishment) of the armed units of the KLA, upon an order of the General Staff of the KLA.⁶⁵
SM became commander of the BIA guerilla unit that operated in urban areas in Prishtina, Fushe Kosove and Obiliq⁶⁶.

Humolli entered Prishtina together with Salih Mustafa after 24th of March 1999.

69. The witness testified about entering Prishtina after 24 March 1999 by Humolli.⁶⁷
To that effect he testified that: "*We entered at the end of March*", "*at the end of March, probably 30 or 31st of March*"⁶⁸. Even though in the statement that he gave to the defense that: "*it was sometime on 28 March*", when confronted by the SPO with that the witness said: "*I entered Prishtina by the end of March, on 28 of March, and I do not believe that there is any ambiguity here when I say that it is 30 March or 28 March, as I know it was at the end of March. I know that because I remember well where I was*

⁶⁰ Ibid, p.2293/2294

⁶¹ Ibid, p.2297/2298

⁶² Ibid, p.2298

⁶³ Ibid, p.2299/3000

⁶⁴ Ibid, p.2300/2301

⁶⁵ Ibid, p.2303

⁶⁶ Ibid, p.2303

⁶⁷ Ibid, p.2304, also: ERN DSM 00119- 00133 p. 5 Statement 2 to the Defense

⁶⁸ Ibid, p.2304

*on 1 April 1999. On 1 April 1999 we were informed that the people were going to Macedonia, and that is the moment that we left Prishtina”.*⁶⁹

70. The witness also explained the reasons for going to Prishtina
*“The reason for entering Prishtina was that the guerilla units informed us that the Yugoslav army was distributing information so that the population would flee, would escape the area and would escape the area and would go into neighboring countries”.*⁷⁰
71. *“It was after this moment in time where all the soldiers that knew Prishtina entered Prishtina and one of those soldiers was myself. I was there together with Salih Mustafa.”*⁷¹ *Ejup Maqedonci was there too”.*⁷²

Humolli testifying about the date when were deported from Prishtina.⁷³

72. Questioned about when the deportation took place? He stated: *“It occurred on 31st of March, that is the end of March. And after these events, the deportations, I returned to Llapashtice. It was a deportation by the Serbian forces”.* (Of the Albanian population).
73. *“After receiving this information (about these operations) from the guerilla unit that this was going to happen the Llap OZ decided to enter the city with all people who were familiar with the city with small weapons in order to prevent the Serb army from acting”.*⁷⁴

Humolli testifying about his staying and leaving Prishtina.⁷⁵

74. The witness testified: *“We stayed about 2 days. We entered the end of the 30th and we stood there all day long and we left 1 April 1999. We left early in the morning at dawn”.*⁷⁶
The witness was very sure about the date when he had left Prishtina, he stated: *“Because I know when the citizens of my country went to Macedonia. And I know that the soldiers told us that they have passed to Macedonia. So, there were some individual maltreatments, and we judged that the risk for a mass massacre was overpassing that moment in time. So, this is the reason why 1 April is a day I can remember better.”*⁷⁷
75. It seemed to SPO that from a passage that was read to the witness, the witness was only 1 day in Prishtina. However, the witness explained: *“So if we are considering the hours, it is more than 24 hours. If we entered in the night on the 30th, we left Prishtine on early morning on 1 April. So this is what the situation is. And so in this moment in*

⁶⁹ Ibid, p.2306

⁷⁰ Ibid, p.2306

⁷¹ Ibid, p.2306

⁷² Ibid, p.2307

⁷³ KSC-BC-2020-05, SPO Witness 4849-official transcript 2 February 2022, p.2423/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b0f539/lw_tpg_edit_transcript

⁷⁴ Ibid, p.2423

⁷⁵ KSC-BC-2020-05, SPO Witness 4849-official transcript 1 February 2022, p.2307/2309/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b0d70f/lw_tpg_edit_transcript

⁷⁶ Ibid, p. 2307

⁷⁷ Ibid, p.2309, line 13-18

time, I was not aware that I had to accurately report about the time. And it's not that we have taken any record of the time that we've spent there.”⁷⁸

76. *“From Prishtine we went to Sharban, from Sharban to Rimanishte, from Rimanishte to Vranidoll to Vrbovce and from there to the neighborhood of Llumnice in Barileve.”⁷⁹*

Leaving Prishtina together with Salih Mustafa, and parting ways at some point.

77. The witness stated: *“I left together with Salih Mustafa and the members, the soldiers of the unit that served in Sharban.”⁸⁰ “We departed together with Salih Mustafa to leave for Llapastice. But en-route while we were discussing, because we had similar things to discuss, Salih Mustafa stopped in the neighborhood of Llumnice and then I continued to Llapastice.”⁸¹ I left together with Salih Mustafa and the members, the soldiers of the unit that served in Sharban.”⁸²*
78. Regarding the date of the 1st of April the witness stated that on that day: *“On the 1st of April the first column passed through Prishtina to Macedonia and we were informed by the activists that were in Macedonia about this”.*⁸³ It was for the witness another event that unfolded that reminded him that it was on that day he departed Prishtina.

Location where Humolli and Salih Mustafa parted ways – means of transportation

79. *“Salih Mustafa stopped in the neighborhood of Lumnezve (the neighborhood of Llumnice in Barileve), and I continued to Llapastice, to zone HQ”.*⁸⁴ *“Geographically over asphalt road it is only 10 km, but through the mountainous road it is twice the distance”.*⁸⁵
80. They parted in the afternoon.⁸⁶ They went on foot from Prishtina to Barileve.⁸⁷ *“After the 24 March bombings we had no use of a car”.*⁸⁸

Humolli’s encounter with Salih Mustafa in Zllash.⁸⁹

81. The witness also testified about a moment in time that he met Salih Mustafa in Zllash: *“1 day or 1,5 days before the ending of the Serbian offensive in Zllash, we transported the wounded and people without weapons from Zllash to Koliq. Salih Mustafa and Sejdi Veseli organized that movement. And I was part of that, helping them”.*⁹⁰

⁷⁸ Ibid, p.2308, line 18-23

⁷⁹ Ibid, p.2309, line 23-25

⁸⁰ Ibid, p.2310, lines 3-4

⁸¹ Ibid, p.2310, line 13-17

⁸² Ibid, p.2310, lines 3-4

⁸³ Ibid, p.2336

⁸⁴ Ibid, p.2309/2310

⁸⁵ Ibid, p.2311/ 2312, a map was shown: ERN SPOE 00238094

⁸⁶ Ibid, p.2327, line 18

⁸⁷ Ibid, p.2327, line 21

⁸⁸ Ibid, p.2328

⁸⁹ Ibid, p.2348

⁹⁰ Ibid, p.2348

82. *"I wouldn't dare to provide you with an exact date, but one day or one and a half day before the ending of the Serb offensive in Zllash, we transported the wounded and people without weapons from Zllash to Kolic"*⁹¹.

Humolli going to Zllash and the reason to go there.

83. *"I went to Zllash to the Brigade command HQ every week. I was there in the period when my family was there because I saw them off"*.⁹²

Humolli's stay in Zllash – A complication to understand the initial answer

84. Humolli stayed in Zllash as well. He helped with the evacuation of the wounded that were located there. The key question was when Humolli was staying there. The witness gave answers to this question; however, the defense believes that there is a translation issue in the first of his answers to this question.
85. It is the defense assertion that: Humolli stayed in Zllash about the 16th of April 1999. He calculated this as follow: Regarding the mission to remove the wounded from Zllash because of the Serb offensive, which ended the 19 or 20th April, this may be 2 or 3 days after when I myself stayed in Zllash.
86. Close reading of this paragraph, the defence concludes that Humolli must have been in Zllash on April 16th. The reason is that the Serbian offensive apparently ended the 19th or 20th of April 1999. This did not become super clear in the answer of the witness. The reason for the defence to interpret it in this way, that it from many other statements clear that the evacuation of the wounded from Zllash took place in any event on 21st of April 1999. On that day, Isa Kastrati died while going ahead of the column that led the way out of Zllash, then Humolli said: *"2 or 3 days after the offensive ended, I was in Zllash"*,⁹³ however this sentence in page 76, line 9 to 10 in the Albanian Transcript of the Trial Hearing of the date 1 February 2022, reads as following: ***"Dy ose tre ditë pa përfunduar ofensiva në Zllash, kam qenë në Zllash"*** (English translation should read: ***"Two or three days before the offensive in Zllash ended, I was in Zllash,"***;

Humolli's stay in Zllash read in connection with the stay of his family in Zllash

87. The issue should be read in connection with the stay of the family of Humolli. The witness stated: *"They left 1 day before the offensive, and they went to Prishtina; They left 1 day before the offensive started in the right-hand side of the road Prishtina – Leskoc"*.⁹⁴
88. *"The offensive started from the 18th, from what I recall. So I was present on the 19th and 20th and it lasted for about 1 day."*⁹⁵.

⁹¹ Ibid, p.2348 line 19-25

⁹² Ibid, p.2358

⁹³ Ibid, p.2349, line 18

⁹⁴ Ibid, p.2359, line 5-6

⁹⁵ Ibid, p.2359, line 18-19

89. The duration of their stay was also explained by the witness. They remained there 3 or 4 days before the offensive, in one of the houses above the school.⁹⁶
90. The witness than explained: *"I was there with my family in Zllash because I saw them off. So they left to Prishtina and I saw them off while doing so"*.
91. It is therefore that the defence concludes that the witness was there at least on 17th of April or even earlier, when we take into account that he stated earlier that it was 3 or 4 days before the offensive, as explained above.
92. The witness stated also to the defence that he did not recall the exact date when the Serbs entered Zllash. He stated: *"The Serbs entered Zllash the 19th or 20th (April 1999), I am not certain about the date"*.⁹⁷

Date that Humolli left Zllash: "as soon as the offensive ended"

93. Eventually, Humolli left Zllash and testified: *"As soon as the Serbian forces left, I do not know how much time passed, they left at night on the next day we went to Zllash with Agron Xhemajli"*.⁹⁸

The location of the wounded in Zllash – Evacuation

94. The witness stated: *"The wounded were in a base in the periphery of Zllash, above the school, because of the height, and it was a position which was more easily to defend. It was far from the roads, and the Serb offensive couldn't penetrate easily."*⁹⁹
Upon a question of the SPO from where the wounded (in Zllash) were evacuated, the witness stated: *"I know that that place was more elevated as compared to the school."*¹⁰⁰
The witness explained that he was in Zllash 3 or 4 days up until the operation of the evacuation of the injured: *"I was in Zllash, as well as the injured were evacuated from there."*¹⁰¹

Location of the family Humolli¹⁰² : "on the compound"

95. The witness explained where his family stayed, and that was on the compound, the compound which is central to this case, and where the SPO asserts that the Zllash prison camp was located.
96. The witness was very clear about this location: *"I have told you that they were located in one of the houses above the school in Zllash; in these 2 facilities that my family was staying, there was this facility which was the hospital, and it was from there that we took the injured and we evacuated them towards Kolic. So there were those facilities"*

⁹⁶ Ibid, p.2357, line 11-15

⁹⁷ KSC-BC-2020-05, SPO Witness 4849-official transcript 2 February 2022, p.2450/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b0f539/lw_tpg_edit_transcript

⁹⁸ Ibid, p.2451

⁹⁹ KSC-BC-2020-05, SPO Witness 4849-official transcript 1 February 2022,p.2352, line 18/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b0d70f/lw_tpg_edit_transcript

¹⁰⁰ Ibid, p.2355, line 17-18

¹⁰¹ Ibid, p.2358, line 12-13

¹⁰² Ibid, p.2360/2361

which were occupied by civilian population, including my wife and children, and there was this other facility where the injured were located”¹⁰³.

97. The witness continued: *“For as long as my family was there, the injured were there too.*
98. *What I know is that one person, Teuta Hadri, that was a doctor, she got to know my wife that was in Zllash.”¹⁰⁴*
99. *“I can say that my family left the place before the offensive and the injured could not leave the place earlier. Now, we are only talking about Zllash area being taken by the Serbian forces, but the battles had started many days before that.”¹⁰⁵*
100. *“I would meet my family in the yard. I would stay hours with them rather than minutes. My meetings include those with my parents as well. The hospital was there as well. There were the injured as well. It was from there that we evacuated them to other areas.”¹⁰⁶*
101. The defence believes that the account that the witness gave concerning the location, his family, the doctor who was present there and all other details that he gave are a reliable account of the situation and the location and that there is nothing to doubt regarding his credibility on the issue. The defence believes that the entire location, where this eye-witness gave his account about, has never been the location of a prison camp, let alone that Salih Mustafa would be the one running it himself or through others. It is simply impossible.

Identification of the compound where Family Humolli stayed

102. The witness was shown a document from the case file, a photograph of the compound aerial view.¹⁰⁷ When shown the aerial photograph of the compound (DSM 00119-00133, attachment 2) the witness answered the following questions:

Q: “Is this the location where your family stayed”?

A: “I couldn’t be clear about this picture taken from above. When you saw (show) me from below, then I showed you that it – this is the place”.

Q. And the yard you spoke about, is that the yard in between these buildings on these pictures?

A: Yes.

Q: And is this the location where your family was. Is it the very same location where the wounded people were treated and eventually evacuated from?

A: Yes.”

103. The witness further testified upon questions of the defence:
“Nobody of my family told me anything like people being detained or maltreated in the location where they were staying. I have never seen people being detained there

¹⁰³ Ibid, p.2362

¹⁰⁴ Ibid, p.2363

¹⁰⁵ Ibid, p.2366/2367

¹⁰⁶ Ibid, p.2365

¹⁰⁷ KSC-BC-2020-05, SPO Witness 4849-official transcript 2 February 2022, p.2424-2425/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b0f539/lw_tpg_edit_transcript

myself. I have never seen that any building in particular was guarded (there). No". "On the location there were people seeking refuge".¹⁰⁸

Other meetings-routine meetings with Salih Mustafa

104. Humolli testified that he had multiple meetings with SM on various locations. I can't give you an exact date, but I can say that we met every 10 days maximum.¹⁰⁹ Between his parting in Barileve and the meeting in Zllash the witness could not tell exact dates as these were routine meetings. This is as they were covering more or less the same terrain. Their activities were as the battle was held from Battllave, Rimanishte, Lupc to make the civil population, the civilians, to leave their homes. And they had to take care of the left side of the road Prishtina Leskovc and the right-hand side of the road Prishtine – Orllan.¹¹⁰

Humolli speaking about BIA¹¹¹

105. The witness explained what he knew about BIA and its mandate. The witness stated: *"The BIA was subordinate to the Llap OZ. BIA was accountable to the Cmdr. of the Llap OZ and to the chief of the operational zone of Llap (Nuredin Ibishi), chief of operations. Not any brigade had authority over BIA. Brigade 153 had no authority over BIA".¹¹²*
106. And about BIA's mandate, the witness stated: *"The BIA unit had no mandate to detain or arrest someone. It operated in the city, and its main duties were to be informed of the positions of the Serb forces, logistics, or to meet the needs of the military hospital in Potok, so they could operate only when their life was endangered. Otherwise, they did not have the mission to be military engaged in Prishtina. The area of operations was in Prishtina, Obiliq and Fush Kosove".¹¹³*

Reason for BIA to be in Zllash, according to Humolli

107. The witness gave explanation why BIA would be sometimes in Zllash. He testified to that effect:
108. *"Every guerilla unit soldier could find accommodation in any units of the KLA situated at the outskirts of Prishtina, because they were under constant stress and they needed to rest. So, their duty was when they went to different units was to take a rest, not to act. The members of the BIA could not be identified without the permission of SM. So, the Cmdr. of the operational did not have the right to ask SM to inform about the operational duties".¹¹⁴*

¹⁰⁸ Ibid, p.2324/2425/2426

¹⁰⁹ KSC-BC-2020-05, SPO Witness 4849 official transcript 1 February 2022.p.2349, line 8/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b0d70f/lw_tpg_edit_transcript

¹¹⁰ Ibid, p.2356

¹¹¹ Ibid, p.2417/2418

¹¹² KSC-BC-2020-05, SPO Witness 4849-official transcript 2 February 2022, p.2417/2418/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b0f539/lw_tpg_edit_transcript

¹¹³ Ibid, p.2429

¹¹⁴ Ibid, p. 2430

Detention center in Llapastice:

109. The witness was clear about the existence of a detention center in Llapastice and the reasons for it: *"If it is of interest to explain why there was only one centre of detention there in Llapastice, the reason for that is that the KLA has been 100 percent volunteer. It was built on volunteer basis. And there might be the case that volunteers had a wrong approach towards individuals. The Serbian police, on multiple occasions, compromised many people, the staff of the operational zone knew that such actions were intentional by the Serbian police"*.¹¹⁵

Conclusion

110. The defense is convinced that the witness knew well about the situation in Zllash. He even had his family there, and eventually the family doctor, Mrs. Teuta Hadri had become acquainted with the family on the location where they stayed together. He is familiar with the location, and he neither his family ever saw or experienced any detention center there on the location. The witness was also clear on him entering Prishtina at the end of March, and leaving on the 1st of April. Salih Mustafa was with him, and they both left for Barileve, where they eventually parted ways. So on the 1st of April Salih Mustafa was not in Zllash, but accompanied by Humolli on his way to Barileve. Mustafa therefore could simply not be in Zllash, and as he denies the accusations of any wrongdoing in Zllash, witnesses that might state that he was in Zllash on that day, are simply not telling the truth.

V. The testimony of Brahim MEHMETAJ-WDSM 500

General:

111. The witness is testifying for the period from May 1998 till to June 1999.
112. The witness was member of Democratic League of Kosovo from 1989-1990, he was involved in almost all its structures. I was chairman of the branch - of the youth branch for Prishtine. Then member of the Presidency at the level of branches, up to member of the General Council of the LDK.
113. He was member of BIA guerilla unit from 20 May 1998 when officially was formed.
114. Based on the competencies or powers, BIA didn't have any specific area under its control. It operated or acted, how to say, almost in Prishtine within the city, in the periphery of the city and in the rural areas. Initially the BIA unit operated in some neighbourhoods of Prishtine. Then all over Prishtine.
115. In beginning the BIA unit have started with small units in order to protect people, so not many people knew about BIA activity and work.

¹¹⁵ Ibid, p.2444/2445

116. The witness from beginning of formation of BIA unit was deputy commander or his assistant up to a point when my duty changed.
117. The BIA unit had four (4) sectors: the health sector; the logistics sector; the information sector; and the morale and politics sector.
118. The BIA members were partly armed.
119. After the NATO bombing the BIA unit left Prishtina.
120. The witness left Prishtina on 31 March when he went to Butovc. The witness during this time stays in Butovc and is involved in humanitarian activities, helping the people that they went there.
121. The BIA unit from 24 March when the unit left Prishtina had its base in Butovc.
122. During the time the witness was in Butovc, on 4th, 5th, or 7th of April 1999, he met Salih Mustafa there, in a house that used to be a base of BIA unit.
123. The witness during the April 1999 went in Zllash where the BIA unit had also base.
124. In time when the witness went in Zllash, in safe house of BIA unit he saw soldiers from, Brigade 153 and Karadak Operational Zone, civilians and local villagers.
125. BIA unit did not control the houses in Zllash.
126. The witness, from the evidence "DSM-00434", recognized the houses in Zllash where he met Isa Kastrati.

NATO air-strikes.

