Friday, 13 February 2026

[Open session]

[Closing Statements]

[The accused entered the courtroom]

--- Upon commencing at 9.00 a.m.

PRESIDING JUDGE SMITH: Mr. Court Officer, please call the case.

THE COURT OFFICER: Good morning, Your Honours. This is the file number KSC-BC-2020-06, The Specialist Prosecutor versus Hashim Thaci, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi. Thank you, Your Honours.

PRESIDING JUDGE SMITH: Thank you.

Good morning and welcome, everyone. I note that the accused are all present in the courtroom today.

We will continue hearing the closing statements in this case. This morning we will continue with the closing statement from the Defence for Rexhep Selimi. Later today, we will hear counsel for Jakup Krasniqi's closing statements. We will follow the agenda set out in the Panel's order on the closing statements, which is filing F03639.

As a reminder, today's hearing is scheduled to conclude at 1645, and breaks are scheduled for half an hour at 10.30, resuming at 11.00; one and a half hours for lunch at 12.00, resuming at 12.30; and 15 minutes at 1500, resuming at 1515.

Lastly, since the closing statements are being interpreted, the Panel reminds the parties and participants to speak at a slow pace to

allow the interpreters to catch up.

This concludes the remarks from the Panel.

We will now continue with the closing statements of the Defence for Rexhep Selimi. You have been allocated four and a half hours, you have two and a half hours left, which means you will be scheduled to finish no later than 12.00 today.

I misstated this. I believe we will be breaking at 12.00, and we will take an hour and a half for lunch at that time.

All right. Mr. Tully, you may proceed.

MR. TULLY: Thank you, Your Honour.

I'll address three topics on behalf of Mr. Selimi today. First, I will address the SPO allegations against Mr. Selimi as minister for public order; second, I will address the attribution of authorship for certain handwritten notes to Mr. Selimi; and, third, I will address the exception to Rule 140 that the SPO seeks in paragraphs 1408 and 1409 of its final brief.

To my first topic, the Ministry for Public Order.

The matters are addressed in full in section IV.D of our final brief from paragraphs 452 to 559. And the central issue in the aspect of the SPO's case revolves around what control, if any, Mr. Selimi had over police as a minister for public order. As I will explain momentarily, the SPO failed and, in key aspects, barely even attempted to prove its case.

Before fully addressing the issue of control, I must address a preliminary matter. To be clear, the term "KLA/MPO Police" is a

prejudicial invention of the SPO crafted as a basket into which it could drop as much uncontextualised evidence from the bar table as possible to give a false impression of a Kosovo-wide police force under the sole control of Mr. Selimi as a minister for public order. It was one designed to give the false impression of a coherently structured and supported case when there is none.

As we noted in our final brief at paragraph 452, after June, the KLA MP remained under the command and within the established structures of the KLA, under the control of respective zone commanders and not under Mr. Selimi.

MR. ELLIS: Your Honours, I don't know if this is what's being raised - I'm sorry to interrupt - but our transcripts have frozen and aren't scrolling down to follow the speaker.

PRESIDING JUDGE SMITH: [Microphone not activated].

MR. ELLIS: It's the one on the right-hand side of the screen. It's just not moved down at all as the hearing's progressed. I think it's the same at the bench in front as well.

PRESIDING JUDGE SMITH: [Microphone not activated].

MR. ELLIS: Yes, thank you.

PRESIDING JUDGE SMITH: [Microphone not activated].

MR. TULLY: Thank you, Your Honours.

As we noted in our final brief at paragraph 452:

"After June 1999, the KLA MP remained under the command and within the established structures of the KLA under the control of the respective zone commanders and not under Mr. Selimi. No such thing

as a 'KLA/MPO police' was organised and overseen by Mr. Selimi as the SPO alleges."

I will add that the complete absence of any operational document emanating from the MPO belies any claim that control of the KLA military police was transferred to or placed under the control of Mr. Selimi or the MPO. As I'll address later in my submissions, administrative documents related to the MPO do not establish that Mr. Selimi exercised operational control or had operational authority over any police.

On Tuesday this week, at transcript page 28521, the Prosecutor referred to arguments in paragraphs 470 to 473 of our final brief regarding our challenge to the reliability of Exhibit P02525. These are minutes from a JIC meeting dated 2 August 1999 at which Mr. Selimi was present. The Prosecutor called them false, yet misrepresents what those arguments are.

At paragraph 151 of its pre-trial brief, the SPO had specifically alleged that, concurrent with Mr. Selimi's appointment in April 1999, an MPO police body was established. This is simply not true.

In support of this allegation in the pre-trial brief, it had cited solely to paragraph 21 of these contested meeting minutes, where Mr. Selimi is misquoted as having "reminded the JIC meeting that the PU had been in existence since April this year, and that there were some difficulties to be overcome." We pointed out at 472 of our final brief the impossibility of that quote being accurate, as

no such police force could have or was established in April 1999 given the prevailing circumstances, and no corroborative evidence, either from document or witness, was presented by the SPO which would support such an allegation. The evidence, in fact, contradicts that claim.

In our final brief, as we contended in the relevant paragraphs, Mr. Selimi, at that meeting in August, as incorrectly summarised in 2525, he had instead referred to the establishment of the MPO in April 1999 and not, as incorrectly recorded, the "PU."

So looking to paragraph 298 of the SPO's final brief which addresses the relevant time period of April-June 1999, and hearing the Prosecutor's closing submission on Monday at transcript page 28478, the SPO conspicuously declined to repeat the allegation in its pre-trial brief. And looking at the threadbare evidence it lays before you, it appears to have effectively abandoned those allegations.

Paragraph 298 of the SPO final brief falls back on alleging that in April 1999, Mr. Selimi had military police units at his disposal. It does this by misrepresenting Bislim Zyrapi's testimony about a hypothetical and extremely qualified theory on the inspector general's relationship with military police. And you will find that at transcript page 17946. It conveniently avoids citing the next page of transcript, 17947, where Zyrapi makes it clear there was no direct relationship between the inspector general and the military police. And irrespective of what it cites to, this testimony bears

no relevance to allegations against Mr. Selimi as a minister for public order.

The remainder of the SPO's scant evidence for Mr. Selimi's connection with the police at this time appears to be based solely on a handful of photos in which he is wearing black clothing.

Mr. Court Officer, can I have on screen, please, P04228 and pause it, please, at time stamp 1.38. Thank you.

The Prosecutor on Monday told you that, by at least June 1999, Mr. Selimi had traded in his camouflage for a black uniform, speculating on the weakest of foundations to some shift in Mr. Selimi's duties. That's at transcript page 28478. He showed you this still image in support of that.

At no point in this trial has the SPO established that a person wearing black clothing, uniform or otherwise, is dispositive of their membership or association with the military police, especially in an irregular army like the KLA which did not have strict uniform codes.

Can I please have on screen 3D00004. Thank you.

Illustrating the weakness of this argument - can you scroll down, please, a little bit - this is a photo marked by 4769 which shows Mr. Selimi in the centre marked with red number 1 in a photo with his KLA comrades in 1999.

First of all, you'll notice the lack of uniformity between all of the people present in this photograph, but I want you to pay attention to the person marked with the number 4 in red, a comrade of Mr. Selimi's, Ekrem "Drini" Rexha, a man not alleged by the SPO, or

us, at any point to have a role within the military police, yet he is dressed in all black clothing. By the flawed logic of the SPO's case, there is some deeper significance to Drini's sartorial choices on that day.

You can take that picture off the screen, please.

Even at P00515, page 008179, which the SPO cites in footnote 1232 of paragraph 298 of its final brief, proves the fallacy of its argument. The military police members in that photo with Mr. Selimi are wearing at least three different kinds of uniforms, where they are wearing uniforms at all. And the only point of consistency among them is that they are wearing military police regalia, military police regalia that Mr. Selimi is conspicuously not wearing.

Having heard the extent of the SPO's evidence on this particular issue, we reiterate our submission that the SPO's allegation that Mr. Selimi established an MPO police in April 1999 is false. We also add that this should be considered by the Panel in conjunction with our arguments at paragraphs 470 to 473 as to the unreliability of P02525 when considering the weight to be given to that exhibit.

I'll move now to the main question which is the case as to Mr. Selimi's mode of control over police.

Irrespective of the mode of liability under which Mr. Selimi is charged in relation to his role as minister for public order, the question before the Court essentially comes down to one thing: control. How the SPO has pled its case, both at the beginning and

conclusion of trial, has inextricably bound this issue to its allegations against Mr. Selimi in his role as minister for public order. Yet, despite the vast quantity of documentary evidence admitted to the trial record without witness comment, the SPO still failed to produce relevant evidence required to prove its case beyond reasonable doubt. Primarily, though certainly not limited to, the complete absence of any operational document sent between the Ministry for Public Order and police which would be capable of establishing that Mr. Selimi exercised control over such a body in the relevant time period.

It must also be kept in mind that the SPO has failed to produce evidence establishing that any actions or omissions attributable to Mr. Selimi as minister for public order played any role in the commission of charged crimes or that he is liable for the actions of others in the commission of charged crimes.

In its final brief, the SPO appears undecided as to how specifically to describe Mr. Selimi's authority. At paragraph 503, it asserts that Mr. Selimi had "operational control" over police. Only 30 paragraphs later, at 532, it appears to walk this back somewhat, claiming he held "operational authority" over the police and qualify it by saying he was "positioned" to direct their actions, the latter being a much more timid statement of the case than the former.

While neither phrase is a legal term of art, and the SPO makes no attempt to define their parameters, but irrespective of which term

the SPO uses, it's presented no evidence to support either.

To Mr. Selimi's alleged operational control as it began in 503, the SPO cites one exhibit at footnote 2057. That exhibit is P00189, and it cites to a page from Jakup Krasniqi's book referring to an alleged event in Llap in August 1998, eight months before the PGoK was formed, and utterly irrelevant to the allegation.

To paragraph 532, referring to Mr. Selimi's operational authority, it cites similarly weak or irrelevant evidence. P0515, a communiqué, the only one, issued in Mr. Selimi's name that I will deal with later and that we address in full at 459 and 460 of our brief; P03926, a demonstrably unreliable and vague note to file from Agim Ceku and Halvor Hartz addressed at paragraph 458 of our brief; and P02525, the unreliable notes from a meeting in August 1999 that I have previously addressed.

The remainder of citations in this footnote are either irrelevant to the allegation of operational authority or are misrepresented. For example, testimony from Remi, transcript page 5905 to 5907, addresses matters pre-dating the PGoK and is entirely irrelevant to the Ministry for Public Order. Or P01605.4, a statement of 4735 where he speculates about powers of the Ministry of the Interior to issue orders to the police, and this citation entirely ignores the fact that on cross-examination the witness clarified he had no information about such matters. And that's at transcript page 19826 to 19827.

The overall point is this: Regardless what spin and speculation

the SPO tries to put on these citations, the most striking fact you will find is that nowhere among these documents is a single operational document supporting the SPO's allegation. The SPO has failed to prove its case.

So more on the evidentiary deficiencies, specifically the lack of clarity of case on the MPO structure.

In stark contrast with the time devoted by the SPO in attempting to set out the alleged structure, functioning, organisation of the KLA, including alleged reporting lines, modes of communication, details of alleged meetings taking place between named individuals - we spent days, weeks in this courtroom listening to it - the SPO has been almost silent on these matters when it comes to the MPO, silence that reflects the state of their evidence and the case put forth as to the structure and functioning of the MPO.

As we have noted multiple times, the lack of witnesses to speak to matters of evidence admitted through the bar table is prejudicial not only but -- but due to the lack of context given to the enormous amount of documentary evidence admitted to the record and the opportunity for speculation and conjecture.

As we noted in our final briefs at paragraphs 456, 469, 478, 482, and 511, it is not simply the case the witness evidence related to the MPO was unavailable. The SPO, indeed, called W04758, Nuredin Ibishi, who had relevant knowledge of the MPO, a witness who described the MPO as an entity without operational function, specifically refuting that the MPO had control over police of any

kind. This evidence was accepted with virtually no challenge by the SPO in the statement in which it appears, and it did not address the matter at trial when the witness appeared for testimony. And the statement in question is P01755.9, pages 33 to 39, and then .10, pages 1 to 8.

On Monday this week, transcript page 28460, the Prosecutor promised the Court that he would describe the structure of the PGoK, including the MPO. But rather than do as he promised, he took all of one paragraph of transcript, transcript page 28479, and merely referred the Panel back to paragraphs 301 to 302 of its final brief and hoped that it could make something out of the documents there.

Taking a glance at the pages of the SPO's brief containing these paragraphs, you'll notice they are more footnote than submission and rarely, if ever, do they refer to witness evidence.

The disparate, inconsistent, contradictory documents dumped onto the footnotes of these pages in ostensible support of its supposed case on the functioning and structure of the MPO illustrates exactly why documentary evidence without substantiation or contextualisation are of little value to the Panel.

Instead of argument or explanation as to the functioning of the SPO and how those exhibits support its case, the Prosecutor offers mere reminder that the documents were seized from Mr. Selimi, as if this fact alone has imbued the documents with magical powers of consistency, reliability, and accuracy. It does not.

We address almost all exhibits cited by the SPO in support of

paragraph 300 -- we address almost of the exhibits cited by the SPO in paragraph 300 of its final brief at paragraphs 474 to 482 of our brief, and I will not repeat those arguments here.

However, a note must be said on one specific thing. With reference to the organisational charts - and you'll find them at P03932, 3787.1, and P04083 - that are cited to in both paragraphs 300 and 301 of the SPO's final brief, we feel compelled to underline the SPO has failed to do the bare minimum to establish the complex organisations depicted in those charts ever existed.

At no point during trial did the SPO ever attempt to populate those charts with names, neither did it produce evidence to establish that those charts conformed to reality, nor did it make any coherent case on the structure of the MPO beyond telling Mr. Selimi was at the head of it.

The exhibits cited to in paragraphs 300 and 301 do not support the accuracy of these charts, let alone do they provide relevant evidence to the supposed structure of the MPO. In particular, the similarly uncontextualised and undated list of MPO employees you'll find at P03932 appears to contradict their accuracy by depicting an entirely more modest office, with most job functions either being non-ministry officers or carrying out generic roles such as "administrator." Crucially, they bear no reference to police commanders.

Even the reliability of this supposed MPO employee list is doubtful. The SPO have failed to establish that any of the

departments or roles listed in the "job description" column beside the names on that paper existed anywhere except for on that paper, or that those people listed ever held positions within the MPO.

Again, this matter could have been at least raised with 4758, yet it was not.

In support of its claim at paragraph 300 that a housing commission was subordinated to Mr. Selimi, the SPO cites a letter bearing no reference to the MPO at P02372. The SPO never --

THE INTERPRETER: The interpreters kindly ask the speaker to speak at a slower pace.

MR. TULLY: I made it to 25 minutes. My apologies.

The SPO never developed this allegation beyond the bare submissions of relevance found at item 276 in Annex 1 of its bar table motion F02178. There is no reference to any such commission in the organisational charts that the SPO appears to rely on. The SPO failed, or barely even attempted, to prove that the MPO, headed by Mr. Selimi on its allegation, was a structure capable of exercising operational control over a nation-wide police force. It didn't even prove it was capable of doing that. As such, on its case, it is fundamentally flawed.

To the wording of one description of Mr. Selimi's alleged authority that he was in a position to exercise operational control or to direct the actions of others.

On Monday of this week, at transcript page 28419 and 28485, the Prosecutor discussed various PGoK decrees. Again, through the bar

table, it also submitted limited examples of PGoK governance decrees, some unsigned and in draft form, as addressed in paragraph 480 of our brief. Absent from these documents is any kind of regulatory instrument outlining specific powers vested in the Ministry for Public Order within the PGoK structure.

In other trials where the *de jure* position of the accused was at issue, underlying laws of the structures in which they operated were available to and meticulously pored over by both the parties and the panels to determine what formal authority was held by the accused. I refer the Panel to the examples of the ICTY Boskoski case with the relevant analysis found at 498 and 517, and the ICTR Ndindiliyimana case, with the relevant analysis found at paragraphs 192 to 1928. Those paragraphs in the latter case highlight the fact that the panel benefitted from the evidence of multiple witnesses with relevant knowledge to fill in any apparent gaps.

In this case, neither examples of similar laws represented nor were witnesses with relevant knowledge called to establish the SPO's erroneous claim that Mr. Selimi was "in a position" to direct the police. As the careful approach of the panels in both Boskoski and Ndindiliyimana highlight, the formal powers of an accused, without any evidence of an underlying legal framework, cannot simply be presumed by mere reference to their position in a government.

The few documents put before you by the SPO do not portray anything close to the PGoK being a well-regulated, efficiently functioning government, one comparable to one found in a

long-established nation state, irrespective of posturing found in media interviews like P04189.

Furthermore, given the unique context in which the PGoK was born and in which it functioned, it cannot be inferred that the MPO operated as a structured, disciplined, and heavily regulated ministry with the full and supportive structures of government. There are no contemporary examples of comparative governments to make argument by analogy. It further cannot be merely presumed, without reliable evidence, that the minister had operational authority over the police and was thus in a position to direct their actions or had a right by law to do so.

And I'll move on to the question of orders.

So I ask you to consider the immensity of the role that being the operational head of a nation-wide police force would entail. Even outside of a post-conflict setting like Kosovo was in June 1999, this would be a herculean task. One would, at the very least, expect to see orders and directions emanating from that operational commander down to subordinates, yet there are none. No example of any order, any direction, at any time, to any police in any area of Kosovo had been issued by or on behalf of Mr. Selimi.

The sole document the SPO appears to invite you to treat as an order is a communiqué issued in Mr. Selimi's name on 14 June 1999, P00515.69. No witness called by the SPO remembers this document. It has no follow up or precedent. Even the language it uses is vaguely aspirational, and nothing in its content shows the power over KLA MP

had been transferred to the Ministry for Public Order. The document is addressed in full in paragraph 459 of our brief, and it cannot reasonably be regarded as anything even approaching an order or signifying that such operational control had been transferred to Mr. Selimi.

The sole witness called by the SPO who claimed to know of specific orders issued by Mr. Selimi as minister for public order was 4748, a person described by his own family member as a compulsive liar, who was not a member of the KLA at the relevant time, let alone the MPO. He had marked ignorance of major hierarchical roles within the KLA, baselessly claimed to have personal knowledge of secret deals between KFOR and police, and crucially, despite his speculative claims about orders being issued by Mr. Selimi, he admitted under cross-examination to having had no personal knowledge of any orders received by any police during summer 1999, and specifically that he had no knowledge that zone commanders got orders from the MPO. And I refer you to paragraphs 520, 521 of our final brief, as well as 527 to 536.

To reporting.

I ask you again to consider the immensity of the role the SPO alleges Mr. Selimi to have held: the operational head of a nation-wide police force in post-conflict Kosovo, summer 1999. You would expect to see reports streaming into that office. Yet, you saw the entirety of the SPO's supposed evidence in one slide on Tuesday at T28522. The document in question, P01539, was described by the

Prosecutor himself as a complaint. It's not an operational report. That's it. One letter of a regional commander complaining to the General Staff as first addressee and the minister for public order as the second addressee, calling "for a better understanding and treatment of the army." It makes no reference to detentions, mistreatments, any kind of charged crime. There's no evidence that Mr. Selimi was aware of such things occurring in Karadak, or anywhere else, let alone that they happened under his direction or control.

This document makes no reference to prior orders or reports being sent between the collocutors. This document is not by any stretch of the imagination, and regardless of how the Prosecutor spins it, an operational report. Nothing in this document indicates that any prior reporting relationship existed. And as discussed in paragraphs 486 to 489 of our brief, we underline that the SPO has not proven that this letter was ever sent to or received by Mr. Selimi in 1999, irrespective of where it was found 20 years later.

Looking to paragraph 301 of the SPO's final brief, you will find the SPO's tacit acceptance of the weakness of its evidence on reporting, where it somewhat misleadingly states that reports were sent to the SPO by the so-called KLA/MPO police command in "summer and autumn 1999," referring to P02384, P03956, P03960, P03959, and P03954.

While the timeframe, as described, summer and autumn 1999, is technically correct, the more appropriate way to refer to exhibits dated from October 1999 in the context of this case is "outside of

the indictment period." And the three exhibits that are dated November 1999 would be better described, as the Prosecutor did on Monday, "well after the end of the indictment period." That's transcript page 28421.

And a final detail obscured in paragraph 301 of the SPO final brief is that none of these documents were sent from the KLA, as it had been disbanded weeks or months prior, and instead came from the KPC, which plays virtually no part in the SPO's case. Reference to the "KLA/MPO police" in this paragraph, illustrates exactly how vaguely that term is used by the SPO. These handful of irrelevant post-indictment documents cannot and they do not fill the four-month gap of reporting in the SPO's case.

And to my final point on this topic, I refer to the registration forms, ID cards, and photographs submitted before you by the Prosecution. The Prosecutor repeatedly refers to registration forms, identification cards, and photographs mentioned in paragraph 302 of its brief as ostensible proof of the veracity of its case. Our arguments on these administrative documents are set out in paragraphs 509 to 521 of our brief, and I will not repeat them in full.

But to be clear in relation to MPO ID cards, without the evidence necessary to establish that Mr. Selimi was directing or ordering the actions of those who held these cards or that they reported to him, they do not establish by mere existence that he had operational control or authority over those who held them. They also

cannot and do not fill the evidentiary gap.

The SPO makes much of the authorisation on some of the cards it has tendered into evidence, but such authorisations are not directions or orders to act. These authorisations by themselves, limited in example, do not establish a superior-subordinate or otherwise controlling relationship between those who held them and Mr. Selimi.

In assessing the SPO's case against the relevant standard, the Panel must, in our respectful submission, take into account that in conjunction with the SPO's failure to present any of the operational evidence addressed today, it must also consider the SPO's failure to call a single one of the people who held these cards to explain their function and significance, let alone to answer the simple question: Did you take orders from and report to Mr. Selimi? It didn't even try to do that.

Nonetheless, the most important factor for the Panel to bear in mind is that no link has been established by the SPO between the issuance of these cards and the commission of any charged crime.

