

1 Wednesday, 23 March 2022

2 [Open session]

3 [The accused entered court]

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

5 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can you
6 please call the case.

7 THE COURT OFFICER: Good morning, Your Honours. This is case
8 KSC-BC-2020-05, The Specialist Prosecutor versus Salih Mustafa.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
10 First of all, I will call the appearances.

11 Madam Prosecutor, could you tell us who is present for the
12 Specialist Prosecutor's Office.

13 MS. D'ASCOLI: Good morning, Your Honours. The Specialist
14 Prosecutor's Office is today represented by Mr. Alex Whiting,
15 Deputy Prosecutor; Mr. Cezary Michalczyk, Prosecutor; Case Manager
16 Line Pedersen; legal intern Ryan Marr; and myself,
17 Associate Prosecutor Silvia D'Ascoli.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you.
19 Victims' Counsel, you have the floor.

20 MS. PUES: Good morning, Your Honours. Good morning, everybody.
21 The participating victims in this case are today represented by my
22 co-counsel Annebrecht Vossenbergh and by myself, Anni Pues, as
23 counsel.

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you.
25 Defence Counsel, you have the floor.

1 MR. VON BONE: Good morning, Your Honour. The Defence is
2 represented by Mr. Betim Shala, co-counsel; Fatmir Pelaj,
3 investigator and interpreter; myself, Julius von Bone. And today in
4 the courtroom is present Mr. Salih Mustafa.

5 And if it is possible, I would like to raise a practical matter
6 before starting with the witness.

7 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] we will
8 do that afterwards.

9 And, for the record, you are appearing before Trial Panel I.
10 And Judge Mikula is connected with us remotely.

11 We will hear today the testimony of Defence Witness 200,
12 Mr. Brahim Mehmetaj. However, before that, the Panel would like to
13 address a number of issues.

14 First, with the Victims' Counsel. You indicated during the
15 hearing of 21 March that you would file a response to filing F344
16 made by the Ministry of Justice of the Republic of Kosovo in due
17 course. And this is to say that the Panel expects Victims' Counsel
18 to provide the response within the time-limit prescribed by the
19 rules.

20 Second, it's also for the Victims' Counsel. We noted your
21 submissions made during the same hearing, and you indicated that you
22 intended to request the appointment of an expert to calculate the
23 alleged material damage suffered by direct victims as a result of the
24 crimes alleged in the indictment.

25 And, accordingly, the Panel orders Victims' Counsel to propose

1 one or more experts to assist the Panel in assessing the financial
2 compensation for the material damage allegedly suffered by the direct
3 victims by no later than Friday, 22 April. And this is, of course,
4 without prejudice to the final determination of the Panel as to the
5 guilt of the accused and to any reparation order that may stem
6 therefrom.

7 This concludes the Panel's first oral order.

8 And for the next issue, Madam Court Officer, could you bring us
9 into private session, please.

10 [Private session]

11 [Private session text removed]

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[Open session]

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

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PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

9

And this is an issue for the SPO.

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We noted that the SPO has not disclosed all the material that it intends to use during its cross-examination of Witness 200. Because we saw that it has been released in Legal Workflow but not formally disclosed. The way of storing items in Legal Workflow can also have consequences where to -- how to find it. So my question or the question of the Panel is: Does the SPO intend to disclose this material; and, if so, when?

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MS. D'ASCOLI: Yes, thank you, Your Honours.

18

The materials, I think you're referring to the open-source material, in particular, has not been disclosed through a Legal Workflow disclosure package simply because, as we said yesterday, we did not intend to add these materials to the list of exhibits. However -- and therefore, being those available just for credibility purposes during cross-examination, we put them in the presentation queue as it was done previously with the -- with another witness.

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If it is Your Honours' preference that these documents be

1 disclosed formally through a Legal Workflow package, we can certainly
2 do that.

3 PRESIDING JUDGE VELDT-FOGLIA: Okay.

4 MS. D'ASCOLI: And I will consult with our Case Manager, but I
5 think we can do that this morning during the direct examination of
6 the witness.

7 But that is the reason why.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Thank you,
9 Madam Prosecutor.

10 Yes. Then I will now give an oral order. The Panel orders the
11 SPO to disclose the material that it intends to use during its
12 cross-examination for the witness on Legal Workflow as soon as
13 possible, and you indicated that it would be during the morning, but
14 at the latest today.

15 And --

16 MS. D'ASCOLI: Excuse me, Your Honour.

17 PRESIDING JUDGE VELDT-FOGLIA: No, no. Yes.

18 MS. D'ASCOLI: Just a clarification. Should we proceed in this
19 way for all of the upcoming witnesses?

20 PRESIDING JUDGE VELDT-FOGLIA: Yes.

21 MS. D'ASCOLI: Okay. Thank you.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you. And the Panel expects
23 for the future that when a party or a participant intends to use for
24 its questioning of a witness material that has not previously been
25 disclosed, that you should also clearly indicate what is new and what

1 is not new, in order for us to avoid to have to confront the material
2 against what was already disclosed, and that leave shall be requested
3 to use such items as set out in paragraph 31 of the Decision on the
4 Conduct of Proceedings.

5 Because yesterday - I have a preference that we don't do in that
6 way - it was a kind of a search for the Panel to see what was new and
7 what was not new, and if we just make it a formal issue, it's more
8 organised and more efficient, I think.

9 MS. D'ASCOLI: Yes, absolutely, Your Honours. We will indicate
10 a column in the list of documents to be used which indicates the
11 previous disclosure packages, and for the new one, we will file them
12 contextually. And if it is okay with Your Honours, we would seek
13 leave for the newly added material in the e-mail whereby we sent the
14 list of documents so that it is clear to the parties and to
15 Your Honours.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

17 MS. D'ASCOLI: Perfect. Thank you, Your Honours.

18 PRESIDING JUDGE VELDT-FOGLIA: Very well. This concludes my
19 third oral order.

20 Yes. And with a view to the Defence witnesses who are planned
21 for next week to give their testimony, we would like to -- to remind
22 you that the -- pursuant to paragraph 34 of the Decision on the
23 Conduct of Proceedings, the calling party, and in this case that is
24 the Defence, should provide the Panel, CMU, and the non-calling
25 entities with such a list via e-mail at least five days before the

1 commencement of the testimonies -- the witness of the testimony. So
2 that means, depending on how we proceed this week, that some lists
3 should be coming up already in the coming days.

4 MR. VON BONE: Yes, Your Honour, and we will certainly do that
5 and it relates to the issue that I wanted to raise.

6 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well. You have the
7 floor.

8 MR. VON BONE: That is the following. Because we have been in
9 consultation with WPSO on this issue. Next week we have four days of
10 hearing, so it's feasible to finish three witnesses, which is 300,
11 400, and 500.

12 Now, the week after, there is three days: Monday, 4th; Tuesday,
13 5th; and Wednesday, 6th April. And if we would not be able to finish
14 with two witnesses in that week, then it would mean that the third
15 witness would have to stay for about four days or longer in the
16 Netherlands to wait for the day that he comes.

17 So in consultation with WPSO, it would be really -- I think
18 everybody would be very happy if in that week only two witnesses
19 could be scheduled, 600 and 700, rather than lining up already the
20 third one, because that might -- might mean that that person would
21 need to stay for four days.

22 So it is requested the Defence to do so, but I'm very sure that
23 WPSO will be very comfortable in that period to schedule those two
24 rather than three.

25 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] I will

1 will come back to you on that. But I can already tell you that the
2 Panel has a strong preference to have three witnesses -- at least one
3 witness lined up. Also, because if I look at the schedule here, they
4 are foreseen both for two hours of estimated direct examination, and
5 we have the courtroom at our disposal next week and the other week,
6 and every week we have tried to do that for three days, and I really
7 think it's important to use that courtroom time and also the time we
8 have reserved to proceed.

9 So I will deliberate with the colleagues, but this was our
10 initial position. And if we would go along the proposed way, that
11 would mean for all the future weeks that we would stop at two
12 witnesses, because we have every week three courtroom days at our
13 disposal. And for now, I -- depending on how things evolve, we
14 always take it as it comes in the courtroom, so -- but for now, I
15 have some hesitation, but we will come back on this. Okay?

16 MR. VON BONE: As I say, I have been in consultation with WPSO
17 about it, that's why here on this week there was only an issue.
18 There's also sometimes arrival issue. But, in principle, in
19 principle, we understand well that it is three witnesses a week for
20 those who are scheduled for two hours, and that should mean one
21 witness per day. Just that seemed to be a little problematic for the
22 WPSO. That's why I -- but I'll hear from you. And then I'll get
23 back to WPSO on it.

24 And then we will make the schedule this week or even today for
25 the next week and the week after, a list via e-mail with -- all the

1 people appearing.

2 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] Can you
3 clarify why specifically that week? Because do you see that my
4 remark -- that if we would consent to it, it would seem like a sort
5 of precedent. Is it a request only for that week? Or is it a
6 request for all the upcoming weeks there are? Because almost all the
7 witnesses are scheduled for two, one hour, two hours, sometimes
8 three.

9 MR. VON BONE: Yeah. As I say, I got it also from WPSO so
10 that's why I know that it -- in particular this week. But for us, we
11 think three witnesses a week, that should do it. But apparently
12 there is something that I don't know of.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you for bringing this to --

14 MR. VON BONE: So no -- nothing to set a precedent. Let me be
15 clear.

16 PRESIDING JUDGE VELDT-FOGLIA: No, what I now understand is that
17 it might be something for that specific week. I will come back it.

18 I look at the -- Madam Prosecutor, is there something you would
19 like to say in this regard?

20 MS. D'ASCOLI: No, Your Honours. We are ready to continue.

21 PRESIDING JUDGE VELDT-FOGLIA: And Victims' Counsel.

22 MS. PUES: No thank you. Thank you.

23 PRESIDING JUDGE VELDT-FOGLIA: Very well. We can now proceed
24 with the testimony of the Defence Witness 200.

25 Madam Court Usher, can we usher the witness into the courtroom.

1 [The witness entered court]

2 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mehmetaj, good morning.

3 THE WITNESS: Good morning. [Interpretation] Good morning.

4 PRESIDING JUDGE VELDT-FOGLIA: And welcome to the
5 Specialist Chambers.

6 THE WITNESS: [Interpretation] Thank you.

7 PRESIDING JUDGE VELDT-FOGLIA: You can hear me well, I see.

8 THE WITNESS: [Interpretation] Yes, I do.

9 PRESIDING JUDGE VELDT-FOGLIA: Okay, very well. First of all,
10 how are you?

11 THE WITNESS: [Interpretation] I think good.

12 PRESIDING JUDGE VELDT-FOGLIA: Okay, good. Now, today we will
13 start with your testimony, Mr. Mehmetaj. You are called to testify
14 before the Specialist Chambers in the case of The Specialist
15 Prosecutor versus Salih Mustafa to assist the Panel of the Judges to
16 reach a verdict.

17 After you have taken your solemn declaration to tell the truth,
18 you will be asked questions by the Defence Counsel of Mr. Mustafa,
19 the lawyers representing the victims admitted to participate in this
20 case, who are sitting on your left hand nearest to you, and the
21 lawyers for the Prosecution, and by us, the Judges of the Panel.
22 Okay?

23 I would like to provide with you some guidance for answering the
24 questions that you will be asked.

25 Mr. Mehmetaj, please, listen carefully to each question. If you

1 do not understand, feel free to ask for the question to be repeated.
2 We want you to tell the truth and to tell us what you saw,
3 experienced, heard, or saw yourself -- or sensed yourself. If you
4 did not see or hear it yourself but you found out in some other way,
5 you should say so and explain to us. You may not remember all
6 details of the events and this is perfectly fine. Please testify
7 just on what you remember. Do not guess, do not make things up, and
8 there's nothing wrong in saying "I don't know."

9 Have you understood all this, Mr. Mehmetaj?

10 THE WITNESS: [Interpretation] Yes.

11 THE INTERPRETER: Could the witness be asked to speak closer to
12 the microphone, please, Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: Yes.

14 Mr. Mehmetaj, could you please try to speak closer into the
15 microphone because if not, the interpreters cannot hear what you say.

16 THE WITNESS: [Interpretation] I will.

17 PRESIDING JUDGE VELDT-FOGLIA: Very well. Thank you.

18 I would like to give you some practical advice for your
19 testimony, Mr. Mehmetaj.

20 Everything that we say here is translated and recorded. So it
21 is important to speak, as we just said, into the microphone, to speak
22 clearly, and to speak at a slow pace, to allow the interpreters to
23 translate everything. And you should only start speaking when the
24 person asking you a question has finished speaking because, if not,
25 the translators overlap and then we don't get any translation.

1 When a question is asked, please count in your head up to five
2 and only then give an answer. And this pause of five seconds is
3 essential for us to properly hear, translate, and record what you are
4 saying.

5 If you have any questions, if you need a break, raise your hand,
6 and you will be given the floor and you can indicate what you need.

7 Have you understood all this, Mr. Mehmetaj?

8 THE WITNESS: [Interpretation] Yes, yes.

9 PRESIDING JUDGE VELDT-FOGLIA: Okay, very well.

10 As we must do with every witness, I will now ask you to read
11 your solemn declaration to tell the truth. And I remind you that it
12 is an offence within the jurisdiction of the Specialist Chambers to
13 give a false declaration. Do you understand this?

14 THE WITNESS: [Interpretation] Yes, I understand.

15 PRESIDING JUDGE VELDT-FOGLIA: Very well. Mr. Mehmetaj, please
16 read the text provided to you.

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

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Mehmetaj. You are
22 now under oath to tell the truth.

23 We can now begin with the testimony of Mr. Mehmetaj, starting
24 with the questioning by the Defence Counsel.

25 Mr. Von Bone, you have estimated three hours for your

Witness: Brahim Mehmetaj (Open Session)

Page 2612

Examination by Mr. Von Bone

1 questioning. As usual, please inform the Panel of any changes in
2 this regard for planning purposes.

3 You have the floor.

4 MR. VON BONE: Thank you very much, Your Honour.

5 WITNESS: BRAHIM MEHMETAJ

6 [Witness answered through interpreter]

7 Examination by Mr. Von Bone:

8 Q. Good morning, Mr. Witness.

9 Mr. Witness, I would like to go back with you to the 1980s, in
10 particular, the period of 1998 [sic] and 1989. And at that time, you
11 joined an underground organisation, and could you tell us what was
12 the name of that underground organisation?

13 A. Yes, Your Honour. It is true that by the end of the 1980s I
14 joined the underground organisation called the -- the Movement for
15 the Republic of Kosovo, LPRK.

16 Q. That's right. And at that time, I understood it operated under
17 a group of three people. My question is: What was the aim on -- of
18 that group of three people and that underground organisation?

19 A. Because of the specificity of that time and the dangerous
20 activity that we were organising, we used to function in popular
21 councils, as we called them, composed of three members. Their duty
22 was to prepare for an eventual war situation against the occupiers
23 and to raise the awareness of the citizens that war was the only way
24 out of the situation; that is, to get rid of the occupiers and
25 liberate the country.

Witness: Brahim Mehmetaj (Open Session)

Page 2613

Examination by Mr. Von Bone

1 Q. All right. Mr. Witness --

2 THE INTERPRETER: I'm sorry, Your Honour, we can't hear him very
3 well. If he could be asked again to speak more loudly. I don't
4 know.

5 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel -- excuse me,
6 Madam Interpreter, is it the witness or the Defence Counsel --

7 THE INTERPRETER: The witness, Your Honour.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay.

9 Mr. Witness, the interpreters cannot hear you very well, so we
10 should try to find a way to improve that.

11 We will give it a try again, yes?

12 Please proceed, Defence Counsel.

13 MR. VON BONE:

14 Q. The LPRK, as you said, was raising awareness in the population.
15 The awareness of what exactly are you speaking about?

16 A. Actually, we were under occupation and lived under great
17 pressure and violence exerted against us by a state that committed
18 evil things against the Albanian population. And we were willing to
19 join forces and work to come to freedom. That was the aim of our
20 activity.

21 Q. This LPRK, of what kind of people did it consist?

22 A. Persons who were willing to join the organisation in order to
23 achieve freedom. Volunteers, young men, and so on.

24 Q. How did that develop, that organisation; could you tell us?

25 A. It is not part of my responsibility how this developed. I was

Witness: Brahim Mehmetaj (Open Session)

Page 2614

Examination by Mr. Von Bone

1 part of a popular council in Prishtine composed of three people, but
2 I was not familiar with the overall organisation of this movement.

3 Q. And did the movement stay all the time together or were there --
4 at some point in time, was there any split in the organisation?

5 A. It was -- it separated sometime in 1993. It divided in two
6 wings and two organisations resulted thereof, LPRK and LK -- National
7 Movement for the Liberation of Kosovo, LKCK.

8 Q. And did, in fact, make it a difference their activities of the
9 LKCK and the LPK?

10 A. I'm not clear about the question. But there was a
11 distinction --

12 PRESIDING JUDGE VELDT-FOGLIA: Wait, wait. Excuse me. Could
13 you rephrase the question because also for me it's not clear.

14 MR. VON BONE:

15 Q. As there was a split of the LKCK into LKCK and LPK, was there
16 actually a difference there their activities?

17 A. To my knowledge, the difference was that, that the LKCK operated
18 outside of Kosovo; whereas the LPRK operated within Kosovo, as -- at
19 least this is what I know.

20 Q. And with the operation of the LPK continuing, in which areas did
21 they mainly look for people to join this organisation?

22 A. I don't know. It's not known to me.

23 Q. At which period in time did -- did you join the LDK?

24 A. I joined the LDK since its very foundation in 1989, 1990.

25 Q. And which positions did you have in that party?

Witness: Brahim Mehmetaj (Open Session)

Page 2615

Examination by Mr. Von Bone

1 A. I was involved in almost all its structures. I was chairman of
2 the branch -- of the youth branch for Prishtine. Then member of the
3 Presidency at the level of branches, up to member of the
4 General Council of the LDK.

5 Q. Okay. And in which year was the BIA unit formed; do you know
6 that?

7 A. The BIA guerilla unit officially was formed on 20 May 1998, and
8 it started its operation after the release from prison of
9 Salih Mustafa. I met him when he was released, and we agreed to
10 start -- that the unit start their operation.

11 Q. And what was the aim of that BIA unit, actually?

12 A. The aim of this guerilla unit or the aim of the KLA members was
13 to fight the enemy and to win freedom, the liberation of the country.
14 That was the main objective.