127. According to the testimony of the witness, the air strikes started on 24 March 1999. He testifies: "*When the bombing started on 24 March, I was in Prishtine in my own neighbourhood*". ¹¹⁶

Being a member of the Democratic League of Kosovo (DLK):

128. Witness testifies that during this period he was an activist of the Democratic League of Kosovo, as well as a member of the Emergency Council and a KLA soldier-BIA unit, he testifies: "*I joined the LDK since its very foundation in 1989, 1990*".¹¹⁷ "*I was involved in almost all its structures. I was chairman of the branch -- of the youth branch for Prishtine. Then member of the Presidency at the level of branches, up to member of the General Council of the LDK*". ¹¹⁸

¹¹⁶ KSC-BC-2020-05, WDSM-200-official transcript of 23 March 2022, p.2625/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b624f4/lw_tpg_edit_transcript

¹¹⁷ Ibid, p.2614

¹¹⁸ Ibid, p.2615

Joining the BIA unit:

129. The witness joined the BIA unit from the day when the BIA was formed, he testifies: *"The BIA guerilla unit officially was formed on 20 May 1998, and it started its operation after the release from prison of Salih Mustafa. I met him when he was released, and we agreed to start -- that the unit start their operation".*¹¹⁹ The witness during this period of time was also member of Emergency Council, he testifies: *"With the agreement of political parties, there was a council for emergency aid at the level of the provisional government of the time. I was leading the Prishtine branch of this organisation. This municipal council collected foodstuff, clothing, blankets, mattresses, and so forth, and from there these things were distributed elsewhere".*¹²⁰

Formation of BIA and its activity.

130. Witness testifies that the BIA unit was formed on 20th of May 1998, and from that day till to the end of the war in Kosovo he was member of BIA unit, he testifies: *"The BIA guerilla unit officially was formed on 20 May 1998, and it started its operation after the release from prison of Salih Mustafa. I met him when he was released, and we agreed to start -- that the unit start their operation".*¹²¹

131. The witness testifies that at a time when the BIA unit was formed and became operational those were a very dangerous times and that was the reason why they started to form small units in order to protect people, he testifies: *"Yes. The time when we operated, it was a very risky time. I am talking about Prishtine, which was entirely under the control of the military and paramilitary forces of the Serbs. And it was not easy for us to get organised. We could involve people that we trusted. We started from our own families, our in-laws or friends or people who we knew had a patriotic background, and we started to talk to them, to convince them that we are on the right path, that we have started to form small units in order to protect people, so that not many people knew about our activity and work. And so, this is how we operated, forming units with our family members, people we trusted".*¹²²

BIA unit area of control of:

132. Witness testifies that the BIA unit had no specific area under its control. It operated or acted mostly in urban are of Prishtina, he testifies: *"Based on the competencies or powers, BIA didn't have any specific area under its control. It operated or acted, how to say, almost in Prishtine within the city, in the periphery of the city and in the rural areas. It also contributed to other areas, Obiliq, Fushe Kosove, and other areas that I don't remember now, but it contributed wherever it could".*¹²³

133. In beginning the BIA soldiers had no knowledge about houses used as bases, he testifies: *"We were careful in that respect because of the dangers. Some would know, for example, about a house; some others would not. Some had another safe house to*

¹¹⁹ Ibid, p.2615

¹²⁰ Ibid, p.2620

¹²¹ Ibid, p.2615

¹²² Ibid, p.2616

¹²³ Ibid, p.2615

stay in. So it was impossible, actually, to know all the houses that we were staying in and actually to know each other, all of us".¹²⁴

Command position of the witness in BIA unit:

134. At beginning, the witness, in agreement with Salih Mustafa, became deputy commander or his assistant, he testifies: *"My role began from the very beginning, from the agreement with Cali. I was his deputy commander or his assistant up to a point when my duty changed".¹²⁵*

Establishing of the headquarters and sectors of BIA unit:

135. When BIA unit was establish it had for sectors in its structure, he testifies: *"Yes. When it was officially established on 20 May 1998, the headquarters of BIA guerilla unit was established, and four sectors within it were also formed. These sectors were the following: the health sector; the logistics sector; the information sector; and the morale and politics sector. So, the BIA mission involved these four sectors and, of course, the main purpose was our struggle against the enemy, which was our main goal".¹²⁶*

BIA as an unarmed formation:

136. The witness testifies that the members of BIA unit were not armed, he testifies: *"Partly. They were partly armed. Because of the nature of the work, most of its members stayed in the city, and those who were in the city could, for example, have a revolver or a pistol just for their personal security. And those who moved outside from the town, they had weapons. I personally was armed".¹²⁷*

BIA unit leaving Prishtina:

137. The witness testifies that after the NATO bombing started the BIA unit left Prishtina, he testifies: *"In fact, it did. With the NATO bombing, the situation from the organizational point of view changed. A situation was created since some of the units we had in Prishtine had to move from Prishtine to a safer location. A part remained in Prishtine but not for long because the Serbian forces then began to search the Prishtine neighbourhoods. So, some of them had to join the columns of civilians that were forced out of Kosovo in the direction of Macedonia. So, the situation changed due to those circumstances, due to the bombing".¹²⁸*

Establishing the base of BIA in Butovc:

138. The witness testifies that BIA unit after leaving Prishtina they established in Butovc the base of BIA unit, he testifies: *"My stay in Butovc was longer after the offensive, because we were obliged that -- we had a base in Sofali. After the air-strikes, it was impossible for us to remain there, so we moved to another place, to Butovc, and there I stayed all*

¹²⁴ Ibid, p.2618

¹²⁵ Ibid, p.2618

¹²⁶ Ibid, p.2618

¹²⁷ Ibid, p.2622

¹²⁸ Ibid, p.2623-p. 2624

*the time and sometimes we went to Prishtine. It was a place where we stayed there. Otherwise, it was impossible for us to act -- to operate in Sofali".*¹²⁹

No mechanism to arrest or detain people:

139. The witness testifies that the BIA unit had no mechanism to arrest or to detain someone, he testifies: *"Your Honour, I already told you that it was not in his power that is, of Salih Mustafa - and the structure that we led called BIA to have any mechanism to arrest or to detain someone. So never, in no circumstances, did I -- did I receive such an order, or anyone else, to carry out such an action that you put to me".*¹³⁰

Witness leaving Pristina and going to Butovc.

140. The witness states that after the NATO started the bombings the Serbian regime intensified its reprisals against the civilian population in the city of Pristina and he decided to leave Prishtina. He testifies: *"It was a mixture of emotions, because the civilians received well the beginning of the bombing but at the same time, they feared of what was coming, what would happen. So, at the time - I remember it very well - I and some members of a unit that were nearby, we tried to stay close to the population and help them in case of a massacre or violence, which was expected from the Serbs. So, we stayed in the neighbourhood up until 31 March. I'm not quite exact with the dates, this is an approximate date. So, from this date on, the Serbian forces started their activity, not massacres, but they would go into neighbourhoods, drive the people out. So, we left the neighbourhood and took the population to Butovc. Some civilians went to a nearby village".*¹³¹

Moving from Butovc to Prishtina and back:

141. During the time the witness was in Butovc, he sometimes moved back and forth from Butovc to Prishtina, he testifies: *"I mainly moved within Prishtine itself and in the peripheral part of Prishtine. The main point where I would go was Butovc and Sofali. Sofali is a neighbourhood within Prishtine whereas Butovc is a sort of a hamlet, a small village near Prishtine. So these were the main two locations where I would go. If there is a need to explain why I went there, I would do so".*¹³² *"When the air-strikes started, it was impossible to stay permanently in Prishtine. So, I personally, along with some others, stayed in Butovc, because it was situated at the periphery area and not controlled by the enemy forces, but at the same time it was near Prishtine so that's why I stayed there. But on 31 March, when the citizens were displaced from that area nearby, I returned to Prishtine and, as I explained earlier, I got the hard disk. And then I continued to stay in Butovc for a while. And then I went back to Prishtine, and so on".*¹³³

¹²⁹ Ibid, p.2629-2630

¹³⁰ Ibid, p.2652

¹³¹ Ibid, p.2624-P. 2625

¹³² Ibid, p.2624-P. 2625

¹³³ Ibid, p.2628

Working in humanitarian aid:

142. During the time the witness was in Butovc he continued working in humanitarian aid, he testified: *"It was not only that place that I mentioned. There was also in that neighbourhood an organisation called Mother Teresa which was also involved in humanitarian aid. So, both of us, we got all the supplies, and through Butovc, Matican, Butovc, we took these supplies to Mramor and distributed the aid to the population. Because we didn't need them for ourselves, so we wanted to help the people who were there as refugees".*¹³⁴ *"As I said earlier, when I returned to Butovc from Prishtine, I think it must have been the two, three first days of April, and I went to the place where we used to stay with BIA guerilla soldiers, where I met the people there. I talked about the idea of retrieving that -- supplies from Prishtine. We talked with Cali about other things that we had to do then".*¹³⁵

Meetings with Salih Mustafa in Butovc:

142. The witness testifies that in first two or three days of April 1999 he met Salih Mustafa in Butovc, he testifies. *"As I said earlier, when I returned to Butovc from Prishtine, I think it must have been the two, three first days of April, and I went to the place where we used to stay with BIA guerilla soldiers, where I met the people there. I talked about the idea of retrieving that -- supplies from Prishtine. We talked with Cali about other things that we had to do then".*¹³⁶

143. The witness, during his stay in Butovc, in April 1999 he met Salih Mustafa many times, he testifies: *"To my recollection, on 31 March I returned to Prishtine where I stayed two or three days, so it may have been 4, 5, or 7 of April where I stayed in -- in Butovc where I often talked to Cali, not only with Cali but with other people too. In Butovc and in some other points in the periphery of Prishtine which were places where many civilians moved to. And I remember some people came to us and asked us for help, where to go, where to find food, and things like that, because we were the only hope for them at the time, that is, for the people living in Kosovo".*¹³⁷

Staying in house of Sopi family:

144. The witness with other member of BIA unit used to stay in Butovc in houses of Sopi family, he testifies: *"There were two neighbourhoods there, and the entire organization regarding accommodation, sheltering, it was based on family. That is, one family lived in one place where there were four, five houses belonging to the same family. I remember we lived in the Sopi family; they had three houses. Or Recica [phoen] family; they had about four houses, I think. So, these were mainly the two families with whom we stayed at a distance of maybe 150, 200 metres from each other".*¹³⁸

Moving to Mramor and Zllash:

145. During the period of time the witness was in Butovc, now and then he would be on a move, he testifies: *"I don't remember very well. I may have gone to some other villages.*

¹³⁴ Ibid, p.2628

¹³⁵ Ibid, p.2631-2632

¹³⁶ Ibid, p.2631-2632

¹³⁷ Ibid, p.2633

¹³⁸ Ibid, p.2633-2634

I know I went to Mramor one time and met my father. They were refugees -- he was there with some other refugees. Then I went to other places. We had other bases in Zllash, Sharban. I went there too". ¹³⁹

The Zllash

146. The witness during March-April 1999 was two times in Zllash, he testifies: *"To my recollection, and I believe it's correct, two times".* ¹⁴⁰ *"The first time that I went, I went with Flora Brovina to take some supplies, like -- some supplies and materials, like mattresses, blankets and foodstuffs, and we took them there to supply to the population. The second time, I went to meet Isa Kastrati, a friend of mine who is now a hero, martyr to the nation. He used to be a political prisoner. At least this is what I remember".* ¹⁴¹

First time in Zllash:

147. The witness went first time he to HQ of Brigade 153 in Zllash, he testifies: *"No. The supplies were meant for the Brigade 153 staff. And Rrahman Dini came and met us, along with Fatmir Sopi. These were the two persons that we handed over this aid".* ¹⁴² *"I don't know how to describe it. Above the house of Fatmir Sopi. I know that because it was Fatmir Sopi who met us on the road and took us to the headquarters where the place was".* ¹⁴³

Second time in Zllash:

148. For second time that the witness went in Zllash, he went there to see Isa Kastrati, he testifies: *"Yes. I met with Isa Kastrati at the safe house that BIA guerilla unit had in Zllash, the house where he was staying in Zllash".* ¹⁴⁴

Seeing of other soldiers and civilian people in Zllash:

148. The witness when for the second time in Zllash, he was at house that was a BIA unit safe house, he saw other soldier from brigade 153, from OZ of Karadak and also a civilian population, he testifies: *I saw soldiers there, soldiers in uniforms. Civilians, civilians who had fled Prishtine. For example, I know that two families were staying there at the time. There were also local villagers who came there while I was there".* ¹⁴⁵ *"In general, KLA soldiers. From organisational point of view, there were soldiers from 153rd Brigade and also soldiers from Karadak operational zone who were staying there".* ¹⁴⁶ The witness saw a civilian in Zllash whom he has known before, he testifies: *"Yes, I saw them. That day I was there, I saw them. But I know them personally. The family of Mehdi Asllani, I know them personally. And he has also recounted his experience, how he went there, and where he stayed, and so forth".* ¹⁴⁷

¹³⁹ Ibid, p.2635

¹⁴⁰ Ibid, p.2635

¹⁴¹ Ibid, p.2635

¹⁴² Ibid, p.2637

¹⁴³ Ibid, p.2650-2651

¹⁴⁴ Ibid, p.2641

¹⁴⁵ Ibid, p.2642

¹⁴⁶ Ibid, p.2642

¹⁴⁷ Ibid, p.2655-2656

149. The witness while in Zllash also met Besnik Maroca and Rahman Dini, he testifies: *“Yes, I remember. There was one from Karadak operational zone. He also has died. He is a hero. Besnik Maroca [phoen], I think. I'm not very sure about his last name. I stayed with him, and I was very impressed by his enthusiasm to fight. Being a guy from the city, he came to the village disregarding the risks and anything. I remember him also because of his death. It was a very heroic death, very near the place where Isa Kastrati was also killed. Rrahman Dini was also another person, I met him there, whom I knew from before”*.¹⁴⁸

Rooms used by BIA unit:

150. The witness knows that BIA unit used only two rooms of the complex of the houses, he testifies: *“The BIA people, as far as I understood, and I know that's the way it was, used only two rooms from the houses, from the complex of houses that were there. It was a complex of houses belonging to a family consisting of a larger family -- number of family members. But, there, there were also other people staying, not at the time when I was there, but this is what I know. So, these were people that fled other areas and that stayed there for one or two days and then moved to somewhere else. Then soldiers from other zones would come there and stay there for one or two or three days and then move to another location. So, in other words, this was like an open area where everybody could stay to the extent they needed”*.¹⁴⁹

Controlling of the houses:

151. The witness knows that BIA unit did not control the houses, he testifies: *“Not any control by any people. So, BIA did not control this group of houses”*.¹⁵⁰

152. The witness said that BIA unit in Zllash had no work there, and BIA used that location mainly to rest, he testifies: *“No, it had no work in Zllash or around Zllash. BIA used that location mainly to rest. And soldiers there changed. Some would come and stay for two, three days and leave; and then others would come, stay for a couple of days, and leave. So, this was the whole BIA's purpose in that location”*.¹⁵¹

Open area:

153. The witness when he went to Zllash did not see any obstacle to enter that area, and there were no guards, he testifies: *“No, there wasn't any gate. I went there as usual. You can see from the photo; you see the road. The gate was there. There wasn't any obstacle to enter that area”*.¹⁵² *“When I went there, when I entered there, there wasn't any guard. And to my recollection, I don't know that there was any guard. If you ask me about any soldier standing -- staying on guard, I didn't see any. Nobody asked me to show any identification or anything”*.¹⁵³

¹⁴⁸ Ibid, p.2649-2650

¹⁴⁹ Ibid, p.2643-2644

¹⁵⁰ Ibid, p.2644

¹⁵¹ Ibid, p.2652

¹⁵² Ibid, p.2651-2652

¹⁵³ Ibid, p.2652

154. The witness, while in Zllash Compound, did not see anything extraordinary, he testifies: *"I didn't see anything extraordinary. Everything was as I described it earlier. It was an open area with people, soldiers, civilians. I told you that some villagers brought some food. So, nothing extraordinary".*¹⁵⁴

Witness did not see Salih Mustafa in Zllash:

155. During the second time when the witness was in Zllash, he did not see Salih Mustafa.¹⁵⁵

Conclusion:

166. From the time he joined the KLA, until the end of the war in Kosovo, the witness has never been in a military uniform, his main activity was to provide humanitarian aid to the civilian population in Pristina as well as in the village of Butovc, he was a deputy commander of BIA unit until February 1999 when he was appointed in the Llap Operational Zone. The BIA unit had four (4) sectors: health sector, logistics sector, the information sector, and the morale and politics sector. Salih Mustafa did not have any powers to arrest people and the BIA unit did not have any. The testimony of this witness proves that Salih Mustafa from the end of March 1999 and during the April 1999 he was in the village of Butovc, where he personally met him and he did not meet Salih Mustafa in Zllash compound in April 1999. So based on the witness testimony, the SPO's witnesses claiming to have seen Salih Mustafa in Zllash at the beginning of April 1999, are simply not telling the truth, nor are they proving it with any other relevant and reliable evidence. It is impossible that Salih Mustafa took part in the arrest and mistreatment of SPO witnesses between 1st April 1999 and April 14th, 1999.

VI. The testimony of Jakup ISMAILI-WDSM 400

General:

167. The witness testified for the period March-June 1999.
168. In March 1999 witness lived in Prishtina and he was and is involved in humanitarian activities as a member of Emergency Consul, and together with Hazir Borovci, Gani Sopi, Sabit Krasniqi and other member, to help displeased people for other regions of Kosovo to Prishtina.
169. The witness was member of Democratic League of Kosovo. The witness was KLA soldier and he belong to BIA Unit. He as a KLA soldier never has wear the military uniform.
170. The witness on 25 March 1999 left Prishtina and on 27 of March 1999 went to Butovc. In Butovc he continued with his humanitarian activity.
171. During the period from 27, 28 or 29 March 1999 till to 20 April 1999 he saw and met Salih Mustafa in Butovc.

¹⁵⁴ Ibid, p.2656

¹⁵⁵ Ibid, p.2653).

172. The witness is testifying that from 24 March 1999 the security situation in Prishtina worsened because the paramilitary and military Serb forces to enhance the repression against the population, killing people, displacing people, maltreating people, without sparing women, elderly, children, paralyzed people, so the pressure grew up.

NATO Bombing.

173. According to the testimony of the witness, NATO began bombing on March 24, 1999. He testifies: "*On 24th of March*".¹⁵⁶

Being the member of DLK:

174. Witness testifies that during this period he was an activist of the Democratic League of Kosovo, as well as a member of the Emergency Council and a KLA soldier-BIA unit, he testifies: "*In 1999, we dealt with issues related to humanitarian aid*".¹⁵⁷ "*The reason was that in Prishtine there were displaced people 23 coming from other war regions, like Drenica, Dukagjin, and other 24 regions. It was indispensable for us to set up an emergency council 25 to aid that population*".¹⁵⁸ "*The communal -- municipal council for emergencies was set up by the republican council. That is the provisional government in exile sent the -- funded it, in addition to sending supplies along with other people. They funded us to purchase the necessary products like medicaments and others in Kosovo, and after we bought them and gathered them, we distributed them. The emergency municipal council was set up in a private home in Velania*".¹⁵⁹ "*To my recollection, there were about 12 or 13 people. But other councils, LDK entities, were engaged too. They came and picked up, you know, assistance or aid and distributed it, in addition to our group*".¹⁶⁰ "*Yes, I was active, too, in this political entity. The Democratic League of Kosovo, that's how it is called*".¹⁶¹

Leaving Pristina.

