

1 Monday, 14 August 2023

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

6 PRESIDING JUDGE SMITH: Good morning, everyone. Welcome back.

7 Madam Court Officer, please call the 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: I note that Mr. Krasniqi waived his
12 right to be present in court for this week and that he will be
13 following the hearing via videolink. Mr. Thaci, Mr. Veseli, and
14 Mr. Selimi are all present in court today.

15 We will start the hearing of the evidence of Prosecution
16 Witness 03879.

17 Mr. Kehoe, you had something you wanted to raise.

18 MR. KEHOE: Yes, Your Honour. I feel I need to bring these two
19 issues to the Chamber's attention that have some very disturbing
20 consequences for the Court. And on the idea that it is best to get
21 the Court's guidance to deal with this, I bring it up at my earliest
22 opportunity.

23 The first has to do with a series of articles that came out with
24 the Russian Ministry of Foreign Affairs, Maria Zakharova, articles
25 that have been published and picked up throughout Europe, not only in

1 the Russian media, to the extent that this case is about organ
2 trafficking and that one of the leaders of the KLA is involved in
3 organ trafficking in this particular trial. Well, of course, that's
4 patently false, and any review of the indictment would reflect that.

5 But nevertheless, Judge, this type of media is prejudicial to
6 these accused. And if, in fact, this investigation concerning organ
7 trafficking is completed, it should be some type of an announcement
8 coming from someone in this building to that effect, that there is
9 nothing in any of these charges to reflect organ trafficking and that
10 investigation should be closed. Because, as I say, I'm not sure if
11 the Russians are attempting to influence this Chamber, but,
12 nevertheless, they are consistently attempting to put this story out,
13 that the gentlemen who are on trial before this Chamber are involved
14 in organ trafficking charges. And, of course, they are not, and the
15 story being perpetuated is false. And I submit to the Chamber that
16 it would be quite easy to dispense with any further commentary in
17 this regard by an announcement that this investigation has been
18 closed.

19 In a different matter, but equally disturbing, is influence on
20 witnesses concerning my client, President Hashim Thaci.

21 There are a series of articles the past couple of days in
22 Prishtine, and it was also picked up in a live news interview, that
23 an individual -- an Albanian individual in Germany was approached by
24 another individual with contacts with the Kosovo government, and that
25 this person in Germany was personally asked to find "four Catholic

1 witnesses to testify at The Hague tribunal against the former
2 president of Kosovo, Hashim Thaci." And he was quoted, he's saying
3 he was told that "I should get Catholic witnesses against
4 Hashim Thaci," on the theory, in this article, that Catholic
5 witnesses are more credible than non-Catholic witnesses.

6 Now, clearly, Your Honour, this is -- I understand that the SPO
7 has used brokers in Prishtine and Kosovo to get witnesses, but this
8 is an incursion on this justice process if, in fact, there is any
9 participation in any way that is encouraging someone to go get four
10 Catholic witnesses to testify against our client Hashim Thaci.

11 I bring this to Your Honours' attentions obviously for the
12 impact that it has and the obstruction of justice issues that emanate
13 from that. And frankly, Your Honours, I have no other place to turn
14 but to the Chamber for the Court's intercession on this matter.

15 So those are very two distinct matters that are quite
16 disturbing, happened within the past ten days, and I bring these
17 matters to the Court's attention and submit it to Your Honours for
18 your guidance on the matter. Thank you.

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

20 We are ready for the first witness. I would ask the Court Usher
21 to please bring the witness in.

22 I remind everyone we are in public session.

23 MR. HALLING: And, Your Honour, when the witness is being
24 brought in, is it possible to respond briefly to what counsel just
25 said?

1 PRESIDING JUDGE SMITH: Yes.

2 Hold on, Madam Court Usher. Hold on.

3 Go ahead.

4 MR. HALLING: Thank you.

5 Just briefly. This wasn't brought up with us *inter partes*, and
6 I don't think there is any allegation that the SPO can be held
7 responsible for things said in the media, but neither of the issues
8 raised have anything to do with the witness who's about to walk into
9 the courtroom, and we would suggest the Thaci Defence make written
10 applications if they want to seek relief along these lines.

