

1 Monday, 12 June 2023

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 9.00 a.m.

5 PRESIDING JUDGE SMITH: Madam Court Officer, please call the
6 case.

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

10 PRESIDING JUDGE SMITH: Today we will start hearing the evidence
11 of Prosecution Witness 04323.

12 Before we start, the Panel would like to address a few
13 preliminary matters.

14 First, the Veseli Defence notice F01567 of 1 June 2023 regarding
15 Exhibit 2D8. The Panel recalls that the SPO initially proposed to
16 tender this item as a Rule 154 statement of Witness W01236.

17 In filing F01380 of 16 March 2023, at paragraph 104, the Panel
18 found that this item is appropriate for admission pursuant to 154 but
19 invited the SPO to carefully consider the need and justification for
20 tendering it.

21 Pursuant to the Panel's invitation, the SPO decided not to
22 tender this item but elicited certain information from said item
23 during its direct examination of W01236. I refer here to the SPO's
24 oral account on page 4599 of the transcript of 23 May 2023; in
25 particular, lines 16 to 21.

1 PRESIDING JUDGE SMITH: Anything from the Thaci Defence?

2 MR. KEHOE: [Microphone not activated]

3 PRESIDING JUDGE SMITH: From the Veseli Defence?

4 MR. EMMERSON: Just one minor correction to the transcript.

5 Page 2, line 7, I think the date should be 1 June rather than
6 1 January.

7 PRESIDING JUDGE SMITH: Okay. Thank you. We'll check that and
8 correct it.

9 The Selimi Defence?

10 MR. TULLY: None, Your Honour.

11 PRESIDING JUDGE SMITH: And from the Krasniqi Defence?

12 MR. ELLIS: Nothing, Your Honour. Thank you.

13 PRESIDING JUDGE SMITH: All right. Thank you.

14 On the basis of the written submissions by the Veseli Defence in
15 F01567, and the oral submissions heard today, and having satisfied
16 itself that the substance of the requirements of Rule 154 was met
17 through the process of proofing, and that there is no objection to
18 the admission of Exhibit 2D8, as such the Panel issues the following
19 oral order.

20 The Panel amends its oral order of 23 May 2023 whereby it
21 admitted Exhibit 2D8 in its entirety so as to only admit pursuant to
22 Rules 137 and 154 the following portions of Exhibit 2D8. And we will
23 double-check the references here: Page 5228, line 21, to page 5230,
24 line 25; page 5245, line 21, to page 5246, line 22; and page 5385 to
25 5396.

1 This concludes the oral order.

2 Second, the Panel wishes to briefly address the SPO
3 reclassification request for certain items which were sent by mail on
4 25 May 2023.

5 On June 2nd, the Panel asked the parties and participants to
6 confirm by June 7th whether they agree to the reclassification sought
7 by the SPO. To date, only Victims' Counsel confirmed that they do
8 not oppose the reclassification request. The Panel would like to
9 know whether there is any objection by Defence to the
10 reclassification request.

11 From the Thaci Defence?

12 MR. KEHOE: No objection, Judge.

13 PRESIDING JUDGE SMITH: Anything from the Veseli Defence?

14 MR. EMMERSON: No.

15 PRESIDING JUDGE SMITH: All right. Selimi Defence?

16 MR. TULLY: No objection.

17 PRESIDING JUDGE SMITH: And by the Krasniqi Defence?

18 MR. ELLIS: No, Your Honour.

19 PRESIDING JUDGE SMITH: Thank you very much.

20 The Panel notes that no one opposes the SPO's reclassification
21 request.

22 Third, the Panel wishes to deal briefly with an issue that has
23 arisen from SPO filing F01581, which is the Prosecution Motion to
24 Limit Courtroom Attendance. The Panel will shorten the briefing
25 schedule for this matter as it is one that requires a decision

1 without delay.

2 Therefore, the Panel orders the Defence to file any response to
3 the motion by no later than 4.00 p.m. on Thursday, June 15. And the
4 Panel orders the SPO to file a reply, if any, by no later than
5 4.00 p.m. on Friday, June 16.

