

1 Wednesday, 30 March 2022

2 [Open session]

3 [The accused entered court]

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

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

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

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

11 Good morning, everyone. We will call appearances now.

12 Madam Prosecutor, you have the floor.

13 MS. D'ASCOLI: Good morning, Your Honours and everyone. The
14 Specialist Prosecutor's Office today is represented by
15 Filippo de Minicis, Associate Prosecutor; Julie Mann, Case Manager;
16 and myself, Silvia D'Ascoli, Associate Prosecutor. Thank you.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

18 Victims' Counsel, you have the floor.

19 MS. PUES: Thank you very much, Your Honours. And good morning.
20 Good morning, everybody. The participating victims today are
21 represented by Brechtje Vossenbergh, my co-counsel; and by myself,
22 Anni Pues, as counsel.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

24 Defence Counsel, you have the floor.

25 MR. VON BONE: Good morning, Your Honour. Defence is

1 represented by Mr. Betim Shala, my co-counsel; Fatmir Pelaj,
2 interpreter/investigator; joining in the courtroom is also
3 Mr. Mustafa; and myself, I'm Julius von Bone.

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

5 And I see that we also have the Registry. Please, you have the
6 floor.

7 MR. NILSSON: Good morning, Your Honours. Good morning,
8 colleagues. Jonas Nilsson, Judicial Services Division in Registry.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you. And for the record,
10 you appear in front of Trial Panel I.

11 Before we begin with today's testimony, the Panel would like to
12 discuss something with the Registry.

13 Mr. Court Officer, could we please go into private session.

14 [Private session]

15 [Private session text removed]

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9 [Open session]

10 THE COURT OFFICER: We are in public session, Your Honours.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 Madam Court Usher, can we please usher the witness into the
13 courtroom, because now we will proceed to hear the testimony of
14 Defence Witness 500, Mr. Hazir Borovci.

15 [The witness entered court]

16 PRESIDING JUDGE VELDT-FOGLIA: Mr. Borovci, good morning, and
17 welcome to the Specialist Chambers. Can you hear me fine?

18 THE WITNESS: [Interpretation] Yes.

19 PRESIDING JUDGE VELDT-FOGLIA: How are you, first of all?

20 THE WITNESS: [Interpretation] I am very well. Thank you.

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

22 Today we will start with your testimony, Mr. Borovci. You are
23 called to testify before the Specialist Chambers in the case of The
24 Specialist Prosecutor versus Salih Mustafa to assist the Panel to
25 reach a verdict.

1 After you have taken your solemn declaration to tell the truth,
2 you will be asked questions by the Defence counsel for
3 Mr. Salih Mustafa on your right-hand side; then the lawyers for the
4 Prosecution; and then the lawyers representing the victims admitted
5 to participate in this case.

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

8 Mr. Borovci, please, listen carefully to each question. If you
9 do not understand, feel free to ask for the question to be repeated.
10 We want you to tell the truth and we want you to tell what you saw,
11 what you heard, what you experienced, what you sensed. If you did
12 not see or hear it yourself, please indicate it to us and tell us how
13 you came to know it. You may not remember all details of the events.
14 That is perfectly fine. Please testify on what you remember. If you
15 don't know, just say it, "I don't remember," "I don't know."

16 I also remind you that you may object to provide your testimony
17 on issues that might tend to incriminate you pursuant to Rule 151(1)
18 of the Rules. Yes? You have that right.

19 Have you understood all that, Mr. Borovci?

20 THE WITNESS: [Interpretation] Yes.

21 PRESIDING JUDGE VELDT-FOGLIA: Very well. I would also like to
22 give you some practical advice for your testimony.

23 Everything that we say here is translated and recorded, so it's
24 important to speak into the microphone on both sides of you, to speak
25 clearly, and to speak at slow pace to allow the interpreters to

1 translate everything. You should only start speaking when the person
2 asking you the question has finished. And when a question is asked,
3 please count in your head until five in order for the interpreters to
4 properly hear, translate, and record what you are saying.

5 If you have any questions, if you need a break or if you need
6 assistance, please raise your hand and I will give you the floor and
7 you can explain what you need.

8 Have you understood all this?

9 THE WITNESS: [Interpretation] Yes.

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

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

15 THE WITNESS: [Interpretation] Yes.

16 PRESIDING JUDGE VELDT-FOGLIA: Very well. I've seen that you
17 have been given the solemn declaration. Please read it out.

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

22 WITNESS: HAZIR BOROVCI

23 [Witness answered through interpreter]

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Borovci. You are
25 now under oath to tell the truth.

Witness: Hazir Borovci (Open Session)

Page 2951

Examination by Mr. Von Bone

1 to the question. If there is need for further elaboration, we will
2 ask you. Yes? So please stick to the answers that the lawyer wants
3 to -- please stick to the question that you are posed.

4 MR. VON BONE:

5 Q. So my question, Mr. Borovci --

6 A. On 24 March, the first bombs fell on Serbian targets in 1999.
7 On 24 March.

8 Q. Thank you very much. At the time, where were you living at that
9 time?

10 A. In the same place where I live today, Isa Kastrati Street,
11 Velani neighbourhood in Prishtine.

12 Q. And at the time, in that period of time, could you tell us what
13 you were doing in -- professional-wise or volunteer-wise?

14 A. At that period, I was an activist or vice chairman of the third
15 branch of LDK, Democratic League of Kosovo. I was part of the
16 emergency council of Prishtine, and I feel very good when I say to
17 you that I was a member of the Kosovo Liberation Army, since I was a
18 part of that army. I had my duties within the LDK branch. I had
19 engagements in the emergency council or the solidarity council, and,
20 in addition, and it is my honour to say this again, I was part of the
21 Kosovo Liberation Army.

22 Q. Okay. We will get to each of those topics briefly. But just to
23 get an indication from you, when was it that you actually joined the
24 LDK?

25 A. I joined the LDK from the very beginning, from the end of 1989

1 beginning of 1990. In the circumstances this party was created,
2 which were very difficult. Therefore, I decided to join this
3 movement and not stay still and do nothing. And from that day to
4 this day, I am a member and activist of the Democratic League of
5 Kosovo.

6 The circumstances when the LDK was created -- thank you.

7 Q. Okay. And you said you were also working with the municipal
8 council of emergencies. Could you tell us when you started working
9 for that, approximately?

10 A. Yes. Throughout 1998, the more the repression raised on the
11 population, the highest -- higher was our determination to join the
12 council. LDK, KLA, and the emergency council were of humanitarian
13 character. The displaced population needed shelter, food, clothing,
14 medicaments. So this is the field where I was engaged in 1998, 1999,
15 up until the week after the beginning of the NATO strikes on 24 March
16 when we were forced to leave Prishtine.

17 Q. I understand. We'll get back to that point later in time. Just
18 you said -- and would you please be brief on this. Could you briefly
19 describe what the municipal council for emergency did? And we know
20 already a little about it, but if you could briefly describe what
21 that council did and what you did in particular.

22 A. The municipal council for emergencies was the point where all
23 assistance was gathered - food, clothing, medicaments. And from that
24 council, there were also subcouncils, and those subcouncils then
25 distributed the aid to the families that were displaced from the war

1 zone areas. I personally, my friends, and the LDK activists and KLA
2 soldiers helped in the collection and distribution of supplies to the
3 families in need.

4 Q. I understand. And what -- was it -- in which neighbourhood did
5 you live in Prishtine? What is the name of the neighbourhood where
6 you were living?

7 A. Isa Kastrati Street in Prishtine; whereas the neighbourhood
8 itself is known as Velania. This is where I lived, where I was
9 active, and this is where I live and operate today.

10 Q. And the municipal council of emergencies -- of emergency, where
11 was that located in Prishtine? Could you tell that?

12 A. It was located in Velania in a house. If I'm not mistaken, a
13 three-storey house. That was the location where the aid was
14 collected and from where it was distributed to other subcouncils and
15 neighbourhoods of Prishtine. There was a council at central level.
16 I am talking about the municipal council of Prishtine and the
17 location where this municipal council for emergencies was situated in
18 Prishtine.

19 Q. And the distribution of that aid, how would that be done in
20 practice? How would the goods be distributed to the people who
21 needed those goods?

22 A. Well, when I mentioned at the outset the LDK, next to the
23 municipal council for emergencies offices, the house, there was the
24 office of the third branch of LDK a couple of hundreds of metres
25 away. And together with the activists of LDK and the heads of

1 families that were displaced, we distributed the aid through the
2 persons in charge of the subcouncils. We distributed them by hand,
3 in bags, depending on what the aid was, whether it was food or
4 clothing and so on. There were also associations such as
5 Mother Teresa and other associations that were responsible for
6 medical part. But the council distributed the most necessary thing,
7 the basic necessities.

8 Q. And in March 1999, did this distribution of goods became more
9 difficult; and if so, what kind of difficulties would you meet?

10 A. There were many difficulties, not only in March but before March
11 as well. But in March, these difficulties reached their peak because
12 there were paramilitaries, militaries, and police forces of the
13 Serbian regime, in Prishtine there were many checkpoints, and the
14 opportunity to be active diminished. And after the 24th, it was
15 impossible to carry out these activities that I described.

16 Every activist, be they from the LDK or the municipal council
17 for emergencies or the KLA, that would be caught would be arrested,
18 maltreated in the most disgraceful ways. So these were the
19 difficulties in the second part of March. And as I said, from the
20 24th, the difficulties increased due to the bombings, NATO bombings,
21 and we had to take to another kind of approach.

22 Q. And the population at that time -- and my question is in this
23 regard: Did you experience yourself or in your neighbourhood that
24 there was aggression against the population; and if so, where did
25 that come from?

Witness: Hazir Borovci (Open Session)

Page 2955

Examination by Mr. Von Bone

1 A. During March we are talking about, which was the month of
2 genocide, it was no longer just a repression month or the month of
3 imprisonments. The regime had passed on to genocidal acts, as the
4 case was with the Jashari family and many other families in Dukagjin
5 and in other parts. So we can no longer speak merely of repression
6 but of genocide.

7 Under these circumstances, as a member of the KLA, together with
8 my comrades, in addition to what I explained earlier that I was
9 doing, we decided to host, to accommodate civilian population, large
10 numbers of them. We placed them above the road in Velania
11 neighbourhood because the building -- there were --

12 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness.

13 Defence Counsel --

14 MR. VON BONE: Yes.

15 PRESIDING JUDGE VELDT-FOGLIA: -- your question was
16 aggression --

17 MR. VON BONE: Yes.

18 PRESIDING JUDGE VELDT-FOGLIA: -- against, so I don't want to --

19 MR. VON BONE: I --

20 PRESIDING JUDGE VELDT-FOGLIA: -- interrupt you all the time.
21 But please, if you see that the witness is deviating from what you
22 want to elicit, stop him because if not I will be on top of him every
23 time he speaks if he deviates.

24 MR. VON BONE: Yes.

25 PRESIDING JUDGE VELDT-FOGLIA: So it's up to you.

Witness: Hazir Borovci (Open Session)

Page 2956

Examination by Mr. Von Bone

1 MR. VON BONE:

2 Q. So what kind of aggression did the population, in your
3 neighbourhood or near you or to you, actually experience? That was
4 my question.

5 A. The population near us was arrested, maltreated physically.
6 They were interrogated, detained. And in every part of the
7 neighbourhood, nobody could enter or leave that area without being
8 checked, with the exception of some specific lines that we used
9 ourselves very cautiously.

10 Q. And did you have to leave at some point Prishtine or did you
11 remain in Prishtine? And I'm trying to be clear, when the NATO
12 strikes of 24 March began, did you remain in Prishtine or did you
13 leave at some point in Prishtine?

14 A. We had already decided, in cooperation of the heads of the
15 households living there and other comrades, to stay by the side of
16 the population, to defend them so that they weren't taken away at all
17 times and nobody knew their fate. And if need be, we were willing to
18 put up a resistance, but always having in mind the civilian
19 population.

20 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, Mr. Witness, the
21 question was if you stayed in Prishtine or you left Prishtine. And
22 I'm going to say it again -- no, no. No, you wait now.

23 We are here, Mr. Borovci, with a specific purpose. And the
24 Defence Counsel wants to elicit a type of information and not other
25 information that you want to share. You are not here to share

1 information because you think it's important. You need to answer to
2 the questions that are put to you. And we have a certain amount of
3 time, and if you start talking about all kind of things, that means
4 that that could be not relevant for the case here.

5 So please stick to the questions. If not, I will be
6 interrupting you all the time. And this is now the third time that
7 I've warned you, so please listen to what we are saying to you.

8 Defence Counsel, please proceed. And also --

9 MR. VON BONE: Yes.

10 PRESIDING JUDGE VELDT-FOGLIA: -- it's a task for you to
11 interrupt the witness if you see that he's not answering your
12 question.

13 MR. VON BONE: Yes.

14 Q. So, Mr. Witness, my question comes back to you once again. Did
15 you remain in Prishtine on 24 March, the time that the NATO strikes
16 began, or did you leave at some point in time Prishtine?

17 A. On 24 March, we remained in Prishtine up until the end of March,
18 when our neighbourhood was surrounded in three directions. When that
19 happened, we left the area together with the population.

20 Q. I understand. And you said that you left the area. And what
21 was the reason for you to leave?

22 A. We were in the service of the population. Seeing that we were
23 surrounded by numerous police, military forces, and armed civilians
24 with heavy weapons, there were two ways for us to follow: To resist
25 or to guide the population, because they enter the houses, set fire

Witness: Hazir Borovci (Open Session)

Page 2958

Examination by Mr. Von Bone

1 to them. And so in order to save the population, we decided to
2 gather with the population, some of us leading them, some of us in
3 the middle, and I was at the end of that column of people, in order
4 to guide them to the right place. So we left towards a more secure
5 place.

6 Q. I understand. And when did you actually leave? When was that?
7 How long was that after the 24 March NATO air strikes? Do you recall
8 the date?

9 A. Yes, I remember the date. It was the end of March. In my
10 statement, indeed, I have said 28 March. But since I am under oath,
11 we didn't leave on the 28th but at the end of March. So on 31 March,
12 we were obliged to leave Prishtine. And I want to thank very much
13 the people who showed us the right way and took us to a mountainous
14 area in the vicinity of Prishtine.

15 Q. I understand that. And in which direction, this population that
16 you are explaining about, which direction did they go?

17 A. In the direction of Butovc village in the vicinity of Prishtine.
18 It is a mountainous area.

19 Q. And did you go there yourself as well when you left?

20 A. Yes, together with other comrades and the people, civilian
21 population, escorting them and defending them.

22 Q. And why was that place chosen, Butovc? Why Butovc?

23 A. There were -- we had several alternatives. But being surrounded
24 in three directions, from Jahudive graveyard, cemetery, the military
25 forces were coming; from another area came the military forces; and

Witness: Hazir Borovci (Open Session)

Page 2959

Examination by Mr. Von Bone

1 from the hospital neighbourhood, the police forces. So I want to
2 thank Professor Mustafa and Mr. Sopi --

3 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please answer the
4 questions. You are not here at this moment in time to thank people.
5 Okay?

6 MR. VON BONE:

7 Q. So I understand, Mr. Borovci, that they were coming from three
8 sides, forces. My question was why going to the direction of Butovc?
9 Was there no alternative or was there something in particular that
10 was chosen?

11 A. The people who were there with us were more familiar with
12 Butovc, and it was easier for them to guide the population towards
13 Butovc.

14 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel --

15 MR. VON BONE: Yes.

16 PRESIDING JUDGE VELDT-FOGLIA: -- just for the record, it's at
17 10.00, less or more, the Registry left the courtroom. I want to
18 state it for the record.

19 Please.

20 MR. VON BONE: Okay.

21 Q. You said the people who were there with you were more familiar
22 with Butovc. Who were these people that were familiar with Butovc?
23 About who do you speak?

24 A. Professor Mustafa Sopi, Gani Riza Sopi, and some others.

25 Q. And how did you know these people?

1 A. With Professor Mustafe Sopi, we grew up together. We worked
2 together.

3 Q. I understand. You said that you went to Butovc, and it was on
4 31 March, I understand. And where actually were you or this large
5 amount of people accommodated?