15 Q. All right. And what was the area of operations of the BIA unit,
16 or units?

17 A. Based on the competencies or powers, BIA didn't have any
18 specific area under its control. It operated or acted, how to say,
19 almost in Prishtine within the city, in the periphery of the city and
20 in the rural areas. It also contributed to other areas, Obiliq,
21 Fushe Kosove, and other areas that I don't remember now, but it
22 contributed wherever it could.

23 Q. And if we look at the BIA unit and its -- the way it was
24 organised in Prishtine, could you tell us how actually that was
25 organised? What do we need to think about, about people who were

Witness: Brahim Mehmetaj (Open Session)

Page 2616

Examination by Mr. Von Bone

1 members of the BIA or where they were located? Could you tell us
2 that.

3 A. Yes. The time when we operated, it was a very risky time. I am
4 talking about Prishtine, which was entirely under the control of the
5 military and paramilitary forces of the Serbs. And it was not easy
6 for us to get organised. We could involve people that we trusted.
7 We started from our own families, our in-laws or friends or people
8 who we knew had a patriotic background, and we started to talk to
9 them, to convince them that we are on the right path, that we have
10 started to form small units in order to protect people, so that not
11 many people knew about our activity and work. And so this is how we
12 operated, forming units with our family members, people we trusted.

13 Q. And where in Prishtine would they operate then? I mean ...

14 A. Depending on the time-period that you are asking me about, but
15 initially we operated in -- I mean, it operated in some
16 neighbourhoods of Prishtine. Then all over Prishtine.

17 Q. I understand. Some neighbourhoods in Prishtine or all over
18 Prishtine. But where would the people be located, in fact?

19 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

20 THE WITNESS: [Interpretation] I'm sorry.

21 THE INTERPRETER: Microphone for Your Honour.

22 THE WITNESS: Yes, there was water.

23 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Usher, do I have to
24 bring in something more substantial?

25 THE WITNESS: [Interpretation] I'm sorry for this minor incident

Witness: Brahim Mehmetaj (Open Session)

Page 2617

Examination by Mr. Von Bone

1 with the water.

2 PRESIDING JUDGE VELDT-FOGLIA: Don't worry. It could happen to
3 everybody.

4 Madam Court Usher, thank you very much for this.

5 THE WITNESS: [Interpretation] Shall I continue with my answer?

6 MR. VON BONE: Yes --

7 PRESIDING JUDGE VELDT-FOGLIA: I will ask Defence Counsel to ask
8 the question again and then we start again.

9 Defence Counsel, you have the floor.

10 MR. VON BONE:

11 Q. So you spoke about the people, that they were in neighbourhoods
12 and all over Prishtine. But where would these people be actually
13 located, and what would they do from there?

14 A. At the start and for a certain time, we carried out the entire
15 activity from our own homes, my home was one of them, or other
16 people's homes that we trusted. That's where we met and talked,
17 discussing what we have to do. But initially, as I said, we used our
18 own homes. Then we used other homes that we deemed to be more
19 reliable to stay in, people's homes that we talked with and then we
20 used their homes.

21 Q. And, in fact, what would be done primarily from those homes?
22 What would primarily be done?

23 A. In those houses, meetings were organised, talks were being held,
24 materials were being printed and prepared, and our friends from the
25 clandestine movement from other parts would come and stay there. So

Witness: Brahim Mehmetaj (Open Session)

Page 2618

Examination by Mr. Von Bone

1 we mainly used those houses for the activities that we carried out at
2 the time.

3 Q. And did the people know in one house, for example, whether
4 people who were operating in another house, would they know each
5 other or would it just be separated?

6 A. We were careful in that respect because of the dangers. Some
7 would know, for example, about a house; some others would not. Some
8 had another safe house to stay in. So it was impossible, actually,
9 to know all the houses that we were staying in and actually to know
10 each other, all of us.

11 Q. Apart from having meetings, would there be other reasons to use
12 a house; and, if so, could you tell us what kind of reasons the
13 houses would be used for?

14 A. No, I don't remember any other reason.

15 Q. Okay. You were a member of the BIA; correct?

16 A. Yes, of course.

17 Q. What was your exact role?

18 A. My role began from the very beginning, from the agreement with
19 Cali. I was his deputy commander or his assistant up to a point when
20 my duty changed.

21 Q. And could you tell us how was BIA organised? Were there any
22 particular units which had a specific task or would everybody do
23 everything? How would that be organised?

24 A. Yes. When it was officially established on 20 May 1998, the
25 headquarters of BIA guerilla unit was established, and four sectors

Witness: Brahim Mehmetaj (Open Session)

Page 2619

Examination by Mr. Von Bone

1 within it were also formed. These sectors were the following: the
2 health sector; the logistics sector; the information sector; and the
3 morale and politics sector.

4 So the BIA mission involved these four sectors and, of course,
5 the main purpose was our struggle against the enemy, which was our
6 main goal.

7 Q. And could you explain what, for example, the health sector of
8 the BIA would do.

9 A. At the circumstances of the time, which were very dire at the
10 time, the occupier got involved in health care as well. It prevented
11 Albanians from being treated in health institutions, so in this
12 respect, we were forced to do something about it. We spoke to
13 Flora Brovina, a doctor, she previously had a humanitarian
14 organisation that contributed in this respect. And in talks with
15 her, we established some health centres where people who needed
16 health care were treated, where wounded from the war were treated,
17 and so forth, up to the time when we could stay still in the town.
18 That's up till then that these centres could operate. So the person
19 in charge of this sector was Dr. Flora Brovina. She had her own
20 staff that helped her with health care. This was the main role.

21 Another role of this sector was to collect medicines and to
22 supply the units of the Llap operational zone with medicine.

23 So Flora Brovina was mainly engaged in these activities.

24 Q. And I understood there was also a sector preoccupied with
25 logistics. Could you elaborate on that, what that would do.

Witness: Brahim Mehmetaj (Open Session)

Page 2620

Examination by Mr. Von Bone

1 A. This sector, too, was involved in humanitarian aspects in the
2 need to survive. It concerned people who were displaced and moved to
3 Prishtine, so we contributed in furnishing them with blankets and
4 whatever they needed. And, of course, we always had in mind the
5 needs of the units and of the soldiers who were fighting for the
6 liberation of their country, so other zones were also helped by
7 Prishtine because it was at the time the centre of supply, up to the
8 moment when the bombing started. So this was the work that this
9 sector did. It helped the population. It helped the brigades with
10 food, with clothing, with blankets, and so on.

11 Q. And where would these foodstuffs and blankets be stocked? Where
12 would you stock them? Where would you keep them?

13 A. With the agreement of political parties, there was a council for
14 emergency aid at the level of the provisional government of the time.
15 I was leading the Prishtine branch of this organisation. This
16 municipal council collected foodstuff, clothing, blankets,
17 mattresses, and so forth, and from there these things were
18 distributed elsewhere.

19 This agreement was not known by those people who formed the
20 municipal council. They actually did not know that I was using it
21 also for these purposes.

22 Q. And was there any other sector in the BIA?

23 A. The other sectors were the information sector and the morale and
24 politics sector.

25 Q. And what would the information sector do?

1 A. At the time, the information sector was involved in collecting
2 information in order to inform the civilians, the KLA structures, the
3 soldiers about the movements of the enemy, and also to inform the
4 international organisms about the violence that was exercised against
5 the population. So inform the organisations dealing with human
6 rights. So this information that was collected was distributed also
7 to the Council for Human Rights.

8 And from military point of view, this sector observed the
9 movements of the enemy. For example, we monitored the barracks of
10 the enemy, how they were equipped, what was their materiel, what was
11 their motorised strength. So this was the role mainly.

12 Q. And from where would those observations be done?

13 A. Inside Prishtine and around Prishtine. But mainly inside
14 Prishtine, wherever they were stationed. That is, the army, the
15 paramilitary forces of the enemy. So we monitored their movement, we
16 would see where they are, at what that time -- at what time, whereto
17 they're heading, and so forth, and then we passed the information to
18 those who had interest to know it.

19 Q. And who were those who had interest to know that?

20 A. Well, for example, as far as I remember now after all this time,
21 I know that once we received a task from Commander Cali to go out and
22 note all the barracks that are in Prishtine. There were recordings,
23 there were drawings, there were descriptions. So this report was
24 asked by the staff of the Llap operational zone.

25 I don't know if this is of any help to you.

Witness: Brahim Mehmetaj (Open Session)

Page 2622

Examination by Mr. Von Bone

1 Q. And lastly, the morale and politics, could you explain a little
2 bit more about that?

3 A. Up to the bombing, this sector within BIA had contacts with its
4 members in order to raise the awareness amongst them that war is the
5 only way out, so we tried to raise the level of morale and to prevent
6 them from falling into the trap of propaganda that was held by the
7 Serbian forces. We wanted them to know that this is a just war, so
8 this was the moving force, and when we went outside in the peripheral
9 area of Prishtine, we continued these activities and, of course, the
10 meetings then were more frequent.

11 So this was the main task, to keep the level of morale up and to
12 prevent the Serb propaganda from causing insecurity amongst our
13 members.

14 Q. Was there any military training done or conducted by BIA?

15 A. To my knowledge, no, there wasn't. We didn't have the capacity
16 and the possibility to organise trainings. There were people who had
17 served in the army of the former Yugoslavia, but I don't know that
18 there was any specific or special training within BIA unit.

19 Q. And were the people of BIA, were they armed?

20 A. Partly. They were partly armed. Because of the nature of the
21 work, most of its members stayed in the city, and those who were in
22 the city could, for example, have a revolver or a pistol just for
23 their personal security. And those who moved outside from the town,
24 they had weapons. I personally was armed.

25 Q. And who supplied your arm, for example? How did you get your

Witness: Brahim Mehmetaj (Open Session)

Page 2623

Examination by Mr. Von Bone

1 arm?

2 A. Since this is a direct question, I'm saying that I bought my
3 weapon myself. And for others, we bought the weapons. It was very
4 difficult to bring the weapons from Albania because of the distance
5 and the insecurity. There were cases when we received weapons from
6 there, but these were mainly weapons that people had in their homes.
7 Those who didn't want to fight, they came and handed in their
8 weapons, gave them to us. Then there was a supply line from Serbia,
9 and through this line, people would buy their weapons. If I'm not
10 mistaken, it was from Novi Pazar, this supply line.

11 Q. But if would you look at the overall picture of BIA, would this
12 be an armed formation or would it be primarily consisting of
13 civilians who are unarmed?

14 A. This question has an answer. The BIA organisation and the KLA
15 organisation, in general, had a name: Soldier of freedom. Some of
16 them had weapons; some of them didn't. But they were all soldiers of
17 freedom and they all were engaged in freeing the country from the
18 occupier.

19 So BIA, as an organisation of the KLA, had the structure that I
20 mentioned.

21 Q. You said that you -- the BIA operated primarily -- or in many
22 neighbourhoods in Prishtine. And my question is: Did that change
23 after the NATO bombing of Prishtine?

24 A. In fact, it did. With the NATO bombing, the situation from the
25 organisational point of view changed. A situation was created since

Witness: Brahim Mehmetaj (Open Session)

Page 2624

Examination by Mr. Von Bone

1 some of the units we had in Prishtine had to move from Prishtine to a
2 safer location. A part remained in Prishtine but not for long
3 because the Serbian forces then began to search the Prishtine
4 neighbourhoods. So some of them had to join the columns of civilians
5 that were forced out of Kosovo in the direction of Macedonia.

6 So the situation changed due to those circumstances, due to the
7 bombing.

8 Q. Did you live with your family yourself in Prishtine at the time
9 of the bombing?

10 A. I would meet my family members. I did not live with them, but I
11 would meet them. They stayed in Prishtine and in the peripheral part
12 of Prishtine. They didn't go out. But every now and then, I would
13 meet them.

14 Q. And where would you live yourself at the time?

15 A. In the hills. In the mountains. Wherever I could.

16 Q. And that was at the time of the -- of the bombing?

17 A. After the bombing, yes.

18 Q. Right. Could you describe -- was there a particular point that
19 you --

20 Was there a particular point in time that you left Prishtine?

21 A. I mainly moved within Prishtine itself and in the peripheral
22 part of Prishtine. The main point where I would go was Butovc and
23 Sofali. Sofali is a neighbourhood within Prishtine whereas Butovc is
24 a sort of a hamlet, a small village near Prishtine. So these were
25 the main two locations where I would go. If there is a need to

Witness: Brahim Mehmetaj (Open Session)

Page 2625

Examination by Mr. Von Bone

1 explain why I went there, I would do so.

2 Q. We'll get to that later.

3 Just in the period of time between 24 March and the end of
4 March, could you describe that period of time, the last week of
5 March in Prishtine? What actually was happening?

6 A. When the bombing started on 24 March, I was in Prishtine in my
7 own neighbourhood.

8 It was a mixture of emotions, because the civilians received
9 well the beginning of the bombing but at the same time, they feared
10 of what was coming, what would happen.

11 So at the time - I remember it very well - I and some members of
12 a unit that were nearby, we tried to stay close to the population and
13 help them in case of a massacre or violence, which was expected from
14 the Serbs. So we stayed in the neighbourhood up until 31 March. I'm
15 not quite exact with the dates, this is an approximate date. So from
16 this date on, the Serbian forces started their activity, not
17 massacres, but they would go into neighbourhoods, drive the people
18 out. So we left the neighbourhood and took the population to Butovc.
19 Some civilians went to a nearby village --

20 THE INTERPRETER: The interpreter didn't hear the name of the
21 village.

22 THE WITNESS: [Interpretation] So that was a safer area because
23 it is a mountainous area and there are some small villages. I myself
24 then returned to Prishtine on purpose.

25 If you want me to continue, I will.

Witness: Brahim Mehmetaj (Open Session)

Page 2626

Examination by Mr. Von Bone

1 MR. VON BONE:

2 Q. I'll first did you some other questions.

3 Because you say that people had to leave their homes. Why was
4 that? And who did that?

5 A. It was a very bad time. It was also the Muslim feast Bajram at
6 the time, and the Serb forces, police, military, paramilitary forces,
7 started to move towards the houses. There was a great number of
8 troops. And people were panicked so they started to leave. They --
9 the Serb forces set fire to the houses and loot them. They wounded
10 one or two citizens. Other than that, there were no casualties.

11 So because of the fear of repression and violence, people left.
12 But it was also the idea, underlining idea of the occupiers, to evict
13 and displace people from their homes.

14 Q. And was it becoming more difficult in that period of time to
15 move in and out of Prishtine?

16 A. Yes, it was very difficult. Because the number of inhabitants
17 was small in Prishtine and the enemy could follow, could survey every
18 movement. So our work became more difficult to enter and leave
19 Prishtine. But we still continued to go inside Prishtine and leave
20 it.

21 Q. And when you -- you spoke about the end of March. You were not
22 sure about the date, the 31st or another date. What -- what happened
23 on that particular day?

24 A. As I said, on that day, the Serb forces started to displace
25 people from their homes and people, in a panic, started to leave and

Witness: Brahim Mehmetaj (Open Session)

Page 2627

Examination by Mr. Von Bone

1 head towards higher terrain, the mountains or hills. And they moved
2 to some houses where some of our forces also stayed.

3 In Mramor, too, there were many civilians who lived there until
4 a certain period of time.

5 When I saw that all the citizens were found accommodations or
6 shelter there, I returned to Prishtine with another soldier. I
7 went -- I remember I went back to my home. I said earlier that my
8 home was used for the organisation of the BIA unit, and I still had
9 the computer there. So I returned to my home to get the hard disk
10 fearing that it might fall in the hands of the police, so it might
11 endanger all our families that were in Prishtine at that time.

12 Even though I thought it might be burned, my home, it was not
13 burned. And I was surprised that they -- the forces hadn't even
14 entered it. So I went inside, got the hard disk out of the computer,
15 and then went to another house which was used by the communal council
16 for emergency aid. It, too, was intact. It is in a higher, elevated
17 point. From there you can see what is going on around it. When I
18 entered that house, I saw that there were supplies which were of
19 interest to us. The Serbs hadn't touched them either. I stayed
20 there for a while and then I went to sleep at another house. In the
21 morning, I came back to see what food supplies might be used by us.
22 I got them and went to Butovc. I informed the supply units that in
23 place there is flour, there is sugar, oil, and blankets, and that we
24 should try to organise to get these supplies.

25 That was what I did.

Witness: Brahim Mehmetaj (Open Session)

Page 2628

Examination by Mr. Von Bone

1 Q. So at that time you were staying in Butovc and going to
2 Prishtine; is that correct? Do I understand that well? Just what
3 you said. You spoke about computer and other materials that you
4 retrieved. But you were at the time staying in Butovc; is that
5 correct?

6 A. When the air-strikes started, it was impossible to stay
7 permanently in Prishtine. So I personally, along with some others,
8 stayed in Butovc, because it was situated at the periphery area and
9 not controlled by the enemy forces, but at the same time it was near
10 Prishtine so that's why I stayed there. But on 31 March, when the
11 citizens were displaced from that area nearby, I returned to
12 Prishtine and, as I explained earlier, I got the hard disk. And then
13 I continued to stay in Butovc for a while. And then I went back to
14 Prishtine, and so on.

15 Q. Yes. Was it -- when you returned to Butovc, was it possible to
16 establish this kind of supply line of the stock material that you had
17 uncovered? Was there, for example, next to you, also maybe other
18 people who would try to retrieve this material?

19 A. It was not only that place that I mentioned. There was also in
20 that neighbourhood an organisation called Mother Teresa which was
21 also involved in humanitarian aid. So both of us, we got all the
22 supplies, and through Butovc, Matican, Butovc, we took these supplies
23 to Mramor and distributed the aid to the population. Because we
24 didn't need them for ourselves, so we wanted to help the people who
25 were there as refugees.

Witness: Brahim Mehmetaj (Open Session)

Page 2629

Examination by Mr. Von Bone

1 Q. And going into Prishtine to retrieve these materials, how would
2 you actually go? Would you go on foot or with a vehicle or with a
3 bus or what?

4 A. The members of the units involved in this thing went on foot to
5 Prishtine. They were to their own neighbourhoods and go their own
6 vehicles. One got his tractor, another his car, and so they filled
7 them with the food supplies and went to Butovc. Fortunately, they
8 didn't run into any Serb forces and so they brought these supplies.

9 Q. And to retrieve, for example, your computer materials that you
10 said, did you do that in the day or in the evening or -- was it easy
11 to circulate?

12 A. When I went to Prishtine that day, it was very dangerous because
13 people had moved out and, in real terms, I didn't know where the Serb
14 forces were stationed. So I went there together with a body-guard
15 and we passed, you know, fences and walls and arrived at the house
16 where, in the meantime, it was dark.

17 Q. I understand. For how long did you stay in Butovc about?

18 A. I stayed there for a long time. I don't know what period of
19 time you are asking me about. I am not clear about what period you
20 are asking. Because I stayed there most of the time.

