

1 Thursday, 14 September 2023

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

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

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

11 PRESIDING JUDGE SMITH: Thank you.

12 Good morning, everyone. Today we continue with the  
13 cross-examination of Witness 3724.

14 Before I start, can I confirm whether there's any last-minute  
15 changes to the estimated time?

16 Mr. Roberts?

17 MR. ROBERTS: No, Your Honour. I think I should still be around  
18 about an hour this morning.

19 PRESIDING JUDGE SMITH: Thank you.

20 Mr. Ellis?

21 MR. ELLIS: We are fourth with this witness again, and I think  
22 probably an hour or less.

23 PRESIDING JUDGE SMITH: Okay. All right.

24 Mr. Emmerson.

25 MR. EMMERSON: No changes to my estimate.

1           PRESIDING JUDGE SMITH: You're finished.

2           MR. EMMERSON: Sorry?

3           PRESIDING JUDGE SMITH: Nothing. Go ahead.

4           MR. MISETIC: I anticipate 30 to 45 minutes. 30 to 45 minutes,  
5 Mr. President.

6           PRESIDING JUDGE SMITH: I'm sorry, Mr. Emmerson. I couldn't  
7 quite hear you.

8           MR. EMMERSON: There is no change to my estimate, which is 90  
9 minutes.

10          PRESIDING JUDGE SMITH: Okay. It would be very helpful if we  
11 could finish this witness today so he doesn't have to wait a week to  
12 finish up, so try to organise yourself towards that end.

13          After next week, we will have three more weeks of court time.  
14 Would the SPO, please, by close of business tomorrow, provide us with  
15 a list of witnesses in order for that three-week block of hearings.

16          MS. MAYER: Absolutely, Your Honour.

17          PRESIDING JUDGE SMITH: All right. Thank you.

18          There appears to be nothing else but to begin.

19          So, Madam Court Usher, you may please bring in the witness.

20          MS. MAYER: I did just want to follow up on one thing,  
21 Your Honour. And that is the discussion we had at the end of  
22 yesterday where Mr. Emmerson made a request to reclassify the legal  
23 discussion about the Rule 143 ruling of the Panel.

24          We have conferred. I believe we have an agreement. We just  
25 want to make sure that we have the proper transcript page cites and

1 line cites for any redaction within the reclassified public document.

2 [The witness takes the stand]

3 MS. MAYER: We'll have that for you after the next break.

4 PRESIDING JUDGE SMITH: [Microphone not activated]

5 THE WITNESS: Good morning, Your Honour, Court.

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 We are ready to continue with your cross-examination at this  
8 time. Mr. Roberts will continue as he began yesterday.

9 You are still under the obligation to tell the truth as set out  
10 in your solemn declaration that you recited yesterday.

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

17 Speak into the microphone and wait five seconds prior to  
18 answering. You were doing a good job of that yesterday, so continue.  
19 We'll try to get everybody else to do that as well.

20 If you feel the need to take breaks, make an indication and an  
21 accommodation will be made.

22 Go ahead, Mr. Roberts.

23 MR. ROBERTS: Thank you, Your Honour.

24 WITNESS: W03724 [Resumed]

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

1 Q. Good morning, Witness. I hope you're well rested. We were  
2 discussing yesterday your comments in your SPO statement on the level  
3 of organisation of the KLA. And in your statement at paragraph 20,  
4 I'm just going to quote it, don't need to put it on the screen:

5 "'General' was the only military rank which I heard used in  
6 relation to the KLA, and only in respect of Drini, and they did not  
7 use badges of rank, but I had -- but I was clear that they had a  
8 hierarchical command system."

9 I think I quoted that to you yesterday.

10 "Indeed, they were keen to be seen as an organised Army which  
11 operated openly, in uniform, within the territory which it  
12 controlled."

13 Do you recall saying that to the SPO?

14 A. Yes, I do.

15 Q. And why were they so keen to be seen as organised in your view?

16 A. Perhaps for two reasons. One is to -- for the KLA to present  
17 themselves in the best possible light to international organisations,  
18 including ourselves, the KVM, and but also internationally and in  
19 Washington and London and Berlin and so on. So the greater  
20 organisation that they could present, or a picture of organisation,  
21 the more effective their relationships would be.

22 Q. Just, sorry, to interrupt you there, and we'll get to the second  
23 point in a minute, but was the purpose behind that to encourage those  
24 states to assist or intervene on the side of the KLA? Was it a  
25 public relations exercise, if I could give that terminology?

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1 A. I think --

2 MS. MAYER: Objection, foundation. I think he's asking for what  
3 the KLA's purpose was, and I'm not sure this witness has that  
4 knowledge.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 Your objection is overruled.

7 Go ahead with your question -- or your answer, whichever.

8 Maybe repeat the question, Mr. Roberts.

9 MR. ROBERTS: Certainly, Your Honour.

10 Q. So was the purpose behind this presenting of the KLA in the best  
11 possible light to international organisations, the KVM, and  
12 Washington, London, and Berlin, so I assume you mean, obviously,  
13 national governments, in order to encourage them to intervene and  
14 assist the KLA?

15 A. I think public relations would be a large part of it, but also  
16 in terms of international relations. They were -- they would,  
17 understandably, naturally wish to be seen as an organisation which  
18 could be dealt with, which could be negotiated with, and therefore  
19 would have a stronger voice.

20 Q. Yes, it's to demonstrate legitimacy in the eyes of those  
21 international institutions; is that fair?

22 A. Yes.

23 Q. And therefore, there was an incentive, was there not, a clear  
24 incentive to, if not exaggerate, but certainly to demonstrate to the  
25 highest level - to you and to other internationals around - that they

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1 were organised, whether or not that reflected the reality on the  
2 ground?

3 A. Yes.

4 Q. Were they keen to demonstrate to you the communication systems  
5 that they had?

6 A. Could I just add --

7 Q. Of course, sorry.

8 A. You were going to ask me the second aspect of why --

9 Q. Of course. Please go on to the second aspect, yes.

10 A. I would say, from my fairly extensive dealings with Albanian  
11 people and with KLA veterans after the war, that it was partly in  
12 terms of national character and national psychology that they wished  
13 their force to be seen as honourable and as representing national  
14 glory, if you like. They'd a very strong national character,  
15 patriotic feeling, and that was very obvious.

16 Q. Thank you. And just moving back on to the communications. I  
17 think the question that -- just before that answer:

18 "Were they keen to demonstrate to you the communication systems  
19 that they had?"

20 A. No, I don't think so. My comments and my statement about  
21 communications systems are based on my own observations. I don't --  
22 it may have happened, but I don't particularly remember a time when a  
23 member of the KLA was anxious for me to see their ability to pass  
24 messages, for example. Certainly, I did see them pass messages, and  
25 they would tell me that they had passed messages, but it wasn't to

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1 make a point.

2 Q. Yes. Actually, one of the examples you use in relation to the  
3 ability to pass messages and your view as to how that impacted upon  
4 your assessment of the level of organisation of the KLA was in the  
5 battle of Randubrava at the end of February 1999. And the example  
6 was you having to go and send a message to a two-man firing team to  
7 pause firing.

8 Do you recall that example in your statement? I can, obviously,  
9 do it in more detail, but in general terms do you recall that  
10 example?

11 A. Yes, I did. It wasn't a case of anyone saying to me, "Here is a  
12 specific message. I wish you to convey this to soldier X." It was  
13 that I was informed through the KVM radio net that Commander Drini  
14 had instructed the firing to cease, and therefore, I, along with my  
15 colleague, had confidence in going to a soldier and telling him  
16 truthfully Commander Drini has ordered you to stop. But that was  
17 partly me in the loop, and we couldn't have done that without being  
18 trusted.

19 Q. Yes, yes. But you -- in your example, that demonstrates that,  
20 obviously, there was not the ability to communicate to those units on  
21 the ground without using you as an intermediary, if I can use that  
22 term?

23 A. In this particular example - in this particular example - that  
24 soldier or soldiers appeared not to have any radios in their  
25 possession.

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1 Q. Okay. And in terms of checkpoints, I think you discussed these  
2 in your statement, but you only ever saw two of them, two physical  
3 checkpoints, I think, in your area in CC1 during the time that you  
4 were there. I think that's paragraph 29 of your statement. I can  
5 just read it out for the record just to see if that's correct:

6 "Other former CC1 members could give other examples, but as far  
7 as I remember, I personally only saw two examples of physical  
8 checkpoints or roadblocks operated by the KLA."

9 And then you give information on the locations of those. That  
10 was correct, wasn't it? You only ever saw two physical checkpoints  
11 in the sense that one would understand them?

12 A. I was only ever stopped at those two locations. I was aware of  
13 other locations and, in fact, I had seen others from a distance set  
14 back from the road. For example, on the track between the road to  
15 Malisheve, there was a side road going off to a village which was  
16 important to the KLA called Dragobil or Dragobilje, and there was a  
17 visible checkpoint there, but I don't recall ever myself having to  
18 pass that checkpoint. And I'm sure there were others I was aware of  
19 but didn't affect me.

20 Q. Okay. But in the entire five months, four months that you were  
21 in CC1, between November 1998 and 19 March 1999, there are only those  
22 two physical checkpoints that you were -- you directly witnessed; is  
23 that correct?

24 A. No, that's not correct. I saw others. For example, the one --  
25 the example I'd given. But I --



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1 Q. But you were only stopped at those two?

2 A. As far as I recall, yes.

3 Q. I'd just like to move on to another area now.

4 MR. ROBERTS: And, Your Honour, I just have to move very briefly  
5 into private session for one name.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 Into private session, please, Madam Court Officer, to protect  
8 the witness and witnesses.

9 [Private session]

10 [Private session text removed]

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1 [Private session text removed]

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3

4 [Open session]

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

6 PRESIDING JUDGE SMITH: Thank you.

7 You can proceed.

8 MR. ROBERTS:

9 Q. So, Witness, in paragraph 76 of your statement, you explained --  
10 your SPO statement, so that's P392:

11 "As noted in my statement to the ICTY, among the people we met  
12 in Terpeze/Trpeza [my colleague] recognised one man as 'Ten'. I  
13 don't know if 'Ten' was a person or a department, but it obviously  
14 meant something to my colleague and I assumed that it was related to  
15 the KLA's intelligence [services]."

16 Do you remember saying that to the SPO?

17 A. Yes.

18 Q. And in your previous draft statement to -- your statement in  
19 confidence to the ICTY, so that's P407, you had phrased it in this  
20 way. You explained:

21 "At Terpeze" -- so this is at page, for the record, 067047, and  
22 that's Exhibit P407.

23 "At Terpeze we met several KLA personnel, including one  
24 gentleman wearing civilian clothes and spectacles who was unknown to  
25 me, but who [my colleague] recognised as a high-level representative

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1 of 'Ten', a KLA intelligence cell."

2 And, lastly, in the Kosovo Verification Mission incident report,  
3 so that's P406, you described that your colleague "recognised one  
4 male as being the KLA Chief Secret Operations." So, for the record,  
5 that's P406 at U0079613.

6 Do you recall all of those different references to this entity,  
7 if I can use that expression?

8 A. Yes, apart from the reference to the incident report, which I  
9 didn't see until it was shown to me by the SPO, I don't recall seeing  
10 it at the time. There are errors in it based on my interview with  
11 somebody actually from the liaison department of KVM. Therefore, the  
12 phrase that I just heard you using was not necessarily from me or it  
13 may have been a interpretation or a misinterpretation of what I said  
14 at the time.

15 Q. A misinterpretation by who? This is the -- the individual  
16 taking the report?

17 A. Could you please repeat those words from the --

18 Q. Certainly. I can put it up on the screen if that's easier, then  
19 we can all see it.

20 MR. ROBERTS: So this is P406. Court Officer, if we could put  
21 that up on the screen. And that's at reference U0079613. About nine  
22 or ten lines from the bottom. But this is confidential because it  
23 does reveal the name of the individual that I'm referring to as "your  
24 colleague," so it shouldn't be for public view.

25 Q. And, obviously, Witness, if you read it or refer to it, please

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1 don't use that name in public session. Thank you.

2 Do you see it on the screen there, Witness? And if we scroll to  
3 the bottom, actually, near to the end, and there's a sentence that  
4 starts:

5 "The Commander in Trpeza was Topi. Young did not recognise  
6 anyone but [his colleague] recognised one male as being the KLA Chief  
7 Secret Operations."

8 Do you see that line there?

9 A. Yes, I do. There are, I think, two individuals -- two separate  
10 individuals referred to in the incident report. The one further up  
11 the page where it refers to Reti or Retimlje is a different place  
12 from Terpeze.

13 Q. You're right. And you're saying that the individual recognised  
14 as Ten was in Retimlje or am I misunderstanding?

15 A. Well, I may be -- may have been mistaken in linking Ten to  
16 Terpeze.

17 Q. Understood.

18 A. But I'm certain that the man we spoke to at Reti --

19 Q. Your colleague? Oh, sorry.

20 A. No.

21 Q. My apologies.

22 A. The KLA representative that we spoke to in Reti did identify  
23 himself to us as the chief of information in that local KLA cell or  
24 organisation. Chief of information. Which I -- I think based on my  
25 previous experience in the Balkans, I - rightly or wrongly -

1 interpreted information as being intelligence. He wasn't somebody  
2 dealing with public relations, press releases, and that sort of  
3 thing. So that was the man in Reti.

4 And then we met other people at Terpeze on the first visit to  
5 Terpeze.

6 Q. Right. And this report actually doesn't refer to Ten at all,  
7 does it?

8 A. Oh, this report was not drafted by me. It was --

9 Q. No.

10 A. -- partly based on a slightly flawed interview with me, and I  
11 never saw this at the time.

12 Q. Right. But when you say "a slightly flawed interview" with you,  
13 what do you mean a "flawed interview" with you? If you could ...

14 A. Yeah. The interview got off to a difficult start. It was a  
15 Royal Canadian Mounted Police female officer accompanied by somebody  
16 from the -- from our RC1 human rights department. But the Royal  
17 Canadian Mounted Police Officer was, at the time, working in MUP  
18 relations or MUP liaison department. In other words, her job was  
19 police liaison with the Serbian police.

20 So my concern -- and I should add to that, although my statement  
21 doesn't mention this fact, that the -- this officer worked with the  
22 MUP. Looking at my notebook again, a copy of my notebook, part of  
23 the productions, I see that I wrote at the time "MUP liaison  
24 department" and her extension number.

25 So my position when they came to our headquarters in Rahovec was

1 that I was being asked about something involving the KLA which  
2 identified the particular location Terpeze, which was relatively near  
3 Serbian MUP positions. And the last thing that I wanted -- or the  
4 last thing that we would have wanted is the information about Terpeze  
5 being passed quickly to the MUP, which might well have resulted in  
6 efforts to rescue their missing colleague. That was my concern, to  
7 protect that information.

8 And I took -- it was -- my colleagues found it quite difficult  
9 to persuade me that I need not be concerned about that. So that  
10 affected the time for the interview. And although I then accepted  
11 that I should cooperate on the assurance that the information would  
12 not be passed to the MUP, there was at least one error which crept  
13 into the statement - of course, I didn't see the statement at the  
14 time or I would have pointed that out - and that is the reference to  
15 one other person who was our normal KLA liaison at RC1 level. The  
16 statement has me saying that he was with us and he wasn't.

17 Q. Yes, yes. I'll possibly go into that a bit later. But just  
18 fairly clearly, and possibly I should have interrupted you earlier,  
19 but I wanted to hear your evidence, Ten isn't included in this report  
20 and isn't included in your statement which, I believe, forms part of  
21 this report.

22 MR. ROBERTS: So if we could move to page U0079617.

23 Q. This appears to be a report which I understand as being yours.

24 MR. ROBERTS: If we go to the top of that.

25 Q. Is that you or is that someone else providing that information?

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1 A. That's not my report.

2 Q. That's not yours. Okay.

3 A. At the fourth paragraph it refers to deputy director CC1. That  
4 was me.

5 Q. Okay. So this is someone else. Okay. But to be clear, you  
6 don't know what Ten is or was, and you've obviously -- there are  
7 different ways that is described in your different statements and,  
8 obviously, in this report. That's fair, isn't it?

9 A. That's right. The term was used, I do remember that. But what  
10 it meant was really little more than speculation by me at the time.

11 Q. Understood. And as you've just said earlier, you weren't quite  
12 sure - I'll be clear that I understand your evidence - where you saw  
13 the individual that was linked to Ten by your colleague; is that  
14 correct? It could have been at Reti. It also could have been at  
15 Terpeze. You're not sure?

16 MS. MAYER: Objection, I believe that's a misstatement of the  
17 evidence. He said that the reference to the chief of secret police  
18 was -- he could have been at Reti, not the reference to Ten.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MR. ROBERTS:

21 Q. If you could answer, Witness. Otherwise, I can obviously repeat  
22 the question.

23 A. Would you please repeat it?

24 Q. Certainly, yeah. The individual that was linked somehow to Ten  
25 by your colleague, could that have been at Reti or it could also have

1 been at Terpeze? You're not sure which? Was that correct?

2 A. I think it's safest to say I'm not sure. I believe --

3 Q. Understood.

4 A. -- it was as Terpeze, but it's safer to assume that I cannot  
5 guarantee that.

6 Q. Understood. And you don't know -- your colleague didn't tell  
7 you anything more about this individual or what this entity was, did  
8 they?

9 A. Not that I recall.

10 Q. And this individual that was linked to the entity, if I can use  
11 that expression, wasn't doing anything in particular. They were just  
12 located there. They just -- your colleague just saw them?

13 A. Yes. He was part of the meeting or the conversation, but there  
14 wasn't anything specific linked to him.

15 Q. And I think you clarified it in your Preparation Note 1, so  
16 that's P408, that you didn't have a chance to discuss the accuracy of  
17 your interpretation with your colleague. You stated that you thought  
18 Ten meant a department and that someone who was present was senior,  
19 but you didn't have a chance to discuss that.

20 So you never followed up with your colleague to be able to  
21 verify the basis of his knowledge or what exactly he meant at the  
22 time?

23 A. That's correct. I didn't see much of him, actually, after that  
24 particular day. That was the last time I worked with him for any  
25 extended time.



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1 Q. 9 March was the last day you did?

2 A. As far as I recall. He had been a member of CC1 but was  
3 increasingly working in KLA liaison.

4 Q. Right. And moving on now to the actual meetings in Terpeze.  
5 And in your SPO statement -- so we're talking about Ymer Xhafiqi and  
6 about how, in your SPO statement, in Randubrava, Skender had  
7 disclosed that he had seen Xhafiqi's warrant card, according to you,  
8 which you reported by radio to Maisonneuve and Drini, who arrived at  
9 your location. Do you recall that evidence? That's paragraph 72 of  
10 your SPO statement.

