

1 Wednesday, 5 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 Madam Court Officer, please call the case.

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

11 PRESIDING JUDGE SMITH: Thank you.

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

14 Today we will hear the opening statements of the Krasniqi
15 Defence. I recall that the instructions and directions given on
16 Monday continue to apply.

17 Ms. Alagendra, the floor is yours. You have one and a half
18 hours.

19 MS. ALAGENDRA: Thank you, Your Honours.

20 Good morning, Mr. President, Your Honours, and my learned
21 friends. A great many matters have been raised by learned counsels
22 for the Defence of Mr. Thaci, Mr. Veseli, and Mr. Selimi. I intend
23 to confine myself and not repeat submissions that have already been
24 made.

25 For the Court's schedule, I anticipate that I will need no more

1 than 45 minutes. And with Your Honours' leave, some words from
2 Mr. Jakup Krasniqi. And I ask that he be given 25 minutes,
3 Your Honours. And, lastly, if Your Honours will give me five minutes
4 to conclude.

5 Jakup Krasniqi is now 72 years of age. 25 years ago, he felt
6 compelled to join the Kosovo Liberation Army to defend his people in
7 relation to an onslaught that the free world, and according to my
8 submission, all right-thinking people condemned. We must not lose
9 sight of the fact that the regime he was fighting against was the
10 same regime that committed mayhem, gave rise to oceans of tears,
11 heartbreak, misery, and wide-scale destruction through the Balkans.

12 This regime caused, amongst other crimes, the genocide at
13 Srebrenica. Perhaps you can understand why a then 47-year-old
14 Jakup Krasniqi had put aside his hopes and dreams of a peaceful life
15 in order to fight for the people of Kosovo and for his children and
16 for future generations so they may live in a peaceful Kosovo.

17 Jakup Krasniqi's role as the spokesperson of the KLA has been
18 publicly known for 25 years, a quarter of a century. Since his
19 appointment was announced in June 1998, the statements he made in
20 support of the KLA were made publicly. In his dealings with the
21 media and international representatives, he used his own name. He
22 didn't use a pseudonym. Everything that he did was public and open.

23 18 years ago Mr. Krasniqi was interviewed and then called as a
24 witness by the Office of the Prosecutor of the ICTY, by a team which
25 included the Acting Specialist Prosecutor, Mr. Alex Whiting. He

1 testified in the cases of Limaj in 2005 and Haradinaj in 2007. No
2 one suggested that he was a suspect or that he was personally
3 connected to any crimes. After his testimony, he went back to
4 Kosovo.

5 Mr. Krasniqi provided evidence as a witness on two further
6 occasions in 2018. Again, there was no suggestion that he was a
7 suspect or was culpable for any crime or wrong-doing in those cases,
8 even though the underlying crimes in those cases form part of the
9 crime base in this case.

10 It is also worth reinforcing the fact that Mr. Krasniqi was not
11 named in the Council of Europe report in 2011 as being suspected of
12 any criminal liability. After more than 20 years of war crimes
13 investigations conducted by the ICTY, and after just as many years of
14 intense political and media scrutiny in Kosovo, Mr. Krasniqi had
15 never been arrested for a crime. Yet on 4 November 2020, at around
16 6.00 a.m., his house was surrounded by armed police, his home was
17 searched in the presence of his family, and he was brought to The
18 Hague cuffed. At 70 years old, despite his history of cooperating
19 with international justice, he wasn't given a dignified opportunity
20 to appear voluntarily.

21 Your Honours, it is our submission that he deserved better.

22 It really was a blow to Mr. Krasniqi and his family, and,
23 Your Honours, to the people of Kosovo. People were shocked and
24 perplexed because they cannot match the allegation in this indictment
25 with the person that they know Mr. Krasniqi to have been and that he

1 is.

2 I have every confidence that in the course of this trial
3 Your Honours will see not only how the Prosecution manifestly failed
4 in their bid to prove a case against Mr. Krasniqi beyond a reasonable
5 doubt, but you will also see how he should never have been charged at
6 all.

7 Your Honours, my opening will focus on six fundamental errors
8 that we say are fatal to the Prosecution case. These six are just
9 examples of the many more errors by the Prosecution Your Honours will
10 see in the course of this trial.

11 The first error, Your Honours, is that the Prosecution
12 misunderstands or deliberately mischaracterises the personal role of
13 Mr. Krasniqi.

14 In June 1998, Mr. Krasniqi was appointed as spokesperson. He
15 had no defined role before that time, nor was there a General Staff
16 in any meaningful sense of that word.

17 But from June 1998, Mr. Krasniqi was the spokesperson. Your
18 Honours, we all know very well the role of the spokesperson and its
19 limitations. Spokespersons are not involved in military operational
20 matters. Their role is outreach and public relations. This, Your
21 Honours, was exactly what Mr. Krasniqi's role amounted to.

22 Here, I respectfully raise a note of caution. Your Honours, you
23 will hear witnesses speak about the structure of the KLA, some of
24 whom have no basis for their purported knowledge beyond gossip or
25 uninformed speculation. You'll also hear Prosecution witnesses speak

1 about Mr. Krasniqi, although they only know his name because they saw
2 him on television or in the media or years after the end of the
3 conflict. We are confident that Your Honours will sift the evidence
4 and discard evidence which has no basis in actual knowledge or which
5 is founded in conjecture.

6 Next I will say a few words on communiqués.

7 It cannot be inferred, from his position as spokesperson, that
8 Mr. Krasniqi was personally responsible for the communiqués on which
9 the Prosecution places so much weight. The Prosecution's case is
10 that the first communiqué was issued in 1994. That is long before
11 Mr. Krasniqi ever became the spokesperson. They continued throughout
12 the war and clearly did not emanate from one source. Some, for
13 instance, being issued by the operational zones.