21 Q. And which period are you talking about that you were staying
22 actually in Butovc? From what moment on did you stay in Butovc? Not
23 permanently, I say, but, I mean, in order to go back and forth to
24 Prishtine.

25 A. My stay in Butovc was longer after the offensive, because we

Witness: Brahim Mehmetaj (Open Session)

Page 2630

Examination by Mr. Von Bone

1 were obliged that -- we had a base in Sofali. After the air-strikes,
2 it was impossible for us to remain there, so we moved to another
3 place, to Butovc, and there I stayed all the time and sometimes we
4 went to Prishtine. It was a place where we stayed there. Otherwise,
5 it was impossible for us to act -- to operate in Sofali.

6 Q. And did you meet actually Cali in that period of time that you
7 are speaking about?

8 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel.

9 MR. VON BONE: Yes.

10 PRESIDING JUDGE VELDT-FOGLIA: Sorry. You asked a question
11 about the period that the witness was in Butovc.

12 MR. VON BONE: Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: I didn't hear an answer. And I
14 would like to -- to ask you to elicit that answer from him.

15 MR. VON BONE: Yes.

16 PRESIDING JUDGE VELDT-FOGLIA: And I don't want to wait until
17 it's our turn.

18 MR. VON BONE: Yes.

19 Q. So taking the point from the air-strikes, which is 24 March, you
20 said, and you said 30 or 31 March, it's -- people are -- 31 March,
21 people are --

22 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

23 [Trial Panel confers]

24 Defence Counsel, I will ask a question.

25 You were standing.

Witness: Brahim Mehmetaj (Open Session)

Page 2631

Examination by Mr. Von Bone

1 MS. D'ASCOLI: Yes, Your Honours. It was just to say that the
2 witness seemed to have said twice already that he was, in fact, in
3 Butovc after the NATO bombing. And just a caution that it is
4 important to avoid leading questions as to the specific time in this
5 regard. That's the only thing --

6 PRESIDING JUDGE VELDT-FOGLIA: I wanted to know until when.

7 MR. VON BONE: Yes.

8 PRESIDING JUDGE VELDT-FOGLIA: So I'm going to ask the -- till
9 when were you in Butovc? That is what I want to hear.

10 THE WITNESS: [Interpretation] Your Honour, I stayed in Butovc
11 until the end of the war or the beginning of the NATO -- the coming
12 of the NATO troops in Kosovo, 12 June 1999. But now and again, I --
13 frequently I moved out of it. I went to Prishtine. But there was
14 where I was stationed most of the time.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

16 Defence Counsel, you have the floor.

17 MR. VON BONE:

18 Q. I want to speak the period after 31 March. So I assume you were
19 at that time in Butovc.

20 Speaking about the first week of April 1999, with who were you
21 staying there?

22 A. As I said earlier, when I returned to Butovc from Prishtine, I
23 think it must have been the two, three first days of April, and I
24 went to the place where we used to stay with BIA guerilla soldiers,
25 where I met the people there. I talked about the idea of retrieving

Witness: Brahim Mehmetaj (Open Session)

Page 2632

Examination by Mr. Von Bone

1 that -- supplies from Prishtine. We talked with Cali about other
2 things that we had to do then.

3 Q. Mm-hm. And what did you talk about with Cali that had to be
4 done at that time?

5 A. I remember very well that because of the grave situation, the
6 deportation of the citizens and the violence some were subjected to,
7 the situation in Prishtine was very grave. A large number of our
8 members had their families in Prishtine. They didn't know their
9 whereabouts. And Cali asked me to work to keep up the morale of the
10 soldiers and to be able to obtain as such information as possible
11 regarding their families and the rest of the population. At the same
12 time, also to follow the movements of the enemy threatening us,
13 because our base was very close to some antennas or the communication
14 centre of the Serb army. We were very close to that. So we
15 discussed to take care, to survey the situation there so that they
16 were not attacked and found unprepared.

17 That was more or less.

18 Q. And did you -- would you sleep in Butovc?

19 A. Yes, I slept there. My family also stayed there but in another
20 house. So sometimes I went and visited my family. But mainly I
21 slept in Butovc, in that place where we used to stay as guerilla.

22 Q. And this meeting that you are speaking about with Cali, to know
23 what to do or what to do, could you approximately put that in the
24 time-frame after 31 March or any other reference point that you have?
25 Can you recall this?

Witness: Brahim Mehmetaj (Open Session)

Page 2633

Examination by Mr. Von Bone

1 A. To my recollection, on 31 March I returned to Prishtine where I
2 stayed two or three days, so it may have been 4, 5, or 7 of
3 April where I stayed in -- in Butovc where I often talked to Cali,
4 not only with Cali but with other people too. In Butovc and in some
5 other points in the periphery of Prishtine which were places where
6 many civilians moved to. And I remember some people came to us and
7 asked us for help, where to go, where to find food, and things like
8 that, because we were the only hope for them at the time, that is,
9 for the people living in Kosovo.

10 Q. And would Cali also sleep in Butovc where you were staying?

11 A. Yes. Yes, he did sleep in Butovc. And I remember maybe two
12 nights we slept there together.

13 Q. And to your recollection, do you recall how often you have seen
14 them -- him in that period of time?

15 A. Whom? Sorry, I didn't understand the question.

16 Q. To your recollection, how often have you seen him in that period
17 of time?

18 A. I can't remember the number, but I saw him frequently. I can't
19 give you an exact figure.

20 Q. Could you tell -- the place where you stayed in Butovc, what
21 kind of place was that?

22 A. There were two neighbourhoods there, and the entire organisation
23 regarding accommodation, sheltering, it was based on family. That
24 is, one family lived in one place where there were four, five houses
25 belonging to the same family. I remember we lived in the Sopi

Witness: Brahim Mehmetaj (Open Session)

Page 2634

Examination by Mr. Von Bone

1 family; they had three houses. Or Recica [phoen] family; they had
2 about four houses, I think. So these were mainly the two families
3 with whom we stayed at a distance of maybe 150, 200 metres from each
4 other.

5 Q. Was Butovc a place where many BIA members would be together?

6 A. Butovc was a place very near Prishtine. And there were soldiers
7 stationed there, a certain number, I can't say how many. But they
8 didn't stay there permanently. They moved. As the case was with the
9 supplies, you know. They went to Prishtine, got what they wanted,
10 and they came back.

11 Q. In that period of time that you were in Butovc, was your entire
12 family staying there or were they also elsewhere staying?

13 A. When they were deported from Prishtine, my entire family, I had
14 five children, I had my father, my spouse, they stayed in Butovc.
15 But there was another family that stayed in my home, a nephew of
16 mine, a hero to the nation. They too stayed there.

17 There were about 40.000 people that were staying in Butovc and
18 Mramor that had left Prishtine.

19 Q. And these people, where would they find a place to stay? These
20 huge, large number of people that you are saying, where would they
21 find a place to stay?

22 A. The solidarity and hospitality was very high then. It is part
23 of our tradition, the more so during the war. So all the houses of
24 Albanians living in that area were open to people coming there. Even
25 they took in the newcomers and lived together, fed them, and so on,

Witness: Brahim Mehmetaj (Open Session)

Page 2635

Examination by Mr. Von Bone

1 took care of them. All the houses, without any distinction, did
2 that.

3 Q. Your movement was primarily Butovc and Prishtine, or did you
4 have movements elsewhere in that period of time? And I'm speaking
5 directly after 31 March 1999.

6 A. I don't remember very well. I may have gone to some other
7 villages. I know I went to Mramor one time and met my father. They
8 were refugees -- he was there with some other refugees. Then I went
9 to other places. We had other bases in Zllash, Sharban. I went
10 there too.

11 Q. How many times have you been to Zllash?

12 A. To my recollection, and I believe it's correct, two times.

13 Q. And for what reason would you go to Zllash?

14 A. The first time that I went, I went with Flora Brovina to take
15 some supplies, like -- some supplies and materials, like mattresses,
16 blankets and foodstuffs, and we took them there to supply to the
17 population.

18 The second time, I went to met Isa Kastrati, a friend of mine
19 who is now a hero, martyr to the nation. He used to be a political
20 prisoner. At least this is what I remember.

21 Q. And was it -- could you describe how you would be able to reach
22 Zllash?

23 A. The first time I went following the road from
24 Prishtine-Grashtice, not a very good condition road, but we managed
25 to go to Zllash. There is -- there was a part of asphalt road.

Witness: Brahim Mehmetaj (Open Session)

Page 2636

Examination by Mr. Von Bone

1 The second time I went, I walked for a time -- for part of the
2 road and then I think I met someone with a tractor and I went with
3 the tractor.

4 Q. And the first time that you were in Zllash, for how long were
5 you actually in Zllash?

6 A. For as long as we left the materials there, the supplies. I
7 don't think I stayed long. I returned again to Prishtine with
8 Flora Brovina.

9 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, we have to --
10 one minute, please.

11 MR. VON BONE: Yes.

12 [Trial Panel confers]

13 PRESIDING JUDGE VELDT-FOGLIA: Please continue.

14 MR. VON BONE: I'm looking at the clock. It's 11.00 maybe
15 so ...

16 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] It's
17 11.00, but I didn't want to interrupt you --

18 MR. VON BONE: Okay, yeah.

19 PRESIDING JUDGE VELDT-FOGLIA: -- in the middle of this --

20 MR. VON BONE: Okay. Then I'll --

21 PRESIDING JUDGE VELDT-FOGLIA: -- so I -- if you find --

22 MR. VON BONE: Yes.

23 PRESIDING JUDGE VELDT-FOGLIA: -- a moment in which you think
24 you can -- but as soon as possible, because we have to go into the
25 break.

Witness: Brahim Mehmetaj (Open Session)

Page 2637

Examination by Mr. Von Bone

1 MR. VON BONE: Sure.

2 Q. You said for as long as it took to bring the supplies there in
3 Zllash and then you went back with Flora Brovina. I understand that.
4 Correct?

5 A. Yes. For security reasons, we didn't stay longer because night
6 was falling, so we returned. We dropped what we had to and then we
7 returned.

8 Q. At the time, at that time that you were there with
9 Flora Brovina, was Salih Mustafa there too?

10 A. No. The supplies were meant for the Brigade 153 staff. And
11 Rrahman Dini came and met us, along with Fatmir Sopi. These were the
12 two persons that we handed over this aid.

13 Q. And do you recall where you handed over that material?

14 A. If I'm not mistaken, there was a two-storey house. We passed
15 the house of Fatmir Sopi. This other house was above some -- a
16 little bit further.

17 Q. And the second time --

18 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel.

19 MR. VON BONE: Yes.

20 PRESIDING JUDGE VELDT-FOGLIA: Then I would say that this is a
21 natural moment --

22 MR. VON BONE: Okay. Okay.

23 PRESIDING JUDGE VELDT-FOGLIA: -- to adjourn.

24 MR. VON BONE: We'll leave it with that.

25 PRESIDING JUDGE VELDT-FOGLIA: Very well. We will have a little

Witness: Brahim Mehmetaj (Open Session)

Page 2638

Examination by Mr. Von Bone

1 bit longer break than usual, so I propose to have -- I want to have a
2 break till a quarter to 12.00. And then in order to keep up with the
3 schedule of the day, we will have 15 minutes shorter break for the
4 lunch.

5 So we will adjourn now until quarter to 12.00.

6 [The witness stands down]

7 --- Recess taken at 11.03 a.m.

8 --- On resuming at 11.46 a.m.

9 PRESIDING JUDGE VELDT-FOGLIA: Very well. I see that we are in
10 the same composition, so for the record, we can note that.

11 Madam Court Usher, could you usher the witness in, please.

12 [The witness takes the stand]

13 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Mehmetaj.

14 THE WITNESS: [Interpretation] Thank you.

15 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, you have the
16 floor to continue with the questioning.

17 MR. VON BONE: Thank you very much, Your Honour.

18 Q. Careful of the water.

19 Mr. Witness, we ended the interview before with the first time
20 you went to Zllash. And do you recall when you went the second time
21 to Zllash?

22 A. I'm not quite certain about the time, but I remember I went
23 there.

24 Q. The time, as in the period, I mean. Was that in a particular
25 period that you went there? Let's say, from the 31st onward --

Witness: Brahim Mehmetaj (Open Session)

Page 2639

Examination by Mr. Von Bone

1 March onward?

2 MS. D'ASCOLI: Sorry, Your Honours.

3 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

4 MS. D'ASCOLI: Yes, again -- microphone is on.

5 Just no leading questions should be put. In relation to the
6 period, the witness already said that he doesn't remember
7 specifically.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Prosecutor.

9 Defence Counsel, you can ask an open question without any
10 further references.

11 MR. VON BONE: No, just the --

12 PRESIDING JUDGE VELDT-FOGLIA: And you can re-ask the question
13 but --

14 MR. VON BONE: [Overlapping speakers] ...

15 PRESIDING JUDGE VELDT-FOGLIA: -- not giving dates.

16 MR. VON BONE: I mean, I'm trying to -- not time as in what time
17 is it but the period. That is the question.

18 PRESIDING JUDGE VELDT-FOGLIA: That's clear.

19 MR. VON BONE: Yes.

20 PRESIDING JUDGE VELDT-FOGLIA: And if not, you can always
21 confront him with prior statements --

22 MR. VON BONE: Yes.

23 PRESIDING JUDGE VELDT-FOGLIA: -- if you want to see if he then
24 recalls.

25 MR. VON BONE:

Witness: Brahim Mehmetaj (Open Session)

Page 2640

Examination by Mr. Von Bone

1 Q. But do you recall which period that was, that you went the
2 second time to Zllash?

3 A. I do not recall it exactly in terms of dates. And, of course, I
4 didn't know that I had to remember it. But it was sometime in
5 March/April.

6 Q. And at the time, I believe you said that you met Isa Kastrati
7 there; is that correct?

8 A. Yes, correct. That was the purpose of my journey there.

9 Q. Right. And who is Isa Kastrati?

10 A. Isa Kastrati, now a national martyr, he was a political
11 prisoner. I met him when I was in LDK. He was chairman of an LDK
12 branch, in general. I was a chairman of the youth branch. So we
13 worked together, we carried out activities together. I organised him
14 into the KLA structures. He, at the same time, led that municipal
15 council for emergency aid up until the moment that he joined the KLA
16 and took up a duty there.

17 So after him, I followed with a humanitarian organisation. So I
18 know Isa Kastrati very well and we cooperated on various activities.
19 So we were very close, so I get emotional whenever I speak about him.

20 Q. Did he die?

21 A. He passed away in a battle with the enemy forces. He was a
22 freedom fighter. He was in a battle in Bullaj at Marec where he was
23 killed.

24 Q. And do you recall when that was or ...

25 A. I wasn't there, but I know when it happened. It happened on

Witness: Brahim Mehmetaj (Open Session)

Page 2641

Examination by Mr. Von Bone

1 21 April 1999.

2 Q. Is it correct that there is a statue for him in Prishtine?

3 A. There are several. There are streets named after him. There
4 are monuments and also institutions named after him.

5 Q. Did he have actually any role in BIA?

6 A. Yes, he did have a role. He was, in the beginning, part of our
7 structures, part of a guerilla unit, and then he was appointed with
8 duty in Llap operational duty [as interpreted]. And then after that,
9 he joined the 151 Brigade, and when he finished that mission he came
10 to us, and for a certain time he was a deputy commander or assistant
11 commander until he died in battle.

12 Q. Mm-hm, I see. And so what was your purpose, actually, to go to
13 Zllash to meet him, to go to Isa?

14 A. The feeling to meet up with a friend is a great feeling, so I
15 wanted to see him, to talk to him, to see how he was, health-wise.
16 He wasn't very old, but he had gone through a lot. He was in prison
17 for a long time. He never stopped his national activity. After he
18 was released from prison, he continued his activities. He joined the
19 war. So I simply wanted to meet him. As I said, I was very close to
20 him.

21 Q. And where did you actually meet him; do you recall that? You
22 were speaking about Zllash, but I mean where -- where would that be?

23 A. Yes. I met with Isa Kastrati at the safe house that BIA
24 guerilla unit had in Zllash, the house where he was staying in
25 Zllash.

Witness: Brahim Mehmetaj (Open Session)

Page 2642

Examination by Mr. Von Bone

1 Q. You say a safe house. For what would you call that a safe
2 house?

3 A. That was its character, because Zllash is several kilometres
4 away from Prishtine at a high altitude and at the time was a free
5 zone. In other words, there were no military forces or paramilitary
6 forces, enemy forces in that location. So because of security,
7 because of the idea that there the soldiers can have a rest safely,
8 soldiers would go there after their tasks in other locations. So
9 this was why it was like a safe house or a safe place to stay in.

10 Q. And the safe house, do you recall how that looked like?

11 A. Yes, I do recall. Yes. There was a yard with a number of
12 houses around it.

13 Q. Okay. And was -- were there any other people there?

14 A. When I went there, yes, there were other people there. There
15 were.

16 Q. What kind of people were there?

17 A. I saw soldiers there, soldiers in uniforms. Civilians,
18 civilians who had fled Prishtine. For example, I know that two
19 families were staying there at the time. There were also local
20 villagers who came there while I was there.

21 Q. And you say that there were soldiers. Which -- which soldiers?
22 From -- from who were these soldiers?

23 A. In general, KLA soldiers. From organisational point of view,
24 there were soldiers from 153rd Brigade and also soldiers from Karadak
25 operational zone who were staying there.

Witness: Brahim Mehmetaj (Open Session)

Page 2643

Examination by Mr. Von Bone

1 Q. "Staying there," you mean in that yard what you were describing?

2 A. I met them there.

3 Q. I see. And how many civilians were staying there, can you give
4 an approximate figure, while you were there?

5 A. In a number, I might give you a wrong figure. But there were
6 two families, as I said, each four, five members, that had fled from
7 Prishtine. There was a family of Hasani. He had an incident in
8 Prishtine and had to flee, so they were staying there. And the other
9 family belonged to the household of that place. One or two villagers
10 came to bring food. I remember they brought something to eat. They
11 were local villagers.

12 That's it, as far as I know.

13 Q. And the safe house, as you call it, was the BIA people the only
14 occupants of this safe house or were there also other people who
15 could use this, or used it?

16 A. The BIA people, as far as I understood, and I know that's the
17 way it was, used only two rooms from the houses, from the complex of
18 houses that were there. It was a complex of houses belonging to a
19 family consisting of a larger family -- number of family members.
20 But, there, there were also other people staying, not at the time
21 when I was there, but this is what I know. So these were people that
22 fled other areas and that stayed there for one or two days and then
23 moved to somewhere else. Then soldiers from other zones would come
24 there and stay there for one or two or three days and then move to
25 another location.