6 A. Initially, we were accommodated in several houses in Butovc. In
7 the family of Mustafe Sopi's house, the house of Sinan Sopi, the
8 houses of Recica, Ilmi and some other Recica cousins. On the first
9 night, I personally stayed at Smajl Sopi's house who were the parents
10 of Mustafe Sopi. They had several houses and there were several
11 cousins there. That's where we were accommodated during the first
12 night.

13 Another part of the population went in the direction of Mramor.
14 They were escorted by our friends, some others in the direction of
15 Suteske.

16 Q. Is Suteske a neighbourhood of Mramor?

17 A. Yes, it's part of Mramor, but it is also close to this other --
18 Butovc.

19 Q. Okay. I understand that you arrived in Butovc. You stayed
20 there. Until when did you stay there in Butovc?

21 A. I stayed there until the date when the peacekeeping forces
22 entered Kosovo; namely, on 12 June.

23 Q. I understand. Was Butovc a safe place to stay?

24 A. No place was safe. But in those circumstances, Butovc was, for
25 us, the most safe place. The safest place.

Witness: Hazir Borovci (Open Session)

Page 2961

Examination by Mr. Von Bone

1 Q. And could you experience, actually, bombings near Butovc or
2 around Butovc or in Butovc?

3 A. Yes. Yes, maybe more than in any other place there were
4 shellings, bombings, because it was near -- or if I want to follow
5 the advice of Her Honour to speak more briefly, I experienced
6 numerous shellings, because it was a very strategic point where the
7 Serb forces - police, army - were located at the place we called
8 Te Pishat, which means "at the pines."

9 Q. And what was so strategic about that point?

10 A. It was an elevated point. And even before the war, but also
11 during the war, there was a large concentration of Serb military and
12 police forces, along with civilians, because from that point they
13 could overlook the entire area. That's why it was a dangerous place.
14 We and -- I and my friends stood on guard in order to protect the
15 population, the civilian population, because the civilian population
16 were staying on a lower place. They, the forces, were staying at
17 this elevated point. And if we didn't stay there, the population
18 would be in danger. But we constantly kept guard there to protect
19 the civilian population.

20 PRESIDING JUDGE VELDT-FOGLIA: Okay. You made your point.

21 Thank you.

22 MR. VON BONE:

23 Q. I understand. And when you say "we constantly kept guard there
24 to protect the civilian population," who are "we" that you are
25 speaking about when you say "we kept guard"?

Witness: Hazir Borovci (Open Session)

Page 2962

Examination by Mr. Von Bone

1 A. I am speaking about myself and some of other members of the KLA
2 stationed there, because it was a very important point for us,
3 Butovc. For us, I mean the KLA.

4 Q. And once again, can you name, maybe, some of the other people
5 who would also guard the population there?

6 A. Yes. It was me, Gani Sopi, Mustafe Sopi, Jakupi, Sabiti,
7 deceased now. Sabit Mushica. There were two Sabits. It's very
8 interesting that they -- that family members also joined our forces,
9 Recicis. And there were many volunteers, but we didn't have weapons.
10 They were willing to join us, but we stood at the most dangerous
11 point.

12 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness.

13 MR. VON BONE:

14 Q. I understand.

15 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, the question was to
16 give names, if you could remember, so stick to that.

17 MR. VON BONE:

18 Q. The -- you said you stayed in Butovc. Did you stay with the
19 family Sopi all the time, or did you have accommodation elsewhere or
20 near them or wherever?

21 A. The first night I stayed there. Then I moved to the family of
22 Recica, and there was -- but they were separated only by a hill. It
23 wasn't a great distance, but you had to climb the hill and then climb
24 down.

25 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness.

Witness: Hazir Borovci (Open Session)

Page 2963

Examination by Mr. Von Bone

1 MR. VON BONE:

2 Q. I understand.

3 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please, don't give
4 those kind of details. If you are asked to give an answer where you
5 would stay, then you give the other house and that's enough.

6 MR. VON BONE:

7 Q. Did you ever meet Salih Mustafa in Butovc?

8 A. Yes, I met him.

9 Q. And do you recall how long that was after your arrival in
10 Butovc?

11 A. I think it was the 2nd or the 3rd.

12 Q. The 2nd or the 3rd of what?

13 A. The 2nd or the 3rd of April, 1999. The first week, meaning the
14 2nd or the 3rd of April, 1999.

15 Q. And on what occasion did you meet him there?

16 A. The place where I was standing guard in that point that I
17 mentioned, nearby is a house of Mustafe Sopi where some families were
18 accommodated. And after finishing my duty, we came to rest and we
19 passed by the house of Mustafe Sopi, and that's where I met
20 Salih Mustafa. Earlier, I didn't know him. But they were
21 celebrating Bajram, and Professor Sopi introduced me. And based on
22 the words that he was saying to the population and to us, I realised
23 that it was Salih Mustafa.

24 Q. You said they were celebrating Bajram. Was that the first or
25 the second Bajram?

1 A. The small, the second Bajram. The small Bajram we call it.

2 Q. And could you explain us what the Bajram is, what the second
3 Bajram is? What kind of holiday is that or what kind of -- what is
4 that to celebrate?

5 A. Usually we Muslims have two feasts, the big Bajram and the small
6 one. The big Bajram lasts longer, two, three, four days, and that's
7 why I recalled the date when we were celebrating Bajram. So it means
8 the first week of April of 1999.

9 Q. I understand. And the celebration of a Bajram, was that --
10 considering the period in which you were staying there, was that
11 special rather than any other occasion that you celebrated Bajram?

12 A. Yes, because we could not prepare as we usually do because we
13 were living under very difficult conditions. We were not able to
14 prepare meals and stuff like we do usually. But still, we, in a way,
15 celebrated it, congratulated one another on it.

16 Q. And I understand that was the first time that you saw him. Did
17 you see him there regularly, in Butovc, in that period of time?

18 A. Yes, we met some -- we'd met some other times as well, but we
19 did not talk much because of circumstances imposed by the place we
20 stayed at, at the Recica. However, he stayed, I mean, I met him
21 during, if I remember, approximately two-week [period], I mean of
22 April, namely towards the second half of April in Butovc.

23 Q. And directly after this Bajram celebration occasion, could you
24 indicate how frequent you saw him there in Butovc?

25 A. We have seen, but we have not talked. But I have met him

Witness: Hazir Borovci (Open Session)

Page 2965

Examination by Mr. Von Bone

1 several times. Maybe three, four, five times. I can't be precise.
2 But, I mean, during this period, I have seen him several times. And
3 we have talked a few times. More times I have seen him and less
4 times I have talked to him. Because he also advised us, suggested us
5 what to do. And when I first saw him, I listened to what he was
6 saying and advising the civilian population, then I recalled what
7 Mustafe Sopi had told me about him, and I realised that it was him.

8 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, excuse me.
9 Could you clarify about what period we are talking, because he
10 referred to "this period," but for me it's not clear what period we
11 are talking about.

12 MR. VON BONE:

13 Q. And the period that you are talking about, this is the period --

14 MS. D'ASCOLI: Your Honours.

15 PRESIDING JUDGE VELDT-FOGLIA: No, I asked you just to ask what
16 period.

17 MR. VON BONE: Yes.

18 PRESIDING JUDGE VELDT-FOGLIA: I don't -- but I don't want you
19 to give already a possible answer.

20 MR. VON BONE: No.

21 PRESIDING JUDGE VELDT-FOGLIA: Please don't feed the witness.

22 MR. VON BONE: Yes.

23 PRESIDING JUDGE VELDT-FOGLIA: Just ask: What period are you
24 referring to?

25 MR. VON BONE: Yes.

Witness: Hazir Borovci (Open Session)

Page 2966

Examination by Mr. Von Bone

1 PRESIDING JUDGE VELDT-FOGLIA: And if not, I can ask the
2 question myself.

3 MR. VON BONE: Yes.

4 Q. And the period that you are talking about, what period is that?

5 A. The 2nd or the 3rd of April, that is, the first week of April,
6 until the 15th, 16th, 17th of April. That's the period I had in
7 mind.

8 Q. What did Mr. Mustafa do exactly in Butovc? I understand you did
9 not always speak with him or -- but only saw him. But what would he
10 be doing there?

11 A. We are talking about Mustafa. That's what you are asking me; am
12 I right?

13 Q. I am talking about --

14 A. Mustafe Sopi.

15 Q. No. I am talking about Salih Mustafa. When you would see him
16 there, what would he be doing?

17 A. When I first saw him, he was raising the morale of the civilian
18 population. He was telling them how to assist one another, to assist
19 their children. He always suggested to us not to leave the
20 population alone, and he asked us, especially the more experienced
21 ones, to be at the most dangerous points, to stand there, to stand on
22 guard, to be where they were closest -- closer to the Serb points.
23 And from this, I understood that Mustafa was right in what he was
24 telling us about Salih Mustafa before I personally knew him.

25 Q. Mr. Borovci, what would Mr. Salih Mustafa be wearing on the

Witness: Hazir Borovci (Open Session)

Page 2967

Examination by Mr. Von Bone

1 occasions that you would see him there?

2 A. To tell you the truth, I don't remember anything worth
3 remembering. It's been 20 and more years since then. But he had a
4 jacket, greenish in colour. That's what I remember. So I don't
5 remember anything standing out.

6 Q. And would he be carrying a weapon?

7 A. Not heavy weapons. Light weapon. But I don't remember what
8 type of weapon. However, it was not a heavy weapon. It was a light
9 weapon.

10 Q. Did he have any contact with Mr. Mustafa Sopi that you know of
11 or that you have seen?

12 A. The contacts with Mustafa were from earlier, because he was
13 staying at Mustafa's house and also he was his student. Moreover, in
14 prison, through Professor Sopi he would tell us --

15 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, the question is:
16 Did Mr. Mustafa have contact with Mustafa Sopi that you know of or
17 that you have seen?

18 THE WITNESS: [Interpretation] Yes, he did.

19 MR. VON BONE:

20 Q. And the occasions that Mr. Mustafa was there, do you know if he
21 stayed overnight there in Butovc?

22 A. Yes, Mustafa stayed unless -- this I didn't see, but unless he
23 left in the group of soldiers who entered the city to get food. But
24 I didn't see that.

25 Q. How did you know or hear that he would enter the city to get

Witness: Hazir Borovci (Open Session)

Page 2968

Examination by Mr. Von Bone

1 food or whatever? Did you hear that from him personally or did
2 somebody else tell you or did --

3 A. No, no, Mr. Counsel. What I said was it could have happened
4 that he went, but I didn't see that. And if he did -- if he didn't,
5 then he stayed in Butovc. There were soldiers with heads of families
6 who went to the town to bring food for the population. This was
7 dangerous, but we had to help the population to secure food stuffs
8 for the population from the town. There was a lack of medicaments,
9 lack of --

10 PRESIDING JUDGE VELDT-FOGLIA: Yes, yes.

11 THE WITNESS: [Interpretation] -- clothing.

12 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, that will suffice as
13 an answer.

14 MR. VON BONE:

15 Q. If people would need to go to town to get this material, how
16 long would that take them? Did you ever hear that from somebody who
17 went there or did anybody else tell you that, or --

18 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, can you specify
19 which town you are talking about?

20 MR. VON BONE: The period of the --

21 PRESIDING JUDGE VELDT-FOGLIA: Which town? You are referring to
22 a town.

23 MR. VON BONE: Prishtine, of course.

24 PRESIDING JUDGE VELDT-FOGLIA: No, it's not "of course." There
25 are more towns in Kosovo.

1 MR. VON BONE:

2 Q. So did people tell you how long it would go -- how long it would
3 take to actually go to town, to Prishtine, to get goods from there
4 and bring them back to Butovc?

5 A. It could take two hours, three hours, depending on the obstacles
6 and the difficulties that they were faced with. Since when they
7 would go to the town, they had to be very cautious. There were
8 concentrations of forces in neighbourhoods. So sometimes it look
9 longer to get to the houses and get the food. The distance of the
10 road, in normal circumstances, notwithstanding the terrain which goes
11 up and down, from Butovc to Prishtine, in normal circumstances you
12 can make this distance in one hour. But in war circumstances, it can
13 take you three, four, five, six, depending on the obstacles.

14 Q. I understand. Did you ever go to other places from Butovc
15 yourself or did you remain in Butovc?

16 A. Only in Butovc, with the exception of one time in Viti where we
17 had some family members, and together with the professor we visited
18 them. So Professor Mustafa had family there and I had also family
19 there. And once to Suteske, which is like a neighbourhood adjacent
20 to Mramor. But the rest of the time, I was in Butovc and not willing
21 to leave that point that I mentioned earlier, which was the most
22 dangerous one.

23 Q. I understand. Mr. Borovci, were you in the KLA?

24 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, sorry to
25 interrupt you. Could you ask the witness, with regard to the

1 distance, what means of transportation he meant? Because for me,
2 that's not clear yet.

3 MR. VON BONE: Okay.

4 Q. Mr. Witness, if people would be going to town, to Prishtine,
5 what means of transportation would they use in order to go to
6 Prishtine and come back?

7 PRESIDING JUDGE VELDT-FOGLIA: I meant more specifically, of
8 course, with regard to the timeframe he just gave us. He said one,
9 two hours, three hours, five hours, six hours. It's not clear if he
10 is measuring by car, by foot, by tractor.

11 MR. VON BONE: Yes, that's a means of transportation --

12 PRESIDING JUDGE VELDT-FOGLIA: Yes.

13 MR. VON BONE: -- I think. So that's why my question was what
14 means of transportation would --

15 PRESIDING JUDGE VELDT-FOGLIA: Yes, but you were making it more
16 general. It goes back to his question and to his -- to your question
17 and his answer.

18 MR. VON BONE: Okay.

19 PRESIDING JUDGE VELDT-FOGLIA: It is not in general, what I
20 meant.

21 MR. VON BONE:

22 Q. How did people go to Prishtine if they would go to Prishtine
23 from Butovc? You say it took them three hours or more in the period
24 of time. How would they go to Prishtine?

25 A. Maybe it's in the interpretation, but I will repeat what I said

1 and I'll speak slowly. Most of the time on foot. And to go on foot,
2 if there are no obstacles, it takes you one hour in one direction and
3 one hour to come back. Five to six hours if there were obstacles,
4 and there were many obstacles, since in the neighbourhoods, in the
5 houses, at checkpoints, there were police, military forces,
6 civilians.

7 So sometimes people who would go to fetch the food would have to
8 stay and wait for an hour, two hours in a house, and follow the
9 movements of those forces before they can leave safely.

10 As for Your Honour's question, by vehicle, by car.

11 PRESIDING JUDGE VELDT-FOGLIA: The point was how -- what means
12 of transportation you were using. You don't have to repeat the
13 obstacles. We wanted to know how people would go if they would go to
14 Prishtine. That was my point. Would they also go by car?

15 THE WITNESS: [Interpretation] Yes, but rarely. Maybe sometimes
16 by a tractor taking this great risk to be able to bring the food, and
17 sometimes by car for part of the road. It is a mountainous area, as
18 I said. So they could go up to a certain point by car, and then
19 continue on foot. So depending on the difficulties, it's also the
20 means of transport. But most of the time, they went on foot.

21 MR. VON BONE:

22 Q. Thank you.

23 PRESIDING JUDGE VELDT-FOGLIA: No, thank you, Mr. Witness. For
24 next time, if I raise my hand, I meant that you could stop talking,
25 but I don't want to talk because, if not, I interrupt what the

Witness: Hazir Borovci (Open Session)

Page 2972

Examination by Mr. Von Bone

1 interpreters are saying. So if I start speaking to you, then it
2 becomes complicated for them. That was the reason that I was raising
3 my hand.

4 Please proceed, Defence Counsel.

5 THE WITNESS: [Interpretation] Thank you.

6 MR. VON BONE:

7 Q. Mr. Witness, were you in the KLA?

8 A. Yes, I was in the KLA.

9 Q. When did you actually join the KLA?

10 A. In the beginning of 1998, or January 1998.

11 Q. And how did you actually join the KLA?

12 A. Together with comrades, LDK activists, friends who I knew for a
13 long time, who knew each other for a long time, their parents knew
14 each other, so we were the second, third generation to know each
15 other, and seeing the danger that our population was facing, we
16 decided to join and become part of the Kosovo Liberation Army.

17 Q. And could anybody join the KLA or was it reserved to specific
18 groups only?

19 A. In the beginning, everybody could join the KLA. Whoever had the
20 will, the possibility, ability to join. KLA was the people and the
21 people were the KLA.

