

1 Wednesday, 15 November 2023

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

5 --- Upon commencing at 3.00 p.m.

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

8 THE COURT OFFICER: Good afternoon, 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: Today we will continue the testimony of
12 Prosecution Witness W04448. I note that Mr. Thaci, Mr. Veseli, and
13 Mr. Selimi are all present in the courtroom, while Mr. Krasniqi is
14 attending today via videolink.

15 We are in public session.

16 And, Madam Court Usher, please bring the witness in.

17 MR. ROBERTS: Your Honour, just while the witness is being
18 brought in, I wonder if I could just address very quickly a brief
19 request, and that is to be informed of the next witnesses by tomorrow
20 morning rather than tomorrow afternoon.

21 [The witness takes the stand via videolink]

22 MR. ROBERTS: Just because some of us are travelling tomorrow
23 evening, and so if we are informed of the witnesses slightly earlier,
24 that would assist us greatly in being able to prepare materials to
25 take with us. So I've informed the Prosecution. I don't know if

1 they're able to do so, but certainly that would assist us to be able
2 to be as prepared as possible.

3 PRESIDING JUDGE SMITH: Mr. Quick.

4 MR. QUICK: Yes, Your Honour. We have a deadline of 4.00
5 tomorrow afternoon. If we're able to do it earlier, we'll do it
6 earlier. The travel alone is not a reason to vary a deadline at the
7 very last minute, so we would do it by --

8 PRESIDING JUDGE SMITH: Is there some problem with doing it at
9 noon?

10 MR. QUICK: We'll do it by -- we were planning on doing it by
11 the deadline of 4.00 p.m. which --

12 PRESIDING JUDGE SMITH: I say is there a problem with doing it
13 at noon?

14 MR. QUICK: I would need to check, Your Honour.

15 PRESIDING JUDGE SMITH: Well, if you don't know at noon, I don't
16 know how you're going to know by 4.00. We're just going to order you
17 to do it by noon tomorrow because of the end of the long session.
18 All right?

19 MR. QUICK: Thank you, Your Honour.

20 MR. ROBERTS: Thank you, Your Honour.

21 Good afternoon, Witness.

22 PRESIDING JUDGE SMITH: Wait a second. He isn't ready yet.

23 Mr. Roberts, I have a little bit to say to him first.

24 Good morning, Witness.

25 THE WITNESS: [via videolink] Good morning.

1 PRESIDING JUDGE SMITH: Today we will continue with your
2 testimony, hopefully finish with it today.

3 I remind you to please try to answer the questions clearly with
4 short sentences. And if you don't understand a question, feel free
5 to ask counsel to explain it or to clarify it and they will do so.

6 Please try to remember to indicate the basis of your knowledge
7 of the facts and circumstances upon which you will be questioned.

8 I remind you that you are still under an obligation to tell the
9 truth as stated by you in your solemn declaration.

10 Please also remember to speak into the microphone and wait five
11 seconds before answering a question and speak at a slow pace for the
12 interpreters to catch up.

13 If you feel the need to take breaks, please make an indication
14 and we will try to accommodate you at that time.

15 WITNESS: W04448 [Resumed]

16 [The witness appeared via videolink]

17 PRESIDING JUDGE SMITH: So we will go ahead now with
18 Mr. Roberts' continued cross-examination.

19 Mr. Roberts, you have the floor.

20 MR. ROBERTS: Thank you, Your Honour.

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

22 Q. And good morning, Mr. Kabashi.

23 A. Good morning. Good morning.

24 Q. Now, I have one topic left to address which hopefully will take
25 only about 20 minutes. But that does require you to try and respond

1 to the questions I ask and to do so as quickly and as directly as
2 possible. So I'll try and ask direct questions, and hopefully you
3 can give direct answers.

4 MR. ROBERTS: The issue does relate to the current immigration
5 situation of the witness, Your Honour. Now, I'm happy to do it in
6 public session, but I feel in light of yesterday's directions, that
7 we may need to go into private session. It depends on Your Honours.

8 PRESIDING JUDGE SMITH: I think to be safe for everybody, and in
9 deference to the witness's situation, we will go into private session
10 so that you can both discuss it freely.

11 Into private session, please, Madam Court Officer.

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Cross-examination by Mr. Roberts (Continued)

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Cross-examination by Mr. Roberts (Continued)

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Cross-examination by Mr. Roberts (Continued)

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Cross-examination by Mr. Roberts (Continued)

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Cross-examination by Mr. Roberts (Continued)

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Cross-examination by Mr. Roberts (Continued)

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Questioned by the Trial Panel

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23 [Open session]

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

25 JUDGE GAYNOR: Thank you.

Witness: W04448 (Resumed) (Open Session)
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1 Witness, I've a couple of questions, first of all, about the
2 expression "send someone to Drenica." Now, in your testimony in the
3 Limaj trial - for the purposes of the other participants, this is
4 P730, page 4253, at lines 16 to 25 - you gave evidence about two
5 persons who you saw on 21 May who were tied with wire in a stable.
6 And the transcript then reads -- you were asked a question:

7 "Do you know what ultimately happened to those two persons?"
8 Your answer was:

9 "No. I do know that Lahija, my first leader, said that I will
10 send them to Drenica. I heard him say that. I don't know --
11 remember with whom he was talking when I heard that. At that time,
12 these words, meaning if you send somebody to Drenica, you will see
13 the end of that person. That person was supposed to be executed."

14 And then you were asked:

15 "Did anyone tell you specifically that that's what that phrase
16 meant?"

17 And your answer was:

18 "That was a phrase that was constantly used that. Was the
19 meaning of the phrase that I knew."

20 Do you happen to remember giving that testimony, Mr. Kabashi?

21 A. When was this?

22 JUDGE GAYNOR: This was in the trial of Limaj. It was on
23 14 March 2005.

24 A. Okay. I do not remember. But I --

25 JUDGE GAYNOR: I'd just like you to tell us in your own words

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1 who constantly used that phrase, to be sent to Drenica?

2 A. I -- almost everybody -- not everybody. Meaning Lahi Brahimaj
3 and -- the phrase was like that. It's true.

4 JUDGE GAYNOR: And where were you when you heard the phrase
5 being used?

6 A. In the barracks where we used to stay at that time.

7 JUDGE GAYNOR: This is the barracks at Jabllanice?

8 A. Yes.

9 JUDGE GAYNOR: And how did you know that the expression being
10 "sent to Drenica" meant to be executed?

11 A. But that's what the expression means in that time.

12 JUDGE GAYNOR: I understand that. But how did you know that?
13 Did somebody explain that to you, or what are the facts which made
14 you understand what that expression meant?

15 A. That was the expression for people who you executed.

16 JUDGE GAYNOR: Did you know of anyone who was, in fact, executed
17 after they were sent to Drenica?

18 A. I'm sorry, one more time?

19 JUDGE GAYNOR: Did you know of any persons who were, in fact,
20 executed after they were sent to Drenica?

21 A. Any person who was executed -- what -- after they say he went to
22 Drenica? That's what you --

23 JUDGE GAYNOR: Yes.

24 A. -- are saying?

25 JUDGE GAYNOR: After they were sent to Drenica.

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1 A. Not that I remember right now.

2 JUDGE GAYNOR: I'll move now to a separate issue. I believe
3 that you gave some information to the Prosecutor's Office of this
4 Court, the Kosovo Specialist Chambers, which resulted in a draft
5 statement, a draft unsigned statement. And we have a copy of that
6 draft unsigned statement.

7 And I'd like the Court Officer to bring up 070606 to 070618, and
8 to show the page, without broadcasting it, 070613.

9 I'd like you to look in particular at paragraphs 34 and 35. And
10 could you please take a moment to read them just to yourself.

11 A. Okay.

12 JUDGE GAYNOR: Now, in that statement you say that you believe
13 that Hashim Thaci and Rexhep Selimi were in the cars when Alush
14 Agushi gave you the order to kill Fadil Gashi. And having read those
15 two paragraphs, it is still unclear to me how exactly you came to the
16 conclusion that "Hashim Thaci and Rexhep Selimi were ... in the cars
17 when Alush Agushi gave me that order."

18 So I would like to give you the opportunity now to explain why
19 you believe that Rexhep Selimi and Hashim Thaci were in those cars.

20 A. In that time, I -- I travelled a lot. "Everywhere" meaning in
21 those areas where we used to go for weapons, organising things, and I
22 was, like, trying to do everything possible. I was actually very
23 happy and -- and full of energy, young. So it happened for me to --
24 to go from areas to areas.

25 Now, what makes me realise that and relate it to this is

1 because, like I said before, we had cousins, right next to Fadil
2 Gashi they lived -- or let's say -- and also it's not that far. We
3 heard right away that Fadil Gashi had a conversation with
4 Hashim Thaci, meaning that time they used to call him the Snake.
5 They had some conversation about who is in charge and who is not.

6 So when Hashim Thaci come in -- and it was not many times that
7 he came from Drenica to Malisheve and those areas to come to
8 Dukagjini area. It could not be like he came every week or every day
9 together with Rexhep Selimi and others from the General Staff.

10 So to my knowledge, when they're coming, it was the same time
11 when they're coming that time and they stopped in Sferke village to
12 Fadil Gashi. And Fadil Gashi, what we knew at that time, they told
13 him that, "We are from General Staff, and we give orders for, you
14 know, anything in KLA." This is also what I hear. And also this was
15 discussed in the newspapers and everything after the war, and, you
16 know, it was a lot of information going on about that.

17 And so -- and told him that, "I'm Commander Snake." Basically,
18 Fadil Gashi gave him, like, "Okay. If you're Commander Snake, I'm
19 some other snake commander." Meaning that I don't take orders from
20 you. I take orders only from President Rugova and his people.

21 So what kind of conversation and anything I don't know they
22 have. But since were two cars coming, and Mala was coming with them,
23 and Binak Berisha was the one who I met by the water that I mentioned
24 before, means that I think they are coming the same time with them.
25 When Mala told me that, I didn't know why, after that I heard this

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1 conversation that they had between. That's why I think he wanted to
2 kill Fadil Gashi because he's not obeying his orders or -- from --
3 and also what I hear it is the same time when they came to
4 Jabllanice, I could be coming the same day back with my car or I
5 could be coming the next day, but I remember I saw them over there.
6 We had the discussion with Selimi about the uniform. I said that
7 before.

8 And also I know that that time Hashim Thaci had a long
9 conversation with Tahir Zemaj, who was a commander for Dukagjini area
10 who they signed the deal, meaning with Ramush Haradinaj, like I said
11 before, and also Rrok Berisha was involved.

12 What I hear from people around -- and also I had family members
13 who they're soldiers in area where was controlled -- or where was
14 commanded by Tahir Zemaj. So they said in a conversation on phone,
15 basically, Hashim Thaci told him that, "We -- and, you know,
16 General Staff and -- we are in charge. We decide who's a commander.
17 We decide who to be in what area. And you're basically not welcome
18 here. I'm going to fight with you just like I fight Serbs."

19 So that's what it is.

20 JUDGE GAYNOR: Okay. Can I ask you this. I've a few follow-up
21 questions.

22 A. Sure.

23 JUDGE GAYNOR: First of all, you said in your draft statement:

24 "I later learned that Hashim Thaci had been there and that they
25 discussed the fact that Ramush Haradinaj had agreed to Tahir Zemaj

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1 being in charge."

2 Now, who --

3 A. Okay.

4 JUDGE GAYNOR: How did you learn about that conversation?

5 A. I just tried to explain before. I -- right next -- next village
6 from Jabllanice, for -- I'm going to use example to help out in this
7 matter.

8 Right next village from Jabllanice, I had relatives. The
9 village called [Indiscernible]. Some of my relatives already sign up
10 in army with Tahir Zemaj in Dukagjini area, meaning in village of
11 Baran or how it's called Lugu i Baranit, that Tahir Zemaj at that
12 time was in charge. So, of course, we hear from both sides what
13 they're talking.

14 At that time, population was -- everybody was happy that they
15 have some agreement with each other so we can do, like, one fight
16 against Serbs.

17 JUDGE GAYNOR: Can I ask you this. And I know you've addressed
18 this a little bit, but it's still unclear to me. In your statement,
19 your draft statement, it says:

20 "I later heard that, before I was ordered to kill him, Fadil
21 Gashi had told Hashim Thaci that he would only take orders from
22 President Rugova."