11 A. Yes, I do.

12 Q. But in your ICTY statement you refer to Georges Bordet also  
13 arriving in Randubrava. Do you recall that?

14 A. Yes, and that's correct.

15 Q. But you didn't mention that in your SPO statement?

16 A. It -- well, I'm sorry if I omitted that. I don't think it's a  
17 crucial detail, but --

18 Q. No.

19 A. -- Georges Bordet was present. At the time, he was ill and that  
20 is why I was the acting director. And Georges had come from his  
21 sickbed in order to support what was a serious incident.

22 Q. Yes. And I'm just trying to understand how -- you know, how  
23 clearly you recalled exactly what happened and the order of  
24 sequencing during that day. And so we're just trying to understand  
25 exactly what you can recall from that location or from that incident.

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1           So your evidence now is that Bordet was there and did come with  
2   Maisonneuve?

3   A.   He arrived around the same time. He would have come from  
4   Rahovec, whereas Maisonneuve, I assume, would have come from Prizren.  
5   One may have picked the other up, I don't know, but they were both  
6   present. I only had one meeting at Randubrava that day and --  
7   starting with meeting Skender, and then the arrival of Maisonneuve,  
8   Drini, and Bordet, possibly arriving separately, but they all were  
9   present at the same time.

10   Q.   And it's your evidence that then Drini directed -- is it your  
11   evidence, sorry, to be clear, that Drini directed Skender to take you  
12   where you could see Xhafiqi?

13   A.   That's correct. No location was mentioned at that point. We --  
14   from overhearing a conversation by the KLA, we understood that we  
15   would be going north, but the task was to follow Skender's vehicle  
16   and he would take us to the appropriate rendezvous.

17   Q.   And just out of interest, where you ended up in Terpeze, is that  
18   in your normal area of CC1, of your operations or area of  
19   responsibility, if I can use that term, or was it new to you?

20   A.   It was within the CC1 area, but we would not normally travel to  
21   that part of Terpeze because of the checkpoints already described.

22   Q.   Okay. And so Skender was following Drini's direction, is that  
23   correct, to take you up to this location?

24   A.   That's correct.

25   Q.   And when Drini told you that he wasn't -- or he knew nothing

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1 about the abduction, you don't know if that was true or not, but that  
2 was what he told you?

3 A. Yes, it was. I had quite an extended conversation with Drini.  
4 We were alone at this point. He partly introduced himself and asked  
5 me to introduce myself and where did I come from and that sort of  
6 thing, because we were waiting for more information from elsewhere.  
7 But he made it clear to me, and I believed him, as far as one can  
8 ever believe anyone in that sort of situation, but I believed him  
9 that he had nothing to do with directing the abduction of the missing  
10 man.

11 Q. And you never saw Drini afterwards or never met him afterwards,  
12 did you, I believe?

13 A. Not that I recall.

14 Q. And you hadn't met him before? I think that's what you  
15 clarified to the SPO.

16 A. That's right.

17 Q. You then proceeded up to Terpeze in the afternoon. Can you just  
18 recall when you arrived? Approximately, obviously.

19 A. I don't think I can really tie that down. It was mid-afternoon.

20 Q. And in your notebook, so this is P402, you wrote down that you  
21 were told by someone that Xhafiqi was under "higher formation  
22 control." So do you recall writing that down in your notebook? So  
23 that's P402.

24 MR. ROBERTS: And the ERN, because that spans a range of pages,  
25 is SPOE00116969.

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1 Q. And I think you even include part of that in your SPO statement.

2 MR. ROBERTS: I don't know if there's an English translation of  
3 that as well, but, otherwise, it's also -- an English translation is  
4 in the statement, if that's more convenient.

5 Q. But obviously it's your handwriting. I presume you can read  
6 your handwriting as to what's written there.

7 A. Yes. I believe that I wrote the words in quotes starting with  
8 "'Man is safe.'" I wrote that sometime after the details at the top  
9 which were taken from the police documents taken from the missing  
10 man.

11 Q. And you told us yesterday that "higher formation control"  
12 means -- is a specific -- for you, is a specific military term  
13 applying to the next higher headquarters in a chain of command, so  
14 the next level up; is that correct?

15 A. Yes.

16 Q. And you didn't write in your notebook who had told you higher  
17 formation, did you?

18 A. No. So what I'm trying to do is interpret now where that came  
19 in. And it's written close to my writing down the grid reference.  
20 So I can only have written the grid reference when we were actually  
21 there.

22 Q. And you would have written that in the first meeting, I presume?  
23 That would be because you didn't know, during the first meeting, that  
24 there was going to be a second meeting, I presume, so you would  
25 logically have written it at the time you were first there.

Witness: W03724 (Resumed) (Open Session)  
Cross-examination by Mr. Roberts (Continued)

Page 8045

1 A. Yes. I would be certain that it was written at one of the  
2 meetings at Terpeze. It may have been, as you say, the first one.  
3 Although, at the second meeting, when I met Commander Celik, I was  
4 still then taking the line that: General Drini has ordered you to  
5 give access to the man.

6 Q. Yes. And -- sorry.

7 A. Sorry.

8 Q. Just to finish up on the formation control. The point I was  
9 making, that it's obviously relative in that by referring to higher  
10 formation, higher formation control, that doesn't, by definition,  
11 mean the apex of an organisation. It's relative to the person  
12 telling you that information. So if it's a low-level individual  
13 telling you that they're under higher formation control, that would  
14 be the next level up in the chain of command. So if it's someone at  
15 the battalion level, then that would be moving up to the brigade  
16 level. And if it's brigade level, it would move up to the zone  
17 level.

18 So what -- the question I'm asking is, in and of itself, that  
19 statement doesn't define who you're referring to, does it?

20 A. No, it doesn't. I was only aware, however, of one higher level  
21 above Commander Drini.

22 Q. Yes, but it wasn't Commander Drini providing this information to  
23 you, was it? It was someone that you -- whoever it was. And you had  
24 different meetings at Terpeze. So the point I'm making is that if it  
25 was a brigade commander giving you that information or someone at a

1 lower level, them referring to higher formation doesn't mean the  
2 General Staff. It just means higher than them, doesn't it?

3 A. Yes. The other possibility which occurs to me about the words  
4 in quotes is that I received that through KVM as a result of a  
5 message that they had received. So I'm sorry I can't help --

6 Q. Understood.

7 A. -- in more detail.

8 Q. Understood. No. And this is the issue. It is obviously a long  
9 time ago. So we're trying to understand exactly what this means.

10 So moving on to your second meeting. You return to Terpeze  
11 around about 10.30, I believe; is that correct?

12 A. I can't be accurate now about the time. It was in the dark.

13 Q. And -- it was in the dark, yes. And you arrived and then met an  
14 individual. And in your statement, I think you explained that:

15 "... I learned before we left [this individual] was the senior  
16 KLA commander Fatmir Limaj known as 'Celik'."

17 A. Yes.

18 Q. When you say "before we left," you mean that you learned this  
19 after you met him before you left Terpeze; is that right?

20 A. Yes, I learned that from my colleague -- or it was my colleague  
21 who spoke to me, but I think partly as a result of a conversation  
22 between the interpreter and the colleague. They were both present  
23 when I was told that. That --

24 Q. Right.

25 A. And I was in the car at this time.

Witness: W03724 (Resumed) (Open Session)  
Cross-examination by Mr. Roberts (Continued)

Page 8047

1 Q. Yes, yeah. If we just go piece by piece because it's quite  
2 important. So just to be clear, he didn't introduce himself to you  
3 by name or alias, did he?

4 A. No, he didn't.

5 Q. And, obviously, at the time you're speaking to him, you didn't  
6 know who he was and you'd never seen him before?

7 A. That's correct.

8 Q. And you don't speak Albanian, I presume?

9 A. I understand or understood some words.

10 Q. And the meeting that you had with this individual was through an  
11 interpreter, I presume? You referred to your colleague having an  
12 interpreter; is that correct?

13 A. That's correct. It's an interpreter that was one of our staff  
14 of CC1, so I knew this person and knew that they were extremely  
15 competent at this type of work.

16 Q. Now, you explained that after the meeting was getting nowhere in  
17 your statement, you then return to the car, and that's when you were  
18 told by your colleague that the individual was Celik.

19 A. Yes, that's right. I had returned to the car to give my two  
20 colleagues - in other words, my KVM colleague and the interpreter -  
21 to give them the opportunity to try a different tack as there had  
22 been disagreement between me and the KLA representative we were  
23 speaking to. Essentially, he had said to me that I was far too  
24 sympathetic to the Serbs, and I pointed out the missing man was  
25 Albanian and so on.

1 I --

2 Q. Sorry to interrupt you. The question was just trying to locate  
3 where you are and --

4 A. Yeah.

5 Q. -- what had happened. So if we could just stick to that. So I  
6 think you confirmed that you returned to the car, and that's when you  
7 told -- were told by your colleague that it was Celik. And you  
8 never -- that was correct? Sorry.

9 A. That's correct.

10 Q. And then you don't know if your colleague had ever met this  
11 individual before?

12 A. No.

13 Q. And you don't know the basis of his information as to why he  
14 thought that individual was Celik?

15 A. No. I never doubted it, but I don't know the exact basis.

16 Q. Of course. Yes. And if your colleague was mistaken, you just  
17 wouldn't know because, as you stated earlier, you haven't had a  
18 chance to discuss with him at all afterwards, and he left, I think,  
19 the mission shortly after?

20 A. That's right. I was basing it on the knowledge of my two  
21 colleagues, including the very experienced interpreter.

22 Q. And I believe you said you didn't see the man again. So you  
23 were in the car, you didn't turn round to confirm or look at him  
24 again? I think that's what you said in your statement. And you,  
25 obviously, didn't interact with this individual or in any way ask him



1 to confirm his identity or have any other interactions with him?

2 A. Yeah, that -- that is correct. Bearing in mind the certain  
3 amount of aggravation between us, I didn't think it sensible to go  
4 back to him. But I had been tasked to get a name, and as far as I  
5 was concerned at that moment I had -- beyond doubt, I had obtained a  
6 name.

7 Q. Yes, I think that's something that's referred to in your  
8 statement, isn't it? That you had a brief or you considered yourself  
9 to have a brief to have -- to get a name.

10 A. Yes.

11 Q. And I would suggest that once you had that name, you didn't feel  
12 the need to take any further steps to verify it. You had the name,  
13 it was in your head, and you'd been given that by your colleague, but  
14 you didn't take any other steps afterwards to verify whether that  
15 name was correct?

16 A. That's correct. The other factor was my concern as I recognised  
17 that we were dealing with somebody not under Drini's control,  
18 somebody who I'd already heard of and heard things about. So there  
19 was a safety concern as well.

20 Q. Yes, it's not a criticism. It's simply just to try and  
21 understand exactly what you have -- can testify to, if I can put it  
22 that way.

23 And I believe in this meeting you testified, or -- this  
24 individual had said that he was under higher formation control. That  
25 Xhafiqi was under higher formation control.

Witness: W03724 (Resumed) (Open Session)  
Cross-examination by Mr. Roberts (Continued)

Page 8050

1 A. Yes.

2 Q. But, obviously, if you don't speak Albanian, you don't know  
3 exactly what term was being used?

4 MS. MAYER: Objection. That misstates the statement. He says  
5 the control of GHQ, which the witness testified on direct is general  
6 headquarters or General Staff.

7 MR. ROBERTS: The question was:

8 "... obviously, if you don't speak Albanian, you don't know  
9 exactly what term was being used?"

10 MS. MAYER: I'm sorry, if my objection wasn't clear. It was to  
11 putting the words --

12 MR. ROBERTS: It was clear but it --

13 MS. MAYER: -- "higher formation" in the witness's mouth, which  
14 he did not say.

15 MR. ROBERTS: It was clear, but it wasn't relevant to the  
16 question I was asking.

17 PRESIDING JUDGE SMITH: [Microphone not activated]

18 MR. ROBERTS: I will, Your Honour.

19 Q. If you don't speak Albanian, you don't know exactly what term  
20 was being used, do you, by this individual?

21 A. I believe I recall the words "shtabi," or a word of that sort.  
22 I did understand enough Albanian to pick words up. And I generally  
23 found when I was speaking with local persons in Albanian or Serbian  
24 that I knew enough to know what the conversation was about and  
25 sometimes to pick things up, what was that that was said that which

Witness: W03724 (Resumed) (Open Session)  
Cross-examination by Mr. Roberts (Continued)

Page 8051

1 had perhaps not been translated to me.

2 Q. And if I was to suggest to you that the word "shtabi" means  
3 staff, but it doesn't differentiate between higher staff or local  
4 staff, you wouldn't be able to correct me, would you?

5 A. I can't disagree with that. I was mainly basing myself on the  
6 English-language interpretation given to me but -- as I normally did.  
7 By this time, I'd had a lot of experience working through  
8 interpreters. I followed enough to have a good judgment whether I  
9 was being told accurately or otherwise what was being said.

10 Q. And you told the SPO in preparation session, so that's  
11 Preparation Note 1, which I believe is P408, paragraph 17, that when  
12 you met this person, you understood him to be speaking on behalf of  
13 the General Staff. I can quote what they have recorded your words,  
14 if you like. If that would assist, I will just read it out for the  
15 record.

16 MR. ROBERTS: So that's P408, paragraph 17.

17 Q. "W03724 clarified that at the time he met Celik he understood  
18 him to be speaking on behalf of the General Staff."

19 A. Yes, that's right. I --

20 Q. Just -- sorry.

21 A. I think it would be exaggerating to say that I knew that the  
22 instant I arrived, but it became clear from what was being said given  
23 that I was still saying to him Commander Drini has ordered. And I'm  
24 not sure I would have placed such reliance on that if I'd known  
25 throughout that the man was definitely speaking on behalf of a higher

Witness: W03724 (Resumed) (Open Session)  
Cross-examination by Mr. Roberts (Continued)

Page 8052

1 level.

2 Q. Yes. But what I'm trying to suggest is that's a deduction you  
3 made. At no point were you unequivocally informed of that, were you?  
4 It's your interpretation of a translated conversation with an  
5 individual that you hadn't met before?

6 A. He told us that -- he told us that the man was under the control  
7 of the General Staff. That was definitely indicated. I -- I can't  
8 be specific as to all the words that were said in the conversation,  
9 but that was clearly what he was conveying.

10 He, I suppose, could have been conveying simply as information  
11 and not on behalf of. But he was clearly indicating to me the man is  
12 under the control of the General Staff and, therefore, my previous  
13 negotiations with Commander Drini were of no value because things  
14 have gone beyond that.

15 Q. And just to finish up on this section. You also admit, I  
16 believe in your statement, that the General Staff had denied control  
17 simultaneously, or on the same day, had they not? So that's in  
18 paragraph 80. And I can read out from your statement if that  
19 assists:

20 "In my notebook, I further wrote down ... various points  
21 concerning the abduction, including, 'GHQ deny control' ..."

22 Do you recall telling the SPO that?

23 A. I don't recall at what point that -- where that comes from.

24 Q. But what I mean is that there was contrary information, wasn't  
25 there? You were told by an unidentified, if I can use that phrase,

Witness: W03724 (Resumed) (Open Session)  
Cross-examination by Mr. Roberts (Continued)

Page 8053

1 but by this individual who you hadn't met in Terpeze before, that  
2 supposedly this individual, Xhafiqi, was under the control of the  
3 General Staff, but simultaneously the General Staff are denying that  
4 control?

5 A. Yeah, I apologise not being able to tie this down, but I  
6 cannot -- I cannot recall exactly at what point in terms of time of  
7 day that that was indicated. I think it may have been indicated to  
8 KVM and thus conveyed to me.

9 Q. Yes, I think you believed that it may have come from someone at  
10 a higher level within KVM or the US Mission given their independent  
11 liaison with the KLA. Do you recall telling the SPO that?

12 A. I think that -- would it be possible to see --

13 Q. Of course. Certainly.

14 A. -- the part of my statement --

15 MR. ROBERTS: So that's paragraph 80 of the SPO statement, P392,  
16 if we can put that on the screen. So that's, for the record, that's  
17 at 085962, page 21. And I apologise, I don't have the Albanian  
18 reference to hand, but hopefully, obviously, the witness will be  
19 reading the English version.

20 Q. Witness, can you see paragraph 80 there on the screen?

21 A. Yes. Thank you. That's helpful. From where this appears, this  
22 statement, "'GHK deny control,'" and also, "'1. Release into to my  
23 custody this evening,'" I think that must refer to the briefing that  
24 I received on returning to our headquarters at Rahovec. And briefing  
25 would have been given to me by Georges Bordet on the basis of, no

Witness: W03724 (Resumed) (Open Session)  
Cross-examination by Mr. Roberts (Continued)

Page 8054

1 doubt, his liaison with General Maisonneuve.

2 Q. That's in the evening after your return?

3 A. After my return from the first meeting.

4 Q. Right. So on the same day you've got two contradictory pieces  
5 of information, one being given to Mr. Bordet, your superior, and one  
6 from your own deduction about whether the GHQ had accepted any form  
7 of control over Mr. Xhafiqi. That's right, isn't it?

8 A. Yes, it's logical. I was following up General Drini's  
9 instructions, which are consistent with the briefing given to me by  
10 Georges Bordet noted in my notebook. I went then to the second  
11 meeting at Terpeze on the basis that I was still operating with the  
12 authority of Commander Drini. And it was at that point that, rightly  
13 or wrongly, the man I met at Terpeze the second time said, "No, he  
14 has passed beyond that level. He is under the control of the  
15 General Staff." Until then, my position was GHQ had denied control,  
16 just as Commander Drini had denied.

17 Q. And just to finish on this point, and actually to finish with my  
18 questions. In your notebook, the only thing that you have recording  
19 this interaction with the individual you refer to as Celik is "Celik"  
20 written down and then crossed out.

21 MR. ROBERTS: So that's page P402, and the ERN - and I can  
22 display this for the witness actually if that would assist - is  
23 SPOE00116971.

24 Q. And I believe you told the SPO you're not sure why this is  
25 crossed out.

Witness: W03724 (Resumed) (Open Session)  
Cross-examination by Mr. Roberts (Continued)

Page 8055

1 A. That's correct. I never doubted who it was. Whether the  
2 information was right or not, I never had any doubt as to who I had  
3 met.

