

1 Friday, 14 July 2023

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 9.10 a.m.

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

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

10 PRESIDING JUDGE SMITH: Good morning, everyone. I'm sorry about
11 the lateness. I take full responsibility. It's my fault.

12 Today we continue with the testimony of Witness 04746. I note
13 that Mr. Thaci, Mr. Veseli, Mr. Selimi, and Mr. Krasniqi are all
14 present in the courtroom today.

15 Before I invite the witness into the room, there are a few
16 housekeeping matters to be dealt with.

17 First of all, the Panel would like to hear from the Defence on
18 their revised time estimates for the cross-examination of
19 Witness 04746.

20 Mr. Thaci's Defence, any change?

21 MR. MISETIC: No change.

22 PRESIDING JUDGE SMITH: All right.

23 MR. EMMERSON: I've, as I indicated, will be revising our
24 three-hour time estimate downwards, probably to -- I'm going to say
25 two hours, but it will be less than two hours.

1 PRESIDING JUDGE SMITH: Thank you.

2 MR. ROBERTS: Good morning, Your Honour. Ours is revised down
3 to about five hours now.

4 PRESIDING JUDGE SMITH: Thank you.

5 MR. ROBERTS: Thank you.

6 MS. ALAGENDRA: Your Honours, we anticipate being about four
7 hours.

8 PRESIDING JUDGE SMITH: Thank you.

9 The Panel is of the view that the cross-examination may be
10 somewhat exaggerated or lengthy, but I appreciate the efforts to pare
11 it back. We are not arguing with you about that. This was a lengthy
12 testimony and I know you have a lot of questions. This being said,
13 according to the latest cross-examination estimates we have just
14 heard, and taking into account potential redirect examination by the
15 SPO and questions from the Panel, the testimony of Witness 04746 is
16 likely to last until next Wednesday or Thursday.

17 Does the Prosecution have anything to add knowing now these
18 estimates, or are you still of the belief that you probably can't get
19 to another witness?

20 MS. LAWSON: Your Honour, we think it's unlikely because --

21 PRESIDING JUDGE SMITH: I'm sorry?

22 MS. LAWSON: It's yet to be determined, obviously, but I would
23 anticipate I may need redirect, as you mentioned. And I expect this
24 witness will take most of next week.

25 PRESIDING JUDGE SMITH: Yes. And as I said, we understand it is

1 a lengthy witness. It's a witness with a lot of information, and I'm
2 sure you all want to absorb it.

3 So this will be unlikely to leave enough time for testimony of
4 another witness to be heard in full, and we want to give you some
5 definite planning so that you know where you're going next week, and
6 not to mention the risk of organisational efforts to bring a reserve
7 witness in, which could be frustrated if the testimony of
8 Witness 04746 lasts longer than foreseen.

9 The Panel, therefore, proposes that no reserve witness be called
10 in the July evidentiary block. Witness 04746's testimony will
11 conclude the evidentiary block.

12 Is everyone okay with that?

13 MS. LAWSON: Yes, thank you, Your Honour.

14 MR. KEHOE: Yes, Your Honour.

15 PRESIDING JUDGE SMITH: Thank you.

16 Moving on now, the Panel will render its decision on the request
17 from Victims' Counsel for leave to question Witness 04746.

18 Madam Court Officer, please bring us into private session.

19 [Private session]

20 THE COURT OFFICER: Your Honours, we're in private session.

[Open session] *Reclassified to public pursuant to Oral
Order of 19 July 2023*

21 PRESIDING JUDGE SMITH: Victims' Counsel sought leave from the
22 Panel to question Witness 04746 with a view to elicit clarifications
23 on certain issues allegedly relating to the personal interests of two
24 victims participating in the proceedings.

25 The Defence opposed the request in relation to one of the two

1 victims participating in the proceedings, arguing that the
2 Victims' Counsel did not provide timely notice for such request, and
3 that allowing Victims' Counsel to question Witness 04746 regarding
4 the participating victim would be prejudicial to the Defence's
5 preparation for its cross-examination of the witness.

6 At the outset, the Panel notes that the Witness 04746 is not a
7 victim in these proceedings.

8 Having considered Victims' Counsel's application for leave to
9 question Witness 04746 and after hearing the parties, the Panel is
10 not satisfied that the clarifications Victims' Counsel seeks to
11 elicit from [REDACTED] Pursuant to Oral Order of 19 July 2023 affect
the personal interests of the victim.

12 First, the Panel is not persuaded that reputational harm as a
13 consequence of the testimony of a witness falls within the personal
14 interests of victims participating in the proceedings allowing
15 Victims' Counsel to ask questions of a witness pursuant to
16 Rule 114(4).

17 Second, the Panel is of the view that it was primarily the
18 responsibility of the SPO to elicit the clarifications that
19 Victims' Counsel now wishes to elicit about the concerned victim
20 participating in the proceedings.

21 The Panel further observes that nothing that has been said by
22 Witness 04746 in our proceedings about [REDACTED] Pursuant to Oral
Order of 19 July 2023 is in the public
23 domain at this stage and that, to the contrary, allowing
24 Victims' Counsel to question the witness about the victim would
25 increase his exposure as well as the risk of a reputational harm. In

1 addition, protective measures granted to him would have to be varied.

2 For these reasons, pursuant to Rule 114(4) and paragraph 35 of
3 the Order on the Conduct of Proceedings, the Panel rejects the
4 request from Victims' Counsel to question Witness 04746 about
5 *[REDACTED] Pursuant to Oral Order of 19 July 2023.*

6 Considering that the Defence did not object to the remaining
7 areas of questioning proposed by Victims' Counsel, the Panel grants
8 leave to ask those questions.

9 This concludes the oral order.

10 [Private session]

11 [Private session text removed]

12

13

14

15

16

17

18

19

20

21 [Open session]

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

23 PRESIDING JUDGE SMITH: All right.

24 Madam Court Usher, you may bring the witness in.

25 Yes, Madam Prosecutor.

1 MS. LAWSON: Your Honours, while this is happening, maybe I
2 could make a proposal in relation to the exhibits I wanted to tender.

3 PRESIDING JUDGE SMITH: [Microphone not activated]

4 MS. LAWSON: I do have the list. It's quite a lengthy list of
5 numbers, and, of course, there is the possibility that it will be
6 added to during the remainder of the testimony. So in this specific
7 instance, our proposal would be that we make a short filing following
8 his testimony with the lengthy list, if that's okay.

9 PRESIDING JUDGE SMITH: I approve that entirely. Thank you very
10 much. And Defence counsel will have an opportunity to review that
11 and we'll ask at least oral submissions on it at the time.

12 [The witness takes the stand]

13 PRESIDING JUDGE SMITH: You may be seated, Witness.

14 Good morning, Witness.

15 THE WITNESS: [Interpretation] Good morning.

16 PRESIDING JUDGE SMITH: This morning we will begin the
17 cross-examination of you, commencing with the Thaci Defence and then
18 through the Veseli, Selimi, and then Krasniqi.

19 So Mr. Misetic has the floor. Please answer his questions.

20 MR. MISETIC: Thank you, Mr. President.

21 WITNESS: W04746 [Resumed]

22 [Witness answered through interpreter]

23 Cross-examination by Mr. Misetic:

24 Q. Good morning, Mr. Mustafa. My name is Luka Misetic. I am
25 counsel for Mr. Thaci. I have quite a bit of questions for you, so

1 we are likely to be engaged for the rest of today and likely into
2 some portion of tomorrow, so I appreciate your patience with my
3 questions. If there's something I ask you that is unclear, I know
4 you have some experience, and you're a lawyer yourself, but please go
5 ahead and ask me to rephrase so that we are clear in my question and
6 your answer. Do you understand?

7 A. I understand.

8 Q. Okay.

9 PRESIDING JUDGE SMITH: And we will not be here tomorrow.

10 MR. MISETIĆ: Did I say tomorrow? I meant Monday, sorry.
11 Monday. Thank you, Your Honour.

12 Q. Mr. Mustafa, I wanted to start off talking about -- a little bit
13 about the location of the Llap zone. The Llap zone had a long border
14 with Serbia; correct?

15 A. Correct.

16 Q. And you testified under questioning from the Prosecutor that
17 your operational zone comprised of Podujeve, Obiliq, Prishtine, and
18 Fushe Kosove. Do you agree that all of the key Serbian
19 institutions - administration, police, and paramilitary - were
20 located in your zone?

21 A. I am not certain. But given that Prishtine was the capital, we
22 can say yes.

23 Q. Was the Army of Yugoslavia headquartered in Prishtine for
24 Kosovo? Its Kosovo headquarters, was it in Prishtine?

25 A. Maybe in Nis or in Prishtine, but I know -- I'm not certain, but

1 I know a garrison was in Prishtine.

2 Q. Was there Serbian MUP units in your zone?

3 A. Yes, throughout Kosovo.

4 Q. Do you know if Arkan's paramilitary units were located at the
5 Grand Hotel in Prishtine?

6 A. Yes, this was the case.

7 Q. Was there a KOS or Yugoslav military counter-intelligence
8 presence in Prishtine?

9 A. Yes.

10 Q. Was the main supply route from Serbia into Kosovo through the
11 Merdar-Prishtine main road?

12 A. Merdar was one of the main roads.

13 Q. And what about the main train line? Was the Prishtine-Leskovac
14 train line the main train supply route into Kosovo for Serbia?

15 A. Yes.

16 Q. Now, you were asked a lot of questions yesterday about special
17 war. Are you aware that Serbian institutions both in your zone and
18 outside of your zone were engaged in a propaganda war against the
19 KLA?

20 A. The Serbian state apparatus with all its capabilities was
21 engaged in the war against the Albanian population.

22 Q. And its propaganda war was being waged both within Yugoslavia
23 and internationally; is that correct?

24 A. We fought them as Serbian forces.

25 Q. Yes, but are you aware, for example, that Serbia had engaged in

Witness: W04746 (Resumed) (Open Session)

Page 5695

Cross-examination by Mr. Misetić

1 a propaganda effort to label the KLA as, for example, terrorists?

2 A. Clear. Yes.

3 Q. Islamic fundamentalists?

4 A. This was part of the propaganda as well, but it didn't function,
5 didn't work, really.

6 Q. And these Serbian state institutions in your zone, did they have
7 collaborators operating within your zone?

8 A. There might have been, but their number was not significant. At
9 least what we noticed. At that time, Albanians in general had left
10 the Serbian state apparatus, so it could be that there were some
11 but -- but they were not identified.

12 MR. MISETIĆ: If I could call up Exhibit P00223, please.

13 Q. Let me ask you the first question. Would you agree with me that
14 the KLA war was more propaganda than operational?

15 A. I agree.

16 Q. And, in fact, enemy forces were able to enter any part of your
17 zone that they really wanted to; correct?

18 A. Correct.

19 Q. So this line that you drew, this is not a defence line; correct?
20 Serb forces could have gone across that line pretty much any time
21 they wanted to; correct?

22 A. It's a defensive line, but not unbreachable by the enemy. If
23 they tried to, they could breach. We could not prevent them from
24 doing so.

25 Q. Okay. Thank you very much. You were a fighter whose objective

Witness: W04746 (Resumed) (Open Session)

Page 5696

Cross-examination by Mr. Misetić

1 was to achieve the independence of Kosovo; isn't that true?

2 A. That's correct.

3 Q. You were someone for whom the goal of independence for Kosovo
4 could not be compromised or negotiated away; isn't that true?

5 A. That's correct.

6 Q. You would not accept any peace plan that did not include at
7 least the right of Kosovo to seek independence at some time in the
8 future; correct?

9 A. That's correct.

10 Q. Let me ask you a different question now. Did you ever receive
11 an order from Azem Syla?

12 A. No.

13 Q. That question meant oral or in writing. Did you ever receive an
14 oral or a written order from Azem Syla?

15 A. None, never.

16 Q. Did you ever receive an order from someone purporting to be
17 acting pursuant to an order from Azem Syla?

18 A. We didn't even know that Azem Syla had a significant post until
19 the Rambouillet negotiations.

20 Q. Is it fair to say that until February 1999, you were under the
21 impression that there was no overall commander of the KLA?

22 A. That's correct. Until we decided that the commander should be
23 Sylejman Selimi, I had not been aware that the KLA did have a
24 commander.

25 Q. Is it fair, then, to say that there was no commander above you

1 in the KLA? There were just equal commanders, and those were the
2 zone commanders; correct?

3 A. That's right.

4 Q. And so when we talked about Rambouillet yesterday, it was the
5 zone commanders who had to give the General Staff approval for the
6 KLA delegation to go to Rambouillet; correct?

7 A. That's correct, yes.

8 Q. And it was the zone commanders in February 1999 who appointed
9 Sylejman Selimi because you thought there was no KLA commander;
10 correct?

11 A. Yes.

12 Q. And one of your concerns about the Rambouillet negotiations was
13 that they would conclude with an agreement for autonomy but not
14 independence; correct?

15 A. Yes. At the time, we did not know the Rambouillet delegates and
16 did not have the trust in them that we developed later.

17 Q. But as I had said at the outset, you were someone who wanted
18 Kosovo independence and, therefore, when the concern arose that there
19 might be a negotiation that would not get independence, that caused
20 you some concern; correct?

21 A. That's right.

22 Q. And so isn't it true that Sylejman Selimi was appointed by the
23 zone commanders to be the overall commander of the KLA to send a
24 message to the delegation at Rambouillet that they now had a
25 commander and they were going to have to go back to Prishtine to get

1 approval for anything that they agree to in Rambouillet; correct?

2 A. You can describe it as pressure on our delegation to return and
3 agree with us and to abide by the objectives that we had to acquire
4 independence for Kosovo.

5 Q. But my point is you, the zone commanders who stayed behind in
6 Kosovo, you wanted to tell the delegation at Rambouillet: We want
7 Kosovo independence and you have to come back to us to get approval;
8 correct?

9 A. Yes.

10 Q. Now, were you aware at the time that the Albanian delegation
11 included Mr. Thaci, Mr. Krasniqi, Mr. Syla, Mr. Haliti, and
12 Rame Buja, in addition to Mr. Rugova?

13 A. Yes.

14 Q. And it's true that the zone commanders understood that they were
15 the ones that had the power to appoint an overall commander of the
16 KLA; correct?

17 A. I'm not sure that we were all aware. However, we were all keen
18 to do something good for the country.

19 Q. Well, if you appointed him, then you must have believed you had
20 the power to appoint him; correct?

21 A. We were not thinking.

22 Q. Okay. Let me ask it a different way, then. You appointed --
23 you, the zone commanders, appointed Sylejman Selimi to be the overall
24 commander of the KLA in February 1999; correct?

25 A. Yes.

1 Q. And Sylejman Selimi actually became the overall commander of the
2 KLA as a result of the decision of the zone commanders; isn't that
3 correct?

4 A. Yes.

5 Q. And in an army, the General Staff answers to the overall
6 commander; correct?

7 A. Yes.

8 Q. So, for example, in your zone, your staff answered to you;
9 correct?

10 A. Yes, correct.

11 Q. And once Sylejman Selimi was appointed the general commander,
12 the people in the General Staff would answer to Sylejman Selimi;
13 correct?

14 A. Yes.

15 MR. MISETIĆ: If I could turn to a book you've been shown
16 several times, and this is again from the book "Commander Remi
17 Speaks." This is SPOE00053307 in the English, and SPOE00330271 in
18 the Albanian, number page 85 in the text.

19 THE COURT OFFICER: Can I get the full ERN for the Albanian
20 version?

21 MR. MISETIĆ: [Microphone not activated].

22 SPOE00330195 to 00330361.

23 Q. So, Mr. Mustafa, I am looking at the question that starts:

24 "Where were the meetings of zone commanders held at that time?
25 Who attended those meetings and what was their usual procedure?"

1 And your answer begins:

2 "Meetings of zone commanders were frequent and well prepared."

3 How often would zone commanders meet? You say they met
4 frequently, but how often is "frequently"?

5 A. It -- for me, frequent, moving from one side of Kosovo to the
6 other, would have been monthly.

7 Q. So there were monthly meetings of zone commanders?

8 A. You may be able to describe it monthly, because from where my
9 headquarters were located to the General Staff, it would have
10 taken -- at times it would have taken a week's travel.