14 Two days ago, the Prosecution submitted, repeatedly, that
15 certain documents were found during the search of Mr. Krasniqi's
16 house. If these documents were so found, and the mishandling of the
17 search and seizure is already before Your Honours, it does not
18 automatically establish beyond reasonable doubt that he authored
19 those documents or that he possessed those documents at the material
20 time. Merely finding those documents in his house does not make them
21 authentic. This is an obvious and basic point, and yet somehow it
22 seems to have escaped the Prosecution's understanding.

23 After all, Your Honours, Mr. Krasniqi is a writer and a
24 historian who gathers materials for his research, his interests, and
25 for his numerous books. He has gathered, been given, or collected a

1 variety of documents over a number of years. The burden is on the
2 Prosecution to prove when these documents were written, when they
3 came into his possession, who drafted them, and for what purpose.

4 In mid-November 1998, as part of a broader attempt to organise,
5 Mr. Krasniqi was appointed as one of two deputy commanders. The
6 Prosecution fails to acknowledge that there was a distinction between
7 the roles of the two deputy commanders. One deputy commander for
8 operations and a second deputy commander for support fulfilled by
9 Mr. Krasniqi. The question Your Honours will have to ask yourselves
10 is why the Prosecution is so determined to omit this detail.

11 In its indictment, in its pre-trial brief, even two days ago,
12 the Prosecution presented slide B44, titled "GS Fall 1998
13 Organisational Chart," which clearly said "deputy commander for
14 support," yet only the words "deputy commander" were read aloud.

15 As soon as it is acknowledged that Mr. Krasniqi's role was
16 limited to support, an administrative role, and that there was
17 another deputy commander and a chief of staff dealing with
18 operational matters, then the allegation that Mr. Krasniqi was a
19 commander with effective control over fighters falls away entirely.

20 The Prosecution also fails to acknowledge that just three months
21 later there was a marked change in the composition of the
22 General Staff in February 1999. Some of the very first witnesses
23 chosen by the Prosecution will speak to this fact. The simple truth
24 is that after February 1999, there is no evidence that Mr. Krasniqi
25 was a deputy commander.

1 During the course of this trial, Your Honours will hear
2 testimony about Mr. Krasniqi's role from a variety of witnesses,
3 including those within the KLA who knew him only as the spokesperson
4 throughout the relevant period, a role he performed from April 1999
5 for the PGoK, not the General Staff. In the summer of 1999, he was
6 appointed as minister of reconstruction and development in the PGoK,
7 a role to which he was allocated, not by the KLA, not by the PGoK,
8 but by an entirely different party: The United Democratic Movement,
9 known as the LBD.

10 The Prosecution evidence will show the true role of
11 Mr. Krasniqi. He did not have the powers or responsibilities that
12 the Prosecution seeks to assign to him, nor can his public activities
13 as spokesperson be connected to any crime the Prosecution alleges.

14 After all, during the entire 18-month indictment period, and
15 throughout more than 40 locations, the indictment only, in fact,
16 alleges that Mr. Krasniqi personally participated in any crime on
17 three occasions. On all three occasions, all that we need say now is
18 that the evidence will show that the Prosecution has got it wrong.

19 Your Honours, the second Prosecution error is its insistence
20 that Jakup Krasniqi was responsible for crimes that he was
21 geographically remote from.

22 Clear examples of this are that from 6 February to 25 February
23 1999, Mr. Krasniqi was outside Kosovo participating in the
24 Rambouillet negotiations.

25 From 10 March till 19 March 1999, he returned to Paris for the

1 second stage of negotiations.

2 From 19 March 1999, Mr. Krasniqi was unable to return to Kosovo.

3 And until 15 June 1999, for that whole three-months period, he
4 was located in Albania, apart from a brief period when he toured
5 Western European countries.

6 Following the ICC's appeals judgment in Bemba, Mr. Krasniqi's
7 physical distance from the alleged criminal acts during different
8 points of the indictment period is particularly relevant. He was not
9 in a hierarchical relationship with the physical perpetrators of
10 crimes. He lacked any ability to effectively control any fighters,
11 let alone those who were geographically remote from him and who were
12 not in any way linked to his day-to-day work as a spokesperson.

13 Another symptom of the unfocused nature of this case that the
14 Prosecution fails to explain is how it proposes to prove that he had
15 the ability or the authority to prevent or punish a series of crimes
16 alleged to be committed in a different country.

17 The third Prosecution error, Your Honours, is that it wholly
18 overestimates the organisation of the KLA.

19 The Prosecution puts forward an unsubstantiated theory that the
20 KLA was more organised than it was. The evidence will expose this
21 theory for what it is, a fantasy which ignores the reality on the
22 ground. Your Honours have heard the statements of the Defence for
23 Mr. Thaci, Mr. Veseli, and Mr. Selimi. I will not repeat
24 submissions, save to say that the Prosecution appears to have bought
25 into the KLA's propaganda, unquestioningly taking documents as though

1 they represent the true situation on the ground when the evidence
2 will show the opposite.

3 The evidence will show that the organisation of the KLA varied
4 across locations, as well as over time, never reaching the standards
5 of a formal military structure.

6 Before I briefly sketch out the stages in the evolution of the
7 KLA, an evolution which shows different stages of disorganisation of
8 the KLA in which it was striving to become an organised regular
9 military, an aspiration it never achieved, suffering setbacks in the
10 face of Serbian offensives, allow me, Your Honours, to highlight
11 another glaring omission in the Prosecution case: Where is the
12 Prosecution's military expert?

13 In a case about the command structures of a non-state actor, is
14 that not the first expertise to which the Prosecution would have
15 turned? Instead, what you have before you are hundreds, thousands of
16 documents, and Your Honours are being asked to try to piece the
17 puzzle together yourselves.

18 At the beginning of the indictment period, as Your Honours heard
19 yesterday, the KLA was really a number of disparate groups of
20 volunteers who organised themselves in villages to defend themselves
21 and their families. There were no upward links to any higher
22 structure or to the General Staff. Personal and family loyalties
23 tethered KLA members together rather than codified system or rules.
24 They chose their own leaders and these leaders answered downwards to
25 their fighters, not upwards to any higher structure.