4 Q. You never had any doubt as to who you were told you had met. Is  
5 that a fairer assessment of what you mean?

6 A. I think it goes slightly further than that because I already had  
7 knowledge of the type of operation which the gentleman had been  
8 involved with before. So it wasn't simply a case of being told a  
9 name. It was partly that the name fitted with my previous knowledge.  
10 And also his appearance was consistent with a previous photograph  
11 which I'd seen, but I stress this is not me making photographic  
12 identification. It's --

13 Q. Yes.

14 A. -- simply that I had seen a photograph and it was consistent.

15 Q. I'm talking about --

16 MR. ROBERTS: That wasn't my stomach, Your Honour, but I -- if  
17 it was, I apologise.

18 Q. But just to finish up with how this individual was described in  
19 the report that we looked at earlier.

20 MR. ROBERTS: And this -- if we can go back to the Kosovo  
21 Verification Mission incident report. So that's P406. And if we can  
22 go to U007-9614. If we scroll down a little bit.

23 Q. Where it says "UM3." Now, I presume "UM3" refers to  
24 "unidentified male 3." Can you confirm that? I understand you  
25 didn't write this report, but is that your understanding of what this

1 means?

2 A. Yes.

3 Q. And it's written that this individual tried to justify what the  
4 KLA had done, he spoke about the ICRC, the Geneva Convention,  
5 et cetera. He appeared to know about the case.

6 "KVM verifiers left a bit after 2300 hrs without seeing  
7 Djafice."

8 There's no other information which describes his at all, is  
9 there? There's descriptions further below of Skender and UM2 and UM,  
10 but there's no other information given at the time, presumably on the  
11 basis of information you gave to the individual compiling this  
12 report, which would assist in confirming the identification of that  
13 individual?

14 A. Yes, I -- I wasn't asked for a description in that interview, as  
15 far as I recall. And as I've already described, it was a slightly  
16 difficult interview and time ran out, perhaps.

17 Q. Thank you, Witness. That's all my questions.

18 MR. ROBERTS: Thank you, Your Honours.

19 PRESIDING JUDGE SMITH: Mr. Misetic.

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

21 Cross-examination by Mr. Misetic:

22 Q. Good morning, Mr. Young. My name is Luka Misetic. I am counsel  
23 for Mr. Thaci, and I have just a few questions. I hope to finish  
24 before the coffee break at 11.00. So I have some material to cover.

25 My first question for you this morning is do you know a person



1 by the name of Nicholas or Nick Turnbull?

2 A. No.

3 Q. You do not know -- would it refresh your recollection if I were  
4 to see that Nick Turnbull was the head of EU KDOM at the time you  
5 were there?

6 A. No, I had very little dealings with the EU KDOM. I recall them  
7 being there at the early stage, but I don't think I had any  
8 interpersonal relations with them.

9 Q. Let me ask you a different question. Mr. Roberts asked you  
10 about your meeting in Terpeze, and you'll recall that he had your  
11 notes on the screen about higher formation control. You stated that,  
12 and this is on the transcript at page 19, line 13, that that meeting  
13 you believe occurred in mid-afternoon on 9 March; is that correct?

14 A. Yes.

15 Q. Okay.

16 MR. MISETIĆ: Mr. President, if we could move into private  
17 session.

18 PRESIDING JUDGE SMITH: Madam Court Officer, please take us into  
19 private session.

20 [Private session]

21 [Private session text removed]

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Witness: W03724 (Resumed) (Private Session)

Page 8058

Cross-examination by Mr. Miletic

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Witness: W03724 (Resumed) (Private Session)

Page 8059

Cross-examination by Mr. Miletic

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Witness: W03724 (Resumed) (Private Session)

Page 8060

Cross-examination by Mr. Miletic

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Witness: W03724 (Resumed) (Private Session)

Page 8061

Cross-examination by Mr. Miletic

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Witness: W03724 (Resumed) (Private Session)

Page 8062

Cross-examination by Mr. Misetić

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Witness: W03724 (Resumed) (Private Session)

Page 8063

Cross-examination by Mr. Miletic

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Witness: W03724 (Resumed) (Private Session)

Page 8064

Cross-examination by Mr. Misetić

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Witness: W03724 (Resumed) (Private Session)

Page 8065

Cross-examination by Mr. Miletic

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Witness: W03724 (Resumed) (Private Session)

Page 8066

Cross-examination by Mr. Miletic

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Witness: W03724 (Resumed) (Private Session)

Page 8067

Cross-examination by Mr. Miletic

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Witness: W03724 (Resumed) (Private Session)

Page 8068

Cross-examination by Mr. Misetić

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Witness: W03724 (Resumed) (Private Session)

Page 8069

Cross-examination by Mr. Miletic

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Witness: W03724 (Resumed) (Private Session)

Page 8070

Cross-examination by Mr. Miletic

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Witness: W03724 (Resumed) (Private Session)

Page 8071

Cross-examination by Mr. Miletic

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15 [Open session]

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

17 PRESIDING JUDGE SMITH: Thank you.

18 You can proceed.

19 MR. MISETIĆ: Thank you, Mr. President.

20 Q. You've testified that you understood the highest formation of  
21 the KLA to be the general headquarters; correct?

22 A. Yes.

23 Q. But it's fair to say that you had no contact with the general  
24 headquarters? No direct contact, I mean.

25 A. That's correct.



1 MR. MISETIĆ: If I could show you an OSCE report, and that is  
2 KSC-BC-2020-06-IT-05-87\_1 P00856 at page K0075633.

3 Q. And I'm just going to show you an OSCE report and ask you  
4 whether you agree with the conclusion.

5 MR. MISETIĆ: And it's paragraph -- if we could zoom in on KLA  
6 in the middle of the page.

7 Q. It says -- it describes the KLA. It says:

8 "General. Potentially the most difficult to monitor in terms of  
9 liaison and confirmation of compliance due to the lack of specific  
10 detail regarding structure, locations and capabilities of the  
11 organisation."

12 Do you agree that - and the date of this report is 23 February  
13 1999 - that the OSCE as such claimed to lack sufficient knowledge  
14 about KLA structures as of late February 1999?

15 A. Yes, I -- I can see that this relates to the view from our  
16 region, I assume. There was a lack of specific detail compared to,  
17 for example, our detail about Serbian forces. But it's not -- it's  
18 not as if we had no information, and we were obviously working on  
19 building up all the time in the interests of the peace and also in  
20 the interest of the KLA themselves, that we would build up our  
21 understanding and our liaison with them.

22 Q. Understood. Let me ask you, do you know who Shaun Byrnes is?

23 A. I didn't meet him. I think he was the head of the US mission,  
24 but I never met the gentleman.

25 Q. Okay. Let me show you what he has said about KLA structure and

1 ask you if it's consistent with your understanding.

2 MR. MISETIĆ: And if we could have [REDACTED] Pursuant to In-Court  
Redaction Order F01789RED.

3 [REDACTED] Pursuant to In-Court Redaction Order F01789RED..

4 MS. MAYER: Could I just ask that we go into private session.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MS. MAYER: I believe that this next bit of information is  
7 classified as confidential.

8 MR. MISETIĆ: Mr. President, I'm not aware of that, so ...

9 PRESIDING JUDGE SMITH: If it is, let's see something that says  
10 it's confidential.

11 MS. MAYER: If you can just give me a moment, Your Honour.

12 PRESIDING JUDGE SMITH: Sure. No problem.

13 MS. MAYER: Just give me a moment. This was conveyed to me  
14 yesterday at the beginning of this witness's testimony, so it's just  
15 going to take us a minute to retrieve it.

16 The way this information was provided to us, it was provided to  
17 us on the condition that it was used in closed session. I can give  
18 the source of that in closed session.

19 PRESIDING JUDGE SMITH: You subpoenaed it from somebody or you  
20 requested it?

21 MS. MAYER: I would just say it's similar to the previous  
22 documents that we used. There are certain things that we have, there  
23 are certain items that we have, that we have with the agreement that  
24 they're used in closed session. This is one such item.

25 MR. MISETIĆ: If that's the case, I don't have any information,

Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Misetić

1       SO --

2               PRESIDING JUDGE SMITH: Closed or private session?

3               MS. MAYER: I apologise. Private session. It's pursuant to

4 Rule 107.

5               PRESIDING JUDGE SMITH: [Microphone not activated] ... pursuant

6 to 107.

7                               [Private session]

8                               [Private session text removed]

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Misetić

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Misetić

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22 [Open session]

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

24 PRESIDING JUDGE SMITH: Go ahead.

25 MR. MISETIĆ: Yes. If we could have paragraph 90 on the screen,

1 please.

2 Q. And, Witness, I'd just like to talk to you about this paragraph.

3 There's a block quote in that paragraph that has a comment that says:

4 "... Celic is a personal friend of local LDK leader here in Red  
5 39 Milaim Mazreku ..."

6 Do you see that?

7 A. Yes.

8 Q. And Mr. Mazreku was a local LDK leader?

9 A. Yes.

10 Q. And you've testified previously you understand Celik to be a  
11 reference to Fatmir Limaj?

12 A. Yes.

13 Q. So you understood Fatmir Limaj to be a personal friend of  
14 Mr. Mazreku?

15 A. This particular report was by another patrol, one of the  
16 colleagues. There -- I knew that Celik and Mr. Mazreku had known  
17 each other and had been at university, had studied together. Whether  
18 they were friends or otherwise, I don't know.

19 Q. Well, if we continue there with after the block quote, it says:

20 "Mazreku was the landlord of KVM Field Station Malisevo and was  
21 regarded as a sort of village mayor. He was very helpful to us,  
22 passing messages at our request to the local community or to KLA. I  
23 understood that he was a supporter of the LDK ... party."

24 So is it your evidence that KDOM was using the local LDK mayor  
25 to communicate with the KLA?

1 A. It wasn't something that was done really at higher level. It  
2 was a question of local relationships and the patrol which we had  
3 based in Malisheve. In other words, it was lower level but important  
4 stuff. Important because Malisheve was a very high-profile location.  
5 And I personally, more than once, asked for a message to be passed to  
6 the very local KLA representative who was somebody we knew by a  
7 nickname that we had thought up ourselves. And if I asked to see  
8 him, he would be produced after some hours. And we had a very good  
9 relationship with this gentleman as a result of Mr. Mazreku's help.

10 Q. Let me show you a document, which is SPOE00116868 to 00116869 at  
11 page 00116868.

12 MR. MISETIĆ: If we could scroll to the middle of that page.

13 Q. In that section, "Military, police and paramilitary," there is a  
14 comment there that says:

15 "Foolhardy action by the UCK. They will be advised, through our  
16 LDK contacts, to desist."

17 Do you see that?

18 A. Yes, I do.

19 Q. And so you were, in fact, using LDK contacts to pass messages on  
20 to the KLA?

21 A. Yes, but I'm not sure I would have characterised it as an LDK  
22 contact. This particular report was not by me. Although Mr. Mazreku  
23 was an LDK member, we understood, his status of importance to us was  
24 he was regarded as the mayor of Malisheve. And I introduced him in  
25 that capacity to people such as our head of mission and other

1 important visitors, but it was as mayor rather than as LDK leader.  
2 And he was, I think, very careful, and very sensible to be careful,  
3 in not presenting himself as being a party political figure. He was,  
4 I think, doing his best to represent all the people of Malisheve as  
5 best he could.

6 Q. But he was known to be an LDK member; correct?

7 A. That was my understanding. I never discussed that with him.

8 Q. Okay. Let's look at another document on the same point.

9 MR. MISETIĆ: SPOE00116816 to 00116817. And on the first page,  
10 please. In the section that starts "UCK" on the bottom, please.  
11 Yes. If we could blow that up.

12 Q. It says:

13 "UCK continue to be noted in defensive positions within 50 m of  
14 the main road in the area of," and it gives the coordinates.

15 "A liaison visit was paid to the village of Mirusa ... in order  
16 to re-establish contact with the local LDK and UCK leadership. Only  
17 the LDK leader was present, but discussions with him centred on the  
18 need to pull back UCK positions from the immediate vicinity of the  
19 main road and LDK and UCK AORs."

20 Correct?

21 A. Yes. I'm a little surprised to see that level of liaison being  
22 attributed to the LDK, but I accept that's what it says.

23 Q. Okay. Mr. Young, I'm going to -- sorry, just one second,  
24 please. I'm going to stay within my time limits. Thank you very  
25 much for your answers, and I wish you a safe trip back home. Thank



1 you.

2 A. Thank you, sir.

3 PRESIDING JUDGE SMITH: Thank you, Mr. Misetic.

4 Mr. Emmerson.

5 MR. EMMERSON: [Microphone not activated]

6 Cross-examination by Mr. Emmerson:

7 Q. Mr. Young, I just want, if I may, to start by bringing us back  
8 to the functions of the KVM. First of all, it grew out of the  
9 original cease-fire agreement on 16 October 1998. Is that correctly  
10 understood?

11 A. Yes.

12 Q. And the formalisation of that agreement, although it would be  
13 known generally as the Holbrooke-Milosevic talks that had led to it,  
14 but the formal agreement in which Serbian forces undertook to  
15 withdraw was the - if I've got the pronunciation correctly - the  
16 Geremek-Jovanovic agreement, the G-J cease-fire agreement; is that  
17 right?

18 A. Yes, it is. And I did see that document. It was very  
19 controversial to some Albanian contacts because it actually  
20 recognised the location of some MUP positions which Albanian people  
21 objected to, and they were upset that this had been agreed to by the  
22 international community.

23 Q. Yes. So it was, in a sense, a potentially fragile and likely  
24 temporary cease-fire because one of the major elements of the  
25 combined armed forces of Serbia remained in various barracks inside

1 the disputed territory; is that right?

2 A. Yes, that's right. I can only speak to -- mostly to our area.  
3 Some of my colleagues from our CC and our RC did deploy, for example,  
4 up to Podujeve. Within our area, no VJ remained.

5 Q. No.

6 A. Very -- there was a tank barracks close to our area which I was  
7 familiar with, but most of the VJ had withdrawn, leaving only the MUP  
8 in police stations but also in some field positions --

9 Q. Yes.

10 A. -- which were specified in that agreement.

11 Q. Exactly. And they were already part of the joint armed forces  
12 of Serbia. They had armoured vehicles and automatic and  
13 non-automatic weapons; is that right?

14 A. Yes. The MUP had a few armoured vehicles in terms of ones with  
15 weapons mounted. There were a few. And they also had armoured  
16 trucks which they used for protective transport.

17 Q. But as we now know from the history and the trials at the ICTY,  
18 the MUP, the M-U-P, were a central element in the armed forces  
19 engaged in this non-international armed conflict; is that right?

20 A. Yes, they were, as far as we were concerned, a military force.

21 Q. They were combatants in the conflict?

22 A. Yeah, the --

23 Q. Yes.

24 A. -- MUP in the field --

25 Q. Yes.

1 A. -- were. Yes.

2 Q. Well, the MUP as a whole were. All members of the armed forces  
3 of Serbia that have contributed --

4 A. Yeah.

5 Q. -- it doesn't matter whether they're fighting at any one time or  
6 not, are potentially -- well, they are members of the combined armed  
7 forces of Serbia. You'd agree with that?

8 A. Yes. Some were configured as military forces and deployed as  
9 military forces, but they were all part -- all those in uniform --  
10 bearing in mind, of course, the MUP stands for Ministry of the  
11 Interior, so there were a number of functions of the Ministry of  
12 Interior which weren't police in United Kingdom terms. They were  
13 more administrative. But all the normal police and the deployed  
14 police reservists -- and, indeed, there were also reservists who sort  
15 of stayed at home but did take on part-time duties. They were all  
16 part of a, effectively, paramilitary force and were normally armed,  
17 whether with pistols or other weapons.

18 Q. And there was a specialist unit of paramilitary police as well,  
19 the PJP; correct?

20 A. Yes.

21 Q. And I think one -- a unit known as Frenki's Boys. Did you hear  
22 that name at all?

23 A. I've read about that but certainly never met them.

24 Q. No. So that was a good thing, probably. I'm asking you these  
25 questions partly because I want to look a little bit at the issue

1 that you've been testifying about just now; namely, the Ymer Xhafiqi  
2 case.

3 But I want to understand from you that if the -- the primary and  
4 principal functional of the KVM was to essentially monitor violations  
5 of the cease-fire agreement. That was its *raison d'être*,  
6 technically. That's what the V in KVM stands for, isn't it? You  
7 were verifying.

8 A. That's absolutely correct. To monitor compliance with the  
9 Milosevic-Holbrooke Agreement. However, what we were actually doing  
10 very rapidly developed into a lot of other tasks.

11 Q. Exactly. And so that's what we can loosely call humanitarian  
12 issues, humanitarian law issues. Is that right?

13 A. Yes. And looking forward to implementation of a successful  
14 agreement between the parties after Rambouillet, elections, and so  
15 on.

16 Q. Precisely so. But in the original training, the original  
17 briefings, and so forth, did it become obvious to you that you could  
18 have a violation of the cease-fire agreement that was in no sense a  
19 violation of international humanitarian law?

20 A. Yes.

21 Q. So you had to look at two different questions.

22 A. Yes, that's right. A military confrontation could take place  
23 that would not be a violation of the laws of war or humanitarian law.

24 Q. And a targeting decision which was entirely lawful under the  
25 laws of war could, nevertheless, be a violation of the cease-fire?

1 A. Yes.

2 Q. So the first major violation -- I mean, the worst and first  
3 major violation of the cease-fire agreement was the Recak massacre in  
4 January 1999; is that right?

5 A. Yes, given that there had been the first kind of incident before  
6 that --

7 Q. Yes.

8 A. -- military incidents, and some actually mistaken -- people  
9 being ambushed in belief that they were KLA and they weren't.

10 Q. Yes.

11 A. And that sort of thing, yes. But Recak would be --

12 Q. Ambushed by?

13 A. Well, the incident I'm thinking of, ambushed by Serbian forces.

14 Q. And in that context, since the VJ were no longer in Kosovo, the  
15 Serbian forces would have been?

16 A. Well, the -- there were still VJ in Kosovo. And, in fact, there  
17 was a barracks in Prizren in our area. But the ambush I'm thinking  
18 of, I -- I don't know who the perpetrators were. It was at night and  
19 a --

20 Q. Very well.

21 A. -- family was shot up.

22 Q. Very well. Leaving, perhaps, that one particular incident to  
23 one side, you heard from time to time, prior to Recak, of minor  
24 violations; correct? Incidents like the one you've just described,  
25 generally.

1 A. Yes, and there were individual murders.

2 Q. Yes. And was it a concern to you, at least in part, to identify  
3 whether and to what extent the MUP were engaging in violations of the  
4 cease-fire?

5 A. Yes.

6 Q. And we come to -- and there's an example in your testimony on  
7 the day after your search for Mr. Xhafiqi, but we'll come to that in  
8 a second.