22 Q. Did the KLA -- within the KLA, did there -- was there any
23 distinction as to people who were from a political party or religion
24 or any other distinction?

25 A. No, Mr. Counsel. Had there been a distinction -- I, at the

1 time, was vice chairman of the LDK branch. There were no -- there
2 was no distinction, be it from the aspect of affiliation, political
3 affiliation or religion. They were trying to improvise things to
4 divide us, but when it comes to your homeland, to freedom, we --
5 everybody was together. The LDK, KLA, and other entities were all
6 together, and there were no distinctions in terms of religion or
7 political affiliation.

8 Q. And where were you in the KLA? I mean which area that you were
9 in in the KLA. Was there a particular area?

10 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, do you mean
11 geographically?

12 MR. VON BONE: Yes, geographically. That's what I mean.

13 PRESIDING JUDGE VELDT-FOGLIA: Okay. Please specify.

14 MR. VON BONE:

15 Q. So my question was, was there a particular town, village, or
16 area, or region in which you served in the KLA?

17 A. We were part of Prishtine.

18 Q. I understand. And what exactly did you -- no, first, in
19 Prishtine, how was the KLA organised?

20 A. In the beginning --

21 Q. Excuse me -- excuse me.

22 A. In the beginning --

23 Q. When you say "in the beginning," can you specify what you mean
24 with "the beginning"? So which timeframe should I look at?

25 A. I'm talking for the period from 1998 up to the moment when we

1 left Prishtine. When I say "in the beginning," I mean for -- I mean
2 initially, January, February, March, April 1998.

3 In the beginning, initially, we did not have knowledge. And to
4 tell you the truth, we were not interested who was what functions.
5 What was important for us was how to organise ourselves, what can we
6 do to help our people, our country, our liberation efforts.

7 So in these circumstances, a group of friends, those that we --
8 friends who knew each other, because at the time you could not simply
9 trust everybody. It was a problem. So thanks to the fact that we
10 knew each other very well and were activists of the LDK, in this
11 direction we decided to organise ourselves and operate, become active
12 in Prishtine.

13 Later on, sometime in July, while working at the municipal
14 council for emergencies, we were arrested.

15 Q. I understand you were arrested. For what were you arrested
16 then?

17 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, can we finish,
18 please, this part of the organisation? Because wasn't he explaining
19 about how the KLA was organised? And then he said something about
20 how it was organised in the beginning.

21 MR. VON BONE: Then in July --

22 PRESIDING JUDGE VELDT-FOGLIA: Not too organised. But there is
23 also an after the beginning. And then we can maybe go into this
24 arrest, but let us finish this part.

25 MR. VON BONE: Very well.

Witness: Hazir Borovci (Open Session)

Page 2975

Examination by Mr. Von Bone

1 Q. Could you then explain. You said, I think, June, July 1998,
2 from that moment on, was there any development in the organisation of
3 the KLA in Prishtine?

4 A. Initially -- again, I'll go back. Initially -- I don't know if
5 it's the interpretation, but in the beginning, initially, a group of
6 friends, in the oda in the house of Mustafe Sopi --

7 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, you explained to us
8 how the KLA was organised at the beginning in Prishtine. That we
9 have understood. You were talking about the months of January,
10 February, March, April. Then the second part of 1998, how was the
11 KLA in Prishtine then organised? Just a plain answer. Not going
12 back, because we heard that, the first part. We have written it. We
13 can read it as often as we want, so don't repeat that.

14 THE WITNESS: [Interpretation] Later on, the ranks of the KLA
15 grew. Volunteers would join and gradually the ranks of the KLA grew
16 in Prishtine.

17 MR. VON BONE:

18 Q. And eventually in 1999, was there any difference then in the
19 organisation or did it remain as you just explained?

20 A. It was the same organisation except for the fact that the
21 strength, the numbers grew. We continued to do the same things. And
22 in 1999, as part of the army, we began with guard duty. We began to
23 be more engaged in observation duties, in collecting information,
24 because repression, violence, arrests, imprisonments --

25 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness --

Witness: Hazir Borovci (Open Session)

Page 2976

Examination by Mr. Von Bone

1 THE WITNESS: [Interpretation] -- they grew in number as well.

2 PRESIDING JUDGE VELDT-FOGLIA: -- we were talking about the
3 organisation, not about the tasks.

4 Defence Counsel, please --

5 MR. VON BONE: Yes.

6 PRESIDING JUDGE VELDT-FOGLIA: -- bear in mind that it's five
7 minutes to 11.00.

8 MR. VON BONE: Yes.

9 Q. You just touched upon the tasks. Why was that necessary to do
10 these tasks, like observation or guard duty? First of all, would
11 that be done by the volunteers that joined the ranks of the KLA? Do
12 I understand that well?

13 A. Both by the soldiers and the volunteers, so the activists of the
14 LDK and members of their family; that is, the heads of the families.
15 So we would stand guard duty together. If there was no guard duty,
16 in the evenings they would enter and maltreat the people and then
17 blame it on the KLA, as if the KLA is doing bad deeds. So their aim
18 was to create division amongst the population, and that's why we
19 wanted to get organised so that they cannot come and go whenever they
20 want, enter and leave whenever they want.

21 Q. What would be done with the information that was gathered from
22 the observations?

23 A. We would get whatever could see, we would collect it and then
24 pass it on to Isa Kastrati. And then they had their own line to whom
25 they had to hand over that information. I personally handed this

1 information to Isa Kastrati and also to Professor Sopi.

2 Q. And what exactly would be observed?

3 A. The positions of the army, the police, and civilians, because
4 their number increased, the heavy weaponry also increased. And there
5 were also inner information about the conditions of the population,
6 civilian population, as in what does the population need. So this
7 was the character of information.

8 Q. I understand. And from which points would these observations be
9 made?

10 A. I can only speak about Velania part. That is the part that we
11 covered. Bregu i Diellit, Velani, and the part that links with the
12 Butovc part, Matiqan. So we were responsible for this part. Whereas
13 other parts of Prishtine were under responsibility of other groups.

14 Q. I understand. But my question was more from which kind of
15 points? Would they be hills or rooftops or private homes or just
16 movements on the street? From where would these observations be
17 made?

18 A. Depending on the whereabouts of the Serbian forces. If, for
19 example, they were in military barracks and moved from there,
20 depending on the geographical position of the barracks, whether it
21 was towards a high valley or in the direction of Velani, so we
22 observed those points sometimes from the hill, sometimes from the
23 houses, sometimes from the street but in a very cautious and hidden,
24 so to say, way. We had also many people who had been displaced and
25 were sheltering in the houses.

1 Q. Thank you very much.

2 MR. VON BONE: Your Honour, I think this would be the time.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel.

4 We are going to have a break for half an hour, and you will be
5 ushered out, Mr. Borovci, by Madam Court Usher, and we will see each
6 other in half an hour. Okay? Thank you.

7 Madam Court Usher. Thank you.

8 [The witness stands down]

9 PRESIDING JUDGE VELDT-FOGLIA: We will break and we will resume
10 in 30 minutes from now. The hearing is adjourned.

11 --- Recess taken at 11.01 a.m.

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

13 PRESIDING JUDGE VELDT-FOGLIA: Let us call appearances. The
14 same composition, the same composition, and in the same composition.
15 For the record, the composition has not changed.

16 Before I usher the witness in, I have a question for the Defence
17 Counsel and also a more general remark.

18 Defence Counsel, the Panel would like to know if you could
19 clarify the relevance of your last question posed to the witness in
20 relation to the Defence case and the indictment with regard to the
21 observation from where it was done.

22 MR. VON BONE: Your Honour, it's just to make understand that
23 whatever the functions of these people were in the KLA, and we are
24 trying to qualify or, so to speak, get a good picture of the KLA,
25 then the first thing is of who did it consist, what did they actually

1 do then, and from where or what locations could that be done.

2 And rather than focusing on the KLA as a joint criminal
3 enterprise or any other qualification that was made in the
4 indictment, we just want to make sure that we have a good picture of
5 the KLA; in particular, the KLA where that functioned and the
6 particular area where the witness was. And that will, in our view,
7 bring a better picture or paint a better picture about the totality
8 of the KLA rather than maybe qualifying it as a group of people that
9 we see only in the areas or in the functions of a brigade or a
10 specific unit, combat or non-combat.

11 So I think that in particular area, it helps a great deal that
12 we get a better overall picture of how the KLA existed, of what it
13 consisted, and, in particular, the areas where Mr. Mustafa was also
14 operating.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel, for
16 clarifying it. I leave it there. But I will, at more moments in
17 time, if it comes up, ask you to clarify some of the questions asked.

18 And, secondly, the Panel is puzzled by the fact that at times
19 when the witness do not directly respond or respond only partially to
20 the questions asked, you are not asking further clarifications in
21 order to receive a clear answer. "Puzzled" is maybe -- I try to say
22 it in -- I will say -- yes, I am puzzled -- more than puzzled.
23 Because if you ask a question, I assume you want to have an answer to
24 that question and not leave the witness talk and talk about something
25 different.

Witness: Hazir Borovci (Open Session)

Page 2981

Examination by Mr. Von Bone

1 A. I was not arrested in 1999 but in 1998. In July, 24 July 1998.

2 Q. And what was the reason for that?

3 A. Because I worked for the freedom of my people, because I was a
4 member of the council for emergency, because I was a member of LDK,
5 and they had suspicions that we were working for the KLA. I was on
6 the way to returning home when I was arrested.

7 Q. And could you clarify how could they know that you would be
8 working for the municipal council for emergency?

9 A. When we were arrested, at that moment, we were on our way back
10 from a branch of this council, Sofalia branch. And they asked us,
11 and we said that we are returning from the municipal council for
12 emergency. We didn't tell them that we were a member of the KLA or
13 members of the LDK. Just told them that we are returning from the
14 communal council for emergencies, from one of the branches,
15 subcouncil.

16 But they did what they intended. They subjected us to very
17 severe mistreatment. I don't want to speak about that.

18 Q. And just to conclude that part. The municipal council for
19 emergency, did other people have the same kind of problems with
20 police or other forces that were -- that you were arrested by?

21 A. Yes. Yes, other people had the same problem. It was not only
22 myself who was arrested. We were together with a chairman of the
23 branch and -- Isa Kastrati, the chairman of the communal council,
24 with Gani Sopi and with Sabit Mushica. So there were other people
25 besides me who had this problem, but I spoke to you about the moment

1 when I was arrested and the reason why.

2 Q. But if I understood well, the municipal council for emergency
3 was a kind of humanitarian organisation, so to speak. So why would
4 that be a target?

5 A. Right. It dealt only with social issues, with the collection of
6 food stuffs, clothes, and things that were needed for the displaced
7 families who also had left the zones of war. It had an entirely
8 humane character, dealing with solidarity issues, the well-being of
9 the displaced population. It was a centre where everything needed by
10 the families in this situation were collected.

11 Q. Thank you very much.

12 MR. VON BONE: Let me just consult for a moment, Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

14 [Specialist Counsel confer]

15 MR. VON BONE: Your Honour, we have no further questions.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel.

17 Then I turn to the Specialist Prosecution Office.

18 Madam Prosecutor, would the SPO be ready to continue with the
19 cross-examination now?

20 MS. D'ASCOLI: Your Honours, if I may suggest we go for an early
21 lunch break, if that's doable. Otherwise, we will continue. Just in
22 order to get organised, also with the references of today's
23 transcript. But I leave it to Your Honours.

24 PRESIDING JUDGE VELDT-FOGLIA: I understand. And I think it's
25 useful if we have the references, of course, given for the

Witness: Hazir Borovci (Open Session)
Procedural Matters

Page 2983

1 transcript. So then what we would do is I will consult with CMU to
2 see how we can change the schedule, and then we have two hours - and
3 I also look at the Defence - then we would have two sessions this
4 afternoon of one and a half hour -- or one hour -- one and a half
5 hour and one hour. But I will discuss it with CMU here with
6 Mr. Court Officer.

7 [Trial Panel and Court Officer confers]

8 PRESIDING JUDGE VELDT-FOGLIA: What we will do is we will now,
9 indeed, have an early break of one and a half hour, like always, and
10 then we will continue with one and a half hour of a session, have a
11 15-minute break. And then the time we haven't done now before lunch,
12 or what would normally be lunch, we will add it at the end. So we
13 will have at the end a normal working day. It will 4.00, or quarter
14 past 4.00, or earlier, when we finish. It might be that we don't
15 have a session tomorrow or any -- that we will have anything
16 tomorrow. We have, of course, a reserve day for tomorrow, but it
17 might be that we finish already today.

18 Mr. Witness, it has been short. We will go again for a break.
19 And after that break, it is the Specialist Prosecution Office who
20 will do the cross-examination of you, so they will be posing
21 questions to you. Yes?

22 So thank you for now, and the Madam Court Usher will usher out
23 again, and we will see you back at quarter past 1.00.

24 THE WITNESS: [Interpretation] Okay. Thank you.

25 [The witness stands down]

1 PRESIDING JUDGE VELDT-FOGLIA: Have a good lunch break. I see
2 you back again at quarter past 1.00.

3 --- Luncheon recess taken at 11.45 a.m.

4 --- On resuming at 1.15 p.m.

5 PRESIDING JUDGE VELDT-FOGLIA: I see that we are in the same
6 composition, so we can proceed.

7 Madam Court Usher, could you usher the witness in.

8 [The witness takes the stand]

9 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Borovci.

10 THE WITNESS: [Interpretation] Thank you.

11 PRESIDING JUDGE VELDT-FOGLIA: Very well.

12 Madam Prosecutor, it's your turn for the cross-examination. You
13 have the floor.

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

15 Cross-examination by Ms. D'Ascoli:

16 Q. Good afternoon, Mr. Borovci.

17 A. Good afternoon.

18 Q. I'm the counsel for the Prosecution who will ask you questions
19 in cross-examination this afternoon. Just before we start, a couple
20 of reminders. Since we have limited time, I would ask for your
21 cooperation in carefully listening to my questions and answering
22 precisely what is asked of you. So just please focus on the
23 questions, try to give short answers, and if there is a need to
24 expand or go into details, I will let you know. Thank you.

25 Is that clear? Okay, I'll continue.

1 I want to start with some photos and open-source material.

2 Mr. Borovci, you have a Facebook account; right?

3 A. Yes.

4 Q. Okay. I'd like to show you some posts from that account.

5 MS. D'ASCOLI: Can I please have on the screens SPOE00325565 to
6 00325565.

7 Q. Mr. Witness, you will see the photo appearing on the screen.
8 Can you see that now on your screen?

9 A. Yes.

10 Q. So this is a photo that you posted on 9 October 2013. Do you
11 remember this post?

12 A. This photo was taken after the war.

13 Q. Mr. -- just let --

14 A. I don't remember --

15 Q. Yes, just a second. Let me ask the question, and then I'll give
16 you the opportunity to reply. So first of all, I wanted to confirm
17 that this is yourself, right, the man appearing on the photo? Can
18 you answer on the record so that we have it on the transcript instead
19 of just nodding?

20 A. Yes.

21 Q. Okay. Thank you. So on the left-hand side of the photo, there
22 is the emblem of the guerilla BIA, right, while you appear on the
23 right-hand side in the photo; correct?

24 A. Yes.

25 Q. Okay. So, Mr. Borovci, were you, in fact, a member of BIA?

1 A. I was a member of the KLA and of the guerilla unit which was
2 part of BIA. Part of the national liberation army, part of BIA.

3 Q. Okay. So you meant that when you said, "I was part of the" --
4 sorry, let me get the reference. When you said, "I was part of the
5 guerilla unit," you meant that you were part of BIA; right?

6 A. A member of the KLA of Prishtine part and of the guerilla, which
7 was part of the KLA, part of the guerilla unit, because the guerilla
8 unit was part of the KLA.

9 Q. Do you mean a specific unit of BIA when you talk about guerilla
10 unit? I mean, of course, we are talking about KLA units. I just
11 want to clarify, because my question was specific. I asked you
12 whether you were a member of BIA; yes or no?

13 A. I was a member of the national liberation army of Prishtine,
14 guerilla unit, where I operated in Velania.

15 Q. Okay. So is it fair to say that this specific guerilla unit
16 operating in the Prishtine neighbourhood of Velania was a part of the
17 BIA unit?

