

Wednesday, 15 November 2023

[Open session]

[The accused entered the courtroom]

[The Accused Krasniqi appeared via videolink]

Upon commencing at 3.00 p.m.

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

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

PRESIDING JUDGE SMITH: Today we will continue the testimony of Prosecution Witness W04448. I note that Mr. Thaci, Mr. Veseli, and Mr. Selimi are all present in the courtroom, while Mr. Krasniqi is attending today via videolink.

We are in public session.

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

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

[The witness takes the stand via videolink]

MR. ROBERTS: Just because some of us are travelling tomorrow evening, and so if we are informed of the witnesses slightly earlier, that would assist us greatly in being able to prepare materials to 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.

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Cross-examination by Mr. Roberts (Continued)

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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

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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.

12 [Private session]

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

14 PRESIDING JUDGE SMITH: Go ahead, Mr. Roberts.

15 MR. ROBERTS: Thank you, Your Honour.

16 Q. So, Witness, this is just going to discuss when you gave  
17 different statements to different investigative authorities, where  
18 you were, and the consequences and what happened afterwards.

19 So, firstly, all I want to take back you to 2004 when you  
20 gave your first statement to the ICTY investigator, and that was on  
21 the 21st, 22nd, and 24th October 2004. And you were living in Kosovo  
22 at the time. That's correct, isn't it?

23 A. Yes.

24 Q. And then you gave a later statement on 8 December 2004 also to  
25 the ICTY. You recall that statement?

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Cross-examination by Mr. Roberts (Continued)

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1 A. I believe so.

2 Q. And you were also living in Kosovo still then at that time?

3 A. Yes.

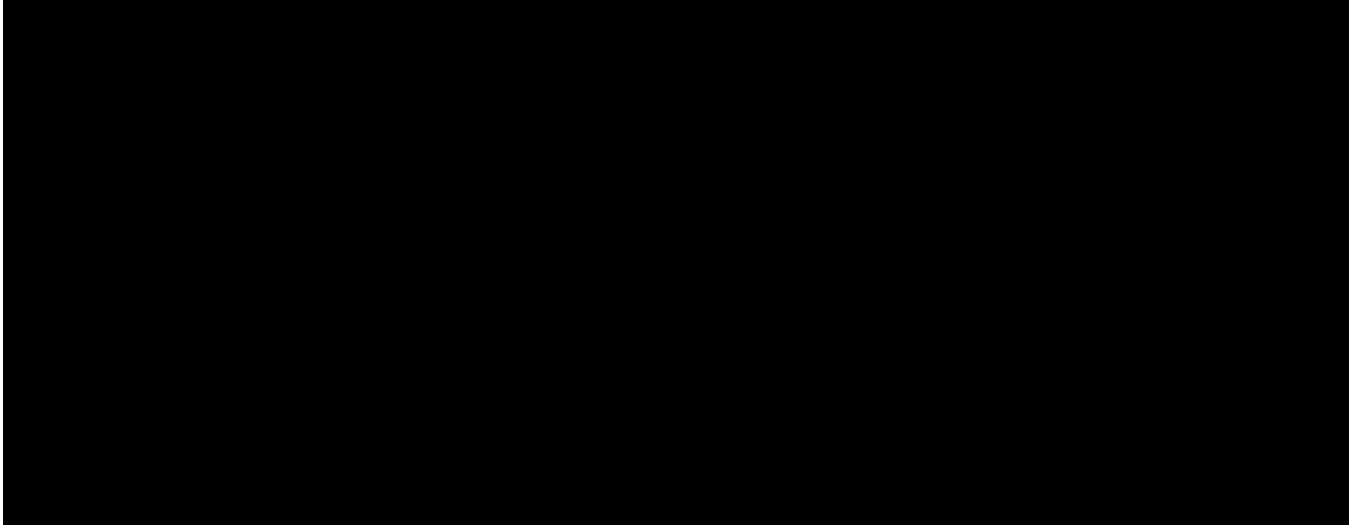
4 Q. And then you testified in Limaj on 11th and 14th March 2005?

5 A. Yes.

6 Q. And, again, still living in Kosovo up until that point. That's  
7 correct, isn't it?

8 A. Yes.

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17 A. It could be. I don't remember the dates. You probably have  
18 some in writing. But the first time I went to immigration and  
19 interview, I I received immigration status. They granted me.

20 Q. And do you know if the ICTY prosecution wrote you a letter in  
21 support of your application at that time?

22 A. No, had nothing to do with ICTY at that time.

23 Q. Okay. So the ICTY didn't write had no correspondence or no  
24 communication with the immigration authorities to your knowledge?

25 A. No.

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1 Q. And then in 2007, so this was in May, you gave a statement to  
2 the ICTY by videolink?

3 A. 2007? Yes.

4 Q. And then on 5 June, you were called to testify in the Haradinaj  
5 case for the first time.

6 A. Yes, yes.

7 Q. And I think, as you explained briefly yesterday morning to the  
8 Prosecution, you then left a note in your hotel room and returned  
9 back to where you are now, back to the US?

10 A. Yes.

11 Q. And then in November you were called again to testify by the  
12 ICTY prosecution. I think that's an Australian prosecution counsel,  
13 David Re. Do you recall being questioned in Haradinaj in November  
14 2007?

15 A. November 2007, from here?

16 Q. Yes, by videolink.

17 A. Yeah, I don't think I testified.

18 Q. But you were called to testify?

19 A. I was called, yes.

20 Q. Yeah. And up until that point or between the first time, so  
21 between May and November sorry, between June and November 2007,  
22 did you receive any threats or pressure from the ICTY prosecution to  
23 testify?

24 A. Depends how you see it. I I can tell you briefly what I've  
25 been through at that time. I remember it was a prosecutor from

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Cross-examination by Mr. Roberts (Continued)

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1 England. I really don't remember his I mean, investigator, I'm  
2 sorry. I don't remember his name. You can find out. He called me  
3 with translators and then he called then my brother's house, that,  
4 "Oh, you're supposed to come back, and [REDACTED]  
5 [REDACTED]." I said, "No." I said, "Things  
6 changed, because when I came to the US" actually, my brother  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]

10 So I told him that I got granted, but then he said, "You gave us  
11 a word" it was a long discussion, like, long discussion "that  
12 you're going to come back." I said, "Yes, but," I said, "it's  
13 it's not things that" basically, like I said before, I did not  
14 agree with them the way they are prosecuting the cases. And for me,  
15 it was like in that time you should you should like I had  
16 kid start having kids and it was not easy to manage the life,  
17 so

18 Q. Understood.

19 A. I did I was looking for alternatives. Like what will be  
20 the best for me.

21 Q. And so this was pressure that the prosecution were putting on  
22 you to come and testify

23 A. Pressure, yes.

24 Q. at the time.

25 A. Definitely, yes.

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Cross-examination by Mr. Roberts (Continued)

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1 Q. And then in 2011 you were called to testify in the Haradinaj  
2 retrial.

3 A. Yeah, after yes, after

4 Q. After a few years' break.

5 A. A few years after, they send they send one of the workers  
6 from The Hague working in DC actually. That's what I know from my  
7 lawyer that I had here, the defence lawyer in the city where I  
8 actually am here. They sent somebody working there. He gave me the  
9 names and everything that time. And she was trying to change the  
10 the something in the law that had to have a right to bring  
11 somebody back for for a witness in the basically US didn't have  
12 that time with Europe those kind of agreements, or how to say it.

13 So after two years of working, she she reached out. She  
14 managed to make it happen so they have a right to. And then I got  
15 called also again here in the defence I mean, in a in a federal  
16 building, and they said that actually, they didn't want to let me  
17 go, kind of thing. But they said that if DC State Department decides  
18 they will get you, and we have no authority over them or was  
19 like I said, it was long, long, long, long process.

20 So we decided with my lawyer that I had at that time here to  
21 to go there and we tried to to do our best we could.