1 These groups came together when confronted with terrible human
2 rights violations by Serbian forces. The efforts of these volunteers
3 were directed against the military enemy, that military enemy, and
4 not at any civilian population.

5 Public statements from that time must be viewed in that context
6 as attempts to increase support for the war effort against Serbian
7 forces and give hope and morale to the people.

8 I dwell for the moment on the fact that these fighters were
9 volunteers. Most did not have military experience or military
10 training. They came from all walks of life: Students, farmers,
11 teachers, doctors, lawyers. They came from all political parties.
12 They were not paid. They became fighters to defend the children,
13 women, and men of Kosovo. They couldn't stand by and ignore what was
14 happening.

15 It is difficult to appreciate the extent of disorganisation
16 standing here in The Hague with the knowledge we all have of how
17 regular militaries function. We are talking about people going on
18 guard duty without weapons. We are talking about volunteers having
19 to travel to Albania to source their own weapons and uniforms. We
20 are talking about a time when even crossing main roads, which were
21 controlled by the Serbian forces, was difficult, dangerous, and could
22 take hours, so the journeys had to be conducted on lesser roads,
23 using indirect routes across difficult terrain.

24 Your Honours, the Prosecution evidence will show that the KLA
25 was never able to reach the level of organisation that the

1 Prosecution asserts.

2 Your Honours have heard that attempts at organisation were swept
3 aside by the summer offensive of 1998. Volunteers laid down their
4 arms, fled their houses, and in some cases left Kosovo. Many units
5 were hollowed out or became ever more disjointed.

6 Another attempt at organisation began in the breathing space
7 provided by the Holbrooke-Milosevic cease-fire agreement and included
8 attempts in November 1998 to create what were called directorates.
9 It is important to emphasise that it takes time to create new
10 institutions and organisations when you are working with volunteers,
11 without experience, in the middle of an armed conflict, with limited
12 resources. When attempts were being made to organise, the
13 expectation was that the war would last years. Little did they know
14 that it would be over within six months.

15 The directorates that were named on paper in November 1998 must
16 not be mistaken for fully functioning, organised directorates of the
17 kind familiar from a regular army. They were a shell, often
18 consisting of one or a very small number of people with
19 administrative guidance to support them.

20 The same could be said for the General Staff itself, which was
21 never the well-functioning governing body described by the
22 Prosecution. Many witnesses within the KLA will testify that they
23 were even unaware of all the General Staff members or their roles.

24 The regulations relied on by the Prosecution must not be taken
25 as face value. They might look like regulations, but logically, they

1 couldn't apply to the circumstances of the KLA, and even then fall
2 far short of the equivalence in regular armies. For instance, the
3 very first paragraphs of the disciplinary regulations on which the
4 Prosecution relies to establish ability to punish refer to a
5 constitution. The KLA didn't have a constitution. These regulations
6 were aspirational and did not reflect the true position.

7 Moreover, Your Honours will hear from a variety of KLA witnesses
8 who had no knowledge of the written regulations or their contents at
9 all.

10 In spring 1999, efforts to organise were again severely damaged
11 in the face of a wave of further Serbian offensives. The KLA was
12 once again scattered, driven from any bases it had occupied, and were
13 surviving on the margins in ever more difficult conditions. After
14 June 1999, after the NATO bombing and the Serbian withdrawal, KLA
15 fighters and hundreds of thousands of civilians returned to Kosovo.
16 Returned to find their family members dead, their houses burned,
17 their possessions or livelihoods taken or destroyed. Individuals in
18 those circumstances may have looked to settle personal grievances or
19 take revenge. The situation was chaos quite beyond anyone's ability
20 to control. At the same time, volunteers were leaving the KLA,
21 returning home to look for their own relatives. KFOR too lacked the
22 capacity for policing or to prevent crimes.

23 The evidence will show that there was never a functioning
24 vertical chain of command. Prosecution witness after Prosecution
25 witness will come and will tell the Court about the limitations of

1 communications, the lack of reporting, and the lack of awareness of
2 the KLA regulations on which the Prosecution relies. From the
3 beginning and throughout, the General Staff never had the ability to
4 impose a common plan on the fighters calling themselves the Kosovo
5 Liberation Army.

6 Fourth, Your Honours, the Prosecution has failed to heed the
7 jurisprudence of the ICTY.

8 Findings relevant to this case, indeed, we would say, decisive
9 on many issues, have already been addressed by my learned friends
10 from the cases of Limaj and Haradinaj. Much of the evidence being
11 presented to Your Honours is evidence that was gathered by the ICTY
12 and relied upon in those cases. Yet, this Prosecution is determined
13 to invite Your Honours to reach conclusions different, indeed at
14 times diametrically opposed, to those reached by the nine trial
15 judges who sat on the Limaj and Haradinaj cases.

16 This attempt is doomed to fail. If sufficient knowledge,
17 intent, and plan could not be proved on the part of local command,
18 how can this Prosecution hope to establish it at a General Staff
19 level, which is even further removed from the events on the ground?

20 That is far from the only issue on which the Prosecution invites
21 this Court to depart radically from the findings of the ICTY.

22 The Prosecution ignores the ICTY's conclusion that the
23 communiqués and public statements failed to establish a common
24 criminal purpose. The exact same communiqués and public statements
25 that the Prosecution relied on in its opening were before the ICTY.

1 The Prosecution ignores the ICTY's findings about crimes against
2 humanity. In Limaj, the trial chamber concluded: "The means and
3 methods used by the KLA ... do not evince characteristics of an
4 attack directed against a civilian population."

5 The Prosecution also ignores the ICTY findings about the start
6 and end of the armed conflict.

7 The Prosecution must prove each of these matters beyond
8 reasonable doubt. In reality, the Prosecution is simply putting the
9 same case again and hoping for a different conclusion. That cannot
10 be because the authoritative findings of the ICTY will, at the very
11 minimum, represent reasonable alternative inference on the facts
12 which will prevent the Prosecution establishing its case.