6 The Panel hereby also invites the Registry and Victims' Counsel
7 to make submissions in respect of the issues raised in the motion
8 insofar as it might affect their roles and responsibilities. Any
9 such submission shall be filed by 4.00 p.m. on Wednesday, 14 June.

10 This concludes the Panel's oral order.

11 Now, let's proceed with the testimony of Witness W04323. I note
12 that all the accused are present in court today. I also note that
13 Mr. Sytema is here as Duty Counsel.

14 Welcome, Mr. Sytema.

15 MR. SYTEMA: [Microphone not activated]

16 PRESIDING JUDGE SMITH: Madam Prosecutor, do we need to go into
17 private session for this portion?

18 MS. D'ASCOLI: Yes, please, Your Honours.

19 PRESIDING JUDGE SMITH: All right. We will go into private
20 session then, Madam Court Officer.

21 [Private session]

22 [Private session text removed]

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4621

Procedural Matters

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4622

Procedural Matters

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4623

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4624

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4625

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4626

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4627

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6 [Open session]

7 THE COURT OFFICER: Your Honours, we're now in open session.

8 PRESIDING JUDGE SMITH: Thank you.

9 You may proceed.

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

11 Q. Witness, for the benefit of the public, we were discussing a KLA
12 training that you attended in Bajgore. Can you tell us where in
13 Bajgore did the training take place?

14 A. It took place at a school in the village of Bajgore. That's
15 where we received our training.

16 Q. What was there in Bajgore at that school?

17 A. It was a base belonging to the Llap operational zone. The
18 military training took place there. The headquarters were there.
19 The munitions depot was there. The kitchen for the military.

20 Q. You mention that the school was a base belonging to the Llap
21 operational zone. The headquarters were there. Do you mean whether
22 the headquarters of the Llap operational zone was located there in
23 Bajgore at the school? I just want to clarify what you said.

24 A. To the best of my knowledge, yes.

25 Q. And you mentioned the Llap operational zone. Can you tell us

1 whether, in fact, Bajgore belonged to any specific KLA area?

2 A. For that period we're referring to, September, that is, I know
3 that it belonged to the Llap operational zone.

4 Q. And did you know at that time, when you were undergoing this
5 training, what area, what geographical area was covered by the Llap
6 operational zone, if any?

7 A. It was a small zone. Not very large. It mainly covered deep
8 mountainous areas, and it operated out of there but not in the
9 territory of the Podujeve municipality.

10 Q. Where were you staying or sleeping during the days of the
11 training?

12 A. At this military base, at the school, that is, in Bajgore.

13 Q. So at the same location of the training?

14 A. Yes.

15 Q. And how many recruits approximately attended the training?

16 A. Roughly about 200.

17 Q. I'll ask you to describe a bit the training you received. So
18 first of all, can you tell us what topics were part of the training.

19 A. Every morning, according to the routine, the hoisting of the
20 flag, the anthem, and so on, we would do physical training first in
21 the course of the morning. It involved running, strengthening of the
22 muscles, and this lasted until 10.00 in the morning, where we had a
23 break of one hour or one hour and a half when we ate. After that, we
24 had more specific detailed training on the use of weapons, shooting
25 of weapons, the cleanup of a weapon, how to dismantle it and

1 reassemble it, from the simplest to the more advanced weaponry we had
2 at our disposal.

3 There was also sessions of a more theoretical nature, on how to
4 prepare a bunker or a trench. So in general it was a military
5 training, including the use of landmine, how to -- how to mine and
6 de-mine a certain area, the use of larger calibre weapons, which we
7 had no occasion to use because we lacked them, but we were trained in
8 how to assemble and dismantle them.

9 Q. Did the training include information or instructions on duties
10 and responsibilities as a KLA soldier?

11 A. Yes, this happened regularly.

12 Q. Did the training include information and instructions about the
13 chain of command; for example, duties and responsibilities towards
14 superior commanders?

15 A. Yes, this was explained to us throughout the course of the
16 training. However, we weren't able to finish our training because
17 four or five days later, or a week or so later, one of the main
18 battles started in this zone you're referring to.

