

1 Monday, 3 April 2023  
2 [Opening Statements]  
3 [Open session]  
4 [The accused entered the courtroom]  
5 --- Upon commencing at 9.00 a.m.

6 PRESIDING JUDGE SMITH: Good morning, everyone.

7 Before we start, we'll give the photographers an opportunity to  
8 take the pictures that they wish to use.

9 In my capacity as Presiding Judge of Trial Panel II, and  
10 pursuant to Rule 124(1) of the Rules, I hereby open this trial and  
11 ask Madam Court Officer to call the case.

12 THE COURT OFFICER: Good morning, Your Honours. This is case  
13 KSC-BC-2020-06, The Specialist Prosecutor versus Hashim Thaci,  
14 Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi.

15 PRESIDING JUDGE SMITH: Thank you, Madam Court Officer.

16 Now, I would kindly ask the parties to introduce themselves,  
17 starting with the Specialist Prosecutor's Office.

18 MR. WHITING: Good morning, Your Honours. For the Prosecution  
19 today, Ward Ferdinandusse, the acting Deputy Specialist Prosecutor;  
20 Senior Prosecutors Clare Lawson and Alan Tieger; Prosecutors  
21 Matt Halling and James Pace; and I am Alex Whiting, the acting  
22 Specialist Prosecutor.

23 PRESIDING JUDGE SMITH: Thank you, Mr. Whiting.

24 Now, turning to the Defence, the Thaci Defence.

25 Mr. Kehoe.

1 MR. KEHOE: Good morning, Your Honours. Gregory Kehoe,  
2 Luka Misetic, Peter McCloskey, as well as my colleagues  
3 Bonnie Johnston and Sophie Menegon for President Thaci. Thank you.

4 PRESIDING JUDGE SMITH: Thank you, Mr. Kehoe.  
5 Mr. Emmerson.

6 MR. EMMERSON: [Microphone not activated] Good morning,  
7 Your Honour. I appear on behalf of Mr. Veseli today, together with  
8 my co-counsel Mr. Andrew Strong and Ms. Annie O'Reilly, together with  
9 consultant Hajredin Kuci, and Tess Hughes and Gabriele Caon, our  
10 legal assistants.

11 PRESIDING JUDGE SMITH: Thank you, Mr. Emmerson.

12 Now to the Selimi Defence.

13 Mr. Young, good to see you.

14 MR. YOUNG: Yes, Your Honours, good morning. I appear for  
15 Mr. Rexhep Selimi. I'm today assisted by co-counsel  
16 Mr. Geoffrey Roberts, Mr. Eric Tully, and Dr. Rudina Jasini. Today  
17 we're assisted by Ms. Nataliia Ryzhenko, case manager, and by  
18 consultant Ms. Furtuna Sheremeti. Thank you.

19 PRESIDING JUDGE SMITH: Thank you, Mr. Young.

20 And now for the Krasniqi Defence, Ms. Alagendra.

21 MS. ALAGENDRA: Good morning, Your Honours. I am  
22 Venkateswari Alagendra appearing for Mr. Jakob Krasniqi. And I  
23 appear together with co-counsels Mr. Aidan Ellis and Victor Baiesu,  
24 consultant Bilall Sherifi and case manager Ms. Eva Jerman.

25 PRESIDING JUDGE SMITH: Thank you, Ms. Alagendra.

1 Now from the Registry -- oh, I'm sorry, Mr. Laws, the Victims'  
2 Counsel.

3 MR. LAWS: Good morning, Your Honours. I'm Simon Laws, counsel  
4 for the victims in this case, appearing together with my co-counsel  
5 Maria Radziejowska and our legal associate Kiat Wei Ng.

6 PRESIDING JUDGE SMITH: Thank you, Mr. Laws.

7 Now I turn to the Registry. Mr. Roche.

8 MR. ROCHE: Thank you, Your Honour. On behalf of the Registry  
9 is appearing the Registrar, Dr. Fidelma Donlon, and myself,  
10 Ralph Roche, Head of Judicial Services Division. Thank you.

11 PRESIDING JUDGE SMITH: Thank you, Mr. Roche.

12 I also note that Mr. Thaci, Mr. Veseli, Mr. Selimi, and Krasniqi  
13 are present in the courtroom today.

14 Today's hearing will proceed pursuant to Rules 124, 125, and 126  
15 of the rules.

16 Before starting, the Panel notes that a filing late on Friday  
17 was made by the Thaci Defence. The Panel has reviewed the filing and  
18 the response of the SPO and makes the following oral order.

19 On 31 March 2023, the Thaci Defence filed an urgent motion,  
20 F01412, requesting the Panel to prohibit the SPO from displaying,  
21 during its opening statements, the videos of Mr. Thaci and  
22 Mr. Selimi's interviews with the SPO.

23 The Thaci Defence argues that it was given less than a week to  
24 review these videos, which are neither on the SPO's exhibit list nor  
25 the object of a motion from the SPO to amend its exhibit list. The

1 Thaci Defence submits that the SPO violated the rules governing  
2 disclosure and the use and admissibility of the evidence against the  
3 accused.

4 On April 1st, 2023, the SPO responded, in filing F01413, that  
5 the request should be rejected as late and misguided.

6 At the outset, the Panel recalls some relevant procedural  
7 history in relation to the matter.

8 First, the impugned videos are records of the SPO interviews  
9 with Mr. Thaci and Mr. Selimi.

10 Second, the SPO disclosed to the Defence the transcripts of  
11 these videos in December 2020, which is Disclosure Packages 9 and 13.

12 Third, in filing F00213 of March 2021, the Thaci and Krasniqi  
13 Defence requested disclosure of all audio-video recordings in  
14 addition to transcripts of witness and accused interviews. The  
15 Pre-Trial Judge denied this request by oral order on 24 March 2021.

16 The Panel further notes that on 28 March 2023, the SPO disclosed  
17 the videos of Mr. Thaci's and Mr. Selimi's SPO interviews in  
18 Disclosure Package 726. Upon disclosure, the SPO notified the  
19 Defence that it intends to use parts of these videos in their opening  
20 statements along with corresponding transcripts previously disclosed.

21 The Panel recalls that pursuant to Rule 126(1), opening  
22 statements shall be restricted to a principle overview of the subject  
23 matter of the case.

24 In the presentation of its opening statement, a concise  
25 explanation of the evidence to be called, and how it impacts on the

1 issues in the case, may be provided. In other words, using material  
2 in the course of an opening statement does not amount to tendering  
3 such material into evidence. In addition, a presenting party is not  
4 limited to using in its opening statements material and information  
5 that it plans to use at trial. A presenting party may use material  
6 during opening statements that it will ultimately not seek to tender  
7 into evidence at trial.

8 As a result, although notice and disclosure is always encouraged  
9 as a courtesy to the other parties and participants, material that is  
10 only intended for use during opening statements is not, in the strict  
11 sense, subject to the rules on disclosure or admissibility of  
12 evidence.

13 Accordingly, the Panel considers that the SPO was neither  
14 required to disclose these videos nor to add these videos to its  
15 exhibit list nor to tender these videos for admission before their  
16 use during opening statement.

17 In light of the above, the Panel rejects the Thaci Defence  
18 request and authorises the SPO to use portions of the impugned videos  
19 as part of its opening statement.

20 This order is without prejudice to the ongoing litigation  
21 regarding the admission of the accused statements in F01351. Should  
22 the Defence wish to raise the issue of alleged disclosure violations  
23 in relation to videos of the accused SPO interviews, it may do so in  
24 its response to F01351, due on 17 April 2023. The SPO will then have  
25 an opportunity to reply as per the deadline provided by Rule 76.

1           The Panel directs the Thaci Defence to file a public redacted  
2 version of F01412 or notify the Panel that it consents to its  
3 reclassification as public by 10 April 2023. The Panel notes that  
4 the SPO has no objection to the reclassification of its response,  
5 F01413. The Panel, therefore, directs Court Management Unit to  
6 reclassify F01413 as public by 10 April 2023.

7           This concludes the Panel's oral order on the Thaci Defence  
8 request F01412.

9           I will now ask the accused whether they understand the amended  
10 indictment, and I will give them an opportunity to confirm their  
11 initial plea, accounting in particular for the newly unredacted parts  
12 of the amended indictment.

13           Further, I will inform the accused of their rights and  
14 obligations.

15           Lastly, I will give the floor to the parties and participants  
16 for their respective opening statements, starting with the  
17 Specialist Prosecutor.

18           Before we begin, I will provide a short procedural history of  
19 this case.

20           On 30 October 2020, further to a decision by the  
21 Pre-Trial Judge, the Specialist Prosecutor submitted a Confirmed  
22 Indictment against Hashim Thaci, Kadri Veseli, Rexhep Selimi, and  
23 Jakup Krasniqi.

24           On 4 and 5 November 2020, the four accused were arrested and  
25 transferred to the Specialist Chambers detention facilities in

1 The Hague, the Netherlands.

2 On 15 December 2022, the Pre-Trial Judge transmitted the case to  
3 the Trial Panel.

4 On 18 January 2023, the Panel held the Trial Preparation  
5 Conference.

6 On 15 February 2023, the Panel held the Specialist Prosecution  
7 Conference and set the date of the opening of this case for today,  
8 3 April 2023, and decided that the presentation of the SPO case will  
9 begin on 11 April 2023.

10 I recall that during the Trial Preparation Conference, each  
11 Defence team waived their right to having the indictment read in full  
12 at the time of the opening of the case, and the SPO agreed to forego  
13 such a reading.

14 May I take it that's still the case.

15 Mr. Kehoe?

16 MR. KEHOE: Yes, Your Honour.

17 PRESIDING JUDGE SMITH: And, Mr. Emmerson?

18 MR. EMMERSON: Yes, Your Honour.

19 PRESIDING JUDGE SMITH: Mr. Roberts -- I'm sorry, Mr. Young.

20 MR. YOUNG: Yes, it is.

21 PRESIDING JUDGE SMITH: And, Ms. Alagenda?

22 MS. ALAGENDRA: Yes, Your Honour.

23 PRESIDING JUDGE SMITH: Thank you.

24 Mr. Prosecutor, without reading the indictment, would you please  
25 read paragraphs 176 and 177 of the amended indictment which generally

1 summarises the modes of liability and sets out the ten counts.

2 MS. LAWSON: Thank you, Your Honour.

3 As indicated, I will be reading paragraphs 176 and 177 of the  
4 indictment under the heading Statement of Crimes.

5 Through the acts and omissions described above, Hashim Thaci,  
6 Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi committed through  
7 their participation in a joint criminal enterprise and/or aided and  
8 abetted the crimes charged in this indictment. In addition or in the  
9 alternative, Hashim Thaci, Kadri Veseli, Rexhep Selimi, and  
10 Jakup Krasniqi are responsible as superiors for crimes committed by  
11 their subordinates. Hashim Thaci, Kadri Veseli, Rexhep Selimi, and  
12 Jakup Krasniqi knew or had reason to know that the crimes charged in  
13 this indictment were about to be committed or had been committed by  
14 their subordinates, and failed to take necessary and reasonable  
15 measures to prevent such crimes or to punish the perpetrators  
16 thereof.

17 Hashim Thaci, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi  
18 are individually criminally responsible for:

19 Count 1: Persecution on political and/or ethnic grounds, a  
20 crime against humanity, punishable under Articles 13(1)(h), 16(1)(a),  
21 and 16(1)(c) of the Law;

22 Count 2: Imprisonment, a crime against humanity, punishable  
23 under Articles 13(1)(e), 16(1)(a), and 16(1)(c) of the Law;

24 Count 3: Illegal or arbitrary arrest and detention, a war  
25 crime, punishable under Articles 14(1)(c), 16(1)(a), and 16(1)(c) of



1 the Law;

2 Count 4: Other inhumane acts, a crime against humanity,  
3 punishable under Articles 13(1)(j), 16(1)(a), and 16(1)(c) of the  
4 Law;

5 Count 5: Cruel treatment, a war crime, punishable under  
6 Articles 14(1)(c)(i), 16(1)(a), and 16(1)(c) of the Law;

7 Count 6: Torture, a crime against humanity, punishable under  
8 Articles 13(1)(f), 16(1)(a), and 16(1)(c) of the Law;

9 Count 7: Torture, a war crime, punishable under Articles  
10 14(1)(c)(i), 16(1)(a), and 16(1)(c) of the Law;

11 Count 8: Murder, a crime against humanity, punishable under  
12 Articles 13(1)(a), 16(1)(a), and 16(1)(c) of the Law;

13 Count 9: Murder, a war crime, punishable under Articles  
14 14(1)(c)(i), 16(1)(a), and 16(1)(c) of the Law; and

15 Count 10: Enforced disappearance of persons, a crime against  
16 humanity, punishable under Articles 13(1)(i), 16(1)(a), and 16(1)(c)  
17 of the Law.

18 PRESIDING JUDGE SMITH: Thank you, Ms. Lawson.

19 I will now give the opportunity to the accused to state whether  
20 they understand the amended indictment and to confirm their plea.

21 Mr. Thaci, could you please stand.

22 Mr. Thaci, I ask you, in accordance with Rule 124(3) whether you  
23 understand the amended indictment.

24 THE ACCUSED THACI: [Interpretation] I understand.

25 THE INTERPRETER: There was no microphone. There was no

1 microphone.

2 PRESIDING JUDGE SMITH: Could we check that, please.

3 THE ACCUSED THACI: [Interpretation] I understand. I'm fully not  
4 guilty.

5 PRESIDING JUDGE SMITH: Thank you, Mr. Thaci.

6 During your Initial Appearance on November 9th, 2020, and  
7 Further Appearance on 5 October 2022, you pleaded not guilty to all  
8 counts of the Confirmed Indictment. You now have the opportunity to  
9 confirm this plea. Do you confirm your initial plea?

10 THE ACCUSED THACI: [Interpretation] Could you repeat the  
11 question, please?

12 PRESIDING JUDGE SMITH: Yes.

13 During your Initial Appearance on November 9, 2020, and Further  
14 Appearance on 5 October 2022, you pleaded not guilty to all counts of  
15 the Confirmed Indictment. You now have the opportunity to confirm  
16 this plea. Do you confirm your initial plea of not guilty?

17 THE ACCUSED THACI: [Interpretation] Yes.

18 PRESIDING JUDGE SMITH: Thank you. You may be seated.

19 THE ACCUSED THACI: Thank you.

20 PRESIDING JUDGE SMITH: Mr. Veseli, could you please stand.

21 I ask you, in accordance with Rule 124(3), whether you  
22 understand the amended indictment, Mr. Veseli?

23 THE ACCUSED VESELI: [Interpretation] I do, but I do not accept  
24 it.

25 PRESIDING JUDGE SMITH: Mr. Veseli, on 10 November 2020 and

1 5 October 2022, you pleaded not guilty to all counts of the Confirmed  
2 Indictment. You now have the opportunity to confirm this plea. Do  
3 you confirm your initial plea?

4 THE ACCUSED VESELI: [Interpretation] Yes. Anyhow, I do not  
5 agree to the delay of two years. But thank you. I am fully not  
6 guilty.

7 PRESIDING JUDGE SMITH: Thank you, Mr. Veseli. You may be  
8 seated.

9 And, Mr. Selimi, could you please stand.

10 Mr. Selimi, I ask you, in accordance with Rule 124(3), whether  
11 you understand the amended indictment.

12 THE ACCUSED SELIMI: [Interpretation] I do.

13 PRESIDING JUDGE SMITH: Mr. Selimi, on 11 October 2020 and  
14 5 October 2022, you pleaded not guilty to all counts of the Confirmed  
15 Indictment. You now have the opportunity to confirm this plea. Do  
16 you confirm your initial plea of not guilty?

17 THE ACCUSED SELIMI: [Interpretation] I confirm my plea. I'm not  
18 guilty for all counts in the indictment.

19 PRESIDING JUDGE SMITH: Thank you, Mr. Selimi. You may be  
20 seated.

21 And, Mr. Krasniqi, could you please stand.

22 Mr. Krasniqi, I ask you, in accordance with Rule 124(3), whether  
23 you understand the amended indictment.

24 THE ACCUSED KRASNIQI: [Interpretation] I made it possible to  
25 understand the indictment and the way it was drafted or prepared,

1 this indictment. I have no connection whatsoever with any of the  
2 counts that were read by the Prosecutor a bit earlier today.

3 PRESIDING JUDGE SMITH: I ask you once again, do you understand  
4 the indictment?

5 THE ACCUSED KRASNIQI: [Interpretation] I understand the  
6 indictment as it is, but I do not agree with it because I have no  
7 responsibility, none of the responsibilities presented in the  
8 indictment.

9 PRESIDING JUDGE SMITH: Mr. Krasniqi, on November 9th, 2020, and  
10 5 October 2022, you pleaded not guilty to all counts of the Confirmed  
11 Indictment. You now have the opportunity to confirm this plea. Do  
12 you confirm your initial plea of not guilty?

13 THE ACCUSED KRASNIQI: [Interpretation] I confirm the same plea.  
14 I'm totally not guilty.

15 PRESIDING JUDGE SMITH: Thank you, Mr. Krasniqi. You may be  
16 seated.

17 Mr. Thaci, Mr. Veseli, Mr. Selimi, and Mr. Krasniqi, I will now  
18 inform you of some important rights that are afforded to you before  
19 this Court pursuant to its legal framework.

20 You have the right to remain silent without such silence being a  
21 consideration in the determination of innocence or guilt.

22 You have the right not to be compelled to confess guilt or to  
23 testify.

24 You have the right not to incriminate yourself or your immediate  
25 family members.

1           You have the right to be represented by a counsel. I note that  
2 the four of you are represented by Specialist Counsel.

3           You have the right to have adequate time and facilities for the  
4 preparation of your defence and to communicate with your counsel.

5           You have the right to be tried within a reasonable time.

6           You have the right to examine or have examined the witnesses  
7 against you and to obtain the attendance and examination of witnesses  
8 on your own behalf.

9           And you have the right to make an unsworn statement relevant to  
10 the case, and you may appear as a witness under oath.

11           Now, Mr. Thaci, Mr. Veseli, Mr. Selimi, and Mr. Krasniqi, I have  
12 advised you of your rights. But before we go any further, I am also  
13 required by our Rules to inform you of your obligations and the  
14 measures provided pursuant to Rule 61(2) of our Rules of Procedure  
15 and Evidence.

16           As Presiding Judge, I oversee the order in the courtroom and in  
17 the public gallery as well as the conduct of all participants.  
18 Although I do not expect it to be necessary, it is my duty to advise  
19 you, Mr. Thaci, Mr. Veseli, Mr. Selimi, and Mr. Krasniqi that, as  
20 Presiding Judge, I may order your temporary removal from the  
21 courtroom and continue the proceedings in your absence if you persist  
22 in disruptive conduct following a warning that such conduct may  
23 result in your removal from the courtroom.

24           During any removal, your interests will be represented by your  
25 counsel. This Panel will make provisions for you to observe the

1 proceedings and to instruct your counsel from outside the courtroom.

2 However, as I stated, I trust that this type of action will not  
3 be necessary.

4 And for everyone else in the courtroom and the public gallery, I  
5 remind you that as Presiding Judge I may take appropriate measures,  
6 including the removal of a person, in order to protect the right of  
7 the accused to a fair and public trial or to maintain the dignity and  
8 decorum of these proceedings. And I may also order a personal search  
9 of any person in the courtroom and the public gallery as necessary  
10 for security reasons or for the proper administration of justice.

11 Parties and participants are well aware of the need for  
12 protection of many of the witnesses who will appear in this case.  
13 The Panel expects strict adherence in and outside the courtroom by  
14 counsel and their staff or those acting under their authority to  
15 comply strictly with the protective measures that have been ordered.

16 The Panel also directs counsel for all parties and participants  
17 to be particularly careful in the way in which he or she asks  
18 questions of a witness not to disclose information that is subject to  
19 protective measures. Any failure to adhere to these measures or any  
20 action that is thought by the Panel to be intimidating will be  
21 sanctioned by the Panel with the utmost severity.

22 In particular, the Panel orders the parties and participants to  
23 exclusively refer to protected witnesses by their pseudonyms. The  
24 Panel also directs parties and participants to use a gender neutral  
25 language and to refrain from mentioning in public session any

1 information which could lead to the identification of protected  
2 witnesses, victims or their relatives.

3 Prior to the opening statements, the parties and participants  
4 are under an obligation to satisfy themselves that no protected  
5 witness's name or other identifying information or reference to a  
6 family member of a witness or victim will be revealed in an oral  
7 statement, a PowerPoint presentation or a video. In the event such  
8 an identification is within that material, the person making the  
9 opening statement must notify the Panel and the Panel will order a  
10 private session.