13 Fifth, Your Honours, the Prosecution overlooks the significance
14 of NATO support to the KLA.

15 An undeniable feature of this case is that NATO supported the
16 KLA in Kosovo. NATO engaged with the KLA at multiple levels.
17 Without NATO air strikes, Serbian forces would not have been removed
18 from Kosovo.

19 At the same time, the Prosecution alleges that there was a
20 common criminal plan which it said two days ago was not a secret. It
21 was in the open. That would mean that NATO supported a known
22 criminal enterprise. That cannot be right and it's affirmatively
23 wrong.

24 Unlike NATO, Mr. Krasniqi did not have satellites, aeroplanes,
25 intercepted communications. Look at his circumstances. He was a

1 teacher and a historian, not a military professional. His means were
2 limited. Since his name was known to the people and to the Serbian
3 forces, he knew that he was a target, and for much of the indictment
4 period he was travelling in secret, staying with families whom he
5 trusted. He had no means of knowing that crimes were committed in
6 these distant locations.

7 Sixth, the Prosecution assumes that the occurrence of crimes in
8 different locations can only be consistent with a common criminal
9 plan.

10 At the end of this case, the Prosecution may have established
11 that some crimes were committed in some locations in parts of Kosovo
12 during the conflict. History has shown that conflict creates an
13 environment in which individuals sometimes may commit crimes. Even
14 within the most highly organised militaries, it's not entirely
15 possible to prevent crimes. Your Honours, in recent years there have
16 been reports of crimes by Canadian troops in Somalia, Australian
17 troops in Afghanistan, the list goes on, but it is another matter
18 entirely to assert that there was an organised policy or plan behind
19 these crimes.

20 In this case, establishing that crimes were committed by KLA
21 fighters or people in KLA uniforms is not enough to impute those
22 crimes to Jakup Krasniqi. This was a volunteer army which came
23 together trying to act as soldiers, trying to improve, trying to
24 learn on the job. This is very far, for instance, from the
25 United States Army, very far from a conventional army. They didn't

1 all have uniforms and when they did, they weren't even the same
2 uniform. To infer an organised common purpose from the actions of
3 dispersed and disorganised fighters in these conditions does not make
4 sense.

5 Finally, the fact that crimes may have occurred in diverse
6 locations at different times does not establish the pattern alleged
7 by the Prosecution. If there was a common enterprise to commit
8 crimes against a class of opponents, why weren't crimes committed
9 consistently throughout the indictment period at each location?
10 Similarly, if crimes followed some central instruction or event, the
11 evidence should show a wave of offensives in all locations following
12 that instruction or event. Instead, the evidence discloses a series
13 of spontaneous local responses to situations arising from time to
14 time at a local level.

15 Your Honours, these six errors are only examples illustrating
16 how fragile the Prosecution case is. More will be exposed as the
17 evidence is called, and we are confident that at the close of the
18 Prosecution case we will be able to make the same strong submission
19 that we make now at the outset. There is no credible evidence
20 connecting Jakup Krasniqi to any crime. There is no credible
21 evidence of a common criminal purpose. There will be no grounds
22 requiring the Defence to be called at the end of the Prosecution
23 case.

24 After Kosovo was left behind and ignored in Dayton, Kosovo
25 Albanians had no choice but to self-organise, to protect and provide

1 equitable human rights for citizens across the country. Kosovo
2 Albanians had the right then, and they have the right now, to be
3 treated equally and equitably. We are confident, Your Honours, that
4 in this Court they will be accorded their fundamental rights. The
5 standards we apply to them are the standards we apply to ourselves.
6 That is why we are today fortunate that we have independent,
7 impartial Judges of significant experience who we trust to scrutinise
8 the evidence and not to give any weight to the politics or the noise
9 from certain quarters that more Kosovans must be convicted.

10 Now, Your Honours, with your leave, if Mr. Jakup Krasniqi could
11 say a few words.

12 PRESIDING JUDGE SMITH: Mr. Krasniqi, you have the right to make
13 an unsworn statement and you have the floor.

14 THE ACCUSED KRASNIQI: [Interpretation] Your Honour, President of
15 the trial, Your Honours, members of the Panel, at the beginning of
16 this trial allow me to say a few words about my life, not to defend
17 myself against defamation made against me in this indictment, but to
18 shed some light on what I think is necessary to understand my
19 complete innocence.

20 I was born on 1 January 1951 in the village of Negroc in
21 Drenica. We were eight brothers and three sisters. My elder sister
22 doesn't live anymore. I am the second eldest brother. My father,
23 Januz Krasniqi, was an educated man and with a little more engagement
24 he might have been a teacher, but he didn't agree with the regime of
25 the time and chose to till his land and provide for his children's

1 education.

2 Education was always important for our family. Except for my
3 older brother who worked abroad and my two big sisters who completed
4 their mandatory education only, the rest of us continued our
5 professional path of education.

6 I was born six years after the terrifying January of 1945, when
7 the communist regime armed forces committed one of the most hideous
8 acts of genocide of the time, the murder of thousands of Albanians,
9 the imprisonment of many others, and the programmed displacement of
10 Albanians to Turkiye. All those terrible acts took place after the
11 Second World War ended and after many promises had been made by the
12 Yugoslav Communist Party that it would respect the Albanian people's
13 right to self-determination.

14 I note that in line with the political cause embraced by the
15 fighters of the national liberation war, the Kosovo delegates to the
16 Bujan Conference that was held from 31 December 1943 to 2 January
17 1944 endorsed a resolution enshrining the political will of their
18 people, which was for Kosovo and the plateau of Dukagjin to be united
19 with Albania after the war. However, rather than complying with this
20 political will, as soon as the war ended, the Yugoslav communist
21 regime installed a military administration in Kosovo and executed
22 thousands of Albanians without due process. The state of emergency
23 and the military administration in Kosovo continued until July 1945
24 when the so-called Prizren assembly decided that Kosovo would be
25 annexed to Serbia.