11 Q. And when did these meetings start?

12 A. These meetings, in a partial or incomplete manner, had begun
13 even before the death of Commander Jashari. However, regular
14 meetings began when Bislim Zyrapi came in June or July, the chief of
15 General Staff. I think that the meetings became more frequent and
16 more organised in the months of November and December.

17 Q. Well, do you recall when Bislim Zyrapi became chief of staff?

18 A. I know that he did become chief of staff, but I cannot recall
19 the exact time.

20 Q. If you're talking about meetings where Bislim Zyrapi was
21 chairing the meetings as chief of staff, would it be fair to say that
22 these meetings -- if Bislim Zyrapi became the chief of staff only in
23 November or December, would it be fair to say that these meetings of
24 zone commanders, chaired by Mr. Zyrapi, then began in November or
25 December?

1 A. It is correct.

2 Q. Now continuing on with the text here. The third sentence
3 begins:

4 "Regardless of the fact that many times we were found in
5 unviable situations, both as a Kosova Liberation Army and as a
6 separate zone, the decision for talks with internationals, which we
7 finally decided to leave them to the KLA GS, as well as the mutual
8 support in difficult moments such as supplying in weapons and
9 transport of people from one zone to the other, all of this showed
10 our fine cooperation and support for each other."

11 What you're saying there, Mr. Mustafa, is that the zone
12 commanders were the ones who decided to leave the decision for talks
13 with internationals to the General Staff; correct?

14 A. Yes, that's what happened.

15 Q. Mr. Mustafa, do you recall that you were interviewed by the BBC
16 shortly after the war for a documentary?

17 A. There was a lot of interest to talk with zone commanders at the
18 time, and it most certainly would have been the case, but I do not
19 recall the details. I know that a lot of foreign outlets interviewed
20 me.

21 Q. I am going to show you a video-clip from that interview. It's
22 somewhat lengthy, but I'm going to ask you to pay attention because
23 at the end I'm going to ask you if everything that you said in that
24 clip is true and accurate to the best of your knowledge and belief.
25 And if there are any mistakes or things you wish to correct in what

1 you said, I'm going to ask you to correct them. So I'd ask you to
2 please pay particular attention to the video-clip.

3 MR. MISETIĆ: If we could please play DHT001151.

4 PRESIDING JUDGE SMITH: Usher, can you help the witness with the
5 location of his screen that he'll watch this on. It looks like it's
6 away from him.

7 Do you have that screen in front of you now, Witness?

8 THE WITNESS: [Interpretation] Yes.

9 PRESIDING JUDGE SMITH: Thank you.

10 [Video-clip played]

11 "Interviewer: Rambouillet, tell me whether you were against or
12 for going to Rambouillet and what arguments you put forward to
13 support your stand?

14 "Mr. Mustafa: I did, I was in favour going to Rambouillet, but
15 not initially for signing the agreement, but just going there and
16 making public our demands.

17 "Interviewer: And you said they should" --

18 [Trial Panel and Court Officer confers]

19 [Video-clip played]

20 "Interviewer: "Right. Was it you who told us that you should
21 not make the mistake of Dayton, and you should learn from Dayton, and
22 you must go because at Dayton you didn't go and that was a mistake?

23 "Mr. Mustafa: No."

24 MR. MISETIĆ: Can we pause it for a second. Sorry. There is a
25 transcript here as well, and I'd like to have it so that the -- for

1 the benefit of the Court and the parties, that they can follow along.

2 THE INTERPRETER: Interpreters note that we do not have the
3 transcript and it's impossible to follow because of the overlap.

4 MR. MISETIĆ: It should be the same number, DHT001151-TR.

5 If we can play it from the beginning. I apologise. This is our
6 first video so ...

7 [Video-clip played]

8 "Interviewer: Tell me whether you were for or against going to
9 Rambouillet, and what arguments you put forward to support your
10 stand?

11 "Mr. Mustafa: [Interpretation] I did, I was in favour, but
12 initially not for signing, just going there and making public our
13 demands.

14 "Interviewer: And you said there should -- right. Was it you
15 who told us that you should not make the mistake of Dayton, and you
16 should learn from Dayton, and you must go because at Dayton you
17 didn't go and that was the mistake?

18 "Mr. Mustafa: [Interpretation] No.

19 "Interviewer: Tell me, when they were at Dayton, what
20 discussions you had by -- sorry. Sorry. When they were at
21 Rambouillet -- sorry. Right. [Indiscernible]. Do you want to
22 [indiscernible]. Yeah, okay, we'll cut this out.

23 "Norma reminds me that you told us you couldn't go to the
24 meeting about Rambouillet, but you phoned them and gave them your
25 support, but said that they must go with their uniforms to make a

1 statement of here we are the KLA. Can you tell me that story?

2 "Unidentified speaker: And trust nothing.

3 "Interviewer: And don't trust.

4 "Mr. Mustafa: [Interpretation] We couldn't go to the meeting
5 because the war was going on and most of the commanders that were
6 here, they should go there with weapons in KLA uniforms to present
7 our aims. But you must not be fooled.

8 "Interviewer: And for a large part of the conference, it
9 certainly looked as if you were right. Can you tell me about the
10 phone conversations you had with members of the delegation at
11 Rambouillet while they were there and what you were saying to them,
12 because you heard that they might be tricked into signing? And
13 pretend I am the person who you feel might sign them. Okay?

14 "Mr. Mustafa: [Interpretation] We had phone calls. We called
15 all the members of the delegation who were there, and we threatened
16 them that they should not sign. It's not an agreement. You're there
17 to speak. You don't have the right to sign and you cannot come to
18 Kosovo. We did exert enormous pressure. We told them that they
19 should come here and then go to Rambouillet.

20 "Interviewer: You made a light threat, a light-hearted threat,
21 didn't you? Tell me about that. I'll take a rocket and shoot your
22 plane down. Yeah, okay.

23 "Unidentified speaker: Sorry, can I just remind him that he
24 should speak [indiscernible].

25 "Interviewer: Yeah.

1 "Mr. Mustafa: [Interpretation] We had information that they were
2 about to sign an agreement which we did not like in a different way.
3 I took the phone, I gave them a phone call and threatened them that
4 you dare not sign it. And I remember when I told one of them that
5 you know that we have anti-aircraft rockets which we will save, we
6 will not use them on the Serbs, but we will take your plane down if
7 you signed it. And they did what -- in fact, they did what we told
8 them. They came to consult with us in Kosovo.

9 "Interviewer: And who did you tell that to?

10 "Mr. Mustafa: [Interpretation] I told -- I can't remember.
11 Pleurat Sejdiu or Sabri Keqmani, one of these two.

12 "Interviewer: Did you discuss with Demaci by phone about
13 Rambouillet, because he too was very worried?

14 "Mr. Mustafa: [Interpretation] Yes.

15 "Interviewer: Tell me what he said and what you said.

16 "Mr. Mustafa: [Interpretation] Adem Demaci said that this
17 conference is a mistake for the Albanians. They will not be able to
18 achieve what they want to, there will be no referendum. And I
19 trusted him. We were sceptical about the Rambouillet agreement until
20 it was reached. And Adem Demaci was in no way happy about
21 Rambouillet and the delegation that went there or the agreement and
22 the way the problem was presented there. We spoke to Demaci
23 frequently, and he then decided to withdraw from the political
24 directorate of the KLA.

25 "Interviewer: When the delegation returned for the three-week

1 period before going to Paris, can you tell me about the conversation
2 you had -- the discussion you had with the leaders and what Thaci
3 said, what he advised, and how you responded? Because you feared --
4 he was saying the Serbs weren't signing.

5 "Mr. Mustafa: [Interpretation] These were -- all zone commanders
6 were present and we discussed for a long time. Most of us in the
7 beginning were against signing the agreement. However, on this day,
8 Thaci and Jakup Krasniqi simplified things and they assured us,
9 using -- calling Madeleine Albright and other people from NATO,
10 General Clark and others. They were saying we have guarantees from
11 their side, that we should give our yes to the agreement. We -- they
12 were trying to persuade us that the Serbs will not sign the document.
13 We could not believe that the Serbs will not sign. We were pleased
14 when the Serbs did not sign the document. Thaci's attitude convinced
15 us and we gave our agreement. We said yes.

16 "Interviewer: But you -- at that point, you were still
17 sceptical, you thought -- and with reason. You thought the Serbs
18 would still sign. Could you tell him that?

19 "Mr. Mustafa: [Interpretation] I told the delegation I would not
20 be an obstacle. I think it's a mistake to go there because the Serbs
21 are going to sign. I have no doubts, but I will not come out with a
22 public statement that I oppose this since everybody is supporting it.
23 I was -- supported it, but in the end I guaranteed that I will not be
24 an obstacle."

25 MR. MISETIĆ:

1 Q. Mr. Mustafa, were you able to follow everything in the video?

2 A. Yes.

3 Q. Is everything you stated in that video true and correct to the
4 best of your knowledge and belief?

5 A. Yes.

6 Q. Thank you. You mentioned in the video that Mr. Thaci had told
7 the zone commanders of certain assurances that had been provided by
8 Madeleine Albright and General Clark. Do you remember right now what
9 those assurances were?

10 A. Mr. Hashim Thaci was the chief of the delegation at Rambouillet,
11 and he did all he could to convince us. I cannot return back and
12 recall everything, but I know that he -- he managed to persuade us
13 one by one. And I know that the planet's most powerful people had
14 met him, and we had guarantees that these meetings were being
15 conducted, and so we were convinced by the trust that he created in
16 us. I remained sceptical until the NATO bombing started. However, I
17 agreed with them.

18 Q. It's correct that Mr. Thaci, Mr. Krasniqi, Mr. Buja, and the
19 others, they needed to get the approval of you and the other zone
20 commanders in order to sign at Rambouillet; correct?

21 A. That's correct.

22 Q. Would you agree with me that that is because Mr. Thaci, for
23 example, only derived any authority that he had from the fact that he
24 had the support of the zone commanders; correct?

25 A. Otherwise, he wouldn't have been in a position to sign it or

1 anything.

2 Q. Right. But I'm saying that Mr. Thaci's authority at KLA comes
3 only to the extent that the zone commanders had given him their
4 consent to negotiate on their behalf; correct?

5 A. That's correct. Certainly.

6 Q. And if the zone commanders withdrew their consent or authority
7 to Mr. Thaci, then Mr. Thaci could not agree to anything at
8 Rambouillet; correct?

9 A. That would have been the case, indeed. The agreement would have
10 been meaningless without us. It could not have been entered into.

11 Q. Thank you.

12 MR. MISETIĆ: Mr. President, I tender the BBC video-clip,
13 Exhibit DHT01151, and the accompanying transcript, DHT001151-TR.

14 PRESIDING JUDGE SMITH: [Microphone not activated]

15 MS. LAWSON: No objection.

16 PRESIDING JUDGE SMITH: The clip and the transcript will both be
17 admitted and assigned a number.

18 THE COURT OFFICER: Your Honours, those will receive
19 Exhibit 1D24.

20 PRESIDING JUDGE SMITH: Thank you.

21 MR. MISETIĆ:

22 Q. Mr. Mustafa, I'd like to show you a passage from a book written
23 by your colleague Mr. Haradinaj, in his book, and ask you if you
24 agree with what he says.

25 MR. MISETIĆ: And this is from the book "A Narrative About War

1 and Freedom." The ERN is U017-6046 to U017-6049. And the
2 complete -- sorry, yes. And then that's at page U017-6048 in the
3 English, and the Albanian version is KSC-BC-2020-06-IT-05-87 3D00375
4 at 3D00-4382. It's a lot of numbers, Judge.

5 The page is U017-6048.

6 Q. So the question that's asked of Mr. Haradinaj in this book
7 concerns Mr. Demaci and his role concerning the Rambouillet
8 Agreement. The question says:

9 "During the Rambouillet conference, Mr. Sylejman Selimi was
10 appointed KLA general commander."

11 Now, let me go to the answer that Mr. Haradinaj provides as to
12 why Mr. Selimi was appointed -- Sylejman Selimi was appointed the
13 general commander. And in the middle of the paragraph, it says:

14 "Demaci's sphere of influence over the zone commanders was not
15 decisive, though I cannot say that it was completely worthless, it
16 was not decisive. The zone commanders acted on their own, on their
17 logic as soldiers, as fighters, and as Kosova citizens. Always.
18 Something else should be borne in mind: Jakup Krasniqi, the
19 spokesman for the KLA General Staff; Hashim Thaci, head of KLA
20 Political Directorate; Rame Buja; Azem Syla; and Xhavit Haliti were
21 present at Rambouillet. All of them are the political side of the
22 KLA. On the other hand, the army, the army cannot function without a
23 hierarchy. The army is not an association where everybody has equal
24 rights with everybody else. In the army, one person speaks and the
25 others listen.

1 "In other words, command is essential."

2 And then it goes on.

3 My first question is do you agree with Mr. Haradinaj that the
4 zone commanders acted on their own, on their logic as soldiers, as
5 fighters, and as Kosovo citizens, always?

6 A. Yes.

7 Q. Do you agree that, amongst others, Mr. Thaci, Mr. Krasniqi were
8 the political side of the KLA?

9 A. It is a known fact by now.

10 Q. And the reason, according to Mr. Haradinaj, that
11 Mr. Sylejman Selimi was appointed general commander was because until
12 that point, there was no command, one commander, above the zone
13 commanders; correct?

14 A. Almost every one of us understood it to function in this manner.
15 Correct.

16 Q. Sylejman Selimi was appointed the general commander of the KLA
17 because the political side of the KLA was not in command of the
18 military side; correct?

19 A. Correct.

20 Q. And is it fair to say that the zone commanders appointed
21 Sylejman Selimi, who would then be accountable to the zone
22 commanders?

23 A. Correct.

24 Q. Now, yesterday you were asked questions by the Prosecutor about
25 the time that you yourself were in the General Staff. You did not

1 like what you found at the General Staff when you got there; correct?

2 A. Correct.

3 Q. And can you tell the Panel what is it about the conditions at
4 the General Staff that you didn't like?

5 A. There were no resources. Nobody listened to anyone, and there
6 was nobody you could talk to for even basic things. I could not
7 exercise my duties in that sort of environment, and I did not want to
8 continue to stay in the mountains without doing anything.

9 Q. Mr. Mustafa, I am told that you are a very hard worker; is that
10 correct?

11 A. In particular during the war, but also after the war. When I
12 was a soldier, I tried my best to do things in a proper way, in an
13 orderly way.

14 Q. And you were a very organised person; correct?

15 A. I try to be one, yes.

16 Q. And would it be fair to say that what you found at the
17 General Staff HQ was much more disorganised than what you yourself
18 had organised in your own command in the Llap zone?

19 A. Absolutely, yes.

20 Q. And then when you were dissatisfied with the conditions in the
21 General Staff, you simply, on your own, went back to the Llap zone
22 command; correct?

23 A. Yes.

24 Q. Well, let me ask this question: Did you reappoint yourself the
25 zone commander of the Llap zone or were you always the zone commander

1 of the Llap zone and in the General Staff?

2 A. My position had not been taken by someone else, I hadn't been
3 replaced, so I just went back to my position, and there was nobody
4 who could have told me otherwise. My staff welcomed me back when I
5 went back. And with respect to the General Staff, I had no reason to
6 discuss this matter any further with them. I just made it known to
7 them that I would -- I was not going to stay any longer with them.

8 Q. Right. You just tell the General Staff you've changed your
9 plans and you're going back to the zone, and there was nothing they
10 could do about it; correct?

11 A. They could not do anything even -- even if they wanted to.

12 Q. And you just said:

13 "... so I went back to my position, and there was nobody who
14 could have told me otherwise."

15 That's correct, isn't it?

16 A. We did -- there was no authority. We did not have a commander.
17 We spoke amongst ourselves, tried to organise ourselves, but there
18 was no higher authority that would order you to do so-and-so.

19 Q. Agree. I agree but -- and isn't it also the case that within
20 the Llap zone itself, you had the support and authority of the
21 people, the lower-level commanders in the zone? You were the
22 authority in the Llap zone; correct? Let me ask it a different way.

23 These fighters in the Llap zone, they were your fellow fighters
24 and you were loyal to each other; correct?

25 A. Correct. They were happy that I came back and welcomed me.

1 Q. With that context, Mr. Mustafa, I would like to go back to the
2 beginning to discuss with you how it is that your zone was set up and
3 how you came to the position ultimately that you came to exercise in
4 the Llap zone by February 1999.