11 PRESIDING JUDGE SMITH: Thank you.

12 MR. KEHOE: Just briefly, Your Honour. The Court, and certainly
13 counsel on this side of the table, just want some answers. If
14 there's some cogent explanation why someone is out trolling for
15 witnesses and if it is done at the behest of someone in this
16 building, then that matter should be brought to the attention of the
17 Court. Now, we can follow this up with a written submission as need
18 be, and we will do so, but this is a very immediate concern if
19 someone is out there trolling for Catholic witnesses to testify
20 against President Thaci. Thank you.

21 PRESIDING JUDGE SMITH: Thank you very much. You will file a
22 written application if you have something you want this Panel to do.
23 I don't hesitate a bit to say that we have very little control over
24 what the press does write in a fanciful way if that's what they want
25 to do. I don't know if somebody has an answer to what you have to

1 say. I guess we'll find out.

2 MR. KEHOE: Yes, Your Honour. We will file it in due course.

3 PRESIDING JUDGE SMITH: Thank you.

4 [The witness entered court]

5 PRESIDING JUDGE SMITH: Remain standing, please.

6 Good morning, Witness. Can you hear me?

7 THE WITNESS: [Interpretation] Yes. Yes, good morning. I can
8 hear you.

9 PRESIDING JUDGE SMITH: The Court Usher will provide you with
10 the text of a solemn declaration which you are asked to take pursuant
11 to Rule 141(2) of the Rules. So please, when you're ready, please
12 read the statement aloud.

13 THE WITNESS: [Interpretation] Conscious of the significance of
14 my testimony and my legal responsibility, I solemnly declare that I
15 will tell the truth, the whole truth, and nothing but the truth, and
16 that I shall not withhold anything which has come to my knowledge.

17 WITNESS: W03879

18 [Witness answered through interpretation]

19 PRESIDING JUDGE SMITH: Thank you, Witness. Please be seated.

20 Witness, today we will start your testimony, which is expected
21 to last between four and five days. You have just taken a solemn
22 declaration. Do you understand it?

23 THE WITNESS: [Interpretation] Yes.

24 PRESIDING JUDGE SMITH: And do you agree to it?

25 THE WITNESS: [Interpretation] Yes.

1 PRESIDING JUDGE SMITH: As you may know, the Prosecution will
2 ask you questions first and then counsel for the victims. Once they
3 are finished, the Defence has the right to ask questions of you.
4 Members of the Panel might also ask questions of you.

5 The Prosecution estimate for your examination is eight hours,
6 Victims' Counsel will take approximately 15 minutes for questions,
7 and the Defence estimates it will need 13 hours. As regards each
8 estimate, we hope that counsel will be judicious in the use of their
9 time. The Panel may also allow redirect examination if conditions
10 for it are met.

11 Witness, please try to answer the questions clearly with short
12 sentences. If you don't understand a question, feel free to ask
13 counsel to repeat the question or tell them that you don't understand
14 and they will clarify. Also, please try to indicate the basis for
15 your knowledge of facts and circumstances which you will be asked
16 about.

17 Please also speak into the microphone and wait five seconds
18 before answering a question and speak at a slow pace so that the
19 interpreters can catch up.

20 During the next days while you are giving evidence in this
21 Court, you are not allowed to discuss with anyone the context of your
22 testimony outside of the courtroom. If any person asks you questions
23 outside the Court about your testimony, please let us know.

24 Please stop talking if I ask you to do so and also stop talking
25 if you see me raise my hand. This indication would mean that I need

Witness: W03879 (Open Session)

Page 6256

Examination by Mr. Halling

1 to give you an additional instruction.

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

4 Before we start, it's my understanding that on
5 cross-examination, that there is a general agreement that the Selimi
6 Defence can proceed first following the victims. Is that correct
7 with everybody? Any objection?

8 MR. HALLING: No objection.

9 PRESIDING JUDGE SMITH: Any objection by Thaci Defence?

10 MR. KEHOE: [Microphone not activated]

11 PRESIDING JUDGE SMITH: All right. And by Krasniqi Defence, any
12 objection?

13 MS. ALAGENDRA: No, Your Honour.

14 PRESIDING JUDGE SMITH: All right. That will be the way we
15 proceed then. Thank you very much.

16 Mr. Prosecutor, you may begin your examination.

17 MR. HALLING: Thank you, Your Honour.

18 Examination by Mr. Halling:

19 Q. Good morning, Witness. Witness, we're first going to start with
20 some questions about your personal background.

21 MR. HALLING: Due to the identifying nature of those questions,
22 we would ask to go into private session.

23 PRESIDING JUDGE SMITH: All right. We will go into private
24 session.

25 Madam Court Officer.

Witness: W03879 (Private Session)