11 Where counsel needs to raise an issue or make an objection that  
12 could affect the effectiveness of the protection of a witness, it  
13 shall do so in private session.

14 Issues pertaining to the protective measures or security of a  
15 witness shall not normally be discussed in the presence of the  
16 witness concerned unless his or her presence is necessary.

17 If any party, participant or the Registry becomes aware of the  
18 need to vary a protective order for a witness or victim or other  
19 protected individual, the Panel and the parties or participants  
20 should be notified without delay.

21 Lastly, I want to make a general statement concerning redactions  
22 and closed and private sessions.

23 This Panel is guided by the fact that trials are intended to be  
24 in public so that the public knows and has confidence in the judicial  
25 process as well as an understanding of the issues and decisions in

1 the trial. This belief is reinforced by our Rules of Procedure and  
2 Evidence.

3 Redacting names and personal identification of witnesses,  
4 victims, and others at risk on account of testimony given by  
5 witnesses is, of course, possible and, when ordered by a Panel, a  
6 necessary exception to this general rule.

7 We will be guided by the general rule of publicity, and private  
8 and closed sessions should be used sparingly as the exception rather  
9 than the rule. Counsel are instructed to plan their direct and  
10 cross-examinations carefully and in so doing to endeavour to group  
11 together any questions that must be asked and answered in private or  
12 closed session to avoid repetitive closings.

13 Before I give the floor to the SPO, I would like to make it  
14 clear that, pursuant to Rule 126, the opening statement of the SPO  
15 does not constitute evidence. It gives, however, an opportunity for  
16 the SPO to present an overview and give notice of the case it will  
17 endeavour to prove at trial.

18 The Panel has already indicated that it expects the parties to  
19 limit their submissions to issues directly relevant to that case and  
20 to avoid political statements or discussions of issues irrelevant to  
21 these proceedings.

22 The Panel also reiterates that the parties should not, in  
23 principle, interrupt the opening statement of the opposing party. If  
24 a party feels it should record an objection to a part or parts of the  
25 opening statement of the opposing party, it shall do so at the end of



1 that opening statement.

2 Mr. Prosecutor, the floor is yours. You have five hours.

3 MR. WHITING: Thank you, Your Honours.

4 May it please the Court, Madam Registrar, Victims' Counsel,  
5 counsel for the accused. Today we begin the trial of Hashim Thaci,  
6 Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi.

7 Mr. Thaci, Mr. Veseli, and Mr. Selimi were founding members of  
8 the Kosovo Liberation Army and of the General Staff of the KLA.  
9 Throughout the indictment period, all four accused were key members  
10 of the General Staff and held senior leadership positions within the  
11 KLA.

12 These four men were, without any doubt, the principal leaders of  
13 the KLA, and they have been celebrated and honoured for it. But  
14 there was a darker side to their leadership, and that will be the  
15 subject of the trial that is starting today.

16 The evidence will show that the four accused, in their senior  
17 roles as senior leaders within the General Staff, endorsed and  
18 implemented a policy targeting those persons they deemed to be their  
19 opponents, including persons who are accused of being collaborators,  
20 often based on nothing more than association with Serbian  
21 institutions, and persons who were perceived not to support the goals  
22 or the means of the KLA and later the provisional government of  
23 Kosovo. Such perceived opponents included persons associated with  
24 the Democratic League of Kosovo, known as LDK, as well as persons of  
25 Serbian and Roma ethnicity.

1           This policy, furthered by the accused throughout the indictment  
2 period, targeted opponents for detention, abuse, torture, and  
3 sometimes death. The indictment charges - and we intend to prove -  
4 hundreds of detentions across Kosovo, usually under terrible  
5 conditions of abuse, and over a hundred murders. Most of the victims  
6 of the accused were fellow Kosovar Albanians. In their zeal to  
7 target and eliminate those persons they deemed to be opponents, the  
8 accused endorsed and implemented a policy that often victimised their  
9 own.

10           The proof of these crimes, and of the responsibility of the  
11 accused, will require the presentation into evidence of many puzzle  
12 pieces in the form of documents, obtained from different locations  
13 and sources, and witnesses, who will speak both to the crimes and to  
14 the structure of the KLA. The crimes that will be proven were  
15 numerous and they were widespread, both geographically and  
16 temporally.

17           As for proving the structure of the KLA and the roles of the  
18 accused, that will require piercing a certain amount of secrecy that  
19 existed both during the war and after the war.

20           During the war, there was secrecy about the functioning of the  
21 KLA, often by necessity, as the KLA was a rebel army fighting a  
22 state. KLA soldiers often had code-names, they sometimes wore masks,  
23 and they could be secretive in their communications with  
24 internationals about the true functioning of the KLA. And after the  
25 war, some witnesses and suspects have had an interest in hiding the

1 structure and roles that existed during the war.

2 Although this case will be proven through many puzzle pieces, in  
3 the end the criminal conduct that the Prosecution will prove was  
4 actually quite straightforward. As you will hear during the  
5 Prosecution's opening statement today, the KLA General Staff, with  
6 the four accused as its most important members, embraced in its  
7 communiqués and declarations a very clear and explicit policy of  
8 targeting collaborators and perceived traitors, including political  
9 opponents. The four accused were directly implicated in both the  
10 articulation and the implementation of this policy, including by  
11 appointing and overseeing commanders and structures that enforced it.  
12 And, Your Honours, the evidence will show that the policy announced  
13 was, in fact, implemented. From the beginning to the end of the war,  
14 from north to south, from east to west in Kosovo, and in parts of  
15 Albania, there was a pattern of targeting opponents, a pattern that  
16 confirmed the expressed and actual direction that came from the top,  
17 from these four accused.

18 Now, what the evidence will show is that while there was secrecy  
19 about the functioning of the KLA that persists to this day, the  
20 common criminal purpose to target opponents, which is at the centre  
21 of this case, was, in fact, not a secret at all. The message was  
22 repeated again and again, a drum beat that alleged collaborators and  
23 traitors, including political opponents, posed an existential threat  
24 to the KLA and to Kosovo.

25 The public repetition of this targeting was essential to the

1 execution of the common criminal purpose, essential to getting  
2 persons in units and zones to act in accordance with the plan. That  
3 is why the purpose of targeting opponents was openly announced by the  
4 General Staff and why, as you will see, it permeated communications,  
5 orders, and reports from before and during the charged time period.

6 When persons were detained by the KLA, family members feared for  
7 their safety and their lives because they knew the abuse or death  
8 that could occur, and they knew what it meant to be labelled as a  
9 collaborator or a traitor in Kosovo. And beginning as early as the  
10 summer of 1998, internationals began to confront KLA leaders,  
11 including several of the accused, about allegations of detention and  
12 abuse because they also knew. Even at this early time, some of the  
13 internationals already knew what was happening.

14 In response to being confronted, the accused did not stop. They  
15 did not stop because it was their policy and purpose and they were  
16 committed to it. The only thing that changed when the internationals  
17 began to ask questions is that the General Staff became more careful  
18 and less explicit about how they announced the policy. But the  
19 message remained unmistakable, particularly to those at whom it was  
20 targeted, and the crimes against opponents continued.

21 Why did they do it? Why did the accused commit these crimes?  
22 The evidence will show that it was to win power. Power in the war  
23 and power within Kosovo over those persons perceived to be opponents  
24 of the KLA. They may have also committed the crimes out of fear,  
25 fear that their cause could be undone or undermined by those that

1 they perceive as opponents. Or they may have committed them out of  
2 hatred or revenge because of crimes that were being or had been  
3 committed against them. You will see evidence of both of these  
4 factors, Your Honours. You will see that at times the communications  
5 from the General Staff and the accused defended and justified the  
6 actions of the KLA by underscoring the threat to the KLA posed by  
7 opponents - fear - or by pointing to actions of the other side -  
8 revenge.

9 In the end, however, the motives of the accused, why they  
10 committed the crimes charged in the indictment, is neither an element  
11 of any of the offences charged nor, more importantly, is it a  
12 defence. And in this respect, Your Honours, this case is about  
13 defending the rule of law during wartime, which is when the rule of  
14 law is most threatened.

15 The rule of law. That is why we are here today. During  
16 wartime, the threat and the intensity of conflict can make the use of  
17 illegal means to further one's cause seem both justified and  
18 necessary, and that is where the law steps in. It is precisely why  
19 we have the laws of war: To hold and check the worst instincts and  
20 worst impulses that surface during wartime. To ensure that all  
21 humanity is not lost in the horrors of war. That is why we have the  
22 laws of war and that is why they need to be enforced.

23 There can be no justification, and there is no justification,  
24 for arbitrarily detaining civilians and persons out of combat and  
25 subjecting them to abuse, torture, and murder. That is against the

1 law, and that is why the Prosecution brought this case: to vindicate  
2 the rule of law and the principle that nobody is above the law, even  
3 during wartime.

4 This case is also about the victims and their families, victims  
5 of terrible crimes who have waited more than 20 years for justice.  
6 Victims who have been told again and again over those last 20 years:  
7 Get over it, move on, that is in the past, stop talking about it,  
8 turn the page, justice is too hard, justice is too expensive. All of  
9 those things are easy to say when you are not a victim. But for the  
10 victims of the crimes charged in the indictment and for their  
11 families, the harm and trauma of what happened to them is something  
12 that they live with every day. They carry it with them always. The  
13 victims have a right to be heard. They have a right to justice. And  
14 the Prosecution, through this case, seeks to vindicate those  
15 interests.

16 In this opening statement, we will provide an overview of the  
17 Prosecution's case as follows: First, Mr. Halling will set out a  
18 summary of the evidence which will show the authority exercised by  
19 the four accused in Kosovo in 1998 and 1999. Then, Mr. Ferdinandusse  
20 and Mr. Tieger will trace the articulation and implementation of the  
21 common criminal purpose charged in this case over the same time  
22 period. Mr. Pace will then describe the pattern of crimes,  
23 detentions, abuse, torture, and murder that occurred during the  
24 charged time period pursuant to the common criminal purpose and under  
25 the authority of the four accused. Finally, Ms. Lawson will

1 summarise and conclude with a focus on the responsibility of the four  
2 accused.

3 Before I turn the microphone over, however, let me talk for just  
4 a moment about what this case is not about, about a challenge in  
5 proving the case, and about a point where the Prosecution and the  
6 Defence agree.

7 This case is not a prosecution of the KLA and it does not accuse  
8 everyone in the KLA. If anyone says that, it is false. It is simply  
9 not true. The case charges four men - Hashim Thaci, Kadri Veseli,  
10 Rexhep Selimi, and Jakup Krasniqi - with committing war crimes and  
11 crimes against humanity in 1998 and 1999. The vast majority of  
12 members of the KLA had absolutely nothing to do with this case or  
13 with the crimes charged in the indictment. This case is only about  
14 what these four men did, about the crimes they committed during the  
15 war, and about what they are responsible for under the law.

16 A challenge that will run throughout this case is the climate of  
17 witness intimidation that exists in Kosovo. It is real and it is  
18 pervasive. It is part of the reason why this Court was set up in  
19 The Hague, and this Court has repeatedly found, in its judgments and  
20 decisions, that the intimidation continues to this day, including  
21 through the labelling of persons who cooperate with this Court as  
22 collaborators and traitors.

23 There is no doubt that this climate will be very much a part of  
24 this trial and it will enter this courtroom again and again. It will  
25 take courage for witnesses to testify here. And without question, we

1 will see witnesses summonsed here to this courtroom who will not want  
2 to tell this Court what they know, and at times what they have stated  
3 before, because of fear or because of some misplaced loyalty to the  
4 accused.

5 In the end, it will be up to Your Honours to consider how fear  
6 and loyalty affect this case, and how to evaluate the testimony of  
7 witnesses in light of the reality of the climate of intimidation that  
8 surrounds this trial. But what cannot happen here is that  
9 intimidation, fear or loyalty succeed in defeating a just result in  
10 this case. That cannot happen and it will not happen.

11 Finally, Your Honours, I want to end on a point of agreement  
12 between the Prosecution and the Defence. There will not be many  
13 points of agreement. But on this one point, we will always agree,  
14 and that is that it is the Prosecution's burden - and the  
15 Prosecution's burden alone - to prove each crime charged beyond a  
16 reasonable doubt. That is a burden that we embrace and it is a  
17 burden that we will meet in this case. The Defence has no burden  
18 whatsoever and they and the accused can remain silent in the face of  
19 these charges. They do not need to say anything.

20 But to the extent that the accused have spoken, their words can  
21 and should be considered by this Court. They can be considered when  
22 they've made admissions, and several of the accused have, in fact,  
23 made admissions, and they can be considered when they have made false  
24 denials, and there have been those as well.

25 If you find that the accused have falsely denied a fact that



1 they knew to be true, the question you will need to ask yourselves is  
2 why. Why. Why are they denying facts that they know to be true?

3 I will give just one example from the evidence that will be  
4 presented before I conclude.

5 During the investigation of this case, Hashim Thaci came several  
6 times in secret to The Hague to give an extended video-recorded  
7 interview to SPO Prosecutors. During those interviews, amongst a  
8 number of significant concessions, he denied much about his own role  
9 during the war and about the role of the General Staff. For example,  
10 Mr. Thaci claimed that the General Staff had no function until  
11 November 1998 and that, even after that date, it existed only on  
12 paper. He also denied knowing at any point about any detentions.

13 The evidence presented at trial, Your Honours, will show that  
14 these claims were false. They are contradicted by statements made by  
15 Mr. Thaci himself at other times, by statements made by some of the  
16 other accused, and by the overwhelming evidence that will be  
17 presented at this trial.

18 As you hear that evidence presented during the course of this  
19 trial, Your Honours, you will want to be asking yourselves this  
20 question: Why did Mr. Thaci come here to The Hague and make those  
21 false claims about his own role during the war and about the KLA?  
22 What is he running from? What is he trying to hide? Ultimately, the  
23 trial that we are beginning here today will answer those questions.

24 For now, I will turn the microphone over to Mr. Halling to  
25 continue the opening by providing an overview of the evidence that

1 will prove the authority exercised by the accused during the  
2 indictment period. Thank you.

3 PRESIDING JUDGE SMITH: Mr. Halling, you may continue.

4 We will take a break at 11.00, or approximately.

5 MR. HALLING: Good morning, Your Honours.

6 Today, I will be speaking to how the accused exercised their  
7 authority in the KLA.

8 Could the court officer please broadcast the PowerPoint on the  
9 screen.

10 We have previously described the KLA's development during the  
11 indictment period as the consolidation and expansion of an existing  
12 functioning hierarchy. Today, we will present how the evidence will  
13 show this to be the case.

14 The question before the Panel is not when or how the KLA became  
15 organised in the opinion of any individual witness or how that  
16 organisation compared to that of a traditional army. The question is  
17 whether the accused held positions of authority which allowed them to  
18 commit the crimes charged in the indictment. The evidence will show  
19 they did.

20 Across time, across organisational evolutions, each of the four  
21 accused wielded power, authority, and influence which enabled them to  
22 implement the common criminal purpose charged and exercise effective  
23 control.

24 It is, of course, going to be important in this trial to  
25 distinguish between what the KLA General Staff aspired to be and what

1 they actually did. There is no question about that. And the reality  
2 on the ground was at times complex and at times opaque. But the  
3 General Staff's assertions of authority were not just aspirational  
4 goals or something that existed only on paper. There are concrete  
5 manifestations of that authority throughout the indictment period,  
6 showing that the organisation reflected in the KLA's statements and  
7 documents was lived on the ground.

8 So what is the story of the KLA's organisation? In order to  
9 survive as a clandestine liberation movement in Kosovo, the KLA  
10 needed to have organised structure from its very origins.

11 The KLA emerged from the People's Movement for Kosovo, LPK, who  
12 believed that freedom for Albanians could only be obtained through  
13 force. This was in contrast to the Democratic League of Kosovo, LDK,  
14 its President Ibrahim Rugova, which was the dominant political party  
15 in Kosovo at the time and advocated for a policy of non-violent  
16 resistance to the Serbian state.

17 The KLA's leadership derived principally from the LPK, including  
18 future KLA General Staff members Hashim Thaci, Kadri Veseli,  
19 Rexhep Selimi, Xhavit Haliti, and named JCE member Azem Sylja.  
20 Through Adem Jashari and others, the KLA progressively started  
21 attacking Serbian military, police, and collaborators as the 1990s  
22 progressed.

23 The KLA and its General Staff, often referred to as the  
24 Central Staff before the indictment period, began in the early 1990s.  
25 General Staff member Xhavit Haliti, recalling at slide B2 - slide B1

1 being the cover photographs - recalling a 1993 conversation he had  
2 with Azem Sylja, said:

3 "We agreed that everything had to function according to a  
4 hierarchy and the decision-making. Otherwise, someone could misuse  
5 particular groups or UDB or counter-intelligence service could do  
6 dangerous things."

7 This was important. From the beginning, hierarchy was central.  
8 Hierarchy gave protection. Hierarchy stopped infiltrators. The role  
9 of the leadership of the General Staff was, therefore, critical.

10 And from the beginning, the General Staff members exercised  
11 authority both flexibly and collectively in a manner that was not  
12 tightly constrained by formal roles or divisions.

13 In slide B3, in response to a question of when he was put in  
14 charge of the Kosovo Intelligence Service, known as SHIK,  
15 Kadri Veseli replied:

16 "In fact, we have had our responsibilities during the entire  
17 wartime, in the period 92-98. We had our General Staff and the  
18 Operational Staff of the UCK. We did not have separate duties, but  
19 all did whatever we could. We were engaged in leadership, logistics,  
20 and intelligence, because the circumstances were such."

21 Thaci, Veseli, and Selimi were amongst the General Staff's  
22 founding members. In an October 1999 media interview with  
23 Rexhep Selimi, here at slide B4, Selimi described the General Staff's  
24 creation in December 1993, and added that:

25 "... Hashim Thaci and Kadri Veseli had many important duties, as

1 members of the General Staff, especially in relation to contacts  
2 abroad and supplies, even though they were not always in Kosovo."

3 In this early period, and in addition to political matters,  
4 Hashim Thaci and Kadri Veseli worked on, amongst other things, the  
5 organisation of the KLA, including liaising between General Staff  
6 members in Kosovo and those based elsewhere. Rexhep Selimi was based  
7 in Kosovo and, together with others, consolidated and coordinated  
8 armed actions on the ground.

9 In a different interview, here at slide B5, Selimi described  
10 1997 as a "different phase in the development of the KLA structure  
11 and warfare, or rather it was the year of the KLA's graduation,  
12 enabling it to wage a dignified war, which happened in 1998."

13 By 1997, the KLA was reaching a point whereby it could carry out  
14 targeted attacks against multiple Serbian targets at the same time.  
15 As an example, in 1997 the KLA launched a simultaneous attack against  
16 12 Serbian police stations with rocket-propelled grenades. The  
17 evidence will show that Rexhep Selimi organised this attack, and that  
18 Hashim Thaci and Kadri Veseli helped secured the weapons used.

19 The attack is memorialised in KLA communiqué 37, seen here on  
20 the screen at slide B6. Communiqué 37 is the first of many  
21 communiqués you will be shown today. And Mr. Ferdinandusse, in  
22 particular, will be speaking to how they contributed to the common  
23 criminal purpose charged.

24 So from before the indictment period, the accused and other key  
25 JCE members had long-standing affiliations and relationships of trust

1 within the KLA. Hashim Thaci, Kadri Veseli, and Rexhep Selimi began  
2 this enterprise through the creation of the General Staff and their  
3 early leadership. And they, along with Jakup Krasniqi, who was a  
4 General Staff member by early 1997, were all well-established in  
5 these roles as the calendar turned to 1998.

6 Following KLA attacks of the kind referenced previously, Serbian  
7 forces launched a dramatically reinforced effort in the Drenica area  
8 of Kosovo with two early 1998 operations in Likoshan and Qirez  
9 resulting in a large loss of civilian life that shocked the Albanian  
10 public.

11 On 5 to 7 March 1998, FRY forces attacked Adem Jashari's  
12 compound in Prekaz, killing him and nearly all members of his family.  
13 This event had an enormous galvanising effect in Kosovo, with  
14 volunteers rushing into the KLA. Hostilities further escalated in  
15 March 1998 confirming the existence of a non-international armed  
16 conflict.

