

1 Monday, 13 November 2023

2 [Open session]

3 [The accused entered the courtroom]

4 [Accused Krasniqi appeared via videolink]

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

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

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

11 PRESIDING JUDGE SMITH: Before we start, the Panel notes that
12 the SPO has requested the reclassification as confidential of some of
13 W04043's admitted Rule 154 statements that were classified as public
14 in court. These are P697, P694.3, and P694.4.

15 The SPO has indicated that two names contained within these
16 materials should remain confidential due to the witness's concerns
17 regarding their safety.

18 Any objection by the parties?

19 MR. KEHOE: Your Honour, I'd have to take a look at this. I
20 just don't know off the top of my head. So I mean I'll just get back
21 to you just as soon as I take a look at it.

22 PRESIDING JUDGE SMITH: All right. We'll deal with it at the
23 next break, then.

24 Mr. Roberts, you had a request.

25 MR. ROBERTS: Yes, Your Honour. Good morning.

1 In relation to the decision on the Prosecution motion for
2 admission of the accused statements, so that's F1917, we are
3 requesting an extension of time on behalf of all Defence teams for
4 those that wish to file a request for certification. The deadline is
5 normally seven days, which would make it 16 November.

6 I had originally suggested to the Prosecution that an extension
7 of six days would be requested. From further -- to which they
8 agreed. That was this morning. From further discussions, I would
9 like to extend that slightly to ten days until what would be
10 26 November.

11 PRESIDING JUDGE SMITH: Any objection by the Prosecution?

12 MR. HALLING: It is a little longer than what we agreed to, but
13 no objection.

14 PRESIDING JUDGE SMITH: Oral order is that the extension is
15 granted until 26 November for request for certification.

16 MR. ROBERTS: Much obliged. Thank you, Your Honour.

17 PRESIDING JUDGE SMITH: All right. We are ready to continue
18 with the testimony of W04444.

19 Madam Court Usher, please bring the witness into the courtroom.

20 MR. ROBERTS: So, Your Honour, just to inform you, I should
21 still be between 30 and 45 minutes this morning.

22 PRESIDING JUDGE SMITH: Thank you for the notice.

23 Just to accommodate everybody, how much time are you going to
24 have?

25 MR. KEHOE: About an hour, Judge.

1 PRESIDING JUDGE SMITH: Okay.

2 Mr. Emmerson or Ms. --

3 MS. O'REILLY: It's me today, Your Honour. I don't think it
4 will be longer than 15, 20 minutes.

5 PRESIDING JUDGE SMITH: Thank you.

6 MR. ELLIS: Yes, I think potentially 20 minutes to half an hour.

7 PRESIDING JUDGE SMITH: Thank you very much.

8 [The witness takes the stand]

9 PRESIDING JUDGE SMITH: Good morning, Witness.

10 THE WITNESS: [Interpretation] Good morning. Can I have the
11 volume higher, please?

12 PRESIDING JUDGE SMITH: Is this a better volume?

13 THE WITNESS: [Interpretation] Yes.

14 PRESIDING JUDGE SMITH: Today we are going to continue with the
15 cross-examination, beginning with the Defence for Mr. Selimi.

16 Witness, I remind you to please try to answer the questions
17 clearly with short sentences. If you don't understand a question,
18 feel free to ask counsel to repeat the question, or tell them you
19 don't understand and they will attempt to clarify.

20 Also, please remember to try to indicate the basis of your
21 knowledge of the facts and circumstances upon which you will be
22 questioned.

23 I remind you that you are still under an obligation to tell the
24 truth as stated in your solemn declaration that you gave on Friday.

25 Please also remember to speak into the microphone and to wait

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1 five seconds before answering a question, and speak at a slow pace
2 for the interpreters to catch up.

3 If you feel the need to take a break, please let us know and we
4 will try to accommodate you.

5 Mr. Roberts, you have the floor.

6 MR. ROBERTS: Thank you, Your Honour.

7 WITNESS: W04444 [Resumed]

8 [Witness answered through interpreter]

9 Cross-examination by Mr. Roberts: [Continued]

10 Q. And good morning, Witness.

11 MR. ROBERTS: If we could move into private session,
12 Your Honour.

13 PRESIDING JUDGE SMITH: Into private session, please,
14 Madam Court Officer.

15 [Private session]

16 [Private session text removed]

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3 [Open session]

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

5 PRESIDING JUDGE SMITH: Go ahead.

6 MR. KEHOE: Thank you, Your Honour.

7 Q. Witness, we're in public session, so please don't mention any
8 names. As you sit here, Witness, your position is that what happened
9 to you, the abduction and the beating, was solely because of a feud
10 that you had with another family in your village; isn't that right?
11 Without mentioning the names of the family. It was the result of a
12 feud that you had with another member of another family; isn't that
13 right?

14 A. That's correct. That's the truth.

15 Q. I'm sorry, can I just -- I didn't get the translation,
16 Your Honour. My apologies.

17 PRESIDING JUDGE SMITH: Could you repeat the translation,
18 please, of the witness's answer.

19 THE INTERPRETER: That's correct. That's the truth.

20 MR. KEHOE:

21 Q. And, sir, the -- what happened to you had nothing to do with the
22 KLA and it had nothing to do with the war, did it?

23 A. Correct.

24 MR. KEHOE: If we can go back into private session, I have a few
25 questions to ask, Judge, concerning potentially identifying matters.

1 PRESIDING JUDGE SMITH: Madam Court Officer, into private
2 session.

3 [Private session]

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17 [Open session]

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

19 PRESIDING JUDGE SMITH: Go ahead, Mr. Ellis.

20 MR. ELLIS:

21 Q. Witness, it's right, isn't it, that in the early 1990s, Albanian
22 students and professors had been excluded from the regular state
23 institutions?

24 A. No, it was a discrimination. It was not just what happened.

25 Q. Well, I think we're agreeing with each other. It was not just

1 because the Albanian students and teachers were no longer able to
2 work within the Serbian state institutions; correct?

3 A. Yes, this is what happened. But it was discrimination for us.

4 Q. Yes. And in response to that discrimination, a parallel
5 education system was created, wasn't it?

6 A. Yes.

7 Q. And the aim was to provide lessons for the Albanian children who
8 couldn't otherwise receive an education; correct?

9 A. Correct.

10 Q. And those lessons had to take place in rooms in private houses,
11 didn't they?

12 A. Yes, that's correct.

13 Q. Now, I want to ask a little bit more about how that parallel
14 system was organised. We're in public session, Witness, so I don't
15 want you to mention the names of any people or any particular
16 schools. Okay? I'm just talking about the organisation.

17 So the person in charge at each school would be the headmaster
18 or the director of the school; is that right?

19 A. Yes, yes.

20 Q. And there would also be an education council in each
21 municipality; correct?

22 A. Yes, they had prepared the plan for the teaching.

23 Q. Exactly. And the money to pay for the schools and indeed the
24 teachers came from voluntary donations from the people, didn't it?

25 A. For a time we worked for nothing, so we were not remunerated.

1 Q. I see. But when there was any funding, that came from donations
2 from the people, didn't it?

3 A. Yes, the people helped us with donations.

4 Q. And is it correct that part of that money was collected locally
5 and part distributed by the central financial council?

6 A. Correct.

7 Q. Now, coming back to the education council for the municipality.
8 They were the ones responsible for overseeing the distribution of
9 those funds, weren't they?

10 A. Can you repeat the question, please? I didn't understand it.

11 Q. Sorry. I'm asking you about the education council for the
12 municipality, and I'm suggesting to you that it was the education
13 council that was responsible for distributing the funds, the money
14 for the parallel education system.

15 A. Yes, it was -- the education was responsible for the
16 distribution of the funds.

17 Q. And it's come up on the transcript as just saying "the education
18 was responsible for the distribution of the funds." I think you're
19 agreeing it was the education council responsible for distributing
20 the funds; is that right?

21 A. Yes, the education council.

22 Q. And did they formalise the appointments of professors as well?

23 A. Yes, they did.

24 Q. So you have a situation where the day-to-day running of the
25 school is the responsibility of the headmaster or the director;

1 correct?

2 A. The responsibility of the education council and the headmaster.

3 Q. But daily decisions for how the school would operate were in the
4 hands of the director of the school. That's right, isn't it?

5 A. Yes, the director. The director or the headmaster of the
6 school, yes.

7 MS. VAN WELDE: Sorry, Your Honour. Could we ask what the
8 relevance of this line of questioning is?

9 PRESIDING JUDGE SMITH: Yes, you may.

10 MR. ELLIS: Yes, Your Honour. May I address that in the absence
11 of the witness and in private session?

12 PRESIDING JUDGE SMITH: Court Officer, please escort the witness
13 out of the room.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: Into private session, please,
16 Madam Court Officer.

17 [Private session]

18 [Private session text removed]

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18 [Open session]

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

20 PRESIDING JUDGE SMITH: Thank you.

21 Go ahead, Mr. Ellis.

22 MR. ELLIS: Thank you, Your Honour.

23 Q. Witness, just checking you can hear me again? Do you hear me
24 well, Witness?

25 A. Yes, yes.

1 Q. Witness, did you ever hear in the schools that you were involved
2 with that there was an issue with trying to encourage more girls to
3 be involved in the education system?

4 A. I didn't understand the question. Can you repeat it, please?

5 Q. Yes, the question was -- let me rephrase. Was there ever a
6 discussion that you were aware of about introducing gender quotas to
7 encourage more girls to study in the parallel system?

8 A. I don't know.

9 Q. And were you aware, Witness, that Jakup Krasniqi was a history
10 professor by training?

11 A. I know that.

12 Q. And were you aware he was the chair of the education council in
13 Drenas municipality in 1996 to 1998?

14 A. I don't know.

15 Q. Fair enough.

16 MR. ELLIS: Your Honours, I'm moving on to a different topic.

17 And can I make sure we are in private session again?

18 PRESIDING JUDGE SMITH: [Microphone not activated]

19 MR. ELLIS: Can we move to private session, please.

20 PRESIDING JUDGE SMITH: [Microphone not activated]

21 Madam Court Officer, please into private session.

22 MR. ELLIS: And could I --

23 [Private session]

24 [Private session text removed]

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Questioned by the Trial Panel

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Questioned by the Trial Panel

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Questioned by the Trial Panel

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Questioned by the Trial Panel

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13 [Open session]

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

15 JUDGE BARTHE: Thank you.

16 Witness, my last question is the following. Do you still
17 believe that you were abducted by the KLA or by members of the KLA or
18 are you not sure about that anymore?

19 A. I am not sure that the KLA abducted me. Somebody abducted me,
20 but I don't know who that person was.

21 JUDGE BARTHE: Thank you. These were my questions.

22 THE WITNESS: [Interpretation] You're welcome.

23 PRESIDING JUDGE SMITH: Judge Mettraux.

24 JUDGE METTRAUX: Thank you, Judge Smith.

25 Good morning, Witness. I'd like to start first with seeking a

Questioned by the Trial Panel

1 clarification from you.

2 Do you recall Mr. Ellis of the Krasniqi Defence asking you
3 whether you could recall someone named Sahit Jashari? Do you recall
4 those questions?

5 A. I do.

6 JUDGE METTRAUX: And is it your evidence today that you cannot
7 recall who that man is?

8 A. I don't recall who Sahit Jashari is.

9 JUDGE METTRAUX: I'll read to you then what you told the
10 Prosecutor on 5 October 2019. And for the record, it's P703.3 at
11 page 3 and 4.

12 *[REDACTED] Pursuant to In-Court Redaction Order F01924RED.*

13 *[REDACTED] Pursuant to In-Court Redaction Order F01924RED.*

14 *[REDACTED] Pursuant to In-Court Redaction Order F01924RED.*

15 And we'll go in private session, maybe, to be sure. Thank you.

16 [Private session]

17 [Private session text removed]

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Witness: W04444 (Resumed) (Private Session)

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Questioned by the Trial Panel

1 [Private session text removed]

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Witness: W04444 (Resumed) (Private Session)

Page 9877

Re-examination by Ms. Van Welde

1 [Private session text removed]

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Witness: W04444 (Resumed) (Private Session)

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Re-examination by Ms. Van Welde

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Witness: W04444 (Resumed) (Private Session)

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Further Cross-examination by Mr. Kehoe

1 [Private session text removed]

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1 [Private session text removed]

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3 [Open session]

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

5 PRESIDING JUDGE SMITH: Mr. Roberts, also we granted your
6 extension to 26 November. That's a Sunday.

7 MR. ROBERTS: Thank you, Your Honour. Maybe the Monday
8 following --

9 PRESIDING JUDGE SMITH: Yeah.

10 MR. ROBERTS: -- may be a more appropriate day.

11 PRESIDING JUDGE SMITH: We amend the oral order to make the
12 extension date 27 November.

13 MR. ROBERTS: Much obliged.

14 PRESIDING JUDGE SMITH: We are adjourned until 11.30.

15 --- Recess taken at 10.58 a.m.

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

17 PRESIDING JUDGE SMITH: Yes, sir.

18 MR. KEHOE: Yes, Your Honour. You told me to get back to you
19 after the break concerning those exhibits.

20 I consulted with Mr. Halling, and we have no objection to the
21 reclassification that you were talking about.

22 PRESIDING JUDGE SMITH: So the items in question will be
23 reclassified as confidential. I previously noted them. If I can
24 find them again. P697, P694.3, and P694.4.

25 So we will now start with the testimony of Prosecution

1 Witness W04765.

2 MR. ROBERTS: Your Honour, sorry to -- do you mind if we just
3 deal with the admission of --

4 PRESIDING JUDGE SMITH: Sure.

5 MR. ROBERTS: -- the exhibits from the previous witness quickly?

6 PRESIDING JUDGE SMITH: Sure. Go ahead.

7 MR. ROBERTS: If I can just tender them one by one. So the
8 first is the information extracted from the SPO internal document,
9 that's 115865. I don't know if the Prosecution objects to any of
10 these, actually, or if it's easier to do them one by one. I noticed
11 Prosecution counsel is changed, so I don't know if they're able to
12 address these or not.

13 MR. PACE: You can give the list and I'll let you know, with the
14 ones I know about at least.

15 MR. ROBERTS: So that was the first one. The second one, I
16 believe, in the order is the Facebook post. Again, I will not
17 describe it because we're in open session, I believe, but that's
18 DRS00077.

19 PRESIDING JUDGE SMITH: I'm sorry, you had 74 as well.

20 MR. ROBERTS: I did, Your Honour. Yes. I'm getting to that as
21 well.

22 PRESIDING JUDGE SMITH: Okay. All right.

23 MR. ROBERTS: So DRS00074, and DRS00076, and we also have the
24 video as well, which is DRS00072.

25 PRESIDING JUDGE SMITH: Mr. Pace.

1 MR. PACE: No objection. I just note the non-objection to the
2 one Official Note tendered is in view of the particular circumstances
3 which have arisen, but no objection.

4 PRESIDING JUDGE SMITH: All right. 115865, DRS00074, DRS00077,
5 DRS00076, and DRS00072 are all admitted and will be assigned exhibit
6 numbers.

7 THE COURT OFFICER: Your Honours, 115865 will be Exhibit 3D5.
8 DRS00077 will be Exhibit 3D6. DRS00074 will be Exhibit 3D7.
9 DRS00076 will be Exhibit 3D8. And DRS00072 will be Exhibit 3D9.

10 Thank you.

11 PRESIDING JUDGE SMITH: Thank you.

12 Now, Madam Usher, you may bring the witness in.

13 MR. ELLIS: Your Honour, if I may, I have two documents to
14 tender as well.

15 PRESIDING JUDGE SMITH: Okay.

16 MR. ELLIS: The first is SPOE00111714. It's the EULEX note from
17 17 October 2012, for credibility only.

18 And the second is 115866. It's another extract from a
19 Prosecution internal document. It was referred to directly, I think,
20 by Ms. O'Reilly, and it also relates to a topic on which I
21 cross-examined. It wasn't directly put on the screen for the
22 witness, for obvious reasons, as it relates to contact with a named
23 other person.

24 The Court may want to know why we didn't cross-examine on this
25 with that named other person, and the answer is that although it

1 relates to a conversation in May 2023, that other witness testified
2 in September, and we were only disclosed this document by the
3 Prosecution in October. So we didn't have the opportunity to raise
4 it with 4781. It has been raised with 4444. And, again, I seek to
5 tender it for credibility only.

6 MR. PACE: Your Honour, I'm afraid I need further information
7 about the first document tendered.

8 In relation to the second document, could I just ask counsel to
9 confirm that he provided a correct ERN? Because that's not what I
10 have in my notes.