23 And you've alluded to that again today.

24 A. Yes.

25 JUDGE GAYNOR: It remains unclear to me how exactly you heard

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1 that Fadil Gashi had told Hashim Thaci that he would only take orders
2 from President Rugova. How did you --

3 A. Like I --

4 JUDGE GAYNOR: How did you hear that?

5 A. Like I said, from people around. Like, I used to go in Sferke
6 where Fadil Gashi was. Soldiers, people around. It was -- now you
7 have it in a -- in a -- like I said before, you have it in so many
8 newspapers. After that. But that's what I heard that time.

9 JUDGE GAYNOR: Okay.

10 A. Now, I could not say -- I could not say it was right before I
11 had the order or after I had the order. I could not say that. And
12 it's a long time.

13 JUDGE GAYNOR: Right. Now, I want to take you back to the bit
14 where you said:

15 "After I saw the cars and spoke to Alush Agushi, I went to the
16 Jabllanica barracks, where I saw Rexhep Selimi. He told me to give
17 him my uniform (a Black Tiger uniform). I said no, since Alush
18 Agushi had given it to me. While Rexhep" --

19 A. No, no, that's -- okay. Not Alush Agushi had given it to me.

20 JUDGE GAYNOR: Who -- who had --

21 A. Leopardi.

22 JUDGE GAYNOR: Who had given you --

23 A. Leopardi gave it to me.

24 JUDGE GAYNOR: Leopardi.

25 A. Yeah.

1 JUDGE GAYNOR: You go on to say:

2 "While Rexhep Selimi spoke to me, I saw several persons sitting
3 at a table ... including Lahi Brahimaj, Alush Agushi and Ramush
4 Haradinaj. I did not recognise the others."

5 Now, my first question is, you are absolutely certain that you
6 had that conversation with Rexhep Selimi?

7 A. 100 per cent.

8 JUDGE GAYNOR: Did you see Hashim Thaci at that time?

9 A. I could not recall. I said that before.

10 JUDGE GAYNOR: So the only basis you have to believe that
11 Hashim Thaci was in the cars is what precisely?

12 A. What do you mean? One more time, please?

13 JUDGE GAYNOR: What precisely is the reason that led you to
14 believe that Hashim Thaci was in the cars when you received the order
15 to kill Fadil Gashi?

16 A. I -- I -- like I said, because not too many times Hashim Thaci
17 will come to Dukagjini area. And also the conversation they had with
18 Tahir Zemaj about who is going to be commander and who is in charge
19 was in the same time. It's related.

20 JUDGE GAYNOR: During the period that you were at the Jabllanice
21 barracks, how many times did you see Hashim Thaci at Jabllanice
22 barracks?

23 A. I never said that I see at any time.

24 JUDGE GAYNOR: And do you believe that -- you've never seen him
25 there?

1 A. I never said that I seen him there. 100 per cent.

2 JUDGE GAYNOR: I have no further questions. Thank you, Judge
3 Smith.

4 A. Sure.

5 PRESIDING JUDGE SMITH: Any questions from the Prosecution that
6 come up after the Judges' questions?

7 MR. QUICK: No, Your Honour. Thank you.

8 PRESIDING JUDGE SMITH: [Microphone not activated]

9 MR. KEHOE: [Microphone not activated].

10 Further Cross-examination by Mr. Kehoe:

11 Q. Witness, just -- or, Mr. Kabashi, if I could. I just want to
12 take you back, just taking some questions from Judge Gaynor's
13 questions, and I take you back to 730.1, page 33, lines 7 to 11. And
14 in the Albanian, it is page 33 also, lines 7 to 11. And I can read
15 it to you. This is the testimony that you gave in the Limaj case
16 back in 2005, some 18 years ago. You are asked:

17 "Okay. Do you know when Alush Agushi gave you the order earlier
18 in the day, was anyone else in the car with him? Was anyone else
19 with him at that time?"

20 And the answer you gave was:

21 "I -- Benat Gashi and other people. I don't know the other
22 people."

23 Do you recall saying that, sir?

24 A. Yeah.

25 MR. QUICK: Sorry, objection. That's not the 2005 Limaj

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1 testimony.

2 MR. KEHOE: Well, it is -- my apologies, it's the SPO interview.
3 It's 078188-TR-ET, page 33, 7 to 11.

4 Q. My apologies, sir.

5 MR. KEHOE: I'm sorry?

6 PRESIDING JUDGE SMITH: [Microphone not activated]

7 MR. KEHOE: It is 078188-TR-ET Part 1, page 33, 7 to 11, and the
8 same for the Albanian.

9 PRESIDING JUDGE SMITH: Please restate to the witness what the
10 document is from, then.

11 MR. KEHOE:

12 Q. Yes, sir. I misspoke. I thought this was the Limaj testimony.
13 This had to do with your evidence that you had -- or the interview
14 that you had with the SPO and that would have been back in 2020. And
15 if I can just go to page 33, line 7. And, again, it says:

16 "Okay. And do you know when Alush Agushi gave you the order
17 earlier in the day, was anyone else in the car with him? Was anyone
18 else with him at that time?"

19 And you noted that:

20 "I -- was Benat Gashi and other people. I don't know the other
21 people."

22 Now, that's consistent with what you told Judge Gaynor today.
23 You said the same thing back in 2020, did you not?

24 A. Yeah.

25 Q. And when you were talking to the SPO several weeks ago, and this

1 would be in proofing note 2, and this would have been -- if I can get
2 the date correctly. I can tell --

3 MR. QUICK: If I can help --

4 MR. KEHOE:

5 Q. 9 October 2023.

6 MR. KEHOE: Thank you, counsel.

7 Q. You told the SPO just several weeks ago that when you returned
8 to Jabllanice that there were about ten people there, but you could
9 not "say he saw Hashim Thaci." That's accurate, isn't it? You can't
10 say that you saw Hashim Thaci, and you've never said that you saw
11 Hashim Thaci in Jabllanice after this, have you?

12 A. True, I never said.

13 Q. And just -- I know that soldiers -- or a common experience with
14 soldiers, you know, talk about a lot of rumours, et cetera. And just
15 -- you weren't privy to -- or you weren't a part of the conversations
16 that President Thaci had with Fadil Gashi throughout 1998, were you?

17 A. No, I wasn't.

18 Q. Okay. And you weren't aware of a fact that there were three
19 different conversations with President Thaci and Fadil Gashi during
20 this period of time, were you?

21 A. I'm sorry, one more time?

22 Q. I mean, during this period of time you weren't aware that there
23 were, in fact, three conversations between Mr. Thaci and Mr. Gashi,
24 Fadil Gashi, over several months in 1998, were you?

25 A. I -- I don't understand your question.

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1 Q. Well, the -- I put to you this. There were at least three
2 personal conversations between Fadil Gashi and President Thaci in
3 1998. You aren't --

4 A. Okay.

5 Q. -- aware that there were three conversations, were you?

6 A. No, no.

7 Q. Okay. And you aren't aware --

8 A. I wasn't aware about that.

9 Q. -- that Fadil Gashi himself described these conversations as
10 cordial, were you?

11 A. As what?

12 Q. You don't know, as you sit here, and I wouldn't expect you to,
13 you don't know that Fadil Gashi himself described these conversations
14 with Hashim Thaci as cordial? You don't know that, do you?

15 A. No, it was in newspaper, I think, he -- I'm not sure. I think
16 he mentioned something about.

17 Q. Understood. And with regard to the debate back and forth with
18 Tahir Zemaj, you weren't part of those conversations either, were
19 you?

20 A. No.

21 Q. So everything that you're telling us concerning what you thought
22 may have been an issue per the questions of Judge Gaynor is things
23 you heard from other people in the area and soldiers talking to one
24 another; isn't that right?

25 A. Yeah.

1 MR. KEHOE: I have no further questions. Thank you,
2 Your Honour.

3 PRESIDING JUDGE SMITH: [Microphone not activated]

4 MR. ROBERTS: Nothing, Your Honour. Thank you.

5 PRESIDING JUDGE SMITH: [Microphone not activated]

6 MR. ELLIS: No, thank you, Your Honour.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 Witness, you have completed your testimony, and we thank you for
9 being with us and sharing your information with us. The Court Usher
10 will escort you out of the room. Thank you again and best wishes to
11 you.

12 THE WITNESS: [via videolink] Thank you.

13 [The witness withdrew via videolink]

14 PRESIDING JUDGE SMITH: We can end the link. And we are in
15 public session. So, yes, we may end the link.

16 It will take us some bit of time to get the other witness in
17 here, and you have a change in personnel on your side. So let's
18 take -- is ten minutes adequate?

19 MR. QUICK: Yes, Your Honour, that's fine.

20 PRESIDING JUDGE SMITH: [REDACTED] Pursuant to In-Court Redaction
Order F1930RED., is that adequate for getting the
21 witness ready?

22 [Trial Panel and Court Officer confers]

23 PRESIDING JUDGE SMITH: Just so you know what we're discussing.
24 We need to break exactly at 5.00. So we will start, and you'll have
25 a very short period of time.

1 MR. EMMERSON: Very well.

2 PRESIDING JUDGE SMITH: And then we'll break our half-hour
3 break, and then you will apparently have probably the rest of the
4 next session.

5 MR. EMMERSON: Thank you very much.

6 PRESIDING JUDGE SMITH: Unless you can finish earlier than that.

7 MR. EMMERSON: I don't -- well, I'm not making any promises.

8 PRESIDING JUDGE SMITH: Okay.

9 MR. EMMERSON: But I --

10 PRESIDING JUDGE SMITH: All right. All right.

11 All right. We will break for ten minutes and come back as soon
12 as -- well, in ten minutes.

13 --- Break taken at 4.39 p.m.

14 --- On resuming at 4.49 p.m.

15 PRESIDING JUDGE SMITH: Madam Court Usher, you can bring the
16 witness in.

17 [The witness takes the stand]

18 THE WITNESS: [Microphone not activated]

19 PRESIDING JUDGE SMITH: Thank you. You can be seated.

20 THE WITNESS: [Interpretation] Honourable Judges, Mr. Prosecutor,
21 Victims' Counsel, Defence counsels, and honourable liberators.

22 PRESIDING JUDGE SMITH: Good afternoon, Witness. Today we will
23 continue with cross-examination by the Defence. I remind you --

24 THE WITNESS: [Interpretation] Good afternoon.

25 PRESIDING JUDGE SMITH: -- that you are still under an

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1 obligation to tell the truth as stated by you in your solemn
2 declaration.

3 Mr. Emmerson will continue his cross-examination.

4 Go ahead. You have the floor.

5 MR. EMMERSON: Thank you, Your Honour.

6 WITNESS: W04765 [Resumed]

7 [Witness answered through interpreter]

8 Cross-examination by Mr. Emmerson: [Continued]

9 Q. Obviously, there's been a gap -- there's been a break since your
10 last period in the witness box, so I'm just going to recap on some
11 general time issues with you in my first questions, and then we can
12 move a little bit more quickly.

13 I want to just put some dates around the three different roles
14 that you've described yourself as occupying inside the Pashtrik zone.
15 So the first period from early June until mid-November is when you
16 were a battalion commander in Budakove; is that correct?

17 A. Correct.

18 Q. The second period was between the second half of November and
19 the 8th of -- of 1998 -- sorry, let me start again. The second
20 period was between the second half of November 1998 and the first
21 week of March in 1999, when you were an officer in charge of morale
22 and information or the communication; is that correct?

23 A. Correct.

24 Q. And then the third period, from March to June of 1999, you were
25 the deputy zone commander.

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1 A. Correct.

2 Q. And during that period, I think you were engaged in intense
3 fighting before and after the NATO bombing on 24 March.

4 A. Correct.

5 Q. Until the cease-fire agreement and the withdrawal of Serbian
6 forces.

7 A. You're referring to the Kumanovo Agreement?

8 Q. Yes.

9 A. I think the Yugoslav forces were derouted. I think the Yugoslav
10 forces capitulated, so it was not a cease-fire. It was a
11 capitulation.