175. According to the witness, upon starting of the NATO bombings, the Serbian regime intensified its reprisals against the civilian population in the city of Pristina and he decide to leave Prishtina.
176. He testifies: "*After this moment in time, as soon as the NATO air-strikes started on 24 March 1999, the situation changed considerably. The Serb -- the paramilitary and military Serb forces blamed us for the NATO strikes. And that being the case, they started to enhance the repression against the population, killing people, displacing people, maltreating people, without sparing women, elderly, children, paralysed people, so the pressure grew up. And we were in their eyes guilty for NATO air-strikes*".¹⁶² "*The military, police, and paramilitary forces expelled the population, and due to the repression and violence, the population was forced to move out from Kosovo and go to Macedonia and to the villages in the outskirts of Prishtine. The entire activity*

¹⁵⁶ KSC-BC-2020-05, WDSM-400-official transcript of 29 March 2022, p.2870/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b699e2/lw_tpg_edit_transcript

¹⁵⁷ Ibid, p.2867

¹⁵⁸ Ibid, p.2867

¹⁵⁹ Ibid, p.2868

¹⁶⁰ Ibid, p.2869

¹⁶¹ Ibid, p.2869

¹⁶² Ibid, p.2871

of the emergency council decreased. It was impossible to operate. And the population and we were forced to make plans on how to move out from Prishtine; us activists to go to the outskirts, whereas the population to go to Macedonia and to various villages".¹⁶³ "I left after 12.00 on 24 March. The 24th, going to the 25th".¹⁶⁴ "We continued to Hajvalia village. We deemed it reasonable to go to this village because it seemed impossible to withdraw from that area".¹⁶⁵ "Approximately, to my recollection, about 24 hours. I think this was how long we stayed there".¹⁶⁶ "We continued to Mramor, and my late friend was familiar with that terrain. That area was where he was from. He was from the village of Grashtice and knew the area very well. So we went to a part of Mramor, and from there, we continued on to Butovc, to a cousin of his who was a doctor by profession. His last name was Krasniqi. I do not remember his first name. But he was family of my friend".¹⁶⁷ "We arrived in Butovc approximately on 26 March. This is in approximate terms. I do not remember exactly".¹⁶⁸

Seeing Salih Mustafa in Butovc:

177. The witness arrived in Butovc on 26th of March 1999 ¹⁶⁹
178. In Butovc, he saw Salih Mustafa sometime on 27th, 28th or 29th of March 1999, and 7 or 8 days after that he had met personally Salih Mustafa in Butovc, he testifies: *"Personally I did meet with Salih Mustafa and we discussed -Sabit and I - and received instructions on where the activists of the emergency council were located. And he told us where we should go to continue the organisation that we had previously in Prishtine. We continued with Sabit. We went together to Butovc again because of its configuration. It's a large area, a hilly, mountainous area".¹⁷⁰ "It happened by chance. At the moment I was somewhere else, but I found out that Salih Mustafa was there in Butovc and went there. Sabit invited me and said, "Come here, we should discuss and make plans on how to assist the population." So, I went. We met and we got the instructions on meeting the activists of the emergency council in the house of – Correction: Mustafe Sopi is the name ".¹⁷¹ "As far as I remember - it's been a long time now - but as far as I remember, it was 28 or 29 March. Within this approximate time-period. I cannot give you a specific date or hour, but it's from the 27th, 28th, 29th, around these dates".¹⁷²*

First meeting with Salih Mustafa:

179. *"The first meeting took place in Butovc, not in the house of Mustafe Sopi but in the cousin of Sabit Krasniqi. He was a doctor. Personally, I didn't have any direct contact*

¹⁶³ Ibid, p.2874

¹⁶⁴ Ibid, p.2875

¹⁶⁵ Ibid, p.2875

¹⁶⁶ Ibid, p.2877

¹⁶⁷ Ibid, p.2877

¹⁶⁸ Ibid, p.2884

¹⁶⁹ Ibid, p.2884

¹⁷⁰ Ibid, p.2879

¹⁷¹ Ibid, p. 2880

¹⁷² Ibid, p.2881

with that. But the instructions to go to the emergency council and where the persons, the members of this council were in Butovc at Sabit -- were received by Salih Mustafa. I didn't have any direct contact at that moment".¹⁷³ "It was a road that now -- often was frequented by Serb forces. It was a very narrow road; impossible, I would say. And from Mustafe Sopi, I got instructions to be there because of that eventual arrival and the operation of the Serb forces. And I had to know what was happening to inform the persons that had taken positions somewhere near. So, in that position where Salih Mustafa came to Mustafe Sopi, he told Mustafe Sopi -- sorry. Mustafe Sopi told Salih Mustafa that this person is here and there, here and here, in this point. He was curious because of my humanitarian activity and the plans I had in mind on how to supply the population with medicaments and foodstuffs and so on. He was curious to contact me directly. As I said earlier, he didn't have direct contacts with me earlier but only with Sabit Krasniqi. But as I said, he was eager to know me, to see me, and to establish direct contact with me, and to think about -- to design a strategic plan on how to supply the civilian population in that part. So Salih Mustafa came to the point where I was stationed".¹⁷⁴

The first official meeting with Salih Mustafa:

180. *"The very first official meeting that I knew him was at the point where I had received instructions from Mustafe Sopi to monitor the security situation in that area that I mentioned earlier, the road, which was a strategic point to monitor the security situation. This is where officially I got introduced to him. The meeting that I referred earlier, it was a meeting where Sabit Krasniqi met him. I didn't know him, so I can't say that I had a meeting with him".¹⁷⁵ "I saw Salih Mustafa at the house of Mustafe Sopi. And sometime I saw him when he was on the move in -- on the ground, where we were located".¹⁷⁶*
181. The witness had personal meeting with Salih Mustafa also 7 or 8 days after he saw him for the first time, he testifies: *"As far as I remember, that was somewhere in the beginning of April. What I said earlier. It was in the beginning of April, 7, 8 April. From the first meeting where I did not take part to the second meeting, there were seven or eight days between to make the plans, operational plans, how to enter Prishtine, how to retrieve the medication. So that was seven or eight days after. It was in the beginning of April".¹⁷⁷ "At that moment regarding these plans, it was only myself and Salih Mustafa. There were medicament supplies in my house. My sister, my brother, they all worked in the medical faculty. And because of the dramatic situation, because it was war, we had people internally displaced from other parts and we needed to assist them with medicaments, and I informed him about the amount of these medicaments in my house".¹⁷⁸*

¹⁷³ Ibid, p.2888-p.2889

¹⁷⁴ Ibid, p.2888-p.2889

¹⁷⁵ Ibid, p.2891

¹⁷⁶ Ibid, p.2897

¹⁷⁷ Ibid, p.2900

¹⁷⁸ Ibid, p.2901

Seeing Salih Mustafa leaving Butovc:

182. The witness remembers seeing Salih Mustafa before the latter left Butovc, he testifies: *"I don't remember. But I do remember that there was some wounded and that he moved, went to where those wounded persons were. I did see him there on two, three occasions on the move".*¹⁷⁹ In time when the witness saw Salih Mustafa he wasn't wearing the military uniform, he testifies: *"Salih Mustafa did not have a special kind of attire. He had a waistcoat that resembled those of a hunter' so apart from that vest, the rest of his attire was civilian clothes".*¹⁸⁰

Witness being a member of KLA and member of unit BIA.

183. Witness was a KLA soldier¹⁸¹ and belong to BIA guerilla unit¹⁸² The witness, as a KLA soldier, did not wear military uniform. The witness, although he was a member of the BIA unit until after the war, he did not know who was the commander of BIA, he testifies: *"Up until after the war, I didn't know. I didn't find out and I didn't know".*¹⁸³, he reported his activities to Sabit Krasniqi, he testifies: *"I used to report to the late Sabit Krasniqi, my friend".*¹⁸⁴

Conclusion:

184. From the time he joined the KLA, until the end of the war in Kosovo, the witness has never been in a military uniform, his main activity has been providing humanitarian aid to the civilian population in Pristina as well as in the village of Butovc, where it was moved together with his friend Sabit Krasniqi. The testimony of this witness proves that Salih Mustafa as of the end of March 1999 and during the April 1999 was in the village Butovc, where the witness meets him in person, and in some cases only saw him. The witness testifies that the Salih Mustafa left Butovc and went to another place where there were some wounded persons. So based on this, the SPO's witnesses that claim to have seen Salih Mustafa at the beginning of April 1999 in Zllashe, are not telling the truth, nor are they proving it with any other relevant and reliable evidence. it is impossible that Salih Mustafa took part in the arrest and mistreatment of SPO witnesses between 1st April 1999 and April 14th, 1999.

¹⁷⁹ Ibid, p.2905

¹⁸⁰ Ibid, p.2906

¹⁸¹ Ibid, p.2906

¹⁸² Ibid, p.2907

¹⁸³ Ibid, p.2931

¹⁸⁴ Ibid, p.2937

VII. The testimony of Hazir BOROVC I-WDSM 500

General:

185. One of the locations that figures in the case is the village of Butovc, which is located near Pristina.
186. From the testimony of the defense witnesses, it is proven that on March 24th 1999 the NATO forces started bombing the military targets of the Serbian army and that from this date the reprisals against the civilian population by the Serbian army, police and paramilitaries began to intensify.
187. Witness stayed in this village during the time included in the indictment, testified about the events that took place in Butovc.
188. From the testimony of the defense witnesses Butovc is mentioned as a residence where during period of time March 24th 1999-March 31st 1999 (and beyond this date), due to the deterioration of the security situation as well as due to the repression of the military forces, paramilitary and police forces of Serbia, the population was forced to move from the city of Pristina to this settlement-village. The population of the city of Pristina, mainly from the part of the city of Pristina called Bregu i Diellit, Velani, have moved to this village, since according to the testimony of the witnesses, this village, at that time, was considered one of the safest places to stay the population.
189. Almost the entire activity for the organization of the relocation of the civilian population from the city of Prishtina was organized by the Emergency Council, an organization which was created and operated within the framework of the Democratic League of Kosovo.
190. From beginning of January 1998, the members of the Emergency Council were also members of the KLA.
191. The activity of the Emergency Council was the collection of food, clothing, medicines and distribution of these to the civilian population.
192. Displacement of a part of the population from the city of Pristina, they were accommodated in the houses of the villagers in the village of Butovc with the help of the KLA soldiers, the BIA unit and the witnesses themselves.
193. During the April 1999-June 1999, KLA soldiers, as well as members of the BIA unit, who were engaged in providing security to the population, operated in Butovc, helping the population to be accommodated and supplied with food, medicines, clothing and other items necessary for living.

NATO Bombing.

194. According to the witness, NATO began bombing on March 24, 1999. He testifies: *“On 24 March, the first bombs fell on Serbian targets in 1999. On 24 March”*.¹⁸⁵

Being a member of DLK:

195. The witness during this period was an activist of the Democratic League of Kosovo, as well as a member of the Emergency Council and a member of the KLA, he testifies: *“At that period, I was an activist or vice chairman of the third branch of LDK, Democratic League of Kosovo. I was part of the emergency council of Prishtine, and I feel very good when I say to you that I was a member of the Kosovo Liberation Army, since I was a part of that army. I had my duties within the LDK branch. I had engagements in the emergency council or the solidarity council, and, in addition, and it is my honor to say this again, I was part of the Kosovo Liberation Army”*.¹⁸⁶

Leaving Pristina.

196. After the start of the NATO bombings, the Serbian regime intensified its reprisals against the civilian population in the city of Pristina, he testifies: *“The population near us was arrested, maltreated physically. They were interrogated, detained. And in every part of the neighborhood, nobody could enter or leave that area without being checked, with the exception of some specific lines that we used ourselves very cautiously”*.¹⁸⁷ *“On 24 March, we remained in Prishtine up until the end of March, when our neighborhood was surrounded in three directions. When that happened, we left the area together with the population”*.¹⁸⁸ *“We were in the service of the population. Seeing that we were surrounded by numerous police, military forces, and armed civilians with heavy weapons, there were two ways for us to follow: To resist or to guide the population, because they enter the houses, set fire to them. And so in order to save the population, we decided to gather with the population, some of us leading them, some of us in the middle, and I was at the end of that column of people, in order to guide them to the right place. So, we left towards a more secure place”*.¹⁸⁹

197. The witness left Pristina on March 31, 1999, he testifies: *“Yes, I remember the date. It was the end of March. In my statement, indeed, I have said 28 March. But since I am under oath, we didn't leave on the 28th but at the end of March. So on 31 March, we were obliged to leave Prishtine. And I want to thank very much the people who showed us the right way and took us to a mountainous area in the vicinity of Prishtine”*.¹⁹⁰ In the direction of Butovc village in the vicinity of Prishtine. It is a mountainous area”.

¹⁸⁵ KSC-BC-2020-05, WDSM-500-official transcript of 30 March 2022, p.2951. / https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b6b2ab/lw_tpg_edit_transcript

¹⁸⁶ Ibid, p.2951

¹⁸⁷ Ibid, p.2956

¹⁸⁸ Ibid, p.2957

¹⁸⁹ Ibid, p.2957-2958

¹⁹⁰ Ibid, p. 2958

Meeting Salih Mustafa in Butovc:

198. Witness meet Salih Mustafa during the first week of April 1999, he testifies: *"Yes, I met him" ... I think it was the 2nd or the 3rd. The 2nd or the 3rd of April, 1999. The first week, meaning the 2nd or the 3rd of April, 1999.*¹⁹¹

Place where the witness meets Salih Mustafa:

199. Witness meet Salih Mustafa in house of Mustafa Sopi, he testifies: *"The place where I was standing guard in that point that I mentioned, nearby is a house of Mustafe Sopi where some families were accommodated. And after finishing my duty, we came to rest and we passed by the house of Mustafe Sopi, and that's where I met Salih Mustafa. Earlier, I didn't know him. But they were celebrating Bajram, and Professor Sopi introduced me. And based on the words that he was saying to the population and to us, I realized that it was Salih Mustafa".*¹⁹²

200. The witness, while in Butovc, saw Salih Mustafa several time, he testifies: *"But I have met him several times*¹⁹³. *Maybe three, four, five times. I can't be precise. But, I mean, during this period, I have seen him several times. And we have talked a few times. More times I have seen him and less times I have talked to him. Because he also advised us, suggested us what to do. And when I first saw him, I listened to what he was saying and advising the civilian population, then I recalled what Mustafe Sopi had told me about him, and I realized that it was him".*¹⁹⁴

201. The witness saw Salih Mustafa, in period of first and second week of April 1999, as he testified: *"The 2nd or the 3rd of April, that is, the first week of April, until the 15th, 16th, 17th of April. That's the period I had in mind".*¹⁹⁵

Being a member of KLA and member of part of unit BIA.

202. Witness joined the KLA at the beginning of 1998, from January 1988.¹⁹⁶
The witness seeing the danger that population was facing, he decided to join and become part of the Kosovo Liberation Army, he testifies: *"Together with comrades, LDK activists, friends who I knew for a long time, who knew each other for a long time, their parents knew each other, so we were the second, third generation to know each other, and seeing the danger that our population was facing, we decided to join and become part of the Kosovo Liberation Army".*¹⁹⁷

First duties of witness as a KLA soldier:

203. The witness in 1999 start with guard and observation duties as a member of KLA and part of Pristina unit, he testifies: *"It was the same organization except for the fact that the strength, the numbers grew. We continued to do the same things. And in 1999, as*

¹⁹¹ Ibid, p.2963

¹⁹² Ibid, p.2963

¹⁹³ Ibid, p.2964

¹⁹⁴ Ibid, p.2964-2965

¹⁹⁵ Ibid, p.2966

¹⁹⁶ Ibid, p.2972

¹⁹⁷ Ibid, p.2972

*part of the army, we began with guard duty. We began to be more engaged in observation duties, in collecting information, because repression, violence, arrests, imprisonments – “.*¹⁹⁸

204. The main aim of observation duties of witness as a part of Pristina Unite was to observe positions of army, police and civilians, he testifies: *“The positions of the army, the police, and civilians, because their number increased, the heavy weaponry also increased. And there was also inner information about the conditions of the population, civilian population, as in what does the population need. So this was the character of information”.*¹⁹⁹

Being a member of BIA unit:

205. During the period of 1998-1999 he was member of KLA and member of part of unit of BIA, he testifies: *“I was a member of the KLA and of the guerilla unit which was part of BIA. Part of the national liberation army, part of BIA”.*²⁰⁰ *“A member of the KLA of Prishtine part and of the guerilla, which was part of the KLA, part of the guerilla unit, because the guerilla unit was part of the KLA”.*²⁰¹

Conclusion:

206. From the time he joined the KLA, until the end of the war in Kosovo, the witness has never been in a military uniform, nor has he been armed, his main activity has been providing humanitarian aid to the civilian population in Pristina as well as in the village of Butovc. His activity as a member of the KLA and part of the BIA unit, part of Velania in Pristina, was a non-combatant activity. The testimony of this witness proves that Salih Mustafa from the beginning of April 1999 until the second part of April 1999 was in the village of Butovc, where he personally met him and, in some cases, saw him. So based on this, the SPO's witnesses that they saw Salih Mustafa at the beginning of April 1999 in Zllashe, are not telling the truth, nor are they proving it with any other relevant and reliable evidence.

VIII. The testimony of Gani SOPI-WDSM 600

General:

207. The witness has been politically engaged since 1990 in the Democratic League of Kosovo and was the leader of the Information Commission within the Democratic League of Kosovo.
208. From January 1998 the witness joined the KLA, and from that time, for him it was not important which Brigade or unit he belonged to, for the witness it was important to organize and help the civilian population.

¹⁹⁸ Ibid, p.2975

¹⁹⁹ Ibid, p.2977

²⁰⁰ Ibid, p.2986

²⁰¹ Ibid, p.2986

209. The witness realized in May 1999 that he is a member of the KLA military unit called BIA.
210. According to the witness, in the period from January 1999 to the end of March 1999, it was important that the members of the KLA groups did not know which Brigade or Unit they belonged to, since in case they were caught by the forces Serbian military and paramilitary would not be able to provide information about the way of organization and which unit they belong to.
211. After the start of the NATO bombings, the security situation in the part of the city of Pristina in which the witness acted worsened due to the increase in reprisals by the militant and paramilitary forces of the Police, the Army and members of the Serbian paramilitary, so that he, together with other members of his group, decided to leave Pristina together with their families and more than 10,000 civilian population. The witness together with the civilian population, left Pristina at the end of March 1999 and settled in Butocin u Ulët, near the Prishtina, which is his birthplace and where he and his family-owned houses.
212. The witness, stayed in Butovc, helped the civilian population to be accommodated and that this population was provided with shelter, food, clothing, medicines and other items necessary for living.
213. The witness while staying in Butovc didn't not wear a military uniform and that the other members of the KLA were not wearing military uniforms either.
214. The witness from the beginning of April 1999, he met Salih Mustafa and together with Salih Mustafa on many occasions, at the given point, they observed the activity of the Serbian army.
215. The witness met Salih Mustafa personally during the first and second week of April 1999.
216. The developed his military activity as a KLA soldier, together with Hazir Borovci, Ismajl Jakupin and others and they reported to the brother of the witness Mustafa Sopi.
217. The entire activity as a KLA soldier of witness was non-militant and he together with the other members of his group, did not participate in any combat action, but that the entire activity theirs has been humanitarian, ensuring the welfare of the civilian population.

NATO Bombing.