19 Q. We will get there, Witness.

20 A. It was otherwise known as -- okay.

21 Q. Please, please finish your answer. You were saying "it was
22 otherwise known as," in relation to a battle?

23 A. The battle of Kacanoll.

24 Q. Yes, we will get to that point. Let me continue and finish on
25 this topic of training. Were you given any instructions about how to

1 identify the enemy?

2 A. It wasn't difficult for us to be able to identify the enemy. It
3 was clear what uniform it had, what insignia, and what weaponry it
4 had at its disposal. So in short, it was easy for everyone, and that
5 does not simply include soldiers but every single resident. They'd
6 be able to identify who the police were, what the army looked like --

7 Q. And so --

8 A. -- and other irregular units like the paramilitaries and so on.

9 Q. I understand that that was the case in practice. But in answer
10 to my question whether the training also included instructions,
11 information about that, about how to identify the enemy, what is your
12 answer?

13 A. I'm not sure I understand anything further to what I've said.
14 Would you kindly be able to reformulate the question in a different
15 way, please?

16 Q. Yes, of course. I was asking whether during the training -
17 whether it was the physical, the practical training, the theoretical
18 one you received - KLA soldiers, you included, were also given
19 instructions, informations about how to identify the enemy.

20 A. In addition to the answer that I gave, I can say that we were
21 aware which direction the enemy came from. There was a line where we
22 were concentrated.

23 Q. And was this part of what you were told during the training,
24 what was discussed during the training?

25 A. Yes.

1 Q. Did the training include information on the laws of the war?

2 A. Yes. Unfortunately, yes, but -- but because of the
3 circumstances that arose, we did not manage to complete the
4 theoretical section that should -- the -- the theoretical legal
5 section that should have been part of that training. And I'm talking
6 of the circumstances that applied at the time.

7 Q. And were you trained on the rights of civilians during an armed
8 conflict?

9 A. Officially, no. We did not manage to cover that point, the
10 legal point, that is. And that does not apply to me alone but to all
11 the other recruits that composed this group of 200 or so.

12 Q. Can you tell us who led the training? Who were the instructors,
13 the trainers, from what you remember?

14 A. There were several. On the use of weapons, there was somebody
15 who was in charge. Another one was in charge of teaching us about
16 artillery. Another one --

17 Q. Do you remember names?

18 A. -- told us how to use mines. No, I cannot remember now.

19 Q. Do you remember how the instructors, trainers were dressed?

20 A. As KLA soldiers, we did not have the same uniform which would
21 identify us. With the exception of the insignia, our uniforms were
22 various. We had German, Serbian, Italian uniforms. However, what
23 counted was to have a uniform, even though there was -- there wasn't
24 one that would be the same. The only identifying element was the
25 insignia. Via that, we'd be able to be identified as soldiers of the

1 KLA.

2 Q. And since my question was in relation to the trainers, the
3 instructors at the training in Bajgore, do you remember anything
4 about the way that they were dressed? And if so, can you describe
5 it, including any insignia if they had it?

6 A. The insignia was that of the Kosovo Liberation Army. The
7 instructors were also wearing different uniforms. One could have had
8 a German uniform, another one a Serbian one. But I can say nothing
9 further to what I said earlier in my answer, that there was no single
10 uniform.

11 Q. Okay. Was any commander introduced to you and to the other
12 recruits during these training sessions?

13 A. Yes, there were.

14 Q. Can you tell us who?

15 A. Commander Remi, the commander of the Llap operational zone, was
16 introduced.

17 Q. Do you remember his full name?

18 A. Rrustem Mustafa.

19 Q. And you said he was the commander of the Llap operational zone?

20 A. Yes.

21 Q. How did you understand what his role was?

22 A. In one of those fall-in exercises in the morning, he was
23 introduced to us.

24 Q. And you mean he was introduced to you -- yes, tell us how he was
25 introduced to you. Did he introduce himself or was he introduced by

1 others, and how?

2 A. After the morning routine, there was a process to be followed by
3 an individual, and one of those included the introduction of
4 Commander Remi. He introduced himself. He held a speech that lasted
5 roughly four to five minutes. It was mainly gratitude for the
6 courage. It was of an informative nature.

7 Q. Any other commanders who were introduced to the recruits during
8 the training or who were present there?

9 A. There were several, but I cannot recall the names. I remember
10 Commander Remi's name, but I cannot remember the others. However,
11 there were others there.