12 Q. I am sorry. You --

13 A. We had cease-fires during the war.

14 Q. I'm sorry. I apologise. A cessation of hostilities and the
15 withdrawal of Serbian forces.

16 A. Yes.

17 Q. And then, of course, the introduction of KFOR into the territory
18 and into the area around Prizren, in particular?

19 A. Yes.

20 Q. So just so that we have the timeframes clear. And I'm just
21 wanting now to just go through some spot points about different
22 aspects of what was going on in the Pashtrik zone operations during
23 those three periods just to ask for some clarifications and some
24 confirmations from you.

25 So we established, I think, the last time that you were

1 testifying that it was in January of 1999, following the appointment
2 of Tahir Sinani, that Halil Qadraku arrived into the zone and became
3 a head of intelligence.

4 A. No, you've mixed them up. He became head of the ZKZ,
5 intelligence/counter-intelligence, after Ekrem Rexha was appointed,
6 who appointed him.

7 Q. Yes.

8 A. Ekrem Rexha had, as a matter of fact, promised him this
9 appointment, that he would appoint him in Albania. Made this promise
10 in Albania. I don't know why Tahir Sinani --

11 Q. Very well.

12 A. -- is here.

13 Q. Very well. I do apologise. Ekrem Rexha of course is Drini;
14 correct?

15 A. Correct.

16 Q. And --

17 A. His pseudonym is Drini.

18 Q. And Drini arrived and took up his position as the zone
19 commander, is that right, in January?

20 A. He was promised this position in Albania. In actual fact, he
21 took up his functions in January.

22 Q. Exactly. And he brought Halil Qadraku with him?

23 A. Halil had arrived several days before Ekrem Rexha. Ekrem Rexha
24 entered Kosovo on 16 December 1998.

25 Q. Very well. But he took up his position under Drini's command

1 when he began in January; correct?

2 A. Correct.

3 Q. And I think you told us on the last occasion that you agreed
4 with the description that Halil Qadraku had given to the SPO that he
5 had to begin setting up intelligence structures from scratch when he
6 took over in January; is that correct?

7 A. That's correct. Because the fact that Halil was appointed does
8 not mean that the whole structure was already in place.

9 Q. And although some people incorrectly referred to ZKZ and SHIK
10 interchangeably, Halil Qadraku was under what you've described as the
11 G2 heading in the zone running intelligence and counter-intelligence?

12 A. At the zone level, yes.

13 Q. At the zone level, exactly. And whilst we're looking at some
14 other roles then -- so I want to ask you about the military police in
15 the zone.

16 Now, first of all, we look at the first period when you were
17 commander of the battalion at Budakove. At that time, when you first
18 set up as the commander of the battalion, in the first phase, let us
19 say between June and November 1998, was anybody performing a military
20 policing function then? And if so, who was leading that?

21 A. No, there were not any.

22 Q. At what point in time was Nexhmi Krasniqi appointed as the head
23 of the military police in your zone? When did that happen, roughly,
24 if you can help us?

25 A. After the zone was formed, the need -- there was a need to have

1 a military police at the zone level, so this must have been sometime
2 towards the end of March, beginning of April 1999.

3 Q. Very well. But the zone -- the Pashtrik zone became known as a
4 zone, as the Pashtrik zone, from what date?

5 A. The Pashtrik zone goes back to 1998, on 26 May 1998. Its birth.
6 Its public appearance. However, it continued structuring, starting
7 with the smallest units, companies, battalions, brigades. And after
8 three or four brigades were formed, the zone was completed.

9 PRESIDING JUDGE SMITH: So I'm sorry to interrupt, but we need
10 to break at 5.00. And so we're going to take a half-hour break now,
11 and we will call you back to the courtroom in that time-period.
12 Please go with the court attendant. She will take you out.

13 THE WITNESS: [Interpretation] Thank you.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: Sorry, Mr. Emmerson --

16 MR. EMMERSON: Not at all.

17 PRESIDING JUDGE SMITH: -- for the interruption.

18 We are adjourned until 5.30.

19 --- Recess taken at 5.00 p.m.

20 --- On resuming at 5.40 p.m.

21 PRESIDING JUDGE SMITH: Madam Usher, please bring the witness
22 in.

23 [The witness takes the stand]

24 THE WITNESS: [Interpretation] Your Honour, could I have the
25 floor, please? Can I have a word?

1 PRESIDING JUDGE SMITH: Yes.

2 THE WITNESS: [Interpretation] I apologise to address you
3 directly while Mr. Emmerson is waiting. I would like to share the
4 time in a more equal manner so you could give me enough time to
5 speak, and I also wouldn't want irrelevant things to be repeated over
6 and over again, which slows down the process in this courtroom.

7 As far as I'm concerned, you can ask me as many questions as you
8 want, from the birth of Christ until now. I will answer all the
9 questions you ask.

10 The second thing I would like to say. On the day you took me
11 outside the courtroom, the day before yesterday, Mr. Emmerson made a
12 digression against me visibly under the influence of Kadri Veseli,
13 because I saw one of the assistants with a piece of paper. And he
14 said I am blackmailed, saying that allegedly I had given an order
15 for -- an order had been given to kill a man and two women, and
16 asking why I don't have a lawyer, defence counsel.

17 I would like to address you briefly, Your Honour,
18 Presiding Judge, and not to the lawyer. To me, that was a stab in
19 the back. He has to -- he must explain this directly and be fair.
20 He should indicate where is the order, where did he get it from,
21 where is the copy of that order, where did he hear this from.

22 Secondly, he should not say that I've been blackmailed because
23 I've never been blackmailed in my life. There is no force on earth
24 that can blackmail me. They can tie me up, they can mistreat me or
25 anything, but they will never be able to blackmail me. Mr. Emmerson

1 and Kadri can forget about this.

2 Now, I understand the work of a defence counsel. I didn't want
3 to use more of the money of the Kosovo budget which -- on which
4 Mr. Emmerson is. So let us continue the work we're here for, and
5 then we can fight our battles.

6 PRESIDING JUDGE SMITH: Witness, Witness, your job here is to
7 listen to the questions asked and do your best to answer them.
8 That's all. And we will have to govern whether it's relevant or not,
9 the questions that are asked. Everyone's trying to do their best and
10 to go as quickly as they can through your testimony.

11 Mr. Emmerson has the floor, and he will continue to have the
12 floor.

13 MR. EMMERSON: Yes, I think there must have been some
14 misunderstanding or perhaps some news reporting. I don't know. But
15 perhaps we can deal with the issues at the end of the day. But
16 nobody is accusing anybody of blackmail, and nobody is making any
17 kind of accusation directly against you other than the issue which, I
18 think, has already been raised in open court, which you, I think,
19 know about, which we'll discuss later on.

20 I've just received a note from my client asking to have a short
21 conference with me in the light of what the witness has just said. I
22 think out of respect for what has just been said, I probably ought to
23 do that.

24 PRESIDING JUDGE SMITH: No problem. You go ahead.

25 MR. EMMERSON: Thank you.

1 [Specialist counsel and accused confer]

2 [Trial Panel confers]

3 MR. EMMERSON: With Your Honours' permission, and I think I
4 should raise it with you, obviously it's not directly relevant to the
5 witness's testimony, but I think my client and I, perhaps, also would
6 like to hear a little more about what the witness's concern is,
7 because there's certainly nothing of the sort that he may have
8 perceived has taken place. I think it's important to get some
9 clarity as to what it is the witness's concern is.

10 PRESIDING JUDGE SMITH: Be seated.

11 Witness, the Court will indulge the request made by Mr. Emmerson
12 and his client. You need to tell us a bit more about how this all
13 occurred. Where did it occur?

14 THE WITNESS: [Interpretation] No matter how much you ask me, or
15 whatever you ask me, I'm not in a rush. I will answer all your
16 questions. I understand these things need to be clarified and
17 explained. The truth needs to be said. But I do not want to break
18 or suspend the dynamics of the work you're conducting.

19 I'm not bothered by the questions that are put to me.

20 PRESIDING JUDGE SMITH: You have somewhat broken the dynamic of
21 what's going on because you brought this up, and we have a right to
22 know the full story. So where did this occur? Where did this --
23 where were you approached?

24 THE WITNESS: [Interpretation] Day before yesterday, when you
25 asked me to leave the courtroom in order for me not to hear what was

1 being said in the courtroom, this issue came up. It was said that
2 this witness is --

3 PRESIDING JUDGE SMITH: Wait --

4 THE WITNESS: [Interpretation] -- irrelevant --

5 PRESIDING JUDGE SMITH: Wait. You're going to have to answer my
6 questions first. You're going to have to answer my questions first.
7 So it happened out in this corridor?

8 THE WITNESS: [Interpretation] Inside this courtroom.

9 PRESIDING JUDGE SMITH: Somebody in the courtroom made this
10 statement to you?

11 THE WITNESS: [Interpretation] Not to me. Not somebody from the
12 court told it to me. But this is a public hearing, and it's --
13 people outside this courtroom are following it. So Defence counsel,
14 Mr. Emmerson, raised this issue. You have the recording. You're
15 pretending not to know this, because I'm sufficiently hurt by this.
16 Why did he have to say this? Why did he have to declare me as
17 irrelevant when I'm here on the Court's order? Have I been accused
18 of anything?

19 The Prosecutor reacted to this --

20 PRESIDING JUDGE SMITH: Who said this to you?

21 THE WITNESS: [Interpretation] I can't disclose this information.
22 The person is a relative of mine. I have the recording. I have the
23 recording of the -- of what happened in the courtroom. We don't need
24 to pretend that as if nothing happened and say things behind our
25 back. I would like people to say things in front of me, in my

1 presence. I'm not afraid. I'm not hiding from anyone.

2 PRESIDING JUDGE SMITH: We will ask the Registry to debrief him
3 afterwards and to have a long conversation with him about this, and
4 hopefully we will find more information.

5 So I would suggest you go ahead with your questions if you feel
6 comfortable doing that.

7 MR. EMMERSON: Oh, I'm perfectly comfortable. I see Mr. Pace is
8 on his feet.

9 MR. PACE: Sorry, Your Honour, not to interfere, but just as a
10 suggestion. Could perhaps it be arranged that the witness is
11 provided with pages 9890 and the following two pages which is when he
12 was escorted, and that was indeed in public session, and then perhaps
13 he can confirm if that's what he's talking about. I'm not saying
14 that has to happen now. Perhaps happen later. Just to suggest that.

15 MR. EMMERSON: I tend to agree from the witness's description
16 that what he is describing is somebody having described to him what
17 occurred in -- what occurred in the absence of the witness in terms
18 of a caution and a possible appointment of a lawyer and something's
19 got lost in translation.

20 PRESIDING JUDGE SMITH: Let's just proceed then, and we will see
21 to it that the witness has an opportunity to speak with someone from
22 the Court outside of the presence of everybody here.

23 Understood, Witness?

24 THE WITNESS: [Interpretation] It will be a pleasure to discuss
25 this matter with you or with anyone present here, but I don't want

1 these things to be discussed behind my back as if I'm -- I have --
2 I'm guilty of something or there are conditions under which I'm
3 testifying. I'm here to testify for the very reasons you have
4 summonsed me.

5 PRESIDING JUDGE SMITH: At this point, it's not appropriate for
6 us to question you about this further. We will have somebody else do
7 that. And it will be in your presence. So Mr. Emmerson will
8 continue with his questions.

9 MR. EMMERSON: Yes.

10 PRESIDING JUDGE SMITH: Thank you.

11 MR. EMMERSON: We'll see if that can be clarified.

12 Q. But for the time being, if we can just stick to the facts of
13 your evidence, because it's certainly not irrelevant, and we are
14 trying to get some of the detail from you. And that's all that these
15 questions are directed towards.

16 Now, during the first period that you've described when you were
17 the battalion commander in Budakove, I think you told the Prosecution
18 in interview that, fairly soon, it became apparent to you that there
19 were day-to-day problems which needed to be resolved by some sort of
20 a military police officer in Budakove; is that right?

21 A. What is the relevant part in relation to your client, Defence
22 counsel? Please ask questions about -- related to your client. With
23 respect to the other client, his representative will ask questions.
24 Why all this firework?

25 PRESIDING JUDGE SMITH: Witness, the decision on what is

1 relevant and what is not relevant is up to me. All right? So your
2 job is to answer the questions.