Likewise, the various registration documents and loose collections of undated passport-sized photographs, such as P04011, they do nothing to advance the SPO's case. Names and images appearing on these documents do not establish that the actions of those people were directed by Mr. Selimi.

Finally, on Monday, the Prosecutor told you, at transcript page 28479, that paragraph 302 of its brief and the documents to which it

cites show that MPO administrative records concerned multiple individuals involved in charged crimes. The SPO glosses over the fact that most of these crimes are alleged to have taken place before the PGoK was even formed. But for those that took place before the PGoK was formed, there is no evidence that Mr. Selimi was aware of the alleged involvement in the commission of crimes by any of those people listed in paragraph 302 at any time in the indictment period.

Of the few names listed beside crimes sites taking place when the MPO existed, the link the SPO draws between them and the MPO are on the weakest of evidence, citing, for example, to undated passport photographs, in the case of those listed at paragraphs 302(b) and (f), for whom there is no proof when or if they ever came to actually be affiliated with the MPO, or what the extent of that affiliation was, if it ever occurred.

Or in the case of (g), a person's name appearing on an unauthenticated and uncontextualised list of MPO employees, P03932. Likewise, there is no proof of when, or if ever, those people came to be affiliated with the MPO, or what the extent of that affiliation was, if it ever occurred.

Even the example of a person on this list who was issued an MPO ID card in reference to (d), Selim Krasniqi, the date of issuance on that card is almost an entire year after the alleged commission of crimes.

The SPO has failed to prove any link between Mr. Selimi and charged crime sites by reference to these administrative documents,

irrespective of where they seized them. It has also failed to prove that Mr. Selimi knew that any of these people had allegedly committed crimes, irrespective of what their affiliation to the MPO might eventually have been. It has failed to prove Mr. Selimi had operational or, indeed, any sort of control over police as minister for public order.

I move to my second topic, the handwritten notes.

This is primarily concerned with paragraph 1485 of the Prosecution's brief, and they were addressed in the closing submissions on Monday, for example, at transcript page 28378 and 28403. In paragraphs 434, 431, 440, 441 to 445 of our brief, we have addressed some of these documents. Any not specifically addressed in our brief are not conceded to be authored by Mr. Selimi. We remind the Panel of our position stated at paragraph 77 regarding the limited relevance that can be taken from the mere fact that a document was found at an accused's residence.

Before addressing the SPO's argument, I respectfully direct the Trial Panel to a decision from Haradinaj dated 27 February 2012, in which the panel considered prosecution attempts to have a diary admitted for which it claimed its contents were attributable to Mr. Balaj. The submissions were in support of a claim that, irrespective of whether Balaj is the author of the diary, the totality of the circumstances indicate reliability because Balaj is the origin of its contents.

The panel, at paragraph 4, noted in particular:

"... [this] Diary was found in Balaj's bedroom on the same table as his KLA identification card ... it contains his name, place, and date of birth, [noted] that the Diary's contents are written from Balaj's perspective, and ... the author refers to himself as the commander of the 'special unit' which is consistent with Balaj's alleged role."

These arguments of the OTP were not enough to establish the *prima facie* reliability standard, the lower standard, and the trial panel concluded ultimately at paragraph 17:

"... the Prosecution has presented no evidence to establish the author of the Diary and the source of the information contained in it. The Prosecution submits that matters within the Diary are consistent with the evidence admitted by the Chamber. However, as held by the Appeals Chamber," referring to the Limaj appeals judgment at paragraph 203, "'[c]orroboration is neither a condition nor guarantee of reliability of a single piece of evidence.'"

While this decision relates to the admission of evidence, we submit that the principle set out by the panel and the appeals decision mentioned therein apply even more when considering the weight that is to be afforded to evidence at the end of trial.

The second subtopic relates to the failure of the SPO to state sufficiently its case on these notebooks throughout trial.

The SPO's practice both implicit and explicit throughout trial skirted making firm pleadings on each of these items it now attributes to the authorship of Mr. Selimi. The SPO should have and

could have - it had many opportunities - to explicitly state the ultimate question it would ask the Panel for each of the items cited in paragraph 1485 long before it concluded its evidence. Entire notebooks were tendered through the bar table without accompanying witness evidence. Individual pages were shown to witnesses in piecemeal fashion during trial without clear proffers as to the alleged authorship.

The Prosecutor's strategic practice appears to have been designed to keep the Defence guessing until these last moments of trial what it intended to do with the various documents it repeatedly and consistently only went as far to state that they were "seized from Mr. Selimi."

During trial, the Prosecutor at times made explicit statements on authorship, but each time it was as a result of explicit Defence intervention, and not by the Prosecutor acting candidly and transparently during tender. For example, on 12 September 2023, at transcript page 7760 to 7764, one Prosecutor showed a page of handwritten notes seized from Mr. Selimi to Witness W04255. And when challenged by the Defence on authorship, he stated at first:

"We cannot call the author of the document unless Mr. Selimi chooses to testify."

Something that was immediately reversed by that same Prosecutor a page later, saying:

"Perhaps I misspoke, although I don't believe I did. I didn't say Rexhep Selimi wrote it. I said it was seized from him. It was

seized by the SPO as is indicated in the metadata to the Defence."

Although this document was ultimately denied admission, the confused, and indeed confusing, approach by the Prosecutor to authorship indicated that we as a Defence could not assume simply that items marked as "seized from Mr. Selimi" would ultimately be attributed to him. The SPO's failure to state clearly its case on authorship in relation to each item it now attributes to Mr. Selimi, irrespective of when that decision would be made by the Panel, has had specific and irrevocable consequences.

The strategy for cross-examination of witnesses was informed by the SPO's outright refusal to take firm stances on authorship for these items despite many opportunities for it to do so. The ambiguous approach taken by the SPO to these notebooks has now, in the dying moments of this trial, crystallised into firm allegations as to acts and words attributed to Mr. Selimi.

Knowing these specific allegations during trial would have been material in determining the approach to be taken by the Defence in cross-examination strategy and investigation during presentation of the SPO's case. Crucially, it would have materially informed our discussion regarding our own presentation of evidence. The prejudice is manifest. These allegations were not led properly by the SPO at trial, and it should be prohibited from leading them now.

Before I turn to the arguments specific to the paragraph in the SPO brief, I want to highlight how the SPO has used one particular document, and this is P01265.

We are compelled to bring to your attention a troubling and, in our submission, a prejudicial matter related to this document. On 4 June 2024, transcript page 16625 to 16626, one page, that's ERN 00226545, out of over 80 pages of this notebook was shown to Witness W04410.

In response to the Defence's objection that authorship could not be established, the Prosecutor stated:

"... we [have] never said that Rexhep Selimi wrote this [diary]. We said it was seized from his house."

That's 16627.

Stating upon further Defence challenge, not out of his own candour, he said that:

"the evidence is not clear one way or the other who wrote this entry."

That's 16628.

The Prosecutor on Monday repeated words to that effect at transcript page 28379 to 28378.

However, looking at how this document is now used in its final brief, what the SPO says and what the SPO does appear to be two very different things. At paragraph 530 of its final brief, the SPO alleges that Mr. Selimi monitored the MP and intelligence units, knowing their key role in the supposed opponents policy, and it cites directly to the page that the Prosecutor said it could not attribute to Mr. Selimi.

This entry that it's quoted is written in the first person and

does not refer to Mr. Selimi in the third. Contrary to what it told the Panel and the Defence, it appears that the SPO is, indeed, attempting to imply authorship of this entry to Mr. Selimi.

Again, at paragraph 533, footnote 2196, it repeats this exact same process, stating that Mr. Selimi met with zone commanders to discuss the so-called special war. As you will notice, both of these are key issues in this case. Again, it's cited to 1265. And, again, the entry it cited to is written in the first person, does not refer to Mr. Selimi in the third, thus appearing to imply authorship to Mr. Selimi.

More troubling about these citations is that this document is nestled in the footnotes, referring to entries from notebooks that the SPO does say was authored by Mr. Selimi. We respectfully ask that you look closely at these paragraphs and footnotes I have cited, and to take the practice of the SPO into account when considering the prejudicial nature, we say, it has employed in approaching this aspect of its case.

I move to the specific arguments found in 1485 on these notebooks.

First, in relation to the SPO's contention in paragraph 1485 point (i) that 1D00033 contains Mr. Selimi's signature, as well as point (iv) that there is "general consistency in the writing and entries of all of the notebooks," we submit that these would be matters of forensic analysis for which the SPO has called no competent witness.

The SPO called no witness of fact during trial who identified either the handwriting or signatures in these notebooks as being Mr. Selimi's that would place any burden on the Defence to refute that attribution. That burden remains squarely with the SPO. The Defence made it abundantly clear through its consistent objections to the admission of these notebooks in our bar table responses, as well as in in-court submissions, that we disputed the authorship of these documents.

We bring to your attention, respectfully, the finding of the trial chamber from the Oric trial judgment at paragraph 64 [sic] in relation to disputes over authenticity of handwriting:

"The Prosecution has the onus of proving the authenticity of all those documents purportedly signed by either Hamdija Fejzic or Hamed Salihovic challenged by the Defence. For that purpose, especially since it was put on notice from even before the start of trial that objections to authenticity would be made, the Prosecution should have brought forward all the evidence necessary to prove the authenticity of those documents."

As stated in our final brief at paragraph 441, it was open to the SPO to call an expert witness on handwriting, a practice carried out in multiple other international trials. I refer you to Popovic, Milutinovic, Oric. There are many others. It should have called this expert witness since it knew it had no witness of fact who would authenticate the handwriting on its witness list.

Remarkably, on Monday, you heard the Prosecutor momentarily

transform into an expert witness and state that in relation to P01265, the SPO had decided by itself, outside of the courtroom, that the writing didn't look consistent to their eyes, and thus, in this instance, they wouldn't attribute authorship to Mr. Selimi. That's transcript page 28378, 28379.

Continuing in this role, the Prosecutor then urged you, reflecting the same uncited submissions in its final brief at paragraph 1485(iv) to look at the remaining notebooks and to conclude that the "style and cursive" of a certain note is similar across exhibits, and to conclude that they were all authored by Mr. Selimi. That's transcript page 28403.

These arguments are self-evidently inappropriate for the SPO to make at any point in trial, let alone in its final brief and final arguments. Such matters are properly within the domain of an expert witness of forensic science. The idea that the SPO could, of its own accord, act as a witness of such matters and call upon the Trial Panel to do the same without even the assistance of expert evidence is absurd. Its arguments are without merit and should be disregarded in their entirety.

Even if, for the sake of argument, and despite the submissions now made, if the Panel were to accept that the signature of 1D00033 belongs to Mr. Selimi, one signature on one page in the middle of 38 pages of notes is certainly not dispositive of authorship of the entire notebook, and would also raise a question why a person would need to sign an entry in their personal notebook, as the SPO alleges

this exhibit to be.

Second, to point (ii) in paragraph 1485, the Defence does not accept that the SPO has proven the notebook seen in video exhibit P01221 is the same as that seen in P00182. But even for the sake of argument, if the Panel finds that they are the same, the SPO has not proven that each entry in this 65-page notebook was written by Mr. Selimi. And we respectfully reiterate that on the evidence available to the Panel, authorship of this entire document cannot be attributed to one person.

Upon review of our final brief, and as noted by the Prosecutor on Tuesday, we identified an editing error which inadvertently removed reference in paragraph 445 in relation to P00182 where we stated it was not shown to any witness. This paragraph was intended to refer to the specific page from P00182 cited in the SPO pre-trial brief footnote 401 alleging that Mr. Selimi consulted with zone commanders about detentions.

The page cited, ERN 226414, indeed was not shown to any witness at trial and, as such, does not prove the case as set out in its pre-trial brief, nor does it prove those allegations where it is cited in its final brief. But in relation to the entirety of P00182, the broader point stands. The SPO has failed to prove that Mr. Selimi is its author.

With respect to point (iii) in paragraph 1485, the SPO's argument related to Mr. Selimi's name appearing in certain pages of P00182 or 3781.2, or for a person with the same initials in 1D33, as

purported proof of his authorship is unconvincing. Mere record of attendance at meetings does not prove authorship of those entries and certainly does not prove authorship of the entire notebooks from which they are taken.

We also note that the references cited by the SPO in these entries are written in the third person, the same criteria arbitrarily used by the SPO to arbitrarily decide that 1265 was not attributable to Mr. Selimi.

Regarding the remaining references to point (iii) in paragraph 1485, footnote 6269, the SPO has failed to prove by cross-reference to these other exhibits that Mr. Selimi is the author of each specific entry in the notebooks to which they refer, and the isolated cross-references upon which they rely do not prove authorship of the entirety of the notebooks from which they are taken.

And before moving on to my final point on this topic, we note that footnote 6269 cross-refers Exhibit 181 to P01264, a book written by Witness 4410.

As we noted in paragraphs 442 and 444 of our final brief, we dispute that Mr. Selimi attended the meeting allegedly referred to in P00181 as well as the allegation that these notes were authored by him. The SPO failed to establish through the testimony of 4764 that Mr. Selimi was present, despite 4764 being mentioned multiple times in these notes. 4758, also allegedly present, directly contradicts this allegation. And P00187, 164, a book also referring to this

meeting, does not list Mr. Selimi among its participants. The SPO has failed to address why 4410's evidence should be accepted over the multiple sources that directly contradict him.

Finally, I will not spend much time addressing the remainder of paragraph 1485. Its opening sentence contains the line "even pages lacking direct evidence of Selimi's authorship," and this alone concedes the foundational evidentiary weakness of its argument from the start.

In this paragraph, the SPO invites you to impute Mr. Selimi's knowledge of the content of the notebooks from various pages that never saw the light of day in this courtroom, arguing that they contain "indications the author acted on behalf of the GS," that "the topics are at GS level," "the recorded speaker is directing his comments to the GS and the contents were communicated by, or to, the GS."

In doing so, the SPO offers you nothing more than its own non sequiturs, speculation, conjecture on these exhibits, and once more poses as a witness of fact or opinion in its own case. These self-serving arguments should be disregarded in their entirety.

To my final topic, and it's short. This addresses an exception that the Prosecutor now wishes to carve out of Rule 140.

On Monday of this week, at transcript page 28453 and 28454, the Prosecutor urged the Court to consider any non-objection by the Defence to the admission of witness statements under Rules 153 and 155 as being tantamount to a failure to challenge that evidence. In

doing so, the Prosecutor reflected arguments, found at paragraphs 1408 and 1409 of its brief, that argue in favour of carving out an exception to the well-established fair trial principle enshrined in Rule 140(4)(a). To be clear, that rule states that a conviction will not be based to a sole or decisive extent on the statement of a witness whom the Defence has had no opportunity to examine.

The Prosecutor submits, at paragraph 1409, that the "plain language" of this rule supports its argument, and that there can be no finding of prejudice where the Defence did not challenge the admission of statements, but then immediately contradicts himself by providing a tortured explanation, misrepresenting the law along the way, as to how the language of that rule should be interpreted. It's either plain or it's not.

As a preliminary matter, in the context of the specific circumstances why evidence is admitted pursuant specifically to Rule 155, the SPO's suggestion that the Defence surrendered an opportunity to cross-examine witnesses by not objecting to their admissions by this rule is, on its face, and on the very nature of why those witnesses are unavailable, absurd. Specifically for Rule 155 witnesses who are deceased and thus unavailable for testimony, the SPO's arguments raise issues of a metaphysical nature that are, with respect, beyond the capacity of this Court. Nothing more needs to be said about this aspect of the SPO's argument.

As to its arguments in respect of Rule 153, the Prosecutor cited no authority supporting its interpretation of Rule 140 because no

such authority exists. This is because the argument is legally wrong and incapable of support.

In paragraph 1409, footnote 5914, the SPO misrepresents paragraph 20 of F03327, a decision of this Panel addressing implicit waiver of Rules 153 and 155, and incorrectly paraphrases the finding of the Panel thusly:

"The Panel considered the importance of considering whether admission of what constitutes a statement under Rules 153 to 155 was not objected to, as such constitutes waiv[ing] the benefit of the safeguards foreseen by Rules 153-155."

The actual, and far more limited, finding was that the Panel only considered specific safeguards of Rule 153 and 155 to be waived in the exceptional circumstances where there was no objection to the application of the *lex generalis* Rule 138 in lieu of the *lex specialis* Rule 153, 155.

Similarly, the SPO cited the inapposite European Court of Human Rights Murtazaliyeva decision in that paragraph concerned with issues arising from the Russian criminal code. Unlike this criminal code that it cites, the admission of witness statements pursuant to Rule 153 and 155 at the KSC is not based on the consent of the parties alone. That decision rests ultimately with the Trial Panel, the ultimate custodian of fairness of trial, and it is made having heard the petition of the moving party and considering the objections, if any, of the responding party.

Contrary to how the SPO mischaracterises the role that Defence

objections play in the admission process pursuant to Rules 153 and 155, Defence objections or non-objections are far from decisive in the decision to admit that evidence, and they cannot reasonably be regarded as a clear opportunity to cross-examine a witness that the Defence has implicitly surrendered.

Defence objections are only one of many factors that may be relevant to the Panel's decision. As seen in F02557, the decision on admission of Rule 153 evidence from this trial, at paragraphs 39 to 47, even in an instance where the Defence did not object to the admission of evidence which met Rule 153 criteria, the Panel nonetheless found that it was in the interests of justice to call W02586 as, without his evidence, there would be no tested and little corroborative evidence of an alleged murder victim on record.

Paragraph 1409 of the SPO's brief alludes to the non-objection of the Defence to Rule 153, 155 statements being tantamount to not "availing itself" of the chance to cross-examine. Years in this trial passed with the SPO routinely opposing or disregarding the objections of the Defence, with almost no exception. The SPO understands very well that the Rule 153, 155 process was not a consultative, consent-based process through which the Defence could "avail" itself of the opportunity to cross-examine a witness.

The SPO attempts to erase its own actions in making those Rule 153 witnesses unavailable for testimony. As noted in paragraphs 593 and 598 from the Shala appeals judgment, which is omitted from the SPO's citation in paragraph 4018, at footnote 5912, a central

concern for that Panel was that the reasons for the non-attendance of the decisive witness in question was imputable to the SPO and the Trial Panel.

Those concerns remain in place for this Trial Panel, irrespective of whether the Defence objected or did not object to the admission of statements pursuant to Rules 153 or 155. It is the SPO, the calling party, who made the decision to petition the Panel for non-attendance of the witnesses, and that decision ultimately remained with the Panel. Defence objections, non-objections to admission played no decisive role in either the initiation or the execution of that process, which F02557 is a perfect illustration of. As the SPO is well aware, an agreement between the parties or the non-objection to the witness evidence being admitted pursuant to either rule is mere acceptance that this evidence meets the lower standard applied to the admission of evidence. It is not a tacit acceptance or concession comparable to the failure to cross-examine.

We state that the plain language of Rule 140(4)(a), which reflects Article 21 of the Law, indeed means exactly what it says: a conviction will not be based to a sole or decisive extent on the statement of a witness whom the Defence had no opportunity to examine. It requires no further subjective interpretation as suggested by the SPO.

Finally, to conclude, throughout trial, and especially in its final brief, the SPO has used the innuendo derived from the seizure of certain documents from Mr. Selimi as both its sword and its

shield. It's used as a sword to cut through the inherent deficiencies in its evidence, and a shield to protect itself from being held to the investigative and proving standards demanded of a prosecution in a case like this.

This is not mere rhetoric on our part. The point is peppered throughout the SPO's pre-trial brief, opening statement, trial record, its bar tables, its final brief. And just to make sure where the SPO invests almost all of its stock, on Tuesday, at transcript page 28522, the final words on the matter, the Prosecutor took the time to say:

"Rexhep Selimi cannot escape materials in his possession ..."

Rexhep Selimi is not on trial for having materials in his possession, and nothing about that fact relieves the SPO from proving its case beyond reasonable doubt in all material aspects, something it has fundamentally failed to do.

Thank you, Your Honours.

PRESIDING JUDGE SMITH: [Microphone not activated].

You may begin when you're ready.

MR. MAIR: Thank you, Your Honours.

I had intended to address Your Honours on the Prosecution's failure of proof in its case on crimes against humanity, but in light of the submissions by counsel for Mr. Thaci on Wednesday, which we agree with, and which I assure you were far more eloquent and persuasive than anything I can contribute, I will not use this Court's time to rehash those points.

I do refer Your Honours to our final brief at paragraphs 1202 to 1213 for our written submissions, which we stand behind.

The one point I would raise is to echo the other Defence submissions before me imploring Your Honours to diligently review the footnotes in the SPO's brief, and specifically the section on crimes against humanity, as that section is replete with internal cross-references to sections of the SPO brief that, as far as we can tell, do not exist; refers to sections or multiple sections of the brief, sometimes numbering hundreds of pages, without any reference to a specific fact, argument, or piece of evidence; or footnotes that cite to evidence that do not support the proposition for which they are relied upon.

My submissions today instead will focus on the question of the legal matter of the beginning of the armed conflict under Article 14 of the Law. I will not address the end of the armed conflict. We stand on our submissions in paragraphs 1173 to 1193 of our final brief.

As far as the beginning of the armed conflict, as set out in our brief at paragraphs 1159 to 1172, our position is that the Prosecution failed to prove beyond reasonable doubt the existence of a non-international armed conflict prior to November 1998.

As a preliminary matter, the Prosecution, in its final brief at footnote 5605, suggests that the Defence has conceded that armed conflict reached the requisite threshold for intensity by the end of May 1998, citing to paragraphs 56 and 110 of the joint Defence motion

pursuant to Rule 130. That's filing F3256.

The Defence conceded no such thing, and to suggest otherwise completely ignores the fundamental and differing standards between a no-case-to-answer motion, that being whether there is evidence capable of supporting a conviction, and the considerably higher standard, reasonable doubt, that the Prosecution bears today.

The Defence position in the Rule 130 motion was clear. There was no case to answer for the existence of an armed conflict between March and the end of May 1998 under this lower standard. Such an assertion is completely independent of the standard to be applied to the existence of armed conflict now at the end of the case and which the Prosecution must meet. The Defence did not concede anything in this regard, and has certainly not relieved the Prosecution of its burden of proof regarding the existence of armed conflict outside of the agreed fact relating to November 1998 to June 9th, 1999.