Witness: Brahim Mehmetaj (Open Session)

Page 2644

Examination by Mr. Von Bone

1 So, in other words, this was like an open area where everybody
2 could stay to the extent they needed.

3 Q. And who controlled this? Who controlled these houses?

4 A. I would say God, in a natural aspect. And, otherwise, there
5 wasn't any particular control there by people.

6 Q. Not any control by any people. So BIA did not control this
7 group of houses?

8 PRESIDING JUDGE VELDT-FOGLIA: I see Madam Prosecutor standing
9 again.

10 MS. D'ASCOLI: Yes. Defence Counsel is basically suggesting
11 answers.

12 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] I could
13 not hear you. Excuse me.

14 MS. D'ASCOLI: Can the question be formulated in a different
15 way. There's no foundation for this question. The Defence Counsel
16 is basically suggesting answers.

17 PRESIDING JUDGE VELDT-FOGLIA: I agree with Madam Prosecutor,
18 so ...

19 MR. VON BONE:

20 Q. Was there any -- any brigade or any unit or anything that was
21 controlling this group of houses, to your knowledge?

22 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, could you make
23 more explicit what you mean with "controlling"? For me, it is not
24 clear. And I think that the answer of the witness was that, in a
25 natural way, God was controlling --

Witness: Brahim Mehmetaj (Open Session)

Page 2645

Examination by Mr. Von Bone

1 MR. VON BONE: Yeah, it is a --

2 PRESIDING JUDGE VELDT-FOGLIA: Because it is kind of unspecific.

3 MR. VON BONE:

4 Q. Did BIA have anything -- did BIA have any authority over this
5 group of buildings?

6 MS. D'ASCOLI: Your Honours.

7 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, you have the
8 floor.

9 MS. D'ASCOLI: Again, the witness has previously answered the
10 question, and there's no foundation for the question.

11 MR. VON BONE: I don't think so.

12 PRESIDING JUDGE VELDT-FOGLIA: I think that -- but if you want
13 to consult, please consult before I give my decision.

14 MR. WHITING: Your Honour, actually, if I may add, maybe we
15 could excuse the witness to have a brief discussion about it because
16 I think we'd have to get into a little bit of detail about this.

17 PRESIDING JUDGE VELDT-FOGLIA: That's very good.

18 Madam Court Usher, could you escort the witness out, please.

19 Mr. Witness, you will be ushered out because we have to discuss
20 something that is regarding your testimony, and in order not to
21 influence you, we ask you to stay outside for a while.

22 THE WITNESS: Okay.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much.

24 [The witness stands down]

25 PRESIDING JUDGE VELDT-FOGLIA: Okay.

1 MR. WHITING: Your Honour, if I may. I think the difficulty
2 here is that there is no -- no foundation has been laid for these
3 questions, so we have no information about whether the witness has
4 any knowledge about BIA's control of this compound, about who was
5 there.

6 The testimony so far has been that he was there on two
7 occasions. There's no time-frame has been set for those occasions.
8 We don't know how long he was there. We don't know the basis of his
9 knowledge. And now counsel is asking him questions about control,
10 about who was there, about what they did there. And there's no
11 foundation. There's no -- we don't know the basis of knowledge,
12 whether he -- whether this witness has any way of knowing the answers
13 to these questions or whether he is just kind of speculating.

14 He already indicated in his answer that he was providing
15 information that he heard about the situation when he was not there.
16 So I think the way -- if I may just suggest the way to proceed here
17 would to be lay a proper foundation to find out when he was there,
18 what is the basis of his information before asking these questions,
19 because I'm not sure he has a basis to know this information.

20 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

21 MR. VON BONE: Yes, I disagree, Your Honour.

22 First, the foundation is that apparently the BIA is using a safe
23 house or a safe room in that complex. That is what the witness said.
24 That is where he is relating it to.

25 The period has also been indicated. Because unquestionably, if

1 you meet Isa Kastrati, it must have been before the day that you die
2 -- that he died, Isa Kastrati. It cannot be any other date for that.

3 So if there is a safe house or a safe room, whatever the status
4 of that is, we want to know who has the authority over that
5 particular room or house. Simple as that.

6 So the foundation is there. The period is there. And if the
7 witness simply doesn't know, then he will say, "I don't know."

8 MR. WHITING: Your Honour, if I may.

9 PRESIDING JUDGE VELDT-FOGLIA: Wait. I was reflecting. I won't
10 forget you, Mr. Deputy Prosecutor.

11 Please, you have the floor.

12 MR. WHITING: Thank you.

13 No, I'm sorry, I don't think that's right. Because the -- first
14 of all, yes, we can infer from the date of the death when -- that it
15 was before then, but he has not asked the witness when he was there
16 precisely, if he remembers. But more importantly, there's no
17 foundation for the questions he is asking in terms of does he know --
18 what's the basis for knowing who controlled the compound, what the
19 civilians were doing there, how long they were there, where the
20 soldiers were from.

21 The way he testified, the way this witness has testified, we
22 don't know how long he was there. Was he there for five minutes or
23 was he there -- it sounds like he was there for not even overnight.

24 So before asking who controlled the compound you have to
25 establish that he's in a position to know that information.

1 Otherwise, the testimony is worthless.

2 PRESIDING JUDGE VELDT-FOGLIA: In the end -- what we will do
3 with the testimony in the end is up to us and not up to you. But
4 thank you for your observations.

5 Defence Counsel, I will give you the floor once more if you --

6 MR. VON BONE: Same again, Your Honour. I mean, I can repeat.
7 The argument doesn't become stronger when I repeat it. But the time
8 is there. There is a safe house. Apparently, BIA can use the room
9 or the house, so somebody must have been able -- or it was lent or
10 loaned or whatever. So there must be -- or maybe the families that
11 were there. And if he doesn't know, then he will simply say, "I
12 don't know."

13 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I suggest that
14 we proceed as follows. For me -- and it was a question I had
15 reserved to put when the Panel had its turn, was, as was pointed out
16 by the Specialist Prosecutor's Office, that when exactly he was there
17 with regard to this apparent second time, which in a prior statement
18 there is another time-frame indication. So that is a question I will
19 put later on to the witness. But for now, he has given a testimony
20 that it's apparently before the 23rd. But I would like to you ask
21 him when in -- before the 23rd of April --

22 MR. VON BONE: 21st.

23 PRESIDING JUDGE VELDT-FOGLIA: 21st. Excuse me. 21st of
24 April that was, when he was there. And --

25 MR. VON BONE: Okay.

Witness: Brahim Mehmetaj (Open Session)

Page 2649

Examination by Mr. Von Bone

1 PRESIDING JUDGE VELDT-FOGLIA: And my second point would be if
2 you ask him, you can ask him if he has any knowledge with regard to
3 who was in charge with regard to the safe house. And as to how we
4 should weight it, that is for a later stage. So you can proceed.

5 Madam Court Usher, could you bring the witness in.

6 [The witness takes the stand]

7 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Mehmetaj.

8 THE WITNESS: [Interpretation] Thank you.

9 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, you may proceed.

10 MR. VON BONE:

11 Q. Mr. Witness, you said that you met Isa Kastrati and you said
12 that Isa Kastrati died on 21st of April. Now, taking the day of his
13 death as a reference point, do you recall how long before you met
14 Isa Kastrati in Zllash, how long that was before his death?

15 A. I'm not very sure, but it may have been two weeks before.

16 Q. I see. And do you have any knowledge -- by the way, for how
17 long did that meeting last; do you recall that? The meeting with
18 Isa Kastrati.

19 A. I believe three, four hours. Not only with Isa. I stayed there
20 for three, four hours, and during that time I met other soldiers.

21 Q. Do you recall any of those or -- if you can?

22 A. Yes, I remember. There was one from Karadak operational zone.
23 He also has died. He is a hero. Besnik Maroca [phoen], I think.
24 I'm not very sure about his last name. I stayed with him, and I was
25 very impressed by his enthusiasm to fight. Being a guy from the

Witness: Brahim Mehmetaj (Open Session)

Page 2650

Examination by Mr. Von Bone

1 city, he came to the village disregarding the risks and anything. I
2 remember him also because of his death. It was a very heroic death,
3 very near the place where Isa Kastrati was also killed. Rrahman Dini
4 was also another person, I met him there, whom I knew from before.

5 Q. I see.

6 MR. VON BONE: I would like to ask the CMU to show the
7 photograph with ...

8 [Specialist Counsel confer]

9 MR. VON BONE: It's DSM-00434. I don't see anything.

10 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] you
11 have to put on evidence.

12 MR. VON BONE: Yes. And then, please, if we go -- I think it's
13 the last page, right, 434 until 437. Let me see. Yes, this one.
14 Yeah, 437. Yes. And can we blow this one up. Yes. Maybe a little
15 bit -- thank you very much.

16 Q. Mr. Witness, can you see the photograph?

17 A. Yes.

18 Q. Do you recognise this place?

19 A. Even though it's destroyed, in a way, but this is the place
20 where some soldiers of the BIA unit stayed.

21 Q. I see. And was this also the place where you went the first
22 time to Zllash or was this ...

23 A. The first time I went to the headquarters of Brigade 153.

24 Q. Okay. And where was that located?

25 A. I don't know how to describe it. Above the house of

Witness: Brahim Mehmetaj (Open Session)

Page 2651

Examination by Mr. Von Bone

1 Fatmir Sopi. I know that because it was Fatmir Sopi who met us on
2 the road and took us to the headquarters where the place was.

3 Q. And was this the location where you met Isa Kastrati?

4 A. Yes, yes.

5 PRESIDING JUDGE VELDT-FOGLIA: And, Defence Counsel, it is not
6 for me clear what you meant with "was this." What is "this"? Is
7 "this" the picture or is "this" the house of Fatmir Sopi?

8 MR. VON BONE: Was this the location, the blow-up photo that we
9 are looking at, was that the location where you met Isa Kastrati.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. The prior question was
11 about the house in, apparently, the village of Zllash with regard to
12 Fatmir Sopi.

13 MR. VON BONE: Yes, right. I understand.

14 Q. So, once again, was this the location where you met
15 Isa Kastrati?

16 A. Yes.

17 Q. And was this the location where there was the safe house of
18 the -- of BIA?

19 A. Yes.

20 Q. At the time that you arrived there, did you have to pass through
21 some sort of barrier in order to arrive on that location?

22 A. In what sense? What barrier do you mean?

23 Q. A gate, was there a gate in order to enter this --

24 A. No, there wasn't any gate. I went there as usual. You can see
25 from the photo, you see the road. The gate was there. There wasn't

Witness: Brahim Mehmetaj (Open Session)

Page 2652

Examination by Mr. Von Bone

1 any obstacle to enter that area.

2 Q. I see.

3 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, I have a question for
4 the witness now.

5 You said there wasn't a gate as usual. What do you mean with
6 "as usual"?

7 THE WITNESS: [Interpretation] Your Honour, I mean as usual,
8 because usually living there, you had to build a fence. You
9 understand what I mean? An encirclement. And, of course, there was
10 a door that enabled to you enter that yard or encirclement. When I
11 went there, the doors were open, so I didn't find any obstacle as the
12 lawyer asked me. I meant that the door was open when I went there.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you for clarifying that,
14 Mr. Mehmetaj.

15 Please proceed, Defence Counsel.

16 MR. VON BONE:

17 Q. Was there any armed guard upon entering, when you entered? Did
18 you have to identify yourself or was there anybody who checked you?

19 A. When I went there, when I entered there, there wasn't any guard.
20 And to my recollection, I don't know that there was any guard. If
21 you ask me about any soldier standing -- staying on guard, I didn't
22 see any. Nobody asked me to show any identification or anything.

23 Q. At the time that you met here with Isa Kastrati, was
24 Salih Mustafa there?

25 A. No, he wasn't there.

Witness: Brahim Mehmetaj (Open Session)

Page 2653

Examination by Mr. Von Bone

1 Q. And these were the only two times that you were in Zllash. The
2 time of the war that we're speaking about.

3 A. Yes. Yes, during that period. As far as I remember.

4 Q. Thank you very much.

5 MR. VON BONE: We don't need the photograph anymore.

6 Q. Mr. Witness, did Mr. Mustafa ever order you to have somebody
7 picked up, arrested, bring him to him, or something to that effect?

8 A. Your Honour, I already told you that it was not in his power -
9 that is, of Salih Mustafa - and the structure that we led called BIA
10 to have any mechanism to arrest or to detain someone. So never, in
11 no circumstances, did I -- did I receive such an order, or anyone
12 else, to carry out such an action that you put to me.

13 Q. Did anybody else ever order you to pick up somebody, arrest
14 somebody, or escort somebody anywhere?

15 A. No, never.

16 Q. When you left Isa Kastrati, where did you go?

17 A. I went back to Butovc.

18 Q. Do you know, actually, if -- if the BIA had any work to do in or
19 around Zllash?

20 A. No, it had no work in Zllash or around Zllash. BIA used that
21 location mainly to rest. And soldiers there changed. Some would
22 come and stay for two, three days and leave; and then others would
23 come, stay for a couple of days, and leave. So this was the whole
24 BIA's purpose in that location.

25 Q. Have you ever heard of a person with the name of Dardan?

Witness: Brahim Mehmetaj (Open Session)

Page 2654

Examination by Mr. Von Bone

1 A. Yes, I've heard of persons with the name Dardan. There are many
2 Dardans.

3 Q. Okay. And were any of these Dardans involved in BIA?

4 A. Yes, there was one in BIA.

5 Q. And where did that person -- where was he regarding the
6 operations of BIA?

7 A. Where everybody else was, that is, from BIA soldiers, in
8 Prishtine and around Prishtine. But I don't know exactly what he did
9 and where he stayed usually on a daily basis. But in general terms,
10 he moved, just like any other member of BIA.

11 Q. And do you know anybody with the name of Afrim?

12 A. By the name of Afrim?

13 Q. I don't know it's a name or a nickname or whatever name. Just
14 Afrim.

15 A. When the organisation occurred for the war, most of the people
16 involved used pseudonyms. So it is difficult to know or identify
17 persons only by their pseudonyms or names. But as for Afrim, I don't
18 remember who that exactly was. He could be a member of BIA. But I
19 don't know if you have a photograph or something that you can show
20 me, then I can verify.

21 Q. Okay. Getting back to the location where you met Isa Kastrati,
22 on that location, have you noticed or seen if there was any
23 particular building on that location which was specifically guarded
24 by anybody? A specific building on that location or a specific
25 structure on that location.

Witness: Brahim Mehmetaj (Open Session)

Page 2655

Examination by Mr. Von Bone

1 A. You saw that photograph. There were no specific-purpose
2 buildings there and a building that would be guarded in a military
3 sense. I did not see any such building.

4 Q. And on that location where you met Isa Kastrati, you spoke about
5 some families. And do you know what was -- could you indicate what
6 was the purpose of the buildings there. How did they -- were being
7 used?

8 A. Logically, those civilians fled the areas where it was
9 impossible for them to stay and came to stay there. There, there was
10 space for them and their main purpose was shelter. And this was also
11 the purpose of the BIA soldiers and other soldiers who came there.
12 So that purpose was to take shelter.

13 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I want to ask a
14 question.

15 How did you know that?

16 THE WITNESS: [Interpretation] Your Honour, I know this because
17 of my experience and the circumstances at the time. Shelter was the
18 main goal and purpose of the civilians and also of the soldiers.
19 Those houses were not military barracks. They were civilian houses
20 that were used to provide people with shelter.

21 So I'm speaking from the perspective of the circumstances in
22 existence at the time in Kosovo.

23 PRESIDING JUDGE VELDT-FOGLIA: You saw it? You saw those people
24 living there in those houses?

25 THE WITNESS: [Interpretation] Yes, I saw them. That day I was

Witness: Brahim Mehmetaj (Open Session)

Page 2656

Examination by Mr. Von Bone

1 there, I saw them. But I know them personally. The family of
2 Mehdi Asllani, I know them personally. And he has also recounted his
3 experience, how he went there, and where he stayed, and so forth.

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you for clarifying.

5 MR. VON BONE:

6 Q. Did Isa Kastrati ever tell you, at the time that you met him or
7 at any other occasion before that, for that matter, if there had been
8 people detained on that location where you met him? Did you tell
9 you, is the question.

10 A. No. No, we did not talk about such things. He didn't say
11 anything to me.

12 Q. And did you notice anything of that when you were there?

13 A. I didn't see anything extraordinary. Everything was as I
14 described it earlier. It was an open area with people, soldiers,
15 civilians. I told you that some villagers brought some food. So
16 nothing extraordinary.

17 MR. VON BONE: Just a minute.

18 [Specialist Counsel confer]

19 MR. VON BONE:

20 Q. Mr. Witness, we -- when you were in Butovc, you spoke earlier in
21 your testimony that you went back to Prishtine to retrieve materials
22 there. At the time, I believe that there was at some point that you
23 were working for the Llap operational zone; is that correct?

24 A. The organisation was such: BIA guerilla unit operated within
25 the framework of Llap operational zone, and only to that it reported,

Witness: Brahim Mehmetaj (Open Session)

Page 2657

Examination by Mr. Von Bone

1 and only from that it received tasks.

2 Q. I understand. And what were your tasks when you -- excuse me,
3 let me first ask a question differently.

4 When was that that you were appointed, if I may say, by the Llap
5 operational zone?

6 A. I was appointed in February 1999 in the Llap operational zone.
7 There were some changes in the positions, and I was appointed at the
8 position of the commander or the person in charge of morale and
9 politics at the level of the operational zone. Mr. Murrati was my
10 predecessor. At the time, he was involved in other activities and
11 that's why he withdrew from this post. I was proposed to replace
12 him, and that's how I was appointed.

13 Q. You remained in those --

14 PRESIDING JUDGE VELDT-FOGLIA: Can you ask a question, not an
15 affirmation. Please ask the question.

16 MR. VON BONE: No.

17 Q. February 1999, earlier you spoke about the fact that you were in
18 Butovc staying after the NATO bombing. Was your work or area of
19 operations any different? Did it become any different, whether you
20 were actually doing tasks for BIA or whether you were doing that for
21 the Llap operational zone? Was there a very big difference or was
22 there any distinction, so to speak?

23 A. When I took up -- received the news orally that I was appointed
24 to this position at the Llap operational zone level, of course, we
25 discussed the ideas on how to work, to find collaborators, to improve

Witness: Brahim Mehmetaj (Open Session)

Page 2658

Examination by Mr. Von Bone

1 work. I wasn't physically present at the staff when I was appointed
2 because I couldn't travel there due to the circumstances at the time.
3 So I got to thinking how to extend the network to cover the
4 Brigades 151, 152, and 153, to contact people who were responsible in
5 this sector. I had the structure already from BIA in terms of morale
6 and politics and it was easy for me to continue along these lines at
7 operational zone level.