12 Q. And if you don't remember their names, do you remember their
13 roles? Which roles they had?

14 A. I am not sure. I cannot answer this. I cannot give you an
15 accurate answer.

16 Q. Okay. That's fine. You said Commander Remi was the commander
17 of the KLA Llap operational zone. Did you learn in those days about
18 any other commanders of the Llap operational zone?

19 A. During the training, I -- I can't say that I learned of other
20 commanders. During this brief training, that is. With the elapse of
21 time, however, I understood how the entire structure functioned, and
22 I came to understand who the other commanders were.

23 Q. And do you know whether at that time there was a headquarters of
24 the Llap operational zone? Were you aware of the existence of the
25 headquarters?

1 A. Yes, we were aware. And -- and not only as soldiers, but even
2 as -- as civilians we were aware of the existence of the Llap
3 operational zone.

4 Q. So is the existence of the headquarters of the Llap operational
5 zone something you became aware during the training or that you were
6 already aware before, before receiving the training?

7 A. We knew of its existence even before the training.

8 Q. How long did the training last for?

9 A. It should have lasted two weeks in order to be complete;
10 however, we did not manage it. It lasted from five to seven days.
11 No more.

12 Q. Can you tell us why it was interrupted?

13 A. It happened because a battle started in this area where we were
14 receiving the training.

15 Q. Can you tell us the battle?

16 A. The battle of Kacanoll, which included the region of Shala in
17 its entirety. Bajgore was also involved in the fighting, and the
18 surrounding villages too.

19 Q. Before we move to what happened when the battle took place, I
20 want to ask you some further questions regarding the duties you had
21 during the training.

22 So did this training include any specific assignments or duties
23 that you and other recruits were expected to carry out?

24 A. With the exception of the training, we were also obliged to do
25 guard duty to guard those vital installations.

1 Q. And can you give us some examples of guard duties that you and
2 others would be assigned to?

3 A. We rotated our guard duty. As new recruits, we were -- we were
4 coupled up with older soldiers and we guarded points. We did guard
5 duty at the site where the headquarters were located and where the
6 training centre was. We had guard duty at the munitions depot or the
7 food warehouse.

8 Q. You mentioned in your previous answer "we were obliged to do
9 guard duty to guard those vital installations." Is that what you
10 meant by "vital installations," what you just explained in your
11 answer now?

12 A. Yes, yes. It formed part of our duties of the doctrine that we
13 had to apply on a continuous basis.

14 MS. D'ASCOLI: Your Honours, for the next set of questions I
15 would ask that we move into private session as the answers might be
16 identifying. Thank you.

17 PRESIDING JUDGE SMITH: The Court Officer will please take us to
18 private session for the protection of the witness and others.

19 [Private session]

20 [Private session text removed]

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4637

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4638

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4639

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4640

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9 [Open session]

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

11 PRESIDING JUDGE SMITH: Thank you.

12 Go ahead, Madam Prosecutor.

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

14 Q. Witness, we are in open session, and we were talking about the
15 existence of a KLA detention centre in Bajgore. I have a few
16 questions about that.

17 Did you know about the existence of that prison already before
18 attending the training in Bajgore?

19 A. Yes, I did.

20 Q. And what did you know about it?

21 A. Nothing concrete or specific, but we only knew that there was a
22 detention centre. And this was known to all the civilians in that
23 area.

24 Q. Do you remember approximately when you learned about the
25 existence of the detention centre in Bajgore?

Witness: W04323 (Open Session)

Page 4642

Examination by Ms. D'Ascoli

1 A. It must have been the summer of 1998.

2 Q. And do you remember how you learned about it?

3 A. From hearsay mainly.

4 Q. Do you remember with whom you -- from whom you learned about it
5 or with whom you would discuss it, if you did?

6 A. The subjects we were preoccupied with, especially in 1998, and
7 one of the subjects that were topical at the time was the issue of
8 survival, how to survive, how to provide food for yourself, how to
9 overlive in various conditions as a population in general. And one
10 of these themes that was discussed at the time was that there was a
11 detention centre in Bajgore.