17 The March 1998 developments required the General Staff to divide  
18 responsibilities and consolidate the KLA's ranks. At the beginning  
19 of the indictment period, Hashim Thaci and Kadri Veseli led a group  
20 of relatively senior LPK members into Kosovo. This group included  
21 many who would be deployed to positions of command, including  
22 Fatmir Limaj, who would go to Klecke and Malisheve; Shukri Buja, who  
23 was instructed by Thaci, on behalf of the General Staff, to go to  
24 Lipjan; and Xheme Gashi, who was deployed to Drenoc. Limaj and Buja  
25 are named JCE members in this case. You will hear about how these

1 men played roles in the implementation of the common criminal  
2 purpose.

3 Before continuing with the chronology, we need to talk about  
4 geography.

5 During the war, command was divided up across Kosovo into what  
6 later became known as seven operational zones, seen here at slide B7.  
7 You can see a visualisation of the zone boundaries here, but note  
8 that they moved in the course of the indictment period and they did  
9 not look always exactly like this. These zones were called subzones  
10 earlier in the indictment period, part of a larger Operational Zone  
11 1, which encompassed all of Kosovo.

12 These operational zones were officially recognised at different  
13 times in 1998, and I am now going to show maps of the charged  
14 detention sites across the zones. Because some of these sites are  
15 still redacted from the public, I will be indicating which maps can  
16 be publicly broadcasted and which cannot.

17 The first zone was the Drenica zone, formalised in the spring of  
18 1998.

19 The next slide is not to be shown to the public because the  
20 names of the locations will soon appear on it.

21 Here it is at slide B8.

22 The first commander of the Drenica zone was named JCE member  
23 Sylejman Selimi, who later in the indictment period replaced  
24 Azem Sylja as general commander of the KLA, at which point  
25 Sylejman Selimi was replaced as zone commander by Sami Lushtaku.

1 Sabit Geci, a named JCE member who was a direct perpetrator of  
2 certain charged crimes, also had intelligence responsibilities here  
3 and in other areas during the war.

4 The Drenica zone is specifically the area of charged detention  
5 sites from earlier in the indictment period, like Likoc, and later  
6 ones like Qirez, Baice, and three further sites listed at locations  
7 1.3, 1.4, and 1.5 in the indictment's Schedule A.

8 The second zone was Pashtrik, seen here at slide B9, which can  
9 be shown to the public, at least to start. The Pashtrik zone was  
10 formally established in the summer of 1998, but various local staffs,  
11 including the one commanded by the aforementioned Xheme Gashi, were  
12 being organised earlier in direct coordination with the  
13 General Staff.

14 This is home to the greatest number of charged detention sites  
15 in this case, including Drenoc, Llapushnik - which is right on the  
16 edge of Pashtrik and Drenica, these boundaries moved over time, but  
17 it was always under the authority of the General Staff - Malisheve,  
18 Klecke, Sedllar, Budakove, Semetishte, Bubel, Kosterc, and Reti. And  
19 that's just in the north.

20 The south of the Pashtrik zone cannot be shown on public  
21 broadcast.

22 In the south of the zone are the four charged sites at Prizren  
23 as well as Jeshkove. And here are all of them are on the screen,  
24 still not to be broadcast.

25 Musa Jashari was appointed first commander of this zone.



1 Ekrem Rexha, known as Commander Drini, took over as commander for a  
2 time in this area before being replaced in March 1999 with  
3 Tahir Sinani.

4 The third zone is Dukagjin, seen here at slide B10, which can be  
5 publicly broadcast. The commander of this zone was Ramush Haradinaj,  
6 and you will receive an array of evidence in this case showing the  
7 level of control he exercised over this area.

8 General Staff member and named JCE member Lahi Brahimaj is  
9 particularly active in this zone. One charged crime site appears in  
10 this zone, here at Jabllanice.

11 The fourth zone was Llap, whose map cannot be publicly  
12 broadcast. You can see the map here at slide B11.

13 The commander of this zone was Rrustem Mustafa, also known as  
14 Remi, a named JCE member in the indictment. Latif Gashi was in  
15 charge of intelligence for this zone. He is also a named JCE member,  
16 and you will hear evidence of his involvement in charged crimes  
17 committed here. The charged sites of Bare, Bajgore, Llapashtice,  
18 Majac, Potok, Dobrotin, location 10.3 from the indictment Schedule A,  
19 and Zllash are all in this area, the last of these being the charged  
20 crimes site in the Mustafa case before this Court.

21 Prishtine and its charged detention sites are also in this zone.

22 The fifth zone was Nerodime, and this map and all remaining maps  
23 in this series can be publicly broadcast. You can see the map here  
24 at slide B12. The Nerodime zone was commanded by named JCE member  
25 Shukri Buja. Based on instructions from the General Staff, Buja was

1 organising the KLA in this area as early as April 1998, and was  
2 appointed as zone commander by them two to three months later.

3 This zone included charged detention sites like Bob, Ivaje,  
4 Bicec and Varosh.

5 The sixth zone was Shala and was commanded by Rrahman Rama.  
6 There are no charged detention sites in this zone, but you can see it  
7 here at slide B13.

8 The Karadak zone was the last of the seven zones, created  
9 towards the end of 1998. Ahmet Isufi was named the commander of this  
10 zone, and you will meet an international witness who will speak to  
11 the authority he had over this area in the summer of 1999. This is  
12 the area seen at slide B14 of some of the later charged crimes in  
13 this case, such as those in Gjilan, Novoberde, and Verban.

14 Though not a Kosovo operational zone, there are also charged  
15 crimes in Albania, seen here at slide B15, at the Kukes and Cahan  
16 sites in 1999. This area concerns charged crimes in the Shala case  
17 before this Court. This is another place where named JCE member  
18 Sabit Geci was active during the war.

19 Here you can see all sites. This is slide B16. For most of the  
20 indictment period, the KLA General Staff settled here in the Berisha  
21 mountains, near Klecke, at a place called Divjake. The General Staff  
22 was based at Likoc for a while at the beginning of the indictment  
23 period. They got temporarily dislodged from here and had to go to  
24 Novoselle, and General Staff members travelled widely to KLA  
25 headquarters throughout Kosovo and further afield during the war.

1 But this area, broadly speaking, was where the General Staff was.

2 After an introduction by a narrator with a view of the area,  
3 Fatmir Limaj explains why the General Staff based operations here in  
4 this extract from a KLA documentary at slide B17.

5 [Video-clip played]

6 MR. HALLING: You can see it from that explanation and you can  
7 see it from the map. The KLA General Staff was, quite literally, at  
8 the centre of all of this.

9 Getting back to the spring of 1998 and the KLA General Staff  
10 arranging the command. Hashim Thaci discussed the role of himself  
11 and Kadri Veseli in these developments in these excerpts from a  
12 documentary in honour of Agim Qelaj, a General Staff member killed in  
13 the summer of 1998. Here are the first two excerpts of Thaci  
14 speaking at slide B18.

15 [Video-clip played]

16 MR. HALLING: "We brought together the military men."  
17 Thaci continues.

18 [Video-clip played]

19 MR. HALLING: Thaci and Veseli were the ones contacting the  
20 military men throughout the diaspora.

21 And there's a third extract here, this one at a different ERN,  
22 at slide B19.

23 [Video-clip played]

24 MR. HALLING: The military men were distributed across the zones  
25 by decision of the General Staff.

1           One of the military men brought to Kosovo was Bislím Zyrapi, who  
2 entered in late May 1998, escorted by Hashim Thaci and Kadri Veseli.  
3 Zyrapi was a professional soldier who became a member of the  
4 General Staff in June 1998 and held senior KLA leadership positions  
5 throughout the war.

6           In a 1999 media interview, Zyrapi described the control the  
7 General Staff had around the early 1998 period around this time at  
8 slide B20. In particular, he says:

9           "I can say that the General Staff at that time had control over  
10 all its units, but the way in which until then the Staff exercised  
11 control had been a great burden on it."

12           This was the situation when Zyrapi arrived.

13           A report from the command of the Rahovec operational staff at  
14 slide B21 is also illustrative. This report describes how the  
15 General Staff sent Xheme Gashi into the area during the spring of  
16 1998 in order to take control over the troops there. Gashi and  
17 deputy commander Mahir Hasani, who is also named in this report, were  
18 not from the area and they took superior authority over the local KLA  
19 members.

20           We have tendered this report into evidence in the first bar  
21 table motion, and you are going to meet witnesses who can speak to  
22 the Drenoc command at this time and how it was initially set up.

23           The General Staff's involvement is further confirmed by a formal  
24 authorisation for Mahir Hasani's appointment, seen here at slide B22,  
25 dated 31 May 1998 at the top, a document found at Jakup Krasniqi's

1 residence.

2 Later in the spring of 1998, the General Staff continued its  
3 consolidation and reconfiguring by reconfiguring itself into a series  
4 of directorates. Jakup Krasniqi described being announced as the KLA  
5 General Staff spokesperson and wrote a description of the makeup of  
6 the KLA General Staff.

7 This organisational chart, at slide B23, depicts Krasniqi's  
8 explanation of how the General Staff looked around this time.  
9 Hashim Thaci was identified as responsible for the information  
10 directorate as well as the political directorate along with, amongst  
11 others, Kadri Veseli and Jakup Krasniqi.

12 The political directorate was tasked with shaping the political  
13 directives of the KLA and securing international support. Mr. Thaci  
14 said, in his SPO interview, he only took charge of the political  
15 directorate at the end of 1998, but the evidence in this trial will  
16 show this not to be true, including evidence from his co-accused,  
17 Jakup Krasniqi, as well as Rexhep Selimi, as well as documents,  
18 including Mr. Thaci's own official biography on the Kosovo government  
19 web site.

20 Kadri Veseli was in charge of the intelligence directorate,  
21 tasked with generating information to expose opponents of the KLA.  
22 The name of the intelligence apparatus changed in the course of the  
23 conflict. Earlier in the indictment period, those working in  
24 intelligence worked for G2. Sometimes you see it also called ZKZ.  
25 Veseli himself says that G2 was the information service department of

1 Kosovo and adds that this decision was taken in June 1998.

2 Veseli also asserted in an UNMIK statement that he assumed  
3 responsibility over G2 in September 1998, but the evidence will again  
4 show that he had intelligence responsibilities before that time and  
5 indeed throughout the war.

6 Rexhep Selimi was the general inspector also in charge of the  
7 operational directorate and helped organise military operations,  
8 training for soldiers, and logistics for troops in the field. In  
9 these roles, Selimi travelled all over Kosovo to meet with commanders  
10 and inspect operations.

11 Jakup Krasniqi was the General Staff's official spokesperson,  
12 articulating the position of the General Staff publicly.

13 Communiqués were a special kind of communication to the KLA and  
14 the broader world, and were an important focus for Thaci and  
15 Krasniqi, especially in the indictment period. In his role as the  
16 political directorate, KLA policy was Thaci's responsibility. As  
17 spokesperson, Krasniqi was tasked with giving voice to those  
18 positions.

19 This division of tasks was confirmed by Rexhep Selimi in his SPO  
20 interview. At slide B24, Selimi begins here by speaking of Sokol  
21 Bashota, a General Staff member who becomes the KLA deputy commander,  
22 before turning to Thaci and Krasniqi's roles following Krasniqi's  
23 appointment as spokesperson.

24 As a preliminary remark before playing this video, we have  
25 removed whenever interpreters were speaking in the excerpt, editing

1 the video so that all that remains are Selimi's exact words with  
2 subtitles underneath them.

3 [Video-clip played]

4 MR. HALLING: Krasniqi dealt with the communiqués, supported and  
5 aided by Thaci. This same part of Selimi's interview described how  
6 the General Staff were also normally apprised of the contents of  
7 these communiqués before release.

8 And just to be clear, going forward, unless I say that something  
9 cannot be broadcast on a slide, all the slides can otherwise be  
10 broadcast for the public.

11 The KLA continued to adopt more formal structures to further  
12 define the hierarchy within its ranks in the summer of 1998.  
13 Brigades were being identified, along with local intelligence heads  
14 and military police commanders.

15 And these developments happen under the eye of the  
16 General Staff. As seen at slide B25, in the words of a KLA  
17 General Staff response to an operational subzone in mid-1998:

18 "Hierarchy is respected throughout the ranks of the Kosovo  
19 Liberation Army ..."

20 Now, this direction has Jakup Krasniqi's handwritten notes on it  
21 and was found at his house as seized material. In his notes, next to  
22 this sentence, you can see written:

23 "In our situation we should respect the hierarchy with  
24 fanaticism."

25 The phrase is significant. It recognises that under the

1 circumstances, "in our situation," hierarchy was important for the  
2 accused and the KLA leadership. And it further showed that there was  
3 a fanatical interest on the part of the leadership to impose that  
4 hierarchy. And this is to be borne in mind when considering the  
5 common criminal purpose and the role of the General Staff and the  
6 accused in implementing it.

7 The General Staff made clear that they were in command of the  
8 KLA. The units on the ground knew this. On 29 June 1998, the KLA  
9 convened a meeting in Malisheve, video recorded, with named JCE  
10 members Fatmir Limaj and Shukri Buja speaking. Listen to how Limaj  
11 described the command of his unit at slide B26.

12 [Video-clip played]

13 MR. HALLING: "It is one because it is under the command of the  
14 General Staff ..."

15 The General Staff's authority over its zones was no more evident  
16 than when the KLA had interpersonal disputes with the armed forces of  
17 the LDK-aligned government of Bujar Bukoshi, known as FARK. The KLA  
18 agreed to fight alongside the FARK, but this led to disagreements as  
19 to who had broader command over operational zones and who was  
20 superior to whom.

21 In the Dukagjin zone, Ramush Haradinaj appointed FARK's  
22 Tahir Zemaj to be in charge of the first brigade within the zone.  
23 Zemaj came to enjoy such support within the area that he was elected  
24 commander of the Dukagjin zone, replacing Haradinaj in a decision  
25 that the latter acquiesced to.





1 items, and that persons detained or vehicles seized are to be passed  
2 on to the relevant authority.

3 As you will see, certain of the charged victims in this case  
4 were stopped in their vehicles and detained in just the manner  
5 authorised by this order.

6 And this is just the first of many decisions you will hear today  
7 taken during KLA General Staff meetings. The evidence will show that  
8 they met frequently across the indictment period. Even when certain  
9 members were travelling, decisions could still be taken, and  
10 General Staff members were kept abreast of the latest developments.

11 Now the next slides cannot be publicly broadcast.

12 As for military police activities at the zone level, here is a  
13 military police decision from the Dukagjin zone in mid-1998 at slide  
14 B30. You can see the detention of a person that was formally  
15 authorised, making an order granting release by a commander  
16 necessary. You can see here where it is ordered that this detainee  
17 be released while having his car and firearm confiscated.

18 What you do not see in these orders is that the person concerned  
19 was arbitrarily detained, accused of being a collaborator, and beaten  
20 by the KLA. You are going to hear evidence about this detainee early  
21 in this trial.

22 Each individual KLA zone also had intelligence operatives within  
23 it, performing intelligence and counter-intelligence functions. They  
24 generally reported to zone commanders, with these same reports also  
25 being sent to Kadri Veseli's intelligence directorate. Intelligence

1 reports also made their way to General Staff members directly, at  
2 times even bypassing normal reporting channels.

3 The General Staff was informed of the activities of intelligence  
4 and military police across the conflict.

5 In another slide, not for public broadcast, this document, at  
6 slide B31, references arrest warrants at Drenoc which, from content,  
7 must have been written in mid-1998. You can see a charged murder and  
8 enforced disappearance victim in underline at the bottom of this  
9 page. This item was found at Jakup Krasniqi's house.

10 The General Staff had the authority to order detentions and even  
11 executions, and you will hear evidence from witnesses who will  
12 explain how orders to kill collaborators would be issued by the  
13 General Staff.

14 From here onwards, all remaining slides in my presentation can  
15 be publicly broadcast.

16 In July 1998, the KLA made an ill-fated attempt at an offensive  
17 by trying to seize the Rahovec area from Serb forces. Early gains  
18 were quickly lost in a Serbian counterattack, which forced the KLA to  
19 withdraw from many areas under their control. There is evidence that  
20 the General Staff did not make the initial order to move into  
21 Rahovec, but Thaci, Veseli, Selimi, and other General Staff members  
22 quickly moved to the area to direct the activities of KLA units on  
23 the ground. During this time, you will hear evidence of the KLA  
24 taking Serbian civilians in the Rahovec area. Some people from these  
25 operations are Schedule B murder victims from Malisheve, and you will

1 hear evidence about them during trial. The General Staff continued  
2 to work and direct operations following this offensive. In August  
3 1998, for example, a General Staff delegation including Hashim Thaci,  
4 Jakup Krasniqi, and Rexhep Selimi travelled to the Shala and Llap  
5 zones to, amongst other things, formalise their command.

6 The manifestations of authority which we have been discussing  
7 are in lockstep with regulatory documents which reflect the  
8 General Staff's power across all operational zones. These  
9 regulations were created by the General Staff and its members knew  
10 about them. You will see many military orders from operational zones  
11 in this trial explicitly referencing these regulations as their  
12 basis.

13 Jakup Krasniqi writes in his book *The Big Turn* - this is ERN  
14 U015-8743-U015-8935-ET Revised, also translated as *The Great Turning*  
15 *Point*, about his involvement in these regulations. *The Big Turn*  
16 provides a great deal of insight into how the KLA organised itself in  
17 the course of the war and can be corroborated by other evidence in  
18 many key respects.

19 In a meeting, incidentally, of former KLA commanders attended by  
20 Thaci, Veseli, and others in 2001, discussed here at slide B32,  
21 Hashim Thaci remarked that Jakup Krasniqi does not publish a book  
22 without consultation with "us."

23 The first regulations to discuss are the provisional regulations  
24 for internal organisation in the army, adopted in early July 1998 and  
25 found at Jakup Krasniqi's house. They're seen here at slide B33.

1 Krasniqi admits in The Big Turn to being the author of this document,  
2 which gives detailed directions about command and control in the KLA.  
3 It speaks of the necessity of following orders and respect for  
4 hierarchy.

5 The evidence will show that these regulations were sent to  
6 operational zones. That mid-1998 document found at Krasniqi's house  
7 referencing how hierarchy should be respected with fanaticism also  
8 indicates that the Dukagjin zone was to be sent a copy of these  
9 provisional regulations. And they got there, as you can see their  
10 impact in references as a basis to KLA documents, such as this  
11 authorisation at slide B34 for Faton Mehmetaj to establish  
12 intelligence structures in the Dukagjin zone, implemented with  
13 reference to the provisional regulations.

14 There are also KLA General Staff regulations, seen here at slide  
15 B35, excerpts which were again found at Jakup Krasniqi's residence  
16 and which have been tendered for admission into evidence at trial.

17 This document explicitly articulates that the General Staff  
18 operated as a unified command and was the highest management and  
19 commanding body of the KLA. You can also see elsewhere in this  
20 document a description of the role of the intelligence directorate,  
21 in particular, making clear that this was an important organisation  
22 within the General Staff.

23 You will see evidence that the regulations of the KLA  
24 General Staff repeatedly formed the basis for General Staff orders.  
25 As an example here, at slide B36, this is a General Staff order

1 signed by Bislim Zyrapi about Pashtrik zone appointments making  
2 reference to these regulations. For another, this order, found at  
3 Jakup Krasniqi's house, seen here at slide B37, is for zone  
4 commanders to send daily reports to the General Staff and was again  
5 issued pursuant to the General Staff's internal regulations.

6 Next are regulations for intelligence sub-detachments. A copy  
7 of this is again found at Krasniqi's home. You can see it here at  
8 slide B38. Krasniqi wrote in The Big Turn that he also authored this  
9 regulation which is approved on 23 July 1998. You can see the level  
10 of authority stressed over the intelligence apparatus in this  
11 document. The regulations speak of requiring "iron discipline" and  
12 clear demarcation of authority.

13 The regulations required that intelligence had to be organised  
14 by the headquarters and staff at all levels, and you can see that in  
15 action by this set of regulations of the military intelligence at the  
16 district level, distributed to intelligence operatives across KLA  
17 zones, and seen here at slide B39.

18 This document provides, amongst other things, that the chief of  
19 the intelligence service answers directly to the commander of the  
20 armed forces.

21 The last regulatory document adopted around this same period  
22 which I will be discussing today are the KLA's disciplinary  
23 regulations, seen here at slide B40. There's also a duplicate at  
24 SITF00068883 to 00068899.

25 These regulations discuss who had authority to enforce

1 discipline within the KLA, including the heads of the General Staff  
2 directorates. You will see also from Articles 3 and 7 of this  
3 document that there are requirements that all military officers are  
4 equal when it comes to discipline and that military officers must  
5 implement orders by a superior even when not their immediate  
6 superior. The evidence will once again show that these disciplinary  
7 regulations were used too when the KLA wanted to.