3 THE WITNESS: Okay.

4 MR. EMMERSON:

5 Q. And some of the questions is just --

6 A. [Interpretation] Okay.

7 Q. They are not client-specific. They are general questions about
8 the evidence you've given to the Prosecution and in court about
9 structures within the Pashtrik zone. Please bear with me because
10 it's not -- there is no trick behind it. They are general questions
11 about your analysis and your description.

12 So if we can go back to the period -- the first of the three
13 periods when you were battalion commander in Budakove. It's quite --
14 what I wanted to ask you is based on the accounts you've given to the
15 Prosecutor. You told, I think, the Prosecutor that you quickly
16 encountered problems that needed some sort of military policing in
17 the Budakove area; is that right?

18 A. Yes. The Prosecutor knows if it's true or what I've said. I
19 don't regret them. What I'm saying to you now will be the same in 10
20 years or 20 years. I will not change that.

21 Q. There is no challenge to what you said. I'm just asking for you
22 to clarify certain issues. So we're talking about the first phase
23 when you were in Budakove. And I think without going to the passage,
24 we can call it up if we need to, but you described that almost from
25 the beginning you were discovering that there were issues to be dealt

1 with concerning policemen or civilians. You said, and I'm quoting:

2 "Somebody snatched the car from somebody. Somebody had a fight
3 with somebody else. I don't want to turn it into a funny thing, but
4 there were cases I was try to reconcile a husband with his wife,
5 because there was no other authority to go to."

6 So that was what you told the Prosecution.

7 All I'm asking you, in this respect, is that at that local level
8 I think it's right to say that you appointed a man called Musa
9 Kololli to that role; is that right?

10 A. Kololli.

11 Q. Kololli. Exactly. And he, I think, had been a deputy --

12 A. Listen, because you asked your question, quite a long question,
13 allow me to answer. Otherwise, I will just listen to you speaking.

14 Q. Please.

15 A. You said that there were reasons to establish an intervening
16 unit or a KLA police because of the problems, be them civilian or
17 military. The military police was a military police, not a civilian
18 police. It was established for soldiers or problems related to
19 soldiers. Not for the people. We could not manage the people.

20 I had in my area 200.000 people sheltered in tents, in --
21 everywhere in the fields, and we provided them with medicine, food,
22 and protected them with our own bodies. I can't answer with one
23 simple word.

24 So, yes, Muse Kololli was the commander of that police
25 commander.

1 Q. And he had been a police commander or deputy commander in
2 Prishtine under the Yugoslav regime; is that right?

3 A. That's correct. And precisely because he was an experienced man
4 and we accepted him upon suggestion from the village members.

5 Q. I was going to say, it was a recommendation from the Budakove
6 village leaders, wasn't it, that you should appoint him, as a man of
7 good character coming from a good family?

8 A. That's correct. The village council.

9 MR. EMMERSON: Now, can we just call up P707, Part 2, please.
10 I'm sorry, Part 4. P707.4.

11 Q. And just look at line 16 where you -- from there onwards you're
12 asked a question about the role of the military police at that time.

13 MR. EMMERSON: Sorry, I do apologise, it's P707.4, and it's page
14 3, of the fourth interview.

15 THE WITNESS: [Interpretation] I wouldn't change a single word of
16 this. What I've stated in front of the Prosecutor is credible. You
17 -- just don't waste your time. I don't want to change anything to
18 that.

19 MR. EMMERSON:

20 Q. I'm not asking you to change anything. I think --

21 A. Take it as it is.

22 Q. So you -- you were asked just at line 15 by the Prosecution --

23 MR. EMMERSON: If we can just focus in on line 15 and then to
24 the end of the page. It's line -- it looks as though it's line 21 in
25 the Albanian.

1 Q. So the question is:

2 "And what were the duties of the military police?"

3 And you responded:

4 "As the police nowadays, although they had more to deal with
5 than the police nowadays. We didn't have civilian policemen because
6 all of them belonged to the enemy. They were -- they played the role
7 between the soldiers and civilians. They mainly dealt with the
8 soldiers, so when soldiers had anything with the civilians. So a car
9 was stolen or broken into, or there was a fight. Things like that."

10 And then you're asked:

11 "Would the military police therefore be in charge of carrying
12 out any arrest when that was necessary?"

13 And you responded:

14 "Probably not in a classical way, but they would bring the
15 soldier to the command. They would disarm this person. There might
16 have been a fight in the café. They would have been drunk. The
17 discipline had been broken. He's gone home without a permit. For
18 example, during the time when the population was accommodated in the
19 mountains or gorges, they would come to us and complain that there
20 are people's things being stolen in their tents or their young women
21 were harassed. And I would send, depending on the occasion, four,
22 six, [or] eight policemen."

23 Now, my question is, that description, does it apply to the
24 period when you were battalion commander in Budakove or after the
25 appointment in January of the new head of military police that we've

1 already discussed, Nexhmi Krasniqi? Is it generally applicable or is
2 it specific to a particular period, that description?

3 A. The explanation is general. And it depends on the way the
4 questions are asked. If we are talking about Budakove and the role
5 and duties of the police, then we speak in general. I don't move
6 anything from what I have said.

7 Q. No, no, I understand if we're talking about Budakove. But does
8 it also provide an accurate description of the operations of the
9 military police after January and the appointment, you told us, of
10 Nexhmi Krasniqi as the zone head of military police?

11 A. I said that at the beginning of March, beginning April. I think
12 you are forgetting, Mr. Emmerson, or you wilfully forget.

13 Q. No, I'm not forgetting. Maybe there's a problem of
14 communication, but my question is actually quite simple. The
15 description that you gave to the SPO of the role of the military
16 police, does it apply also to 1999 when the military police in the
17 Pashtrik zone was under the command of Nexhmi Krasniqi? Is it the
18 same then as it was at the beginning?

19 A. Yes, yes.

20 Q. That's all --

21 A. You're right, here.

22 Q. That's all I was asking you.

23 MR. EMMERSON: And in that context, I want to move on, please,
24 to look at P509.

25 Q. Now, that is your -- it's a -- what I might call an organigramme

1 that was reproduced or draw -- I think created by you in your book,
2 describing the various roles of different people in the Pashtrik
3 zone.

4 MR. EMMERSON: Bear with me. We just need to call it up.

5 THE WITNESS: [Interpretation] I have enough time. I can wait.

6 THE COURT OFFICER: Can we have the number again?

7 MR. EMMERSON: The ERN? It should be P509. I think it's been
8 given an exhibit number. But the ERN is SPOE00209330. It's in a
9 page range from 209321 to 209428-ET. Mr. Pace took the witness to
10 that page range, and this is another page from the document.

11 MR. PACE: I think it's now P712, if that assists.

12 MR. EMMERSON: Ah, so it's a different number.

13 THE WITNESS: [Interpretation] Yes. Yes, I can see it.

14 MR. EMMERSON:

15 Q. You recognise that from your own book which was based on your
16 PhD; is that correct?

17 A. Yes, I do know my book. Yes.

18 Q. Yes, thank you.

19 MR. EMMERSON: So if we can just -- because the translation
20 is -- I wonder if we could reduce the size of the translation so that
21 we could see the whole -- yes, exactly. Perfect. Thank you.

22 Q. So we can see, I think, from your position in the middle there
23 as the Pashtrik zone deputy commander, that this relates to the third
24 phase that you've described from the end of March to the June period?

25 A. Yes.

1 Q. But if we look at the zone commander at that point, it's
2 Tahir Sinani who came after Drini; is that right?

3 A. Yes.

4 Q. So --

5 A. That's right.

6 Q. -- we had Drini as zone commander between, you've told us,
7 January, and I think -- am I right in saying it was 17 March that he
8 was replaced by Tahir Sinani?

9 A. Yes. On 17 March, Tahir Sinani was appointed commander and
10 myself as deputy commander.

11 Q. And this is the structure at the final phase then, and we can
12 see there underneath -- or, rather, lateral to you but on the left,
13 Nexhmi Krasniqi as the military police commander; correct?

14 A. Yes.

15 Q. And we can see a little further down, under the departments, we
16 can see Nexhmedin Kastrati at G3, and Halil Qadraku as intelligence
17 and counter-intelligence at G2. And we can also see level to you on
18 the right Nezir Kryeziu as the leader of the special unit the Eagle's
19 Eye.

20 Now, let me just ask you some questions based on this. This is
21 your organigramme looking back, is that correct, rather than
22 necessarily a situation which was recognised in terms of reporting
23 lines at the time; is that correct? It's a subsequent analysis by
24 you.

25 A. Yes, you are right. But this is something that we had written

1 on notebooks with pencils. This was done later, a comparison of the
2 KLA with other international guerilla armies. So it is something
3 specific. That's why I specified the organigramme here.

4 Q. Yes, exact --

5 A. The way it should be.

6 Q. The way it should be, I understand. But that is your analysis.
7 It wasn't something that was written down at the time, is it?

8 A. Even if we didn't have a clear organigramme, we worked in that
9 way and we thought along these lines.

10 Q. But when you were interviewed by the Prosecution -- can I just
11 read you two passages and ask you to comment on them in relation to
12 this structure. You said this, if these people -- you said:

13 "... when they are presented with such a structure, they would
14 say, 'Well, I didn't know that,' because they haven't seen it posted
15 on the wall and they didn't have offices that were just static. It
16 was -- KLA was a moving structure. Most of them, if you were to ask,
17 'What was your position?' they would say, 'I didn't know that -- I
18 just knew what I was doing, but otherwise, I didn't know the position
19 levels.'

20 That was one of the things you said. That was referring to this
21 organigramme, wasn't it?

22 A. Yes, that's what I said and that's what I'm saying now. I
23 wouldn't change anything in it.

24 Q. That's helpful. And a little later on, you said, most of
25 them --

1 MR. EMMERSON: This is again, just for the record, it's Part 1,
2 page 16, line 21, this section, and then Part 1, page 20, line -- no,
3 I apologise. It's the former reference all the way through, Part 1,
4 page 16, line 21. You're asked:

5 "You consider the structure as you expressed it in this book is
6 accurate?"

7 And you reply:

8 "If not, then my degree is -- would be thrown in the bin."

9 Then you carry on:

10 "Most of them wouldn't know the roles they had in the structure
11 and what tasks they were given. So like it writes there, the
12 political directorate, and the people that are in that directorate or
13 the roles they have, it's very possible they wouldn't know what they
14 were and also the hierarchical chain, so who was reporting to whom."

15 That was your description when you were looking at these
16 organigrammes in interview with the SPO. And that's a fair
17 description, you agree, as well, I imagine?

18 A. In general, I agree. But when you mention my doctorate thesis,
19 it's a magistrate thesis, post degree. So it was a department that
20 didn't know the duties of another directorate. A brigade commander
21 didn't know what was going on in the other brigade because we
22 couldn't keep very close relations. That's why I'm saying one
23 wouldn't know what the tasks were in another department.

24 Q. But as deputy zone commander from the second half of March till
25 June, you were in a position to know better in a sense than others

1 what the allocation of tasks would or should have been; correct?

2 A. Yes. Yes, I agree.

3 Q. And so from that point onwards at least, I want then, using this
4 note, to ask you this. During -- we've got three periods in 1999:
5 From January to the second half of March when Drini was in command,
6 and then the period from 17 March onwards when Tahir Sinani was
7 involved and you, I think, were appointed at the same time as deputy
8 commander, more or less the same time; correct?

9 Now --

10 A. Correct.

11 Q. -- Nexhmi Krasniqi was already in post, wasn't he, as the police
12 commander when you, at the second half of March, were appointed as
13 the deputy zone commander. He was a continuation from the period of
14 Drini's command; is that right?

15 A. I don't know whether he was at the same time or whether we were
16 appointed at the same time, but we cooperated.

17 Q. Yes.

18 A. He was the commander of the military police commander at the
19 zone level.

20 Q. Well, obviously, as your diagram shows, he was from 17 March
21 onwards. Who appointed him to that role? Was it Drini or was it
22 Tahir Sinani?

23 A. Maybe his appointment was made earlier on Drini's demand, but
24 the decision was made at this time. Tahir Sinani was the commander
25 of all the zone, so Nexhmedin had to report to him and to maintain

1 reports among the zone commander and the police company. As the case
2 was with the police squadron to commander.