5 And so my first question is a few background questions, taking
6 you back to 1995. You were in the LDK youth in 1995; correct?

7 A. Correct.

8 Q. And you left the LDK in 1996 when Adem Demaci formed his own
9 party, the PPK?

10 A. Correct.

11 Q. At the time, the KLA leader in the Llap zone was Zahir Pajaziti;
12 correct?

13 A. Correct.

14 Q. And Zahir Pajaziti was able to secure weapons from Albania and
15 from the Dukagjin zone at that time; correct?

16 A. Correct.

17 Q. Now, on 31 January 1997, Zahir Pajaziti was killed in a gunfight
18 with Serb forces; is that correct?

19 A. Correct.

20 Q. And following his killing, there was a period of time where the
21 KLA in the Llap zone needed to restructure; is that true?

22 A. That's true.

23 Q. And you and Sejdi Rama started to establish contacts with fellow
24 fighters; true?

25 A. Yes.

1 Q. And it was around this time that you were looking for new KLA
2 fighters to join the KLA; correct?

3 A. Correct.

4 Q. And one of these people that you were able to recruit into the
5 KLA in 1997 was Latif Gashi?

6 A. Correct.

7 Q. And then you were appointed the new zone leader in a meeting of
8 four people: You, Latif Gashi, Ilir Konushevci, and Murat Ajeti; is
9 that true?

10 A. That's true. This was an agreement. We can't -- we can't
11 probably call it a decision, but it was a confirmation. It was
12 agreed that I would continue my tasks as a zone commander.

13 Q. But it was an agreement among the four of you; correct?

14 A. [No interpretation].

15 Q. And in September 1997, you formed an agreement with Fatmir
16 Humolli, who was of the LKCK; correct?

17 A. Yes, we agreed to join our forces.

18 Q. And you also agreed to form the BIA units that you discussed
19 with the Prosecutor during that meeting in September 1997; correct?

20 A. I didn't play a role in the BIA unit. It was already
21 established. But I agreed for the LKCK structures to join the KLA.

22 Q. And one of the structures was the BIA unit; correct?

23 A. They were members of the LKCK.

24 Q. Now, I won't play the clip from the BBC unless it's necessary
25 but -- and to save some time, but I'll present to you that you told

1 the BBC that, by the end of 1997, there were 18 members of the KLA in
2 your zone. Does that sound right?

3 A. Correct. When I spoke to the BBC, this was correct.

4 Q. Is it still correct?

5 A. They did not multiply in the meantime.

6 Q. All right. Good. And then you said in the same clip but by
7 March, the end of March, the number of KLA members in your zone grew
8 to 100. Do you recall that?

9 A. There could be approximations or small mistakes with the
10 figures, but that would be the number more or less.

11 Q. What event occurred between the end of 1997 and the end of March
12 that caused the number of KLA members to grow significantly in your
13 zone?

14 A. The attack on the family of Commander Adem Jashari had an
15 extraordinary impact in the new recruits and volunteers coming to
16 join the KLA.

17 Q. Now, up until the death of Adem Jashari, would it be fair to say
18 that the KLA was more of a guerilla organisation?

19 A. And it was, indeed.

20 Q. And it had a highly decentralised structure; correct?

21 A. Correct.

22 Q. But following the death of Adem Jashari, is it fair to say that
23 you -- and with the increasing numbers of people joining the KLA, you
24 decided to create what you call a frontal army?

25 A. Correct.

1 Q. Can you explain why the conversion from a guerilla decentralised
2 organisation to a frontal army after March 1998?

3 A. We used resources and supply lines created as a consequence of
4 the events in Albania. The extraordinary support of the Albanian
5 people towards the Jashari family. They were also supporting us as a
6 Kosovo Liberation Army. So we used and exploited these circumstances
7 to try and be present everywhere where we could be present as a
8 Kosovo Liberation Army.

9 We were under pressure by the increasing number of volunteers,
10 and in a way we accepted this considerable number of people joining
11 who just took up weapons. It was very hard and difficult to
12 consolidate. It was very difficult to prevent people from joining
13 the KLA under this -- this structure under the insignia that we were
14 the leaders of.

15 Q. Let me just ask you to clarify the first sentence of your
16 answer:

17 "We used resources and supply lines created as a consequence of
18 the events in Albania."

19 Can you explain what events in Albania you're referring to?

20 A. At that time in Albania, there was an explosion of
21 dissatisfactions which resulted in the arms depots being opened. We
22 used this fragile situation of the Albanian state and organised as
23 best as we could. And we knew to obtain as much weaponry, equipment
24 and weapons that we could carry on our shoulders to Kosovo.

25 I was personally in Albania to obtain and bring weapons to

1 Kosovo.

2 Q. And this -- well, let me ask the first question: What do you
3 understand by when you say "a frontal army"? What does that mean?

4 A. This means a total war, general war, and everything that we
5 could do for our country. We would expose ourselves in front of the
6 enemy forces, and we were conveying the news to -- worldwide as to
7 what was happening in our country, that we were occupied by the
8 enemy. But we wanted to make it as clear as possible to the world
9 what was happening in our country.

10 Q. And the KLA that you were forming was an entirely volunteer
11 army; correct?

12 A. Correct. Even if we wanted -- if we didn't want to organise,
13 the population -- people themselves would have organised. But it was
14 important to instruct people, organise, and direct our steps towards
15 our aim, which was the independence of Kosovo.

16 Q. But volunteers means that people could come and leave whenever
17 they pleased; correct?

18 A. Correct. Certainly.

19 Q. Now, this time period, roughly May 1998 we're talking about, the
20 six months prior to May 1998, you had been trying to recruit
21 Nuredin Ibishi into the KLA in your zone; correct?

22 A. Correct.

23 Q. And by May 1998, you had already appointed as members of your
24 staff Latif Gashi; correct?

25 A. Members of the staff, yes.

Witness: W04746 (Resumed) (Open Session)

Page 5718

Cross-examination by Mr. Misetić

1 Q. Fatmir Humolli?

2 A. Yes.

3 Q. Hyzri Talla?

4 A. Yes.

5 Q. Sejdi Rama?

6 A. Yes.

7 Q. And Avdi Kiqmari?

8 A. Yes.

9 Q. And by May 1998, you had successfully recruited Nuredin Ibishi
10 into your zone; correct?

11 A. Yes, we had concluded our conversations with him.

12 Q. And Mr. Ibishi would become the brigade commander for Unit 151?

13 A. 152.

14 Q. 152, okay. Now, also in this time period, for logistics, you
15 were a person who was extremely able in the area of logistics;
16 correct?

17 A. I was trying to be as efficient as possible in the logistics
18 sector.

19 Q. So you mentioned yesterday, I believe, that you were able to
20 secure weapons from sources in Bosnia and Serbia; correct?

21 A. Correct.

22 Q. Funding from diaspora?

23 A. Funding from diaspora, but mostly from Prishtine. From business
24 owners in Kosovo.

25 Q. So would it be fair to say that the logistical support that the

1 Llap zone had was support that you yourselves had collected with very
2 little support from the General Staff, in terms of logistics?

3 A. Now, Mr. Lawyer, Prishtina offered me many of their personnel in
4 soldiers, many of the citizens that were there. They were my
5 advisers. Adem Demaci's office and all his advisers offered me
6 advice and assistance. That is to say this was not only my work.
7 All the political parties were supporting me. And I believe that it
8 was rather me who provided more logistical support to the
9 General Staff, than the General Staff to me.

10 Q. Now, in terms of recruiting people into the KLA in your zone,
11 you had an important role in recruiting; correct?

12 A. Yes, I was the commander.

13 Q. And Mr. Gashi had an important role in recruiting people into
14 the Llap zone?

15 A. All of us working jointly. We were recruiting. We were
16 advising.

17 Q. And in this period, May, June 1998, you were actually trying to
18 intensify contacts with the General Staff; correct?

19 A. Yes.

20 Q. Because you had not had much contact with the General Staff
21 prior to that period; correct?

22 A. Correct.

23 Q. Now, you never gave a written report to the General Staff;
24 correct?

25 A. Never.

1 Q. And you were never required to deliver written reports to the
2 General Staff; correct?

3 A. I cannot recall ever having been asked. I can't remember.

4 Q. 17 June 1998, do you recall travelling with 24 of your fellow
5 fighters from the zone to Albania to get weapons?

6 A. Yes.

7 Q. And to get to Albania to get those weapons, did you have a
8 chance to meet with the zone commander in Dukagjin, Mr. Haradinaj?

9 A. I met either on the way there or on the way back. I cannot
10 remember -- I cannot remember when it was.

11 Q. Well, do you recall that you left on 17 June and you returned
12 from Albania on 8 July? Does that sound about right?

13 A. Roughly, yes.

14 Q. Did you develop a relationship with Mr. Haradinaj over time
15 because you had to travel through his zone to get to Albania?

16 A. Yes, we established this rapport or relationship with
17 Mr. Haradinaj there for the first time. So all the capacities of the
18 Dukagjin zone were put at the disposal of the people who were in my
19 company, and he gave his agreement to that.

20 Q. Now, Kadri Kastrati came to your zone to try to assist in the
21 transformation of the KLA from a guerilla organisation to a frontal
22 army; correct?

23 A. Yes, he formed part of that group of officers led by
24 Bislim Zyrapi. Kadri Kastrati did, indeed, come and help a lot in my
25 zone.

1 Q. And is it fair to say that you looked to people like
2 Kadri Kastrati and Bislim Zyrapi as experienced people who could
3 assist you in your efforts in the zone?

4 A. Yes, they were more than welcome.

5 Q. But you were the commander in the zone; correct?

6 A. Yes.

7 Q. Do you recall on 18 July you appointed Hamit Haliti as the chief
8 of logistics?

9 A. Hamit Hamiti is the name, yes.

10 Q. I'm sorry. I thought I said that. Hamit Hamiti, I apologise.

11 A. He had been appointed earlier. However, I made it known to the
12 staff a bit later, roughly during this time that you're referring to.
13 So his appointment was made known to the other soldiers.

14 Q. And what about Fatmir Humolli? Do you recall appointing him as
15 chief of morale and politics on 18 July 1998?

16 A. I cannot recall the exact dates, but I know that he was
17 appointed.

18 Q. You appointed Mr. Ibishi as -- Nuredin Ibishi as commander of
19 which brigade?

20 A. 152.

21 Q. And you -- again, I'm putting to you you appointed him in July
22 1998. And what about Idriz Shabani? What brigade did you appoint
23 him commander of?

24 A. 151. 151.

25 Q. Who made the decision to appoint them?

1 A. I did.

2 Q. And who --

3 A. Alongside with the people who knew each other at that particular
4 point in time, the elder soldiers, that is.

5 Q. And to whom did they report?

6 A. You mean the ones that I was appointing?

7 Q. Yes.

8 A. To me.

9 Q. Let's talk a bit about the visit of the General Staff delegation
10 in August 1998. You emphasise that you were "formally" appointed the
11 commander of the Llap zone by this delegation in August 1998. And on
12 questioning from the Prosecutor, you emphasised that you had already
13 long prior been the commander in the Llap zone. Why was it necessary
14 to receive a formal appointment from the General Staff? What was the
15 purpose of that?

16 A. This was the time when we were trying to become a regular army,
17 to improve communications amongst ourselves. We were trying to
18 establish order. We were trying to organise ourselves better.

19 Q. Do I understand you correctly that this was an effort to try to
20 act like an army? Would that sound right?

21 A. Yes. Yes, that's correct.

22 Q. But the reality of it was you were the commander long prior to
23 any formal appointment in August 1998; correct?

24 A. Yes.

25 Q. And the people on your staff had been appointed by you prior to

1 your formal appointment in August 1998; correct?

2 A. Yes.

3 Q. Now, part of the General Staff delegation that arrived in your
4 zone included Mr. Thaci and Mr. Rexhep Selimi. And you were asked in
5 your SPO interview about them, and you said that they were passing
6 through and that they "had their own destination." Do you recall
7 where they were going?

8 A. I did not ask them because they won't tell me, but I think
9 they were on -- on their way to meet Adem Demaci.

10 Q. And Adem Demaci was in Prishtine?

11 A. Yes.

12 Q. And Adem Demaci had only recently been appointed as the --

13 A. Adem Demaci was widely known to all and sundry, to all the
14 members of the General Staff, myself included. We had contact with
15 him from much earlier. An appointment was -- was completely
16 insignificant.

17 Q. No, I understand. But my point is it had only been very
18 recently - days, perhaps a few weeks - that Adem Demaci had been
19 named as the political representative of the KLA in August 1998;
20 correct?

21 A. I think so. However, I had had conversations about the KLA with
22 Adem Demaci much earlier. I personally had conversations with
23 Adem Demaci during 1996 and 1997 about KLA matters.

24 Q. Witness, I have a few questions about special warfare. Around
25 this time in August 1998, was there a perceived problem with

1 collaborators?

2 A. There have always been problems with collaborators.

3 Q. And --

4 A. Specifically, I cannot recall anything in particular.

5 Q. Do you recall telling the SPO that, with respect to the issue of
6 detentions, "all our actions were necessary in self-defence"? And
7 further on, you say:

8 "All the actions, all our actions were taking under the
9 circumstances of a necessity for defence."

10 "Therefore, I consider that we have by right detained this small
11 number of Albanians who in cooperation with the enemy forces were
12 endangering our army and the civilians we were protecting."

13 MR. MISETIĆ: And for the benefit of the parties -- sorry, I
14 believe this is from his trial proceedings, SPOE00119323 to 00119333
15 at SPOE00119329 to 330.

16 Q. Do you recall saying at your trial that you had been -- anybody
17 that was detained was detained in the interests of self-defence?

18 A. Yes.

19 Q. And what did you mean by that?

20 A. What I meant was that they had been detained for military
21 reasons. The people who had been detained, that is.

22 Q. Were people detained based on the fact they were members of the
23 LDK?

24 A. No, sir.

25 Q. Do you have an opinion about the theory that the LDK was

1 detaining people because they were political opponents?

2 A. The LDK supported the liberation war in my region.

3 Q. And I apologise. I said "LDK was detaining people." I,
4 obviously, meant KLA was detaining people.

5 A. The KLA did not detain LDK people.

6 Q. Was there a FARK presence in your zone?

7 A. No.

8 Q. So was anybody detained because they were a member of FARK in
9 your zone?

10 A. No.

11 Q. Did you set up courts in your zone?

12 A. No.

13 Q. Did you appoint judges in your zone?

14 A. No.

15 Q. Did you appoint prosecutors in your zone?

16 A. No.

17 Q. Why not?

18 A. Because we did not reach that point.

19 Q. Okay. But were there reasons that you didn't reach that point?

20 A. The time was very brief. Developments were quick in nature. We
21 had no resources. We did not manage to reach that level of
22 organisation regardless of the fact that we wanted to.

23 Q. Now, the Prosecution alleges that from around 2 August until
24 middle September, several individuals were detained by members of the
25 KLA in the Llap zone. Are you aware of that?

1 A. Yes.

2 Q. Do you have an explanation for why those people were detained?

3 A. For military reasons, I said earlier. They -- they -- or
4 because they just came completely in -- in opposition to our rules
5 and to the mission that we were for.

6 Q. I'm going to ask you about a communiqué that was put twice to
7 you. This is Communiqué 54. And the Prosecutor showed you this
8 communiqué, again, twice during your examination-in-chief.

9 MR. MISETIĆ: And I'd like to put it on the screen. It is
10 P00156 and the Albanian is P00156-AT.

11 Q. And you were asked -- you were read the last sentence in the
12 bolded text.

13 "'All enemy missionaries and those who propagate for the special
14 war, whoever they might be, will be treated according to the law in a
15 war situation,' ..."

16 And the date of this communiqué is 22 September 1998. That's at
17 the bottom of the page in Albanian. You can see it there.

18 Now, I'm going to put to you, Mr. Mustafa, that the last two
19 detainees who had been detained beginning around August, the last
20 two - and I can provide the names in private session if the Panel
21 wishes - were released by your zone four days after this communiqué
22 was published on 26 September 1998. And that there is no allegation
23 by the Prosecution in this case that there were any detainees in your
24 zone from the middle of September until November. Do you understand
25 what I've told you?

1 A. Yes.

2 Q. So would you agree with me that there is no nexus, no link
3 between this communiqué and any detention in your zone?