218. NATO began with air-strikes on March 24, 1999, he testifies: *"It's a historic date which will never be forgotten by our people, because it was 24 March 1999. It was at 8.00 in the evening when the strikes started. And that day -- and that date will never be forgotten by my people and by myself either".*²⁰²

²⁰² KSC-BC-2020-05, WDSM-600-official transcript of 4 April 2022, p.3084. /https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b6fd03/lw_tpg_edit_transcript

Being the member of DLK:

219. The witness from 1990 and during the period from March 1999 till to June 1999 he was an activist of the DLK, as well as a member of the Commission for information.

Being the KLA soldier:

220. The witness from January 1998 I a member of the KLA, he testifies: *“My activity in the beginning was purely political, and from 1990s, I was one of the persons who established the political activity of the LDK. My position at the time was member of the presidency and from that period until the end of the war, I led a very important commission. This was the commission for information which was active in the territory where I was active. I had the structures who gave me the information on what was going on in that territory at the time”*.²⁰³ *“From January 1998”*.²⁰⁴

Witness’s activity in Prishtina:

221. During the January 1999 till to March 1999, his activity it was to accommodate the displaced population from other part of Kosovo to Prishtina, he testifies: *“In Prishtine, there were major difficulties because of the population displaced from various parts of Kosovo and they were accommodated where we operated. Our activists, our collaborators were engaged to help all this population in terms of accommodation, food, medicaments, and so they had to follow up developments in every place where the Serb forces, paramilitary and military forces were stationed”*.²⁰⁵

Leaving Prishtina.

222. After the start of the NATO bombings, the Serbian regime intensified its reprisals against the civilian population in the city of Pristina, and it not was more safety to live in Prishtina, especially for him, because he was wounded on 24 March 1999, so he and the member of his group decided to live Prishtina with 10,000 civilian populations, he testifies: *“I’ m repeating it. It’ s difficult to remember these things because it was a hard time. We were subjected to great reprisals in the city, not only in my city but also in other parts of the city. The Serb police and paramilitaries exerted great violence, and there was nothing left for us but to organize the people, also in the place where we lived, in cooperation with my friends and activists, and to guide the population towards Butovc which was my birth place but also we thought it would be safer as a place. That’ s why we left. So the ultimatum was either to vacate the city; otherwise, we would be subject to violence against our population there”*.²⁰⁶ *“It was a great number. I wouldn’t give you a precise figure, but I would say they were over 10.000, of all ages, of both sexes, women, children, sick people, elderly people. Everyone was – left Prishtine”*.²⁰⁷

²⁰³ Ibid, p.3082-3083

²⁰⁴ Ibid, p.3087

²⁰⁵ Ibid, p.8083

²⁰⁶ Ibid, p.3084-3085

²⁰⁷ Ibid, p.3085

Seeing Salih Mustafa before 24 March 1999:

223. The witness met Salih Mustafa before the 24th of March 1999, he testifies: *“I would like to make a digression which I forgot to mention. During the time that we were dealing with accommodation and other things, Salih Mustafa rendered a major contribution, with whom I met, we discussed, and he told us to assist the population, to be ready for any eventuality, to find accommodation, foodstuff, medicaments. So we cooperated a lot during that period with him”*.²⁰⁸ Based on the testimony of the witness Salih Mustafa during the first and second week of April 1999 he was in Butovc. The witness testifies: *“I said also earlier, April is a very -- let's say, a month that is difficult for me to remember. Not only for me but for all Albanians from Gollak area. It is true that I met him at the beginning of April, in the first weeks of April; that is, I met Salih Mustafa in Butovc at that time”*.²⁰⁹ *“I'm repeating. The reason was that it was Bajram, and he was very close to my brother who was -- used to be his professor, so he came to visit him in Butovc, but also to look after the population, to see how they were faring. As I said, there were many people in Butovc. He wanted to see how they were settled, how they were organised, accommodated, whether we were accumulating food for them, and many other such issues”*.²¹⁰ *“I know that it was the first and the second week of April when we met and talked. But in those circumstances, he dealt more with Professor Mustafe Sopi, my late brother, who was in charge and who organised all these things. I was there, too, and we discussed about the situation, the events, developments. Also within the ranks of civilian population”*.²¹¹
224. The witness testifies that he met Salih Mustafa in Butovc for a longer period, he testifies: *“No, I met him for longer periods. Even though I was wounded, I went to observation points several times also with Salih Mustafa and with the professor and with some other co-fighters. We went to observe the strategic points, because Serbian police and army were very closely stationed”*. Yes, these meetings occurred during the day but also in the evening. *“Because we had to observe the terrain also at night”*.²¹² Initially the witness met Salih Mustafa at the house of professor Mustafë Sopi, he testifies: *“Initially at our house, at the house of Professor Mustafe Sopi. That's where he was accommodated. But from there, he moved about. But I'm telling you that he couldn't go far. Because I could follow every movement. I knew the terrain”*.²¹³

Being a member of KLA and member of part of unit BIA.

226. Witness joined the KLA from beginning of 1998, from January 1988.²¹⁴ At the time the witness joined KLA he was not interested to which KLA brigade or unit he belonged to, he testifies: *“I wasn't interested in that because we were organised in order to assist the population and to be by their side, so it didn't matter to me what unit I was in. Later on, yes. But at that phase, I wasn't impressed by that”*. The witness

²⁰⁸ Ibid, p.3086²⁰⁹ Ibid, p.3089²¹⁰ Ibid, p.3089-3090²¹¹ Ibid, p.3090²¹² Ibid, p.3091²¹³ Ibid, p.3093²¹⁴ Ibid, p.3087

later has understood to which unit he belongs, and from beginning they had a leader, he testifies: *"Yes, we did. I had or we had our leaders -- a leader that we appointed, my brother, Mustafe Sopi". I didn't analyse that, but I think he was responsible for this group of friends and comrades that we were both in the city and in Butovc*".²¹⁵

227. In beginning and in time that he was in Butovc he as a KLA soldier did not wear military uniform, he testifies: *"But, Your Honour and Panel, we have -- we didn't wear uniforms, because there were many civilians there, and we had to mind women, children, elderly, who were very stressed because of the Serb violence. And so we tried not to appear as if we were engaged in, let's say, military formation because of the civilian population. Even the weapons, we did not display them"*.²¹⁶
228. The witness in beginning did not know the name of unit that he belongs, he was inform to which unit he belongs in May 1999, he testifies: *"Your Honour, let's not create any confusion. When we were in Prishtine, we operated there for a year or so. At the beginning, we didn't have any names because of the dangers. We didn't have any administration and have the relevant documentation which might be captured by the Serbs. When I was imprisoned, I was already organised. That's why we left. So in case of any of our comrades being captured he didn't have -- he shouldn't have a lot of information. That's why I wasn't keen on knowing things. But it was about May 1999 that I was informed and explained to me that this was how it was"*.²¹⁷ *"In May, I said, of 1999, I realised that. And my late brother also explained that to me, who was also in charge of that unit"*.²¹⁸
229. The witness knows as a co-fighters only his friends: Hazir Borovci, Sabit Mushica, Jakup Ismaili, Sabit Krasniqi, Mustafe Sopi, and no others, he testifies: *"If you allow me, Presiding Judge, those friends were co-fighters. I can mention some of them by name, because I don't remember every single person. It was Hazir Borovci, Sabit Mushica, Jakup Ismaili, Sabit Krasniqi, Mustafe Sopi, my brother"*.²¹⁹

Conclusion:

230. From the time he joined the KLA, until the end of the war in Kosovo, the witness has never been in a military uniform, nor has he been armed, or took any military actions, his main activity has been providing humanitarian aid to the civilian population in Pristina as well as in the village of Butovc, where it was moved together with 10,000 civilian populations.
231. His activity as a member of the KLA and part of the BIA unit, was a non-combatant activity, all members of the BIA unit, had this type of activity.
232. The testimony of this witness proves that Salih Mustafa from the beginning of April 1999 until the second part of April 1999 was in the village of Butovc, where he

²¹⁵ Ibid, p.3089

²¹⁶ Ibid, p.3092

²¹⁷ Ibid, P 3140

²¹⁸ Ibid, p. 3141

²¹⁹ Ibid, p.3126

personally met him and where to gather with Salih Mustafa went to observation points several times.

233. So based on this, the SPO's witnesses that they saw Salih Mustafa at the beginning of April 1999 in Zllashe, are not telling the truth, nor are they proving it with any other relevant and reliable evidence. It is impossible that Salih Mustafa took part in the arrest and mistreatment of SPO witnesses between April 1999 and April 14, 1999

IX. The testimony of Bislim NRECI-WDSM 700

Position of Bislim Nreci:

234. Mr. Nreci is a citizen of Barileve, a village north of Prishtina but within the Prishtina municipality. At the time of the war, a voluntary unit was formed and it was called the Barileve unit. The Cmdr. of the unit was Jusuf Shalaku and the unit was part of Brigade 153, even though it was located far from it geographically speaking.²²⁰ During the period of the war, Nreci never left his village,²²¹ even though they moved from one neighborhood to another within the same village.
235. The village of Barileve is very close to Vranidoll. A large railroad is along the way, as well as a river. The railway and river cross in between 2 areas; on the one hand there is Barileve/ Vranidoll – “Llap Area” and on the other side of the railway is the “Gollak Area”. In the period of the conflict this point was a passage road between the two areas.

The Barileve Unit

236. The unit to which Mr. Nreci belonged helped to move people across the passage. In addition, some observers were stationed at the highest points from where they could observe the movement of Serbian military forces.²²² As nearby Serbian forces were located, these movements of people would be done when evening fell.²²³

Death of Bedri Kurti and Nexhmi Kaçiu –12th April 1999.

237. The witness spoke about 2 people that died in his neighborhood. These 2 people were Bedri Kurti and Nexhmi Kaçiu. Initially the witness mixed up the dates of their death. However, after investigations about the date of their death, the witness acknowledged that their death was on the 12th of April. The photographs that were made of the tombstones of these 2 people were the dates that he referred to.

²²⁰ KSC-BC-2020-05, WDSM-700-official transcript of 5 April 2022, p.3183/3184. [/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b70724/lw_tpg_edit_transcript](https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b70724/lw_tpg_edit_transcript)

²²¹ Ibid, p.3185

²²² Ibid, p.3185

²²³ Ibid, p.3186

238. The photograph “DSM 00074” was shown to the witness.
239. As to the reason of mixing up the dates, the witness explained that he had no particular reason to mix up these dates²²⁴. He said that there were victims on a daily basis, but in the case of these 2 people, the witness explained that they buried these 2 victims themselves.²²⁵

The closing of the passage road on 22nd April 1999

240. A little bit later on, the witness had nevertheless a point of reference regarding a date, the 22nd of April. He referred to that date as the date that the Serbian forces, which were located nearby, closed a particular passage from which they would transport foodstuffs on horses and tractors from the Llap area to the Gollak area.²²⁶

“ODA” – “men’s chamber” – a place where soldiers and Salih Mustafa would stay

241. The witness explained in his testimony what an “ODA” is. It is a place that is built where the men stay separately from the women. It is used for the men to stay, talk eat, and so on.²²⁷
242. The significance of an “ODA” is an important notion as other witnesses have used the word as a location in their testimonies. The witness explained that when soldiers would pass by in Barileve, they would stay overnight in the “ODA” in the Verbovc neighborhood in Barileve.²²⁸
243. The witness pointed out on map (DSM 00067, DSM 00066) the locations of the areas that he referred to belonging to Llap area (i.e., Majac) and Gollak (i.e., Barileve, Vranidoll and Rimanishte) area.²²⁹

Contact with Salih Mustafa in Barileve

244. The witness saw on 2 occasions Salih Mustafa. About the 1st time he stated:
*“The first occasion was much earlier. I mean, beginning of February or March, when there was snow. And the second occasion was in mid-April or a bit further from mid-April. I cannot fix it in a specific date because a long time has passed.”*²³⁰
245. The 2nd time he Salih Mustafa was when he stayed longer with soldiers. Salih Mustafa was accompanied by Jusuf Shalaku. When questioned about the date, and in order to specify more precisely when he actually met Salih Mustafa, the witness testified it was

²²⁴ Ibid, p.3198

²²⁵ Ibid, p.3198

²²⁶ Ibid, p.3200/ 3201

²²⁷ Ibid, p.3204

²²⁸ Ibid, p.3202 and 3203

²²⁹ Ibid, p.3210 and 3211

²³⁰ Ibid, p.3214, lines 5 to 8

between the 12th and the 22nd of April.²³¹ He testified that Salih Mustafa had to go to Zllash.²³²

246. The witness initially testified that could not remember why Salih Mustafa had to go to Zllash. When he was confronted with his earlier statement (DSM00056 until 00067, page 6) that somebody had called Salih Mustafa because there were wounded in that area (meaning Zllash).²³³ This moment in time was about 4 or 5 days before the 22nd of April.²³⁴ So that would be either the 17th or 18th of April 1999.
247. The witness eventually pointed out the route that he took together with Salih Mustafa up to village Radashevc.²³⁵ A route which was very long and difficult, in which they got stuck with the car and had to walk parts. The witness was unable to give an approximate time frame of this difficult journey; he did not go all the way to Zllash, but returned to Barileve.²³⁶ The trip from Barileve to Radashevc and back took more or less the entire night.²³⁷

Conclusion

248. The witness, a citizen from the village Barileve testified as an eyewitness of his meeting with Salih Mustafa. The relevance of it is that he met and accompanied Salih Mustafa towards Radachevc, and left him and Jusuf Shalaku there, upon which he returned to Barileve. The witness could place this in time, even though he was not very specific about the date. He related the date to the day that the passage road was closed by the Serbs, and therefore the crossing was no longer possible. This passage road was an important road as people could move from one region into another. As this passage closed on the 22nd of April 1999, the witness referred to this date, and placed the 2nd meeting with Salih Mustafa about 4 or 5 days before that date. So, counting from the 22nd of April 1999, the date that he met Salih Mustafa there was either the 17th or 18th of April 1999.
249. Salih Mustafa was thus not in Zllash on the 16th of April 1999. This eyewitness is a reliable and completely credible witness. He testified that he heard that Salih Mustafa had to go to Zllash for the wounded, and that is in line with the events that unfolded in Zllash at the time. At the time in Zllash there were many dealings going on with wounded people and at some point, there was a makeshift hospital constructed in the compound of Zllash. The witness Musli Halimi, discussed earlier, was among the people had left the school in Zllash to become commander of a battalion which had to deal with battles in the region. The witness' account is therefore in line with the developments in the region of the Gollak area. Therefore, the reason for Salih Mustafa to go there was evident.

²³¹ Ibid, p.3215, line 12- 13

²³² Ibid, p.3217/3218

²³³ Ibid, p.3217

²³⁴ Ibid, p.3218

²³⁵ Ibid, p.3228

²³⁶ Ibid, p.3228

²³⁷ Ibid, p.3275

X. The testimony of Nazmi VERBOVCI-WDSM 800

Nazmi Verbovci: Coordinator of a unit in Barileve, where the dangerous passage road is.

250. Mr. Verbovci lives in Barileve, and that is where he lived also in 1999. In Barileve the witness explained that units were formed with the sole purpose of protecting the population against the Serbian paramilitary groups.²³⁸
251. These units were from 10 to 30 persons, co-villagers. Its task was to help people pass through the passage-road which was in the neighborhood of Verbovci to go to and from Llap to Barileve.²³⁹ The passage or crossing was earlier described by witness Bislim Nreci.
252. According to the witness, the duties were to stand guard, observe Serb military and police positions. In order to go from the Llap area to the Gollak area people would need to go through Barileve which was the only place where they could pass.²⁴⁰

Significant events described by the witness occurring in Barileve

253. The witness explained that somewhere in the month of March 1999, in the second half of March, a known professor, Selim Berisha, was killed. He was a teacher at the Ali Kelmendi school and he was killed at his home.²⁴¹
254. The witness testified that soldiers of the KLA would pass by and sometimes stay overnight. This was both in the Llumnice neighborhood and the Verbovci neighborhood. They would stay in a house, and in the case of the Verbovci house it was the house of the father of the witness in which they stayed.²⁴² The witness indicated the house on a photograph²⁴³ which was his own house and explained that Salih Mustafa would stay at the place (his house) where he had put a red circle, when Salih Mustafa would pass by and take a rest there.
255. On photograph "DSM 00088" the witness explained that the numbers on the photo represent another house that used to be there and that is where the army would stay²⁴⁴. These houses are in the Verbovci neighborhood.
256. The witness further explained that 12 people in total were killed apart from the killing which he mentioned earlier. These were 11 people from Barileve and 1 was from Lupç.²⁴⁵ This last person was called Kaçiu, a relative of the witness. The witness

²³⁸ KSC-BC-2020-05, WDSM 800-official transcript of 6 April 2022, p.3286. [/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b75d31/lw_tpg_edit_transcript](https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b75d31/lw_tpg_edit_transcript)

²³⁹ Ibid, p.3287

²⁴⁰ Ibid, p.3287/3288 and 3292

²⁴¹ Ibid, p.3294

²⁴² Ibid, p.3296

²⁴³ Ibid, p.3297, photograph DSM 00087

²⁴⁴ Ibid, p.3298

²⁴⁵ Ibid, p.3300, and 3301

explained that he had a cousin. That cousin was the son-in-law of the victim Nexhmi Kaçiu.

257. The witness explained that this happened on 12th of April 1999. The witness explained in detail about the circumstances on the death of Mr. Nexhmi Kaçiu. Serbian forces came from the rear. Bedri Kurti and Nexhmi Kaçiu were killed while withdrawing.²⁴⁶ On the same day, 12th April, his cousin (Adem Verbovci), 70 years old, was wounded.²⁴⁷ It was obviously a very significant event for the witness.

Salih Mustafa passing through Barileve

258. The witness testified that he personally saw SM in his village during the period of the second half of March and in April 1999. He saw him in his own house²⁴⁸

Salih Mustafa in Barileve on 2 occasions in April 1999 as described by the witness

259. The witness saw him on 2 occasions, either the 1st or the 2nd of April and later on the 20th or 21st of April 1999. The witness described the 2 occasions.
260. The witness remembered that on the first occasion Salih Mustafa was not alone but was with 2 others. He remembered that Salih Mustafa rested for a while and greeted Jusuf Shalaku and that he was in a uniform. He came on foot.²⁴⁹
261. The second time Salih Mustafa came also on foot and he was with the same people. They rested about 5 or 6 hours as they were tired and walked a long way, through the mountains of the Llap area on foot. When he would leave, Salih Mustafa would be accompanied by some of the soldiers of Barileve.²⁵⁰
262. The second time he saw Salih Mustafa, he explained that he went to Vranidoll, but from there on he did not know where he went.²⁵¹

Knowledge of Brigade and BIA

263. The witness further explained that the units in Barileve were part of Brigade 151 Zahir Pajaziti.²⁵² The witness had no knowledge about a unit called BIA. According to the witness, Salih Mustafa was also part of Brigade 151²⁵³

“ODA”

264. The witness further indicated that on the photo with the dimensions (DSM 00088), there used to be a house, in which there would be a room of about 8 by 6 meters, which they would call the “Oda”. It is where the solders would be staying.²⁵⁴ The

²⁴⁶ Ibid, p.3301

²⁴⁷ Ibid, p.3303

²⁴⁸ Ibid, p.3304/3305

²⁴⁹ Ibid, p.3305/3306

²⁵⁰ Ibid, p. 3307

²⁵¹ Ibid, p. 3307/3308

²⁵² Ibid, p.3309 (indicates 153 but it was corrected on p. 3310, line 1)

²⁵³ Ibid, p.3309/3310, line 1

²⁵⁴ Ibid, p.3312

witness testified along the same lines with another witness, Bislim Nreci, what the purpose of an Oda is.²⁵⁵

265. Even though the witness was a little bit confused whether the encounter was on the 1st, 2nd, or 3rd of April 1999, eventually the witness explained that he saw Salih Mustafa on the 1st of April and upon his return on the 2nd of April 1999.²⁵⁶ To the defense it is really not of any importance, whether it would be either one of these dates. Even in his statement before the defense he said “ *I think it was*”, so the witness did not really pinpoint himself to these dates. In cross examination, though it was extensively explored, it became clear that the encounters with Salih Mustafa were on 1st and 2nd of April, the latter date being the date of Salih Mustafa’s return to Barileve.
266. As for the return of Salih Mustafa and upon him leaving again, the witness explained that Jusuf Shalaku escorted the men as they were leaving up to Vranidoll.²⁵⁷
267. It had been stated in earlier occasions that the passageway to Vranidoll was a dangerous passage, and therefore it makes perfectly sense that with such passage people would be escorted, as the people from Barileve, and therefore also Jusuf Shalaku, would know much better where the dangers on that passage would be²⁵⁸.