Page 6257

Examination by Mr. Halling

1 [Private session]

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Witness: W03879 (Private Session)

Page 6258

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6259

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6260

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6261

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6262

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6263

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6264

Examination by Mr. Halling

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24 [Open session]

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

1 PRESIDING JUDGE SMITH: Thank you.

2 Go ahead, Mr. Prosecutor.

3 MR. HALLING: Thank you, Your Honour.

4 Q. Witness, we were talking about the Llapushnik headquarters in
5 private session. I'd now like to show you a couple of photos.

6 MR. HALLING: If the Court Officer could please pull up
7 documents IT-03-66 P6 and the page number specifically U003-2456.

8 Q. Witness, in a moment you'll be able to see a picture on the
9 screen, and I'm going to ask you a couple of questions about it.

10 Witness, can you see the photograph?

11 A. Yes.

12 Q. It says on the top of the photograph "Llapushnik Farm Compound"
13 in English. My question to you is can you see the Llapushnik
14 headquarters in this photo?

15 A. Do you want me to point it with a pencil?

16 Q. Because the buildings are numbered, at least as a starting
17 point, if you can identify the building by number, that would
18 suffice.

19 A. Number 2. According to me, it is number 2.

20 Q. Did you visit any of the other buildings in this photograph from
21 May to July 1998?

22 A. No, I did not. Maybe the location was slightly different.
23 Maybe I just moved round and -- round and round, but I don't believe
24 I went into any other building.

25 MR. HALLING: If the Court Officer could please go to the next

Witness: W03879 (Open Session)

Page 6266

Examination by Mr. Halling

1 page. This is U003-2457.

2 Q. Now, Witness, I believe that this is the same photograph from a
3 different angle. Do you see where the number 2 is on the right side
4 of the screen?

5 A. Yes.

6 Q. Is that also the Llapushnik headquarters?

7 A. I am not certain. I'm not able to say. From this angle, I'm
8 not entirely sure.

9 Q. Am I correct that the Llapushnik headquarters would be just off
10 screen in this photo to the right side on this orientation; is that
11 correct?

12 MR. KEHOE: Leading.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 You may answer the question, Witness.

15 The objection's overruled.

16 THE WITNESS: [Interpretation] I think so, given the position of
17 the arrow, at the end of that arrow, that is, that's what I think it
18 looked like.

19 MR. HALLING:

20 Q. Thank you.

21 MR. HALLING: Your Honours, we'd argue that that's sufficient
22 authentication of these photographs, and we would seek their
23 admission. They are part of a photo array from the ICTY Limaj *et al*
24 case. We, obviously, haven't shown every photograph in this array.
25 I don't know how contested the full array is. There was no objection

1 to it squarely raised in our provisional submission, so as a starting
2 point we would tender all the photos in this array.

3 PRESIDING JUDGE SMITH: [Microphone not activated]

4 MR. HALLING: Correct. And if there's any opposition to that,
5 then we would just tender the two photographs.

6 MR. KEHOE: We object to everything. The SPO just wants to put
7 photographs into evidence without asking the witness? I mean, the
8 witness didn't even know that number 2 in the second photograph was,
9 in fact, the headquarters without the leading question.

10 PRESIDING JUDGE SMITH: [Microphone not activated]

11 MR. KEHOE: I object to it. I object. And I object to
12 photograph number 2.

13 MR. HALLING: The alternative tender then would be just the two
14 photographs shown to the witness.

15 PRESIDING JUDGE SMITH: All right.

16 MR. KEHOE: Then I object to photograph number 2. The witness
17 can't identify it. So put photograph number 1 in, that's fine. We
18 have no objection to that. We have objection to number 2. The
19 foundation does not suffice.

20 PRESIDING JUDGE SMITH: All right.

21 Anything from the Veseli --

22 MR. STRONG: Nothing.

23 MR. ROBERTS: Nothing more, Your Honour.

24 MS. ALAGENDRA: Nothing, Your Honour.

25 PRESIDING JUDGE SMITH: It is sufficient. 1 and 2 will be

1 admitted.