18 A. Yes, it was part of that unit. Yes.

19 Q. Okay. That's clear. Now, let's look at another post.

20 MS. D'ASCOLI: This can be removed, please. Can I please have
21 on the screen ERN SPOE00325566 to 00325566. Can I also have next to
22 it, on the other side of the screen, the English translation of,
23 let's say, the comments next to the photo, which is at
24 SPOE00325566-ET. Thank you.

25 Q. Can you see the post, Mr. Borovci?

Witness: Hazir Borovci (Open Session)

Page 2987

Cross-examination by Ms. D'Ascoli

1 A. Yes. But if possible, can you zoom it in, please?

2 Q. [Microphone not activated].

3 THE INTERPRETER: Microphone for you, please.

4 MS. D'ASCOLI:

5 Q. Now, the photo on the left-hand side of the screen has been
6 zoomed in. Can you see it now, Mr. Borovci?

7 A. Yes, yes, I can.

8 Q. Okay. Thank you. Can we -- I mean, we have with the English
9 translation also the photo visible.

10 MS. D'ASCOLI: Can I ask Mr. Court Officer to please show the
11 comment in the original language. Thank you very much.

12 Q. Mr. Borovci, you see the comment; right? I will read it for the
13 record. Can you see, Mr. Borovci?

14 A. Yes.

15 Q. So the post -- the comment next to the photo says, and this is,
16 again, a post from 9 October 2013, says:

17 "During the war, when the BIA guerilla unit Skifterat/Hawks/ was
18 formed."

19 You remember that; right?

20 A. I don't remember, but it is a photo taken after the war. And
21 some of them are comrades with whom we worked together during 1998
22 and 1999.

23 Q. Before going to the time and to what your post said -- okay.
24 First of all, you recognise this as a post that you put on your
25 Facebook page or profile?

1 A. Yes.

2 Q. Let's first look at the people in the photo. So I take it the
3 man standing up right in the middle of the photo, the man with the
4 beard and moustache, that is you; right?

5 A. Yes, it's me.

6 Q. You said they are comrades with whom you worked together during
7 1998 and 1999 in the photo. So can you please tell us who the other
8 persons in the photo are? We can start from the man, let's say,
9 kneeling, just lower -- in the lower part of the photo, in the same
10 position as you but in -- not standing up but sitting down. The man
11 next to another man with the glasses.

12 A. I would kindly ask you, Your Honour, and you, Prosecutor, I
13 didn't say that all of them but some of them that I recognise are
14 people with whom we cooperated during 1988, 1989. The others we knew
15 them after the war. The person sitting, the one wearing glasses,
16 this I know. It's Jakup Ismajli. The bald one is a friend, my
17 friend, Gani Sopi.

18 Q. Wait. I'm sorry -- yes --

19 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Prosecutor.
20 But it's not clear for me now where is the bald person.

21 MS. D'ASCOLI: I think Mr. Borovci is indicating the man who's
22 standing in the middle of two other men on the left-hand side, right
23 next to the person wearing black shirt and black pants.

24 Q. Is that correct?

25 PRESIDING JUDGE VELDT-FOGLIA: I see the witness nodding. Okay.

1 MS. D'ASCOLI:

2 Q. Okay. So this person you said is Gani Sopi; right?

3 A. No, no. On the opposite side in green, from the picture at
4 least I see, in the middle, that is Gani Sopi. On my right-hand
5 side, now I can show, not this one. This one standing with a
6 shawl --

7 PRESIDING JUDGE VELDT-FOGLIA: No, Mr. Borovci --

8 MS. D'ASCOLI: I have a suggestion, Your Honours.

9 PRESIDING JUDGE VELDT-FOGLIA: Yes.

10 MS. D'ASCOLI: Maybe we can have the witness mark --

11 PRESIDING JUDGE VELDT-FOGLIA: Yes.

12 MS. D'ASCOLI: -- on the screen people with numbers, so we can
13 say number 1 is, et cetera. So if Madam Court Usher, please, could
14 assist us in doing that.

15 Q. Mr. Borovci, you will be provided with a marker, and you can
16 indicate with that marker people. So let me guide you in that
17 process, please. Okay. Perfect. So number 1, who is this person
18 that you marked with number 1?

19 A. He is my friend, my co-fighter. We were together, Gani Sopi.

20 Q. And was Gani Sopi someone with whom you worked and cooperated
21 during 1998, 1999?

22 A. From the very beginning. Actually, from when we were very
23 young, for 40 years, I would say, and we've worked together all the
24 time. We are also neighbours, very close neighbours.

25 Q. And was Gani Sopi a member of the guerilla unit BIA? Did you

1 hear my question, Mr. Borovci? Before we move to another person,
2 let's first finish with this. So --

3 A. Yes, he was a member of the KLA of Prishtine part, where I was
4 along with him.

5 PRESIDING JUDGE VELDT-FOGLIA: Mr. Borovci, please wait for
6 Madam Prosecutor to finish her sentence, then give it some time, and
7 then please start talking. If not, we have serious problems of
8 interpretation. Thank you.

9 MS. D'ASCOLI:

10 Q. Can I ask you, Mr. Borovci, if you understand English?

11 A. I would prefer to hear Albanian because it will be clearer to
12 me.

13 Q. Of course. But do you understand also English? Maybe that's
14 what is causing the problem.

15 A. A little. A little.

16 Q. Okay. That's clear. So let's try to wait for the
17 interpretation before answering questions and for me before asking
18 questions.

19 I want to go back to the question that I was asking you. I
20 asked you whether Mr. Gani Sopi was a member of the guerilla unit
21 BIA, and you replied, at line 13 to 14, on page 48 of today's
22 transcript:

23 "Yes, he was a member of the KLA of Prishtine part, where I was
24 along with him."

25 So are you saying he was also a member of the guerilla unit of

1 BIA of the KLA; is that correct?

2 A. That's not correct. I said that he was part of Prishtine, not
3 of Kosovo. So part of the KLA Prishtine.

4 In the beginning, we were both members of the Prishtine part.
5 In the beginning, we did not know who was BIA. Just before 24 March
6 when the bombing started, we understood it was BIA. That's why I
7 particularly said that this friend of mine and myself were part of
8 the Prishtine part of the guerilla unit, and later on we found out
9 that we were part of the guerilla unit BIA.

10 Q. Okay. Regardless of when you heard about it or when you found
11 out, with today's knowledge, you're saying that Mr. Gani Sopi, like
12 yourself, was part of the Prishtine guerilla unit of BIA; correct?

13 A. Yes.

14 Q. So let's now move to the second person that you said you know in
15 this photo and that you marked with number 2. Can you tell us again
16 who that person is in the photo?

17 A. Yes, this person is Jakup Ismaili, marked with number 2, with
18 whom I worked in the LDK and the emergency council of Prishtine.
19 From territorial point of view, he lives not very far from Velania.
20 I knew him and we had common activities that we both carried out both
21 in LDK and in the emergency council.

22 Q. And was Mr. Jakup Ismaili also working with you, cooperating
23 with you in the Prishtine guerilla unit?

24 A. With him I met later, in terms of Butovc. But initially, I came
25 to know him through LDK, because he was a member of the LDK and the

Witness: Hazir Borovci (Open Session)

Page 2992

Cross-examination by Ms. D'Ascoli

1 emergency council too.

2 Q. And specifically with regard to 1999, do you know whether he was
3 also -- he was cooperating or working with the Prishtine guerilla
4 unit?

5 A. He worked for the liberation army of Prishtine and, of course,
6 for the guerilla, because it was part of the liberation army. But
7 normally, he was engaged through the emergency council or, more
8 precisely, subcouncil of the part where he lived. He merely dealt
9 with the medical part.

10 Q. Okay. Thank you for clarifying. So I understand that in
11 addition to Mr. Ismaili's duty or work with the emergency council and
12 the medical part that you mentioned, he was also working for the
13 Prishtine guerilla unit; correct? Just "yes" or "no," please.

14 A. Correct.

15 Q. Okay. I was summarising what you said. I just want that it is
16 clear for the record. Okay. So these two people. Do you know
17 anyone else in the photo? And if you do, can you please mark the
18 next person with the number 3 and tell us the full name, please.

19 A. I know these persons after the war. I did not know them in 1998
20 and 1999, and not even before that. I know him -- I know them from
21 after the war. Before the war, I didn't know any of them, with the
22 exception of the two persons marked.

23 Q. Okay. Well, let us try to go through this different
24 time-period. So first of all, I want to go back to what you said
25 about the time of the photo.

1 MS. D'ASCOLI: Now, if I can have again the -- no, I cannot.
2 That's right. All right. I'll read it again for the record. I
3 don't want to remove the current photo because otherwise we will be
4 losing the markings. So that's fine.

5 Q. I'll read again, I'll summarise what the comment next to the
6 photo was saying, which was:

7 "During the war when the BIA guerilla unit Skifterat/Hawks/ was
8 formed."

9 So that is the comment that you, Mr. Borovci, put next to this
10 photo when you published it on Facebook; is that correct?

11 A. This is correct, but this post was made 13 years after. So if
12 you go back to the picture, you will see that the post is from 2013.
13 I don't have it before me, but I think the year of the post was 2013.

14 Q. You're correct, Mr. Borovci. The post is dated 9 October 2013.
15 However, I was asking about something else. I was asking about,
16 first of all, the fact that the comment next to the photo says,
17 explaining the photo:

18 "During the war when the BIA guerilla unit ... was formed."

19 And also by the look of it, this doesn't look to me like a
20 recent photo from 2013. Is that correct? Is this a photo from 2013?

21 A. I said it's a photo from after the war. I cannot say it's from
22 2013 or 2012. My point is that it's not a photo from the time during
23 the war. It's from the time after the war.

24 Q. I understand. You're saying you don't remember when the photo
25 was taken; correct? "Yes" or "no" so that we can ...

Witness: Hazir Borovci (Open Session)

Page 2994

Cross-examination by Ms. D'Ascoli

1 A. No, I don't remember when it was taken.

2 Q. That's fine. However, despite the comment which says "during
3 the war," you are now saying that this photo was taken after the war?
4 Is that your evidence? Just to be clear.

5 A. Yes, after the war. Because, if possible, or if this could be
6 of help to you, during the war not all of us had uniforms. And after
7 the war, we made photographs with us wearing uniforms for the sake of
8 the memories, because during the war not all the soldiers had
9 uniforms. There was a shortage of uniforms. That is why I said this
10 is my photograph, this is my writing, my post, but the photograph
11 itself is not from the time of the war.

12 Q. Okay. So you're saying that the photo is from after the war.
13 And do you remember if it's just some months, years? Can you give us
14 any specifics about that or not? If not, that's fine too.

15 A. I would be wrong maybe to tell you in terms of dates or months,
16 but I can say it's not from during the war. It's from after the war.

17 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor?

18 MS. D'ASCOLI: Yes.

19 PRESIDING JUDGE VELDT-FOGLIA: I don't want to interfere with
20 your line of questioning. But for me, it's not clear why the witness
21 is referring to uniforms on the picture -- or a unit making pictures
22 with uniforms, because I don't see -- but maybe because the picture
23 is not clear. I don't see people with uniforms. I see people with
24 ties.

25 So if you have that in your line of questioning that you are

1 going to put a question on that, please proceed with your line of
2 questioning. If not, I want to have a clarification on that.

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

4 MR. VON BONE: Your Honour, may I have one suggestion? In --

5 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel --

6 MR. VON BONE: If I may --

7 PRESIDING JUDGE VELDT-FOGLIA: -- I just realised that the
8 witness has informed us that he is -- he knows English.

9 MR. VON BONE: Yes.

10 PRESIDING JUDGE VELDT-FOGLIA: So if you're going to say
11 something with regard to the content --

12 MR. VON BONE: Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: -- then it's better to have the
14 witness removed from the courtroom.

15 MR. VON BONE: Okay.

16 PRESIDING JUDGE VELDT-FOGLIA: Yes.

17 MR. VON BONE: Then let's --

18 PRESIDING JUDGE VELDT-FOGLIA: Mr. Borovci, please take off your
19 headphones. We will usher you out, and then you will be brought
20 back.

21 [The witness stands down]

22 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, you have the
23 floor.

24 MR. VON BONE: Yes, Your Honour. In page 51, line 25, the
25 counsel just said that the comment was explaining the photo. And I

1 do not know if the comment actually explains the photo. It is a
2 suggestion of the Prosecutor that the comment explains the photo. It
3 does not necessarily have to explain the photo. It can be just any
4 kind of comment, not necessarily explaining the photo.

5 PRESIDING JUDGE VELDT-FOGLIA: Your point is made.

6 MR. VON BONE: Thank you very much.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel.

8 MR. VON BONE: That is all I wanted to ask. And maybe if
9 counsel would like to, maybe, do something with it --

10 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel --

11 MR. VON BONE: -- whether it's necessary or not.

12 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, your point is
13 clear.

14 MR. VON BONE: Okay.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

16 Madam Prosecutor, I see the point made by the Defence Counsel,
17 so if you could proceed bearing in mind these two comments, please.

18 MS. D'ASCOLI: Of course, Your Honours. I will ask the witness
19 a question related to that so that it will be clearer what we all
20 mean.

21 PRESIDING JUDGE VELDT-FOGLIA: Yes. And also with relation to
22 the uniforms he's referring to, because I don't see any uniforms on
23 the picture.

24 MS. D'ASCOLI: Yes, Your Honours.

25 PRESIDING JUDGE VELDT-FOGLIA: Very well. Madam Court Usher,

Witness: Hazir Borovci (Open Session)

Page 2997

Cross-examination by Ms. D'Ascoli

1 could you bring the witness back.

2 MR. VON BONE: And, Your Honour, is it possible to make the
3 photo a little bit lighter if we can? It's kind of dark. I was
4 wondering whether that's possible.

5 [The witness takes the stand]

6 PRESIDING JUDGE VELDT-FOGLIA: Mr. Court Officer, is that
7 possible?

8 [Trial Panel and Court Officer confers]

9 PRESIDING JUDGE VELDT-FOGLIA: Welcome back.

10 Defence Counsel, I was informed that this is the evidence, how
11 it has been brought in. It cannot be made any clearer. And
12 moreover, we have already a marking on it, so now we cannot do
13 anything also from the technical point of view.

14 MS. D'ASCOLI: Your Honours, just for the record --

15 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor.

16 MS. D'ASCOLI: -- it seems that the photo is clear enough for
17 the witness to be able to recognise people, so I don't see any
18 issues.

19 PRESIDING JUDGE VELDT-FOGLIA: No, I agree with you,
20 Madam Prosecutor. But it could have been helpful if it would have
21 been a little bit clearer. But, yes, the witness is able to
22 recognise people on the picture.

23 MS. D'ASCOLI: Yes, of course, Your Honours. This is the
24 quality of the open-source material.

25 Q. Okay, Mr. Witness. I have some follow-up questions. Again, we

1 were discussing this photo. So, first of all, in relation to the
2 comment that I'm trying to understand, "During the war when the BIA
3 guerilla unit ... was formed," is this comment related to the photo?

4 A. That comment was a free comment. It had nothing to do with the
5 photograph. It was just a comment made after 13 years. It had
6 nothing to do with the photograph or with anything specific. As I
7 said, it was a free comment made after 13 years after the war ended.

8 Q. Okay. I understand. But it is a comment that you made in
9 relation to this photo, like, how do you say, attached to this photo,
10 for this photo. It is next to it. It is the comment with which you
11 posted the photo; correct?

12 A. The comment in support of the army, the KLA, the guerilla, it's
13 a very natural comment. It's completely part of me. Because then,
14 in 2013, in 1998, and now, I have the same conviction about the army.
15 It was the brightest page and most glorious page of our nation. It
16 was a just army for the freedom of the people, for their rights --

17 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness.

18 Excuse me, Madam Prosecutor. I just want to ask a question.

19 Could you explain to the Panel, Mr. Witness, why you posted this
20 picture with this comment together? And please don't turn around.
21 Just give a comment. Because I don't understand why you would post a
22 picture and say something next to it and that there would be not a
23 relation. Maybe it's like that. But please explain me why you
24 proceeded like that in order for us to understand it.