Conclusion

268. The witness was in his testimony clear about the date that Salih Mustafa arrived at the location of the witness. It was on the 1st of April as he testified. Even if it were any date later than the 1st of April, than it would be the apparent return date that Salih Mustafa was in Barileve. In any event, the importance is that Salih Mustafa was not in Zllash in this period. He was simply in Barileve, as has been earlier mentioned by the witness Fatmir Humolli, who left Prishtina with him on foot and parted ways in Barileve.

XI. The testimony of Kapllan PARDUZI-WDSM 900

General:

269. The witness joined the KLA from May 1998 (in transcript page 3412 L.23 it is from May 1999).²⁵⁹ The witness knows Salih Mustafa from 1998. He was in Zllash in 1998 and in 1999 for four (4) times. The witness during the time period from 10-13 April 1999 he saw Salih Mustafa.

²⁵⁵ Ibid, p.3322

²⁵⁶ Ibid, p.3353/3354

²⁵⁷ Ibid, p.3362

²⁵⁸ Ibid, p.3286 and 3287, where the witness clarified already the tasks of the unit, among them to help people pass through that passage, and the witness confirmed that on 258 p. 3362 again, this time by stating that it was Jusuf who escorted Salih Mustafa and the others).

²⁵⁹ KSC-BC-2020-05, WDSM-900-official transcript of 11 April 2022, p.3412 L.23. / https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b7ba0b/lw_tpg_edit_transcript

270. The witness on 10-13 April 1999 got wounded in a fighting with Serbian forces in the village of Surdull, and Nuredin Ibishi was also wounded in that fight, as well as for the route taken from the village of Turiqic to the village of Potok and the events that happened along this road.

The activity of the witness in the period May 1998-April 1999.

271. Witness joined the KLA in Lap Operational Zone from May 1998,²⁶⁰ and by the end of August 1998, once the Brigades 151 and 152 were formed,²⁶¹ he joined the brigade 151.²⁶²
272. The witness, after the brigade was formed, went to Bradash where the Brigade 161 was settled²⁶³.
273. The witness from the day that the Nuredin Ibishi was appointed as a Chief of Staff of General Staff he went with him, he testifies: *Please, Nuredin Ibishi is not part of staff. Of course, part of the General Staff, but he was appointed chief of staff. And from the first day, I went together with Nuredin Ibishi until I was wounded.*²⁶⁴

Seeing Salih Mustafa in May 1998 - April 1999 in Bajgora and Zllash

274. The witness for the first time met Salih Mustafa in person on 1998, he testifies: *“Physically, from 1998. But as Salih, I knew of him earlier through the media, because he was persecuted and the press has written about him. So I knew about him from the media coverage, but physically I knew him in 1998”*.²⁶⁵
275. He met Salih Mustafa in Zabrgje or in Bajgora, he testifies: *“I may be mistaken, but it was either in Bajgore or Zaberxhe [phoen]. It's more likely it would be in Bajgore because, at that time, he brought people who wanted to join the ranks of the KLA and train them, provide them with military training”*.²⁶⁶
277. The witness it is not wary sure about the date when he met Salih Mustafa in 1998, he testifies: *“No, I don't remember the dates, because I did not take any notes of the dates. It could have been July. However, I am saying it could have been July as the nearest month, but I cannot be precise”*.²⁶⁷

Seeing Salih Mustafa in Zllash:

278. The witness saw Salih Mustafa also in October 1998 in Zllash, when he sent the weapons there, he testifies: *“The dates are hard to remember. We were not in position to keep a diary or notes and write down dates because life was very dynamic and the events very dynamic and, unfortunately, very dramatic. If I'm not mistaken, it was in*

²⁶⁰ Ibid, p.3413

²⁶¹ Ibid, p.3413

²⁶² Ibid, p.3413

²⁶³ Ibid, p.3414

²⁶⁴ Ibid, p.3426

²⁶⁵ Ibid, p.3416

²⁶⁶ Ibid, p.3416-3417

²⁶⁷ Ibid, p.3417

October, end of October 1998. I brought some weapons and ammunition there and also got supplies from Zllash, because there was a centre for supplies there to meet the needs of the zone. Supplies as in food and clothing”.²⁶⁸ “I handed them over in the building or house or let's call it a staff. We would call staff headquarters every private house because we did not have military barracks as regular armies. There were certain individuals there in that building. One of them was Fatmir Sopi. And there was another person, Asllani, who was in charge of the warehouse. Now, he's a martyr. And in the meantime, Salih Mustafa came there”.²⁶⁹

279. The witness was in Zllash three to four time during the 1998-1999, he testifies: *“In 1998, once. We sent some ammunition and weapons there. And in 1999, I was three to four times. So in total, four, five times, I would say.”²⁷⁰*

The wounding and transportation of the witness to the Hospital in Potok, April 1999.

280. On 10 April 1999 the witness is wounded in fighting Serbian forces in the village of Surdull, he testifies: *“On 10 April 1999. I don't know if it's a coincidence or something accidental. It's 23 years ago on the date yesterday that I find myself here testifying before the Specialised Chambers”.²⁷¹ Yes, in the village of Surdull.²⁷² “I was wounded on 10 April, as I mentioned. During the fighting, there was also a displaced population in Gollak area, more than 40.000 citizens - amongst them, children, elderly, women - with -- some of them had buses, some had cars, in order to save themselves from the Serbs”.²⁷³*

Time spent in Turiqice:

281. After the witness was wounded and some friends his friends took him to Turiqice (**in transcript it is written “Recice”**), he testifies: *Yes, because I was severely wounded, and Commander Leka was, too, but lightly injured. He continued the fighting. During the day, some friends took me to the village of Recice.²⁷⁴*
282. The witness stays in Turiqice for approximately 4-5 hours, he testifies: *“To tell you the truth, I don't. I'm saying approximately four, five hours, until they gave me the first aid and until they find a trailer -- a tractor with a trailer. And when darkness fell, with that tractor they took me to the military hospital in Potok”.²⁷⁵ In Turiqice did not have conditions and he did not have a treatment, he testifies: “No, because there were not even minimum conditions there. I only received first aid there”.²⁷⁶ So, it was decided to*

²⁶⁸ Ibid, p.3421

²⁶⁹ Ibid, p.3425

²⁷⁰ Ibid, p.3421

²⁷¹ Ibid, p.3427

²⁷² Ibid, p.3427

²⁷³ Ibid, p.3427

²⁷⁴ Ibid, p.3428

²⁷⁵ Ibid, p.3430

²⁷⁶ Ibid, p.3429

send him in Potok, he testifies: *"Yes. From there, we had an improvised hospital in the village of Potok, in the opposite side, north-west".*²⁷⁷

Time of the journey:

283. The journey from Turiqice to Potok lasted more than 48 hours, he testifies: *"I wouldn't know, but I know that it took us two days to get there, more than 48 hours to get to the improvised hospital in Potok".*²⁷⁸

Organization of the transportation:

284. The witness testifies that the Salih Mustafa organised the transportation and secured the road, he testifies: *"Salih, of course. And he also secured the road".*²⁷⁹

285. The witness knows that the Salih Mustafa was in charge of that part, for the passage of people, soldiers, goods, supplies, he testifies: *"Because logically speaking, I would say that because he was in charge of that part, for the passage of people, soldiers, goods, supplies. Because he supplied all the population there. There were over 20.000 displaced people who had settled in that area. So I would presume it was he, because I couldn't see really with my eyes -- own eyes because I was gravely wounded".*²⁸⁰

286. The witness, many times during the trial, mention the name Salih, but every time when he says Salih, he refers to Salih Mustafa, he testifies: *"Yes. Every time I say "Salih," I refer to Salih Mustafa".*²⁸¹

Seeing Salih Mustafa during the transportation:

287. During the transportation from Turiqice to Potok the witness saw Salih Mustafa²⁸² he testifies: *"He made -- he secured the road, because it was a winding road, secondary road that ran through the mountains. But in two occasions he stopped. This tractor stopped, and the weather was very bad. It was very cold with rain. He came up and asked me, "How are you? Can you stand it?" And that's it".*²⁸³

288. The witness testifies that during his transportation there were also and other soliders, he testifies: *"It's a hypothetical question. I might have seen them, but I couldn't identify who they were, because it was raining, it was dark. And, of course, there must have been those who assisted him, because alone, Salih Mustafa or anyone couldn't do anything".*²⁸⁴

289. Salih Mustafa escorted the witness most of the way, he testifies: *"Most of the way, yes. More than half of the way -- or half, I would say. If I'm not mistaken. Because my*

²⁷⁷ Ibid, p.3429

²⁷⁸ Ibid, p.3429

²⁷⁹ Ibid, p.3430

²⁸⁰ Ibid, p.3430-3431

²⁸¹ Ibid, p.3431

²⁸² Ibid, p.3431

²⁸³ Ibid, p.3431

²⁸⁴ Ibid, p.3431

situation was deteriorating and so they -- they sent me to a village, Bellopoje or Rimanishte, I am not really sure. We rested there for some hours. And Salih had other duties and obligations, and he went back. And persons from Brigade 151 took us and transported us to Potok".²⁸⁵

Staying in Potok:

290. The witness in Potok did not stay to long and got relocated to Popovo, and from Popovo to Rimanishte and Zllash; he testifies: *"We moved from there because of the fighting, daily fightings and shelling. From 24 December 1998, there was the Llapashtice battle, and a single day didn't pass by without fighting. Sometimes more intensive, sometimes less intensive, but there were fightings on a daily basis. So we displaced to Popove. From there, they carried us to Rimanishte and Zllash, because the purpose that we went to Zllash was to send -- to take me to Tetovo, Macedonia, for further recuperation".²⁸⁶*

Attempts to send the witness to Macedonia:

291. After the witness was relocated to Zllash, there were two attempts to take him in Macedonia, he testifies: *"There were two attempts to take me to Macedonia. The first time it was impossible. We had to return. It must have been end of 10 April. I don't know the accurate date, but end of April and early 11 May, I would say. That must have been the period".²⁸⁷*

First attempt:

292. Salih Mustafa organised the first attempt to send the witness in Macedonia, he testifies: *"The first time it was one night. I slept there one night. And on the next day, by midday, they -- Salih Mustafa's team, headed by him, organised this attempt, and we went up to the village in the border area with Serbia. And there, we were informed that the Serbs had information, of course, and had surrounded some villages, so we had to turn back. And I stayed another night there in Koliq. I don't know how the wrong -- how long the trip was. Maximum, I would say five days".²⁸⁸*

Second attempt:

293. Salih Mustafa organised and the second attempt to send the witness to Macedonia, he testifies: *"The second time -- I'm speaking hypothetically because I don't recall the dates. But I would say 20 May or it might have been 15 May. But the second time, we succeeded thanks to better organisation, and Salih Mustafa escorted us to Bullaj village. From Zllash to Mramor, you go to Bullaj then. That's where he came with us personally. Then he charged some other soldiers of that area who were familiar with the terrain to accompany us, and we continued on our way".²⁸⁹*

²⁸⁵ Ibid, p.3432

²⁸⁶ Ibid, p.3432

²⁸⁷ Ibid, p.3433

²⁸⁸ Ibid, p.3438

²⁸⁹ Ibid, p.3439

Conclusion:

294. Since 1998 the witness knows Salih Mustafa. Between 10-13 April saw the Salih Mustafa, at the time when he was transported from Turiqica to Potok.
295. The Salih Mustafa has escorted the witness most of the way from Turiqice to Potok.
296. Base on the statement of the witness Salih Mustafa I time period from 11-13 was not in Zllash.
297. So, based on this, the SPO's witnesses that they saw Salih Mustafa in period of time from 1-18 April 1999 in Zllash, are not telling the truth, nor are they proving it with any other relevant and reliable evidence. it is impossible that Salih Mustafa took part in the arrest and mistreatment of SPO witnesses between 1st April 1999 and April 14th, 1999.

XII. The testimony of Nuredin IBISHI-WDSM 1000

General:

298. On 1998 the witness lived in Prishtina and until the beginning of the KLA war in the Llap Operational Zone he was in contact with Hyzri Talla and others in the movement that established the KLA and who carried out activities on the ground in the preparatory phase.
299. Witness joined the KLA from on 28th of June 1998, and from that day he was in Zabrxhe of Mitrovica municipality, at this time the units werenot structured yet. He had a police and military education and his duty was to train the new soldiers in that area. After the creation of the Brigade 151 and 152 in mind of August 1998 he was appointed commander of Brigade 151 and from mid December 1998 he was appointed chief of staff Llap operational zone.
300. The KLA never reached quantitatively or qualitatively the level, the proper level of the brigade.
301. BIA was a civilian structure, unarmed, and its duty was to support the KLA.
302. In period of time 1998-1999 in Llap Operational Zone it was only on detention center in Llapashtica.
303. The witness knows that in January-June 1999 Salih Mustafa was the commander of BIA.
304. On 10 April 1999 in exchanging of fire with Serbian forces hi and Kapllan Parduzi were wounded.
305. Based on documents "DSM 00473 and DSM 00474" the witness recognizes a building before used as a school and after that as a hospital in Potok.

The activity of the witness in the period January 1998-April 1999.

306. Before he joined the KLA, he was in contact with the movement that established the KLA, he testifies: *"Until the beginning of the KLA war in the Llap operational zone, I was in contact with the movement that established the KLA together with Hyzri Talla and others who carried out activities on the ground in the preparatory phase, and I was in Prishtine".*²⁹⁰
307. From the 28 June 1998 the witness joined the KLA, he testifies: *"It was sometime in June, end of June 1998. More precisely, on 28 June 1998"*²⁹¹
308. Before the creations of the Brigades, the witness had special duties to train the new soldiers, he testifies: *"Since I had both a police and military education, a career, of course, when -- such an educator would be handy for the KLA volunteers. So my duty was to train the new soldiers in this area".*²⁹²
309. After the creations of first two brigades in mind of August 1998 he was appointed as a commander of Brigade 151, he testifies *"The first brigade -- or, rather, the first two brigades were created sometime in mid-August 1998. There was an order by the General Staff to start with the organisation of the subzones in brigades and dependent units".*²⁹³ *"Yes. The high representatives of the General Staff of the KLA came and appointed the deputy commander, Kadri Kastrati; then me, Nuredin Ibishi, as commander of the Brigade 151; and the Commander Idriz Shabani, aka Luta, of the 152 Brigade. So these were the first two brigades that were formed".*²⁹⁴
310. The witness from mid of December 1998 he was appointed as e chief of staff of Llap Operational Zone, he testifies: *Sometime after mid-August until December, mid-December, I had the duty of commander of 151, but I was also chief of the operatives together with Kadri Kastrati, the zone commander. From that time, that is mid-December, I can't be precise, I was appointed as chief of staff of Llap operational zone. 1998.*²⁹⁵
311. The brigade 153 was established in February 1999.²⁹⁶ And never reached quantitatively or qualitatively the level, the proper level of the brigade.²⁹⁷

BIA Guerilla

312. The witness heard and later learned that the BIA guerilla was entrusted the duty of operating in the urban areas to supply or to prepare the KLA, he testifies: *"From what*

²⁹⁰ KSC-BC-2020-05, WDSM-1000-official transcript of 12 April 2022, p.3523. /https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b7d687/lw_tpg_edit_transcript

²⁹¹ Ibid, p.3524²⁹² Ibid, p.3525²⁹³ Ibid, p.3525²⁹⁴ Ibid, p.3525²⁹⁵ Ibid, p.3535²⁹⁶ Ibid, p.3530²⁹⁷ Ibid, p.3529

I heard and later learned regarding this area, there was an agreement -- an earlier agreement dating back to September 1997, if I am not mistaken, when the BIA guerilla was entrusted the duty of operating in the urban areas to supply or to prepare the KLA regarding health issues, logistics, dealing with the refugees and sheltering them when they moved away, fled the cities and settled there, and other issues like information on the positions of the enemy forces and so on. That was what BIA was engaged in. We also had to deal with civil protection. Mohammed Latifi was responsible for that. And it was this civil defence who was operating in the Llap zone, in the Llap operational zone".²⁹⁸ "Both BIA and the civil protection were part of the Llap operational zone. Initially subzone and then zone. Now I will refer to it as Llap operational zone. So BIA was a civilian structure, unarmed, and its duty was to support the KLA. So from the urban area. I didn't mention that it also dealt with the volunteers. They had a duty to guide these volunteers. Also, they were responsible for medical, logistical services, like an auxiliary, let's say, service to meet the needs of the brigades and the Llap operational zone".²⁹⁹

BIA unit part of LLOZ as a civilian structure:

313. BIA unit was part of Llap operational zone and it was a civilian structure, unarmed, and its duty was to support the KLA, he testifies: *"Both BIA and the civil protection were part of the Llap operational zone. Initially subzone and then zone. Now I will refer to it as Llap operational zone. So BIA was a civilian structure, unarmed, and its duty was to support the KLA. So from the urban area. I didn't mention that it also dealt with the volunteers. They had a duty to guide these volunteers. Also, they were responsible for medical, logistical services, like an auxiliary, let's say, service to meet the needs of the brigades and the Llap operational zone".³⁰⁰ "As far as I know, the BIA unit was a civilian structure, unarmed, had support duties to the active part of the KLA and the civilian defence, and as I mentioned earlier, carried out all those activities that I mentioned earlier in our favour, and, in addition, provided us with information on the positions of the Serb forces in the town and in the urban areas".³⁰¹ BIA did not have any right to arrest and detain individuals.³⁰²*
314. The witness had a contact with BIA in May 1999, he testifies: *"From the second part of May or the end of war, I was sent with other patients to Macedonia. I was engaged with them. When I returned – "³⁰³*

Being in Zllash:

315. The witness for the first time was in Zllash in May 1999, he testifies: *"12 May 1999".³⁰⁴*

²⁹⁸ Ibid, p.3531

²⁹⁹ Ibid, p.3534

³⁰⁰ Ibid, p.3534

³⁰¹ Ibid, p.3557

³⁰² Ibid, p.3557

³⁰³ Ibid, p.3544-3545

³⁰⁴ Ibid, p.3551

Giving the order to BIA:

316. He never gives any order to BIA.³⁰⁵ Salih Mustafa did not report to witness during the war, nor the witness give orders to Salih Mustafa ³⁰⁶BIA member during their mission as BIA, did not wear military uniforms, he testifies: *"No. With the exception of when they were ordered, when general mobilisation was ordered, beginning from 27 April 1999, by the provisional government of Kosovo"*.³⁰⁷

Detention Center:

317. The witness doesn't know that in Zllash exist a detention center, he testifies: *"I don't know about that location. I don't know that it existed"*.³⁰⁸

The wounding and transportation of the witness to the Hospital in Potok, April 1999.