9 And after Recak, which I think we probably all agree - you can  
10 agree, I'm sure - was a turning point in the international  
11 community's determination to prevent Kosovo becoming another Bosnia;  
12 is that fair to say?

13 A. Yes.

14 Q. Yes. You were then on -- obviously, on particularly high alert.  
15 So between January and, let us say, June 12th, cease-fire at the end  
16 of the conflict, you were no doubt on high alert and extremely  
17 vigilant. And then, of course, there was Rambouillet, the breakdown  
18 of the talks, the NATO bombing, and full-scale all-out international  
19 armed conflict. So presumably --

20 MS. MAYER: Objection as to the timeframe. This witness has  
21 testified he left Kosovo in March 1999.

22 MR. EMMERSON: Absolutely. You're quite right.

23 Q. But from -- as far as your presence is concerned, between  
24 January and March must have been a particularly tense time?

25 A. Yes, it was. I can't say that every day was, but the atmosphere

1 had changed. Certainly immediately after Recak, I was involved in  
2 meeting refugees who were arriving who were fleeing that particular  
3 area and -- yeah. And at the time I was -- at one time I was at our  
4 patrol base in Malisheve, and I remember being particularly concerned  
5 as to our closeness to the MUP and what might happen.

6 So the atmosphere did change. However, most of our work  
7 continued as best we could, and we tried actually to increase our  
8 profile, which we did. For the first time in our area, we had our  
9 armoured patrols, light armoured vehicles going out all night,  
10 criss-crossing the area, and that was something we never contemplated  
11 at the beginning.

12 Q. And I think in the immediate aftermath of the Recak massacre,  
13 most verifiers and internationals were expecting, initially, a  
14 substantial military response from the KLA side.

15 A. There had been a cycle of violence as tends to happen. And I  
16 was aware that there'd been a shooting of MUP by the KLA prior to  
17 Recak, which some people link the two events and that Recak was a --

18 Q. [Overlapping speakers] ...

19 A. -- foolish and wicked response by the MUP.

20 Q. So -- and this is, obviously, the aftermath of this is taking  
21 place during February and the period immediately preceding the  
22 detention, let's call it that, of Mr. Xhafiqi; correct?

23 A. Yes.

24 Q. And, again, to put this in context, there wasn't a major KLA  
25 retaliation; is that right?

1 A. Yes.

2 Q. And that was -- I imagine you understood within the KVM that  
3 that was, because conversations were taking place between the  
4 international community and the KLA, that this was not the time to  
5 respond to a massive violation of the cease-fire with another  
6 violation of the cease-fire on their side if they were to achieve  
7 what militarily they wanted at that time, which was Western military  
8 support. Is that a reasonable summary?

9 A. Yes, it is.

10 Q. And so somebody within the KLA must have been talking directly  
11 to the Americans, the British, the Germans?

12 A. Yes.

13 Q. Do you know where those conversations were taking place?

14 A. No. If we're talking about purely bilateral contacts between  
15 international organisations or countries and the KLA, I don't know  
16 the location. As far as I remember, I don't think I knew that.

17 Q. Did you know -- putting it this way: Did you know that these  
18 talks were taking place outside Kosovo?

19 A. Yes. From time to time, I was aware of the need to convey  
20 representatives of the KLA from within Kosovo to an airport to  
21 travel. That certainly happened in connection with Rambouillet --

22 Q. Rambouillet.

23 A. -- but it was happening before that as well. We facilitated  
24 that. I was aware of that.

25 Q. And as a person with military knowledge and colleagues,



1 obviously, with a great deal of professional military experience,  
2 discussions like that about when -- whether and when the West would  
3 bomb Serbia, and what would be the right way for the KLA to conduct  
4 themselves so as to make that a real possibility following Recak,  
5 they'd be highly secret conversations, wouldn't they?

6 A. They would.

7 Q. And they would take place with intelligence representatives --  
8 either military intelligence or civilian, more likely military  
9 intelligence, of the Western states? That's the level at which those  
10 conversations would take place. Is that ...

11 A. Yes, that's right. I was aware of -- I had some awareness of  
12 planning that was taking place within the United Kingdom purely from  
13 when I was on leave in the UK and a colleague who I knew contacted me  
14 to let me know of the state of planning, contingency planning or  
15 otherwise, that was taking place within the United Kingdom at that  
16 time. So I had that --

17 Q. And rough --

18 A. -- slight awareness. Yeah.

19 Q. And roughly can you date that conversation? Was it between  
20 Rambouillet and -- well, it was obviously between Rambouillet and  
21 your departure -- I'm sorry, was it between Rambouillet and your  
22 departure or prior to Rambouillet?

23 A. It was prior to Rambouillet.

24 Q. Right.

25 PRESIDING JUDGE SMITH: Mr. Emmerson, we need to take the --

1 MR. EMMERSON: Yes, I'm so sorry.

2 PRESIDING JUDGE SMITH: -- morning break. Our witness needs a  
3 break --

4 MR. EMMERSON: Absolutely.

5 PRESIDING JUDGE SMITH: -- I'm sure, after two hours.

6 We will take a half-hour break. The usher will escort you out.  
7 Remember not to speak about this case to anybody outside the  
8 courtroom.

9 We will be adjourned until 11.30.

10 [The witness stands down]

11 --- Recess taken at 11.03 a.m.

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

13 MR. EMMERSON: A very brief update on timing, if I may.

14 PRESIDING JUDGE SMITH: Pardon?

15 MR. EMMERSON: A very brief updating on timing.

16 PRESIDING JUDGE SMITH: You have to wait until I get these in.

17 MR. EMMERSON: Sorry.

18 PRESIDING JUDGE SMITH: All right. Now what?

19 MR. EMMERSON: After having discussed the matter with my learned  
20 friend for Mr. Krasniqi, the Defence will conclude its  
21 cross-examination by the midday adjournment.

22 PRESIDING JUDGE SMITH: Thank you. Just take a seat for a  
23 minute. I have one thing I have to clarify.

24 I used rather general language about our schedule, but there is  
25 no change in our schedule for the next -- I called it a block. It's

1 a split block because we're going to do one week and then be off one  
2 week and then -- actually, let me start over.

3 On the week of the 25th, we have a three-day week. And then we  
4 skip one week because of a need by Trial Panel I to have the  
5 courtroom. And then we will do October 9 and October 16th in full.  
6 So nothing changes in the schedule, and I'm sorry if there was any  
7 confusion.

8 And, Madam Usher, you may bring the witness in.

9 [The witness takes the stand]

10 MR. EMMERSON: Your Honour, may we go into private session for  
11 the next short passage of cross-examination.

12 PRESIDING JUDGE SMITH: All right. Please go into private  
13 session.

14 [Private session]

15 [Private session text removed]

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Witness: W03724 (Resumed) (Private Session)

Page 8092

Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

Page 8094

Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

Page 8095

Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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17 [Open session]

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

19 MR. EMMERSON:

20 Q. I just want to ask you briefly about some of the entries in  
21 documents that relate to the incident involving Ymer Xhafiqi.

22 MR. EMMERSON: Could I please ask for -- excuse me for a moment.  
23 Yes, it's been given Exhibit P406. If we look at the front page  
24 first of all.

25 Q. Now, that is the front page of five documents compiled by the

1 Canadian officer you've given evidence about who was the MUP liaison  
2 officer. And you've told us that, for various reasons, you were  
3 reluctant to cooperate with her at that stage but were eventually  
4 prevailed upon to provide information, but the information that you  
5 provided was then inaccurately recorded in some respects.

6 A. Yes, in one or two respects.

7 Q. Yes.

8 A. Yes.

9 Q. Can I just ask you about one passage and just have the position  
10 clarified, as far as that's concerned. And this is on -- so the page  
11 in the document will be U0079617.

12 We can see here four paragraphs down and halfway down the fourth  
13 paragraph, a sentence beginning: "Upon OSCE insistence ..." And I'll  
14 just read it out for the record:

15 "Upon OSCE insistence that we be allowed to physically see the  
16 prisoner, a RV was arranged for 2300 hours at the same location, but  
17 the prisoner was not produced at the arranged time. OSCE was  
18 informed that the prisoner was in the hands of higher KLA  
19 Intelligence authorities and 'OSCE had no right to such a speedy  
20 access.'"

21 Now, first of all, this is a reference to your conversation with  
22 the person that you believe to be Fatmir Limaj; is that right?

23 A. Yes.

24 Q. And that's the second time that day that you had been in  
25 Terpeze; is that right?

1 A. Yes.

2 Q. Yes. And nobody told you that the prisoner was in the hands of  
3 higher KLA intelligence authorities, did they?

4 A. No. It's possible that my colleague picked up something that I  
5 didn't, but the -- although there had been references in the course  
6 of the day, people we met who I connected with intelligence, there  
7 was no statement heard by me that the man was in the hands of KLA  
8 intelligence --

9 Q. Thank you.

10 A. -- authorities.

11 Q. Thank you very much. Now, one or two other passages, if I may,  
12 from various parts of the evidence and from relating to others with,  
13 I think if you don't mind me saying, with respect, much more senior  
14 military roles within -- or military backgrounds within the KVM  
15 mission and those setting out to brief you in the first place. I  
16 just want to look at what they said and see whether that has -- in  
17 any way changes the assessment that you have put in your witness  
18 statement. Okay?

19 So first of all, during evidence in private session we discussed  
20 Shaun Byrnes. Now, he was a man with some considerable background in  
21 military matters; is that right?

22 A. I don't know that.

23 Q. Very well. But what you do know is that he was overall head of  
24 the US KDOM.

25 A. Yes.

1 Q. And could you just explain the function that US KDOM -- or each  
2 KDOM would have been performing during your time in Kosovo. What was  
3 their job?

4 A. Yes. The position of US KDOM was rather different from, for  
5 example, the UK KDOM that I was initially a member of. When the OSCE  
6 KVM was stood up, the UK KDOM was folded into that, and we took our  
7 Union flags off our vehicles and various international colleagues  
8 arrived. But the US KDOM remained independent.

9 There was formed within Regional Centre 1 what we called CC3,  
10 which was American-led, but it appeared to be looking both ways. It  
11 was part of our regional centre but was also taking direction from  
12 the US KDOM in Kosovo Polje.

13 When I first became involved in Malisheve, there was a US KDOM  
14 base in the village which gradually was not -- was not used or was  
15 visited occasionally. And I think the staff there had already done a  
16 lot of work with Malisheve and were quite proud of that, and I think  
17 resented our then continuing successes. But relations were good  
18 generally. Personally, I found relations easier with the US  
19 military, of whom there were a small number, rather than their State  
20 Department. But they were a separate organisation working with --  
21 certainly working in liaison with KVM.

22 Q. And in a sentence, can you tell us the principal differences in  
23 the missions and capabilities between the two organisations working  
24 side by side in Kosovo, KDOM and KVM?

25 A. Yeah. Well, the US KDOM appeared to have very good liaison with



1 the KLA at very high levels, but on occasion, they assured us that  
2 they had something sorted, under control, and didn't always turn out  
3 to be right. That was, of course, a disappointment to them as much  
4 as to us, but was a difficulty from time to time.

5 Q. Resources? I mean, was it bigger or smaller than KVM?  
6 Obviously, you -- I think you've explained the US contingent of KVM  
7 was smaller than US KDOM, but I'm asking more generally. Was US KDOM  
8 present in more parts of Kosovo than KVM or were there more staff or  
9 less staff?

10 A. Less staff, given that we had -- we had centres and field  
11 stations throughout Kosovo, whereas they were essentially based in  
12 one place.

13 Q. Yes. And would you -- how would you rate their -- sorry, I'll  
14 put the question a different way. Given what you've told us about  
15 their close access to the KLA, how would you rate your knowledge of  
16 KLA structures in command and control versus theirs? Who had the  
17 better knowledge of the workings of the KLA?

18 MS. MAYER: Objection, just as to the vagueness at the end.  
19 When you say "you," I don't think it's clear if it's you, this  
20 witness, or overall KVM.

21 MR. EMMERSON: I meant overall KVM.

22 Q. Who had better access and better information about what was  
23 actually available?

24 PRESIDING JUDGE SMITH: Thank you, counsellor.

25 MR. EMMERSON: Sorry?

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1           PRESIDING JUDGE SMITH: [Microphone not activated].

2           THE WITNESS: My impression, no more than an impression, was  
3 that US KDOM had particular contacts at a high level. They had, of  
4 course, nothing like the contacts we had at more local levels, from  
5 zone and downwards. But at the very high political level, which  
6 mostly didn't affect me, my impression was that they -- their liaison  
7 was certainly close.

8           MR. EMMERSON:

9           Q. Yes. So is it fair to say that you would rely on their  
10 assessments or not?

11          A. We had our own. We had -- within RC1, we had what was  
12 effectively an intelligence cell. And I would have thought if that  
13 existed at regional level, it would also -- something similar would  
14 exist at KVM headquarters. Also, we had people who we called special  
15 verifiers who were British. I knew some of them personally, because  
16 they'd actually worked with us initially and often saw them, and knew  
17 that they had contact with KLA and were involved, for example, in  
18 moving KLA around for negotiations and discussions. But I have no  
19 overall picture of how that went.

20          Q. I understand. So distilling that, can I put it to you this way,  
21 because you've told us you don't know very much about the  
22 General Staff at the time. But I think I've taken from your answer  
23 just now, correct me if I'm wrong, that the US KDOM would be more  
24 likely to know more about the General Staff because they have access  
25 at a higher level in the organisation; is that fair?

1 A. I can't say that.

2 Q. Very well.

3 A. I know that KVM headquarters had their own contacts, and I  
4 can't -- I can't assess that in detail.

5 Q. Very well. I want just to read -- I hope we don't need to bring  
6 all of these documents up, but if we do, we can, obviously. But the  
7 man who trained you, I think both in Vienna and on the ground, in  
8 preparation for your deployment was Colonel John Crosland; is that  
9 right?

10 A. Yes, we had previous training in the UK that he was not involved  
11 in. And I never had contact in Vienna.

12 Q. Ah, I see.

13 A. But John Crosland led our orientation on arrival in Kosovo.

14 Q. And the purpose of the orientation was not just geography, was  
15 it? It was also orientation with regards to the situation, the role  
16 of the parties as far as it was known, and the structure of the  
17 parties, including the KLA. It was a general briefing as you were  
18 driving around?

19 A. Yes, it was.

20 Q. Yes, it was. And Colonel Crosland was not part of KVM as such,  
21 was he?

22 A. No, he was British embassy. He was the defence attaché.

23 Q. Yes, he was the -- yes, I think it was -- it was in those days  
24 called the military attaché; is that right?

25 A. I can't say that.

1 Q. Very well.

2 A. I --

3 Q. It's the same.

4 A. Yeah.

5 Q. It has the same meaning. And Colonel Crosland was a very, very  
6 distinguished British army officer, wasn't he?

7 A. Very much so. Very impressive.

8 Q. And you know a bit about his background? You know he led  
9 British forces in the Falklands War?

10 A. I knew that he had served in a distinguished way there. He was  
11 clearly a very experienced operator. That was quite clear to me. I  
12 did have conversations with him. And his orientation around a large  
13 part of the country was very impressive, including visiting KLA field  
14 headquarters where we were introduced to a commander.

15 Q. I think that was Ramush Haradinaj in Gllogjan in the Dukagjin  
16 zone; is that right?

17 A. It was in that kind of area. Of course, my knowledge of the  
18 geography wasn't what it is now. And I subsequently met Ramush  
19 during my KFOR tour. And I didn't recognise the same man --

20 Q. Very well. Okay. Are you saying it wasn't the same man or you  
21 just don't know?

22 A. Well, I know that Ramush had good relations, for example, with  
23 OSCE. I knew that he had good relations with one of my colleagues,  
24 who was ex-British army, who was in another area. So it was all of a  
25 piece. It was the same kind of local commander, but it just is a

1 fact that I did not recognise him as being the same man.

2 Q. All right. And you know that he was the zone commander of the  
3 Dukagjin zone?

4 A. Yes.

5 Q. Yes. And you said he had good relations with those various  
6 organisations. Do you know what his relationship with the  
7 General Staff was like?

8 A. No.

9 Q. But you did say, I think, at one point that -- and perhaps I'm  
10 misremembering, but I thought you testified at one point that he was  
11 a particularly powerful and independent zone commander, or is that  
12 incorrect?

13 A. I don't recall saying that. I'm in no position to have said --

14 Q. Very well.

15 A. -- that.

16 Q. Very well.

17 A. It sounds absolutely right. He's a very strong and charismatic  
18 character, no doubt about that, but I don't think I could have made  
19 that assessment of his position in the KLA.

20 Q. When you met him, did he strike you as the sort of man to take  
21 orders from non-military people?

22 A. Well, all military people ultimately take orders from civilian  
23 leadership.

24 Q. Yeah, but I'm asking you specifically about him.

25 A. I -- I --

1 Q. Don't feel able to answer.

2 A. I can't speculate on that.

3 Q. Fair enough. Going back to Colonel Crosland. I want to read to  
4 you a passage from the judgment of the ICTY in the trial of  
5 Ramush Haradinaj. And it relates to -- I'm going to ask you whether  
6 this was part of your briefing that Mr. Crosland gave you.

7 "The Chamber" --

8 MR. EMMERSON: This is paragraph 21 of Case No. IT-04-84 bis-T.  
9 We don't need to call it up at all but it's -- unless somebody wants  
10 it on the screen.

11 Q. Let me just read you the very short passage:

12 "The Chamber heard from John Crosland that, while the KLA was  
13 organised, to call the body at the top of it 'the General Staff' was  
14 misleading. He did not think that the General Staff had effective  
15 control over the KLA. John Crosland concluded that there was not a  
16 'great deal' of coordination between the zones and the  
17 General Staff."

18 Now, do you remember him giving you that impression when you had  
19 your briefing?

20 A. I don't specifically recall that, no.

21 Q. Very well. Did he talk to you about his assessment of the  
22 capabilities of the General Staff to command operations?

23 A. I have no recollection of that.

24 Q. Very well.

25 MR. EMMERSON: Just bear with me one second.

1 Q. I've just got one or two more issues to raise with you. First  
2 of all, Brigadier-General Joseph Maisonneuve, you've mentioned him  
3 once or twice in your evidence. So Brigadier-General Maisonneuve  
4 was, I think, if I'm right in saying, at the apex of command in the  
5 regional centre of KVM Prizren; is that right?

6 A. That's right.

7 Q. And he was therefore responsible for all aspects of those  
8 operations that we've discussed?

9 A. Yes.

10 Q. And beneath him were four commanders, CC1, CC2, CC3, and RC  
11 Prizren. And RC Prizren was the -- was where David Wilson, is that  
12 right, was -- he was the liaison for Prizren; is that right?