2 THE COURT OFFICER: Your Honours, photographs marked with
3 U003-2456 and U003-2457 will be marked as Exhibit P255.

4 MR. HALLING: And just for the record, that exhibit can be
5 public, Your Honour.

6 PRESIDING JUDGE SMITH: All right.

7 MR. HALLING:

8 Q. Witness, we also spoke in private session about KLA oath
9 ceremonies. I now have a video that I would like to show you.

10 MR. HALLING: And could the Court Officer please pull up video
11 061427/25. And the timestamp that I'm going to be interested in is
12 from 1 minute, 50 seconds, to 2 minutes, 45 seconds.

13 [Trial Panel and Court Officer confers]

14 PRESIDING JUDGE SMITH: Do you intend this to be in open
15 session?

16 MR. HALLING: This can be in open session.

17 PRESIDING JUDGE SMITH: All right.

18 MR. HALLING: Before the video is played, and perhaps for the
19 benefit of the interpreters, because there are not that many words in
20 this particular video, and it's really mostly the images that are of
21 consequence, we would suggest just letting the video play without
22 being translated in realtime, and then I can read the relevant words
23 into the record at the end of the extract if that is suitable for
24 Your Honours.

25 MR. KEHOE: With regard to this video, my understanding is that

1 this video is not the oath ceremony of this witness. That's my
2 understanding. If that's the case, this is completely irrelevant and
3 shouldn't be admitted.

4 MR. HALLING: I have not yet tendered the video. I should also
5 note it was provisionally admitted as a Rule 154 exhibit for another
6 witness, but I'm going to ask the witness questions about it. And
7 then if the threshold for admissibility is set, I would tender it
8 then.

9 MR. KEHOE: Suffice it to say, Your Honour, again, this is not
10 the oath ceremony that the witness participated in. There is not a
11 proper foundation to even begin this, and counsel knows that. So if
12 he wants to ask about the oath ceremony, what's said at the oath
13 ceremony, that's fine. But this particular video is irrelevant. If
14 we get it in with some other witness at some other time, that's fine,
15 but not this witness.

16 PRESIDING JUDGE SMITH: Sustained.

17 MR. HALLING: Well, in terms of how to proceed, Your Honour, we
18 accept that this is not the same oath ceremony, but this witness is
19 able to give relevant and probative information about it from
20 preparation Note 2, 114611 to 114614, paragraph 18, is what the
21 witness is prepared to say as to this note. And we would ask at
22 least for an opportunity for the witness to comment on it before a
23 final decision on its admissibility is made.

24 MR. KEHOE: So what the SPO has done is --

25 PRESIDING JUDGE SMITH: [Overlapping speakers] ...

1 MR. KEHOE: -- taking a video that that witness has nothing to
2 do with --

3 PRESIDING JUDGE SMITH: Mr. Kehoe, I'm reading something.
4 Please wait.

5 MR. KEHOE: Yes, my apologies, Judge.

6 PRESIDING JUDGE SMITH: What is the purpose of trying to show
7 this particular oath?

8 MR. HALLING: We do not have the oath ceremony discussed in
9 private session recorded. However, we have one which we would submit
10 looks the same and is the same experience recorded as the one that
11 the witness went through. And if the witness can speak to that, then
12 we would think that that is a sufficient showing of relevance and
13 probative value for this video.

14 PRESIDING JUDGE SMITH: Okay. We'll run the video and we'll
15 determine whether or not it's admissible afterwards.

16 Go ahead.

17 MR. HALLING: Thank you. So, again, the timestamps would be
18 from 1 minute, 50 seconds, to 2 minutes, 45 seconds.

19 [Video-clip played]

20 MR. HALLING: Thank you, Court Officer.

21 Just for the record, the words that were being spoken at the
22 beginning of that, and this is from the English transcript disclosed,
23 says:

24 "Company, attention. Greetings, Mr. Komandant. The company is
25 ready for raising of the national flag and for taking the military

Witness: W03879 (Open Session)

Page 6271

Examination by Mr. Halling

1 oath. Kumanovo reports."

2 And then at the end of the video, it was said:

3 "Soldiers and officers, honour."

4 Q. Now, Witness, just to start, this is not the video of the oath
5 -- this is not the oath ceremony that you were speaking about in
6 private session, was it?