8 So I was doing two tasks simultaneously. One with BIA and one
9 for the staff where I was not physically present.

10 Q. I understand.

11 MR. VON BONE: I think we're finished our questioning,
12 Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I did not hear
14 you, what you said. Sorry.

15 MR. VON BONE: We have finished our questioning.

16 PRESIDING JUDGE VELDT-FOGLIA: Very well. Thank you.

17 Let me see. I'm going to then make a new plan. I will have a
18 look at the -- at Madam Prosecutor. Would you be able to start right
19 away or we can also have -- that's now a quarter to 1.00. We can
20 have a break, and my proposal would be to have a break of one hour
21 and 15 minutes, because we had a longer break at 11.00. So I will
22 leave it up to you.

23 My original planning was go on until a quarter past 1.00 and
24 then have a break of a one hour and a quarter and then resume at
25 2.30.

1 So if you would prefer to prepare for the cross-examination --
2 please, you have the floor.

3 MS. D'ASCOLI: Yes, thank you, Your Honours. I think it makes
4 sense to start with the cross directly after the lunch break. Thank
5 you.

6 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

7 THE INTERPRETER: Microphone, please.

8 PRESIDING JUDGE VELDT-FOGLIA: We will resume at 2.00.

9 But, Madam Court Usher, could you usher the witness out.

10 Mr. Witness, Mr. Mehmetaj, we will continue at 2.00 with the
11 examination by the Victims' Counsel and by the Specialist
12 Prosecutor's Office.

13 THE WITNESS: [Interpretation] Thank you.

14 [The witness stands down]

15 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, of course, you
16 will start and not the Specialist Prosecutor's Office. But I hope
17 it's agreeable to you, too, that we have the break now. Because I
18 only asked the Specialist Prosecutor's Office.

19 MS. PUES: Your Honours, if I may suggest, it might make sense
20 that I pose any questions that I might have after the
21 cross-examination has been done by the party. I realise that this is
22 slightly different to how we have proceeded so far. However, if and
23 which questions I have to, for example, establish some element of --
24 the truth-finding process where I feel there may be gaps is something
25 that I can best determine after I have heard the Prosecution's

1 cross-examination.

2 If, of course, Your Honours would prefer to stick to the order
3 that we have had so far, fine. Then I would go first. But this is
4 just as a matter of efficiency something that I would propose.

5 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you,
6 Victims' Counsel.

7 Madam Prosecutor, what is your view on that?

8 MS. D'ASCOLI: We are at Your Honours' disposal. We don't have
9 any objections to that.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay.

11 Defence Counsel, would you like to say anything on this?

12 MR. VON BONE: I'd say that we proceed in the regular order as
13 we've always done.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

15 I think that the suggestion of the Victims' Counsel makes sense,
16 and we can always have a second round. And in the second round, I
17 would prefer to go back to the original order so ...

18 Very well. We resume at 2.00.

19 --- Luncheon recess taken at 12.44 p.m.

20 --- On resuming at 2.00 p.m.

21 PRESIDING JUDGE VELDT-FOGLIA: I see that we are in the same
22 composition as this morning, so for the record we can note that.

23 I have two further issues I would like to communicate before we
24 continue.

25 First, that the Panel would like to inform the parties and the

1 Victims' Counsel and the Registry that it is our preference to
2 continue with the schedule of the testimony of three witnesses per
3 week, and such schedule can, of course, be revised on a weekly basis,
4 depending on the progression of the testimonies of the witnesses.
5 And the parties, the Victims' Counsel, and the Registry shall inform
6 us immediately if some circumstances arise that mean that we should
7 change our schedule.

8 And then a second point. Pursuant to paragraph 27 of the
9 Decision on the Conduct of Proceedings, which is filing 170, and
10 paragraph 41 of the decision on the victim's procedural rights during
11 trial, which is filing 152, witnesses called by Defence shall first
12 be cross-examined by the SPO and then examined by Victims' Counsel.

13 And this is in line with the request made by the
14 Victims' Counsel, so in re-direct and rejoinder, we will follow this
15 order.

16 Very well. Then we can continue with the witness.

17 Madam Court Usher, could you usher the witness in, please.

18 MS. D'ASCOLI: Your Honours, while the witness is being brought
19 in, I can just inform the Panel that the documents for
20 cross-examination that we had listed have been now, in fact,
21 disclosed in a Legal Workflow package, and this is package 126.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much.

23 [The witness takes the stand]

24 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Mehmetaj.

25 THE WITNESS: [Interpretation] Thank you.

Witness: Brahim Mehmetaj (Open Session)

Page 2662

Cross-examination by Ms. D'Ascoli

1 PRESIDING JUDGE VELDT-FOGLIA: Before we continue with the
2 cross-examination by the Specialist Prosecutor's Office, one point of
3 scheduling. I'm still awaiting an answer from CMU to see if we can
4 do a session from 2 till 4, or from 2 to 3.30, have a quarter of an
5 hour break, and then do half an hour, because this morning it was
6 half an hour less. But as soon as I am updated, then I will inform
7 everybody. Okay? Very well.

8 Madam Prosecutor, you have the floor.

9 MS. D'ASCOLI: Thank you very much, Your Honours.

10 Cross-examination by Ms. D'Ascoli:

11 Q. Good afternoon, Mr. Mehmetaj. I am the counsel for the
12 Prosecution who will direct your cross-examination this afternoon.

13 Before I start with my questions, let me remind you that we have
14 a limited time. Therefore, I would appreciate if you would focus on
15 my questions and just give me exactly the answer that I need, so be
16 succinct, without expanding or adding on. And if there's any need, I
17 will go into that. Thank you.

18 Mr. Mehmetaj, were you known by the nickname Bimi during the
19 war? And specifically I'm referring to the period March/April 1999.

20 A. Yes. But not only during the period you indicated but ever
21 since I was born. My family, my relatives all called me Bimi.

22 Q. Okay. And were you aware of anyone else in BIA also being
23 nicknamed Bimi?

24 A. No.

25 Q. And were you aware of other soldiers, KLA soldiers, with the

Witness: Brahim Mehmetaj (Open Session)

Page 2663

Cross-examination by Ms. D'Ascoli

1 nickname Bimi?

2 A. There are in other organisations, but not in BIA. In BIA, it
3 was only me.

4 Q. Yes. You also told us that you were not aware of any other KLA
5 soldier in general nicknamed Bimi, and this was during the interview
6 with the Specialist Prosecutor's Office in January 2020. Do you
7 remember that?

8 MS. D'ASCOLI: And I will give the references, Your Honours.

9 A. I believe it's correct. Then and now. Because there were many
10 members in the KLA and there may have been people with the nickname
11 Bimi. But the important thing is that within the BIA unit, there
12 wasn't anyone by this nickname.

13 Q. Okay. Thank you.

14 A. Other than me, that is.

15 MS. D'ASCOLI: And, Your Honours, the references for the portion
16 of the SPO interview where the witness said he was not aware of BIA
17 members or KLA soldiers with the nickname Bimi are 072957-TR-ET.
18 This was Part 4, page 11, lines 19 to 25.

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

20 MS. D'ASCOLI:

21 Q. Mr. Mehmetaj, I understand from your prior statements as well as
22 from your testimony today that you worked together with Salih Mustafa
23 in order to establish KLA units in the Prishtine area. And this you
24 told us today at page 15 at the live transcript. Correct?

25 A. Correct. Yes, correct.

Witness: Brahim Mehmetaj (Open Session)

Page 2664

Cross-examination by Ms. D'Ascoli

1 Q. And your work, in fact, resulted in the setting up of the
2 guerilla unit in Prishtine which was formally established becoming
3 BIA in May 1998; correct? And this is again in today's transcript,
4 page 19.

5 A. Correct. But it was not only because of my work. It was the
6 need to win and to be free that made us join our forces in order to
7 be able to put up resistance against the enemy.

8 Q. Okay. When you -- when you contributed to set up the guerilla
9 unit BIA, who were you taking orders from?

10 A. I already said that when Salih Mustafa was released from prison,
11 I met him and we worked together to establish the unit. But the
12 orders then came from the Llap operational zone, of course. Command.

13 Q. And through whom were you taking, receiving these orders coming
14 from the Llap operational zone?

15 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, sorry to
16 interrupt. I think it would help if you would clarify to the witness
17 that what he said in his prior statement, when he was examined, that
18 he should repeat that here again. So maybe if he is referring, "I
19 already said that," that if he said it today already in the
20 transcript during this morning's session, we don't want him to repeat
21 everything he said back then. But just to remind him of that.

22 MS. D'ASCOLI: Absolutely, Your Honours. Thank you for the
23 reminder.

24 Q. I can actually go back to the prior statement that you gave to
25 the Specialist Prosecutor's Office, Mr. Mehmetaj, and this was --

Witness: Brahim Mehmetaj (Open Session)

Page 2665

Cross-examination by Ms. D'Ascoli

1 maybe there's no need to call it up, I can just read it.

2 This was in Part 1 of the same transcript cited before, page 13,
3 line 3, and I will quote it for the record and ask you to confirm.

4 So you were asked where you were taking directions from, who
5 were you taking orders from to do that. And this again was in
6 setting up the guerilla unit in Prishtine.

7 And your answer was: "Always through Salih Mustafa."

8 Do you remember that?

9 A. I remember that and it is true.

10 Q. Okay. Thank you. And who was Salih Mustafa taking orders from
11 in order to set up the guerilla unit?

12 A. That is the distinction I wanted to make earlier. We were
13 together with Mustafa for a certain period, but then Salih Mustafa
14 got the orders from headquarters of the Llap operational zone.

15 Q. Okay. So Salih Mustafa was receiving orders from the Llap
16 operational zone; correct?

17 A. Yes.

18 Q. And who formally approved BIA? Who formally endorsed the
19 existence of BIA?

20 A. Llap operational zone, of course, the commander of that zone.

21 Q. Okay. So you told us today - page 19 of the live transcript -
22 that you were the first assistant or deputy commander to
23 Salih Mustafa up to a certain point, which later on was clarified was
24 February 1999; is that correct?

25 A. Correct.

Witness: Brahim Mehmetaj (Open Session)

Page 2666

Cross-examination by Ms. D'Ascoli

1 Q. Okay. How was -- can you clarify how your command appointment
2 was made. Who gave you that position? That's what I mean.

3 A. I'm not clear about the question, Your Honour.

4 Q. Of course. I can repeat. Who appointed you as first assistant
5 or deputy commander? Who gave you that position?

6 A. Salih Mustafa.

7 Q. Okay. And so you were receiving orders from him as you told us
8 today. This is page 22 of the live transcript. Is that correct?

9 A. Yes, correct. But not in the concrete -- in the extreme sense,
10 that is, as if there was a strict order at the command. We worked
11 together on a voluntary basis. We cooperated in our actions before
12 we were officially established, which was in May 1999.

13 Q. Okay. But -- let me stop you there. After May 1998, so after
14 the BIA unit was formally established and command appointments were
15 made, you said Salih Mustafa gave you your position, your command
16 appointment, you were receiving orders, tasks from him, which is,
17 again, what you told us today. Page 19 again for the record. Right?

18 A. We coordinated our actions together then.

19 Q. Okay. You received tasks and orders; right?

20 A. Yes, yes.

21 Q. You told us today about the four sectors in which BIA was
22 organised. The reference is, yes, to page 16 and then 19 of today's
23 transcript. So I will not go into that, but I have some additional
24 questions on the information-gathering sector.

25 So I understand this was the sector that was led by

Witness: Brahim Mehmetaj (Open Session)

Page 2667

Cross-examination by Ms. D'Ascoli

1 Salih Mustafa himself, in addition to him being the commander of BIA;
2 is that right?

3 A. Yes, that's right.

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor.

5 MS. D'ASCOLI: Yes.

6 PRESIDING JUDGE VELDT-FOGLIA: I would like to go back to
7 something you said at page 66 now of the transcript, line 3. The
8 witness said: "We coordinated our actions together ..." And then
9 you summarised it as: "You received tasks and orders; right?" And
10 then the witness said: "Yes, yes," but it was kind of doubtful. I
11 would like you to re-ask what he meant with coordinate. In order not
12 to put words in his mouth he might not want to say.

13 MS. D'ASCOLI: Absolutely, Your Honours. I'll do that.

14 Q. Mr. Mehmetaj, let's go back to that, so I'll take actually the
15 quote from today's transcript. This is page 19. You said:

16 "... I know that once we received a task from Commander Cali to
17 go out and note all of the barracks that are in Prishtine. There
18 were recordings ... drawings ... descriptions," et cetera. "So this
19 report was asked by the staff of the Llap operational zone."

20 So do you remember that? And I read from today's transcript.
21 Do you remember saying that?

22 A. Your Honour, do you want me to explain what you asked me about
23 or to give the answer to the Prosecutor?

24 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] Both,
25 Mr. Mehmetaj. And the idea is that what the -- what Madam Prosecutor

Witness: Brahim Mehmetaj (Open Session)

Page 2668

Cross-examination by Ms. D'Ascoli

1 said is a rephrasal of what I wanted to know. So if you could
2 explain. Give an answer -- if you would be so kind to give an answer
3 to the question of Madam Prosecutor, and if I need to give an
4 additional question, then we do that.

5 THE WITNESS: [Interpretation] First of all, the way the KLA
6 functioned then was on a voluntary basis, and we couldn't force
7 anyone to participate in the war. We ourselves were there on a
8 voluntary basis. When I spoke about coordination, I meant that, that
9 there were no absolute orders in the sense of a regular modern army.
10 We were not a modern army. We operated in extraordinary conditions.
11 That's why I said we coordinated our work, our duties, our tasks and
12 obligations. It is true that the report -- the relationship between
13 Salih Mustafa and myself was such that I was his assistant. He
14 received duties, tasks from the Llap operational zones. He conveyed
15 that to us and we carried them out.

16 In answer to the direct question, it is true that Salih Mustafa
17 got the duty from the Llap operational zone commander to observe all
18 the bases in Prishtine and the information he gave to us, and then we
19 implemented that in practice by drafting reports, making sketches,
20 and other things that were required, and then he transmitted them to
21 the command.

22 MS. D'ASCOLI: If it is clear for Your Honours, I think it is, I
23 can move on.

24 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Prosecutor.

25 MS. D'ASCOLI: Thank you.

Witness: Brahim Mehmetaj (Open Session)

Page 2669

Cross-examination by Ms. D'Ascoli

1 Q. Thanks for clarifying that. I was going to go back to the --
2 yes, to the information-gathering sector. You said that this sector
3 was the one led by Salih Mustafa himself; right?

4 A. Right, yes.

5 Q. And you told us in prior statements and also today when
6 summarising from page 19 onwards, the different functions of these
7 sectors. You told us that this function included -- the
8 intelligence-gathering function included the monitoring of the
9 movement of the enemy forces, the recording of their location in and
10 around Prishtine and so on; right?

11 A. Right.

12 Q. I wanted to clarify how it worked within that sector. I think
13 you already gave us an answer but I will clarify it even further.
14 What I wanted to explore was how the information was brought up to
15 the Llap zone command.

16 So what would Salih Mustafa -- the BIA members would collect
17 information; right? What would do you with that?

18 A. Yes, correct.

19 Q. You would report it to Salih Mustafa I understand from today's
20 evidence?

21 A. Yes, that was how it was.

22 Q. And he would report the information up to the Llap zone command;
23 correct?

24 A. Correct.

25 MS. D'ASCOLI: I also have the references to his consistent

Witness: Brahim Mehmetaj (Open Session)

Page 2670

Cross-examination by Ms. D'Ascoli

1 prior statements in the SPO interview. I can give it for the record.

2 This is in Part 1 of the same transcript, page 24, lines 1 to 6.

3 Q. And so again, just to make this clear, so Salih Mustafa took
4 orders from the Llap zone commander; right?

5 A. Yes, correct.

6 Q. He reported the information he gathered through his unit to the
7 Llap zone command; right?

8 A. Yes, yes, correct.

9 Q. A little parenthesis on the composition of the BIA unit. Can
10 you tell us how many soldiers or members BIA consisted of at its
11 highest?

12 A. It depended on the time we operated, but the -- I can't be
13 accurate, but if you are asking me about the -- I mean, the highest
14 number at the best time of our organisation, it might be up to 500.

15 Q. Okay, thank you. And would the commander, would Salih Mustafa
16 also know about these specifics, these numbers, at different points
17 in time?

18 A. I believe yes, he may have known. I think this is a question
19 you have to put to Salih Mustafa.

20 Q. Okay. That's sufficient. Thank you.

21 A. I'm not that knowledgeable about that.

22 Q. That's fine. Thank you.

23 I want to go back to something you said today at the end of your
24 testimony this morning.

25 MS. D'ASCOLI: Your Honours, I'm referring to page 57 of the

Witness: Brahim Mehmetaj (Open Session)

Page 2671

Cross-examination by Ms. D'Ascoli

1 live transcript, lines 5 to 7.

2 Q. When discussing your appointment for person in charge of the
3 morale and politics for the Llap zone, at the Llap zone level, you
4 said that in that role you discussed the ideas on how to work, how to
5 find collaborators, to improve work, et cetera.

6 So [Microphone not activated].

7 THE INTERPRETER: Microphone, please.

8 MS. D'ASCOLI: Yeah, sorry.

9 Q. The issue of collaborators was an important one for the KLA;
10 right?

11 A. I don't understand your question. What kind of collaborators
12 you are asking me about?

13 Q. I will rephrase it.

14 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, I would like --
15 closed questions can -- I have been approving them for now because
16 you were referring to the transcript. But this is specifically one
17 you could reformulate and be a little bit more open.

18 MS. D'ASCOLI: Yes, absolutely, Your Honours. I will do so.

19 Q. So in relation to what you said, that you were discussing how to
20 find collaborators. So my first question is: What did you mean by
21 that?

22 MR. VON BONE: Maybe there seems to be -- Your Honour, excuse
23 me --

24 PRESIDING JUDGE VELDT-FOGLIA: Wait, wait, Defence Counsel.

25 MR. VON BONE: Excuse me.

1 PRESIDING JUDGE VELDT-FOGLIA: If there's something that you're
2 going to say about the testimony that would be better that the
3 witness doesn't hear, then I would prefer that we usher him out for a
4 moment. So if we get now a discussion on the content, then I want
5 him to be ushered out.

6 That's not a problem. It's just a question.

7 MR. VON BONE: Yeah, I'm trying to --

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. But then I will ask the
9 witness to be ushered out.