318. The witness was wounded on 10 April 1999.³⁰⁹ He was wounded during the exchange of fire with Serbian forces, he testifies: *"So during the exchange of fire -- of course, they had heavy weaponry, they had APCs, Praga. So in this exchange of fire, myself and Kapllan Parduži were wounded"*.³¹⁰ After they were wounded, they took measures to find transport to get to the medical centre in the eastern part in Potok.³¹¹

Time spent for transportation:

319. They were transported in same day, he testifies: *"The transport began in the evening of that day. So I was wounded during the day, and the transport began at about 7.00 or 8.00 p.m. within the same day, and it ended within 48 hours or two days"*.³¹²

320. The transportation was done by tractor, he testifies: *"With a tractor. The trailer was covered with a tarpaulin. Not up to the destination itself but up to Rimanishte. And from Rimanishte, we got another transport. Both of us were transported by a jeep vehicle, and we went to the western part. We passed the main road and arrived in Potok"*.³¹³

The events that took place during the transportation:

321. During the transportation he couldn't see outside, he testifies: *"Outside, I couldn't see because the trailer was covered with a tarpaulin due to the weather conditions. It was raining all the time"*.³¹⁴

³⁰⁵ Ibid, p.3587

³⁰⁶ Ibid, p.3587

³⁰⁷ Ibid, p.3604

³⁰⁸ Ibid, p.3633

³⁰⁹ Ibid, p.3552

³¹⁰ Ibid, p.3557

³¹¹ Ibid, p.3558

³¹² Ibid, p.3559

³¹³ Ibid, p.3559-3560

³¹⁴ Ibid, p.3562-3563

322. During the transportation he heard voices, he testifies: *"Even -- I was in the front part of the trailer, but we could hear voices of people asking, "How are you? Are you feeling good?" "So, in addition to the medical personnel that was there taking care of us".*³¹⁵

Conclusion:

323. During the time of period January 1999-June 1999 the witness doesn't know Salih Mustafa.
324. The BIA guerilla was a civilian structure, unarmed, and its duty was to support the KLA. The member of BIA guerilla was not wearing the military uniforms. Based on the witness he doesn't know about existence of detention center in Zllash.
325. So based on this, the SPO's witnesses that they saw Salih Mustafa in period of time from 1-18 April 1999 in Zllashe, are not telling the truth, nor are they proving it with any other relevant and reliable evidence. It is impossible that Salih Mustafa took part in the arrest and mistreatment of SPO witnesses between 1st April 1999 and April 14th, 1999.

XIII. The testimony of Sheqir RRAHIMI-WDSM 1100

General:

326. The witness during January-June 1999 lived in Orllan. The witness was a KLA soldier member of Brigade 151. The witness has testified about the event that happened on 10 April 1999, when Kapllan Parduзи and Nuerdin Ibishi were wounded, as well as about the conditions and the length of the road he took when transporting the wounded from Turiqice to Rimanishte.

The wounding and transportation of the wounded to the Hospital in Potok, April 1999.

327. The witness heard from the population that Kapllan Parduзи and Nuredin Ibishi got wounded.³¹⁶ The witness testifies: *"On 10 April, Commander Leka, Nuredin Ibishi, together with Korab Parduзи, Kapllan Parduзи, with the pseudonym Korabi, were wounded. In that part, in Turiqice village, the entire Llap population, from Bradash, Llapashtice, Dobratin, the entire population was situated there in the villages around Orllan".*³¹⁷
328. The witness after heard that the Nuredin Ibishi was wounded, he went to hospital to see him, he testifies: *"When I heard that Commander Leka was wounded, there was a makeshift hospital. We called it "hospital." It wasn't a hospital. It was a stable. So I went there to that hospital to visit him to see the state he was in, that is, the state Nuredin Ibishi was in, together with Korab Parduзи. There were other Albanians there as well, even children, who were wounded".*³¹⁸ The witness voluntarily offered to

³¹⁵ Ibid, p.3563

³¹⁶ KSC-BC-2020-05, WDSM-1100-official transcript of 13 April 2022, p.3663. https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b7e9e5/lw_tpg_edit_transcript/

³¹⁷ Ibid, p.3663

³¹⁸ Ibid, p.3663

transport the wounded to hospital.³¹⁹ The time spent for transportation from Turiqice to get Sharban took 48 hours³²⁰

The events that took place during the transportation:

329. After the witness took his journey by tractor, that he drives, in Rakinice joined him two persons with their tractors, the witness testifies: *“Yes, there were many people. I cannot say by name who helped them in the hospital, improvised hospital, or in my tractor's trailer. I was driving. As far as I know, there was Nura, Kapllan, and a doctor. Up to the village of Rakinice. From Rakinice village, we are at above 600 8700 [as interpreted] metres altitude. It was impossible to use a normal road, so we took mountainous roads. Two persons came and joined us. So we were three tractors. I was in my tractor with the wounded, and there were two other tractors in front of me”*.³²¹
330. The persons that joined the witness was Rrahman Zeka and Sabit Rrahimi.³²² Witness describes the villages that he past throws from Rakinica to Rimanishte.³²³
331. From Koliq to Rimanishte came two persons to escort the transportation, he testifies: *“Yes, there were two persons who came. I don't know -- I didn't have information how it happened. But these two persons escorted us. They were in a tractor in front of us, about 200 metres ahead, for security reasons or I don't know. But they were in a tractor in front of us, and they escorted us up to the village of Rimanishte”*.³²⁴
332. The witness remembers that one of the persons that joined him in Koliq, approach Kapllan Parduži and Nuerdin Ibishi, he testifies: *“At one moment -- I'm not sure in what part of the journey, up to Koliq, I was familiar with the area. After Koliq, I wasn't. So we stopped for my personal needs, and I think the tractor that was in front of us, but I cannot say whether I saw him or not. So I don't know this segment of the journey. I don't remember it. But as far as I remember it, yes, it was not more than two minutes”*.³²⁵

Arriving in Rimanishte:

333. The witness after 48 hours arrived in Rimanishte, he testifies: *“After 48 hours, we arrived in Rimanishte at around 7.00 or 8.00 in the -- 8.15 in the evening. This happened on 8 of -- 10 April. So we travelled for 48 hours to Rimanishte. We arrived there at around 8.00, 8.15 p.m.”*³²⁶ and, from there he goes back to his village.³²⁷

Hearing the name “Cali”:

334. After the witness has been confront him with his statement given to defence “DSM00095” and “DSM 00782”, testifies: *“Up to Koliq, I am not sure what the place*

³¹⁹ Ibid, p.3664

³²⁰ Ibid, p.3665

³²¹ Ibid, p.3666

³²² Ibid, p.3666

³²³ Ibid, p.3666

³²⁴ Ibid, p.3666

³²⁵ Ibid, p.3668

³²⁶ Ibid, p.3668

³²⁷ Ibid, p.3668

*was called, but I know that two persons came there in a tractor. They were not persons I knew then. I'm repeating, to my recollection, the other addressed the other one saying, "Cal, shall we go on the right or on the left?" And then I didn't meet them again"*³²⁸ The witness did not know Salih Mustaf in 1999 and also he doesn't see him, only on TV.³²⁹

335. The witness base on the document "DSM00099 (MAP)" show the road that they took from the village Turiqice till to village Rimanishte.³³⁰

Conclusion:

336. The witness Sheqir Rahimi testifies that during the time period from 10-12 April 1999 with tractor he transported Kapllan Parduzi and Nuredin Ibishi from Turiqice to Rimanishte, and during this trip, in village Koliq, two persons joined him with one tractor. During this trip hi heard the name Cali, and also saw one of that two persons approaching Kapllan Parduzi and Nuredin Ibishi for not more than two minutes.

XIV. The testimony of Selatin KRASNIQI-WDSM 1400

Selatin Krasniqi – a person who lived in Zllash on the location of the "compound"

337. Selatin Krasniqi was in Zllash, on the compound, at the time NATO strikes began, 24 March of 1999. In Zllash, on the very location of the compound, his family had built a house and, somewhere between July and September 1998 made that location available for the KLA. The family house was used by the family during the summer holidays, and it was vacant.³³¹
338. Krasniqi was in his house located at the compound. He was in Zllash since November 1998. He was the only one of his family that was staying there, however he was certainly not alone. There were some 20, 30 or even 50 people thee staying. People like Rrahman Dini, Isa Kastrati, Shpend (Basra) Canolli and Syla (Besnik Maroca) were staying there too.³³²
339. The witness explained that he was in Zllash. Just after the NATO started bombing on 24 March 1999, he left briefly to Prishtina, and returned afterwards back to Zllash. He came back in Zllash on 1st of April 1999, early morning around 3 or 4 AM.³³³ He then stayed there for 3 or 4 days and went back to Prishtina in order to collect some food for his family.³³⁴ He returned again on either the 3rd or 4th of April 1999.³³⁵

³²⁸ Ibid, p.3671

³²⁹ Ibid, p.3672

³³⁰ Ibid, p.3672

³³¹ KSC-BC-2020-05, WDSM-1400-official transcript of 21 April 2022, p.3868. [/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b8de65/lw_tpg_edit_transcript](https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b8de65/lw_tpg_edit_transcript)

³³² Ibid, p.3865-3868

³³³ Ibid, p,3871, line 11-12

³³⁴ Ibid, p.3871

³³⁵ Ibid, p.3872, line 24-25

340. The witness described the location. The witness identified the location and the houses that his family owned. A photograph "DSM 00026" was shown to the witness and he described it as their houses in the village of Zllash.³³⁶

Selatin Krasniqi explained the entire compound, including the "ODA".

341. The witness explained the entire compound and marked all the structures,³³⁷ and that the people from the KLA, including the ones he mentioned earlier like Rrahman Dini and Isa Kastrati were staying there in the period of April 1999. The witness stayed in multiple rooms in the period of March / April 1999, including in the building he marked as 12, which according to the witness was the "ODA".³³⁸ The witness stated that the KLA people belonged to Brigade 153.³³⁹ In addition, the people from the Karadak zone stayed on the very same location.³⁴⁰

342. The witness even testified that from the 1st of April there were many civilians on the very same location.³⁴¹ There were more than 100 including women and children, according to the witness.³⁴² Displaced people would come and go there according to the witness. Some people came from Prishtina, and some people would stay a couple of days and move to Prapashtice, Keqekole, Marec and Koliq, and the witness himself even helped some of the people to move there as he had a tractor.³⁴³

343. The witness further explained that there was no fence around the location. It used to be there however it had been destroyed. Only here and there was still some fence standing, but the entire location was not fenced.³⁴⁴

344. People could easily walk in freely in and out of the "compound". The witness summed up 6 entrances and testified that there was no gate whatsoever and there would be no guard.³⁴⁵

345. According to the witness the electricity had been cut off in January 1999 and they would illuminate with petroleum lamps.³⁴⁶

The ODA explained

346. The witness indicated that on photo "DSM 00031", his paternal uncle Kadri Krasniqi stands in front of building 12, which is the "ODA".³⁴⁷

347. In the "ODA" there was a basement. During the period of March/April 1999, this was not used. Sometimes when it was raining, people might take shelter there, according

³³⁶ Ibid, p.3874

³³⁷ Ibid, p.3876 until 3884

³³⁸ Ibid, p.3882 and 3883

³³⁹ Ibid, p.3885 and 3886

³⁴⁰ Ibid, p.3885 and 3886

³⁴¹ Ibid, p.3885 and 3886

³⁴² Ibid, p.3887

³⁴³ Ibid, p.3888

³⁴⁴ Ibid, p.3888

³⁴⁵ Ibid, p.3889/3890

³⁴⁶ Ibid, p.3890

³⁴⁷ Ibid, p.3894/3895

to the witness. The witness, being short himself, could stand there, and he described it as maybe 3 to 4 meters wide inside, or even less. People would sleep in the Oda in the period of March / April 1999, and he mentioned himself, Rahman Dini and others.³⁴⁸

348. On 20th of April, it was transformed into a makeshift hospital.³⁴⁹ The witness explained that doctor Teuta Hadri and nurse Ibadete were working there. He himself eye witnessed that there were wounded and was able to name some, 2 of them with the name of Avni (last names: Gashi and Aziri) and another called Kadri, as well as Sokol Sopi and Afrim Vitia,³⁵⁰ and the wounded were also spread in other rooms on the same compound.³⁵¹

No people ever detained: not in the Oda, not anywhere else on the compound

349. As for the building of the Oda, which the witness even marked, he testified that there have never been people who have been detained there.³⁵²

The SPO suddenly and inexplicably adjusted the location of the “detention center or prison”.

350. At this point when the witness was questioned about the “ODA”, the SPO suddenly claimed that the SPO never took it for a fact that it was in that building that people were kept or detained. The SPO wanted to put that on the record.³⁵³

No “Prison Camp”, no guards

351. The witness testified that he had never seen anybody being detained in any of the other buildings on the compound. The witness said in full belief that nobody was ever detained there, and that he never saw any such people.³⁵⁴ Of all the buildings on the location that has been discussed with the witness, the witness testified that has never seen people there detained, he never heard about that. The SPO’s document that the discussed location would have been the Zllash Prison Camp, and asked about his reaction to that the witness stated that according to him “there has never been a detention center in Zllash village”.³⁵⁵ None of the buildings was guarded. There was no need for it.³⁵⁶

Who was on the location, and who was not seen on the location?

352. The witness never saw Halim Berisha on the location in March/April 1999. The witness further testified that he had seen Fatmir Humolli on the location in Zllash, including his family. He also testified that Hidajet Hyseni was there at the beginning of April, as he had left together with him as they had left Prishtina. Hidajet slept at the house of the

³⁴⁸ Ibid, p.3898

³⁴⁹ Ibid, p.3898

³⁵⁰ Ibid, p.3899 and 3900

³⁵¹ Ibid, p. 3900 and 3901

³⁵² Ibid, p.3909

³⁵³ Ibid, p.3910

³⁵⁴ Ibid, p.3911).

³⁵⁵ Ibid, p.3912, line 6-8

³⁵⁶ Ibid, p.3912

witness family for a night.³⁵⁷ About 200 meters from the location, there is the beginning of the road which goes in the direction of Prapashtice, Keqekolle.

Selatin Krasniqi goes to Viti of Marec

353. As for when the witness went to Viti of Marec he was positive that that was on the 17th of April. Even though that differed somewhat from the statement which he gave to the defence, the witness was positive that it was on the 17th. The reason was, as he was travelling to The Hague, he had listened the news and heard about the commemoration on the Martyrs, a visit to the Martyrs cemetery. It had reminded the witness that it was on the 17th. (The witness appeared in court on 21 April).³⁵⁸

Salih Mustafa in Zllash: 1 night before the offensive, and then on the 21st of April 1999.

354. The witness had already met Salih Mustafa in October (1998), when he stayed there for a couple of nights.³⁵⁹

355. The witness was also asked about the period in April 1999. According to the witness, he saw Salih Mustafa only twice in Zllash in the period of April 1999. Salih Mustafa was there for before the offensive and he believes he stayed only 1 night, and further that Salih was there on the 21st of April.³⁶⁰ It was a few days before the offensive that Salih Mustafa stayed there for 1 night. Mustafa stayed in one of the rooms of the house of the witness.³⁶¹ Then afterwards he saw Salih Mustafa on the 21st of April and he met him and went with him to Koliq for the wounded.³⁶²

Transforming the “Oda” into a makeshift hospital

356. According to the witness, the offensive started around the 17th of April 1999.³⁶³ At that date he was in Viti of Marec. Afterwards he saw Salih Mustafa on the 21st of April and he met him with the wounded. They met him in the evening. They went together to Koliq or up to Koliq, and they parted in Koliq.³⁶⁴ Salih Mustafa was accompanied at the time by “Cufa”.³⁶⁵

Conclusion

357. This witness knows better than any other witness in the case the situation as it was on the Compound in Zllash. That situation was simply that the “compound” has never been a “prison camp” or a “detention center” of any kind. Nobody was ever held there. The location was freely accessible, and people could and would go in and out as they wanted.

³⁵⁷ Ibid, p.3916/3917

³⁵⁸ Ibid, p.3921

³⁵⁹ Ibid, p.3922, line 6-12

³⁶⁰ Ibid, p.3922, line 13-22

³⁶¹ Ibid, p.3923, line 4-8

³⁶² Ibid, p.3922, line 15-24

³⁶³ Ibid, p.3869, line 8-9

³⁶⁴ Ibid, p.3922, line 18-22

³⁶⁵ Ibid, p.3923, line 15

358. Krasniqi knows this location from childhood as it belonged to his family. It was given to the KLA to use and he explained who in fact used the location: soldiers from the Brigade, from the Karadac zone, people like Rrahman Dini and Isa Kastrati stayed there. He also said who did not stay there: Sejdi Veseli, who was in a house some 200 meters away.³⁶⁶
359. Selatin Krasniqi knew the location, knew the people, knew the situation. It was very clear from his statement that there was no such thing as “a prison camp” or a place on the location where people were detained. That simply never happened on that location, and the witness was very sure about that. He also knows the people that were there. And he explained about the great number of civilians that were there in the period of the indictment in between 1st and 19th April 1999. This man was on the location for most of the time, and had he known that there would be a place where people were detained, he would for sure have told that.
360. His testimony on any of the crucial points of the indictment being: time, location, place of action, Salih Mustafa on the location, and other people on the location, the usage of each of the structures at the location, the description of it, and who had authority over it, are of a great importance. The defence maintains that this witness is credible, consistent, detailed, and knowledgeable about the location to which the indictment is tailored.
361. He recalled when he met Salih Mustafa on that location, which was on 2 occasions. But he remembered many more people that have been there at the time: people like Dr Teuta Hadri and nurse Ibadete Canolli (who used to live near him in the same neighborhood),³⁶⁷ who both treated the wounded in the ODA.
362. He named the wounded people themselves like Avni Gashi, Avni Aziri, Sokol Sopi and Afrim Vitia.³⁶⁸ He is very complete in his testimony regarding all these points.
363. As for Salih Mustafa at the scene, he stated that he stayed overnight and, as many other witnesses testified, was busy with the evacuation of the wounded of the location. This witness knew him before April 1999, and was with him on the road in April 1999.
364. The defense concludes on the basis of this witness and other witnesses that no “prison camp” or any other form of detention took place on this location in the period of the indictment.

³⁶⁶ Ibid, p.3984, line 15-16

³⁶⁷ Ibid, p.3900, line 18

³⁶⁸ Ibid, p.3899, lines 7-14, and 3900, lines 17-18

XV. The testimony of Muhamet AJETI-WDSM 1500

General:

365. Mr. Ajeti is a KLA member who was present on the location in Zllash, the compound.

Muhamet Ajeti's move from Prishtina

366. Mr. Ajeti was in Prishtina in his house when the NATO bombing in Kosovo started on the 24th of March 1999. Following these airstrikes, which made him and his family happy, he noticed that Serb forces started to move and population started to leave their houses, and later on they would be expelled from their houses. People would mainly go to the Gollak.³⁶⁹

367. The witness explained that people would go to the Gollak as it is connected to Prishtina, and it was more or less "free" in the sense that there was no fighting there. Some people would even have their own house there.