7 A. That's right.

8 Q. How did the oath ceremony on the video compare to the oath
9 ceremony that you were describing in private session?

10 A. Similar.

11 Q. Were the events depicted on the video, did they also happen in
12 the same way during the oath ceremony you were describing?

13 A. Yes.

14 PRESIDING JUDGE SMITH: Mr. Prosecutor, is it your statement
15 that there's an oath in there somewhere?

16 MR. HALLING: It's our position that this is a video of an oath
17 ceremony taken at Klecke --

18 PRESIDING JUDGE SMITH: But with no oath?

19 MR. HALLING: Correct, the oath itself is not in the recorded
20 passage.

21 PRESIDING JUDGE SMITH: Go ahead.

22 MR. HALLING: But I would ask the Court Officer to freeze frame
23 at the 2 minute, 9 second mark on the video.

24 Q. Witness, going from left to right, please tell me the identities
25 of these people to the extent that you know.

Witness: W03879 (Open Session)

Page 6272

Examination by Mr. Halling

1 A. The first one, the one with the moustache, is called Muse
2 Jashari. The other one, the second one, is Fatmir Limaj. The third
3 one is Kumanova, named Ismet Jashari.

4 Q. And these were the same three people that were leading the oath
5 ceremony described in the private session; is that right?

6 A. Yes.

7 MR. HALLING: Your Honours, given the identity between the
8 witness's evidence and the video, the identifications made, and,
9 again, noting that this was already provisionally accepted as an
10 associated exhibit of another witness, we think it would be
11 appropriate to admit it at this time and we tender it accordingly.

12 MR. KEHOE: We're admitting a tape on an oath with no oath. I
13 mean, so to the extent that they're saying this is the same, it's not
14 the same.

15 So the SPO thinks that some other witness can verify this and
16 authenticate it? That's fine. Let's see that witness and put it in
17 there. This is a video that has nothing to do with this witness
18 other than maybe Muse Jashari, Fatmir Limaj, and Ismet Jashari happen
19 to be there. There is no oath given, yet they want to catapult this
20 and use it down the line to say: Look what the oath ceremonies look
21 like by the KLA. It's a very official ceremony. Ah, well, yeah,
22 there's no oath. That little part's left out.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 The objection is sustained. There is no connection here. There
25 is no relation. There's no indication of an oath. This is somewhat

1 useless.

2 MR. HALLING: Very well, Your Honour.

3 THE WITNESS: [Interpretation] May I be allowed to add something?

4 MR. HALLING: If it's all right with the Court.

5 PRESIDING JUDGE SMITH: I have no idea what he wants to add.

6 MR. HALLING:

7 Q. Witness, please add what you wanted to say.

8 A. What I wanted to say is that the videos where we were present
9 were never made public. In fact, they were destroyed for certain
10 purposes. The oath that we took, the solemn declaration that we
11 took, that is, it was similar to this one, even though there were
12 more people present. However, the recording was never played out and
13 that was for a certain purpose.

14 Q. Thank you, Witness.

15 MR. HALLING: Your Honour, given the procedural posture of this
16 document, that there is another witness that can speak to it, and
17 Your Honours' ruling, we would propose to move on.

18 PRESIDING JUDGE SMITH: Yes, go ahead.

19 MR. HALLING: So the video can be taken off the screen.

20 Q. Witness, in terms of joining the KLA, were there official rules
21 for being in the KLA?

22 A. I don't understand.

23 Q. Were there ways in which a soldier should behave that were
24 communicated to you?

25 A. There were rules, yes. There were rules that had to be obeyed.

1 Q. When were they communicated relative to the oath ceremony you
2 were discussing in private session?

3 A. We heard these rules from Ymer Alushani, Qerqiz, and others, to
4 the effect that there would be rules. However, the question of
5 whether they were implemented or not is different because they were
6 not implemented in their entirety.

7 Q. You said that you heard in the last answer. Were they
8 communicated in writing?

9 A. No, never.

10 Q. I want to talk now a little bit about the command structure in
11 the Llapushnik area starting with Fatmir Limaj. What was
12 Fatmir Limaj's role in the Llapushnik command structure?

13 A. He was the main commander for that area.

14 Q. Thank you. And just to clarify, to the extent of all of the
15 questions I'm going to ask now, I'm focusing particularly on the
16 period from May to July 1998. During this time, where was
17 Fatmir Limaj based?