10 Mr. Witness, I will ask Madam Court Officer to usher you out,
11 just for a few minutes, yeah, and we will usher you in again.

12 [The witness stands down]

13 [Specialist Counsel confer]

14 MR. VON BONE: Thank you, Your Honour.

15 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mustafa, please. You know
16 the rules here.

17 Defence Counsel, please proceed.

18 MR. VON BONE: The question is the word "collaborators." And I
19 think it's also what the witness said when he just answered: What do
20 you mean with collaborators? In the question, it is unclear whether
21 this simply means members of BIA or people who were with BIA or any
22 other connotation of that word.

23 PRESIDING JUDGE VELDT-FOGLIA: I understood it very differently.

24 But I will give Madam Prosecutor the floor in reaction to what
25 have you said.

1 MS. D'ASCOLI: Your Honours, I can only say that the word speaks
2 by itself and I will ask questions to the witness about it. I'm not
3 sure whether the Defence Counsel wants to point out to anything --

4 PRESIDING JUDGE VELDT-FOGLIA: Defence --

5 MR. DE MINICIS: -- regarding the meaning about -- I mean, the
6 word is pretty clear on the transcript.

7 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, it was used in
8 the transcript, so I --

9 MR. VON BONE: Yes, but it was also used just now by the
10 witness. He said: I'm not sure what you mean with collaborators.
11 So that is why I was wondering.

12 And in the -- may I for a second?

13 [Specialist Counsel confer]

14 PRESIDING JUDGE VELDT-FOGLIA: Please take off the microphone
15 because if not, everybody can hear it.

16 MR. VON BONE: Excuse me.

17 PRESIDING JUDGE VELDT-FOGLIA: No, it is for you, it's for your
18 privacy.

19 MR. VON BONE: Yes. Okay. My Albanian is not what it should
20 be, but the word used in Albanian means basically associates.
21 "Bashpuntori." So that is why it is translated in "collaborators."
22 But I just want to make sure that we are not going to give this word
23 any other meaning than what it is supposed to mean in the Albanian
24 language.

25 So that's why I think it is important to -- even the witness

Witness: Brahim Mehmetaj (Open Session)

Page 2674

Cross-examination by Ms. D'Ascoli

1 said: I'm not sure what you mean about collaborators. That's...

2 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, what I propose
3 to do is that you go back to the original source where you based your
4 question on, you cite that, so that's clear in which context it was
5 used, and then you ask your question.

6 Would that be a way to proceed?

7 MS. D'ASCOLI: Of course, Your Honours. I didn't want to repeat
8 because I -- that's what I did. I did read the live transcript. But
9 if you want I can expand on that and read the question as posed --

10 PRESIDING JUDGE VELDT-FOGLIA: Yes, apparent --

11 MS. D'ASCOLI: -- by the Defence Counsel and the full answer
12 given by the witness. I can do that.

13 PRESIDING JUDGE VELDT-FOGLIA: Apparently it was not clear for
14 the witness because he came up with the question so ...

15 MS. D'ASCOLI: Of course, Your Honours.

16 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Usher, could you
17 bring in Mr. Mehmetaj, please.

18 [The witness takes the stand]

19 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

20 Welcome back. We will proceed.

21 MS. D'ASCOLI:

22 Q. Mr. Mehmetaj, in order to make the previous question and answer
23 clearer, I will cite from today's transcript, page 56 to 57, and I
24 will read the question as posed by the Defence Counsel together with
25 your answer so that it is clear what we are referring to.

Witness: Brahim Mehmetaj (Open Session)

Page 2675

Cross-examination by Ms. D'Ascoli

1 Is that okay? We proceed that way?

2 A. [No interpretation].

3 MS. D'ASCOLI: Okay. So I'll start reading, Your Honours, from
4 page 56 of today's transcript, line 24, which starts with a question
5 by the Defence Counsel.

6 Q. "February 1999," this is the question, "earlier you spoke about
7 the fact that you were in Butovc staying after the NATO bombing. Was
8 your work or area of operation any different? Did it become any
9 different, whether you were actually doing tasks for BIA or whether
10 you were doing that for the Llap operational zone? Was there a very
11 big difference or was there any distinction, so to speak?"

12 To that question, your answer, Mr. Mehmetaj, was -- we are now
13 at page 57, line 5:

14 "When I took up -- received the news orally that I was appointed
15 to this position at the Llap operational zone level, of course, we
16 discussed the ideas on how to work, to find collaborators, to improve
17 work."

18 Do you remember that now?

19 A. May I continue?

20 PRESIDING JUDGE VELDT-FOGLIA: The question is: Do you remember?

21 THE WITNESS: [Interpretation] Yes, I remember very well. And I
22 may continue my answer to the question asked of me earlier by the
23 Prosecutor.

24 Can I, Your Honour, continue?

25 MS. D'ASCOLI: Well, let me --

Witness: Brahim Mehmetaj (Open Session)

Page 2676

Cross-examination by Ms. D'Ascoli

1 PRESIDING JUDGE VELDT-FOGLIA: No, no, no --

2 MS. D'ASCOLI: -- pose the question.

3 PRESIDING JUDGE VELDT-FOGLIA: -- no, you cannot. The
4 Prosecutor will now ask a question to you and you can respond to
5 that. Let us keep it organised and focussed.

6 THE WITNESS: Okay.

7 MS. D'ASCOLI:

8 Q. So, first of all, was it important for the KLA to find, to
9 identify collaborators?

10 And, again, it's a yes-or-no answer.

11 A. [Interpretation] I can't give just an answer yes or no, given
12 what I said earlier. I would kindly ask you not to be guided by
13 prejudice. I didn't mean collaborators in the negative sense. I
14 meant people who cooperated with us who I wanted to involve in my
15 work in the Llap operational zone, not collaborationists in Albanian,
16 but cooperators, collaborators for the KLA who would work in various
17 structures, brigades and other units. Not what you are putting to me
18 now.

19 Q. So you referred -- you mean that when you said "collaborators,"
20 you referred to people cooperating with the KLA?

21 A. With me personally. Because I was responsible for that sector
22 of morale and politics. I needed to find people who might represent
23 this sector in the brigades of Llap operational zones. They were
24 soldiers.

25 Q. Okay. Thank you for clarifying that.

Witness: Brahim Mehmetaj (Open Session)

Page 2677

Cross-examination by Ms. D'Ascoli

1 Can we now go back to the question I asked and can you answer
2 that question. I will repeat that again.

3 So my question was whether it was important for the KLA to find
4 and identify collaborators? And by that, I did not mean people
5 working with you, but actually people working against.

6 A. For the KLA, what was important and necessary was freedom and to
7 achieve that freedom, and this was the utmost goal of the KLA, to my
8 knowledge.

9 Q. And, again, can you give an answer to me question? I understand
10 the premise, but can you answer that question.

11 A. It is a question that I find difficult to answer because we
12 never had to deal with collaborationists.

13 Q. So you're saying that this issue never raised and that you were
14 not aware of anyone working against the KLA and, therefore, with the
15 enemy? Is that your testimony today?

16 A. To what I know and wherever I was present, this problem was
17 never discussed. What we always discussed was the problem we had
18 with the occupier in Kosovo.

19 Q. Mr. Mehmetaj, I will go to -- to some parts of your statement
20 that you gave to the Specialist Prosecutor's Office in January 2020.
21 I will -- before -- before doing that, let me ask you this question.

22 Were you aware of detentions in Zllash?

23 A. No, never.

24 Q. You were not?

25 A. I was not aware of detentions in Zllash.

Witness: Brahim Mehmetaj (Open Session)

Page 2678

Cross-examination by Ms. D'Ascoli

1 Q. Okay. That's pretty clear.

2 MS. D'ASCOLI: Your Honours, may I refresh the witness's
3 recollection by reading some excerpts from the SPO interview.

4 So I will need --

5 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, I would say
6 that for this part, let us pull up the document because it's quite
7 extensive what he has declared on that.

8 MS. D'ASCOLI: Absolutely, Your Honour. That's why I was about
9 to call it up the transcript.

10 Can I please have 072957-TR-ET. I need Part 4, page 5. I'll
11 start with line 12, I think.

12 Q. And before we go into that, Mr. Mehmetaj, let me clarify.

13 So you never -- you're saying you never heard any discussions
14 about collaborators during your time in the KLA? Is that what you're
15 saying?

16 A. Madam Prosecutor, Your Honour, I'm here under oath today to tell
17 the truth and nothing but the truth, and when I say the truth and
18 nothing but the truth, I base myself from what I saw, from what I
19 touched physically, or something that I was told by a direct actor.

20 So I am here under oath, and I will not speak on any other
21 basis. I'm here to tell you the truth and nothing but the truth.
22 And I'm under oath as I speak now.

23 Q. Mr. Mehmetaj, thank you for the reminder. Can you please answer
24 my question. And again, it was a simple question. I was just
25 wondering whether you never heard any discussion, anything, about

1 collaborators during your time with the KLA. It's a yes-or-no
2 answer, but can I please have your answer on that.

3 A. I did not see, I didn't have knowledge, I didn't hear about
4 collaborationists in the KLA. I think this is what Madam Prosecutor
5 is asking me about.

6 Q. Yes. So your answer is no. Okay.

7 I now see we have -- yes. We have the transcripts of the SPO
8 interview on the screens. I will read the question that the
9 Prosecutor put to him -- to you - sorry - back then in January 2020.

10 MS. D'ASCOLI: So, Your Honours, I'm reading from line 12.

11 Q. Mr. Mehmetaj, you will hear the translation in your headphones.

12 This is the question:

13 "So Albanian collaborators were being detained in locations like
14 Llapashtice, Bajgora. But were -- were Albanian suspected
15 collaborators being detained in Zllash?"

16 And this was the question of the Prosecutor.

17 I'm now going to read your answer, line 15 of the same page, 5.

18 You answered:

19 "I have information -- I obtained this information after the
20 war. Then in Zllash, there was a room where people would be ...
21 would be stopped."

22 The question of the Prosecutor:

23 "What sort of people would be stopped?"

24 And you replied:

25 "I don't have any further information. I don't have information

Witness: Brahim Mehmetaj (Open Session)

Page 2680

Cross-examination by Ms. D'Ascoli

1 whether they were collaborators, whether they were soldiers ... they
2 were people that caused [sic] damage, or they were thieves, or what
3 type of persons they were."

4 So I read until the end of your answer to the first set of
5 questions.

6 So let me ask you again. You told us today you never heard of
7 detentions in Zllash. This is not what you told us in the prior
8 statement given to the SPO.

9 Now that I've read that portion, does that refresh your
10 recollection of whether you had heard, in fact, of detention in
11 Zllash and, in particular, of suspected collaborators being detained
12 in Zllash? Does that refresh your memory?

13 A. Thank you, Madam Prosecutor, you read this part, but if you go
14 further down in my statement, you will find the answer I just gave
15 you. What I stated there in front of you, and you were present in
16 that session together with Prosecutor Andrew, I only said what I
17 heard after the war. It was a hearsay, something that was not
18 confirmed, and was not true.

19 Here I am under oath and I cannot speak based on hearsay.

20 Q. Yes, Mr. Mehmetaj, let me read again. I pulled up that part
21 because you said to me when I asked whether you -- were you aware of
22 detention in Zllash, you said - I'm reading from page 76, line 22 of
23 today's live transcript - "I was not aware of detentions in Zllash."
24 That was your answer.

25 So -- sorry, let me finish.

Witness: Brahim Mehmetaj (Open Session)

Page 2681

Cross-examination by Ms. D'Ascoli

1 I called up the transcript so then I'm asking you again. Does
2 that refresh your recollection of whether you were aware of
3 detentions in Zllash? Yes or no.

4 A. I explained it very well, what information I had, what my
5 knowledge I had. If you go a paragraph further down, you will find
6 that answer. That information was inaccurate, not confirmed. It was
7 hearsay. Who said that? We don't know. So I represent here today
8 only what I know, information that is confirmed, and that is true.

9 Q. Yes, Mr. Mehmetaj. And, in fact, I'm asking you about what you
10 know, what you heard. You initially said you were not aware of any
11 detentions. Are you now saying you are? I mean, do you remember now
12 having said that you were aware of detentions in Zllash to the SPO in
13 January 2020?

14 A. Madam Prosecutor, please make a distinction between what I'm
15 saying. It's distinction between hearsay and what you know. I
16 didn't have knowledge, and what was talked about on the streets or in
17 circles, that I do not represent here today. I here represent the
18 truth because I am under oath.

19 Q. Mr. Mehmetaj, you just said to the Prosecutors back then,
20 January 2020, that you had heard of detentions in Zllash; is that
21 correct? Can we please agree on that? And I'll move on with other
22 questions.

23 A. For what was talked about, for that part, it is okay. But that
24 is not true. I don't have knowledge about it. I didn't see it. And
25 here I am today under oath to tell you the truth and all the truth.

1 It's in my own interest to do that and it's in the interest of this
2 Court.

3 Q. Okay. So you did hear --

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, sorry, I want
5 to make a short interruption.

6 Mr. Mehmetaj, we have asked you -- we want you to tell the truth
7 - I said it this morning - about what you, *inter alia*, heard. So if
8 you have heard this, yeah, that is what we want to know. If it's
9 confirmed, not confirmed, you said it, you heard it, and that is
10 something you can share. So that has nothing to do -- you would not
11 be breaking your oath if you are telling the Panel what you have
12 heard.

13 So make -- let me make that clear to you. Even if it's hearsay,
14 there's a lot of hearsay, but even if there is hearsay, you can share
15 that, you tell it to the Court without breaking your oath.

16 Okay.

17 Madam Prosecutor, you may continue.

18 MS. D'ASCOLI: Thank you very much, Your Honours.

19 Q. Okay. So, Mr. Mehmetaj, you heard that there was a room where
20 people would be stopped in Zllash; correct?

21 A. After what Her Honour explained to me, in a way, I don't know if
22 that is important for justice, hearsay. But if you think I should go
23 into this topic, I will, but I don't think I'm obliged to say here
24 things that are not true.

25 Q. Okay. Mr. Mehmetaj, I'm just asking you questions about what

Witness: Brahim Mehmetaj (Open Session)

Page 2683

Cross-examination by Ms. D'Ascoli

1 you heard. You had told us previously you heard that there was a
2 room in Zllash where people were stopped. Do you remember that? And
3 then we'll move on. Because you made clear your position. I'm just
4 asking about what you heard.

5 You confirm you heard about that, yes or no?

6 A. If Her Honour thinks that that will serve justice, I will answer
7 the question that the Prosecutor put to me.

8 PRESIDING JUDGE VELDT-FOGLIA: What will serve justice, we will
9 see. But you are here to give answers to what you have heard, seen,
10 sensed, experienced. So if this is something you have heard, you may
11 share that with the Panel.

12 THE WITNESS: Okay.

13 MS. D'ASCOLI:

14 Q. Okay. Let me ask again.

15 So is that correct that you heard of the existence of a room in
16 Zllash where people would be stopped? Yes or no.

17 A. [Interpretation] As far as I remember, yes. As I have stated in
18 that statement, it -- yes, I did hear.

19 Q. Okay, thank you. Now, where in Zllash were those people held,
20 according to what you heard?

21 A. Based on what I heard, there where that complex of houses was
22 that we saw here.

23 Q. So you're referring to the location in Zllash, the one that you
24 called the safe house used by BIA uphill that we saw in the aerial
25 photo shown by the Defence Counsel; correct?

1 A. It was not a shelter used by BIA but used by everyone else. Not
2 only by BIA. Civilians, soldiers. As I explained earlier.

3 Q. Okay. I'll put the question again. I was focusing on the part
4 related to the rooms that BIA used because that is the statement you
5 had -- you said before.

6 So, again, are you referring to the building uphill that we saw
7 in the aerial photo where BIA had rooms that they were using and that
8 you called a safe house; right? Can we agree on that?

9 A. Yes.

10 Q. Okay. And do you remember who told you about those detentions?
11 Who gave that you information? Where you heard about that
12 information?

13 A. As I've mentioned it earlier, this was information talked about.
14 It's not clear and not at all in my memory registered who, what. It
15 is something that I believe is completely untrue.

16 Q. Okay. Well, besides an evaluation on it, going back to my
17 question. Do you remember who told you about that or from whom did
18 you hear that information? Because I don't think you answered my
19 question. So can we go back to it and have an answer, please.

20 A. I answered the question put to me by Madam Prosecutor,
21 Your Honour.

22 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] What
23 was your answer?

24 THE WITNESS: [Interpretation] My answer was that this was an
25 information, something talked about. I don't have knowledge. I

Witness: Brahim Mehmetaj (Open Session)

Page 2685

Cross-examination by Ms. D'Ascoli

1 don't remember who said that.

2 MS. D'ASCOLI:

3 Q. Okay. That's clear now. Thank you.

4 Would Salih Mustafa, the commander of BIA, know about these
5 issues, know about the existence of such a place in --

6 MR. VON BONE: Your Honour, forgive me to interrupt.

7 I do not think that the witness --

8 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] you
9 have the floor --

10 MR. VON BONE: Excuse me.

11 PRESIDING JUDGE VELDT-FOGLIA: -- but I always like to --

12 MR. VON BONE: Sorry.

13 PRESIDING JUDGE VELDT-FOGLIA: For the translation. It's not
14 that I like it so much, but then it is clear who is talking.

15 Defence Counsel, you have the floor.

16 MR. VON BONE: The witness cannot possibly know what
17 Mr. Salih Mustafa knows or doesn't know. So when you pose a question
18 what somebody else knows, I believe that it is not something that the
19 witness can testify about.

20 PRESIDING JUDGE VELDT-FOGLIA: I disagree on that.

21 MR. VON BONE: Well --

22 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, you may
23 continue.

24 MS. D'ASCOLI: Your Honours, the basis of my question was also
25 prior statements given by the witness. But I'll continue and then

Witness: Brahim Mehmetaj (Open Session)

Page 2686

Cross-examination by Ms. D'Ascoli

1 I'll go into that, if necessary.

2 Q. So, Mr. Mehmetaj, was -- would Salih Mustafa be in a position to
3 know about these issues, about the existence of such a place in
4 Zllash?

5 A. Based on the competence Salih Mustafa had and based on the
6 organisation of BIA unit, he had -- did not have that authority to
7 know that or to take any such actions. I never discussed this issue
8 with Salih, and I know personally that he did not have knowledge
9 about this, Salih Mustafa. It was not his competence to deal with
10 these subjects, with these themes.

11 Q. Okay. Well, first of all, again, you did not answer my
12 question. But I understand you did discuss these issues with him in
13 order to be -- in order to be able to say that he had no knowledge
14 about this. I'm just quoting the transcript. You said: "... I know
15 personally that he did not have knowledge about this ..."