Turning to the first prong of the test for armed conflict, organisation.

The existence of a non-international armed conflict requires that the armed group involved "has a structure, a chain of command, and a set of rules as well as outward symbols of authority." Its members do not act on their own but conform "to the standards prevailing in the group" and are "subject to the authority of the head of the group." These requirements go all the way back to the Tadic appeals judgment. The KLA fails every one of these tests prior to November 1998.

The Prosecution spends one paragraph in its final brief, 1308, dedicated to the organisation of the KLA, predominantly relying on adjudicated facts and referring to other sections of the Prosecution brief but without establishing organisation.

Many of these adjudicated facts do not refer to the organisation of the KLA itself but to clashes or fighting, apparently in an attempt to show the KLA was sufficiently organised to take on Serb forces. These facts, however, contain no particularity as to how the fighting unfolded or its magnitude.

Furthermore, the evidence primarily refers to defensive actions against Serb attacks or brief fire-fights. It belies belief to suggest that individuals defending themselves by opening fire somehow supports organisation.

The internal cross-references by the Prosecution are dealt with by the Defence at sections III.A and III.B of our brief, which show that the KLA was built from the ground up, and very much a work in progress. The evidence demonstrates that during much of 1998, there were very little connections between these units and a very tenuous link with the General Staff. And I would refer Your Honours to paragraphs 96 to 111, and 114 to 144 of our brief for more information.

By "tenuous link," many soldiers in the KLA, including commanders, did not even know of the existence of a General Staff or who its members were. And specifically, I refer Your Honours to paragraph 104 of our brief. The zones themselves were a work in

progress and largely unformed, at least through the first half of 1998. And, again, I refer Your Honours to paragraphs 114 to 117 of our brief. This is not a structure with a chain of command. This is a collection of local units, guerrilla units really, operating independently and horizontally, without cohesion or uniformity.

Even within the General Staff, at this point in time, there was no real command structure and no clear delineation of responsibilities. We detailed this in paragraph 129 of our brief. Many General Staff members were out of the country or moving around and not together in one location.

More importantly is the lack of evidence that the General Staff had any actual authority to assign tasks or give enforceable orders. In this regard, it cannot be said that there was a clear "head of the group" to whose authority the soldiers could submit.

One indication of organisation is sufficient logistics, which the KLA did not have throughout the majority of 1998. We detail this at paragraphs 185 to 192 of our brief, showing the deficient levels of weapons and logistics, and I won't repeat those submissions here. The point, in short, is that there was a constant shortage of weapons, and those that were possessed were primarily light arms.

There was also a persistent shortage of communication devices, which necessarily limited the ability to coordinate operations or attacks; paragraphs 193 to 198 of our brief. Even when individual units managed to obtain communication devices, their functionality was limited by constant interruptions to electricity and the prospect

of interception.

Another factor is that of speaking with one voice. And Your Honours have already heard substantial and persuasive submissions on the lack of evidence regarding the authorship and creation of communiqués and declarations. I will not repeat those here. I would refer Your Honours to paragraphs 605 to 619 of our brief. And I would say that in light of the evidence before this Panel -- the lack of evidence before this Panel regarding the background of these public pronouncements, it's simply not proven that they depict the KLA speaking with one voice.

THE INTERPRETER: Interpreter's note: The speaker is kindly asked to slow down for purposes of interpretation. Thank you.

MR. MAIR: Equally, there was a paucity in the evidence on disciplinary mechanisms, with the military court only coming into existence in November 1998. While Witness 4264 explained, at P1955.2, page 16, that there were disciplinary committees in some zones prior to the establishment of the military court, he stated that not all zones had committees in place. And the evidence before this Panel does not establish a sophisticated, or even rudimentary, disciplinary regime.

By the Prosecution's own case, General Staff regulations did not exist until at least June 1998 - that's at paragraphs 118 and 119 of their brief - while the disciplinary regulations are only dated with the year 1998. And I would refer Your Honours to P715.

The limited evidence does not establish that the regulations

were in force prior to November 1998. And most witnesses who were asked about the regulations either had only heard of their existence or had not heard of them at all. And you can find more information on that in paragraphs 162 to 167 of our brief.

Overall, the Prosecution's feeble attempt to demonstrate organisation does not meet the requisite standard of proving an organised armed group. It has not demonstrated a structure, a chain of command, or a set of rules. It has not demonstrated that KLA members conformed to "the standards prevailing in the group" as, by and large, there was no group to conform to.

It has not demonstrated that KLA members were "subject to the authority of the head of the group."

The evidence simply does not demonstrate a unified organisation capable of launching attacks beyond responding to Serb aggressions or, at times, conducting isolated and sporadic acts of violence that Article 14(2) specifically excludes.

At no point prior to November 1998 has the Prosecution demonstrated that the organisation of the KLA was sufficiently advanced. For this reason alone, we submit that the Panel can find that there was no armed conflict prior to November 1998.

I will, however, briefly address the intensity prong of armed conflict. The Prosecution states in its brief - that's paragraph 1310 - that by March 1998, fighting between Serb forces in the KLA had been "continuous" and included a number of different phrases, such as "major hostilities" or "open battle," to describe

what it argues is armed conflict. It sounds intense, for sure, until you actually look at the evidence cited in support.

I will not go through all of the cites in detail here, but it is worth reviewing them. You will see that the evidence does not support the idea of a wider conflict, but is mostly referring to Serb actions, one-sided attacks, such as those at Qirez, Likoshan, and Prekaz. For example, the phrase "major hostilities" refers to the evidence of Christopher Hill where he spoke about the Serb attack on the Jashari compound, describing it "a major, major outbreak of hostilities," that's at transcript 27661, but refers to no other fighting.

For the phrase "open battle," the Prosecution cites to P1747, an unattributed handwritten diary tendered through the bar table that refers only to the attack on Qirez and Likoshan as an "open battle" and does not reference a wider conflict.

While the Prekaz massacre was of distinct magnitude from previous attacks, one geographically confined and asymmetrical attack does not, without more, suffice to establish that the hostilities in Kosovo had reached the intensity threshold. Even adding Qirez and Likoshan into the mix, the analysis is the same.

The clashes that followed Prekaz in the ensuing months were typically smaller fights, incidents really, frequently involving no or less than a handful of casualties being suffered. I refer Your Honours to paragraphs 1166 and the cites therein for more information.

But what has not been established on the record is the actual frequency and scope of the conflict in this March to May time period. The Prosecution refers to continuous fighting in paragraph 1310, but their case lacks any particularity as to how that purported daily fighting unfolded.

It is only by reference to details such as the location and spread of fighting, the number and affiliation of personnel involved, or the weaponry that the Panel can make an informed assessment of whether the fighting reached the requisite intensity threshold. Absent such details, the Panel has been provided with no basis to exclude that fighting used in that context amounted to mere exchanges of fire lasting a mere matter of minutes, which would fall foul of the requisite standard and are precisely the kind of sporadic acts the intensity requirement was intended to exclude.

Your Honour, I note the time. I only have about five minutes left.

PRESIDING JUDGE SMITH: [Microphone not activated].

MR. MAIR: We will certainly finish comfortably within the next session with our submissions, so I would ask indulgence.

PRESIDING JUDGE SMITH: Go ahead and finish up then --

MR. MAIR: Thank you, Your Honour.

PRESIDING JUDGE SMITH: -- with your five minutes.

MR. MAIR: The Prosecution's brief attempt to describe a couple of other events in this time period only serves to disprove its case. Paragraph 1314, for example, refers to sustained combat in April,

referring mostly to Serb forces carrying out actions or shelling. And while there is some reference to KLA attacks on police battalions or clashes, there are limited facts about what actually happened and it certainly does not establish sustained combat.

Similarly, in paragraph 1315, the Prosecution suggests an escalation in May and "continuous fighting across Kosovo." But, again, what is cited is a Serb report, firing on checkpoints or convoys, or perhaps a short fire-fight with minimal casualties, not sustained fighting and certainly not across Kosovo.

I would pause here to note that the Prosecution does not address at all previous court findings that found that an armed conflict did not reach the requisite intensity threshold before the end of May 1998, which we summarise at paragraph 2865 of our brief. The evidence relied upon here by the SPO for this March to May time period has, by and large, been considered and rejected by other trial chambers in an attempt to move that timeframe forward.

For the remainder of the period until November 1998, the Prosecution provides only superficial, generic statements, without providing any specificity, allegedly because of the Prosecution's misconceived notion that the Defence has conceded the point. This ignores their own burden, and, in any event, we suggest that based on the entirety of evidence before this Panel and assessment of all the factors relevant for intensity, the Prosecution has failed to meet its burden.

I want to quickly run through these other factors to show this

point. I've already addressed the issue of personnel and weapons and equipment earlier in my submissions. I won't repeat them except to say that the KLA was clearly a work in progress, building and organising, attempting to collect and stockpile weapons, but considerably and undisputably outmanned.

While the Prosecution submits that, in paragraph 1322 of its brief, the KLA became more visible and, in paragraph 1323, that there was a rise in KLA enlistments in April 1998, this does little to show how many individuals were actually capable of fighting or were, in fact, engaged in skirmishes and fire-fights throughout 1998.

The Prosecution, at paragraphs 1326 to 1330, attempts to portray the KLA as having an ever-increasing collection of heavy weapons, a position not supported by its evidence. Much of the evidence referred to comes from unauthenticated books, diaries, journals, or otherwise uncorroborated. Some cites do not support the claim at all. For example, footnote 5670 refers to the KLA possessing and using heavy weapons, referring to P2816, which only refers to light machine-guns and mortars.

Regarding the human impact factor, I absolutely do not wish to minimise the loss of life that occurred in 1998 or ignore the fact that people were displaced from their homes, but what is cited by the Prosecution at paragraphs 1331 to 1340 is largely the result of unilateral Serbian actions in shelling and destroying villages and does not demonstrate that a protracted armed conflict between the parties existed at that time. While the Prosecution opens paragraph

1331 by referring to increasing casualties on both sides, the paragraphs that follow list casualties largely resulting from Serb attacks.

The one paragraph, 1334, that actually refers to the KLA cites substantial damage to buildings in March, and only March, citing three exhibits: P4254, 1747, and 4023. However, a review of these exhibits reveals that the destruction allegedly caused by the KLA appears to be limited to damage to a handful of houses.

And, finally, turning briefly to the last factor, the attention of the Security Council, the Prosecution in their brief, at paragraph 1342, refers to the Security Council adopting Resolution 1160 in March, where it refrained from categorising the situation in Kosovo as an armed conflict. The Prosecution states that such an occurrence is neither unusual, nor indicative of how the Security Council viewed the matter, citing to Resolutions 1203, 1239, and 1244, which also did not use the phrase "armed conflict."

The Prosecution's position, however, is immediately undercut by its blatant omission of Security Council Resolution 1199, from September 1998, which does refer to armed conflict in Kosovo. Strangely enough, the Prosecution does cite this resolution only five paragraphs later, in paragraph 1347.

However, at the same time it must be noted that even after using that language in 1199, the Security Council opted not to repeat that language in subsequent resolutions.

The remainder of the cites by the Prosecution in paragraphs 1341

to 1348 show growing concern by the international community over the violence occurring in Kosovo, an understandable position considering the severity of the attacks by the Serb forces, but ultimately have limited authority in the legal determination of armed conflict.

Your Honours, taken together, the evidence presented by the Prosecution fails to establish beyond reasonable doubt that an armed conflict existed prior to November 1998. It's useful to go through this particular issue in detail as it highlights two important points. First, we are once again putting the Prosecution to its burden of proof, and as the evidence shows, they have once again failed. Second, the Prosecution's final brief on armed conflict is emblematic of the entirety of its case. It fails to take on any evidence contradictory to its theory. It makes large, sweeping statements that often rely on faulty citations or evidence that tangentially supports its case or often not at all. It stretches the truth, extrapolating far beyond what the facts actually show. The SPO rests its case on giving little more than a glimpse into the entirety of its evidence, pulling back the curtain only a little bit. However, once that curtain is pulled back all the way, we say that the gaps, the holes, the logical fallacies, are laid bear for all to see.

That concludes my submissions, Your Honours. Thank you very much.

PRESIDING JUDGE SMITH: Thank you, Mr. Mair.

So we will adjourn now for a half-hour. We'll be back at five

after the hour, five after 11.00, and we will have Ms. Sheremeti at that time. So thank you.

--- Recess taken at 10.36 a.m.

--- On resuming at 11.07 a.m.

PRESIDING JUDGE SMITH: All right, Ms. Sheremeti.

MS. SHEREMETI: Good afternoon, Your Honours, esteemed colleagues, fellow citizens in the court and following us from home.

Building on the submissions already made by my colleagues, my part of today's closing arguments will focus on harm, victims, and sentencing. That is why I wish to begin my part of the closing arguments by making one point clear. We do not approach this case with indifference towards the accounts presented by Victims' Counsel, the histories of those who come before this Court, or the pain of mothers who lost their children during the war. That is not who we are, and it is not the position we advance.

Although we stand on opposing sides in these proceedings, we are all human. We do recognise the harm described in this case and the suffering of those who went through it. Acknowledging that harm, however, does not alter the fundamental task of this Court: to determine, based solely on evidence, whether the Prosecution has proven beyond a reasonable doubt that the accused are criminally responsible for that harm.

These two realities are not mutually exclusive. We can acknowledge suffering while remaining firm in the position that Mr. Selimi did not cause it.

We must remember that the conduct in this case took place during the war in Kosovo, after years of systematic repression of the Albanian population by Serbian state authorities. Albanians of Kosovo were stripped of basic civil and political rights, excluded from public life, subjected to arbitrary arrests and police violence, and targeted through sustained discrimination. By the late 1990s, this eruption went into open war, marked by mass displacement, the destruction of homes, and widespread violence directed primarily against civilians. This was not a neutral conflict setting. Albanians of Kosovo were themselves the victims of state-sponsored violence, living under constant threat, fear, and instability, struggling simply to survive.

That being said, our position is quite simple. The existence of suffering in a war marked by systemic oppression does not replace legal proof. It is not enough to show that Kosovo was a place of violence and fear during a certain period in time. It is not enough to show that detention occurred. It is not enough to show that trauma is widespread in post-conflict societies. None of that tells you beyond reasonable doubt that Mr. Selimi committed crimes, ordered crimes, contributed essentially to crimes, or possessed the knowledge and effective control required for command responsibility.

The Prosecution's representation of harm is general and cumulative. It describes the effects of war on society as a whole, but does not demonstrate harm traceable to specific conduct, decisions, or authority involving Mr. Selimi. Instead, it aggregates

incidents across multiple locations and time periods, and invites the Trial Panel to treat that accumulation as a "pattern" and the alleged pattern as proof of a common plan or central control.

The evidence consists of dozens of discrete episodes, with harm described in generic terms and attributed to unidentified perpetrators. That is not proof. A pattern must be known, not inferred. And even where a pattern exists, it must be connected to the accused as an individual, not to broad categories such as "KLA members."

If there was a coherent *modus operandi* or a consistent chain of authority traceable to Mr. Selimi, it would have emerged clearly from the evidence. It did not.

The SPO final brief contains 24 victim impact entries. The harm described in these entries reflects suffering that no one should endure. However, none of this harm is attributed to Mr. Selimi. The only instance in which Mr. Selimi is mentioned at all appears in the testimony of Witness W04644. That brief reference does not concern violence, mistreatment, or any form of harm. Rather, the witness describes seeing Mr. Selimi arrive in a jeep and escort the witness's father-in-law away from the scene, without any allegation of abuse or wrong-doing. And even that mentioning is buried in one of many documents referred to in footnote 2727, which is page 386 of the SPO final brief. This passing mention is entirely disconnected from the serious physical and psychological injuries described elsewhere in the same testimony which the witness attributes to other unidentified

individuals.

The Victims' Counsel's submission also relies heavily on emotionally compelling narratives, which, while serious and deserving of recognition, repeatedly fail to establish a legally sound and individualised link to the crimes charged.

Where Mr. Selimi is addressed more directly, the Defence position has been materially mischaracterised.

In footnote 306 of the Victim Impact Statement, the Victims' Counsel asserts that the Defence cross-examination of W04444 sought to undermine the victim's pain. This misrepresents both the intent and the substance of the Defence case.

As set out in our final brief, the factual circumstances of W04444's detention were expressly acknowledged, including his belief that the detention was motivated by personal revenge unrelated to the KLA or the war. The purpose of cross-examination was not to dispute suffering, but to test attribution, context, and consistency, particularly where no specific perpetrator was identified and where allegations remained general in nature.

It should be noted also that the victim himself admitted that the harm he alleged on his victim application was, in fact, exaggerated.

Your Honours, challenging attribution is not denial of harm. It is the exercise of due process. At the same time, the Victims' Counsel advances an inconsistent narrative of absolute fear and inaccessibility of the KLA, while admitted evidence demonstrates

that civilians did approach KLA members to seek information without any consequence, as illustrated by the admitted evidence and statement of W04594 at paragraph 263. While the Victims' Counsel's submission powerfully illustrates the suffering endured during the war, it repeatedly conflates collective tragedy with individual criminal responsibility.

Against this backdrop, the Trial Panel is left not with a question of whether suffering occurred, but with whether the evidence can legally connect that suffering to the crimes charged and to Mr. Selimi personally. It is at this point that Victims' Counsel turns to expert testimony to bridge the evidentiary gaps left by the supplementary info on harm.

The expert evidence tendered by Victims' Counsel was incapable of establishing a causal nexus between the crimes charged and the harm alleged. Not because the experts were dishonest. Not because the Defence sought to deny trauma. But because the experts themselves repeatedly and expressly disclaimed the ability to determine causation, attribution, diagnosis, or perpetrator-specific linkage. They placed the alleged harm in the broader context of the Kosovo war and its aftermath rather than within the scope of specific allegations before this Panel.

I will focus today on only three structural limits that were repeatedly confirmed by the experts themselves.

First, no individual medico-legal examinations were conducted for the purposes of the reports the experts produced. The experts

warned Victims' Counsel in advance that without individual assessments, they could not comment on causal connection. Victims' Counsel proceeded anyway.

Second, without interviews, examinations, and diagnosis, the experts themselves said it was impossible to determine whether symptoms meet diagnostic thresholds, whether they constitute medically valid conditions, or whether they are causally linked to specific events. The report discussed did not provide forensic conclusions attributing harm to particular acts or actors.

And, third, the literature relied upon was correlational, not causal. One of the books that the experts relied on is a book I myself co-authored. These prevalent studies concerning trauma in Kosovo cannot establish individual causation. They can show widespread suffering. They cannot show that a particular victim's symptoms were caused by a particular crime committed by a particular person.

This is the difference between sociology and criminal proof.

The experts confirmed they were unable to determine whether any psychological harm suffered by participating victims was caused by alleged crimes in this case. They accepted the symptoms described could be consistent with exposure to war generally, not specific to any conduct attributed to the KLA, let alone to Mr. Selimi.

And if an expert witness acknowledges they cannot determine whether the symptoms were caused by the alleged crimes, or by detention-related acts, or by anything attributable to the accused,

then the evidence cannot establish causation beyond reasonable doubt. When causation is an essential component of the harm narrative used to support criminal responsibility, that failure matters.

The Victims' Counsel stated in the courtroom the other day, and I quote:

"These cases and this case, they're not case studies. This indictment is not just a dry legal description of criminal acts. It's about times and places where people have come to serious harm, harm that has changed them and their families forever. By acknowledging that harm, a court is able to say that it has listened, that the suffering of the victims has not gone unnoticed, even amidst the world of a very large case like this."

That's pages 28535 to 28536 of the 10 February transcript.

The Defence agrees with this sentiment to the extent that harm must be acknowledged and heard. However, the difficulty with this approach is that this is a criminal trial. While a criminal trial without victims is difficult to fathom, its purpose is not merely to recognise suffering but to determine whether it has been proven beyond reasonable doubt that the accused caused that harm.

On the other side of the victims' accounts are the lives of the accused, individuals who fought for their country and its freedom, and whose responsibility must be established, not assumed. Let's not forget that.

Moving on to sentencing. As my colleagues have shown, there is no evidence capable of supporting a conviction on any of the charges

against Mr. Selimi. An acquittal must follow, and no sentence can therefore be imposed.

But if the Panel reaches sentencing, the Defence must address the Prosecution's extraordinary request. The Prosecution seeks 45 years for each accused, relying on Rule 163(4) to urge a single cumulative sentence, treating the alleged totality of conduct as justification.

Even in the alternative, the Prosecution's request is manifestly disproportionate and unprecedented in the circumstances of this case as pleaded and proven. A sentence of 45 years is, in practical terms, a life sentence. That is not proportionate punishment. It is symbolic condemnation masquerading as sentencing.

The SPO's submissions elevate gravity, deterrence, and collective responsibility into determinative factors. Sentencing must remain anchored in the accused's personal contribution, actual authority, degree of intent, and proven conduct, assessed against established sentencing practice and the more lenient domestic ranges that the Panel is required to take into account. When those principles are properly applied, the sentences sought by the SPO are manifestly disproportionate, particularly in light of the appeals judgments in both Shala and Mustafa case as I will make clear today.

The Prosecution, throughout its case, repeatedly treats the accused as interchangeable participants in a single criminal enterprise, arguing that identical or near-identical sentences should be imposed because of their alleged shared purpose and senior

positions.

This approach is incompatible with the Specialist Chambers' Law and this Court's practice. The Panel is required to determine sentence for each accused individually, taking into account the gravity of the crimes as committed by that person, their personal contribution, and their individual circumstances. That's paragraph 740 in Shala appeal judgment.

With respect to Mr. Selimi, the Prosecution relies heavily on formal title rather than demonstrated conduct. While Mr. Selimi held the position of inspector general, the evidence does not establish that this role translated into effective control over alleged detention facilities, direct perpetrators, or the commission of the crimes at issue, as my colleagues have already explained. The Prosecution treats senior position alone as proof of authority and culpability.