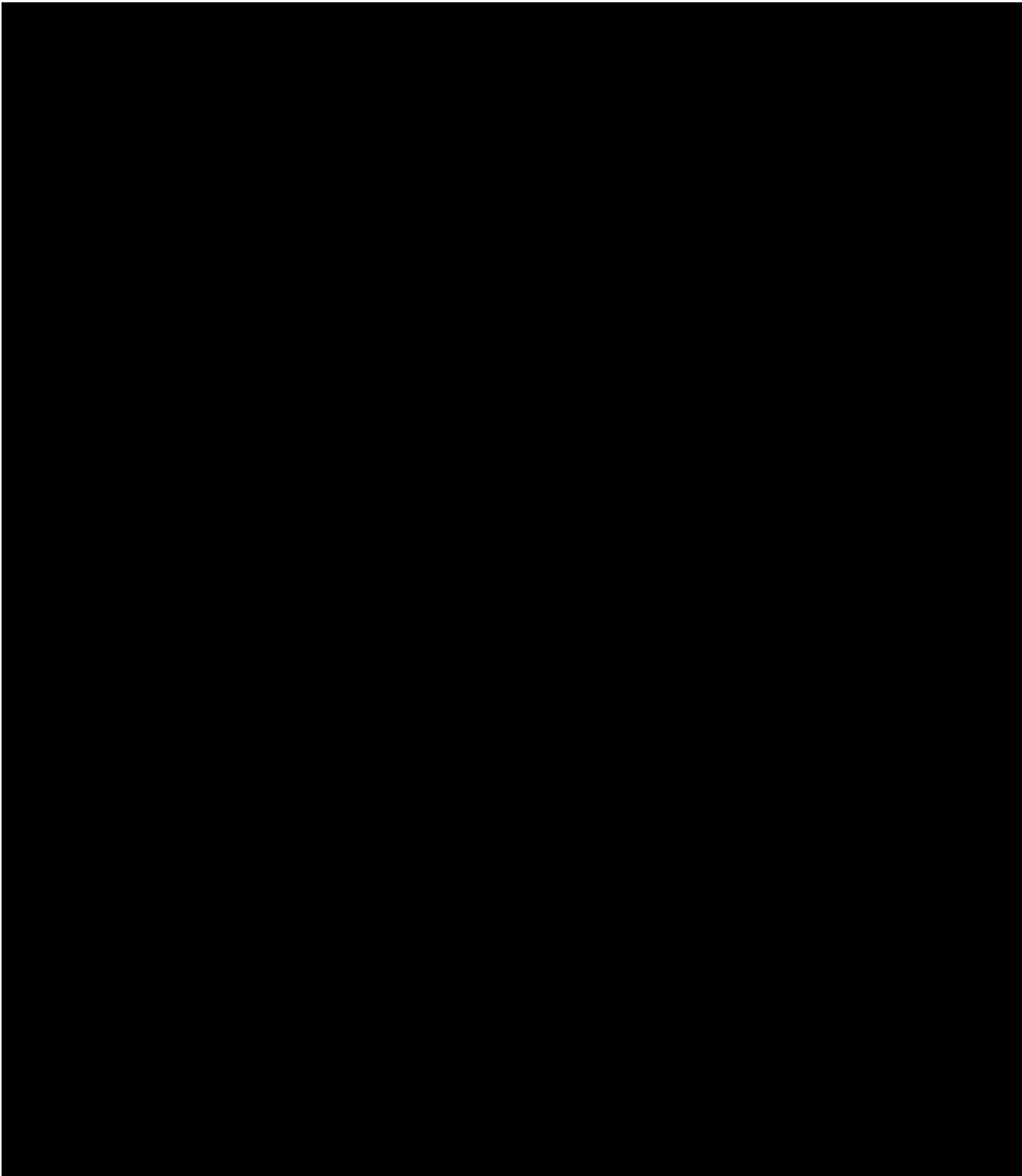
22 Q. So

23 A. Tried to explain also.

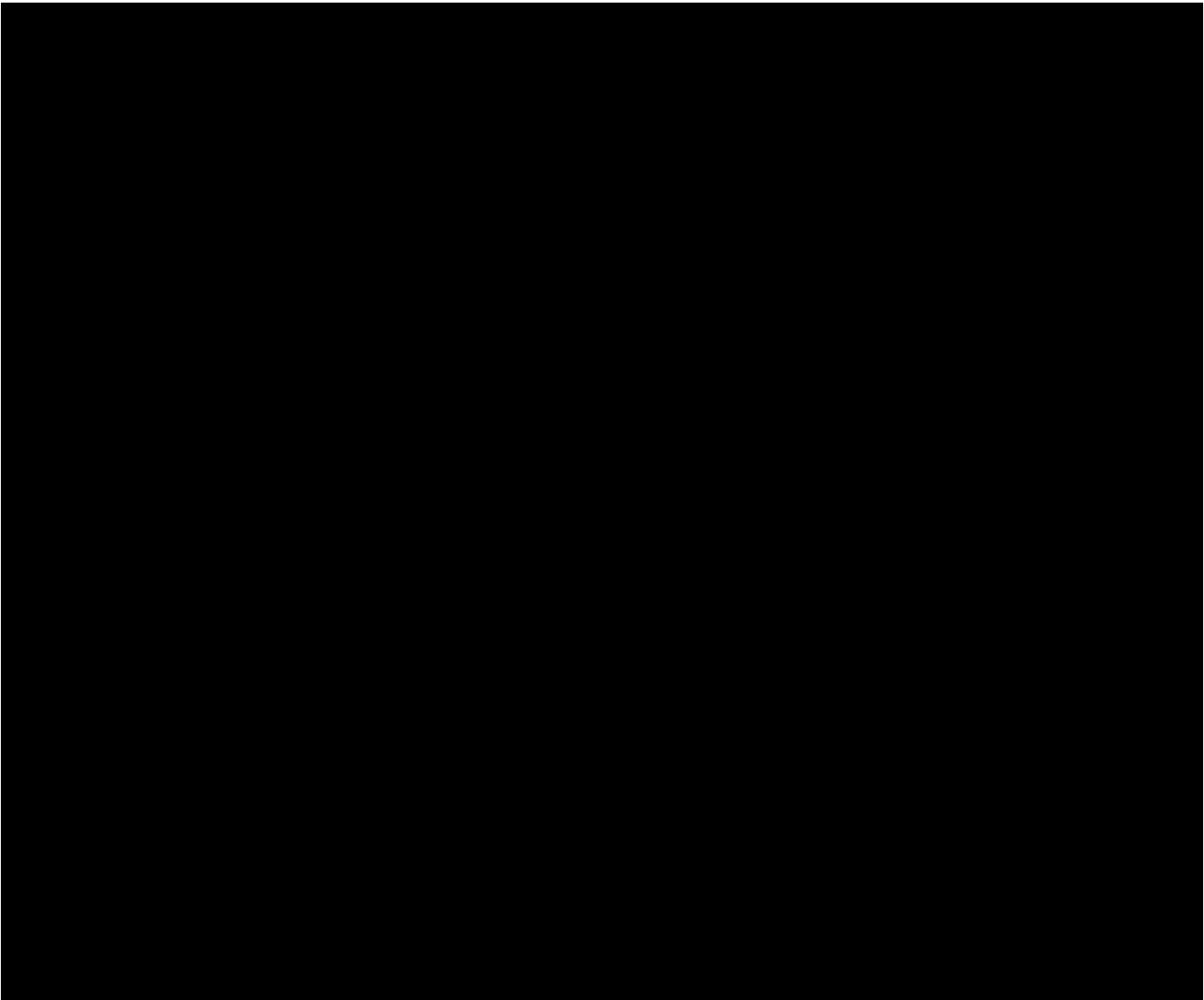
24 Q. "To go there," sorry, that means to go to The Hague or was  
25 this



1       A.     To go       yes, to go in Hague.   So that's       that's how we made  
2       decision to go in Hague in 2011.



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Q. And didn't you

A. [Overlapping speakers] ...

Q. Sorry to interrupt again. I'm just trying to get through these questions as quickly as possible. Did the ICTY prosecution also send a letter to the immigration authorities about your contempt case?

A. I know they sent a letter. The officer told me they sent a letter from ICTY. And possible threats that I'm I'm basically making to to Prishtine. Basically, I'm trying to do something

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1 and, you know, against them, basically, their offices and whatever.

2 Q. Do you know when this letter was sorry. Do you know when  
3 this letter was sent by the ICTY prosecution?

4 A. No, I cannot know that. But it's between the 2000 like I  
5 said, 2007. It can be before or that time. And then 2009 I find out  
6 about this.

7 Q. Okay. So they had written a letter to inform the immigration  
8 authorities that you hadn't testified in 2007 and that you were  
9 facing potential contempt charges. Is that my understanding of the  
10 letter?

11 A. Yes.

12 Q. And did you see the letter ever?

13 A. No, I said I didn't say that. I said that this they sent  
14 a letter. I did not read the letter. But when I talked to the  
15 officer, he he mentioned that they sent a letter, and he mentioned  
16 that, you know, they are, like, feeling in threat that you are trying  
17 to do something in Prishtine against them, basically. Like,  
18 whatever, doing something, like taking action, whatever, terrorist  
19 action, or ...

20 MR. ROBERTS: Maybe if we can just have a document on the  
21 screen, which is 108612.

22 Q. And so this is just a record of a conversation between you and  
23 Prosecution counsel, Mr. Quick, on 23 June 2022. And it's just in  
24 English. It should be on your screen shortly.

25 A. Okay.

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Cross-examination by Mr. Roberts (Continued)

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1 Q. So if you just can tell me when that's displayed over there.  
2 And I'm looking at paragraph 2 of this. It's a short document. It's  
3 just one page.

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6 I actually have, sorry, a lesser redacted version. I think it's  
7 redacted in that one.

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11 Do you see where it's written there?

12 A. Okay.

13 Q. And so that's what you told the Prosecution on 23 June 2022. Do  
14 you remember

15 A. Yes.

16 Q. telling them that?

17 A. Yes, we discussed that.

18 Q. And so that's referring back to this letter that you spoke to  
19 the immigration official about in about 2009; is that correct? Or is  
20 there another letter I'm just trying to understand

21 A. No, if you talk about the letter, it's this is what I heard  
22 in 2009.

23 Q. Okay.

24 A. Yes.

25 Q. And you don't know specifically from within the Prosecution who

1       sent that letter?

2       A.     No.

3       [REDACTED]

4       [REDACTED]

5       A.     Of course.

6       Q.       if they had called you in for a hearing to discuss it?

7       A.     Of course.

8       Q.     And what would have been the consequences from that letter?

9       Could your asylum application or asylum status have been revoked on

10      the basis of that to your knowledge?

11      A.     Yes, I think that 99.9 per cent that was the reason why my

12      status was revoked.

13      [REDACTED]

14      [REDACTED]

15      [REDACTED]

16      [REDACTED]

17      [REDACTED]

18      [REDACTED]

19      [REDACTED]

20      [REDACTED]

21      [REDACTED]

22      [REDACTED]

23      [REDACTED]

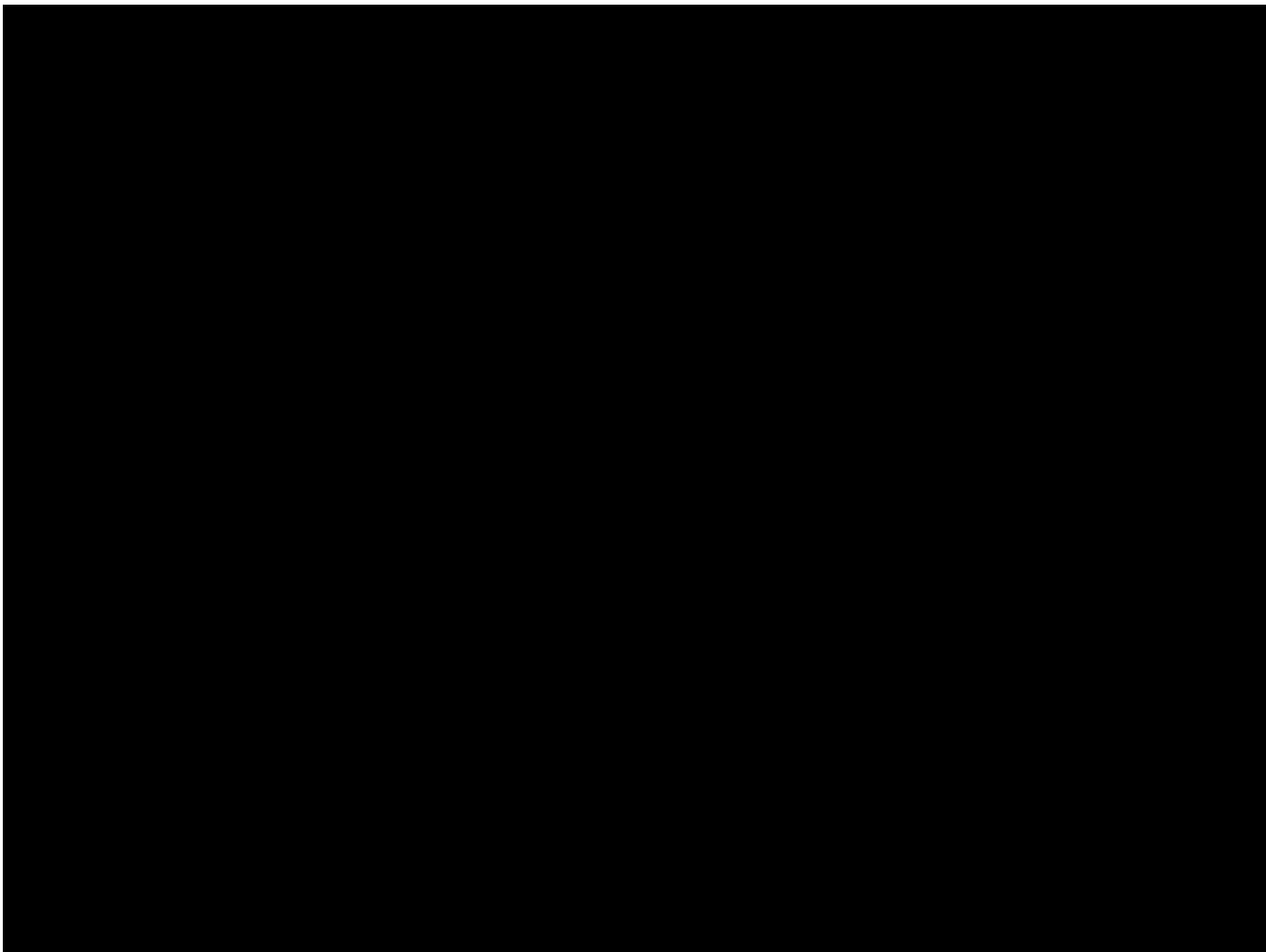
24      [REDACTED]

25      [REDACTED]

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Cross-examination by Mr. Roberts (Continued)

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16 Q. But a few months before that, in May 2019, you gave an interview  
17 to Pressing Television?

18 A. Yes.

19 Q. Do you recall what you said during that interview?

20 A. Some of it probably, yeah.

21 Q. If I can just show you a little part of that video. It's only  
22 30 seconds.

23 MR. ROBERTS: And I've been given clear instructions from the  
24 Court Officer just to give you a little bit of time just for the  
25 video to be displayed. So that's DRS00090 at time stamp 1 hour, 14

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1 minutes, and 55 seconds. So if you just bear with me for a few  
2 seconds to make sure that that's visible over where you are.

3 THE COURT OFFICER: [via videolink] Your Honours, the video is  
4 ready and will be now shown to the witness.

5 MR. ROBERTS: Do we have the volume on the video?

6 [Video clip played]

7 MR. ROBERTS: Sorry, if we can maybe pause it. I do have a  
8 transcript of that as well. I don't know if that can be put side by  
9 side. I apologise. So that reference is 078165 sorry, 078099 at  
10 078165. So that's the part of the transcript in English.

11 THE WITNESS: [via videolink] Yes, I listened to it.

12 MR. ROBERTS: Sorry, the ERN is 078099. And the relevant page  
13 is 078165. And the bit that is relevant for our purposes starts at  
14 the phrase: "Will the Special Tribunal reveal anything?"

15 So if we can just go back to 1 hour, 14 minutes, and 55 seconds,  
16 and then that continues until the bottom of the page.

17 [Video clip played]

18 THE INTERPRETER: [Voiceover] "No, there's nothing that they can  
19 do up until you've concealed the crimes, on the one hand; and on the  
20 other, there's nothing that the Special Tribunal can reveal. They  
21 can reveal perhaps very small things.

22 "Were you invited as a witness to the Special Tribunal?

23 "They called me and I refused. No, I refused. I cursed. And

24 I

25 "So there are many likely witnesses in the tribunal."

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1 MR. ROBERTS: And we can stop there.

2 Q. So that was a short extract of that video, Witness. And,  
3 obviously, in that situation, at that time, you're very clear that  
4 you have no intention to cooperate with the Prosecution at all, do  
5 you? This was in May 2019.

6 A. Yes, that's what I said to the studio. Yes.

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12 A. Yeah.

13 Q. So you've changed your view towards the Prosecution quite  
14 quickly after that television interview

15 A. What what you're trying to achieve here, if you please? It's  
16 better for the Judge and everybody to understand. Like

17 Q. I'm just asking

18 A. be more [Overlapping speakers] ...

19 Q. your questions, Mr. Kabashi. If you can just respond to the  
20 questions, the best is for us to do that and then we can

21 A. Yeah, because

22 Q. move forward as quickly as possible.

23 A. immigration with the with The Hague has nothing to do with  
24 each other. So just so you know.

25 The reason why I I decided to come here is because I know



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Cross-examination by Mr. Roberts (Continued)

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1 this Court, that's what I hear, and I believe so, it's bought up and  
2 paid, meaning it's financed from the US, some country that I believe  
3 in the world, meaning and I live. They they gave me everything  
4 I needed. Number one.

5 And number two. The people behind you who pay you, they they  
6 basically sign up for that, for this Tribunal I mean, for this  
7 Special Court so and I want to also to to bring up myself what  
8 I lived through for 20 years, more than 20 years actually.

9 Q. Witness, if we could

10 A. So ...

11 Q. just try and focus on the questions. I think I was merely  
12 asking about the timing of the interview. So you changed your  
13 approach and you spoke to the Prosecution in 2019. Did you discuss  
14 whether you would like or would consent to be a witness in between  
15 that interview on October 2019 and the middle of June 2022?