11 MR. ELLIS: Your Honour, the first document, I think, was
12 SPOE00111714.

13 PRESIDING JUDGE SMITH: Correct.

14 MR. ELLIS: And that was addressed in my questions and also, I
15 think, in His Honour Judge Mettraux's questions.

16 MR. PACE: My question concerns whether you provided a correct
17 ERN for the second document. You said 115866?

18 MR. ELLIS: That's what I've got.

19 MS. O'REILLY: If I may, that is a document that I had intended
20 to refer. I haven't had a chance to check the transcript. It's
21 possible that I misspoke. But, indeed, that second note from 23 May
22 2023 relating to the individual we discussed is 115866.

23 MR. PACE: Then I'll get back to Your Honour on both those items
24 as soon as I can.

25 PRESIDING JUDGE SMITH: All right. We'll rule on them later.

1 Now, Madam Court Usher, you may bring the witness in.

2 MR. EMMERSON: Your Honour, whilst the witness is -- oh. Just
3 to let Your Honours know I shall be the first on our side to
4 cross-examine.

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

6 [The witness entered court]

7 PRESIDING JUDGE SMITH: I'm sorry, just to be up to date, I did
8 not mention it earlier, the three accused -- I'm sorry, Mr. Krasniqi
9 is appearing by videolink. The other three accused are present in
10 court.

11 Good morning, Witness. The Court Usher will now provide you
12 with the text of the solemn declaration which you are asked to take
13 pursuant to Rule 141(2) of our rules. You may look at the document
14 and then read it out loud.

15 THE WITNESS: [Interpretation] Good day to you, Presiding Judge.
16 Greetings to the Judges, to the Prosecutors, and to the Defence
17 lawyers. Greetings to you, liberators, and to all of you.

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

22 WITNESS: W04765

23 [Witness answered through interpreter]

24 PRESIDING JUDGE SMITH: Thank you, Witness. You may be seated.

25 Witness, today we will start your testimony, which is expected

1 to last about 16 hours. As you may know, the Prosecution will ask
2 you questions first. Once they are finished, the Defence has the
3 right to ask questions of you, and members of the Panel might also
4 have some questions for you.

5 The Prosecution estimate for your examination is two hours. The
6 Defence estimates that it will need 14.5 hours. As regards each
7 estimate, we hope and urge counsel to be judicious in their use of
8 time. The Panel may allow redirect examination if conditions are
9 met.

10 Witness, please try to answer the questions clearly with short
11 sentences. If you don't understand a question, feel free to ask
12 counsel to repeat the question, or tell them you don't understand and
13 they will attempt to clarify.

14 Also, please try to indicate the basis of your knowledge of
15 facts and circumstances you will be asked about.

16 In the event you are asked by the SPO to attest to some
17 corrections made regarding your statements, you are reminded to
18 confirm on the record that the written statement as corrected by the
19 list of corrections accurately reflects your declaration.

20 Please also speak into the microphone and wait five seconds
21 before answering a question and then speak at a slow pace for the
22 interpreters to catch up.

23 Witness, during the next days while you are giving evidence in
24 this Court, you are not allowed to discuss the content of your
25 testimony outside of the courtroom with anyone until you have

1 finished giving evidence. If any person asks you questions outside
2 this Court about your testimony, please let us know.

3 Please stop talking if I ask you to do so and also stop talking
4 if you see me raise my hand. These indications mean I need to give
5 you an instruction.

6 If you feel the need to take breaks, please make an indication
7 and an accommodation will be made.

8 Do you understand this all?

9 THE WITNESS: [Interpretation] Yes, all of them.

10 PRESIDING JUDGE SMITH: So direct examination will begin now by
11 the Prosecutor on your left.

12 Go ahead, Mr. Pace.

13 MR. PACE: Thank you, Your Honour.

14 Examination by Mr. Pace:

15 Q. And good morning, Witness. We've met before. I'll introduce
16 myself again. I am James Pace, a Prosecutor for the SPO, and I'll be
17 asking you some questions for the next two hours or so.

18 Before I ask for some of your personal details, I'll note that,
19 as I explained to you during your preparation session last week,
20 rather than asking you questions about every relevant issue you may
21 have information about, it may be possible to admit some of your
22 prior statements containing such information into evidence. And to
23 do that, there are a number of procedural steps to follow which I'll
24 turn to after I establish your identity.

25 What is your name?

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1 A. Sadik Magjun Halitjaha.

2 Q. What is your date of birth?

3 A. [No interpretation]

4 MR. PACE: I'm just waiting for interpretation, Your Honour.

5 PRESIDING JUDGE SMITH: Pardon me?

6 MR. PACE: I didn't get interpretation on that.

7 PRESIDING JUDGE SMITH: Is the interpretation --

8 THE INTERPRETER: I'm already interpreting. I don't know if you
9 hear me.

10 PRESIDING JUDGE SMITH: We didn't hear your answer.

11 THE INTERPRETER: Okay. It's 7 June 1955.

12 MR. PACE:

13 Q. And, Witness, what is your nationality?

14 A. Albanian of Kosovo.

15 MR. PACE: And I'd like to show the witness the following two
16 documents side by side on the screen. The first is 083721-TR-AT
17 Part 1 Revised RED, and that would be side by side with the same code
18 but -ET. And the first page of both those, please.

19 Thank you, Court Officer.

20 Q. Witness, do you see on your screen two documents, on the left in
21 Albanian and on the right in English?

22 A. Yes. Yes.

23 Q. And these refer to an interview with the SPO in January 2020.

24 Do you recall attending that interview?

25 A. Yes, in Kosovo.

1 Q. And do you also recall attending another interview of the SPO in
2 November 2022?

3 A. Yes, here in The Hague.

4 MR. PACE: Thank you, Court Officer. Those documents can be
5 taken down.

6 Q. And, Witness, in relation to your statements to the SPO, do you
7 recall that you made certain clarifications to them following your
8 review of them last week?

9 A. Yes, yes. We made corrections.

10 Q. And do you recall that these clarifications and corrections were
11 included in a note which was read back to you?

12 A. Yes.

13 Q. Subject to the corrections in that note, is the information you
14 provided in your SPO statements accurate and truthful to the best of
15 your knowledge and belief?

16 A. I think that it is correct and complete.

17 Q. And subject to the corrections in the note, do your SPO
18 statements accurately reflect what you would say if you were examined
19 about the events recorded therein?

20 A. Can you repeat the question, please?

21 Q. Subject to the corrections in the note that was read back to
22 you, do your SPO statements accurately reflect what you would say if
23 you were examined about the events recorded therein?

24 A. Yes, I would repeat the same thing.

25 MR. PACE: Your Honour, we seek admission of the prior

1 statements and associated exhibits. The relevant ERNs of which are
2 set out in our 9 November e-mail as well as in Annex 1 to Preparation
3 Note 1. And we also seek admission of Preparation Note 1, which is
4 116820 to 116829.

5 PRESIDING JUDGE SMITH: [Microphone not activated]

6 MR. KEHOE: No objection other than those previously raised.

7 MR. EMMERSON: I would like, if I may, to make a submission to
8 Your Honours before the admission of any of this evidence. But
9 otherwise, I'm following the process.

10 MR. ROBERTS: Nothing, Your Honour.

11 PRESIDING JUDGE SMITH: [Microphone not activated]

12 THE INTERPRETER: Microphone, please.

13 PRESIDING JUDGE SMITH: Mr. Ellis.

14 [Microphone not activated].

15 THE INTERPRETER: Microphone, Your Honour.

16 PRESIDING JUDGE SMITH: You may make your submission.

17 MR. EMMERSON: Judging by past practice, I think Your Honours
18 would prefer that I make this in the absence of the witness.

19 PRESIDING JUDGE SMITH: Please take the witness out of the
20 courtroom, Madam Usher.

21 [Trial Panel confers]

22 [The witness stands down]

23 PRESIDING JUDGE SMITH: [Microphone not activated]

24 MR. EMMERSON: As Your Honours may be aware, this witness is
25 cited as an unindicted -- what you would call in America an

1 unindicted co-conspirator at paragraph 155 of the indictment. And it
2 is elaborated at paragraph 329 of the Prosecution's pre-trial brief.

3 It relates to an incident - I shan't mention names - about which
4 you have already heard testimony, and concerns an allegation that
5 this witness ordered the abduction of three members of the witness's
6 family, two women, who were later found dead.

7 Now, given that background, we're obviously in the territory of
8 paragraph 97(5) of the protocol on the Order on Conduct of
9 Proceedings, that's 25 January, and it's KSC-BC-2020-06, providing
10 that during the preparation session, the questioning lawyer,
11 Mr. Pace, must (5):

12 "Indicate that if the witness is concerned that information
13 could be self-incriminatory that he or she is permitted to seek the
14 advice of a counsel before answering ... questions."

15 We're also, I think, in the territory of the practice that Your
16 Honours have adopted of reminding a witness, and this is -- I'm
17 looking -- there's one example from 12 June in the testimony of
18 W04323, a reminder that the witness is advised that they're not
19 required to answer any incriminating question unless compelled by the
20 Panel to do so under Rules 151(2) or (3); and advising the witness
21 that in the event such a question arises, you or your assigned
22 counsel may raise the issue with the Panel.

23 Now, we haven't heard from Mr. Pace as to whether he went
24 through that mandatory procedure in the proofing session. There's no
25 indication in the documents to suggest that he did, in terms of the

1 proofing documents, to suggest that he did. But either way, we would
2 respectfully submit that as an unindicted co-conspirator, in other
3 words, as one of the named perpetrators who are said to form part of
4 the joint criminal enterprise alleged here, it is absolutely acutely
5 incumbent on both the Prosecutor and the Court to ensure that the
6 requisite steps have been taken, not least -- I mean, Your Honours
7 may have seen -- I don't know -- I can't remember if it was in
8 proofing note 1 or 2, but the witness says at one point to Mr. Pace,
9 "I don't care if I'm convicted and sentenced as a result of giving my
10 evidence."

11 So clearly there's something in his mind, and he's right, and
12 it's not clear to us at all whether the Prosecution have confronted
13 him with the fact that he remains not just under suspicion but is a
14 building block of their case against the accused that he ordered the
15 commission of one of the crimes -- said to make up the crimes on the
16 indictment.

17 PRESIDING JUDGE SMITH: [Microphone not activated]

18 MR. PACE: Your Honour, if I may very briefly.

19 Just to point out that, first of all, if we had heard of this in
20 advance, we could have saved some court time. And I note that at
21 paragraph 5 of Preparation Note 1, it is stated that:

22 "Pace explained the purpose of the witness preparation session
23 and W04765's rights and duties as a suspect. W04765 waived his right
24 to an attorney."

25 And in terms of any further procedure, I don't think there is

1 any need to reinvent the wheel. Should the suspect raise any issues
2 of self-incrimination, we will deal with it at that time.

3 PRESIDING JUDGE SMITH: Agreed. We will proceed.

4 083721-TR-AT Part 1 Revised RED, plus the English, is admitted.
5 And Preparation Note 116820 is admitted. Please assign a number to
6 them.

7 THE COURT OFFICER: Your Honours, for clarity, I believe
8 Prosecution counsel tendered a lot more documents. And if that's the
9 case, I would ask to assign the numbers at the break as there's quite
10 a few.

11 MR. PACE: Yes, Your Honour, just to confirm, that's correct.
12 There's a second SPO interview which the witness referred to by date
13 and --

14 PRESIDING JUDGE SMITH: [Microphone not activated]

15 MR. PACE: -- then a list of --

16 PRESIDING JUDGE SMITH: [Microphone not activated]

17 MR. PACE: No, Your Honour, the one shown to him was from 2020.
18 And then I asked about the November one. I didn't show it to him
19 just to save time. And the Court Officer is correct, there are many
20 associated exhibits. I believe around 16.

21 PRESIDING JUDGE SMITH: [Microphone not activated] ... November
22 2022 - I'm sorry, I misunderstood the offer or the tender - is
23 admitted together. And then all of these are together with the
24 associated exhibits.

25 Court Officer, the witness can come back into the courtroom now.

1 [The witness takes the stand]

2 PRESIDING JUDGE SMITH: Be seated.

3 All right, Mr. Pace. You may continue.

4 MR. PACE: Thank you, Your Honour.

5 And on 9 November, in our e-mail we submitted a proposed summary
6 of this witness's now admitted Rule 154 statements to the Panel,
7 Defence and Victims. We haven't received any objections to that
8 summary, and so with your leave I will read that short summary
9 briefly now.

10 PRESIDING JUDGE SMITH: You may read the summary.

11 MR. PACE: Thank you, Your Honour.

12 W04765 was a member of the LPK leading board in Switzerland
13 prior to crossing back into Kosovo in June 1998 to join the KLA. He
14 first served in Budakove as commander of KLA Battalion 2 within
15 Brigade 123 in the Pashtrik operational zone.

16 Between November 1998 and March 1999, W04765 was the assistant
17 commander for morale and politics in the Pashtrik operational zone.

18 Concurrent with this role, between December 1998 and
19 January 1999, W04765 served within the General Staff's department of
20 administration known as J1 based in Klecke.

21 From March 1999, W04765 was the deputy commander of the Pashtrik
22 operational zone. W04765 provides information on the structure of
23 and reporting lines within the Pashtrik operational zone, including
24 its military police and special units. He provides information
25 concerning certain KLA subordinates and has knowledge of alleged

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1 crimes.

2 W04765 met and otherwise communicated with Hashim Thaci,
3 Rexhep Selimi, Kadri Veseli, and Jakup Krasniqi, as well as other
4 members of the General Staff on multiple occasions in 1998 and 1999.
5 He provides evidence on the roles of several General Staff members
6 and on information including orders received from the General Staff.

7 W04765 was based in Prizren in June 1999 and provides
8 information on the presence of other KLA units and members there.

9 And, finally, W04765 authored several KLA documents in 1998 and
10 1999, and after the war wrote a book about the KLA.

11 And that concludes the summary. And I will now turn to our
12 supplemental examination.

13 And starting, I would like to show the witness P631, P631-ET
14 side by side, please. And this can be broadcast to the public.

15 Thank you, Court Officer.

16 Q. Witness, do you see two documents in front of you, on the left
17 in Albanian and on the right in English?

18 A. Yes, yes.

19 Q. And do you recognise the document?

20 A. Can you roll up and see so that I can see my signature? No, no,
21 this is not my document. It's issued by Bislim Zyrapi.

22 Q. Have you seen this document before?

23 A. Yes.

24 Q. Do you recall when you have seen this before?

25 A. In December 1999.

1 Q. We see that the document refers to a battalion commander
2 training course in January 1999. Do you have any knowledge about
3 that battalion commander training course?

4 A. Yes. This course was held in second middle of February to the
5 first middle of March, and I gave lectures there in this course for
6 battalion commanders.

7 Q. And you're mentioned February and March. Can you just clarify
8 the year to be clear?

9 A. The course lasted about a month.

10 Q. And which year was that? Was it 1998 or 1999?

11 A. 1999. February, March 1999.

12 Q. And do you recall where this course took place?

13 A. In Nishor school, Suhareke municipality.

14 Q. And who attended this course?

15 A. Some of the battalion commanders who were selected. And the
16 speaker was Sali Veseli, Bislum Zyrapi, myself, and others.

17 Q. You mentioned that it was "some of the battalion commanders."
18 Do you recall which zone or zones those battalion commanders were
19 within at the time?

20 A. Mainly from Pashtrik zone, but there were some from other zones
21 as well.

22 Q. And do you recall what subjects were addressed during this
23 course?

24 A. Of course. The subject related to war. War operational issues,
25 organisation of battles. I know better about the topics that I spoke

1 about. I spoke about the war right, the rights of the fighters, the
2 rights of the wounded, civil rights, civils of the surrendered
3 people -- rights of the surrendered people, the moral of the war, and
4 the necessity of the war to bring about the liberation of Kosovo.

5 MR. PACE: Court Officer, we can take this document down, and
6 I'd next like to show the witness -- I believe it had MFI P650650-ET,
7 but this is also one of the now admitted documents with this witness.
8 And I can read the ERN just for clarity. It's U003-1741 to U003 --
9 yes. Thank you. And the English alongside. And could we please go
10 to page U003-1744. Thank you, Court Officer.

11 Q. Witness, do you see two other documents on your screen, on the
12 left in Albanian and on the right in English?

13 A. Yes, I do.

14 Q. And this is a 16 March 1999 statement by Halil Qadraku that you
15 were shown during your SPO interview, and I'm going to ask you about
16 certain parts of this document now.