25 THE WITNESS: [Interpretation] Just as a sign of respect, in

1 order not to forget the past but remember it after 13 years. So it's
2 as a sign of respect, remembrance. Nothing else. This is what I
3 think. The logic behind the post made in 2013.

4 PRESIDING JUDGE VELDT-FOGLIA: But why this picture? Why didn't
5 you post a picture of, I don't know, a tulip? Why this picture and
6 not another picture?

7 THE WITNESS: [Interpretation] When I speak about the war, I want
8 to post a photograph of war. When I speak about the KLA, although I
9 did not have the uniform, I wanted to post a photograph with the
10 uniform of the KLA. So that is why I did this.

11 PRESIDING JUDGE VELDT-FOGLIA: I will give the floor back to
12 Madam Prosecutor.

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

14 Q. Mr. Witness, again you mentioned uniforms. Am I correct that I
15 do not see anyone in this photo wearing uniform? Is that correct?
16 Can we agree on that?

17 A. I agree that nobody is in uniform. However, Madam Prosecutor,
18 this photograph has nothing to do with the war period. This
19 photograph was taken after the war. It is a photograph taken once
20 the war ended. It could be taken in 2000.

21 Q. Okay. That is clear. And, again, can you explain why you said
22 "during the war" in the post next to it? Can you explain that,
23 "during the war"?

24 A. It's not a photograph that we made during the wartime. This
25 photograph was not made during the war, because I don't know them.

Witness: Hazir Borovci (Open Session)

Page 3000

Cross-examination by Ms. D'Ascoli

1 They are not part of the people with whom I worked during that time.

2 That's why I'm saying.

3 Q. Okay. Well, we saw that person number 1 and 2, Mr. Gani Sopi,
4 and Jakup Ismaili, were people with whom you worked in those times
5 during the war and that you said were also part of the Prishtine
6 guerilla unit; right? Just "yes" or "no."

7 A. Initially --

8 Q. It's a simple question.

9 A. Gani was a part of Prishtine initially.

10 Q. You gave us your evidence already. I was just trying to
11 summarise it so that we can move on.

12 A. Yes.

13 Q. Okay. Thank you. So now you said that -- I understand you knew
14 persons number 1 and 2 already back then. You did -- you say you
15 didn't know the others in those times. Did you later acquire
16 information or knowledge about who these other people in the photo
17 are; yes or no?

18 A. Yes.

19 Q. So now you do know who the other people are.

20 A. Not all of them.

21 Q. Let's just focus on those that you know, whose identity you
22 know. And can you please tell us who the other people you know in
23 this photo are? I think the next number is number 3. Can you please
24 use it to indicate the other person whose identity you're aware of.

25 A. To tell you the truth, I know them, but it's been a long time

1 now. Maybe with their last names I can identify -- the one next to
2 Gani, I don't remember his name and last name for the moment, because
3 since 2002 or 2003 I did not have contacts with him. But as a face,
4 I do know him.

5 Q. Can you tell us the name, if you remember?

6 A. I don't remember the name.

7 Q. Okay. Is there any name you remember out of the people depicted
8 in the photo?

9 A. The one in black clothes worked and probably still works in the
10 Kosovo police.

11 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, could you indicate
12 with -- Mr. Witness --

13 THE WITNESS: [Interpretation] I don't remember his name.

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, if I talk to you,
15 please look at me and then we can have a conversation.

16 You are talking now about somebody who -- about whom it's not
17 clear for the Panel who you are talking about. So could you please -
18 and I look at Madam Prosecutor - I would like to indicate it as a
19 number 3, who that is, and then you continue talking. Because if
20 not, it's not clear.

21 Madam Prosecutor, you have the floor.

22 MS. D'ASCOLI:

23 Q. Yes, Mr. Witness, you have indicated with the number 3 someone
24 whose name you don't remember and that you said works -- you believe
25 works for the police; right?

1 A. Yes, he worked with the Kosovo police. And I think after the
2 Kosovo police, he got employed with Post Telecom. He's an engineer
3 by profession. I cannot remember his name as a long time has passed.
4 This photograph is from after the war, and I do not remember his
5 name. However, he worked with the Kosovo police.

6 Q. Okay. Well, let's move on. Now, Mr. Witness, we saw these two
7 photos depicting and mentioning BIA, and I want to ask some
8 clarifications in relation to your prior statement to the Defence
9 Counsel.

10 MS. D'ASCOLI: We can save this photo. I'm done with it. So if
11 we can please save the photo with the markings done by the witness.

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

13 MS. D'ASCOLI: When Mr. Court Officer is ready -- yes.

14 PRESIDING JUDGE VELDT-FOGLIA: Please, we have to wait for some
15 technicalities to be -- to proceed. A number has now been given.

16 MS. D'ASCOLI: Thank you, Your Honours.

17 THE COURT OFFICER: Your Honours, the markings made on
18 SPOE00325566 will be assigned P00211 MFI. And could counsel please
19 confirm the classification, please.

20 MS. D'ASCOLI: The classification can be public. It's a public
21 post.

22 PRESIDING JUDGE VELDT-FOGLIA: Okay. Then it will be public.

23 MS. D'ASCOLI: Or we can also indicate it in the filing at the
24 end of the month, Your Honours. Maybe it's better. Let's do it that
25 way.

1 PRESIDING JUDGE VELDT-FOGLIA: I have a preference for that.

2 Then we can see it in a more holistic approach.

3 MS. D'ASCOLI: Yes, exactly. We will indicate it in the filing
4 at the end of the month together with the rest of the material used
5 by the witness.

6 Okay. Thank you. I'll proceed.

7 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, you can
8 proceed.

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

10 Q. So I was mentioning that I would like to clarify some of the
11 statements that you gave to the Defence Counsel in your statement.

12 MS. D'ASCOLI: And for this, I would need the Defence statement
13 for Mr. Borovci dated 31 March 2021, DSM00570 to 00578. And I would
14 need page 7, the very last paragraph.

15 Q. Mr. Witness, I just want to ask you about when you were asked
16 about your knowledge of BIA during the interview with the Defence
17 Counsel.

18 MS. D'ASCOLI: So in the English is page 7. The very last
19 paragraph. So if Mr. Court Officer can please -- yes, exactly.

20 Q. Mr. Witness, I will ask what you said to the Defence Counsel,
21 and then I will ask -- I will read, sorry, what you said to the
22 Defence Counsel, and then I will ask you for some clarifications. So
23 you were asked, I'm reading from the last two sentences on page 7:

24 "Have you ever heard of a group or unit called BIA?"

25 You asked a clarification:

Witness: Hazir Borovci (Open Session)

Page 3004

Cross-examination by Ms. D'Ascoli

1 "Are we speaking about Bahri, Illir, and Agron or do we speak
2 about the Serbian BIA?"

3 MS. D'ASCOLI: Can we go to page 8, to the beginning of page 8
4 so that I can continue. The top part of the page 8 in the English,
5 please.

6 MR. VON BONE: Excuse me.

7 PRESIDING JUDGE VELDT-FOGLIA: I think I see your point.
8 Please, Defence Counsel.

9 MR. VON BONE: I think, Your Honour, for the Albanian version of
10 it, we should stick to the previous page.

11 PRESIDING JUDGE VELDT-FOGLIA: Yes.

12 MR. VON BONE: I see that that corresponds then with it. So,
13 sorry.

14 MS. D'ASCOLI: Thank you very much for your assistance,
15 Mr. Defence Counsel. Thank you.

16 Q. So I'll continue reading from the English. So the next question
17 of the Defence Counsel was:

18 "The Bahri, Illir, and Agron - BIA, have you heard of that?"

19 Your answer was:

20 "Yes, I heard about it."

21 The next question of the Defence Counsel was:

22 "When did you first hear about this?"

23 And you replied:

24 "Just sometime before the 24th of March."

25 Then you were asked:

Witness: Hazir Borovci (Open Session)

Page 3005

Cross-examination by Ms. D'Ascoli

1 "Do you know what it was?"

2 And your answer was:

3 "I do not have a lot of knowledge because ..."

4 I guess:

5 "... because I did not deal with them. We knew that they were
6 working for the good of the country and that they were real
7 patriots."

8 And then you were also asked:

9 "Who told you that?"

10 "We heard this from Professor Mustafa, Salih Mustafa and from
11 Isa Kastrati, and I myself later got convinced of that. At the end
12 they gave their lives for the good of this country."

13 Do you remember saying this part that I read to the Defence
14 Counsel in your interview with them?

15 A. Yes, correct. That's how it is.

16 Q. Okay. So you said that you only heard about BIA sometimes
17 before 24 March; right?

18 A. Yes.

19 Q. And you also said that you did not have a lot of knowledge about
20 BIA; right? And that you did not deal with them. That's what we
21 read; is that correct?

22 A. Yes. Correct.

23 Q. Okay. In relation to also the photo that we discussed, is it
24 fair to say that you didn't know about BIA more, more details than
25 those that you told the Defence Counsel?

1 A. The photo and the posting next to it and what I have told the
2 lawyer are the same, one and the same. Only the photo is -- when I
3 say at the beginning when we were formed, when we were organised as a
4 team, we had no idea about the BIA unit. Prior to 24 March, thanking
5 Isa Kastrati, Mustafe Sopi who knew about the KLA, who knew about
6 Salih Mustafa, who knew, especially Professor Mustafe Sopi, they told
7 us who they are, more or less, but we were very wary of speaking
8 because of the danger. But what I have said here, I stand by that.

9 Later on, we realised that we too were part of the guerilla of
10 BIA, part of the KLA of Prishtine.

11 Q. Okay. But then let me ask you this: By the time that you gave
12 your statement to the Defence Counsel, which was 31 March 2021, is it
13 fair to say that you knew more about BIA than what you told the
14 Defence Counsel?

15 A. What I have told the lawyer is correct and I stand by that. If
16 I look at it from today, or from 2013, you would understand that I
17 know more. But when I spoke to the lawyer, I referred to the context
18 of the time; that is, 1998, 1999, especially the beginning. That is
19 why I have --

20 Q. Okay. Let me interrupt you just to specify that the questions
21 were asked in the present. The question:

22 "Do you know what it was?"

23 And you said:

24 "I do not have a lot of knowledge because ... I did not deal
25 with them."

1 You did not clarify that this was in the past, that you did not
2 have knowledge back then, and that you acquired later:

3 "I do not have a lot of knowledge because ... I did not deal
4 with them."

5 This sentence speaks in the present. Would you agree with that?

6 A. It's a matter of translation, of course. But I still am saying,
7 and this is what I thought that -- then, meaning that at that time -
8 and I refer to the period of 1998 until before 24 March - we knew
9 less about certain individuals because people worked underground
10 secretly. After 24 March, we -- people started to tell us who
11 certain people or individuals were.

12 Q. Okay. I understand that. I was making a different point, but
13 thank you for clarifying. Can I also ask you whether -- I understand
14 you were given an opportunity to read your statement. I see that --
15 the Defence statement, I mean. I see that you put your initials on
16 each page and that you also signed the last page; is that correct?
17 You reviewed it before signing it; right?

18 A. Yes, I read it and I signed it. And I don't see anything wrong,
19 and I am saying that I stand by this. This is what I said then and
20 this is what I'm saying now.

21 Q. No, that's clear. Thank you, Mr. Borovci. Let's move on,
22 please. Now I would like to show you another picture. Again, from
23 your Facebook account.

24 MS. D'ASCOLI: Can I please have ERN SPOE00325564 to 00325564.

25 Q. We see on the side that the date in which you posted this photo

Witness: Hazir Borovci (Open Session)

Page 3008

Cross-examination by Ms. D'Ascoli

1 is 9 October 2013.

2 MS. D'ASCOLI: We can just focus on the photo, please, since I
3 don't need the text. There's no text, actually.

4 Q. So, Mr. Borovci, you have this photo on the screen; right? Can
5 you see it?

6 A. Yes.

7 Q. So you're the person on the right-hand side of the photo with
8 beard and moustache between the two men with a green hat; correct?

9 A. Yes.

10 Q. Then we have Salih Mustafa on the far left-hand side of the
11 photo. That is the man with glasses wearing a red beret; correct?

12 A. Correct.

13 Q. In between you and Salih Mustafa there's Adem Shehu, the
14 commander of Brigade 153; correct?

15 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor --

16 MR. VON BONE: Your Honour.

17 PRESIDING JUDGE VELDT-FOGLIA: I'm first going to -- I would
18 prefer that you would make -- for these two persons, I can understand
19 the closed questions. For the person in the middle, I would prefer
20 an open question.

21 Defence Counsel, I saw you're standing. We were on the same
22 line.

23 MR. VON BONE: I had the same point, Your Honour.

24 PRESIDING JUDGE VELDT-FOGLIA: Yes, very well.

25 MS. D'ASCOLI: Of course, Your Honours. I will ask the open

Witness: Hazir Borovci (Open Session)

Page 3009

Cross-examination by Ms. D'Ascoli

1 question.

2 Q. Mr. Borovci, can you tell us who is the person sitting in
3 between you and Mr. Salih Mustafa?

4 A. The person sitting between me and Mr. Salih Mustafa, I didn't
5 know him then. If you ask me now, yes, he's Adem Shehu. At that
6 time, I didn't know him. When I say "at that time," I mean during
7 the wartime, because this picture was taken after the war.

8 Q. Did you know him by the time this photo was taken?

9 A. When this picture was taken, I knew him because they spoke about
10 his work, about his commitment; that is, I heard, because I didn't
11 know him during the war. I never met him. But this is a picture
12 taken after the war. And they spoke about that he was Adem Shehu.

13 Q. I'll go back to that. Let's first finish with the
14 identification of the people in the photo. Can you tell us who is
15 the person, let's say, on the far right-hand side of the photo, the
16 person who's face is only half visible?

17 A. This person, also didn't know him during the war. After the
18 war, we met in the context of associations, meetings, elections, and
19 I knew that he was Fatmir Sopi. But during the war, I didn't know
20 him. I didn't meet him.

21 Q. And in relation to the time when you said the photo was taken,
22 do you remember when that was?

23 A. I don't remember.

24 Q. You're saying you have no recollection, not even approximately,
25 of when this photo was taken?

1 A. I don't remember because it was taken after the war. And I
2 don't want to give you an erroneous date. I don't remember.

3 Q. Okay. Again, I will ask you for a clarification concerning what
4 you told the Defence Counsel in the statement of 31 March. And so
5 before we move on, and just to be clear on this photo, did you know
6 the people in the photo when the photo was taken?

7 MR. VON BONE: Excuse me, Your Honour.

8 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, if you want to
9 say something about the content --

10 MR. VON BONE: Yes, Your Honour.

11 PRESIDING JUDGE VELDT-FOGLIA: -- we have to usher the witness
12 out.

13 MR. VON BONE: Yes.

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, I will ask Madam
15 Court Usher to usher you out, and then we will discuss, and then you
16 can come back.

17 [The witness stands down]

18 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, you have the
19 floor.

20 MR. VON BONE: Yes, Your Honour. I think that the witness
21 answered that he does not know or remember when this photo was taken.
22 So how can he possibly answer the question that at that moment when
23 this picture was taken, that he would have known these people?

24 PRESIDING JUDGE VELDT-FOGLIA: I think that those are two
25 different things. The fact that you don't know when the picture was

1 taken doesn't avoid you knowing the persons at the moment that it was
2 taken. I mean, that -- no, those are really two different things.

3 MR. VON BONE: We disagree, Your Honour.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay.

5 MS. D'ASCOLI: And also, Your Honours --

6 PRESIDING JUDGE VELDT-FOGLIA: I think -- yes, we proceed.

7 Something you would like to say?

8 MS. D'ASCOLI: Yes. I just wanted to ask that my recap question
9 at the end was also because the witness's answer was clear in
10 relation to Adem Shehu, whether he remembered or knew him at the time
11 of the photo, but wasn't clear about the second person, Fatmir Sopi.
12 So with the final question, I just wanted to set the record clear,
13 and that's why I asked it again.

14 PRESIDING JUDGE VELDT-FOGLIA: I see your point in this respect.

15 Madam Court Usher, you just sat down, but could you bring the
16 witness in again. Thank you.

17 [The witness takes the stand]

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness.