16 A. One more time?

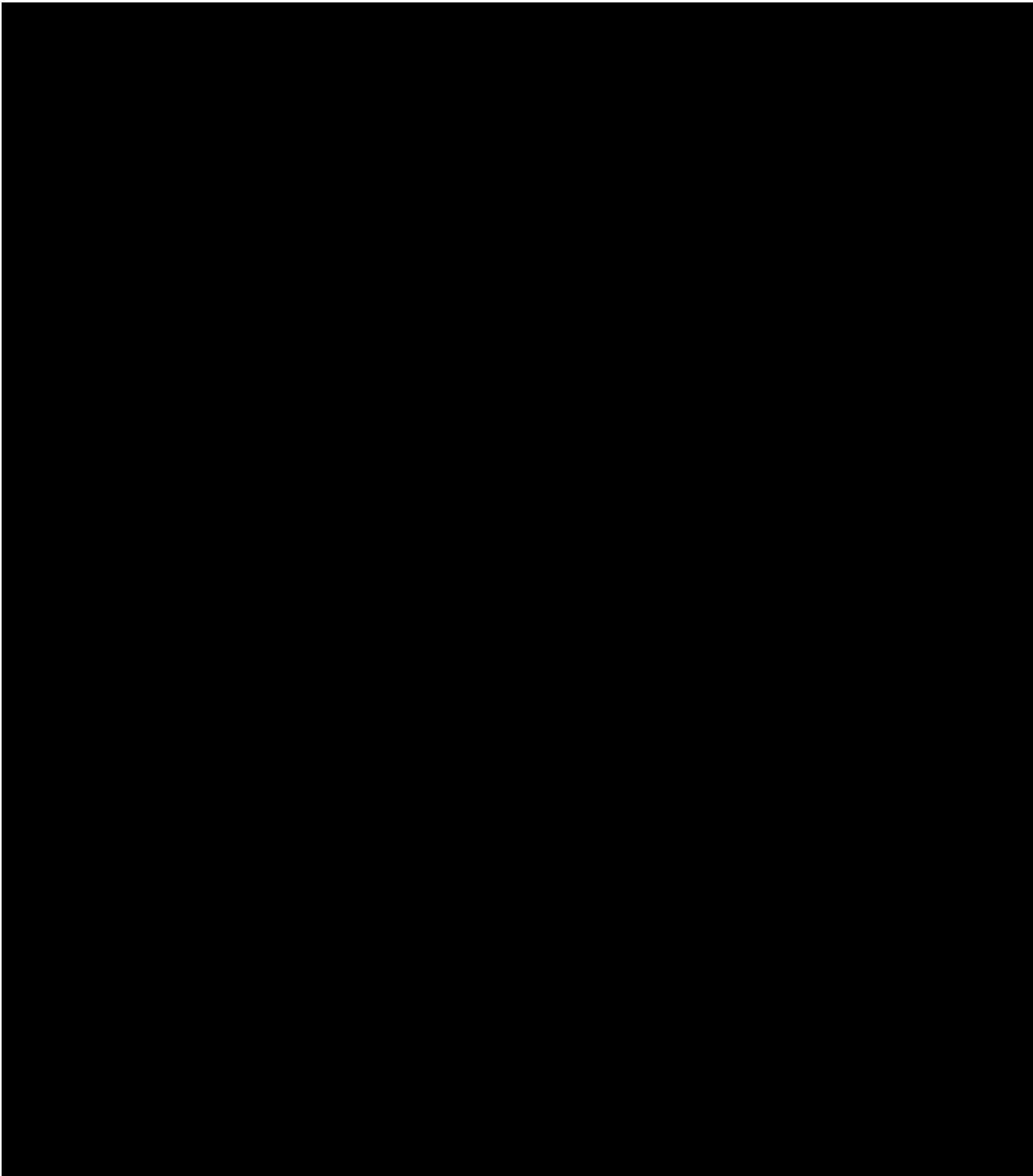
17 Q. Sorry, that wasn't a very clear question. When you spoke to the  
18 Prosecution in October 2019, up until June 2022, did you have  
19 discussions with the Prosecution about whether you would be happy to  
20 be a witness?

21 A. I don't I don't remember when I decided that I will be a  
22 witness.

23 Q. So you don't know when you told them that you would be happy to  
24 be a witness?

25 A. Yeah, I do not remember exactly.

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23     Q.     Okay.

24             MR. ROBERTS:   Well, if we put a document back on the screen,

25     maybe that will help.   This is back to this record of a conversation

1       you had with the Prosecution on 23 June 2022.   That's ERN 108612.

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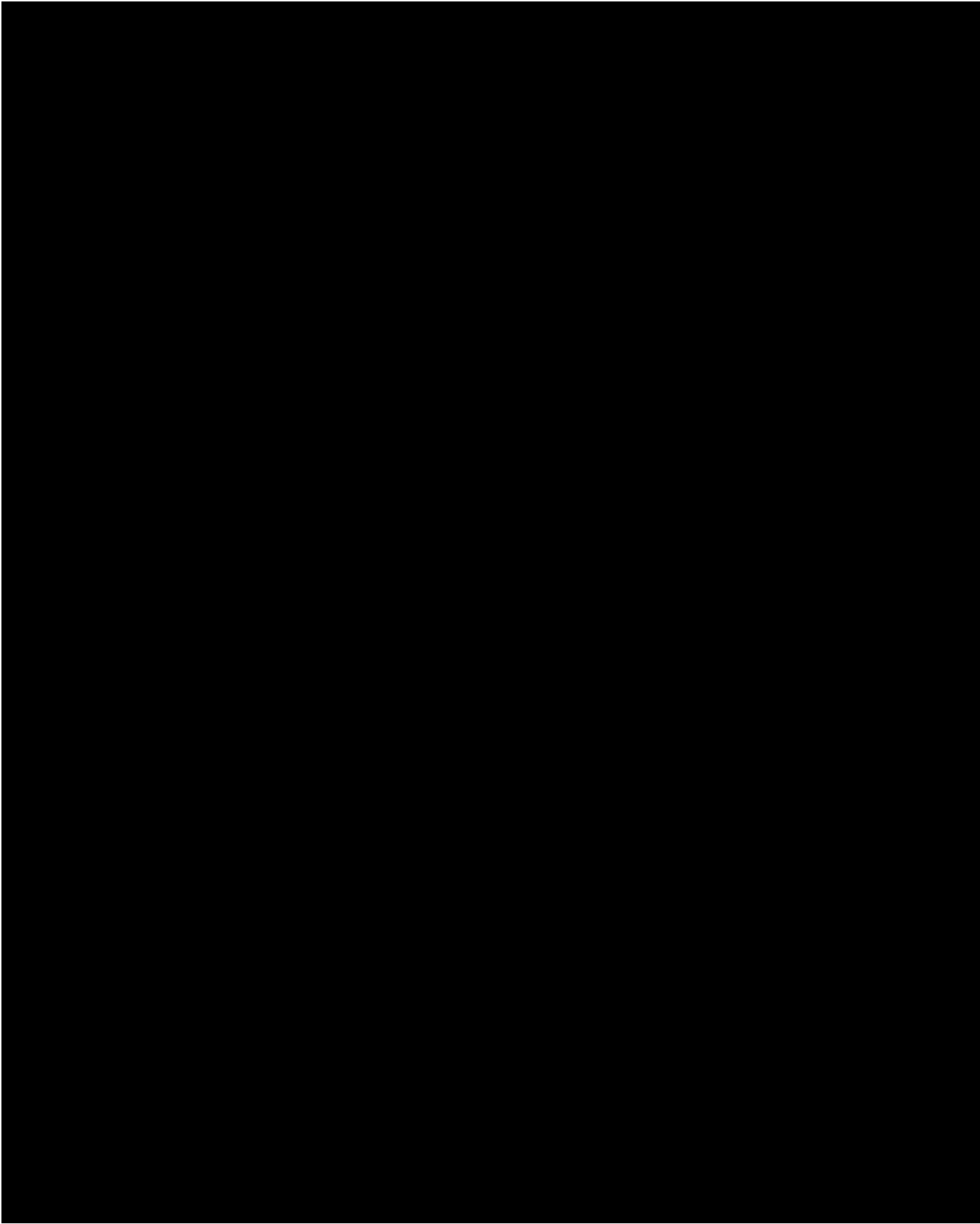
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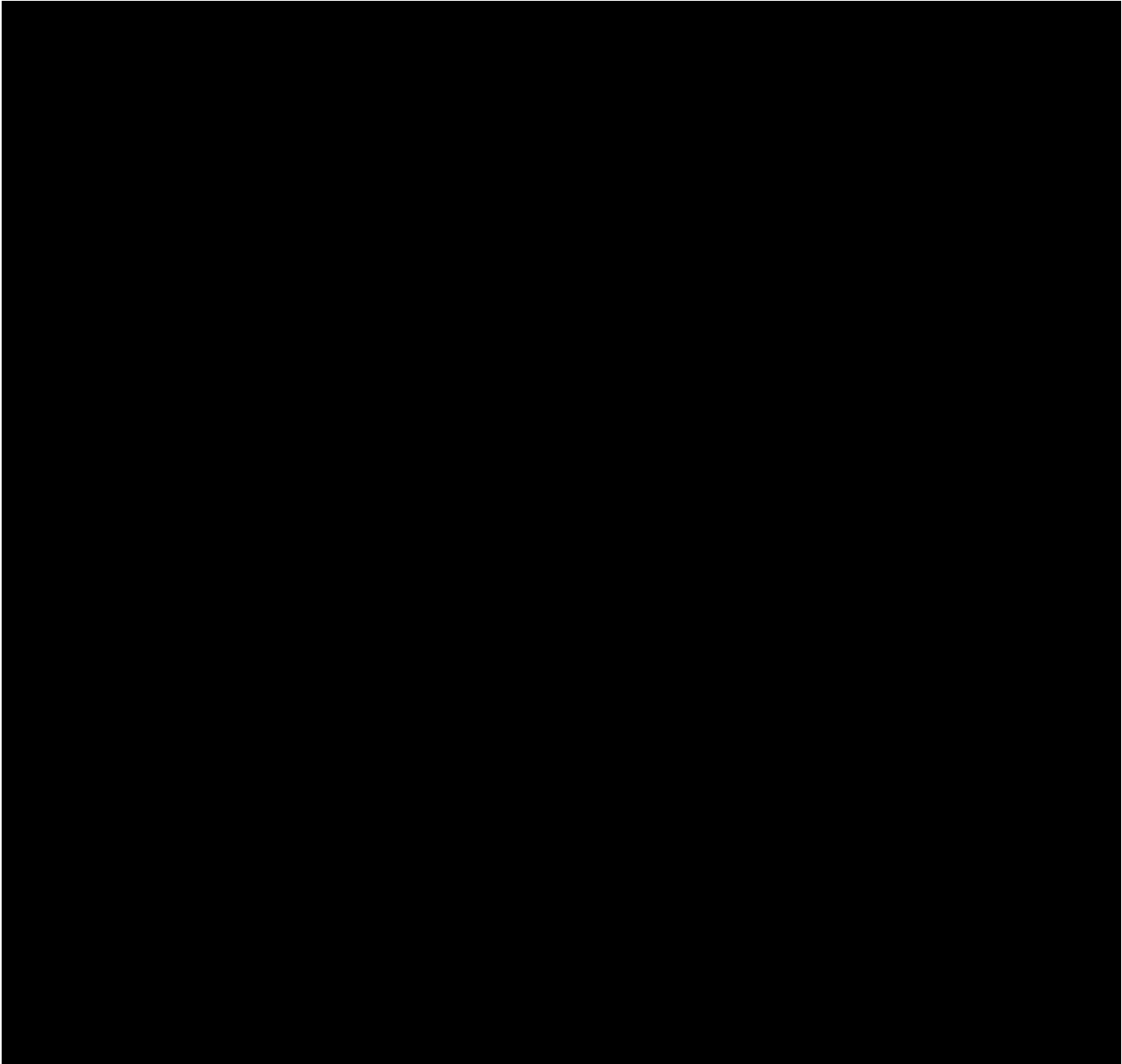
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20           MR. ROBERTS: So if we can move on to document 110768.

21       Q.    So this is another conversation between Mr. Quick and your

22   attorney. This is your immigration attorney.