17 MR. PACE: And Court Officer, if we could please turn to the
18 next page, 1745. And I'm going to read to the witness from
19 "Precisely," which is towards the top of the page, and its
20 corresponding in the Albanian -- in the Albanian it is towards the
21 middle of the page. It's the third paragraph. So we can scroll a
22 little bit down. Thank you. That's there.

23 Q. And, Witness, you can follow or you can also listen to the
24 interpretation. And I will read and then I will ask you a question.

25 "Precisely on 1 March 1999 I asked Commander 'Drini' to permit

1 me to go along with officer Sadik Halitjaha to that brigade and to
2 correct all of the problems of those villages, then make propositions
3 for personnel movements through which the misunderstandings and
4 unpleasantness in these villages could be overcome, but once again
5 the response was negative, and so I gave up on this because I saw
6 that nobody was interested in these being solved.

7 "I also contacted the General Staff about this with Ferat, and I
8 told them about these problems, where they come from, and how they
9 should be overcome."

10 Witness, do you recall or do you know who the Ferat being
11 referred to in this excerpt is?

12 A. I recognise the document. It's not that I went to the
13 General Staff. This is about Halil Qadraku going to the
14 General Staff, according to what is written here. He said that, "I
15 went to the General Staff." I certainly went there to meet with the
16 commanders. He met somebody from the staff, Ferat. Ferat. I don't
17 know of any Ferat having any important role within the staff.

18 Q. Do you know the surname of the Ferat that he did meet as per
19 this document?

20 A. Now I know because he's an MP. Ferat Shala.

21 Q. And did Mr. Qadraku tell you that he spoke to Ferat Shala about
22 the matter addressed on this item?

23 A. No, it -- this is how -- what the document reads. It reads, I
24 quote, "I went to the staff," meaning he went there. And it would
25 seem that he met with him.

1 Q. Yes, Witness. The document refers to going to the staff.

2 "I also contacted the General Staff about this with Ferat ..."

3 There is no surname specified. So my question to you is how do
4 you know that the Ferat being referred to here is indeed Ferat Shala?

5 A. It reads in the document: "I met with Ferat Shala,"

6 Mr. Prosecutor.

7 MR. EMMERSON: I apologise for interrupting, but there's
8 obviously -- if that's correct, in the Albanian, there's obviously a
9 mistranslation, because the English says: "I went with Ferat Shala"
10 -- or Ferat, rather than "I met with him." "I went with him." The
11 opposite meaning.

12 MR. PACE: Yes, I note that the English translation --

13 Q. And I can't see a Shala referred to in the Albanian either,

14 Mr. Witness. But to your knowledge, was Halil Qadraku here referring
15 to Ferat Shala?

16 A. In Albanian it is straightforward: "I met with Ferat Shala."

17 "I met with Ferat Shala."

18 Q. Do you have any independent knowledge of Qadraku meeting Ferat
19 Shala about these matters other than by reference to this document?

20 A. No, I don't have any other source of information. I understand
21 it as it is here.

22 Q. And on the same page, I'm going to read another excerpt, it
23 says:

24 "Regarding Nasim Mullabazi we have in mind that up until
25 recently he worked in the Serbian police and that he was kicked out

1 of the SPB ... only when they (the Serbs) threw him out like a used
2 rag, and then he came to us."

3 Witness, who is Nasim Mullabazi if you know?

4 A. I didn't know at the time. In -- he's mentioned here by Halil
5 Qadraku. Later on, and now it became clear to me, despite the fact
6 that he's a martyr, that he was an employee of this police service of
7 Serbia, Yugoslavia at the time, and at some point he joined the KLA.
8 This is the person we're referring to, Nasim Mullabazi.

9 Q. Do you know what part of the KLA he joined? What battalion or
10 brigade?

11 A. He joined in Brigade 124, led by Commander Hoxha.

12 Q. Can you provide the first name of Commander Hoxha from
13 Brigade 124?

14 A. Skender Hoxha.

15 Q. I'm going to read another excerpt from the same page:

16 "Regarding Rexhep Krasniqi, Selim Gashi and I are the most at
17 fault, since we offered and incorporated him into this brigade, at
18 the suggestion of Selim Gashi because I didn't know him, and now he
19 has been chosen as chief of the sector for morale and information,
20 but he doesn't do that job."

21 And, Witness, my question is who is Selim Gashi?

22 A. Rexhep Krasniqi was the deputy commander of Brigade 124. Selim
23 Gashi was S2 within 124 Brigade. And it reads here that they would
24 have proposed him and accepted him joining the brigade without
25 knowing him, who he really was.

1 MR. PACE: Court Officer, we can take that document down.

2 Q. And, Witness, in your SPO interview, you stated Halil Qadraku
3 was the G2 in the zone, and you cooperated with him often. And
4 that's the Pashtrik operational zone; correct?

5 A. Yes, Halil was G2. Just like there were other departments, G1,
6 G3, G4, G5, G6. We cooperated with all sectors in the Pashtrik
7 operational zone. I cooperated closely -- had a closer cooperation
8 with Halil because we knew each other before the war as well.

9 Q. And was Halil Qadraku in the G2 position while you were deputy
10 commander of the Pashtrik operational zone?

11 A. Yes, Halil Qadraku was from January appointed by
12 Commander Drini, Ekrem Rexha, in that position, G2.

13 MR. PACE: And, Court Officer, I'd like to show SITF00033376 to
14 SITF00033379 side by side with translation SITF00033378 to 78-ET.
15 And in the Albanian, I'd like to turn to page 378, please.

16 Q. Witness, do you see two new documents in front of you, on the
17 left in Albanian and on the right in English?

18 A. Yes, I do.

19 Q. Do you recognise this document?

20 A. I've seen this document. This was about the transfer of a
21 fighter from the Pashtrik zone to the Drenica zone. The person is
22 Kimete Krasniqi.

23 Q. And to be clear, Witness, because I showed you this document
24 during witness preparation, had you seen it at any time before that?

25 A. No.

1 Q. And before you saw this document in witness perpetration, did
2 you have knowledge about the Kimete Krasniqi mentioned in this
3 document?

4 A. Yes, yes.

5 Q. Towards the bottom of the document, we see in the handwritten
6 part --

7 MR. PACE: Thank you, Court Officer.

8 Q. We see a reference to Chief Luli. Do you know who that could
9 be?

10 A. I don't know who -- who it made the reference to here, but I see
11 the signature of Tahir Sinani. I don't know who was there in
12 Drenica.

13 Q. Did you ever hear anyone referred to as Luli in 1998 or 1999 in
14 the KLA?

15 A. Yes, Luli was the pseudonym of Kadri Veseli.

16 Q. And we see at the bottom of the document in Albanian, as you
17 mentioned, it seems to be handwritten with the name Tahir Sinani. Do
18 you recognise the signature below Tahir Sinani's name?

19 A. I do recognise it very well because he was my commander, the
20 commander of the Pashtrik operative zone.

21 Q. And focusing on the middle part of the document, so before the
22 handwritten part of it, we see it purports to be authored by Halil
23 Qadraku, and there's a signature under the name Halil Qadraku. Do
24 you recognise that signature?

25 A. Yes, that's Halil's signature.

1 MR. PACE: And, Court Officer, if we can scroll to the top of
2 both documents, please.

3 Q. And, Witness, can you see that here the document is dated 19
4 August 1999, and that Halil Qadraku signed as chief of the ZKZ?

5 A. At this time, the KLA had not been transformed yet into the KPC,
6 so we're in July, and Halil was right to sign it.

7 MR. PACE: And, Court Officer, can we please take these two
8 documents down and show SITF00379706 to SITF00379706, and the English
9 translation with the same ERN and ET at the end.

10 Q. And, Witness, do you see two new documents on your screen?
11 Again, on the left in Albanian and on the right in English.

12 A. Yes.

13 Q. And do you recognise this document?

14 A. I see it as a document, and I recognise it because you
15 introduced it to me. Here is the signature of Halil Qadraku. The
16 document deals with the -- vacating some premises that had been
17 illegally occupied by somebody. A complaint was filed in his office,
18 and he -- following which he gave an order to vacate the illegally
19 occupied premises.

20 Q. And before this document was shown to you by the Prosecution,
21 did you have any knowledge of the content of what is addressed here,
22 as you mentioned, the vacation of a premises?

23 A. No. And this was not my task either, to deal with these
24 matters, and I was not informed.

25 Q. Do you recognise Halil Qadraku's signature on this document?

1 A. Yes, I do.

2 Q. And can you see that it is dated 26 August 1999, and Halil
3 Qadraku signed this as chief of SHIK?

4 A. No, Halil did not know the term SHIK. To him, it was the same
5 ZKZ, intelligence and counter-intelligence, with SHIK. And if you
6 asked him today, he would still confuse these two terms.

7 MR. PACE: Your Honour, we seek admission of these two
8 documents. To be clear, this and its translation, and the one shown
9 before with its translation.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 SITF00033376 to SITF00033379, plus the English translation, is
12 admitted.

13 MR. KEHOE: Judge, I was trying to formulate my objection.

14 PRESIDING JUDGE SMITH: I'm sorry.

15 MR. KEHOE: Yes.

16 PRESIDING JUDGE SMITH: I didn't know you had one.

17 MR. KEHOE: Unfortunately, Your Honour, it looks like you
18 presupposed the decision.

19 First of all, this --again, I mean, why are we showing this
20 document to the witness? I mean, the signatory of this document, I
21 assume, is -- without going into who he is, but that's the person
22 that should be dealing with this. This witness has never seen this
23 document before until the prep session.

24 And, once again, being shown a document in a prep session that
25 he's never seen before, they attempt to put the document in without

1 putting this document through the actual signatory of this document
2 who can verify it, authenticate it. We simply can't go on for the
3 next two years with this kind of foundation from the Prosecution,
4 where they just throw these items across the transom, show them to
5 someone in a prep session, and then attempt to get them into
6 evidence. So we object.

7 MR. PACE: Your Honour, if I may briefly respond.

8 PRESIDING JUDGE SMITH: [Microphone not activated]

9 MR. PACE: Thank you, Your Honour.

10 So to be clear, on the first document, the witness noted he was
11 familiar with the issue addressed in it. On both documents, the
12 witness recognised the signature of the person who authored the
13 document. And as is clear from the preceding questions, he was --
14 the person signing this document was a subordinate of the witness, so
15 the foundation is clearly laid. And any arguments that counsel for
16 Mr. Thaci made would go to its weight, not admissibility, and that
17 could be addressed later.

18 MR. KEHOE: So, Your Honour, if I may, I mean, again, you know,
19 we have this continuous pattern of the SPO just saying that, oh,
20 okay, this document, about which -- documents about which this poor
21 witness knows nothing, has no knowledge about, for instance, this
22 document that's on the screen, and he says, well, simply because this
23 individual Halil, you know, Qadraku signed it, well, it must be
24 authentic.

25 That's insufficient, Judge. It's simply insufficient. Let

1 person who signs the document come forward and accurately testify to
2 this Court, and don't put this poor witness in a position to try to
3 validate this document for the SPO. It's simply improper on
4 foundation grounds.

5 PRESIDING JUDGE SMITH: There's adequate foundation to show that
6 it is relevant, authentic, and has probative value and it's not
7 outweighed by any prejudicial effect. The document is admitted as is
8 SITF00379706 through SITF00379706 plus the English translation.

9 Go on, Mr. Pace.

10 Oh, I'm sorry. We need to have a number assigned.

11 THE COURT OFFICER: Thank you, Your Honours. SITF00033378 to
12 SITF00033378-ET and the Albanian under SITF00033376 to SITF00033379
13 will be assigned Exhibit P709.

14 And the second one, SITF00379706 to SITF00379706 and the English
15 translation will be Exhibit P710.

16 And I note, Your Honours, both are classified as confidential.

17 PRESIDING JUDGE SMITH: Can these be reclassified, Mr. Pace?

18 MR. PACE: Yes, Your Honour, both of them can be reclassified to
19 public.

20 PRESIDING JUDGE SMITH: Both exhibits are reclassified as
21 public.

22 You may continue.

23 MR. PACE: Thank you, Your Honour.

24 Q. Witness, I'm going to read an excerpt to you from your prior SPO
25 interview, and then I will have some questions about it.

1 MR. PACE: And for those in the courtroom, I will be reading
2 from -- and, actually, Court Officer, we can pull it up. It's
3 perhaps easier that way. It's 083721-TR-ET Part 3, and I'm going to
4 start from page 22. Sorry, in Albanian it would be from page 25, I
5 believe. In English, it's from page 22. So Albanian I'll be reading
6 from line 2, and in the English I'll be reading from the bottom of
7 the page, the very bottom. Yes. Thank you.

8 Q. So, Witness, I will read. You can follow or listen to the
9 interpretation. And then I have some questions.

10 "They maltreated a local from Krushe e Vogel. His name was
11 Jakup Muharremi [phoen]. And they detained him for 24 hours in Reti.
12 He was there with soldiers, but they had beaten him up. He was
13 maltreated. They took away his weapon, because he was a soldier as
14 well, and they [took] him to the General Staff. Of course, they
15 thought that he should receive a more severe punishment. I was not
16 aware of this case although it happened in my zone. But they
17 released Jakup when they understood that he was a soldier in Budakove
18 and he supplied arms to the battalion.

19 "And Skender Hoxha was one of the persons that exceeded the
20 responsibilities that he had as a commander, and that's why there is
21 a reproach here [and] that he is dealing with police responsibilities
22 and he is not doing a good job of that as well."

23 Witness, we discussed who Skender Hoxha and his role is in the
24 KLA earlier. Could you clarify to the Judges what you meant when you
25 said "Skender Hoxha was one of the persons that exceeded the

1 responsibilities"?

2 A. It was not right for a brigade commander to deal with suspicious
3 persons. As he remembered it -- or from his notes, he included in
4 that list Jakup Muharremi and his father, Imer Muharremi, took him to
5 the basement of the brigade, and maltreated him. I was informed
6 about this case after the war. Skender received a reprimand,
7 although a delayed one, after the war, in relation to this case
8 because he had no right to exercise these functions.

9 And what is even worse is that Jakup Muharremi was one of my
10 soldiers in Budakove and we are family related. However, I was not
11 aware of the events that happened during the war.

12 Q. And, Witness, you refer to notes and the list that includes
13 Jakup and his father. Could you clarify what you are referring to
14 there?

15 A. I saw a list that you showed to me, Mr. Prosecutor, containing
16 names of people who worked for the Serbian -- Yugoslav secret
17 service. I recognised Latif Krasniqi, Dulla, and some others who
18 maltreated me in Yugoslav prisons. I also saw the name of Jakup
19 Muharremi on the same list, and he had absolutely nothing to do with
20 them.

21 Q. Had you seen that list prior to it was shown to you by the
22 Prosecution?

23 A. No.

24 Q. Could you tell the Judges who informed you of Skender Hoxha's
25 involvement in the detention of Muharremi?

1 A. I was informed by Jakup himself who told me the whole story
2 after the war. I did not know during the war what had happened.

3 Q. And you mentioned just earlier today that Skender Hoxha received
4 a reprimand. Could you clarify who he received a reprimand from?

5 A. From Tahir Sinani. I was not informed about this.

6 Q. And how did you learn about this reprimand by Tahir Sinani?

7 A. I learned in the course of conversations we had after the war,
8 and I understood what had happened and that a reprimand had been
9 issued.

10 Q. Conversations with whom?

11 A. Conversations with Jakup. Jakup explained to me in detail the
12 whole event. And somebody talked to Jakup in order to calm him down,
13 in order to avoid Jakup undertaking any revenge action, adding that
14 that person who was responsible for that had received a reprimand.

15 Q. Do you know who ordered Jakup Muharremi's arrest or detention?

16 A. Skender Hoxha was responsible. I don't know who did. He was
17 the brigade commander.

18 Q. And could you just clarify? The reason you're saying he was
19 responsible for this is solely because he was brigade commander or is
20 there any other reason why you would say that?

21 MR. KEHOE: Objection to the leading, Your Honour. He can't
22 testify for the witness.

23 PRESIDING JUDGE SMITH: I can't hear you.

24 MR. KEHOE: I said I object to the leading. The Prosecution is
25 testifying for the witness.

1 MR. PACE: Sorry, Your Honour, but there was absolutely nothing
2 leading there. I'm trying to clarify a basis of knowledge.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 The objection is overruled. There's nothing leading in the
5 question.