13 A. Yes. I don't recall David Wilson's precise title, but he did  
14 have liaison responsibility. And, by the way, I'd worked with him at  
15 other times out with Kosovo, and he was a very experienced and  
16 effective liaison officer.

17 Q. And you trusted his assessments?

18 A. Well, I can't say that I would agree with everything he ever  
19 said --

20 Q. No.

21 A. -- but yes, very --

22 Q. Overall --

23 A. -- able and competent. Yes.

24 Q. And he was on the same level in the organigramme hierarchy of  
25 the KVM Prizren as your boss, Georges Bordet; is that right?

1 A. I think that's probably right, but subordinate command is a  
2 different thing from a position on an organigramme. It was of a  
3 different nature. But yes, he --

4 Q. But they were -- all of those CC commanders and David Wilson  
5 were all reporting up to Brigadier-General Maisonneuve; is that  
6 right?

7 A. Yes.

8 Q. So if we understand the process, you would be filtering  
9 information to your immediate superior or, as in some instances that  
10 we've heard about, you would be acquiring information as part of a  
11 joint operation?

12 A. Yes.

13 Q. And then that information would go up the chain of command and  
14 be assessed along with the information provided by all of the other  
15 verifiers groups - 1, 2, 3 - and the chief liaison officer, who had  
16 two members of staff also reporting to him, didn't he, Chris  
17 Cobb-Smith and Andy -- is it Lefever?

18 A. Yes.

19 Q. Yes. And so all of the -- and this is not in any way to  
20 diminish the role at all, but you were a cog in the machine where the  
21 information was being assessed overall in relation to that region at  
22 a higher level?

23 A. Yes, that's fair.

24 Q. Now, were you aware that Brigadier-General Maisonneuve provided  
25 evidence to the ICTY including a large number of contemporary



1 documents that were deployed in the Milutinovic case?

2 A. Yes, I -- I didn't read the evidence in detail, but I was aware  
3 because my name was mentioned and it came up because he had produced  
4 a note written by me of my -- of some points from General Drini.

5 Q. Thank you. And we'll look at some aspects of what the  
6 documentation says. But he had been a senior officer and was, in  
7 fact, still a senior serving officer in the Canadian Armed Forces; is  
8 that right?

9 A. That's right.

10 Q. And, indeed, he was later promoted to the director of the  
11 general land force in Canada; is that right?

12 A. Yes.

13 Q. So amongst the documents that he produced is a -- just give me  
14 one second. Hang on. There it is.

15 MR. EMMERSON: Can I -- no, it hasn't been exhibited. So it's  
16 ERN IT-05-87, and it's page -- ah, the proposed exhibit number, I  
17 think it's P02772. Yes, that may be the cover page, I think. And if  
18 we turn to the next page, that should take us to the start of the  
19 witness statement, I think. Yes, that's it.

20 Q. So that is the witness statement that he made which exhibited a  
21 number of the contemporary documents that we're going to turn to.

22 MR. EMMERSON: Now, can we turn to page 27 of the statement.

23 Q. Now, this is a contemporary report from Regional Centre 1 dated  
24 23 February 1999, so whilst you were on deployment, on the  
25 implementation of liaison measure. And liaison measures in that

1 context means the ability to acquire information by speaking directly  
2 to either the participants to the conflict or witnesses to events  
3 arising from the conflict. Is that a fair description?

4 A. Yes.

5 Q. Yes. So there then follows a summary of what was known at that  
6 time about -- by KVM about what -- the different parties to the  
7 conflict, how easy or difficult it was to liaise with them. And if  
8 we look under paragraph 4a., there is a description of the KLA. And  
9 this seems to be an overall assessment at a., I think, because it's  
10 general. It's the general assessment.

11 "Potentially the most difficult to monitor in terms of liaison  
12 and confirmation of compliance due to the lack of specific detail  
13 regarding structure, locations and capabilities of the organisation."

14 Do you see that passage? I mean, do you agree that that's your  
15 organisation explaining that they've had great difficulty in  
16 assessing the capabilities of the KLA as well as its structure?

17 A. Yes.

18 Q. There is a sentence following:

19 "Generalities and the picture collated up to the present is  
20 sufficient to initiate an adequate level of liaison. However if the  
21 KLA wish to be recognised as a credible and legitimate force they  
22 should be encouraged to be more accessible."

23 And I just -- we go through these -- sorry, more accessible. RC  
24 stands for regional centre. So that's you, collectively "you"; is  
25 that right?

1 A. Yes.

2 Q. "... KLA and LOs," liaison officers, "will be responsible for  
3 coordination and collation of information."

4 So, again, I presume that that overall assessment has been drawn  
5 from a number of the different monitoring mission components, is that  
6 right, or would have been in your area?

7 A. Yes, that's right.

8 Q. Yeah. And can I take it, therefore, that you would agree that  
9 one of the difficulties of liaison was that you just didn't have  
10 enough information about the structure of the KLA, where the relevant  
11 people you wanted to speak to were located or, indeed, the  
12 capabilities of the KLA? That hampered effective liaison.

13 A. Yes. I think partly a question of physical points of contact is  
14 where to meet, where to see. The only -- the only fixed permanent  
15 point of contact which I was aware of was the KLA liaison office in  
16 Velika Krusa, and that was somewhere where one could go not  
17 necessarily obtain the right -- or to obtain helpful answers but,  
18 nevertheless, that is where liaison took place. Other colleagues  
19 would have been there far more than I was, but I did go there.

20 There weren't a series of offices throughout the hilly and  
21 wooded area that one could go to and know there would be a KLA  
22 representative with authority to speak to, so that was -- I think  
23 this is partly in comparison with the Serbian forces, the MUP in  
24 particular. But even there, we had to work on it to build it up and  
25 find out where people were and build up trust. And we were making

1 the same efforts with the KLA, but, unsurprisingly, given the  
2 geography as well as other factors, that took longer.

3 Q. Yes. You, I think, just said, if I heard you correctly, that  
4 there was no building that you could go to to meet with KLA  
5 leadership in the hills; is that right?

6 A. In most cases, no. And we were not able to obtain access into  
7 the hills except by prior arrangement --

8 Q. Yes.

9 A. -- such as the time I went to Terpeze.

10 Q. Yes.

11 A. Normally, I couldn't have gone there.

12 Q. Yes. So the person responsible for liaison at that level then  
13 would be presumably the chief liaison officer, David Wilson; is that  
14 right? Primary responsibility.

15 A. It would come under his authority. I personally, although I  
16 knew David, I didn't see him engaged in these things. I've no doubt  
17 he was. The person I more often actually met in connection with such  
18 liaison was Andy Lefever.

19 Q. Andy Lefever.

20 A. Yes.

21 Q. Who, as we've heard, worked with Chris Cobb-Smith.

22 A. Yeah.

23 Q. Can I, though --

24 A. Sorry. And Chris Cobb-Smith I knew well as well.

25 Q. Yes. So --

1 A. He had -- I'm sorry for interrupting. Chris Cobb-Smith had  
2 other jobs at other times, but there was a period he was doing that  
3 liaison.

4 Q. I see. But both Chris Cobb-Smith and Andy Lefever would feed  
5 their own information up to David Wilson because he was their line  
6 report; is that right?

7 A. I'm sure that's right.

8 MR. EMMERSON: So can we turn to page 47. And I think it should  
9 be page 47 in the same document. So this is a contemporary note  
10 which had gone -- we can see the dates in a moment, but it was  
11 revised and it was a living document in that sense. It had been  
12 written first in November 1998 and then updated in early December and  
13 in late December. And this is the version from 27 December.

14 So if we can begin - if I can just look - with paragraph 1. If  
15 we just enlarge those first few lines just to remind you of the  
16 nature of this sort of living document.

17 Q. So it's essentially a document to be provided to people to give  
18 them a proper briefing information presumably within the auspices of  
19 KVM only.

20 A. Yes.

21 Q. Yes. And it deals with a large number of issues and a range of  
22 factors. But as you can see, it tells us that its origin was in the  
23 early part of the KDOM tenure in Prizren. The first version produced  
24 on 22 November for KDOM verifiers, then updated and modified slightly  
25 on 6 December to assist with the orientation of the initial influx of

1 OSCE verifiers. So that would be you, wouldn't it? You would have  
2 seen the 6 December version; is that right?

3 A. Yes.

4 Q. And then it was further updated on 27 December, and that is the  
5 version that is -- we are looking at, obviously, because that's in  
6 the document itself. And it says:

7 "Although most of the information remains unchanged, there are  
8 [some] minor corrections and revised analysis - based on fresher  
9 information ..."

10 Can we assume that we're looking at a snapshot of what KVM knew  
11 in -- KVM Prizren knew about these broader range of issues, its  
12 overview? Is that -- you must have seen the document at some stage,  
13 presumably, as you said, in your training or your induction?

14 A. Yes, I believe I may have seen something similar. It's -- what  
15 I'm looking at there looks right to me as, well, understandable,  
16 reflecting the situation at that time.

17 Q. Yes. And you were, at least we know -- I think you were among  
18 the initial influx of OSCE verifiers, or is that wrong?

19 A. Yes, given that I was already there under UK KDOM.

20 Q. KDOM.

21 A. Yes.

22 Q. Yes. So perhaps you didn't need as much of -- well, you  
23 wouldn't have needed as much of an initial overview briefing, but it  
24 would be a working document perhaps you'd refer to? Is that right?  
25 You can't remember?

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1 A. I don't recall this particular document. I have, in my time,  
2 read a lot of documents --

3 Q. Yes.

4 A. -- by David Wilson --

5 Q. Yes.

6 A. -- who was an education corps officer --

7 Q. Right.

8 A. -- of great ability. So I can't say yes, I recall reading --

9 Q. Definitely read this one.

10 A. Yeah.

11 PRESIDING JUDGE SMITH: Ms. Mayer.

12 MS. MAYER: I would just note that at the end of that very  
13 paragraph that is being discussed, it says:

14 "This is not an official document, either of the OSCE or of HM  
15 Government."

16 And that it expresses my personal views.

17 So I think that might assist the witness in determining whether  
18 he saw it or not.

19 MR. EMMERSON: Well, yes, it also is clearly -- if one looks at  
20 the top, there is a note from Mr. Wilson:

21 "This is a personal document that has been produced by David G  
22 Wilson. It is not to be reproduced or copied without permission."

23 So it's perfectly clear that it's his briefing to the people  
24 incoming.

25 Q. Would you agree with that?

1 A. I don't know to whom this was distributed.

2 Q. Very well. Very well. But at least we know who wrote it.

3 A. Yes.

4 Q. And he's somebody who was responsible for liaison, had a staff  
5 of his own and was directly answerable to Mr. Maisonneuve?

6 A. Yes.

7 Q. Thank you.

8 MR. EMMERSON: Can we look at paragraph 15, please, which is on  
9 page -- the internal pagination on the right will be K0075660.

10 Q. I just want to go -- you can see there is a description  
11 assessment of KLA capabilities, some suggestions, and then some  
12 categorisations of different fighting elements. I want to understand  
13 whether Mr. Wilson's assessment reflects your own understanding,  
14 because now we are talking about a document produced within the  
15 auspices of your own organisation. "UCK/KLA," he says:

16 "1998 has been a heady year for the UCK. Their military  
17 successes between March to July 1998 surprised everyone, including  
18 themselves. Intoxicated by the ease and scale of their early  
19 achievements, along with the lack of effective response from the FRY  
20 authorities, they overextended themselves."

21 So that's the description there from March to July. Obviously,  
22 it's before your deployment, but it's important, no doubt, background  
23 information for you. Would you agree?

24 A. Yes, very much so. The events of the summer of 1998 very much  
25 overshadowed our operations, and I think that was particularly true



1 of CC1 because we -- our area included Rahovec, which had been partly  
2 taken over by the KLA in that summer, but also Malisheve which had  
3 been a sort of headquarters.

4 Q. Yes.

5 A. And the events of that so-called offensive very much  
6 overshadowed our time there.

7 Q. Did he, Colonel Crosland, take you there to that area during  
8 your initial induction or did he discuss with you what had happened  
9 in Recak -- I'm sorry, in Rahovec?

10 A. I think he certainly discussed those events. I don't recall  
11 John Crosland taking me physically to Rahovec. The first time I went  
12 there was with a colleague who ultimately was one of the special  
13 verifiers.

14 Q. And presumably, he therefore made you aware, because it was  
15 important for you as part of Prizren KVM, of the Serbian offensive  
16 that had occurred in July -- or Serbian attack that had occurred in  
17 July in response to some KLA soldiers being found inside Rahovec?  
18 Did he tell you about that?

19 A. Yes. I think it was more dramatic than KLA soldiers --

20 Q. Yes.

21 A. -- being found inside Rahovec. There was fighting --

22 Q. Yeah, yeah. Exactly.

23 A. -- which was initiated by the KLA presence.

24 Q. And then --

25 A. And then --

1 Q. -- the response.

2 A. Yes.

3 Q. Did he tell you what he saw? Because he'd been there, hadn't  
4 he? He saw the immediate aftermath. Did he tell you what the effect  
5 of that had been?

6 A. I don't remember John Crosland saying that. But, of course, I  
7 have heard from many people --

8 Q. Yeah.

9 A. -- including locals what happened. So I have a picture of what  
10 happened. Where I got it from, the various people --

11 Q. Multiple sources --

12 A. -- I got it from, I can't -- yeah.

13 Q. That's fair enough. Did he or any of your sources give you an  
14 estimate in the tens of thousands of Albanians who were missing and  
15 displaced as a result of that?

16 A. I certainly heard a lot of figures. I knew that many, many  
17 people had left their homes and headed for the hills, and a number of  
18 our local staff, I think the majority, had been in that position and  
19 had fled into the hills.

20 Q. Very well. And if we can go back to paragraph 15. So having  
21 had a picture of relative early successes between March and July,  
22 then the response came. And we can see in the KVM document:

23 "When the FRY authorities did attack they rolled back the UCK  
24 with ease, exposing fundamental weaknesses in their training,  
25 equipment, and C," with a footnote 2 against it.

1 Now, can you tell us what C is?

2 A. Yes, C<sup>2</sup> is command and control.

3 Q. Thank you. So this is him recording for the benefit of  
4 colleagues and incomers that there were fundamental weaknesses in  
5 command and control; is that right?

6 A. Yes.

7 Q. Thank you.

8 "In particular, the UCK attempts to hold ground with  
9 lightly-armed infantry, against a well-armed and organised  
10 opponent" --

11 Sorry, I put the emphasis in the wrong place again.

12 "In particular, the UCK attempts to hold ground with  
13 lightly-armed infantry, against a well-armed and organised opponent,  
14 was doomed to fail. At the same time, the international media  
15 produced a series of consistent reports on the UCK that were less  
16 than flattering. While the enthusiasm and individual courage of UCK  
17 members was lauded, they often came across as a gaggle of armed bands  
18 that had little in common other than their claimed membership of the  
19 UCK. In particular, the lack of political affiliation, the apparent  
20 independence of local commander, and the poor quality of their  
21 spokesmen did them few favours."

22 Now, pausing there. *[REDACTED] Pursuant to In-Court Redaction  
Order F01789RED.*

23 *[REDACTED] Pursuant to In-Court Redaction Order F01789RED.*

24 *[REDACTED] Pursuant to In-Court Redaction Order F01789RED.* but my  
question for you is: This is the man who's filtering

25 the information up within your organisation. This is the report, as

1 it stood during your time -- or at the beginning of your time,  
2 period, in Kosovo, at the end of -- the very end, 28 December 1998.  
3 So on, if you like, the eve of the 1999 events.

4 Do you disagree with that assessment?

5 A. It wasn't the same position everywhere. I think things were  
6 more organised in some places than others. On reading that, I'm  
7 reminded of a day fairly early in my deployment where I accompanied a  
8 BBC journalist wishing to interview MUP and KLA, and I took him  
9 initially to the MUP who were polite but refused interview. And I  
10 then took him to meet KLA. This was not by arrangement. There was  
11 no particular place for me to go, but I knew that KLA would be in a  
12 particular area, and he wanted some footage of KLA. And, in fact,  
13 this was one of the checkpoints at which -- which we were unable to  
14 pass. Although, they were very cooperative, agreed to appear in the  
15 footage and so on.

16 What I wanted to add to that is that the journalist, Ben Brown,  
17 was making a point to the checkpoint: I have a letter from  
18 Commander Drini. And this was not effective. But they clearly knew  
19 who Commander Drini was. They were saying, "Well, it's above our pay  
20 grade, and we'll need to speak to our next higher formation." But he  
21 had been given this letter, and he clearly had already used it in  
22 other places, and so it was my understanding, from Commander Drini,  
23 in order to obtain access and cooperation from the KLA. Although on  
24 that occasion, it wasn't successful.

25 Q. But just to put that in context, what was it that you were

1 going -- he was going to film? It was a direct negotiation meeting,  
2 was it not? That's what you -- that was the event that you were  
3 travelling towards, which you've mentioned in your witness statement,  
4 I think, was an event involving high-level negotiations between KLA  
5 figures and others.

6 A. No, there's a slight confusion there. I had a subsequent  
7 conversation with another British officer and I happened to mention  
8 this, and he said, "Oh, it might be because we had a meeting on that  
9 day."

10 Q. "We" being?

11 A. "We" being KVM or perhaps more likely UK KDOM --

12 Q. Yes.

13 A. -- at a higher level. But this was only supposition that there  
14 was a connection and that's why we didn't get past that checkpoint,  
15 because on other occasions, later occasions we did.

16 Q. Yes.

17 A. But I wasn't taking the journalist to any specific event. He  
18 simply wanted footage. He was hopeful of an interview with the MUP.  
19 We didn't get it. But there was nothing specific on the KLA.

20 Q. But just to be clear. In interpreting the fact that you were  
21 not allowed to get through on that occasion, you would have  
22 considered it relevant, presumably, if there was a high-level meeting  
23 between either KDOM or KVM at a senior level with senior people in  
24 the Kosovo Liberation Army because, presumably, if people knew that  
25 senior officials in the KLA -- senior officers in the KLA were in

1 that region at that time at that date, then it was vital to keep any  
2 strangers out because they would be easily targeted?

3 A. Yes, that would explain it. But it may, of course, be a  
4 complete coincidence that the officer that I was speaking to was  
5 assuming that there was a likelihood of some connection.