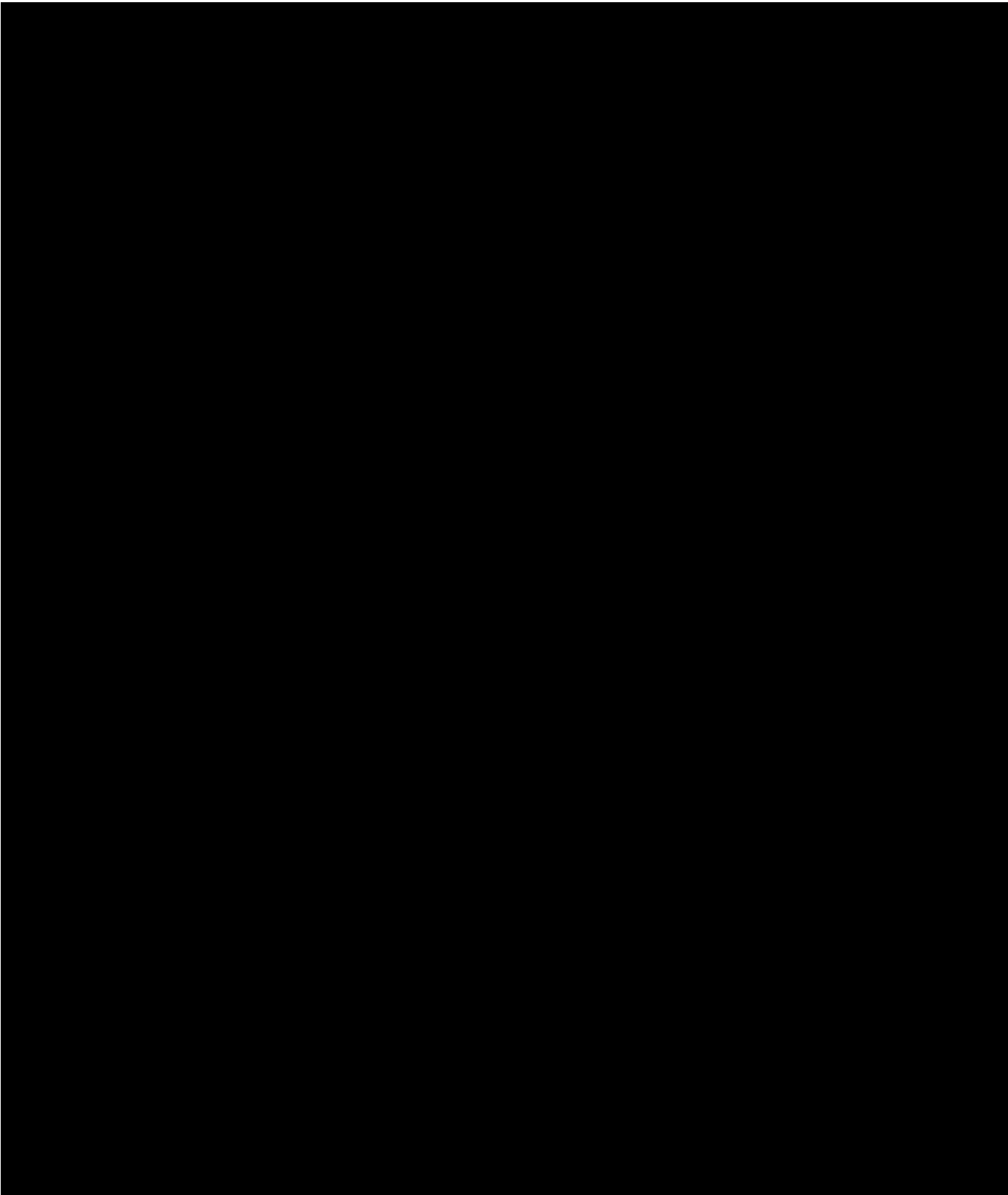
23           MR. ROBERTS: And if we can display that for you.

24       Q.    If you can just confirm when that's on the screen for you.

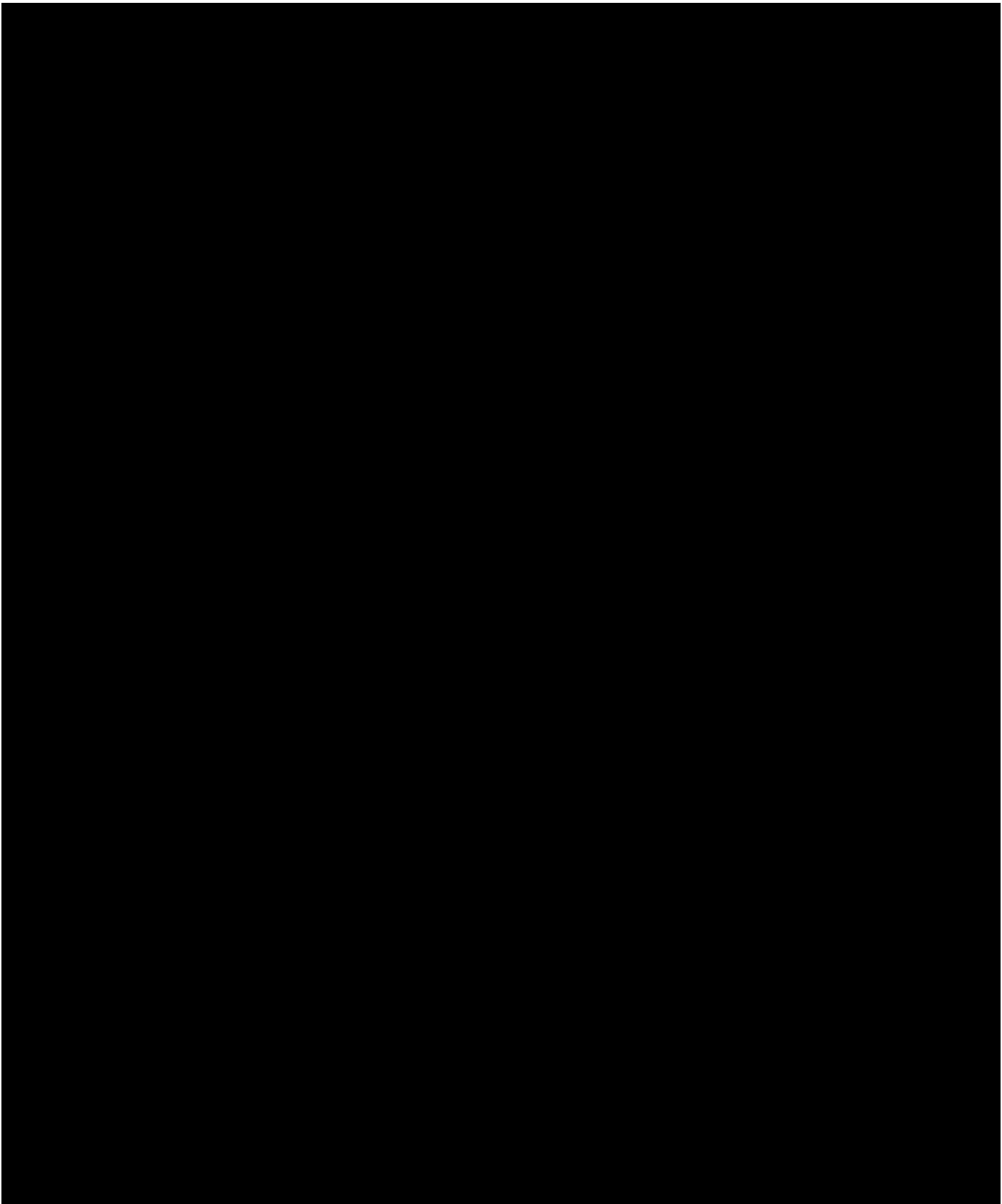
25           MR. ROBERTS: So, again, if we go to paragraph 2 of that.

1       Q.     I'll just read it out for the record:

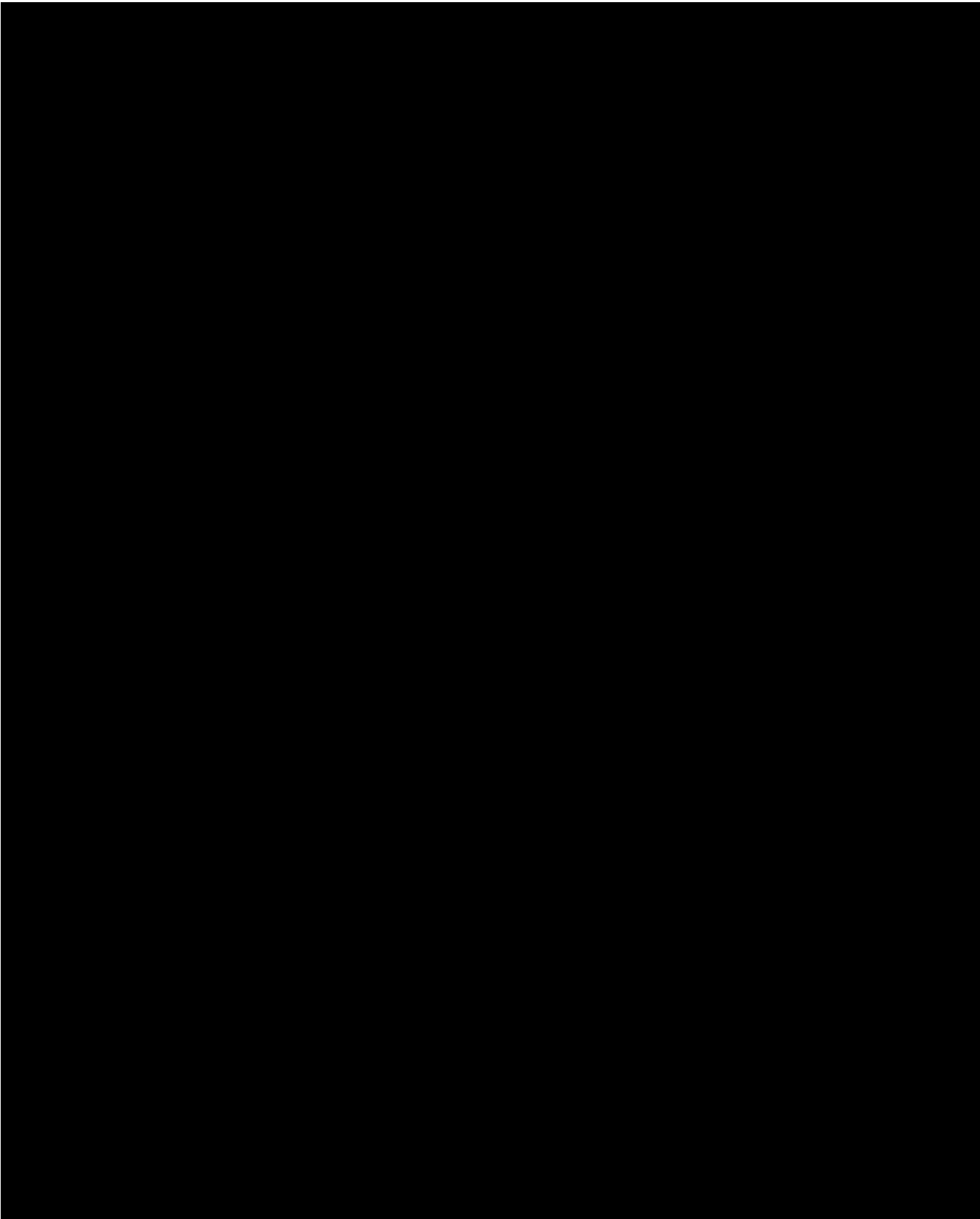
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Cross-examination by Mr. Roberts (Continued)