3 Q. Very well.

4 A. It was along the same lines.

5 Q. And you've already told us the general description of the
6 functions as you just -- as you outlined them of the police at that
7 time.

8 G2, intelligence and counter-intelligence, Halil Qadraku. Well,
9 I think we can be sure, can't we, that he was appointed by Drini and,
10 therefore, remained in post when Tahir Sinani took over because he
11 was -- he came in, you said, with Drini?

12 A. That's correct. Correct.

13 Q. And lastly, G3, Nexhmedin Kastrati. Can I ask you a bit about
14 him. Is there another way of describing his function within the
15 Pashtrik zone other than G3 ops? Is there a more usual term?

16 A. He didn't have any other function. And even here, he was no
17 longer than a month in that position, because the officers who fought
18 in Bosnia in the former Yugoslav wars came late, very late. And
19 initially, he was appointed as brigade commander in January until end
20 February. Then he stayed for a month, he carried the functions for a
21 month in G3, which is the operative unit. And on 1 April, he went to
22 the Arrow operation. So that was -- so we couldn't describe him
23 other than that. Like a satellite. We couldn't say he was a
24 satellite.

25 I don't know what you are asking me. Can you be more specific

1 in your question, please?

2 Q. Yes, I'm just asking about roles and functions. Would you
3 accept his description of himself as the chief of staff in the
4 Pashtrik zone or not? If he were to -- if Nexhmedin Kastrati were to
5 assert that he was the chief of staff in the Pashtrik zone, how would
6 you respond to that?

7 A. If he said it was in that position for a -- for one day. There
8 was no Pashtrik chief of staff. Maybe he wanted to pose as a higher
9 official in order to take over the KLA and put it under the
10 leadership of the Yugoslav Army officers who fought in Bosnia. Maybe
11 he was not satisfied. Maybe he had a wider appetite. He dreamed to
12 be in that position. We can't turn history back.

13 Q. No. And then you say he arrived late and left early,
14 effectively, from the zone command.

15 A. Yes, that's correct.

16 Q. Can you give us your assessment of him as a person in that role?

17 A. He wasn't a regular officer in that role or in other post-war
18 roles. I don't think high of him.

19 Q. You don't think highly of him. Can I ask you why?

20 A. I wouldn't like to express my opinion here, since he didn't play
21 an important role in the KLA. And after the war, those who took part
22 in fighting in Bosnia, profited from the war.

23 Q. Very well. I'm not going to ask you a question that's
24 embarrassing for you to answer, but is there anything that you would
25 base your low opinion on? Any facts or events or aspects that would

1 be relevant to assessing --

2 A. If I had a fact, I would point that out. It's an opinion.

3 Q. Very well.

4 A. People spoke about that. I don't want to engage in it further.

5 Q. Very well.

6 A. The Prosecution office can find the facts if they want.

7 Q. Very well. Just one or two further questions on this. Nuredin
8 Abazi was a lawyer, obviously, as his role suggests. That's correct,
9 isn't it? And do I understand it --

10 A. Yes, he had graduated from law faculty, and he was an advisor in
11 the Pashtrik operational zone.

12 Q. Just to help us with the solid arrows and the dotted arrows. He
13 was appointed -- I'm assuming the solid arrow suggests that he was
14 appointed by Tahir Sinani; is that right?

15 A. The need for keeping the links and the relationship is marked
16 with a full arrow. In extraordinary cases when he couldn't meet
17 Tahir, he could communicate with me or someone else.

18 Q. I see. The dotted line means if the normal reporting line is
19 not available, then they can report that way. So you would sometimes
20 consult with Nuredin Abazi, but his usual reporting was to
21 Tahir Sinani; is that correct? Okay. So --

22 A. Yes, correct.

23 Q. -- do you know who appointed him to that role?

24 A. I think it was Tahir Sinani. Even though he played such a role,
25 even at Budakove battalion. We didn't have any other lawyer.

1 Q. You'd known him since Budakove?

2 A. Yes.

3 Q. And similarly, Nezir Kryeziu of the Eagle's Unit we see normally
4 reports to Tahir Sinani, sometimes might report to you; is that
5 right?

6 A. It's right. I don't want to speak about Tahir Sinani. He is a
7 hero. And I don't want to dodge my responsibilities. I want to
8 contribute to the work of this Court. That's true, that he was
9 appointed commander of Eye of the Eagle Unit by Tahir, but the plan
10 for that unit was drafted in common by us, because there were some
11 soldiers that were not part of a certain unit and they were capable
12 and with a good military experience. Some of them deserted for a
13 time and then returned, and they were undesirable in their former
14 unit. So we set up these units, the Eye of the Eagle, and he was the
15 commander of this unit. I think it is clear. If you could remember
16 all I said.

17 Q. No, it's very helpful. So it was set up locally within Pashtrik
18 by Tahir Sinani, but it was like other groups or special forces that
19 would go in as a rapid reaction; is that right? A rapid reaction
20 unit.

21 A. Correct.

22 Q. Thank you. Okay. Do you know when it was set up? I'm sorry.
23 Do you know roughly when? Because we see it's obviously post
24 mid-March -- it describes the situation post mid-March, but do you
25 know when it was first established?

1 A. I think it must have been established on 2 April -- or maybe the
2 middle of April. In mid-May, they undertook an operation. But this
3 happened in the middle of April.

4 Q. Thank you very much. I've been asked to clarify. You mean
5 April 1999; correct?

6 A. Correct, 1999. I apologise.

7 Q. No, no. It's my fault. Now, I think I'm right in saying that
8 during your time with the responsibility for morale, that period
9 between January and late March, you were at one stage stationed
10 within the General Staff; is that correct?

11 A. Yes, I was stationed for about a month, I think.

12 Q. And, obviously, you got to know whoever was coming and going
13 from the General Staff at that time; is that right?

14 A. I wasn't entirely regular in the sense being there. It was a
15 Recak massacre at the time, so I was obliged to take part in the war
16 to save the population. So we fought for four and a half days, even
17 to protect the bodies of the dead, because the police forces wanted
18 to take them away. So I wasn't there all the time. I was for some
19 time at the end of December. I was there until 15 January when the
20 massacre of Recak took place. After that, I didn't stay there.

21 Q. So --

22 A. This is the reality.

23 Q. -- you have told the Prosecution, though, that you know from
24 your contact with the General Staff that Kadri Veseli was not in
25 Kosovo between the beginning of January and later in the year; is

1 that right?

2 A. That's right. This is what I said. And this is what I think
3 now.

4 Q. And we'll come back to that in a little while. But I think you
5 were present when you believe he came back into Kosovo from Albania,
6 and you spent some time in a vehicle with him discussing the war in
7 general; is that right?

8 A. Yes, there was an instance when he returned from Rambouillet or
9 Albania. I am not sure. I didn't ask him. But he did come to the
10 zone in Nishor. And in the course of our conversation, he said that
11 he wanted to go to more remote villages, and I took him in my car and
12 escorted him. I would have done this for any other soldier.

13 It was that time when I knew his name -- learned his name.
14 Until then, I knew him as Luli.

15 Q. Yes. Just to be clear, he wasn't the only person who used the
16 name Luli, though, was he? There were commanders with the name Luli
17 as well.

18 A. There were tens of Luli, Cungo, Bungu, Guri, such nicknames.
19 There were many, many.

20 Q. But coming back to that, now you've identified that that journey
21 when he was returning was in -- after Rambouillet. In your
22 interviews with the Prosecution, you said it was in early April, is
23 that correct, or is it just a guess? I mean, do you remember roughly
24 when that meeting was?

25 A. I am not certain. Maybe at the beginning of April they were

1 still in Rambouillet. It must have been in the middle of April. I
2 am not sure about the time, but I am certain about the meeting. It
3 was in my car, we had a driver, and we travelled together.

4 MR. EMMERSON: Can we call up, please, SPOE00054541. And there
5 should be -- yes, exactly. And we also should have an original in
6 Albanian as well -- or not?

7 Is there an Albanian equivalent on the system? I see [REDACTED]
8 Pursuant to In-Court Redaction Order F1930RED.

9 THE WITNESS: [Interpretation] I can see that. You can put me
10 the question.

11 MR. EMMERSON:

12 Q. So in general terms, you've told us that after Rambouillet there
13 was a significant reorganisation. And you've described yourself at
14 that time becoming the deputy zone commander, Tahir Sinani taking
15 over as chief of the Pashtrik zone, and so forth, in the organigramme
16 you've shown us. But I think it's right, you know, don't you, that
17 at that stage, in anticipation of a future Kosovo, there was a
18 reorganisation at General Staff level as well; correct?

19 A. I think that after Rambouillet, the reorganisation headed
20 towards the establishment of the provisional government and not the
21 consolidation of the General Staff, and I pointed it out to the
22 Prosecution Office. They paid very little attention to the war. It
23 fell entirely upon us. The zones conducted the war. The brigade
24 commanders did.

25 The people who were in Rambouillet, who we supported for their
stand, for their decision, because there was no other solution for

1 us, indeed, our zone opposed the tendency to change the command while
2 they were away. There was kind of military plot. The Pashtrik
3 military zone and other three zones, that is, four zones, were in
4 favour of continuing as before with the previous leaders. I wasn't
5 -- not happy when they returned from there and didn't do -- didn't
6 deal with us, with the war, with the plans and strategy, but start to
7 set up the structures of the provisional government.

8 Q. But is it right to say they were -- that roles were replaced
9 within the General Staff? So Bislim Zyrapi was replaced by Agim Ceku
10 at that stage; is that correct? Within the General Staff.

11 A. Yes, it's good it happened like that. It is correct. He was
12 replaced on 17 April. Agim Ceku was appointed as chief of staff of
13 the KLA.

14 Q. And there were a number of changes within the General Staff
15 itself. In other words, people to replace those who became part of
16 the provisional institutions of government, provisional government.

17 A. Yes, that's true. At that time, Bislim was part of the
18 Operation Arrow, Agim Ceku became chief of staff, and Sylejman Selimi
19 was later appointed the guard commander. So there were changes,
20 there were movements.

21 Q. And Bislim Zyrapi, for example, left the General Staff and
22 joined as deputy minister of defence, is that right, in the new
23 provisional government?

24 A. I am not certain about Bislim. I do know that Fatmir became
25 deputy minister of defence, not Bislim. Bislim came back to organise

1 Operation Arrow.

2 Q. But Azem Sylja, who was in your book as being the general
3 commander, has by now changed roles to a minister of defence in the
4 new formation --

5 A. Correct.

6 Q. -- separate from the General Staff?

7 A. Correct.

8 Q. And if we can just look at number 6, "Minister of Kosovo
9 Intelligence Service," we see Mr. Veseli's name. Is that the moment
10 at which you would describe there being a change from ZKZ to SHIK?
11 That's when SHIK came formally into existence at around that time as
12 a department of government? Is that what you're saying?

13 A. I don't know when SHIK was formed. Until 12 June, I am
14 100 per cent sure that there were only ZKZs.

15 Q. Very well. Looking back at a number of matters that just need
16 clarifying on the overall picture both from your book and your
17 evidence. I touched on this a couple of days ago. I think you told
18 us already that although some of the contemporary documents refer to
19 a court of second instance, that never happened because it was in
20 anticipation of a much longer process; is that right? Do you
21 remember saying that to us two days ago?

22 A. There were no first or second instance courts. It was
23 desirable. It was hoped for and asked to have lawyers and
24 professional people, and I'm convinced that that would have happened
25 had the war continued for another two, three years. But the fact is

1 that we did not have those.

2 Q. And when there was a changing of the leadership in the Pashtrik
3 zone and Mr. Sinani became the general commander in the Pashtrik
4 zone, and Drini was reassigned to a military academy, I think you
5 said, to set up a military academy for training; is that right?

6 A. That was the plan. To set up a military academy at the central
7 level, and Drini was appointed director or commander of that academy.

8 Q. And there was no academy in reality at that stage, was there?
9 It was a plan for the future.

10 A. We -- as I mentioned in the previous sessions, we had already
11 conducted some training courses. It was thought to create, set up an
12 academy to train officers. So this was -- in theory was planned and
13 thought to do.

14 Q. It was a plan and Drini was appointed to that role on the 17th
15 or thereabouts of March, and the war was over then in three months;
16 is that right? Or less than three months, in fact.