1 I am referring to these facts as they illustrate the
2 circumstances in which I was born and raised. I note that from a
3 very young age I was surrounded by people who survived the genocide
4 policy of Serbia. There relatives were killed, wounded, or
5 imprisoned, and their houses were destroyed and their properties
6 confiscated.

7 From the distressing stories my family and my childhood friends
8 told, and from what I would later see and hear wherever I went, I
9 came to understand that the propaganda of Yugoslavian paradise of
10 nation's equality disguised a terrible hell which the Kosovar
11 Albanians had to endure not only through several decades of communist
12 regime, but through the systematic violence they faced for more than
13 a century, since the time of the creation of the Balkan states in
14 late 19th century and early 20th century.

15 When I was 5 or 6, in the winter of 1956, 1957, with a pretext
16 of gathering weapons from Kosovo Albanians, the Yugoslav communist
17 regime started a new wave of the designated violence for forcing
18 Albanians to flee their land. My father was a victim of that
19 violence. I can still remember vividly the day when my father came
20 home brutally beaten, my mother tending to his pain from the inhumane
21 torture in a corner of our home. To this day, the image of my
22 father's thrashing body still vividly scorched in my memory. In
23 addition to those tortures, he was constantly persecuted and lived
24 other bigger traumas. My imprisonment, for once, was very difficult
25 for him.

1 My family believed that education would help us against the
2 discrimination that we Albanians faced in each and every segment of
3 the social and political life. While I completed my elementary
4 education with excellent results, I was not admitted to high school
5 and for a year I had to tend to our sheep. My father insisted that I
6 resume my education the following year, 1966, when it was easier to
7 be admitted to school after Aleksandar Rankovic's fall. Following my
8 pedagogical studies, I read history at the University of Prishtine.
9 After completing my studies, I first worked as a teacher in my
10 village and later as a high school teacher at the Drenas and
11 Skenderaj gymnasium.

12 However, I knew that the whole knowledge in the world wouldn't
13 be enough to change the situation for the Albanians in Yugoslavia
14 without a proper and general volunteer organisation of my generation.
15 Therefore, I joined the clandestine organisation called the Kosovo
16 Revolutionary Group, whose main purpose was the liberation of Kosovo
17 and its unification with Albania. And this happened in 1973.

18 In 1981, incited by their massive dissatisfaction, the youth of
19 Kosovo organised protests which came to be known as the 1981 Albanian
20 Spring. This was a general mobilisation of people in Kosovo to seek
21 equal rights with other nations comprising the Yugoslav Federation.
22 Those protests were suppressed with violence by the military and
23 police forces.

24 According to their own official channels, in the protests, 11
25 youngsters were killed, 285 were wounded, and hundreds and thousands

1 were imprisoned. Thousands of political prisoners were subjected to
2 physical and psychological violence.

3 I, too, was subjected to terrible violence. During
4 investigations against me, in 1981 and 1982, I had to endure
5 indescribable acts. My hands and legs were always swollen due to the
6 beatings. And after both investigations, I was sentenced twice. The
7 first time, in 1981, I was sentenced to 14 years in prison; and the
8 second time, in 1982, I was sentenced to 15 years in prison.

9 I refer to those tortures to underline an important fact: None
10 of the investigators, prosecutors, and judges in former Yugoslavia
11 who were responsible for the physical and mental tortures against me
12 at the time was ever criticised in my writings. I left it to their
13 conscience to instill some sense of guilt in them for their criminal
14 acts.

15 I do not understand the logic of the current charges against me.
16 Systematic violence, murders, imprisonment, tortures, and punishments
17 were exercised against our people. I hate violence, murders,
18 imprisonment, tortures, punishments, not only because they were
19 exercised against my people and against me personally, but because I
20 consider them to be bad and inhumane. Those who speak the truth will
21 say that I, Jakup Krasniqi, was never involved in any murder, any
22 imprisonment, or any form of pressure against anyone.

23 My intellectual and human integrity made it clear to me which
24 tools should be used to achieve the national liberation in the war
25 against those who designed and implemented genocide against us.

1 After doing ten years in prison, I was released from the prison
2 of Novi Sad on 23 July 1991. That did not mean, however, that I was
3 free. Albanians in Kosovo were the most oppressed people in Europe.
4 They were the forbidden people, as described by Rexhep Qosaj, the
5 great Albanian intellectual and academic.

6 So from the prison building of Novi Sad, which was full of
7 Albanians, I came into a prison with 2 million Albanians which was
8 called Kosovo. I entered the Kosovo prison at a time when Slobodan
9 Milosevic's regime started to implement its apartheid policy as the
10 pre-phase of planned genocide against the Albanians.

11 Immediately after returning to Kosovo, I joined the Democratic
12 League of Kosovo structures in Drenas. At the time, the LDK was
13 involved in organising a functioning parallel system of political and
14 institutional life in Kosovo to ease the consequences of the
15 apartheid policy that had been installed by the Belgrade regime. In
16 the context of establishing central institutions, Kosovo
17 parliamentary elections were conducted in 1992. In the elections, I
18 won 96 per cent of the votes in my constituency, and I became a
19 member of the assembly.

20 In the following years, as an LDK member, I led the financial
21 council in Drenas. And from April 1996 till the beginning of the
22 armed war in 1998, I chaired the educational council in Drenas. I
23 was also the leader of the LDK branch in Drenas from late 1997 till
24 April 1998. In that position, I was constantly in touch with LDK
25 leadership structures in Prishtine.

1 It is absurd to accuse me of persecuting LDK members or of being
2 part of a common criminal purpose to attack LDK. I was an LDK member
3 myself. My family members were LDK members. My comrades and
4 soldiers were LDK members. Only a deranged mind could have the idea
5 that I might have partaken in the persecution of my family members,
6 my comrades, and my co-fighters.