16 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, I read here:
17 "I have never discussed this issue with Salih." That's what he said.
18 And he also says that he doesn't -- "and I know personally that he
19 did not have knowledge about this." But in the phrase before he says
20 that he did not discuss it.

21 MS. D'ASCOLI: That's why I wanted to clarify --

22 PRESIDING JUDGE VELDT-FOGLIA: So you cannot rephrase as that he
23 has discussed it.

24 MS. D'ASCOLI: My question was whether, in fact, he had
25 discussed it considering that he said he has knowledge -- what did he

Witness: Brahim Mehmetaj (Open Session)

Page 2687

Cross-examination by Ms. D'Ascoli

1 say? Yes, he has knowledge that -- "I know personally that did he
2 not have knowledge about this ..."

3 Q. So, Mr. Mehmetaj, I wanted to clarify, did you, in fact, discuss
4 it or not with Mr. Salih Mustafa, these issues? I just see a
5 contradiction in your answer and I'm asking you to clarify.

6 A. Madam Prosecutor, you are also, again, led by the prejudice to
7 uncover the untruth, not the truth. I said we never discussed
8 this --

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mehmetaj.

10 THE WITNESS: [Interpretation] -- and based on the competencies
11 he had, because I know Salih Mustafa --

12 PRESIDING JUDGE VELDT-FOGLIA: Please answer the question
13 without any comments. You're not here to give comments. You're just
14 here to answer the questions. And I give you leeway, but please
15 refrain from talking in that way.

16 MS. D'ASCOLI:

17 Q. Do you need me to repeat the question?

18 A. I, first of all, would like to apologise, Your Honour. I just
19 came to a conclusion that my words were twisted, were transmitted in
20 a different way, and that's why I said what I said.

21 Madam Prosecutor, we did not discuss that, and Salih Mustafa did
22 not have the competencies for what you are talking about.

23 Q. Okay. Can I then clarify a part of your prior testimony to the
24 SPO.

25 MS. D'ASCOLI: And, Your Honours, I'm referring to the same

Witness: Brahim Mehmetaj (Open Session)

Page 2688

Cross-examination by Ms. D'Ascoli

1 transcript, Part 4, page 8, lines 8 to 22.

2 Q. You were asked about what you heard of these detentions and from
3 whom. And I wanted to ask you about this specific part --

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, I want to ask
5 Madam Court Officer if she can make it a -- if she can make the
6 transcript a little bit smaller on the screen in order that we see it
7 from -- you said line 8 till 22?

8 MS. D'ASCOLI: Yes, I was giving context from line 8 --

9 PRESIDING JUDGE VELDT-FOGLIA: No, no, no, but you said -- but
10 then we can see it all. Only for that. Thank you.

11 Please proceed.

12 MS. D'ASCOLI: Yes. I was giving context and explaining that
13 the witness was answering questions about what he heard, et cetera.

14 Q. And I wanted to ask you, Mr. Mehmetaj, about the part where you
15 said - line 18 to 20, lines 18 to 20 - "I don't know" -- I'm reading
16 your answer.

17 "I don't know. I don't have any information with regards to
18 that. I think for this, it is good to ask the commander of the
19 guerilla, the Commander Cali."

20 Do you remember that part?

21 A. I see that I have said that, but I don't remember how we came to
22 this point. What was your previous question? If you allow me, I
23 will read it so that I can become better familiar with it.

24 Q. Can you read English, Mr. Mehmetaj?

25 A. [In English] I read it only for myself -- [Interpretation] only

1 for myself, so I can understand. I would like to read it for myself
2 to have a clearer idea.

3 Q. And to guide your reading, my question was -- I was trying to
4 understand whether the information regarding detention, whether that
5 would be something that Commander Cali would be in a position to know
6 about or to have heard about. That was the scope of my question.

7 A. Yes, yes. I gave this answer that you referred to, but after
8 you insisted whether Commander Cali knew such things. What I'm
9 saying was meant not to disorientate some others -- someone else. I
10 already said that it was not part of his job, of his duties to do
11 that. You could have asked Commander Cali not only about this but
12 about everything else you wanted.

13 Q. Yes, Mr. Mehmetaj, but you basically volunteered this
14 information. The question to you wasn't whether Commander Cali knew
15 or not. You said that this is something, in fact -- you said -- yes.
16 "I think for this, it's good to ask the commander of the guerrilla,
17 Commander Cali." That's what you said. You volunteered this
18 information.

19 And, again, my question is simply would Commander Cali be in a
20 position to know or to have heard about these detentions in Zllash?
21 I go back to my question. If you can please answer it now.

22 A. My answer is no.

23 Q. Okay. Well, would this surprise you, Mr. Mehmetaj, to know that
24 we have evidence from Mr. Mustafa that he, too, was informed or heard
25 rumours that civilians were detained at the location where BIA had

Witness: Brahim Mehmetaj (Open Session)

Page 2690

Cross-examination by Ms. D'Ascoli

1 its safe house in Zllash? I take it you were not aware of that, of
2 Commander Cali's knowledge about this; right?

3 A. I don't know. I'm surprised to hear that.

4 MS. D'ASCOLI: I'll give the references for the record,
5 Your Honours. This was in the interview of Mr. Mustafa with the SPO
6 on 19 November 2019. The transcript reference is 069404-TR-ET,
7 Part 7, page 15, lines 7 to 15.

8 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor.

9 MS. D'ASCOLI:

10 Q. I would also --

11 PRESIDING JUDGE VELDT-FOGLIA: Sorry to interrupt. Just a
12 moment of order. We will continue till -- for another 25 minutes,
13 till half past 4.00. Then we have 15 minutes' break, yes, and then
14 we continue for another half an hour. That is our intention for
15 today.

16 MS. D'ASCOLI: Yes, thank you, Your Honours.

17 PRESIDING JUDGE VELDT-FOGLIA: Sorry to interrupt you.

18 MS. D'ASCOLI: You're welcome.

19 Q. So you said you did not know about that.

20 So if you didn't think that Commander Cali would have knowledge
21 about it, then why did you tell the Prosecutors to ask Commander Cali
22 about that, about the detentions? I'm going back to the part of your
23 testimony to the SPO that I'm trying to understand.

24 Why did you say that if you knew he did not have knowledge, or
25 if you think -- or that you thought he didn't have knowledge?

1 A. I am telling you the truth. Because I don't know that he had
2 knowledge about that. And I don't believe he did.

3 Q. Okay. And can I ask again -- sorry to interrupt. My question
4 was whether -- so why did you tell the Prosecutors to ask him about
5 that? Can you explain that?

6 A. Because I don't believe this is the only case when I said, "Ask
7 Cali," when you insisted on asking me something. Even earlier in
8 this interview I have repeatedly said, "Ask Cali, and he may tell you
9 the truth."

10 Q. Okay.

11 A. But not specifically to ask him because he knows. I didn't mean
12 that. You might try to put that on me, but I don't have this
13 intention. So I just said that you can ask him.

14 Q. Okay. That's clear. Let's stop there.

15 I wanted to put to you something that Mr. Mustafa said in that
16 interview. The transcript reference is the same, but this time it's
17 Part 8, page 6, lines 11 -- lines, sorry, 14 and 15.

18 Mr. Mustafa said: "Everybody" -- talking about this detention
19 room. He said:

20 "Everybody that was around there would call it the detention
21 room."

22 Does that resonate with you? You were also around there at some
23 point. Did you ever hear about this detention room as it was called?

24 A. Regarding what I heard, based on hearsay, I said that. I didn't
25 hear -- other than that, I didn't hear anything else.

1 Q. And, again, to answer my question, you're saying that -- so did
2 you hear or not about the expression "a detention room" there, in
3 Zllash?

4 A. I answered earlier, Mrs. Prosecutor, about what I heard.

5 Q. Okay. And, again, the -- did you hear specifically about the
6 expression "detention room"? Yes or no. If it is yes and you were
7 trying to clarify, let's just agree on that.

8 A. I explained earlier what I heard from uncertain sources who I
9 said -- I told you what I have heard, as I already stated in this
10 interview given to the Prosecutor.

11 MS. D'ASCOLI: Just a second, Your Honours, I need to look into
12 the next area.

13 Q. Okay, Mr. Mehmetaj, thanks for your patience.

14 I wanted to discuss with you some matters related to statements
15 you made.

16 So, first of all, you -- to recap, you were -- to give an intro,
17 you were summoned by the SPO on 17 December 2019; do you remember
18 that?

19 A. Yes, yes. Correct.

20 Q. And did you -- did you make that public? I mean, the fact that
21 you were summonsed for an interview by the SPO.

22 A. When I received the summons in my office, I don't remember very
23 well whether it was that night or on the next day that I posted it on
24 Facebook. And I have my reasons why I did that.

25 Q. Let's, in fact, look at this post.

1 MS. D'ASCOLI: Can I please have on the screens - I will call
2 both the original and the translation - ERN SPOE00325284, and if I
3 can please have on the other side of the screen the corresponding
4 English translation, SPOE00325248-ET.

5 Q. We have already the original on the screen, Mr. Mehmetaj. So
6 this is the post we're talking about; right?

7 A. Yes, yes. That's it.

8 Q. Okay. So it's a post dated 18 December 2019, which is the day
9 after you were summonsed by the SPO.

10 Now, I'm going to just read some parts of it. You have the
11 original.

12 So you said: "Yesterday afternoon, one of the investigators
13 delivered a summons" -- I will not read everything as we all have it,
14 but just some parts in order ask you some questions.

15 You said in the second part, in the second paragraph:

16 "I will proudly attend as summonsed even though I continue to
17 think that this is an unjust and biased court."

18 So you called this court unjust and biased; right?

19 A. Yes. Even to this day I abide by the same opinion. I may
20 explain if you want.

21 Q. Let me -- let me finish this part.

22 A. [In English] Okay.

23 Q. Yeah. So you -- you had, you expressed or, let's say,
24 volunteered your opinion also during the interview, during the --
25 your interview with the SPO. You remember that; right?

Witness: Brahim Mehmetaj (Open Session)

Page 2694

Cross-examination by Ms. D'Ascoli

1 A. Yes.

2 Q. You said "yes"?

3 A. Okay. Yes.

4 Q. Sorry, it was inaudible.

5 A. Okay. Yes.

6 Q. This was Part 1 of your SPO interview of 23 January 2020,
7 page 7, lines 17-23. Again, you said:

8 "It's a biased court because this court," I'm reading, "should
9 have been established many years ago in order to address the war
10 crimes that were committed against the community."

11 So you, again, told -- repeated to us during the interview your
12 opinion about the court. And you volunteered this information.
13 There were no questions about that. Do you remember that?

14 A. [Interpretation] Yes, yes, correct.

15 Q. Did you -- did you speak with Mr. Mustafa before or -- and after
16 your interview which -- with the SPO which took place on
17 23 January 2020? Do you remember if you spoke to him then?

18 A. From 18 years of age, I have always been close to Mustafa. I
19 told you earlier.

20 Q. Yes. Sorry to interrupt --

21 A. But --

22 Q. -- Mr. Mehmetaj. I asked specifically before and after the
23 interview. So like I gave you, let's say, a one day time frame. I'm
24 not asking in general. Is that clear?

25 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mehmetaj, please answer the

Witness: Brahim Mehmetaj (Open Session)

Page 2695

Cross-examination by Ms. D'Ascoli

1 question.

2 THE WITNESS: [Interpretation] Yes, I have met him. I only told
3 him that I have received a summons. Only that. We didn't go into
4 any length.

5 MS. D'ASCOLI:

6 Q. So you confirm you met with him in person? Or you spoke with
7 him? Can you clarify that. You said, "I met" --

8 A. I said that I wish justice to triumph here, justice to be done,
9 and I wish that he's released and I meet him again. It is normal to
10 meet someone you are close with.

11 Q. And in meeting him right before or after or any way in the
12 vicinity of the interview, and I'll go into the details in a bit, you
13 did not talk at all about the subject of the interview? Is that what
14 you are saying?

15 A. We didn't have any specific deliberate meeting to discuss the
16 interview, because I was informed that I shouldn't discuss what we
17 discussed during the interview with anyone. So he didn't discuss his
18 interview with anyone either. So we both respect justice.

19 Q. Okay. So your answer is no.

20 MS. D'ASCOLI: Can I have on the screens SPOE00325449-00325450.
21 And I know it is practice not to show the documents to the public
22 but, please, I wanted to make sure that this is not shown on the
23 public record. Thank you.

24 Q. I will give a description for the public although they will not
25 see the document. This is a call log covering logged calls between

Witness: Brahim Mehmetaj (Open Session)

Page 2696

Cross-examination by Ms. D'Ascoli

1 Salih Mustafa, the owner of the telephone, and other users in the
2 period between December 2019 and February 2020.

3 Mr. Mehmetaj, can you just please look at record number 1?

4 MS. D'ASCOLI: If this can be zoomed in, please. The part
5 related to the parties from 2.

6 Q. Can you please look at the number just above the name Bimi and
7 without mentioning the number, can you just say or confirm whether
8 this is your number?

9 A. Yes, I know very well my number and Cali's number. The upper
10 one is Cali's and then mine. These two numbers are here, yes, and I
11 am very familiar with both. I know them by heart.

12 Q. Perfect. That's all I needed to know.

13 MS. D'ASCOLI: Can we now go to page -- to page 2 of the
14 document, please.

15 Q. And if, Mr. Mehmetaj, if you can please look at call log number
16 8. So this shows a call between you and Mr. Mustafa on 22 January,
17 the day before the interview; right?

18 A. I see here. But it shows that there was no answer, if I'm not
19 mistaken. The call was not answered.

20 Q. Call log number 8 says answered.

21 A. Yes. Yes, yes, correct. Here.

22 Q. And now if we can go back to page 1 of the document, and,
23 Mr. Mehmetaj, I will ask you to look at call logs number 6 and 7.

24 A. [In English] Okay.

25 Q. And the date is 23 January 2020. That is the day of your

Witness: Brahim Mehmetaj (Open Session)

Page 2697

Cross-examination by Ms. D'Ascoli

1 interview with the SPO. And if we look at the time, you will be
2 reminded of the fact that you called Mr. Mustafa at 17.19 and then 20
3 in the afternoon of 23 January, which was only five minutes after the
4 conclusion of your interview with the SPO, which we know from Part 4,
5 page 28 of the transcript, that was ended at 17.12.

6 You remember that; right? I mean, we can see that. You agree?

7 A. [Interpretation] Yes, I agree with what I see here but not with
8 what you think.

9 Q. I didn't say I think anything. I was just asking you whether
10 you agree or not.

11 A. [In English] Okay.

12 MS. D'ASCOLI: We can remove this document.

13 Q. So, Mr. Mehmetaj, you can -- I understand -- do you consider
14 yourself -- let me put it openly. Do you consider yourself a friend
15 of Salih Mustafa, the accused in this case?

16 A. [Interpretation] Yes, certainly. Not only friend. More than
17 friend.

18 Q. Did you ever post anything on Facebook in support of
19 Mr. Salih Mustafa?

20 A. Yes, several times.

21 Q. I want to look with you to some of these posts.

22 Were you aware that Mr. Mustafa was called by the SPO for an
23 interview in November 2019?

24 A. Can you repeat the question, please?

25 Q. Of course.

Witness: Brahim Mehmetaj (Open Session)

Page 2698

Cross-examination by Ms. D'Ascoli

1 A. [No interpretation].

2 Q. Were you aware that Mr. Salih Mustafa was summonsed for an
3 interview with the Specialist Prosecutor's Office in November 2019?
4 Were you aware of that?

5 A. Yes.

6 Q. Okay. Did you post anything about it? I mean, about the fact
7 that he was going to be interviewed by the SPO.

8 A. I think so, but I may have forgotten some things. But I
9 believe, yes, when he left for The Hague. I'm not very sure.

10 MS. D'ASCOLI: Can I please have document marked with the ERN
11 SPOE00325261 to 00325281. I only need the first page of the original
12 on the screen. And if Madam Court Officer could please put also next
13 to it the translation, SPOE00325261-ET. Thank you.

14 Q. Do you remember this post, Mr. Mehmetaj? It is dated
15 18 November 2019.

16 A. Yes, yes.

17 Q. Mr. Mustafa was interviewed by the SPO on 19 November. Just for
18 the record.

19 So we see photos of you with Mr. Mustafa. You accompanied him
20 to the Prishtine airport before he left to come for the interview;
21 right?

22 A. This photo was taken at the airport. I went to accompany him
23 there. I didn't feel good about him going. I think this process is
24 based on fake statements and news. For a freedom fighter, for a
25 fighter that fought for his rights to start, to initiate a process

Witness: Brahim Mehmetaj (Open Session)

Page 2699

Cross-examination by Ms. D'Ascoli

1 that deprives him of his right and life, I was excited and I don't
2 remember what I wrote, but I can see that here. I can explain every
3 word that I said then if you want.

4 Q. Yes. I wanted to ask you whether you remember the statements
5 that you made again against this court in that context, but I'll -- I
6 can read those.

7 I will just read one. I was -- I was looking at the part where,
8 yes, you said:

9 "The Court was set up" - I'm reading from the first line -
10 "against the Albanians who fought for liberation."

11 Then you say:

12 "This is a disgrace, an injustice, this is done to ignore and
13 denigrate the liberators."

14 And then the last sentence, we all have the full text on the
15 screens:

16 "Shame on those who summonsed him and also those who cook it."

17 So you remember calling out for shame on those who summoned him,
18 or, in that case, the SPO?

19 A. Whoever summoned him, based on fake statements and testimonies.

20 Q. Okay.

21 A. I said I was very excited, but even now, when I think of that
22 situation, thinking of an injustice done against the freedom
23 fighters, freedom fighters that we needed so much, who brought
24 freedom to Kosovo. Even though I don't exclude the contribution of
25 your country, Italy, to that.

Witness: Brahim Mehmetaj (Open Session)

Page 2700

Cross-examination by Ms. D'Ascoli

1 Q. Okay. Thank you for that.

2 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, just for the
3 record, I would like to ask Madam Court Officer to bring up the
4 document in English a little bit more because I think that the part
5 you cited has fallen off ...

6 Where is the phrase you just cited, the last one?

7 MS. D'ASCOLI: It's the penultimate line, Your Honours. "Shame
8 on those who summonsed him."

9 PRESIDING JUDGE VELDT-FOGLIA: Okay, okay. Thank you. Thank
10 you. Yes.

11 MS. D'ASCOLI: The post can be removed. Thanks.

12 Q. Mr. Mehmetaj, Salih Mustafa was then arrested and transferred to
13 the Detention Unit of the Kosovo Specialist Chambers on
14 24 September 2020. By then, had you read the indictment and the
15 charges against him?