17 A. That's correct. Many things did not materialise. There were
18 plans, ideas, designs, but they could not be finalised. They could
19 not be realised. That's true.

20 Q. Prior to the end of the war, which came, I think you would
21 agree, much, much sooner than anybody on the KLA side had expected;
22 is that right?

23 A. It appears to you very early or quick, but to us it appeared
24 very long. It's not easy to live throughout a year or year and a
25 half or two under the rain, snow, in the fields, in the mud. It was

1 too long. However, the international factor, our allies, reacted in
2 a much quicker way than they did in Bosnia, and they were right to do
3 so.

4 Q. And if we could just turn -- in the same document that we -- not
5 this one, but the one we were previously on the screen from your
6 book, and this time the page will be 09329.

7 MR. EMMERSON: It's, I think, the next page or the previous page
8 in the exhibit. So that, I think, is the -- yeah, that -- it's the
9 previous page.

10 THE WITNESS: [Interpretation] You can ask the question, Defence
11 counsel. I am very clear with my book.

12 MR. EMMERSON:

13 Q. You're very familiar with your charts. Well, one of the charts
14 which the Court Officer is bringing up is your similar
15 reconstruction, your analysis of roles within the General Staff. But
16 I'm assuming that this is dated to the same period of the
17 Tahir Sinani period; correct?

18 A. Yes, but this is how it was thought at the time. To have an
19 organigramme and people assuming functions at the General Staff.
20 However, we - and I'm speaking here for myself - were inspired and
21 led by our ideal for freedom, our trust in the political leader
22 Adem Demaci, more than we were inspired by these people who were the
23 General Staff, the fighters.

24 I can't call this a fictitious one, because they were there, but
25 it was not a regular thing.

1 Q. Yes. I'm just asking you because, I think like the last graph
2 that we looked at, when you were interviewed about this you said:

3 "I'm very sure ... I would say that I can tell a General Staff
4 member -- I can tell a General Staff member that where he stands in
5 this diagram, but he himself wouldn't have known that where he stood.
6 Because they didn't care to create or set up the physical structure
7 [or] theoretical diagram."

8 So this is your analysis, is it? It makes it look very
9 organised.

10 A. This is the presentation of a structure that should have been.
11 The General Staff did not have it. They didn't know where it was,
12 but everybody knew their role. I believe they were aware of that. I
13 can't say they were not. But they did not have the organigramme.
14 This organigramme is a reflection of how it should have been and how
15 it should have functioned. It's a scientific research like any other
16 army in the world.

17 Q. I see. It's how -- it's how, in your analysis, in your PhD, you
18 think it should have been; is that right?

19 A. Certainly. This is the only way it would have functioned.
20 Otherwise, it would not have been functional.

21 Q. But when you were asked about this in your interview, you say:

22 "Probably in reality this diagram was not exactly the same as
23 it -- these here. But it should have been like this."

24 So can we take it that the reporting lines that you've drawn,
25 the solid lines and so forth, these are just the way you think it

1 ought to have been rather than a description of the actual way, to
2 your knowledge, that it was?

3 A. In order to explain how things kept moving, it would be a movie.
4 We would need 30 organigrammes to have those movements.

5 Q. Yes, well, that's exactly the point I wanted to come on to. In
6 order to, you say, understand how things were, in reality you'd need
7 30 different diagrams because everything was changing all the time;
8 is that right?

9 A. Very often.

10 Q. Yes. And I think you even devoted the heading of one of your
11 chapters in your book to that concept, didn't you? You described --
12 just bear with me for a moment. You described -- one whole chapter
13 is entitled - bear with me - "The strategy of the KLA developed in
14 parallel with its own development and with the confrontation with the
15 enemy."

16 Can you just explain what that sentence means so that the Judges
17 can understand the flavour of it?

18 A. When the strategy was presented, the war -- the KLA war strategy
19 in particular with respect to the operative zone, we -- there was a
20 need for visibility. How this would be organised, what would the
21 organigramme be, how would it operate, what would be the strategy.
22 So this the strategy. It's a programme to achieve the victory over
23 the enemy. This is what I intended to do.

24 Q. I understand that. But are you saying -- do you accept, do you
25 agree that the KLA itself was developing as an armed force,

1 recruiting new people, changing its structures, dealing with the
2 enemy at the time, and the whole situation was constantly in flux as
3 far as command relationships were concerned? Do you agree with that?

4 A. I agree that the KLA was an evolving structure, in the process
5 of organisation, growing, in particular starting from 1 April with
6 the appeal for general mobilisation. It was needed to plan, to
7 systemise, as I've explained here.

8 Q. And --

9 A. 1 April 1999.

10 Q. Yes, thank you. But fundamentally, from the middle -- from the
11 beginning of April 1998, there was -- the organisation didn't really
12 exist as an organisation from the top down, did it? It was a --
13 pockets of fighters organising, and some people taking roles as local
14 commanders, and developing over time in response to military
15 conflicts and military engagements with the Serbian forces?

16 A. No. First of all, I cannot accept it being called an
17 organisation. This was the Kosovo Liberation Army.

18 Q. Sorry.

19 A. There were pockets in the beginning until the end of March.
20 Starting from March onwards, it was organised. Only the Pashtrik
21 operative zone had approximately 10.000 soldiers, so it was properly
22 structured. All of them were armed and uniformed, with insignias, a
23 command and everything. So I want you to understand the evolution.

24 Q. I understand -- I understand that we're dealing with different
25 parts of Kosovo, different types of organisation; is that right?

1 A. That's right. I'm always speaking for my zone where I was a
2 commander. I'm not saying only fighter, but a commander, a liberator
3 who had the honour to lead my division, and I might be a hero in the
4 eyes of my people. I don't know how I appear to you here.

5 Q. No. But you thought quite deeply about how to organise, didn't
6 you? You were something of a military strategist. You were trying
7 to think about how to organise within the Pashtrik zone against the
8 background of, as you described it, the spots-on-a-leopard factor?

9 A. When I speak of leopard spots and the general context, I had the
10 right to think and consider the entire Kosovo and the KLA. However,
11 I spoke of my responsibilities, as I protected 200.000 civilians,
12 provided food, physical protection, medical supplies. And if the
13 other zones had been in a position to protect as many civilians as we
14 did, this -- seven zones would have protected one and a half million
15 people, civilians. But they did not have the level of organisation,
16 they didn't have the structure, and they were not able to do this.

17 Q. And, therefore, would you accept that the picture nationally was
18 one where the organisation locally depended on the people and how
19 good the people were in that particular area?

20 A. That's correct.

21 Q. And so in the Pashtrik zone they were lucky enough to have
22 somebody like you thinking about the military strategy, but in other
23 zones it was altogether much more chaotic; do you agree?

24 A. I fully agree. We did not choose that context and situation.
25 It was imposed on us.

1 Q. But then there was no national authority to organise it
2 consistently right across Kosovo in that level of detail. Do you
3 agree with that?

4 A. I agree. Wars are usually led by a political party which has
5 the war policies, which hires experts and professional people who are
6 familiar with the art of war, and who draft statutes, laws,
7 programmes. All this was lacking in Kosovo. There weren't any.

8 Q. Now, you said in your evidence two days ago that you only ever
9 received two orders from the General Staff. One in general --
10 concerning general mobilisation, and the second one concerning -- can
11 you remind me?

12 A. The second order was to take care of civilians in Kosovo because
13 NATO air campaign started and the Serbian forces would retaliate
14 against the civilians. So we had a duty to protect them, which we
15 did protect them.

16 Q. Well, how you -- well, obviously, we can put that order as
17 having come after 24 March when the NATO bombing began. Do you know
18 how soon after that order went out?

19 A. The order for general mobilisation was issued on 1 April. I
20 think the second order was issued on the same time, broadcast through
21 Radio Free Kosovo. We did not receive anything in writing, but we
22 understood it to be important and implemented it.

23 Q. So both at the beginning of April, post Rambouillet, post the
24 bombing, and at the same time as the change of the General Staff and
25 the emergence of the new provisional government; correct?

1 A. Certainly there were changes at the General Staff at the time.

2 Q. So on that subject, I just want to understand the nature of the
3 communication - not orders, but the communication - that you would
4 have. And I think -- with General Staff members. And I think you
5 told the Prosecution in interview that mainly it was discussions
6 between either yourself or the zone commander, and once the -- we get
7 to March, that generally your impression was that it was
8 Mr. Bislim Zyrapi as chief of staff who was the point of contact; is
9 that right?

10 A. Yes, you put many questions. I answered with just "yes" with
11 respect to Bislim. With respect to the communication at the zone
12 level, we had briefings, we would inform each other, and through the
13 radio devices. Because at the zone level, radio range would be 5
14 kilometres approximately. Whereas the communication with the
15 General Staff or the provisional ministry, it was very difficult,
16 because Tahir Sinani at the zone level had a satellite telephone
17 only. I used that on four or five occasions to give NATO officers
18 the coordinates for their bombing. I used it because it happened to
19 be there. Otherwise, Tahir carried this satellite phone with him
20 most of the time and used it for his communications. I wouldn't know
21 how often he did that. This is with respect to the communication.

22 Apart from this, we had our newspaper, KosovaPress and Radio
23 Free Kosovo.

24 MR. EMMERSON: So could we just have a look briefly at P707.2.
25 That's the second part of the interview. Page 9, line 10. It should

1 be -- yes. Sorry, just bear with me a moment. I'm sorry. It's page
2 9, line 10 is where we're focused on. And it should be -- well, I've
3 now been given new numbers in which it would be page 10, line 10.
4 And the Albanian should be page 10, line 1. I'm sorry, can we go
5 back to page 9 and then we'll see if it's there. And if not -- no.
6 Okay. I'm going to leave this point. Thank you very much.

7 THE WITNESS: [Interpretation] Take it as it is with the
8 Prosecutor. There is no change at all.

9 MR. EMMERSON:

10 Q. Well, exactly -- all right. Let me do it that way with you.
11 What you told the Prosecutor was that you would have conversations or
12 briefings with Bislim Zyrapi, and you were asked, referring to times
13 not just in relation to Operation Arrow but, quotes:

14 "Before that. What kind of information would you and/or others
15 in the zone discuss with Mr. Zyrapi?"

16 And you responded:

17 "When he took part in these briefings, not always but he has
18 taken part on several occasions, so he would inform us about the
19 general situation in ... in the area about KLA and also whether
20 information he had -- whatever information he had as far as the enemy
21 forces were concerned ."

22 And you were asked:

23 "And what would you or your colleagues from the zone communicate
24 to Mr. Zyrapi during these interactions, if anything?"

25 And you replied:

1 "It was very little because the possibilities were limited,
2 because the radio communications were intercepted, and it was almost
3 impossible to have this physical connection, like sending a courier
4 because it was difficult, because the area was -- almost 8 per cent
5 of the area" -- I think it means -- well, you tell me, "was
6 controlled by Serbs. And it was like -- so it was -- it resembled
7 like a description like a leopard skin ..."

8 So pausing there. We've dealt with that?

9 And so you're asked what period does that relate to, and you say
10 you confirm that this is during your time as deputy commander. That
11 was the position. So the most of the briefings that you were getting
12 were discussions with Mr. Zyrapi about the general situation; is that
13 right?

14 A. No matter how long you are in your discussions with respect to a
15 specific point -- well, first the 8 should be 80. 80 per cent is
16 correct.

17 Q. I thought so, but I wasn't going to put words in your mouth, but
18 I assumed.

19 A. Not that -- it wouldn't make sense. Now, your description
20 regarding Bislum is true. It's true that there was little
21 information because we were attacked from all sides. And this was
22 the time when I was deputy commander for morale and politics. I
23 was -- I was assistant commander, not deputy commander.

24 Q. Pause for a moment. Pause for a moment.

25 MR. EMMERSON: Is there a problem?

1 PRESIDING JUDGE SMITH: Mr. Krasniqi has left the screen -- oh,
2 there he is. He's back now.

3 MR. EMMERSON: Very well. Sorry.

4 THE WITNESS: [Interpretation] Greetings, Uncle Jakup.

5 MR. EMMERSON: Thank you for that.

6 Q. Now, I just want to go to one or two other documents that I
7 think you had been asked about at one time or another by the
8 Prosecution to get some -- one or two further clarifications.