12 Q. In one of the answers, this is line 13, you said:

13 "... this was known to all the civilians in that area."

14 So how did you come to understand that other civilians were
15 aware of that?

16 A. It wasn't something that was hidden for the public. It was a
17 building known to the public, and the road where it was situated was
18 accessible from the main road. That main road was used both by
19 military and the civilian population.

20 Q. Did you also know what the prison was for, what the detention
21 centre was for?

22 A. For us, as civilians, it was known to be a place for dissidents
23 and for people who in those difficult times committed theft and these
24 kinds of acts.

25 Q. And can you clarify what you meant when you said "it was known

1 to be a place for dissidents"?

2 A. It was known for people who cooperated with the enemy or
3 collaborators, which we call spies.

4 Q. And can you clarify what you knew about it, about people who
5 cooperated with the enemy or collaborators?

6 A. Just as a piece of information in general terms, this was
7 something that we knew as civilians even before we joined the KLA.
8 It was something known to every Albanian civilian. It wasn't a
9 reserved information, so to say.

10 Q. Yes. What did you know about it? What did you know about the
11 issue of collaborators in those days, in those times?

12 A. I'm not sure I understood your question.

13 Q. You said that the information about this detention centre was
14 known amongst civilians, and that it was known that "people who
15 cooperated with the enemy" were held in that detention centre. Can
16 you clarify what you knew about the issue of collaborators in that
17 period? What information you had about it?

18 A. I could not understand the ideology of a collaborationist. What
19 I know is that, from childhood through adolescence, we were brought
20 up in such an ideology that in no circumstance should one collaborate
21 with the enemy. So it was a subject that was quite discussed.

22 Q. Who was considered a collaborator? What categories? What
23 people?

24 A. People who worked for the Serbian Ministry of the Interior, also
25 known as SUP, S-U-P.

1 Q. Do you have in mind any other category?

2 A. No, mainly these people, based on the word of mouth at the time.

3 Q. And in identifying this category, people who worked for the
4 Serbian Ministry of the Interior, on what are you basing your answer?
5 How can you say that? And, again, you don't need to go into any
6 names or anything. Just to explain your answer.

7 A. Given the age, my age at that time, I didn't know any specific
8 information. My knowledge was mainly based on word of mouth, on
9 hearsay.

10 Q. Okay. During the training, was the issue of collaborators
11 discussed among soldiers like you? You and the other recruits with
12 whom you were.

13 A. Of course. We could not avoid it as a subject, as a topic. It
14 was a small zone or area, and, of course, this topic would come up.
15 But I cannot give you anymore specific information. I can only say
16 that as a topic, yes, it was discussed.

17 Q. And do you remember in what terms it was discussed? What was
18 said about it?

19 A. That an individual should be careful. A person, an individual,
20 in no circumstances, should not collaborate -- collaborate with the
21 enemy.

22 Q. Were you given any instructions during the training about what
23 to do in case you detected any suspicious activity or any
24 collaborators or any people who were suspected of cooperating with
25 the enemy?

1 A. No, we were not given any specific instructions on this. As
2 soldiers, our main duty was to defend. Nothing specific in terms of
3 how to identify a collaborator. We were just instructed on how to
4 identify the enemy.

5 Q. But you said the issue was known, and so what would you have
6 done? What were you supposed to do if you suspected that certain
7 people were possibly collaborating?

8 A. No, we were not issued any specific tasks in this regard. We
9 were concentrated, focused on the first front line, on identifying
10 the enemy, but as soldiers, as recruits, we were not given any
11 specific instructions on this topic by a commander.

12 Q. Yes, I understood about the instructions. My question was
13 related to practice.

14 So what would happen if you would detect any suspicious
15 activity?

16 MR. KEHOE: Your Honour, this has now been asked and answered
17 three times.

18 PRESIDING JUDGE SMITH: Please clarify your question. He's not
19 understanding it. He's answering -- he's apparently not answering
20 what you think he's going. [Microphone not activated].