7 Your Honours, my whole life I have lived in tolerance toward
8 differing opinions. I'd like to bring up an example that shows the
9 untruth of the allegations made in the indictment. Like many family
10 members, my brother Agim Krasniqi was an LDK before the war, during
11 the war, and after the war. In the free elections after the war, his
12 daughter and my niece, Mimoza Krasniqi, was elected to the municipal
13 council of Drenas as an LDK member.

14 Although after the war we worked under separate political
15 parties, I relished the memory of and had respect for the activists
16 of the LDK, with whom we acted in very difficult circumstances.

17 The attempts to find a peaceful solution to the Kosovo issue
18 failed because of the Belgrade regime which had designed a genocidal
19 policy. Therefore, it didn't express the slightest interest in
20 avoiding an armed conflict. When the war began, instead of engaging
21 with the Kosovo Liberation Army, the armed forces of what remained
22 from the Yugoslav federation, under the Milosevic regime's full
23 control, undertook offensives against Albanian settlements,
24 massacring children, women, and old people, and destroying schools,
25 cultural centres, libraries, religious buildings, and everything that

1 was connected with the Albanian identity.

2 As the LDK chairman in Drenas, I witnessed the crimes in
3 Likoshan, Qirez, and Prekaz, and many other terrible crimes that took
4 place which were pure acts of genocide. On those difficult days, I
5 visited those families after the murders of their family members.

6 In the funeral in Likoshan, I made a speech on behalf of the LDK
7 and all local political parties. I saw with my own eyes that in the
8 settlements targeted by the enemy, most of the family members had
9 been executed, such as Ahmet Ahmeti, Gani Ahmeti, Hilmi Ahmeti, Hamze
10 Ahmeti, Driton Ahmeti, Naim Ahmeti, Lumni Ahmeti, Shemsi Ahmeti,
11 Basri Ahmeti, Elhami Ahmeti. All these are members of a family.
12 Ilir Nebihu, Rukie Nebihu, Xhemshir Nebihu, Beqir Sejdiu, Nazmi
13 Sejdiu, Bedri Sejdiu, Bekim Sejdiu.

14 In Prekaz, in addition to the 59 people that were executed, I'll
15 only read the names of the children: Blerine Jashari, 7 years old;
16 Fatime Jashari, 9 years old; Igballe Jashari, 11 years old; Avdullah
17 Jashari, 16 years old; Blerim Jashari, 12 years old; Bujar Jashari, 5
18 years old; Igball Jashari, 13 years old; Kushtrim Jashari, 13 years
19 old; Lirie Jashari, 15 years old; Valdete Jashari, 15 years old. But
20 a total of 59 members of the Jashari family in Prekaz.

21 I am not ashamed to publicly admit having shed tears when I saw
22 in the construction material storage facility at the entrance of
23 Skenderaj all those murdered people of the Jashari family in Prekaz.

24 Adem Demaci, who had been a political prisoner for approximately
25 30 years and who won the Sakharov Prize, noticed that I was crying.

1 And after expressing his condolences, he told me, "Jakup, there is no
2 victory without war and sacrifices."

3 I knew that it was the price of freedom. I tried to hold back
4 my tears, but I couldn't. I wasn't crying for Adem, Hamze, and
5 Shaban Jashari, who have become a legend of freedom. I was crying
6 for the children, for the heirs of my nation, for those who didn't
7 have the chance to live their childhood.

8 In those moments, it became clear to me that I couldn't hide
9 from the truth with my head in the sand like an ostrich. It was
10 clear that Serbia had started the implementation of their genocide
11 plan. It was not humane to turn my back to those facing the
12 consequences of genocide. That was a decisive moment. And at that
13 moment, I said: Freedom or death, and no more under the rule of
14 genocide policy of Serbia.

15 At that time, exactly in June 1998, I was offered the proposal
16 to go out publicly as the KLA spokesperson. I did not hesitate a
17 moment to take on the duty, even though it entailed great danger. I
18 was totally aware that my public appearance, my identity as the
19 spokesperson of the Kosovo Liberation Army would put my family at
20 risk too. My public appearance made my family a target, but then any
21 Albanian family in Kosovo was a target. That's why today I won't
22 speak about the fate of my family. I will not speak about my father
23 who died because of the Serbs' tortures. Because all Albanians, no
24 matter their political, religious, gender, or age, were targeted
25 under the Serb genocide plan. As an illustration, I'll mention that

1 in pursuing their aim to destroy Albanians, the Serb forces killed
2 1.392 children, including babies, 1.739 women, and over 10.000 other
3 civilians.

4 Despite all the flaws and challenges accompanying us during the
5 war, in my role as the KLA spokesman, I tried to give the impression
6 that we were an organised structure because this was the only way to
7 keep alive the hopes for proper resistance. Therefore, my statements
8 should be read in the context of the propaganda striving to affirm
9 our liberation war. Beyond the aspirations for national unification
10 pursued by us, statements of such nature during the war were intended
11 to keep alive the hope that unification with Albania would increase
12 chances of victory.

13 Today I won't dwell too long on our liberation war nor on my
14 diplomatic contacts as a political representative of the KLA nor on
15 the Rambouillet conference, the output of which we signed in order to
16 give peace a chance, even though the agreement was not a good one for
17 us. Whenever we could, we opened all our doors to peace. We were
18 guided by Skanderbeg's message, who said: Seeking war is madness,
19 but responding to it when it is imposed on you is wisdom.

20 Nor will I outline my political journey after the liberation of
21 the country, the establishment of the UNMIK administration, the
22 negotiation for the final status of Kosovo in Vienna led by President
23 Martti Ahtisaari, and my engagement in the building of the Republic
24 of Kosovo as a democratic state fully observing the minorities'
25 rights and freedoms. There is no reason to do so as my whole

1 activity was public and is a known fact. All those who dealt with
2 Kosovo issue, both locals and internationals, know my role and my
3 contribution in those processes.