4 A. I agree. This communiqué does not pertain to the place I
5 served.

6 Q. I also -- again, let me ask you a foundational question. You
7 are a lawyer?

8 A. I finished law studies, yes.

9 Q. What year did you finish law studies?

10 A. In 1996. The last two exams, however, were in the year 2000. I
11 went to war without finishing my studies.

12 Q. In your studies, did you have a chance to study the 1976
13 Yugoslav Criminal Code?

14 A. Yes.

15 Q. The communiqué that we have on our screen says that:

16 "'All enemy missionaries and those who propagate for the special
17 war, whoever they might be, will be treated according to the law in a
18 war situation,' ..."

19 Were you familiar with how Yugoslav law treated the issue of
20 espionage, for example?

21 A. I had knowledge of a general nature. But, however, we had a
22 number of officers from the former Yugoslavia who knew these issues
23 best, and they advised -- they advised me on the matter.

24 Q. Well, were you aware that under Articles 128 and 139(2), someone
25 could be sentenced to death in Yugoslavia for collaboration in a time

1 of war?

2 A. We were aware.

3 MR. MISETIC: Mr. President, I'm going to switch to a new topic.
4 This might be a good time for a break. And, actually, I need to
5 discuss something with the Panel in terms of organisation.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 Please escort the witness out.

8 We'll take a half-hour break, Witness. Thank you.

9 [The witness stands down]

10 MR. MISETIC: Mr. President, my seven hours was based on the
11 fact that my outline is 30 pages long, single-spaced, 10-point font.
12 However, to my surprise, I am rapidly moving through my questions,
13 and I expect I might be finished in the next session.

14 I raise it with you now because we actually might need the
15 reserve witness in light of this. I apologise to the Panel, but I,
16 in good faith, thought that this was going to be a lot slower than
17 it's actually turned out to be.

18 PRESIDING JUDGE SMITH: Well, you can all mull that over during
19 the break, and we'll discuss it when you come back.

20 Madam Prosecutor.

21 MS. LAWSON: There is one point I think would be useful to flag
22 now. If we do need the reserve witness who was indicated in the
23 e-mail, I believe it's 4586, we will need to immediately file a
24 videolink application for testimony because of a health situation
25 that we identified when our team met with him earlier this week.

1 PRESIDING JUDGE SMITH: All right. Well, we'll get an update
2 from you all at that time.

3 Yes, Mr. Emmerson.

4 MR. EMMERSON: Obviously, in the light of Mr. Misetić's
5 substantially revised projections, I was expecting to begin
6 cross-examining on Monday, but I will be perfectly able to begin
7 cross-examining today.

8 But may I ask this: If Mr. Misetić finishes early in the next
9 session or, rather, before the next session would naturally end, I
10 would ask you just to adjourn until the start of the afternoon
11 session so I can make a clear start then.

12 PRESIDING JUDGE SMITH: Perfectly all right. We'll do that.
13 Remind me if I forget.

14 We'll be adjourned until 11.30.

15 --- Recess taken at 10.57 a.m.

16 --- On resuming at 11.32 a.m.

17 PRESIDING JUDGE SMITH: Madam Prosecutor, we are sort of of a
18 mind that you should perhaps prepare for that other witness. I
19 assume she would be on call and, if necessary, we could cancel, but I
20 think it would be wise to have the witness available on videolink.

21 MS. LAWSON: Your Honour, we are making arrangements. We're
22 going to file the videolink application immediately.

23 PRESIDING JUDGE SMITH: Fine.

24 MS. LAWSON: But in light of the revised assessments, we're
25 actually not sure whether this one witness will fill the time. So

1 we're now checking logistical arrangements for alternatives. So just
2 to flag at this stage to the parties, it may be this witness, 4586.
3 It may also be one of the other witnesses we notified in our e-mail
4 of 30 June, that was 2153 who we believe, based on cross-examination
5 estimates, will fill a slightly larger amount of time. And
6 Witness W00072 is also a possibility. If we need to call two short
7 witnesses. We will provide -- we're waiting for certain information
8 to be checked right at this moment. So once we have the necessary
9 information as to -- to make the decision on the plan forward, we'll
10 communicate that by e-mail to the Panel and all parties.

11 PRESIDING JUDGE SMITH: Yes, just so the line of communication
12 remains open. Thank you.

13 You may bring the witness in now, Madam Usher.

14 MR. MISETIC: Mr. President, one housekeeping matter as the
15 witness comes in. I would like to tender the portion of the
16 Mr. Haradinaj's book that I put to the witness, which is
17 U017-5901-U017-6091, and the accompanying Albanian original which is
18 KSC-BC-2020-06-IT-05-87 3D00375.

19 MS. LAWSON: No objection.

20 PRESIDING JUDGE SMITH: Without objection, the book by
21 Mr. Haradinaj - and I'm not going to repeat the numbers at this time
22 - is admitted. Please assign a number to it.

23 THE COURT OFFICER: Your Honours, just to confirm, we're
24 admitting only the selected pages or the entire book?

25 MR. MISETIC: The selected pages.

1 PRESIDING JUDGE SMITH: The selected pages.

2 THE COURT OFFICER: Those pages will receive Exhibit 1D25.

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: All right. We continue with the
5 cross-examination by the Thaci Defence.

6 Go ahead, Mr. Misetić.

7 MR. MISETIĆ: Thank you, Mr. President. Madam Court Officer, I
8 would like to call up an exhibit. It's DHT00509 to DHT00510.

9 Q. Mr. Mustafa, I apologise. This is only in English. It's a
10 newspaper article. But you've referenced it in your direct
11 examination and in your SPO interview, and I just want to put a date
12 on the Milosevic-Holbrooke Agreement. Does it sound about right to
13 you that the Milosevic-Holbrooke Agreement was around 9 October 1998?

14 A. I believe so.

15 MR. MISETIĆ: Mr. President, I offer this exhibit into evidence.

16 MS. LAWSON: No objection, Your Honour.

17 PRESIDING JUDGE SMITH: DHT00509 to DHT00510 is admitted.

18 MR. MISETIĆ: Thank you. And now I'd like to pull up --

19 PRESIDING JUDGE SMITH: Wait.

20 MR. MISETIĆ: I'm sorry.

21 THE COURT OFFICER: Apologies. DHT00509 to DHT00510 will
22 receive Exhibit 1D26.

23 MR. MISETIĆ: Now I'd like to pull up a document that created
24 the OSCE verification mission in Kosovo, and this is IT-05-87.1
25 P00835. And in the Albanian, it is IT-05-87.1 P00835-AT.

1 Q. Mr. Mustafa, this is the agreement between Yugoslavia and the
2 OSCE signed by Mr. Zivadin Jovanovic, the minister of foreign affairs
3 of Yugoslavia, and the chairman of the OSCE, Mr. Bronislaw Geremek.
4 And the last page reflects that it was signed on 16 October 1998, a
5 few days after the Milosevic-Holbrooke Agreement. And if we turn to
6 the fourth page of the exhibit, which is section 3.8, as to what the
7 rights and obligations of the OSCE mission in Kosovo were. It says
8 that:

9 "The Mission Director will receive periodic updates from the
10 relevant authorities concerning eventual allegations of abusive
11 actions by military or police personnel and status of disciplinary or
12 legal actions against individuals implicated in such abuses."

13 And number 9 says:

14 "The Verification Mission will maintain liaison with FRY,
15 Serbian and, as appropriate, Kosovo authorities and with the ICRC
16 regarding ICRC access to detained persons."

17 Do you see that?

18 A. Yes.

19 Q. And were you made aware in October 1998 that the OSCE
20 verification mission would have the right to -- or, sorry, that the
21 ICRC would have the right to access to detained persons pursuant to
22 the agreement?

23 A. I don't remember being aware at that time of this agreement or
24 this particular point you just read, but I know that we spoke with
25 the verification mission members with relation to detained persons

1 and allowed them -- granted them access to these persons.

2 MR. MISETIĆ: Mr. President, I tender this document into
3 evidence.

4 PRESIDING JUDGE SMITH: [Microphone not activated]

5 MS. LAWSON: Your Honours, we don't really believe there's a
6 basis based on the testimony, but we've no objection to the document.

7 PRESIDING JUDGE SMITH: IT-05-87.1 to P00835 is admitted.

8 THE COURT OFFICER: Your Honours, that will receive
9 Exhibit 1D27.

10 MR. MISETIĆ: Thank you, Mr. President. If I could just have a
11 moment.

12 If I could call up SPOE00055799 to SPOE00055868-ET Revised at
13 SPOE00055837; and in the Albanian, SPOE00055678 to SPOE00056018 at
14 SPOE00055837.

15 THE COURT OFFICER: Your Honours, there is an ET Revised and ET
16 Revised 1 version of the translation.

17 MR. MISETIĆ: ET Revised 1.

18 Q. This is an excerpt from Mr. Skender Zhitia's book. I believe
19 you were asked some questions from this book by the Prosecution, and
20 I'd like to ask you a few questions in light of your answer that you
21 don't recall being made of the OSCE-FRY agreement.

22 MR. MISETIĆ: If we scroll down to the bottom of the English
23 page, please. If we scroll down in the Albanian as well.

24 Q. The excerpt in the book says:

25 "After the agreement reached between the international community

1 and Serbia known as the Holbrooke - Milosevic agreement, NZOLL,"
2 which is your zone, "were visited by the Head of KDOM Sean Burns
3 accompanied by Adem Demaci and Albin Kurti. In this meeting,
4 Commander Remi was accompanied by" - if we go to the next page,
5 please - "Nuredin Ibishi, Latif Gashi, Fatmir Humolli and other
6 military officers of NZOLL HQ. The meeting had an informative
7 character about the reached agreement and the obligations that came
8 out of it."

9 Now, we'll stop there for a second. Do you recall this meeting
10 where Shaun Byrnes visited you after the agreement, the
11 Holbrooke-Milosevic Agreement, accompanied by Adem Demaci and Albin
12 Kurti?

13 A. Yes, I do remember it.

14 Q. Do you recall now that there was a discussion about the
15 obligations that would arise out of that agreement?

16 A. Yes.

17 Q. And one of the obligations we saw in the agreement was granting
18 access to the ICRC to detained persons; correct?

19 A. The agreement must have certainly been explained in detail
20 during that meeting.

21 Q. The next sentence in the book says:

22 "Also, in the meeting the organisation of the future police
23 structures of Kosovo in the first stage after liberation was
24 discussed about."

25 Do you see that?

1 A. Yes.

2 Q. Do you recall that in or around October 1998, that Shaun Byrnes
3 had a discussion with you about future civilian structures in Kosovo?

4 A. Yes, I recall it.

5 Q. Do you recall anything in particular about what that
6 conversation was about?

7 A. I know he expressed his satisfaction with respect to
8 Mr. Nuredin Ibishi, after being informed about and having noted his
9 professionalism, as we used to refer to it at the time. And I also
10 know that we agreed on having a constant, permanent future contacts
11 with KDOM and the verification mission.

12 Q. My question is -- well, with respect to the very specific issue
13 of future civilian structures after liberation, do you recall
14 anything in particular about that conversation with Mr. Byrnes?

15 A. I don't remember. However, I know we discussed the military
16 police issue, and that he said that it should be -- he suggested that
17 the military police should become in the future the civilian police
18 in Kosovo.

19 MR. MISETIĆ: Mr. President, I tender this excerpt from the
20 Skender Zhitia book. Let me just note, I believe the Prosecution is
21 offering excerpts from this book as well, and I wonder whether it's
22 more useful for the parties to liaise and just have one exhibit with
23 all the relevant pages used by all parties.

24 PRESIDING JUDGE SMITH: That would certainly be preferable. You
25 can do that and submit it later.

1 MR. MISETIĆ: Thank you. We'll do that.

2 Q. Mr. Mustafa, along this line of questioning, I'd like to show
3 you something -- an additional clip from that BBC interview. This
4 one is very short. It's less than a minute.

5 MR. MISETIĆ: If we could call up, please, DHT01152 and the
6 accompanying transcript, which is DHT01152-TR.

7 Q. And the same procedure, Mr. Mustafa, I'm going to ask you to pay
8 careful attention to what you say in the clip, and then I'm going to
9 ask you -- whether everything that you said in the clip is true and
10 correct to the best of your knowledge and belief.

11 MR. MISETIĆ: And the video should start, Madam Prosecutor, at
12 43 seconds of the clip.

13 [Video-clip played]

14 THE INTERPRETER: [Voiceover] "They were to respect the laws of
15 war, to not go into towns because the enemy was stronger than we
16 were. And to abide by the international rules, to listen to
17 internationals."

18 MR. MISETIĆ: I'm sorry, if we could start again and just go
19 back to 35 seconds so we get the question and the answer.

20 [Video-clip played]

21 "Interviewer: [Interpretation] The -- what advice of the KDOM?

22 "Mr. Mustafa: [Interpretation] The advice from KDOM was that we
23 should not deal with civilians, not to beat prisoners, to not breach
24 the laws of war. They gave us some maps and the tactics of modern
25 war affairs, not going into cities because the enemy is much stronger

1 than we are, and -- and to obey by the international rules and to
2 take advices from the internationals because they are the ones who
3 will help us, and so on."

4 MR. MISETIĆ:

5 Q. Mr. Mustafa, is what you said in that video-clip true and
6 accurate to the best of your knowledge and belief?

7 A. Yes.

8 Q. So you do recall a meeting with KDOM where you were told,
9 amongst other things, about treating civilians properly and obeying
10 the laws of war?

11 A. Yes.

12 Q. This would have been around October 1998?

13 A. Every time we met with them, they advised us. It must have been
14 certainly towards the end of October.

15 MR. MISETIĆ: I would like to tender this video-clip into
16 evidence, please, and the transcript.

17 MS. LAWSON: No objection.

18 PRESIDING JUDGE SMITH: DHT01152 and the transcript,
19 DHT01152-TR, are admitted.

20 THE COURT OFFICER: Your Honours, those will receive
21 Exhibit 1D28.

22 MR. MISETIĆ: Thank you.

23 Q. Mr. Mustafa, I ask those questions because I will put to you
24 that with the arrival of KDOM, the General Staff was very eager to
25 ensure that the KLA was perceived well in the international arena;

1 correct?

2 A. Correct.

3 Q. And so they were giving instructions on how to comply with the
4 laws of war because KDOM was now present in Kosovo and they wanted to
5 send a good message -- a good image of the KLA into the world;
6 correct?

7 A. Correct.

8 Q. You were asked several questions about --

9 MS. LAWSON: Could we just get a clarification on who "they"
10 are? "They were giving instructions"?

11 MR. MISETIĆ:

12 Q. The zone commanders. Do you recall receiving documents like
13 orders from Mr. Zyrapi on treatments of civilians, for example, that
14 were sent to the zone commanders?

15 A. Yes, we received recommendations at the time.

16 Q. I'm going to get to those documents in a minute. But you were
17 asked several questions about meetings of the zone commanders where
18 Mr. Zyrapi chaired the meeting as the chief of staff. Do you recall
19 that?

20 A. Yes.

21 Q. And I asked you earlier, but I'll put it to you again,
22 Mr. Zyrapi did not become chief of staff until November 1998? Do you
23 disagree with that?

24 A. I believe this was the case.

25 Q. And you were asked several times, both in your SPO interview and

1 in examination-in-chief, which zone commanders were present for these
2 meetings. And you indicated Rahman Rama.

3 MR. MISETIĆ: This is at -- just for the benefit of the parties,
4 this is page 5605, lines 10 to 16 of the transcript.

5 Q. Rahman Rama; correct?

6 A. Correct.

7 Q. Ahmet Isufi?

8 A. Yes. Zone commanders.

9 Q. Sylejman Selimi?

10 A. Yes.

11 Q. Shukri Buja?

12 A. Yes.

13 Q. Ramush Haradinaj?

14 A. Yes.

15 Q. Commander Drini?

16 A. Yes.

17 Q. Now, if Commander Drini was present for these meetings, are you
18 aware that Commander Drini did not become commander until 16 December
19 1998 in Pashtrik?

20 A. I don't recall the date, but I do know he was made commander
21 later on.

22 Q. So if Commander Drini was present for the meetings you're
23 talking about, they couldn't have occurred before 16 December 1998;
24 correct? If the date I'm giving you is correct.

25 A. Certainly.

1 Q. Do you recall the date that the headquarters was established at
2 Llapashtice?

3 A. I don't recall the date, the exact date.

4 Q. Could it have been in November 1998?

5 A. I've stated this in front of the Prosecutor. This was towards
6 the end of October, beginning November. However, there are records
7 that are more accurate.