21 MS. D'ASCOLI: Yes, Your Honours. I was going to.

22 PRESIDING JUDGE SMITH: All right.

23 MS. D'ASCOLI: Yes.

24 Q. Witness, my question was not in relation to the instruction you
25 received, as you answered to the question that you did not receive

1 instructions. My question was in relation to what would happen in
2 practice. If you, in practice, would notice any suspicious activity,
3 any people that you suspected was undergoing -- was taking activities
4 to cooperate with the enemy, what would you do as a KLA soldier in
5 those circumstances?

6 A. It was a general instruction. If you feel in danger, if you
7 detect a suspicious activity in the perimeter of our installations,
8 vital installations, in defending the points, the trenches, the
9 ammunition depot, and so forth, a person should be identified as a
10 soldier. If you do not manage to identify a person, then you report
11 the case to the military police and they deal further with the case,
12 in terms of identifying that particular person.

13 Q. Okay. So I understand that in those cases you would report the
14 case to the military police if there was suspicious activity or a
15 suspicious person?

16 A. Yes.

17 Q. About the prison, about the detention centre in Bajgore, do you
18 know whether it was civilians or soldiers who were held in that
19 detention centre?

20 A. Yes, there were civilians.

21 MS. D'ASCOLI: Your Honours, I would now ask to move into
22 private session as the next set of questions and answers could be
23 identifying.

24 PRESIDING JUDGE SMITH: Madam Court Officer, please go to
25 private session to protect the witnesses and others.

Witness: W04323 (Private Session)

Page 4647

Examination by Ms. D'Ascoli

1 [Private session]

2 [Private session text removed]

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4648

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4649

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4650

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4651

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4652

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4653

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4654

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4655

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4656

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4657

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9 [Open session]

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

11 PRESIDING JUDGE SMITH: Court Usher, you may escort the witness
12 out.

13 Thank you, Mr. Witness. We will take a half-hour break and then
14 you will be back. Please do not discuss this matter with anyone.

15 [The witness stands down]

16 PRESIDING JUDGE SMITH: We are adjourned until 11.30.

17 --- Recess taken at 11.00 a.m.

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

19 PRESIDING JUDGE SMITH: You may continue, Madam Prosecutor.

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

21 PRESIDING JUDGE SMITH: Oh, we have to get the witness in.

22 MS. D'ASCOLI: Yes. Your Honours, before we continue with the
23 witness, I owe you an answer in relation to Exhibit 2D8. We also
24 don't have a further request. So it's okay. Thank you.

25 PRESIDING JUDGE SMITH: All right. So noted. Thank you.

Witness: W04323 (Private Session)

Page 4659

Examination by Ms. D'Ascoli

1 Please bring us into private session, Madam Court Officer.

2 [Private session]

3 [Private session text removed]

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4660

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4661

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4662

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4663

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3 [Open session]

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

5 PRESIDING JUDGE SMITH: Thank you.

6 Go ahead, Madam Prosecutor.

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

8 Q. Witness, we were discussing the presence of Person 1 inside the
9 building. Can you tell us what you heard, if anything, when Person 1
10 was inside the building?

11 A. There were questions asked with a higher voice than usual.

12 Q. Can you tell us what you remember about those questions? What
13 did you hear?

14 A. I remember just fragments. When a higher voice was used, the
15 questions asked were -- I don't, as I said, remember details. These
16 are just fragments. I just heard the questions but did not
17 understand them.

18 Q. Any words? Could you distinguish any words among the -- among
19 what you heard?

20 A. The word "why" was used quite often.

21 Q. And could you tell from which room these higher voices were
22 coming from?

23 A. From the duty office.

24 Q. Can you explain what you mean, "higher voice than usual"?

25 A. When you scold somebody or you ask for explanation from somebody

1 and that person uses a higher voice towards you.

2 Q. And based on what you heard, what did you think was happening
3 inside the room?

4 MR. KEHOE: Excuse me, Your Honour. That's speculation. He can
5 testify as to what he heard, what he saw, but what did he think was
6 happening is speculation.

7 PRESIDING JUDGE SMITH: Sustained.

8 MS. D'ASCOLI:

9 Q. Witness, could you hear what was happening inside the room?

10 A. From what I could gather, it was an interview why, asking for
11 accountability from a certain person.

12 Q. Anything else you remember about that episode?

13 A. At this moment, I cannot be precise.

14 Q. Can you tell us what happened afterwards?

15 A. After these 15 to 30 minutes that he stayed, Person 1 stayed in
16 there, they left the building by car, and we continued our guard duty
17 up until the end of our shift.