9 MR. EMMERSON: Can I start, please, at -- bear with me a moment.
10 P00164 it should be, I believe. So P164. So it should be U002-2800
11 to 2822 is the English translation. This is -- we have the
12 translation, I think, ET, 2822.

13 Q. So this is a document the Prosecution showed you during your
14 interviews and it's entitled, as we can see, "Special Warfare." It's
15 dated November 1998. And I don't know if you remember this being
16 shown to you, but it's about the importance of controlling the
17 narrative during asymmetrical warfare. Do you remember seeing that
18 document?

19 A. I've seen this document. It was shown to me by the Prosecutor.
20 This is a document belonging to the LKCK, the National Movement for
21 the Liberation of Kosovo. This organisation, since before the war,
22 started producing a brochure which can be found in Suhareke or
23 Budakove. I don't know which village. But this was the subzone of
24 Llap. It has nothing to do with the Pashtrik operative zone. When I
25 read the material, I realised it was not my material. You can see at

1 the bottom of the document it reads the Llap subzone. Last page.

2 Q. Ah. I know you were asked about it in interview and you weren't
3 sure at that stage whether you'd written it or not, but you've read
4 it, correct, in the course of the --

5 A. I read it after it was shown to me by the Prosecutor. I read it
6 here in The Hague.

7 Q. Would you agree with me that it's a general description about
8 propaganda warfare?

9 A. There was the small group, LKCK. It was not LPK. They had a
10 more radical ideology, I would say. So the expressions I read in
11 there were more extreme, and I immediately reacted saying this is not
12 my document. It is not from the Pashtrik operative zone. I did not
13 see it during the war.

14 Q. No.

15 A. This was handed in at the TMK, KPC, in Prizren after the war.
16 It was found in the office of Halil Qadraku during the search.

17 Q. Pause for a moment. If we look at page 002-2805 first of all.
18 Within that page range. Having read it, I just want to ask you to
19 confirm the nature of the document. So there we see a heading
20 "Propaganda War." The content is about using information, isn't it,
21 in the context of armed conflict, to capture hearts and minds as it's
22 sometimes described?

23 A. I am in a position to keep you here for hours. To speak about
24 the special war, the spies, and so on, I wouldn't deal with such a
25 document. It's not valid. It's never been valid. Then or now.

1 It's never served any purpose.

2 Q. Very well. Very well. Well, we'll leave that document in that
3 case. What I do want to ask you about, though, is a document which
4 is headed "Kosovo Liberation Army General Staff Disciplinary
5 Regulations Prishtine 1998." Again, you were asked about this
6 document in your interview.

7 MR. EMMERSON: Now, that will have a P number, I'm sure. Yes,
8 it's P00715.

9 THE WITNESS: [Interpretation] I don't think that the
10 General Staff had such a regulation. It was us in the Pashtrik zone
11 that drafted three regulations. I don't believe that other zones had
12 any, because the level of organisation was higher in Pashtrik zone.

13 MR. EMMERSON:

14 Q. So do you think this document emanated from the zone level in
15 Pashtrik? Is that what you're saying?

16 A. Yes.

17 Q. Do you remember seeing it? Do you remember how it came to be
18 created when you were in Pashtrik, or you don't?

19 A. I know that I provided materials for drafting such rules. And
20 then after it was printed, I didn't check it anymore. But I insist
21 that -- I mean, I wouldn't say that it's not my document.

22 Q. No, so -- you wouldn't say that it's not your document. Is that
23 what you're saying?

24 A. I'm saying that it is drafted in Pashtrik operational zone, in
25 the command of Pashtrik operational zone, and that we drafted three

1 rules: One on discipline, one on lining up, and one on facility of
2 special importance. Three rules or regulations on the level of the
3 zone. They were found in Pashtrik operational zone in their archives
4 after the search was made or --

5 Q. Can you explain why it says -- why this document then was headed
6 "Kosovo Liberation Army General Staff"? Was that just a draft
7 proposal? Is that what you're saying? From the zone to the
8 General Staff?

9 A. It was sent -- submitted to the General Staff, but I don't know
10 whether there was anyone to receive it.

11 Q. Okay. Well, let's perhaps get a bit more detail about this if
12 we may. We can see from your organigramme that Nuredin Abazi, you've
13 told us, was a lawyer who advised the command in the Pashtrik zone,
14 and you'd known him since you were the brigade commander in -- at the
15 very beginning of your service. Was he involved in this?

16 A. Yes. He was also consulted. But I had a lot of knowledge, even
17 though I didn't have a master's degree, a lot of legal knowledge. I
18 read a lot of rules from different countries and used most of them as
19 a basis.

20 Q. Okay.

21 A. And I used many of them as reference materials.

22 Q. And you said you gave those materials to somebody. Just to be
23 clear, did you actually write these rules, or you're saying you gave
24 this material to somebody else to write them, or you wrote them with
25 Nuredin Abazi? What's the --

1 A. I didn't have a computer, to tell you the truth. I didn't
2 have -- we had a laptop for the entire zone. Tahir Sinani, Nuredin
3 Abazi, Halil Qadraku, and myself worked for it. I provided the
4 written materials for them.

5 Q. Can we just look -- I just want to catch the transcript, please,
6 with the names that you've just given. Hang on. Just bear with me a
7 moment. I see.

8 So it's Mr. Sinani -- but you've told us that Mr. Sinani was not
9 appointed into the zone until the second half of March, but the
10 document seems to bear a date of 1998 -- second half of -- I'm sorry.
11 I'm going to put the question again.

12 You've told us that Mr. Sinani wasn't appointed as zone
13 commander until March 1999. Can you tell us why it bears a date
14 of -- why it says Prishtine 1998?

15 A. Our writings went to the office of Adem Demaci and probably they
16 were printed there. Tahir Sinani came to Kosovo on 24 November 1998.
17 He wasn't there earlier.

18 MR. EMMERSON: Can we pause, please? I think the transcript has
19 gone down. Am I right? Yes.

20 Q. We need to wait for the transcript to catch up, if you don't
21 mind.

22 A. You can continue with your questions. I can answer them.

23 PRESIDING JUDGE SMITH: No, we have to have it on the
24 transcript.

25 MR. EMMERSON: The transcript has stopped and your answers

1 aren't being recorded.

2 PRESIDING JUDGE SMITH: Mine seems to be working now.

3 MR. EMMERSON: Yes, so we're back on.

4 PRESIDING JUDGE SMITH: Wait for it to catch up and then we'll
5 go on. There. Okay.

6 MR. EMMERSON: Very well.

7 PRESIDING JUDGE SMITH: Go ahead.

8 MR. EMMERSON:

9 Q. So -- I see. So Mr. Sinani, yourself, Mr. Abazi, and -- forgive
10 me, the fourth person involved was? Can you remind me?

11 A. Halil Qadraku, Sadik Halitjaha, Nuredin Abazi, Tahir we are
12 leaving out if he has not yet arrived, but he gave his contribution
13 to other documents. This material was sent to the office of
14 Adem Demaci in Prishtine, where it assumed the final form, let's say,
15 as a brochure that you see, because we had only one laptop available.

16 Q. Very well. To be clear, the materials you used appear to have
17 been taken from a different army altogether, like the Yugoslav Army;
18 is that right? You said you had access to lots of different
19 countries' sources -- or maybe not the Yugoslav Army, but a different
20 army.

21 A. No, maybe from Albania, but not -- please, don't insult us --

22 Q. Sorry, I apologise. We are just exploring this with you now.
23 But it came from other military -- militaries of other countries; is
24 that right?

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

1 Q. And one or more than one country? Do you remember?

2 A. Depending on what people knew, what they had read, how much
3 knowledge they had. If I was familiar with some systems, like the
4 Yugoslav, Albanian from Albania, the French system, the Russian and
5 others, seven or eight systems, then I could adjust it to our
6 circumstances and conditions. Another person was familiar with
7 something else, so we put all our knowledge together and we formed
8 these rules.

9 Q. I see. So it's a sort of amalgam of rules from different
10 national armies from other countries? That might explain some of the
11 anomalies in it.

12 A. Yes.

13 MR. EMMERSON: Let's have a look, please, if we may, at -- so
14 the page -- I don't know if it's easiest, but the internal page is
15 page 3 of the document. If we could go -- yes, just back to page 3.
16 I think we're on -- I was using the numbers at the -- yes, exactly.

17 Q. If we look at, for example, Paragraph 2, there's a definition of
18 a military person. And then at paragraph 2a.:

19 "The officers in the active service of the KLA and of the
20 Territorial Forces of the KLA, of the public order body established
21 by the KLA and of the KLA Intelligence Service ..."

22 And if we go over the page to 4:

23 "... and their reserve officers when they are in direct service
24 of the KLA.

25 "b. The non-commissioned officers" --

1 A. It is clear, Mr. Lawyer. It is a copy of the Albanian rules.
2 We didn't have reserve forces.

3 Q. You didn't have Territorial Forces or a public --

4 A. Reserve officers.

5 Q. -- order body --

6 A. I don't want to simplify that. When they adopted the
7 constitution in Albania at the time of Sali Berisha, they said that
8 they shouldn't attack nuclear submarines. They copied it from the
9 British and that's how they left it. So it's merely a copy -- an
10 inaccurate copy.

11 Q. It's still rather important that we tease this out because it's
12 played a significant role in the Prosecution's case here. 2b., it
13 includes:

14 "... non-commissioned officers (NCO's) on obligatory service,
15 active and in the reserve, when they are serving in the KLA."

16 Non-commissioned officers? What on earth does that mean in the
17 context of the KLA?

18 A. I wouldn't like to go on with the same topic because it is
19 irrelevant. We didn't have non-commissioned officers or officer --
20 we didn't have ranks. We had just sharing of responsibilities.

21 Q. I understand. And I understand, perhaps, why you smile about
22 it, because it seems obvious to you, but it hasn't been obvious to
23 the Prosecution who have based a lot of their case on these
24 documents, and it hasn't been testified to by the author or those who
25 contributed to it before, and it's been ascribed to the

1 General Staff, so we do need to go into the detail.

2 MR. PACE: Objection, Your Honour. If counsel could limit
3 himself to question, not general commentary on the Prosecution's
4 case.

5 MR. EMMERSON: Very well. I'll do that, but the witness is
6 saying he doesn't need to answer because it's so obviously
7 unrealistic, so it's rather important that we do it in detail. I'm
8 just explaining to the witness why that is.

9 PRESIDING JUDGE SMITH: [Microphone not activated]

10 MR. EMMERSON:

11 Q. So forgive me, we do have to go through it even if it makes you
12 smile.

13 Number 3:

14 "Military personnel enjoy the rights which the Constitution
15 grants to citizens ..."

16 Which constitution was that a reference to?

17 A. This fact shows that Kosovo didn't have a constitution until its
18 adoption in 2008 or 2009, after we declared our independence. We
19 didn't have -- Kosovo didn't have a constitution, didn't have a
20 parliament or laws. So this is redundant then or even now.

21 Q. We'll just look at some other examples, if we may.

22 MR. EMMERSON: Can we look at internal page 15, please.

23 Q. So:

24 "For the soldiers and NCOs /non-commissioned officers/ on
25 obligatory service, the following awards are made," in other words,

1 presumably awards for good conduct or good fighting. And then there
2 are various lists down there from financial reward, decoration with
3 orders. And then we see at 2:

4 "For reservist soldiers and NCO's the above awards can be made,
5 except for 'c' and 'f' above."

6 I mean, this has nothing to do with reality, is it?

7 A. Nothing to do with the reality at all. And I don't think we
8 need to analyse this because it is useless and it was never used as
9 such, because we had no reservists, no awards, no constitution in our
10 laws. We are a witness to that time. I am one of the protagonists
11 of the movement from 1977. In 1979 I was imprisoned for the first
12 time. Protagonism continued all along the war. So none of this was
13 the case.

14 Q. Can you -- will you just bear with me for one or two more
15 examples. I've understood your evidence and it's extremely important
16 testimony, but just bear with me, please.

17 Could we look at page 16 where we get a hierarchy of levels of
18 command that have powers to make various awards.

19 1, the section commander or equivalent. Then there's examples,
20 2, the platoon commander. And then if we turn over to the next page,
21 17, 3, the company commander or equivalent. 4, the battalion
22 commander. And 6, the corps. And we can see under 6, at page 18,
23 the corps is described as the Division, the MKA, the FLD, the
24 Albanian Navy or Aviation.