6 MR. PACE:

7 Q. Now, Witness, in your answer earlier you mentioned that Skender
8 Hoxha was responsible because he was the brigade commander. Could
9 you clarify to the Judges whether you saying he's responsible is only
10 because of this reason or is there something else to lead you to say
11 that?

12 A. He has additional responsibilities because he tortured him
13 himself. He beat him up.

14 Q. How do you know that?

15 A. My cousin Jakup told me after the war, and he had still signs
16 and traces of the beatings.

17 Q. Did Jakup tell you or did you learn in some other way of anybody
18 else directly involved in Jakup Muharremi's detention or
19 mistreatment?

20 A. No, Jakup told me directly in person.

21 Q. And in the passage that I read to you from your prior statement,
22 you said that:

23 "They took away his weapon, because he was a soldier as well,
24 and they sent him to the General Staff."

25 Now, my question is how do you know that they sent Jakup

1 Muharremi to the General Staff?

2 A. He told me about this. He had a handgun with him which was
3 taken away from him in Reti at the brigade command. And according to
4 them, they thought that somebody should punish him even further, and
5 they sent him to the General Staff. But according to Jakup, and
6 based on what he told me, he stayed there for seven, eight hours, no
7 longer than that, until they understood that he had been a soldier in
8 Budakove as well, after which he was released. But the weapon
9 remained with Skender. It was not given back to him.

10 Q. Do you recall Jakup Muharremi's father's name?

11 A. Imer.

12 MR. PACE: I'd like these documents to be taken down and to show
13 the witness U001-7854 to U001-7858, and the English translation has
14 the same ERN with ET at the end. And this item is not for public
15 broadcast, to be clear.

16 Q. Witness, do you see two documents on your screen, again, on the
17 left in Albanian and on the right in English?

18 A. Yes, I do.

19 Q. Is this the document that you were making reference to
20 shortly -- a short while ago as having been shown to you by the
21 Prosecution?

22 A. Yes. It would appear that Nasim Mullabazi gave this list to
23 Skender Hoxha.

24 Q. And what makes you say that, Witness? What makes you say that
25 "It would appear that Nasim Mullabazi gave this list to Skender

1 Hoxha"?

2 A. Because he was part of the Yugoslav police structures and knew
3 the collaborators of the Yugoslav secret service, just as I knew two
4 or three of them who tortured me while in prison.

5 MR. PACE: Now, I'd like to turn to page 7856, please, on both.

6 Q. And, Witness, we are in open session, so please do not refer to
7 any names on this list. We can refer to them only by the number next
8 to their names.

9 And I note, Witness, that in your 2020 interview with the SPO,
10 you stated you didn't know the person named at number 58. You can
11 see that on your screen. But he was a policeman with the Serb
12 police.

13 MR. PACE: For those in the courtroom, that's from Part 6, pages
14 1 and 2.

15 Q. And, Witness --

16 A. It is true. It is true. The person with number 58 was a Serb
17 police member, even though he was Albanian.

18 Q. And, Witness, again without saying the name, could you look at
19 the person at number 53 and let the Judges know whether you recognise
20 that name, and if so, how?

21 A. He was my torturer and used to work for the Yugoslav secret
22 service in Prizren. Number 53.

23 Q. And do you recognise the name at number 54? Again, without
24 stating the name, please.

25 A. Why not tell his name? They beat us up and we refrain from

1 saying their names. That monkey is dead. Because he was for ten
2 years secretary of the secret secretariat of Prizren.

3 MR. PACE: And, Your Honours, we would need to move into private
4 session briefly for my next set of questions. I anticipate it will
5 only be for about two minutes.

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 THE INTERPRETER: Microphone, Your Honour.

8 PRESIDING JUDGE SMITH: Private session, please, to protect
9 witnesses.

10 [Private session]

11 [Private session text removed]

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1 [Private session text removed]

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5 [Open session]

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

7 MR. PACE: And if we could please turn to the last page of both
8 documents, so 7858. And if we could zoom in in the Albanian to the
9 bottom right-hand corner where there's a signature.

10 Q. Now, Witness, when you were shown this page during your 2020
11 interview, you said you could see an S or an H, but you could not
12 recognise the signature on this page.

13 MR. PACE: And that's Part 6, page 3.

14 Q. And, Witness, my question is are you still unable to recognise
15 the signature on the page?

16 A. I am not an expert of signatures. I see an H. I see S or B
17 mixed up with G and H. I can't be accurate. I don't want to
18 manipulate in my answer.

19 Q. And do you have any other knowledge about --

20 MR. PACE: Sorry, I take back the question, Your Honour. We
21 seek admission of this document.

22 MR. KEHOE: Your Honour, what we have is a list of names that
23 this witness knows nothing about and had no preparation of. We're
24 taking this poor witness again and attempting to put this in through
25 him. There's no foundation.

1 PRESIDING JUDGE SMITH: [Microphone not activated]

2 THE INTERPRETER: Microphone, please.

3 MR. KEHOE: I'm just saying taking a document, in fairness to a
4 witness, and showing him a document that he had never seen before
5 except in a prep session and attempt to getting it in and
6 authenticated, it is not proper authentication, and there is no
7 foundation.

8 [Trial Panel confers]

9 MR. PACE: Your Honour, if I may briefly respond.

10 PRESIDING JUDGE SMITH: [Microphone not activated]

11 [Trial Panel confers]

12 PRESIDING JUDGE SMITH: [Microphone not activated]

13 This exhibit will be marked for identification and we'll
14 determine at a later date to admit or not.

15 Go ahead.

16 THE COURT OFFICER: Your Honours, U001-7854 to U001-7858 and the
17 English translation will be P711 marked for identification.

18 PRESIDING JUDGE SMITH: Thank you.

19 Go ahead.

20 MR. PACE: Thank you. And, Court Officer, if we could please
21 take these two documents down. And next, I'd like to show side by
22 side documents SPOE00209321 to 00209428 side by side to a document
23 with the same ERN with ET Revised 1 at the end. And these documents
24 can be broadcast to the public.

25 Thank you, Court Officer.

1 Q. And, Witness, in relation to this item in your 2020 SPO
2 interview --

3 MR. PACE: And for those in the courtroom, it's Part 6, page 10.

4 Q. You said:

5 "I am sure of what I have written down there, because it is a
6 scientific book. So it's a -- I've -- this is my master's thesis and
7 it has been evaluated by professors. And nothing has been contested,
8 what I've written there."

9 Is that correct, Witness?

10 A. Yes, this is my book, "We Were the Future," a book devoted to
11 the KLA war strategy, focusing specifically on Pashtrik operational
12 zone, based on scientific methods comparing the KLA guerillas with
13 other international guerillas, which is a *sui generis* guerilla. I'm
14 very proud to have been part of the KLA war, so I don't detract
15 anything from the book. Everything is true in it.

16 Q. And, Witness, I'm going to refer you to some excerpts from your
17 book and ask you some questions about them.

18 MR. PACE: And, for the Court Officer, the pages I will be
19 referring to are identical in both the English and Albanian. I'd
20 like to start with the page ending in 9321 in both documents, please.
21 Sorry, my mistake, 9352. And in both, I'm going to read from the
22 last paragraph in both pages where it says -- it starts: "The LPRK
23 justly ...". Yes, thank you. And then I will go into the next page.

24 Q. Witness, I'm going to read and then ask you a question.

25 "The LPRK justly calls itself the embryo of the birth of the

1 KLA, since by a decision made at its third General Assembly in
2 October 1993, decisions were taken and the following were made
3 responsible for the Armed Wing: Azem Sylja was made responsible for
4 organisation in Albania/Kosovo, Xhavit Haliti was given
5 responsibility for representative and diplomatic liaison between
6 Albania and the Western allies as well as with the LPRK both
7 in-country and abroad: Ali Ahmeti responsible for and coordinator for
8 Macedonia; Fehmi Lladrovci, for military matters.

9 "The form and image of the emblem of the KLA are decided by the
10 LPRK, as is the name."

11 Witness, is that correct?

12 A. Yes, the birth of the KLA came as a result of the LPRK, and the
13 initiators are those who were appointed to organise the future
14 uprising.

15 Q. And we can stay on the same page, which is, for the record, the
16 one ending in 353, and I am going to read another excerpt from the --
17 towards the end of that page, starting: "On 28 November ..." And in
18 Albanian, it starts: "*Me daten ...*"

19 Witness, again I'll read and then I'll ask you a question.

20 "On 28 November 1997, at the burial of the schoolteacher, killed
21 by the Serbian troops, the KLA went public; Muje Krasniqi, Daut
22 Haradinaj and Rexhep Selimi. The latter made a speech in front of
23 the large number of people present at the funeral; the speech was
24 supported by handclapping by the thousands present. From this moment
25 the KLA is honoured as a body, since on this funereal occasion the

1 three were armed and in uniform and spoke in the name of the KLA.
2 From this moment the people recognised the existence of the KLA and
3 always supported it. In this phase the organising into small and
4 medium-sized guerilla units begins."

5 Is that correct, Witness?

6 A. This information is public. I would only omit the expression
7 that the Prosecutor read, "From this moment the organising came into
8 appearance." That was the moment when the KLA was to become public,
9 to go public for Kosovo and for the world, because it's the sons of
10 Kosovo that were fighting for the liberation of the country.

11 We had to do away with the dilemmas concerning foreign hands
12 being stretched to us. This is a public appearance, but not the --
13 it came out as structured. It was just the beginning of it.

14 MR. PACE: And, Court Officer, can we please turn to the page
15 ending in 9371 in both, please.

16 Q. And I'll be reading from the top of the page in both documents.
17 Witness, again I'm reading and then I will ask you a question.

18 "With encounters on 09 May 1998 in the Llapushnik Gorge and on
19 12 May 1998 in a village in the Rahovec municipality, there now
20 became three firing zones, Drenica, Dukagjin and the Drina Valley
21 (Pashtrik Zone). Initially units were named by their location, or
22 after their commander or his nickname, or after various symbols such
23 as Guri/Stone, Graniti ... Celiku ... Pellumbi ... The soldiers from
24 this or that village with the name of the village, with figures, 50,
25 100, 500, 1000 and others. Later with the names of the fallen.

1 "From June 1998 the formation of an organised structure began:
2 squads, platoons, companies, battalions and later also brigades.

3 "The composition was similar; one brigade was made up of three
4 battalions, one battalion of three or more companies, one company of
5 three or more platoons, one platoon of three or more squads. As well
6 as these, elite units, called 'special', were formed at squad,
7 platoon or company level, and were variously named after one of the
8 fallen or some symbol, such as: The Eagle's Eye, The Black Tigers,
9 The Gimlet, Arberi, the Kitra, etc. These Disruption and
10 Surveillance units played a special role in the war and inflicted the
11 most damage on the enemy."

12 Witness, the question is, is that correct?

13 A. Yes.

14 MR. PACE: And, Court Officer, we can turn to page 3799, please.
15 And I'll be reading from the missed of the page starting with: "The
16 other special thing ..."

17 Q. Witness, once again I'm going to read and then ask a question.

18 "The other special thing is that there was no desertion from the
19 ranks of the KLA, nobody went over to the enemy.

20 "The enemy was never able to create any sort of Albanian unit of
21 its own to fight the KLA in the war."

22 Witness, is that correct?

23 A. The information is accurate. And it's great pleasure that such
24 a thing never occurred. Otherwise, there would have been fratricide
25 between Albanian urged by the Serbs with that possible or potential

1 team. Albanians never agreed to become part of the enemy forces.

2 MR. PACE: And, Court Officer, can we please next go to page
3 ending 9401 on both, and I will start at the very bottom of that page
4 and move on to the page after that. And I'm starting from "The
5 reorganisation below ..."

6 Q. Witness, once again I will read and then ask a question.

7 "The reorganisation below Zone level began on 26 November 1998
8 and later in Zones from the end of December 1998, early January 1999.
9 In principle 3 battalions made up a brigade and 3 brigades made up a
10 Zone. There were also exceptions on the basis of the organisational
11 phase and of the configuration of the terrain. The division began
12 with the aim of taking on responsibilities for and control of the
13 terrain. At this time appointments for Zone Commanders and Deputy
14 Commanders came from General Headquarters (GHQ) while for the Brigade
15 Commanders the decision of the Zone was sent for consideration to
16 GHQ. The Zone Commander decided on lower unit commands. Kosovo had
17 seven Zones. The division of territories where fighting took place
18 was made on the basis of terrain and possible configuration for
19 management of operational activity. Thus each Zone had its
20 designated terrain and constituent units. With the aim of command
21 and direction as well as responsibility and accountability for the
22 Zone and its units, the KLA also had Military Police (MP's) from GHQ
23 level to Brigade level. Only Budakova had a battalion-level unit
24 because of the specifics of its creation and its terrain."

25 Witness, again the question is, is this correct?

1 A. Yes, but I wanted to add something, that these zones couldn't
2 cover up the entirety of their zones because the zones were
3 controlled over 80 per cent by the enemy forces and was, like,
4 divided like the leopard skin. So it was impossible to have complete
5 control of the space or the areas.

6 As far as the police unit of Budakove battalion, there was a
7 specificity because Budakove battalion was separate from all other
8 units because of geography, and it was not possible to maintain links
9 with other units. Having the Serb forces controlling the main cities
10 and the main space of Kosovo, we had to make a special exemption to
11 set up a small police unit in the Budakove battalion.

12 MR. PACE: Court Officer, could we please turn to page 9407 in
13 both, and I'm going to read one sentence from the second paragraph.
14 I'm reading from "Technical-operational ..."

15 Q. Again, Witness, I'm going to read and ask you a question.

16 "Technical-operational and strategic direction by the KLA
17 General Staff played an important part in the effectiveness of the
18 KLA's fighting."

19 Is that correct, Witness?

20 A. Tactical, not technical. The reason was that the tactic of the
21 people being part of the General Staff was very good because they
22 kept moving from one place to another, all over Kosovo and outside
23 Kosovo. So Serbia, or to put it better, the enemy forces -- Serb
24 enemy forces didn't manage to catch them or kill them. But
25 "tactical" instead of "technical" should be there.

1 MR. PACE: And I'll go to one last passage from this book, and
2 that's at page ending in 9415, and there I'm going to read from the
3 second paragraph. So I'm reading from -- sorry, just a second. I'm
4 reading from "In the KLA the chain of command ..."

5 Q. So, Witness, one last time for this book, I'm going to read and
6 then ask you a question.

7 "In the KLA the chain of command is respected, from the General
8 Headquarters through Zone Commanders, Brigade Commanders, Battalion
9 Commanders, Company Commanders, Platoon Commanders and Squad
10 Commanders.

11 "This chain of command was very well implemented and defined
12 internal regulations, and organisational and disciplinary
13 regulations. Even though we did not have ranks, the commanders were
14 known to everyone by their authority and reputation, but also for
15 their acts of bravery, which had become almost legends. Commanders
16 were not privileged in any way, on the contrary they had greater
17 responsibility and were always the most in danger."

18 Witness, is that correct?

19 A. It is correct. However, I want to add that from the
20 General Staff we didn't receive written orders and didn't have any
21 protocols between the General Staff and the zones. Whatever is
22 written here is true. From the zone to the platoon, we worked on the
23 basis of rules which were drawn up by me, Qadraku, and Maliqi.

24 So this is how the commanding chain operated. If we had orders
25 from the General Staff, mostly we expected Adem Demaci, who was an

1 idol for me. We expected orders from him. He told us don't meet
2 with the journalists without his permission, so we didn't give any
3 interview without his permission. So everything we expected from
4 him. Otherwise, there was no protocol of orders from any party. At
5 the zone level to the lowest level, the commanding structure went
6 very well.

7 Q. And, Witness, when you received orders from the General Staff
8 that were not in writing, were those implemented at the zone level?

9 A. Yes, of course. There were two orders that I remember. One was
10 for general mobilisation of the people for war into the KLA ranks.
11 The second was added care for civilians during NATO bombing so that
12 the Serb forces didn't take any revenge against the civilian
13 population.

14 To my recollection, one of the orders was given through Radio
15 Free Kosovo. The other was given orally. And we duly implemented
16 both of them.

17 Q. And, Witness, to take you to a part of what I just read to you.
18 Again, you said:

19 "Commanders were not privileged in any way, on the contrary they
20 had greater responsibility and were always the most in danger."

21 And, Witness, in your various roles as commander and deputy
22 commander in 1998 and 1999, did you feel you had greater
23 responsibility than your subordinates?