4 If there is something in my political journey that doesn't make
5 sense, it is the indictment submitted by the SPO. The content of the
6 indictment has hurt me more than the terrible tortures and the
7 imprisonment by the Yugoslav and Serbian regime.

8 The pretext for this indictment was found in Carla del Ponte's
9 book and Dick Marty's so-called report on the organ trafficking by
10 the KLA. After much investigation, conducted for several years by
11 the EULEX SITF led by Clint Williamson, a team of investigators from
12 18 countries in the EU, Canada, and the USA didn't find a shred of
13 evidence. Thus, an allegation was not included in the SPO
14 indictment.

15 In conclusion, by way of illustration, I'd like to refer to a
16 media-covered case of killing Serbian civilians in Kosovo. On
17 14 December 1998, 42 KLA soldiers were killed near the border with
18 Albania. In the evening on the same day, at the Panda café in the
19 city of Peja, six Serbian and Montenegrin youngsters were killed.
20 The murder of those youngsters was interpreted as an act of vengeance
21 by the KLA. During the attempts to find the culprits, hundreds of
22 innocent Albanians were tortured until six youngsters were forced to
23 confess to a crime they hadn't committed. The truth for that
24 terrible act came out 15 years later. Vuk Draskovic who, during the
25 war in Kosovo, was the deputy prime minister of Yugoslavia, in an

1 interview published in the Belgrade newspaper Kurir, on 18 January
2 2014, titled "Milosevic ordered Radetan and Legian to kill Serbian
3 children," stated, and I'm quoting:

4 "The decision for the series of crimes against the Serbs in
5 Kosovo and the Albanians that supported Serbia with a view to lending
6 the blame to the KLA was made by Milosevic and his strategic staff.
7 The decision had been made for the state security services to commit
8 several terrorist attacks for which the KLA would be blamed."

9 This article, I'm repeating, was titled "Milosevic ordered
10 Radetan and Legian to kill Serbian children."

11 PRESIDING JUDGE SMITH: Mr. Krasniqi, your time is up.

12 THE ACCUSED KRASNIQI: [Interpretation] I'm concluding.

13 Your Honours, the evidence given by a person holding a senior
14 government position at a time when a genocide policy was being
15 pursued against the Albanians should make everyone aware of the fact
16 that the Belgrade regime was behind the killings of civilians of all
17 ethnicities in Kosovo.

18 I was never at the service of any criminal policy. This is why
19 I have a clear conscience. I have lived a life with dignity and I
20 want to die with dignity. In my life, I never committed any criminal
21 acts, either before the war or during the war or even after the war.
22 I have never been involved in any criminal acts, be it in the form of
23 action or omission or any other form. I've always acted for the
24 freedom and national unification which have been the goals of my
25 life. That is why I've always been proud of my political activity.

1 Both in the past and today I can hold my head high, and I'm happy
2 that I've managed, even in very challenging circumstances, to keep my
3 human and intellectual integrity.

4 PRESIDING JUDGE SMITH: Mr. Krasniqi --

5 THE ACCUSED KRASNIQI: [Interpretation] That is why --

6 PRESIDING JUDGE SMITH: Mr. Krasniqi.

7 THE ACCUSED KRASNIQI: [Interpretation] -- I have a clear
8 conscience.

9 Your Honours, Your Honours, I have three pleadings for
10 Your Honours.

11 The first one: Don't allow the misuse of individual opinions
12 and views expressed after the war on the time of war.

13 The second request: Don't allow for my notes and notes that I
14 wrote on my books and essays be used as evidence for a criminal act
15 as the SPO intends to do.

16 And thirdly on the communiqués. I will read on what was stated
17 in the Fatmir Limaj's judgment, where the communiqués were used as a
18 propaganda in order to increase the respect and morale for the KLA
19 and its authority so that the people could believe in it, have trust
20 in it, and join it. Paragraph 118 of the judgment of the ICTY on
21 Limaj. And the same thing was stated in the acquittal judgment on
22 Ramush Haradinaj.

23 I kindly ask you not to allow for materials to be misused such
24 as the notes that I had written down for writing a book that's
25 misused by the SPO. They took many materials, even the letters I

1 wrote from the prison, but that's not evidence.

2 PRESIDING JUDGE SMITH: Mr. Krasniqi.

3 THE ACCUSED KRASNIQI: [Interpretation] Thank you for your
4 attention. And I apologise for taking this long, but the indictment
5 is even longer, so this is short, what I said, compared to what I can
6 say about my life.

7 PRESIDING JUDGE SMITH: Please be seated.

8 Ms. Alagendra, your client has used up some of your time, so
9 please be short.

10 MS. ALAGENDRA: I'll be very short, Your Honours. We are well
11 within the one and a half hours indicated.

12 Your Honours, this is a man that the Prosecution say intended to
13 kill, torture, or cruelly treat innocent civilians. In these
14 proceedings, you will see who Jakup Krasniqi really is. He's an
15 educated man, raised with values, who always acts with dignity. He's
16 very human. After all that he endured, he is not a man to stand idly
17 by when people are tortured or civilians are beaten.

18 Jakup Krasniqi was not personally responsible for committing any
19 of the offences with which he is charged. He was not a party to any
20 joint criminal enterprise, as alleged by the Prosecution. There is
21 no agreement to commit crimes. His goal was to ensure the
22 development of a free and safe nation for Kosovo Albanians
23 independent from the Serbian state.

24 Around 25 years after the start of the armed conflict, after
25 years of investigations, after all the efforts of the Dick Marty

1 report, after all the efforts of the ICTY, and after all the efforts
2 of EULEX, at the opening of this trial there remains one irrefutable
3 fact: Not one credible witness, not one man, woman, or child, not
4 one international can say that Jakup Krasniqi was present and
5 participated in the interrogation, torture, mistreatment, or killing
6 of any civilian. Not in his name. Not in his presence. That is the
7 Prosecution's evidence, Your Honour. That is not who Jakup Krasniqi
8 is. And it is why at the end of this case we are confident that
9 there will be only one outcome: He will be acquitted.