8 Q. If -- well, I'll strike that question.

9 The meetings with Mr. Zyrapi chairing and Commander Drini
10 present where detention was discussed, would you agree that those
11 were meetings where Mr. Zyrapi was emphasising the need to ensure
12 protection of civilians?

13 A. I don't recall discussing detainees, but based on the context, I
14 think we -- we can deduct that it was discussed. But as I mentioned
15 yesterday, this matter is exaggerated. I'm not avoiding the fact
16 that it was discussed possibly, but that's all.

17 Q. I'm just talking about -- just trying to get the facts of what
18 may have been discussed at these meetings.

19 MR. MISETIĆ: If we could please call up exhibit SPOE00119161-ET
20 and SPOE00119161 in the Albanian.

21 Q. It purports to be dated 28 November 1998. It purports to be
22 sent to the Llap zone. And it is signed, apparently, by Mr. Zyrapi.
23 And point 3 says to prevent:

24 "3. Improper behaviour towards the civilian population is to be
25 prevented in all KLA units."

1 And point 4:

2 "The arrest, detention or imprisonment of persons without an
3 order from a brigade commander or above is prohibited, except in the
4 case of a critical combat situation or when various criminal offences
5 are being committed against members of the KLA, against individuals
6 or the civilian authorities."

7 Do you see that?

8 A. Yes.

9 Q. Do you recall receiving this document?

10 A. I can't recall this in specific terms, but I know THAT we have
11 received recommendations and other advice from the General Staff.

12 Q. Did you implement this recommendation by ordering that no
13 arrest, detention or imprisonment of persons could be executed
14 without an order from a brigade commander or above?

15 A. This was what occurred in practice. What had been occurring in
16 practice throughout, even before. Without an order from the brigade
17 commander, no one could have been detained. And we tried to
18 implement all the recommendations that we received.

19 Q. And did you implement the order that said that "improper
20 behaviour towards the civilian population is to be prevented in all
21 KLA units"?

22 A. We weren't aware of these phenomena. They could have been
23 sporadic, almost insignificant. The behaviour of KLA soldiers
24 towards the civilian population has always been excellent. This
25 issue was of no concern at all.

1 MR. MISETIĆ: Mr. President, I'd tender this document into
2 evidence.

3 MS. LAWSON: No objection.

4 PRESIDING JUDGE SMITH: SPOE00119161 is admitted.

5 THE COURT OFFICER: Your Honours, that will be Exhibit 1D29.

6 PRESIDING JUDGE SMITH: Thank you.

7 MR. MISETIĆ: And I'd like to call up another document. This is
8 SPOE00225260-ET and the original is SPOE00225260. That's it.

9 Q. Now, this is an order dated 16 December 1998. And, again, I'm
10 going to represent to you that Commander Drini was appointed
11 commander of operative zone Pashtrik on or around this date. It is
12 signed by Bislim Zyrapi, and it's an order to all of the operative
13 zone commands.

14 And, first of all, take a look at the document and let me know,
15 do you recall seeing this document?

16 A. It is a document similar to the ones that we used to receive,
17 but I cannot state here that this one is one that I remember in
18 detail. However, I've got no reason to dispute that this is an
19 official piece of paper.

20 Q. It says:

21 "The commanders of the Operational Zone must strengthen their
22 control, engaging other command members, as well as commanders of the
23 Military Police, to immediately stop the negative phenomena of
24 maltreatment of individuals or their private property."

25 Under paragraph 1.

1 Paragraph 3 says:

2 "At all KLA units, indecent acts towards the civilian population
3 should be prevented."

4 Paragraph 4 says:

5 "The arrest, detention, or imprisonment of individuals without
6 the order of the brigade commander, or a higher rank, is banned,
7 except in critical war situations or when there are criminal acts
8 against members of the KLA, individuals or the civilian authorities."

9 Point 6 says:

10 "Those who commit these criminal acts or abuse the military
11 discipline should face immediate consequences, isolation, disarming
12 and prosecution by the KLA military court.

13 "7. The Commanders of the KLA units are responsible for the
14 application of this order."

15 Do you see that?

16 A. Yes, I do.

17 Q. But you don't recall specifically receiving it?

18 A. As I said yesterday as well, we have received such
19 recommendations. However, I am unable to confirm this document as
20 such, even though there is no reason to dispute it.

21 Q. Well, I am putting these two documents from Mr. Zyrapi to you
22 because you were asked a lot of questions about meetings of the zone
23 commanders with Mr. Zyrapi chairing the meetings. And I'm just
24 suggesting to you that what Mr. Zyrapi was concerned about at this
25 time was proper treatment of civilians and limiting the number of

1 arrests or detentions that could take place without approval of zone
2 commanders and only in very specific situations. Do you have any
3 reason to disagree with my suggestion?

4 A. No, this is exactly what occurred in practice.

5 MR. MISETIĆ: Mr. President, I tender this document into
6 evidence.

7 MS. LAWSON: No objection.

8 PRESIDING JUDGE SMITH: SPOE00225260-ET and original without the
9 ET is admitted.

10 THE COURT OFFICER: Your Honours, that will be Exhibit 1D30.

11 PRESIDING JUDGE SMITH: Thank you.

12 MR. MISETIĆ:

13 Q. I'd like to show to you a document that was shown to you by the
14 Prosecution.

15 MR. MISETIĆ: And I'm referring to transcript page 5536, lines
16 22 to 23. And the document is U0009858 to U0009888.

17 THE COURT OFFICER: Your Honours, that is Exhibit P165 for the
18 record.

19 PRESIDING JUDGE SMITH: [Microphone not activated]

20 MR. MISETIĆ: And if we could go to page 3, Article 1, please.

21 Q. Could you please read to yourself Article 1, Mr. Mustafa, and
22 let me know when you've finished.

23 A. "A serviceman is a national who serves in the ranks of the
24 Kosovo Liberation Army or carries out duties that are ..."

25 Q. No, no. The article above that, Article 1 (1).

1 A. Okay.

2 "The Kosovo Liberation Army, in order to carry out its important
3 duties, must have at all times a strong discipline, based on the
4 Constitution and legal ... provisions.

5 "2. The Rules of Discipline comprises the most essential
6 provisions concerning the discipline of servicemen who serve in the
7 Kosovo Liberation Army."

8 I have finished.

9 Q. Thank you, Mr. Mustafa. Did Kosovo have a constitution in 1998?

10 A. There was a draft which never came into force, which was called
11 the Constitution of Kacanik.

12 Q. And did it have -- did Kosovo have legal and sublegal
13 provisions?

14 A. They existed until the time when Albanians were expelled from
15 the institutions, state institutions, which Albanians had been -- had
16 been kicked out of, including the educational sector. So at this
17 point, we were opposed to those who were holding Kosovo against their
18 will and with violence.

19 Q. And my question is what constitution and legal and sublegal
20 provisions specifically does Article 1 refer to?

21 A. It most probably relies on the heritage of the former
22 Yugoslavia, which Kosovo used to be a part of, but I cannot say that
23 with full confidence.

24 Q. Going to the inspection of 27 October 1998 by the General Staff
25 in the Llap zone, I just have a few questions for you on that.

1 MR. MISETIĆ: If we could go to Exhibit P00181, please. And in
2 particular, first I'd like to go to page SPOE00226667.

3 Q. Now, you were shown this page yesterday and you were asked,
4 because these notes say "Remi," and then one of the points says:

5 "Special war and propaganda, not present."

6 I'm going to ask you, does this mean, to the best of your
7 knowledge, that there was no Serbian special war present in the Llap
8 zone in October 1998, or is this a complaint by you that the
9 General Staff is not engaging in its own special war and propaganda
10 in your zone?

11 A. I have no comment to make. This is a document that I cannot
12 recall. The reference here is most certainly to special warfare.

13 Q. Well, let me ask you, could it have been possible that there was
14 no special war or propaganda from Serbia in the Llap zone in October
15 1998?

16 A. Their propaganda was continuous.

17 Q. Now, if you look one line above that, it says:

18 "The issue of civil administration has not yet been solved
19 because there is a need for an adequate official platform."

20 Now, is this point related to the discussion we had earlier
21 concerning your meeting with Shaun Byrnes and KDOM about the
22 establishment of civilian institutions after liberation?

23 A. It may very well be, Mr. Counsel. However, this is an issue of
24 how much one can remember, and I cannot recall. But it may well be
25 the case, yes.

1 MR. MISETIĆ: If we could go to SPOE00226672, please, in this
2 document. Actually, if we go to the previous page, just so we see
3 who the speaker is purported to be.

4 Q. At the top of the page it says "Leka - 151 Brigade Commander."
5 Who is Leka again?

6 A. The chief of staff Nuredin Ibishi, who was also commander of
7 Brigade 151 at the time.

8 MR. MISETIĆ: And if we go to the next page, please.

9 Q. Then your chief of staff in the last two lines on the page:
10 "Appeal: Do not create fractures with the wider population.
11 "Take constructive actions for National Reconciliation."
12 What do you recall that refers to?

13 A. It is not clear to me at the time, but there must have been some
14 specific issue he had knowledge of at the time, and I have no comment
15 to make on it.

16 Q. Well, it sounds like, and I'm going to ask if you agree, it
17 sounds like an appeal to actually create unity in the Albanian
18 population and not to create fractures within the Albanian community;
19 is that right?

20 A. This used to be part and parcel of our daily mission.

21 Q. And were you aware that only a few days after this inspection, a
22 draft agreement was reached between the KLA and FARK?

23 MR. MISETIĆ: Let me call that document up.

24 Q. I just will ask you if you are familiar with it.

25 MR. MISETIĆ: Exhibit 061168-ET, and the Albanian version is

1 061167 to 061171 at 061168.

2 Q. Have you seen this document before?

3 MR. MISETIĆ: And if we can go to the next page so he can see
4 the signatures.

5 THE WITNESS: [Interpretation] No, I have never seen this before.
6 This was not an issue of concern in my region at all.

7 MR. MISETIĆ:

8 Q. Were you aware of a draft agreement between the FARK and the KLA
9 on or around 2 November?

10 A. Even if I had knowledge of it, it still remained insignificant
11 as far as I'm concerned. It was not an issue of concern, and I do
12 not remember it.

13 MR. MISETIĆ: Then let's go back to the document we just had on
14 the screen, which is Exhibit P00181.

15 And if we could go into private session just for these few set
16 of questions, please.

17 PRESIDING JUDGE SMITH: Please, into private session.

18 [Private session]

19 [Private session text removed]

20

21

22

23

24

25

Witness: W04746 (Resumed) (Private Session)

Page 5749

Cross-examination by Mr. Misetić

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18 [Open session]

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

20 MR. MISETIĆ:

21 Q. I'm going to turn to December 1998, Mr. Mustafa. Do you recall
22 in December 1998 there was some tension regarding the
23 Prishtine-Podujeve road and some tensions between that were caused by
24 the withdrawal of the VJ forces and the move of your forces towards
25 that road, that line?

1 A. Yes.

2 Q. Can you tell the Panel what that was about?

3 A. This was an attempt on the part of Serbian forces to occupy
4 villages where we were trying to prevail, and so there was fighting
5 between us.

6 Q. Was there any problem caused by the fact that your forces had
7 moved closer to the Prishtine-Podujeve road, and were you encouraged
8 by Mr. Walker --

9 A. Yes.

10 Q. -- and others to withdraw from the road?

11 A. Yes. We had availed ourselves of the winter period as well as
12 the cease-fire in order to come close to the main road to be close to
13 the civilian population. In addition to that, our own survival was
14 easier there. So there was pressure by enemy forces but also by the
15 mission led by William Walker for us to withdraw a bit further.

16 MR. MISETIĆ: Could we move again into private session,
17 Mr. President.

18 PRESIDING JUDGE SMITH: Into private session, please,
19 Madam Court Officer.

20 [Private session]

21 [Private session text removed]

22

23

24

25

Witness: W04746 (Resumed) (Private Session)

Page 5751

Cross-examination by Mr. Miletic

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04746 (Resumed) (Private Session)

Page 5752

Cross-examination by Mr. Miletic

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04746 (Resumed) (Private Session)

Page 5753

Cross-examination by Mr. Miletic

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7 [Open session]

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

9 PRESIDING JUDGE SMITH: Thank you.

10 MR. MISETIĆ: Thank you.

11 Q. Turning to visits by an OSCE delegation to the Llap zone.

12 MR. MISETIĆ: If we could go, please, to Exhibit P00116. I
13 apologise. I made a mistake. It is Exhibit 1D00007, and the
14 Albanian version is 1D00007-AT. Actually, if we could not show that
15 on the screen, please. It's not on the screen. Okay. Good. I
16 meant for the public, not -- sorry.

17 Q. Now, this is a record -- you were asked some questions about you
18 had given permission for the OSCE to interview persons detained at
19 Llapashtice, and I wanted to show you the record of those interviews
20 and ask you a few questions about it.

21 If you look at the second paragraph, it says:

22 "All eight detainees stated that living conditions were good.
23 They allegedly have the same food as the soldiers, beds, blankets,
24 and access to toilets, and were able to go outside at request to the
25 guard. None of the eight detainees had access to television,

Witness: W04746 (Resumed) (Open Session)
Cross-examination by Mr. Misetić

Page 5755

1 newspapers, etc, but did not seem particularly bothered ..."

2 Mr. Mustafa, was that your understanding of the conditions that
3 these individuals - and I ask you not to use their names in the
4 document - were being kept in?

5 A. Yes.

6 MR. MISETIĆ: If we scroll down to the second person.

7 Q. And, again, I ask you not to refer to his name. It says he "has
8 been in detention for 19 days."

9 And the fourth sentence says:

10 "His health is not good due to a spinal cord condition, which he
11 contracted six years ago. He was attended to by a medical doctor ten
12 days ago."

13 Was your zone providing medical care to detainees as far as you
14 know?

15 A. Yes, I believe we did. I don't have specific elements in my
16 mind right now, but it was not -- they were not prevented to have
17 access to this medical care.

18 Q. Without mentioning any names, do you have a recollection of who
19 that doctor might have been; yes or no?

20 A. The doctor, Skender Murati, was the head of the medical services
21 in my region.

22 Q. Okay. All right. So is it possible that Dr. Murati was giving
23 care to persons who were detained in your zone?

24 A. Yes, it's possible.

25 Q. Did you ever put together a manual on the laws of war and send

1 it to your units?

2 A. The manual and the recommendations sent to them.

3 Q. And who put together the manual?

4 A. The staff members, chief of staff -- the chief of staff and
5 other assistant to -- assistants to officers and close to us, to our
6 office.

7 Q. Would that be Mr. Kastrati?

8 A. Including him.

9 Q. I'm just going to ask you a question about June 1999. Did you
10 participate in the implementation of the demilitarisation agreement?

11 A. Yes.

12 Q. And is it correct that you would attend meetings with
13 General Jackson about demilitarisation?

14 A. Correct.

15 Q. Would General Ceku attend those meetings with you?

16 A. Yes, he led our team, zone commanders, and we went together to
17 the meeting.

18 Q. So it was General Ceku and the zone commanders who were meeting
19 with General Jackson about implementation?

20 A. Correct.

21 Q. I am almost finished, Mr. Mustafa. Just some questions that
22 require your assistance. So my first question is do you recall in
23 2001 that, as a senior officer in the Kosovo Protection Corps, you
24 were placed on a US sanctions list?

25 A. Yes.

1 MR. MISETIĆ: If we could call up that document, please. It's
2 DHT00115 to DHT00119-ET. And it's the same in Albanian, just AT at
3 the end.

4 This is the 2001 decision. I would ask that it be admitted into
5 evidence.

6 MS. LAWSON: No objection.

7 PRESIDING JUDGE SMITH: The document will be admitted.

8 MR. MISETIĆ:

9 Q. And was your name renewed --

10 PRESIDING JUDGE SMITH: Just a second.

11 MR. MISETIĆ: Sorry.

12 THE COURT OFFICER: Thank you. Your Honours, that will be
13 Exhibit 1D31.

14 MR. MISETIĆ:

15 Q. And was your name renewed on that list in 2003?

16 A. Yes.

17 MR. MISETIĆ: And that document is DHT00120 to DHT00129-ET. And
18 the Albanian is the same except AT.

19 I tender this document into evidence.

20 PRESIDING JUDGE SMITH: No objection?

21 MS. LAWSON: No, Your Honour.

22 PRESIDING JUDGE SMITH: The May 29, 2003, registry of US
23 sanctions is admitted.

24 THE COURT OFFICER: Your Honours, that will be Exhibit 1D32.

25 MR. MISETIĆ: Thank you, Madam Court Officer.

1 Q. Mr. Mustafa, at the end of the Prosecution's questioning, they
2 asked you several questions about your appointment as an adviser to
3 President Thaci in 2019. I'd like to ask you, have you altered your
4 testimony in any way as a result of your appointment as an adviser to
5 Mr. Thaci?