18 A. He stayed at Klecke.

19 Q. Later in the war, do you know what number brigade was stationed
20 in the Klecke area?

21 A. 121.

22 Q. Now, we were talking about Qerqiz, Isak Musliu. Please tell us
23 what his role is in the Llapushnik command structure at this time?

24 A. He served as commander in the Llapushnik zone.

25 Q. Who are his deputy commanders?

1 A. His deputies were Shefqet Buja, the Teacher, and Ymer Alushani.
2 These were the two who were closest to him.

3 Q. For Shefqet Buja, what was his nickname during the war?

4 A. Mesuesi, the Teacher.

5 Q. So in terms of understanding the Llapushnik commander structure
6 at this time, it went from Fatmir Limaj down to Isak Musliu and then
7 to Ymer Alushani and Shefqet Buja. Is that the correct line of
8 command?

9 A. Yes, that's right.

10 MR. STRONG: Excuse me, Your Honours. I had let this go on a
11 little bit. But as we discuss this line of command, if we could get
12 the source of knowledge that would be very helpful, and throughout
13 this witness's evidence. I'm sure my colleague is getting to it.
14 Thank you.

15 MR. HALLING: I think the basis for knowledge on this is
16 self-evident, but at the next private session I can ask that
17 question.

18 PRESIDING JUDGE SMITH: [Microphone not activated]

19 MR. HALLING:

20 Q. So could Isak Musliu issue orders and assignments to soldiers?

21 A. Yes, he could. By all means.

22 Q. Could orders be communicated down from Fatmir Limaj to Ymer
23 Alushani and Shefqet Buja to transmit to soldiers?

24 A. Yes.

25 Q. Now, we've been talking about delivering orders down chains of

1 command. Were operations reported up the same chain of command in
2 the same order?

3 A. Yes.

4 Q. And do you know if anyone above Fatmir Limaj had any authority
5 over the Llapushnik area?

6 A. No, I had not heard that at that time, in the beginning.

7 Q. Witness, do you know of a person named Shukri Buja?

8 A. Yes.

9 Q. Who is Shukri Buja?

10 A. Shukri Buja served in another part in the village around
11 Krojmir. He was commander there alongside Luan. I -- I cannot
12 remember his name at this point. Qeriqi -- yeah, he's called Ramiz
13 Qeriqi. These two served in that area. And then they moved to
14 another zone, the zone of Vershec which became part of their area of
15 responsibility.

16 Q. Do you know if Shukri Buja had a nickname during the war?

17 A. Gazetari.

18 Q. And is that Albanian for the word "journalist"?

19 A. Correct. Yes.

20 Q. In the private session we were discussing Gani Kastrati and
21 Fadil Kastrati. Without discussing any information you have about
22 how you know these persons, do you know whether or not they operated
23 under Shukri Buja's authority?

24 A. Yes, that's clear.

25 Q. During this time, from May to July 1998, how were KLA orders

Witness: W03879 (Open Session)

Page 6277

Examination by Mr. Halling

1 communicated?

2 A. Through the command. Everybody had a senior officer to whom
3 they would report.

4 Q. Were orders communicated both orally and in writing?

5 A. Only orally. There were cases when things were written about a
6 person who's being criminally prosecuted or something. It was -- it
7 might have happened, but I did not have access to that.

8 Q. Was the KLA using radios during this time to communicate?

9 A. Yes, there were. Some had better devices; others, simple ones.

10 Q. Witness, I now would like to show you a document and ask you a
11 couple of questions about it.

12 MR. HALLING: This is U008-1633 to U008-1633-ET. It's KLA
13 political declaration 8. For Your Honours, this item was admitted in
14 the third bar table decision - this is filing 1705, paragraph 35 -
15 but it's not yet been assigned an exhibit number.

16 PRESIDING JUDGE SMITH: [Microphone not activated]

17 THE COURT OFFICER: Sure, Your Honours. That will be
18 Exhibit P256.

19 PRESIDING JUDGE SMITH: So we will refer to it by its exhibit
20 number.

21 THE COURT OFFICER: And, Your Honour, is there an Albanian
22 version?

23 MR. HALLING: Yes. The Albanian version is part of U008-1602 to
24 U008-1636, and it's the same page.

25 Q. Now, Witness, this item was shown to you last week in witness

1 preparation. Am I correct, you did not actually see this document
2 during the war; is that right?