19 Madam Prosecutor, please proceed.

20 MS. D'ASCOLI: Thank you, Your Honours.

21 Q. Mr. Borovci, so before we move on and we leave this photo, can
22 you answer my last question. I was just asking whether, in relation
23 to the people in the photo, and specifically, well,
24 Mr. Salih Mustafa, Mr. Adem Shehu, and Mr. Fatmir Sopi, can you tell
25 us if you knew them at the time when the photo was taken?

1 A. At the moment the photo was taken, I knew Salih Mustafa. As to
2 Adem Shehu, I didn't know him much. And Fatmir, I didn't know.
3 Which means it's a meeting after the war. Maybe it was the first or
4 the second, I don't remember, but it is a meeting after the war of
5 1999. In fact, after 2000 it must be. I don't think it's taken
6 right after the war, but I can't give it a date. And this other
7 person standing, I know. The other, I don't.

8 Q. Who is the other person standing whom you know? I mean, I can
9 guess, but I would like you to specify that.

10 A. The one standing --

11 Q. The person --

12 A. -- is Jakup Ismaili, if I'm not wrong.

13 Q. And you mean the person -- there are two people -- two persons
14 standing on the back -- sorry, let me finish. Sorry. There are two
15 people standing on the back of Mr. Salih Mustafa. Is Mr. Jakup
16 Ismaili the man with the glasses?

17 A. Yes.

18 Q. Okay. That's clear.

19 MS. D'ASCOLI: We can leave this photo. Thank you.

20 Q. Mr. Borovci, again, I would like to ask for clarifications in
21 relation to your statements concerning your knowledge of Brigade 153
22 and also about specific people.

23 MS. D'ASCOLI: Can we please have again the Defence statement of
24 31 March on the screen. The ERN is the same, DSM00 --

25 PRESIDING JUDGE VELDT-FOGLIA: Wait, wait, wait.

Witness: Hazir Borovci (Open Session)

Page 3013

Cross-examination by Ms. D'Ascoli

1 MS. D'ASCOLI: Sorry.

2 PRESIDING JUDGE VELDT-FOGLIA: Sorry to interrupt you, but we
3 have not discussed Brigade 151 yet at this moment in time.

4 MS. D'ASCOLI: Yes, exactly, so I'm going to ask questions about
5 that before the statement is --

6 PRESIDING JUDGE VELDT-FOGLIA: Yes, but I prefer that you first
7 ask him and then we can go to the prior statement.

8 MS. D'ASCOLI: Of course.

9 PRESIDING JUDGE VELDT-FOGLIA: So please proceed.

10 MS. D'ASCOLI: Of course, Your Honour.

11 Q. So, Mr. Witness, what was your knowledge of Brigade 153 during
12 the war?

13 A. I didn't have any knowledge about this brigade during the war.

14 Q. And again, what was your knowledge of Mr. Fatmir Sopi and
15 Mr. Adem Shehu during the war?

16 A. I didn't have any knowledge about Adem Shehu either. I heard
17 about him, but I didn't know him.

18 MS. D'ASCOLI: Your Honours, if now we can have the excerpt on
19 the screen so that I can ask some more specific questions.

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

21 MS. D'ASCOLI: Yes, Your Honours.

22 PRESIDING JUDGE VELDT-FOGLIA: On this topic, for the record.
23 Please proceed, Mr. Court Officer.

24 MS. D'ASCOLI: I would need page 8, please.

25 Q. Once the English page 8 comes up, I will proceed with reading

Witness: Hazir Borovci (Open Session)

Page 3014

Cross-examination by Ms. D'Ascoli

1 some portions of that statement, Mr. Borovci.

2 MS. D'ASCOLI: I think it's page 7, actually, in the English.

3 Yes. So the top part. Thank you. If you can zoom -- if

4 Mr. Court Officer can zoom in a bit, please? Thank you. In a way

5 that the whole sentence is visible. Okay. That will suffice.

6 Thanks.

7 Q. You were asked about specific KLA members in your statement by

8 the Defence Counsel, so I want to look at what you said in relation

9 to Fatmir Sopi.

10 "Did you ever meet Fatmir Sopi?"

11 You were asked.

12 "At that time I did not know Fatmir Sopi. Even if I would have

13 met him, I would not have known him. Only after the war I learned

14 that he was part of the KLA too."

15 You are then asked about Adem Shehu.

16 "Have you ... heard of Adem Shehu?"

17 "I heard about him.

18 "Have you ever met Adem Shehu?"

19 "Only after the war.

20 "Do you know anything about Brigade 153?"

21 "No."

22 These were your answers; correct?

23 MR. VON BONE: Your Honour?

24 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, you have the

25 floor. Is it on the content, if not, I have to --

Witness: Hazir Borovci (Open Session)

Page 3015

Cross-examination by Ms. D'Ascoli

1 MR. VON BONE: [Microphone not activated].

2 PRESIDING JUDGE VELDT-FOGLIA: Could you please -- I don't hear
3 you.

4 MR. VON BONE: I think the Albanian page does not correspond
5 with the English page, so maybe the Albanian page should be the
6 previous page or later page.

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

8 MR. VON BONE: Sorry? Say that again?

9 PRESIDING JUDGE VELDT-FOGLIA: I cannot advise,
10 Mr. Court Officer, on this.

11 MR. VON BONE: It's the previous page. It's the previous page.

12 MS. D'ASCOLI: In the Albanian it's also the previous page.

13 MR. VON BONE: Yes.

14 MS. D'ASCOLI: Yes.

15 Q. In any case, Mr. Borovci --

16 MR. VON BONE: Here we are, I think, with ...

17 MS. D'ASCOLI:

18 Q. Mr. Borovci, did you get the interpretation of the portions that
19 I read? Did you understand them?

20 A. I heard it, I understood it, and it is precisely as I have
21 stated in my statement. If you want some clarification, I am here
22 for that. I would be most happy to answer you.

23 Q. Yes, exactly. So you did --

24 PRESIDING JUDGE VELDT-FOGLIA: What we will do is we worked in
25 the past only with the English translations, and then we did not pull

1 up the Albanian translation because our language service provides us
2 the service with the interpretation, also for the witness, and I
3 prefer to continue in that way, because I realised that I cannot
4 check it. And if the wrong page is up, it can be confusing.

5 So for now, if there's no specific reason to pull up the
6 Albanian version, we will proceed only with the English version. And
7 if there is a question of -- if there is a question or a need for
8 further clarification for the witness, because we don't want to
9 confuse him, of course, then we pull up the Albanian.

10 MS. D'ASCOLI: Of course, Your Honours. I think it was clear
11 for the witness, but I will ask him again.

12 Q. Mr. Borovci, it was clear to you what I read and what you
13 received the interpretation of in relation to those portions from the
14 Defence witness statement; correct? Was it clear or not?

15 A. What you read out to me was clear. And what I also stated there
16 is clear.

17 Q. Okay. Perfect. So I wanted to ask you a clarification about
18 what you said. So you said -- and this was, again, 2022 March. You
19 said you only heard of Adem Shehu. You only met him after the war.
20 You did not know anything about Brigade 153. And at that time, you
21 did not know Fatmir Sopi. Even if you had met him, you wouldn't have
22 known him. And only after the war you learned he was part of the
23 KLA. So this is what you said.

24 So my question was: You did not specify, in fact, by the time
25 of the interview was taken, your full knowledge -- your knowledge at

1 the time of the statement about Adem Shehu, Fatmir Sopi, or
2 Brigade 153; is that correct?

3 A. At the time of the interview, and then when I was asked, I was
4 asked about the period 1998, 1999, and my answer is the same, then
5 and now. When -- because of things I might not remember, when I
6 don't remember I don't say. What I state, what I declare, I stand by
7 them, then and now. I did not know, I never met him. I met him
8 after the war.

9 And in terms of this photo that you showed me, I said the same
10 thing.

11 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, for me your
12 question is not completely clear as what I read is that he is
13 declaring about at that time. Maybe I misunderstood you.

14 MS. D'ASCOLI: Yes, Your Honours. Well, the time wasn't
15 specified, and that was the gist of my question.

16 PRESIDING JUDGE VELDT-FOGLIA: Okay.

17 MS. D'ASCOLI: The witness has given his answer, so
18 I'll continue.

19 PRESIDING JUDGE VELDT-FOGLIA: You may proceed.

20 MS. D'ASCOLI: Yes, I'll continue.

21 PRESIDING JUDGE VELDT-FOGLIA: I see the statement, "At that
22 time I did not know ..." but anyway, it has been clarified by the
23 witness.

24 MS. D'ASCOLI:

25 Q. Mr. Witness, I'll move on, and we have taken into account your

1 clarifications.

2 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, Mr. Witness
3 raised his hand; am I right? Would you like to say something?

4 THE WITNESS: [Interpretation] Yes, I raised my hand.

5 Your Honour, I thank you, as a Presiding Judge, to give the
6 answer that I wanted to give. Nothing has changed from what I
7 declared then and now. As regards the time, you answered yourself.
8 You asked me about 1998, 1999. So thank you, Your Honour.

9 PRESIDING JUDGE VELDT-FOGLIA: I did not give an answer for you.
10 I would never do that. I tried to summarise what I read.

11 Please proceed, Madam Prosecutor.

12 MS. D'ASCOLI: Thank you, Your Honours.

13 Q. Mr. Borovci, with regard to Mr. Salih Mustafa, do you consider
14 him a friend?

15 A. I considered them a friend when I knew him and learned about his
16 activity from the meeting we had in Butovc. And today I consider him
17 a friend and he is a friend, because we were linked with the common
18 work for the freedom of the country, for the liberation of Kosovo,
19 and the character, that is the humane character, that is, our
20 commitment to assist the civilian population. From what I have seen,
21 what I've heard, the work, his approach to work, ever since I knew
22 him, I am very convinced, and I say it in full responsibility, that
23 Salih Mustafa - and you will be convinced of that, I have trust in
24 you - that he will be declared innocent.

25 Q. Okay. Let me ask you: Do you remember learning about the fact

1 that Mr. Mustafa was called for an interview by the Specialist
2 Prosecutor's Office?

3 MS. D'ASCOLI: I see that Mr. Borovci is raising his hand,
4 Your Honours.

5 PRESIDING JUDGE VELDT-FOGLIA: Mr. Borovci, please, you have the
6 floor.

7 THE WITNESS: [Interpretation] Can I hear it louder? Because I
8 can't hear it very well.

9 PRESIDING JUDGE VELDT-FOGLIA: I will ask Madam Court Usher to
10 see if she can assist you.

11 THE WITNESS: [Interpretation] It's good now. Now it's better.

12 PRESIDING JUDGE VELDT-FOGLIA: Very well.

13 THE WITNESS: [Interpretation] Thank you.

14 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, please proceed.

15 MS. D'ASCOLI:

16 Q. So I'll repeat my question. Do you remember learning about the
17 fact that Mr. Salih Mustafa was called by the Specialist Prosecutor's
18 Office for an interview? Do you remember that?

19 A. I remember when it became public through the media. That's when
20 I learned. I did not find out while he was there, but I was informed
21 through the media, when that was published in the media.

22 Q. I'll call up a public post to see if that's what you refer to.
23 Otherwise, we will discuss that.

24 MS. D'ASCOLI: Can I have SPOE00325261 to 00325261. Just the
25 post. And then I will call up a comment to it.

1 Q. Mr. Borovci, do you remember seeing this post on Facebook from
2 Mr. Brahim Mehmetaj, and it is about Mr. Mustafa travelling to
3 The Hague for an interview? Do you remember that?

4 A. Yes.

5 Q. So you posted a comment to this post which I want to show it to
6 you.

7 MS. D'ASCOLI: Can I please have SPOE00325271. And I would need
8 both the English and the Albanian, meaning the original, on the
9 screen. So we can remove the current photo.

10 [Microphone not activated] We can zoom in.

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

12 MS. D'ASCOLI: Thank you, Your Honours. Sorry. I didn't put
13 the microphone on.

14 So we have on the right-hand side the English translation. And
15 if we can please zoom in, it's the third post from the top, yes, to
16 the comment of Mr. Borovci.

17 Q. So, Mr. Borovci, on the occasion of Mr. Mustafa travelling to
18 The Hague, you posted this comment to Mr. Mehmetaj's post:

19 "Have a good journey, honourable commander Salih Mustafa! I'm
20 convinced that you are unblemished. Respect forever and ever to all
21 Liberators!"

22 Do you remember saying that?

23 A. Yes, correct. This is what I wrote. But the post is not mine.

24 Q. I was --

25 A. I commented on --

Witness: Hazir Borovci (Open Session)

Page 3021

Cross-examination by Ms. D'Ascoli

1 Q. Yes, absolutely. I was just asking about your comment. I was
2 just asking about your comment.

3 And can I ask, are you friends with -- so, anyways, so you
4 remember that and that's what you said; right?

5 A. Yes, yes.

6 Q. And are you -- can I ask you, are you friends with
7 Mr. Brahim Mehmetaj too?

8 A. Yes, with Mr. Mehmetaj. We live close to each other. We grew
9 up together. He is a neighbour. Our houses are very close to one
10 another.

11 Q. I will just then -- in fact, can I show you a photo of the two
12 of you.

13 MS. D'ASCOLI: We're done with this post. So we can remove it,
14 please. And now can I please have SPOE00325570. On the side, we can
15 maybe have the translation, which is SPOE00325578-ET.

16 Q. We're waiting for the photos to appear, Mr. Borovci.

17 This is a post dated 24 July 2019. Mr. Mehmetaj says:

18 "Today I met my friend, my co-fighter, Mr. Hazir Borovci. I
19 wished him success in the well-deserved post of Chairman of the 3rd
20 LDK Branch in Prishtine," et cetera.

21 Do you remember being tagged in this post, Mr. Borovci?

22 A. Yes.

23 Q. Okay. And you told us you and Mr. Mehmetaj are friends; right?

24 A. Yes.

25 Q. Do you see each other often?

1 A. Well, we do see each other. We live close. Only one road
2 separates us.

3 Q. Okay. Thank you.

4 MS. D'ASCOLI: Your Honour, I have only one more post, and then
5 I'll finish with these topics. And then I have the last area of
6 questions. Can I be reminded of when is the next break? Is it at
7 quarter to 3.00?

8 PRESIDING JUDGE VELDT-FOGLIA: You have said it exactly right.
9 In seven minutes.

10 MS. D'ASCOLI: Perfect. Then that will give me specifically the
11 time to do this next post and then we can interrupt for the break.

12 PRESIDING JUDGE VELDT-FOGLIA: Very well.

13 MS. D'ASCOLI: And then I will be able to finish in the next
14 session.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

16 MS. D'ASCOLI:

17 Q. Mr. Borovci, one last post.

18 MS. D'ASCOLI: Can I please have ERN 105382 to 105383, and the
19 corresponding in the English translation, 105383-105383-ET. In the
20 English, the text and the photo are more visible.

21 Q. Mr. Borovci, this is a post you made just a few days ago; right?

22 A. Not a couple of days ago, but this is a post from the hotel
23 where I'm staying here. If -- yes, yes.

24 Q. Okay. So after you arrived in The Hague for your testimony;
25 correct?

1 A. Yes, yes.

2 Q. So I just to want read what you said and then ask you a
3 clarification. You said:

4 "Greetings my friends

5 "Today I travelled to The Hague to testify for justice and the
6 truth, for the liberation war of the KLA - as the most glorious
7 chapter in our national history!"

8 Do you remember saying that?

9 A. Yes, this is what I said. This is what I wrote myself, because
10 the public opinion -- for the public opinion to be aware that I'm a
11 Defence witness, that I came here with my own free will. And as I'm
12 the chairman of the LDK branch, I wanted to transparently inform the
13 public opinion, and that is why I did it. It's public, made from the
14 location where I'm staying now.

15 And it is true that I said that I'm here to testify for justice
16 and the truth and for the glorious -- most glorious chapter of the
17 KLA. So this is what I did openly, publicly.

18 Q. [Microphone not activated].

19 THE INTERPRETER: Microphone, please.

20 MS. D'ASCOLI: Sorry.

21 Q. I was saying yes, that is clear, your explanation and what you
22 said. So let me ask you: Do you see your testimony here as
23 furthering the cause of the liberation war of the KLA?

24 A. I'm not furthering the KLA cause. The KLA itself furthered its
25 cause. For the just and the cleanness of the KLA, the NATO itself is

Witness: Hazir Borovci (Open Session)

Page 3024

Cross-examination by Ms. D'Ascoli

1 a witness. I'm here and I'm convinced that with my testimony I will
2 help the truth and justice and my comrade. I am convinced in the
3 innocence of the accused.