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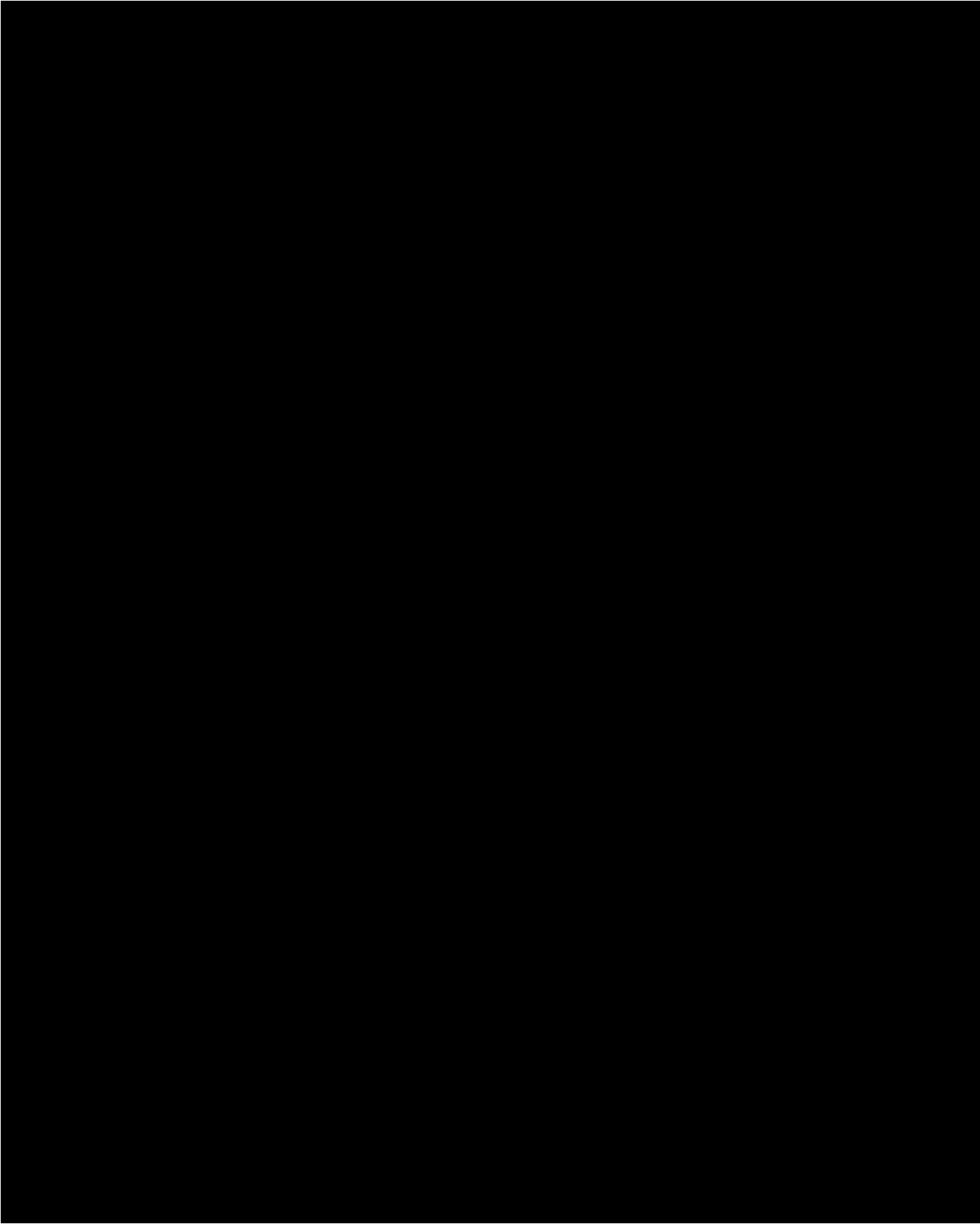
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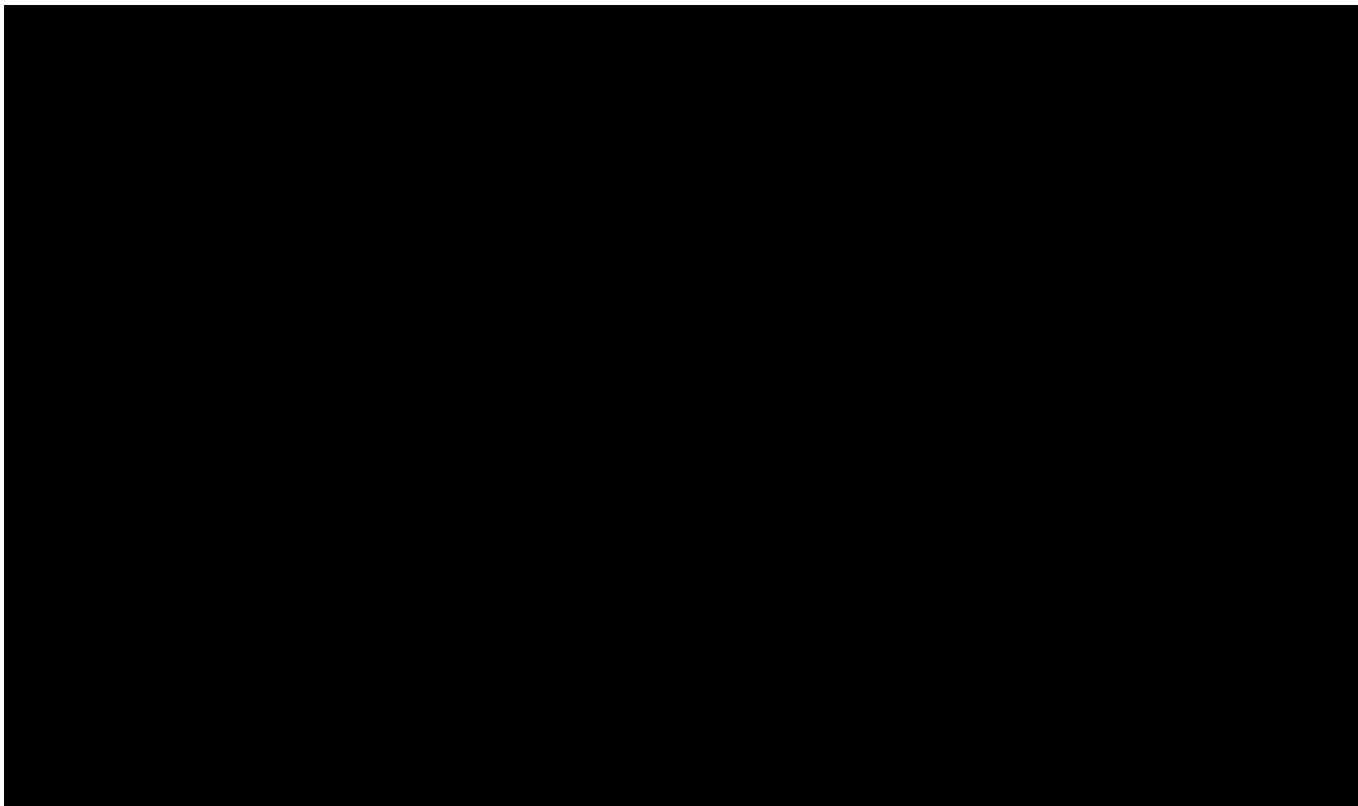
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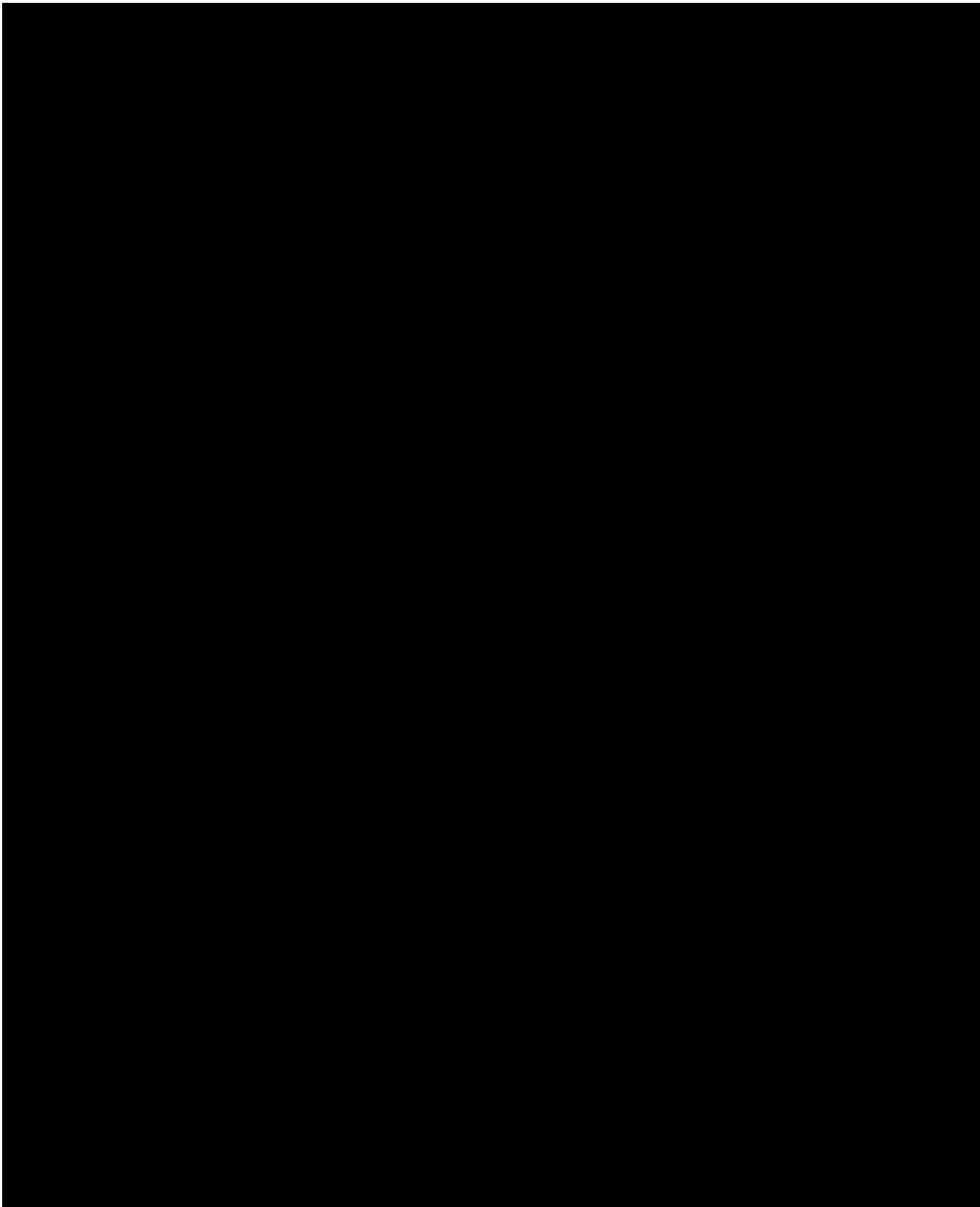


13 Q. And finally, you've had one more recent conversation with  
14 Mr. Quick, haven't you, on 17 October 2023. That was after your  
15 preparation session, I believe. Do you remember having another  
16 conversation with Mr. Quick at that time?  
17 A. I do not  
18 Q. Okay. We'll put  
19 A. exactly.  
20 Q. another document on the screen to see if it jogs your memory.  
21 A. Okay.  
22 MR. ROBERTS: And that's ERN 116502.  
23 Q. If you can just confirm when it's up on the screen.  
24 A. Yes, it is.  
25 Q. Okay. I'm just going to read the first line of that paragraph.

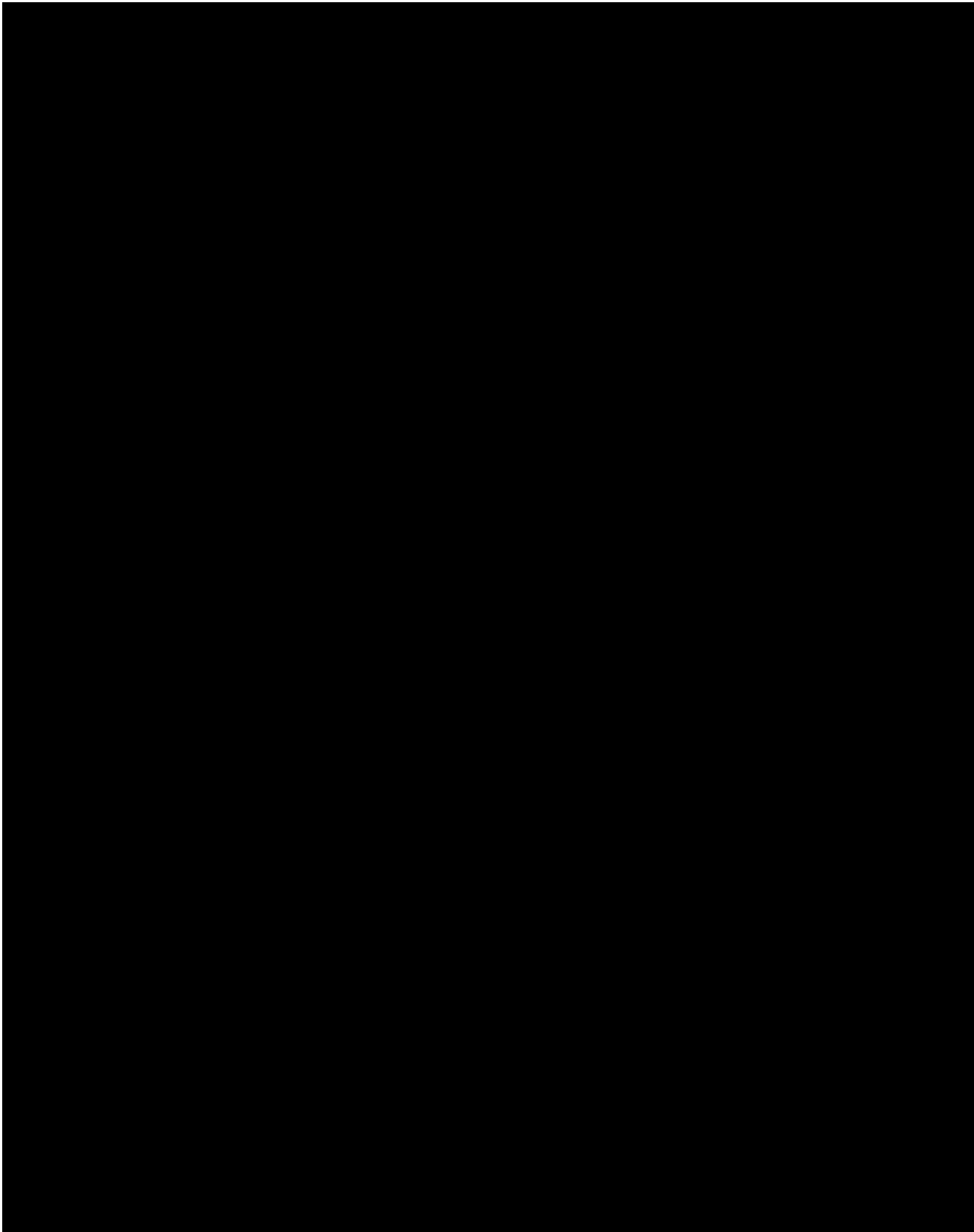
1       This is a conversation between Mr. Quick and yourself. And it states  
2       that:

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Cross-examination by Mr. Roberts (Continued)