6 Q. Yes.

7 A. Nevertheless, on subsequent occasions, when I followed the same  
8 route, we had no difficulty.

9 Q. Exactly. So he may or may not be right, but it would provide an  
10 explanation if he was.

11 A. Yes.

12 Q. And he was certainly right that that was happening?

13 A. Yes.

14 Q. Yes, exactly. Last passage, last quote, and then I'm finished.

15 MR. EMMERSON: Can we turn, please, to - just bear with me a  
16 second - page 54 in the same document -- oh, I'm sorry. We're  
17 already on page 54. Paragraph 16, which is at the bottom.

18 Q. So after examining on a -- not a hypothetical basis, but on a  
19 worst and best-case scenario basis what the KLA might be planning.  
20 If we can start at paragraph 16, and I want to ask you whether the  
21 KVM -- whether the assessment of David Wilson, liaison officer, is --  
22 if there's anything in this with which you would take issue.

23 "However, there is little evidence of the UCK significantly  
24 improving its ability to deal heavy blows to the FRY forces or  
25 modifying their approach in the light of lessons learned during the

1 course of the year. It appears that they do indeed have a chaotic  
2 command structure. While there is now a core element of  
3 ex-professional soldiers, many do not have a military background.  
4 They appear to have retained their fascination for claiming and  
5 holding territory. Their 'organisation' appears to work at three  
6 levels."

7 And would you take that use of inverted commas by an English  
8 reporter to imply that it's not an organisation at all or it calls  
9 itself an organisation but really it's not worthy of the name?

10 A. Not by our standards or, indeed, the standards of today's  
11 Kosovo.

12 Q. Yes. Yes, it's saying "organisation" ironically, effectively,  
13 is what he's saying, in using the inverted commas?

14 A. Yes, I accept that.

15 Q. "Their 'organisation' appears to [operate] at three levels.  
16 Confusingly they often have overlapping areas of operation,  
17 disagreement about pecking orders, shifting allegiances and a  
18 glorious access for independence and anarchy."

19 Now, "pecking orders," just for the sake of those who are not  
20 native English speakers, would mean disputes about who was in charge  
21 and who was more senior to whom; is that right?

22 A. That's what the phrase means, yes.

23 Q. "Shifting allegiance" is self-evident. It goes on:

24 "While this cocktail is highly confusing for the Western  
25 military mind, there is no evidence that it is deliberately designed

1 to confuse."

2 So this is Mr. Wilson saying, is it not, they're absolutely  
3 chaotic but it's not put on. They really are.

4 A. They weren't absolutely chaotic.

5 Q. I understand that, and I'm not asking you to say that they were,  
6 but that's what he is saying, isn't it? Or perhaps I've carried that  
7 word over. Let me put it exactly as it appears. The confusing  
8 nature of this cocktail, which he has described before, is confusing  
9 if you view it from a Western military mind, but he's not suggesting  
10 that it has been put on to create an impression there was no -- that  
11 these things were confusing. They actually were.

12 MS. MAYER: Objection as to ask the witness to interpret what  
13 this author means. He's just offered his own opinion differs.

14 PRESIDING JUDGE SMITH: Sustained. The words will have to stand  
15 for themselves.

16 MR. EMMERSON: Very well. I accept that.

17 Q. And then he goes on to talk about these three separate types of  
18 KLA fighter, and then I will sit down.

19 First of all, "Clan and Village Defence Units":

20 "These are ordinary Albanian civilians who are doing what their  
21 forebears have done for over six hundred years. They do get some  
22 supplies (especially uniform) and support from the UCK, but are  
23 usually left to their own devices and prefer it that way. Any  
24 request to speak to their leaders is likely to result in an  
25 incomprehensible reply, which could be guileless or designed to



1 confuse (probably for amusement at the gullibility of outsiders).  
2 They are usually lightly armed with an assessment of rifles, with the  
3 occasional RPG, etc, thrown in for good measure. They are often  
4 highly individual and their area of interest rarely extends beyond  
5 the boundaries of their land. These individuals are the most likely  
6 to appear in the wrong place at the wrong time, not because they wish  
7 to but simply because of their independence and ignorance of the  
8 wider current ops picture. It is highly likely that individual  
9 Verifiers who argue their corner persuasively could influence this  
10 level of the UCK, given their historical independence and  
11 insularity."

12 Now, to outward appearance, you might recognise that as sort of  
13 modified village defence units that had then allied themselves with  
14 the KLA cause and to outward appearances were wearing KLA uniforms.  
15 Do you recognise that as a category?

16 A. Yes, I understand Mr. Wilson's reference to history. And that  
17 these people were doing what they always had done. But to me, they  
18 were members of the KLA. That was quite clear. And they did have  
19 the ability to mobilise when there was a threat. There would be  
20 people in certain permanent positions, certainly, but during what I  
21 described in my report as the battle of Randubrava, I noticed in  
22 another village the ability to very quickly mobilise some mostly  
23 scared and apprehensive-looking young men, clearly prepared to defend  
24 their people, and they weren't mobilising in order to defend that  
25 village. They were mobilising in order to move to Randubrava and

1 support their colleagues if required.

2 It appeared to me that they were people who that morning  
3 wouldn't have been expecting to be doing that, but nevertheless, they  
4 were in uniform, they were formed up in formation, ready to be  
5 marched off or given orders, and all had weapons. So there was a  
6 degree of organisation. They weren't chaotic.

7 Q. No, I understand you. You were --

8 PRESIDING JUDGE SMITH: Mr. Emmerson, it's time for lunch.

9 MR. EMMERSON: I had -- I could finish in five minutes, but I'll  
10 sit down.

11 PRESIDING JUDGE SMITH: [Microphone not activated]

12 MR. EMMERSON: Yes, of course.

13 PRESIDING JUDGE SMITH: So we will check out at this time for  
14 lunch. You'll be back in an hour and a half, and hopefully we will  
15 finish with your testimony yet today. Madam Usher will escort you  
16 out of the room.

17 [The witness stands down]

18 PRESIDING JUDGE SMITH: So we are adjourned until -- oh, I'm  
19 sorry. Till 2.30.

20 Yes, I'm sorry.

21 MR. ELLIS: Your Honour, just to update you. I'll review over  
22 the lunch break, but it's unlikely that I'll have any questions.

23 PRESIDING JUDGE SMITH: [Microphone not activated]

24 MR. EMMERSON: [Microphone not activated]

25 PRESIDING JUDGE SMITH: [Microphone not activated]

1 Thank you all. We're adjourned till 2.30.

2 --- Luncheon recess taken at 1.02 p.m.

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

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

6 [The witness takes the stand]

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 It says it's on.

9 MR. EMMERSON: It is now.

10 PRESIDING JUDGE SMITH: You still have the obligation to tell  
11 the truth. Mr. Emmerson has a few more questions for you.

12 Go ahead, Mr. Emmerson.

13 MR. EMMERSON: Yes.

14 Q. I hope your screen is still on, is it, in front of you?

15 A. Yes, it is.

16 Q. We're looking at the first category that your colleague  
17 identified and his description of the, if you like, local village  
18 units. And the last sentence:

19 "In very simplistic terms, these UCK could be compared to Home  
20 Defence units - with teeth, experience, and 'attitude.'"

21 Now, I think you've already answered that these home defence  
22 units or these village-based defences could be deployed, at least in  
23 the zone you were responsible for. But did you find out, as you were  
24 talking to people in the area, that they'd usually grown out of what  
25 existed before the conflict and for many years before, namely, in

1 those days, called village defences?

2 So the structure in Kosovo amongst the Albanian community was to  
3 have, and had been for a very long time, to have certain people in  
4 the village whose responsibility it was to keep watch and keep safe?  
5 Is that something that you were aware of?

6 A. No, I -- I didn't detect that sort of progression prior to my  
7 being there. I was never told by any locals that, for example, they  
8 had been --

9 Q. [Overlapping speakers] ...

10 A. -- villager defenders for many years.

11 Q. No.

12 A. And some people I met, I knew that they'd only recently come  
13 into the organisation. So it may be as you say, but I cannot  
14 confirm.

15 Q. That's perfectly fair. Then the second group he describes is  
16 the local area militia. Again, these seem to be his categories  
17 rather than official categories. But the local area militia:

18 "These are often the remnants of the UCK that were heavily  
19 involved in the adventures of the summer. Formerly the core of the  
20 UCK, they have now been relegated to a secondary role, sometimes to  
21 the obvious dissatisfaction of their commanders. They are again  
22 relatively lightly armed, but mines and mortars do figure in their  
23 arsenals. Again simplistically, these units could be compared to the  
24 Territorial Army."

25 First of all, you having been in the UK territorial forces, you

1 understand the analogy he's drawing. Is that something you recognise  
2 or you don't? This group, if you like, above village defence level,  
3 groups that were organised by area?

4 A. Yes, I can accept this analysis. I can't say I classified it  
5 like that but --

6 Q. No.

7 A. -- I think that's a reasonable description. And there were  
8 people who I met who I knew had been involved in the events of the  
9 summer of 1998 but were not in any way professional. Perhaps they  
10 were older people and were not -- whilst they may have been very  
11 staunch fighters, they were not really capable of further  
12 development --

13 Q. Yes.

14 A. -- and operating as active infantry.

15 Q. That's very helpful. And it's, I think, unclear whether that is  
16 also a reference to the zones, whether local area is a reference to  
17 the zones. But can I just ask you: Are you aware that the Pashtrik  
18 zone didn't come into existence as such until almost the same time  
19 you arrived? The zones obviously having been created --

20 A. Yeah.

21 Q. -- at different times.

22 A. Yes.

23 Q. You were aware of that?

24 A. Yes, that's -- that's right. There was never any reference to  
25 the Pashtrik zone, that level of command, in the currents given to me

1 of events during the summer.

2 Q. Exactly. And, therefore, Drini was appointed or elected -- I'm  
3 not drawing the distinction because I don't know exactly how that  
4 happened, but he became the zone commander of the Pashtrik zone at  
5 around the time that you were deployed as KVM?

6 A. Yes.

7 Q. So -- and then there's this category c., "Core Units":

8 "These are the rising stars of the UCK and it is highly  
9 irritating to be forced to confess a near-complete ignorance of their  
10 activities. What follows in this sub-paragraph is pure speculation.  
11 The senior-most command is almost certainly collective."

12 And I'll come back to the footnote.

13 "Many of the operational commanders are ex-professional  
14 military, often former JNA ... which is highly disciplined and  
15 responsive to the will of the people."

16 Can we look at that footnote, which is on page 566 at the top or  
17 page 14 at the bottom. Yes, and at the top left it's given page 60.  
18 So take your pick.

19 So, again, this is -- if we look at footnote 11. So this is a  
20 footnote to the sentence, as we've just seen, it says:

21 "The senior-most command is almost certainly collective."

22 And the footnote at 11 says:

23 "While collective leadership may give the illusion of harmony  
24 and unity of purpose, it probably has much more to do with the  
25 traditional Albanian abhorrence of subordination."



Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

1 [Private session text removed]

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Witness: W03724 (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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21 [Open session]

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

23 MR. EMMERSON:

24 Q. Obviously, the senior professional soldiers who were seconded to  
25 or working for -- in the higher-ranking positions in the KVM would

1 have had, from their past background and experience, no doubt, a  
2 thorough knowledge of the rules of armed conflict; is that right?

3 A. Yes. And not just the professional officers.

4 Q. That's exactly what I was going to ask. Is that something that  
5 you would have been trained in by the KVM, or you would have been  
6 recruited because you already were familiar?

7 A. I was already familiar. And the UK Foreign and Commonwealth  
8 Office in its recruitment of staff for the KVM was looking for people  
9 with either currently serving experience in the reserves --

10 Q. Yes.

11 A. -- or, indeed, a number of retired, recently retired relatively  
12 senior officers, similar rank to me or perhaps one above. And we all  
13 had had training in the laws of armed conflict. I am not sure I  
14 remember what detail was given to us in the course of pre-KDOM  
15 training. It certainly was a large part of the background. We knew  
16 that that was something which was going to be applied.

17 Q. And does that mean you knew within your work that it was  
18 something that you needed to be aware of because you were not just  
19 looking at violations of the cease-fire but also at potential  
20 violations of humanitarian law?

21 A. Yes, that's right.

22 Q. Thank you. So with that background, I'm assuming -- this is not  
23 meant to be a test. But you understand what I mean by civilians who  
24 are directly participating in hostilities; is that right?

25 A. Yes, I do.

1 Q. Yes. And without going into the debates about when a civilian  
2 is and is not directly participating in hostilities, the key point  
3 there is that a civilian can become a combatant if they take up arms  
4 and fight with the enemy forces; is that right?

5 A. Yes.

6 MS. MAYER: Objection. I believe we're venturing into his legal  
7 opinions --

8 MR. EMMERSON: No.

9 MS. MAYER: -- and getting very close to what's in the province  
10 of this Panel.

11 PRESIDING JUDGE SMITH: We are.

12 MR. EMMERSON: Well, that's not where I'm going. So we may be  
13 getting near it, but I'm not --

14 PRESIDING JUDGE SMITH: Then go there.

15 MR. EMMERSON: Pardon?

16 PRESIDING JUDGE SMITH: Then go there.

17 MR. EMMERSON: Well, yes, I'm not intending to ask the witness's  
18 opinion.

19 Q. Were you trained to know, as part of KVM's mission, that -- I  
20 think you answered "yes" already while the objection was coming, but  
21 I'll come back to it and make sure it's on the record. Trained to  
22 know that, in certain circumstances, a civilian who took up arms  
23 could legitimately be regarded as a combatant and treated as a  
24 legitimate target whilst they were taking up arms? Is that part of  
25 your knowledge?

1 A. It was certainly part of my knowledge. I can't tie that down to  
2 having been specifically briefed on that in the course of pre-KDOM  
3 training, but I was, of course, thoroughly aware of that.

4 Perhaps I can add that I don't recall -- well, it's worth saying  
5 that the KLA, whenever I observed KLA in a fighting situation, at all  
6 those times they had clearly identifiable uniform. There was no  
7 question, and from what I saw at those times, that they were members  
8 of an armed force and clearly declaring themselves to be members of  
9 an armed force.

10 Q. Yes. I mean, there is obviously other evidence about uniforms  
11 and so forth. But with each of these questions, as I've just  
12 explained in answer to the objection, please don't express an opinion  
13 about whether a situation is or is not one side or the other of the  
14 line.

15 But am I right in saying that your training included -- or your  
16 knowledge, at least, your practical knowledge when coming across an  
17 event that might be reportable as a violation of humanitarian law  
18 and, therefore, part of your mission, that your -- that you  
19 understood that the distinction between a civilian directly  
20 participating in hostilities and an enlisted soldier is that a  
21 civilian in those circumstances can only be targeted when they are  
22 actually participating in hostilities, however you define that,  
23 whereas a soldier can be targeted at any time. Is that right?

24 A. Yes.

25 Q. An enlisted soldier in uniform can be targeted when they are in

1 their barracks asleep?

2 A. Yes. As far as the law of armed conflict is concerned. Of  
3 course, as we've already discussed, there were also the agreements in  
4 place.

5 Q. Exactly.

6 A. Yes.

7 Q. But subject to the law on *hors de combat* - that is, people who  
8 are unable ever to participate because they're sick or they're in  
9 hospital, whatever, they're wounded - otherwise, you can attack an  
10 enlisted uniformed member of the armed forces at any time and target  
11 them for being killed; correct?

12 A. If there is a state of conflict in being --

13 Q. Yes.

14 A. -- yes.

15 Q. Exactly. And you were working at this point on the basis that  
16 there was a state of conflict in being; right?

17 MS. MAYER: Objection.

18 MR. EMMERSON: Oh.

19 MS. MAYER: Again, these are legal opinions, and I don't think  
20 he's been qualified to answer this. He's told us his training as it  
21 relates to his mission. I think it's more of the same --

22 PRESIDING JUDGE SMITH: Sustained. And, I mean, you said you  
23 have five more minutes and we're now 20 --

24 MR. EMMERSON: Well, I -- I --

25 PRESIDING JUDGE SMITH: Just a minute. We're now at 20. And

1 we're talking about laws that we can look up ourselves.

2 MR. EMMERSON: Yes, no, I understand that, but it's the context  
3 in which the questions that I wanted to follow this witness's  
4 knowledge as part of his reporting obligations.

5 Q. Because one of the incidents, obviously, you investigated was in  
6 relation to the abduction of Mr. Xhafiqi, Ymer Xhafiqi. And I just  
7 want to check a number of things with you, if I may.

8 First of all, in the investigation that you did, you established  
9 that he was an enlisted officer in the MUP; is that correct?

10 A. He was an enlisted officer working in that ministry. His role,  
11 I understood, from the beginning was to do with documents.

12 Q. Yes. But as you know, as an enlisted uniformed member of the  
13 armed forces, it doesn't matter whether somebody is a cook or  
14 doing -- directing traffic if it fills the capacity of the armed  
15 force to conduct operations; correct?

16 A. I don't know one way or the other whether he was wearing a  
17 uniform at the time he was detained.

18 Q. Very well. Very well. But would you accept that in that  
19 investigation -- because we're not talking about targeting somebody.  
20 In fact, we're talking about arresting or detaining somebody. Would  
21 you accept that because there were active MUP military operations  
22 taking place at the time, that it would be legitimate to detain a  
23 person who was a member of the MUP?

24 MS. MAYER: Objection. The conclusion of whether that action  
25 was legitimate or not.

1 MR. EMMERSON: Well, with respect, this witness has investigated  
2 the matter. That's not an ultimate issue in the case. There's  
3 absolutely no reason why he cannot explain the approach that he was  
4 adopting.

5 PRESIDING JUDGE SMITH: Other than it's probably irrelevant, but  
6 go ahead.

7 MR. EMMERSON: Very well. I mean, if the witness is able to  
8 shed light on whether this is an arbitrary detention, how is that  
9 irrelevant, with respect?

10 PRESIDING JUDGE SMITH: Just ask the questions.

11 THE WITNESS: Sorry, could you repeat it, please?

12 MR. EMMERSON:

13 Q. Yes. The question is: We know, is it correct, that there were  
14 MUP military operations taking place in Kosovo close to the border,  
15 and, indeed, immediately adjacent to the area where you conducted the  
16 investigation, both before and immediately after the day you  
17 conducted that -- those inquiries, in which the MUP were using  
18 firepower in order to attack the KLA?

19 A. I do find the question difficult.

20 Q. Very well.

21 A. This is -- this was a man going to work.

22 Q. Yes. We're not talking about the morality of it in this.

23 A. No.

24 Q. I'm asking you about the MUP operations. I mean, they were  
25 people going to work as well from somewhere. The question is there

1 were MUP soldiers fighting in the area against KLA both before and  
2 immediately after, weren't there?