6 A. No, sir. When I wrote that book, when I gave the statements, no
7 person alive ever thought that Mr. Thaci would be standing trial as
8 accused. I had the same position during the war, after the war, and
9 today.

10 Q. And I just want the record to be clear. Has anything you've
11 testified about in this Court been altered or withheld as a result of
12 your appointment as an adviser to President Thaci?

13 A. No, sir.

14 Q. Mr. Mustafa, I thank you very much for your time. That
15 concludes my cross-examination. Thank you.

16 MR. EMMERSON: Your Honour asked me to remind you. It's quarter
17 to 1.00. May we sit at 2.30 as usual?

18 PRESIDING JUDGE SMITH: We will break for lunch at this time.

19 Thank you, Witness. We'll be back at 2.30 for cross-examination
20 from the Veseli Defence.

21 Anything else from anybody?

22 You may escort the witness out.

23 [The witness stands down]

24 PRESIDING JUDGE SMITH: Before we leave for lunch, you heard the
25 Prosecution indicate that videolink was going to be requested for

1 next week. Is there any objection to that?

2 Let's just start here.

3 MR. KEHOE: Your Honour, I'd just like to know the reasons why.
4 I mean, I'd prefer, of course, witnesses to be here. If there is
5 some health reason, I just have no idea what it is.

6 PRESIDING JUDGE SMITH: I believe she stated a health reason
7 already.

8 MR. KEHOE: Just send us an e-mail, just let us know what it is,
9 so I can take a look. I just need to consult with my client and say
10 "this is the health risk." I'm not --

11 MS. LAWSON: Yes, Your Honour. The filing has actually been
12 notified. It's 1672. So perhaps you can look over the break.

13 MR. KEHOE: I couldn't hear what you --

14 MS. LAWSON: The filing has been notified, the request for
15 videolink.

16 MR. KEHOE: Okay.

17 MS. LAWSON: It includes the reasons, that's 1672.

18 MR. KEHOE: Okay. Judge, can I just come back to you right
19 after lunch --

20 PRESIDING JUDGE SMITH: [Microphone not activated]

21 MR. KEHOE: Yes.

22 PRESIDING JUDGE SMITH: All right. We'll break for lunch. See
23 you back here at 2.30.

24 --- Luncheon recess taken at 12.48 p.m.

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

1 PRESIDING JUDGE SMITH: We'll see if I can get my voice through
2 the rest of the afternoon. Remind me not to do five days again.
3 It's kind of a rough one.

4 You can bring the witness in.

5 MR. KEHOE: Your Honour, I think that we were addressing the
6 witness issue that you wanted a report back from --

7 PRESIDING JUDGE SMITH: Oh, just a second. Hold on a minute.
8 Go ahead.

9 MR. KEHOE: So I consulted with the SPO. We don't have any
10 objection to this witness being taken by video. Obviously, we don't
11 want this to become the practice based on this. But I understand the
12 scheduling concerns we've all had, and the Court's trying to get
13 through this, and we appreciate that very much, so we're not going to
14 object to that.

15 PRESIDING JUDGE SMITH: Anybody else?

16 MR. ROBERTS: No objection, Your Honour.

17 MR. ELLIS: The same position, Your Honour.

18 PRESIDING JUDGE SMITH: Sounds like a deal. Okay.
19 Yes, ma'am.

20 MS. LAWSON: And, Your Honour, I can provide an update on what
21 the proposed schedule would be. The next witness we intend to call
22 in this block is W02153, and he would be available to commence
23 testifying from Tuesday onwards.

24 And then should we need a further reserve for this block,
25 W04586, the videolink witness, could be arranged for Thursday,

1 subject to the request being granted and the logistical arrangements
2 being in place.

3 PRESIDING JUDGE SMITH: [Microphone not activated]

4 MS. LAWSON: Correct. He'll be testifying in person.

5 PRESIDING JUDGE SMITH: Okay.

6 MS. LAWSON: Well, sorry, I think -- I believe he's a 154
7 witness.

8 PRESIDING JUDGE SMITH: He's a 154 witness.

9 MS. LAWSON: But he'll be in person before the Court.

10 PRESIDING JUDGE SMITH: What I mean is he'll be in the building.

11 MS. LAWSON: Exactly.

12 PRESIDING JUDGE SMITH: All right. Fine. Thank you very much.
13 Now you can bring the witness in.

14 [The witness takes the stand]

15 PRESIDING JUDGE SMITH: You may be seated.

16 We continue now with the Veseli Defence cross-examination,
17 Witness. Mr. Emmerson, to your right, will be asking the questions.
18 Go ahead, Mr. Emmerson.

19 Cross-examination by Mr. Emmerson:

20 Q. Good afternoon. I've really a very limited number of topics I
21 want to cover, and my questions will be, I hope, short and
22 straightforward.

23 First of all, I just wanted to ask you a couple of small points
24 of clarification in relation to Latif Gashi. You've told us
25 something about how Latif Gashi came to be appointed in the zone.

1 Can I ask you just to clarify what happened in relation to
2 Latif Gashi when the conflict came to an end; and specifically, did
3 he remain as your deputy in the TMK for a time?

4 A. He was a member of the TMK for a short time.

5 Q. And do you remember -- after the cessation of hostilities, do
6 you remember an occasion on which you introduced him for the first
7 time to Kadri Veseli after the war?

8 A. I can't recall, but it -- it's fairly likely that I did
9 introduce them.

10 Q. But the key question, I think, here was that you have no
11 recollection of a meeting at which the introduction occurred after
12 the conflict?

13 A. No.

14 Q. What I'd like to move on from there to is the second topic,
15 which is the questions -- some questions related to the relationship
16 between the zone commanders and the General Staff. Were some of the
17 zone commanders more forceful characters than others?

18 A. Their personality or personalities were altered from time to
19 time, but the tasks remained the same.

20 Q. The tasks remained the same. But there were many discussions,
21 weren't there, amongst the zone commanders, and between the zone
22 commanders and Bislum Zyrapi when there were these periodic meetings,
23 about the attitude that the zone commanders had towards the role and
24 conduct of the General Staff?

25 A. Yes, there were numerous discussions.

1 Q. And many of them were critical of the General Staff ; is that
2 fair?

3 A. Yes, we were more demanding.

4 Q. Yes. I mean, you answered some questions for Mr. Misetic about
5 Rambouillet and about orders that you had chosen not to follow.
6 Since the General Staff were only at Rambouillet as your authorised
7 representatives, the authorised representatives of the zone
8 commanders, would you agree, in that context at least, they were your
9 subordinates rather than the other way around? They couldn't reach
10 agreements or make decisions without your authority.

11 A. I can reaffirm that they wouldn't have been able to sign an
12 agreement without asking us.

13 Q. See, in most armed forces structures, the General Staff issues
14 commands to subordinate commanders. You appreciate the normal
15 conventional military structure places the General Staff at the
16 organisational top of the hierarchy. But would you agree with me
17 that during the period we're talking about, that relationship, that
18 power relationship was inverted? It was the other way around.

19 A. We did not reach a point to have an army that would be led by
20 the General Staff, by politicians or civilians. We did not reach
21 that stage of development. It was us who were asked all the time
22 about military matters.

23 Q. Because in reality, you were the men and women, principally men,
24 fighting on the ground; correct?

25 A. Yes.

1 Q. Whereas they were group of people who had no military background
2 at that time, by and large, apart from Bislrim Zyrapi?

3 A. They were people who wanted to coordinate and who wanted to
4 attain the top of the political element, echelon of the Kosovo
5 Liberation Army.

6 Q. And at various points, yourself and other zone commanders
7 objected to decisions that were made by the General Staff, including
8 the appointment of deputy commanders and so forth, because they had
9 no military experience and you wanted experienced military people at
10 the top as commanders of the General Staff; is that fair to say?

11 A. Correct, yes.

12 Q. But is it also right to say that you all thought it was
13 important to project to the internationals that you had ranks and
14 roles that they would recognise, that you were a serious coordinated
15 armed force?

16 A. Yes, we were trying to be one.

17 Q. We'll look at some of the examples in just a minute, but you
18 were very conscious - and by "you," I mean you individually but also
19 other zone commanders - very conscious of the need to be able to
20 point to things about your organisation which would make you appear
21 as a force, an organised armed force to be reckoned with rather than
22 a disorganised non-state armed group. Is that fair?

23 A. Yes, correct.

24 Q. So you collectively would make decisions and give titles and
25 create documents in multiples ways, in multiple directions, designed

1 to create an impression that didn't strictly accord with the facts.

2 Would you agree with that?

3 A. Yes.

4 Q. And in one sense, would you agree, given what you've told us
5 about Rambouillet and other orders that you chose to obey or ignore,
6 and you've told us about the potentially inverted power relationship,
7 in one way would you agree that creating a body which called itself a
8 General Staff was part of that process of impressing on the
9 international community that they were someone they -- or a group of
10 people they could talk to who would have the authority to speak on
11 behalf of the KLA? It was designed to create that impression.

12 A. Yes.

13 Q. Even though, as you've told us, they did not have the authority
14 to negotiate anything on behalf of the KLA and impose it without your
15 prior consent?

16 A. Certainly.

17 Q. Would you agree with my description, therefore, that in a sense
18 the General Staff were a fig leaf? They were something designed to
19 cover a reality which was very different to the impression that was
20 being created.

21 A. Yes, I agree.

22 Q. If we take the example that Mr. Misetic asked you about where
23 you get a direct intervention from the General Staff asking you to
24 change military tactics because there's a lot of international
25 pressure on your forces to move away from positions of the JNA,

1 because it was considered a provocation -- you remember that? You
2 were asked about that document.

3 A. Yes, I do remember. Yes.

4 Q. And it explained how you were also approached directly by one of
5 the international organisations. But I want to focus on the approach
6 that you received from members of the General Staff. Now, you chose
7 to not follow their request. And you said at one point in your
8 evidence, I think it was in relation to Rambouillet: They couldn't
9 have taken action against us even if they'd wanted to.

10 Is that a correct understanding of your evidence, that during
11 1998 and 1999, even if the General Staff violently disagreed with a
12 zone commander about the way in which he was conducting operations or
13 any other aspect in his zone, they had no force behind them, they had
14 no armed force with which they could impose upon you their will?

15 A. That's right.

16 Q. So, I mean, when we see something described as an order of the
17 General Staff, you considered yourself, I think, free to do it or not
18 to do it, is that fair, according to your assessment of the military
19 needs in the zone?

20 A. I have tried to obey them all the time, but there have been
21 occasions where I have ignored them.

22 Q. But is it really an order if you're free to choose between
23 whether obey it or not? I mean, ordinarily in an army, an order
24 requires compliance without second-guessing by a subordinate. Do you
25 think "order" is the right word to describe those things that

1 describe themselves as orders if you're free to just ignore them? I
2 mean, from a military point of view, are they orders or are they
3 requests and suggestions that you're free to adopt or ignore?

4 A. In a regular army, orders are to be complied with. However,
5 even orders, when they reached us at the time, were interpreted as
6 recommendations by us. We believe that we knew the situation on the
7 ground better than the General Staff.

8 Q. Understood.

9 A. And that the General Staff did not have the same degree of
10 knowledge about the situation on the ground.

11 Q. That's an important answer, because I'm going to come back to
12 that in a moment when I ask you some questions about the approach of
13 Ramush Haradinaj towards the General Staff. You say they just didn't
14 have the same knowledge of what the situation was on the ground, and
15 I will come back to that.

16 But was it the same within the zone, though, or was it
17 different? When you gave an order to one of your subordinates, did
18 you consider that they were free to obey or disobey it as they
19 wished? If you ordered one of the subordinates in your zone to do
20 something or to refrain from doing something, was it understood that
21 they must do what you say because it's an order? Or was it everybody
22 did whatever they wanted in your zone?

23 A. We never managed it properly because, luckily, war ended very
24 speedily. However, we were trying to impose order. This does not
25 mean, however, that we managed it.

1 Q. No, I understand that. But when you -- there were practical
2 difficulties. But when you directed one of your senior subordinates
3 to do something, did you expect them to do it?

4 A. Yes, that expectation was there all the time.

5 Q. And they expected that they would be required to do it?

6 A. Yes. Yes, they understood it.

7 Q. And you presumably, therefore, you wouldn't expect one of your
8 senior subordinates to come back to you the following day and say,
9 "Well, I thought about it and I actually am not going to obey that.
10 I'm not going to obey that order because I think I know better than
11 you"? You wouldn't expect that within the zone from your senior
12 commander?

13 A. This was not something that happened as a matter of course.

14 Q. Just to pick up that answer. When you say, "This was not
15 something that happened as a matter of course," can I just put the
16 question to you a different way. Are you saying an order by you as
17 zone commander to, let us say, the deputy zone commander, there the
18 word "order" means an order? It's an order; is that right?

19 A. Yes.

20 Q. It's not a request of the sort that you've described the status
21 of the General Staff.

22 A. It was an order.

23 Q. Yes. But that -- you understand the distinction I'm drawing
24 between the orders that were given at the zone level, which are
25 orders to do something, and what you've described as being requests

1 coming from the General Staff calling themselves orders but they're
2 actually discretionary?

3 A. I understand the difference. However, the war ended before the
4 General Staff was able to acquire the status of a respected hierarchy
5 that would be able to issue orders to its commanders.

6 Q. Exactly. So when you say, "They couldn't order anything or
7 agree anything without our authority," "they," the General Staff,
8 couldn't agree anything without the authority of the zone commanders,
9 it follows that, in effect, they couldn't give you orders; is that
10 right? Because they wouldn't be in a position to enforce them.

11 A. It is clear they couldn't have been able to issue orders because
12 we did not know them. We came to know them very late on. There was
13 no mutual trust like the one that was created later, so they would
14 not have been able to order me to do something against my will. I
15 would have had to be convinced that the order was along the right
16 lines.

17 Q. No, I entirely understand that that was the reality on the
18 ground. It's just that it's not necessarily obvious to everybody in
19 this courtroom how things operated in practice.

20 I want to look at some of the implications of that. I'm going
21 to come back in a minute to a meeting that you attended around the
22 time of Rambouillet to discuss the perceptions you, zone commanders,
23 had about the General Staff. We'll look at the notes from that in a
24 little while.

25 But I want to ask you, you -- there's been quite a lot of

1 mention in your notes and in your testimony so far of
2 Ramush Haradinaj, the commander of the Dukagjin zone through which
3 you passed when you were going to Albania to collect and return
4 weapons. And you told us that when that was happening,
5 Commander Haradinaj would make the facilities of the zone available
6 to you, and so forth. So you knew each other quite well, I think; is
7 that right?

8 A. Yes. From that appointment onwards, we developed a good
9 relationship, which we maintained.

10 Q. Just to give, again, the flavour of the zone commanders' view of
11 the authority of the General Staff, can you summarise for us, as
12 simply as possible, how Ramush Haradinaj thought of the
13 General Staff's visits into his zone and other zones? What did he
14 say at meetings, what did he say out of meetings about the
15 General Staff and their authority versus the zone commanders and
16 their authority? Did he have views on that subject, and if so, what
17 were they?

18 A. I have difficulty expounding on his views because we did not
19 show the requisite amount of respect for members of the
20 General Staff. I don't want to -- to zero in on one of us
21 personally, but that's --

22 Q. Generally speaking, you did not -- the zone commanders did not
23 show the requisite amount of respect for the General Staff. Now, I'm
24 not singling anybody out other than that there's been a trial in
25 relation to the Dukagjin zone, so things are known on the public

1 record about that.

2 But Ramush Haradinaj, for example, he thought that the
3 General Staff were not really contributing, didn't he? He believed
4 that he was the man with the guns, and he was a strong leader, had a
5 great deal of popular support amongst people in his area of Kosovo,
6 and he didn't really feel that the General Staff contributed much to
7 his part of the war effort, did he?