Becoming a KLA soldier

368. Mr. Ajeti was himself a member of the KLA and he joined in July 1998 in Shala e Bajgorës, Llap Operational Zone (OZ).³⁷⁰ He was determined to join the KLA even though he was initially refused as being too young, 17, but he was later on accepted anyway.³⁷¹

Muhamet Ajeti at the location in Zllash:

369. Mr. Ajeti left Prishtina for Zllash either on 30th or 31st of March 1999. He stated: *"If I'm not mistaken, it was 30 or 31 March 1999. That is the date when I left Prishtine. These two dates, these are the two possible dates when I left. I'm not very certain about the accurate date"*.³⁷²

370. He went on foot.³⁷³ He needed to go through mountainous roads. The reason for going to Zllash was that there was that a large part of the KLA that was there; it was the KLA of the Llap OZ. He went there with a group of soldiers whom he met in Prishtina.³⁷⁴

Identification of the "Compound" location-a very detailed one

371. When speaking about Zllash he testified that he meant the village of Zllash where there are some houses. He had been there previously in December 1998. He knew persons there and so did some of the soldiers with whom he went.³⁷⁵

³⁶⁹ KSC-BC-2020-05, WDSM-1500-official transcript of 22 April 2022, p.4054. [/https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b94134/lw_tpg_edit_transcript](https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980b94134/lw_tpg_edit_transcript)

³⁷⁰ Ibid, p.4056

³⁷¹ Ibid, p.4057

³⁷² Ibid, p.4057, lines 23-25

³⁷³ Ibid, p.4058

³⁷⁴ Ibid, p.4058

³⁷⁵ Ibid, p.4058 line 20-25 and 4059, line 1-7

372. He described the location as located above the school in Zllash. He arrived there early morning. The following day he went to look for his family who were in Keqekole at his father's uncle house. He stayed there 2 or 3 days.³⁷⁶
373. Speaking about the houses that were there, which were located across from each other in the same yard.³⁷⁷ They were opposite each other, facing each other.³⁷⁸
374. Describing the location further, the witness explained that he saw no fence around the location,³⁷⁹ in fact it did not have a fence³⁸⁰ and that he did not need to identify himself.³⁸¹
375. The fence, for whatever there was left, was down. It was open, and you could enter it.³⁸² and this was already in December 1998, and there was not any big difference in March / April 1999. There was also no gate with a bar.³⁸³
376. The witness recognized the photograph "DSM 00629". The photograph depicts the aerial view of the compound which is central to the case of the SPO and which is referred to by the SPO as the "Zllash Prison Camp"- "ERN SPOE 00128386 (section A)".
377. Commenting on photograph "DSM 00629", the witness explained that this was the place about which he spoke when he went to Zllash. It was the place where the houses were located that he spoke about.³⁸⁴
378. When photograph "**DSM 00631**" (**SPOE 00128388 with the markings of the witness on it**) was shown to the witness, he indicated that there were some old wooden slats that could be seen. In addition, the witness commenting on the same photograph remembered all three buildings that are depicted on the photograph. In 2 of them, "B" and "C", the soldiers slept, and maybe the population as well, but he did not sleep there himself.³⁸⁵

Further description: A makeshift hospital to which the witness carried the wounded himself

379. One of the rooms was transformed in a makeshift hospital, around the 20th of April (1999) when he returned there with the wounded. He testified that Dr. Teuta Hadri was there with some others. The witness even had a checkup himself in the building as he had sustained an injury on his back. It was in this very building in which he carried

³⁷⁶ Ibid, p.4059

³⁷⁷ Ibid, p.4061

³⁷⁸ Ibid, p.4062

³⁷⁹ Ibid, p. 4067

³⁸⁰ Ibid, p.4067, line 13-14

³⁸¹ Ibid, p.4065, line 1

³⁸² Ibid, 4071/4072

³⁸³ Ibid, p.4072

³⁸⁴ Ibid, p.4064

³⁸⁵ Ibid, p.4073

himself a wounded person with the name of Avni Haziri and Syle Viti from Viti of Marec, both of them seriously wounded.³⁸⁶

380. The witness indicated that one of the buildings (D) was used as a granary and to accommodate people³⁸⁷. About Building "E" the witness did not know what it was used for, and indicated it might be a shed. He was positive that that building was not guarded, and he did not see any guards there.

381. The building which has the marks A, B, and C, was discussed and the witness never saw guards there. The witness has never heard that in the buildings that were depicted on the photograph anybody had ever been detained. Neither did he hear that anywhere else on the location people were being detained. He never saw any detained people there.³⁸⁸

People at the compound

382. Upon his arrival in Zllash, he noticed it was busy with population. The yard was full of people. He estimated that there were 50 to 60 people, among them women, children and soldiers. And there were rooms where people were accommodated.³⁸⁹

383. To this effect he stated: *"When we arrived in Zllash to that house, I remember that the yard was full of people. They were busy with the population, accommodating them. So, it was a bit busy. There were many people there. I don't know exactly how many. Perhaps 50 to 60. There were women, children, soldiers, when we arrived there on the 30th or 31st of March".*³⁹⁰

384. According to the witness there were 2 houses habitable, where people could sleep.

What did Ajeti do in Zllash?

385. The witness explained his routine in Zllash. He had first gone to Keqekole, and when he returned, he stayed in Zllash until the offensive. The offensive started according to the witness' thought on 16th of April in Viti of Marec. The witness further explained that he would most of the time go to his family and eat there and stay overnight, and the next morning he would go back to the Compound in Zllash, where he would stay in the daytime.³⁹¹

Going to Viti of Marec and returning with wounded

386. He left Zllash for Viti of Marec about the 16th and remained there until the end of the battle.³⁹²

³⁸⁶ Ibid, p.4074

³⁸⁷ Ibid, p.4072

³⁸⁸ Ibid, p.4076

³⁸⁹ Ibid, p.4060

³⁹⁰ KSC-BC-2020-05, WDSM-1500-official transcript of 22 April 2022, [p.4060, lines 12-17].

³⁹¹ Ibid, p.4063

³⁹² Ibid, p.4064

387. He stated to this effect: *"I think it was about the 16th of April. So, until -- from that, until the end of the battle, I remained in Viti. I believe it was on the 16th that I went there".*³⁹³

Ajeti's return on the 20th of April 1999 to the Zllash compound with the wounded soldiers

388. Ajeti stated about his return: *"But it was around the 20th of April when we returned there with wounded. We placed the wounded there. There was Dr. Teuta and some others."*³⁹⁴

Who were on the location of the "Compound"?

389. Ajeti explained that it was on this very location where there were soldiers and civilians in quite large numbers. The soldiers were most of them from the Prishtina municipality and from Zllash. The witness couldn't know all the soldiers, he just knew some of them.³⁹⁵ Some were of Brigade 153, some were from Prishtina.

390. As to the people that he saw on the location that he knew, the witness explained that he knew Rahman Dini and that he was there on that location in April 1999. He knew Rahman Dini as he was his neighbor. He met him there many times and whenever the witness was there, he would almost always see him. He had also seen him in December 1998 when he stayed actually together with him for a longer time as the situation at the time was calmer then.³⁹⁶ The witness could not indicate in which particular house Rahman Dini slept, but he would see him in the yard. He did not know which position Rahman Dini held at the time in April 1999. He stated further that believed that he met Agron Xhemajli in April 1999, but could not recall were exactly.³⁹⁷

391. Asked whether the witness knows Halim Berisha, het testified that he did know him, and stated that he was a member of the KLA in that area, that is the Gollak area. He met him in December (1998) in the house of Halim's brother, in Stallove at Cervadik. He did not remember to have met him in April 1999.³⁹⁸

Salih Mustafa

392. As for Salih Mustafa, the witness stated that he did not see him in Zllash. He met him sometime in October 1998 in Pristina. Further the witness explained that he met Salih Mustafa when he was in Koliq either on the 21st or the 22nd of April 1999. Salih arrived there-in Koliq- when the witness had arrived there with the wounded.

393. The witness stated to this effect that he met Salih Mustafa during (most probably with) the evacuation of the wounded soldiers: *"It was, I think, on 21 or 22 April, when I met him in Koliq".*³⁹⁹

³⁹³ Ibid, p.4063, lines 24-25, p.4064 line 1

³⁹⁴ Ibid, p.4074, lines 11-13

³⁹⁵ Ibid, p.4065

³⁹⁶ Ibid, p. 4077

³⁹⁷ Ibid, p.4080

³⁹⁸ Ibid, p. 4082/4083

³⁹⁹ Ibid, p.4084, line 4-11

The dangerous passage road at Vranidoll- Barileve

394. Interestingly the witness described the route that they took with the wounded. It was from Koliq that they had to go to Majac, and in order to do that, they had to cross at Vranidoll. But that crossing was not possible because of the Serb forces (there) and it took them almost 2 days to get there in Majac. At Vranidoll they stayed the whole day with the wounded and it was only in the evening, when it became dark, that they crossed to the other side of the road.⁴⁰⁰ This is in line with what other defence witnesses said about the difficulties to cross that road, and the difficulties they had when crossing this particular main road.⁴⁰¹

The “BIA”

395. The witness knew “BIA” and that was a guerilla of the city. They mainly engaged in supplies of clothes and medicaments that they would distribute in the area of Llap.⁴⁰²

396. The witness mentioned a number of members of BIA. He thought he was member since October 1998, but even as he later went to Majac, he considered himself a soldier of Salih Mustafa. He considered himself a member of the BIA until the liberation of Kosovo, which was the 12th of June 1999. The nickname of the witness was “Shyt Mareci”.⁴⁰³

Communication was unavailable in Zllash

397. The witness explained that there were no telephones at the time that he had available. While in Zllash there was no radio communication possible. He explained that he had never received an order from Salih Mustafa.⁴⁰⁴

Relationship Muhamet Ajeti – Brahim Mehmetaj-“Bimi”

398. The witness testified that he did not know that Bimi was a BIA member in the time of the war. He met him only once, he believed in May 1999 as at the time he – Bimi- was in danger. But he did not know of him – Bimi- as a member of BIA during the war.

399. Note of the defense: during the period concerned BIMi became involved in another position, as the person in charge of morale and politics of the Llap Operational zone citation⁴⁰⁵:

400. The relationship between Mr. Ajeti and Bimi is further that they are part of the same political organization. Confronted with “SPOE 00325826”, a photo of the witness together with Mr. Bimi from Facebook. “My friend in the war and peace”. The witness

⁴⁰⁰ Ibid, p. 4085/ 4086

⁴⁰¹ Ibid, see Bislim Nreci, Nazmi Verbovci’s testimonies as discussed earlier; Verbovci stated that the road closed on the 22nd of April, so at the time that Ajeti was there crossing was still possible).

⁴⁰² Ibid, p.4086

⁴⁰³ Ibid, p. 4088

⁴⁰⁴ Ibid, p. 4093

⁴⁰⁵ Ibid, see testimony of Brahim Mehmetaj: 23 March 2022, p. 2657, line 6-12

explained that all of the people whom he fought together with, he considered friends.⁴⁰⁶

401. Confronted with "SPOE 00325827" witness stated: "As always walking together the path that leads us to join success", the witness explained again that he knew Bimi only after the war, least very little during the war. The journey referred to in the Facebook posts began after the war".⁴⁰⁷

Relation with Bahri Gashi (another member of the BIA guerilla)

402. The witness knew Bahri Gashi during the war as a member of BIA. Bafta was his nickname. He saw him only once and after the offensive he learned that he was the deputy commander of the guerilla. Bahri Gashi is also in the same political party active as the witness.

403. He did not see Bimi in Zllash, and as for Bahri, he saw him when they withdrew the wounded, when they were getting ready to withdraw the wounded from there (Zllash 20/21 April).⁴⁰⁸ Confronted with "DSM 0001-00017" testimony of Selatin Krasniqi, "I met Bimi and Bahri", the witness confirmed again what he said earlier.

Other names: Nazif Musliu, aka "Tabuti"/ Ilmi Vela, aka "Vdekja"/ Afrim/ Dardan

404. The witness explained that he knew "Tabuti" from childhood. He did not see this person in Zllash in April 1999. As he knew him from childhood, he would have remembered him if he would have seen him in Zllash.⁴⁰⁹
405. The witness explained that he does not remember a soldier by the name Afrim. Neither did he know "Vdekja" or Ilmi Vela.⁴¹⁰
406. He knew a person with the name of Dardan and he believed that he was part of BIA, and the witness explained that he met him in December 1998.
407. The Dardan he knows is named Kujtim if he was not mistaken. He did not meet him in April 1999. The witness had no particular connection with these people.⁴¹¹
408. Confronted with "SPOE 00325840 – 00325840", a photograph on a Facebook posting that the witness posted on 25 may 2014 depicting a number of people: Cmdr. Remi, Avni Haziri, Mustafe Ajeti, Shaip Bislimi, and Dardan, that is Kujtim.⁴¹² The photo was taken in December 1998 and it was taken in Zllash in one of thehouses.⁴¹³

⁴⁰⁶ Ibid, P. 4101

⁴⁰⁷ Ibid, P. 4102

⁴⁰⁸ Ibid, P. 4104, line 22-25

⁴⁰⁹ Ibid, p. 4108, line 1-6

⁴¹⁰ Ibid, p. 4109

⁴¹¹ Ibid, p. 4108 and 4109

⁴¹² Ibid, p. 4111

⁴¹³ Ibid, p. 4112/4113

The nickname “Shyt Mareci” (pronounce: the Y in SHYT as Ü as in the German Über; so “Shüt”)

409. Regarding the nickname of the witness – Shyt Mareci- the witness explained that it came from a fighter of a time in Marec.⁴¹⁴ Salih Mustafa used to call him like that or just Shyt (pronounce Shuut).

Trying to connect the Shüt” to the Shüti that was mentioned by Halim Berisha

410. Confronted with Agron Xhemajli’s SPO interview 076501-TR-ET, part 2 page 28 lines 10-13 and page 29, lines 11 -12 the witness said that Xhemajli probably referred to him when speaking about Shyti.

411. However, the defense believes that such question is better to ask to Agron Xhemajli, in order to have a confirmation about this.

412. Rather than insinuating that this would be the person that Halim Berisha claims to have met at the “gate” of the compound while handing over Latif Krasniqi, the SPO would have better asked the question straight to the witness. It is a deplorable example of the SPO trying to win a case rather than determining the truth of a case.

Contact with Salih Mustafa after the conflict

413. Further the witness stated that he had contact with Salih Mustafa, in person and via the telephone. He could not tell how frequent.

414. Confronted with “SPOE 00325853 – 00325864” he agreed that it was his telephone number and the one of Salih Mustafa. The number which was listed in the telephone of Salih Mustafa had an abbreviation for the number of the witness and listed the number as: Shyti AAK.

415. The contact-moment between the 2 phones did not further indicate the content of it. Just the date which was 13 September 2020. It is completely outside the scope of the period of the indictment. The nickname given to Mr. Ajeti was not “Shyti”, but “Shyti AAK”.

416. The question of the SPO on page 4119 was therefore not correct, and neither was the answer of the witness.

The frequency of the contact:

417. The SPO counted 113 calls between the phone of the witness and the phone of SM. The SPO asked to that effect: *“Take a look Mr. Ajeti, these are the contact that took place between you and Salih Mustafa, and the total number of the calls exchanged between you and Salih Mustafa amounted to 113 calls”*.⁴¹⁵

⁴¹⁴ Ibid, p. 4116

⁴¹⁵ Ibid, p. 4119, line 21-25

418. However, the SPO included the “unanswered” and “missed calls” contact-moments, which were approximately 57 contacts. So, in total of 16 months this constitutes only the half number of contacts (56) from what the SPO (113) asserted.⁴¹⁶
419. Whether there was contact or not, it does not in any manner do anything with the eye-witness testimony that the witness gave during his testimony in court about his time in Zllash in 1999. The SPO can simply not discredit anything about the time and the place where the witness was in that period in 1999.

Zllash

420. Witness testified that he recalls that before the offensive started, he went one day back and forth with Avni Haziri to a place in Krileve or Gllogovice village. He said he went there in one of the days before the offensive. He couldn't recall that he went anywhere else.⁴¹⁷

Relation with Selatin Krasniqi

421. Mr. Ajeti has no particular relationship with Selatin Krasniqi. He did not see him in a long time. Mr. Ajeti said that he had seen Selatin on the airplane on his way to Amsterdam. He did not share the same transport when arriving and he did not talk with him. He just greeted him⁴¹⁸
422. The witness testified that he had no conversation with the people that were on the same airplane (Musli Halimi and Selatin Krasniqi).⁴¹⁹

Other “Medical” location

423. The SPO asked a reaction to a statement given by Mr. Fatmir Sopi, who had stated that there was a location, a medical facility where wounded and sick were kept about 2 kilometers from the compound. A house in the eastern part of the school, owned by Sahit Gashi.⁴²⁰
424. The witness reaction to that was that he did not exclude the existence of any other clinics, one of them located in Viti where he fought, but that the wounded people who were wounded during the fighting that those received medical care in Zllash. He said it could be that there was some place over in the village of Sahit, but all of them who were in Marec and arrived from other places, all of them received medical care in that place (in the compound in Zllash).⁴²¹
425. The witness confirms once again that whatever Mr. Sopi said – he did not hear him – that **he personally carried 2 people with his own hands into that house** (indicating the building which has also been described as “Oda’, earlier in his statement).⁴²²

⁴¹⁶ Ibid, p. 4120-4122

⁴¹⁷ Ibid, p.4134

⁴¹⁸ Ibid, p. 4136

⁴¹⁹ Ibid, p. 4138

⁴²⁰ Ibid, p. 4141

⁴²¹ Ibid, p.4141/4142

⁴²² Ibid, p. 4142

426. And the witness testified that there was Dr. Teuta Hadri, Ibadete, Qerim Kida who came later. The witness said this with full responsibility, and he stood behind what he had testified. ⁴²³
427. The witness took therefore on this point the full responsibility for his words. The same counted for the fact that he stated that he had not seen Salih Mustafa in Zllash during the time that he was there. He might have stayed there but he did not see him. As the witness explained, he was not static. He might have been helping a family or so to move them to another location. ⁴²⁴
428. The witness is very firm, he simply did not see Salih Mustafa and had he seen him in Zllash, he would have testified that. ⁴²⁵

Evacuation of wounded from Zllash

429. The witness testified that it was on 20th of April that he came from Viti to Zllash. And the next day the evacuation began. From Zllash to the village of Marec.
430. The witness explained extensively, detailed and consistently that others involved in this evacuation were Rrahman Dini, Isa Kastrati and Bahri Gashi. ⁴²⁶ The witness than saw Salih Mustafa in Koliq.
431. The witness stayed firmly on his position that in the period that he was in Zllash, he never saw a detention center, and when he was confronted with bits and pieces of the statement of SM, he remained on his position, and said that he had no idea to which period SM was referring to. But during his stay, he never saw it and never heard about it. ⁴²⁷
432. Neither did he see any guards in that place (the compound). ⁴²⁸
433. The same counts for the fact that there were no guards on the compound. ⁴²⁹ Whatever Fatmir Sopi said and what was put to the witness, (i.e., statement Fatmir Sopi of 18 January 2022, ⁴³⁰ the truth of the matter is that Sopi testified that he never came to the compound in the period of April 1999.
- “Q. You said you went there on occasion. Do you recall in the beginning of April how many times you have been there approximately?”*
- A. I don't recall that. Now I don't know that.*
- Q. Is that more than two times or is it more than five times? Is it less?”*

⁴²³ Ibid, p.4142

⁴²⁴ Ibid, p.4144

⁴²⁵ Ibid, p 4146

⁴²⁶ Ibid, p. 4146/4147/4149/4150/4151

⁴²⁷ Ibid, p.4154

⁴²⁸ Ibid, p.4155

⁴²⁹ Ibid, p.4157

⁴³⁰ Ibid, p.2049, lines 9-17

*A. I am not sure. I don't know*⁴³¹

Conclusion

434. The witness is a credible and reliable witness. He identified the location, identified the people and the situation on the location during the relevant period of the indictment. He spoke about his own whereabouts, and his testimony is in line with other testimonies which are speaking about the situation on the “compound”. It is in line with Mr. Humolli’s statement regarding the people on the compound (including his own family), the makeshift hospital which multiple people testified about and the ones that were working in that “hospital”.
435. Ajeti gave a first-hand account by simply stating that there was no prison or place where people were kept detained on that location. No place was guarded and it was not fenced. As for SM he knew him from before and testified that he did not see him there at the time that he was there in Zllash on that location during the time that he was there. He considered himself a soldier of Salih Mustafa however he never received any orders during the entire period from Salih Mustafa not directly, and not indirectly, and not by any means of communication, as communications material was simply not available at the time at that place. He met Salih Mustafa only on the occasion that they were transporting wounded people and that was in Koliq.
436. The truth is simple: the location that is central to this case, where the SPO claims that people were kept or detained, maltreated or tortured, is simply not proven. There was never an occasion where Halim Berisha handed over a person to him. So, Mr. Ajeti is not the person that was mentioned by Mr. Berisha. If that person exists at all, as the defense is of the opinion that Mr. Berisha’s claim to this effect is false.