8 Here at slide B41 is a verdict on appeal pursuant to the  
9 disciplinary procedure signed by Bislum Zyrapi. There's another at  
10 slide B42, this one coming from the Nerodime zone. And there are  
11 many more.

12 Pursuant to these regulations, and in addition to their *de facto*  
13 authority as senior leadership figures within the KLA, the accused,  
14 through their official positions in the General Staff, held extensive  
15 formal powers, to commend, promote, discipline, or detain soldiers.

16 A diplomatically negotiated cease-fire was signed between the  
17 FRY and internationals on 15 October 1998. Provocations and  
18 hostilities continued, leaving the KLA to announce by the end of the  
19 year that it would resume full armed activities in 1999.

20 The General Staff continued to communicate its political message  
21 directly to KLA soldiers. Here's a video, slide B43, taken of  
22 Jakup Krasniqi addressing KLA soldiers in late November 1998 in  
23 Divjake in a speech commemorating the one-year anniversary of the  
24 KLA's first public appearance. You can see Krasniqi's authority on  
25 display as he walks along the column of soldiers.

1 [Video-clip played]

2 MR. HALLING: We will tender the whole video for Your Honours'  
3 consideration in due course, but we will play one further excerpt  
4 from it with Krasniqi describing the KLA's organisation and  
5 achievements.

6 [Video-clip played]

7 MR. HALLING: In the context of the totality of the evidence to  
8 be shown, it will be clear that that reference to "the spectrum of  
9 enemies" in this video was a thinly veiled reference to the LDK  
10 party.

11 In late 1998, and following what had been a heavy Serbian  
12 offensive, the KLA General Staff underwent a further expansion. This  
13 here at slide B44 is a visualisation based on Jakup Krasniqi's  
14 detailed description of how the organisation looked at this time.  
15 You can see Krasniqi indicating his own appointment as KLA deputy  
16 commander and the continued roles of the other three accused:  
17 Hashim Thaci, political; Rexhep Selimi, general inspector;  
18 Kadri Veseli, intelligence.

19 You can see in decision 061168-061168, dated 2 November 1998 and  
20 signed by Zyrapi, Veseli, and others, that new KLA structures had  
21 been approved.

22 Restructuring in the fall of 1998 included the formalisation of  
23 a military police directorate to oversee the already existing  
24 military police. The responsibilities of the military police were  
25 discussed in the provisional regulations of the army and are



1 developed and updated in a 1998 document issued by Fatmir Limaj in  
2 his capacity as the head of the directorate, seen here at slide B45.

3 You can see the chain of command here:

4 "The military police organs are subordinate to the Military  
5 Police Directorate which appoints the commanders in the military  
6 police operative subzones."

7 You can see later, on the same page, that the military police  
8 was formally required to assist and cooperate with KLA intelligence  
9 units.

10 Limaj being in charge of the military police directorate is an  
11 example of the General Staff - and therefore the accused - appointing  
12 a named JCE member to a position of authority. We will show that  
13 named JCE members directly perpetrated charged crimes while  
14 exercising that authority, including General Staff members and zone  
15 commanders convicted for war crimes after the conflict.

16 The General Staff continued to direct the activities of the  
17 military police beyond Limaj's appointment. This early December 1998  
18 order, signed by Jakup Krasniqi, at slide B46, and found at his  
19 house, is another clear example where he directs the zone commanders  
20 to order the military police:

21 "... to arrest those citizens showing loyalty to the occupier  
22 who are uniformed in the Serbian police, whereby they have committed  
23 acts of treachery against the Albanian people. The same shall be  
24 done in the future to every citizen implicated in any police  
25 whatsoever outside the KLA's formation before the political status of

1 Kosovo is decided."

2 Those committing crimes were all in reporting lines running  
3 directly to the General Staff of which the accused were part.

4 The accused's awareness of illegal KLA detentions during the  
5 charged timeframe will also be established by the evidence showing  
6 their interactions with illegally detained persons at Likoc, Qirez,  
7 Sedlare, and Drenoc.

8 As 1998 turned to 1999, high-level appointments remained within  
9 the General Staff's province. In a General Staff meeting agenda  
10 found at Rexhep Selimi's house, and seen here at slide B47,  
11 Jakup Krasniqi is discussing appointments and promotions and said  
12 that "nothing should be signed without the GS consent."

13 You can see the KLA General Staff's organisation of appointment  
14 authority from the spring of 1998 formalise in references to a  
15 personnel council. This body's authority can be seen in a 20 January  
16 1999 report on a meeting with KLA zone commanders seized from  
17 Krasniqi's house, here at slide B48. This report is signed by  
18 Bislim Zyrapi and confirms previous practices by providing that as  
19 the regulations stipulate, the commander of the subordinate units  
20 proposes the promotion or dismissal to the zone command. The zone  
21 forwards the proposal by writing to the KLA General Staff, ShP. The  
22 personnel council examines it and submits its proposal to the KLA  
23 General Staff commander.

24 The composition of this personnel council can be found in  
25 meeting minutes found in Rexhep Selimi's possession here at slide

1 B49. You can see this group is comprised of the four accused, with  
2 Krasniqi as the head and Thaci as the deputy head.

3 Further proof that this 20 January 1999 discussion on the  
4 personnel council occurred can be seen in this binding invitation  
5 from Jakup Krasniqi for a meeting with all zone commanders, here at  
6 slide B50, as well as here at slide B51, in a formally signed  
7 document on that same date with the signatures of all seven zone  
8 commanders. Both of these last two items were found in Krasniqi's  
9 home. And the evidence will further show that zone commanders would  
10 travel to meet with the General Staff on a repeated basis towards the  
11 end of 1998 onwards.

12 Now, Your Honours, I have a little bit more to go. This is a  
13 convenient place to stop. I can continue for five minutes or we can  
14 take a break now.

15 PRESIDING JUDGE SMITH: [Microphone not activated]

16 MR. HALLING: Another example of the exercise of the  
17 General Staff's authority can be seen in the events of 8  
18 January 1999, where the KLA captured eight VJ troops in the Shala  
19 zone. The KLA requested assistance from the OSCE in negotiating  
20 their release. This story is a vivid illustration of the KLA's  
21 General Staff's hands-on approach and authority over zone commanders.  
22 As Jakup Krasniqi explains in an unpublished manuscript found at his  
23 house, here at slide B52:

24 "We in the KLA General Staff of the KLA had, towards this  
25 problem as well as towards every other problem of national importance

1 for Kosovo, a responsible and committed approach. The KLA  
2 General Staff was informed in detail about this discussion too, as  
3 well as about every other discussion."

4 International witnesses will explain that Krasniqi was the  
5 point-man for these negotiations about the captured VJ soldiers and  
6 was always on the phone. Hashim Thaci was involved in these  
7 negotiations as well, and another international witness will say that  
8 at one point in the discussions he was handed a phone to speak with  
9 Thaci on the other end.

10 Krasniqi further explained here at slide B53 that:

11 "We have had discussion with GS about this case. There were no  
12 conflicting opinions, and we shared a unanimous opinion."

13 You can also see at slide B54, which is here, this January 1999  
14 photo of Krasniqi and Sokol Bashota at the negotiations with OSCE.

15 At slide B55, we see that the Shala zone released the captured  
16 soldiers on 13 January, with Kosova Press reporting on that day that  
17 the release was based on the executive order of the General Staff.

18 In early February 1999, an international peace conference was  
19 organised in Rambouillet, France. Hashim Thaci, Kadri Veseli,  
20 Jakup Krasniqi and other General Staff members attended the talks.  
21 FRY forces launched a series of further offensives in late February  
22 and early March 1999, and the peace talks collapsed by mid-March of  
23 that year.

24 On 24 March 1999, NATO entered the armed conflict against  
25 Serbia. KLA forces continued to fight as NATO bombarded Serbian

1 positions, most notably through an Operation Arrow in the spring 1999  
2 aimed at creating a weapons supply corridor from Albania into the  
3 heart of Kosovo.

4 As these developments were unfolding, the KLA General Staff  
5 created a provisional government of Kosovo, or PGoK. The PGoK's  
6 structure was formally announced in a communiqué issued by  
7 Hashim Thaci himself, and we can discuss the structure of the PGoK  
8 after the break.

9 PRESIDING JUDGE SMITH: Thank you, Mr. Halling.

10 We'll take a break now. Please be back at 11.30.

11 We are in recess.

12 --- Recess taken at 10.59 a.m.

13 --- On resuming at 11.31 a.m.

14 PRESIDING JUDGE SMITH: Mr. Halling, you still have the floor.

15 MR. HALLING: Thank you, Your Honour.

16 As discussed just before the break, the KLA General Staff  
17 created a provisional government of Kosovo. It was formally  
18 announced in a communiqué issued by Hashim Thaci.

19 You can see this communiqué visualised here at slide B56. The  
20 PGoK's structure recalls roles already being played by the accused.  
21 Hashim Thaci was named the prime minister of this government.  
22 Kadri Veseli became the chief of the intelligence service of Kosovo;  
23 this is SHIK. Rexhep Selimi became the minister of public order,  
24 which gave him operational authority over KLA police. Jakup Krasniqi  
25 became the spokesperson for the PGoK.

1           The General Staff's approach to decision-making is maintained  
2 through these developments. In an interview of 4 March 1999  
3 discussing the creation of the PGoK and how it came to be, seen here  
4 at slide B57, Jakup Krasniqi made clear that:

5           "No individual replacement of anyone can be a substitute for the  
6 collective work of the GS, or the Political Directorate of the GS of  
7 KLA."

8           In the early 1999 period, military police continued to work with  
9 the intelligence service to arrest and detain perceived enemies of  
10 the KLA. The formation of the PGoK did not meaningfully change the  
11 types of functions done by intelligence operatives. You will hear  
12 evidence that SHIK continued its anti-collaboration work from before,  
13 and you will meet witnesses who either worked for SHIK or were  
14 detained/interrogated by those working for them.

15           And the KLA General Staff continued to be informed of  
16 intelligence operations. This, at slide B58, is a handwritten  
17 notebook found in Rexhep Selimi's house. The notes in Selimi's  
18 possession date to 1 March 1999 and describe activities in the  
19 Dukagjin operational zone. You can see that it says that:

20           "Intelligence and counter-intelligence are functioning at a  
21 satisfactory level."

22           In June 1999, a demilitarisation agreement is reached between  
23 NATO and the FRY and Serbian authorities. This agreement provided  
24 for an immediate cease-fire and complete withdrawal of FRY forces  
25 from Kosovo by 20 June 1999. NATO suspended its air strike campaign

1 on 10 June, and on that the same day, the UN Security Council adopted  
2 Resolution 1244. The resolution demanded a cease-fire and decided  
3 the deployment of international forces to Kosovo. These included  
4 both a NATO-led peacekeeping operation called Kosovo Force, or KFOR,  
5 and an international civil administration body known as the UN  
6 Interim Administration Mission in Kosovo, or UNMIK.

7 You will hear that both KFOR and UNMIK investigated KLA crimes  
8 and violations of the demilitarisation agreement upon their arrival  
9 in Kosovo.

10 The KLA PGoK leadership maintained command over the operational  
11 zones during this period. In fact, as Serbian forces retreated and  
12 international forces deployed, the KLA PGoK took advantage of the  
13 power vacuum and moved to take over civil administration across the  
14 country.

15 The KLA PGoK was obligated by the demilitarisation agreement to  
16 not engage in police activities in Kosovo, as this was to be the  
17 responsibility of the international forces arriving in mid-1999.  
18 Nevertheless, you will hear evidence of Rexhep Selimi issuing illegal  
19 authorisations for policing activities as well as from international  
20 witnesses who took actions to try and stop them.

21 KLA PGoK representatives would also meet with internationals in  
22 order to project engagement with the international community. We are  
23 going to provide the evidence of numerous international witnesses who  
24 met with Hashim Thaci, as the KLA PGoK representative, and others in  
25 the course of these discussions.

1 In accordance with the demilitarisation agreement, the KLA  
2 needed to disarm its ranks by 20 September 1999. This step marks the  
3 end of the indictment period in this case.

4 Your Honours, throughout its organisational evolution and  
5 restructuring, the KLA was an organised army across the indictment  
6 period. They were an army by day and an army by night. And the  
7 centralised authority for that army was held in the hands of the KLA  
8 General Staff, a select group which included all four accused.

9 The accused are not on trial today because of the organisation  
10 and structures I've just described. They are on trial because of the  
11 manner in which they wielded their authority and drove those  
12 structures to their own ends. Whether exercising their authority as  
13 General Staff members directly on the ground early in the indictment  
14 period or through lower-level commanders expected to implement policy  
15 as the war progressed, each of the four accused, simply put, could  
16 implement their will. They could implement their will.

17 So what was their will? And this is the subject to which my  
18 colleagues will now turn, outlining the common criminal purpose to  
19 which all four accused were part.

20 PRESIDING JUDGE SMITH: Thank you, Mr. Halling.

21 Mr. Ferdinandusse, you have the floor.

22 MR. FERDINANDUSSE: Thank you, Your Honour.

23 You have just heard how the four accused in this case exercised  
24 their authority during the indictment period through their roles on  
25 the General Staff and in the provisional government of Kosovo.



1           During this next part of the opening statement, we will set out  
2           how the accused implemented the common criminal purpose of targeting  
3           - with intimidation, detention, and violence - persons who were  
4           deemed to be opponents. This part will be delivered by me and  
5           Mr. Tieger, and in this first part delivered by me, all slides will  
6           be for public broadcast.

7           Opponents included persons who were perceived to be  
8           collaborating or associating with Serbian institutions or those  
9           persons who simply did not support the aims or means of the KLA,  
10          including persons associated with the Democratic League of Kosovo,  
11          the LDK, as well as persons of Serbian, Roma, or other ethnicities.  
12          Sometimes they were referred to as traitors, collaborators, or  
13          collaborationists.

14          The evidence will show that these terms were consistently  
15          misused and abused interchangeably. The evidence will show that  
16          persons labelled as such were detained arbitrarily and without  
17          process, and in many cases they were subject to horrific abuse, as  
18          you will hear in a later part of this opening statement.

19          The common criminal purpose took aim at anybody who was  
20          perceived to stand in the way of the accused's objectives and  
21          tactics. The four accused abused their positions in the  
22          General Staff to devise, oversee, order, encourage, foster, and  
23          assist the implementation of this plan throughout the indictment  
24          period.

25          What is the evidence of this common criminal purpose? It was

1 plainly and explicitly set out repeatedly in official communiqués  
2 issued by the General Staff with the knowledge and sanction of the  
3 accused, and it was repeated and echoed in speeches and interviews,  
4 rules and regulations, orders, meetings, and reports. The policy was  
5 further implemented through incidents directly involving the accused,  
6 and we will offer in this opening just some of the examples of this.

7 In the end, the evidence will prove beyond all doubt that  
8 throughout the indictment period the accused agreed on the common  
9 criminal purpose and actively furthered its implementation.

10 Let's start with the communiqués of the General Staff. As you  
11 heard from Mr. Whiting, a striking aspect of this case is that the  
12 common criminal purpose was not a secret. In Kosovo, it was widely  
13 known and openly advocated. Its implementation depended in part on  
14 this broad dissemination of the message, encouraging soldiers in the  
15 zones to act against opponents, and ensuring also that all persons  
16 who might fall into the broad category of opponents would be  
17 intimidated and cowered.

18 Beginning with the very early communiqués and continuing into  
19 the indictment period, with the four accused in key roles at all  
20 relevant times, the General Staff embraced a policy of targeting  
21 opponents mercilessly with violence and death.

22 The first known communiqué of the General Staff was issued in  
23 November 1994, as you can see here on slide C1. As you heard from  
24 Mr. Halling, Rexhep Selimi has stated that he, Hashim Thaci, and  
25 Kadri Veseli were already members of the General Staff at that time.

1 In a public interview prior to his indictment, Rexhep Selimi freely  
2 discussed his involvement in both attacks and discussions leading to  
3 this communiqué.

4 As you can see on the screen, the communiqué announced the KLA  
5 attack and declared, I quote:

6 "We would like to inform that the previous attacks in Kosovo  
7 against the occupiers and traitors were carried out by our armed  
8 units. Down with the occupiers and the traitors!"

9 This policy was repeated in even more explicit terms again and  
10 again in communiqués throughout 1996, 1997, and 1998. The  
11 communiqués announced the executions of so-called collaborators and  
12 traitors, and warned that such measures would continue.

13 Communiqué 29, issued in January 1997, and shown here on slide  
14 C2, is an example. It announced that specific attacks had been  
15 mounted against persons accused of collaborating, and then said, I  
16 quote:

17 "This is the last time we are appealing to the collaborators of  
18 the aggressors to give up their shameless path; otherwise, there will  
19 be no mercy on them."

20 No mercy on them. The message is clear. Persons accused of  
21 collaboration will be targeted and shown no mercy. This policy was  
22 repeated again and again in the communiqués.

23 Look at communiqué 36 from September 1997 on slide C3. It says,  
24 I quote:

25 "A few days ago, one of our units, in the Drenica Zone, executed

1 two other collaborators of the occupier."

2 Communiqué 42, from February 1998, announced the assassinations  
3 of several alleged collaborators.

4 Communiqué 43, in March 1998, I quote:

5 "Death to the enemies and traitors."

6 Communiqué 47, from May 1998, now on the screen on slide C4, I  
7 quote:

8 "During this period, a number of attacks were also carried out  
9 against certain Albanian collaborationists who, despite earlier  
10 warnings, had not given up on their anti-nationalistic path."

11 This policy of targeting alleged collaborators, traitors,  
12 opponents, was therefore very much in the public eye in Kosovo.

13 Informed international observers also took notice. In July  
14 1998, members of the General Staff, including Hashim Thaci,  
15 Jakup Krasniqi, and Kadri Veseli, intensified their outreach to  
16 internationals in order to garner critical support for the KLA. In  
17 one meeting in July 1998, Mr. Thaci and Mr. Veseli were directly  
18 confronted with allegations of detentions and abductions. And you  
19 will hear that Mr. Thaci did not deny those allegations but instead  
20 responded by pledging that the KLA would respect the Geneva  
21 Conventions because, he said, they were a regular army.

22 Back to the communiqués.

23 In this time period, summer 1998, as the outreach to  
24 internationals intensified, there was a shift in the tone of the  
25 communiqués. They became more guarded and coded, but the message

1 remained unmistakable.

2 The making of communiqué 49 is instructive. This is slide C5.  
3 These are notes titled, and you see it on the left side of the screen  
4 on the top, "KOM Nr. 49." These notes were found in the house of the  
5 accused Krasniqi, and these notes include this line on the screen  
6 now, I quote:

7 "Some collaborationists were liquidated."

8 Such drafting notes were found in Mr. Krasniqi's house not only  
9 in typed form but also in a handwritten version. This is slide C6.  
10 As you can see, this handwritten version bears the title "Communiqué  
11 No. 49," and it states:

12 "Collaborators were also liquidated."

13 However, by the time communiqué 49 was actually issued in July  
14 1998, and you now see it on slide C7, this line had become, I quote:

15 "Measures have been taken against branded collaborationists, who  
16 still worked against national interests."

17 While earlier communiqués openly heralded assassinations,  
18 executions, and attacks, going forward "measures" or "punitive  
19 measures" would become a new term for such actions taken against  
20 opponents.

21 Communiqué 52, issued in August 1998, said that "preventative  
22 and punitive measures" were "taken against some," quote/unquote,  
23 "collaborationist elements."

24 Communiqué 53 from September 1998 said this, I quote:

25 "Punitive measures of various forms are being taken against

1 collaborationist elements who continue to serve the occupying rule."

2 There is no question what was meant by "measures." It meant  
3 targeting. It meant detention. It meant violent abuse. It meant  
4 assassination.

5 Now, what was meant by the terms "collaborators" or "traitor" in  
6 these communiqués? Did it only refer to persons who posed a danger  
7 to the KLA because they were passing on harmful information to the  
8 Serbian military? No. The evidence will show that these terms were  
9 broadly used to refer to persons who associated with Serbs, had a  
10 different political outlook, or opposed KLA tactics.

11 Look at communiqué 21 from July 1996 here on slide C8. The  
12 communiqué stated that "international decision-making centres" were  
13 failing to take the Kosovo issue seriously and it expressed a concern  
14 that there might be a "deal" struck that would compromise the goal of  
15 independence for the Kosovo.

16 The communiqué then warned, I quote:

17 "Those who dare sign such agreements shall be punished for  
18 treason."