24 A. I experienced this because I was deputy commander of Pashtrik
25 operational zone. The true commanders, in fact, were more endangered

1 because the rule was "come after me" and not "you go there and wage
2 war." So I was always in the front line and took part in more than
3 ten battles. I was injured. I was inflicted seven injuries. One
4 time I fell into a trap and was wounded, but we managed to break free
5 from the trap and defeated them.

6 So the commanders, wherever they were, at whatever level of the
7 war, were faced with greater dangers. It was not a privilege. It
8 was a great responsibility and danger.

9 If you allow me, I would like to add something about the trap.

10 We have instances of people falling into such traps, being
11 disappeared, killed, and those who say they're friends, we have heard
12 many rumours about that. We see here special enemy warfare against
13 the KLA. There were many rumours about those who fell into these
14 ambushes and didn't have the chance to speak out themselves. The
15 case of Ademaj, Saki Bellaqa with two other friends that fell dead
16 into that ambush. Shaban Shala and --

17 Q. Okay, Witness. We're getting a little beyond the scope of my
18 question. And I just wanted to clarify because when I --

19 A. I apologise.

20 Q. When I asked you about the sentence, there were two parts to it.
21 You said commanders had greater responsibility and were always the
22 most in danger. I asked you about the greater responsibility part.
23 So could you tell the Judges, in your various roles as commander and
24 deputy commander in the KLA, whether you felt you had greater
25 responsibility than your subordinates?

1 A. Yes, because the responsibility is -- was not only to fight but
2 to organise battles, to lead the soldiers, to accommodate, to arm the
3 soldiers, to take care of the civilian population. In my zone, I had
4 about 200.000 civilians that we protected and took care of, to feed,
5 to provide medication and shelter and everything.

6 So the commanders had greater responsibilities also regarding
7 the conduct of soldiers. All these are part of their
8 responsibilities.

9 MR. PACE: Your Honour, just before the break, I seek admission
10 of the pages shown to the witness today.

11 PRESIDING JUDGE SMITH: [Microphone not activated]

12 MR. KEHOE: If we're talking about the pages shown to the
13 witness, we have no objection.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 I'm sorry. Did you begin with page ending in 9352? Was that
16 the first one?

17 MR. PACE: Correct, Your Honour.

18 PRESIDING JUDGE SMITH: Okay. In reference to SPOE00209321 and
19 to SPOE00209428 excerpts of pages ending are admitted. Those page
20 endings are 9352, 9371, 9399, 9401, 9407, and 9415.

21 MR. PACE: Just to clarify, Your Honour, there is two of those
22 which I went over to the next page, so if you allow me, I will add
23 them to the record.

24 PRESIDING JUDGE SMITH: All right.

25 MR. PACE: And those are -- so I read from 9401 until 9402. So

1 that should also be admitted. And I believe that's it. Just one
2 second, Your Honour, to be sure I'm not missing any.

3 Yes, thank you for the indulgence, Your Honour, and I think this
4 is a good time for the break.

5 PRESIDING JUDGE SMITH: Just the one?

6 MR. PACE: Yes, so there was only one.

7 PRESIDING JUDGE SMITH: All right. 9402, page ending in 9402 is
8 also admitted.

9 MR. EMMERSON: I'm sorry, I didn't mean to speak across the
10 Court Officer.

11 PRESIDING JUDGE SMITH: [Microphone not activated]

12 MR. EMMERSON: I just wondered if we might detain Your Honours
13 for just two or three minutes to take stock of where we are having
14 regard to the timetable this afternoon and tomorrow?

15 PRESIDING JUDGE SMITH: [Microphone not activated]

16 THE COURT OFFICER: Your Honours, those pages will be assigned
17 Exhibit P712.

18 And, Your Honours, I would note it's marked as confidential, but
19 since it was broadcast, can it be reclassified?

20 MR. PACE: Yes, all pages admitted from this book, including the
21 few that were admitted via 154, can be reclassified to public.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 They are reclassified as public.

24 Witness, we'll take a lunch break now. You will come back into
25 the courtroom at 2.30. Please go with the Court Usher at this time.

1 [The witness stands down]

2 PRESIDING JUDGE SMITH: And we are in public session.

3 So just as a reminder. I believe I misstated this the other
4 day. Tomorrow and Wednesday, we will be starting at 3.00 p.m. and
5 going until 7.30, with one break at approximately the middle time.

6 MR. EMMERSON: So what I'm wondering, and assuming the witness
7 concerned in relation to the timing -- assuming the witness takes --
8 the next witness takes the time of those two days as planned, then
9 we're going to have potentially a significant break in this
10 witness's --

11 PRESIDING JUDGE SMITH: [Microphone not activated]

12 MR. EMMERSON: Yes, to return to the witness.

13 PRESIDING JUDGE SMITH: [Microphone not activated]

14 MR. EMMERSON: Yes. Or maybe even some of Wednesday if it goes
15 short on Tuesday --

16 PRESIDING JUDGE SMITH: [Microphone not activated]

17 It will be 8.00 in the evening when the --

18 MR. EMMERSON: Yes, well, depending on how long the testimony
19 goes.

20 PRESIDING JUDGE SMITH: Yeah.

21 MR. EMMERSON: Yes, I accept that.

22 I just wanted to get a sense of where Mr. Pace is in his
23 examination-in-chief in terms of how much further he's expecting to
24 go this afternoon, because I certainly would prefer to start my
25 cross-examination clean. But, obviously, I don't want to waste any

1 court time.

2 PRESIDING JUDGE SMITH: Yes, Mr. Pace. That's a good question.

3 MR. PACE: Your Honour, we estimated about two hours. I've used
4 about an hour and a half. I would not need more than half an hour.
5 And our position is that certainly the cross-examination should start
6 immediately upon completion of my examination, and there's no reason
7 to depart from that.

8 PRESIDING JUDGE SMITH: Hopefully you'll get one hour this
9 afternoon.

10 MR. EMMERSON: Very well. Thank you very much.

11 PRESIDING JUDGE SMITH: And how much tomorrow -- well, not
12 tomorrow. How much Thursday?

13 MR. EMMERSON: Well, we've obviously discussed the position
14 amongst the Defence bar, and 14 hours collectively was an
15 overestimate. *In terrorem* of Your Honours ruling recently that the
16 Defence needed to cut down their estimates, we had cut ours down from
17 four to two and a half. But having now decided amongst ourselves
18 that I will be taking this witness first and conducting sort of the
19 principal general cross-examination, I would like to ask for an
20 hour's indulgence on that two and a half.

21 PRESIDING JUDGE SMITH: [Microphone not activated]

22 MR. EMMERSON: I do, I'm afraid. Yes.

23 PRESIDING JUDGE SMITH: [Microphone not activated]

24 I'm sorry. What about the rest of you on the Defence if
25 Mr. Emmerson takes three and a half?

1 MR. KEHOE: I am not sure exactly. I mean, we have some
2 significant issues concerning our client to go through. I don't
3 believe -- I think I put down six. I don't believe that I can finish
4 in less than four, but I will see what I can do.

5 PRESIDING JUDGE SMITH: Okay. Well --

6 MR. KEHOE: I think that I will take at least four.

7 PRESIDING JUDGE SMITH: So it's fairly obvious we will be
8 holding over until after the long break for this other witness, and I
9 guess that can't be helped, but it was bound to happen sooner or
10 later.

11 MR. KEHOE: Yes, Your Honour.

12 PRESIDING JUDGE SMITH: Mr. Roberts, your estimate? I'm not
13 going to hold your feet to the fire on this. I just want to know
14 your best estimate.

15 MR. ROBERTS: My initial estimate was three hours. And from
16 what we've heard so far, and from what I expect, I don't have any
17 change to that at the moment. Obviously, we will have the likely
18 advantage of a break in between --

19 PRESIDING JUDGE SMITH: Yes.

20 MR. ROBERTS: -- when this finishes and when we start again, and
21 it may well be that that is reduced further. But if so, I'll
22 obviously update Your Honours and the Prosecution as well.

23 PRESIDING JUDGE SMITH: Thank you very much.

24 Mr. Ellis or Ms. Alagendra?

25 MS. ALAGENDRA: Your Honours, we've indicated three hours and we

1 anticipate taking the three hours.

2 PRESIDING JUDGE SMITH: All right. Well, we at least know that
3 we will be with this witness until after the break sometime, and that
4 eases things a bit. There's nothing much you can do about that. I
5 appreciate everybody's honest estimates.

6 And we will adjourn now until 2.30.

7 --- Luncheon recess taken at 1.05 p.m.

8 --- On resuming at 2.30 p.m.

9 PRESIDING JUDGE SMITH: Madam Court Usher, you can bring the
10 witness in.

11 MR. PACE: And, Your Honour, just as that happens, I could
12 respond in terms of the admission request from the Krasniqi team.

13 PRESIDING JUDGE SMITH: Yes.

14 MR. PACE: So in the circumstances, no objection to the
15 admission of item 115866.

16 And in relation to the other item, which is SPOE00111714, we
17 don't object to it being admitted, but there's no reason why it would
18 need to be admitted for a limited purpose.

19 PRESIDING JUDGE SMITH: So, all right. 115866 and 111714 are
20 both admitted and will be assigned a number.

21 THE COURT OFFICER: Your Honours, SPOE00111714 will be
22 Exhibit 4D9, and 115866 will be Exhibit 4D10.

23 [The witness takes the stand]

24 PRESIDING JUDGE SMITH: All right. Witness, we are ready to
25 continue with your direct examination. Mr. Pace still has some

1 questions for you.

2 MR. PACE: Thank you, Your Honour.

3 Q. And good afternoon, Witness. Do you know someone called --

4 A. Good afternoon.

5 Q. Do you know someone called Bashkim Ndrecaj?

6 A. Yes.

7 Q. Was he a KLA member?

8 A. Yes.

9 Q. When?

10 A. From the beginning of the war in Budakove in the called special
11 unit.

12 Q. And where was that special unit located? Was it also Budakove
13 or somewhere else?

14 A. It had its seat in Budakove, but it was a mobile team.

15 Q. And who was in charge of the special unit that you're referring
16 to?

17 A. Alpen Basha, Arbi.

18 Q. The translation said Alpen Basha, is that correct, as in
19 relation to the first name?

20 A. Arben. Arben.

21 Q. And did you meet Bashkim Ndrecaj during the war, so 1998, 1999?

22 A. Yes, two, three times or more, in the presence of others, just
23 like I met with other soldiers.

24 Q. And was that in Budakove or elsewhere?

25 A. In Budakove. In the surroundings of Budakove. I don't have a

1 specific location where I met with him. This was unimportant. He
2 was a simple soldier.

3 Q. And we'll move on to something else.

4 MR. PACE: Court Officer, I'd like to show the witness a video.
5 It's 067205-01. And I'd like to start from timestamp 8 minutes, 15
6 seconds. It can be shown to the public. There's no reason to play
7 the sound. And I will let the Court Officer know when I would like
8 to stop the video, if that's okay.

9 [Video-clip played]

10 MR. PACE:

11 Q. So, Witness, the Court Officer is now going to play a video on
12 your screen. I'd ask you to look at the video. At a certain point,
13 I will ask the Court Officer to stop the video, and then I'll have
14 some questions.

15 MR. PACE: And, Court Officer, I can already tell you now, in
16 case it assists, the first timestamp I'll ask you to stop at is
17 08:44. The video can be played.

18 [Video-clip played]

19 MR. PACE: We can stop. Thank you, Court Officer.

20 Q. Witness, do you recognise the location depicted on the screen at
21 the moment at minute 08:44?

22 A. Yes, I am here in Prizren. It seems to be the second day of the
23 liberation of Prizren. We're in front of the municipal building, the
24 former municipal building. I entered Prizren on 11 June. This must
25 be on 13 June 1999.

1 MR. PACE: And, Court Officer, I would like to continue playing,
2 and I will next ask you to stop at minute 09:03.

3 [Video-clip played]

4 MR. PACE: We can stop there. Thank you.

5 Q. And, Witness, do you recognise anyone in the still image from
6 minute 09:03 currently on your screen?

7 A. I barely recognise some. The person with black clothes is Isuf
8 Krasniqi. I don't know all the soldiers, because they have changed.
9 I am myself present here. The others, I don't know them.

10 MR. PACE: And, Court Officer, could you please -- or Court
11 Usher, could you assist the witness? I'll ask him to mark up so that
12 we can number the persons.

13 Q. So, Witness, with the Court Usher's assistance, could you please
14 put a number 1 next to the person you identified as Isuf Krasniqi?

15 A. [Marks]

16 Q. Thank you. And a number 2 next to the person you identified as
17 yourself.

18 A. [Marks]

19 MR. PACE: And, Court Officer, can you remind me, can we print
20 this and then I can tender it, please? Thank you. So I will keep
21 showing and I have a couple other of these to do, and then I will
22 seek admission for all of them.

23 And if we can continue playing, and then we'll next stop at
24 10:30.

25 [Video-clip played]

1 MR. PACE: We can stop there. Thank you.

2 Q. Witness, do you recognise anyone on your screen now?

3 A. Yes, I see soldiers hugging each other, happy after the
4 liberation. It seems to be one day after the liberation. Around the
5 14th or 15th of June. We were welcoming Tahir Sinani and
6 Fatmir Limaj who came to Prizren for the first time after the
7 liberation.

8 Q. And, Witness, do you recognise or could you provide the names of
9 anybody featured on your screen in this still image now from minute
10 10:30?

11 A. I recognise here only Tahir Sinani and Fatmir Limaj.

12 MR. PACE: And could I ask the Court Usher to assist?

13 Q. That's, Mr. Witness, please mark number 1 next to the person you
14 identify as Tahir Sinani.

15 A. [Marks]

16 Q. Correct. And I see you've marked number 2. Could you put an
17 arrow next to Fatmir Limaj next to the number 2 just so that it's
18 clear.

19 A. It's obvious. Here.

20 Q. Thank you.

21 MR. PACE: And, again, Court Officer, we can take a screenshot
22 of that and I'll seek admission later. And then I would like to
23 proceed until minute 11:19, please.

24 [Video-clip played]

25 MR. PACE: Yes, we can stop there, please.

1 Q. And, Witness, can you recognise any of the people on your screen
2 now?

3 A. I was greeting Fatmir Limaj.

4 MR. PACE: And, Court Usher, if you could assist.

5 Q. Witness, I'll ask you, with the assistance of Court Usher, to
6 mark number 1 next to you, and number 2 next to Fatmir Limaj.

7 A. [Marks]

8 Q. Thank you, Witness.

9 A. Yes.

10 MR. PACE: And, Madam Court Officer, as before, please capture
11 the screenshot. And then we'll proceed until the last part of the
12 video that I'd like to show, which is 11:28. So just eight more
13 seconds.

14 [Video-clip played]

15 MR. PACE: Thank you. We can stop the video.

16 And, Your Honours, at this point, I'd seek admission of the
17 excerpts shown to the witness as well as, I believe, the one, two,
18 three -- four screenshots that we captured.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 I'm sorry. This is 067205-01; correct?

21 MR. PACE: Yes, Your Honour. Correct.

22 PRESIDING JUDGE SMITH: And you want?

23 MR. PACE: Minutes 8:15 to 11:28 as well as the four screenshots
24 captured by the Court Officer.

25 PRESIDING JUDGE SMITH: All right.

Witness: W04765 (Open Session)

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Examination by Mr. Pace

1 MR. PACE: Three. I'm corrected. Three.

2 PRESIDING JUDGE SMITH: Any objection to those?

3 MR. KEHOE: No objection, Judge.

4 MR. ROBERTS: No objection, Your Honour.

5 PRESIDING JUDGE SMITH: Mr. Ellis.

6 MR. ELLIS: Nothing, Your Honour.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 067205-01 is admitted, including the three screenshots. And you
9 will mark them, please, as exhibit numbers.

10 THE COURT OFFICER: Your Honours, the video, 067205-01, from
11 minute 08:15 to 11:28, will be assigned Exhibit P727.

12 And the three marked stills will be assigned Exhibit P728, Your
13 Honours.

14 PRESIDING JUDGE SMITH: Thank you.

15 Go ahead, Mr. Pace.

16 MR. PACE: Thank you, Court Officer and Your Honour.

17 The image or the video can be taken down.

18 Q. And, Witness, I'd like to ask you about something different.
19 I'm going to refer to something you said earlier today.

20 MR. PACE: And for those in the courtroom, it's from page 87
21 from this morning's transcript.

22 Q. And, Witness, I asked you as follows:

23 "Did Jakup," here we were referring to Jakup Muharremi, "tell
24 you or did you learn in some other way of anybody else directly
25 involved in Jakup Muharremi's detention or mistreatment?"