The SPO invokes Mustafa and Shala as a baseline to justify substantially harsher sentences in this case. This reverses the Appeals Panel's logic. In Shala, the Appeals Panel held that Mustafa's sentence, imposed on an accused with command authority and a very high personal contribution, exposed the disproportionality of harsher sentences imposed on less culpable accused. That's paragraph 933 of Shala's appeal judgment.

That reasoning applies here. Comparative sentencing is intended to prevent unjustified escalation, not to normalise it. If the commander with direct involvement and effective control received a

15-year sentence, sentences approaching life imprisonment for accused whose involvement is significantly less raises serious proportionality concerns.

While deterrence and retribution are recognised purposes of sentencing, they cannot justify sentences untied from individual culpability. The Appeals Panel in Shala has emphasised that sentencing must remain tailored to the accused's role and conduct.

Sentences imposed primarily to send a message risk instrumentalising the accused rather than judging them. Deterrence cannot replace proportionality, and punishment cannot exceed the accused's personal responsibility.

Comparative sentencing practice in ICTY jurisprudence also underscores a consistent principle: substantial custodial sentences are imposed only where responsibility is established through concrete and individualised findings of direct participation or indispensable contribution, supported by reliable identification, clear attribution, and proven *mens rea*.

Counsel for Mr. Thaci the other day already addressed the cases of Stakic, Martic, and Taylor, and I will not repeat those arguments. I will instead briefly turn to the sentencing practice of this Court, which follows the same disciplined approach.

Drawing on ICTY jurisprudence, the Appeals Panel in Shala reaffirmed that where a trial chamber departs from established sentencing practice, it must explain its reasons and go beyond merely reciting statutory provisions. That's paragraph 932, footnote 2187.

Although similar cases do not create a binding duty, they provide meaningful guidance where the same offences are committed in substantially similar circumstances.

With respect to *lex mitior*, the appeals panel in Mustafa defined the principle as requiring the application of a less severe law where a binding legal framework has been amended. That's paragraph 465 of Mustafa appeal judgment. It is true that this panel rejected strict application of *lex mitior* on the basis that domestic sentencing ranges are not binding on the Specialist Chambers.

But nevertheless, it did hold that Article 44(2) of the Law imposes an obligation to meaningfully take domestic sentencing regimes into account. The panel therefore found that the trial panel failed to meet this obligation. Merely reciting domestic sentencing provisions was insufficient. That's paragraph 477. What was required was engagement with domestic sentencing practice within those ranges, where available, to determine an appropriate sentence. The trial panel's failure to do so constituted legal error.

And the same approach is evident in the SPO's final brief, which contains no reference to sentencing practice from the domestic sphere.

While the SPO states in paragraph 1527 that, and I quote, "in determining the appropriate sentence, the Panel may also consider sentencing practices of both national and international courts for similar cases," no national cases are cited. For that reason, I will very briefly turn to domestic practice which should not be ignored.

Recent war crimes prosecutions before the Special Department at the Basic Court of Prishtine involve convictions for war crimes against a civilian population, including beatings, torture, unlawful detention, hostage-taking, and killings of civilians, sometimes committed against multiple victims. Yet, the sentences imposed have remained limited.

In cases such as Prosecutor v. Caslav Jolic, Zoran Vukotic, Ekrem Bajrovic, and Svetomir Bacevic, sentences ranged from 5 to 15 years' imprisonment, even where convictions involved serious violence and multiple victims. These cases concerned war crimes against a civilian population and are not identical to the allegations in the present case, but in several instances, however, the conduct established was objectively more severe. Even in those circumstances, the sentences imposed remain significantly lower than the punishment sought here. Against this domestic sentencing practice, a prosecutorial request of 45 years' imprisonment per accused represents a stark and unexplained departure from established national standards for punishing war crimes.

The presumption of innocence remains paramount, and nothing I say here displaces it.

Still, if sentencing were ever reached, the record contains matters relevant to litigation. Mr. Selimi has already spent a substantial period in pre-trial detention. His detention has been prolonged, highly restrictive, and deeply disruptive to his family life. It began during the COVID-19 pandemic, when detention

conditions were particularly severe and contact with family was subject to extensive and prolonged limitations, especially during the first year. Throughout the proceedings, Mr. Selimi cooperated voluntarily with the SPO, without admitting guilt. His conduct has been consistently respectful, and he has expressed empathy for the victims, while not accepting criminal responsibility.

In that same spirit, another point must be addressed. The Prosecution has suggested the existence of witness intimidation - that's paragraphs 1518, 1519 on SPO final brief - including a reference on Monday to an alleged "climate of intimidation" being managed in this trial. These assertions rest on claims that certain witnesses attempted to recant or evade prior statements, which the Prosecution attributes to possible intimidation, yet this line of argument is not developed.

The Defence has addressed the relevant witnesses in detail in its brief. Beyond the bare footnote noting that the accused are former KLA members and public officials, the Prosecution does not allege, nor is there any evidence of, any attempt by Mr. Selimi to influence, intimidate, or otherwise interfere with the witnesses. These unsupported assertions justify no adverse inference against Mr. Selimi.

Fairness requires one last point. The Defence was forced to address sentencing before any facts were found. That choice was not ours. The refusal to bifurcate compelled submissions on hypothetical outcomes in an unusually complex case. That should not be the cost

of procedure. Sentencing must rest on findings actually made, not on conjecture, and not on assumption.

In that context, a single sentence of 45 years for each accused would be manifestly disproportionate. It cannot be squared with this Court's jurisprudence. It exceeds sentences imposed by the ICTY and domestic courts. It contradicts the Appeals Panel's guidance in both Shala and Mustafa. It would surpass sentences imposed on those with clearer command authority and greater personal involvement in comparable cases.

For Mr. Selimi, the problem is harsher still. Such a sentence would punish affiliation, not conduct. It would substitute institutional narrative for individual criminal responsibility. That is precisely what this Court has said must not happen.

To conclude, as my colleague Mr. Roberts observed in his submissions, the central flaw in the SPO's case is that it exemplifies a familiar pattern of overpromising and under-delivering. The SPO assured the Trial Panel that it would present a coherent, well-supported, and concrete case. It has manifestly failed to do so.

The same pattern governs the SPO's sentencing request. When the evidence falls short, the numbers increase. But severity is not proof, and punishment cannot compensate for a case that was never proven.

Thank you, Your Honours. Now I leave the floor to Mr. Roberts for our closing submissions.

PRESIDING JUDGE SMITH: Thank you, Ms. Sheremeti.

Mr. Roberts.

MR. ROBERTS: Good morning, Your Honours. I'll be brief.

I would just like to begin by echoing Ms. Sheremeti's extensive and respectful submissions on the harm to victims in this case. We do recognise their pain. The absence of a link between Mr. Selimi and the victims in this case does not diminish their suffering, like many who have suffered throughout Kosovo.

Now, when I spoke to Your Honours yesterday afternoon, I told you that throughout our submissions we would try to be as transparent with Your Honours as we can be, as we had been, I believe, in our written submissions. We do this not only as an obligation to Your Honours, but also because this is the only way that justice will be done in this case. And it is only by Your Honours subjecting the Prosecution's allegations and evidence to thorough judicial scrutiny in light of the Defence submissions that justice that we all seek in this case for Mr. Selimi and Mr. Kosovo [sic] will be accomplished.

Now, Your Honours, you heard from me yesterday in detail about the JCE as a whole and Mr. Selimi's alleged intent and contribution to that JCE. You've heard extensive submissions yesterday and this morning from myself and my colleague about his alleged role as inspector general and the minister of public order. In neither position was Mr. Selimi a commander, nor did he exercise any superior responsibility in any way. This includes any purported authority accorded to Mr. Selimi simply by him being an early and prominent

member of the KLA.

Now, while the Defence has addressed the issue of superior responsibility in the Defence brief, given the absence of subordinates over whom Mr. Selimi ever enjoyed effective control, the inquiry on this issue stops there, before his lack of knowledge over crimes or inability to take effective measures to prevent or punish need even be assessed.

Now, Your Honours, it will be no small task for you sorting through the evidence that the Prosecution has effectively dumped at your feet. Given the size and scope of the case, the number of witnesses and exhibits, and the size of the Prosecution brief, it's not feasible and was not feasible for the Defence to have addressed every single aspect orally of that brief. If we had done so, we would have been making final arguments for three months. But what we have tried to do is highlight the real evidence in this case, its flaws, its inconsistencies, and its fallacies of logic. We have not hidden away from addressing the allegations of the SPO and the evidence that the SPO relies upon.

Now, this doesn't mean that by referring to specific allegations against Mr. Selimi they should be accorded any weight. As we've explained orally in detail and in our brief, the evidence against Mr. Selimi for any and all of these allegations is shoddy, contradictory, and wholly lacking in credibility. In particular, we note that all allegations that Mr. Selimi personally participated in any alleged crimes are wholly refuted by a careful analysis of the

evidence before this Panel.

Now, in making our oral submissions, we could have followed the Prosecution's approach and simply repeated our pre-trial brief, pretending that the two years of witness evidence and three years of trial could just be ignored and hoped that Your Honours wouldn't notice. We could have hoped that Your Honours wouldn't notice the witnesses whose accounts looked credible on paper but not when they had to explain them in court. We could have hoped that Your Honours wouldn't notice the impact of the witnesses that the Prosecution didn't even call or who were deliberately dropped. We could have hoped, as the Prosecution did, that Your Honours would be impressed by the sweeping and generic statements in their final brief and in their final submissions, allegedly supported by mountains of documents, without taking on the facts in evidence contrary to our position. We have not done that.

Now, I fully recognise this is an adversarial trial and the role of the Prosecution is to present its evidence in the best possible light. It's allowed to put its best foot forward -- or its best evidential foot forward and focus Your Honours' attention on the evidence that's most favourable to its case. However, I would submit that there's a substantial difference between the SPO focusing on the stronger parts of its evidence, as it believes them to be, and wholly ignoring contradictions within that evidence or information which wholly undermines its veracity.

THE INTERPRETER: Interpreter's note --

MR. ROBERTS: Such an approach crosses the line from adversarial presentation --

THE INTERPRETER: -- the speaker is kindly requested to slow down for the purposes of interpretation. Thank you.

MR. ROBERTS: Such an approach crosses the line from adversarial presentation to misrepresentation by omission.

Your Honours, a meticulous and dispassionate review of the evidence in this case can only lead to one inescapable conclusion: Mr. Selimi is wholly innocent of the charges levied against him here. Mr. Selimi must therefore be acquitted on all charges and released to return to Kosovo, to his country, and to his family. No other verdict is reasonable, possible, or justified on the evidence presented.

Thank you, Your Honours. This ends the closing submissions of the Selimi Defence.

PRESIDING JUDGE SMITH: Thank you, Mr. Roberts.

We will be next taking up the Krasniqi Defence. We'll do that at 1.30 today, and we are adjourned until then.

--- Luncheon recess taken at 11.41 a.m.

--- On resuming at 1.31 p.m.

PRESIDING JUDGE SMITH: So we're ready to begin the Krasniqi Defence final statements. I'm not sure who is going first.

You're not.

MR. TULLY: I'm not, Your Honour, no. Thankfully, I'm finished for the day.

I sent an e-mail to the Court Officers and cleared it with the Krasniqi Defence. I have four references I want to correct on the record.

So the correction is to page 9, line 14, where the reference says "4735," it should say "4737."

At page 14, line 4, where it says "192," it should say "1922."

At page 17, line 10, where it says "SPO," it should say "MPO," that's the first reference in the line.

And page 24, line 16, where it says "diary," it should say "entry."

And that is me done for the day. Thank you.

PRESIDING JUDGE SMITH: Thank you.

Just as a quick reminder, we will do two one-and-a-half-hour sessions today, with you starting now, and then Monday -- that will leave you one and a half hours left on Monday. Immediately following that, the Judges will have their questions, and then we'll update it after that as to where we're going next. So thank you for your attention up until now.

And Ms. Alagendra you're ready to proceed. You may.

MS. V. ALAGENDRA: Thank you, Your Honour.

Good afternoon, Your Honours, everyone inside and outside the courtroom. I'm Venkateswari Alagendra on behalf of Mr. Jakup Krasniqi. I'll be making some submissions at this closing.

We will, in the course of our closing submissions, be putting up some slides on the screen. They can all be for public display unless

we specifically indicate otherwise.

Your Honours, it has been a long wait for Jakup Krasniqi to summarise what we say are the manifest, numerous, and pervasive weaknesses, inconsistencies, and contradictions that we say permeate this Prosecution case.

Your Honours, in January 2011, there was a report by Dick Marty that was the catalyst for action that resulted in the Kosovo Specialist Chambers being created. I won't dwell on that report, but historians, analysts, and lawyers may note in the future that much of the hyperbole and outlandish allegations contained therein have not given rise to any charges, not a word, for example, about organ trafficking, but there are many others. And, of course, no mention of any alleged criminality committed by Jakup Krasniqi found form in that report either.

One thing is clear. Over five years ago, Jakup Krasniqi was arrested, and he has been in custody for 1.926 days, away from his wife, his four children, and three grandchildren. For the reasons detailed in our final trial brief and additional arguments that we hope to present in this closing speech, we respectfully submit that there is only one option and that is that Your Honours enter not guilty verdicts on all counts preferred against Jakup Krasniqi. At the end of this submission, we will urge Your Honours, based on the evidence, to acquit Mr. Krasniqi and allow this 75-year-old gentleman to go back and spend his remaining years that God grants him with his family.

Your Honours, this has been a long trial. A significant number of documents have been presented by the Prosecution, and many witnesses have been called. On occasion, proceedings have been fraught with vociferous arguments in court. Sometimes there have been occasions when there was more heat than light. Be that as it may, I would ask Your Honours when considering the evidence presented by the Prosecution in this case, never to lose sight of some of the essential facts. In all these 34 months of trial, and in all the evidence that forms part of the record in this case, there is not one witness that alleges that Jakup Krasniqi beat, tortured, or mistreated any person whatsoever, whether civilian or otherwise.

Not one victim, not one insider, from the hundreds of witnesses interviewed by the Prosecution over many years allege or accuse Jakup Krasniqi of having beaten them, abused them, or of being present when they were being mistreated in any way whatsoever.

Where a proper solid prosecution is founded upon reliable documentary and witness evidence, this Prosecution, unfortunately, relies at its most critical points on speculation, innuendo, and unsupported assertions.

Your Honours, in the allocated four and a half hours, it is our intention to structure these closing statements as follows: After my introduction, I will address you on evidentiary issues concerning documents allegedly seized from Jakup Krasniqi's residence and documents originating from the Serbian state. I will then address you on the Prosecution's mischaracterisations of Jakup Krasniqi's

role as deputy commander for support. Mr. Jacopo Ricci will then address you on discrete issues concerning documents the Prosecution alleges were signed by Jakup Krasniqi. Mr. Aidan Ellis will then address a series of incidents allegedly involving Jakup Krasniqi and will illustrate fundamental weaknesses in the Prosecution's case concerning Mr. Krasniqi's role as KLA spokesperson.

Mr. Mentor Beqiri, our Kosovan member of our team, will then give an overview of the formation of the KLA as a defensive organisation; secondly, the relevance to cultural practices and the Kanun to the proper assessment of evidence and the charges of this case; and lastly, Your Honours, with your permission, very brief submissions touching on some points made by Victims' Counsel. And I will conclude with some closing remarks.

Your Honours, I want to first focus on the Prosecution's affinity for cherry-picking. The record demonstrates time and time and time again how the Prosecution resorts to blatant, unrestrained cherry-picking, carefully selecting those discrete portion of witness evidence which support their case theory while ignoring the remaining evidence of that same witness or contradictory testimony of related witnesses. There is not time to exhaustively identify all of these examples, but it is clear that this practice permeates the Prosecution's final brief. As will become apparent during our submissions, there are glaring examples of cherry-picking that can be found in each and every section concerning the alleged conduct of Jakup Krasniqi throughout the indictment period.

The most recent example of this is from the video the Prosecution played on Monday; that's Exhibit P1255.

In an effort to show a link between the LPK and the early KLA structures, the Prosecution showed Your Honours a clip from timestamp 00:52 to 01:06 and stopped it there. What they did not show Your Honours was the following sentence pronounced by Mr. Krasniqi, which states clearly that the KLA remains outside of any party umbrella.

Your Honours, the record will show the Prosecution's reliance on prior recorded statements in preference to oral testimony, under oath, in court, subjected to cross-examination. Another constant feature underpinning the Prosecution's brief is that any exonerating evidence elicited in court through adversarial proceedings is ignored in favour of a narrative-based predominantly on prior written statements taken by the Prosecution.

I will give you one example but more will be illustrated during our closing statements.

The Prosecution submits at paragraph 130 and 192 of its final brief that Bislim Zyrapi, before issuing his 28 November 1998 order, reported to the general commander and to Jakup Krasniqi the complaints of detentions and mistreatments which he had received during his visits to the zones across the summer of 1998. In support, the Prosecution cites a passage from Bislim Zyrapi's 2019 interview, in which he had stated that before issuing the order, he discussed these complaints with the general commander and

spokesperson. That's P1355.4_ET, page 19.

What the Prosecution first disregards is Zyrapi's evidence on the same page, that it was the General Commander Azem Syla, not Jakup Krasniqi, who he consulted and discussed the complaints with before he issued the 28 November 1998 order. As shown on the screen, this evidence was put to Zyrapi during his cross-examination. Zyrapi confirmed in very, very clear terms that before issuing the order, he consulted only with Azem Syla and not with Jakup Krasniqi. That's at page 18022 of the transcript.

The Prosecution refuses even to engage with this exonerating evidence from its own star witness. If it was proceeding with this allegation at all, it behoved a responsible prosecutor to direct the Panel to the clarification given by Zyrapi in his oral testimony. The Prosecution did not do that. It simply ignores the exculpatory evidence.

The Rule 62 requirement that the Prosecution shall contribute to the establishment of the truth should be read consonant with Rule 4(1) of the Rules of Procedure and Evidence. Taken together, these establish a clear obligation by the Prosecution to investigate inculpatory and exculpatory evidence equally. This affirmative duty by the Prosecution is repeatedly underlined in Article 47 and Article 101(1) of the Kosovo Criminal Procedure Code and Article 8(1.1) of the Kosovo Law on the State Prosecutor. That's Law No. 08 for reference. These require respectively that the Prosecutors consider both inculpatory and exculpatory evidence during

the investigation phase, and that they exercise their functions in an independent, fair, objective, and impartial manner. These provisions are not aspirational. They impose concrete legal obligations that must meaningfully shape investigative choices and priorities. We say the Prosecution has failed to discharge this fundamental responsibility.

In the present case, however, the Prosecution's investigative strategy reveals a pre-determined narrative into which facts were fitted. Rather than a genuine effort to test competing hypotheses or examine alternative explanations consistent with the innocence of the accused, entire lines of inquiry that would have contradicted or materially qualified the Prosecution's theory of the case were left unexplored. Critically, the Prosecution failed to interview or call a number of potentially decisive witnesses whose testimony could have provided essential contextual, operational, and hierarchical insight directly relevant to the allegations before this Panel.

For example, the Prosecution makes extensive allegations concerning the military police as outlined in paragraphs 281 to 291 of its final brief, yet it failed to call Fatmir Limaj, the chief of the military police directorate.

As now shown on the screen, the Prosecution also alleges that Jakup Krasniqi was the first deputy commander who had the full authority and functions of the general commander - that's paragraph 105 of the Prosecution final brief - and at page 28468 of Monday's transcript, that from mid-November 1998, when he assumed the

role, Deputy Commander Krasniqi exercised the full authority of the absent general commander. Despite the Defence challenges to this assertion, the Prosecution failed to call Azem Syla, the general commander of the KLA for most of the indictment period to establish the truth.

The Prosecution claims the accused were responsible for crimes committed in Kosovo within June and September of 1999. Yet, again, it entirely failed to elicit the evidence of Agim Ceku, the chief of the General Staff at that time.

The cumulative effect of these shortcomings repeated time and time again by the Prosecution renders this Trial Panel in possession of a distorted and incomplete factual record. When investigations are one-sided, incomplete, or outcome-driven, the reliability of the Prosecution's conclusions is fundamentally compromised. The Panel cannot, consistent with principles of fairness and due process, place reliance on a case constructed through selective investigation and evidentiary exclusion.

The record demonstrates how the Prosecution has fundamentally failed to establish any nexus between Jakup Krasniqi and the crimes charged, and in particular Jakup Krasniqi's public statements, KLA communiqués, or regulations, how they assisted, encouraged, or had any bearing on the crimes charged. Mr. Ellis will address you in more detail on this issue later on.

In particular, after the closure of its case, the Prosecution formally withdrew the allegation that Jakup Krasniqi was present and

visited the room where detainees were being held in Malisheve. That's filing 3155, paragraph 1(c). Notably, this was the only allegation that Jakup Krasniqi ever saw a victim whilst they were in detention.

A responsible prosecutor would never have pleaded this allegation. W00067, the key witness to this allegation, died long before the commencement of this trial. The Prosecution had all the necessary elements to assess the witness's evidence before it pleaded this allegation. Witness 00067's evidence was hopelessly inconsistent about the purported identification of Jakup Krasniqi in Malisheve. The witness's descriptions of Mr. Krasniqi were either vague or wrong. The witness's purported identification rested upon overhearing someone else use the name "Krasniqi" while speaking Albanian, a language the witness did not understand, and with the Prosecution well aware that there were other Krasniqis in command positions in Malisheve at the time; P1303, and that would be at page K019-5143. Witness 000067 failed to recognise Jakup Krasniqi in a photo lineup; that's P1304_ET.

The next slide, Your Honours, is not for public display.

As now shown in the slide on screen, even UNMIK, in a document which the Prosecution was aware of and tendered into evidence, concluded that the identification was unlikely to be Jakup Krasniqi.

What else does it Prosecutor need to discard this allegation as untrue and unsustainable? Yet, the Prosecution pushed regardless. In July 2023, they called Ledwidge, who unsurprisingly ended up

saying, and I quote from the excerpt shown on the screen, "he did not think Jakup Krasniqi was involved in any of this." That's Exhibit 4D8. Still, this was not enough to withdraw the allegation.