19 In other words, opposing the tactics of the KLA meant you could  
20 be targeted for death.

21 Look at communiqué 27 on slide C9. It was issued in October  
22 1996 and published in November 1996. The communiqué announced the  
23 execution of two men, as decided by the KLA General Staff, still  
24 referred to in this document as the Central Staff. The communiqué  
25 then directed a message at those Albanians who had politically

1 criticised the tactics of the KLA as being terroristic and the  
2 warning to these political opponents was clear. I quote:

3 "You on the other side must stop your accusations and must  
4 support our struggle, otherwise we will also knock on your doors to  
5 give you the deserved punishment."

6 The deserved punishment for failing to support the struggle.  
7 There is no doubt what that meant.

8 Let's look again at communiqué 29 from January 1997, shown now  
9 on slide C10. As I already noted, it announced several executions.  
10 Let's look at it more closely.

11 The second attack that is described is against the rector of the  
12 Serb university in Prishtine. Now, why was he targeted? The  
13 communiqué says that, and I quote:

14 "The consequences of his anti-Albanian activity, especially  
15 within the educational system, are well known to all."

16 He was not a legitimate military target. He was a civilian, and  
17 he was targeted for his activities in the educational system.

18 In the same vein, in communiqué 36, from September 1997, the  
19 General Staff gave "notice" to politicians in Kosovo who were  
20 "spewing venom" about the KLA.

21 Communiqué 47, issued in May 1998, condemned so-called  
22 collaborators for their "anti-national courses of action."

23 Communiqué 49, issued in July 1998, targeted collaborators for  
24 "working against our national interests."

25 In September 1998, political statement number 10, issued by the

1 General Staff, suggested that positions taken by political actors in  
2 Kosovo amounted to treason. And we know from prior communiqués what  
3 it meant to accuse someone of treason.

4 Make no mistake, the terms "collaborator" and "traitor" were  
5 broadly used in these General Staff communications to include persons  
6 who advocated political approaches that deviated from those promoted  
7 by the KLA, and the warning to those persons was clear. It was clear  
8 in the language of the communiqués, and the danger they were in is  
9 confirmed in the charged incidents involving the targeting of  
10 opponents.

11 In the summer of 1998, the General Staff further framed the  
12 targeting of political opponents as part of its campaign against what  
13 it termed "special warfare." The term "special warfare" referred to  
14 propaganda directed against the KLA by Serbian forces and others to  
15 undermine the KLA's support both within Kosovo and outside Kosovo.

16 Examples of such perceived special warfare were labelling the  
17 KLA as a terrorist organisation or as being weak and divided.  
18 However, in official communications from the KLA General Staff, from  
19 summer 1998 onwards, political opponents were grouped with those who  
20 were alleged to be deploying such special warfare or propaganda  
21 against the KLA. In other words, criticism of KLA tactics or goals  
22 by political opponents and support by political opponents for  
23 alternative resolutions of the conflict, such as the granting of  
24 autonomy to Kosovo instead of independence, were equated with, or  
25 said to be in service of, Serbian propaganda against the KLA.



1           Look at political declaration number 7 on side C11. It was  
2 issued by the political directorate of the KLA General Staff in  
3 August 1998. This declaration is significant because it revealed  
4 publicly some of the political representatives of the KLA, including  
5 two of the accused - Hashim Thaci and Jakup Krasniqi.

6           But look at what this declaration also says about special  
7 warfare. It says, and I quote:

8           "Compared to the blows delivered against the oppressor on the  
9 battlefield, the Kosovo Liberation Army successfully faced the forms  
10 of special warfare that accompanied the occupier's offensive."

11           And what form did this special warfare take? The political  
12 declaration continues, I quote:

13           "Speculation related to the formation of institutions represents  
14 one of the forms of special warfare against the vital interests of  
15 the Albanian people. We make our last appeal to the bearers of this  
16 speculation to put an end to their divisive activity. Otherwise, our  
17 blow will be merciless."

18           The message is clear. Any political dissent will be targeted  
19 without mercy.

20           Look at slide C12 showing communiqué 51, which was issued by the  
21 General Staff in August 1998. The communiqué reports on military  
22 activities and then turns to special warfare. It says, and I quote:

23           "Despite the highest level of professional and military courage  
24 and determination shown, our war everywhere would have been more  
25 successful had it not been for the attempts to infiltrate hostile and

1 defeatist elements into the KLA, who have engaged and are still  
2 engaging in a kind of nasty special warfare, spreading misinformation  
3 and creating a feeling of panic, not just among the population only."

4 Eradicating special warfare continued to be a preoccupation of  
5 the General Staff and provided a justification to target, as a threat  
6 to the KLA, all those who dared to criticise the KLA or to propose  
7 alternative paths.

8 We will return to this topic a bit later on in this  
9 presentation.

10 Now, since the end of the war, when investigations of alleged  
11 crimes committed during the war began, the evidence will show that  
12 some of the accused have tried to run from these clear expressions of  
13 policy by the KLA General Staff, claiming that the communiqués and  
14 political declarations were nothing more than propaganda, or even  
15 that they were not issued by the General Staff at all.

16 The evidence that will be presented during this trial will show  
17 that these claims are plainly false. While the communiqués may have  
18 at times exaggerated some of the successes of certain military  
19 operations, the evidence will show that specific operations against  
20 alleged collaborators announced in the communiqués did, in fact,  
21 happen. And this is not surprising.

22 You can imagine the difficulty if the General Staff publicly  
23 announced the execution of an alleged collaborator or traitor in a  
24 communiqué, and the next day that person would appear in public alive  
25 and well.

1           We saw communiqué 36, from September 1997, announcing  
2           synchronised attacks on police stations in Kosovo. As you heard  
3           today already, Rexhep Selimi has publicly confirmed that those  
4           attacks occurred.

5           You saw communiqué 29, from January 1997, announcing the attack  
6           on the rector of the Serb university of Prishtine. You will receive  
7           evidence that this targeted attack, in fact, occurred. Mr. Krasniqi  
8           has accepted under oath that attacks on so-called collaborators  
9           described in specific communiqués in 1997 and 1998, in fact,  
10          occurred.

11          More importantly, it makes no sense to describe the policy of  
12          targeting alleged collaborators or traitors as expressed in the  
13          communiqués as propaganda.

14          The communiqués invited and gave license to other actors in the  
15          KLA - zone commanders, intelligence units, military police - to  
16          target opponents for detention and abuse. If this policy was meant  
17          to be false propaganda, that will be news to all those who acted on  
18          it during the war.

19          Were the communiqués issued by the General Staff with the  
20          accused as its key members? Of course they were. Of course they  
21          were. The evidence at trial will show that the task of issuing  
22          communiqués was regulated in the General Staff, or Central Staff as  
23          it was for a time publicly termed, from the very beginning.

24          Mr. Krasniqi has stated that the KLA began issuing communiqués  
25          in 1994 to inform the public, and he has specifically identified

1 certain communiqués as far back as 1997 as coming from the KLA  
2 General Staff, including communiqué 35 from August 1997; communiqué  
3 42 from February 1998, which, as mentioned, announced the  
4 assassinations of several alleged collaborators; communiqué 47 from  
5 May 1998, which also announced that collaborators had been targeted;  
6 and communiqué 54 from 18 September 1998, which announced that, I  
7 quote, "punitive measures of various forms are being taken against  
8 collaborationist elements who continue to serve the occupying rule,"  
9 and this communiqué was issued just days before some of the victims  
10 in this case were to be detained.

11 Drafting notes. Complete drafts and published versions of many  
12 communiqués were found in the search of Mr. Krasniqi's house in  
13 original printed, photocopied, handwritten, typed, and digital forms.  
14 In fact, Mr. Krasniqi was in possession of 42 different public  
15 General Staff communications from the indictment period, including  
16 many communiqués, in a total of 94 versions or copies.

17 And you will remember that this includes communiqué 49, from  
18 July 1998, announcing measures against suspected collaborators, which  
19 we know from the drafting notes found in Mr. Krasniqi's house meant  
20 that these persons had been liquidated.

21 In an interview with the ICTY in 2004, Hashim Thaci admitted  
22 that the General Staff communicated publicly through communiqués, and  
23 he specifically said that communiqué 47 from May 1998 was from the  
24 General Staff, as was communiqué 49 from July 1998, both of which I  
25 mentioned a moment ago.

1           In this trial, you will also hear evidence from insider  
2 witnesses on the receiving end of these communiqués confirming what  
3 can be seen in the communiqués themselves and was admitted by most  
4 accused before they were indicted. The General Staff used these  
5 communiqués to disseminate their messages to a wide audience.

6           When a communication was falsely issued on behalf of the  
7 General Staff, the General Staff knew how to disavow it. Communiqué  
8 42, issued in March 1998, is an example. It says, I quote:

9           "The communiqué fabricated by certain anti-Albanian quarters,  
10 released in the name of the KLA, in which the Albanian prime minister  
11 was threatened, is not ours and as such is invalid."

12           The story of the authorship and authenticity of communiqué 59,  
13 which was published in October 1998, and which will be the subject of  
14 considerable discussion during this trial, is instructive.  
15 Communiqué 59 falsely accused a particular individual of being a  
16 collaborator because, the evidence will show, members of the  
17 General Staff, including Hashim Thaci, wanted this person to be  
18 targeted for abuse, if not death.

19           In a television interview in February 2019, Hashim Thaci claimed  
20 that this communiqué had not been issued by the KLA General Staff,  
21 that it had been issued by malicious individuals without the  
22 knowledge of the General Staff, and that in general some of the  
23 General Staff communiqués and declarations had been issued not by the  
24 General Staff but "from Bahnhofs," meaning train stations, unknown  
25 persons abroad in order to divide the KLA and sow confusion.



1       communiqué.

2               Now, what is encapsulated by this story of communiqué 59?  
3       During the war, Hashim Thaci used the collaborator label in this  
4       communiqué to smear and to try to destroy someone. After the war,  
5       when it is time to take responsibility, to own up to it, what does  
6       Mr. Thaci do? He runs away. He falsely denies having anything to do  
7       with the communiqué, only to be called out for it by two of his  
8       co-accused.

9               And we will ask Your Honours to keep that story in mind as you  
10       receive all the other evidence in this case.

11              This concludes my part, and Mr. Tieger will continue from here.

12              PRESIDING JUDGE SMITH: Thank you.

13              Mr. Tieger, you have the floor.

14              MR. TIEGER: Your Honours, you've just heard how the policy of  
15       targeting collaborators and opponents was repeatedly emphasised in  
16       communiqués issued by the General Staff in the years before and into  
17       the indictment period.

18              The evidence will further show that the policy expressed in  
19       those communiqués reverberated in statements, interviews, orders,  
20       reports, regulations, as well as in the actions of the accused in  
21       furtherance of advancing the common purpose, advancing the objective.

22              I'll be going through some of those chronologically. And  
23       although I will be selecting only examples for purposes of this  
24       presentation, the consistency of the efforts of the accused are  
25       apparent over time.

1           The very first time the KLA came out publicly was at a funeral  
2 following a battle with Serbian forces in November 1997. And there,  
3 Rexhep Selimi underscored that during the past four years, the KLA  
4 had carried out operations against "the occupiers in sensitive  
5 locations as well as against their Albanian-speaking collaborators,  
6 collaborationists." He also denounced political figures who "attempt  
7 to denigrate our holy war with their pacifist positions."

8           Moving to March 1998, as the accused manage the deployment of  
9 new volunteers into the KLA following events in Prekaz, they put in  
10 place persons aligned with them to implement their policies. You'll  
11 recall Mr. Halling's reference to Xheme Gashi and Mahir Hasani in  
12 Drenoc who served as commander and deputy commander, and as noted in  
13 a report to which Mr. Halling also referred, they were present in  
14 Drenoc by order and permission of the General Staff. Indeed, they  
15 had both been part of groups led into Kosovo from Albania by  
16 Mr. Thaci and Mr. Veseli and installed in places like Drenoc to  
17 organise and develop local units on behalf of the General Staff.

18           The evidence will further show that Mr. Selimi also was  
19 frequently in Drenoc during this period. And it will show that the  
20 common purpose was implemented there.

21           You'll see, for example, a notebook with entries from June to  
22 August 1998 that contains information about persons suspected and  
23 detained in Drenoc, including a reference to persons arrested who  
24 were sent to the General Staff. The indictment alleges that at least  
25 38 persons were detained in Drenoc in this time period.



1 Likoc was an early hub for the General Staff and later became  
2 the headquarters of the Drenica zone under the command of  
3 Sylejman Selimi, as you've heard, Rexhep Selimi's first cousin.  
4 Sami Lushtaku was installed as Sylejman Selimi's deputy commander,  
5 and Sahit Jashari, whom you've already seen on video proclaiming his  
6 readiness to carry out the orders of the General Staff, as the police  
7 commander. Both of these men also came to Kosovo in the spring of  
8 1998 in a group led by the accused, Hashim Thaci. And here, too, the  
9 common purpose was implemented.

10 An 18 May 1998 document found in Likoc contains the names of  
11 some of the persons who would be detained and interrogated in Likoc  
12 and, in some instances, disappeared. At least 25 persons were  
13 detained and mistreated in Likoc beginning in April 1998.

14 Further evidence that in the spring of 1998 the policy of  
15 targeting opponents was being implemented on the ground under the  
16 direction of the accused is reflected in slide D1.

17 And all of the slides we'll be showing can be broadcast publicly  
18 except the final two, and we'll indicate when those two appear.

19 On the screen, Your Honours, is the cover of a notebook that was  
20 found in a search of Mr. Selimi's house at the time of his arrest.  
21 The notebook contains numerous entries from May 1998. Many that  
22 reference meetings or consultations with Rexhep Selimi himself, who  
23 was identified either by his war alias, Dhjete, or Ten, or as Rexh.  
24 The notebook contains information about logistical and operational  
25 matters as well as information about military engagements. And

1 within the same notebook is reference after reference to suspected  
2 collaborators, often identified by name. Some are deemed suspicious  
3 because they are "close to" other people who are suspicious. One  
4 woman is deemed suspicious because she had a child with a Serbian  
5 traffic police officer.

6 The accused also promoted and acknowledged the policy in  
7 speeches and interviews. Almost immediately after Jakup Krasniqi was  
8 appointed spokesperson of the KLA General Staff, in order, in his own  
9 words, to represent and publicise the policies of the General Staff,  
10 he gave an interview to Der Spiegel, shown here in D2, in which he  
11 openly acknowledged the policy of targeting collaborators. He was  
12 asked:

13 "In the West, the KLA is frequently categorised as a terrorist  
14 movement. Why does it kill peaceful Albanians?"

15 And Mr. Krasniqi replied:

16 "Collaborators are warned that we will kill them if they  
17 continue on the wrong path."

18 Mr. Krasniqi later confirmed the accuracy of this article.

19 The next month, Mr. Krasniqi gave an interview to Koha Ditore  
20 and was asked about the international condemnation of the KLA  
21 targeting civilians. Trying, uncomfortably, to explain away, and  
22 even justify, the practice that had caused the condemnation, he made  
23 several admissions:

24 "There have been cases in which they have been kidnapped, but in  
25 this event they've been handed over to international organisations,

1 of course, when they have been innocent."

2 He went on to say:

3 "We do not go in for kidnapping. Even if some have suffered,  
4 these have been more Albanian collaborators than Serbian civilians.  
5 We do not deal with civilians, and we return those whom we take as  
6 prisoners of war."

7 Then he also added:

8 "Those we have kidnapped are either announced in a list or  
9 reported to be executed, but we do not behave in a base fashion like  
10 Serbia."

11 International concern about the conduct of the KLA came up again  
12 in July 1998, when Austrian diplomat Jan Kickert met with Mr. Thaci  
13 and Mr. Veseli. As noted earlier, Mr. Kickert raised the issue of  
14 allegations of abductions and detentions in the context of possible  
15 ICRC access. Mr. Thaci and Mr. Veseli did not say, "What  
16 detentions?" They didn't deny the allegations, but instead Mr. Thaci  
17 said, as you heard earlier, that the KLA would respect the Geneva  
18 Conventions.

19 Similarly, Rexhep Selimi acknowledged during his interview with  
20 the SPO that he was aware that detentions were occurring, although he  
21 claimed that he did not know exactly where the sites were.

22 Mr. Halling spoke to you about the implementation of regulations  
23 and normative documents as part of the KLA's organisational  
24 development. The General Staff ensured that targeting opponents was  
25 also embedded in the functions of the intelligence and military

1 services of the KLA, both of which were established in the spring and  
2 summer 1998 and which worked together to identify and detain  
3 collaborators, alleged collaborators.

4 You heard reference to the provisional regulations for internal  
5 organisation in the army adopted in early July 1998 and among the  
6 many documents found in Jakup Krasniqi's house. One chapter of the  
7 regulations, seen here in D3, covers the military police and its  
8 duties. It contains a section that echoes the General Staff  
9 communiqués and statements. It says that the military police "should  
10 be merciless toward the enemy and toward all those who try to  
11 obstruct and sabotage our liberation war."

12 And as seen in D4, the regulations also require the military  
13 police to "assist and cooperate with the intelligence service  
14 directorate in investigating various forms of crime," language echoed  
15 in the Limaj military police directorate document referred to by  
16 Mr. Halling.

17 The military police responsibilities were similarly reflected in  
18 regulations for the military police in Dukagjin. Seen here in D5,  
19 regulations approved at a meeting attended by General Staff member  
20 and JCE member Lahi Brahimaj. Those regulations included the  
21 following tasks:

22 "It is the duty of the MP to investigate and uncover all  
23 individuals who collaborate with the enemy in any way by convincing  
24 facts."

25 And:

1 "It is the obligation of the MP to take action against all who  
2 work against the Kosovo Liberation Army."

3 In addition to Brahimaj's presence, minutes of the Dukagjin  
4 staff meetings were to be provided to the General Staff pursuant to  
5 its order.

6 And you will also hear evidence from witnesses and documents  
7 about the role of the intelligence service headed, as you've already  
8 heard, by Mr. Veseli.

9 D6 is a handwritten KLA notebook from July 1998 which lists many  
10 suspected persons and alleged collaborators. As this entry  
11 succinctly notes, the work and duties of the intelligence sector  
12 included "discovering enemy collaborators," and "kidnappings,  
13 actions, activities with the Military Police official."

14 Similarly, the regulations of the military intelligence at the  
15 district level, which Mr. Halling mentioned, speak of kidnapping,  
16 killing, or liquidating people considered important to the enemy.

17 Now, as you heard earlier, particularly following the summer  
18 offensive in 1998 and the mounting expressions of public and  
19 international concern about the KLA approach and its consequences,  
20 the focus on opponents considered to be engaged in special war  
21 intensified, led by the accused.

22 Notes describing KLA General Staff meetings held on 23 July and  
23 16 July 1998 were found in the house of Jakup Krasniqi, revealing  
24 that on 23 July 1998, the General Staff discussed "that there were  
25 strong tendencies to destroy KLA through LDK," and on 16 August 1998,

1 the General Staff "talked about the special war" as well as actions  
2 by FARK officers and Tahir Zemaj allegedly against the KLA and the  
3 war in general.

4 In August 1998, as Mr. Halling referred, a KLA General Staff  
5 delegation, including Mr. Thaci, Mr. Selimi, and Mr. Krasniqi,  
6 visited the Shala and Llap zones. And as Mr. Krasniqi later wrote,  
7 they stopped first in the Shala zone, where they spoke with the local  
8 commanders about special war and the risk it posed to the KLA.

9 In September, Mr. Krasniqi gave an interview to the newspaper  
10 Zeri i Kosoves in which he attacked those purportedly engaged in  
11 special war, particularly linking it to the LDK. He accused the LDK  
12 of waging special war "in order that an unfavourable solution for  
13 Kosovo was accepted," a thinly veiled threat to the unacceptability  
14 of autonomy as a political solution.

15 Criticism or questioning of the KLA was likewise considered a  
16 form of special war. And Mr. Krasniqi also denounced political  
17 circles in Kosovo for "waging a special war against the Kosovo  
18 Liberation Army, and they are not accusing the occupying army but the  
19 KLA for the damages caused by the Serbian military."

20 Days later, on 20 September 1998, 13 parliamentary delegation  
21 members on a humanitarian visit to Qirez were arrested, detained, and  
22 mistreated by members of the KLA, including Hashim Thaci and  
23 Rexhep Selimi.

24 On 23 September, the military police directorate of the KLA  
25 issued a press release, shown here in D7, announcing that the KLA

1 military police had arrested 13 "syndicalists, institutionalist party  
2 representatives" in Qirez for "divisive, partisan, schismatic,  
3 institutionalist, anti-liberation war propaganda for handing over  
4 weapons and for a temporary solution of Kosovo's political status  
5 within Serbia that they had been conducting on the ground."