1 And you answered:

2 "No, Jakup told me directly in person."

3 So you told us earlier how you learned about Skender Hoxha's
4 involvement in Jakup Muharremi's detention and mistreatment. My
5 question was, which I don't think you answered, if you are aware of
6 anybody else other than Skender Hoxha involved in Jakup Muharremi's
7 detention or mistreatment?

8 A. According to what Jakup told me, Sabahudin Cena was also
9 involved. However, I was surprised that an intellectual, academic
10 person should be involved in such base acts. However, I'm certain,
11 because I have discussed this matter on multiple occasions with
12 Jakup, because we have -- we're family related.

13 Q. And, Witness, changing subjects. In June 1999, after the
14 liberation, did the KLA have control over the town of Suhareke?

15 A. Can you please ask the question again, Prosecutor?

16 Q. Certainly. In June 1999, after the liberation, did the KLA have
17 control over the town of Suhareke?

18 A. No. After the war KFOR troops came in, and it is understood
19 that with KFOR coming in came the liberation and freedom of Suhareke,
20 Prizren, and all of Kosovo. However, there was KLA presence in
21 Suhareke.

22 Q. In June 1999, was there any KLA presence in the police station
23 in Suhareke?

24 A. Yes. It started functioning as a military police in the former
25 Serbian police station in Suhareke.

1 Q. Thank you.

2 MR. PACE: And, Court Officer, I'd like to call up side by side
3 U015-8743-U015-9047, and the English translation for that is the same
4 beginning and it ends in 8935-ET Revised 1. And we can keep the
5 first page for now.

6 THE COURT OFFICER: Can counsel clarify? In the presentation
7 queue there is a larger version and an extracted version. One is
8 exhibited. The other one is not.

9 MR. PACE: It is the larger version. So in Albanian, it's the
10 full range. This is a book of which I know that parts were admitted.
11 And in English, it's 8743 to 8935. Thank you.

12 Q. Witness, focusing on the image on the left of your screen, are
13 you familiar with that book?

14 A. Yes, I read this book after it was published. And it's a book
15 from Jakup Krasniqi, the "The Great Turning Point." I took some
16 names that are contained in this book referring -- people from the
17 Jashari family. I have included them in my book. Victims of the
18 Jashari family.

19 MR. PACE: And, Court Officer, could we please turn to page 8849
20 in both, so in the Albanian and the translation. 8849. I'm not sure
21 if it helps, but the actual page number is 106. It's actually the
22 next page for some reason. Yes, the English is correct.

23 Q. And I'm going to, Witness, read an excerpt from this book. It's
24 in English on the right. I'm going to start reading. In the
25 Albanian it will be the same. Correct. I'm going to start reading

1 from the heading "Pashtrik Operational Subzone."

2 MR. PACE: And, Court Officer, if you can, I would ask you as
3 you've done before, to move to the next page as I read. I'm going to
4 finish reading at page 8851.

5 Q. Witness, as we did before, I'm going to read and then ask you a
6 question.

7 "The Pashtrik Subzone initially included the territories of the
8 following municipalities: Prizren, Sharr, Rahovec, Suhareke
9 (Therande) and Malisheve. In this subzone as well, the organisation
10 of the Kosovo Liberation army was done on the basis of units, then
11 later passed on to military formations. The brigade was the highest
12 military formation.

13 "In this subzone the first and most powerful bases of the KLA
14 were: in Rahovec Municipality, Drenoci i Zatriqit, Zatriq and the
15 villages of the Berisha Mountains: Klecke, Divjake, etc. After
16 Llapushnik Gorge was closed off Malisheve became an important centre,
17 and not just for the Pashtrik subzone, where the subzone command was
18 located, along with Commander Muse Jashari. At this time, the KLA
19 quickly began ..."

20 Moving to the next page in both.

21 "... to spread in Suhareke with leaders such as Sadik Halitjaha,
22 Ilaz Kadolli, Blerim Kuci (who, after the summer 1998 offensive left
23 for Albania and joined a group of KLA deserters), etc. While Remzi
24 Ademi from Zhur was charged with the organisation of the Kosovo
25 Liberation Army for the area of Vrri and environs. When the

1 structure of the Kosovo Liberation Army was complete there were five
2 brigades in the subzone: the 121 Brigade, stretching from Llapushnik
3 to Duhel, including all of the villages spread through the Berisha
4 Mountains; the 122 Brigade comprised of the villages around
5 Malisheve; the 123 Brigade was spread through Suhareke municipality;
6 the 124 Brigade included Rahovec and the surrounding villages; and
7 the 125 Brigade which included the villages of Vrri and spread to
8 Prizren.

9 "One distinguishing characteristic of this area was the
10 inclusion of intellectuals, in which a distinguished role was played
11 by former political prisoners. After the summer 1998 offensive among
12 the brigades mentioned above the following brigades experienced the
13 greatest unravelling: the 123 Brigade because of the desertion of
14 Commander Blerim Kuci and a part of the command and its infiltration
15 by FARK elements, which would be present even after the consolidation
16 and would continually weaken the military organisation" --

17 THE INTERPRETER: Kindly slow down for the interpretation.

18 MR. PACE: Yes, I will slow down. I'm hoping the interpreters
19 are following the Albanian on the left of the screen, but I will slow
20 down.

21 Q. "... weaken the military organisation of this brigade as well as
22 that of the 125 Brigade. This latter brigade also suffered because
23 of the blows it took from the enemy, initially when
24 Commander 'Petrit' - Remzi Ademi - was killed in a trap; but also
25 because the brigade was acting quite isolated because it wasn't

1 physically connection with the other areas of the subzone. Meanwhile
2 the 124 Brigade had as its weakest point the battalion active in
3 Sverke e Gashit, where the FARK element was quite rebellious against
4 the Brigade command, and, unfortunately, not as resolute against the
5 enemy.

6 "Near the end of 1998, after Muse Jashari went to another
7 assignment, Ekrem Rexha with the *nom de guerre* Drini, was appointed
8 commander of the subzone, who was killed after the war in
9 circumstances that have yet to be clarified. When the decision was
10 made to go to Rambouillet he had come out in favour of going. At the
11 beginning of 1999 he would go to a new assignment ..."

12 And turning to the next page. And I assure everyone that I have
13 very little else to read.

14 "... Commander of the school for command and training, while
15 Tahir Sinani was appointed brigade commander. This lasted until the
16 end of the war.

17 "Upon the decision taken by the KLA GS and under the direction
18 of the Operational Directorate a school was organised for officers
19 and battalion commanders. Several generations graduated. Many of
20 them are also KPC officers. Sali Veseli, a major in the former YA
21 ... directed the school courses and made a valuable contribution to
22 the liberation army and continues to contribute as a senior officer
23 of the Kosovo Protection Corps."

24 Witness, I'm stopping there. And my question to you is, in view
25 of the positions you occupied in 1998 and 1999 in the KLA, to your

1 knowledge, is the information I read to you, also on your screen,
2 accurate?

3 A. According to what we see in the book written by Jakup Krasniqi,
4 "The Great Turning Point," the information is accurate. I don't have
5 anything to add with the exception of nuances or finer shades, which
6 he probably viewed in a different manner.

7 Q. And we saw or we heard reference in this excerpt to a KLA GS
8 decision to organise a school for officers and battalion commanders.
9 To your knowledge, following that KLA GS decision, was that school
10 created?

11 A. We discussed this in the previous session. This training course
12 started sometime in mid-February 1999 to March 1999, so a month or
13 five weeks, with officers and battalion commanders as we pointed out
14 before.

15 Q. And beyond the course that you mentioned, was there a school put
16 in place for officers and battalion commanders or was it just an
17 ad hoc course?

18 A. No, it was thought to create the academy, the military academy
19 at the general level in Kosovo, but it remained a wish.
20 Commander Drini, Ekrem Rexha, was appointed commander of that academy
21 or military school. It remained as an attempt.

22 MR. PACE: And, Your Honour, we seek to have the pages shown to
23 the witness admitted. And to be clear -- in Albanian as well as the
24 English corresponding transcript.

25 To be clear, those are pages 8849 to 8851.

1 PRESIDING JUDGE SMITH: Pages 8849 to 8851 of -- do you want to
2 use the long form or the short form of this, madam? You can go ahead
3 with it, just pick the one you wish.

4 [Trial Panel and Court Officer confers]

5 THE COURT OFFICER: Your Honours, the pages identified will be
6 assigned Exhibit P729. Thank you.

7 PRESIDING JUDGE SMITH: Thank you.

8 Go ahead, Mr. Pace.

9 MR. PACE: Thank you, Your Honour.

10 MR. KEHOE: Just one point of clarification, Judge.

11 MR. PACE:

12 Q. Witness, I have --

13 MR. KEHOE: I'm sorry, counsel. There are some carryover pages
14 before and after, so we're just talking about what counsel read is in
15 evidence; is that right? That's what's being tendered?

16 PRESIDING JUDGE SMITH: [Microphone not activated]

17 THE INTERPRETER: Mic, please.

18 MR. KEHOE: There is -- there is information before and there's
19 information after. And my question is: I take it counsel is
20 tendering what he read?

21 PRESIDING JUDGE SMITH: The only record made is of what you
22 read, Mr. Pace. Is that what you're submitting?

23 MR. PACE: Yes, Your Honour. If we want to, I don't know, for
24 example, redact the paragraph at the top of the first page and the
25 end of last one, if that is what counsel prefers, then we have no

1 objection to that.

2 MR. KEHOE: Judge, I'm just trying to clear up what the record
3 is. That's all.

4 PRESIDING JUDGE SMITH: Yeah, I am too. It's your call,
5 Mr. Pace.

6 MR. PACE: Yes, Your Honour. We can just admit the portions
7 that I read. I know there is a paragraph before I started reading
8 and one after. It would be easier to enter the pages in whole, but
9 if we need to redact them, we will do that. It's not a problem.

10 PRESIDING JUDGE SMITH: Redact them.

11 MR. KEHOE: Okay.

12 MR. PACE:

13 Q. Thank you, Witness. I have no further questions.

14 PRESIDING JUDGE SMITH: [Microphone not activated]

15 THE INTERPRETER: Microphone, please.

16 PRESIDING JUDGE SMITH: Judge Mettraux had a question.

17 JUDGE METTRAUX: And it's a question for you, Mr. Pace. If you
18 can do a check, it doesn't need to be now, but tomorrow morning, it's
19 Exhibit P718. It seems like you've only offered what is U001-2314,
20 but that document goes two pages further in. Just as a matter of
21 clarification if you could tell us what -- and it doesn't have to be
22 now. It's not an urgent matter. If you could tell us whether that's
23 only that page or the other two pages. And I believe it was admitted
24 through F1901 if that's of assistance.

25 MR. PACE: Thank you. We will have a look and get back to you.

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1 JUDGE METTRAUX: Thank you.

2 PRESIDING JUDGE SMITH: All right.

3 Mr. Emmerson, you have the floor.

4 MR. EMMERSON: [Microphone not activated]

5 PRESIDING JUDGE SMITH: Take your time.

6 MR. EMMERSON: That's what I was going to say. More haste, less
7 speed, I suspect.

8 Cross-examination by Mr. Emmerson:

9 Q. Mr. Halitjaha, I'm going to ask you some questions on behalf of
10 Kadri Veseli. So I'm going first. Then counsel for Mr. Thaci,
11 Mr. Selimi, and Mr. Krasniqi will have their opportunities a little
12 later in the week, I think.

13 I want to, if I may, just to start, by getting some clear dates
14 around the three phases of your distinguished service in the Kosovo
15 Liberation Army. And the reason it's extremely important is so that
16 when we look at some of your evidence that you've given to the
17 Prosecution or in your book about organisational matters, it's very
18 important that we know when in the period from, let us say, January
19 1998 to November/December 1999 you're describing.

20 So can I start by getting the three phases clear. I think you
21 came into Kosovo on 9 June 1998; is that right?

22 A. No, on the 7 June --

23 Q. 7.

24 A. -- 1998.

25 Q. Yeah, that sort of precision is perfect for my purposes. On

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1 7 June. Now, you'd had some military background, I think, yourself;
2 is that right?

3 A. Yes. I was trained and educated, and I have read a lot of
4 military literature, because I was engaged from 1997 onwards. Ten
5 years before the war, I was in Albania and I stayed there for some
6 six months.

7 Q. And did you have any form of military training in Albania?

8 A. No. Other than reading literature, no.

9 Q. And when you entered Kosovo, just to get matters clear, you
10 were -- your first, if I can put it this way, your first posting was
11 at Budakove; is that right?

12 A. Yes, that's right.

13 Q. And when you arrived at Budakove, were you immediately given a
14 title of commander?

15 A. No, because the structures didn't exist to give us titles and
16 decisions. They were at a very embryonic stage. There was a small
17 group that appeared in Doberdolan. At Budakove, I went with three
18 soldiers, and I managed to get together 20 soldiers to have them
19 ready for the first battle.

20 Q. So do I understand correctly that when you got to Budakove,
21 there were just yourself and three others who were identifying as
22 KLA?

23 A. Yes.

24 Q. And when say you managed to recruit 20 soldiers to get them
25 ready for the first battle, are you referring there to the battle of

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1 Rahovec in 17 July?

2 A. No, the battle of Budakove took place on the 3rd and 4th July.

3 Q. Very well. So within, if we can put it this way, less than a
4 month, you'd managed to put together a group of 20 or so?

5 A. Yes. After the date, after three weeks, I managed to put
6 together 583 fighters. I wouldn't say soldiers.

7 Q. So --

8 A. Because if we say "soldiers," we imply a regular army. But what
9 I'm talking about, they are voluntaries.

10 Q. Well, that's what I was going to ask you a little bit about.
11 I'm just wanting to be clear because in your earlier answer I thought
12 you said you managed to get together 20 soldiers to have them ready
13 for the first battle. Was that a misunderstanding? Because a few
14 lines later down on the transcript, you're talking about a great deal
15 more.

16 A. They -- I should say voluntary fighters. That would be the
17 correct term. Because, as I said, "soldier" implies regular army,
18 barracks and things like that.

19 Q. So just to be clear, you're saying that by the time you got to
20 the first week of July, you had managed to put together 20 soldiers
21 or you had managed to put together 583? Forgive me, it may seem an
22 obvious question to you, but I'm just trying to understand the
23 numbers.

24 A. I said up to the end of July, three weeks after the first
25 battle, the number of the voluntaries became 583 fighters.

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1 Q. I understand. So at the beginning you managed to get 20
2 volunteers, and then by the end of July, beginning of August, the
3 numbers had swelled very, very significantly by a factor of many 10s.

4 A. Yes.

5 Q. So just to --

6 A. Yes, because of the successful battles we waged. Because the
7 3rd and 4th of July were successful battles, we won, so this
8 accounted for the larger number of people joining us. Voluntaries.
9 Voluntaries.

10 Q. Because it gave a sense of possibility and morale; is that
11 right?

12 A. Yes, that's right.

13 Q. Drumming up morale was one of your strengths, I think; is that
14 correct?

15 A. One of the main strengths.

16 Q. Am I right in saying that really everybody knew, or if they
17 didn't know, they soon came to know, that you were one of those who
18 had been imprisoned and tortured by the Serbs?

19 A. Yes, yes, that's right.

20 Q. And did that give you a certain amount of authority, respect,
21 and credibility as a long-term opponent of Serbia?

22 A. No. Mostly it was my determination, bravery in the war that
23 played the main part.

24 Q. And of those 583, how many of them had weapons? Or let me put
25 it another way: How many weapons were at their disposal? Roughly.

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1 A. Initially, not everybody had a weapon. It happened that two
2 people had weapons; one didn't. Then afterwards, we managed to get
3 light weapons, mortars, cannons, 75-millimetres, hand-held grenades,
4 weapons for the -- which were sufficient to cope with the infantry of
5 the enemy.

6 Q. Now, that's a very good illustration of what I was saying at the
7 outset, which is if we're looking at a particular point in time, it's
8 quite important not to talk about what happened later without being
9 clear at what point of time we're talking about.

10 So my question to you was in that phase between the beginning of
11 July and the end of July, during that period, did everybody had a
12 weapon, or what proportion of soldiers had a weapon at that time,
13 June, July 1998?

14 A. From 26 June, the founding of the 2nd Battalion, until the end
15 of July, I would say that 70 per cent of the fighters were armed.
16 Then the figure became 90 per cent.