16 A. Not at that time. Sometime later.

17 MS. D'ASCOLI: In the meantime, can I please have on the screens
18 SPOE00325341.

19 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, it's some
20 minutes before half past 3.00 and I would like to take a short break
21 at half past 3.00, so if you could keep that in mind.

22 MS. D'ASCOLI: Yes, Your Honours. I'm only going through
23 quickly this and another one and then I'm done. I'll be wrapping up
24 in four minutes. Is that agreeable?

25 PRESIDING JUDGE VELDT-FOGLIA: You don't have to wrap up, but

Witness: Brahim Mehmetaj (Open Session)

Page 2701

Cross-examination by Ms. D'Ascoli

1 just that I want to have a break for all of us.

2 MS. D'ASCOLI:

3 Q. Mr. Mehmetaj, this is a post dated 26 September 2020. That is
4 two days after the arrest of Mr. Mustafa. And it's a photo -- a
5 recent photo, I would say, I mean, not from the times of war,
6 correct, of you and Mr. Mustafa? Yeah.

7 So you said -- I was asking you a question about whether you had
8 read the indictment by then and you said not by then. Can I ask
9 whether you had read it by the time you had posted this photo on
10 Facebook, yes or no, 26 September, so two days later?

11 A. I made this posting only with Cali. There is no text
12 accompanying that.

13 Q. Sorry, Mr. Mehmetaj, I'm trying -- yes, I'm trying to keep this
14 brief.

15 A. And I know that I read the indictment later.

16 Q. Okay. Yes. I didn't ask you about comments or anything. I
17 just asked whether by then, that is, by 26 September, you had read
18 the indictment, yes or no. Because you said, "I read it later," so
19 I'm trying to understand when it is that you read it.

20 A. I don't remember whether I read it on that day. But I did read
21 it later.

22 Q. And what do you mean "later"? Do you remember more or less? If
23 it was a matter of weeks or months? Just to give us an
24 approximation. I don't need the specific date.

25 A. Several days later.

Witness: Brahim Mehmetaj (Open Session)

Page 2702

Cross-examination by Ms. D'Ascoli

1 Q. So several days later. Like after 24 September, you had read
2 the indictment. Okay.

3 A. Yes.

4 Q. And did you know the exact -- the location of the indictment
5 when you read it, I guess? You read about the location where crimes
6 were alleged to have been committed; right?

7 A. I read the indictment as it was written there, and it was
8 unacceptable and unjust to me.

9 Q. Okay. And did you read also about the dates of the indictment
10 and the charges? Yes or no?

11 A. Yes, it spoke about names, dates, locations, which are not real
12 to me.

13 Q. Okay. So I take that as a yes.

14 Can we move to the last post and then we can take the break.

15 This -- I want to show you more a recent post dated 10
16 April 2021, so about a year ago.

17 MS. D'ASCOLI: This is ERN SPOE00325407 to 00325428. I would
18 like to have both the first two pages next to each other, if
19 possible.

20 So that's visible. Thank you.

21 Q. So about page 2, the post where we see you with a T-shirt, so
22 this is you, Mr. Mehmetaj, right, with the T-shirt with Mr. Mustafa's
23 -- Mr. Salih Mustafa's face on it; right?

24 A. Yes, it's me. And Salih Mustafa is on my T-shirt, on the side
25 of the heart.

1 MS. D'ASCOLI: Okay. Can I now have the -- we can leave page 1
2 with the text and have next to it the first page of the corresponding
3 English translation, SPOE00325407-ET, please.

4 Q. And, again, I just want to ask you about the statements you made
5 in that context, and this was, like, about a year ago.

6 Because we have the text in both languages, I will just go
7 through some lines. The first line, you said:

8 "We have always fought Serbia together, from the age of 17 ..."

9 Line 2:

10 "We didn't ever split up or stop or budge in the face of
11 challenges or danger."

12 The end of the second paragraph you again seem to call for
13 shame. "Shame on all those hired hands, servants, subservient and
14 servile people."

15 And then just the part -- also there's a part about hatred
16 again. It's the third paragraph with:

17 "The hatred against the locals who voted for the
18 Specialist Chambers and in so doing offered a great service to the
19 enemy and became subservient to some internationals ..."

20 And at the end you say:

21 "Cali and Bimi are the same ..."

22 Do you remember making these statements?

23 A. Yes, yes.

24 Q. Okay. So --

25 A. It's correct.

1 Q. So you're wearing in this post a T-shirt showing the face of
2 Mr. Mustafa on the side of your heart to show support for him; right?

3 A. Yes, correct.

4 Q. And you still support him today; right?

5 A. Thank you for this question. I am here to support justice, of
6 course, because I really believe that justice will go in favour of my
7 friend Cali, freedom fighter. I am not mistaken if I do that. I
8 will always support justice. I am sure of what I'm saying. There
9 have been people who have come here to testify about untruths, things
10 that have nothing to do with the truth and the reality. I believe
11 that the Honourable Panel will take justice to the end as they
12 should. I respect the Court and the trial.

13 Q. Okay. Thank you, Mr. Mehmetaj. You did say something about the
14 court, but let's leave it to that.

15 MS. D'ASCOLI: Thank you, Your Honours. I think we can take the
16 break now.

17 THE WITNESS: [Interpretation] We can discuss it again.

18 PRESIDING JUDGE VELDT-FOGLIA: For now, we will take a break.

19 Madam Court Usher, could you usher the witness out.

20 We will come back in 15 minutes. Just a short break. 15
21 minutes.

22 [The witness stands down]

23 PRESIDING JUDGE VELDT-FOGLIA: Okay. The hearing is adjourned.

24 --- Recess taken at 3.35 p.m.

25 --- On resuming at 3.50 p.m.

Witness: Brahim Mehmetaj (Open Session)

Page 2705

Cross-examination by Ms. D'Ascoli

1 PRESIDING JUDGE VELDT-FOGLIA: Very well. Madam Court Usher,
2 could you bring the witness in, please.

3 [The witness takes the stand]

4 PRESIDING JUDGE VELDT-FOGLIA: Sorry for this.

5 Welcome back.

6 Before we continue with the cross-examination by Madam
7 Prosecutor, Mr. Mehmetaj, I have one comment for you.

8 On page 98, lines 2 and 3, you said after giving an answer, you
9 made a remark regarding Italy and its contribution to your country.
10 I warn you to refrain from making any comments, personal comments or
11 attacks on anyone present in this court. I won't allow it anymore.

12 Did you get that?

13 THE WITNESS: [Interpretation] I apologise if you understood it
14 that way. I spoke good words about the country in question. That
15 is, that it helped in our liberation struggle.

16 PRESIDING JUDGE VELDT-FOGLIA: But you should not make any
17 personal comments.

18 Madam Prosecutor, you have the floor if you want to continue.

19 MS. D'ASCOLI: Yes, Your Honours. Thank you very much.

20 Q. Mr. Mehmetaj, I want to ask about your knowledge about some --
21 concerning KLA members. I will have a number of names to put to you.

22 So, first, do you have -- do you know someone called Ilmi Vela?

23 A. Yes.

24 Q. Can you tell us his full name, please.

25 A. This is the name I know.

Witness: Brahim Mehmetaj (Open Session)

Page 2706

Cross-examination by Ms. D'Ascoli

1 Q. Was his full name Ilmi Rakovica?

2 A. It could be, but the name I know is that one. This is the name
3 I knew.

4 Q. And do you know what was his nickname, if any?

5 A. Yes. I've heard the nickname Vdekja, meaning death.

6 Q. Why would he be called by such a nickname?

7 A. That, I don't know. I don't think someone called him that, but
8 he called himself that. He chose that name for himself, because we
9 all chose our own pseudonyms. My pseudonym, Bimi, was from my
10 childhood. Cali, too. His pseudonym, Cali, was from his childhood.
11 And some others, they had to choose pseudonyms and it was out of
12 their own free will which that one would be.

13 Q. Okay. And Vdekja, that was also the way he was nicknamed and
14 known by others; correct?

15 A. This was what he used, what I heard.

16 Q. And was it the name by -- the nickname by whom -- by which he
17 was called also by others? My question was slightly different. If
18 you can answer that, please.

19 A. I apologise. I did not understand your question.

20 Q. Was he called Vdekja, Death, by other people by --

21 A. I believe, yes. I personally didn't call him because I didn't
22 meet him. But I believe, yes, he was.

23 Q. Was he a BIA member?

24 A. Yes, he was.

25 Q. Was he present in Zllash?

Witness: Brahim Mehmetaj (Open Session)

Page 2707

Cross-examination by Ms. D'Ascoli

1 A. That, I don't know. I didn't see him. I didn't meet him ever.

2 Q. And are you aware of anything else about him, about his conduct,
3 his behaviour?

4 A. I remember Cali telling me that he was dismissed from our
5 organisation, BIA, due to his conduct. I know that he was
6 demobilised, that his weapon was taken away, and that he was left
7 free, as a citizen, no longer a soldier.

8 Q. And did he have a bad reputation? Do you know whether he had a
9 bad reputation or criminal past or something like that?

10 A. What I am talking about now, that knowledge, is what I learned
11 after the war. At that time, I didn't know whether he had a criminal
12 past or not. He was relieved of his duty because of some mistakes
13 that he did, or something like that.

14 Q. And do you know what conduct led to his -- to his dismissal?

15 A. I don't know anything else about this.

16 Q. I want to clarify something you said previously during your SPO
17 interview. I'll be quoting from Part 3, page 32. And this is
18 072957-TR-ET.

19 You told us he had -- so the question was: "So he acquired some
20 authority then, a bad reputation?"

21 And you replied -- yes, sorry.

22 A. May I consult with somebody from the administration or with the
23 lawyer or with Her Honour.

24 Q. Would you like to have the transcript called up on the screens?
25 I can do that. So that you see it with your eyes.

Witness: Brahim Mehmetaj (Private Session)

Page 2708

Cross-examination by Ms. D'Ascoli

1 A. No. I want to make a suggestion directly to Her Honour. We
2 have to be careful when we speak about people, about their
3 pseudonyms, because it can lead to a conflict in -- where I come
4 from. So we have to be careful.

5 MS. D'ASCOLI: Your Honours, may I suggest we go into private
6 session for that.

7 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can you
8 bring us into private session.

9 [Private session]

10 [Private session text removed]

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Witness: Brahim Mehmetaj (Private Session)

Page 2709

Cross-examination by Ms. D'Ascoli

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Witness: Brahim Mehmetaj (Private Session)

Page 2710

Cross-examination by Ms. D'Ascoli

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Witness: Brahim Mehmetaj (Private Session)

Page 2711

Cross-examination by Ms. D'Ascoli

1 [Private session text removed]

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Witness: Brahim Mehmetaj (Private Session)

Page 2712

Cross-examination by Ms. D'Ascoli

1 [Private session text removed]

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7 [Open session]

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

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 Madam Prosecutor, please proceed.

11 MS. D'ASCOLI: Thank you, Your Honours.

12 Q. Mr. Mehmetaj, my next question is whether you have knowledge of
13 someone nicknamed Tabut or Tabuti?

14 A. Yes, I do.

15 Q. And can you tell us what the word "Tabut" or "Tabuti" means?

16 A. Tabuti is the name for the coffin, where the dead body is
17 placed.

18 Q. Okay.

19 A. I hope it's good for the interpretation.

20 Q. Can you tell us the full name of the person nicknamed Tabut, or
21 Tabuti?

22 A. Nazif. I'm not very sure about his last name.

23 Q. We have information that the full name is Nazif Musliu. Does
24 that sound familiar to you?

25 A. I'm not certain about this last name.

Witness: Brahim Mehmetaj (Open Session)

Page 2713

Cross-examination by Ms. D'Ascoli

1 Q. Was he a BIA member, the Tabut you knew?

2 A. Yes, he was.

3 Q. And which BIA sector was he in?

4 A. In one of the units of BIA guerilla unit. I may make a mistake
5 if I say one, because I'm not sure. But I do know that he was a
6 member of one of the BIA units. But whether he was in the logistic
7 sector or not, because he dealt with supplies, maybe he was, but I'm
8 not certain.

9 Q. And do you have any knowledge of someone called Bahri or Bahria?

10 A. Someone by the name of Bahri? Yes, if you mean what I know.

11 Q. Can you tell us the full name so I check if I mean the same
12 person?

13 A. If we are talking about Bahri Gashi, yes. If you mean someone
14 else, some other Bahri, I don't know.

15 Q. And what nickname did Bahri Gashi have, if any?

16 A. Bafta.

17 Q. Any meaning for this nickname?

18 A. No. It's just a short form of Bahri, I think.

19 Q. Was he a BIA member?

20 A. Yes, he was.

21 Q. And in which sector of BIA was he in, or which role did he have?

22 A. Bahri Gashi operated for a time in Albania. Then he came to
23 Prishtine and joined BIA. And when Isa Kastrati, deputy commander,
24 died during fighting, Bahri Gashi became first deputy of Cali.
25 Deputy commander or first assistant. He was in that position.

Witness: Brahim Mehmetaj (Open Session)

Page 2714

Cross-examination by Ms. D'Ascoli

1 Q. So am I -- do I understand it right that after yourself took the
2 role at the Llap zone command level in February 1999, did
3 Isa Kastrati become the deputy commander or first assistant of
4 Mr. Mustafa?

5 A. Yes, that's correct.

6 Q. Okay. And was this until he died on 21 or 23 April 1999;
7 correct?

8 A. Yes, correct.

9 Q. And then after him, the first assistant, the deputy commander
10 became Bahri Gashi; correct?

11 A. Yes, correct.

12 Q. Today you were asked also about someone called Afrim, but you
13 said you didn't know his full name; right?

14 A. I am -- I don't know about his last name. There was an Afrim,
15 but I never had any contacts with him, even during the war. And I
16 don't know his last name even now, or other things.

17 Q. And was there a BIA soldier called Fatmir?

18 A. Yes, there was.

19 Q. Do you know his full name or his nickname?

20 A. No, no, I don't. I don't remember neither his last name or his
21 nickname.

22 Q. So you called him Fatmir?

23 A. Yes, Fatmir.

24 Q. What about someone called Avni?

25 A. No, I don't know about him.

Witness: Brahim Mehmetaj (Open Session)

Page 2715

Cross-examination by Ms. D'Ascoli

1 Q. Okay. And you also said you knew someone nicknamed Dardan;
2 right?

3 A. Yes, there was one.

4 Q. And these were all BIA members?

5 A. With the exception of Avni that I don't know, the others were,
6 yes. Avni, too, might have been, but I don't know.

7 Q. Okay. So about Avni, you did not know whether he was a BIA
8 member and you did not know his full name; right?

9 A. If I saw his face somewhere or if you have a picture of him, I
10 might be in a position to say whether I knew him or not. But like
11 this, I don't.

12 Q. And about Dardan you also said that he was a BIA member; right?

13 A. Yes.

14 Q. Okay. And do you know his full name?

15 A. No, I don't.

16 Q. And then the last name I have is Bujar. Do you know someone
17 called Bujar or Bujar?

18 A. No.

19 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, we are
20 approaching the moment that we have to wrap up so -- for today.

21 MS. D'ASCOLI: Yes, Your Honour, this ends the section related
22 to names that I wanted to ask, so it can be actually a good time to
23 stop for today.

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much. Can you
25 inform the Panel how much time you think you will need tomorrow for

Witness: Brahim Mehmetaj (Open Session)

Page 2716

Cross-examination by Ms. D'Ascoli

1 your examination.

2 MS. D'ASCOLI: Yes, Your Honours, I will look again, but I don't
3 think I will have more than 15 minutes.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you very much.

5 Victims' Counsel, for tomorrow, would you like to examine the
6 witness? Of course, you don't know what she is going to ask in the
7 last 15 minutes. And if do you, can you make a estimation, less or
8 more, where we stand with the time you need.

9 MS. PUES: Yes, I do have a few questions, unless they will be
10 covered in the rest of the examination by the SPO. And I think not
11 more than 20 minutes at the maximum. So possibly much briefer.

12 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you very much.

13 And I can imagine, Defence Counsel, that for now it is too early
14 for you to say if you want to do the re-direct or not. Or can you
15 already indicate that you would like to do re-direct?

16 MR. VON BONE: I think, indeed, we will do some re-direct, I
17 think.

18 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you. Thank you very
19 much.

20 Mr. Mehmetaj, for now, the hearing will be adjourned. I wish
21 you -- that you rest well. Please don't discuss your statement you
22 have been giving here with anyone. And we see you back tomorrow at
23 9.30 in court. And thank you.

24 THE WITNESS: [Interpretation] Thank you, Respectful Judge.

25 Thank you, everyone.

1 [The witness stands down]

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Usher.

3 Let me see. Madam Prosecutor, is there anything else you would
4 like to raise for now?

5 MS. D'ASCOLI: No, Your Honours. Thank you.

6 PRESIDING JUDGE VELDT-FOGLIA: And the Victims' Counsel.

7 MS. PUES: No, thank you.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

9 And Defence Counsel.

10 MR. VON BONE: Yes, Your Honour. Regarding the order of the
11 witnesses, there was just one question whether we wanted to file it
12 as a filing or as an e-mail. The conduct of proceedings, the
13 decision on it was not clear -- clear for the Prosecution, but there
14 is no problem if we do it through a filing.

15 PRESIDING JUDGE VELDT-FOGLIA: We would have a preference for a
16 filing.

17 MR. VON BONE: Okay, yes.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Thank you for asking.

19 MR. VON BONE: So we'll probably do it today for the entire
20 month of April. It will include also, obviously, next week, but
21 that's it. And we assume three witnesses per week. That's it.
22 Thank you very much.

23 PRESIDING JUDGE VELDT-FOGLIA: Yes. And you could take into
24 account the -- your own estimation and if it would be wise in order
25 to try to make them fit in in the schedule, maybe to change the

1 order. That I leave to you but -- and if there are any problems, you
2 can always raise it in court.

3 MR. VON BONE: [Microphone not activated].

4 PRESIDING JUDGE VELDT-FOGLIA: Very well. Then if this is it,
5 we will resume tomorrow, Thursday, 24 March, for one session, from
6 9.30 till 11.00.

7 Let us see if we will finish tomorrow, and if not, it will be --
8 we will continue on Monday. We're not going to rush anything, of
9 course.

10 I thank the parties and the Victims' Counsel for their
11 attendance. And also I thank Madam Stenographer and the interpreters
12 and the audiovisual booth and the security for their assistance.

13 The hearing is adjourned.

14 --- Whereupon the hearing adjourned at 4.19 p.m.

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