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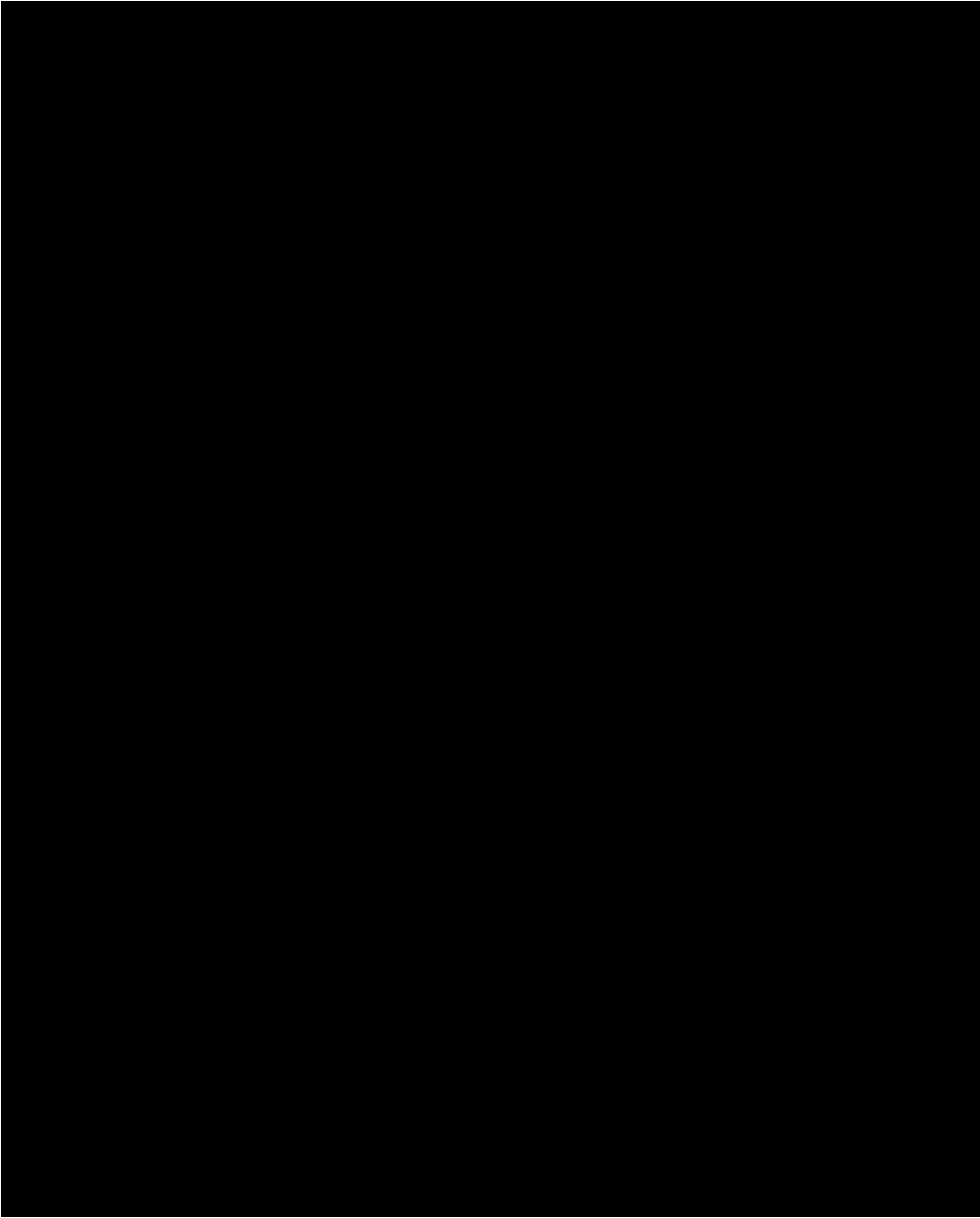
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Witness: W04448 (Resumed) (Private Session)

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Cross-examination by Mr. Ellis

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5 Q. Thank you.

6 MR. ROBERTS: Your Honour, that's the end of my questions.

7 Q. Thank you, Mr. Kabashi, for answering my questions.

8 A. You're not welcome at all.

9 PRESIDING JUDGE SMITH: Mr. Ellis.

10 Do you wish to stay in private session, Mr. Ellis?

11 MR. ELLIS: I do, Your Honour. The topic I'm covering has been  
12 addressed a little already and in private session, so it should  
13 remain so.

14 PRESIDING JUDGE SMITH: Go ahead, then.

15 Cross examination by Mr. Ellis:

16 Q. Witness, my name is Aidan Ellis, and I'm representing  
17 Mr. Jakup Krasniqi, and I have some further questions for you today.  
18 Do you hear me all right?

19 A. Yes.

20 Q. Good. We're moving on to a different topic. Nothing to do with  
21 your immigration status. I'm going to ask you some questions about  
22 the three sisters from Terpeze who you mentioned yesterday at the end  
23 of your questions from the Prosecution and again in questions from  
24 Mr. Kehoe.

25 MR. ELLIS: Could I have on screen, please, U016 2361 to

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Cross-examination by Mr. Ellis

1 U016 2399, and it's page U016 2366. Paragraph 23, please.

2 Q. Are you able to see that there, Witness?

3 A. Yes.

4 Q. Good. If you could just take a moment to read it and let me  
5 know when you're done.

6 A. Okay.

7 Q. So we'll take it in stages. It's right, isn't it, that you were  
8 told about these three sisters by a KLA soldier called Met Morina?

9 A. Yes, Met Morina and others, too, from my unit.

10 Q. And you asked him or them to bring the three girls to you, and  
11 you asked them what the problem was; correct?

12 A. No, the girls were already in a school when I went there. It's  
13 like I like I tried that's why, actually, I wanted to talk in  
14 English, because in translating all these things was was was  
15 little mistakes. I think you understand that, too. Was you know,  
16 in writing, it can be this, can be that.

17 Q. I do. It's very helpful

18 A. So ...

19 Q. to have you speaking in English to have you clarify it, sir.

20 So you spoke to the girls and you asked them what was the  
21 problem; correct?

22 A. Yes.

23 Q. And the eldest one told you that she was being accused [REDACTED]

24 [REDACTED], wasn't she?

25 A. Yes.



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Cross-examination by Mr. Ellis

1 Q. And she said to you that the allegations were false and that she  
2 was willing to prove that through a medical examination; correct?

3 A. Yes.

4 Q. If we could go on to the start of paragraph 24, which you should  
5 also be able to see on the screen. Are you able to see paragraph 24  
6 there, Witness?

7 A. Yes.

8 Q. Now, this I think you spoke about in answer to Mr. Kehoe  
9 yesterday. And it's correct, isn't it, that [REDACTED]  
10 [REDACTED] [REDACTED] [REDACTED]  
11 [REDACTED]; correct?

12 A. Yes.

13 Q. And she told you that this man had become a KLA soldier and  
14 started harassing her and her sisters.

15 A. Yes.

16 Q. That's right?

17 A. Actually, to clarify, I asked her, "Why is this, if you're,  
18 like, saying that?" Meaning, why they are coming after you and  
19 where where it's coming from. Then she explained this. And she  
20 said that could might be. Like, that's what she's thinking. That's  
21 what she told me.

22 Q. And you trusted her and you let her go, didn't you? You let  
23 them go.

24 A. I what do you mean I trusted her? Like, what you trying to  
25 say?

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Cross-examination by Mr. Ellis

1 Q. I'm not trying to say anything. It's what's in front of me in  
2 paragraph 24, sir. It says:

3 "I trusted her and believed her story."

4 That's right, isn't it?

5 A. Yes, the word the words she said, I I really trusted her.

6 And if if we're talking about that time, not today in the court

7 after 20 something years, it was a time that anybody will hear

8 that or will point towards you that you had to do something with

9 cooperation and collaborating the Serbs, you will be killed. So

10 Q. And you let them go; correct?

11 A. Yes, I did let them go. They have nowhere to go, basically.

12 They will go in right under the village, under the tents. So it's

13 not that she will go in a taxi or train and go somewhere. She was

14 around there with her family. She was not attempting to go anywhere.

15 I let her go, meaning from the school, "Go to your family, your

16 parents, stay with them. And if somebody asks you more information,

17 you tell them that I asked you. This way, they can ask me and"

18 you know.

19 Q. And nobody tried to stop you doing that that day, did they?

20 A. What do you mean by that?

21 Q. Well, what I said. You let them go. Nobody tried to prevent

22 you letting them go that day, did they?

23 A. Who could stop me, like, try to stop me?

24 Q. Well, exactly. Nobody could stop you, Witness. You let them go

25 and they went.

Witness: W04448 (Resumed) (Private Session)  
Cross-examination by Mr. Ellis

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1 A. Yes.

2 Q. Now, yesterday in response to the Prosecution, you recalled that  
3 the sisters' surname was [REDACTED].

4 A. Last name, yes.

5 Q. Yes. If I suggest to you the eldest sister's name was [REDACTED]  
6 [REDACTED], would that be right, Witness?

7 A. It could be right, yes.

8 Q. And the two other sisters were [REDACTED]; is that right,  
9 Witness?

10 A. Yes, one was very young. Like, very, very, young.

11 Q. And the father was [REDACTED] and the family [Overlapping  
12 speakers] ...

13 A. Yes, he was a [REDACTED] also.

14 PRESIDING JUDGE SMITH: Witness, please allow the question to be  
15 finished before you answer so we get it clearly on the transcript.

16 THE WITNESS: [via videolink] Okay.

17 MR. ELLIS:

18 Q. I'm sorry, Witness. I'm doing it as well, asking the next  
19 question as soon as you've finished. I'll try to take more pauses.

20 Now, moving forwards in time, you met one of the sisters again  
21 in September 2019. Do you recall that?

22 A. Yes.

23 Q. And you met her with one of her brothers in Prishtine; is that  
24 correct?

25 A. Yes.

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Cross-examination by Mr. Ellis

1 Q. And you didn't feel that she could speak openly in front of the  
2 brother; is that right?

3 A. What do you mean by that? If I can ...

4 Q. Well, if I can put in front of you then a document.

5 MR. ELLIS: 070606 to 070618, and it's at paragraph 38 on page  
6 070615. Oh, I'm sorry. I think I've got the page wrong. It's the  
7 page before. Sorry, it was the correct page.

8 Q. It's the second line on your screen now, Witness, I was  
9 referring to. These are notes that, I think, the Prosecution took  
10 from their meeting with you, and it records:

11 "I did not feel she could speak openly in front of her brother."

12 A. Okay.

13 Q. And was the brother that you met in September 2019 [REDACTED]  
14 [REDACTED]?

15 A. No.

16 Q. I see. And do you recall saying that you did not feel she could  
17 speak openly in front of her brother?

18 A. I I do. But the meaning was that is because I I felt  
19 like that she could not speak. Meaning, she was feeling it can  
20 be, like, I don't know, shame, shy, embarrassed, or things that, you  
21 know.

22 Q. Yes, I understand, Witness.

23 A. I I cannot explain.

24 Q. And in paragraph 39, which you may also be able to see on  
25 screen, you said, the final sentence, that you were willing to put

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Cross-examination by Mr. Ellis

1 the SPO, the Prosecution, in touch with the sister that you spoke to  
2 in September 2019. Do you recall that, Witness?

3 A. One more time?

4 Q. Yeah, I'm just reading the final sentence of paragraph 39, which  
5 I hope

6 A. Okay.

7 Q. is on your screen, Witness. Do you recall saying that you  
8 were willing to put the Prosecution in touch with the sister that you  
9 spoke to in September 2019?

10 A. This conversation who I had with?

11 Q. The Prosecution from this Court. So when it says "SPO," it's  
12 the Prosecution from this Court. So I imagine Mr. Quick, who asked  
13 you questions yesterday at the beginning.

14 A. I do not recall this, but it could be.

15 Q. Do you recall whether the Prosecution took you up on that? Did  
16 you actually put them in contact with the sister?

17 A. No, I did not.

18 Q. I see.

19 MR. ELLIS: Could we have on screen a different document,  
20 please? 116114 to 116115 at page 116146.

21 I'm sorry, I think I've confused things by reading out the wrong  
22 number, Your Honour. It was 116144.

23 PRESIDING JUDGE SMITH: Do you mean the page number?

24 MR. ELLIS: That's the first number of the ERN. That's the one.  
25 And it was page 116146. And it's paragraph 26 that I was looking

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Cross-examination by Mr. Ellis

1 for.

2 Q. Witness, so that you know what we're looking at, these are notes  
3 from what we've been calling a preparation session. It's when you  
4 met, again, with Mr. Quick from the Prosecution, and it was on  
5 9 October of this year. Do you understand that?

6 A. Mm hmm. Okay.

7 Q. And have you had the chance to have a look at paragraph 26 there  
8 on your screen?

9 A. Okay.

10 Q. Now, the reference to [REDACTED] is to [REDACTED], isn't it, who  
11 was one of the brothers of the sisters that we've been talking about?

12 A. Yes.

13 Q. And when you said you spoke to him about a year ago, do you  
14 remember when that conversation took place? More

15 A. I spoke

16 Q. precisely?

17 A. I spoke to him many times.

18 Q. In person or by telephone?

19 A. By phone.

20 Q. I see. When was the last time you spoke to him?

21 A. I don't remember. More than a year, probably.

22 Q. And when did you first speak to him?

23 A. Right after I was in a [REDACTED] in a [REDACTED] in 2019, after I was in a  
24 studio, in an interview.

25 Q. Ah, so did he contact you after he saw your studio interview?

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Cross-examination by Mr. Ellis

1 A. Yeah.

2 Q. Now, at the time you spoke to [REDACTED], he didn't know what  
3 really happened to his sisters. He was trying to figure it out,  
4 wasn't he?