17 Q. And the 2nd Battalion, just to be clear, is formed on what date?

18 A. On 26 June 1998.

19 Q. And when it was formed, did you assume command immediately of
20 that battalion?

21 A. Yes, I was the commander from its very formation because I was
22 also the founder of that battalion.

23 Q. And when you said that on your arrival the structures of
24 battalions and brigades and so on were not yet formed, this was the
25 formation occurring under your inspiration and leadership; correct?

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1 A. The structures became -- were put in place later. So neither
2 the battalions nor the brigades were structured. One of the first
3 structures, the 2nd Battalion, was that in Suhareke municipality.

4 Q. Now, you said that these people are volunteers, the ones
5 initially, let's say, 20 and then growing. Can you just describe to
6 the Trial Chamber what you mean by "volunteers"?

7 A. I hope that the Trial Chamber and the Presiding Judge understand
8 and know what it means, "volunteers" and "regular soldier."
9 Volunteers cannot be mobilised, cannot be sent, summonsed for
10 recruitment, and don't have the place where they are designated to go
11 or the uniform of the army and be obliged to go. The regular
12 soldiers know where to go, the weapons, know -- have orders where to
13 go.

14 So there is a great difference between a volunteer and a regular
15 soldier in the sense of state organisation.

16 Q. So, I mean, for example, at this stage of the process, were the
17 volunteers required always to be 24 hours on call or on duty, or did
18 they join in some operations and not others?

19 A. Depending on the circumstances in a state of offensive, they may
20 stay there more than 24 hours. In calm situation, they might go back
21 to their family, to visit their family, to have more free time.
22 Especially during war offensives, they stayed there. They couldn't
23 go away.

24 Q. In your book, you've described the KLA as akin to a partisan
25 organisation of the sort that fought against occupation in the Second

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1 World War; is that correct? A correct description?

2 A. No, it's not like that. I meant that they had the features of a
3 partisan warfare. They got some lessons from the partisan warfare.
4 Because the KLA was not led by any political party, and it did not
5 have ideological views. It was a national, let's say, formation.

6 Q. But the way that you describe it in your book, and we'll come to
7 it later, is that the strategy of the KLA was to focus on either
8 particular acts of sabotage initially or on drawing the enemy into
9 skirmishes in one place or another rather than full-on battles. I
10 mean, that's how you described it in your book.

11 MR. PACE: Yes, Your Honour, we would request for a time period
12 to be referred to or to go directly to a page from the book.

13 MR. EMMERSON: Well, we'll definitely go directly to the page in
14 the book as I said a moment ago, but I'm trying to clarify the time
15 periods with the witness, Your Honour. I'm not sure whether it's --

16 PRESIDING JUDGE SMITH: You may go ahead.

17 MR. EMMERSON: Thank you.

18 Q. Have I understood you correctly that, from your book --

19 A. No, I don't think so. There was no sabotage of strategy as you
20 put it, but the strategy was to attack the enemy and to withdraw it
21 into positions where the enemy couldn't use heavy machinery and so,
22 in a way, we could match up with the forces with them. Since they
23 couldn't come penetrate with their tanks, other than planes, it was
24 easy for us to engage in infantry-to-infantry battles. That was our
25 strategy, to withdraw them into hilly places, places where they could

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1 not put up a proper resistance.

2 Q. Heavy machinery or heavy artillery would be of no use or less
3 use?

4 A. The heavy artillery was used from a distance, and it leveled out
5 our positions, caused damage to the KLA. But to have them penetrate
6 into zigzags, mountainous, hilly terrain, it was not possible for the
7 tanks to come in. So until we hit the first tank, we could meet up
8 or could match up our forces with them.

9 Q. Very well. So the first period then of your own involvement,
10 you've told us, runs from 7 June when you enter Kosovo, 26 June when
11 you become commander of the battalion based in Budakove. And I think
12 it's right to say that you also accept, don't you, that the KLA
13 across Kosovo was routed, was defeated over the summer offensive by
14 Serbia to the point where it was very seriously reduced in capacity
15 by September?

16 A. It is important to win the war. In that contest, there were
17 some battles where KLA was defeated. Like the case was in August 22,
18 23, 24. Some important points of KLA were destroyed. And it was at
19 that time Tahir Zmaj and his brigade deserted in Dukagjin and the
20 command in Suhareke. But the KLA as such was still, I would say, at
21 70 per cent in the mountains and was restructuring itself.

22 Q. Well, there were, you say, less people in the KLA, to some
23 extent, but they were in disparate parts of the country; is that fair
24 to say? Not properly organised in September?

25 A. I am talking about my positions. The number of soldiers there

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1 increased, and those who left their positions came to my battalion
2 and brought the surplus weapons. So I became more powerful from that
3 battle onwards.

4 Q. When you described the operational arrangements in your area as
5 being like the spots of a leopard, could you just explain to the
6 Trial Chamber what you meant by that analogy?

7 A. With pleasure I would, but I need a map in front of me because
8 even for the Judges and the Presiding Judge it will be easier to
9 understand the main roads, cities, barracks, and key points were
10 under the control of the enemy forces, which were capable of using
11 also some Albanian civilians. I mean that they controlled civilians.
12 And this gives the map the appearance of leopard spots, I would say.

13 Q. Are you -- just so that I know, because I think you're going to
14 be continuing your evidence for a few more days, and we will make
15 sure that you have a map before I finish questioning you. But are
16 you speaking about a map that covers the entirety of Kosovo or the
17 area around Klecke, Budakove, Rahovec, and so forth? What is the
18 kind of map area that you would like to describe -- would help you to
19 describe the leopard spots you're talking about?

20 A. If I were to explain it by my gesture, you wouldn't be able to
21 understand the divisions because the main -- the principal roads, the
22 main -- the cities, the divisions of the parts where Serbian forces
23 were dominant made KLA to go to different parts, that is, separate
24 parts.

25 It -- just an example, if you allow me. As a deputy zone

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1 commander, I could never go to Vrrin or Kabash or Has because I had
2 to pass through Prizren principal roads to meet my units. Or the
3 Commander of 125 Brigade had three battalions. He had only one
4 battalion with himself. Two others, he kept in contact with them
5 through couriers because of the Serb forces. I hope it -- I made
6 myself clear.

7 Q. You have made the point clear, and we will arrange to have a map
8 which I hope will be suitably broad by the time I'm asking you
9 questions again.

10 But the point that you're making, I think, and correct me if I'm
11 wrong, is that a commander could find himself physically separated
12 from soldiers under his command in a different battalion -- in a
13 different unit or fighting group by roads or territory that was
14 controlled by the Serb forces. Is that correctly understood?

15 A. Only if he deserted. Otherwise, he would always have a certain
16 unit with him. According to the military rules, the brigade
17 commander stays with the first battalion which is closer to the
18 headquarters, and he keeps links with others in various ways.

19 If he's without any soldier, then things are not in order, I
20 think.

21 Q. I'm sorry, that wasn't my question. It may have been I worded
22 it clumsily. I'm not suggesting that the brigade commander would
23 find himself on his own. I was suggesting that a commander, whether
24 it's a brigade commander or a battalion commander, am I right in
25 understanding your evidence that they may be in one of the spots of

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1 the leopard skin while soldiers under their command or authority
2 would be in another spot? Is that correctly understood?

3 A. Yes, now it's correct.

4 Q. And between that is territory completely militarily controlled
5 by the Serbian forces? Main roads and other territory.

6 A. 80 per cent of the territory, I would say.

7 Q. So you've got pockets of supporters, of volunteers in one place
8 and pockets in another, but when there's a call to arms for a
9 particular battle, they come together. Is that correctly understood?

10 A. Yes.

11 Q. And --

12 A. That's right.

13 Q. -- what --

14 A. Yes.

15 Q. Was that the position between when you arrived in early June
16 and, really, the end of the summer? Did that remain the position
17 until September or did it go on after that as well?

18 A. That was how it was, provided they -- we understand that those
19 small pockets of people kept growing, but not -- they didn't have an
20 uninterrupted regular control.

21 Q. So those pockets grew at times, but am I right in saying it
22 wasn't possible to consolidate control at any point until the Serbian
23 forces withdrew in the face of the NATO bombing in March, at the end
24 of March 1999?

25 A. That's very right, I would say.

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1 Q. All right. So that's the first phase. I'll ask you some
2 specific questions about that, but we've defined the period from the
3 first week of June to, let us say, September or thereabouts. And I
4 think it's right, from your various interviews, that you described a
5 restructuring of the Kosovo Liberation Army remaining forces
6 beginning in the second half of November 1998 and continuing through
7 to 8 March 1999; is that right?

8 A. Yes, correct.

9 Q. And in answer to a question from Mr. Pace about your book, you
10 talked about a restructuring initially beneath the zone level. Can
11 you explain -- we can come back to it in a minute. But can you
12 explain what you meant by the restructuring began beneath the zone
13 level?

14 A. Initially, we had these small units - platoons, battalions,
15 companies, battalions. In order to create a zone, we needed to have
16 three brigades to form a zone. We didn't have sufficient
17 consolidation of brigades either. First, we had to bring together
18 three or more battalions in one brigade, and three or more brigades
19 in a zone. And this began at the end of November until January 1999.

20 So those who didn't have more than three zone, we called them
21 subzone. Nerodime, Llap subzones. Those that had more than three,
22 like us in the Pashtrik zone, we founded directly the zone. And the
23 first commander of this zone, deputy commander was Sylejman Kollqaku,
24 commander was Drini, after this new organisation.

25 Q. So the -- in fact, so that we're clear, the Pashtrik zone didn't

1 come into existence until that period of reorganisation, did it?

2 That was when it was formed as a zone.

3 A. Maybe you are not very -- or you are putting it differently.

4 The zone, I mean a territory -- a number of voluntaries of the KLA
5 being part in one zone. As a structure, if you are asking me about
6 the structure, we didn't have one before 1999. That's how it was.

7 This is the truth.

8 Q. Before 1999?

9 A. Before 1999, we didn't have a structured zone. Maybe you didn't
10 understand me correctly. The zones started to be founded as zones by
11 bringing together three or four brigades in one zone by the end of
12 November 1998 to January 1999. Is that clear now?

13 Q. Yes, during that period that is what occurred. But what I'm
14 trying to -- what I'm expressing some surprise about is that you put
15 the establishment of the Pashtrik zone and the appointment of
16 Commander Drini as late as 1999 rather than at the end of 1998.

17 A. There were no zones in 1998. It was in the process of being
18 structured. Commander Drini came on the 16th or 17th December and
19 started his work in January when the zone was consolidated.

20 Q. Very well. And that's also when Halil Qadraku arrived, isn't
21 it?

22 A. Correct.

23 Q. Now, we're going to come -- talk a little bit more about the
24 role of Halil Qadraku, but he arrived, I think, in the first week of
25 January? Is that right to your recollection?

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1 A. Yes, Halil Qadraku came in January.

2 Q. And according to Halil Qadraku, and I think you agree with this
3 as well, there was no intelligence structure in your zone prior to
4 his arrival. He had to start, he says, from scratch.

5 A. That's correct. The conversation with Halil and Drini took
6 place in Albania, and Ekrem Rexha, Drini, told him, I quote, "You
7 shall be appointed at the zone level as an intelligence and
8 counter-intelligence head, G2," before even he went to Kosovo. So
9 Halil was appointed in the forming -- initial structures as head of
10 the intelligence and counter-intelligence, G2.

11 Q. But it wasn't that he was taking over as the commander of an
12 existing intelligence structure, was he? He had to start from
13 scratch; correct?

14 A. The rules are such -- the military rules are such to first
15 appoint a person who then will set up his staff and functions.
16 Nothing was established already with respect to what you're referring
17 to, like intelligence and counter-intelligence.

18 Q. During this period of the restructuring, we know you're no
19 longer, I think, serving as battalion commander but as the officer
20 with responsibility for morale and information; is that correct?

21 A. That's correct.

22 Q. And then -- and that's within the zone rather than nationally.
23 It's a zone-specific responsibility for the Pashtrik area?

24 A. I'm always referring to the Pashtrik zone, and these
25 responsibilities refer to the Pashtrik zone.

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1 Q. You see, one of the problems we're labouring with in this Court
2 is that whenever the word "information" is used in an allocation of
3 responsibility, it's been translated as meaning "intelligence." And
4 we'll see it in some of the documents that describe your role.

5 But when you were responsible for morale and information, that
6 was a role connected with communications rather than with the
7 gathering of secret intelligence; is that correct?

8 A. I did not say that I was in charge of intelligence and
9 counter-intelligence.

10 Q. No, no --

11 A. I don't know why you mixed them up.

12 Q. No, no, no.

13 A. I've never been.

14 Q. No, it's not me mixing them up. Unfortunately, the translations
15 are in error. So we're going to need to look at how they -- the
16 translations have described your role at various points because --
17 can you just, again, please tell us in Albanian the word for
18 "information"?

19 A. My role was deputy commander for morale and politics. It has
20 nothing to do with information, intelligence or counter-intelligence.
21 If you want me to explain what intelligence and counter-intelligence
22 is, I am able to do that. If you want me to explain my tasks and
23 duties, I'm able to do that too --

24 Q. I'm going to ask you --

25 A. -- but confusing intelligence and information --

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1 Q. I'm going to ask you to --

2 A. -- is not helpful.

3 Q. -- do both. I'm trying to unravel the confusion, Mr. Halitjaha,
4 not sow confusion, because some of the documents describe your role
5 at this point as morale and intelligence, and it wasn't to do with
6 intelligence as you've just said; is that right?

7 A. It had -- was not like that. With the permission of the Court,
8 you can ask me as many questions as you want, and I'm able to answer
9 them. I am here to bring the truth out here. Because the sooner the
10 truth comes out, the sooner these boys can go home.

11 Q. Can you give us, please -- just -- if you just listen to my
12 question for a second. Can you give us the Albanian word - just the
13 word - for "information"?

14 A. The word in Albanian, "information," means news, TV, radio,
15 public. This is what information is.

16 Q. And the word in Albanian?

17 MR. EMMERSON: So perhaps if the interpreter could read it in
18 Albanian or allow the witness --

19 THE INTERPRETER: *Informacion*.

20 MR. EMMERSON:

21 Q. *Informacion*. And the word for "intelligence" in the secret
22 intelligence sense, what is the word for "intelligence"?

23 A. The intelligence service would be called the intelligence
24 service. If we're referring to intelligence and counter-intelligence
25 of the KLA, it is about uncovering the enemy and his intentions

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1 against you.

2 Q. Again, I'm going to come to what it means. If you can just
3 listen to my question again -- perhaps we'll do this a slightly
4 different way.

5 You have made a point in your interviews of distinguishing
6 between ZKZ and SHIK, S-H-I-K. Can you first of all tell the Judges
7 what ZKZ was and what SHIK was and when SHIK came into existence?
8 Because some people get confused, don't they, about that?

9 A. They can -- it can happen that they are mixed up, but we don't
10 have to do it intentionally here. So ZKZ, I'm referring to my zone,
11 to myself, started in January 1999. And it barely functioned because
12 the structure was incomplete, insufficient. However, the tasks they
13 accomplished were very valuable to us because they uncovered enemy
14 units, types of weaponry, positions, minefields, battle plans, and
15 operational plans, how would they penetrate, or time of the attack.
16 This was the duty, task of the ZKZ.

17 With respect to the duties of the informative service, as you
18 call him -- it, SHIK, I've never had any connections with that
19 service. It happened after the dissolution of the KLA. It was
20 spoken about, people said that it existed, and probably the person
21 you're defending and representing, Kadri Veseli, can explain this
22 better than me.

23 Q. Going back to ZKZ, you say in your zone that first came into
24 existence in January, and that, as you've told us a few moments ago,
25 was as a result of the appointment of Halil Qadraku; correct?

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1 A. Initially, Halil Qadraku is appointed. He chose two or three of
2 his associates, and then they carried out their tasks, what they were
3 supposed to do.

4 Q. Now, turning to the word SHIK, S-H-I-K, could you tell us the
5 full name, translate it for us, and particularly what the K stands
6 for?

7 A. The informative service of Kosovo. Just like other informative
8 services, that of Albania, SHISH; the military informative service of
9 Albania, SHIU. You certainly know these things, Defence counsel --

10 Q. Yes, but not every --

11 A. -- but you're trying to test my knowledge. I am here to be
12 tested by the Court.

13 Q. Not at all. Not at all. But a lot of people don't know these
14 things, including some of those represented in the courtroom. So
15 it's quite important that we get them clear since you're being
16 brought to give evidence about structures.