18 MS. D'ASCOLI: Your Honours, can we please move back into
19 private session for the next set of questions.

20 PRESIDING JUDGE SMITH: Court Officer, into private session,
21 please, for protection of the witness and others.

22 [Private session]

23 [Private session text removed]

24

25

Witness: W04323 (Private Session)

Page 4666

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4667

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4668

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4669

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4670

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8 [Open session]

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

10 PRESIDING JUDGE SMITH: Go ahead, Madam Prosecutor.

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

12 Q. Witness, when did you leave Bajgore?

13 A. We left Bajgore when we were defeated by the Serbian forces in
14 the course of that battle.

15 Q. What battle are you referring to?

16 A. I'm talking about the Kacanoll battle at the beginning or middle
17 of September.

18 Q. So tell us what happened when you left Bajgore?

19 A. As new recruits, we were not forced to take part in direct
20 fighting against Serbian forces. When the fighting started, we, as
21 new recruits, would just go in the night and open trenches, after
22 which we'd return back to the base. But there was a lot of movement
23 to and fro in the zone, activities that had to do with the
24 mobilisation, the movement of people, arms, other commodities. These
25 were movements that we were involved in.

Witness: W04323 (Open Session)

Page 4672

Examination by Ms. D'Ascoli

1 Q. And where did you go from Bajgore?

2 A. We went to the village of Potok, which is adjacent to the
3 village of Kacanoll.

4 Q. For how long did you stay there?

5 A. Serbian forces reached up to the village of Potok, after which
6 they retreated from the entire region. I'm not sure how long I
7 stayed there. It may have been one or two days but no longer.

8 Q. So I understand you, as recruits, were evacuated from the KLA
9 headquarters in Bajgore. Was everyone else also evacuated?

10 A. No, it wasn't just us as the new recruits. The entire Llap
11 operational zone was evacuated. The village of Bajgore was occupied
12 by Serbian forces, and there was no possibility of staying behind.

13 Q. What means of transportations did you use to go from Bajgore to
14 Potok?

15 A. Whatever we could use, but most of the time it was tractors.
16 Eventually a car. Sometimes we used horses or donkeys for transport.

17 Q. Were civilians evacuated too?

18 A. Yes, civilians were the first to be evacuated with the onset of
19 the fighting. That zone was entirely military. There were no
20 civilians present in the course of that battle.

21 Q. How did you yourself move? On what means of transportation, if
22 any?

23 A. There were at least -- there were at least ten trips to and fro
24 from Bajgore to Potok, because we had our -- our food supply
25 warehouse which we had to evacuate in its entirety, the munitions

1 depot, the military hospital whose equipment had to be evacuated. So
2 there was to-ing and fro-ing. But as I say, on the majority of
3 cases, the evacuation of people occurred on foot.

4 Q. Did you move from Bajgore on foot?

5 A. Yes. On the last occasion, yes.

6 Q. And how were civilians evacuated? Did they leave on foot or
7 were they put on any means of transport?

8 A. No, the civilians used whatever was available to them, which was
9 not much. If they were lucky to have a tractor, they'd use it.
10 Otherwise, you'd just put a bag on your back and proceed on foot.

11 Q. We heard and we were speaking about a detention centre in
12 Bajgore. Do you know whether the detainees of that detention centre
13 were also evacuated?

14 A. I don't have that information. But there was evacuation from
15 there too. We were aware that there was a tractor with detainees
16 from the centre on board in the midst of this evacuation effort.

17 Q. What did you mean "we were aware"? Did you see that or not?

18 A. Yes.

19 Q. And on that tractor, did you recognise any of those detainees?
20 And just a "yes" or "no" answer would suffice.

21 A. This is not a "yes" or "no" answer. I'm sorry.

22 Q. To the best of your recollection, do you remember whether on
23 that tractor with detainees you recognised anyone? Without
24 mentioning names.