5 A. I don't know if he if he know or if he don't. He know some  
6 or he wanted to know more or you can whatever you wanted, but we  
7 spoke about that matter. Yes.

8 Q. Well, you spoke because your words in this preparation note  
9 were:

10 "... he was trying to figure out what really happened to his  
11 sisters."

12 A. Yes.

13 Q. That's right, isn't it?

14 A. Yes.

15 Q. And, in fact, you continued:

16 "He was desperate to find the truth."

17 That's right, isn't it?

18 A. Yeah, he wanted to find exactly where that became like that.  
19 Meaning, why everything started.

20 Q. And did you tell him what you've told this Court, that it  
21 started with a personal allegation made by the brother of their  
22 uncle's wife? Is that what you told [REDACTED]?

23 A. I believe so, yeah.

24 Q. And you say here that:

25 "By the way he talked, I could tell he had lost his way. By

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Cross-examination by Mr. Ellis

1     that, I mean he was all over the place, not that he had lost his  
2     mind."

3             What did you mean by "he was all over the place," Witness?

4     A.     Yeah, I will explain to you.

5     Q.     Please.

6     A.     Being an Albanian and somebody messing with your family,  
7     especially with your sister, is the most difficult thing     difficult  
8     thing to happen. And when you're trying to find out and it takes  
9     long time, you could be lost your way. Meaning, that you're all  
10    over. And it's like the     it's the worst thing to happen to you if  
11    you look at     for     for ...

12    Q.     What

13    A.     That's what I meant

14    Q.     What was it he said

15    A.     Mean.

16    Q.             that gave you the impression that he was all over the place?

17    A.     I'm sorry?

18    Q.     What was it that he said to you on the telephone that made you  
19    think he was all over the place, as you put it?

20    A.     Because like I said, he was trying to find out and he was all  
21    over the place.

22    Q.     And you had spoken to the sisters at the time, so you knew what  
23    had happened to them, didn't you?

24    A.     What do you mean by that?

25    Q.     Well, what I'm asking you is did you explain to [REDACTED]



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Cross-examination by Mr. Ellis

1 what you've explained to the Court today about what

2 A. I explained to [REDACTED]. I explained to you. What

3 happened is I knew they were stopped there, and I asked them some

4 question, I let them go. I explained the same thing to [REDACTED]

5 [REDACTED]. But in this case, what you're saying, [REDACTED], he

6 wanted to find out what really happened, why they stopped, who

7 stopped, what's the reason. Because in that time, like I said

8 before, if the word comes out that you're you're cooperating with

9 Serbs or you're against KLA, you know what happened. So ...

10 Q. All right. I'm going to move on to a different topic, Witness.

11 And this is just to clarify something that you said in evidence

12 yesterday. And it was at page 9986 of the transcript, lines 5 to 8.

13 And this was in answer, I think, to the Prosecution. You said:

14 "... you saw me in interview when you asked me first to give

15 you know that I don't want to come here without my my will. But

16 at the same time, you guys try to find all kind of ways to bring me

17 here and try to ..."

18 And that's where it cut off. Witness, my question is what did

19 you mean by "you guys try to find all kind of ways to bring me here"?

20 A. That's their job.

21 Q. What ways were you talking about, Witness?

22 A. All kind of. Like I said, all kind of, again.

23 Q. Well, again, are you able to explain it to me, Witness? What do

24 you mean "all kind of ways"?

25 A. Nothing more to explain to you in that matter.

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1 Q. Well, can you list the ways?

2 A. No.

3 Q. You don't want to answer the question, Witness; is that right?

4 A. I did answer the question.

5 Q. You said on the previous day:

6 "... you guys try to find all kind of ways to bring me here ..."

7 A. Yeah, "all kind of ways" means all kind of ways.

8 Q. And I'm just asking you to explain what ways?

9 A. It's the same meaning. "All kind of ways" means all kind of  
10 ways.

11 Q. I'm just asking you to explain what specifically you meant. Can  
12 you give the ways that you were talking about?

13 A. I cannot be more specific.

14 MR. ELLIS: One moment, Your Honours.

15 Q. Thank you, Witness.

16 MR. ELLIS: Thank you, Your Honours. I have nothing further.

17 PRESIDING JUDGE SMITH: Thank you.

18 Redirect, Mr. Quick?

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

20 PRESIDING JUDGE SMITH: Questions?

21 Judge Mettraux has a question.

22 JUDGE METTRAUX: Thank you, Judge Smith.

23 Questioned by the Trial Panel:

24 JUDGE METTRAUX: And good afternoon, Mr. Kabashi.

25 I have two or three short questions for you and they all relate

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1 to the order or the orders that you received from Alush Agushi.

2 A. Okay.

3 JUDGE METTRAUX: The first is simply a clarification. You told  
4 us about

5 A. I don't see who's asking me. Okay.

6 JUDGE METTRAUX: Can you see me and hear me, sir?

7 A. Yes. Yes, Your Honour.

8 JUDGE METTRAUX: The first thing I'd like you to confirm is that  
9 Alush Agushi asked you to kill three different persons Rrok  
10 Berisha, Fadil Gashi, and Dine Berisha; is that correct?

11 A. Yes.

12 JUDGE METTRAUX: And do you know what reason or reasons  
13 Mr. Agushi had to wish these people to be killed?

14 MR. QUICK: I hate to interrupt, but we are still in private  
15 session if that matters.

16 JUDGE METTRAUX: Yes. Thank you.

17 MR. QUICK: Okay.

18 THE WITNESS: [Interpretation] Okay. For for Rrok Berisha, I  
19 would like to have what I heard, what I know, what it could be.  
20 After the agreement they had between a commander that was in that  
21 time in Dukagjini zone, Ramush Haradinaj, and Tahir Zemaj, who came  
22 through the Ibrahim Rugova's command or or how to say it. They  
23 had some agreement to work together. Actually, at one of the meeting  
24 Rrok Berisha told me that they had it in his in his house. He  
25 host them. And everything was going okay.

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1           What it was in on news was in a       after the war and you could  
2   find everywhere, meaning in the newspapers and studios, TV, all the  
3   problem that was having between the General Staff of KLA and the  
4   forces that Ibrahim Rugova was trying to set them up in Dukagjini  
5   area. [Indiscernible] about the command.

6           So in my knowledge, I think because they wanted to eliminate  
7   opponents in that matter. And also Tahir Zemaј was eliminated after  
8   the war. So that relates very well. And also there are inside of  
9   Rugova's, like, LDK. It could be different, but I believe those are  
10  all related. Meaning, the Fadil Gashi and also Rrok Berisha.

11          Another thing I remember was at the same time when Sabri Hamiti,  
12  one of the deputies for the Kosovo parliament in exile at that time,  
13  was shot three times in his apartment in Prishtine. It could be the  
14  same night or the next day that I had the order for Rrok Berisha.

15          JUDGE METTRAUX: And what about Dine Berisha?

16  A. Dine Berisha, he was       because he was working with Fadil Gashi.

17          JUDGE METTRAUX: Thank you, Mr. Kabashi.

18  A. Sure.

19          PRESIDING JUDGE SMITH: Judge Gaynor.

20          JUDGE GAYNOR: Yes, we can go to public session, please.

21          PRESIDING JUDGE SMITH: All right. Into public session, please,  
22  Madam Court Officer.

23                               [Open session]

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

25          JUDGE GAYNOR: Thank you.

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Questioned by the Trial Panel

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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

Witness: W04448 (Resumed) (Open Session)  
Questioned by the Trial Panel

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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

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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.

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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?

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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

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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], 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

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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

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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

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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?

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Cross-examination by Mr. Emmerson (Continued)

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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



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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.

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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

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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

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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

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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

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Cross-examination by Mr. Emmerson (Continued)

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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

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Cross-examination by Mr. Emmerson (Continued)

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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.

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Cross-examination by Mr. Emmerson (Continued)

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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.



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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

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Cross-examination by Mr. Emmerson (Continued)

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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

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Cross-examination by Mr. Emmerson (Continued)

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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.

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

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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

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Cross-examination by Mr. Emmerson (Continued)

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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

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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

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Cross-examination by Mr. Emmerson (Continued)

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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

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Cross-examination by Mr. Emmerson (Continued)

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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



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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

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

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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.

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

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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?

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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

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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, Cungu, 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

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

10 MR. EMMERSON:

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

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

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

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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

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Cross-examination by Mr. Emmerson (Continued)

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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



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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

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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.

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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

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Cross-examination by Mr. Emmerson (Continued)

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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,

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Cross-examination by Mr. Emmerson (Continued)

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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?

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Cross-examination by Mr. Emmerson (Continued)

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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.

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Cross-examination by Mr. Emmerson (Continued)

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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?

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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 Zyrapli 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



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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:

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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 Bislim 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?

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Cross-examination by Mr. Emmerson (Continued)

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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

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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.

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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

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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

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

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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

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

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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.



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

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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"

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

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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

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

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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,

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

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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

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

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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

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

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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,

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

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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

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

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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 Bislrim 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



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

Page 10210

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

1           PRESIDING JUDGE SMITH: [Microphone not activated]

2           MR. EMMERSON: During the course of my cross examination, I've  
3       been handed a press report of the submissions that were made in the  
4       absence of the witness about the question of him being adequately  
5       cautioned by Mr. Pace and whether it needed to be dealt with and he  
6       needed to be advised of his rights to a lawyer.

7           Mr. Pace drew attention to a very general section at the  
8       beginning saying he had been advised. However, what I have now been  
9       handed is a press report of that session, which has clearly prompted  
10      the witness's concern, which is      it looks like that, but what the  
11      headline reads is: "Lawyer Emmerson for Witness Sadik Halitjaha,  
12      co conspirator without indictment, ordered the kidnapping of three  
13      women." In other words, it seems absolutely clear that the witness  
14      is not aware that paragraph 155 of the indictment accuses him of  
15      being responsible for the kidnappings.

16          Now, it's important because he denies it. It's important  
17      because Your Honours took the view it didn't need further dealing  
18      with. It's important because unless Mr. Pace can assure you now that  
19      the witness was made aware that he was being accused by the  
20      Prosecution in the indictment as well as its pre trial brief of  
21      having been responsible of ordering those kidnappings, he is holding  
22      that as an allegation that's being made by me on Mr. Veseli's behalf,  
23      and it isn't. It's an allegation being made by the Prosecution  
24      which, in my view, in my submission, prompted the need for him to be  
25      properly warned, properly cautioned, and advised of his rights to a

1 lawyer.

2 I would like to ask through Your Honours that Mr. Pace address  
3 the question of whether he did, in fact, bring that to the attention  
4 of the witness, the fact that it's a direct allegation against this  
5 witness in the indictment. And, secondly, that the witness be given  
6 appropriate reassurance and have his attention drawn to paragraph  
7 115, and that my submissions were intended to assure that his rights  
8 were protected not to make an accusation which is being leveled by  
9 the Prosecution.

10 PRESIDING JUDGE SMITH: [Microphone not activated]

11 MR. PACE: Thank you, Your Honour. Just briefly.

12 First of all, we of course cannot take responsibility for what  
13 is or is not reported in the media or how it may be misconstrued. As  
14 we've said before, and as is in the note, and as is clear to everyone  
15 here, the witness has been informed that he is considered a suspect  
16 by the SPO. Counsel for Mr. Veseli fails to point to any legal  
17 obligation of us to specify that any further.

18 And for now, the other thing that I point out is that the  
19 interviews that the SPO has had with the witness are also available  
20 to everyone here, are now in evidence, and those do contain  
21 assertions of the Prosecution's knowledge of the witness's  
22 involvement in certain crimes. So there is certainly nothing that  
23 counsel for Mr. Veseli said that warrants any further explanation to  
24 the witness.

25 And that's our position.

1 MR. EMMERSON: With the greatest of respect, I fundamentally  
2 disagree. With respect to Mr. Pace, that is an abrogation of his  
3 obligations as Prosecutor. If he claims, as he did, in the note and  
4 in submissions to the Court, that the witness had been warned of his  
5 rights as a witness and a suspect, he was obliged to make it clear to  
6 him that the Prosecution are calling him at the same time as alleging  
7 in this indictment against these accused that he ordered the  
8 kidnapping of those two women, which is in paragraph 115 of the  
9 indictment.

10 It is, in my respectful submission, a serious abrogation of his  
11 responsibilities and, with respect, it's the reason why I made the  
12 submission at the beginning of this witness's evidence that Your  
13 Honours needed to make sure that he was fully aware of what was being  
14 alleged by the Prosecution against him. That is my submission.