10 Thank you, Your Honours.

11 PRESIDING JUDGE SMITH: Thank you, Ms. Alagenda.

12 This concludes the opening statements of the parties and
13 participants. We will resume on Tuesday, 11 April, 2023, at 9.00, to
14 begin the presentation of the evidence in the SPO's case.

15 The Panel would also like to remind the parties and participants
16 that pursuant to paragraph 78 of the Order on the Conduct of
17 Proceedings, the calling party shall upload to Legal Workflow its
18 final presentation queue that includes all documents it intends to
19 use with the witness. Note that that should be no later than 24
20 hours before a witness is due to testify.

21 For clarity, the Panel notes that this 24-hour deadline applies
22 even if it falls on a non-work day or holiday. The presentation
23 queue with regard to the first witness shall therefore be uploaded in
24 Legal Workflow no later than Monday, 10 April, 2023, at 9.00 a.m.

25 This concludes today's public hearing. I thank the parties, the

1 participants, and the Registry for their attendance. I also wish to
2 thank the interpreters, stenographers, audio-visual technicians, and
3 security personnel for their assistance.

4 Mr. Kehoe.

5 MR. KEHOE: Yes, Your Honour, just briefly. I do believe there
6 has been a change of the lineup of the witnesses. If we could have
7 some clarity from the SPO that they moved out their third witness and
8 are moving the others up, if I understand that correctly.

9 PRESIDING JUDGE SMITH: It's news to me. Is there some change?

10 MR. FERDINANDUSSE: Your Honour, we have sent an e-mail, indeed,
11 to the Defence, I believe some days ago, also to the court officers
12 for your attention. So I hope this was brought to your attention,
13 but if not, we will look into that.

14 It's not a definitive change of the order. We have noted that
15 if the examinations and cross-examinations follow the time estimates,
16 we would have one witness that would have a two-week break within
17 their testimony, and that may be a reason to move that witness to the
18 beginning of the May days rather than start in April. And we will
19 use the time efficiently by examining the next witness in line in
20 that time.

21 PRESIDING JUDGE SMITH: Is this all in the e-mail that you --

22 MR. FERDINANDUSSE: It's all in the e-mail.

23 PRESIDING JUDGE SMITH: All right. That seems to be answered.

24 MR. KEHOE: If I may, Judge, that is in fact the problem. The
25 third witness is an extensive witness, which brings with it a

1 tremendous amount of information and a tremendous amount of work.

2 So what I was asking for, given where we are with these
3 timeframes, are we removing number 3 and moving him down the list?
4 If we are, that's fine. But with all due respect, Your Honour, I
5 would ask that the Prosecution commit to that now or not.

6 PRESIDING JUDGE SMITH: Thank you.

7 MR. FERDINANDUSSE: Your Honour, if I may just say, I think we
8 have a bit more of a fundamental problem here, which is that we, at
9 this stage, not even have all cross-examination estimates. We
10 thought we did. Your Honours, you did clearly, as you have indicated
11 in your decision, F01336. However, on 20 March, the Selimi Defence,
12 and this is page 2055 of the transcript, set out that they had
13 provided five estimates so far, and they were still working on
14 providing the estimates from the other witnesses.

15 And I think in general, we are putting the cart before the horse
16 here. We need clear cross-examination estimates, and then we can
17 schedule the witnesses. Obviously, we cannot fully commit to how it
18 will play out because we will have to see how much time we are
19 actually using. But at this stage, the time estimates provided will
20 ensure that there will be a two-week break in the examination of this
21 particular witness, which is something we can avoid and that we will
22 avoid.

23 PRESIDING JUDGE SMITH: And when will you know for sure?

24 MR. FERDINANDUSSE: That will depend on how much time we're
25 actually using on the first and second witness, Your Honour. So that

1 is why we have given notice in advance that it may be necessary to
2 move the third witness depending on how much time we're actually
3 using.

4 But, again, we have had a clear order for coordinated
5 cross-examination estimates by February 13th, and we have heard on
6 20 March that these are still not here. So this process would all be
7 more efficient if the Defence teams would provide these estimates
8 well in advance. Thank you.

9 PRESIDING JUDGE SMITH: All right.

10 MR. KEHOE: Your Honour, that's just -- that's unworkable.
11 Because what we have now is if, in fact, we have some efficiencies as
12 we move through this, which hopefully we will, and we still have to
13 get our sea legs in this trial, Judge, then the SPO is going to
14 decide on the fly if number 3 comes in or number 3 goes back to May.

15 And what I submit to the Court, as an officer of the Court, is
16 that number 3 requires quite a bit of work. Now, if number 3 is off,
17 then we'll move back to 4 and 5. But to just operate on the fly,
18 that we're just going to decide how things go if 3 goes in or doesn't
19 go in, doesn't allow us to plan the way we need to plan.

20 PRESIDING JUDGE SMITH: All right. We'll step aside for about
21 five minutes, everyone stay where you are, and we'll make a decision
22 and make a ruling. I don't need any further information.

23 --- Recess taken at 10.11 a.m.

24 --- On resuming at 10.19 a.m.

25 PRESIDING JUDGE SMITH: We've taken into consideration the

1 request and the response, and it is the decision of the Panel that
2 there will be no change in the scheduled witnesses as previously
3 stated at this time. We will consider requests for such a change
4 when such a definite need arises.

5 Number two. All Defence teams are to provide no later than
6 close of business today a complete estimate of cross-examination on
7 the first 12 witnesses.

8 Three. Updates by the SPO for all of us - parties,
9 participants, and the Panel - is to be given no later than the end of
10 the first witness's testimony at the latest.

11 That concludes this hearing. Thank you very much.

12 --- Whereupon the hearing adjourned at 10.20 a.m.

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