25 A. I think I saw Person 9.

Witness: W04323 (Open Session)

Page 4674

Examination by Ms. D'Ascoli

1 Q. Is it yes, you saw him? Because you said "I think I saw" him.

2 Did you see him; yes or no?

3 A. I think I saw him. That is my final answer.

4 Q. And where did you see the tractor was going? At what point in
5 time you saw this tractor with detainees?

6 A. At location D, that's where I saw it.

7 Q. And how far were you from the tractor of the detainees when you
8 saw it?

9 A. I might have been 5 metres at the furthest.

10 Q. Did you see whether that tractor with detainees stayed there in
11 the location that you mentioned, location D, or not?

12 A. No, it was moving.

13 Q. Did you understand -- in which direction that tractor was
14 moving?

15 A. It was moving from the village of Popove -- or towards the
16 village of Popove.

17 Q. Do you remember whether that tractor with the detainees was
18 surveilled or not?

19 A. Yes.

20 Q. By whom?

21 A. Military police.

22 Q. Do you remember how many military police you saw around the --
23 with the tractor?

24 A. These people were on board the tractor alongside the detainees.
25 At least four of them, if I remember correctly.

1 Q. And how did you understand that there was a tractor with the
2 detainees?

3 A. Because of the circumstances, we were there and -- and we
4 chatted to each other, and we came to understand that this was a
5 tractor with these people on board.

6 Q. With whom were you chatting?

7 A. These were conversations among soldiers, because I did not have
8 any authorisation or right to inquire.

9 Q. Do you remember more or less how many people were on the
10 detainees' tractor?

11 A. I cannot give you an accurate number.

12 Q. And to clarify, is it on this detainee tractor that you believe
13 you saw Person 9?

14 A. Yes.

15 MS. D'ASCOLI: Your Honours, can we move back into private
16 session for the next set of identifying questions. Thank you.

17 PRESIDING JUDGE SMITH: All right. Court Officer, please move
18 us back into private session.

19 [Private session]

20 [Private session text removed]

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4676

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4677

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4678

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4679

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4680

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4681

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4682

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4683

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4684

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4685

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4686

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4687

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4688

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4689

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17 [Open session]

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

19 PRESIDING JUDGE SMITH: Usher, you may escort the witness out.

20 Witness, we will be taking a lunch break. You will be back here
21 at 2.30.

22 THE WITNESS: [Interpretation] Thank you.

23 [The witness stands down]

24 PRESIDING JUDGE SMITH: We are adjourned until 2.30.

25 --- Luncheon recess taken at 1.01 p.m.

Witness: W04323 (Private Session)

Page 4690

Examination by Ms. D'Ascoli

1 --- On resuming at 2.29 p.m.

2 PRESIDING JUDGE SMITH: I believe we are still in public
3 session.

4 Madam Usher, you can bring the witness in.

5 [The witness takes the stand]

6 PRESIDING JUDGE SMITH: You can be seated.

7 THE WITNESS: [Interpretation] Thank you.

8 PRESIDING JUDGE SMITH: Madam Prosecutor, you may continue.

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

10 And I would please request to move into private session because
11 the next set of questions might be identifying. Thank you.

12 PRESIDING JUDGE SMITH: Madam Court Officer, please take us to
13 private session.

14 [Private session]

15 [Private session text removed]

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4691

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4692

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4693

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4694

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4695

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4696

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4697

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4698

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4699

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4700

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4701

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4702

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4703

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4704

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4705

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4706

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4707

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4708

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4709

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04323 (Private Session)

Page 4710

Examination by Ms. D'Ascoli

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20 [Open session]

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

22 PRESIDING JUDGE SMITH: Madam Usher, you may escort the witness
23 out.

24 [The witness stands down]

25 PRESIDING JUDGE SMITH: [Microphone not activated]

1 --- Break taken at 3.38 p.m.

2 --- On resuming at 3.50 p.m.

3 PRESIDING JUDGE SMITH: Public session.

4 THE COURT OFFICER: We are now in public session, Your Honour.

5 PRESIDING JUDGE SMITH: All right. We will adjourn for the rest
6 of today. We will be back here tomorrow morning at 9.00. Thank you
7 all for your attendance.

8 We are adjourned.

9 --- Whereupon the hearing adjourned at 3.51 p.m.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25