Seven months later, in February 2024, by this time Mr. Krasniqi had been detained for almost three and a half years, the Prosecution called another witness, Witness 498, a relative, who had no knowledge of events during Witness 67's detention, did not know Jakup Krasniqi was there, and eventually ended up introducing further inconsistencies in the version presented to this Panel. Still, the Prosecution did not withdraw the allegation. They clung on to what we say was an obviously false narrative regardless.

The case progressed. Another six months later, in August and September 2024 respectively, the Prosecution called Witness 3780 and Ahmet Rrahmanaj, who were in Malisheve and had first-hand knowledge of the detentions, and yet failed to even ask them about Mr. Krasniqi's alleged presence in Malisheve police station. Even after their testimony, the Prosecution did not withdraw the allegation at this time. The Prosecution still did not withdraw this allegation.

Your Honours, these examples demonstrate, in the submission of the Defence, how thoroughly unacceptable the Prosecution's approach to evidence has been in this case. This one instance provides a powerful example of a charge that should never have been brought, and when it was brought, at least three opportunities were missed by the Prosecution as officers of the Court not to sit on their hands or

stubbornly insist that their assertions could replace evidence. They were required, we say, to have withdrawn this allegation at a much earlier stage. They did not.

Instead, the decision to ultimately withdraw this allegation after nearly two years of trial does not demonstrate a Prosecution discharging their obligations. Rather, it shows a Prosecution repeatedly clinging to a demonstrably false and completely unsupported allegation that was an important part of its case. No reasonable, professional, and ethical prosecutor should, we regretfully submit, have had to wait so long before withdrawing this allegation. It is clear that it shouldn't have been made at the outset.

Your Honours know very well that this is a court of law, not a forum for mudslinging by opposing counsel. The Prosecution should not make accusations lightly or throw accusations without solid evidence. They have an affirmative obligation to seek to withdraw allegations the moment it is clear they are not supported by evidence. They should not pass the buck to Your Honours to disentangle the disjointed and deficient information that masquerades as evidence in this case.

The allegations in the final brief follow a similar pattern. The Prosecution could not bring itself to withdraw allegations that have not been substantiated in trial. We are confident, however, that Your Honours will scrutinise the evidence presented and find it deficient in proving Mr. Krasniqi liable beyond reasonable doubt for

any of the crimes charged.

There are repeated attempts by the Prosecution to connect Jakup Krasniqi to the crimes charged. We submit those attempts have manifestly failed. But when considering the Prosecution's case, we ask Your Honours to be alert to the Prosecution's use of innuendo on a regular basis as well as invitations that inferences be drawn when the evidence does not permit such a conclusion at all.

Throughout the Prosecution's brief, non-existent relations between unrelated pieces of evidence become manifest connections. Temporal proximity provides the basis for fanciful links between unrelated events. The Panel will have noticed that Jakup Krasniqi's name is often juxtaposed to allegations, incidents, or events. Absent any evidentiary support, the Prosecution does not even go as far as pleading the connection between Mr. Krasniqi and the allegation. They just leave Mr. Krasniqi's name hanging out there and hope that an allegation would stick to him.

THE INTERPRETER: We kindly ask the speaker to slow down, please.

MS. V. ALAGENDRA: For example, at paragraph 367 of its pre-trial brief, the Prosecution placed Jakup Krasniqi at a meeting in Malisheve in late June 1998, and even suggested a link between this meeting and the order to close political parties' offices in Malisheve.

These allegations disintegrated at trial. The Prosecution dropped Gani Krasniqi. The only other witness who could testify

about this meeting was Ahmet Rrahmanaj. Rrahmanaj explained, as is shown on the screen, this is P1695, that he saw Jakup Krasniqi entering Malisheve later in the day, after the meeting had ended. Jakup Krasniqi himself told Rrahmanaj that he was going to Malisheve to visit a person who was ill. Rrahmanaj never heard anyone saying that Jakup Krasniqi attended this meeting.

Undeterred by the clear factual evidence that Jakup Krasniqi had no connection to the meeting in Malisheve, at paragraph 789 of its final brief, the Prosecution described the meeting in Malisheve in late June 1998, attended by Fatmir Limaj, Muse Jashari, Gani Krasniqi, and other members of the Lumi unit, in which, according to the Prosecution, Gani Krasniqi was confirmed as head of civil administration in Malisheve. The Prosecution then adds, and I quote, on the same slide on screen:

"Jakup Krasniqi visited Malisheve on the same day as this meeting."

What is the point of that sentence? There should be no place for innuendo or opaque allusions in criminal trials. After years of trial, the final trial brief must state the Prosecution's case. It cannot simply imply that there must be a connection simply because it is unwilling to let go of an allegation which was refuted by its own witness. This is nothing more, we say, than an attempt to cast shade on the accused and is demonstrative of the Prosecution's approach to this case.

Another example of the Prosecution's reliance on innuendo can be

seen in how the Prosecution address the relevance of the alleged presence of Jakup Krasniqi in certain locations. Time and time again, the Prosecution infer that alleged presence in the given area should be equated to knowledge of or participation in crimes. This will be addressed more in detail by Mr. Ellis when he submits on Jakup Krasniqi's role as spokesperson of the KLA.

Another striking feature of the Prosecution's brief is that it persistently turns a blind eye to each and every piece of evidence which does not fit the Prosecution's case theory. The Prosecution did not even acknowledge the existence of exculpatory evidence, let alone make submissions on the weight to assign to it. Large parts of the Defence case which directly contradict the Prosecution theory are not even addressed in the Prosecution's brief, despite it being a key feature of the Krasniqi Defence throughout the trial - a staggering state of affairs.

For example, the Panel has received extensive evidence that Jakup Krasniqi's appointment as deputy commander for support was unknown at all levels of the KLA. Mr. Krasniqi was not known as deputy commander for support by the internationals with whom he interacted, as you can see from the attached slide. Prosecution witnesses also confirmed that Jakup Krasniqi formally held this role only for a short period of time, a little over three months out of the 18-month indictment period, as he resigned on 27 February 1999. This is at paragraph 630 of our final brief. The same Prosecution witnesses and contemporaneous documents clearly show that

Jakup Krasniqi's appointment was never accepted - or rather, it was actively opposed - by the zone commanders. We deal with this at paragraphs 624 to 629 of our brief. The Prosecution final brief does not even try to rebut these facts. Yet again, this evidence exists, the Panel must assess it, and, we submit, it is fatal to the Prosecution's case theory.

I will now turn to two broad areas: the evidential utility or otherwise of materials allegedly seized from Jakup Krasniqi's home as well as material provided to the Prosecution by the Serbian authorities in Belgrade.

Your Honours, the Prosecution have placed great store in various items of documentary evidence that are dealt with in different ways in their final brief.

With Your Honours' leave, I will now address this issue by dividing the documents into two broad categories: First, material seized from Mr. Krasniqi's residence in November 2020; and, second, material originating from the Serbian authorities in Belgrade, including P3551 and P1700. In relation to both categories of documents, the Prosecution would have Your Honours accept inference as a proper substitute for proof.

We submit that properly considered, and in relation to both categories of evidence, the Prosecution misapprehend or mischaracterise the utility, relevance, and probative value of those documents. For reasons that will become clear, it is our submission that Your Honours must exercise great caution in relying on both

categories of documents. Key documents were never put to any witness for authentication, verification, or explanation. As a result, their authenticity or relevance and probative value remain largely untested.

Turning now to the material seized from Mr. Krasniqi's residence. This is dealt with at paragraphs 66 to 74, 76 to 77, 365, and 441 of the Defence final brief.

The Prosecution constructs an "overlap theory" which they argue suffices to establish the probative value of the documents to convict Jakup Krasniqi with other evidence they refer to in their final brief. That theory masquerades as a forensic attempt to weigh and assess documents in a bid to prove the Prosecution's case. Closely considered, the theory is simply incapable of proving that which the Prosecution must prove.

This theory is equally consistent with later historical research, compilation, or use of widely circulating materials. The fact that documents "overlap" is not capable of identifying the author of the underlying note, minute, or communiqué. There might be different authors using the same source. We urge Your Honours to deconstruct each of the factors listed in paragraph 1486 of the Prosecution's brief. Factor after factor listed in paragraph 1486 could equally be viewed as anything other than being dispositive, conclusive, or even persuasive as to the authenticity, never mind authorship.

It is common ground accepted by the Prosecution that

Mr. Krasniqi was a teacher and a historian and has published books. The Prosecution disregards evidence that Mr. Krasniqi was collecting KLA-related material after the war to write his book for nearly two decades prior to the search and seizure on 4 November 2020. Mr. Krasniqi, in 2007, 13 years earlier, in the Haradinaj trial, that's P800, clearly said:

"I wrote a book, 'The Big Turn,' and in order to write that book I had to consult some literature."

It was public knowledge that the Prosecution was investigating events in Kosovo since 2015. If Jakup Krasniqi had thought the research materials and other papers in his house were part of a joint criminal enterprise that he was part of or were incriminating of him in any way, why did he keep them? The fact that they were kept openly, not destroyed, should be viewed positively as consciousness of his own innocence.

Elsewhere in their brief, such as at paragraphs 4, 1448, 1518, and 1519, the Prosecution effectively invite Your Honours to consider allegations of witness interference and intimidation as consciousness of guilty. I won't speak on that, but I must underline that not one allegation has been made in these proceedings that Jakup Krasniqi has ever been minded, never mind attempted, to interfere with any individual witness or other person. His conduct in these proceedings, his respect for the rule of law, his preservation of documents in his home despite knowing there is a criminal investigation, should have surely merited a few lines from the

Prosecution if it was fair. We say both these factors speak to his probity and indeed constitute evidence of consciousness of his innocence.

At paragraph 1486 of its final brief, the Prosecution misstates Mr. Krasniqi's opening remarks by claiming that Mr. Krasniqi admitted in court his authorship of notes and other documents seized from his house. On the screen we have the transcript of 5 April 2023. Mr. Krasniqi actually said:

"Don't allow for my notes and my notes that I wrote on my books and essays be used as evidence for a criminal act ..."

And he later clarified:

"I kindly ask you not to allow for materials to be misused such as the notes that I had written down for writing a book ..."

His words cannot reasonably be interpreted as an admission of the authorship of all the materials seized from Mr. Krasniqi's house. It would be a grotesque mischaracterisation to assert that, by agreeing that some notes he wrote that were seized from his home, he ever for one moment conceded that all the material at his home was authored by him. He said no such thing. In fact, his reference to notes that he had written down for writing a book shows that the material he referred to is not contemporaneous with the conflict, but subsequent writing.

Process is not the same as needless bureaucracy. The Prosecution has repeatedly sidestepped core Defence challenges as to how the search was conducted. We are not reopening admissibility but

the burden remains on the Prosecution to prove these documents actually establish the allegations, including authorship by Mr. Krasniqi, and the documents' authenticity and reliability. They have not done so.

Many lawyers like collecting law books. If only we read all that we bought or collected. Speaking for myself anyway. The Prosecution, without basis, assume that even if documents were seized from Jakup Krasniqi's home, that he was familiar with the contents or had read all the documents or agreed to the veracity of their contents. An equally valid scenario is that people knew Jakup Krasniqi was interested in the war period and was an academic. They knew he would receive anything KLA related. This is far from the Prosecution's hypothesis, yet equally or more convincing.

The Prosecution then tries to convert content into attribution. Paragraph 1486 of the Prosecution's final trial brief claims the notes must reflect Mr. Krasniqi's knowledge because they are GS level, taken on behalf of the General Staff, addressed to the General Staff, or reflect information communicated to or from the General Staff. Those are labels, not evidence. The General Staff had multiple members, meetings included multiple participants, and a GS-level topic does not identify the note-taker or the accuracy of the notes, or at which meeting they were allegedly taken.

The next slide is not for public display.

The same applies to documents allegedly seized from Jakup Krasniqi's residence which the Prosecution submits were signed

by Jakup Krasniqi. Suffice it to say that Bislim Zyrapi was shown one such document during his interview with the Prosecution, P168, P183, and he was unable to recognise the signature on the document. As Your Honours know very well, the Prosecution did not call a handwriting expert but instead attempted to authenticate the signature on those documents through Bislim Zyrapi himself, the very same witness who did not recognise the signature during his 2019 interview with the Prosecution.

The fact that the words "Jakup Krasniqi" appear on a document do not establish Jakup Krasniqi wrote those words. It does not prove that the purported signatures were actually penned by him. This is obvious.

The mere fact that a document was allegedly seized from Jakup Krasniqi's residence does not establish that it is authentic, authored by him, and certainly it does not prove any criminal involvement on Jakup Krasniqi's part. This is especially so when Jakup Krasniqi had already testified in the ICTY that he collected material in order to further his research for his book and academic pursuits. The Prosecution are put to strict proof. We informed them of this at the outset of the trial, and we submit they have failed to discharge their burden of proof in this regard.

This applies with equal or even greater vigour for those documents, signed or unsigned, which bear initials at the bottom. The Panel has heard evidence from Prosecution witnesses that initials indicate the persons who drafted and typed a given document. 4739 at

page 14612; Bislim Zyrapi at page 18069. Initials are a clear indication that someone other than Jakup Krasniqi drafted a given document, clearly detracting from any automatic suggestion of Jakup Krasniqi's knowledge or involvement with the document concerned.

Even if a witness accepts that an excerpt is broadly consistent with events, that does not authenticate authorship or prove that Mr. Krasniqi wrote or read any particular document merely because it surfaced decades later in a private archive. Nor does it establish when the document was created. Was it a contemporaneous document or was it created after the event, perhaps years later, to create an archive or for whatever purpose.

The Prosecution repeatedly took shortcuts on chain of custody, provenance, and authorship. The Panel, we submit, should not fill those gaps by speculation when the Prosecution had the tools and resources available to it to establish provenance or answer key questions that remain disputed at the close of the trial.

On Monday, at transcript page 28476, the Prosecution again referred to the seized workstation as "Krasniqi's computer." The Panel will recall that on 11 July 2024, transcript page 18052 to 55, the Defence clarified its standing objection to the documents extracted from the workstation; namely that the Prosecution has not proved reliability and authenticity, and there is no safe basis to infer authorship or knowledge from what was seized.

The next side on the screen is not for public display.

What was taken from Mr. Krasniqi's home in November 2020 was a CPU tower which was not in working order, not connected to a monitor or printer, or a power supply. That's 4D229 and 4D230. The CPU unit was clearly not in active use. It is sitting on top of what looks like a radiator acting as a support for a homemade clothesline, to dry clothes after the wash. We have on the screen - only to illustrate, Your Honours, and not as evidence, and I add that the Prosecution has confirmed it has no objections to us using it solely to illustrate the point we make - the actual state in which that "Krasniqi's computer," as the Prosecution call it, was found during the search at Mr. Krasniqi's residence.

The Prosecution has not established how the CPU tower moved from Divjake in 1998, 1999, to a private residence in 2020, nor even that this tower is the same machine shown in the photographs it relies on, P1402, 1403, 1405, 1406, and 1264 at page SPOE00128711, or those it disregarded, including P1264. Which one is it, Your Honours?

The Prosecution have not proved who had access to the workstation in the intervening years, whether Mr. Krasniqi used it, when the electronic files were created, or whether they were drafts that never left the workstation.

The next slide is also not for public display.

Several items were put to witnesses simply as "seized from Jakup Krasniqi," without clarifying they were electronic workstation files of which there were no hard copies. Witnesses said it was the first time they had seen them, which does not authenticate anything.

For instance, Fondaj at transcript page 17245 and 17246, and Witness 4739 at transcript page 14606 to 607. Throughout the trial, we consistently objected, for example, at page 3490 of the transcript, to the admission of the seized documents.

The Prosecution's reliance on electronic documents from the workstation is a clear example of the Prosecution ignoring its failure to prove attribution. At paragraph 1487 of its brief, the Prosecution accepts the computer was used by multiple people. The concession that other General Staff members also used it at times prevents the Panel from establishing that any specific electronic document was authored or known about by Mr. Krasniqi at the time. Seizure of a computer from a private residence in 2020 cannot turn unidentified digital files into Mr. Krasniqi's documents. The creation dates and other vital metadata of the items extracted from the workstation are not self-proving.

Very similar reasons apply to the Prosecution's attempt to establish attribution in paragraphs 1486 and 1487 of their final brief.

A few documents from an earlier time period said to relate to Mr. Krasniqi's earlier LDK role do not establish primary use of a shared computer during the indictment period.

Draft interview answers, even if present electronically and in hard copy with written edits, prove nothing about authorship, especially without any evidence identifying the handwriting.

The Prosecution has not proved, for example, whether

Mr. Krasniqi prepared answers to questions himself or whether he was a mouthpiece reading answers prepared by others. Documents appearing in hard copy on a USB and as workstation files show only storage and collection. They do not prove when they entered his possession, who authored them, or whether he read them during the indictment period. Where documents bear others' initials or appear drafted by others, that confirms multiple drafters and users, and excludes the inference that those documents were prepared by Mr. Krasniqi.

The Prosecution's brief repeatedly cites documents seized from Mr. Krasniqi's residence as proof of Mr. Krasniqi's authorship, knowledge, or connection, without laying the basic evidential foundations. It does not establish who wrote those documents, when they were created, why they were kept, or how they reached his residence.

The next slide is also not for public display.

At paragraph 759 of the final brief, the Prosecution claims that two persons who were identified as targets in "a KLA notebook," while citing a single undated, anonymous handwritten page purportedly seized from the residence. The slide on the screen shows P1112. The Prosecution relies on P1112 at footnote 3161 to insinuate that, contrary to the answers he gave to family members, Mr. Krasniqi knew what had happened to that person.

However, the Prosecution has not established when P1112 came into Mr. Krasniqi's possession, how he received it, from who he received it, and who wrote it. There is no basis for the assumption

that it was in his possession during the conflict or when he spoke to family members.

In any event, the Prosecution only put 1112 to one witness, 4739, who identified "summer 1998," but he could say nothing more because he, 4739, was not there at the time. This is at transcript page 14188. That contextualisation added no evidentiary value.

In the absence of any witness to explain it, P1112 does not establish any culpable knowledge in relation to that case. It simply contains the name of the person concerned. It does not state he was detained or what happened to him. The attempt to link Mr. Krasniqi to this case fails.

Further, at paragraph 284 of its brief, the Prosecution relies upon a military police directorate "statement" allegedly seized from the residence. P586 is a draft with handwritten edits, and the Prosecution invites comparison with P300 and P270.10_ET. However, all three documents lack authorship indicia, differ in title and stated date, and no handwriting expert was called to attribute the edits to Jakup Krasniqi.

At paragraph 939, the Prosecution claims "Qirez interrogations match" an undated text referred to as a "questionnaire." Footnote 3861, paragraph -- no, P549, P550. But that document is linked to Mr. Krasniqi only by seizure, and its author is unknown. The Prosecution, pleading no allegation against Mr. Krasniqi in relation to Qirez, never put this document to any witness, and never established any evidentiary bridge to either the Qirez events or

Mr. Krasniqi. It therefore cannot be relied on to connect him to the alleged Qirez crimes.

The Prosecution's own citations in its brief do not support its propositions and must be treated with caution. At paragraph 561, it relies solely on P3765 to claim that handwritten notes found at Mr. Krasniqi's home urged that nothing be signed without General Staff consent. But 3765 was not seized from Mr. Krasniqi's residence. Legal Workflow metadata records it as seized from Mr. Selimi.

At footnote 6288, the Prosecution brief argues that the Panel should not reach a negative conclusion regarding the weight or probative value of seven files deleted from the workstation simply because they were deleted files. The critical fact is this: those files were already deleted before seizure and were recovered only later by the Prosecution through forensic specialists. In practical terms, prior to such recovery, they would not have been visible on the workstation to an ordinary user, and simply could not have been known to Mr. Krasniqi as accessible content even if he did use that workstation while it was in his possession.

The Prosecution made no effort to correlate when those files were created, edited, or deleted against any proven period of Mr. Krasniqi's alleged use or possession of that workstation. Physical custody of hardware in 2020 does not establish awareness of deleted data from the past, and it certainly does not prove authorship, access, or knowledge beyond reasonable doubt.

At paragraphs 1486 to 1487 of its final brief and in oral submissions, for example, transcript of 2 April, page 14168, the Prosecution argues that a chain of inferences can replace a proper chain of custody. That position is dangerous and wholly erroneous. As shown in paragraphs 66 to 74, 365, and 441 of our brief, including through the documents addressed earlier in the submissions - to name a few examples, P1402, 1403, 1405, P1112, P586 - missing foundational steps are treated by the Prosecution as if the Defence must disprove them. The law is the opposite. The burden remains on the Prosecution. The Defence carries no onus of rebuttal, and conviction requires proof beyond reasonable doubt. The Panel should not fill evidentiary gaps by assumption and should assign these seized materials minimal or no weight.

These examples demonstrate the Prosecution is asking Your Honours to speculate, not to find facts on a proven record. Authenticity and attribution established by foundation, not by association. For documents allegedly seized in hard copy, the Prosecution must prove who searched, where each document was found, and with what. Without that, possession proves only presence, not authorship, timing, reading, or knowledge. Digital materials require its own foundation: device attribution, forensic integrity, and metadata preservation. Where authorship or signature is contested as it is, expert examination is required. Inference from location or overlap dilutes the Prosecution's burden of proof.

I now turn to the second category of documents, materials from

Serbian state institution, which raises a different but equally serious reliability problem. This is addressed at paragraph 55 to 65 of our final brief.

The Prosecution has relied heavily on material originating from the Serbian state without presenting a clear chain of custody. Without it, we say the Panel cannot properly assess their legality, authenticity, and reliability. That foundational failure alone should trigger serious concern and, at minimum, extreme caution in weighing this evidence. Context matters. These materials were allegedly collected and assembled under the Belgrade regime during the period in which that regime was internationally condemned for crimes against humanity against Kosovo Albanians and for mass violence in Bosnia and Croatia that drove major refugee flows. Kosovo was central to that regime's state narrative, heightening the risk of politicised or contaminated records.