4 And, Your Honours, I'm not asking for mercy. I'm asking for
5 justice. And I'm convinced that justice will triumph in the end.

6 Q. Okay. Thank you, Mr. Borovci.

7 MS. D'ASCOLI: Your Honours, as I was saying, I'm done with this
8 set of questions, so we could take the break, and I'll finish then my
9 cross-examination after the break. We will have an hour -- no, 45
10 minutes after the break?

11 PRESIDING JUDGE VELDT-FOGLIA: We have an hour after the break.

12 MS. D'ASCOLI: Perfect, yes. I'll definitely finish during the
13 next session.

14 PRESIDING JUDGE VELDT-FOGLIA: Could you indicate how long you
15 think you will be needing?

16 MS. D'ASCOLI: I think it's only 15 minutes. Of course, it
17 depends on the back and forth, but it's only one topic that I need to
18 address. So I would say 15 minutes.

19 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you very much. I
20 will consult with the Court Officer for reasons of management of
21 time.

22 [Trial Panel and Court Officer confers]

23 PRESIDING JUDGE VELDT-FOGLIA: We will now have a break until
24 quarter past 3.00, and then we have another hour to continue with the
25 interrogation.

1 Madam Court Usher will usher you out. We have half an hour of
2 break, Mr. Borovci, and then we will continue.

3 [The witness stands down]

4 PRESIDING JUDGE VELDT-FOGLIA: We will meet in half an hour.
5 The hearing is adjourned.

6 --- Recess taken at 2.44 p.m.

7 --- On resuming at 3.15 p.m.

8 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. And before we
9 usher the witness in, I would like to recall that in case it's
10 necessary, we can continue tomorrow. So we are not in a hurry. So
11 if we can, we finish today. But I don't want to impose any pressure
12 on us, because we have to do things carefully and at the necessary
13 pace.

14 Very well. I will call appearances. We are in the same
15 composition. That's for the record.

16 We can usher the witness in. Madam Court Usher, please. Thank
17 you.

18 [The witness takes the stand]

19 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Borovci. We
20 will now continue.

21 THE WITNESS: [Interpretation] Thank you.

22 PRESIDING JUDGE VELDT-FOGLIA: We will now continue with your
23 testimony. I will give once again the floor to Madam Prosecutor for
24 the continuation of the cross-examination.

25 You have the floor.

1 MS. D'ASCOLI: Thank you, Your Honours.

2 Q. Mr. Borovci, I will move now to a different area of your
3 evidence. At pages 19 to 21 of today's live transcript, you spoke
4 about your stay in Butovc from the end of March 1999 onwards. And in
5 relation to that, first of all, I just wanted to ask you about the
6 dates.

7 So you told us today, and this is at page 17, line 6, that it
8 was on 31 March that you were obliged to leave Prishtine. Do you
9 remember that?

10 A. Yes, on the 31st. We left Prishtine. We, where we were, left
11 Prishtine. Whereas on the 28th, 29th, 30th, people moved out of
12 other parts of Prishtine.

13 Q. Now, since, as you acknowledged yourself today during the
14 testimony, since you said in your Defence statement that this date in
15 which you left Prishtine was 28 March, can you explain to us what
16 made you specify that it was actually 31 March today during your
17 testimony?

18 A. On the 28th, there were displaced people from other areas that
19 left. Whereas we, our part, where we were staying, was surrounded,
20 and we left in the direction of Butovc. That happened on 31 March.
21 I confused 28th March with the 31st. That's why I wanted to explain,
22 to be accurate, because I am under oath and I have to be accurate.

23 Q. I understand. But this was more than 20 years ago, and it's
24 difficult, isn't it, to be precise with dates?

25 A. Yes, it's true that not 20 but 23 years have passed, and you can

1 forget dates. I agree with you. But still, there are some dates,
2 some moments that you cannot forget. They are rooted in your mind
3 and you can't forget them.

4 Q. And can you explain why, when you gave the Defence statement,
5 the date you remembered was 28 March, when you associated also to the
6 Muslim holiday, and then today you gave the date of 31 March?

7 A. That was why, because of Bajram. I thought it was on the 28th.
8 That was why. I connected the two, thinking that Bajram fell on the
9 28th. I recalled the celebration, not the date. And then I linked
10 it up with the small Bajram, which was not on the 28th but on
11 31 March. It's the date when we left Prishtine and settled in Butovc
12 with the civilian population. That's why I explained earlier.

13 Q. I understand this Muslim holiday changes every year; right?
14 It's not a fixed date.

15 A. Yes. To tell you the truth, I am not very good at remembering
16 these dates, how the Muslim holiday changes. But I do remember that
17 the moment that we left where we were, it was difficult for the
18 people to prepare meals for Bajram. And I have always thought that
19 Bajram fell on the 28th. Then I realised that it was not on the
20 28th. Then from the 28th to the 31st, people kept displacing. But
21 the general date was 31 March when all of us, together with the
22 population, the activists, and the members of the council left for
23 Butovc.

24 Q. So I understand you're using as a point of reference the Muslim
25 holiday Eid al-Adha; correct?

1 A. Yes. Yes, both Bajrams. The Eid al-Adha is a longer holiday
2 after the big Bajram.

3 Q. And since this holiday changes every year, what is it that made
4 you remember when exactly it fell in 1999? Did you use any aid?
5 Like, what was it that made you remember the specific date?

6 A. This, as I said, was rooted in my mind, because of the
7 departure. We were under great pressure by the military, police and
8 civilian Serb forces. Even during a religious holiday, they brought
9 pressure on us. That's why I remembered. Otherwise, I wouldn't be
10 able to remember 28th or 31st.

11 Q. Yes, so that's clear. It is clear, like, how you remember -- I
12 mean, why you remember that there was that holiday in that period.
13 My question was more related to how do you remember that in that year
14 it fell specifically on the 28th or on the 31st; meaning, what it is
15 that made you give that specific date which was in your statement the
16 28th and today the 31st. That's what I'm trying to understand.
17 About the date. Not about the fact that you associated the event
18 with the holiday.

19 A. 24th and 28th and 31st are close to each other. So when in
20 times of trauma or in times of holidays, religious or international
21 holidays, one remembers them. If they were distant, apart, I
22 wouldn't be able to remember. But only one week passed from the 24th
23 when the air strikes started and the displacement of the population
24 on the 31st.

25 Initially, I thought it was 28th, thinking of Bajram. But

1 then -- otherwise, I would have stuck to 28th just because I
2 remembered how things really were.

3 Q. Yes, sorry to insist on this. I understand the connection and
4 the fact that you remember these events happened during this Muslim
5 holiday. Now, while 24 March, the date, the beginning of the NATO
6 bombing is a date written in history, meaning everyone remembers and
7 we can look it up, et cetera. Considering that it's been 23 years
8 ago, and, as you said yourself, it's difficult to remember
9 specifically, my question was: What made you point out to the
10 specific date, whether it is the 28th, as you said you remember when
11 you gave your statement to the Defence, or whether it was the 31st,
12 as you told us today? What is it that made you say it is one or the
13 other, if we agree that it's difficult to remember specific days. So
14 that's why my question. Do you understand?

15 A. Prosecutor, I understand. Nothing has changed. I said 28th,
16 thinking that it was the Bajram holiday, which, in fact, was on the
17 31st. And all events that took place happened on the 31st, that is,
18 the displacement of the population from where me and my friends were
19 operating. The 31st is the day when we all, together with the
20 population, moved out of Prishtine in the direction of Butovc.

21 I remember this date because even during Bajram there was
22 pressure and people were obliged to move out.

23 Q. I understand. But because you seem to be so convinced today
24 that it is -- it was the 31st, then my question is: Did you look it
25 up? Did you check that it was that day? Or is it because today you

1 remember a different date from the one you remembered on the 28th?

2 And, again, we all agree that it's been a long time. I'm just trying
3 to understand.

4 A. To tell you the truth, from the 28th, the Bajram holiday, and
5 our displacement on the 31st, I was interested myself to think about
6 them. And then I found out -- I realised that, in fact, the Bajram
7 was on the 31st and not as I said initially on the 28th. I mixed it
8 up.

9 Q. Let me clarify that. You said you found out. How did you find
10 out?

11 A. I asked people who deal with religious matters who follow these
12 holidays. I follow them but not -- I'm not a strict believer. I
13 asked and I think I mixed them up, and then they explained me. I
14 asked the Muslim priest, the hoxha, and they explained to me that it
15 was on the 31st. That's why I wanted to find out before.

16 So from what I have said, only the date is --

17 Q. Okay. I understand. So you asked people; right? You said
18 that? Okay.

19 A. I asked people who are more familiar with these issues.

20 Q. Of course. Did you look it up on the internet or not, for
21 example?

22 A. No, I did not. But I asked people and they told me. It was not
23 that I was very keen to devote myself to this issue.

24 Q. I understand. So it's not something that comes directly from
25 your memory. Your memory wasn't as specific as to indicate that it

1 was the 28th rather than the 31st; is that correct? Can we agree on
2 that? Sorry, just "yes" or "no." I understood your explanation.

3 A. Yes.

4 Q. Yes. Okay. So it didn't come directly from your memory.
5 That's what I mean. What's your answer, please?

6 A. After the interview -- whenever you give an interview, you stop
7 and think --

8 Q. Yes, Mr. Borovci, I understand.

9 A. -- and I started to think --

10 Q. We heard your explanation. So I just wanted to sum up and,
11 therefore, to conclude that the 31st didn't come today from your
12 memory but it is because you investigated, you asked; right? Is that
13 what happened? Okay. Can you please give your answer for the
14 record.

15 A. Correct. Correct.

16 Q. Okay. That's -- thank you. Let's move on. Yes, I want to stay
17 to the period where you said exactly. So you went to Butovc. So
18 after the end of March you stayed in Butovc. At page 19, lines 1 to
19 7, of today's live transcript, you said that you were accommodated in
20 several houses. Do you remember that?

21 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor?

22 MS. D'ASCOLI: Yes.

23 PRESIDING JUDGE VELDT-FOGLIA: Sorry to interrupt you, but
24 because I hear that you have gone to a new topic, I just wanted to
25 bring forward a piece of information, which is to be found on the

1 internet. And apparently this religious festivity in 1999 was on the
2 28th, so it even gets more confusing now because, apparently,
3 there's -- I'm not an expert on this.

4 MR. VON BONE: May I add something, Your Honour?

5 MS. D'ASCOLI: Your Honours, if it is of --

6 PRESIDING JUDGE VELDT-FOGLIA: If it is to the content --

7 MS. D'ASCOLI: Yes.

8 PRESIDING JUDGE VELDT-FOGLIA: -- because I just wanted to
9 confront the witness with this piece of information. But if you want
10 to discuss, you are free to do that but not with the --

11 MR. VON BONE: Maybe it's better to have the witness out.

12 PRESIDING JUDGE VELDT-FOGLIA: Very well.

13 Mr. Borovci, we will ask you to leave the courtroom together
14 with Madam Court Usher, and then we will call you back in a while.

15 [The witness stands down]

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

17 MR. VON BONE: Yes, Your Honour.

18 PRESIDING JUDGE VELDT-FOGLIA: Sorry. For the record, Defence
19 Counsel, you have the floor.

20 MR. VON BONE: Yes. If we would actually discuss this issue,
21 then I think it is important to ask or to refer to this date not only
22 to that specific date but also how long that holiday exactly lasts in
23 the Muslim context.

24 PRESIDING JUDGE VELDT-FOGLIA: I would suggest --

25 MR. VON BONE: Yes, I'm not going to ask any but just, you

Witness: Hazir Borovci (Open Session)

Page 3033

Cross-examination by Ms. D'Ascoli

1 know --

2 PRESIDING JUDGE VELDT-FOGLIA: No, no, I would suggest that if
3 you want to do that in your redirect examination, you are free to do
4 so. I just wanted to mention the date --

5 MR. VON BONE: Yes.

6 PRESIDING JUDGE VELDT-FOGLIA: -- but I'm not going into the
7 details at this moment in time.

8 MR. VON BONE: No.

9 PRESIDING JUDGE VELDT-FOGLIA: But you are free, of course --

10 MR. VON BONE: Yes, I --

11 PRESIDING JUDGE VELDT-FOGLIA: -- to clarify later on what you
12 deem necessary.

13 MR. VON BONE: How long -- how many days that -- okay.

14 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, something you
15 would like to add at this moment in time?

16 MS. D'ASCOLI: No, Your Honours.

17 PRESIDING JUDGE VELDT-FOGLIA: Very well.

18 Madam Court Usher, you just came back but please can you bring
19 the witness in again? Thank you.

20 [The witness takes the stand]

21 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, you have the
22 floor.

23 MS. D'ASCOLI:

24 Q. So I'll continue with the topic that I was going to explore now,
25 Mr. Borovci. I gave a little summary, and I'm talking now about the

Witness: Hazir Borovci (Open Session)

Page 3034

Cross-examination by Ms. D'Ascoli

1 period in which you have moved to Butovc from the end of March 1999.

2 I was referring back to some of the details that you gave us about
3 the period today during your in-court testimony.

4 So you said you were accommodated in several houses. This is at
5 page 19, lines 1 to 7. Do you remember that? Just "yes" or "no."
6 I'm just summarising your evidence and then --

7 A. Yes, yes.

8 Q. Thank you. You also said that you experienced there shelling
9 and bombing in and or around Butovc in that period. And this is at
10 page 19, lines 21 to 25. Do you remember that?

11 A. Yes.

12 Q. So is it fair to say that the humanitarian situation in Butovc
13 from the end of March 1999 onwards was chaotic and severe based on
14 what you observed, you were there?

15 A. It was very severe.

16 Q. And I understand you were busy and involved in securing
17 humanitarian aid for the population that was taking shelter there;
18 correct?

19 A. I was involved in that direction, but I focused mostly on
20 standing guard duty at this point that I referred to earlier, where
21 the military, police, and civilian forces of the Serb regime were
22 located. I was most of the time standing there guard in the vicinity
23 of those forces in order to know and to see whether they left their
24 positions and came in the direction of the population trying to put
25 up an armed resistance to them, to stop that so that the population

1 could have time to withdraw from that place.

2 Q. And I understand you also -- you were engaged in assisting the
3 local population with food and medication or other basic necessities.
4 This is my understanding from your Defence statement. Is that
5 correct?

6 A. Until I was in Prishtine, I was engaged also in that direction.
7 In Butovc, I was focused more on what I explained to you a little
8 while ago.

9 Q. Okay. Well, then, I need to clarify something that you said in
10 your statement. Maybe let's bring it up.

11 MS. D'ASCOLI: This is the Defence statement of Mr. Borovci of
12 31 March 2021, DSM00570-00578. I would just call the English. And I
13 would please need page 7.

14 Q. Mr. Borovci, can you -- well, we have the statement on the
15 screen. I would read the specific part that I want to ask you about
16 to you, and you can hear the translation through the interpretation.
17 Defence Counsel was asking you about how the displaced people in
18 Butovc would get supplies. So the question, in the middle of the
19 page, is:

20 "So how would the displaced people get supplies in Butovc?"

21 And your answer was:

22 "They were supplied from some areas. First from the granaries
23 of the people of Butovc, and the surrounding areas like Mramor,
24 Suteska, Vita; they supported each other a lot. Usually we would
25 take the clandestine roads through the forest and mountains during

1 the night. There were cases that they would bring supplies with
2 vehicles, but those occasions were rare."

3 Then you were asked about whether --

4 MS. D'ASCOLI: Your Honours, I am going to put all of the parts
5 that I have questions about together, since it is on the same page.
6 So if we could please scroll down. Yes, thank you.

7 Q. Then you were also asked about whether you moved around in that
8 period or not. The question of the Defence Counsel was:

9 "Did you move at all from Butovc, while staying in Butovc, to
10 any other place before the 12 June NATO coming in?"

11 And your answer was:

12 "We did not do so ourselves, but there were some relatives in
13 Vitia e Marevcit. There were some relatives of the professor. And
14 because we had some of the population who sheltered in Vitia e
15 Marevcit. But then we would come and go the same day. I am not so
16 familiar with other areas."