6 The evidence will also show that Hashim Thaci told the arrested  
7 delegation members that the KLA did not recognise the parliament of  
8 Kosovo, questioned them, had them write statements denouncing Rugova  
9 and renouncing the LDK, and told them that they should resign from  
10 their parliamentary posts.

11 The following month, in October 1998, according to notes found  
12 in a search of his house, Rexhep Selimi conducted an inspection in  
13 the Llap zone. He noted that the commander of the Llap zone, Remi  
14 Mustafa, stated that "special war and propaganda" were not present,  
15 reflecting the commander's awareness that this was a matter of  
16 concern and interest to Mr. Selimi and to the General Staff.

17 At the end of that month, October 1998, when Mr. Thaci sat down  
18 to compose his first televised address, he began by focusing on those  
19 who did not support the KLA, indicating that they were collaborators  
20 and traitors. Pushed by a non-KLA media representative to use  
21 different language, his next version packaged the attack on  
22 non-supporters as special warfare, praising KLA achievements "despite  
23 the propaganda and the special war waged before, during, and after  
24 the offensives of the Serbian occupiers, assisted also by autonomist  
25 elements."

1           And then on 1 November 1998, the KLA military police directorate  
2 issued Press Release No. 4, shown here in D8, announcing that two  
3 members of the LDK, Jakup Kastrati and Cen Desku, had been arrested  
4 by the military police of the KLA. The two men were detained because  
5 they were political opponents, and their arrest shows how the  
6 intelligence service and the military police worked in conjunction to  
7 target such opponents. As the press release states:

8           "According to the information of the KLA Intelligence Service,  
9 during their activity against the KLA liberation war, the  
10 above-mentioned persons have spread propaganda about surrendering the  
11 weapons in cooperation with collaborators, namely Selmon Binici from  
12 the village of Banje and Ramiz Hoxha from Bellanice, who had been  
13 executed some time ago by the KLA."

14           They were also accused of being in contact with an inspirer of  
15 special war and initiator of a kind of autonomous police. The  
16 evidence will further show that on Hoxha's body was a handwritten  
17 "execution order" from the KLA secret police accusing him of  
18 collaboration and spreading anti-Albanian propaganda.

19           And on 3 November 1998, so two days after the arrest of Kastrati  
20 and Desku, a KLA delegation met with a US State Department  
21 representative in Geneva. The delegation included Bardhyl Mahmuti,  
22 whose name you saw on Political Declaration No. 7, who was a KLA  
23 political representative working outside Kosovo. Notes of this  
24 meeting were also found in Mr. Krasniqi's house, and they reflect  
25 that the discussion turned to the arrest of Mr. Desku and



1 Mr. Kastrati.

2 And as you see on the screen in D9, the notes reveal that  
3 Mahmuti very openly explained that:

4 "As for the arrest of the two LDK 'officials,' in this case we  
5 have to do with two spies, collaborationists of the repressive  
6 Serbian apparatus. They have been arrested because they have caused  
7 damage to our cause."

8 The State Department representative then suggested that the  
9 Red Cross should visit them but asked how that could happen when  
10 there was no information about the location of the prison, to which  
11 Mahmuti replied:

12 "Only the General Staff has the authority, neither us nor even  
13 Demaci. We can only convey this information to the General Staff.  
14 It is their issue."

15 In Mr. Krasniqi's house, a draft was found of an order, an order  
16 of the KLA General Staff justice directorate, shown here in D10,  
17 ordering the continued detention of Kastrati and Desku because they  
18 "carried out a special warfare against the KLA and our people's war  
19 for freedom and independence. They defended the wretched position of  
20 the party they belong to, which has always obstructed our people's  
21 commitment in the war for freedom, they spread insecurity and  
22 defeatism everywhere they went to. They did not help the KLA; on the  
23 contrary, they hindered and sabotaged its just war."

24 And the evidence will further show that on 6 November 1998, at a  
25 meeting that included US diplomatic representative Christopher Hill,

1 Hashim Thaci, Jakup Krasniqi, and Fatmir Limaj, Mr. Hill raised the  
2 issue of those arrests and Mr. Krasniqi said that they would be  
3 released. A single episode that ties together the General Staff and  
4 two of the accused specifically with a common criminal purpose of  
5 targeting opponents.

6 The following month, in December 1998, the chief of the  
7 General Staff, Bislum Zyrapi, ordered the KLA zone commanders to  
8 attend a reporting session on the 20th of the month, shown here in  
9 D11. A copy of this order was also found in the search of  
10 Mr. Krasniqi's house.

11 One topic that the commanders were instructed to report on was  
12 defence and security. Following the meeting of the zone commanders  
13 and submission of written reports, Mr. Zyrapi reported that:

14 "Special units and military police provide special help by  
15 successfully facing the enemy's special war and its collaborators."

16 And, again, you can see the engagement by the General Staff with  
17 the issue of special war and the role of special units and the  
18 military police in dealing with it.

19 Turning to 1999, Mr. Halling noted earlier the notebook found in  
20 Mr. Selimi's house that revealed the satisfactory functioning of the  
21 intelligence and counter-intelligence services in Dukagjin in March  
22 1999.

23 Now, next on screen will be D12. It is not to be broadcast to  
24 the public.

25 The search of Mr. Selimi's house also found this document, also

1 from March 1999, a report from the intelligence sector of the  
2 Dukagjin zone containing a long list of suspected collaborators from  
3 different parts of Kosovo.

4 And if we go to the next slide, also not to be broadcast. This  
5 is D13. And as you can see, this is a list of persons sought by the  
6 military police. Many of the names in the intelligence service  
7 report you just saw appear here on this separate list of names of  
8 persons wanted by the military police. Again, showing the  
9 cooperation between the intelligence sector and the military police  
10 to target opponents and alleged collaborators.

11 And just as the targeting of opponents did not cease during  
12 peace negotiations and Rambouillet in February and March, it did not  
13 end with the Kumanovo Agreement in June, as people continued to be  
14 arrested, detained, interrogated, and mistreated because they were  
15 suspected to be opponents, including harbouring information about  
16 other alleged opponents.

17 And you will hear that internationals were aware of KLA  
18 detention sites during this period and confronted Mr. Thaci directly  
19 with that information. And you will also see reports of UNMIK, KFOR,  
20 and others which show that the KLA was repeatedly informed that, A,  
21 its soldiers were violating the demilitarisation agreement, including  
22 through illegal policing operations; and, B, its soldiers were  
23 illegally detaining Serb and other civilians.

24 In sum, Your Honours, as the accused worked together to  
25 formulate, oversee, monitor, implement, and advance the objective,

1 they publicly disseminated messages to broadcast its intimidatory  
2 message. They installed subordinates in key organisational roles to  
3 ensure its implementation. They oversaw the establishment of  
4 structures and creation of regulatory and normative documents to  
5 advance it, and they were personally involved in its implementation  
6 month after month after month.

7 Your Honours, Mr. Pace will now set forth the pattern of  
8 detentions, abuse, and murders that resulted from the implementation  
9 of the common criminal purpose and which is also further evidence of  
10 the existence of that plan.

11 I see given the time, we should probably continue, and I'll turn  
12 the floor over to Mr. Pace.

13 PRESIDING JUDGE SMITH: Thank you, Mr. Tieger.

14 Mr. Pace, you have the floor.

15 MR. PACE: Good afternoon, Your Honours.

16 "And such people, collaborators, who were numerous, they have  
17 received little punishment for what they were."

18 This is an excerpt from Jakup Krasniqi's testimony before the  
19 ICTY on 10 February 2005. It is slide E1. And like all other slides  
20 in my presentation, it's for public broadcast.

21 The evidence you will hear, Your Honours, will lie in stark  
22 contrast to this assertion by Mr. Krasniqi. The evidence will show  
23 that between April 1998 and August 1999, KLA members under the  
24 accused's command and control deprived the liberty of hundreds of  
25 individuals without due process of law.

1           There are at least 440 incidents of detention charged in the  
2 indictment, which includes persons detained at multiple sites. These  
3 victims, including persons working in forestry, farming, journalists,  
4 persons working for state or state-owned entities, teachers, and also  
5 others. Many were LDK supporters or simply did not support the KLA.

6           Just before they were detained, some of the victims were KLA  
7 soldiers, while others were members of the Serbian forces. Apart  
8 from Albanians and Serbs, victims included Roma, Montenegrin, and  
9 Bosnian persons.

10           The evidence will show that these persons, who were detained  
11 illegally, were accused, among other things, of being so-called  
12 collaborators. Such an accusation at the time was grave. At times,  
13 lethal.

14           As you have already heard today, some members of the KLA abused  
15 this label. Suspicions of collaboration were often objectively  
16 unfounded.

17           The very act of arrest or detention by the KLA meant that the  
18 victims of the charged crimes were thereafter, by definition, not  
19 taking active part in hostilities. These victims were questioned,  
20 beaten, and otherwise physically and psychologically abused. Those,  
21 sadly, were the luckier ones. At least 102 victims never made it out  
22 alive, meeting brutal deaths because they were considered opponents.

23           KLA members refused to provide information on the whereabouts of  
24 about least 20 victims, those falling under the charged incidents of  
25 enforced disappearance. This left friends and relatives of such

1 victims in limbo.

2 These acts and others also amount to the crime of persecution on  
3 political and/or ethnic grounds.

4 The geographic scope of the charges is relatively broad,  
5 covering detention sites across Kosovo and certain parts of Albania.

6 While there were certain periods of intensity in terms of the  
7 charged incidents, the crimes were committed consistently. The  
8 evidence will show that the crimes were not unconnected or isolated  
9 incidents by rogue or unrelated KLA members. Rather, the evidence  
10 will show the crimes were committed in similar patterns across space  
11 and time.

12 They were committed systematically. They were widespread. They  
13 were part of an attack directed against opponents. They took place  
14 in the context of, and were associated with, the armed conflict  
15 between the KLA and FRY forces. They were committed in the pursuit  
16 of the common criminal purpose.

17 This trial, Your Honours, is about these crimes for which the  
18 evidence will show the accused bear the guilt.

19 The image on your screens now, slide E2, is similar to one that  
20 you've seen earlier today. It shows the KLA PGoK detention site  
21 locations in Kosovo and parts of Albania in and around which the  
22 crimes charged were committed.

23 The image before you now, E3, depicts the 440 incidents of  
24 detention charged in the indictment, each represented by a blue dot  
25 in close proximity to the location of detention. You will hear that

1 several detainees were not only held at one KLA site but transferred  
2 to another or multiple other such sites during the duration of their  
3 detention.

4 This is indicative of the KLA's level of organisation, of the  
5 cooperation between the KLA members at multiple sites, of the full  
6 control exercised over detainees.

7 The accused had command and control over the KLA members  
8 involved at the various locations of transfer.

9 You will hear evidence of transfers of detainees, including from  
10 Likoc to Llapushnik, Drenoc to Malisheve, Budakove to Semetishte, and  
11 from Bubel to Kosterc.

12 In August 1998, at least eight detainees were transferred from  
13 Bare to Bajgore. That same month, a General Staff delegation which  
14 included Hashim Thaci, Rexhep Selimi, and Jakup Krasniqi, travelled  
15 to Bajgore where the General Staff formally appointed the senior  
16 leadership of the Llap zone headquarters.

17 In May and June 1999, detainees were transferred between Kukes  
18 metal factory, the KLA site in Cahan, and the former MUP building in  
19 Prizren. Around this time, Hashim Thaci and Jakup Krasniqi were seen  
20 at the Kukes metal factory, which is pictured on your screens now as  
21 slide E4.

22 As with a number of other commonalities I'll be referring to,  
23 the transfers I've mentioned are only by way of example and by no  
24 means exhaustive.

25 The accused are not only charged with the detention and

1 mistreatment of detainees. They're also charged with the murder of  
2 at least 102 victims, all of whom had been arrested, abducted, or  
3 detained by the KLA prior to their death.

4 The 102 red dots on your screen represent the victims the  
5 accused are charged with having killed as set out in the indictment  
6 and specified in Schedule B thereof. This is slide E5.

7 Many of the victims of murder were executed as Serbian  
8 offensives approached KLA strongholds where detainees were held. The  
9 accused are additionally charged with the enforced disappearance of  
10 at least 20 of the 102 persons they're accused of murdering.

11 The image on your screens now, E6, shows the enforced  
12 disappearance victims, each represented by an orange dot.

13 I'll now turn your focus to some more specific incidents of  
14 charged crimes, once again solely by way of example. I will then  
15 address a number of recurring themes or patterns that will emerge in  
16 the evidence you will hear during the course of the trial.  
17 Throughout, I will also highlight that these locations where, or in  
18 the vicinity of which, detainees were held, mistreated, killed, where  
19 they disappeared, were no mystery to the accused or the KLA members  
20 they controlled.

21 To the contrary, many of the detention sites in which the crimes  
22 occurred were located at long-standing KLA bases, including  
23 operational zone and regional headquarters. These were locations at  
24 which the accused were frequently personally present and which they  
25 had access to.



1           On your screens is an image of Jabllanice, E7, where, as set out  
2           in the indictment, between at least April 1998 and late July 1998,  
3           KLA members detained at least 13 persons for various periods of time  
4           and without due process of law at this compound which also served as  
5           a barracks.

6           In addition to charges relating to detention and mistreatment at  
7           this site, the accused are charged with the murder of three of these  
8           detainees and the enforced disappearance of one of the three.

9           Jabllanice is where Kadri Veseli acquired his nom de guerre,  
10          Luli. The other three accused were no strangers to this location  
11          either.

12          In June 1998, Rexhep Selimi met other JCE members at a house in  
13          Jabllanice, during which meeting the Dukagjin zone staff was  
14          selected.

15          The following month, Hashim Thaci, Rexhep Selimi,  
16          Jakup Krasniqi, and others also visited Jabllanice.

17          Around the time of this visit, the KLA's information directorate  
18          issued communiqué 49, which you have seen earlier today, referring to  
19          measures having been taken against branded collaborationists. You  
20          also saw a draft of this communiqué which the SPO seized from  
21          Jakup Krasniqi's house.

22          Among the evidence you will hear in relation to the charged  
23          crimes in Jabllanice is that concerning two of the victims who were  
24          being detained there in July 1998. One of the victims was a shop  
25          owner. The other was a young male who wanted to join the KLA. You

1 will hear that KLA soldiers, including a long-time General Staff  
2 member, who is also a named JCE member, repeatedly beat these  
3 detainees over the course of several days.

4 As a consequence, one of the detainees experienced difficulty  
5 breathing. The other was unable to stand, swollen, and incontinent.  
6 They were accused of being spies and collaborators. After several  
7 days in detention, they tried to escape with one other co-detainee.  
8 The two, unable to walk because of their mistreatment, could only  
9 crawl. They were caught by KLA soldiers, brutally beaten, and  
10 returned to their cell.

11 One of the two victims, who was in good health before his  
12 detention, was taken to a KLA hospital unconscious, with his kidneys  
13 not working, his body deformed, swollen, and bruised. He died there.

14 The remains of the second victim were discovered in September  
15 1998. Genetic testing confirmed his identity, and a gunshot wound to  
16 the head was confirmed as the cause of death.

17 I'll turn to another location, Llapushnik. Between about late  
18 April 1998 and 25 or 26 July 1998, as many as 30 persons were  
19 detained in Llapushnik without due process of law. At the relevant  
20 time, the Llapushnik KLA headquarters were located in a fenced  
21 compound made up by a barn or cowshed, a small house, a bigger house,  
22 and a garage, with a round well in the yard. You can see these on  
23 your screens now as slide E8.

24 The prisoners in Llapushnik were kept in two different rooms  
25 within the same compound. One referred to by the prisoners as the

1 cowshed or barn, now on your screens as slide E9 and slide E10, and  
2 the other one referred to as the storage room, now on your screens as  
3 E11 and E12.

4 In addition to charges relating to detention and mistreatment,  
5 the accused are charged with the murder of ten of the victims  
6 detained in Llapushnik. You will hear that in July 1998, KLA members  
7 escorted about 30 prisoners detained there towards the Berisha  
8 mountains at gunpoint. One group of around 20 was spared, being  
9 released. All but two of the remaining victims who managed to escape  
10 were executed with rifles.

11 DNA testing and other evidence established that bodies exhumed  
12 in 2001 and 2002 from a location in the Berisha mountains were those  
13 of some of these victims. The cause of death for multiple such  
14 victims was determined to be gunshot wounds.

15 The next location I will refer to is Zllash. As per the  
16 indictment, in September 1998 and between approximately 1 and  
17 19 April 1999, KLA members detained at least eight persons in Zllash.  
18 In addition to charges relating to detention and mistreatment, the  
19 accused are charged with the murder and enforced disappearance of one  
20 of these detainees.

21 On your screens is E13 with an aerial image of Zllash.

22 And now E14 with an image of the relevant detention site.

23 You will hear that in April 1999, armed KLA members took a  
24 Kosovar Albanian male from his village to Zllash, being beaten on the  
25 way there and upon arrival by multiple KLA soldiers. During his

1 18-day detention, his life was threatened. He was subjected to a  
2 mock execution, accused of being a collaborator, and beaten on other  
3 occasions, including with a baseball bat, causing him severe injury.

4 Turning to Klecke. This is a location you will hear much about,  
5 in particular, since members of the General Staff at various times  
6 used Klecke and nearby Divjake as a base.

7 Here you see E15, depicting Jakup Krasniqi with Ferat Shala and  
8 Fatmir Limaj in Klecke on 14 June 1998.

9 The General Staff operated a detention facility at a house on  
10 the outskirts Klecke, about halfway between the General Staff  
11 headquarters in Divjake and the Brigade 121 headquarters. About 200  
12 or 300 metres away from this detention facility in Klecke, there were  
13 three houses that had been burnt down which were also used to detain  
14 persons.

15 Between at least November 1998 and June 1999, certain KLA  
16 members detained at least 20 persons for varying periods of time and  
17 without due process of law at these locations.

18 In addition to charges relating to detention and mistreatment,  
19 the accused are charged with the murder of 11 of these detainees.

20 The image on your screen, slide E16, depicts a detention  
21 facility at a house in the outskirts of Klecke. You will hear that  
22 in February 1999, two victims were brought to Klecke where they were  
23 detained until April 1999 in Klecke prison and the burnt houses.  
24 Their bodies were recovered in a grave near Klecke prison. Their  
25 cause of death was gunshot wounds to the head and torso.

1           Your Honour, I'm mindful of the time. I could stop now, or I  
2 think I need another, perhaps, 15 minutes. Up to you.

3           PRESIDING JUDGE SMITH: We'll take a break now for lunch.  
4 Everybody be back at 2.30, and we will complete the last hour and a  
5 half of our hearing today. So we are in recess until then. Thank  
6 you.

7                               --- Luncheon recess taken at 1.00 p.m.

8                               --- Upon commencing at 2.29 p.m.

9           PRESIDING JUDGE SMITH: Mr. Pace, you still have the floor. You  
10 may proceed.

11          MR. PACE: Thank you, Your Honour.

12          I'll next turn to one of the four charged detention sites in  
13 Prizren. In relation to this site, the accused are charged with the  
14 detention of at least three persons without due process of law on or  
15 about 26 June 1999.

16          You will hear that two of these detainees were told to have  
17 sexual intercourse with each other, that detainees were beaten in  
18 front of each other, and that when one detainee asked for water, he  
19 was forced to drink paint thinner.

20          But the detainees did not suffer long.

21          Focusing for the moment on the crime of enforced disappearance.  
22 Your Honours will hear, including from family members of victims,  
23 about attempts they made to obtain information about their loved  
24 ones, about their fates, their whereabouts, and they tried to do so  
25 including from some of the accused. They were met with silence,

1 misleading, or plainly wrong information or threats. They tried  
2 everything they could but it got them nowhere.

3 You will hear from a man who last spoke to his wife when they  
4 were both being detained. After his release, he tried to obtain  
5 information her whereabouts and those of their daughter, who was also  
6 detained. Instead of receiving information, his life was threatened.

7 In June 1998, two opponents who had been arrested, interrogated,  
8 and in one case severely beaten by JCE members and tools at the  
9 Drenoc headquarters were taken in the direction of the KLA general  
10 headquarters by Hashim Thaci and Kadri Veseli personally, with  
11 Rexhep Selimi also present. The detainees were never seen or heard  
12 from again.

13 You will hear about a mother who waited across the road from a  
14 prison gate to catch a glimpse of her son who was being detained at  
15 that site. When she saw her son, she could barely recognise him. He  
16 was swollen and bruised.