15 PRESIDING JUDGE SMITH: Thank you for your submission.

16 Go ahead.

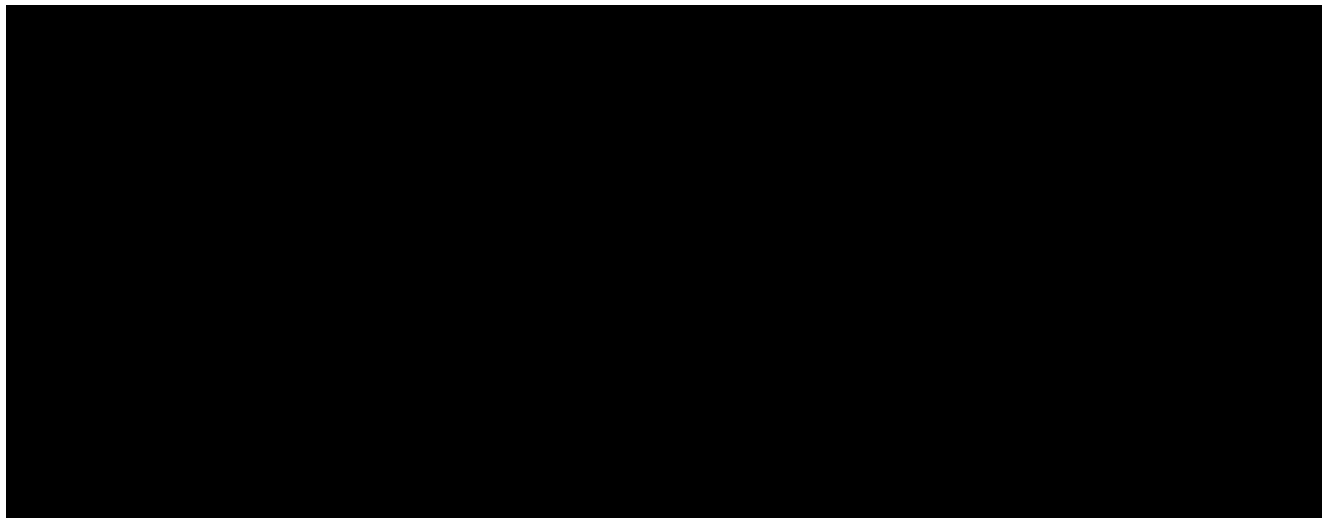
17 MR. PACE: Sorry, Your Honour, these are some very serious  
18 allegations, but I won't belabour the point because you've heard  
19 nothing about any legal obligation to do more than the Prosecution  
20 has done. The suspect rights are provided including during the SPO  
21 interviews and the preparation note provides that as well, including  
22 that he was provided those rights, so I really don't understand what  
23 we're trying to get to here.

24 PRESIDING JUDGE SMITH: [Microphone not activated]

25 MR. KEHOE: Your Honour, just two things. I don't know if I



1 actually tendered those public redactions. But on this note and  
2 this is a question I don't know the answer to, because there seemed



11 MR. KEHOE: Right.

12 PRESIDING JUDGE SMITH: We'll find that out.

13 MR. KEHOE: Yes.

14 PRESIDING JUDGE SMITH: We'll find that out. The submissions  
15 are made and we'll try to make a decision on it tomorrow. And you  
16 are tendering those two redacted

17 MR. KEHOE: Yes, those publicly redacted documents.

18 PRESIDING JUDGE SMITH: Okay. They'll have to have a

19 MR. EMMERSON: May I just

20 PRESIDING JUDGE SMITH: No, just a second. Let's finish up one  
21 thing at a time.

22 Go ahead.

23 MR. PACE: Sorry, Your Honour. Before that's no, no, in  
24 relation to the tendering, we've not been heard, Your Honour. I was  
25 not informed that these items would be tendered now. I have no

1 information. I cannot state our position. Parties are obliged to  
2 provide notice of these things. This could have been resolved  
3 *inter partes*, Your Honour, so I would like until tomorrow morning to  
4 provide a response.

5 MR. KEHOE: That's fine, Judge. I can as an officer of the  
6 Court, they are *inter partes*.

7 PRESIDING JUDGE SMITH: Give him a copy.

8 MR. KEHOE: What's that? Oh, this is from them. This is from  
9 them saying it's okay, but anyway. So we can I didn't think this  
10 was an issue, Judge. I thought we had talked to the Prosecutor about  
11 it [Overlapping speakers] ...

12 PRESIDING JUDGE SMITH: You know, we've gone too long today is  
13 the problem.

14 MR. KEHOE: That's probably it.

15 MR. EMMERSON: I just wanted to finally say that my concern is  
16 that the witness be reassured that this is not an accusation being  
17 leveled at him by Mr. Veseli through me. That it be absolutely clear  
18 that that's not something that the witness might hold in his  
19 testimony and answers against Mr. Veseli when it's Mr. Pace's  
20 responsibility.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 I have one more thing before we all leave. I want once again to  
23 discuss estimates. I know that's everyone's favourite subject.

24 And, Mr. Kehoe, I'm going to use you as an example. I'm not  
25 picking on you. I'm just going to use you as a short example here.

1 That you had estimated four hours for the cross examination of  
2 Mr. Kabashi. We asked you to, all together, shrink it, and you did  
3 that, and we're grateful for it. You got down to 55 minutes, which  
4 is great.

5 But my point is we continue to be concerned about excessive  
6 estimates that are advanced by from the parties, including the  
7 Prosecution and the Defence. All of you are experienced counsel and  
8 certainly capable with much accuracy to estimate the time necessary  
9 for a cross examination given the reams of material that you have  
10 available to you.

11 And especially when one of you, in this case Mr. Emmerson, is  
12 conducting an extensive primary cross exam by agreement of you all.  
13 It changes it a bit. And I hope you continue to do that practice.  
14 It's very efficient.

15 So that's my concern, that we continue to work on it.

16 You have something you want to say?

17 MR. KEHOE: [Microphone not activated] ... because you were  
18 talking to me.

19 PRESIDING JUDGE SMITH: No, no, sit down. Sit down. No, well,  
20 you be seated again. We're going to ask as to this witness  
21 that and we're shrinking our time. We're using it up for other  
22 things like delays and statements and can we ask you to do your  
23 cross examination in two hours, and we ask that Mr. Roberts and  
24 Mr. Ellis also do their cross examination in two hours.

25 Is that going to be a terrible handicap to anybody?

1 MR. KEHOE: Yes, Your Honour.

2 PRESIDING JUDGE SMITH: And why?

3 MR. KEHOE: Because I have a lot of

4 PRESIDING JUDGE SMITH: He has a whole a lot of information you  
5 don't have to cover because of Mr. Emmerson's

6 MR. KEHOE: My approach with regard to my client is different  
7 than Mr. Emmerson's. And I'm not going to Judge, I understand, as  
8 an officer of the court, tried a lot of cases, and I'm not trying to,  
9 you know, cover ground that's been covered. But if I can get it done  
10 in two hours, I'd love to get it done in two hours.

11 PRESIDING JUDGE SMITH: Well, you know, we have the ability to  
12 order it, and that's what we're getting close to doing because it's  
13 not happening. And we don't need to have four hour estimates when  
14 you can actually get it done in an hour.

15 MR. KEHOE: And, Your Honour, I agree, and I will do my best to  
16 get through it as quickly as possible.

17 PRESIDING JUDGE SMITH: Well, bear in mind that if it goes much  
18 more than that, we will start cutting you off.

19 MR. KEHOE: Understood.

20 PRESIDING JUDGE SMITH: Can you two do yours in two hours?

21 MR. ROBERTS: It depends what Mr. Kehoe asks, Your Honour.

22 PRESIDING JUDGE SMITH: Oh, he'll ask a lot.

23 MR. ROBERTS: And with all honesty and respect, I honestly can't  
24 say at this stage whether I can or not. I expect, as I've said  
25 before, that I will need three hours. I will try, and, as I always

1 do, to try and be as efficient and keep to relevant points as  
2 possible, but I would not like to commit myself to that at this  
3 stage, having still got a certain amount of Mr. Emmerson's cross to  
4 continue and, obviously, the whole of Mr. Kehoe's cross.

5 PRESIDING JUDGE SMITH: We're going to continue to do this, and  
6 it's going to come up over and over again, so you might as well get  
7 used to it. When we see an unreasonable amount of time, like eight  
8 hours in cross examination for somebody who's having two hours' worth  
9 of direct examination, we're probably not going to allow that.

10 MR. KEHOE: Your Honour, that's simply not reflective of what's  
11 going on with the amount of material that we have to deal with.

12 I will give you one example

13 PRESIDING JUDGE SMITH: You have that material far in advance.

14 MR. KEHOE: Oh, Judge. If I was just dealing with one witness,  
15 from your lips to God's ears, you know, that I would have been  
16 able to deal with that.

17 But, for instance, we have a witness coming up that's got 12  
18 binders of information. Now

19 PRESIDING JUDGE SMITH: We know. We're reading them too, you  
20 know.

21 MR. KEHOE: Okay. Well, if you have that, but, Your Honours,  
22 with all due respect, we have to prepare the cross examinations as  
23 well. It's not as simple as just reading this information. You have  
24 to it isn't, Judge. You've been on this side of the well. It's a  
25 difficult thing to do. And simply just looking at it and saying,

1 "Okay. I'm going to read this stuff and then just do a  
2 cross examination off the seat of my pants." I think you've seen,  
3 Judge, that we have tried to do professional cross examinations  
4 directed towards the evidence and, I think, relatively quickly.

5 PRESIDING JUDGE SMITH: There has been reams of repetition.  
6 Reams of it. And it isn't necessary repetition. It isn't necessary.  
7 Once somebody has admitted something is true, it doesn't need to be  
8 asked again is it still true?

9 MR. KEHOE: Well, you know, no, but, Judge, of course

10 PRESIDING JUDGE SMITH: Well, there was a question one time  
11 about if someone was dead and: You didn't die, did you? There's all  
12 kinds of

13 MR. KEHOE: I didn't ask that question.

14 PRESIDING JUDGE SMITH: I'm saying

15 MR. KEHOE: I'm alive, thank God, but

16 PRESIDING JUDGE SMITH: those questions come out. Those kind  
17 of questions come out.

18 MR. KEHOE: No, no, Judge, but we are on this end, you cannot  
19 compare what is going on in direct examination as to what's coming on  
20 in the Defence. They're doing 154 statements. They'll put thousands  
21 of pages in with testimony and related documents, and then and  
22 they'll say, okay, we're going to do it in half an hour. Okay, so  
23 then our cross examination has to respond to all of that testimony  
24 that's in evidence.

25 PRESIDING JUDGE SMITH: Take a look at your stuff tonight. You

1 might be restricted tomorrow morning.

2 MR. KEHOE: Well and, Judge, I would say to you that there is  
3 no symmetry between what goes on and I ask the Court to keep this  
4 in mind, there is no symmetry what goes on in direct and we have to  
5 do on cross.

6 PRESIDING JUDGE SMITH: We have an obligation to have this trial  
7 proceed in an orderly manner. We have people we have people in  
8 this room complaining about the speed at which we're processing this  
9 case.

10 MR. KEHOE: Understood, Judge.

11 PRESIDING JUDGE SMITH: And we aren't going to sit back and do  
12 nothing about this. People's rights are at stake, and we have to  
13 protect them. Victims, the people, your clients, whether you realise  
14 it or not, all of those people have an interest in this case being  
15 finished in a reasonable way, in a reasonable time.

16 MR. KEHOE: And

17 PRESIDING JUDGE SMITH: And it's our obligation to do it, and we  
18 will do it.

19 MR. KEHOE: And, Judge, a lot of that has to do with the fact  
20 that we have 300 plus witnesses, plus we have thousands of pages  
21 coming across the bar table on a regular basis that we have to digest  
22 and then incorporate that into cross examination.

23 PRESIDING JUDGE SMITH: And that is your job.

24 MR. KEHOE: Well, I I do understand that, Judge.

25 PRESIDING JUDGE SMITH: Yeah.

1 MR. KEHOE: But, you know, there are 24 hours in a day, and  
2 there's only so much we can do on any given day.

3 PRESIDING JUDGE SMITH: Thank you for your input, but the same  
4 condition exists and the same circumstances, and we're going to have  
5 to act on it because it is not happening.

6 I started out it's just about the estimates at this point.  
7 Long estimates of eight hours when you only need two or three make no  
8 sense at all. It puts them in a bad position. And they do the same  
9 thing. Sometimes theirs are too long too. I'm not picking on just  
10 the Defence. But you have to take it into consideration. We have to  
11 continue this case moving, and it hasn't been moving expeditiously up  
12 until now. And the estimates are part of the problem.

13 Everybody gets ready for a witness that's going to take 12 or 18  
14 hours, and then we get here and it takes four hours. Somebody's  
15 failed their job. Somebody didn't do their job properly. You have  
16 to make a reasonable estimate. You've done this forever.

17 MR. KEHOE: And, Judge, when I look I have done this forever.

18 PRESIDING JUDGE SMITH: Yeah.

19 MR. KEHOE: And when I look at the amount of material that needs  
20 to be covered, I try to do the best that I can possibly do

21 PRESIDING JUDGE SMITH: Okay.

22 MR. KEHOE: to protect my client.

23 PRESIDING JUDGE SMITH: We're going to be restricting, just so  
24 everyone knows.

25 MR. KEHOE: And



1           PRESIDING JUDGE SMITH: Bear in mind that it's going to happen  
2   because it isn't happening voluntarily.

3 MR. KEHOE: And I would say to, Your Honour, I understand that,  
4 but there also has to be some restriction on the bloated record that  
5 is coming from the SPO and the literally thousands of pages that not  
6 only are coming across the bar table but are part of these 154  
7 submissions that are admitted into evidence. There is no screening  
8 of any of that virtually. It just comes in.

9           PRESIDING JUDGE SMITH: Thank you. We are adjourned until  
10    9.00 a.m. tomorrow.

11 Oh, we aren't in public session. I'm sorry. Public session,  
12 please.

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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