17 Do you remember this part of your answers to the Defence
18 Counsel's questions?

19 A. Correct. This is the answer. That is the truth.

20 Q. Okay. So I understand you would mostly stay in Butovc but also
21 move around when needed; right?

22 A. Right. I said even earlier I moved once in the direction of
23 Viti and in the direction, and you find it in the transcript too, in
24 that neighbourhood before Mramor and Suteske. I stayed in Butovc.
25 Some heads of households and some soldiers of the KLA, some activists

1 moved, as I have said to the Defence lawyer, through the mountain
2 pass, forest, wherever they could. Less so by car. Mostly on foot.

3 They have made use of granaries. When I say "granary," I mean
4 the reserves that people had in Butovc or in Mramor, Suteske, Viti.
5 They had their own grain reserves, so they helped each other. Then
6 whenever we have shortages, we had to go to Prishtine.

7 Q. Okay --

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. That was a little bit off
9 topic from the question, but please proceed, Madam Prosecutor.

10 MS. D'ASCOLI: Yes.

11 Q. Okay. So, yes, you would move around when needed. And were you
12 also participating in assisting the local population and supplying
13 aid when needed?

14 A. Yes, but within Butovc when we were staying there.

15 Q. That's clear.

16 A. We have to make a distinction.

17 Q. Yes, of course. I meant within Butovc, because we were talking
18 about your staying there. I was just trying to understand the
19 situation there.

20 So now I want to move to your encounters with Mr. Salih Mustafa.
21 And, again, in order to ask my questions in a clearer way, I'll first
22 summarise what you said today and then I will ask you some follow-up
23 questions. So bear with me. Okay?

24 A. Yes.

25 Q. So today, this is page 22, lines 2 to 5, you said that you met

1 Mr. Salih Mustafa on the 2nd or the 3rd of April, 1999, in Butovc.
2 You said you met him at the house of Mustafe Sopi after finishing
3 your guarding duties. And this is at page 22, lines 7 to 11. Do you
4 remember that?

5 A. Yes, correct. That's how it is, as I have said.

6 Q. Okay. Now, I also understand, from today's evidence, that this
7 was the first time that you met Mr. Mustafa in person. Is that
8 correct or not?

9 A. Correct. In Butovc, it was the first time that I met him.

10 Q. You also said that you met him other times, and you specify, I
11 read the exact quote from page 23, lines 15 to 17, you said:

12 "We have seen, but not talked. But I met him several times.
13 Maybe three, four, five times. I can't be precise."

14 And then you clarified later on - and now we are at page 24,
15 lines 17 to 19 - that this was between the first and the second week
16 of April. You said, literally:

17 "... that is, the first week of April, until the 15th, 17th --
18 16th, 17th of April."

19 I am quoting from page 24, lines 16, 18. Are we okay so far?
20 Is that what you said; right?

21 A. Allow me to explain, to make an intervention, and not just "yes"
22 or "no." I said --

23 Q. I will -- I have follow-up questions about this. So until now,
24 I was just -- sorry, sorry, let's not overlap for the interpreters.

25 A. Okay, okay.

1 Q. Just one second, Mr. Borovci. I was finishing --

2 PRESIDING JUDGE VELDT-FOGLIA: Mr. Borovci, shall we wait until
3 Madam Prosecutor can formulate her question or her remark.

4 MS. D'ASCOLI:

5 Q. So I've summarised what you said today, and I asked if it is
6 correctly recorded and if it is what you said. That was my question
7 until now. Please answer "yes" or "no."

8 A. No, you did not say it correctly. There's probably a mistake in
9 interpretation. You have the transcript. Today I said after the 2nd
10 and the 3rd, I met another three or four times with Salih Mustafa. I
11 did not say I met with him before the dates 2 and 3. This is what I
12 said.

13 Q. Yes. And that is what is in the record. That is also what I
14 read. So maybe it was just a matter of grasping the different -- a
15 different set of days. But it is what is on the record, precisely
16 what you have summarised.

17 Okay. So I'll continue. And again, I'll read what you said.
18 So you said you met Salih Mustafa after the 2nd or the 3rd of April,
19 and that you said you met him three or four times; right? Before it
20 was three to five, but anyway.

21 A. Yes.

22 Q. Okay. Fine. Fine. So now I understand you did not see him
23 every day; right? It's a simple question. Yes or no.

24 A. Yes, it was not possible to meet each other every day. I was
25 staying with the family of Ilmi Recica, with the Recica family, and

1 there was a certain distance from there.

2 Q. Yes, that's all I asked. Of course. That's all I asked. Thank
3 you for clarifying. So you did not see him every day. Now, I want
4 to ask you for something in relation to information that we have.
5 Now also -- Mr. Mustafa also gave evidence about this movement in
6 April 1999, and I want to put to you what he said about the period,
7 and then I will ask you some questions. So, again, please bear with
8 me. I will first read from the information, the evidence that we
9 have, and then I will ask you for some question. Okay?

10 MS. D'ASCOLI: So, Your Honours, to do this, I need to call up
11 the SPO transcript of the interview with Mr. Mustafa, 069404-TR-ET,
12 Part 7, and I would need page 12, please. It's only the English and
13 I will be reading from it.

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Court Officer, please
15 proceed.

16 MS. D'ASCOLI: I need lines -- from line -- yes, I mean, we
17 already have it. I can start, actually, from line 3, just to give
18 some context.

19 Q. So, Mr. Borovci, please listen to this, and I'll try to go
20 slowly. If you don't get any of the interpretation, please raise
21 your hand and let us know. Okay? The Prosecutor asked Mr. Mustafa:

22 "Were you yourself personally in Zllash before the Serbian
23 offensive started on or about 16 April 1999?"

24 And the answer was:

25 "Yes."

Witness: Hazir Borovci (Open Session)

Page 3041

Cross-examination by Ms. D'Ascoli

1 Follow-up questions by the Prosecutor:

2 "Before that offensive started, how long had you been in Zllash
3 for?"

4 The answer was:

5 "I would usually stay a day, two. I'd gone to Kamenica, Gjilan,
6 Prishtine. I didn't stay there constantly."

7 MS. D'ASCOLI: If we can scroll down a bit the page so that I
8 can continue reading.

9 Q. The Prosecutor then asked:

10 "But I'm asking at that particular time just before the
11 offensive, because you said you were there when the offensive
12 started. And so how long had you been in Zllash at the time of the
13 offensive --"

14 And the answer was:

15 "Perhaps 15 days or 20 days before the offensive."

16 MS. D'ASCOLI: Then if we can move, because there's a second
17 part again about the same type of evidence -- same type of questions.
18 If we can move to page 17 of this same part of the transcript, lines
19 9 to 15. If you can zoom out a little bit.

20 PRESIDING JUDGE VELDT-FOGLIA: What was the page you asked for?

21 MS. D'ASCOLI: I asked for page 17. Oh, no, it's not the
22 reference that I need. Can we move to the next page, please. And
23 the next one. If we can scroll down, please. No. I have to check
24 my references, Your Honours. Sorry.

25 PRESIDING JUDGE VELDT-FOGLIA: I understand. Maybe you can

1 proceed with another question and your colleagues can assist you on
2 this point.

3 MS. D'ASCOLI: Page 16, sorry. It was the page before 17, not
4 the one after. Yes, okay. So lines 9 and following.

5 Q. So I'll read also this part. So the question of the Prosecutor
6 was:

7 "Sorry, you said before that you were -- before the April
8 offensive started on or about 16th, 17th April, you were in Zllash
9 for 15 to 20 days leading up to that time."

10 And the answer was:

11 "I think so. It's not -- not constantly, but I was there."

12 The next question was:

13 "When you were there, were you staying at the safe house
14 location?"

15 The answer was:

16 "Yes, I slept on the first floor."

17 Now, is it clear what you heard? Like, the testimony that I
18 just read, these lines from the transcript, is it clear to you,
19 Mr. Witness?

20 A. No, I don't have any clarity or knowledge about this.

21 Q. Let me just put a question to you. So what you heard, is that
22 consistent with your observations? You said that you also saw
23 Mr. Mustafa in Butovc. We read that he was also in Zllash. Is that
24 consistent with your observation in that period of time, the first
25 two weeks of April 1999? What I mean is -- is it clear what I mean

Witness: Hazir Borovci (Open Session)

Page 3043

Cross-examination by Ms. D'Ascoli

1 or do I have to specify?

2 A. Again, I'll say, as I already stated, I was talking about the
3 two-week period in the month of April. I don't have knowledge about
4 these things. I'm talking about the period when I saw him three or
5 four times.

6 Q. Yes, I understand.

7 A. And I used that frame, timeframe for orientation.

8 Q. Of course.

9 A. It coincides -- yes, there are things that are consistent.

10 Q. So is it consistent that you observed -- you saw Salih Mustafa
11 sometimes - and we know from the transcript how many and when - in
12 Butovc and, what we read, that Mr. Mustafa said he was also in Zllash
13 in the same period? Is that consistent with your observation? Is
14 that possible?

15 A. I spoke about Butovc, that I met him and saw him there. I
16 cannot speak about where somebody was if I don't have any information
17 about that. I'm speaking about the time-period, about things that I
18 saw with my own eyes, when I physically saw him. So within these two
19 first weeks, I saw him in Butovc, which means he was in Butovc. And
20 I stand by what I said.

21 Q. Yes. And because you told us the number of times or the
22 frequency or not with whom you saw him, and I asked you if you saw
23 him every day and you said no, that was not possible.

24 With my question here, I wasn't asking you whether it was true
25 and whether you knew that Mr. Mustafa was in Zllash. My question

1 was, based on your observations, based on what you told us, that is,
2 that you saw Mr. Mustafa in Butovc sometime during that period, is
3 what you read consistent or plausible; meaning, could Mr. Mustafa
4 also have been in Zllash? Meaning, are the two information
5 consistent based on what you observed? That's my question.

6 A. I don't believe that he was in Zllash in that phase in those two
7 weeks up until half or middle of April. I cannot say 14th or 15th or
8 16th as exact date, but I don't believe it would be possible for him
9 to stay in Zllash in the first two weeks. He mostly stayed in the
10 family of Mr. Sopi. I was with the Recica family, and I was at that
11 observation post, so it was impossible for us to see each other on a
12 daily basis. I hope I'm clear.

13 Q. Okay. Sorry, let me stop you there. Based exactly on what you
14 told us and on the times in which you happened to see Mr. Mustafa in
15 Butovc, which you said it wasn't every day, how can you say that "I
16 don't believe he was in Zllash in that phase in those two weeks up
17 until half or middle of April"? I'm reading from lines 15 to 16 of
18 page 101 of the current live transcript. How can you say that? What
19 is your basis to exclude that he was also in Zllash? How can you
20 exclude that?

21 A. Yes, because after the first meeting on the 2nd and 3rd, I met
22 him another three or four times, but I did not meet him every day.

23 Q. Yes, that's clear. Sorry --

24 A. Now, whether I met him on every third or second day, so for this
25 reason I'm just thinking about it logically. It's not that I have a

1 particular date in my mind.

2 Q. I understand, Mr. Borovci. We have your evidence.

3 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, please, we are
4 now having overlapping speakers, so we should -- everybody should
5 give the other person the possibility to finish the sentence. And
6 Mr. Witness was still in halfway his sentence.

7 I have a remark of order. We will continue tomorrow, because
8 it's 4.00 now, and I don't think we will be finishing before quarter
9 past 4.00. That's just the point I wanted to make.

10 MS. D'ASCOLI: Thank you, Your Honours. So today we break and
11 we finish for the day at quarter past 4.00; correct?

12 PRESIDING JUDGE VELDT-FOGLIA: I have a preference that you --
13 because normally we can only -- we finish at 4.00. If we could have
14 finished the whole witness statement by today, we could have used
15 till quarter past 4.00. But if you could conclude in a natural
16 moment in your cross-examination, then I would have a preference for
17 that.

18 MS. D'ASCOLI: Of course, Your Honour. I have just a couple of
19 follow-up questions to clarify what we were discussing, and then we
20 can interrupt for the day. Thank you.

21 Q. Okay, Mr. Witness. So, yes, as we are clear about the evidence
22 that you gave concerning the times when you saw Mr. Mustafa and the
23 fact that, as you said, "I did not meet him every day," my question
24 was: How can you then exclude that he was sometime also in Zllash in
25 that same period of time?

1 And I'm asking it because you affirmed, "I do not believe that
2 he was in Zllash," and I'm asking how could you exclude that if you
3 just said to us that he saw him two to three or five times and that
4 you did not see him every day? Can you please answer that question,
5 which was a follow-up to what you told us.

6 A. I stated my opinion and that's what I think. I think that
7 during that phase he stayed in Butovc. Whether now he moved from
8 Butovc, I was not there with the family where Mustafa was to observe
9 his movement. I hope I am clear.

10 Q. So basically you gave us your opinion about that, about whether
11 he was in Butovc and/or in Zllash or not; is that correct?

12 A. I said that during that period, I think he was in Butovc.
13 Whether he was in Zllash or not, that I don't know. I did not stay
14 with him the whole day, the whole night, every day.

15 Q. That is clear.

16 MS. D'ASCOLI: Your Honours, I think we are at a good point
17 where to stop. I would not have much left. I just want to go again
18 through the transcript to see if I need to ask any follow-up
19 questions, but I have concluded with the general topics of the
20 cross-examination. So if there is anything left, it would be a
21 matter of some minutes, and it would be just to clarify some of the
22 areas today.

23 PRESIDING JUDGE VELDT-FOGLIA: I would say that if that's a
24 matter of some minutes, that you finish on that, and then tomorrow we
25 can continue with the Victims' Counsel. And I see that the

1 Victims' Counsel would like to take the floor.

2 Madam Victims' Counsel, please.

3 MS. PUES: Just to inform your decision-making, we will not pose
4 any questions. Thank you, Your Honours.

5 PRESIDING JUDGE VELDT-FOGLIA: Then I --

6 MS. D'ASCOLI: Okay, Your Honours. Then --

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

8 MS. D'ASCOLI: Thank you, Your Honours. Then I'll -- because
9 there was another area, but now in light of the evidence, I want to
10 evaluate whether to continue with that or not. If I can continue or
11 not tomorrow, I would appreciate.

12 PRESIDING JUDGE VELDT-FOGLIA: We will be continuing tomorrow,
13 because -- I will ask the question to the Defence Counsel. Would you
14 like to go for a redirect examination?

15 MR. VON BONE: Yes.

16 PRESIDING JUDGE VELDT-FOGLIA: Yes. And there are also
17 questions from the Panel. So we will for sure tomorrow be in court
18 again.

19 MS. D'ASCOLI: Okay, Your Honours. Thank you.

20 PRESIDING JUDGE VELDT-FOGLIA: So if I understood you right,
21 Madam Prosecutor, you said you prefer to re-evaluate if there are
22 some questions left and then pose them tomorrow morning.

23 MS. D'ASCOLI: Exactly, Your Honours. Thank you.

24 PRESIDING JUDGE VELDT-FOGLIA: Very well.

25 So then, Mr. Borovci, we will continue tomorrow with your

1 examination. So for today, we will stop here. I thank you for
2 providing us with your testimony today, and I hope you can take a
3 good rest. And I remind you not to discuss your testimony given up
4 till now with anybody, and we see you back tomorrow morning at 9.30.

5 [The witness stands down]

6 PRESIDING JUDGE VELDT-FOGLIA: At this moment in time, is there
7 anything that the Prosecutor, Madam Prosecutor would like to raise
8 with the Panel?

9 MS. D'ASCOLI: Nothing further, Your Honours. Thank you.

10 PRESIDING JUDGE VELDT-FOGLIA: Very well.

11 And the Victims' Counsel?

12 MS. PUES: No, thank you, Your Honours.

13 PRESIDING JUDGE VELDT-FOGLIA: Very well.

14 And the Defence Counsel?

15 MR. VON BONE: Nothing, Your Honour.

16 PRESIDING JUDGE VELDT-FOGLIA: Then we will call it a day for
17 today. We see each other tomorrow morning at 9.30. The hearing
18 is -- I thank -- I cannot forget them.

19 I thank the stenographer. I thank the interpreters. I thank
20 the audio-visual booth and the security for their assistance today.
21 And, of course, the parties and the Victims' Counsel for their
22 attendance.

23 The hearing is adjourned.

24 --- Whereupon the hearing adjourned at 4.08 p.m.

25