The next slides are not for public display.

Let me illustrate this point with concrete examples from the evidence. Exhibit 4D107 is a European Community Monitoring Mission's weekly assessment which records Djakovica's Serbian police account, then records KDOM's on-site finding that the injuries and launcher placement were incompatible with the claim that the KLA initiated the attack. In 4D108, KDOM again found police reporting contradicted by scene evidence regarding the 25 November 1998 Rakovina fire-fight. And at page SPOE00133491, the same exhibit recalls that a purported KLA weapons cache could not be confirmed and might have been a

stage-managed VJ operation.

The next slide on the screen is transcript page 26580. In 4D106, Rubin's own 28 May 1999 press briefing addressed Serbian authorities covering up crimes and falsely implicating KLA in crimes. That's Rubin's transcript at page 26579 to 26581. Taken together, these contemporaneous records show a clear recurring pattern: Serbian official accounts were repeatedly contradicted by independent verification on the ground. The Panel should therefore treat Serbian state material as interested-source material, not standalone proof, unless and until it is independently tested and corroborated.

The evidentiary record is replete with contemporaneous fabrication from crime scenes by Serbian state structures. International observers describe both investigative obstruction and false reporting disseminated through Serbian state-owned media. Fred Abrahams drew a clear distinction between independent media and state media, referring to the reporting on the Gornje Obrinje massacre: Serbian state media portrayed it as staged while the findings of Human Rights Watch showed very serious laws of war violations.

In a letter to the president of the Security Council dated 16 March 1999, president of the ICTY notified the council that the Federal Republic of Yugoslavia had failed to comply with obligations to permit the prosecutor and investigators to enter Kosovo to investigate the Recak massacre. That's P4251; Williams transcript at page 26854. Pathologist John Clark confirmed that crime scene

details allowed for the possibility that scene had been staged. That's transcript page 24422 to 23. Abrahams also testified that regarding the killings at Lake Radoniq, his Human Rights Watch team was denied access to the locations where victims' bodies were being held. That's at transcript page 7437.

The reliability concerns are not historical only. They were exposed in the courtroom. Several witnesses identified inaccuracies in statements recorded by Serbian authorities. The corresponding slide -- shown her alleged 2007 statement to the Serbian authorities, Witness 1163 said "those who created the statements seemed to be improvising," could not explain how the statements were written, and denied providing the recorded information. That slide on the screen is Exhibit 2D8. This is not public.

Witness 1236 likewise rejected key passages from his Serbian authority statement: "No, they have written that wrongly, I did not say that;" that's 2D8, page 5298. And, "No, they have added that;" 2D8, page 5300. Witness 1236 told the Court in 2007 that he did not know what was written because he did not understand Serbian and could not read it himself; 2D8, page 5299. And the statement was not read back to him before signature despite the note above his signature asserting that it was; 2D8, 5299.

The Panel should also keep in view evidence that Serbian authorities regularly resorted to torture before and during the conflict to obtain statements from Kosovo Albanians. That's 2D34, P743. Witness 3878 stated that the Serbian authorities interrogated

him under torture about his alleged KLA connections.

As far as the items provided to the Prosecution by the Serbian state are concerned - and I refer to P2094, P03551, and 40 other similar individual items listed at footnote 252 of our brief - we rest on our submissions set out at paragraphs 56 to 65 of our final brief.

The next slide is not for public display. Your Honours, I think I need to go into private session for this.

PRESIDING JUDGE SMITH: Into private session, please, Mr. Court Officer.

[Private session]

[Private session text removed]

[Open session]

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

PRESIDING JUDGE SMITH: Thank you.

You may go ahead.

MS. V. ALAGENDRA: From any perspective, questions abound. Where were these items for the previous 25 years? Where were they throughout the life of the UN ICTY? Why is there no original? How accurate are they? Have they been interfered with or has there been interpolation? Given by the questions raised by the Defence and the clear evidence of organised efforts by Serb authorities during and after the conflict to interfere with crime scenes and stage evidence, all of which has been independently reported by the European Union - that's 4D -- for example, 4D107, 4D108 - and the United States, as detailed in code cables - for example, P1070, 1071, and 1072 - and others, we submit the Prosecution has not discharged its burden of proof. These items cannot be safely relied upon to inculpate my client.

Across both categories, the Prosecution invites the Panel to infer truth, authorship, and knowledge from possession or institutional source, while leaving core foundations unproven: chain of custody, authenticity, reliability, timing, provenance, and witness-tested context. For documents seized from Mr. Krasniqi's residence and material originating from the Serb institutions alike, those defects remain unresolved. We urge the Panel not the fill

evidentiary gaps by speculation and attach minimal or no probative weight where those foundational safeguards are missing.

Your Honours, when it comes to Jakup Krasniqi's role as deputy commander for support, the Prosecution continues to cherry-pick inculpatory evidence whilst ignoring clarifications and exonerating evidence. At paragraph 563 of its brief, the Prosecution notes that Mr. Krasniqi became deputy commander for support as part of the November 1998 restructuring. We agree. The Prosecution continues:

"In doing so, the General Staff elevated its mouthpiece for the public dissemination for the common purpose to a position whereby he had the logistical control necessary to effect concrete action on the ground."

I want to dwell on that for a moment.

Allow me to be clear, I do not concede that after November 1998 Mr. Krasniqi had the "logistical control necessary to effect concrete action on the ground." Let me break that down. The evidence does not establish that Mr. Krasniqi had logistical control. It does not establish that he could effect any concrete action on the ground. Nor does it show that any logistical control that he allegedly had was connected in any way to any indictment crime. In the remainder of this section, I will demonstrate the errors made by the Prosecution in relation to Mr. Krasniqi's role and powers after November 1998.

Nonetheless, paragraph 563 of the Prosecution brief constitutes an important concession by the Prosecution. It acknowledges that in

November 1998, Mr. Krasniqi was elevated to a position he did not previously hold. It acknowledges that prior to November 1998, he lacked the logistical control necessary to effect concrete action on the ground and that, before November 1998, he was, in the Prosecution's own words, a mouthpiece.

And a mouthpiece is not a military commander exercising effective control. Criminal responsibility can only attach to a mouthpiece only to the extent that specific statements are shown to be connected to specific crimes. The Prosecution has not come close to meeting that burden in this case.

The same point is alluded to in paragraph 619 of the Prosecution brief, which asserts that Mr. Krasniqi exercised logistical control "particularly in his role as deputy commander for support."

The Prosecution knows that Mr. Krasniqi did not have any control in his earlier role as spokesperson, and the Prosecution is careful to limit its allegation after his appointment as deputy commander for support to logistical control, not operational.

In assessing the Prosecution's submissions about Mr. Krasniqi's role as deputy commander for support, it is essential to keep in mind that he only exercised his role for a brief period of three and a half months, 115 days. He was appointed in mid-November 1998. At that time, the restructuring was only just beginning. The General Staff did not yet even have a fixed headquarters. And the important structures, such as the legal department, did not begin to be created until Dobruna arrived in Divjake over a month later in

December 1998. This is at paragraphs 115 to 120 of our brief. Mr. Krasniqi left for Rambouillet in early February 1999, and returned to Kosovo later that month only to resign as deputy commander for support after a few days. This is at paragraph 503(d) and 630 of our brief.

Any finding that Mr. Krasniqi exercised control or had the ability to prevent or punish crimes during this period must confront the reality that he was elevated, using the Prosecution's language, to this role for only a few short months, at a time when the structures of the General Staff and directorates were still in process of being created.

We will address just a few examples of the Prosecution's mischaracterising of the evidence about Mr. Krasniqi's role and ignoring exculpatory evidence. We will not have time to address each and every mischaracterisation, and where a Prosecution assertion is not expressly addressed, that is not because we concede it but because it is already fully addressed in our final brief.

The Prosecution alleges at paragraph 562 that Mr. Krasniqi participated in General Staff meetings that led to appointment of high-level personnel, including JCE members.

I note that the indictment allegation at paragraph 51(e) was that Mr. Krasniqi significantly contributed to the JCE by "appointing, promoting and/or approving the appointment and promotion of JCE Members and Tools, including persons with a history of alleged involvement in serious crimes." So appointing, promoting, and/or

approving the appointment has been watered down to "participating in General Staff meetings that led to appointment."

The obvious problem with the Prosecution's submission is that it fails to identify what role, if any, Mr. Krasniqi played in those appointments. The architect of the restructuring in November 1998 was not Mr. Krasniqi but Bislim Zyrapi, the only member of the General Staff with the necessary military experience to design a structure. That's paragraph 488 of our brief. Nor should the Panel overlook that Mr. Krasniqi himself was appointed as deputy commander for support in the very same General Staff meeting on 12 November 1998. Prior to that, in the Prosecution's own analysis, as we have heard, he was only a mouthpiece, and we say with no power to appoint anyone.

No evidence was led about the process of Fatmir Limaj's appointment, who spoke in favour or who against, or about the contemporaneous knowledge of the participants about the allegations against Mr. Limaj.

As for Sokol Dobruna, the Defence has already addressed this point -- his appointment in our final brief, and that's paragraph 529 to 531. In short, Prosecution evidence 2099 establishes that someone in the General Staff had requested Mr. Dobruna's assignment three days prior to the 12 November meeting. Zyrapi confirmed that the appointment was proposed by Ramush Haradinaj and ultimately made by Azem Syla. Zyrapi also accepted that P1175 was just a formalisation of Azem Syla's decision. There is no evidence that Jakup Krasniqi

had any decisional role in Dobruna's appointment.

No other appointments were specifically identified in the Prosecution final brief. Not one. Notably, at paragraph 566 of its brief, the Prosecution shifts its allegation to Jakup Krasniqi conveying appointments made by others, not making those appointments himself.

However, the Prosecution then attempts to establish Mr. Krasniqi's alleged power over appointments at paragraphs 178 and 179 through the formation of a personnel council which he allegedly chaired.

Whilst paragraph 178 refers to documents and testimony which address the attempt to form a personnel council, what the Prosecution lacks is any evidence of how, or even if, the council functioned in practice.

Strikingly, in the next paragraph of the Prosecution brief, paragraph 179, which is supposed to address the implementation of the council, the Prosecution discusses a General Staff meeting on 11 February 1999 and the decision to replace Commander Drini on the following day.

But we all know where Jakup Krasniqi was on 11th and 12th February 1999. He was at Rambouillet. There is no evidence that whilst in Rambouillet, at the most important negotiation of the entire conflict, Mr. Krasniqi was even being informed about appointments in Kosovo, still less that he was remotely chairing any functioning council.

Allow me to go back to Jakup Krasniqi's appointment as deputy commander for support. At paragraph 105 of its brief, the Prosecution asserts that Mr. Krasniqi was appointed "first deputy commander," who "had the full authority and function of the general commander" when Azem Syla was absent from Kosovo. The same was repeated by Mr. Quick on Monday, transcript 28468. Unsurprisingly, given the non-existence of any corroboration, the Prosecution relies solely on the evidence of Bislim Zyrapi to support this wholly unfounded allegation.

First, the Prosecution forgets the clear distinction of roles between the two deputy commanders, which was recognised even by Bislim Zyrapi. That's page 18004; and at P1355.7, pages 4 to 5. Jakup Krasniqi dealt with support and political matters. Sokol Bashota dealt with operational matters. Having two distinct functions, there is no evidence of any hierarchical relation between the two, nor that any one of them was appointed "first deputy" by Azem Syla.

To the contrary, P847 shows an interview published in *Zeri i Kosoves* in October 1999. Azem Syla himself identified Sokol Bashota - and Sokol Bashota only - as his deputy commander "until the period between the two meetings in Rambouillet." That is when the commander was replaced and the two deputy commanders resigned. That's at paragraph 488 of our final brief.

Second, Bislim Zyrapi's evidence on this point is clearly self-serving and largely contradicted by the rest of the case record.

Virtually every other KLA witness who testified in this trial considered Bislim Zyrapi, not Jakup Krasniqi, to be the chief of the General Staff, who was in charge of the KLA in Kosovo when Azem Syla was away.

Bislim Zyrapi gave himself this title in his statements and testimony. For example, in 2016 and 2018, he stated:

"In November 1998, I was appointed as chief of the General Staff of the KLA."

And he specified that in that role, he ordered and approved combat operations, and managed and led the General Staff. P1356 and P775_ET.

Bislim Zyrapi continued to refer to himself as chief of the General Staff even before this Panel, until he was confronted about it during cross-examination. Only at this point did he attempt to roll back and recant his prior evidence. That's at transcript pages 17537, 17616 to 17617. Furthermore, during the war, Bislim Zyrapi signed at least six contemporaneous documents as chief of the KLA General Staff. Does the Prosecution really want us to believe that Bislim Zyrapi, the military expert, would not know the meaning and implications of his own title?

The next two slides are not for public display.

But there is more. Commanders and soldiers throughout the KLA, including former career military officers, such as Commander Drini or Shaban Dragaj, addressed documents to Bislim Zyrapi as chief of the General Staff. That's P1432, P1360. Again, does the Prosecution

want us to believe that Commander Drini, a military officer who was very close to Bislim Zyrapi, would refer to Zyrapi as chief of the General Staff by mistake?

The Panel heard several KLA witnesses at all levels testify that there was only one chief of the General Staff in charge for the whole of Kosovo and that it was Bislim Zyrapi, who even introduced himself with this title. These witnesses include Witness 4764, 4739, 3781, and Witness 3870, Halil Qadraku, and Kurtesh Fondaj. This is at paragraph 585 of our brief. This evidence is reliable, corroborated, and compelling, and it exposes Zyrapi's agenda. Facing potential liability himself, Bislim Zyrapi sought to defend himself by shifting blame for the first time onto Jakup Krasniqi. His false claim that Jakup Krasniqi took on Azem Syla's authority when the latter was absent is nothing more than a transparent and self-serving attempt to evade his own responsibilities. We submit that much is crystal clear from the record. The Panel should not fall prey to Bislim Zyrapi's lies. We deal with this at paragraph 579 to 588 of our brief.

Unsurprisingly, none of the evidence I just described was even acknowledged on Monday by Mr. Quick, in another textbook example of the Prosecution cherry-picking. Instead, Mr. Quick attempted to use the evidence of Naim Maloku to submit that "Deputy Commander Krasniqi was senior to the Chief of Staff Zyrapi, and exercised the absent general commander's authority." That's transcript 28469 to 28470. You can see on the screen, Your Honours, the evidence of Naim Maloku. That's at transcript page 25943:

"Q. Now, is it correct that this position of deputy commander was created to simply formalise in writing the decisions or proposals that were made, for instance, by the chief of staff?

"A. Yes, there's no other reason."

Naim Maloku considered Jakup Krasniqi's role as deputy commander for support as administrative, not operational. It was not a command function as usually understood. It clearly had nothing to do with exercising the absent general commander's authority, which is something Naim Maloku never said.

Maloku also said the following, and this is at transcript page 25936:

"... there were only three officers," Maloku, Sali Veseli, and Zyrapi, "that had professional capacity and knowledge, and they are the ones who knew how to organise the KLA [General Staff] and how to assign responsibility to the directorates. The rest of the KLA [General Staff] members had no military knowledge or training."

It is clear who was leading the KLA General Staff in Azem Syla's absence: Bislim Zyrapi and his entourage of former career officers, not Jakup Krasniqi.

The same argument contradicts the Prosecution's claim that Mr. Selimi reported to Mr. Krasniqi. That's at paragraph 106 of the Prosecution final brief. Such claim finds no support in the evidentiary record. It is just another example of Zyrapi's self-serving lies to escape justice.

Your Honours, I think this is a good juncture to stop for the

break.

PRESIDING JUDGE SMITH: All right. We will have the afternoon break now. We'll reconvene at 1515.

So we're adjourned until then.

--- Break taken at 2.59 p.m.

--- On resuming at 3.15 p.m.

PRESIDING JUDGE SMITH: You may continue, Ms. Alagendra.

MS. V. ALAGENDRA: Thank you, Your Honours.

Your Honours, this same pattern repeats itself at paragraphs 249 and 553 of the Prosecution's brief, when the Prosecution makes two equally incorrect claims, which were also repeated on Tuesday by Mr. Halling.

The first is that Jakup Krasniqi oversaw the work in the legal department. This claim is premised on the speculative, self-serving, and ultimately unreliable evidence of Bislim Zyrapi. Crucially, Zyrapi was not aware of any instruction issued by Jakup Krasniqi to Dobruna or any report from Dobruna to Jakup Krasniqi about the work of the legal department. How can there be oversight without either instructions to Dobruna or reporting from Dobruna?

Ultimately, Zyrapi admitted that Dobruna would know better about who was overseeing his work, further revealing the speculative nature of his assertions. That's transcript 18538 to 39.

So let us look at what Sokol Dobruna said. He told the Prosecution that there was no official reporting to anyone in Divjake - that's P1955, page 2 to 3, and 9 - and that he always carried out

his work independently, outside any sphere of control by members of the General Staff. It was Dobruna himself who made clear to Jakup Krasniqi upon his arrival at the General Staff that he did not want anyone meddling in his responsibilities, and he - and he only - was the person who would be dealing with the law. That's P1955.2 and P1963. The only reports that Dobruna gave as head of the legal department went to Azem Syla when the latter was in Kosovo. That's P1955 Part 2 and Part 9. Unsurprisingly, the Prosecution failed to adduce any credible evidence of Jakup Krasniqi issuing orders to Sokol Dobruna or Sokol Dobruna reporting to Jakup Krasniqi.

In this regard, it is worth spending a moment on the only concrete allegation in the Prosecution's final brief that Jakup Krasniqi gave advice to Sokol Dobruna. The case in question is that of the Savelic brothers, and the allegation at paragraph 567 is that, and I quote:

"[Krasniqi] subsequently advised Sokol Dobruna how to handle the issue in the face of inquiries from international observers."

Notably, this allegation was reiterated again on Tuesday by Mr. Halling in his closing remarks concerning Jakup Krasniqi, although I must note he confused the case of the Savelic brothers with that of the five elderly Serbs.

The next two slides are not for public display.

On screen you see P3551, page 111807. This conversation from 28 February 1999 is the only evidence cited in support of this allegation. As you can see, this is between "Sokolj" and "Jakup,"

and the conversation concerns ongoing discussions with Shaun Byrnes and William Walker about the Savelic brothers.

It only takes basic knowledge of this case to know that it would be Sokol Bashota as the primary contact of US KDOM to deal with Byrnes and Walker, not Sokol Dobruna.

If that is not enough, Mr. Halling, the same person who on Tuesday repeated again, citing to paragraph 567 of the Prosecution's brief, that Jakup Krasniqi advised Sokol Dobruna how to speak to internationals. The same Mr. Halling had, on 2 December 2024, at page 23075, put to Sokol Bashota himself that this conversation on the screen was between him and Jakup Krasniqi. Sokol Bashota agreed.

If that is still not enough as being between Sokol Bashota and Jakup Krasniqi -- this is yet another instance where the Prosecution repeatedly misuses the evidence, reshaping it at different junctures to fit its narrative rather than allowing the narrative to follow the evidence.

Again not for public display.

Looking at the content of the conversation, the Prosecution allegation that Jakup Krasniqi was advising what to tell the internationals about the Savelic brothers is ludicrous. The person named "Jakup" says: "Believe me, I don't know what [we] should tell them; "I don't know what to do"; "Should we wait for Bisi to arrive"; "leave it until Bisi arrives." This is the opposite of advice. Indeed, it demonstrates the "Jakup" saying that the person responsible for such matters should give any direction or advice

necessary.

The second claim by the Prosecution is that Jakup Krasniqi remained Dobruna's primary contact. In support, the Prosecution cites only to Dobruna's evidence. I note in this regard that the one reference to Bislim Zyrapi's evidence in footnote 1018 does not even mention Mr. Krasniqi. Dobruna's statements were admitted pursuant to Rule 155. The Defence was not given a chance to test this evidence in cross-examination. While the Prosecution had two additional members of the legal department on its witness list, it decided to drop them. By the admission of Dobruna's evidence in written form, followed by the decision to drop the only two witnesses capable of speaking to the structure of the legal department, the Prosecution has prevented the Defence from testing the evidence, and deprived this Panel of evidence essential to a credible truth-finding exercise.

In any case, the Prosecution ignores the clarifications that Dobruna gave about his interactions with Jakup Krasniqi. These were friendly, casual talks, as former political colleagues. Dobruna stressed that Jakup Krasniqi was, and I quote, "not above him hierarchically," and that Jakup Krasniqi himself told him in Divjake that he was not a commander but just a spokesperson. That's P1957, paragraph 34; and transcript page 23712.

The critical question is what does "overseeing" mean? What proof is there that Jakup Krasniqi had anything to do with the legal department beyond Zyrapi's speculative and general statements? Can

there be overseeing when there is no evidence of orders, instructions, reporting, discussions, logistical support, or involvement in specific cases? Can there be overseeing when the head of the legal department gave evidence that he was entirely independent in his work and that Jakup Krasniqi was not his superior? The answer is clearly no. The Prosecution refuses to acknowledge this inevitable conclusion, once again ignoring inconvenient exculpatory evidence that undermines what we submit is its false case against Jakup Krasniqi.

Similar considerations apply to the allegations in paragraph 250 of the Prosecution's brief that Sokol Dobruna learned from Jakup Krasniqi about existing prisons in Klecke, Kervasari, and Lladrovc. The Prosecution relies entirely on Dobruna's untested evidence. The Defence was deprived of the possibility to confront this allegation in cross-examination. Accordingly, no finding can be entered on this issue, especially in light of Dobruna's language in the cited passage. And that's P19552 at page 23. "You are asking me for something which is not important at all as to who notified me, surely, I must have heard it from Jakup, friendly conversation, not official conversation." Dobruna himself did not consider this issue important. And I emphasise the wording "I must have heard from Jakup." This clearly indicates that he was not sure. This is uncorroborated speculation at best.

Just like Jakup Krasniqi did not oversee the legal department, the Prosecution fails in its allegation at paragraph 556 that he

played a central role in the establishment of Radio Free Kosovo, and that he "maintained tight control over the tone and substance of KLA's public messaging."