8 A. You've put it right.

9 Q. I mean, he regarded himself as, effectively, completely
10 independent of the General Staff, didn't he?

11 A. To be frank with you, that applied to every one of us.

12 Q. You all regarded yourselves, all zone commanders regarded
13 themselves as completely independent of the General Staff?

14 A. Almost all of us.

15 Q. Now, I wasn't at the meetings, but would you agree with me that
16 Ramush Haradinaj was somebody who expressed that disdain for the
17 General Staff in very clear terms?

18 A. You may describe it like that.

19 Q. Not just to the other zone commanders but to the General Staff
20 themselves; is that right?

21 A. Yes.

22 Q. And do you remember a meeting where Bislim Zyrapi convened a
23 meeting of the zone commanders around -- shortly before or around the
24 time of Rambouillet where the first speaker was Ramush Haradinaj, and
25 he -- it was -- mounted a big attack on the General Staff for

1 appointing academics like Jakup Krasniqi rather than soldiers? Do
2 you remember that meeting? It might help you if I say he began his
3 speech by spraying the ceiling with an automatic weapon to get
4 everybody's attention. Do you remember that occasion?

5 A. I do.

6 Q. I imagine it's not something you'd forget. Did he have a name
7 that he used, a -- not a name. Did he have a term -- do you remember
8 the term that he used to use regularly to describe the General Staff
9 in relation to the real fighters on the ground? One particular term
10 that he used to use?

11 A. I don't want to spend time talking about this issue, but there
12 have been many occasions where we have shown disdain for them. There
13 have been occasions when we've forced them out of the meetings.

14 Q. Ramush Haradinaj used to describe them as tourists, didn't he?
15 Do you remember that?

16 A. I do remember, but I don't want to talk about it.

17 Q. I'm not going to press you any further on that, but I am going
18 to look at the minutes of one meeting where you've said some things
19 with Ramush Haradinaj, if you don't mind, because they're in the
20 evidence anyway.

21 Okay. So can we look, then, just at some of the comments you
22 made to the SPO when they interviewed you about this, this topic,
23 where it arose in your interview. Just two or three passages I want
24 to put to you and then invite you to comment or confirm.

25 MR. EMMERSON: Now, the way I propose to do this, unless anybody

1 objects, is to give the ERN and then read -- just simply go on to
2 read the passage and allow it to be translated. They're not very
3 long passages. If anybody objects and thinks it's necessary to bring
4 up each of the English and Albanian excerpts, please say so. But as
5 we're essentially following the same practice that the Prosecution
6 used.

7 So the first passage, the reference is 082894-TR-ET Part 10,
8 page 5, line 25, and then on to the following page. The Albanian,
9 obviously, has the same number, but there is a revised Albanian which
10 is the same reference TR-ET, Part 10 Revised, page 6, line 23.

11 Q. You were asked by Mr. Carney, who was questioning you, I think,
12 about the evidence that the General Staff had sent out a message that
13 zone commanders should have one identifiable detention facility
14 rather than, I think, multiple facilities.

15 MS. LAWSON: Your Honours, objection. I'd just ask counsel to
16 please -- if he starts reading, to please read from line 19. It
17 doesn't refer to a message.

18 MR. EMMERSON:

19 Q. Oh, I'm sorry. Let me read the actual question to which you're
20 responding. It's the response I'm interested in.

21 The end of the question is:

22 "... the General Staff had ordered that the detention site be
23 established ..."

24 MR. EMMERSON: One of the problems, as you know, about this
25 interview, Your Honours, is that it's full of questions that are to

1 some extent leading and sometimes misleading. And the question is
2 not evidence --

3 MS. LAWSON: Your Honours, objection again. There is no need to
4 characterise the interview in order to pose the question he wants to
5 put.

6 MR. EMMERSON: No --

7 PRESIDING JUDGE SMITH: [Microphone not activated]

8 MR. EMMERSON: Yes, exactly.

9 Q. "... the General Staff had ordered that the detention site be
10 established to detained collaborators in the zone; correct?"

11 You were asked. And you answered:

12 "Yes. Yes. I'm just trying to tell you that what had the most
13 effect or influence over what we did was the needs, the circumstances
14 and the ambient that we were in. That affected us more than any
15 order from the General Staff. I have lots of orders from the
16 General Staff that I never put into practice. I couldn't.

17 "And also for this one, if the conditions weren't such that I
18 believed" -- it says, "I believed achieve it, I wouldn't have
19 achieved it. We came to a point that something had to be done, and
20 we did the best [thing] that we could at that time."

21 Is there anything about that statement of your attitude towards
22 General Staff orders, bearing in mind how you've described them
23 already as requests, is there anything in that answer that you would
24 like to change or add or amend?

25 A. No, I don't have anything else to add.

1 Q. Two further passages, if I may.

2 MR. EMMERSON: 082894 Part 2, page 8, line 12.

3 Q. You're being asked about the KLA regulations on discipline. And
4 the question reads:

5 "But you'll agree that the regulations, in essence, speak of the
6 KLA as being run on strict hierarchal lines, like a normal army?

7 "A. No.

8 "Q. You don't agree that those regulations say that?

9 "A. So it's true that the regulations say so. But during the
10 whole time, we were trying to implement the regulations. And, in
11 fact, even at the end of the war we were still consolidating
12 ourselves. We couldn't manage to realise these regulations. There
13 wasn't a single unit ..."

14 And then there's some undecipherable speech.

15 "There wasn't a single unit that fell ... but it was our mission
16 to implement the regulations."

17 Do you stand by the statement that what is said in the
18 regulations was never, in fact, implemented until -- before the end
19 of the war? Is that your position?

20 A. Yes, I stand by my statement.

21 Q. Similarly, in relation to the KLA provisional regulations for
22 the life of the army. I think it's described as the organisation of
23 the army's internal life.

24 MR. EMMERSON: This is ERN 082894 Part 2, page 11, line 10.

25 Q. Your answer, when asked about them is:

1 "Yes, and we were trying to implement these. But I am telling
2 you that the war found us still trying to consolidate without having
3 achieved it. We had better fortune than we thought we would. We had
4 the assistance of our friends very quickly.

5 "In the zone where I was commanding, there was very little time
6 that it was an active zone. The international forces intervened
7 immediately, first of all as an intervention team, and then
8 immediately after that as an attacker. But we never had the
9 opportunity to systemise ourselves ..."

10 Again, is there anything that you would wish to add or amend in
11 relation to that?

12 MR. EMMERSON: Oh, I'm sorry. I do apologise. My quote has
13 been cut off. I'm going to read the last sentence again:

14 Q. "But we never had the opportunity to systemise ourselves like it
15 was written in the regulations."

16 MS. LAWSON: And I'd ask counsel to please continue to line 21.

17 MR. EMMERSON: Give me a moment.

18 Q. "But I do admit that we had the objective to achieve what was
19 set out in the document, and we worked daily to achieve that."

20 So my question is as before: Is there anything you would like
21 to change about that answer?

22 A. I stand by my statement at the time.

23 Q. So if I understood these various answers that you gave the SPO
24 collectively, you seem to be saying that, of these documents, you
25 tried to do what you could in the circumstances, but like orders from

1 the General Staff, they were partly complied with and partly not
2 complied with because you couldn't systemise it in time; is that
3 right?

4 A. Correct.

5 Q. Now, I want to move on to another topic on this point. And it
6 concerns a series of meetings in Kosovo and conversations in Kosovo
7 about the conduct of the General Staff at around this time.

8 MR. EMMERSON: And I'm going to start with the records of a
9 meeting that the Prosecution has disclosed and deduced as, I think
10 it's now P182, at page, if we're calling it up, SPOE00226397. It's a
11 long exhibit, but this is one meeting within the exhibit that I'd
12 like to pay some attention to.

13 Could we call that document up, please. This is translated from
14 an original manuscript note, and as you will see when it comes up in
15 the bottom left, it's translated by the Special Prosecutor's Office.

16 THE COURT OFFICER: If I can have everyone's indulgence, the
17 computer is a bit ...

18 MR. EMMERSON: I'm sorry, could you --

19 THE COURT OFFICER: If I can have your indulgence for moment,
20 please.

21 MR. EMMERSON: Of course.

22 THE COURT OFFICER: Thank you.

23 MR. EMMERSON: Do we have the Albanian as well? Brilliant.

24 Q. So, as you see, on the left-hand side, handwritten notes of a
25 meeting between four of the zone commanders and two representatives

1 of the General Staff, and you described to us that there were a
2 series of meetings at various times where the zone commanders
3 consulted or met with the General Staff. And I think it was being
4 suggested to you at one point by the SPO that these were meetings
5 where the zone commanders were reporting to the General Staff what's
6 going on in their zone. And I just want to just look at this one
7 with you.

8 I think as we go through it you may -- it may prompt your
9 memory. This is the meeting at which Mr. Haradinaj began his speech
10 by discharging an automatic weapon in the direction of the ceiling to
11 get, I suppose, the attention of Mr. Zyrapi and Mr. Selimi, because
12 they were the only other people who weren't zone commanders there,
13 apart from the deputies of the various zone commanders, of course.

14 Now, we see the date is 6 February. The attendees are Ramush
15 Haradinaj, yourself, Ekrem Rexha -- I think that's Drini; is that
16 correct?

17 A. Correct.

18 Q. And Sylejman Selimi. Now, just to put this in context, you
19 then have Rexhep Selimi and Bislum Zyrapi representing the General
20 Staff and the -- obviously this is at the -- in connection, amongst
21 other things, with the reaction of the zone commanders to the change
22 of personnel in the General Staff as a result of the agreement to go
23 to Rambouillet the first time and, in particular, the appointment of
24 Sokol Bashota and Jakup Krasniqi as deputy commanders, because the
25 zone commanders all thought that there should be military men in

1 these sorts of positions. That's the context as you'll see as we go
2 through.

3 MR. EMMERSON: So if we can just -- I'm going to go through the
4 first few pages one after the other, Madam Court Officer, if we may.
5 So if we can just turn over to 6398 first of all. It's just a brief
6 summary of some of the topics --

7 MS. LAWSON: Your Honours, just in terms of the summary that
8 counsel provided there. I don't believe there's an evidential basis
9 to say that there was a change in personnel as a --

10 MR. EMMERSON: No, there isn't yet --

11 MS. LAWSON: -- result of the --

12 MR. EMMERSON: -- but there will be as --

13 MS. LAWSON: -- agreement to --

14 MR. EMMERSON: -- we go through the document.

15 MS. LAWSON: -- go to the --

16 MR. EMMERSON: There will be as is it -- it's clear on the
17 document.

18 PRESIDING JUDGE SMITH: Could you finish first.

19 MS. LAWSON: I don't believe it was accurate to say that there
20 was a change of personnel in the General Staff as a result of the
21 agreement to go to Rambouillet the first time.

22 MR. EMMERSON: Very well. Well, we'll look through the document
23 and matters will emerge.

24 Q. So there's a list of topics that Mr. Haradinaj raises initially.
25 There's a reference there in the notes to Sokol Bashota saying that

1 he doesn't trust the KLA leadership. Presume -- well, I won't give
2 evidence about that. And there's a reference to:

3 "The promotion of Jakup Krasniqi from spokesperson to Deputy
4 Commander."

5 Hence, the reference to change of status.

6 And he then says:

7 "I am ready to speak in public about my view on the war ..."

8 And it says the following notice:

9 "He reads from a paper? - which is then deposited with the
10 General Staff."

11 Now, do you recall on that occasion Mr. Haradinaj made quite a
12 lengthy speech from a piece of paper which he then left with the
13 General Staff as his comments and concerns?

14 A. Yes.

15 Q. If we go over the page to 6399, you're the next to speak,
16 Mr. Mustafa. And the first thing that you do is to say:

17 "In all operational areas we are facing similar problems. I
18 fully support what Ramush said in his speech."

19 There's then a passage which has to do with funding and
20 financing, and there are various other issues referred to there. But
21 if we go over the page, this is still in your part of the minutes, to
22 6400, the last two entries there are:

23 "I," that is you, "propose Bislrim Zyrapi for the post of KLA
24 Commander."

25 He was at that time chief of staff; is that right?

1 A. That's right.

2 Q. But you were proposing that, as a military man, he should be at
3 the apex of the hierarchy; is that right?

4 A. Yes.

5 Q. Because if that happened, then you'd have a military man issuing
6 orders rather than a group of civilians; is that right?

7 A. Yes.

8 Q. And you make it clear that you personally -- it says:

9 "Personally, I do not have any ambition for any posts."

10 But, in fact, am I right in saying that Bislim Zyrapi was then
11 promoted, is that right, after this meeting?

12 A. We can put it this way.

13 Q. And then you make the observation:

14 "We and the General Staff are all responsible for this
15 situation. We will not keep silent" --

16 MS. LAWSON: Your Honour, I would like to clarify that point,
17 the reference to Bislim Zyrapi being promoted after the meeting.

18 MR. EMMERSON: It was a question and an answer. It's on the
19 transcript.

20 Q. "We and the General Staff are all responsible for this
21 situation. We will not keep silent any longer!"

22 When you said, "We will not keep silent any longer," can you
23 remember what it was you weren't going to keep silent about anymore?

24 A. I don't know the context in which I said this, but it meant
25 certainly that we would be more vocal about our objectives. That we

1 would be more vocal about our objectives.

2 Q. Well, you see, you then go on, over the next page, for you to
3 identify two of your concerns at 26401, and the first one is that:

4 "The Intelligence Service (SHI) cannot look after the army from
5 abroad."

6 "The Intelligence Service (SHI) cannot look after the army from
7 abroad."

8 Clearly that was a concern of yours, that some aspect of
9 intelligence was being conducted from abroad but that it was of no
10 use to the army inside Kosovo. Do you remember that concern?

11 A. I don't -- I'm not able to say now exactly what I meant when I
12 spoke about the security service, but I always -- my position was
13 always that people involved in the Kosovo Liberation Army should be
14 on the ground. I did not want people to represent the Kosovo
15 Liberation Army from abroad.

16 Q. When you say you didn't want them to represent the Kosovo
17 Liberation Army from abroad, do you mean by that that -- leaving
18 Rambouillet aside, which is an issue of diplomatic representation,
19 looking at the first part of your answer, are you saying that people
20 who claim to have a role in the General Staff should be inside Kosovo
21 if they're going to perform their roles effectively? Is that your
22 complaint at the time?

23 A. That's correct.

24 Q. And you didn't think that the intelligence service was in that
25 category of being inside Kosovo looking after the army?

1 A. I am not certain what I was referring to exactly at the time.

2 Q. And if we look at the second area of concern on that page,
3 you're reiterating the need that a commander level in the
4 General Staff should be a professional:

5 "I think we should appoint a professional as Commander ..."

6 I presume that means professional soldier rather than a doctor
7 or a lawyer?

8 A. This is how I thought it.

9 Q. Yes. And then it says that -- what are the next words in
10 Albanian? When a general -- soldier has been appointed -- there
11 isn't one now, but when the General Staff is being commanded by a
12 soldier, what do you say after that?

13 "I think we should appoint a professional as Commander ..."

14 Could you give us in the Albanian the next bit? Perhaps you
15 read the whole of that last point out in Albanian. It can be
16 translated. Oh, is it difficult to read in the Albanian? Let's just
17 see.

18 A. It's difficult to read. It's barely legible. I cannot read the
19 entire text, handwriting.

20 Q. All right. And the translation that it's been given is:

21 "I think we should appoint a professional as Commander, who
22 should be accountable to us."

23 Is what the translation that the Prosecution have given to it.
24 So they've, obviously, concluded that that is its meaning. Now, can
25 I ask you, would you then, at that time, have regarded it as

1 necessary for any military commander who was appointed to the
2 General Staff to thereafter be accountable to the zone commanders?

3 A. We wanted and we thought ourselves with the chief of the
4 General Staff, including Commander Selimi when he came to visit us,
5 so we altogether were the circle consisting or composing the
6 General Staff. We wanted to complete these positions.

7 We viewed the other people as being at the political level. The
8 chief of staff, the zone commanders, and the future commander would
9 compose the General Staff of the Kosovo Liberation Army.