17 The remains of some of the victims of enforced disappearance  
18 have never been found.

19 In addition to the charges of imprisonment, illegal or arbitrary  
20 arrest, and detention, other inhumane acts, cruel treatment, torture,  
21 murder, and enforced disappearance, the accused are also charged with  
22 persecution on political and/or ethnic grounds - a crime against  
23 humanity. This crime was carried out by acts including the criminal  
24 conduct I have already touched upon.

25 The evidence I referred to thus far concerns only some of the

1 many detention sites where crimes were committed by the accused.  
2 During the course of the trial, Your Honours will hear evidence about  
3 each of these sites. Despite the relatively broad temporal and  
4 geographic scope, the differences among victims in terms of age,  
5 ethnicity, and occupations, and the durations of detentions, which  
6 range from hours to several weeks, Your Honours will undoubtedly  
7 notice the emergence of certain patterns in the evidence, which I  
8 turn to next.

9 Throughout the SPO's case, you will hear that detainees held  
10 across the detention sites and during the entire relevant timeframe  
11 were questioned or interrogated. The evidence you will hear about  
12 this questioning or interrogation will make the reasons why these  
13 victims were targeted immediately apparent. It will show that  
14 detainees were perceived by those who arrested and held them to have  
15 been opponents; that is, that they were perceived to be collaborating  
16 or associating with FRY forces or officials or state institutions, or  
17 otherwise not supporting the aims or means of the KLA and later the  
18 PGoK.

19 In Likoc, detainees were accused of being traitors, spies, Serb  
20 collaborators, or LDK supporters. In Jabllanice, they were  
21 interrogated about and accused of associating with Serbs or policemen  
22 and of being spies and collaborators with the Serbian authorities.  
23 One detainee confessed just to avoid further torture. In Llapushnik  
24 and Drenoc, detainees were accused of collaborating with the Serbs,  
25 of being spies, or not supporting the KLA. While detained in

1 Budakove, a detainee was told that what was happening to him was his  
2 punishment for working with the Serbs. Other detainees at this site  
3 were questioned about whether they were involved in spying against  
4 the KLA and serving Serbian forces, and accused of being spies or  
5 otherwise working and collaborating with Serbs.

6 In Bare and Bajgore, detainees were accused of collaborating  
7 with Serbian authorities. One was told to confess that he had  
8 collaborated with the Serbs or he would be killed.

9 While detained at another location before being transferred to  
10 Llapashtice, a detainee was questioned about and accused of  
11 collaborating with Serbs and not cooperating with or not supporting  
12 the KLA.

13 During interrogations in Zllash, detainees were accused of being  
14 collaborators, friends of the Serbs, or spies.

15 In Baice, Hashim Thaci and Sabit Geci questioned detainees,  
16 identifying them as Rugovans, asking them to write statements  
17 renouncing Ibrahim Rugova, and asking them to renounce the LDK and to  
18 resign from their parliamentary functions.

19 In Cahan, detainees were interrogated and mistreated on the  
20 basis that they were alleged to be collaborators, working with the  
21 Serbs, spies, or sympathisers of President Rugova and the LDK.

22 In Bubel and Kosterc, detainees were accused of, and questioned  
23 about, supporting the LDK and opposing and obstructing the KLA.

24 In Verban and Tusuz, detainees were accused of associating or  
25 collaborating with Serbian authorities.



1           And, Your Honours, my last submissions will have sounded  
2           repetitive, but that just underscores how the same patterns, the same  
3           accusations emerged across the charged sites.

4           And another common pattern you will notice in the evidence is  
5           that detainees, in numerous locations, including Likoc, Jabllanice,  
6           Llapushnik, Malisheve, Budakove, Jeshkove, and Zllash, were held in  
7           rooms or other premises which were kept locked and/or guarded by KLA  
8           members. Detainees in Likoc, Jabllanice, Budakove, Llapashtice,  
9           Shale, Klecke, Bob and Ivaje, Cahan, and the former MUP building were  
10          kept tied up to themselves, each other, or to objects, such as a tree  
11          and a radiator, including with rope and wire.

12          Your Honours, these locations that I just mentioned, just like  
13          those I mentioned earlier, would have been well known to the accused  
14          and the KLA members under their command and control.

15          Taking Llapashtice as an example, this village north of  
16          Prishtine was the location of the Llap headquarters where the zone  
17          commander had his main office. About 2 or 300 metres away from the  
18          zone headquarters were the military police headquarters and a stable  
19          converted into a detention site.

20          Between at least November 1998 and March 1999, at least 52  
21          detainees were held at Llapashtice. Shortly before this timeframe,  
22          in late October 1998, a General Staff delegation, which included  
23          Hashim Thaci, Jakup Krasniqi, and others, visited the headquarters in  
24          Llapashtice and held a meeting which focused on military and  
25          political issues.

1 In these locked or guarded rooms, detainees in places such as  
2 Likoc, Jabllanice, Drenoc, Malisheve, Zllash, Klecke, Bob and Ivaje,  
3 Kukes, and the former MUP building were provided inadequate food,  
4 water, sanitation and hygiene facilities, medical care, and/or  
5 bedding.

6 You will hear that in Llapushnik the floor was made of concrete,  
7 with animal excrement scattered about it. The detainees were kept  
8 chained. They had to urinate and defecate inside a bucket while they  
9 were chained and in the same place where they then slept.

10 You will hear evidence that the conditions of detention at  
11 certain locations were so dire that certain persons detained there  
12 thought death would have been a better option. These locations where  
13 detainees were held in such dire circumstances would have also been  
14 well known to the accused.

15 The image on your screens, E18, depicts part of the KLA  
16 headquarters in Drenoc where certain detainees were held. Between  
17 approximately May and July 1998, at least 38 persons were detained  
18 under armed guard for varying periods of time in Drenoc.

19 Hashim Thaci visited Drenoc multiple times between late April  
20 and early August 1998.

21 On your screen is slide E19 depicting Hashim Thaci armed and in  
22 uniform during a visit to Zatriq mountain, which is by Drenoc, in  
23 June 1998. He is with two other KLA members.

24 Kadri Veseli and Rexhep Selimi were also in Drenoc during this  
25 period of time.

1           In addition to the deplorable conditions under which the  
2           detainees were held, detainees were often beaten or otherwise  
3           physically mistreated. KLA members, under the accused's command and  
4           control, lacked no imagination when it came to the instruments they  
5           used to abuse the victims. In Jabllanice, detainees were hit all  
6           over their bodies with baseball bats, punched, kicked, cut and  
7           stabbed with knives. In Drenoc, detainees were hit with batons,  
8           punched, kicked, and electrocuted. In Klecke, detainees were kicked  
9           with military boots, punched, and beaten with rifle butts and  
10          pistols, pieces of wire, and hard plastic pipes. In Zllash,  
11          detainees were electrocuted, burned with hot candle wax and a hot  
12          iron, beaten with iron batons and handles of hatchets, and stabbed  
13          with knives.

14          You will hear that some beatings continued even after detainees  
15          fell to the ground and temporarily lost consciousness.

16          The image on your screens now depict the outside and the inside  
17          of the KLA military barracks in Cahan where detainees were held.  
18          These are E20 and E21.

19          In Cahan, detainees were beaten with iron bars, wooden sticks,  
20          rubber batons, shoes, a makeshift whip, a razor blade, and rifles.

21          In Llapushnik and Verban, certain detainees had their  
22          fingernails pulled off with pliers.

23          You will hear that in Likoc detainees were beaten with bottles,  
24          baseball bats, wooden sticks, rifles, metal bars and tools. They  
25          were also electrocuted.

1 Detainees were held in Likoc between at least April 1998 and  
2 January 1999 at the former police station and certain other  
3 locations. The former police station in Likoc also hosted the  
4 Drenica zone headquarters. About 100 metres away were the General  
5 Staff headquarters, located in a house belonging to Hashim Thaci's  
6 relative.

7 In Likoc and Llapashtice, detainees were forced to beat each  
8 other and made to perform manual labour. You will hear that  
9 detainees, including in Jabllanice, Malisheve, Jeshkove, and Cahan,  
10 showed visible signs of physical abuse.

11 On your screens is E22, an image of a detention location in  
12 Malisheve. In July 1998, certain KLA members detained at least 48  
13 persons for varying periods of time and without due process of law at  
14 the former police station in Malisheve. The detentions lasted until  
15 on or about 26 or 27 July 1998.

16 As my colleagues mentioned earlier, on 23 July 1998, while  
17 detainees were still being held in Malisheve, Hashim Thaci and  
18 Kadri Veseli held a meeting with the representatives of the Austrian  
19 embassy at the KLA headquarters in Malisheve. In the course of the  
20 meeting, allegations of detentions and abductions carried out by the  
21 KLA were addressed. Hashim Thaci and Kadri Veseli were warned that  
22 human rights abuses by the KLA would not serve the KLA's purpose.

23 Physical pain was only one of the forms of suffering victims  
24 endured at the hands of KLA members.

25 Detainees in Likoc, Jabllanice, Zllash, Drenoc, Bare and

1 Bajgore, and Llapashtice were threatened with their death or the  
2 death of their loved ones. In Verban, a victim was threatened with  
3 the rape and murder of his wife and daughters. You will hear that in  
4 Tusuz and Llapashtice, certain detainees were forced to dig their own  
5 graves.

6 In Jabllanice, Tusuz, Zllash, Klecke, Varosh, and Drenoc,  
7 detainees could see and/or hear the abuse of other detainees, no  
8 doubt contributing to the climate of fear at those sites.

9 You will hear that at the former MUP building, detainees saw and  
10 heard other detainees being beaten. Some detainees were placed in  
11 blood-covered rooms. One detainee was taken to an office with a  
12 corpse and threatened with death there.

13 Some detainees also suffered material losses. The belongings of  
14 detainees across sites such as Jabllanice, Drenoc, Budakove, and  
15 Jeshkove were confiscated and never returned.

16 Following the merciless mistreatment they endured during  
17 detention, many of those fortunate enough to make it out alive  
18 continued to suffer the consequences of the abuse they went through  
19 at the hands of the KLA. You will hear that some continued to suffer  
20 because of such mistreatment even today.

21 The mistreatment of detainees in Verban, for example, caused  
22 them to bruise, swell, bleed, lose consciousness. Their bones were  
23 broken. Following their detention, like detainees at several other  
24 locations, they needed hospital or medical treatment. They sustained  
25 psychological and/or physical damage that continued after their

1 release, including infertility.

2 The detainees sustained lasting mental and physical trauma as a  
3 result of the time which they spent in Llapushnik, including the loss  
4 of body parts and diminished senses, severe bruising, broken bones,  
5 and ongoing mental trauma. Victims who survived detention at Likoc  
6 and Jabllanice, to name a few, also continue to suffer physical and  
7 psychological consequences due to their mistreatment. These victims  
8 have lived with this pain for decades.

9 To conclude. The incidents I addressed today are by no means  
10 exhaustive. During the course of the trial, Your Honours will hear  
11 extensive evidence about each of the charged locations. The victims  
12 have suffered, many in silence and in fear of retaliation, for almost  
13 25 years. Others have waited as long to tell their story.

14 The victims of the crimes the accused are charged with must be  
15 afforded justice.

16 Next, Ms. Lawson will deliver some remarks to conclude the SPO's  
17 opening statements.

18 PRESIDING JUDGE SMITH: Thank you, Mr. Pace.

19 You have the floor, Ms. Lawson.

20 MS. LAWSON: My colleagues have presented on the structures of  
21 organisation and control through which the accused acted, the common  
22 criminal purpose, and the crimes. I will be making some short  
23 concluding remarks and, for planning purposes, expect to finish in  
24 approximately 15 minutes.

25 There have been a number of prior trials addressing crimes

1 committed by individual members of the KLA during the conflict,  
2 including at the ICTY, in Kosovo, and before this Court. Some have  
3 considered senior members of the KLA; for example, Lahi Brahimaj was  
4 a member of the General Staff at the time he committed the acts of  
5 torture for which he was convicted. However, no prior court has been  
6 called upon to consider the role and responsibility of key members of  
7 the General Staff in the manner in which this Trial Panel will be  
8 required to do. Equally, no prior court had the fullness of evidence  
9 at its disposal which this Trial Panel will have.

10 The SPO has interviewed thousands of witnesses, a majority of  
11 whom are Kosovo Albanians; those who participated in the fighting,  
12 and those who participated in other ways.

13 We've spoken to members of the KLA at every level - regular  
14 soldiers, members of the military police and intelligence services,  
15 and those in positions of command in units, battalions, zones, and in  
16 the General Staff itself. We've also spoken to those who were the  
17 victims of crimes committed during the conflict. We've heard stories  
18 of remarkable bravery and we've heard stories of unimaginable  
19 suffering.

20 The Trial Panel will have the opportunity to hear from many of  
21 these witnesses directly.

22 As my colleague just outlined, the SPO will be presenting  
23 evidence of crimes that were both widespread and systematic,  
24 occurring across over 40 KLA detention sites, including key  
25 strongholds and command headquarters. It will be open to the Panel

1 to conclude that the only reasonable inference from such evidence is  
2 the existence of the common purpose as charged.

3 But to be clear, the SPO is not only relying on that  
4 well-supported pattern of conduct. It is one of the mutually  
5 reinforcing factors that will enable this Panel to be satisfied  
6 beyond reasonable doubt.

7 The SPO has obtained a wealth of contemporaneous and other  
8 documentary evidence, notably including the many hundreds of pages  
9 seized from the properties of the accused at the time of their  
10 arrests.

11 As you have heard in the presentations today, the common purpose  
12 is also amply evidenced throughout those materials - whether they be  
13 communiqués, regulations, notebooks, orders, copies of interviews  
14 with senior members of the KLA, including the accused, or  
15 authoritative written histories.

16 And from the evidence to be presented, some of the clearest and  
17 most compelling proof of both the common purpose and the  
18 contributions of each of the accused are the words and actions of the  
19 accused themselves.

20 There is Hashim Thaci, known as Gjarperi, meaning the Snake.  
21 According to one international witness, when there was a matter to be  
22 addressed which spanned zones, it was Thaci to whom it was elevated.

23 Kadri Veseli, who introduced himself to a journalist with the  
24 words "My name is Luli. Everyone knows who I am." That's F1 on the  
25 reference sheet. Veseli has acknowledged that "I was at the places I



1 was needed. I was moving on the territories controlled by the UCK,"  
2 F2.

3 Rexhep Selimi, who adopted multiple aliases and has acknowledged  
4 being constantly present on the ground in Kosovo, travelling widely  
5 throughout the zones.

6 And Jakup Krasniqi, considered by one zone commander to have  
7 embodied the General Staff in the summer of 1998.

8 As you've seen in the presentations, Krasniqi was frequently the  
9 one who signed documentation, but he did so each time on behalf of  
10 the General Staff. For them, a merciless "you are with us and  
11 bending to our authority or you are against us" mindset, which was at  
12 the core of the common purpose charged, is reflected across the  
13 evidence time and time again. You've heard many examples of their  
14 words and actions already today.

15 Rexhep Selimi asserting that other political representatives  
16 were "trying to demean our sacred war with their pacifist positions."  
17 That's F3.

18 Hashim Thaci, in the Dukagjini zone in the summer of 1998,  
19 accompanied by Rexhep Selimi, declaring that those "who do not  
20 recognise the General Staff are criminals, and we will not leave the  
21 weapons in the hands of the criminals. We shall fight against them."  
22 That's F4.

23 Thaci, Selimi, and Krasniqi together travelling to the zones to  
24 advise commanders on how to detect and address a form of special  
25 warfare, the carriers of which were discussed as being collaborators

1 who were deeply embedded members of the LDK.

2 Krasniqi, in November 1998, describing the KLA as coping with "a  
3 coordinated special war from outside and inside." That's F5. And  
4 elsewhere, providing the following explanation for why two  
5 individuals had been detained by the KLA:

6 "They were in the LDK, and they had a different policy, and  
7 maybe they were considered to be an obstacle for the KLA, but they  
8 weren't taken as collaborators since we didn't have that  
9 information."

10 That's F6.

11 Despite their central roles in formulating, articulating, and  
12 disseminating the policy, the accused may try to claim that they  
13 didn't know people were being detained, that they didn't know people  
14 were being mistreated or killed. Well, in July 1998, Jakup Krasniqi  
15 was both a member of the General Staff and the KLA's official  
16 spokesperson when he publicly acknowledged that abductions and  
17 executions were occurring.

18 And moreover, this Trial Panel will hear of instances where the  
19 accused led by example on the ground enforcing that policy. You  
20 will, for example, hear about Thaci and Veseli together taking  
21 detainees out of a detention site. Those persons would never be seen  
22 again.

23 Thaci and Veseli, once more together, seeking to coerce  
24 prominent LDK members into public statements supporting the KLA.

25 Thaci, accompanied this time by named JCE member and convicted

1 criminal Sabit Geci, leading the detention and interrogation of 13  
2 parliamentary delegation members, questioning them while they were  
3 visibly injured from beatings. That was an incident in which Selimi  
4 was also involved.

5 And you will hear of Selimi in a separate incident interrogating  
6 a detainee. And on another occasion, threatening a journalist who he  
7 accused of having criticised the KLA.

8 Meanwhile, Jakup Krasniqi can be seen negotiating and issuing  
9 multiple orders, again, on behalf of the General Staff for the arrest  
10 and release of detainees.

11 What you will not hear is any of the accused taking necessary  
12 measures to prevent the charged crimes against opponents or to punish  
13 persons who committed such crimes, not even referring them to UNMIK  
14 or KFOR for investigation. You will not hear it because the crimes  
15 are what the accused intended and what they themselves enacted.

16 Mr. Whiting stated this at the outset, but it bears repeating:  
17 The KLA is not on trial. The liberation war waged by the KLA is not  
18 on trial. These four accused are on trial in respect of their  
19 personal responsibility for crimes committed against persons who they  
20 viewed as opponents, the majority of whom were, in fact, their fellow  
21 Kosovo Albanians.

22 In their bid for supremacy, they entrenched a climate of fear,  
23 pitting neighbour against neighbour, a climate which still persists  
24 today.

25 For the vast majority of the thousands of volunteers who joined

1 the war effort, the crimes that were committed had no place in the  
2 cause for which they were fighting. This trial seeks to hold these  
3 four accused - and these four accused alone - accountable as the  
4 orchestrators of those crimes.

5 PRESIDING JUDGE SMITH: Thank you, Ms. Lawson.

6 I would ask, Mr. Laws, if you would be ready to make your  
7 opening at this time since we've ended a bit early.

8 MR. LAWS: Your Honour, certainly. I'd be happy to do so.

9 PRESIDING JUDGE SMITH: You may have the floor.

10 MR. LAWS: Thank you.

11 I'm going to start with something that the victims and these  
12 accused may have in common. And it's this: Nearly 25 years ago,  
13 none of them could have thought, even for a moment, that they might  
14 meet one day in a courtroom in The Hague.

15 For the accused, if the case that the Prosecution have set out  
16 today is correct, if it is, then there would, obviously, have been a  
17 sense impunity, for they were strongmen at the apex of the power  
18 structures of Kosovo. If they were committing these crimes, they can  
19 surely never have imagined that a day like today would dawn.

20 And for the victims, there was something as far from impunity as  
21 can be imagined. They were utterly powerless as these awful things  
22 that have been described already were done to them.

23 At that time, and in that place, accountability was so remote a  
24 prospect as to be meaningless. And yet today, here we are. It is at  
25 least in part due to the tenacity of the victims that events have

1 worked out so very differently, and that as a result, we have the  
2 opportunity to speak on their behalf today. To speak on behalf of  
3 all the victims participating in the proceedings equally, because  
4 whatever the differences between them, they are united by the harm  
5 that was done to them.

6 Grief, pain, loss, and injustice do not discriminate. They  
7 afflict all people equally. We all bruise and bleed in the same way.  
8 We mourn the loss of those dear to us regardless of our ethnicity or  
9 where our ancestors came from or our political affiliations.

10 What do we, on their behalf, want to say? Well, I'm going to  
11 address you under five headings, and I'm going to set them out for  
12 you now. Heading number 1 is the victims and what happened to them;  
13 heading number 2 is the climate in Kosovo; number 3 is the rights of  
14 the victims at this trial; 4 is the conduct of this trial from the  
15 victims' point of view; and, finally, as 5, I'll make some concluding  
16 remarks summarising, if I may, our submissions.