Importantly, the decision to start Radio Free Kosovo and KosovaPress was taken as part of the KLA's restructuring on 12 and 13 November 1998, as clearly set out by the notes pertaining to these meetings. That's 4D11. At this meeting, Berat Luzha, not Jakup Krasniqi, was appointed as the head of press and radio. The only evidence that Jakup Krasniqi was involved in the creation of these media outlets, or in the appointment of its chief, is his mere attendance at this meeting.

In fact, the passage from Nuhi Bytyqi's book cited by the Prosecution suggests that Jakup Krasniqi communicated to him that a decision to establish Radio Free Kosovo and KosovaPress had been made, not that Jakup Krasniqi was involved in it. That's P1264.

The only other evidence the Prosecution relies upon is a letter by Ahmet Qeriqi addressed to Mr. Krasniqi. That's P3785-ET. This letter was admitted through the bar table and was never put to any witness for authentication or context. Ahmet Qeriqi did not testify. Further, the author of the letter expresses resentment, anger, and disappointment against Mr. Krasniqi due to political disagreements. Absent authentication and context, no weight, we submit, should be given to this document.

Nor is there any evidence of what relation, if any, Berat Luzha had with Jakup Krasniqi. Your Honours, Berat Luzha is alive, yet the

Prosecution did not even try to interview him. It didn't even try. Your Honours, it beggars belief that they did not approach the witness, which any competent, independent and impartial investigator desirous of getting to the truth would have done. If the Prosecution really sought to establish the truth about Radio Free Kosovo and KosovaPress, it would surely have spoken to the man appointed to head these media outlets. Instead, the Prosecution prefers to pretend that he did not exist, and they do this despite the paucity of evidence capable of supporting the contentions that they make.

At most, the extent of Jakup Krasniqi's involvement with these media outlets is that he gave a speech at the inauguration ceremony; that's P604. This is unsurprising. It falls squarely into Jakup Krasniqi's role as spokesperson. But it definitely does not show control over "the tone and substance of the KLA's public messaging."

The Prosecution then cites to some conversations between Jakup Krasniqi and individuals associated with Radio Free Kosovo or KosovaPress. These prove nothing. Jakup Krasniqi was the spokesperson. It is unsurprising that on occasion he had contact with -- it's unsurprising that on occasion he had contact with media outlets. Indeed, conversations show contact between KosovaPress and other members of the General Staff, including Bislim Zyrapi.

The Panel may remember P3551, when "Bisa" notified Isa from KosovaPress that he had just sent a communiqué through for publishing. There is also evidence of contact between KosovaPress

and KLA zones, including Commander Remi, that's P2094, page 111654; that's Rrahman Rama, at page 111782 of Exhibit P3551; and members of the zone commands in Llap, that's P2094 at pages 11565, then P3551 at pages 111718, 724, 111848; Dukagjini, which is at P3562, page 095922, P3563, which is at pages 95926 and 95927; and Nerodime, which is P3551_ET at page 111704.

The conversations cited by the Prosecution do not single out Jakup Krasniqi. Contact with the press is not evidence of control over the press.

On the issue of alleged reports to Mr. Krasniqi, there is no merit in the Prosecution's claims at paragraph 547 that Mr. Krasniqi "ordered and received reports from the zone." The evidence cited in support is unconvincing at best. The Prosecution relies on P617 and P184. P184 is an unsigned, undated, incomplete draft which is not even addressed to the deputy commanders. The Prosecution fail to produce any signed, complete version of it. P617 is a written report signed by Bislim Zyrapi which summarises the content of discussions between Zyrapi and the zones. We have already made submissions on these documents in our brief at paragraphs 619 to 623.

Suffice it to say that the Prosecution called two witnesses to discuss this document: Zyrapi and Maloku. They both confirmed that P617, or these kind of reports in general, did not contain any information about criminal activity or issues with civilians. Zyrapi's evidence is at page 18173 of the transcript, and Maloku's is at 25949 of the transcript.

These documents deal with basic logistics. And, in fact, both Zyrapi and Maloku thought that these were given to Jakup Krasniqi either so he could keep a copy at the General Staff until Azem Syla returned or to forward it to the logistics commander in Tirana. That's transcript page 18170 to 18171 for Zyrapi, and P2090.3 of Maloku, and transcript page 25948. Keeping a copy for the archive or acting as a messenger is inconsistent with substantial reporting. At most, it points to Jakup Krasniqi's administrative role as deputy commander for support during this period.

In any case, Maloku was clear that there were only two meetings with the zone commanders, in December 1998 and January 1999, and, thus, there were only two reports of this kind. That's transcript page 25867. Evidence of only two reports over an 18-month indictment period is not consistent with regular or effective reporting.

The Prosecution then relies on P628, an order addressed to the zones signed by Bislim Zyrapi, not Jakup Krasniqi, and thus, it is clearly not evidence of Jakup Krasniqi ordering any reports. In any case, this reference is ill-placed, as we discuss in our brief at paragraph 607 to 608. Reports had to be sent via phone to Bislim Zyrapi, the chief of the KLA General Staff. If there was no response, then they were to be sent to the operational directorate. And only if there was no response, reports could be sent to the white house phone number, which was used by other people beyond Jakup Krasniqi. And why was that? So that the message could be conveyed to Bislim Zyrapi. This is an explanation Bislim Zyrapi gave

himself to this Panel, and it's further corroborated by conversations put forward by the Prosecution in this case.

The next slide is not for public display.

The Prosecution then cites to two conversations. One is between Jakup" and "Remi," this is 111691, where Jakup is recorded as saying: "What is the situation?" What the Prosecution ignores, however, is that the rest of the conversation reveals that Remi spoke to the "Jakup" to inform him that he's not going to attend an upcoming meeting to discuss the negotiations in Rambouillet, and to give "Jakup" his view on the negotiations. Clearly, Remi is not reporting anything from his zone, let alone anything about crimes.

If we can go into private session for a moment, please, Your Honours.

PRESIDING JUDGE SMITH: Into private session, please, Mr. Court Officer.

[Private session]

[Private session text removed]

[Private session text removed]

[Open session]

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

PRESIDING JUDGE SMITH: Now you may proceed.

MS. V. ALAGENDRA: At paragraphs 263 and 266 of the final brief, the Prosecution appears to insinuate a connection between intelligence and Jakup Krasniqi. I say "appears" because no such allegation features in the alleged significant contributions to the JCE or in the later allegations about knowledge or effective control.

Nonetheless, at paragraph 263 the Prosecution alleges that "the Intelligence Directorate reported to the General Commander (or, as applicable, the Deputy Commander) and the Chief of Staff," and it continued, "on occasion, intelligence reports bypassed Bislim Zyrapi,

as Chief of Staff, and were provided only to the Commander."

Any allegation that the intelligence directorate reported to Mr. Krasniqi fails on this evidence.

The Prosecution relies on P83 and P1408, which appear to be General Staff documents setting out the reporting line of the intelligence directorate. There is very little evidence that these were effectively followed. But it is worth emphasising that both state in terms that the intelligence directorate reports to the commander and the chief of the General Staff; that is, Azem Syla and Bislim Zyrapi. Neither states that the intelligence directorate reports to the deputy commander for support.

The only witness that testified that intelligence ever reported to Jakup Krasniqi was Bislim Zyrapi. This is a clear example of Zyrapi's unreliability. Zyrapi was faced with a situation in which documents, such as they are, suggested that intelligence reported to him. Zyrapi had given an interview to the SPO in which he accepted that he was able to and did give instructions to the head of the intelligence directorate. That's P1355.10, page 14. He had accepted, at pages 10 and 11, that he received reports from intelligence which included the movement of Serbian forces and information about collaborators outside the army. That accords with common sense, we say, because to direct operations, Zyrapi needed that operational intelligence. Zyrapi's belated attempt to claim that intelligence bypassed him and went to Jakup Krasniqi is a self-serving lie, designed to protect himself.

No other witness has claimed that intelligence reported to Mr. Krasniqi. The Prosecution has not produced a single written intelligence report addressed to Mr. Krasniqi. Across hundreds of pages of conversations, the Prosecution has not pointed to any conversation which it claims is an intelligence report to Mr. Krasniqi. The allegation should be rejected.

At paragraph 266, the Prosecution then submitted that Ferat Shala accompanied Deputy Commander Krasniqi in visits to zones. That is another clear example of the Prosecution hiding behind innuendo. If the Prosecution allege that Shala passed intelligence relevant to crimes to Mr. Krasniqi, it should spell that out in clear terms. Presumably because there are no such evidence, the Prosecution preferred to hide behind insinuating a connection which it knows it cannot prove.

The Prosecution failed to call Ferat Shala as a witness. Its footnote 1088 contains three references which all relate to one visit to the Shala zone in January 1999. That single occasion is then mischaracterised by the Prosecution into an insinuation that Ferat Shala accompanied Jakup Krasniqi on visits, plural.

Moreover, there is no evidence of what Ferat Shala's role was in that single visit. In answers to questions from the Panel, Zyrapi, who also travelled with Ferat Shala on that occasion, claimed not to know his role. It would be wholly inappropriate to infer any connection to crimes from this single visit.

In its brief, and again on Tuesday, the Prosecution

unsuccessfully tried to link the General Staff and Jakup Krasniqi to the murder of Ramiz Hoxha and Selman Binici in October 1998. In particular, the Prosecution has misapprehended or misstated the actual evidence landscape of the killing of Ramiz Hoxha and Selman Binici. We deal with the incident at paragraphs 323 to 324 of our brief. In addition to that, I will illustrate certain considerations which the Prosecution conveniently left out.

If we can move into private session for a moment, Your Honours.

PRESIDING JUDGE SMITH: Into private session, please, Mr. Court Officer.

[Private session]

[Private session text removed]

[Private session text removed]

[Open session]

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

PRESIDING JUDGE SMITH: You may continue.

MS. V. ALAGENDRA: At the ICTY, Mr. Krasniqi answered questions based on the information he had at that time of his testimony. And the Prosecution neglected to mention Jakup Krasniqi's further explanation in the Bellanice trial in 2018, when he made it clear that he only learned about the incident after the war. That's P792 at page SPOE0068090. This omission is telling. The Prosecution cannot cogently argue that Jakup Krasniqi's comments at the ICTY showed knowledge of the killings at the time they occurred. He was not asked about his basis of knowledge, when he received information or by whom, whether he verified it, or whether he was just speculating during his ICTY testimony.

Further, at paragraph 403 of its brief, the Prosecution claims that Krasniqi asked Naim Maloku to attend a meeting with villagers in Bellanice in December 1998. However, the Prosecution deliberately ignores the evidence of Naim Maloku that it was Maloku himself who was asked to go to the meeting as he had family members residing in the area. That's transcript page 25963. Maloku was very clear that he was not sent by Jakup Krasniqi to the meeting. At most, Jakup Krasniqi agreed that it would be good for him - Naim Maloku - to attend because his family was living there. Jakup Krasniqi did not even tell Maloku what the meeting was about. That's transcript page 26006 to 007.

The Prosecution then claims that after the meeting, Naim Maloku spoke to Sali Veseli about what he had been told at the meeting regarding Ramiz Hoxha and Selman Binici. What the Prosecution omits

is that Naim Maloku, the only witness cited in support of this allegation, was inconsistent on that point. Despite having said in 2016 that he spoke to Sali Veseli after the meeting, he then rectified his prior statement both in his 2019 SPO interview, which is one of the sources cited by the Prosecution, and then yet again in his oral testimony before this Panel. On both occasions, Maloku stressed that he did not report to anyone in the General Staff, including Jakup Krasniqi, about the discussions at the meeting. That's transcript page 25964; and P2090.6 at pages 11 to 12. This important testimonial evidence - this obviously exculpatory evidence - is not even addressed by the Prosecution in its final brief. Shocking, we say.

If the Prosecution considers the evidence of its own witnesses to be unreliable, it needs to say so. Relying on a prior statement while ignoring later contradicting evidence needs, at the very least, an explanation. The Prosecution continues undeterred, apparently considering that its burden of proof can be discharged by simply cherry-picking the evidence of its own witnesses. We submit that it manifestly is not, and, again, have cause to deprecate the Prosecution's approach to its treatment of exculpatory or other evidence in this case simply because it undermines its hollow case theory.

Another huge overstatement concerns Mr. Krasniqi's alleged armed escort. The Prosecution asserts in paragraph 625 that Jakup Krasniqi was escorted by armed KLA members when travelling throughout Kosovo

as an indicator that he had effective control for the purposes of command responsibility. The legal support for this submission, according to paragraph 613, footnote 2437, is the case of Brima et al., in which the Trial Chamber, at paragraph 788, considered that indicia of effective control in an irregular army include that "the superior had the capacity to intimidate subordinates into compliance and was willing to do so; the superior was protected by personal security guards, loyal to him or her, akin to a modern praetorian guard."

Curiously, that phrase "akin to a modern praetorian guard," an elite unit personally protecting the emperor, was omitted from the Prosecution submission, which otherwise closely follows the language for Brima. Yet, it is that phrase which is critical to understanding the trial chamber's reasoning. If you are assessing the ability of an individual to exert effective control in an irregular formation, the existence of an elite unit with personal loyalty to them is obviously relevant because the individual can use his elite unit to enforce his control. But that is very far away from the situation in this case.

The Prosecution began this section at paragraph 621 by asserting that KLA and/or PGoK members functioned as the accused's close protection team, taking positions as bodyguards, escorts or drivers. But by the time the Prosecution gets to Mr. Krasniqi in paragraph 625, its submissions shrivel to "Jakup Krasniqi was also escorted by armed KLA members when travelling throughout Kosovo."

While the footnotes at 2493 are largely misleading or confused, the Defence do not deny that on occasions Jakup Krasniqi travelled with armed KLA members. He had been publicly named as the KLA spokesperson. Unlike other General Staff members, the Serbian forces knew exactly who he was. The Panel knows very well what Serbian forces were capable of. It is wholly unsurprising that the named spokesperson sometimes traveled with protection. That is evidence of his personal vulnerability, not of effective control.

What is significant is that, by comparison with Brima, the Prosecution does not even attempt to argue that the armed KLA members who sometimes travelled with Mr. Krasniqi were a modern praetorian guard. There is no evidence identifying these armed KLA members. There is no evidence that they were in any way an elite unit. There is no evidence that they bore personal loyalty to Mr. Krasniqi. There is no evidence that he did or could have used these armed KLA members to enforce his control.

Accordingly, the submissions at paragraph 625 wholly fail to support the allegation of effective control.

On Tuesday, the Prosecution showed you a video showing Jakup Krasniqi attending Flag Day celebrations on 28 November 1998 in an effort to support an appearance of authority. However, the Prosecution ignores the background of this event as explained by its own witnesses. This ceremony was a mere display of propaganda organised to offer support to the families of KLA martyrs, attended by Jakup Krasniqi in his role as spokesperson. It is not indicative

of any authority.

Jakup Krasniqi was introduced by Shaban Dragaj, the organiser of the ceremony, only as a "general representative of the Kosovo Liberation Army," not as the deputy commander for support. That's P1288, page 1.

Following severe losses in the Klecke area, the local KLA units invited the families of the martyrs to the Flag Day ceremony to show support to the families of the fallen. Witness 4741 at page 14811 to 14813 of the transcript. In the very same video shown by the Prosecution, relatives of KLA martyrs can be seen on stage behind Jakup Krasniqi.

The whole event was organised around the need for photo and video coverage. Despite harsh conditions, the soldiers of Brigade 121 were asked together in the snow and stand in line while waiting for the speakers to arrive. The photo had to depict as many soldiers as possible in order to portray the KLA as strong. Due to the extreme cold, a number of soldiers actually got sick and fainted. After the speeches, everyone left right away. That's Witness 4741 at page 11152 -- no, Exhibit 11152 -- let me do that again. It's P1115.2, page 21 to 23.

As the KLA spokesman, Jakup Krasniqi spoke the reassure the relatives of KLA martyrs that their loved ones had not died in vain, defending their choice to embrace arms to liberate their country. This is not evidence of any criminal common plan, but rather evidence of a spokesperson trying to raise the morale of the soldiers.

Cherry-picking. Mischaracterisation. Innuendo. These are not tools of proof. They are markers of a case struggling to withstand scrutiny.

Mr. Krasniqi was deputy commander for support for a little over three months. The case record is clear. Within the KLA, this position was either not known or not accepted. Jakup Krasniqi remained focused on political matters, continued his work as spokesperson, and took on administrative tasks. The Prosecution's case regarding this period is unpersuasive at best.

With Your Honour's leave, Mr. Jacopo Ricci will now address you on discrete issues concerning documents the Prosecution allege were signed by Jakup Krasniqi. Thank you.

PRESIDING JUDGE SMITH: [Microphone not activated].

MR. RICCI: Thank you.

Although at paragraph 563 of their brief the Prosecution states that in November 1998, Jakup Krasniqi was appointed deputy commander for support, the Panel may have noticed that these two words "for support" then disappeared from the Prosecution's submissions on Monday and Tuesday. Yet, this qualification is crucial to assess Jakup Krasniqi's role and responsibilities between November 1998 and February 1999.

During this period of time, Jakup Krasniqi continued his work as KLA spokesperson and as a political representative of the General Staff. As confirmed by several witnesses, including Bislim Zyrapi, between November 1998 and February 1999, these two

roles remained the primary focus of Mr. Krasniqi. He had frequent meetings with the internationals and worked on a common KLA stance in view of the upcoming negotiations in Rambouillet.

And as explained in clear terms by Prosecution Witness Naim Maloku, Jakup Krasniqi's role as deputy commander for support was "a secondary one." In practice, his political roles and responsibilities did not change. The evidence shows that Jakup Krasniqi was not elevated from a "mouthpiece" to a commanding role. His role was changed to one of support, which was focused on assisting with administrative matters. Maloku's evidence is clear: This position of deputy commander for support was created for one reason only and that's to formalise the decisions of others.

Now, when the General Staff settled in Divjake, there was no administration system in place. Nevertheless, the KLA needed to present itself as a regular army to gain traction with the international community. And the KLA restructuring in November 1998 provided just the perfect opportunity for the General Staff to take steps towards the creation of an internal administration system. Unfortunately, due to lack of equipment, staff, and resources, this attempt was only partially successful, and the KLA's administrative capacity remained rudimentary.

Now, this is the context surrounding Mr. Krasniqi's appointment as deputy commander for support. But this must be the starting point for the Panel's assessment of the weight and significance that can be attached to written documents which the Prosecution alleges were

assigned by Jakup Krasniqi in this capacity.

Allow me once more to be very clear on this point. We do not concede that any of these documents were signed by Jakup Krasniqi. The burden to prove authorship rests with the Prosecution, who has failed to establish to the requisite standard that any of the signatures on these documents belong to Jakup Krasniqi. And for additional submissions on this point, I refer the Panel to paragraph 521 of our brief.

But in any case, to the extent that the Panel is satisfied that any of these documents were signed by Jakup Krasniqi, we submit that they are evidence of administrative and bureaucratic functions, not of command.

At paragraphs 524 to 572 of our brief, we have made detailed submissions about each one of these documents, and the Panel will be able to see how they represent nothing more than formalisations of existing situations or decisions made by others. I will not repeat those submissions, but I will now address two documents which the Prosecution discussed during their presentation on Monday.

The first one is P168, a 2 December 1998 order, which was addressed by the Prosecution on Monday. Now, the Prosecution's submissions on this document, both in their brief and in their oral submissions, provide yet another example of the Prosecution's determination to cherry-pick inculpatory evidence whilst ignoring anything which does not align with their case narrative.

The Panel must first consider whether P168 was ever sent out and

distributed. Absent proof of distribution, no weight can be attached to this document and clearly no connection to any alleged crime can be established.

And at paragraph 296 of its brief, the Prosecution makes the bold assertion that P168 was disseminated to the operational zones. And in support, at footnote 1223, they cite Prosecution interviews with three witnesses: W04737, W04747, and Nuredin Ibishi. None of that evidence proves the dissemination of P168.

The next slide is not for public broadcast.

W04737, on the very same page cited by the Prosecution, stated that he had never seen this document before and that he had never been conveyed its content. That's P1605.7 at pages 4 and 6. Rather than supporting the Prosecution's position, W04737 directly contradicts it.

W04747, he should not be relied upon because his evidence was admitted in writing, without being tested in cross-examination, and because he is a fundamentally unreliable witness for reasons set out in the Defence FTBs. And I will point the Panel to our FTB at paragraph 464, or the Veseli FTB at paragraphs 53 to 59. But in any event, W04747 himself told the Prosecution that he did not recall seeing P168 specifically.

But the Prosecution's position is weakened further by Nuredin Ibishi. By relying only on the Prosecution interview, Prosecution deliberately ignores that Ibishi addressed this very same issue in his oral evidence on 24 October 2024, which you can now see

on the screen.

The Panel may recall that Mr. Misetic from the Thaci Defence went so far as to put P168 on the screen so that there could be no misunderstanding, and he asked Ibishi directly, and I quote:

"Q. The order is dated 2 December 1998. And my question, first, is have you ever seen this order before?

"A. No, not during the war, but I did see it after the war."

Nuredin Ibishi is a Prosecution witness. The Prosecution considers him credible and relies heavily on his evidence about matters concerning the Llap zone command. That Nuredin Ibishi remembered discussions about the local police is not evidence that P168 was disseminated to his zone, not when this was openly denied in court. And, notably, the Prosecution did not seek the clarify this matter on re-examination despite having a chance to do so. And for the Prosecution to now rely only on his 2019 interview, whilst ignoring the clarifications given to this Panel in this court, is misleading and yet another example of the Prosecution closing its eyes to anything and particularly evidence from its own witnesses that undermines its case.

But it gets worse. By citing only to three pieces of evidence, the Prosecution fails to acknowledge that every other attempt to prove the alleged distribution of P168 miserably failed.

Bislim Zyrapi, chief of the General Staff; Sokol Bashota, deputy commander for operations; Hajrush Kurtaj, deputy brigade commander - they all denied seeing or even hearing of P168 during the war. The

Prosecution cannot simply ignore the evidence of its own witnesses just because it is unfavourable to them. And the Prosecution could, of course, have put P168 to any of their witnesses but neglected to do so.