XVI. The testimony of Mrs. Teuta HADRI-WDSM 1600

General:

437. The witness Teuta Hadri, by occupation is a doctor-specialist in the field of gynecology. She offered her medical services during the war in Kosovo.
438. In the time period March-April 1999, she was in Kosovo.
439. In April 1999, she left her home due to the large number of forces, after leaving her home, she went to Professor Sami Peja's house in Pristina. She stayed there for two or three days.
440. With the help of a person from Keqekolle, she goes to Keqekolle and from there some KLA soldiers brought her to Zllash. The witness arrived in Zllash on April 16, 1999,

⁴³¹ KSC-BC-2020-05, SPO-W4485-official transcript of 18 January 2022, p.2094. / https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980aea0da/lw_tpg_edit_transcript

around 3 or 4 in the afternoon. The witness testified that the offensive in Zllash started on April 18, 1999.

441. The witness stayed in the compound for three nights and four days, when they were evacuated together with the injured from Zllash.
442. During the time she stayed in Zllash, she offered her services as a doctor to both soldiers and civilians who needed medical treatment. The witness did not hear about the BIA during the time period March-April 1999.

The activity of the witness during the time period April 16-19, 1999 in Zllash.

443. The witness arrived in Zllash on 16 April 1999, she testifies: *Yes, it was 16 April 1999. And when it comes to the time – if you're interested about the time - it was about 3.00 or 4.00 in the afternoon. So this was about the time that I arrived there.*⁴³²
444. When she arrived in Zllash she saw two women, she testifies: *Once we arrived there at the yard, the women came out, two women, that were in those small houses. They came to meet me, greet me. They hugged me, and they were happy to see me there as a doctor. They wished me welcome in the area of Zllash.*⁴³³
445. After that she went into the house, she testifies: *“So they invited me to get into the house which they called headquarters. And there, we continued about -- the conversation about the sufferings”.*⁴³⁴

Meeting Commander Sejda:

446. Sometime after, she met Commander Sejda, she testifies: *“Yes. Commander Sejda came. I knew him from before. We had worked together in the clinic of Prishtine. I knew him from before. We had worked in the -- in a laboratory together. So I met him there and we greeted each other”.*⁴³⁵ *Yes. Sejdi Veseli. But they called him Commander Sejda.*⁴³⁶

Describing of the house, room and location:

447. The witness in her testimony describes the house in which she enters in, she testifies: *“The house that was referred to as the headquarters, which I thought was a bigger house, was, as a matter of fact, a small house. It had a couple of stairs. I have seen it myself, so I have seen that part, whereas the remainder I have not seen at all. So there were three or four or five stairs. There was a narrow corridor. And there were two rooms, one on the right-hand side and the other on the left-hand side. And we went into one of these rooms”.*⁴³⁷

⁴³² KSC-BC-2020-05, WDSM-1600-official transcript of 11 May 2022, p.4191. https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980bb03a8/lw_tpg_edit_transcript

⁴³³ Ibid, p.4188

⁴³⁴ Ibid, p.4188

⁴³⁵ Ibid, p.4188

⁴³⁶ Ibid, p.4189

⁴³⁷ Ibid, p.4189

448. Based on the document “DSM 00444”, the witness recognized the small house referred as the headquarters⁴³⁸
449. The witness describes the room where she used to sleep and that she did not have any equipment, she testifies: *“In the room that I was staying, it was only my bags, nothing else. Because the room where I was staying was really very small. It was a room of 2 by 3 and a half, not more than 4 meters, because I can measure that from the beds. Because there was this bed that was about 2 meters and there was some other small space that was left. We had two bunk beds on the one side and two other beds on the other side and there was a posable bed as well. So it was there that a mother with their child was sleeping. The child was five weeks old. And there was another woman that had delivered a baby one month ago. So one had a child five weeks old, the other a child of one month old, and we were staying in the same room. We were sharing the same room. Therefore, in answer to your question, we didn't have any equipment. We had some basic equipment. And we had this other place that was close by, but, I mean, there were no equipment there either. So the equipment were present only in the clinic that was close to the school”*.⁴³⁹ Near the room where the witness slept, it was and one small room where were ampules, the witness testifies: *“In the room I was staying, I mean, that was not a clinic. It was only the beds that we were sleeping. But there was this small room. There was some sort of a space where there was a cupboard that there were ampules. I mean, that's what we had. And that's something that I did not see exactly, but it was the nurse that would go there. For instance, there was a need for an injection for one of the patients, the nurse would go and take the medications. I mean, I would recommend or I would propose that she took a certain medication and she would go and fetch it from there”*.⁴⁴⁰ The room where the witness slept it was 10-20 meters far from the house that used to be called Headquarter, she testifies: *“This room, from the headquarters, it was on the right-hand side when one would come out of the headquarters. It was about 10 metres, maximum 20 metres, and I remember that from going from the place to the headquarters when I had patients”*.⁴⁴¹
450. The witness described the location where she was in Zllash, she testifies: *“This location is the area of the headquarters, of the three and 4 four houses which you can also see. Those are the houses that were used for the needs of the patients of the population, the soldiers, for medical needs”*.⁴⁴² The witness testified that based on the document DSM 00147 the area that is in photograph it is area where she was in Zllash⁴⁴³

Activity of witness as a doctor in Zllash:

451. From the day that witness arrived in Zllash the patients went to see her, she testifies: *“So the patients came to see me on 16 April. So in my – they came in my own room, not in the clinic. And I tried to keep some order. So I was kind of exercising some pressure as well, just trying to tell people not to come one after the other. But the school itself*

⁴³⁸ Ibid, p.4190

⁴³⁹ Ibid, p.4194

⁴⁴⁰ Ibid, p.4195

⁴⁴¹ Ibid, p.4203

⁴⁴² Ibid, p.4207

⁴⁴³ Ibid, p.4206

*was about 20 minutes away. There were no vehicles to send the patients there at the school. And we would provide services there where we were, in the room where I would sleep. I mean, there was the place where I would provide my services".*⁴⁴⁴

452. During the time she was in Zllash, the witness never worked at the school, she testifies: *"But like I said, I have not worked for a single day from the school. Instead, I have worked from the room where I was staying".*⁴⁴⁵

The witness did not witness anything extraordinary:

453. The witness testifies that during the time that she was in location she newer has been prevented to approach buildings.⁴⁴⁶

454. During the time that the witness was in Zllash, she did not see a specific building that had guards in front of it or that was guarded, she also did not know that during that time somebody to be detained soldier or a civilian and she also did not see no one to be detained. She testifies: *"The civilians from the village came there wearing uniforms and wearing civilian clothes, and the area where we were, that was an area where also civilians had access to. Fatmir Humolli's wife was there with his family. There was no opportunity for anyone to be detained there. There were no such opportunities".*⁴⁴⁷

The witness before never have hear the name Salih Mustafa:

455. The witness newer heard the name Salih Mustafa, she testifies: *"By the name of Salih Mustafa, only when the trial started, when it was explained that Salih Mustafa had the pseudonym Cali. And that's when I realised that Salih Mustafa was Cali. I knew at the time during the war Salih Mustafa only by his pseudonym Cali"*⁴⁴⁸.

456. The witness for the first time heard the name "Cali" on 18 April 1999, she testifies: *"I do not remember, but it was on the 18th when the name of Cali was mentioned. So Commander Cali was preparing the wounded, to displace them, and it's -- it was then that I saw him and I heard the name. On the 17th, no, I didn't hear his name"*⁴⁴⁹.

Seeing the Fatmir Humolli:

457. The witness saw Fatmir Humolli in Zllash, she testifies: *"Yes, from a distance. Just greetings, saluting, just like with all others. We did see each other from a distance, just like in war conditions, but we did not meet up to talk to each other".*⁴⁵⁰

Situation before the offensive in Zllash:

458. Based on witness statement the situation in Zllash before the start of offensive was quiet, she testifies: *"It was quiet. There were no fightings. I did not feel that we were in -- at war. The civilians were coming to the area as well, civilian patients. So there*

⁴⁴⁴ Ibid, p.4193

⁴⁴⁵ Ibid, p.4196

⁴⁴⁶ Ibid, p.4211

⁴⁴⁷ Ibid, p.4209

⁴⁴⁸ Ibid, p.4214

⁴⁴⁹ Ibid, p.4230

⁴⁵⁰ Ibid, p.4216

were -- people were free to move. And there was nothing in particular to be remembered from that period, on 16th and 17th. However, on the 18th, the offensive started".⁴⁵¹

Conclusion:

459. Based on the testimony of the witness Teuta Hadri, it is proven that in the compound in Zllash, in which the SPO claims that the crimes were committed, it is impossible that there was a detention center, the witness is an eyewitness and in her testimony she clarified why it was impossible to have civilians detained or mistreated in that compound.

XVII. The testimony of Mrs. Ibadete CANOLLI-KAÇIU-WDSM 1700

General:

460. Witness Ibadete Canolli Kaci, a nurse by profession, lived in Pristina until 31 March 1999, when she left Prishtina, due to the action for the torture of Albanian civilians by the Serbian forces.
461. From that day until 16 April 1999, she lived with her family in Afrim Gashi's house in Mramor.
462. From 16 April 1999, she went to Zllash.
463. The witness from March 1998 gave her contribution to the KLA.
464. She did work in the Clinic of Dr. Flora Brovina in Pristina where she contacted BIA guerrillas.
465. She was a part of the BIA guerilla group that started working in Pristina.
466. She knows Salih Mustafa from before, she met him at Flora Borivin's Clinic in Prishtina, and she met Salih Mustafa in Zllash on April 21, 1999.

The activity of the witness during the period April 16-21, 1999 in Zllash.

467. The witness arrived in Zllash on 16 April 1999⁴⁵²
When the witness arrived in Zllash she did not report to any one⁴⁵³

Meeting Isa Kastrati in Zllash:

468. When she arrived in Zllash she met Isa Kastrati, she testifies: *"At the end of the yard, I remember that there was this well. In vicinity of the well I met with Isa Kastrati. Isa Kastrati was a leader of the guerilla and he was somebody that I had met in Prishtine as well".⁴⁵⁴*

⁴⁵¹ Ibid, p.4237

⁴⁵² KSC-BC-2020-05, WDSM-1700-official transcript of 12 May 2022 , p.4322/ https://lw.scp-ks.org/lw/#stl_transcript/contents%2Fstl_transcript%2F091ec6e980bb1f53/lw_tpg_edit_transcript

⁴⁵³ Ibid, p.4324

⁴⁵⁴ Ibid, p.4324

469. The witness met Isa Kastrati every day until 21 April when he was killed⁴⁵⁵ *“We were evacuating the wounded. He was in a vehicle together with Afrim Viti and Sokol Sopi at a junction. We had a plan to continue towards Majac. He continued towards another direction. We heard the shooting and that's where -- when he was killed, in that exchange of fire with the enemy”*.⁴⁵⁶

Place where the witness stays in Zllash:

470. The witness stayed in a small room; she testifies: *“In the building that was in vicinity of the well that I was describing. It was a building that was built later than the other buildings. There was this small room, and there was in this small room where there was this infirmary and a small bed, and there was where I was settled”*.⁴⁵⁷

471. The witness could not provide details of the place where she was in Zllash; she testifies: *“I can't provide details in my description because a very long period of time has passed, but there were some scattered houses. I can say that”*.⁴⁵⁸ *“I remained there only for two days. I was mostly inside and I was preparing for the offensive that would start. Therefore, it's not that I have moved a lot in the yard, and I don't remember”*.⁴⁵⁹

Identification of the place in Zllash:

472. Witness base on Photograph DSM 00160 recognize the place, she testifies: *I think that the well was here as the tree was close to the well, and I talked about this tree before*.⁴⁶⁰ *The tree was within the yard, it was in vicinity to the well. And it was on the -- there that Isa Kastrati was leaning into and he was listening to the news*.⁴⁶¹

Identification of the building in Zllash:

473. The witness also recognizes the building where she stays, and she testifies about the civilian people that were there, testifies: *“I believe that this was the newer building where I stood into, into a part of, one part of it, that is; whereas on the other part, there were the soldiers and two families with children. The family of Fatmir Humolli and of somebody else*.⁴⁶²

474. The witness describes the condition of the room that she use, and the time staying in that room, she testifies: *In the evening of the 16th, I started immediately to clean the venue. There were some blankets. We used these blankets to make stretchers. On 17th, I also prepared additional material. On the 18th, the shelling started in the morning. On the 18th -- on the 20th, we spent the night in the woods, in an open sky, up until the 21st when we got the wounded persons and we went to Majac. Therefore, I stood there*

⁴⁵⁵ Ibid, p.4334

⁴⁵⁶ Ibid, p.4334

⁴⁵⁷ Ibid, p.4345)

⁴⁵⁸ Ibid, p.4324

⁴⁵⁹ Ibid, p.4326

⁴⁶⁰ Ibid, p 4327

⁴⁶¹ Ibid, p 4327

⁴⁶² Ibid, p 4327

*from the 16th up until the 20th.*⁴⁶³ The witness mentioned and other people that she saw there, she testifies: *Yes. We called him the Old Man, Axha Medi, Uncle Medi.*⁴⁶⁴

475. The witness, also describes and other buildings, she testifies: *"In its vicinity, there was a kitchen and above were, I believe, the rooms where the soldiers stayed, but I did not go there.*⁴⁶⁵

Seeing Salih Mustafa in Zllash:

476. For the first time the witness saw Salih Mustafa in Zllash on 21 April 1999, she testifies: *"I met Salih Mustafa on the 21st, when we started with the evacuation of the wounded to Majac".*⁴⁶⁶

Knowing Salih Mustafa from before:

477. The witness met Salih Mustafa in Prishtina, she testifies: *Before going to Zllash, yes, in Prishtine; but during the days that I spent in Zllash, no.*⁴⁶⁷

478. The witness knows that the Salih Mustafa in time that she saw him in Prishtina, he was responsible for the security of the civilians and the soldiers in the area where he was operating, and he shared the responsibility with Dr. Flora Brovina and I met him in the clinic of this doctor.⁴⁶⁸

The witness did not witness anything extraordinary:

479. During the time that the witness was in Zllash, she did not see any buildings were be guarded by guards. She testifies: *"No, I did not see something like that".*⁴⁶⁹

480. During the time that the witness was in Zllash, she did not see any detained persons; namely, persons isolated or kept in isolation in a specific area, also she did not see or hear that somebody was being ill-treated in that particular location⁴⁷⁰.

481. The witness testifies that in those buildings it not was electricity, she testifies: *"No. We would use a small light with petroleum and we also used the car batteries to make light".*⁴⁷¹

Meeting Dr. Teuta Hadri in Zllash:

482. The witness between the 19-20 meet Teuta Hadri in Zllash, she testifies: *I'm not quite sure about the date. Between the 19th and 20th, soldiers who were on the front line came and told me that a wounded was at a distance at 400 metres away from the location and was being stitched by somebody. During that time, there was heavy*

⁴⁶³ Ibid, p.4328)

⁴⁶⁴ Ibid, p.4330

⁴⁶⁵ Ibid, p.4330

⁴⁶⁶ Ibid, p.4330

⁴⁶⁷ Ibid, p.4330

⁴⁶⁸ Ibid, p.4331

⁴⁶⁹ Ibid, p.4331

⁴⁷⁰ Ibid, p.4333

⁴⁷¹ Ibid, p.4334

shelling. There was also frontal warfare. So I asked the soldier to go and see who that was. I went there, near her. I greeted her, asked her who she was. And she said, "I'm Dr. Teuta Hadri, a gynaecologist by profession"⁴⁷²

Conclusion:

483. Based on the testimony of the witness Ibadete Canolli-Kaçiu, it is proven that in the complex in Zllash, in which the SPO claims that the crimes were committed, it is impossible that there is a detention center, the witness is an eyewitness and in the testimony she testifies that she did not see any buildings guarded by guards, she did not see any detained persons; namely, persons isolated or kept in isolation in a specific area, also she did not see or hear that somebody was being ill-treated in that particular location.

⁴⁷² Ibid, p.4334-4335

XVIII. End Conclusion

Central to any criminal case is time, place and action. So it is in the case of Mr. Salih Mustafa. Mr. Mustafa is accused of arbitrary detention, cruel treatment, torture and murder. He has pleaded not guilty to the charges. So began the introduction to this Final trial Brief.

Having discussed all the essential parts of the defence witnesses, the defence is convinced that they form a very essential part in the refutation of the alleged facts and alleged crimes that Salih Mustafa is said to have committed. The alleged crimes cannot have been committed by Salih Mustafa, as he was for a large part of the time of the indictment, at other places (far from Zllash).

At the same time, other witnesses were themselves in Zllash, during the period of the indictment. And they were at the very location of the indictment, the Zllash compound. None of them ever saw, experienced or heard of people being detained, tortured, ill-treated or murdered at that location. None of the witnesses ever saw, heard or experienced any wrongdoing at the location. None of them ever spoke of involvement of Salih Mustafa in any crime at all.

People spoke of Zllash, the compound location, as a place where they could find shelter or refuge, rather than that it would be some kind of guarded fenced area where people were mistreated. Women, children, displaced people were occupying the compound. They stayed outside and inside and were freely able to move in and out.

Based on the accounts of the defence witnesses, time (1-19 April 1999), place (Zllash compound) and action (the alleged crimes of the indictment) cannot stand and hold.

The attached time-line might be of help to the Panel, even though the defence is not required and is not able to reconstruct a day-to-day or minute-by-minute account of the whereabouts of Salih Mustafa. The timeline indicates two things: on the one hand the encounters that defence witnesses had with Salih Mustafa, and on the other hand the relevant location where the witnesses found themselves, all during the period of the Indictment.

But the defence is convinced on this part of its case and asserts that the defence witnesses are credible and reliable. Other parts of the defence case will be dealt with during oral arguments.

Salih Mustafa did not and cannot have committed any of the crimes, as he has also denied from the very beginning of the case. Salih Mustafa should be acquitted of all of the charges in the indictment.

Word count, including timeline: 38382

XIX. Timeline of whereabouts of Defence Witnesses in relation to: their encounters with Salih Mustafa and to relevant locations in the period of the Indictment