17 But first of all, I do want to say this. Among the victims in  
18 this case, there is a diversity of attitudes towards the KLA. There  
19 are victims who were members of the KLA or who wanted to join it or  
20 who lent their support to it, and there are those who were and remain  
21 very opposed to it. And I want to make it very clear that it is no  
22 part of our role as Victims' Counsel, and no part of this opening  
23 statement's role, to pass a judgment of any kind on the KLA as an  
24 organisation.

25 When we talk about the crimes committed against victims, we

1 should always be understood to be referring to crimes by members of  
2 the KLA and not as accusing the organisation itself. And with that  
3 clarification, may I turn then to my first heading, the victims and  
4 what happened to them.

5 Our intention is that as this trial progresses, we should never  
6 lose sight of two things. First of all, that these events affected  
7 real people; and, secondly, that this trial is of immense importance  
8 to them. So I want to start with who the victims are in this case.

9 Who are they? The first important point is to emphasise their  
10 diversity. The victims in this case are not to be understood as one  
11 homogenous group but as a cross-section of Kosovo society in 1998 and  
12 1999. Among them are members of the Albanian, Serb, and Roma  
13 communities. There are members of the Muslim, Catholic, and Orthodox  
14 faiths. Some had no interest in politics at all. Others were  
15 members of the LDK. Some were children when crimes were committed  
16 against their family members, and others were already in middle age.  
17 They occupied many different positions in life. And as might be  
18 expected, they have different perspectives on it.

19 It should come as no surprise, then, that although they have  
20 been placed in one group for the purposes of being represented, they  
21 are, and will remain, something over 140 individuals.

22 What they share is really one thing: They were the victims of  
23 crimes that have no justification at all, crimes that brought death  
24 and suffering into their lives through no fault of theirs. For each  
25 of them, there was one day that changed their lives forever or, in

1 too many cases, ended their lives. It was the day that they were  
2 targeted.

3 That day came in different forms for different people. Some  
4 were with their families, even celebrating with them. Others were  
5 going about their daily lives. Some simply making a journey that  
6 ended abruptly at a roadblock. Others were at home in bed, asleep,  
7 when masked men broke in and took away their husband, their father.  
8 Some were trying to join the KLA. Others were engaged in work for  
9 the LDK that day. There were teachers and police officers, builders  
10 and farmers, abducted at gunpoint.

11 Nothing could ever justify what was done to them after they had  
12 been taken away. Some of the harm done to them was purely physical,  
13 being beaten and tortured in ways that scarred them, caused the loss  
14 of teeth or fingernails or hearing or other physical damage. Those  
15 who were tortured endured terrible suffering at the time and have  
16 continued to suffer, some to this present day, with trauma, with  
17 flashbacks, and with nightmares in which they are transported back to  
18 a time when their days were full of pain.

19 But their losses did not end there. For many of the survivors,  
20 the greatest loss is their peace of mind. As one puts it:

21 "Of course, I still suffer from aching bones because of how we  
22 were kept in that place, but there's no comparison with the  
23 psychological harm that I received."

24 Talk to them, and they'll tell you things like, "I sleep facing  
25 the door at night, still fearing that the men may come again."

1           They are anxious and watchful. They are haunted still by images  
2 of what was done to them. They have sleepless nights. Some of them  
3 find it hard to speak about this aspect of their harm because they  
4 regard it as a sign of weakness. But the fact that they've not left  
5 their suffering behind is all too apparent when they're speaking of  
6 their ordeal, from their obvious emotion, from their sudden tears.

7           In some cases, their families feel that they didn't get back the  
8 same person that was taken, and they've had to adapt to living with  
9 someone who has been changed by the harm that they endured, someone  
10 who's struggling with it.

11           The families of those who did not survive have endured losses of  
12 a different kind. They lost loved ones, spouses, parents, siblings,  
13 children, close family members. To quote one victim in this group:

14           "I felt as if half of my heart was gone, and that half cannot be  
15 made up by anyone. The pain and stress I have to live through  
16 because of the way he was killed, it is a pain and sorrow that I  
17 carry and will go on carrying."

18           Another victim used a metaphor of burnt charcoal to describe to  
19 us the psychological impact of her father's abduction and killing and  
20 the pain that she endured because of these events. She explained to  
21 us that when charcoal gets burnt, there's nothing but the dust left  
22 behind, and that this is how she feels, finished. This feeling is so  
23 strong that sometimes she even feels that she smells of burnt  
24 charcoal.

25           Some waited years to recover a body so that they could bury it



1 and have a place to mourn, and others have never had that closure  
2 because some of the bodies have not been found. Some look around  
3 their community and wonder whether they are rubbing shoulders with  
4 the culprits, with the men who did these things.

5 For some, their losses went further still. They lost their  
6 country. There are Serbs and Albanians who felt they had no option  
7 but to leave and who left never to return to Kosovo. Some because  
8 they felt they couldn't live in a place where they'd been so harmed.  
9 For some, because they feel that it's never going to be safe for them  
10 to go home. They left behind their homes and their land and their  
11 possessions, starting again elsewhere with what they could carry.

12 Others who have remained have kept their homes but have lost  
13 their sense of security.

14 And although many people don't want to admit this fact, the  
15 victims in this case were targeted and abducted by people belonging  
16 to the KLA. They were held in detention sites run by people  
17 belonging to the KLA, and they were tortured and murdered by people  
18 belonging to the KLA.

19 For the survivors of torture and other ill-treatment, and for  
20 those whose family members were murdered, their harm has been  
21 compounded by the way in which some people seek to label them. And  
22 this leads me to my second topic, topic 2, the climate in Kosovo.

23 It is very important to understand how many victims feel that  
24 they are viewed by some sections of Kosovan society - not all, I  
25 emphasise, but some sections of Kosovan society. They see themselves

1 as having been labelled as traitors or hateful persons just because  
2 they were victims. In other words, they continue to be harmed afresh  
3 because of what happened to them in the conflict.

4 And that further harm spreads through their families so that  
5 even those who were never directly harmed themselves are labelled in  
6 the same way. This shows itself in different ways. For example,  
7 with children afraid to go to school, adults who feel that their  
8 careers have been thwarted by association with a victim.

9 The victims that we represent emphatically reject these labels  
10 of traitor or hateful person.

11 These insults have been attached to them for doing no more than  
12 speaking out about the fact that they were harmed by the crimes  
13 committed against them and for seeking justice for what happened to  
14 them. In other words, for seeking what any normal person would seek  
15 in their situation: for the facts to be established before a court.  
16 And that is not an unpatriotic thing to do.

17 But the label hurts. One person told us of his pride in how his  
18 ancestors had fought for Kosovo in many of its battles going back  
19 through the generations, fighting, amongst others, the Ottomans and  
20 the Nazis, only to be labelled as unpatriotic because he dared to  
21 complain about crimes committed by members of the KLA.

22 Some of them are scared, scared of further ostracism, scared of  
23 reprisals, scared for their lives. They all know that witnesses have  
24 been killed in other proceedings relating to events in Kosovo, and  
25 they know that some in Kosovo would rather that they remained silent.

1 They will not do so. They are made of stronger stuff than their  
2 captors and their killers can have imagined. They know that courage  
3 is not about not being frightened. It's about doing something even  
4 though it makes you afraid.

5 Others are not afraid. Especially some of the older victims,  
6 who feel quite relaxed about whatever fate may have in store for  
7 them, as long as they can have their say.

8 The victims who are also witnesses are going to see this through  
9 regardless. All of them place a sufficiently high value on these  
10 proceedings to put themselves in harm's way.

11 Adding to this climate are sections of the media in Kosovo  
12 attempting to cast doubt on the work of this Court. We're going to  
13 see, through the witnesses here, that this is not an approach they  
14 share. On the contrary, they feel a strong sense that, at last, this  
15 trial offers the prospect of accountability.

16 Many victims firmly believe that there is a clear majority of  
17 people in Kosovo who do not judge victims in this way, but rather  
18 support them and support this Court. But theirs are not the voices  
19 that are most often heard in public or in the media. They are a  
20 silent majority.

21 There are two competing histories at work here among Albanian  
22 Kosovans. One focuses on the courage of the fighters of the KLA and  
23 their role in securing independence. But the other history, the  
24 history of the crimes committed by members of the KLA, is harder for  
25 some people to hear and to accept, but that is inevitably the story

1 that this trial is going to focus on, and it is the truth.

2 Do these two histories need to compete with one another? It  
3 seems perfectly possible for both to be true. It may help to see  
4 this from the perspective of the victims, as you're going to hear  
5 some of them say that they expected that the Serbs would pose a  
6 danger to them in the conflict. But for the Albanian victims, the  
7 fact that it was their own side, that it was their fellow Albanians  
8 who were doing these things, that made it all the harder to bear.  
9 "Why were our own people doing this?" they want to know.

10 Pausing there. Curiously, you may hear the same from Serb  
11 victims, too, of how appalled they were to find that Albanians were  
12 taking up arms against them on the basis of their nationality, even  
13 if they have lived peacefully with their Albanian neighbours.

14 So in summary, efforts have been made to shame the Albanian  
15 victims into silence. And I want to say just this in response:  
16 Those efforts haven't worked, and they will not work.

17 For the Serb victims, many have left Kosovo. These victims are,  
18 obviously, not subject to the same community pressures. The price  
19 that some of them have paid instead is exile.

20 My third heading is the rights of the victims at this trial.

21 First of all, we identify the right to truth. We say that the  
22 law is settled on this topic and that victims of crime have the right  
23 to truth. They have a right to an accurate account and an official  
24 acknowledgement of the suffering they or their family members have  
25 endured and the role of those responsible for their ordeal.

1           The right to truth. If that sounds like a lofty or abstract  
2           notion, let me assure you that for the victims it is not. Some of  
3           the victims who have lived for over 20 years with these crimes have  
4           no clear idea why they or their loved ones were targeted or where the  
5           ultimate responsibility for their harm lies.

6           They want to know the answers to these questions because these  
7           events have played a decisive role in shaping their lives. For them,  
8           living without answers is living with injustice, and they are  
9           entitled to look to this case to provide answers, hoping that it is  
10          able to do so.

11          I'm going to ask for the court officer to open our very short  
12          slide presentation. These can all be broadcast publicly. All we've  
13          done is to extract some two or three of the rules and extracts from  
14          the law and put them onto slides, simply to save everybody the task  
15          of looking them up.

16          If we can have the next slide, please.

17          Acknowledgement is our second heading within the third topic,  
18          the rights of the victims at this trial. Article 22(3), we can see  
19          there at the top of the slide, says that:

20          "A Victim's personal interest and rights in the criminal  
21          proceedings before the Specialist Chambers are notification,  
22          acknowledgement and reparation."

23          And it's acknowledgement I'm going to focus on for just a few  
24          moments.

25          Acknowledgement of the crimes. What does it mean for the

1 victims?

2 First and foremost, it means acknowledgement by the Trial Panel  
3 that an individual has suffered harm. The fact is that these people  
4 have suffered unimaginable things. They've been held against their  
5 will, cut off from the world, kept in harsh and sometimes terrifying  
6 conditions, with hoods and handcuffs used on them, and then  
7 grievously mistreated in that vulnerable state.

8 Some, as we've heard, were beaten without mercy, some for days  
9 on end. Some had salt literally rubbed in their wounds or had their  
10 fingernails pulled out or were electrocuted. Still others were used  
11 as target practice with live ammunition. The lucky ones survived but  
12 many did not. They were murdered and their mistreatment did not even  
13 end with their deaths. I've dealt already with the way in which  
14 bodies were hidden.

15 And for what? For the Albanians, it could be because they  
16 belonged to the wrong political party or because they were suspected  
17 of collaboration, sometimes, as we're going to see, on the basis of  
18 evidence that can only be described as ridiculous.

19 For the Serbs, their ethnicity alone could be sufficient to mark  
20 them out for abduction, for torture, and for murder, regardless of  
21 the fact that Kosovo was their home, that they had grown up there,  
22 had lived peaceably in their community and contributed to it.

23 So that's what we mean by acknowledgement and the importance of  
24 acknowledgement, and we say that that is reflected in Rule 134, also  
25 on our screen. The rule emphasises the distinct role of

1 Victims' Counsel in the final stages of the trial, submitting a  
2 statement on the impact of the crimes alleged on the victims. As we  
3 can see for ourselves at (c) that Victims' Counsel is "to file a  
4 statement on the impact of the alleged crimes on victims  
5 participating in the proceedings," and not a final trial brief, as is  
6 the case for the Specialist Prosecutor and the Defence.

7 May we turn to the second slide, please, where we can see  
8 Article 22(7) and Rule 159.

9 The Trial Panel, by this article and this rule, is given the  
10 power to acknowledge harm in its judgment regardless of any other  
11 findings. Article 22(7):

12 "In its judgment, a Trial Panel may, either upon request or on  
13 its own motion in exceptional circumstances, include a decision on  
14 the scope and extent of any damage, loss and injury to, or in respect  
15 of, Victims and will state the principles on which it is acting."

16 That article is complemented by Rule 159(1), which gives a time  
17 limit for the pronouncement of the judgment and makes clear that the  
18 judgment may include a decision pursuant to Article 22(7), the  
19 article that we have just looked at.

20 So we will invite this Panel in its judgment to proceed under  
21 Article 22(7) and Rule 159 and to include a decision of the kind  
22 specified there, which is, we say, the most significant way in which  
23 harm can be acknowledged.

24 And that takes us back to the topics on which we will primarily  
25 focus in this case.

1 To acknowledge the harm that has been done, and to make a  
2 decision under Article 22(7), is self-evidently impossible without a  
3 proper understanding of that harm. And we will attempt to assist  
4 with that in our statement on harm under Rule 134. That involves  
5 some focus in the trial on evidence that may have little or no  
6 bearing on the issue of the guilt of the accused. And to those from  
7 the common law system, that shift away from a relentless focus on the  
8 issue of guilt, may seem at first to be a distraction, but it is not.  
9 Receiving the evidence of harm, we say, is plainly part of the task  
10 of this Court. Without receiving this evidence, it cannot afford the  
11 victims their right of acknowledgement, it cannot proceed under  
12 Article 22(7), nor make an informed order for reparations under  
13 Article 22(8).

14 Given the climate in Kosovo that I've described, this aspect of  
15 the case has, you may feel, a wider importance than that simply of  
16 each individual victim's interest, significant though that is. The  
17 findings that you make in this regard may also have a role to play in  
18 countering the climate of hostility that I described to you earlier.  
19 In other words, in disseminating the truth about what happened in  
20 this case, the lies that are told about victims, that they are  
21 traitors and hateful persons, will be challenged and exposed.

22 It will involve recognition that what happened to them was  
23 wrong. That members of the KLA turned detention sites into crime  
24 sites, into places where people disappeared, where people were  
25 subjected to disgraceful abuses, and where people were murdered.



1 That this was not justified by the struggle against the Serbs.

2 An acknowledgement that these crimes were committed would be a  
3 starting point in redressing this false narrative, according to which  
4 the victims have no cause for complaint but are instead the problem  
5 themselves.

6 My third subheading, under my third heading of the trial, is  
7 reparations.

8 The availability of a reparations order, as everybody knows,  
9 depends, first of all, on whether there's a conviction in this case.  
10 And it'll be our submission that this topic is best considered after  
11 the judgment of the Trial Panel has been delivered, and we can deal  
12 with this, obviously, in greater detail at a later stage. But we  
13 say, of course, that that is a course open to the Panel, and to  
14 follow that course is sensible for at least three reasons.

15 Reparation, both monetary and non-monetary, could be framed in  
16 the light of the Panel's conclusions on the facts if this process is  
17 embarked upon after judgment, rather than doing so in the abstract.

18 Secondly, that approach seems to us consistent with Rule 168,  
19 which gives the Panel the power to appoint experts to assist it with  
20 reparations. In a case of this scale, that would involve work of a  
21 very substantial kind for experts which could end up being of  
22 academic interest only unless there were to be a conviction.

23 From a purely practical point of view, we suggest it's  
24 preferable to consider this issue after the trial judgment because in  
25 a case with the volume of material of this one and all of the other

1 demands on the Panel and the parties, it makes sense to embark upon  
2 reparations at a stage when it's clear that that work is necessary  
3 and when it will be possible to give it the attention that it  
4 deserves.

5 Lastly on this topic, we will invite you not to refer the matter  
6 to civil litigation in Kosovo under Rule 167 for all the reasons that  
7 the Trial Panel relied on in Case 05, in the Salih Mustafa case, in  
8 concluding that this is not an appropriate avenue. And that decision  
9 is Filing 310.

10 My fourth heading, the conduct of this trial from the victims  
11 point of view.

12 Our role as Victims' Counsel is to make sure that, A, the rights  
13 we have identified are real and not illusory, and that these  
14 proceedings are meaningful to the victims participating in them; and,  
15 B, that the Panel has all the information necessary to determine a  
16 full picture of the circumstances of the crimes and of their  
17 consequences.

18 Our objective is to do that by assisting the Panel in  
19 understanding the harm suffered by the victims in order that it can  
20 be acknowledged and, where appropriate, to assist in establishing the  
21 truth.

22 What do we want? Certainly not to be second prosecutors in the  
23 courtroom. We have no intention of trying to be any such thing.  
24 That said, there are some areas where the evidence called by the  
25 Prosecution will be of legitimate interest to the victims in terms of

1 establishing what went on and who was responsible for the harm done  
2 to them.

3 Central to these questions is arriving at the truth about  
4 whether these four accused bear legal responsibility for this network  
5 of camps established across Kosovo and into Albania. It's a question  
6 which is, obviously, going to be occupying a great deal of the time  
7 in this trial.

8 It will often be the response of leaders that they didn't know  
9 what their subordinates were doing, and sometimes that may be the  
10 truth. Sometimes it will be a convenient lie. And you're going to  
11 have to decide which of those applies in this case. But we would  
12 only make this observation at this stage: What a leader can't say  
13 about a detention camp in the Balkans in the late 1990s was that he  
14 was unaware of the risks of establishing such places. That would  
15 require an ignorance of recent history in the former Yugoslavia of an  
16 astonishing kind.

17 Putting people into detention is to create conditions that are  
18 ripe for abuse, for mistreatment, and for murder. Giving some men  
19 absolute power over their perceived enemies is an invitation to  
20 serious crime. These are not new lessons now, and they were not new  
21 lessons then.

22 So if these accused were among those responsible for  
23 establishing, sustaining, or utilising this detention network, then  
24 that is a matter of real and legitimate interest to those who were  
25 harmed in it and those who lost loved ones in it.

1           That brings me to my fifth heading, and it's my conclusion and  
2 just some words in summary.

3           There will always be those who think that the end justifies the  
4 means. One's view of that may depend on whether you're going to be  
5 there to witness the end or whether you're going to be one of the  
6 means by which that end is achieved. If the Prosecution's case is  
7 right, then the accused were engaged in two conflicts. One was the  
8 military campaign being fought against the Serbs, and the other was  
9 directed at members of the civilian population who they perceived as  
10 opponents. And that second conflict was a means to an end.

11           The survivors of that second conflict and the relatives of those  
12 that died in it make up a disparate group of people who have been  
13 gravely wronged. And although nothing can undo the harm that has  
14 been done to them, this Court is in a position to offer them a sense  
15 of justice through their participation as victims in the following  
16 ways.

17           It may enable them to understand why these crimes were committed  
18 against them and to understand who was responsible for them. This  
19 Court will be able to acknowledge the harm that they have been  
20 caused, and it can do so irrespective of its verdicts on the  
21 indictment. It is possible for this Court to make orders for  
22 reparations of various kinds that may contribute to the process of  
23 repairing the harm that has been done to the victims, and it is  
24 possible, just possible, that its work may begin the process of  
25 altering attitudes to the victims of the KLA among some in Kosovo.

1           Your Honours, those are the aims that we, on their behalf, have  
2 in mind as this case begins.

3           Thank you for listening.

4           PRESIDING JUDGE SMITH: Thank you, Mr. Laws.

5           This concludes today's public hearing. We will resume tomorrow,  
6 4 April, at 9.00 in the morning, to continue with the opening  
7 statements of the Defence, starting with the Thaci Defence.

8           Anything else anybody needs to bring up at this time? Thank  
9 you.

10          I would like to ask and remind the Defence to kindly send your  
11 opening statements to the CMU for distribution to the interpreters,  
12 the translators. It will much aid them in making an accurate  
13 transcript, which I know they all work on very hard.

14          I thank the parties and the Registry for their attendance. I  
15 also wish to thank the interpreters, stenographers, audio-visual  
16 technicians, and security personnel for their excellent assistance.

17          This hearing is adjourned.

18                               --- Whereupon the hearing adjourned at 3.43 p.m.

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