10 Q. Very well. If I asked you to look at the text -- it's not your
11 handwriting. But if I ask you to look at the text, is the Albanian
12 word for "accountable" in that text? "Accountable to us"? As far as
13 you can --

14 A. Last -- yes, the last sentence.

15 Q. Can we just hear those words in context so it can be translated
16 by the interpreter?

17 A. We think to have -- to have -- to be able, have the possibility,
18 to keep him under control. Our control.

19 Q. Thank you. Now if we look further -- so it -- that was your
20 view at the time, was it?

21 A. I thought the word "control" -- I don't know how it's
22 interpreted now, but what I meant was a person who had demonstrated
23 his abilities on the ground, who was one of us in the war, and
24 somebody we could trust. This is what I thought at that time.
25 Although the word "control" can be interpreted in different manners,

1 this is what I thought exactly at that time.

2 Q. That's very helpful as far as it goes. When you say "one of
3 us," who are the -- when you say "one of us" or "one of them," what
4 is the distinction? "One of us" I'm taking means one of the senior
5 military people; is that right?

6 A. Someone from the fighters on the ground, who has experience, who
7 has demonstrated being loyal, who is faithful to the mission to
8 liberate the country.

9 Q. Somebody who is brave under fire; is that right?

10 A. Someone who has been tested.

11 Q. Exactly. And presumably also someone who would know the
12 conditions on the ground, know what was being done, how things were
13 happening.

14 A. Certainly, yes. Yes.

15 Q. Whereas the remaining members of the General Staff you thought
16 didn't know what was happening on the ground. Is that correctly
17 understood?

18 A. This is how we viewed it at that time.

19 Q. And on the notion of were you all reporting to the
20 General Staff, leaving aside the strong language and the firearm
21 display at the beginning of the meeting.

22 MR. EMMERSON: Can we turn to page 640 -- just give me one
23 moment. First of all 6402. This is the introduction of the
24 contribution by Sylejman Selimi. So he's referring to changes in the
25 General Staff, and that's in answer to the question I was posed

1 earlier on.

2 Q. At the second point, so 6402, yes:

3 "The appointments," he says, "that have been made," so this is
4 after they've been made, "in the General Staff are a matter of
5 concern. (Sokol Bashota and Jakup Krasniqi). I think Sokol Bashota
6 is not up to the job of the Deputy Commander."

7 Why do you think he thought that? Was that a general view
8 amongst the zone commanders that Sokol Bashota was not up to the job
9 of a deputy commander?

10 A. This is how we thought it at the time.

11 Q. But, as you say -- as he says, sorry, in the last sentence
12 there:

13 "The General Staff has ignored the requests we have made about
14 this ..."

15 Do you see that passage? The very last sentence.

16 A. Yes.

17 Q. Yes.

18 A. Yes. I know.

19 Q. So the General Staff wanted who? Who was it the
20 General Staff -- I'm sorry, I do apologise. Slip of the tongue. Who
21 was it the zone commanders -- who did the zone commanders want --

22 A. [Overlapping speakers] ...

23 Q. No, I'm sorry. You've answered the question --

24 THE INTERPRETER: Can -- can --

25 MR. EMMERSON:

1 Q. -- that I mistakenly asked. Let me put the --

2 THE INTERPRETER: Can the witness be asked to repeat his answer,
3 please.

4 MR. EMMERSON: Yes, I think I need to repeat the question
5 because I asked it the wrong way around.

6 Q. Who was it that the zone commanders wanted to see appointed as
7 deputy commander?

8 A. I don't remember.

9 Q. Very well. But looking at Sylejman Selimi's contribution and
10 the fact that he says that "the General Staff has ignored the
11 requests we," that is the zone commanders, "made," one gets the
12 impression from your testimony and this note that the situation is
13 this: A so-called order from the General Staff is treated as a
14 request by the zone commanders. And despite the fact that the zone
15 commanders are really in charge, the General Staff is ignoring a
16 request by the zone commanders. Is that the actual position then as
17 it was in February?

18 MS. LAWSON: Your Honours, that was a very compound question.

19 THE WITNESS: [Interpretation] I know there were problems. I
20 know we had issues, problems. But there were so many developments
21 that I do not recall the details now.

22 MR. EMMERSON:

23 Q. Very well. And then I just wanted to turn, I think, to the last
24 two pages of this meeting.

25 MR. EMMERSON: If we could look at 6404, which is a continuation

1 of the Sylejman Selimi contribution, second section or second
2 paragraph.

3 Q. He says:

4 "If we cannot find a common language with the General Staff,
5 then there is no point in us meeting the future! Many obstacles come
6 from [various places]. "And it is not that they don't work, but they
7 lack the professional skills."

8 So, first of all, does that reflect the general view of the zone
9 commanders? There was no adequate common language between them and
10 the General Staff?

11 MS. LAWSON: Your Honour, I believe it would be helpful for him
12 to specify the quote where it says:

13 "Many obstacles have come from ..."

14 Because there's specific names given there. It doesn't say
15 "various sources."

16 MR. EMMERSON: Dopa and Plaku. Dopa and Plaku.

17 Q. But the question I was asking, in fact, was did the zone
18 commanders at that time think that there was an absence of a common
19 language, a common way of doing things, a common view, between them
20 and the General Staff?

21 A. Yes, this was clear that we didn't have a common voice and that
22 there were incompatibilities.

23 Q. And was he saying, was Mr. Selimi, that unless they start
24 listening, as far as I -- I'm going to suggest to you, unless -- his
25 statement was: Unless they start listening to us, I'm going to stop

1 coming to these meetings. We shouldn't meet with them anymore.

2 Do you see that?

3 A. Yes, I know.

4 Q. Was that -- again, was that also a concern among the zone
5 commanders, that, frankly, these meetings were a bit of a waste of
6 time?

7 A. Yes, it was an issue of great concern.

8 Q. So these were not -- I mean, we look at the minutes. There's
9 nothing of any detail at all in these minutes about detention centres
10 or about specific -- there's occasionally a reference to a specific
11 operation. There's one reference to an individual who'd been
12 detained. But by and large, these do not seem to be reports passing
13 information from the zones to the General Staff but rather a
14 hammering out at the high policy level of who is really in charge
15 here. Is that fair?

16 A. Counsel, I have said it many times. The detention of people was
17 not an issue at stake as far as we were concerned.

18 Q. Thank you. We'll leave that there.

19 Now, that's 6 February. I want to ask you about a detail
20 arising in connection with an intercepted telephone call between
21 yourself and Adem Demaci.

22 MS. LAWSON: Your Honour, there's an issue regarding the
23 classification of material, and I would request that we do this in
24 private session.

25 MR. EMMERSON: Absolutely.

Witness: W04746 (Resumed) (Private Session)

Page 5790

Cross-examination by Mr. Emmerson

1 Can we go into private session for that question, please.

2 PRESIDING JUDGE SMITH: Please take us into private session.

3 [Private session]

4 [Private session text removed]

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04746 (Resumed) (Private Session)

Page 5791

Cross-examination by Mr. Emmerson

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04746 (Resumed) (Private Session)

Page 5792

Cross-examination by Mr. Emmerson

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04746 (Resumed) (Private Session)

Page 5793

Cross-examination by Mr. Emmerson

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04746 (Resumed) (Private Session)

Page 5794

Cross-examination by Mr. Emmerson

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04746 (Resumed) (Private Session)

Page 5795

Cross-examination by Mr. Emmerson

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Witness: W04746 (Resumed) (Private Session)

Page 5796

Cross-examination by Mr. Emmerson

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9 [Open session]

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

11 MR. EMMERSON: Thank you very much.

12 Q. Just for the sake of the record, I'm showing you now document
13 P227. It's a fragment of a record of individuals who attended a
14 meeting, which includes yourself, between Rambouillet 1 and
15 Rambouillet 2. It's not dated, the document that we have. But it
16 must, therefore, be between the end of Rambouillet 1 and the start of
17 Rambouillet 2, because it's -- the nature of the discussion is
18 about -- if you see halfway down the second paragraph:

19 "The GS is in favour of /saying/ yes to the agreement. This is
20 based on the positive opinions held in the army, various Albanian
21 State forums, opinions held by Albanian personalities with the
22 authority in the political and social domain as well as the influence
23 by various international mechanisms."

24 MS. LAWSON: Your Honour, if I recall correctly, the witness was
25 unable to confirm what this related to when it was put to him on

1 direct.

2 PRESIDING JUDGE SMITH: [Microphone not activated]

3 MR. EMMERSON: I'm sorry, could you --

4 PRESIDING JUDGE SMITH: That's correct.

5 MR. EMMERSON: I'm just looking at Ms. Lawson's comment.

6 No, I'm -- in a moment, I'm going to try to just clarify a
7 question on the list of attendees. This is simply about an idea of
8 the date.

9 PRESIDING JUDGE SMITH: Well, he ought to identify it first, but
10 if he can't -- well, go ahead.

11 MR. EMMERSON: Well, he --

12 PRESIDING JUDGE SMITH: We'll let you hook it up later.

13 MR. EMMERSON: Yes. I mean, I think, as we can see from the
14 original, Mr. Mustafa's signature is on the document as one of the
15 attendees.

16 Q. If you look -- if you just bring up the signatures and the
17 names, you will see, I think, Mr. Mustafa, your name and signature as
18 one of those who were present at this meeting.

19 A. Yes, I see it.

20 Q. And you can see also that Kadri Veseli was present at the
21 meeting.

22 A. That's what I see written down there.

23 Q. But there were also individuals present who had been part of the
24 Rambouillet delegation, like Mr. Thaci. Yes?

25 A. Yes.

1 Q. So now I want to put that in the context, if I may, of what
2 you've told us about your interactions with Mr. Veseli, because you
3 gave evidence -- bearing this document in mind. You gave evidence in
4 your testimony in chief on 13 July. You were asked the following
5 questions.

6 MR. EMMERSON: It's page 21, line 14, for those following.

7 Q. Question from Ms. Lawson:

8 "What was Kadri Veseli's role in the General Staff?

9 "A. I knew and respected him. I knew he was in the
10 General Staff. However, I know him a lot less than the others we've
11 been discussing here. I am not sure that I was aware of his -- of
12 what position he held during the war. After the war, a lot has
13 emerged that may affect the way I -- I think now of what I thought at
14 the time. I don't think we've ever discussed his position, so
15 there's nothing to say."

16 So looking at those documents together for a moment -- or
17 looking at that document in the light of your testimony, can we just
18 glean one or two propositions.

19 First of all, you've told us you knew Mr. Veseli much less well
20 than the others that you've mentioned on the General Staff; correct?

21 A. Yes, correct.

22 Q. And he wasn't somebody who attended your zone at any time, to
23 your knowledge, whilst you were zone commander?

24 A. As far as I know, he never came.

25 Q. And generally speaking, he wasn't at the meetings of the

1 General Staff when the zone commanders went to see them, was he?

2 A. Yes.

3 Q. Now, is it right -- because you mentioned the time of
4 Rambouillet in your testimony earlier. Can I ask you specifically:
5 Do you remember a meeting at which Mr. Veseli was present between the
6 end of Rambouillet 1 and the beginning of Rambouillet 2?

7 A. Yes, I do remember that we met.

8 Q. And is that the only time that you met Mr. Veseli at a meeting
9 with the General Staff and others?

10 A. I think so.

11 Q. So that might help us to identify the document and -- which has
12 both your signatures on it, as a document that was written at that
13 time. Would you agree?

14 A. I do not recognise this document, but there is no reason for me
15 to object to it.

16 Q. Yes, I'm -- it's simply a question of establishing that since
17 that's the only time you met each other in the context of official
18 business, it must be that meeting, mustn't it?

19 MS. LAWSON: Your Honour, that wasn't what the witness
20 confirmed.

21 THE WITNESS: [Interpretation] Yes.

22 MR. EMMERSON: Sorry --

23 THE WITNESS: [Interpretation] Yes, I think so.

24 MR. EMMERSON: Sorry --

25 PRESIDING JUDGE SMITH: [Microphone not activated]

1 MR. EMMERSON: Yes, in fact, he said "I think so" before as well
2 as. So he did affirm it. If there's something I've got wrong, of
3 course, Ms. Lawson should correct me.

4 MS. LAWSON: It was just the phrasing of the question. The
5 prior question did not relate to any contact on official business.
6 You were referring to specifically General Staff meetings.

7 MR. EMMERSON: Oh, well, there -- "official business" is perhaps
8 better for my purposes than the narrower formulation. So we now, as
9 you say, Your Honour, have a confirmation on that basis.

10 Would that be a convenient moment to break?

11 PRESIDING JUDGE SMITH: Yes. And we aren't hurrying you. We
12 just need to break for that purpose, yes.

13 MR. EMMERSON: Yes, yes.

14 PRESIDING JUDGE SMITH: You still have some more
15 cross-examination?

16 MR. EMMERSON: For Monday, yes.

17 PRESIDING JUDGE SMITH: Okay. All right.

18 Madam Usher, you may escort the witness out.

19 Thank you for being with us all week. We will see you again
20 Monday morning at 9.00. Thank you.

21 [The witness stands down]

22 PRESIDING JUDGE SMITH: Mr. Roche, you had a presentation to
23 make?

24 MR. ROCHE: Thank you, Your Honour. In relation to the
25 possibility of the Registry facilitating a videolink for

1 Witness 4586, the short answer is yes, we can facilitate that. We
2 have the arrangements in place. If there are any specific issues
3 that you would like me to expand upon, I can. But, really, we are
4 able to facilitate it without any difficulty. Thank you.

5 PRESIDING JUDGE SMITH: Thank you very much.

6 We have an oral order authorising the video-conference testimony
7 for 4586 which I will read into the record.

8 In F01672, the SPO requested the Trial Panel to authorise the
9 testimony of Witness 04586 to take place by video-conference. The
10 SPO submitted that granting the request for video-conference
11 testimony would be beneficial for the witness, would allow for
12 efficiency in the conduct of the proceedings, and would not be
13 prejudicial to or inconsistent with the rights of the accused.

14 The Defence did not oppose the SPO's request.

15 At the outset, the Panel recalls that while video-conference
16 testimony should not be considered only on an exceptional basis, the
17 presence in the courtroom of a witness during testimony remains the
18 preferred option.

19 The Panel considers that Witness 04586 is a reserve witness and
20 that the need for this witness to testify next week has arisen only
21 today as a result of the parties' realisation that the testimony of
22 04746 will be concluded earlier than estimated.

23 The Panel recalls that due to the nature of reserve witnesses, a
24 degree of flexibility is required when matters arise concerning their
25 scheduling. The Panel also considers the witness's age, the concerns

1 over the witness's psychological well-being, if the witness were
2 required to travel, and the fact that the Defence did not oppose the
3 request for video-conference testimony.

4 The Panel is satisfied that allowing the witness to testify via
5 video-conference would not result in undue prejudice to the accused
6 as the Defence will remain able to cross-examine the witness. And
7 Witness 04586 testifying via video-conference, therefore, does not
8 impede the Defence's ability to confront Witness 04586.

9 Having carefully considered the SPO's request and the Defence's
10 responses, the Panel is satisfied that the SPO has established that
11 the circumstances warrant allowing reserve Witness 04586 to testify
12 via video-conference. The Panel is satisfied that this will not
13 cause prejudice to the accused and will contribute to the fair and
14 expeditious nature of the proceedings.

15 For these reasons, the Panel authorises Witness 04586's
16 testimony to take place via video-conference link in accordance with
17 Rule 144.

18 And this concludes the Panel's order.

19 Anything else from anybody?

20 MR. ROBERTS: Merely a further update, Your Honour, and a
21 further reduction on estimated time for cross-examination of this
22 witness. I would now update it to a maximum of two hours.

23 PRESIDING JUDGE SMITH: [Microphone not activated]

24 MR. ROBERTS: Thank you.

25 MR. EMMERSON: [Microphone not activated]. I'd prefer not to

1 give a firm estimate. My overall estimate was under two hours, and
2 I'm about an hour and a half in, so ...

3 PRESIDING JUDGE SMITH: Okay. Thank you.

4 MS. ALAGENDRA: We anticipate to be shorter as well,
5 Your Honours.

6 PRESIDING JUDGE SMITH: Thank you.

7 Anything from the Prosecution before we leave?

8 Mr. Laws, anything from you?

9 MR. LAWS: No, thank you, Your Honour.

10 PRESIDING JUDGE SMITH: All right. We are adjourned. Thank you
11 all for this long week. We will see you Monday morning. Hopefully I
12 can talk.

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

12

13

14

15

16

17

18

19

20

21

22

23

24

25