At paragraphs 294 to 297 of its brief, and yet again on Monday, the Prosecution deliberately attempted to muddy the waters around the distinction between the Serbian local police and the police units envisioned in Ambassador Hill's plan.

The distinction is very simple. The local police were units created by the Serbian administration, armed and uniformed by the MUP, and involved in operations against the KLA which were carried out in concert with the Serbian police. The Panel has received extensive evidence, both testimonial and documentary, about the establishment, role, and actions of these units. Prosecution witnesses, including some of those cited by the Prosecution in this part of their brief, explained that local police units were units of combatants, falling squarely within the ranks and structures of the Serbian forces. At the very least, they presented an obvious security risk, justifying their internment.

And importantly, while Serbian local police units were first established in the summer of 1998, they continuously expanded throughout the indictment period. And in early December 1998, around the same time P168 is dated, new local police units have just been established by the Serbian administration in Mitrovice. Unsurprisingly, the Prosecution does not even engage with this

connection.

In contrast to the Serbian local police, as explained, among others, by Ambassador Hill himself, the police units described in this plan never existed because the plan was never implemented. And contrary to what the Prosecution told you on Monday, this is a crucial consideration because, on the one hand, we have armed police units arresting and killing both KLA members and Albanian civilians throughout Kosovo; on the other, we have a non-existent entity which was nothing more than a hypothetical idea. There is no doubt that P168 refers only to the former.

And, in fact, the Prosecution on Monday conveniently omitted the evidence of its own witnesses on this very specific issue, including, among others, Sokol Bashota. On screen you can see the transcript of 2 December 2024 at page 23058. P168 was on the screen, and Bashota stated, and I quote:

"I had not seen this document, but I don't think that it refers to the number of policemen that formed part of our request *vis-à-vis* the Hill document. I think the reference here is to the local police forces who had been employed by the Serbs during the war. It was Albanian citizens who accepted serving within the Serbian state, and on a number of occasions they actually acted or operated against us too. But this is not a reference to the kind of police that we were discussing with Hill."

Then again on the next page:

"I don't think the two are connected ... I absolutely do not

think that this is in any way connected with the Hill document."

And then again on the following page:

"The reference here is to those Albanians who wore the uniform of Serbia and operated against the Kosovo Liberation Army, so they formed part of the chain of command of the Serbian army and police. I do not think that I have seen any other documents of this nature."

Now, this evidence was given by a Prosecution witness in response to questions put by the Prosecution. It is unsurprising that the Prosecution did not even mention it. But ultimately, the Prosecution's desperate attempt to portray local police members as civilians denies the obvious at all costs, and this proposition should be rejected.

At paragraph 297 of its brief, and then again in its oral submissions on Monday, the Prosecution submits, and I quote:

"After the 2 and 3 December 1998 orders were issued, the police and intelligence services in the zones interrogated, detained, mistreated, and killed alleged local police members who were not part of the Serbian armed forces, on suspicion that they were spies and collaborators."

This allegation fails.

But first, I want to draw your attention to a key aspect of the Prosecution's submissions on Monday. The two examples that they cite in support of the implementation of P168 - and these are Dukagjin and Kacanik - concerned a Serbian local police, the one armed and administered by the Serbian MUP. They do not concern the police

envisioned in Ambassador Hill's plan. So even admitting in *arguendo* that these examples are in any way connected to P168, which we strongly deny, they contradict the Prosecution's case that P168 refers to Ambassador Hill's police as opposed to combatants taking active part in hostilities.

The next slide is not for public display.

But let's take a closer look at these examples cited by the Prosecution. On Monday, the Prosecution showed you two written documents, P904.7 at page 2 and P905, which you can see now on the screen side by side in English. First, the content of these documents is exactly the same in what appears to be a copy-paste. So, effectively, we are looking at one document. Second, they are both unsigned, and P905, the one on the right, does not even have a signature block with a name on it. Third, they were both admitted through the bar table, and the Prosecution failed to put them to any witness for authentication or context. So needless to say, these unsigned, unauthenticated, copy-pasted documents have no probative value.

But even if we take them at face value, the two items do not support the existence of any link between P168 and any alleged detention of local police members. Both documents are dated 25 March 1999. That is almost four months after the issuance of P168. Neither document refers to P168 or, indeed, to any General Staff instruction. That the first document that the Prosecution claims supports the implementation of P168 is dated four

months later and does not refer to it is quite telling.

Furthermore, these two documents on the screen, they describe the local police in Gjakove as receiving salaries, IDs, and automatic weapons from the Serbian administration, participating in operations to arrest KLA members, and informing the Serbian police about the status and movements of the KLA in Dukagjin. These are circumstances which find extensive corroboration in the case record, including from official documentation of the Serbian administration, and that's 4D100 and from contemporaneous interviews of local police members in Gjakove, that's at 4D81. If anything, these two documents on the screen confirm the combatant status of local police members in Kosovo as well as the security risk that they posed.

The second example that the Prosecution used is that of Kacanik, in the Nerodime zone. In their FTB at paragraph 297, the Prosecution relies on a passage from W04722's SPO interview. Now, the statements of W04722 were admitted pursuant to Rule 153 over Defence objections, and therefore this evidence is untested and should be given limited weight. But in any case, W04722 once again discussed events in March 1999, more than three months after P168 was issued. He never mentioned P168 or any other General Staff instruction concerning the local police. And, in fact, Hajrush Kurtaj, the deputy commander of Brigade 162, confirmed that he had never seen or heard of P168 in his brigade. W04722's evidence does not prove the existence of any connection between P168 and the events in Kacanik in March 1999. And in any case, once again, W04722 further corroborated the status of

combatants of local police members in Kacanik, explaining that they received IDs and weapons from the Serbian administration, and that they operated under the instruction of Serbian police against the KLA.

In short, evidence that some members of the local police were arrested months after P168 is not evidence proving that P168 was implemented. This causal link that the Prosecution needs to establish is completely absent.

I will now move to another set of documents which the Prosecution submits were signed by Jakup Krasniqi; namely, P3681 and P3682. The Prosecution unreasonably overstates its case on taxation and concerning the implementation of these documents. On Monday, at page 28490, the Prosecution told the Panel, and I quote:

"The Krasniqi Defence submissions about this series of orders miss the point. That is that General Staff orders, including as issued by Jakup Krasniqi, were disseminated and were complied with, including by members of the Brigade 121 military police."

Your Honours, I would change that to "only the Brigade 121 military police."

And this is where it is the Prosecution, and not the Defence, that's misses the point. The Prosecution cannot prove Kosovo-wide enforcement and implementation based on one document from one brigade. No evidence has been adduced of any implementation or enforcement from any other brigade throughout Kosovo.

And two elements must be considered. First, Brigade 121 is the

brigade geographically closest to Divjake. That a document reached Brigade 121 does not prove that it reached the rest of the Pashtrik zone, let alone anywhere else in Kosovo.

Secondly, the evidence establishes that the orders concerning taxation following immediately after Dr. Fitim Selimi, who was part of Brigade 121, had made a request, which is P1126, for more medical equipment and materials, specifically suggesting the introduction of a tax system for this purpose. As we explain in paragraphs 564 to 567 of our brief, this was a local issue and there is no evidence of broader implementation.

The next slide is not for public broadcast.

Furthermore, P2015.3, which the Prosecution relies upon at paragraphs 33 to 204 of its brief, does not assist the Prosecution's case. This document shows that two members of the military police did not follow the purported order on taxation, and that the attempt to apply it in the village of Bllace "failed completely."

It also shows that the only individuals who were asked to pay their dues had actually already contributed voluntarily to the Homeland Calling Fund, so no additional payment was requested. And this is corroborated by the evidence of Naser Krasniqi at transcript pages 24791 to 24793. Naser Krasniqi stated the contributions remained voluntary for the most part, and that even those who were asked to contribute could do so by giving out any amount, which is in defiance of the orders allegedly signed by Jakup Krasniqi.

If anything, these examples show the absence of General Staff

control over this issue.

Your Honours, that's it from me. I will now give the floor to my learned friend Mr. Ellis. Thank you.

PRESIDING JUDGE SMITH: All right.

Mr. Ellis, when you're ready.

MR. ELLIS: Your Honours, I intend to speak for around one hour in total, and in that time I'm going to address, first, submissions about the Prosecution's mischaracterisations of Mr. Krasniqi's role as KLA spokesperson; and, second, to deal with five specific incidents in which Mr. Krasniqi is said to be involved. Clearly, we won't get on to that second category this afternoon, but given the time, I propose I make a start on spokesperson and we see where we get to.

Your Honours, it is our submission that in addressing the role of spokesperson, the Prosecution falls into the same pattern that has been the theme of our submissions so far. They ignore cross-examination, clarifications, and exonerating evidence, and they fail to put critical evidence to witnesses in order to prove their case. And they consistently fail to link the allegations about Mr. Krasniqi to any indictment crime.

I'm going to tackle four areas in particular: First, communiqués; second, a failure to connect public statements to crimes; third, regulations; and, fourth, allegations that seem to be based on no more than presence at various locations.

The timing, perhaps, isn't ideal on the last thing on a Friday

afternoon, but I'll jump straight into the communiqués.

In its final brief, the Prosecution claims variously that Mr. Krasniqi had "primary responsibility for communiqués," at paragraph 1477; that he was a "drafter and editor" of communiqués, paragraph 548; that he had "sustained, hands-on involvement in the drafting and disseminating of communiqués," at paragraph 557; and that he "handled the communiqué process - drafting, revising, and issuing," at paragraph 558.

It's quite clear now that communiqués form the central plank of the Prosecution case, from the very first paragraph of their final brief to the very early stages of their closing arguments on Monday morning. So these allegations about Mr. Krasniqi are highly significant and they appear to have grown in the telling. Having not set out personal responsibility for the communiqués specifically in the pre-trial brief, the Prosecution now seek to make him responsible for handling the entire communiqué process from start to end, drafting to issuing. Needless to say, that overreaches far beyond what the evidence actually establishes.

The reality is, despite three years of trial, 227 trial days, 5.000 exhibits, we are no further forwards than where we started. The Prosecution has not proved who drafted a single specific communiqué and is now cloaking that failure with grandiose drafting.

Many of the key points about authorship and distribution - weak, limited, and unconvincing though they are - are already anticipated in our final brief, beginning at paragraph 195. I want to use these

oral submissions and the time this afternoon to further dissect the evidence on which the Prosecution relies.

First, the discovery of different versions of communiqués during the search of Mr. Krasniqi's house proves nothing. There is a reasonable alternative inference that Mr. Krasniqi gathered an extensive archive of material after the conflict for his writings. And the evidence in support of that inference is, first, the ICTY testimony, already addressed earlier by Ms. Alagendra, in which Mr. Krasniqi said he consulted some literature for the purposes of writing "The Big Turn," and he was asked specifically what literature and he responded: The communiqués.

Second, by the inclusion of at least three communiqués in a draft manuscript by Mr. Krasniqi called "The Albanians' Hour Had Come;" that's P177, P178, and P591.

And, third, Mr. Krasniqi did indeed cite four communiqués as sources in the footnotes of his book "The Big Turn." And the footnotes can be found at P189_ET.3.

The evidence that the Prosecution relies upon in paragraph 1477 to attempt to attribute primary responsibility to Mr. Krasniqi substantially comes down to evidence about Political Declaration 2, the Prosecution interview of Rexhep Selimi, a partial citation of Mr. Krasniqi's ICTY testimony - ignoring those passages on which we rely - and a Facebook post about Communiqué 59.

Let me deal first with Political Declaration 2. The Prosecution relies on evidence about this political declaration as footnotes to

both paragraphs 1477 and 548. Mr. Krasniqi has always accepted that he was one of the authors of Political Declaration 2. And the Court will recall that that political declaration, in clear terms, condemned terrorism and other violations against the civilian population, and it pledged recognition and respect for international law. Nothing unlawful about that declaration.

But what the Prosecution cannot do is to use authorship or involvement in authorship of a political declaration as evidence of authorship or involvement in any or all of the communiqués. It does not follow. The two are fundamentally different. And the point is obvious, but the fact we have to restate it speaks volumes. Even Mr. Krasniqi's ICTY statement, admitted over our objections, which the Prosecution relies upon, at P793, makes the distinction. Where he deals with Political Declaration 2, Mr. Krasniqi said, "I was the main author." Where he deals with communiqués, however, he simply says "issued by the UCK General Staff." The distinction is plain.

Second, the witness evidence that the Prosecution relied upon to attribute communiqués to Mr. Krasniqi is from its interview of his co-accused Mr. Selimi. I don't need to say very much about that because I can adopt the submissions already made by Mr. Misetic and to an extent also by Mr. Roberts about the reliability of that interview. I will add only three brief points.

First, there was no foundation for the comments. Mr. Selimi never saw Jakup Krasniqi write a communiqué. That's P763.3, page 3. Second, many of Mr. Selimi's answers in these -- the relevant

sections of the interview are the product of a repetitive line of questioning, which went beyond the style counsel would be allowed to adopt in court, repeatedly putting to him leading questions between 761.7, pages 16 to 19, about the authorship of the communiqués, and doubting his answers about whether they were discussed at General Staff level. As a General Staff member being interviewed as a suspect, under that pressure, the answers are unlikely to be reliable. And the Prosecution itself cautions against the reliance on self-serving statements from the accused at paragraph 1415 of its brief. Thirdly, this very passage of Mr. Selimi's interview was put to Sokol Bashota in court, who confirmed in response, at T23490, that he didn't know who wrote the communiqués or whether they were written by one person or by several.

Thirdly, Mr. Krasniqi's own ICTY evidence, particularly from the Haradinaj trial. And here, and typically, the Prosecution final brief picks the very worst passages from several days of testimony. I will not try to hide from the worst passages. In the cross-examination by Mr. Emmerson, Mr. Krasniqi said, P800, page 5034:

"These communiqués, I was the author of them during the time when the offensives were at their highest peak and when there were difficulties for us as members of the General Staff to assemble."

That is as good as the evidence gets for the Prosecution in terms of direct evidence connecting Mr. Krasniqi to a communiqué. But it says far less than the Prosecution imagines and inflates in

its submissions. At the very highest, he referred to authorship only during the time when the offensives were at their highest peak with the obvious corollary that he was not the author at any other time. The burden of identifying which communiqués those might have been, and showing that those communiqués had any objectionable content, remains on the Prosecution. And what the Prosecution has not done is gone through systematically with any witness or in any submission to establish which ones it alleges were written at the height of the offensives.

Now, having admitted the ICTY evidence of Mr. Krasniqi, the Panel must now decide what weight you can fairly give it in circumstances in which Mr. Krasniqi had not been told of his right against self-incrimination, had not been given legal advice, and now, 20 years later, finds that his answers are being relied on against him on central issues in the case.

On Tuesday morning, the Prosecution urged the Panel not to countenance our submissions about fair trial rights, seemingly on the basis that we neglected to mention that you had already ruled on those in relation to admissibility. Leave aside that I don't accept that we'd forgot to mention them, and paragraph 53 of our brief expressly noted that the Appeals Panel had upheld Your Honours' decision on admissibility, that's not the main problem with the Prosecution's submission. The main problem is that the assessment of weight is different from the assessment of admissibility. We cited from paragraph 55 of the Appeals Chamber decision, which I hope is

coming up on the slide now. I'll read it:

"... while mindful that caution will be required when deciding what weight, if any, to give to this evidence, the Appeals Panel considers that the Trial Panel, composed of professional, experienced Judges, can be expected to use the evidence with the appropriate care."

And like the Appeals Panel, we trust that the Panel will use the appropriate care, and will not give weight to evidence obtained in violation of the privilege of self-incrimination, especially when there is no other direct evidence on record corroborating the same point.

And if the Panel is minded to give any weight at all to the ICTY evidence, it must be read as a whole, taking into account that Mr. Krasniqi said it was mainly correct that the communiqués were written by the operational wing of the KLA, which, of course, he was never a part of; that he did not write or participate in any early communiqués and did not know who wrote them. Full references are at paragraph 437 of our brief. Read fairly as a whole, and with the appropriate caution that the Appeals Chamber suggested, the effect of his evidence was to distance himself from most of the communiqués, not to adopt them. Plainly, it falls far short of establishing the Prosecution's allegation that he handled the whole communiqué process from drafting to issuing. And whilst his evidence suggests that most of the communiqués were written by the operational wing of the KLA, none of the key operational directorate members are named by the

Prosecution as JCE members, including Bislim Zyrapi and Sokol Bashota.

Finally, on this, I'll deal briefly with P1751, a Facebook post by Mr. Krasniqi responding to a statement by Mr. Thaci. Plainly, a Facebook post has limited probative value. It cannot be treated as if it were sworn testimony. Whilst it states that communiqués were written in Kosovo in 1998, it does not identify the author and does not say that Mr. Krasniqi was the author. Indeed, it says Mr. Krasniqi "objected" to Communiqué 59, which would distance him from it, and in so doing show that the Panel cannot assume without evidence that all alleged JCE members approved or agreed every single communiqué.

Nor does it evidence of W4255 assist the Prosecution. He was typical of a number of witnesses who did not clearly distinguish between articles, communiqués, and political declarations. See transcript page 7901. I don't criticise him for that. A lay witness would not understand the importance of a distinction to the Court at this point. But it now appears quite clear that what he was talking about was not a communiqué but a political declaration. At least that's the Prosecution's position at paragraph 340 of its brief. But what I say is more significant is what this witness said about his subsequent meeting with Mr. Krasniqi.

I'd like that to go on screen, but it is not for public display, please.

One of the difficulties, Your Honours, with judging a case of

this nature is it must be terribly difficult to get a real feeling for the accused individuals who are in front of you so many years later in the cut and thrust of an adversarial trial. But there are moments in the evidence where I say the fog lifts and you get a clear glimpse of Mr. Krasniqi as he was at the time, and there are three such moments in my submissions. The other two we'll come to on Monday.

Let me set the stage for this meeting. This was to be an encounter between Mr. Krasniqi and somebody who the Prosecution would define as an opponent. How would the meeting go? Would Mr. Krasniqi threaten him or mistreat him in some way? It was, said 4255, coordinating, very good-natured, cooperating, and advising each other. Very cooperative.

"Q. And the result of the meeting is that all the people agreed that you would work together against the Serbian forces; correct?

"A. Correct, upon the advices from Mr. Krasniqi."

That is who Mr. Krasniqi is, Your Honours. He's not the divisive figure that the Prosecution seek to portray. He is very good-natured, very cooperative, as 4255 said.

The Prosecution must prove beyond reasonable doubt that Mr. Krasniqi drafted each communiqué that it relies on. It cannot simply assume that the spokesperson must be implicated in communiqués. The evidence does not come up to the beyond reasonable doubt standard. If Mr. Krasniqi drafted, revised, and issued all the communiqués as the Prosecution imagines, why weren't copies of all of

them found at the house or the workstation? If he drafted and revised and issued all of the communiqués, why when testifying at the ICTY as a witness, without legal advice, was he so clear in not accepting authorship of them as he did with Political Declaration 2?

The evidence leaves more than reasonable doubt. It is not proved that Mr. Krasniqi ever had primary responsibility for the communiqués.

And I'll finish simply by saying that paragraph 554 of the Prosecution's final brief is a clear example of one of the ways in which the Prosecution fails. It's supposed to be the paragraph establishing Mr. Krasniqi's significant contribution to the JCE by disseminating material to support the common purpose. But the allegation it actually makes is that the General Staff, the GS, announced punitive measures of various forms. So what was supposed to be an allegation about personal responsibility of Mr. Krasniqi instead becomes an allegation about the General Staff, which is not capable of establishing his personal responsibility, and nor was the alleged causal link to Qirez established.

I see the time, Your Honour.

PRESIDING JUDGE SMITH: Thank you, Mr. Ellis.

So we will see you all Monday at 9.00.

Just hold on.

Mr. Ellis, you have an hour and a half?

MR. ELLIS: Understood.

PRESIDING JUDGE SMITH: The Krasniqi Defence has an hour and a

half left for Monday morning.

MR. ELLIS: It won't all be me.

PRESIDING JUDGE SMITH: We would like to ask the SPO to be prepared for their -- to deal with their replies sometime Monday afternoon. We hope to get to that following the balance of the Krasniqi Defence closing statement. The Judges will have about two hours, and so we'll have most of the afternoon available to you. And I suppose by association, the Defence should be ready for their comments on those replies. I don't know that we'll get to that on Monday, but Wednesday is kind of packed in and we want to make sure we get this finished on Wednesday if at all possible.

So thank you all for your cooperation.

MR. HALLING: And, Your Honour, just, sorry, before we leave, you did answer half of the question that I was going to ask a moment ago. The other half was, for our preparations this weekend, is the Panel intending to send a list of questions that they would like answered at Monday's hearing?

PRESIDING JUDGE SMITH: At this time, no. If we change our mind, we'll let you know. But it is Friday afternoon, so there probably isn't much time to get to you on that. But I don't know if anybody has anything prepared ahead of time? I guess not.

Mr. Laws.

MR. LAWS: Your Honour, thank you. In the notice regarding the closing of the evidence and giving directions in relation to these hearings, it was noted that Victims' Counsel could ask for time as

well to make a response. I'd ask for 10 to 15 minutes, please, to respond to what was said today in the Selimi submissions. I may have to add a few minutes to that depending on what's said on Monday in relation to the Krasniqi submissions, but we haven't heard that yet.

PRESIDING JUDGE SMITH: Yes, after the Judges' questions, then we will begin with the reply by the Prosecution, and you can then be second.

MR. LAWS: Thank you. I wanted to raise it so that everybody knew that there was that addition to the timetable.

PRESIDING JUDGE SMITH: [Microphone not activated].

MR. LAWS: I wanted to raise it so that everybody knew that there was that addition to the timetable.

PRESIDING JUDGE SMITH: [Microphone not activated].

MR. LAWS: Thank you.

PRESIDING JUDGE SMITH: [Microphone not activated].

--- Whereupon the hearing adjourned at 4.47 p.m.