25 This is just a cut and paste, isn't it, from the Albanian army

1 regulations that you thought would, in a way, serve as a template; is
2 that right?

3 A. I wish I'd seen it before because I would have torn it up,
4 because it was useless. It was unrealistic what it says here. We
5 were in war. We couldn't identify all theoretical mistakes. We were
6 mostly concerned with the active participation in the war against the
7 enemy.

8 Q. And if we turn back to page 5, paragraph 3, internal page 5,
9 paragraph 3, I'm just going to read the first two sections out to
10 you. 3, 1.:

11 "The KLA has a hierarchical structure. In their relations
12 military personnel are superior and subordinate. This is determined
13 by the hierarchy of roles and ranks.

14 "2. The rank hierarchy is determined by special regulations.
15 It states the connection with the role and maintains the relation of
16 the most senior and the most junior between one rank and another."

17 Did this also come from the Albanian army disciplinary manual?

18 A. It was taken from them. We didn't have ranks. I was deputy
19 commander of the zone. In normal peace conditions, I would have the
20 rank of general. But we didn't have, neither me nor Tahir or people,
21 our subordinates, or superiors.

22 MR. EMMERSON: The transcript's paused again. Has it caught up?
23 Yes, thank you.

24 Q. And, indeed, you've told us that even those who had certain
25 functions that you've described wouldn't necessarily know where they

1 fitted into a hierarchy anyway; correct?

2 A. They should know. If they didn't know their functions in a
3 hierarchy, somebody had to explain. So we needed a law. It is like
4 you said. Exactly as you said.

5 Q. So if it is being proposed --

6 PRESIDING JUDGE SMITH: Mr. Emmerson, a little bit slower,
7 please.

8 MR. EMMERSON: I'll take a pause.

9 Q. So this document was your group in Pashtrik's idea for what an
10 army could become if it was based on the regulations of a
11 conventional military army; correct?

12 A. It was not only an idea. It was an attempt to have such a
13 strategy, a project, a programme, but things remained just attempts.
14 They didn't come true.

15 Q. If anybody thought that this document, in any way, was an
16 accurate description of the reality on the ground of the KLA fighting
17 against Serbia, they would be very much mistaken, wouldn't they? If
18 anyone took this literally.

19 A. It was not used. If it were used, it would be an absurdity,
20 because where was the aviation, the submarine, the regular army? No,
21 it was not. It was not related to the real functions.

22 Q. As somebody working in the morale unit, you could qualify to
23 comment on the next question I'm going to ask. We've seen other
24 documents floating around, KLA documents from June 1999 appointing
25 people as commander in charge of chemical and biological weapons,

1 commander in charge of nuclear warfare, commander in charge of tank
2 brigades. Did you see things like that when you were on the ground?

3 A. There was a unit against nuclear substances and war. It was
4 just a nucleus, an attempt to have that unit in the army of Kosovo in
5 the future. Otherwise, we know even today at what level the Kosovo
6 army is even now. I would rather not go at length on the projects.
7 Projects are projects and not *fait accompli*. Then we would speak
8 about concrete things.

9 It's okay that you are making things clear, Mr. Counsel, but I
10 think it's taking too much -- too long.

11 Q. [Overlapping speakers] ... I'm sure everyone in the courtroom
12 agrees. Let me move on.

13 MR. EMMERSON: Can we please call up -- just bear with me a
14 moment. Yes, the 10 November 2023 Preparation Note 1, if we may, on
15 page 6.

16 THE COURT OFFICER: It's P714.

17 MR. EMMERSON: Thank you.

18 Q. So this is a note that was made in your recent meeting with
19 Mr. Pace in preparation for your testimony, and I just want to ask
20 you about the whole of paragraph 25. These include the organigrammes
21 and other material that were being shown to you.

22 A. Can I have it in Albanian, please?

23 Q. There is no Albanian translation yet because it's an early
24 transcription or, rather, note of your meeting. I'm going to read it
25 very slowly so that it can be translated to you orally. After the

1 document numbers are listed, it continues:

2 "The G1-G6 reported to the zone commander. Qadraku, who was in
3 the ZKZ, would report to the zone commander and Bislím Zyrapi."

4 He said -- it says you were asked why you had previously stated
5 that Mr. Qadraku reported to the chief of staff and Kadri Veseli, and
6 you stated that you knew the J2 - that's Kadri Veseli on your
7 organigramme - was the G2's superior but it was not possible for
8 Qadraku to meet Veseli since Veseli was not in Kosovo between January
9 and the end of the war. Asked how he knew Veseli was not in Kosovo
10 between January and the end of the war, you said that you were in the
11 General Staff in January and Mr. Veseli was not there. You said that
12 when he came back or went back from Rambouillet through the Pashtrik
13 zone, possibly in April, as you've told us, you gave Mr. Veseli a
14 lift and you didn't see him anymore, adding that you didn't know
15 where Mr. Veseli was and did not receive any reports that he was in
16 Kosovo.

17 Now, are you able to comment on that passage?

18 MR. PACE: Your Honour, can we read the last sentence of that
19 passage to the witness in fairness.

20 MR. EMMERSON: Of course, of course.

21 Q. There's another sentence that Mr. Pace would like me to read.
22 So it follows on from the previous sentence where you'd added that
23 you hadn't -- you didn't know where Mr. Veseli was and did not
24 receive any reports that he was in Kosovo. And then you were asked
25 by Mr. Pace whether you would normally receive reports on

1 Mr. Veseli's whereabouts, and you said that you wouldn't expect to.

2 Now, my point is you're clear in your testimony about each of
3 those passages. Do you -- or are you in a position to contradict the
4 proposition that Mr. Veseli left Kosovo at the time of the September,
5 October reorganisation?

6 A. I cannot confirm it because I had no knowledge. I said what I
7 knew. And I don't detract anything from what I already stated. It's
8 very just, what it says in the last sentence, that Mr. Veseli did not
9 report to us, and we didn't ask him to tell us where he was. If
10 somebody asked, it was given an answer.

11 Halili was easier to send materials to Qadraku, but in most
12 cases to Tahir because he was a zone commander.

13 THE INTERPRETER: Bislím Zyrapi, correction.

14 THE WITNESS: [Interpretation] I don't know any special instance
15 to say that he did this or that, but now I cannot say anything
16 against him. I have to tell the truth.

17 MR. EMMERSON: Your Honour, I see the time. I've got -- if I
18 had the overnight to finish preparation, I can get this down to 10 or
19 15 minutes maximum.

20 PRESIDING JUDGE SMITH: That will be fine.

21 MR. EMMERSON: Thank you.

22 PRESIDING JUDGE SMITH: Witness, we are finished with you for
23 today. You'll have to be back here tomorrow at 9.00, and we will
24 continue on with your examination.

25 Please, the Court attendant will escort it out of the room.

Witness: W04765 (Resumed) (Open Session)
Cross-examination by Mr. Emmerson (Continued)

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1 MR. PACE: Your Honour, before that happens, could you kindly
2 remind the witness of his obligation not to discuss testimony.

3 PRESIDING JUDGE SMITH: Certainly.

4 MR. EMMERSON: I suppose save in respect of the issue which you
5 indicated -- or you would like to do that after he's concluded his
6 testimony?

7 PRESIDING JUDGE SMITH: Well, he's obviously going to discuss
8 [Microphone not activated] ... discussed earlier with the Registry
9 [Microphone not activated].

10 You will be able to be interviewed by the Registry in a few
11 minutes and maybe have a fuller statement of what you stated earlier
12 at the beginning.

13 So please go with the Court attendant at this time and we'll see
14 you tomorrow morning.

15 Other than the Registry, you are not to discuss this matter with
16 anyone. Your testimony. Thank you.

17 THE WITNESS: [Interpretation] Thank you. Thank you. Goodnight.

18 [The witness stands down]

19 MR. ROBERTS: Your Honour --

20 PRESIDING JUDGE SMITH: Wait till the doors shut. All right.

21 MR. ROBERTS: Just briefly. I neglected to tender into evidence
22 three of the notes that I used with the previous witness, and I just
23 thought if I could do it quickly now in the last minute.

24 PRESIDING JUDGE SMITH: [Microphone not activated]

25 MR. ROBERTS: I've informed the Prosecution. Hopefully they'll

1 be able to take a position now, and then hopefully we can deal with
2 this.

3 So these are the three contact notes. I'll just read the ERNs.
4 It's 108612, 110768, and 116502.

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 Objection from the Prosecution?

7 MR. PACE: No objection, Your Honour.

8 PRESIDING JUDGE SMITH: Oh, I'm sorry.

9 MR. EMMERSON: [Microphone not activated]

10 PRESIDING JUDGE SMITH: Those will be admitted.

11 MR. ROBERTS: Thank you, Your Honour.

12 MR. EMMERSON: Apropos -- or maybe we could just do this in
13 private session, the next part.

14 MR. KEHOE: Before we do that, can I just offer some exhibits as
15 well that we -- that -- what I had, Judge, is some publicly redacted
16 exhibits after some *inter partes* conference for --

17 PRESIDING JUDGE SMITH: [Microphone not activated]

18 MR. KEHOE: Oh, my apologies. My apologies, Judge.

19 PRESIDING JUDGE SMITH: [Microphone not activated]

20 THE COURT OFFICER: Okay. For the three items tendered for the
21 Selimi Defence, the first one with ERN 108612 to 108612 RED, that
22 will be Exhibit 3D10.

23 The second item, 1110768 will be Exhibit 3D11.

24 And 116502 will be 3D12.

25 And can I just clarify a classification for those?

1 MR. ROBERTS: I think they have to be confidential because they
2 were addressed in the context of -- I'm not sure if we're in open
3 session now actually, but they were in the context of --

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 MR. ROBERTS: -- procedures that were discussed in private
6 session, so I think it's probably best they remain confidential --

7 PRESIDING JUDGE SMITH: [Microphone not activated]

8 MR. ROBERTS: -- for now.

9 PRESIDING JUDGE SMITH: They will stay confidential for the time
10 being.

11 [Microphone not activated].

12 MR. EMMERSON: Could we move into private session just for me to
13 address one issue?

14 PRESIDING JUDGE SMITH: [Microphone not activated]

15 MR. EMMERSON: Sorry.

16 PRESIDING JUDGE SMITH: [Microphone not activated]

17 MR. KEHOE: Thank you, Judge.

18 PRESIDING JUDGE SMITH: Go ahead, Mr. Kehoe.

19 MR. KEHOE: So I have -- we are releasing the public version of
20 two items admitted through W03825. These are redactions that have
21 been made with *inter partes* consultation with the SPO.

22 So it's the SPO prep notes for 3085, and they were 116768 to
23 116787 redacted, and that was admitted as 1D64. And there was a
24 letter from W03825 to the SPO, and number 108987 to 108990 that was
25 admitted as 1D63.

1 Now, what we had -- we have released the redacted versions of
2 those documents, which are as follows -- well, I believe it's just in
3 the redacted form. It's the same document but within a redacted
4 form, and we just wanted to advise the Court of that.

5 PRESIDING JUDGE SMITH: All right. So you want that listed as
6 an exhibit?

7 MR. KEHOE: Well, we're just releasing it. What we did, Judge,
8 was they were -- there was some information in those documents that
9 counsel for the Prosecution --

10 PRESIDING JUDGE SMITH: Yeah.

11 MR. KEHOE: -- wanted redacted, and we've redacted that
12 information.

13 PRESIDING JUDGE SMITH: You've redacted. All right.

14 MR. KEHOE: And we just wanted to upload the redacted exhibits.

15 [Trial Panel confers]

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 Mr. Emmerson.

18 MR. EMMERSON: May we go into private session just to address
19 this one issue, because I don't think, given the experience that's
20 happened so far, that it's very sensible to address it in public
21 session for reasons I'll explain.

22 PRESIDING JUDGE SMITH: Please, into private session,
23 Madam Court Officer.

24 [Private session]

25 [Private session text removed]

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13 [Open session]

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

15 PRESIDING JUDGE SMITH: We are adjourned until 9.00 tomorrow.

16 --- Whereupon the hearing adjourned at 7.47 p.m.

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