3 A. Which operations are you --

4 Q. Well, let's look --

5 A. -- referring to?

6 Q. Let's look at your witness statement probably is the best place  
7 to start.

8 A. Perhaps we are talking about the battle of Randubrava?

9 Q. Well, let's start with your witness statement at -- and it's  
10 P392 at paragraph 92. So you -- this is all referring to, I think, 9  
11 March. It was the 9th, was it, that you were conducting those  
12 inquiries? Yes.

13 A. Yes.

14 Q. So, 92:

15 "There were various efforts ongoing around this time to try to  
16 locate Mr. Djafici/Gjafiqi. While I personally remained very  
17 concerned about his welfare and safety, in the following days I was  
18 heavily involved in responding to other events on the ground, while  
19 CClliaison with RC1 was being dealt with mainly by CC1 Director,  
20 Bordet."

21 And then this:

22 "For example, on the morning of 10 March," that's the day after  
23 you were looking into this, "... following our late-night meeting at  
24 Trpeza, I deployed to an incident where a MUP M-80 armoured personal  
25 carrier was firing from the vicinity of 'Hotel California' near the



1 Malisevo-Lapusnik road. It was automatic fire towards KLA positions  
2 and a lower detached part of Trpeza village, where I saw rounds  
3 striking houses."

4 And then I think you go on to say that there may have been an  
5 initial negligent weapons discharge.

6 And then further down:

7 "The KLA did not return fire during the incident, although after  
8 it was resolved one round was fired from one of the KLA positions  
9 along the Malisevo-Lapusnik road at a MUP vehicle returning to the  
10 'White House.'"

11 So that's the day after in the very vicinity that you were  
12 conducting the investigation; correct?

13 A. Yes.

14 Q. So I think we can all agree that's an armed engagement between  
15 two sides?

16 A. If the version of events by the MUP was correct, their claim,  
17 which I doubted, was that one of their personnel had been wounded by  
18 a shot fired from the direction of lower Terpeze. Now if that's  
19 correct, they would have been entitled, to an extent, to return fire.  
20 Although, actually it was excessive.

21 Q. Yes. I'm not here to -- inviting you to judge who was in the  
22 right or --

23 A. Yeah.

24 Q. -- who was in the wrong about this incident at all. The point  
25 is there was fighting going on between the MUP and the KLA in the

1 very vicinity where you were investigating on the very next day; am I  
2 right?

3 A. It wasn't actually fighting. What I saw was the MUP  
4 irresponsibly, in my view, firing towards a village where I saw no  
5 evidence of KLA activity. Although, we had another patrol down  
6 there. They may have more information than me. But --

7 Q. You say it was towards KLA positions in your statement.

8 PRESIDING JUDGE SMITH: [Microphone not activated]

9 MR. EMMERSON: I will.

10 PRESIDING JUDGE SMITH: [Microphone not activated]

11 MR. EMMERSON: No, I will. It is rather important, though, in  
12 the context of the --

13 PRESIDING JUDGE SMITH: Well --

14 MR. EMMERSON: -- issues.

15 PRESIDING JUDGE SMITH: -- just go on and get to it.

16 MR. EMMERSON:

17 Q. You did say, didn't you, that you thought they were firing  
18 towards KLA positions?

19 A. It certainly was KLA territory. Put it that way.

20 Q. And without, as I say, going any further into the rights and  
21 wrongs, we can agree that the KLA fired back and that makes it an  
22 armed engagement, doesn't it?

23 A. The KLA did not -- I saw no evidence of the KLA firing back  
24 towards the armoured vehicle which was firing. It was only on the  
25 road back down into Malisheve some distance away that this one round

1 was fired, but it wasn't an armed engagement one against another. It  
2 was, if you like, a --

3 Q. Exchange of fire.

4 A. -- a separate instant a few -- sometime later.

5 Q. Very well. Yes. But you would recognise, wouldn't you, that  
6 the KLA would therefore treat the MUP as a present danger?

7 MS. MAYER: Objection again as to what the KLA would -- how they  
8 would view the forces of the MUP in that area.

9 MR. EMMERSON: Okay.

10 Q. You would accept --

11 PRESIDING JUDGE SMITH: Speculation. Sustained.

12 MR. EMMERSON:

13 Q. You would accept, would you not, that in fact the MUP presented  
14 a present danger towards KLA forces?

15 A. When the shot was fired, the MUP -- it was a commander, a local  
16 commander in his vehicle was following my vehicle back into  
17 Malisheve. He wasn't heading towards any KLA territory. He was on  
18 the -- what we regarded as the main road and keeping to the road.

19 Q. When from the hotel the MUP fired on KLA positions, you would  
20 accept they represented a present danger?

21 MS. MAYER: Objection, asked and answered.

22 MR. EMMERSON: No, it's not -- that wasn't the question that the  
23 witness answered.

24 PRESIDING JUDGE SMITH: You may answer the question, yes or no.

25 THE WITNESS: Not a present danger. It was separated in time.

1 MR. EMMERSON:

2 Q. I think maybe I'm confusing you. I'm not talking about when the  
3 KLA fired on the MUP vehicle driving. I'm talking about when, as you  
4 say in your statement, the MUP fired automatic weapons at KLA  
5 positions. Surely firing an automatic weapon at a KLA --

6 A. [Overlapping speakers] ...

7 Q. -- position is present danger?

8 A. Yes, absolutely.

9 Q. Yes.

10 A. At that time it was a present danger.

11 Q. Thank you.

12 MR. EMMERSON: Can we then turn to Exhibit P403, please. And  
13 can we look, please -- just look at the -- well, it's a bit difficult  
14 to describe. The paragraph that begins with the word "Attempts." So  
15 if we can just blow that up a bit.

16 Q. This is your report, I think, isn't it, from the investigation?  
17 It's the report filed from -- I think it was filed by your director,  
18 Georges Bordet, but it relates to your investigation on the 9th?

19 A. Yes.

20 Q. And here we are looking at a section which is a summary of your  
21 meeting with a person you think was Mr. Limaj you told us earlier on.  
22 Can we just look at that:

23 "Attempts to have a personal visit with illegally detained  
24 ethnic Albanian MUP Policeman Xhafiqi taken from his home in Pirane  
25 on 9 Mar ... continued without success. Confirmation was received at

1 1500 hours that the KLA High Command had acknowledged that they had  
2 him in custody, would continue to treat him in accordance with '...  
3 Geneva Convention', and intended to release him as soon as '... VJ  
4 and MUP operations in the border area ceased.'"

5 Now, do you have any evidence that that isn't correct? In other  
6 words, do you have any evidence that he was treated in breach of the  
7 Geneva Conventions? Any evidence at all?

8 A. No. As far as I was concerned, I'd been assured by the man who  
9 I saw that he would be treated in accordance with the Geneva  
10 Convention. Although, even then I had great concern.

11 Q. I understand. You had concerns --

12 A. Yeah.

13 Q. -- but nothing has emerged then or since then, in evidential  
14 terms, to indicate to you or to KVM that this man was treated in any  
15 way in breach of the Geneva Conventions or ill-treated at all; is  
16 that right?

17 A. I have been told he was mistreated, but I have no evidence of  
18 that.

19 Q. Well, who told you that?

20 A. When I was subsequently in Kosovo, I made some inquiries myself,  
21 has anyone heard what happened about this. And I cannot say -- I do  
22 not know exactly where I got the information, but I've also since  
23 read a current, I suppose, based on ICTY trials. And my  
24 understanding -- and this is not evidence. My understanding  
25 third-hand is that the man was, indeed, mistreated and was killed.

Re-examination by Ms. Mayer

1 Q. We'll obviously wait to see if any evidence to that effect is  
2 produced. But you're not able to identify any source for that?

3 A. No, no.

4 PRESIDING JUDGE SMITH: Your time is up, Mr. Emmerson.

5 MR. EMMERSON: Yes, thank you.

6 PRESIDING JUDGE SMITH: Mr. Ellis?

7 MR. ELLIS: Your Honour, we adopt what's gone before.

8 PRESIDING JUDGE SMITH: Redirect?

9 MS. MAYER: Yes, thank you, Your Honour.

10 If we can just pull that document that Mr. Emmerson was just  
11 using back up. That's P403.

12 Re-examination by Ms. Mayer:

13 Q. And in that same paragraph, Mr. Young, that you were just being  
14 asked about, about where this man was being held, you had started to  
15 say, in response to Mr. Emmerson's question, that you still  
16 maintained concerns even with the assurances that you had received.

17 Can you please look at the very next sentence after where  
18 Mr. Emmerson stopped reading, where it says:

19 "In view of previous KLA treatment of prisoners after their  
20 giving similar guarantees i.e. one dead and one beaten prisoner, the  
21 need for OSCE to have personal encounter with the detainee was  
22 reiterated. This should be pursued vigorously by KVM HQ."

23 Does that relate to the concerns that you had just mentioned a  
24 moment ago?

25 A. It relates to the -- what happened to the Savelic brothers. I

1 don't think we've mentioned.

2 Q. All right. I'd just like -- in the interest of time --

3 A. Yeah.

4 Q. -- I'm just asking if this is -- this is in the same report  
5 about this same man, and I'm just asking you if it's consistent, that  
6 your concerns were about the treatment of detainees after having been  
7 given assurances by the KLA that they would be properly treated?

8 A. Yes, that's right.

9 Q. All right. You were asked questions by Mr. Roberts about your  
10 description of the meeting that you had either at or near Randubrava,  
11 and specifically your previous statements about who was present. He  
12 asked you questions about, in your ICTY statement, that's P407, that  
13 you said that in addition to General Maisonneuve and Commander Drini,  
14 that Georges Bordet was there. But he put the question to you that  
15 you hadn't said in your SPO statement that Mr. Bordet was there. Do  
16 you recall those questions?

17 A. Yes.

18 MS. MAYER: I'd ask the Court to bring up P392 at paragraph 63  
19 to 64, which is on page 17 of the PDF.

20 Q. And I'll note that you did accept when Mr. Roberts asked you  
21 that you -- I think you said you apologised if you had left it out.  
22 But if you look there at paragraph 63 and 64, talking about that  
23 meeting and when you arrived near Randubrava, at the bottom of  
24 paragraph 64, in addition to General Maisonneuve and Commander Drini,  
25 it says right there that:

1 "Bordet also arrived from Orahovac."

2 Do you see that?

3 A. Yes, I do. And that was correct.

4 Q. You were also asked a series of questions by Mr. Roberts about  
5 the place or location that you encountered Ten. Do you recall those  
6 questions?

7 A. Yes.

8 Q. All right. In response to those questions you were asked about  
9 whether or not a reference to Ten appeared in that statement, which  
10 was -- it's not a statement, actually. Let me correct myself. In  
11 the report that was taken down by that Canadian officer, which is  
12 P406, you indicated that that was not your report. I'd like to -- or  
13 not your statement, rather, it was a report of someone else taking  
14 down information from you and others.

15 MS. MAYER: I'd like to focus you on P407, which is a statement  
16 that you drafted in September 2000 for the ICTY. And I'd ask if we  
17 can pull that up to page 3.

18 Q. Do you see there at the top of the page on page 3, Mr. Young,  
19 where you affix a location to where you met this person that your  
20 colleague recognised as Ten in one statement and in this statement as  
21 "a high-level representative of 'Ten'"?

22 A. Yes.

23 Q. And what's the location where you said you met?

24 A. I think now, after considering these questions, I would be wrong  
25 to be absolutely certain of where Ten was mentioned. What I am



1 certain of was that Ten was mentioned. And regarding a gentleman  
2 wearing civilian clothes and spectacles, the man we met in Reti was  
3 wearing spectacles, and there was a different man wearing spectacles  
4 at Terpeze who seemed a very -- very civilised gentleman, gave me the  
5 impression of being used to dealing with internationals. Although, I  
6 don't recall that we spoke English at all. But he seemed quite a  
7 confident -- I would have said, somebody from civilian leadership of  
8 some level.

9 Q. Okay. I appreciate the clarification. Is it fair to say, as  
10 you look back over these documents, both when you've been questioned  
11 in court and also when you've had a chance to read them this past  
12 week, that both your ICTY statement and your SPO statement recall the  
13 narrative about the Xhafiqi abduction and your involvement in trying  
14 to secure him chronologically, and you talk about one meeting that  
15 happens after the next meeting in general terms?

16 A. Yes.

17 Q. All right. I'd like to go to -- do you recall questions that  
18 you were asked by Mr. Roberts about your meeting -- your second  
19 meeting in Terpeze, where you described, both in your statement,  
20 which is P392, also in P407, and in court in the last two days you've  
21 talked quite a bit about your meeting -- your second meeting at  
22 Terpeze with the person that you understood to be Fatmir Limaj, also  
23 known as Celik. And you were asked questions about what your basis  
24 for your understanding that Fatmir Limaj, Celik, was the person that  
25 you were meeting with. Do you recall those questions?

1 A. Yes.

2 Q. All right. And I believe in response to those questions at  
3 varying points -- so I just want to collect them, since it was  
4 interspersed. The question was put to you that the basis was only  
5 your colleagues telling you that this was this person. But I believe  
6 that you also said that you recognised this person from both your  
7 colleague and the opinion or what was being told to you by  
8 interpreters that were very experienced and had met with other  
9 people; is that right?

10 A. Yes.

11 Q. And it was also based on the fact that you had seen photographs  
12 of Fatmir Limaj and the person -- again, without making an  
13 identification is, I think, what you said. But that this person's  
14 appearance was consistent with a person whose photograph you'd seen  
15 and that you knew to be Fatmir Limaj, this person who appeared in  
16 front of you in a face-to-face conversation, his appearance was  
17 consistent with those photographs?

18 A. Yes.

19 Q. You also made mention earlier today to Mr. Roberts' question  
20 that his actions -- or that the person that appeared in front of you  
21 is also consistent with a description that you had received of him.  
22 And, again, I don't want to tread over ground that's already been  
23 tread, but to be clear, are you talking about the demeanour and the  
24 affect of the person that appeared in front of you being consistent  
25 with what you had heard about who Fatmir Limaj was, or can you

1 explain that?

2 A. Yes. I think "demeanour" is the right word. The KLA officer  
3 who we met was acting in a particular fairly abrasive way or stubborn  
4 way. He was not cooperating with our demands or our opinions in the  
5 way which very often KLA would, and they would seek to reach  
6 agreement with us or reassure us in some way. Whereas his -- this  
7 gentleman's attitude was not reassuring and was questioning -- he  
8 questioned -- directly questioned whether, in fact, we had any locus  
9 in the matter at all.

10 Q. Well, I actually want to get to that.

11 MS. MAYER: If we can pull up P392, page 22, paragraph 83.

12 Q. If you could just take a minute to look at that paragraph, I'm  
13 not going to read it out to you, and then I'll have some questions  
14 for you.

15 A. Yes.

16 Q. All right. So you describe in there that you had a conversation  
17 with a person that you knew as Fatmir Limaj, Celik, and that you were  
18 advocating to see the condition of this detainee, to actually  
19 physically put your eyes on him; right?

20 A. Yes.

21 Q. And that, again, in this statement, which is in evidence, that  
22 Mr. Limaj was actually objecting and, as you just put it, I think,  
23 was telling you that your entity, that the KVM was not actually even  
24 necessarily entitled to make such demands?

25 A. That's correct.

1 Q. And it says here in your statement that he was articulating to  
2 you that this was properly -- more properly a matter for the  
3 Red Cross. Did you understand that as a reference to the  
4 International Committee of the Red Cross?

5 A. Yes.

6 Q. And that that's actually the entity that's referred to and  
7 understood in the Geneva Conventions to be the entity that is the  
8 sort of first or leading entity to check on the status of detainees?

9 A. Yes.

10 Q. In your experience from your work in Kosovo and with the KVM,  
11 was it common for you to be having conversations with local people or  
12 low-level soldiers about their understanding of who had access to  
13 detained prisoners or who was properly the authority under the Geneva  
14 Conventions?

15 A. Not in these exact circumstances. I do recall advising locals  
16 who approached us about missing people. I'm speaking about people  
17 who were missing since the original offensive in the summer, not  
18 during our period. And I recall advising them to contact the ICRC  
19 direct. And on occasion, we assisted with that. And I recall  
20 dealing with a department in our regional headquarters about missing  
21 people and liaison with the ICRC.

22 Q. I understand. That's not exactly my question. I understand  
23 that you're advising local people when they're seeking a relative or  
24 someone and that the sort of NGO or the entity that they would go  
25 best look for would be the ICRC. But I'm talking about someone who's

1 representing them on behalf of a military organisation and is  
2 explaining to you why you don't have status and how it's really  
3 actually a different organisation under the Geneva Conventions and  
4 that you really don't have authority here.

5 How common was it for you to have a conversation like that?

6 A. I don't recall any other conversation like that. Certainly none  
7 in which that line was taken by the person I was speaking to.

8 Q. Would you describe this as someone who had -- again, since it's  
9 not a common thing, would you describe it as someone who had maybe a  
10 more detailed knowledge either of the law or of military  
11 responsibilities?

12 MR. ELLIS: Your Honour, before that is answered, can I just  
13 register an objection to the leading manner of the questions that are  
14 now being put? Redirect is not an opportunity to lead the witness.

15 MS. MAYER: I'll be more mindful of my question. I will  
16 absolutely --

17 PRESIDING JUDGE SMITH: Sustained.

18 MS. MAYER: I'm doing it in effort --

19 PRESIDING JUDGE SMITH: Go ahead.

20 MS. MAYER: -- to be speedy, but I will be more mindful. The  
21 last one I don't think was leading, though. I was just asking --  
22 I'll read it back.

23 MR. MISETIC: I believe you sustained the objection, Judge.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MR. MISETIC: So I would ask that she not read it back.

Questioned by the Trial Panel

1           PRESIDING JUDGE SMITH: [Microphone not activated].

2           MS. MAYER: I'm reading it back to my -- exactly, Your Honour.

3 I'm reading it back to myself to see if I can make sure I ask a  
4 non-leading question on the same topic.

5 Q. How would you describe the sort of level of knowledge of the  
6 person that you were -- the person, again, that you've already  
7 identified as Fatmir Limaj, on this topic when he was speaking to you  
8 about the Geneva Conventions and the role of the ICRC versus the role  
9 of the KVM?

10 A. Nothing was quoted from the Conventions, but the gentleman was  
11 speaking, as my statement says, in an articulate manner and a very  
12 confident manner that it wasn't something that he was prepared to  
13 debate. He was stating this as a fact.

14 Q. And to be clear, I think -- when you were having this  
15 conversation with Fatmir Limaj and he was, as you just said, pushing  
16 back, had you ever spoken to him before or was this your very first  
17 conversation?