17 In Albania, the intelligence service also had the name SHIK;
18 correct? The national intelligence service.

19 A. SHISH. It's SHISH, not SHIK.

20 Q. And what does the word "*kombetar*" mean?

21 A. "National" is the same word, "*kombetar*." "*Internacional*" would
22 be "international" and "*kombetar*" is "national."

23 Q. So what I'm trying to suggest to you, and I think you'll agree
24 with me, is that within Kosovo, is that right, until the independent
25 government of Kosovo had been established, there was no organisation

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1 in the KLA called SHIK?

2 A. No, the KLA transformed on 19 June into KPC, and obviously there
3 was no SHIK within the KLA.

4 Q. But the correct term that was used within the KLA was, as you've
5 said, ZKZ, ZKZ.

6 A. Correct.

7 Q. But is it right, and I think, again, you said this in some of
8 your interviews, a lot of people got the names muddled up?

9 A. Precisely, because people do not know these services, with the
10 exception of those who have read more, know more, or have worked
11 within these services.

12 Q. So I want to ask you in that context then, please, about -- just
13 bear with me. Sorry, I'll be one second.

14 MR. EMMERSON: Can we call up, please, and I think it's still
15 marked for identification at the moment, SITF00021875 to 876-ET. I'm
16 told it's now P500. And its Albanian translation -- ah, that's the
17 Albanian translation.

18 Q. Now, this is a document you've been asked about by Mr. Pace, and
19 we can see it's dated 14 March 1999. And it describes you as --
20 well, we'll read the opening words in English:

21 "I, Chief of the Informational Service, Halil Qadraku, and chief
22 for morale and intelligence, Sadik Halitjaha, issue this statement:"

23 Now, you are described there as chief of morale and intelligence
24 in the English translation. Could you read the way in which you are
25 described in the original Albanian, please?

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1 A. Now, I see that you were right in your allegation, in your
2 claims. The word "information" should be replaced with the word
3 "policy." The word "I, Chief of the Informational Service" is wrong.
4 He was chief of the intelligence and counter-intelligence. However,
5 the problem is Halil Qadraku had read some literature in Albanian.
6 He thought he was smarter than that. This was not exact. You should
7 ask Halil Qadraku who's in the best position to explain this.

8 From what I know, regarding to his role, because he was my
9 subordinate, it would have been accurate to write: "I, Chief of the
10 Intelligence and Counter-intelligence, and Sadik Halitjaha, chief for
11 morale and politics in the KLA." This should have been adequate and
12 appropriate.

13 I don't think he did this intentionally, though. I think this
14 was an error due to his ignorance because he didn't know the
15 terminology.

16 Q. Just being clear about this. I mean, the actual words in the
17 Albanian describe you, forgive my translation, as "*shefi per moral*
18 *dhe informim*." Wait until I've asked the question. "*Informim*" is
19 not "intelligence," is it?

20 A. In order to understand my position rightly, I did not have
21 anything to do with information. I dealt with morale and politics.
22 If we say somebody dealt with information or intelligence is --

23 Q. Okay.

24 A. -- a completely different function as compared against morale
25 and politics. Halil Qadraku did not understand what "morale" meant

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1 and he made a mistake. I'm 100 per cent sure --

2 Q. Well, I'm --

3 A. -- this was a mistake he made because he did not -- he ignored
4 the exact definition of the term.

5 Q. That's helpful. Maybe he got it wrong. But what I'm asking you
6 to do is to really focus on the actual question I'm asking you.

7 Okay? The word "*informim*" is different, isn't it, from "*zbulimi*"?

8 A. It's not the same thing. To uncover something you need to look
9 for that thing, to find it. To inform means you might have heard
10 about it, and you -- and you communicate that information. It's not
11 the same thing. However, it was not my task neither to inform nor to
12 uncover.

13 MR. EMMERSON: I think we've got a transcript problem, have we?
14 Has Your Honours' transcript folded for a moment? We just have to
15 wait for the transcript.

16 PRESIDING JUDGE SMITH: It's okay. Go ahead.

17 MR. EMMERSON: I think it's working. Yes.

18 Q. Again, I just want to round off this afternoon by getting this
19 absolutely clear with you. In the expression ZKZ, ZKZ, the word is
20 *zbulimi*; correct?

21 A. *Z*, *Zbulim*, intelligence. *K*, *Kunderzbulim*, counter-intelligence.
22 *ZKZ*, intelligence and counter-intelligence.

23 Q. Thank you. *ZKZ* is intelligence and counter-intelligence.

24 Now, *SHIK*, I'm going to put this to you, was -- originally the
25 intelligence service of Albania was known as under the communist

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1 regime as Sigurimi? Do you know that?

2 A. Yes.

3 Q. Yeah.

4 A. National Sigurimi, security.

5 Q. Yeah. And then in 1991, it was changed to SHIK, S-H-I-K,
6 *Sherbimi Informativ Kombetar*; correct?

7 A. Correct.

8 Q. And then it was only in 1997 that it changed its name to SHISH;
9 correct?

10 A. Correct.

11 Q. Very well.

12 A. Correct.

13 Q. So that we're clear -- so that we're clear, so the name by which
14 the Albanian secret service had been known between 1991 and 1997 was
15 SHIK, *Sherbimi Informativ Kombetar*, in other words, national
16 intelligence service; is that right?

17 A. Clear. I don't know. Maybe you're associating this with the
18 Kosovo informative service because there is a K at the end, but we
19 should distinguish between Kosovo and national, which is *kombetar*.
20 *Kombetar* refers to Albania. Informative service of Kosovo is SHIK of
21 Kosovo. I believe it's clear to you too.

22 Q. But either way, each them, as it happens, refers to a national
23 service, following, in the Kosovo case, after the end of hostilities
24 and the establishment of the KPC?

25 A. We never claimed to have a national service because Kosovo is

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1 Kosovo, Albania is Albania, two different states.

2 Q. I hear you --

3 A. So there was a service --

4 Q. I hear you --

5 A. This was in -- within Kosovo.

6 Q. -- but it's quite important for us all in court to understand
7 that, because when we look at what you've signed at the bottom of
8 this document, because this is a document that bears your initials
9 and your name, although it's signed by Halil Qadraku, it says it's
10 done in triplicate to the archive, to the General Staff, and to SHIK
11 at the General Staff, and it's dated 14 March 1999.

12 Why would Mr. Qadraku be writing to SHIK in March 1999 if, in
13 fact, it didn't come into existence until later? Can you think of
14 any reason?

15 A. I told you, the way Halil perceived things based on the
16 literature he read in Albania, he just wrote it down as he had read
17 it, because there was not one. I don't see how this could be
18 relevant, saying something that is not true. There was not one.

19 Q. Well, no. It's -- to be fair, it's come up in a number of
20 contexts, the use of the word "SHIK," in that way as describing the
21 position during the war. He's not the only one. But you, I think,
22 commented, am I right, in your interviews that you've heard him in
23 particular get those things wrong in the past; is that right?

24 A. He made mistakes, Halil being, having in mind what he had read
25 in Albania. I might have made a small mistake myself as well because

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1 we thought that our service would be similar to the Albanian
2 informative service, but there was not one in place in Kosovo in the
3 period of time we're referring to.

4 Q. A lot of the document -- I mean, first of all, let me ask you,
5 did you read this before it was sent out in your name? Do you know
6 whether you read it?

7 A. I don't remember it. But even if I did not, I would have
8 believed Halil, I trusted him, because this was not that relevant to
9 have a negative impact on the KLA. So even a -- if I didn't read it,
10 I would have trusted it.

11 Q. You see, there's a lot of documents that you've cited and that
12 the Prosecution have invited you to comment on in your evidence,
13 rules and regulations of the KLA, organigrammes and so on, and
14 structures, and at various points you've commented that this was
15 expected to be a long war and organisations or steps were being
16 contemplated that were not yet in existence. Is that correctly
17 understood?

18 MR. PACE: Sorry, Your Honour, I don't understand the question.
19 It's not -- it's not clear. And the first part --

20 MR. EMMERSON: All right. Well --

21 MR. PACE: The second does not follow from the first part.

22 MR. EMMERSON: Let me make it clearer.

23 PRESIDING JUDGE SMITH: Please do.

24 THE WITNESS: [Interpretation] I understood it. With the Court's
25 permission, I will answer.

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1 PRESIDING JUDGE SMITH: You have my permission. Go ahead.

2 THE WITNESS: [Interpretation] 90 per cent of the documents in
3 the operative zone of Pashtrik, I dictated them, Halil Qadraku typed
4 them. And those rules you were mentioning were drafted by me, Halil,
5 and some other comrades who helped us. And every document bearing my
6 signature, I accept them as mine because they are part of the KLA
7 archives, and unfortunately were seized by EULEX, all of them. But I
8 have nothing against those, and I have nothing to hide.

9 With respect to this statement, what in your opinion is the
10 relevance or how would this impact for good or for bad the KLA or
11 Kosovo? He made a mistake, he wrote "SHISH," he wrote "SHISH."
12 What's wrong with that?

13 MR. EMMERSON:

14 Q. Well, he wrote "SHIK" rather than "SHISH," but we've been over
15 that. I can't answer your questions, and I'm --

16 A. SHIK, I'm sorry.

17 Q. -- so sorry, but you have to accept that I'm asking the
18 questions. I can't give you my opinion about these matters. But let
19 me put it to you bluntly. You've signed documents talking about an
20 individual who should be produced before the court of second
21 instance. You've produced and identified KLA regulations that talk
22 about a system of courts and prosecutors and investigators. You've
23 talked about various other structures in terms of how things should
24 be, and none of those things existed at the time in reality, did
25 they?

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1 MR. PACE: Objection, Your Honour. Before the witness answers,
2 that is a compound question. If counsel for Mr. Veseli wants to put
3 specific --

4 MR. EMMERSON: Okay.

5 MR. PACE: -- documents in succession --

6 MR. EMMERSON: I'll break it down.

7 MR. PACE: -- he can do those in turn so that everybody knows
8 what's being answered in the --

9 MR. EMMERSON: I'll break it down.

10 MR. PACE: -- witness's answer.

11 PRESIDING JUDGE SMITH: Sustained.

12 MR. EMMERSON: I'll break it down.

13 Q. You've even signed a contemporaneous document, and we'll come to
14 it when you come back, in which you talk about how an individual is
15 going to need to be produced before a court of second instance.
16 Let's take that one, for example. There was no court of second
17 instance, was there?

18 MR. PACE: Objection, again, Your Honour. Can we see this
19 document?

20 MR. EMMERSON: We will see --

21 MR. PACE: I don't know why we're talking about documents in the
22 abstract when, of course, they're wanted and the witness should see
23 them given that a multitude of documents is being referred to.

24 MR. EMMERSON: Well, I --

25 PRESIDING JUDGE SMITH: [Microphone not activated]

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1 MR. EMMERSON: I am trying to make progress by dealing with this
2 as a generality and then descending into the detail, but I will do
3 it.

4 It's at the last minute of the day. It's tiresome, though, to
5 be interrupted when I'm making a perfectly valid general point and
6 then descending to the details. And that's Mr. Pace's [Overlapping
7 speakers] ...

8 PRESIDING JUDGE SMITH: It was confusing. Please put it up on
9 the screen so the witness can see it.

10 MR. EMMERSON: It's U000-1551-ET. And there must be an original
11 which corresponds to this.

12 JUDGE METTRAUX: That's Exhibit P716.

13 MR. EMMERSON: Thank you very much. It's already been exhibited
14 by -- this afternoon. Ah.

15 JUDGE METTRAUX: Yes.

16 MR. EMMERSON: I apologise. We didn't do -- have the numbers
17 yet.

18 Q. Now, if we look at this document, you can see, if we look
19 towards the bottom, Mr. Halitjaha, that is ascribed to you. Is it
20 your signature?

21 A. There's no signature. My name is typed. Can I read the
22 beginning --

23 Q. [Overlapping speakers] ...

24 A. -- so I can determine if it's my document or not. I don't see
25 any signature -- my signature here.

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1 Q. If we just go up to the signature section again before we go to
2 the beginning, can you see beneath the words that represent your name
3 there is what looks like an initial in -- written in pen. Is that a
4 signature that you used? Just beneath your name there.

5 PRESIDING JUDGE SMITH: [Microphone not activated]

6 JUDGE METTRAUX: [Microphone not activated]

7 PRESIDING JUDGE SMITH: [Microphone not activated]

8 MR. EMMERSON:

9 Q. On the Albanian, yes, on the original.

10 A. On the original in Albanian, yes. Yes, it is my signature.

11 Q. Thank you. Now, if we go up to the top of the document, this is
12 described -- it's dated 8 February 1999, and it's described as an
13 information in the units of the KLA about exceptional cases. And
14 then there's a reference to, in point 1, a wounding of a soldier
15 called Bashkim Kryeziu by his comrade and fellow fighter and some
16 description of the event. And then in the last sentence, it says:

17 "Even though he will suffer throughout his whole life because of
18 this incident, he will also answer to the court of second instance."

19 And in the second point beneath that, it talks about the
20 accidental death of a soldier in the Nerodime zone by another soldier
21 "who is now serving a sentence and is awaiting the determination of
22 his responsibility by the same court." But, Mr. Halitjaha, there was
23 no court of second instance on 8 February 1999, was there?

24 A. You are putting one before the other, and this is not
25 unintentional, because before this, there was a request publicly made

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1 to the General Staff asking for courts to be established in order to
2 deal with disciplinary matters regarding soldiers. We were having
3 soldiers who had loaded weapons and accidentally would wound, kill
4 people. So in our opinion, courts had to be established. This was
5 thought if the war lasted one, two, or three years. Otherwise, there
6 were no courts.

7 Q. So you were -- you were writing about a court that you hoped and
8 everybody had requested would be brought into existence at some time
9 in the future in a long conflict which everyone expected to go on
10 much longer?

11 A. It was very difficult. This was only a remainder wish and an
12 idea. We did not have laws in Kosovo. We did not have defence
13 counsels or lawyers as you are here. We did not have prosecutors.
14 We did not have the physical infrastructure like court buildings,
15 prisons. So this could not happen before Kosovo had a parliament to
16 adopt laws. The laws we had in force at the time were the laws of
17 the invader, the oppressor whom we were fighting.

18 Otherwise, we could have found lawyers and judges and
19 prosecutors, experienced, seasoned ones, at the time. So this was a
20 request to establish this at -- in the future. And that would have
21 taken a long time.

22 Q. I understand that. And that's some information you'd already, I
23 think, given to the Prosecution, which is why I went to it in short
24 form. But we're nearly -- we are at the end of today's session. But
25 can I just ask you one general proposition.

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1 Based on this document as an example, and you can answer this
2 "yes" or "no" so we don't go on too long today, it's true, isn't it,
3 that a lot of the documents that you've been produced or been asked
4 to comment on contain references to structures that are expected to
5 come into existence in the future?

6 A. The majority, yes.

7 Q. Thank you.

8 PRESIDING JUDGE SMITH: Thank you, Witness. That concludes the
9 testimony for today.

10 I think you know that we will not be able to hear you tomorrow
11 or Wednesday, so you will be back here in court on Thursday at
12 9.00 a.m. Thank you for your attendance today, and you may accompany
13 the usher out of the room.

14 THE WITNESS: [Interpretation] Thank you.

15 MR. PACE: Your Honour, if I may, while that happens, to address
16 Judge Mettraux's query earlier.

17 Indeed, it's correct, P718 should include pages 2314 to 2316.
18 It was our mistake for not mentioning that. But on a review of the
19 item, it's very clear that page 2314 carries on to 315 and finishes
20 at 2316. So if that could be amended, we would appreciate it.

21 PRESIDING JUDGE SMITH: Will the record be corrected
22 accordingly, Madam Court Officer?

23 [The witness stands down]

24 THE COURT OFFICER: Yes, Your Honours. That will be replicated.

25 PRESIDING JUDGE SMITH: Mr. Emmerson, do you have something to

1 bring up?

2 MR. EMMERSON: [Microphone not activated]

3 PRESIDING JUDGE SMITH: Do you have something to bring up?

4 MR. EMMERSON: [Microphone not activated]

5 PRESIDING JUDGE SMITH: Oh, okay. All right. Okay.

6 We will see you tomorrow at 3.00. It might be a good idea to be
7 a few minutes early, because this -- this is a long-distance
8 videolink, and we hope it all goes well.

9 Thank you very much for today. We're adjourned.

10 --- Whereupon the hearing adjourned at 4.05 p.m.

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