3 A. That's right. I never saw this.

4 Q. There's a part of this that I wanted to read to you, and then I
5 wanted to ask you a couple of questions about it.

6 "The Kosovo Liberation Army and the Albanian people are being
7 stabbed in the back by collaborationist and pacifist elements.
8 Despite the difficulties the Kosovo Liberation Army which has sprung
9 from the bosom of the people forged in the heat of the struggle for
10 freedom will continue its struggle until victory."

11 Witness, my question for you is how widespread was this kind of
12 sentiment in the area of Llapushnik from May to July 1998?

13 A. Immediately after we arrived in Llapushnik, several soldiers who
14 were not wearing uniforms and who did not even know Rugova started
15 saying, "We wish we could get -- catch the scarf." Initially, I
16 didn't understand because I had joined to fight the Serbian forces.
17 Then later on, I understood they were referring to Rugova, the scarf,
18 because they did not like him.

19 We were LDK members or supporters up until very late after the
20 war, and this was perceived as sort of a pressure against us. Why --
21 meaning, why LDK people are part of the KLA. Because initially, they
22 thought that they would be the only ones to lead the war, to dominate
23 and possess Kosovo, and so on and so forth.

24 Q. So, Witness, this reference in the document, "being stabbed in
25 the back by collaborationist and pacifist elements," you associate

Witness: W03879 (Open Session)

Page 6279

Examination by Mr. Halling

1 that reference to the LDK? Is that your evidence?

2 A. Yes.

3 Q. At the timeframe we've been discussing, were KLA soldiers being
4 told to think of the LDK as enemies?

5 A. In many cases, this was the case. Things I've heard myself, I
6 quote, "We should not admit them. They're not to be trusted," and so
7 on.

8 MR. KEHOE: Excuse me, Your Honour. Can we get a foundation for
9 this? Who said this to him? Who are these people? Who is making
10 these comments as opposed to just broad brush.

11 PRESIDING JUDGE SMITH: [Microphone not activated]

12 MR. HALLING: Your Honour, given that we are currently in open
13 session, that would be another question I would propose to elicit in
14 private session. Or we can go into private session now and address
15 the issue.

16 PRESIDING JUDGE SMITH: [Microphone not activated]

17 MR. HALLING: I will collect all the basis-for-knowledge
18 questions and then ask them on the other side.

19 PRESIDING JUDGE SMITH: All right, thank you. I am sure
20 Mr. Kehoe will remind us if we miss any of them.

21 MR. HALLING: I think so too.

22 PRESIDING JUDGE SMITH: Go ahead.

23 MR. HALLING: Yes.

24 Q. Speaking still at a general level, was the KLA command spreading
25 these messages?

1 MS. ALAGENDRA: Your Honour, I'm going to state my objection to
2 leading questions, Your Honour.

3 PRESIDING JUDGE SMITH: [Microphone not activated]. Overruled.
4 Go ahead.

5 MR. HALLING:

6 Q. So, Witness, I can repeat the question: Speaking still at a
7 general level, was the KLA command spreading these messages?

8 A. The KLA command was certainly part of this, because no one could
9 have spoken because most of the fighters were in the LDK. So there
10 were contradictions in here. Their stance and position in this
11 regard, they should have taken a position saying, "This cannot go on.
12 We cannot allow this."

13 MR. EMMERSON: Your Honour, I do apologise. I'm reflecting some
14 of the objections that have been raised up until now. There is a
15 problem with inviting opinion evidence from this witness or broad
16 statements of fact and principle which go to issues on the indictment
17 and then leaving until a separate closed session the witness's basis
18 for knowledge, because much -- just to take the last question and
19 answer: On a very general level, was this coming from the command?
20 Answer: Yes, in my opinion, it must have been because their politics
21 were different, and so on and so forth.

22 This should not be being permitted without a foundation first
23 being laid. It's, in a sense, if we have to go back at the end and
24 catch all of those questions up, we may well have had inadmissible
25 testimony all along. It's really not appropriate to simply say we'll

1 deal with it all in closed session later. If necessary, we'll have
2 to go into closed session as each of these points is raised.

3 PRESIDING JUDGE SMITH: Well taken. I think we need to go into
4 closed session -- or not closed, private session so that this can be
5 discussed at this time.