18 A. I had never spoken to him before.

19 MS. MAYER: I have no additional questions, Your Honour.

20 PRESIDING JUDGE SMITH: Thank you.

21 Judge Mettraux has some questions.

22 JUDGE METTRAUX: Thank you, Judge Smith.

23                           Questioned by the Trial Panel:

24 JUDGE METTRAUX: And good afternoon, sir.

25 I have a few questions about your meeting with the individual

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1     nicknamed Celik, who you understood to be Fatmir Limaj, and about  
2     Mr. Ymer Xhafiqi.

3             The first question I have for you is: Did you at the time have  
4     any information that Mr. Xhafiqi had been involved in active  
5     hostilities?

6     A.    No, I had never received any information like that.

7             JUDGE METTRAUX: And I think in your statement, P407, you had  
8     indicated an understanding that he was a civil servant who had had no  
9     involvement in hostilities. Do you stand by that understanding or  
10    have you come across information that would change that opinion?

11    A.    That is still my understanding. The only thing I would add to  
12    that, sir, is that I surmised that the MUP entry into Randubrava  
13    might have been linked by the KLA to Mr. Xhafiqi living in the area.  
14    That there may have been a supposition that, oh, he complained that  
15    he had seen an Albanian flag in the area, and it was because of his  
16    reporting about the area that he lived in that had indirectly led to  
17    the action by the MUP. But that was surmise, supposition on my part.  
18    No more than that.

19            JUDGE METTRAUX: Now just to be clear, how did you first learn  
20    or come to learn about the detention of Mr. Xhafiqi? Do you remember  
21    who was the first person to report that matter to you?

22    A.    The first information to me was over my radio from CC1  
23    headquarters when I was sitting in a meeting at Velika Krusa.

24            JUDGE METTRAUX: And do you recall who would have been the  
25    source of that information?

1 A. The source to me was either our operations officer or -- no, I  
2 don't recall who was speaking. It was -- as far as I was concerned,  
3 it was a message from my CC headquarters.

4 JUDGE METTRAUX: And the suggestion that you have discussed with  
5 counsel on a number of occasions that Mr. Xhafiqi had been arrested  
6 or abducted by a KLA commando from the General Staff, do you recall  
7 where that information had come to you? Where from?

8 A. Well, the first information was simply that he had been  
9 abducted. I think it was assumed that if he had been abducted, it  
10 would have been by somebody on the Albanian side. But there was no  
11 information at that stage as to on whose behalf other than it being  
12 the Albanian side in general.

13 JUDGE METTRAUX: And are you able to say where the subsequent  
14 information that we've seen a moment ago that it was a KLA commando  
15 of the General Staff who was alleged to have kidnapped him came from?

16 A. Well, that particular phrase, Your Honour, is from a report I've  
17 only just seen in the course of this testimony. I'm not sure about  
18 the word "commando," but General Staff certainly was referred to  
19 later in the day. It wasn't stated to me -- at the time I first, if  
20 you like, proved to my satisfaction that somebody connected with the  
21 KLA was involved, it was simply KLA involvement and not General Staff  
22 involvement at that stage.

23 JUDGE METTRAUX: Now, you meet with an individual Celik who you  
24 believe to be Mr. Limaj. How did you come across him? How did he  
25 become relevant to your inquiry?



1 A. When we went as arranged to the rendezvous point in Terpeze, he  
2 was the person that came to us when we got out of our vehicle. He  
3 was clearly waiting for us, and he was the person who had been  
4 appointed or had appointed himself to speak to us.

5 JUDGE METTRAUX: And I understood you to have asked that  
6 Mr. Xhafiqi be released, and, if not, that you get access to him,  
7 which I understand him to have refused; correct?

8 A. Correct.

9 JUDGE METTRAUX: And did he make it clear to you at the time  
10 that Mr. Xhafiqi was detained by the KLA? Did you leave with any  
11 doubt that he was, in fact, under KLA custody at the time?

12 A. It was clear that he was -- accepted by the man that I was  
13 speaking to -- that it was not in any way disputed that he was in KLA  
14 hands. That was the entire background to the conversation. That was  
15 at no time questioned.

16 JUDGE METTRAUX: And if I understand correctly, that individual  
17 told you that the detainee, Mr. Xhafiqi, was safe and would be  
18 treated in accordance with the Geneva Convention. Did he tell you  
19 how he would know about this?

20 A. I'm not certain that the word "safe" was used in that particular  
21 conversation. I know it appeared at another time in the day that the  
22 man is safe. I certainly had the impression that the man would, at  
23 minimum, be questioned in perhaps not a gentle manner. But I suppose  
24 I was being told he would not be killed. And, in fact, the  
25 implication was that he would ultimately be safe. The objection to

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1 our having access was that our seeing him would give him hope. So  
2 the objective, it appeared, was to maintain fear and the shock of  
3 capture in the man so that he would cooperate with questioning.

4 JUDGE METTRAUX: And that, I suppose, this indication  
5 contributed to your understanding that the man you were talking to  
6 had custody personally or with others of that individual; is that  
7 fair?

8 A. Yes, it was very clear that the detained man, Mr. Xhafiqi, was  
9 in the custody either of this man or somebody close to him, in  
10 communication with him, and acting with him.

11 JUDGE METTRAUX: And you said earlier today that you had, and I  
12 quote, "security concerns about Mr. Xhafiqi." And I think you have  
13 explained why, but I want to be certain that I understand. Why did  
14 you have these concerns at the time?

15 A. I, and I'm sure my colleagues, had very real concerns as to what  
16 would happen to Mr. Xhafiqi, partly increased by the attitude of the  
17 person we understood to be Celik. For example, we could have been  
18 reassured as to what was going to happen. You know, "Yes, we'll let  
19 him go tomorrow." And I had a similar incident like that with the  
20 MUP and was quite happy when being assured, yes, he will be -- or,  
21 there were two people, "They will be released safely tomorrow."  
22 There was nothing like that.

23 So I was concerned partly by the attitude and partly by the  
24 actual words, and the reference to giving the prisoner hope. So when  
25 we left, I think we -- well, we hoped that efforts would continue, of

1 course, but we were genuinely concerned as to the immediate future of  
2 the detained man.

3 JUDGE METTRAUX: And to your knowledge, again, I think you have  
4 answered, but to your knowledge was this individual, Ymer Xhafiqi,  
5 ever released from KLA detention?

6 A. I understand he was not.

7 JUDGE METTRAUX: Thank you, sir.

8 PRESIDING JUDGE SMITH: Judge Gaynor.

9 JUDGE GAYNOR: Thank you, Judge Smith.

10 I just want you to clear up one point also arising from that  
11 meeting you've been describing of 9 March 1999 with the man you  
12 believe to be Fatmir Limaj.

13 Yesterday, and for everyone else, this was at pages 131 to 132  
14 of the transcript, you were asked by the Prosecution:

15 "On whose authority did you understand Fatmir Limaj to be  
16 speaking to you when you were speaking to him on 9 March about the  
17 Xhafiqi abduction?"

18 Your answer was this:

19 "Fatmir Limaj's indication to me was that he was speaking on  
20 behalf of the General Staff. There was no suggestion that he was at  
21 some different level. He was speaking to me -- that's how I took it,  
22 speaking to me on behalf of the General Staff in whose hands he was  
23 telling me the detained man was or under their authority."

24 Do you recall giving that answer?

25 A. Yes, Your Honour.

Questioned by the Trial Panel

1 JUDGE GAYNOR: Now, there was a preparation note of your  
2 pre-testimony meeting with the SPO. In that note -- this is  
3 paragraph 17 of P408. According to that note, it says you understood  
4 him, that being Fatmir Limaj, to be speaking on behalf of the  
5 General Staff.

6 Do you remember discussing that with the Prosecution?

7 A. Yes.

8 JUDGE GAYNOR: Yes. So I'd like you to clarify, what exactly is  
9 it that Limaj, or the man you understood to be Limaj, said to you, or  
10 what are the other facts exactly that led you to believe that Limaj  
11 was speaking on behalf of the General Staff?

12 A. Your Honour, Mr. Limaj himself -- if I correctly understood the  
13 interpretation to me, Mr. Limaj himself said that he was speaking on  
14 behalf of the General Staff -- or, first of all, that the man was  
15 under the control of the General Staff; and, secondly, that Mr. Limaj  
16 was in a position of direct knowledge of that. So that putting that  
17 together, I understood him to be speaking on behalf of the  
18 General Staff or to be representing himself as speaking on behalf of  
19 the General Staff.

20 JUDGE GAYNOR: Did you have any indication from him that he had  
21 recently been in contact with the General Staff? Limaj, I'm talking  
22 about.

23 A. No, nothing specific like that was said, Your Honour.

24 JUDGE GAYNOR: Very well. Those are the only questions. Thank  
25 you very much, indeed.

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1 PRESIDING JUDGE SMITH: Judge Barthe.

2 JUDGE BARTHE: Thank you very much, Judge Smith.

3 Good afternoon, Mr. Young.

4 A. Good afternoon, Your Honour.

5 JUDGE BARTHE: Good afternoon. I also have two or perhaps three  
6 questions for you.

7 Earlier today, I think it was during your cross-examination by  
8 Mr. Roberts for the -- or from the Selimi Defence, you said the  
9 following when asked about the meeting you had with the person you  
10 understood to be Mr. Limaj or Celik.

11 And, for the record, I'm reading from today's live transcript,  
12 page 30, line 20, to page 31, line 3.

13 "Q. You never had any doubt as to who you were told you had  
14 met. Is that a fairer assessment of what you mean?"

15 And your answer was, according to the transcript:

16 "I think it goes slightly further than that because I already  
17 had knowledge of the type of operation which the gentleman had been  
18 involved with before. So it wasn't simply a case of being told a  
19 name. It was partly that the name fitted with my previous knowledge.  
20 And also his appearance was consistent with a previous photograph  
21 which I'd seen, but I stress this is not me making photographic  
22 identification."

23 My question, Mr. Young, is the following: What did you mean  
24 when you said you already knew the type of operation of the gentleman  
25 or the gentleman had been involved in before? Can you explain that

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1 to the Panel, please?

2 A. Your Honour, I'd had no detailed knowledge of Mr. Limaj's  
3 history, but I already understood him to be somebody who was -- and I  
4 don't mean this in a pejorative sense, but was dangerous. Somebody  
5 to be careful of. It's not a criticism. I'm just saying as a fact I  
6 understood this was a gentleman who operated in a certain secret way  
7 and was probably not somebody who had regular cooperative contact  
8 with KVM, for example. But I have absolutely -- or I've no detailed  
9 information as to his past history.

10 His name had come up a number of times. I mentioned in my  
11 statement the Albanian gentleman who read to me an excerpt from an  
12 Albanian-language newspaper. I don't know what his motives were,  
13 and, of course, I didn't translate the article myself, but I  
14 remembered then -- or I remember thinking then that this was somebody  
15 to be careful of and somebody who had perhaps been involved in  
16 previous disappearances. I was acutely conscious of the  
17 disappearances of both -- of people from both ethnicities from the  
18 conflict in 1998, and I had the impression that Mr. Limaj had been --  
19 had had some involvement in those.

20 His name had come up also in subsequent briefings, but at no  
21 time did I have a detailed account of events that he was involved in,  
22 and I never read anything like an incident report -- yeah, a detailed  
23 incident report mentioning him. But I had enough knowledge or  
24 belief, information in my mind, from whatever source, that told me  
25 this was somebody to be particularly careful of. Otherwise, perhaps

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1 I would have attempted to continue the meeting at Terpeze and take a  
2 stronger line, as I indeed had done with other personalities in  
3 Kosovo on other occasions.

4 JUDGE BARTHE: Thank you. I think that's clear.

5 And as regards the photograph of that person -- by the way, was  
6 it just one photograph or did you see more than one photograph?

7 A. Only one photograph, Your Honour.

8 JUDGE BARTHE: Can you remember where and when you saw the  
9 photograph before? Was it weeks or days or maybe months before?

10 A. Weeks. Weeks.

11 JUDGE BARTHE: And, finally, can you give us more details about  
12 that photograph? For example, how the person looked in the photo or  
13 whether he was wearing a uniform or whether he was alone in the photo  
14 or together with other people.

15 A. It was together with other people, Your Honour. I have  
16 emphasised, and I emphasise again, as clearly Your Honour  
17 understands, that I'm not making an identification. Purely to say  
18 the appearance was consistent and, indeed, consistent with subsequent  
19 photographs I have seen of the same gentleman.

20 JUDGE BARTHE: And can you remember, was he wearing a uniform in  
21 that photograph?

22 A. I don't. I've thought about that. I'm not sure with the lapse  
23 of time. I suspect he was, but I can't -- I can't testify to that.

24 JUDGE BARTHE: Thank you. Those were my questions.

25 PRESIDING JUDGE SMITH: Anything to follow up on?

Witness: W03724 (Resumed) (Open Session)  
Further Cross-examination by Mr. Misetic

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1 Prosecution?

2 MS. MAYER: No, Your Honour.

3 PRESIDING JUDGE SMITH: Anything, Mr. Misetic? [Microphone not  
4 activated].

5 MR. MISETIC: Thank you, Mr. President. I will be brief.

6 Further Cross-examination by Mr. Misetic:

7 Q. Witness, let me just follow on with what Judge Barthe asked you.  
8 You are using the word that the -- the picture you saw of Mr. Limaj  
9 was consistent with the person you saw. Can you explain to us what  
10 you mean by "consistent"? What was consistent?

11 A. The age and the fact there wasn't anything noticeably different  
12 about the appearance. I have emphasised the limits of that  
13 understanding, but I knew I'd -- I knew I had seen a photograph. And  
14 having met this particular gentleman and then being told that that  
15 was Mr. Limaj, I'd no difficulty in accepting that. Whereas if the  
16 appearance had been noticeably different, I would have questioned  
17 that.

18 Q. Were you ever told by your colleagues or anyone else that there  
19 were multiple people in the KLA in that general region that were  
20 using the name Celik?

21 A. No, I was never told that. It may be so. I was never told  
22 that.

23 Q. Okay. Have you ever been shown any other pictures of people who  
24 may have been using the name Celik in that general area?

25 A. No. Perhaps I should add that when the name Celik had been



1 mentioned to me before, it was always combined with the name  
2 Fatmir Limaj so that there was nothing to indicate to me there were  
3 other persons. There may well have been, but that was never  
4 mentioned. The two -- the nickname and the personal name were  
5 always, in my -- to my knowledge, combined.

6 Q. Okay. Let me ask you a question that the Honourable  
7 Judge Mettraux asked you about this reference to a commando unit of  
8 the General Staff.

9 If I were to put to you that it was the OSCE on 9 March that  
10 reported that there was a police unit controlled by the General Staff  
11 that was involved and that this was reported to the OSCE by  
12 Commander Drini, would that be during a meeting where you were  
13 present? Or do you know if Commander Drini was having other meetings  
14 with OSCE people on that day about this incident?

15 A. I don't have direct knowledge of other meetings. I'm sure there  
16 would have been more than one contact between OSCE and  
17 Commander Drini during that day which did not involve me.

18 Q. Okay.

19 MR. MISETIĆ: If we could go into private session for just one  
20 minute, Mr. President.

21 PRESIDING JUDGE SMITH: Into private session, please,  
22 Madam Court Officer.

23 [Private session]

24 [Private session text removed]

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Further Cross-examination by Mr. Misetic

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22 [Open session]

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

24 MR. MISETIC: Thank you.

25 Madam Court Officer, if I could have on the screen

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Further Cross-examination by Mr. Misetić

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1 KSC-BC-2020-06-U007-9618-U007-9620-ET RED2. The third page.

2 THE COURT OFFICER: That's Exhibit P406.

3 MR. MISETIĆ:

4 Q. I'm sorry, Witness, I am now being told that the portion of this  
5 document that I wanted is not attached to this. It's there in the  
6 Albanian, I'm told, but not in the English, so that's not going to  
7 help us. But there is a statement by the wife of Mr. Xhafiqi.

8 MR. MISETIĆ: That's at, for the record, page U007-9620, for the  
9 record.

10 Q. And I'll just read it out to you. This is a report that she  
11 made, and she says, on that page -- she's asked:

12 "Can you describe these three persons?"

13 And she says:

14 "I noticed the three persons had green clothes, but I didn't see  
15 anything else."

16 So I'm going to ask you, do you recall who it was that told the  
17 OSCE that these persons were wearing black clothes rather than green  
18 clothes?

19 A. No, I don't.

20 Q. Thank you.

21 MR. MISETIĆ: Mr. President, that concludes my re-examination.

22 PRESIDING JUDGE SMITH: Thank you.

23 Mr. Emmerson? Nothing.

24 Mr. Roberts?

25 MR. ROBERTS: Just one very simple question, Your Honour.

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Further Cross-examination by Mr. Roberts

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1 Further Cross-examination by Mr. Roberts:

2 Q. Witness, I think it was put to you that -- or you had clarified  
3 that the person you identified as Celik had told you that he was  
4 speaking on behalf of the General Staff. This was the answer I  
5 believe you gave to the Prosecution and also to Judge Gaynor. But my  
6 understanding in your preparation note is you said that you  
7 understood that to be the case.

8 Either way, whatever your evidence is, I just want to be clear,  
9 you have no independent assessment or evidence as to whether he was,  
10 indeed, speaking on behalf of the General Staff at all, do you?

11 A. No. And he never said in so many words: "I am speaking on  
12 behalf of the General Staff."

13 Q. Yes. It was your understanding, it was your deduction?

14 A. Deduction from other things that he said, yes.

15 Q. Yes. But either way, you have no independent knowledge as to  
16 whether that's the case?

17 A. I do not.

18 Q. Thank you.

19 PRESIDING JUDGE SMITH: Thank you.

20 Mr. Ellis?

21 MR. ELLIS: Nothing, thank you, Your Honour.

22 PRESIDING JUDGE SMITH: Witness, you are finished with your  
23 testimony. We thank you for being with us and sharing your  
24 information with us. You will be excused now, and we wish you well.  
25 The usher will escort you out.

1 THE WITNESS: Thank you, Your Honours.

2 MR. MISETIC: Mr. President, I have one housekeeping matter to  
3 raise.

4 [The witness withdrew]

5 PRESIDING JUDGE SMITH: Go ahead.

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

7 May we move into private session just for a moment.

8 PRESIDING JUDGE SMITH: Into private session, please,  
9 Madam Court Officer.

10 [Private session]

11 [Private session text removed]

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1 [Private session text removed]

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14 [Open session]

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

16 PRESIDING JUDGE SMITH: Thank you. I just remind you all to be  
17 back here on the 25th, on Monday, that's a three-day three-session  
18 week, and then we'll go on from there.

19 Thank you all for being here with us. We're adjourned until  
20 Monday the 25th.

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

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