6 So please do so, Madam Court Officer.

7 [Private session]

8 [Private session text removed]

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Witness: W03879 (Private Session)

Page 6282

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6283

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6284

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6285

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6286

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6287

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6288

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6289

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6290

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6291

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6292

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6293

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6294

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6295

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6296

Examination by Mr. Halling

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25 [Open session]

Witness: W03879 (Private Session)

Page 6297

Examination by Mr. Halling

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

2 PRESIDING JUDGE SMITH: Thank you.

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

4 --- On resuming at 11.29 a.m.

5 PRESIDING JUDGE SMITH: Madam Usher, you can bring the witness
6 in.

7 I remind everybody, we are still in public session.

8 [The witness takes the stand]

9 PRESIDING JUDGE SMITH: Witness, we will continue with your
10 direct examination from the Prosecution.

11 Go ahead, Mr. Halling.

12 MR. HALLING: Thank you, Your Honour. For the next lines of
13 questioning, we'd request to go into private session.

14 PRESIDING JUDGE SMITH: Please go to private session,
15 Madam Court Officer.

16 [Private session]

17 [Private session text removed]

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Witness: W03879 (Private Session)

Page 6298

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6299

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6300

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6301

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6302

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6303

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6304

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6305

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6306

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6307

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6308

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6309

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6310

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6311

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6312

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6313

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6314

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6315

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6316

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6317

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6318

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6319

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6320

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6321

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6322

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6323

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6324

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6325

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6326

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6327

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6328

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6329

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6330

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6331

Examination by Mr. Halling

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8 [Open session]

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

10 PRESIDING JUDGE SMITH: Thank you. We're adjourned until 2.30.

11 --- Luncheon recess taken at 12.59 p.m.

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

13 PRESIDING JUDGE SMITH: Madam Court Usher, please bring the
14 witness in.

15 MR. HALLING: Actually, Your Honour, before doing that --

16 PRESIDING JUDGE SMITH: Oh, okay.

17 MR. HALLING: -- can I make a quick clarification for the
18 record.

19 Thank you. The actual oath in the oath ceremony video from this
20 morning is at 061427/25, timestamps 04:03 to 06:13. I admit it
21 wasn't the section that we were initially interested in, but we just
22 -- and another witness later in the case will speak to it. So we
23 don't need to revisit it with the witness, but we just wanted to put
24 that on record.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

Examination by Mr. Halling

1 Any update, by the way, on the time used for this witness?

2 MR. HALLING: I definitely will not finish today. I will need
3 at least the first session tomorrow. It may go into the second
4 session tomorrow, but eight hours is still the outermost --

5 PRESIDING JUDGE SMITH: Okay.

6 MR. HALLING: -- limit.

7 PRESIDING JUDGE SMITH: Thank you.

8 [The witness takes the stand]

9 PRESIDING JUDGE SMITH: Good afternoon, Witness.

10 THE WITNESS: [Interpretation] Good afternoon.

11 PRESIDING JUDGE SMITH: We are ready to proceed. You are still
12 being examined by the Prosecution.

13 Go ahead.

14 MR. HALLING: Thank you, Your Honour.

15 Q. Witness, can you hear me?

16 A. Yes, I can.

17 Q. So I would now like to continue with your evidence.

18 PRESIDING JUDGE SMITH: We are in public.

19 MR. HALLING: And in order to do so, I would request to move
20 into private session.

21 PRESIDING JUDGE SMITH: Okay.

22 Please take us to private session, Madam Court Officer.

23 [Private session]

24 [Private session text removed]

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Witness: W03879 (Private Session)

Page 6334

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6335

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6336

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6337

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6338

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6339

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6340

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6341

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6342

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6343

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6344

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6345

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6346

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6347

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6348

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6349

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6350

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6351

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6352

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6353

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6354

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6355

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6356

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6357

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6358

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6359

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6360

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6361

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6362

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6363

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6364

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6365

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6366

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6367

Examination by Mr. Halling

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Witness: W03879 (Private Session)

Page 6368

Examination by Mr. Halling

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4 [Open session]

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

6 PRESIDING JUDGE SMITH: All right. We are adjourned until

7 9.00 a.m. tomorrow. Thank you all.

8 --- Whereupon the hearing adjourned at 3.59 p.m.

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